

Regular Monthly Meeting  
Caledonia Town Board  
September 10, 2015  
7:00 P.M.

A regular Meeting of the Town Board of the Town of Caledonia was held Thursday, September 10, 2015 at 7:00 P.M. at the Town Hall.

Supervisor Pangrazio called the meeting to order and led in the Pledge of Allegiance followed by a moment of silence in memory of September 11, 2001 and the recent passing of Jim Steele.

<b><u>PRESENT:</u></b>	Supervisor	Daniel Pangrazio
	Councilman	Todd Bickford
	Councilman	Mark Rothrock
	Councilwoman	Pam Rychlicki
	Councilman	Tim Anderson
	Town Clerk	Laurie Sattora

**OTHERS:** Under sheriff Matt Bean, Mark Schroeder Highway Superintendent, Tom Perkins, Code Enforcement Officer.

**RESOLUTION 112-2015**

**AUGUST 13, 2015 MINUTES**

On motion of Councilman Rothrock, seconded by Councilman Bickford the following resolution was

ADOPTED- Aye- Pangrazio, Bickford, Rychlicki, Rothrock, Anderson, Absent -0 Nay-0

RESOLVED, that the minutes of August 13, 2015, be approved as presented.

**OPEN FORUM**

Under Sheriff Matt Bean updated the Board on the E911 Project, the grant money that Livingston County has received to help with the project, and the location of the proposed sites for the Towers throughout the County. Caledonia is one of the Towns to get a Tower site.

**7:15 PM PUBLIC HEARING LOCAL LAW No. 3 FOR 2015**

Supervisor Pangrazio opened the public hearing to consider Local Law No. 3 For 2015. Town Clerk Laurie Sattora read the legal notice for the Proposed Local Law No. 3 that was published in the Livingston County News. Supervisor Pangrazio reviewed the Local Law with the Town Board and that when the Town previously passed this Local Law back in 1993 somehow during the republication of the Code by General Code Publisher the existence of this Local Law was missed, and in chapter One, entitled "General Provisions" it contains a provision that all Local Laws not contained in the Code are hereby repealed from and after the effective date of the Local Law so when the Code was re-adopted by Local Law No. 4 of 1994, the previously enacted Adult Entertainment Law was accidentally repealed.

Supervisor Pangrazio asked the public and the board if they had any questions or comments. No one had any comments or questions about the proposed Local Law.

**ANNOUNCEMENTS/COMMUNICATIONS**

Supervisor Pangrazio reviewed the following with the Board:

- ❑ Notice from Homeland Security and Emergency Services that the Livingston County Board of Supervisors received stating that Livingston County has been awarded \$3,500,000.00 to support funding from the Round 4 Statewide Interoperable Communications Grant. This Interoperable Communications Grant is to facilitate the development, consolidation and /or improved operation of public safety communications to support and enhance statewide interoperable communications for first responders throughout New York State.

**DEPARTMENTS/COMMITTEES**

**CODE ENFORCEMENT OFFICER - TOM PERKINS**

Code Enforcement Officer Tom Perkins updated the Board on CRC and that they plan to start to rebuild in October. They will be using the same footprint with some small changes since having the fire last fall.

**BUILDING & GROUNDS - SUPERVISOR-DANIEL PANGRAZIO**

Supervisor Pangrazio updated the Board on the following:

- ❑ It is a big concern to get the chimney capped off on the building before the Winter heating season.
- ❑ RCRR contacted Highway Superintendent Mark Schroeder and told him effective immediately that they will no longer be taking the monitors and TV's for free and will now be charging the Town for disposing of these items. A CRT TV or monitor is any type of television or monitor that has a cathode ray tube in it. Printers, copiers, cell phones are still free for recycling. Last year the Town recycled 11,983 pounds of CRT's.

**CLOSE PUBLIC HEARING 7:45 P.M.**

Supervisor Pangrazio asked if anyone from the public or any Town Board member would like to speak on the Proposed LOCAL LAW No. 3 For 2015. No one present had any comments or questions regarding the Proposed Local Law. Supervisor Pangrazio declared the Public Hearing closed.

**HIGHWAY -MARK SCHROEDER**

Highway Superintendent Mark Schroeder updated the Board on the recent projects that the Highway Department has been working on and future projects for the month.

- ❑ The Highway Department has been working on the end of Sand Hill Road replacing the box culvert.
- ❑ Ontario County has contacted Highway Superintendent Schroeder about purchasing the town's 2009 Mack Truck because the Town of Naples will no longer plow any County Roads. There will be future discussions on this in the future.
- ❑ The Highway Department will be the lead agent on the work in the Spring of 2016. An Intermunicipal Agreement shall have to be drawn up between all parties.

**TRAFFIC SAFETY BOARD-MARK SCHROEDER**

Highway Superintendent Mark Schroeder distributed the most recent Traffic Safety report to the Board.

**TOWN CLERK-LAURIE SATTORA**

Town Clerk Laurie Sattora submitted her monthly report to the Town Board for the month of **AUGUST 2015.**

**TOWN CLERK'S REPORT – AUGUST 2015**

Total Local Shares Remitted to Town Supervisor	\$ 2,193.49
Amount paid to: NYS Ag. & Markets Animal Population Control Fund	\$ 64.00
Amount paid to: NYS Environmental Conservation	\$ 2,365.01
Amount paid to: NYS Department of Health - Marriage Licenses	\$ 22.50
<b>Total State, County &amp; Local Revenues for AUGUST 2015:</b>	<b>\$ 4,645.00</b>

**RESOLUTION 113-2015**

**ACCEPT TOWN CLERK'S MONTHLY REPORT**

On motion of Councilman Anderson, seconded by Councilwoman Rychlicki, the following resolution was ADOPTED- Aye- Pangrazio, Rothrock, Bickford , Rychlicki, Anderson Nay-0 Absent -0  
RESOLVED, that the Town Clerk's August 2015 monthly report be approved as presented.

## OLD BUSINESS

### 2016 BUDGET UPDATE

Supervisor Pangrazio and the Board discussed the Budget challenges for 2016.

## NEW BUSINESS

### RESOLUTION 114-2015

#### ADOPTION OF LOCAL LAW No. 3 FOR 2015

On motion of Councilman Rothrock, seconded by, Councilman Bickford the following resolution was ADOPTED -Aye- Pangrazio, Bickford, Anderson, Rychlicki, Rothrock Nay-0 Absent -0

RESOLVED, whereas at a meeting held on August 13, 2015 a proposed Local Law was introduced entitled "Adult Entertainment Businesses". After holding a public hearing on September 10, 2015 as required by Town Law and having complied with the requirement of notice and publication to consider such Local Law, the Town Board of the Town of Caledonia did adopt such Local Law as Local Law No. 3 For The Year 2015.

#### SECTION 1

##### LEGISLATIVE FINDINGS AND INTENT

**Purpose and Intent** It is the purpose of this Local Law to regulate sexually oriented businesses, to promote the health, safety, morals, and general welfare of the citizens of the Town of Caledonia, and to establish reasonable and uniform regulations to prevent the continued deleterious location and concentration of sexually oriented businesses within the Town of Caledonia. The provisions of this local law have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent nor effect of this local law to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this local law to condone or legitimize the distribution of obscene materials.

#### SECTION 2

##### DEFINITIONS

(1) "**ADULT**" **ARCADE** means any place to which the public is permitted or invited wherein coin-operated or slug operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing "specified sexual activities" or "specified anatomical areas."

(2) "**ADULT**" **BOOKSTORE** or "**ADULT**" **VIDEO STORE** means a commercial establishment which, as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following:

(A) books, magazines, periodicals or other printed matter, or photographs, films, motion picture, video cassettes or video reproductions, slides, or other visual representations which depict or described "specified sexual activities" or "specified anatomical areas"; or

(B) instruments, devices, or paraphernalia which are designed for use in connection with "specified sexual activities." A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing "specified sexual activities" or "specified anatomical areas" and still be categorized as "**ADULT**" **BOOKSTORE** or "**ADULT**" **VIDEO STORE** so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials which depict or describe "specified sexual activities" or "specified anatomical areas."

(3) "**ADULT**" **CABARET** means a nightclub, bar, restaurant, or similar commercial establishment which regularly features:

(A) persons who appear in a state of nudity; or

- (B) live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities"; or
- (C) films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas"
- (4) **"ADULT" MOTEL** means a hotel, motel or similar commercial establishment which:
- (A) offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas"; and has a sign visible from the public right of way which advertises the availability of this adult type of photographic reproductions; or
- (B) offers a sleeping room for rent for a period of time that is less than ten (10) hours, or
- (C) allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than ten (10) hours.
- (5) **"ADULT" MOTION PICTURE THEATER** means a commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."
- (6) **"ADULT" THEATER** means a theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appear in a state of nudity or live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities."
- (7) **ESCORT** means a person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.
- (8) **ESCORT AGENCY** means a person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration.
- (9) **ESTABLISHMENT** means and includes any of the following:
- (A) the opening or commencement of any sexually oriented business as a new business;
- (B) the conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business;
- (C) the additions of any sexually oriented business to any other existing sexually oriented business; or
- (D) the relocation of any sexually oriented business.
- (10) **PERMITTEE and/or LICENSEE** means a person in whose name a permit and/or license to operate a sexually oriented business has been issued, as well as the individual listed as an applicant on the application for a permit and/or license.
- (11) **NUDE MODEL STUDIO** means any place where a person who appears in a state of nudity or displays "specified anatomical areas" is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration.
- (12) **NUDITY or a STATE OF NUDITY** means the appearance of a human bare buttocks, anus, male genitals, female genitals, or full female breast.
- (13) **PERSON** means an individual, proprietorship, partnership, corporation, association, or other legal entity.

(14) **SEMI-NUDE** means a state of dress in which clothing covers no more than the genitals, pubic region, and areola of the female breast, as well as portions of the body covered by supporting straps or devices.

(15) **SEXUAL ENCOUNTER CENTER** means a business or commercial enterprise that, as one of its primary business purposes, offers for any form of consideration.

(A) physical contact in the form of wrestling or tumbling between persons of the opposite sex; or

(B) activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nude.

(16) **SEXUALLY ORIENTED BUSINESS** means an "adult" arcade, "adult" bookstore or "adult" video store, "adult" cabaret, "adult" motel, "adult" motion picture theater, "adult" theater, escort agency, nude model studio, or sexual encounter center.

(17) **SPECIFIED ANATOMICAL AREAS** means the male genitals in a state of sexual arousal and/or the vulva or more intimate parts of the female genitals.

(18) **SPECIFIED SEXUAL ACTIVITIES** means and includes any of the following:

(A) the fondling or other erotic touching of human genitals, pubic region, buttocks, anus or female breasts;

(B) sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;

(C) masturbation, actual or simulated; or

(D) excretory functions as part of or in connection with any of the activities set forth in (A) through (C) above.

(19) **SUBSTANTIAL ENLARGEMENT** of a sexually oriented business means the increase in floor areas occupied by the business by more than twenty-five percent (25%), as the floor areas exist on date of enactment.

(20) **TRANSFER OF OWNERSHIP OR CONTROL** of a sexually oriented business means and includes any of the following:

(A) the sale, lease, or sublease of the business;

(B) the transfer of securities which constitute a controlling interest in the business whether by sale, exchange, or similar means; or

(C) the establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

### SECTION 3

#### **USES PERMITTED**

The following uses as hereinbefore defined: (1) "adult" arcades; (2) "adult" bookstores or "adult" video stores; (3) "adult" cabarets; (4) "adult" motels; (5) "adult" motion picture theaters; (6) "adult" theaters; (7) escort agencies; (8) nude model studios; and (9) sexual encounter centers shall be designed "adult" uses. "Adult" uses shall be a permitted use in any Heavy Industrial District only provided that:

(A) An "adult" uses may not be operated within 500 feet of:

(1) a church, synagogue or regular place of worship;

(2) a public or private elementary or secondary school;

(3) a boundary of any residential district;

(4) a public park adjacent to any residential district;

(B) An "adult" use may not be operated within 1,000 feet of another "adult" use, or the same lot or parcel of land;

(C) An "adult" use may not be operated in the same building, structure, or portion thereof, containing other "adult" use.

(D) For the purpose of this ordinance, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as part of the premises where an "adult" use is conducted, to the nearest property line of the premises of an church or public or private elementary or secondary school, or to the nearest boundary of an affected public park, residential district, or residential lot.

(E) For purposes of Subsection (D) of this section, the distance between any two "adult" uses shall be measured in a straight line, without regard to intervening structures or objects, from the closest exterior wall of the structure in which each business is located.

(F) All adult uses shall be conducted in an enclosed building. Regardless of location or distance, no one who is passing by an enclosed building having a use governed by these provisions shall be able to visually see any specified anatomical area or any specified sexual activity by virtue of any display which depicts or shows said area or activity. This requirement shall apply to any display, decoration, sign, window, or other opening.

#### Section IV

#### INSPECTION REQUIREMENTS

(a) A person may operate an "adult" use business only within the Heavy Industrial District of the Town of Caledonia, in accordance with the provisions of this statute and Chapter 130, Article VIII of the Code of the Town of Caledonia.

(B) Prior to the commencement of any "adult" use business or upon any transfer of ownership or control the premises must be inspected and found to be in compliance with all laws, rules and regulations of the Health Department, Fire Department, and Town Building and Zoning Enforcement Officer, Fire Marshall, and other code enforcement officials.

(C) The Health Department, Fire Department, and Town Building and Zoning Enforcement Officer, Fire Marshall and other code enforcement officials shall complete their certification that the premises is within twenty (20) days of the inspection of the premises by such officials. The certification shall be promptly presented to the Town Building and Zoning Enforcement Officer.

(D) The Town Building and Zoning Enforcement Officer shall suspend the right to conduct such adult use for a period not to exceed thirty (30) days if he determines that the owner and/or operator or an employee of the owner and/or operator has:

(1) violated or is not in compliance with any section of this local law;

(2) engaged in excessive use of alcoholic beverages while on the "adult" use business premises;

(3) refused to allow an inspection of the "adult" use business premises as authorized by this chapter;

(4) knowingly permitted gambling by any person on the "adult" use business premises.

(5) an owner and/or operator or an employee has knowingly allowed possession, use, or sale of controlled substances on the premises;

(6) an owner and/or operator or an employee has knowingly allowed prostitution on the premises.

(7) an owner and/or operator or an employee has knowingly allowed any

act of sexual intercourse, sodomy, oral copulation, masturbation, or other sexual conduct to occur in or on the permitted and/or licensed premises;

(E) An applicant, or permittee and/or licensee shall permit representatives of the State, County or Local Police Department, Health Department, Fire Department, Zoning and Building Department, or other Town departments or agencies to inspect the premises of an "adult" use business for the purpose of insuring compliance with the law, at any time it is occupied or open for business.

(F) Prior to any suspension, the Town Building and Zoning Enforcement Officer shall provide the owner and/or operator a notice with the grounds for the suspension. The notice stating the grounds shall be provided to the owner and/or operator in writing. The owner and/or operator has the right to present its response to this notice to the Town Building and Zoning Enforcement Officer within ten (10) days of receipt of said notice. The response may be made in person orally or in writing. The Town Building and Zoning Enforcement Officer may not suspend the right to conduct such adult use until fifteen (15) days after the notice is given to the owner and/or operator or until after receiving the owner's and/or operator's response, whichever is sooner.

#### Section V

##### AMORTIZATION OF NONCONFORMING "ADULT" USES

Any "adult" use business lawfully operating on the effective date of this statute that is in violation of the locational or structural configuration requirements of this statute shall be deemed a non-conforming use. The nonconforming use will be permitted to continue for a period not to exceed two years, unless sooner terminated for any reason or voluntarily discontinued for a period of thirty (30) days or more. Such non-conforming uses shall not be increased, enlarged, extended or altered except that the use may be changed to a conforming use. If two or more sexually

oriented businesses are within 1,000 feet of one another and otherwise in a permissible location, the "adult" use business which was first established and continually operating at a particular location is the conforming use and the later-established business(es) in non-conforming.

(A) An "adult" use business lawfully operating as a conforming use is not rendered a nonconforming use by the location, subsequent to the operation of the "adult" use business, of a church, public or private elementary or secondary school, public park, residential district, or a residential lot within five hundred (500) feet of the "adult" use business.

#### Section VI

##### ENFORCEMENT

(A) A person who knowingly owns, manages, operates, conducts or maintains any of the uses governed by these provisions in any way which is contrary to these regulations shall be subject to prosecution under Section 130, Article XX of the Code of the Town of Caledonia or in the alternative, violation of this law may be enforced by injunction in an appropriate court of law.

(B) The continuation of a violation of the provisions of this law shall constitute, for each day the violation is continued, a separate and distinct offense hereunder.

(C) Each violation of the provisions of this law shall subject the owner and/or operator to a fine in the amount of \$250.00 for each such violation in addition to any other penalties otherwise imposed hereunder.

(D) If any part or provision of this law or the application thereof to any persons or circumstances shall be judged invalid, such judgment shall be confined to the part or application adjudged to be invalid. Such decision shall not affect the validity of the section as a whole or any part thereof, other than the part so decided to be invalid.

#### Section VII

##### EFFECTIVE DATE

This Local Law shall take effect immediately upon filing with the Secretary of State.

**RESOLUTION 115-2015**

**SPECIAL MEETING FOR 2016 TENTATIVE BUDGET**

On motion of Councilman Bickford seconded by Councilman Anderson the following resolution was ADOPTED -Aye- Pangrazio, Rychlicki, Bickford, Rothrock, Anderson Nay-0 Absent – 0

RESOLVED, that a Special Meeting be held on September 30, 2015 at 5:00 P.M., at the Town Hall for the purpose of reviewing and presenting the Tentative Budget for the year 2016.

**RESOLUTION 116-2015**

**SUPPORT OF LIVINGSTON COUNTY'S EMERGENCY COMMUNICATION UPGRADE PROJECT SITE**

On motion of Councilwoman Rychlicki, seconded by Councilman Rothrock the following resolution was ADOPTED -Aye- Pangrazio, Rychlicki, Bickford, Rothrock, Anderson Nay-0 Absent – 0

RESOLVED, that the Town Board is in full support of the Livingston County Emergency Communication Upgrade Project.

**RESOLUTION 117-2015**

**TE-9 FORM-TRAFFIC STUDY -REDUCE SPEED ON RIVER ROAD**

On motion of Councilman Bickford, seconded by Councilwoman Rychlicki the following resolution was ADOPTED -Aye- Pangrazio, Rychlicki, Bickford, Rothrock, Anderson Nay-0 Absent – 0

RESOLVED, that Supervisor Pangrazio is authorized to complete a TE-9 form requesting that the State Department of Transportation look into the speed reduction request for River Road. This speed reduction request of 55mph to 45mph from Cameron Road to the Monroe County Line. This form must be first submitted to the Livingston County Highway Superintendent who will then forward it on to the State DOT. A letter will also be sent to the Livingston County Traffic Safety Board.

**RESOLUTION 118-2015**

**SIGN DRAFT AGREEMENT FOR LIVINGSTON COUNTY PLANNING DEPARTMENT REFERRALS**

On motion of Councilman Anderson, seconded by Councilwoman Rychlicki, the following resolution was ADOPTED- Aye- Pangrazio, Bickford, Rychlicki, Anderson Nay- Rothrock Absent –0

RESOLVED, that Supervisor Pangrazio is authorized to sign the draft agreement with Livingston County Planning Department for Referral Exemptions. An original agreement was signed back on July 21, 1992 to exempt certain actions from County Planning Board review to streamline the development review process. 20 years have elapsed since the original agreement was adopted and the County Planning Board has revisited the model agreement and has made changes to further streamline the review process.

**RESOLUTION 119-2015**

**RENEWAL OF COUNTY SNOW AND ICE AGREEMENT WITH LIVINGSTON COUNTY**

On motion of Councilman Bickford seconded by Councilman Rothrock the following resolution was ADOPTED – Aye – Pangrazio, Rothrock, Rychlicki, Bickford, Anderson, Nay-0 Absent – 0

RESOLVED, that pursuant to Highway Law Section 135-a providing for snow and ice control on county roads within the Town, the Supervisor and the Town Highway Superintendent be and they are directed to execute a contract with the County Highway Superintendent of the County of Livingston for the Town to undertake and perform snow and ice control on County Roads located in the Town for the period beginning October 14, 2015 and ending October 15, 2016 at the rates therein provided.

**RESOLUTION 120-2015**

**RECYCLING FEE CHANGES FOR CRT MONITORS AND TV'S**

On motion of Councilman Rothrock seconded by Councilwoman Rychlicki the following resolution was ADOPTED – Aye – Pangrazio, Rothrock, Rychlicki, Bickford, Anderson, Nay-0 Absent – 0

RESOLVED, that effectively immediately, the Recycling center has to start charging fees for recycling the CRT monitors and tube televisions. New fees will be posted at the recycling center and on the Town website.

**REVIEW OF SUPERVISORS REPORT**

The Board Members have received via e-mail prior to the board meeting copies of the Monthly Supervisor’s Report which includes up to date Trial Balances and Budget to Actual revenues and expenditures and trial balances. All Board Members signed off on all the reports.

**AUDIT OF ABSTRACT OF PAID VOUCHERS AND TRIAL BALANCES**

The Board audited the Abstract of paid Vouchers and trial balances.

**RESOLUTION 121-2015**

**PAYMENT OF BILLS**

On motion of Councilman Rothrock, seconded by Councilwoman Anderson the following resolution was ADOPTED- Aye- Pangrazio, Rothrock, Bickford, Anderson, Rychlicki Nay- 0 Absent- 0

RESOLVED, that the bills be paid in the following amounts:

GENERAL FUND A – Voucher #'s 227 - 250	\$ 15,072.53
HIGHWAY FUND DB – Voucher #'s 129 - 145	\$ 18,019.04
GRAND TOTAL	\$ 33,091.57

On motion to adjourn by Councilman Rothrock seconded by Councilman Anderson and carried by all, the board meeting was adjourned.

Respectfully Submitted,  
Laurie Sattora  
Town Clerk