

**Special Meeting
of the Board of Trustees
Held on May 18th, 2016
7:00pm at the Town Center**

Attended:	John Burrell	Mayor
	Joey DiPasquale	Trustee
	Greg Cappelli	Trustee
	Sherman Wilkens	Trustee
	Patra Lowes	Trustee
	Harold Morton	DPW Supervisor
	Bob Simon	Attorney
	Nick Dobmeier	Engineer
	Mary Klahn	Village Clerk

Also attended: Jennie Acklin from the Ellicottville Times, Judy Roush, Jim and Dina Carls, Dominic Spicola and Bob Illig.

Mayor Burrell discussed hosting a meeting September 8th of the Catt. Co. Municipal Officials Associates in Ellicottville and having the Executive Director from the Conference of Mayor's come to be the guest speaker.

Bob Simon sent an e-mail in regards to the Hawkers & Peddler's Law on the Ice Cream Truck that Mike Kerns has proposed. According to the law Mr. Kerns is allowed to have the truck.

Mayor Burrell also asked permission for him and the Village Clerk to be authorized to pay the utility, credit card and Justice bills.

Motion: by Mr. DiPasquale to allow Mayor Burrell and Village Clerk to pay the time sensitive bills.

Second: by Mr. Wilkens All ayes. Carried

The Planning board is interviewing three candidates for "Village Planner" tomorrow night. Mayor Burrell will be in on the interviewing process but is going to have the Planning Board bring the decision to the Village Board at the June meeting to make the final decision.

Brian McFadden mentioned that Senator Young will be at the Scenic By-Way meeting tomorrow morning at 10:00am at Holiday Valley.

Sidewalk Café Permit/Regulations – During the May 9th Village board meeting, Jim Carls of Dina’s Restaurant and Judy Roush of Tips-Up Café proposed that they and other village restaurants be permitted to serve alcoholic beverages with meals at their outdoor tables during late spring and summer. Existing Local Law #2 from 2006 allows such service. Per state law, the service area must be cordoned off and five feet of sidewalk must be left available for pedestrians and wheelchairs.

Two hours of discussion; Jim Carls is asking for the board to allow the restaurants to start the process of getting the permit and then work on the local law at a later date. Mayor Burrell stated that right now we have Sidewalk Cafes, insurance requirements need to be in place. This needs to encompass all sidewalk cafes whether or not they serve alcohol.

Questions about how the permit process would take place, whether food only or alcohol only could be consumed under the permit, as well as several other logistical issues were heard by the board.

It was concluded that any person or corporation may operate a sidewalk café within the Village of Ellicottville on the Village sidewalk immediately adjacent to the applicant’s place of business upon obtaining a permit from the Village, beginning as soon as this summer.

Mayor Burrell would like a motion to adopt the sidewalk Cafes and permit as the attached regulations and convert into a local law at a later date.

Motion: by Mr. Cappelli to allow the sidewalk Cafes and permit as the attached regulations and convert into a local law at a later date.

Second: by Mr. Wilkens 4 – 0 Vote – Joey DiPasquale did not vote.

Much Discussion

Motion: by Ms. Lowes to add Bob Simon’s definition of a sidewalk café in the permit/regulations.

Second: by Mr. Cappelli All ayes. Carried 5-0 vote

Sidewalk cafes will be permitted from May 1 through September 30. Consumption of alcoholic beverages on or at any sidewalk café will be allowed from 11:00 a.m. (noon on Sundays) to 11:00 p.m. daily. Open container law notices will be posted at each café reminding patrons that Village law prohibits anyone leaving the restaurant with their beverages.

Motion: by Mr. Wilkens to adjourn and continue with the organizational meeting.

Second: by Mr. Cappelli All ayes. Carried

Village of Ellicottville – Sidewalk Cafés – Permit/Regulations

Any person or corporation may operate a sidewalk café (hereinafter called café) within the Village of Ellicottville on the Village sidewalk immediately adjacent to the applicant's place of business upon obtaining a permit from the Village.

Definition. A sidewalk café is an area located on the Village sidewalk established in accordance with the requirements of this enactment for waited service of customers purchasing meals at tables located within the sidewalk café.

Permit criterion.

An applicant, upon presentation to the Village Clerk of an application for a permit to install a café and upon payment of any fee established by the Village Board and upon compliance with the rules and regulations which may be established shall be authorized to operate a sidewalk café. The sidewalk café permit will be issued upon compliance with the following application standards:

1. Applicant shall obtain the approval of the Code Enforcement Office. Applicant shall submit one copy of plans to the Code Enforcement Office, approval of which shall be conditional upon the following:
 - a. The café will allow the maintenance of at least 18 inches of hard surfaced sidewalk between the café and any planting strip or tree grate, bench, pole, post sign, flower bed, news rack, curb or other obstacle in the public right of way; umbrellas located within the sidewalk café need to have seven (7) feet of vertical clearance from the ground;
 - b. The café will not interfere with ingress or egress points, including pedestrian entrances and fire escapes, and will maintain a minimum of five feet of sidewalk clearance at all times;
 - c. No permanent structure will be erected;
 - d. A form of temporary enclosure to separate the seating area from the open portion of sidewalk will be installed during the time the café is open for business;
 - e. Any temporary enclosure or structure within the public right-of-way will be removed between October 1 and April 30;
 - f. No signs will be hung or attached to any portion of the café; with the exception of seating instruction signs and signs in regard to operational procedures of the sidewalk café; and clearly post a copy of valid permit viewable from café side, to include verbiage about alcohol not allowed beyond café area.

- g. The facility can be located anywhere in the Village where operation of a restaurant is otherwise permitted.
2. The applicant must execute an agreement to repair, at the expense of the applicant, any damage caused to the sidewalk in the operation of the café.
3. The applicant shall execute a hold harmless agreement indemnifying the Village against loss, including costs and expenses resulting from injury to person or property as a direct result of operation of the café.
4. The applicant shall provide proof of liability insurance naming the Village as an additional insured and agreeing to be primary in coverage with minimum coverage of \$1,000,000.00 per occurrence.
5. If applicable, applicant shall provide proof of dram shop, liquor legal liability insurance.
6. If different than applicant, applicant shall provide consent of the owner(s) of the building to be used as a sidewalk café.
7. If alcoholic beverages are to be served at the sidewalk café, a notarized affidavit and copy of NYS Liquor License permitting the sale of alcoholic beverages within the sidewalk café must be presented.

Café regulations.

A café shall:

1. Comply with plans submitted and approved.
2. Not serve or permit consumption of alcoholic beverages on or at any sidewalk café after 11:00 PM or before 11:00 AM.
3. Remove from the sidewalk all furniture and other materials used in operation of the café by no later than 30 minutes after closing and in no event later than 11:30 PM.
4. Not permit any music to be played outdoors that conflicts with the Chamber of Commerce music or, after 10:00 PM.

5. Obtain specific approval of the Village Board if other than waited service of customers at tables is intended.
6. Occupancy will be determined by the Code Enforcement Officer in accordance with current restaurant codes.
7. Permit shall not be transferable to another business or location.

Promulgation of rules pertaining to sidewalk cafés.

The Village Board is hereby empowered to adopt by resolution rules, regulations, permit fees and specification pertaining to sidewalk cafés. Such rules are hereby incorporated by reference, and compliance with this article shall require compliance with such rules, regulations, permit fees and specifications. Failure to comply with the rules and regulations may result in loss of permit.

Permit Fees.

Unless hereafter changed by resolution of the Village Board, the annual permit fee for operation of a sidewalk café shall be \$1.50 per square foot of sidewalk café space.

Notice of Violation; Revocation of permit.

Upon finding by the Fire Chief, Officer in charge of the Police Department, DPW Superintendent or Code Enforcement Officer that an applicant has violated any provision of these regulations, he/she may give notice to the applicant to correct operations violations. Upon failure to correct, the Village Board may direct the Village Clerk to revoke the applicant's permit. The operator of the sidewalk café may request a hearing before the Village Board or its designee within five (5) days of receipt of the notice of revocation. Any such hearing shall be held after reasonable notice by the Village Board to the operator of the violations, and the operator shall have the right to be represented by counsel, present evidence on his or her behalf and confront evidence against him.

Effective Date.

These permit/regulations were adopted as amended at a special meeting of the Board of Trustees held at the Town Center on Wednesday May 18th, 2016.