

August 8, 2019

The Mina Town Board met on the above date for the regular meeting. Supervisor Brumagin called the meeting to order at 7:00 pm by leading with the Pledge of Allegiance to the flag. The following members and guests were in attendance:

Present: Rebecca Brumagin.....Supervisor
Ernie Roache.....Councilman
Dick Watrous.....Councilman (7:06)
Dave Wilcox.....Councilman

Absent: Dennis Luce.....Councilman

Attended by: Jeff Richards, Sherri Schenk

Minutes: Motion was made by Councilman Wilcox and seconded by Councilman Roache to accept the minutes of the July 11, 2019 meeting as presented. Motion carried.

Public Hearing:

Supervisor Brumagin asked the clerk to read the Legal Notice for the Public Hearing on the French Creek & Mina Town Justice Courts Shared Services Study. Supervisor Brumagin then asked if there were any questions or comments from those in attendance. As there weren't any questions or comments, Supervisor Brumagin closed the Public Hearing at 7:02 pm.

Public Hearing:

Supervisor Brumagin asked the clerk to read the Legal Notice on the Proposed Solicitation Ordinance. Supervisor Brumagin then asked if there were any questions or comments from those in attendance. Sherri Schenk asked about posting the ordinance on the outskirts of town. Supervisor Brumagin closed the Public Hearing at 7:03 and moved to the regular town board meeting.

Comments/Concerns from those present: none

Comments/Concerns from those not present: none

Executive Session: At 7:04 pm, Councilman Wilcox made a motion, seconded by Councilman Roache to adjourn to Executive Session for personnel matters, and potential litigation. Motion carried. At 7:16 pm Councilman Watrous moved, seconded by Councilman Roache to return to regular session. Motion carried unanimously.

Old Business:

- Subdivisions Boundaries Project – Supervisor Brumagin reported that she met with Attorney Wright and discussed the meeting she had previously with Jim Caflisch, Chautauqua County Director of Real Property Taxes, on ownership rights for rights of way and paper roads in established subdivisions. Attorney Wright and Supervisor Brumagin will meet with the county to discuss alternatives that can be considered. Supervisor Brumagin is continuing to analyze subdivisions and will prepare a list of concerns for each subdivision to present to the town board.
- Chautauqua County Shared Services Sewer Agency Meeting – Supervisor Brumagin reported that Chautauqua County has a link on its website for updates on the shared services sewer agency (www.co.chautauqua.ny.us/934/chautauqua-county-sewer-agency). The next meeting of the sewer agency will be held Thursday, August 15th at 3:00 pm and the Barton & Loguidice engineering firm will discuss the scope of the engineering proposal they have been engaged to complete. Also,

the County Health Department has sent letters to landowners around the lake whose septic systems need to be updated or replaced. The letter provides an update on the status of inspections.

- French Creek-Mina Court Study – Supervisor Brumagin reviewed the details of the study that was conducted by both towns with the recommendation that the Town of Mina and the Town of French Creek share services and elect one Town Justice to serve both towns. Councilman Wilcox made a motion, seconded by Councilman Watrous for the Town of Mina to proceed with developing a joint plan with the Town of French Creek to elect one Town Justice for both towns. Motion carried.

Ayes – 4 Brumagin, Roache, Watrous, Wilcox

Nays – 0

French Creek’s plan is to adopt the joint resolution at its town board meeting on September 9, 2019 and Mina’s plan is to adopt the joint resolution on September 12th. If approved, the town justice shared services position would be on the November 2020 ballot and would go into effect on January 1, 2021.

- Dead Tree on Town Park Property – Supervisor Brumagin reported that an addendum to the lease with the Findley Lake Watershed Foundation is being finalized with the town attorney. The town’s insurance company has been contacted and recommends that each party secure one million dollars in liability coverage.
- Planning Board – Supervisor Brumagin reported that the Planning Board met with Don McCord and Matt Burke from the County Planning Department. They discussed priority areas, formation of a second business district, and a revised sign law with increased enforcement. Regarding possible revisions to the sign law, Don McCord provided information on the U.S. Supreme Court decision highlighting neutral content language. Don McCord stated that by forming a second business district the town can tailor zoning to meet specific needs. A focus group session will be conceptualized with the County Planning Department taking the lead on conducting a public meeting. The plan is to invite the community to attend a meeting that explains what the vision and purpose of a second district would be and to solicit ideas and concerns from the public.
- Mowing NYS DOT Triangle Area & Picnic Table Area on Sunnyside Road – Superintendent Himelein reported that a permit is not needed to mow the New York State Department of Transportation triangle area at the intersection of Route 426, Route 430 and Mann Road (County Route 3). He needs to talk with a different person from DOT next week regarding the picnic area. Ron Moore who has been mowing those areas as a volunteer for many years has informed the town supervisor that he will not be able to continue to mow the grass after this season.
- Solicitation Ordinance – Councilman Roache made a motion, seconded by Councilman Wilcox to adopt the following Solicitation Ordinance:

Town of Mina

Solicitation Ordinance

Adopted: August 8, 2019

Introduction:

The Town of Mina is committed to protecting the health and safety of its residents and maintaining a community free from hawking, peddling and soliciting by individuals who have not been vetted and licensed to enter into such activities. It shall be unlawful for any person, within the boundaries of the Town of Mina, to act as a hawker, peddler, or solicitor as defined in this policy. It is also unlawful for any person to distribute and peddle handbills or other advertising matter, without first having obtained, paid for, and having in force an approved, time-limited, license. The policy covers the following sections:

- License Required
- Definitions
- Exemptions
- Application Process
- License
- Licensing Fees
- Revocations
- No Knock Registry
- Restrictions
- Penalties for Offenses
- Validity of Ordinance
- Effective Date

Section 1: License Required:

No person shall at any time offer for sale, as a hawker, peddler, or solicitor, any goods, wares, provisions or merchandise at retail in any manner on any of the public streets, in any of the public places, or by going from place to place or house to house, within the Town of Mina, Chautauqua County, New York, or engage in distributing and peddling handbills or other advertising matter in any manner on any of the public streets, in any of the public places, or by going from place to place or house to house, within said town, without having first procured a license as required by the terms of this ordinance.

Section 2: Definitions:

As used in this ordinance, the following terms shall have the meanings indicated:

HAWKER AND PEDDLER – Includes, except as expressly provided in Section 3, any person, either principal or agent, who, on a public street or in a public place, or whether on foot or from any automobile, truck or other vehicle of any kind, goes from house to house, selling or bartering, offering for sale or barter or carrying or exposing for sale or barter any goods, wares or merchandise.

PERSON(S) – Any natural person, corporation, partnership, association, joint-stock company, society or any other legal entity with the exception of those outlined in Section 3.

SOLICITOR – Any person who goes from place to place or house to house or is located on any public street or in any public place taking or offering to take orders for goods, wares or merchandise or for services to be performed in the future or for making, manufacturing or repairing any article or item for future delivery.

Section 3: Exemptions:

- Nothing in this ordinance shall be held to apply to any sales conducted pursuant to statute or by order of any court, to any person, selling personal property at wholesale to dealers in such articles or to persons specifically exempted as follows:
 - To farmers and truck gardeners who, themselves or through their employees, vend, sell or dispose of products of their own farms and gardens;
 - To any honorably discharged soldier, sailor or marine, who has procured a license as provided by the General Business Law of the State of New York; or
 - Non-profit organizations including local churches, school districts and charitable organizations such as the American Red Cross, Boy Scouts and Girl Scouts.
- This ordinance shall not apply so as to unlawfully interfere with interstate commerce.

Section 4: Application Process:

Any person desiring to procure a license as a hawker, peddler or solicitor, as herein provided, or to procure a license for distributing and peddling of handbills and other advertising matter, shall file with the Mina Town Clerk a written application upon a form prepared by the Town Clerk and furnished by the town and shall file at the same time satisfactory proof of good character and financial responsibility. Such application shall:

- give the name and kind of vehicles, if any, to be used by the applicant in carrying on the business for which the license is desired;
- the kind of goods, wares and merchandise he/she desires to sell or the kind of service he/she desires to perform;
- the method of distribution; the name, address and age of the applicant;
- the name and address of the person, firm or corporation he/she represents;
- the length of time the applicant desires the license; and
- such other information as may be required by the Town Clerk.

Section 5: License:

- Upon the filing of an application, as provided in the preceding section, the Town Clerk shall, upon his/her approval of such application, issue to the applicant a license, signed by such Town Clerk. Except as hereinafter provided, no license shall be refused except for a specific reason and for the protection of public safety, health, morals or general welfare. A license shall not be assignable. Any holder of such license who permits it to be used by any other person and any other person who uses such license granted to any other person shall each be deemed guilty of a violation of this ordinance. Whenever a license shall be lost or destroyed by a holder, his agent or employee, a duplicate, in lieu thereof, under the original application, may be issued by the Town Clerk upon the filing with him/her by the licensee of an affidavit, setting forth the circumstances of the loss and what, if any, search has been made for its recovery.
- Any applicant who has been refused such license by the Town Clerk may appeal to the Mina Town Board at a meeting thereof and the license may be granted or refused by the Board.
- The Town Clerk shall keep the original of all applications for licenses granted in proper order with a notation of the date of granting of the licenses and the fee paid.

- No license shall be granted for a period of time greater than one (1) year, with the exception of licenses for the peddling of handbills, which shall not be issued for a period of less than one (1) year. All licenses issued shall bear on the face thereof the date of expiration.
- No applicant to whom a license has been refused shall make further application until he/she can show proof or reason that the reason for such rejection no longer exists.
- Every licensee, while exercising his/her license, shall carry the license with him/her and shall exhibit the same upon the demand of any person.

Section 6: License Fees:

No license shall be issued until the following fees have been paid to the Town Clerk:

- For a license to sell merchandise, foodstuff or articles of any kind whatsoever: the annual sum of \$10.00, or the sum of \$10.00 for a license for a period of twenty-four (24) hours.
- For a license to distribute and peddle handbills or other advertising matter: the annual sum of \$10.00. No license shall be granted for such purpose for a term of less than one (1) year.

Section 7: Revocations:

- The Town Clerk may at any time, for a violation of this ordinance or any other ordinance or law, revoke any license issued. When a license shall be revoked, no refund of any unearned portion of the license fees shall be made.
- Notice of such revocation and the reason or reasons therefor, in writing, shall be served by the Town Clerk upon the person named in the application, and by filing a copy of such notice in the office of the Town Clerk.

Section 8: No Knock Registry:

The Mina Town Clerk will maintain a list of residences that have provided notice to the clerk's office that they do not want to be called upon (No Knock Registry). This list will be provided to the hawker/peddler/solicitor at the time of issuance of the license. Calling upon any of the residences listed on the No Knock Registry will be considered a violation of the ordinance and will be subject to revocation of the license.

Section 9: Restrictions:

A licensed hawker, peddler or solicitor shall:

- Not falsely or fraudulently misrepresent the quantity, character or quality of any articles for sale; or offer for sale any unwholesome, tainted or diseased provisions or merchandise.
- Keep vehicles and receptacles used by him/her in a clean and sanitary condition and foodstuffs offered for sale protected from dirt, dust and insects.
- Not blow a horn, ring a bell or use any other noisy device to attract public attention to his/her wares, or shout or cry out his/her wares.

- Not make further calls upon a premise where a resident thereof has objected to him/her making such calls and has requested the licensee to stop such calls.
- Not sell, offer for sale or take orders for goods, wares or merchandise or act in any other manner as a hawker, peddler or solicitor except between the hours of 8:00 a.m. and 8:00 p.m.

Section 10: Penalties for Offenses:

Any person violating this ordinance shall be deemed a disorderly person and shall be liable and subject to a penalty of not exceeding \$50.00 for each and every violation thereof.

Section 11: Validity of Ordinance:

If any subdivision of provision of this ordinance shall be deemed by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of this ordinance as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

Section 12: Effective Date:

This ordinance shall take effect ten (10) days after the same shall have been published and posted as provided by Section 133 of the Town Law.

The motion passed with the following vote:

Brumagin – Aye
 Roache – Aye
 Watrous – Aye
 Wilcox – Aye

Correspondence:

- Charter Communications – Updates on TV programming.
- Chautauqua County Dept. of Health – Update on mandatory inspection program for septic systems around Findley Lake
- Chautauqua County Dept. of Health – Letter informing the town the water test results for the Community Center are “Satisfactory for Human Consumption”.
- NYS Dept. of State – 5th Annual local government conference information.

Reports:

- Highway Committee – Councilman Watrous reported that the pickup truck approved by the town board to purchase last month was sold to another party the day of the meeting. The committee and the highway superintendent decided to go ahead and repair the current truck. They will prepare an analysis for a new truck and include that as part of the 2020 budget process. It was also reported that at an intersection of two town roads (Ball Diamond and Shadyside Road) there are drainage issues. The Town Attorney is working on developing agreements for a temporary work easement and a permanent drainage easement.
- Recreation Committee – Supervisor Brumagin reported that the Recreation Committee informed her that work on the basketball/tennis outdoor courts should start the week of August 12th. After the asphalt work is complete, quotes will be secured for color-coating and painting. The Community Support Group of Southwestern New York (CSG of SNY) has received funding from the Ralph C. Wilson Legacy Fund for Youth Sports administered by the Community Foundation

for Greater Buffalo. An invoice for some of the sports equipment approved in the grant is included on the general abstract. The CSG of SNY will reimburse the town from the grant money.

- Assessor – Heather Young-Deyell’s report was handed out for July 2019. She gave a timeline for the upcoming reassessment project for 2020 CAP #4 (Towns of French Creek, Mina, and Sherman).
- Town Justice – Unspent grant money has now been returned to the state and that makes the Mina Town Court eligible to apply for grant monies.
- Community Center – The town is waiting on the election and seating of a new State Senator to advance the approved grant for security cameras and a new front door system. Supervisor Brumagin reported that there were some electrical issues with the water pump at the Community Center. It was repaired and the bill is on this month’s abstract.
- Town Clerk/Tax Collector – The Town Clerk’s report was distributed reporting the collection of fees and sales of \$1,084.00 for the month of July 2019. She has paid the Supervisor \$566.73, NYS Ag and Markets for dogs, \$20.00, NYS Health Department for marriage licenses, 90.00 and NYS DEC \$407.27. She reported that hunting licenses went on sale August 1st and sales are going well. The hunting guides have not been printed yet but are to be ready by September 1st. She also reported that the County Tax Department is looking into outsourcing the printing of the tax bills since their equipment is old and to replace it would be expensive. She will also check at the next clerk’s meeting on where the county is at with having the ability to accept partial payments collected by municipalities.
- CEO/Building Inspector – Melanie Eddy’s report for July 2019 was distributed.
- Supervisor – Supervisor Brumagin distributed and reviewed the July 2019 financial statements. The Supervisor reported she is still waiting on the physician to sign off on the AED. She distributed an analysis of potential payroll service providers. Discussion held. Supervisor Brumagin made a motion, seconded by Councilman Wilcox to engage ECCA to provide payroll services for the Town of Mina. Motion carried.
Ayes – 4 Brumagin, Roache, Watrous, Wilcox
Nays – 0
Supervisor Brumagin reported she was able to sign up for on-line banking for the Town. The payroll service will be able to offer direct deposit for town employees. She is still reviewing the duties of the Supervisor’s Bookkeeper. She reported that the Community Center’s cleaner is expected to be off work for a couple of more weeks.

New Business:

- Supervisor Brumagin reported that the ZBA (Zoning Board of Appeals) has a vacant position. Supervisor Brumagin made a motion to appoint Lori Wagner to fill the vacancy; it was seconded by Councilman Watrous. Motion carried.
Ayes – 4 Brumagin, Roache, Watrous, Wilcox
Nays – 0
- Supervisor Brumagin reported that the six year terms for all assessors in New York State expire on September 30, 2019. She will be meeting with the other Town Supervisors in the coordinated assessment program. The town board will need to vote on this at the September meeting.
- Supervisor Brumagin reported that she drafted a process for developing a revised parking ordinance. She will review with Highway Superintendent Himelein and Attorney Wright and provide an update at the next town board meeting.
- Supervisor Brumagin reported that she spoke with Justin Brewer from NYS DEC regarding plans for the DEC’s fishing access area in downtown Findley Lake. The elevation from the parking area to the water level accessible docks was steeper than thought and, because of this, the original design is not ADA (Americans with Disabilities Act) compliant. The plans have been redesigned and work should start in a few weeks. It will be done in two phases; 1) kayak launch, boat docks, sidewalks, shoreline rocks and plantings 2) repaving of parking lot. DEC plans to remove the

docks annually when the lake is lowered and they are looking for a place to store them. The bus garage may be a possible location to consider.

- The Alexander Findley Community Library was provided “No Smoking Signs” and they need to be placed within 100’ of the library per New York State law.
- The tentative 2020 budget schedule was discussed. Department budgets are to be submitted to Supervisor Brumagin by September 20, 2019. She requested that the October regular board meeting be moved to Tuesday, October 8, 2019, that the budget work session will be scheduled for Thursday, October 24th, and that the Public Hearing and adoption of the budget be held, along with the regular town board meeting on Thursday, November 14th.
- Supervisor Brumagin reported that Community Connections at Findley Lake (CC@FL) was awarded a New York State NORC (Naturally Occurring Retirement Community) grant for \$99,999 a year for the next five years. As part of the grant requirements CC@FL will be establishing an advisory board that will include participation from the town board.
- The next regular Town Board meeting is scheduled for Thursday, September 12, 2019 at 7:00 pm.

Payment of Monthly Claims/Transfers:

- Payment of Monthly Claims/Transfers – The monthly claims were examined. Councilman Watrous moved, seconded by Councilman Wilcox, to pay the monthly claims. In the General Fund claim #202 through #229 in the amount of \$21,237.49 and in the Highway Fund claim #96H through #110H in the amount of \$155,388.24 was approved to pay. Motion carried unanimously.

Approved: Ayes – 4 Brumagin, Roache, Watrous, Wilcox

Nays – 0

Other Business/Actions:

- Councilman Watrous said it was reported to him that the soccer field at the Community Center needs to be mowed.
- As there was no further business to come before the Board, Councilman Roache moved to adjourn the meeting at 8:23 p.m.

Respectfully submitted,

Sherrie R. Tanner
Town Clerk