

**PUBLIC HEARING & REGULAR MEETING  
TOWN OF CONESUS  
MAY 17, 2022**

A public hearing and regular meeting of the Town Board of the Town of Conesus, County of Livingston and the State of New York was held at the Town Hall, 6210 South Livonia Road, Conesus, New York on the 17<sup>th</sup> day of May 2022.

<b>PRESENT:</b>	Donald Wester	-----	Supervisor
	Richard Corrigan	-----	Councilman
	John Fama	-----	Councilman
	Anita Martucio	-----	Councilwoman
	Gary Sparks	-----	Councilman/Deputy Supervisor
	Annette McNinch	-----	Clerk
	Dan Marusiak	-----	Highway Superintendent

**OTHERS PRESENT:** Jason Molino, LCWSA; Stephen Martucio, Deputy Highway Superintendent; and members of the community.

Supervisor Wester called the meeting to order at 7:00 PM  
Supervisor Wester led the Pledge to the Flag.

**OPEN PUBLIC HEARING: LOCAL LAW #3 SEWER USE RULES AND  
REGULATIONS**

Supervisor Wester declared the Public Hearing open at 7:05PM Supervisor Wester read Notice of Hearing for the record.

**PUBLIC COMMENT**

Supervisor Wester invited Board Members and the Public to make comments.  
A 3-minute time limit would be allowed.  
Councilman Fama was appointed timekeeper

No Comments

**RESOLUTION #59.22**

**CLOSE PUBLIC HEARING**

On a motion of Councilman Corrigan and seconded by Councilman Sparks the following resolution was

<b>\ADOPTED</b>	Ayes	5	Wester, Fama, Martucio, Sparks, Corrigan
	Nays	0	

Resolved that with no one further wishing to speak, the Public Hearing for Local Law #2 of 2022 Fence Law was declared closed at 07:15PM.

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**REGULAR MEETING**

**PRIVILEGE OF THE FLOOR:** *Councilman Corrigan, Golden Years Liaison*

- Councilman Corrigan introduced Dan and Kay Walkley, the Town's Honorees to the Livingston County Seniorama. Mr. Corrigan read their extensive bio noting their many contributions to the Town and Livingston County Community. He thanked Mr. and Mrs. Walkley on behalf of the Town for the many years of service.

**ANNOUNCEMENTS AND COMMUNICATIONS**

1. Next Town Board Tuesday June 7, 2022, 7PM
2. There are still a few COVID 19 Rapid test kits available call 738-0753 or email dwester@town.conesus.ny.us if you are interested.

**REPORTS OF TOWN OFFICIALS:**

**Town Clerk – Clerk McNinch:**

- April Report – Tabled

**Supervisor – Supervisor Wester**

- April Report

**Highway Superintendent – Dan Marusiak**

- CHIPS – The Town will receive an additional \$25,735.00 in funding from NYS Pave Over Potholes (POP)fund
- Working on Clark Road
- A new employee will start next Thursday.
- A meeting was held with Highway, Recycling and Town Board Representation with Mr. Don Gannett regarding placement of brush/yard debris for chipping. Discussion of logistics, cost and funding of this endeavor was held.

**Code Officer Report – Ron Maxwell**

- No Report

**Assessor Report – Michael and Tina Rados**

- Informal Hearings have ended.
- Currently 2 individuals have signed up for Grievance Day.

**UPDATES ON KEY ISSUES:**

**Conesus Lake: Councilman Fama**

- Watershed Education Center is offering the following programs via ZOOM or at the Center - Pre-Register at the CLA Website: [www.conesuslake.org](http://www.conesuslake.org):
  - May 18 Managing our Water Resources
  - June 29 Native American Storyteller
  - July 20 Invasive Species Update
  - August 10 Lake Photography Workshop
  - August 24 Ag BMPs and their effect on the Watershed
  - September 14 Trends in Water Quality
  - October 26 Managing Wildlife
  - November 15 Amphibians
  - December 7 SUNY Brockport/Geneseo Student Projects

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**Conesus and Livingston County Planning Board: Reports:** Councilwoman Martucio

- County Planning Board – 3 referrals were reviewed. Town of Ossian amending their solar and wind laws, Mt. Morris presented variances for expansion of a mobile home park and Sparta for extending their solar moratorium.
- Conesus Planning Board – Have not met

**ZBA Reports:** Councilman Corrigan

- Meeting next week

**Livingston County/Town Report:** Supervisor Wester

- An Inter County Meeting with Senator Borrello was held regarding the State mandate that no propane or natural gas appliances can be installed starting in 2030. Citizen and County involvement was urged. All are encouraged to speak out to your State Representatives. Supervisor Wester will be attending additional meetings on this subject. He stated that Albany is very aggressive regarding environmental issues.
- Supervisor Wester met with the Watershed Council regarding the Boat Stewardship program and the invasive Starry Stone Wort.

**Town Facilities Maintenance Report:** Councilman Corrigan

- It was determined that an engineering firm should be procured to survey the Ricky Greene Park parking lot and large field next to it. MRB, Wendel, LaBella and Hagar firms were discussed. Hagar was approved by resolution to perform the survey.
- Paula Lunn and Councilman Corrigan met with members of the Park Committee and determined the following items priority action items for Ricky Greene Park:
  - The roof projects on the restrooms and the large pavilion have been completed
  - Gazebo needs to be power-washed and stained.
  - The lower field needs drainage updated/installed.
  - There are pieces of playground equipment that should be upgraded or removed.
  - The dugouts at McGinty Road Field are rotted and in disrepair and need to be removed.
  - Pressure treated toys in the lower playground should be moved out of the shaded area.

It was reported that \$445 have been received in reservation donations to the park this year and that to date \$1,270 have been received in memory of Betty Greene. Ms. Lunn suggested that a flea market or other function could be held at the park to attract people to the Park and all it has to offer.

**Reports of Projects:**

- **Justice committee report:** Councilman Sparks.
  - Waiting to receive information requested from other officials or Association of Towns.
  - Needs to know The Justice Audit has been completed and mailed to the Town. Mr. Przybyl will give his thoughts of eliminating a justice position.
- **Solar and Battery Storage Committee - Supervisor Wester**
  - Meetings are being held via ZOOM. The next meeting will be held via ZOOM on 5/24/2022

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**UNFINISHED BUSINESS:**

- **Justice Audit** – Waiting to receive the final audit report prepared by Mr. Przybyl.
- **Recycling Center** – Information is being collected for grinding of brush. Highway Superintendent Marusiak met with Don Gannett of Zoled. They met to determine where to place brush for chipping and a possible new exit route from the center.

**NEW BUSINESS:**

- **Livingston County Water and Sewer Intermunicipal Agreement and Regulations** –Local Law #3 2022 was adopted at this meeting by resolution.
- **Intermunicipal Agreement with the Livingston County Water and Sewer Authority** - Rules and Regulations Agreement was approved at this meeting by resolution.

**APPROVAL OF MINUTES - Tabled**

**RESOLUTION #60.22**

**APPROVE HAGAR ENGINEERING FOR SURVEY WORK AT RICKY GREENE PARK  
RELATIVE TO PARKING LOT AND FIELD DRAINAGE**

On a motion of Councilwoman Martucio and seconded by Councilman Corrigan the following resolution was

<b>ADOPTED</b>	Ayes	4	Corrigan, Fama, Martucio, Sparks
	Nays	1	Wester

Resolved that Hagar Engineering is approved to perform survey work for the Ricky Greene Park parking lot and the adjacent field.

**RESOLUTION #61.22**

**ADOPTION AND APPROVAL OF INTERMUNICIPAL COOPERATION AGREEMENT  
WITH THE LIVINGSTON COUNTY WATER AND SEWER AUTHORITY**

On a motion of Councilman Fama and seconded by Councilman Sparks following resolution was

<b>ADOPTED</b>	Ayes	5	Corrigan, Fama, Martucio, Sparks, Wester
	Nays	0	

**WHEREAS**, The Livingston County Water and Sewer Authority has proposed to the Town of Conesus an Intermunicipal Agreement (the “Agreement”) relative to the operation of treatment works it owns/operates in the Town of Conesus, including relative to the implementation of standard rules and regulations regarding the same; and

**WHEREAS**, apparently, NY State, including the NYDEC, requires that certain standardized rules and regulations be used to govern the Town/County sewerage system; and

**WHEREAS**, as such, the Town and the County desire to enter into the agreement in order to govern and set forth how the Town and County will cooperate in order to operate/govern the Town/County sewerage system.

**NOW, THEREFORE, BE IT, RESOLVED**, by the Conesus Town Board, that it adopts and approves said Agreement as follows

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**Intermunicipal Agreement**

**Authority**, a public benefit corporation in the State of New York with offices located at 1997 D’Angelo Drive, Lakeville, New York 14480 (hereafter “Authority”) and the **Town of Conesus**, a municipal corporation in the State of New York with offices at 6210 South Livonia Road/NYS Route 15, Conesus, New York 14435 (hereafter “Town”) and which are herein collectively referred to as the “Parties.”

**WHEREAS**, the Parties have the legal authority to enter into this Agreement pursuant to §1199-dddd of the Public Authorities Law and General Municipal Law, Article 5-G; and

**WHEREAS**, the Authority owns and/or leases, operates and maintains various infrastructure within the jurisdictional boundaries of the Town (hereafter “POTW” which is the acronym for “Publicly Owned Treatment Works”) that is used for the collection, conveyance and/or treatment of various types of wastewater for the benefit of the health, safety and welfare of the residents of the Town; and

**WHEREAS**, the Town is currently not able to efficiently serve all of the wastewater customers within the Town and accordingly, such services are provided by the Authority; and

**WHEREAS**, the Authority is required, as part of the permitting process necessary to conduct its operations, to have in place rules and regulations of usage in a format that is acceptable to the New York State Department of Environmental Conservation (hereafter “NYSDEC”) and the United States Environmental Protection Agency (hereafter “EPA”), that govern the contribution of the various types of wastewater by residents and business contributors located within the Town and served by the Authority; and

**WHEREAS**, the Authority has adopted, with the consent and approval of the NYSDEC what are known as the Livingston County Water and Sewer Authority Sewer Use Rules and Regulations (hereafter “Regulations”), which such Regulations are attached hereto; and

**WHEREAS**, the NYSDEC and EPA require, as part of the operating permits granted to the Authority, that the Authority be able to enforce its Regulations with the same force and effect as if they were laws; and

**WHEREAS**, the Authority, being a public benefit corporation and not a municipality, does not have the legal power to adopt local laws and enforce the same; and

**WHEREAS**, the Authority desires to enter into this Agreement with the Town to create a formal relationship with the Town so that the Parties can work jointly to enforce the provisions of the Regulations relating to discharge and contribution into the POTW by users within the Town; and

**WHEREAS**, the Town has the legislative authority to adopt local laws under its Municipal Home Rule and Policing Powers; and

**WHEREAS**, the Town has the legal authority to enforce its local laws and other regulations that it has adopted (including but not limited to the mandatory NYS Uniform Fire

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Prevention and Building Code, which includes the International Plumbing Code and International Property Maintenance Code) through the Town’s Code Enforcement Department; and

**WHEREAS**, if the Town adopts the Regulations by local law, as its “Sewer Use Law,” the Town and Authority can jointly enforce the same by prosecuting violations of the Regulations through the Town’s Code Enforcement Office as violations of a local law of the Town; and

**WHEREAS**, the Authority and the Town will jointly benefit from proper and thorough enforcement of the Regulations; and

**WHEREAS**, the Authority may, pursuant to Public Authorities Law §1199-dddd sub. 14 and with the consent of the Town, use officers and employees of the Town and pay or reimburse the Town for the compensation and/or costs for the services of such officer or employee; and

**WHEREAS**, the Authority desires assistance from the Town to ensure the proper and thorough enforcement of the Regulations as they relate to users of the POTW within the Town and the Authority finds that the users of the POTW will benefit from such proper and thorough enforcement; and

**WHEREAS**, the Town desires to assist the Authority in the proper and thorough enforcement of the Regulations as they relate to users of the POTW within the Town by adopting the Regulations as its Sewer Use Law and the Town finds that the citizens of the Town will benefit from such proper and thorough enforcement; and

**WHEREAS**, the Parties wish to formally memorialize the terms under which the Authority and Town will work cooperatively to carry out proper and thorough enforcement of the Regulations.

**NOW THEREFORE IN CONSIDERATION OF ONE DOLLAR (\$1.00) AND OTHER GOOD AND VALUABLE CONSIDERATION THE RECEIPT OF WHICH IS HEREBY ACKNOWLEDGED, IT IS AGREED AS FOLLOWS:**

1. Adoption of Regulations by Local Law: The Town agrees that it shall promptly undertake the process of adopting by local law, the Regulations as provided by the Authority. The Authority shall, at its expense and through its legal counsel, prepare a proposed local law for the Town to use for such purposes, which such local law shall be subject to review and approval by the Town’s legal counsel. It is anticipated that the Regulations will require periodic review and updating to comply with the then current NYSDEC and EPA standards. The Town agrees to ratify such changes as may be necessary from time to time, subject to review and approval of any proposed changes by the attorney for the Town, which shall not be unreasonably withheld.
2. Public Hearing for Local Law: The Authority will attend any public hearings regarding the adoption of such local law to assist in answering any questions the Town or its residents might have.

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3. Future Enforcement of the Regulations: Once it has adopted a local law to establish the Regulations as its Sewer Use Law, the Town shall periodically and on an as-needed basis, assist the Authority in the enforcement of the provisions therein, subject to the Town's retention of its general discretion relative to code enforcement.
4. Use of Town Code Enforcement Officer: In such circumstances when the Authority desires assistance from the Town for enforcement, the Town Code Enforcement Officer will work with the Authority to enforce provisions of the Regulations/Sewer Use Law through issuance of appearance tickets and prosecution of violations in local justice court, all subject to the Town's retention of its general discretion relative to code enforcement.
5. Legal Counsel: The attorney for the Authority (or another attorney selected by the Authority) shall be primarily responsible for prosecuting any such violation and the Authority shall bear the cost of the same. At the request of the Town, the Authority Attorney will keep the Town's Attorney apprised of all enforcement actions.
6. Compensation for Services: All actual costs associated with assistance provided from the Town through its Code Department and Code Enforcement Officer shall be reimbursed by the Authority to the Town within 45 days following submission of a detailed written invoice to the Authority for the same.
7. Indemnification and Hold Harmless: The Authority shall indemnify and hold the Town harmless from any all costs, expenses, damages, claims or awards resulting from any lawsuit or other claim associated with the enforcement of the Regulations, including but not limited to reasonable attorney fees.
8. Independent Contractor: All parties agree that the relationship created by this Agreement is that of an independent contractor and not of employer and employee or principal-agent. No special or temporary employment is created by this Agreement by the Authority requesting assistance from the Town.
9. Insurance: Each party shall maintain at all times during the term of this Agreement statutory Workers' Compensation insurance for its employees and public liability insurance with coverage, and in amounts reasonably acceptable to the other party to this Agreement, naming the other as an additional insured, and providing for thirty (30) days written notice to the other party of cancellation, termination or material modification. Each party shall provide evidence of this insurance upon request by the other party to this Agreement from time to time and shall provide a certificate of insurance upon the execution of this Agreement.

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10. Initial Term of Agreement: This Agreement shall become effective upon full execution by all Parties and shall have an initial term of ten (10) years unless terminated in accordance with Paragraph 12.

11. Automatic Renewal: This Agreement shall automatically renew for successive ten (10) year terms unless terminated for default pursuant to paragraph 12, unless either party provides written notice of non-renewal at least ninety (90) days in advance of the last day of the then current term, or unless terminated in accordance with Paragraph 12, or the Authority no longer continues to operate any POTW within the Town.

12. Termination: This Agreement may be terminated by either party for default of any of the provisions of this Agreement upon the terminating party providing written notice of default and termination at least ninety (90) days in advance of the effective date of the termination. Such notice shall be sent by certified mail to the other party and shall state with specificity the default that has prompted the termination.

13. Severability: Should any provision of this Agreement be deemed by a Court to be unenforceable as a matter of law, the remaining portions shall continue in full force and effect

14. Jurisdiction: This Agreement shall be interpreted and governed by the laws of the State of New York.

**RESOLUTION #61.22**

**ADOPTION AND APPROVAL OF LOCAL LAW NO. 3 OF 2022 TO ADD A NEW CHAPTER 104 TO THE CODE OF THE TOWN OF CONESUS, LIVINGSTON COUNTY, NEW YORK TO ESTABLISH SEWER USE AND RULES AND REGULATIONS**

On a motion of Councilman Sparks and seconded by Councilman Fama following resolution was **ADOPTED BY ROLL CALL VOTE**:

Aye	Corrigan
Aye	Fama
Aye	Martucio
Aye	Sparks
Aye	Wester

**WHEREAS**, a public hearing was duly advertised and held regarding a proposed Local Law being considered by the Town Board of Conesus “to Add a new Chapter 104 to the Code of the Town of Conesus, Livingston County, New York to establish Sewer Use Rules and Regulations;” and **WHEREAS**, the Conesus Town Board, after due deliberation, finds it in the best interest of the Town to adopt said local law and determines that it is in the best interest of the Town of Conesus such that the Livingston County Water and Sewer Authority Sewer Use Rules and Regulations will be implemented in Conesus, as requested and required by Livingston County.



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**NOW, THEREFORE, BE IT, RESOLVED**, by the Conesus Town Board, that it adopts and approves said Local Law No.3-2022 “to Add a New Chapter 104 to the Code of the Town of Conesus, Livingston County, New York, to Establish Sewer Use Rules and Regulations,” which is attached hereto incorporated herein and made a part hereof, and be it further

**RESOLVED, THAT THE** Conesus Town Clerk be and hereby is directed to enter said Local Law into the minutes of this meeting to give due notice of the adoption of said Local Law to the Secretary of State of the State of New York.

**LOCAL LAW NO. 3 OF THE YEAR 2022 OF THE TOWN OF CONESUS**

A local law to add a new Chapter 104 to the Code of the Town of Conesus, Livingston County, New York to be known as “Sewer Use Rules and Regulations.”

Be it enacted by the Town Board of the Town of Conesus as follows:

**SECTION 1. TITLE AND SCOPE**

This local law shall be known as “A LOCAL LAW TO ADD A NEW CHAPTER 104 TO THE CODE OF THE TOWN OF CONESUS, LIVINGSTON COUNTY, NEW YORK TO ESTABLISH SEWER USE RULES AND REGULATIONS.”

**SECTION 2. PURPOSE.**

A. Authority. This Local Law is adopted pursuant to the New York State Town Law § 64 and Articles 2 and 3 of the Municipal Home Rule Law, to protect and promote public health, safety, convenience, order, aesthetics, prosperity and general welfare of the Town of Conesus in a fashion that is not inconsistent with the Comprehensive Plan of the Town of Conesus. This Local Law regulates the discharge of sanitary sewage and other types of wastes into any public sewer collection or treatment system within the Town of Conesus.

B. To these ends, this local law and the Chapter that it creates is designed to:

1. Enhance the orderly growth, development and redevelopment of the Town in accordance with a well-considered plan;
2. Properly regulate the discharge of sanitary sewage and other types of wastes into any public sewer collection or treatment system benefitting the Town, in order to protect the health, safety and welfare of the residents of the Town and to protect the various public benefit infrastructure that collects and treats sanitary sewage and other types of wastes within and/or for the benefit of the Town; and
3. Provide for efficient and effective enforcement of rules and regulations ensuring proper use of and discharge into the public sanitary sewer/waste water collection and treatment system.

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**SECTION 3. CREATION OF NEW CHAPTER 104 SEWER USE RULES AND REGULATIONS**

A. Chapter 104 is hereby added to the Code of the Town of Conesus and shall read as follows:

Chapter 104 Sewer Use Rules and Regulations

**§104-1 History.**

Both the Town of Conesus and the Livingston County Water and Sewer Authority own, operate and maintain certain sanitary sewer transmission and/or treatment improvements within the Town of Conesus that service residential and commercial properties within the Town.

**§104-2 General Purpose.**

The purpose of these Sewer Use Rules and Regulations is to provide for efficient, economic, environmentally safe, and legal operation of the publicly owned sanitary sewer system serving properties within the Town of Conesus.

In order for the Town of Conesus and the Livingston County Water and Sewer Authority to properly administer their respective obligations with regard to such publicly owned facilities, it is important that both the Town of Conesus and the Livingston County Water and Sewer Authority have consistent rules and regulations that apply to customer usage of such facilities that treat waste water.

Consistent rules and regulations between the Town and the Authority will allow both parties to most efficiently and effectively ensure proper use of the public sanitary sewer and treatment system and when such rules and regulations are violated, to seek proper enforcement against violating users.

**§104-3 Specific Purpose.**

The specific purposes of these Regulations are the following:

A. To prevent the introduction of substances into the publicly owned sanitary sewer system that will:

- (1) interfere with the publicly owned sanitary sewer system in any way;
- (2) pass through the publicly owned sanitary sewer system to the State's Waters and cause contravention of standards for those waters or cause violation of the publicly owned sanitary sewer system 's SPDES Permit;

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- (3) increase the cost or otherwise hamper the disposal of publicly owned sanitary sewer system sludge and/or residuals;
  - (4) endanger Authority or any municipal employees;
  - (5) cause air pollution, or groundwater pollution, directly or indirectly; and
  - (6) cause, directly or indirectly, any public nuisance condition.
- B. To prevent new sources of Infiltration and Inflow as much as possible and eliminate existing sources of Infiltration and Inflow.
  - C. To assure that new sewers and connections are properly constructed.
  - D. To provide for equitable distribution amongst all users of the Livingston County Water and Sewer Authority Publicly Owned Treatment Works (“POTW”) of all costs, associated with Sewage transmission, treatment, and residuals disposal, and to provide for the collection of such costs.
  - E. To provide enforcement mechanisms to ensure proper usage of the POTW to further the above purposes.

**§104-4 Continuity with and Adoption of Livingston County Water and Sewer Authority Rules and Regulations.**

- A. In order for the Livingston County Water and Sewer Authority to properly administer its obligations with regard to its facilities within the Town of Conesus, it is crucial that the Authority and Town have the same rules and regulations governing the use of and discharge into the public sanitary sewer and treatment system.
- B. The Town of Conesus hereby adopts as its rules and regulations governing the use of and discharge into the public sanitary sewer and treatment system serving the Town of Conesus, the Livingston County Water and Sewer Authority Sewer Use Rules and Regulations as most recently adopted (as of the date of this local law) by the Livingston County Water and Sewer Authority on September 25, 2019, and as they may be periodically updated by the Livingston County Water and Sewer Authority from time-to-time (unless the Town refuses to ratify any such updates). A copy of the most recent applicable Livingston County Water and Sewer Authority Sewer Use Rules and Regulations, as adopted herein by the Town of Conesus, will be available at the office of the Conesus Town Clerk and in the Town of Conesus Building and Zoning Office.

**SECTION 4. EFFECTIVE DATE.**

This local law shall be effective after its filing with the NY Office of the Secretary of State.

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**RESOLUTION #62.22**

**AUDIT OF HIGHWAY FUND CLAIMS**

On a motion of Councilman Sparks and seconded by Councilwoman Martucio the following resolution was

<b>ADOPTED</b>	Ayes	5	Wester, Corrigan, Fama, Martucio, Sparks
	Nays	0	

Resolved that Highway Fund Vouchers #84- #91 as set forth in Abstract No. 9 of 2022 in the amount of \$6,318.65 are approved.

**RESOLUTION #63.22**

**AUDIT OF GENERAL FUND CLAIMS**

On a motion of Councilman Fama and seconded by Councilman Corrigan the following resolution was

<b>ADOPTED</b>	Ayes	5	Wester, Corrigan, Fama, Martucio, Sparks
	Nays	0	

Resolved that General Fund Vouchers #162-#175 as set forth in Abstract No. 9 of 2022 in the amount of \$20,811.04 are approved.

With no further business, on a motion of Councilman Fama and seconded by Councilman Sparks, the meeting was adjourned at 7:48PM. Carried unanimously.

Respectfully submitted,

*Annette M. McNinch*

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Annette M. McNinch  
Town Clerk