

December 8, 2008
Regular Town Board Meeting
Public Hearing – Local Law #4-2008
Public Hearing – Variance Application
6:00 p.m.

Due to Public Hearings the Town Board of the Town of Savannah held its regular Town Board meeting on December 8th, 2008 at 6:00 p.m. instead of its regular scheduled time of 7:00 p.m. per advertised notice.

Members present:

Kenneth Lauderdale	Supervisor
John Metcalf	Councilman
Carol Spellman	Councilman
Ted Fitch	Councilman
Julie VanLeeuwen	Councilman

Also present:

Leon Gaklik, Fingerlakes Times- John Addyman, CEO-Don Camp, Fred Smith, Chuck Carmen, Leroy Hollier, Highway Superintendent-Allen Sherman, and Fred Baker.

Councilman Spellman led those in attendance in the pledge of allegiance.

A motion was made by Councilman Fitch seconded by Councilman Metcalf to waive the reading of the minutes with approval as distributed. By roll: Councilman Spellman, VanLeeuwen, Fitch, Metcalf and Supervisor Lauderdale “aye” motion carried.

The Public Hearing was opened with the reading of public notice on proposed Local Law #7-2008 “Amending Local Law #4-2008 Regulation of Public Fireworks Displays”.

Supervisor Lauderdale noted that the amendment would allow an exception in the application deadline, for special circumstances.

Councilman Fitch noted that the law should be upheld as written and does not approve of exceptions. Clerk so noted.

As all in attendance having been heard a motion to close the hearing was made by Councilman Spellman seconded by Councilman Metcalf. By roll: Councilman Spellman, Metcalf, VanLeeuwen and Supervisor Lauderdale “aye” Councilman Fitch “nay” motion carried.

The following resolution was presented by Councilman Spellman:

Resolution No. 51-2008
Adoption by the Town Board of
The Town of Savannah
Local Law #7-2008
“Amending Local Law #4-2008 Regulation of Public Fireworks Displays”

WHEREAS, a motion was adopted by the Town Board for a public hearing to be held by said Town Board on December 8, 2008 at 6:00 p.m. at the Savannah Town Hall to hear all interested parties on a proposed Local Law on amending local law #4-2008 amending regulation of public fireworks displays, and

WHEREAS, notice of said public hearing was duly advertised in the Wayne County Star, the official newspaper of the Town, on November 19th, 2008, and

WHEREAS, said public hearing was duly held at the Town hall at 6:00 p.m. on December 8th, 2008 and all parties in attendance were permitted an opportunity to speak on behalf of or in opposition to said proposed Local Law, or any part thereof; and

WHEREAS, the Town Board of the Town of Savannah, after due deliberation, finds it in the best interest of said Town of Savannah to adopt said local law;

NOW THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Savannah hereby adopts said Local Law #7-2008 entitled “Amending Local Law #4-2008 Regulations of Public Fireworks Displays”, a copy of which is attached hereto and made a part of this resolution; and

BE IT FURTHER RESOLVED, that the Town Clerk be and she is hereby directed to enter said local law in the minutes of this meeting and in the Local Law Book of the Town of Savannah, and to give due notice of the adoption of said Local Law to the New York Secretary of State.

A motion to adopt the above written resolution was made by Councilman VanLeeuwen seconded by Councilman Metcalf. By roll: Councilman Spellman, VanLeeuwen, Metcalf, and Supervisor Lauderdale “aye” Councilman Fitch “nay” motion carried.

(Use this form to file a local law with the Secretary of State)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County
City
Town
Village

Local Law No. _____7_____ of the year **2008**

A local law Amending Local Law #4-2008 Regulation of Public
Fireworks Displays

Be it enacted by the _____Town Board_____

County

City

Town _____ Savannah _____

Village

Section 1. Purpose and statutory authorization

- A. This local law is designed to promote the health, safety and general welfare of the people of the Town of Savannah by imposing regulations to help ensure the safe conduct of outdoor fireworks displays within the Town of Savannah.
- B. This local law is enacted pursuant to the authority granted by Article 405 of the Penal Law of the State of New York, the Fire Code of the State of New York and NFPA 1123 Code for Fireworks Display and is subject to all of the conditions and provisions contained in said laws and codes, as may be amended from time to time.

Section 2. Definitions

As used in this local law, the following terms shall have the meanings indicated.

ASSISTANT - A person who works under the direction of the operator to put on a public fireworks display.

BODY - A municipality, school district, private club, association or organization of individuals.

FIREWORKS - Any blank cartridge, blank cartridge pistol, or toy cannon in which explosives are used, firecrackers, sparklers or other combustible or explosive of like construction, or any preparation containing any explosive or inflammable compound or any tablets or other device commonly used and sold as fireworks containing nitrates, chlorates, oxalates, sulphides of lead, barium, antimony, arsenic, mercury, nitroglycerine, phosphorus or any compound containing any of the same or other explosives, or any

substance or combination of substances, or article prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration or detonation, other device containing any explosive substance.

HIGHWAY - Any public street, road, highway or alley, or any private road or street.

OPERATOR - The person with overall responsibility for safety and the setting up and discharging of a public fireworks display.

PERMIT - The written authorization of the Permit Authority granted to any body to conduct a public fireworks display.

PERMIT AUTHORITY - The Code Enforcement Officer for the Town of Savannah.

PUBLIC FIREWORKS DISPLAY - An outdoor display of fireworks performed as entertainment.

SPONSOR - The person who exercises general control over the arrangements for the public fireworks display. The sponsor and the operator may sometimes be the same person.

Section 3. Administration and Enforcement Authority

The Permit Authority is authorized to grant and issue a permit for the public display of fireworks and to take all such actions as are necessary for the proper execution of its authority. The enforcement of the provisions provided herein shall be by the Permit Authority, and any other persons as may be from time to time authorized by the Town Board of the Town of Savannah.

Section 4. Permit Required

- A. No person shall conduct an indoor fireworks display in the Town of Savannah.
- B. No public fireworks display shall be conducted in the Town of Savannah on a lot containing a one or two-family home as the principal use.
- C. No public fireworks display shall be conducted in the Town of Savannah unless a valid permit for such a display has been issued by the Permit Authority.
- D. Application for such a permit shall be made to the Permit Authority on the form provided by it, at least 14 days in advance of the date of the fireworks display. The application shall set forth the following information:

- (1) The name of the person promoting the fireworks display and the name of the person actually to be in charge of the firing of the display.
 - (2) The date and time of day at which the fireworks display is to be held.
 - (3) The exact location planned for the display.
 - (4) The age, experience and physical characteristics of the operators
 - (5) The number and kind of fireworks to be discharged.
 - (6) The manner and place of storage of such fireworks prior to the display.
 - (7) A diagram, with distances shown in feet, of the grounds on which the fireworks display is to be held showing the point at which the fireworks are to be discharged, the location of all buildings, highways and other lines of communication, the lines behind which the audience will be restrained and the location of all nearby trees, telegraph or telephone lines or other overhead obstructions.
 - (8) Such other information as the Permit Authority may deem necessary to protect persons or property.
- E. For good cause shown, the Permit Authority may accept an application for a permit less than 14 days in advance of the date of the fireworks display. In no event, however, may the Permit Authority accept such application less than five days in advance of the fireworks display.
- F. Both operators shall supply a photocopy of their licenses to deal in explosives, issued by the New York State Department of Labor.
- G. The application shall be signed by the sponsor and the operator and shall be accompanied by a fee of \$50.00. From time to time at the discretion of the Town Board the fee may be waived.
- H. Upon receipt of an application for a permit, the Permit Authority may make an investigation of the site of the proposed display for the purpose of determining whether the regulations provided for herein have been complied with.
- I. No permit granted hereunder shall be transferable, and any such permit shall apply only to fireworks display for which it is granted.

Section 5. Rules and Regulations for Public Fireworks Displays

A. Firing distances; mortar pieces

- (1) The actual point at which the fireworks are to be fired shall be at least 50 feet from the nearest aboveground telephone or telegraph line, tree or other overhead obstruction, and such point shall also be no nearer to the audience or any permanent building, highway or railroad or other means of travel than the distances provided in the following table:

<i>Shell Size Inches</i>	<i>Millimeters</i>	<i>Minimum Radius Distance (feet)</i>
3 or less	76 or less	280
4	102	560
5	127	700
6	152	840
7	178	980
8	203	1120
10	254	1400
12	305	1680

- (2) No mortar piece exceeding 12 inches in diameter shall be used or discharged. Distances from bulk storage areas of materials that have a flammability, explosive or toxic hazard shall be twice that required by the above table.
- (3) The Minimum Radius Distance identified in Section 4 A(1) shall be wholly contained within the lot containing the actual point at which the fireworks are to be fired. The Minimum Radius Distance identified in Section 4 A(1) may be partially located on adjacent property if written permission is provided by the adjacent property owner to the satisfaction of the Permit Authority.
- B. The audience at any fireworks display shall be restrained behind lines at such distances from the point at which the fireworks are discharged as is provided in the table contained in Subsection A above. The sponsor shall be responsible for controlling the audience.
- C. Only persons actively involved in the fireworks display shall be allowed inside the minimum radius distance line contained in Subsection A above.
- D. All fireworks that fire a projectile shall be so set up that the projectile will go into the air nearly as possible in a vertical direction.

- E. Any fireworks that remain unfired after the display is concluded must be immediately disposed of in a way safe for the particular type of fireworks remaining and consistent with all applicable federal and state laws, rules and regulations.
- F. All debris resulting from the fireworks display shall be properly disposed of by the operator before leaving the discharge site. The operator shall remain at the discharge site for at least one hour after the completion of the display to ensure that the site is secure and clean.
- G. No fireworks shall be left unattended at any time prior to, during or after the fireworks display. No fireworks shall be stored at the site of the display more than eight hours before actual discharge, but a longer period may be granted at the discretion of the Permit Authority. As soon as the fireworks have been delivered to the display site, they shall not be left unattended nor shall they be allowed to become wet.
- H. No fireworks display shall be held during any wind storm in which the wind reaches a velocity of more than 30 miles per hour.
- I. All operators and assistants shall be over the age of 21 years, competent and physically fit for the task. A copy of a valid driver's license or other valid picture identification acceptable to the Permit Authority must be provided for all operators and assistants.
- J. There shall be at least two operators or assistants constantly on duty during the discharge, and at least two soda-acid or other approved type fire extinguishers of at least 2 1/2 gallons' capacity each shall be kept at as widely separated points as possible within the actual area of display.
- K. The Permit Authority, (CEO) will send a copy of the application to the Chief of the local Fire Department and the Town Board. All parties shall be notified of the display location, date and time if a permit is issued.
- L. The Fire Department (or his designee) shall be required to attend the fireworks display. Any body issued a permit shall be responsible for all personnel costs associated with on-site staffing.
- M. Any body issued a permit hereunder shall at a minimum comply with these regulations, New York State Penal Law Article 405 and should comply with the standards and guidelines contained in National Fire Protection Association (NFPA) Standard 1123 regarding outdoor display of fireworks.
- N. The operator shall have any permit issued available for examination by the Permit Authority at the time of the display.

- O. No smoking shall be permitted within 50 feet of any area where fireworks or other associated materials are kept or stored.

Section 6. Bond or Insurance Required

- A. No permit shall be issued until an adequate bond in a sum to be fixed by the Permit Authority, but in no case less than \$1,000,000, is provided by the applicant. The bond shall be conditioned for the payment of all damages which may be caused to a person or persons or to property by reason of the fireworks display so permitted, and arising from any acts of the sponsor, operator, his agents, employees, assistant, contractors or subcontractors. Such bond shall run to the Town of Savannah and shall be for the use and benefit of any such person or persons, or any such owner or owners of any property so injured or damaged. Any such person or persons, or such owner or owners are hereby authorized to maintain an action on such bond, which right of action shall also accrue to the heirs, executors, administrators, successors or assigns of such person or owners.
- B. The permit authority may accept, in lieu of such bond, an indemnity insurance policy with liability coverage and indemnity protection equivalent to or exceeding the terms and conditions upon which bond is predicted and for the same purposes provided.

Section 7. Penalties for Offenses

- A. Any person or persons, associations or corporations committing an offense against any section or provision thereof shall be subject to the penalties imposed by 270.00 and 405.05 of the Penal Law, including the provisions relating to the seizure of fireworks contained in 405.05.
- B. Notwithstanding a conviction for an offense against any provisions, a person or entity committing an offense under this local law shall be subject to revocation of any permit herein granted without reimbursement of fees paid thereof.
- C. In addition to any fine or imprisonment imposed for a conviction of an offense to this local law, each such offense may be subject to a civil penalty not to exceed \$250.00, to be recovered in an action or proceeding in a court of competent jurisdiction.

Section 8. Conflicting Standards

Where the requirements of this Local Law impose a different restriction or requirement than imposed by other sections of the town law of the Town of Savannah, the Town Law of the State of New York or other applicable rules or regulations, the requirements of this Local Law shall prevail to the extent allowed by the Laws of the State of New York.

Section 9. Severability

The invalidity of any word, section, clause, paragraph, sentence, part or provision of this local law shall not affect the validity of any other part of this local law that can be given effect without such invalid part or parts.

Section 10. Effective Date

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

The Public Hearing for a Variance Application from Fred Smith opened with the reading of public notice by the clerk.

Supervisor Lauderdale noted that Mr. Smith is requesting a variance on the one year vacant time frame of an existing mobile home lot.

It was noted that the site is an existing site, but has not had a mobile home on it in twenty years; it has its own septic but has not been used in twenty years and would have a shared well with the primary dwelling.

Councilman Fitch noted that according to Local Law #1-2005 "Mobile Home Law" sec. 2, it states no mobile home can be added in addition to an existing structure on a single dwelling lot. Mr. Smith requests the Town Board consider this matter as a "hardship" issue. Mr. Smith's hardship is caused because of his need to carefully oversee the activities of some family members. The oversight is required because of legal issues.

After much discussion it was decided by motion of Councilman Spellman seconded by Councilman VanLeeuwen to approve the variance under the hardship clause, due to Mr. Smith's family needs, and his lot size of 7 acres provides ample space. Also, that all other mobile home requirements are to be met. By roll: Councilman VanLeeuwen, Spellman, Metcalf and Supervisor Lauderdale "aye" Councilman Fitch "nay" motion carried.

As Code Enforcement Officer, Don Camp, has to attend another meeting the CEO report was given. Mr. Camp noted that he has sent property maintenance violations to Mr. Faher, Mr. Cipriano and Ms. Juliano of which Mr. Faher and Ms. Juliano have contacted him in regards to compliance. He further noted that in the letters he informed them about the Main St. Grant project and encouraged them to further investigate this option.

Supervisor Lauderdale noted that although discussions were scheduled to take place regarding the Verizon Cell Tower, he was informed earlier today that Verizon was not prepared at this time; therefore, discussions are table until the January 12th meeting.

The following Resolution was presented by Councilman Fitch:

Resolution 51-2008
Establish Zoning Commission in Furtherance of Establishing
Zoning Provisions with the Town of Savannah

WHEREAS, In 1999, the Town of Savannah adopted a Master Plan in accordance with the procedures set forth in Section 272-a of the Town Law; and

WHEREAS, the Town does not have a zoning law, but has a Site Plan Review law known as Local Law No. 1 of the Year 1996, and a Land Development Law known as Local Law No. 1 of 1996; and

WHEREAS, the Town Board in May of 2006 appointed a Planning Board to prepare recommendations for new updated Comprehensive Plan and Land Use Laws; and

WHEREAS, The Town Board in August of 2008 adopted moratorium on approval of certain real property development with the Town so as to provide an opportunity for the Town to study and review the Draft Comprehensive Plan, proceed towards its adoption, consider which study parcels should be protected and preserved as well as which, if any, of the option identified by the Draft Comprehensive Plan are appropriate to preserve the selected areas and what additional action is appropriate to effectuate the other goals identified in the Plan and Draft Comprehensive Plan and any measures adopted to implement proposals recommended within it.

NOW, THEREFORE, BE IT RESOLVED, that the Town of Savannah, pursuant to the provision of Section 266 of the Town Law of the State of New York, does hereby create a commission to be known as the Zoning Commission, which Commission shall have all of the rights and duties of that commission pursuant to said Town Law Section 266; and

IT IS FURTHER RESOLVED, that the Zoning Commission shall consist of the Town of Savannah Planning Board members including alternates and three (3) community representatives.

A motion to adopt the above resolution as written was made by Councilman Metcalf seconded by Councilman Spellman. By roll: Councilman VanLeeuwen, Fitch, Metcalf, Spellman and Supervisor Lauderdale “aye” motion carried.

Supervisor Lauderdale noted that the State Snow & Ice Agreement for 2009 has increased from approximately \$58,000 to \$85,000 due to rising costs in equipment rental, fuel and salt.

The following resolution was presented by Councilman Fitch:

**Resolution No. 53-2008
State Snow & Ice Agreement**

WHEREAS, the Town of Savannah wishes to contract with the State for the removal of Snow and Ice on State Highways in the Town of Savannah, and

WHEREAS, the State has agreed to pay the Town of Savannah for this service, a lump sum estimated expenditure of \$85,107.00 for the average season, now

BE IT RESOLVED, that the Town Board of the Town of Savannah authorizes Supervisor, Kenneth Lauderdale, to sign said Agreement with the State for the control of Snow and Ice of State Highways in the Town of Savannah.

A motion to adopt said resolution as written was made by Councilman Metcalf seconded by Councilman Spellman. By roll: Councilman Metcalf, Fitch, Spellman, VanLeeuwen and Supervisor Lauderdale “aye” motion carried.

Supervisor Lauderdale presented for the Boards approval a letter regarding shutting off water and sewer service for non-payment of bills. After review it was decided by motion of Councilman Spellman seconded by Councilman Fitch to distribute this letter with the next billing and to attach this letter in the minutes of this meeting. By roll: Councilman Metcalf, Fitch, Spellman, VanLeeuwen and Supervisor Lauderdale “aye” motion carried.

Supervisor Lauderdale gave a status report on the storage shed project at the Highway Department, noting that the project should be complete by the next regular Town Board meeting. Councilman Fitch noted that he would like to see “locked thermostats” installed, Supervisor Lauderdale to further review this request.

Supervisor Lauderdale noted that he has appointed Scott Kolczynski to the Wayne County Fire Advisory Board for a term of 2 years, board so noted.

Councilman Spellman noted that the Town Board should consider someone to fill the vacancy on the Wayne County Youth Board. Board so noted and Councilman VanLeeuwen will consider.

Supervisor Lauderdale presented a proposal from MRB Engineering in the amount of \$10,800 to do the preliminary engineering work required for the grant application. It was noted that this work is separate from the engineering services for the water hydraulic study. After much discussion it was decided by motion of Councilman Spellman seconded by Councilman VanLeeuwen authorizing MRB Engineering to do the engineer work for the Town of Savannah’s grant application in the amount of \$10,800. By roll: Councilman Fitch, Spellman, Vanleeuwen, Metcalf and Supervisor Lauderdale “aye” motion carried.

Supervisor Lauderdale presented for the board review a proposal from Lee Walter a certified public account in regards to a financial audit of the Town. After much discussion it was decided by motion of Councilman Fitch seconded by Councilman Metcalf to hire Lee Walter to perform a general purpose financial audit of the Town in the amount not to exceed \$4,200.00. By roll: Councilman VanLeeuwen, Metcalf, Fitch, Spellman and Supervisor Lauderdale “aye” motion carried.

Much discussion was held regarding Sewer District No. 1 violations. Supervisor Lauderdale noted that he has briefly discussed possible solutions with MRB Engineering and the Water/Sewer Operator is working with Rural Water Association. It was decided to have MRB Engineering attend the end of the year meeting on the 29th to make a presentation about treatment bed repairs and other options.

Chuck Carmen noted that the Angel Tree is at Crusoe Café for those interested.

The following bills were presented for audit:

General Fund	Abst. #12	Claim #321-353	\$35,439.82
Highway Fund	Abst. #12	Claim #162-172	\$22,610.59
Water District	Abst. #12	Claim #131-141	\$ 8,940.65
Sewer District 1	Abst. #12	Claim #42-45	\$ 358.56
Sewer District 2	Abst. #12	Claim #47-50	\$ 1,558.58
Sewer District 3	Abst. #12	Claim #32-34	\$ 235.87
Sav. Lighting	Abst. #12	Claim #12	\$ 858.18
So. Butler Lighting	Abst. #12	Claim #12	\$ 52.27
HUD	Abst. #2	Claim #2	\$ 7,453.00

A motion to pay the bills as presented was made by Councilman Fitch seconded by Councilman Metcalf. By roll: Councilman Spellman, VanLeeuwen, Metcalf, Fitch and Supervisor Lauderdale “aye” motion carried.

A motion to set the Annual Meeting for December 29th at 7:00 p.m. and to set the Organizational Meeting for January 5th, 2009 at 7:00 p.m. was made by Councilman Fitch seconded by Councilman Metcalf. By roll: Councilman VanLeeuwen, Spellman, Metcalf, Fitch and Supervisor Lauderdale “aye” motion carried.

A motion was made by Councilman Metcalf seconded by Councilman Fitch to enter into Executive Session to discuss personnel issues and labor negotiations. By roll: Councilman VanLeeuwen, Metcalf, Spellman, Fitch and Supervisor Lauderdale “aye” motion carried.

Executive Session – Personnel & Labor 7:50 p.m.

Out of Executive Session – 9:45 p.m.

As all business was complete a motion to adjourn was made by Councilman Metcalf seconded by Councilman Fitch. By roll: Councilman VanLeeuwen, Spellman, Metcalf, Fitch and Supervisor Lauderdale “aye” motion carried.

Julie Carey – Town Clerk

DRAFT