

Kingsbury Town Board Meeting September 20, 2021

The second regular meeting of the Kingsbury Town Board was conducted on September 20, 2021, at 6 Michigan Street, Hudson Falls, NY.

MEMBERS PRESENT

Dana Hogan, Supervisor
Richard Doyle, Councilman
William Haessly, Councilman
Jane Havens, Councilwoman
Dan Washburn, Councilman

OTHERS PRESENT

Jeffrey Meyer, Town Attorney
Todd Humiston, Enforcement & Dog Control Officer
James Chase, Water Superintendent
Michael Graham, Highway Superintendent
Town Residents: Lillian LaFrance, Lynne Mitchell, Mac Edwards, Les Macura, Jim Vaughn, Jeff Zappieri, Henrick & Irene Rupp, Krystal Brayton, Lorraine Forcier
Kingsbury Fire: John Aiken, Scott Purdy, David Kearns, Steve Gitto, Scott Winchell

The meeting was called to order at 7 p.m. by Supervisor Hogan and opened for the order of business with the Flag Salute led by Councilwoman Havens.

The minutes of the August 16, 2021, Town Board Meeting were accepted with a **motion** by Councilman Doyle seconded by Councilman Washburn and carried by a vote of 5 ayes.

Supervisor Hogan opened a Public Hearing at 7:03 PM to discuss a proposed Local Law Imposing a Moratorium on Large Scale Development.

Lillian LaFrance residing at 10:58 State Route 196 stated she is in favor of the moratorium. It is an important step to give the Town an opportunity to update their Master Comprehensive Plan. The development of the community needs to be controlled, but not stopped to determine what is best for the Town, the residents, and the future. At this point there are proposed projects in the Town that are not appropriate for the Town. To keep the identity that is wanted in the Town we must take a look at what is going on and what the Town is not going to allow. She is asking the Board to consider imposing the moratorium on large scale development. Ms. LaFrance asked if the proposed project on Martindale Avenue by Schermerhorn had been approved. Supervisor Hogan responded it has not been approved by the Planning Board at this time.

Mac Edwards a resident of Martindale Avenue stated when he bought his property 50 years ago it was residential, suddenly it was turned into commercial. It upsets him that he built a home there and now he may have 88 apartments across the street from him. There are no facilities for water on the property and the septic systems may create a problem for the ground water that everyone in the neighborhood drinks. There is no real compaction in the property underneath, when it was done, they went over it with a roller which didn't fill the nooks and crannies where the septic is going in. He would like to see a long-term planning project for big housing developments. There are already two large housing developments on Dix Avenue and a third one planned it will affect a lot of traffic on that road. The Town has a lot of open space where developments could go, with planning we could get a lot of residential area in the open spaces.

Charles Doty of 111 Dean Road stated he is a strong proponent of the moratorium passing. There are many impacts on roads, schools, traffic, water, and sewer. We do not have an infinite amount of property and how it is used down the road for our kids and grandkids is very important. There is potential retail space on Dix Avenue that is vanishing quickly which could be nice sales tax dollars. The effects of large apartment complexes on the Town and schools are not great. Mr. Doty stated we should take a step back and take a look at the big picture and decide what we want the Town to look like for our kids before we go any further; Councilwoman Havens is doing a great job with the Master Comprehensive Plan Project.

There was no other comment from the public. Supervisor Hogan reported two pieces of correspondence had been received via email in the Town Clerk's office and the school emailed the Board with a request to strongly consider the moratorium. A letter was received from the Southern Adirondack Realtor's Association, an organization located in Queensbury, stating their opposition to the moratorium. At 7:11 pm Supervisor Hogan closed the Public Hearing. Councilman Haessly does not think the proposed project on Martindale Avenue is a good project and he thinks the traffic study is inaccurate. A **motion** by Councilman Haessly seconded by Councilwoman Havens and carried by a vote of 5 ayes to impose a moratorium on large scale development as follows:

TOWN OF KINGSBURY
COUNTY OF WASHINGTON, STATE OF NEW YORK Local Law No. of
2021

A LOCAL LAW IMPOSING A MORATORIUM

Be it enacted by the Town Board of the Town of Kingsbury ("Town"), County of Washington, State of New York ("State") as follows:

Section 1. Legislative Intent.

The purpose of this local law is to protect the public health, safety and welfare by restricting Large Development Projects within the Town of Kingsbury for a limited period of time in order to further develop and revise the comprehensive plan, applicable zoning law provisions, and to be able to address the community needs.

The Town of Kingsbury is under pressure from increased development. The majority of the pressure is in the form of high-density residential development in areas of the town that are not presently served by municipal water and sewer. The lack of infrastructure, coupled with the soil and hydrologic conditions contained within the Town, necessitate the Town place a moratorium on large development projects.

Section 2. Findings.

The Town Board is concerned that the existing Chapter 280 of the Code of the Town of Kingsbury ("the Zoning Law") may not be adequate for the review of the impacts and mitigation of the consequences as it relates to Large Scale Development and the approval thereof.

For the purposes of the moratorium Large Development Project is intended to apply to those certain projects that will not connect to municipal water and sewer, which result in the discharge of pollutants having a volume of more than five hundred (500) gallons per day per acre, pro-rata, based on total lot acreage. This moratorium is intended to prevent the introduction of large amount of ground water in areas of the town with hydrologic limitations due to high ground water, the prevalence of drinking wells, and limited infiltration. Introducing large residential developments in these areas without adequate land use controls in place will have adverse impacts on the public health, safety and welfare of the community.

Section 3. Moratorium Imposed.

- A. Large Development Projects. For the purpose of this Local Law a Large Development Project (LDP) is hereby defined as any subdivision or site plan application that will not connect to municipal water and sewer, which will result in the discharge of pollutants having a volume of more than five hundred (500) gallons per day per acre, prorate.
- B. Large Development Projects Temporarily Prohibited. For a period of twelve (12) months following the date of adoption of this local law, no new site plan applications or subdivision applications shall be accepted, reviewed, or approved by the Planning Board, with respect to Large Development Projects (LDP). This shall not in any way limit or prevent the issuance of building permits for such existing projects already approved by the Planning Board.
- C. Evaluation and Revision of Existing Regulations. During the period of the moratorium established by this local law, the Town Board shall endeavor to evaluate and adopt revisions to the Town's Comprehensive Plan and Zoning Law to address the use and regulation of Large Development Projects and to evaluate and adopt policies and procedures for reviewing the same by the Town of Kingsbury.

Section 4. Extension of Moratorium.

This moratorium may be extended for up to two (2) additional periods not exceeding six (6) months each by resolution of the Town Board upon a finding of necessity for such extension.

Section 5. Relief From Requirements.

The Town Board reserves to itself the right and sole discretion to vary or adapt the strict application of this local law in the case of unusual hardship or circumstances that would deprive a property owner of the reasonable use of lands affected by this local law. Accordingly, by duly adopted resolution, the Town Board may authorize the Planning Board to review and consider for approval or

disapproval a site plan or subdivision application, the review of which is otherwise precluded by this local law, or the Code Enforcement Officer to issue a building permit that is otherwise precluded by this local law, subject to the regular review process for such special use and site plan, or building permit, under circumstances where:

- A. An application for a variance is filed, in writing, with the Town Clerk, together with a filing fee in the sum of \$150.00. The application shall specifically identify the land involved, recite the nature and scope of the proposed development, provide a narrative description and a sketch plan of the proposed development, and describe the reasons for which the variance is requested and the grounds upon which it is sought to be approved, including all facts and circumstances upon which hardship is claimed.
- B. All costs incurred by the Town in connection with the consideration of the application for a variance are paid by the applicant, including but not limited to, all professional consulting fees such as attorneys, engineers, and planners.
- C. The applicant demonstrates that this local law has resulted in unnecessary hardship in that: the applicant has been deprived of substantially all economic use or benefit from the property in question, which must be established by competent financial evidence; the alleged hardship is unique to the applicant's property and does not apply to a substantial portion of other properties in the areas of the Town to which this local law applies; and the variance, if granted, will not pose a present or future risk to the health, safety and welfare of the residents in the vicinity of the proposed development and the Town at large.
- D. The Town Board may refer any applications for a variance hereunder to the Planning Board, the Zoning Board of Appeals, any other Town board, committee or department, and/or its professional consultants for their advice and recommendations. Nevertheless, all decisions as to the granting or denying of such variances shall be made by the Town Board in its sole and absolute discretion after determining whether the requested variance is compatible with protection of the environment and any contemplated revisions to the Town's Zoning Law. No variance shall be granted unless the Town Board determines the requested variance is compatible therewith.
- E. The Town Board shall conduct a public hearing on any request for a variance within forty-five (45) days after it determines that a complete application has been submitted to it. The Town Board shall render its determination upon any application for a variance within sixty-two (62) days after the conclusion of the public hearing.
- F. The granting of a variance by the Town Board does not preclude or otherwise restrict the Planning Board's review and jurisdiction of the site plan application pursuant to the Zoning Law.

Section 6. Conflict With Other Laws.

This local law is enacted pursuant to the provisions of the Town Law and the Municipal Home Rule Law and, during the time it is in effect, it specifically supersedes and shall take precedence over any contrary laws, ordinances and provisions, including but not limited to }267, 267-a, s267-b, P74-a, 974-b, s276, 977, S278, and 279 of the Town Law of the state of New York, or Town Code of the Town of Kingsbury.

Section 7. Penalties for Offenses and Enforcement.

Any person who shall develop or erect or install improvements upon land in violation of this local law, or break ground for the purpose thereof, shall be guilty of a violation and subject to a fine not to exceed \$1,000.00 or six (6) months in jail, or both. Each week a violation continues shall be considered a separate and distinct violation. This local law shall be enforced by the Code Enforcement Officer of the Town of Kingsbury who is hereby granted authority to issue appearance tickets for the purpose thereof. Upon authorization by the Town Board, this local law may also be enforced by civil action brought in the name of the Town for the purpose of obtaining injunctive relief and recovering civil penalties of \$1 ,000.00 for each week a violation of the local law continues.

Section 8. Effect of Invalidity.

If any clause, sentence, phrase, paragraph or any part of this local law shall for any reason be adjusted finally by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this local law, but shall be confined in its operation and effect to the clause, sentence, phrase, paragraph or any part thereof, directly involved in the controversy or action in which such judgment shall have been rendered. It is hereby declared to be the legislative intent that the remainder of this local law would have been adopted had any such provisions not been included.

Section 9. Effective Date.

This local law shall take effect immediately upon adoption.

Councilman Doyle stated the moratorium is going in specifically on health issues not specific to a project or usage, but it has to do with water and the water issues, and we must keep this in mind. The Comprehensive Plan may not solve the water issues, the Town Board does not decide if municipality water is extended, the residents decide whether they want to pay for water. He can see this being a 2-year moratorium and thinks it is too long. The only way you can cut down the water is to increase the lot size and by changing zoning laws. He believes in two years the Town will have the same issues, high water on Dean Road and projects still waiting to go forward. He would like to see the time span of the moratorium shortened so the Town can address the underlying problem.

Enforcement Officer Humiston would like to clarify two things: if they have enough property for the water they can go forward and if they can connect to water and sewer they can go forward.

A discussion about the availability of water ensued. Water Superintendent Jim Chase stated the Town would have to establish another Water District. The Town has two water districts: Dix Avenue and the Industrial Park.

Councilwoman Havens stated she is going to contact Laberge to find out what they have done previously in Comprehensive Plans that may get into the details of a water project.

Mac Edwards stated the water and sewer are not the only problem, the traffic is also a problem. Councilman Haessly read the traffic study in detail and feels the traffic study is flawed. Enforcement Officer Humiston stated those were things that would be handled by the Planning Board.

Supervisor Hogan opened the Public Hearing for public comment for the extension of the Kingsbury Water District at 7:21 pm.

Mr. Winchell asked for the location of the water extension. Water Superintendent Jim Chase stated it is going from the last hydrant in the shopping center, with Phase I stopping at the Kingsbury Volunteer Hose Co. and water would be brought into the fire department for a hydrant for their fire protection and water also here. Water would also go to the State Transportation Building and water would be available to properties on Burgoyne Avenue and on the other side of Burgoyne Avenue. Phase II would go from there, if there was enough money, and running down to the beginning of Franklin Street.

Mr. Winchell asked if this was the same district that was voted on years ago.

Mr. Chase answered it is not and if it went back there it would have to be voted on again. Betty Little obtained a grant because the Town did not have the money to do it.

Resident Bruce Bardin asked what side of the road the waterline would be located. Mr. Chase responded it will be across the road from your house. Resident Lillian LaFrance does not know where Mr. Bardin lives and asked which side of the road it would be. Mr. Chase answered it would be on the State building side, ten feet from the sewer line.

Resident Irene Rupp stated they have a well and asked if they had to have the water. Supervisor Hogan answered no; it is a choice to connect. Jim Chase explained a waterline going to her home would improve the value of her house, you don't have to hook up to it, and if you don't want it you don't have to pay for it. Anyone in the future that developed your property or bought your house would have to pay from the main into your house. There would be a \$200.00 yearly fee for maintenance on the water line if the water line goes by your house. Supervisor Hogan stated Enforcement Officer Humiston has looked at the lots in the neighborhood of the waterline extension and asked him to shed light on the size of the lots. Enforcement Officer Humiston stated there is a 100-foot separation requirement between your septic system and well and none of the lots in that location could meet the minimum requirement. If the septic system had to be replaced, you would not be able to get a certificate of occupancy, a certificate of compliance. The state no longer allows that to be grandfathered due to health requirements. To hook into the municipal water, you would not need the separation because you are on a municipal waterline. There is a benefit in this situation due to the lot size. Supervisor Hogan stated this is becoming an issue in Washington County.

Jim Chase stated this is a good project because if they want water in a certain area, they poll the taxpayers, it can't cost the taxpayers more than what the State allows, there has to be a 60% approval rate of the area and it has to be affordable. This was money that Betty Little got for the Town and especially for the fire house and the State building. In the 1980's the fire house did not have water, they will have a hydrant out in the back which will improve their time, they will have water in the fire house and when it is 30 below, they won't have to open a hydrant and risk damaging the water district. The State Transportation will be using it for a new project they have, a brine system which will cut down the

salt on the road, so your car does not rust so fast. Supervisor Hogan added it also reduces the environmental impact of salt on the roads and cuts down on the cost of the salt usage in the wintertime. Jim Vaughn asked for clarification on the yearly cost of \$200.00 if you do not hook up to the waterline. Supervisor Hogan stated yes there will be a maintenance fee for the waterline. Mr. Vaughn asked if Verizon or Spectrum were involved, Jim Chase answered no they are not. Mr. Rupp asked if you hooked into the waterline if you could still use your well. Jim Chase answered yes you can, but they cannot be inter-connected. Mr. Chase stated they will drill under the road and not cut into the road to residents who are across the road from the waterline. Members of the fire house are very happy with the extension of the waterline. Supervisor Hogan closed the Public Hearing at 7:31 pm. Supervisor Hogan stated retired Senator Betty Little was crucial in getting the grant, the fire house had made the request six years ago. Mr. Rupp asked what the timeline was for the project. Jim Chase answered it will probably be springtime before it is started.

Attorney Meyer explained even though it is not a huge project it is enough of a disturbance to require the review of an environmental assessment form. The yes or no questions lead to other detailed questions and on a project of this size you are more than likely going to get no impacts, all impacts fall under the no category because the form is set up for large projects. The first question is will you alter the land, and the answer would be yes but once you get into the smaller questions any potential impacts will be minimal. A **motion** by Councilman Doyle seconded by Councilman Washburn and carried by a vote of 5 ayes declaring the Town of Kingsbury as lead agency and having reviewed the Full Environmental Assessment Form and taken a hard look at the potential environmental impacts finds that there are no potential negative impacts anticipated from this project, the Board issued a negative impact on the project.

A **motion** by Councilman Doyle seconded by Councilman Haessly to move forward with the extension of the Kingsbury Water District.

No bids were received for propane for the Town Highway Garage and will be tabled until the next meeting.

Enforcement Officer Humiston reported the Zoning Board Chairman, Hank LaFountain no longer resides in the Town and has officially resigned from the position. He recommends Bill Whipple to replace him as the Chairman. A **motion** by Councilwoman Havens seconded by Councilman Haessly and carried by a vote of 5 ayes to appoint Bill Whipple as Chairman of the Zoning Board.

The Town Board received a request from Town Justice Anthony White to obtain authorization to apply for a grant from the Justice Court Assistance Program. A **motion** by Councilman Washburn seconded by Councilman Haessly and carried by a vote of 5 ayes for the following:

Option # 1: The Board of the Town of Kingsbury authorizes the Kingsbury Town Court to apply for a JCAP grant in the 2021-22 grant cycle up to \$30,000.00.

Councilman Haessly asked where the Town stood with the Charter Communications Franchise Agreement. Attorney Meyer will contact Kevin Egan to see where they stand with the Public Service Commission.

TOWN CLERK REPORT:

Due to Wal-Mart and Dick's not selling hunting and fishing licenses the office has been busy selling licenses. The clerks have encouraged the customers to return which will increase revenue for the Town. School Tax Collection is going well.

DOG CONTROL OFFICER:

Todd Humiston reported Hudson Falls Village Police had to make a change in their logistics. He has given them a key so they can drop off any dogs picked up if he is not available, this is a procedure they chose and is the same procedure used by the Washington County Sheriff's.

HIGHWAY SUPERINTENDENT:

Michael Graham reported next week they will start with sand for the winter months.

COUNCILMAN REPORT:

Councilwoman Havens thanked the tax collecting staff for inserting fliers about the Comprehensive Plan Survey in the school taxes. Kingsbury Printing will print 500 copies of the survey so that residents that do not have access to a computer can complete the survey. She has contacted the Chronicle, the Free Press and the Post Star and requested they put it on their calendar of events.

September 28th is the first workshop at the American Legion from noon to 8pm, and she would like the Board to help get the word out to the public to attend.

Councilman Washburn met with the Comptroller in regard to new computers and servers, sent it to the Town Attorney in regard to an RFP, then sent it to Terri McNall at the County. Terri suggested the Town not do an RFP, each company would design the software and the computers slightly different. She recommends that they be met with individually and tell them the total number of computers, the server and whether we want a cloud back up and let them come up with their own plan. Then the Town would take the proposals and see what works best for the Town and hire the person that is best-suited. Attorney Meyer stated this would be ok based on the Town's procurement policy, he would like to double-check based on what they develop.

Councilman Washburn stated the Town has already received a proposal from Adirondack Techs. He will reach out to Store-Tech, meet them at the Town and go over the basic specs.

SUPERVISOR REPORT:

Champlain Power Express Company, transmission developers, attended a Board Meeting about four years ago. The Governor awarded the bid to Champlain Power Express and TDI. This will result in a significant PILOT payment and a Community Host Benefit Package to the Town of Kingsbury as well as Washington County and the Hudson Falls Central School District. Eleven million dollars will come to the Town and to the school over a 30-year period of time beginning in 2025. New York City is trying to go with green energy and put out requests for proposals to power companies. Hydro Quebec out of Montreal submitted a bid for the project and will run a power line down through Lake Champlain down to New York City. The construction will take approximately two years. In exchange for the right to go through all these communities, the Town of Kingsbury being one of them, they will provide a PILOT payment and a host benefit package. In year one it will be approximately \$52,000.00 and then adjusted for inflation. The payment on the host benefit package is approximately \$189,00.00 a year adjusted for inflation for the next 30 years. The Town of Kingsbury will not be impacted much, it will run next to the rail lines and not be seen. The Town of Whitehall will be disrupted, the line will go through downtown Whitehall. It is long-term and will be a good thing for the community.

WRITTEN REPORTS:

A **motion** by Councilman Doyle seconded by Councilwoman Havens and carried by a vote of 5 ayes to accept the reports of certain officers for the month of July as follows:

Kingsbury Town Board Meeting September 20, 2021

Dog Control Officer: Seizures 1; Unlicensed Dogs 3; Dangerous Dogs 1; Written Warnings 1
Town Clerk: Paid to EnCon \$3,229.35; Paid to Supervisor \$6,874.11; Paid to the Village of Hudson Falls \$160.00; Paid to Ag & Markets for Population Control \$124.00
Town Comptroller: Receipts \$41,572.83; Disbursements \$167,056.97
Town Justice for June: Fees Collected: \$13,306.00

PUBLIC COMMENT:

Les Macura, a member of the Planning Board stated the moratorium has been voted in and it will not affect the Schermerhorn Housing Development on Dix Avenue. Supervisor Hogan stated the Senior Housing Development was approved in 2015; the moratorium does not affect that project.

A **motion** by Councilman Doyle seconded by Councilman Haessly and carried by a vote of 5 ayes to enter into an executive session at 8:04 pm to discuss a personnel matter, Water Superintendent Jim Chase and Highway Superintendent Michael Graham were invited to attend the executive session.

A **motion** by Councilwoman Havens seconded by Councilman Washburn and carried by a vote of 5 ayes to exit the executive session at 8:31 pm.

A **motion** by Councilman Washburn seconded by Councilman Haessly and carried by a vote of 5 ayes for 60 Comp hours and 80 COVID hours for Water Superintendent Jim Chase to be charged to sick time.

There being no further business before the Board the meeting was adjourned at 8:33 pm.

Respectfully submitted,

Cynthia A. Bardin, Town Clerk