

The first regular meeting of the Kingsbury Town Board was conducted on November 5, 2018 at the Kingsbury Town Hall at 6 Michigan Street, Hudson Falls.

MEMBERS PRESENT: Dana Hogan, Supervisor
Richard Doyle, Councilman
Henry Freebern, Councilman
William Haessly, Councilman
Dan Washburn, Councilman

OTHERS PRESENT: Jeffrey Meyer, Town Attorney
Kevin Elnicki, Earth, Waste & Metal
Thomas Schmeizenbach, Earth, Waste & Metal
Todd Humiston, Dog Control Officer
John Mead, Town Historian & Kelly Mead
Michael Graham, Highway Superintendent
Mary Ordway, Town Comptroller
Jerry Caruso, Town Resident

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 Councilman Doyle.

The minutes of the October 15, 2018 Board Meeting will be reviewed at the next Board Meeting.

Supervisor Hogan stated the first item on tonight's agenda is the review of the Junkyard Application from Earth, Waste & Metal. Kevin Elnicki of Earth, Waste & Metal stated he received a letter from Attorney Meyer after the purchase of the former Kingsbury Transfer Station and Recycling Center indicating he must come into compliance so the facility is not shut down. He would like to continue the recycling operation collecting metal, paper and glass. Earth, Waste & Metal also purchased four other facilities in Washington County; which are already permitted. Mr. Elnicki stated the Town of Kingsbury has a different program, probably due to the problems with East Side in the past. Supervisor Hogan stated the letter was sent from Attorney Meyer to make sure that Earth, Waste & Metal was in compliance with the Junkyard Permit process that the Town of Kingsbury holds. Prior to the purchase of the facility from the County they held a DEC permit jointly with the County; because it was a municipality there was a requirement to come into alignment with Town of Kingsbury's junkyard permitting process. Supervisor Hogan stated Earth, Waste & Metal has submitted some paperwork and application respective to the permitting process for the Junkyard Permit and asked if there was anything to add to the application or if there was anything they wanted to address with the Board. Mr. Schmeizenbach commented the Town of Kingsbury Junk Yard Permit does not describe the type of facility operated by Earth, Waste & Metal. The Junkyard Permit talks about hazardous waste and fluids that is not the type of operation that is there; this is the type of facility dedicated to recycling. Mr. Schmeizenbach stated he filled out the application and provided additional back-up material and feels Code Enforcement Officer Ross Cortese should indicate to the Board the application has been submitted and that he is satisfied with it. Mr. Schmeizenbach also stated it is his understanding that the area is being looked at for re-zoning and he is not sure what the status of that is and they would like to continue the operation of the facility as it has been operated since 1991 when it was built. Their intent is to be a part of the community and be in compliance on the local level. He explained they have completed an in depth permitting process with the DEC.

Supervisor Hogan commented there were a couple of required items in the application that were not included; there was not a narrative that described the business activity and certification of zoning compliance. Mr. Schmeizenbach commented that Code Enforcement Officer Ross Cortese needs to take care of that. Supervisor Hogan asked Mr. Schmeizenbach if he had made a formal request in writing for a zoning change. Mr. Elnicki answered they have not made a formal request and they had been grandfathered in before the Town changed the law. Attorney Meyer stated this went into effect before 2013. Mr. Elnicki stated the operation has been in existence since 1991. Attorney Meyer explained there are two things that are operating; there is the junkyard law under Section 174 and the regulations for junkyards and there is the zoning law. The zoning law stands alone and has a sunset condition for junkyards outside of the industrial zone which allows it to continue for two years. Attorney Meyer they are in compliance until August of 2020; at that time due to the zoning law they will lose their grandfathered status. Once again Mr. Schmeizenbach stated the facility is really not a junkyard as described in the application for Earth, Waste & Metal to continue operation. He feels the common understanding of a junkyard is not what is going on here. Attorney Meyer stated under the definition of junkyard, this operation falls clearly under that. Supervisor Hogan stated we must move forward; Earth, Waste & Metal should make a formal request for a zoning change in writing. Supervisor Hogan stated there were some items missing from the list in the junkyard application; the Board cannot schedule a Public Hearing until the application is complete. Supervisor Hogan stated it is the Board's intent that the process move forward and the facility continues to operate. Attorney Meyer will draft a letter with the necessary information for a zoning change to Earth, Waste & Metal.

Town Historian John Mead addressed the Board with a report of his past year activities as follows:

1. One FOIL request
2. Six Genealogical requests
3. Three general historical questions
4. Solomon Northup tie-in with the Town of Kingsbury who grew up someplace near Ideal Dairy Farm
5. The Moss Street Cemetery is still in the process of being on the National Registration of Historical Places
6. He is working with a Japanese Historian who is interested in Townsend Harris of Hudson Falls
7. Receipt of three donations for the Town files
8. Washington County Historical Fair at Hartford with a Kingsbury display

Supervisor Hogan recently received a call in regard to the Town maintaining the Vaughn Cemetery located on Farley Road. Supervisor Hogan and Highway Superintendent Michael Graham toured the cemetery which is located on private property. John Mead reported there are ten known burials; all Vaughn family members and probably more burials that are unmarked. The oldest burial is from 1800 and the last burial was in 1851. A discussion followed amongst the Board in regard to the maintenance of the cemetery. Attorney Meyer stated "If this is a private family cemetery; it isn't a question of whether the Town wants to maintain it or not; it is a private family cemetery and the Town can't." The discussion continued, Attorney Meyer stated you are allowed to visit a cemetery regardless of where it is and who owns around it, you have a right to get there even if it is located on private property. The Board made a decision not to take over the maintenance of the Vaughn Cemetery.

A **motion** by Councilman Freebern seconded by Councilman Doyle and carried by a vote of 5 ayes for Supervisor Hogan to sign a Barnstormers/National Grid agreement confirming that the Town has no objection to the Barnstormers Snowmobile Club having a right of way on National Grid property in the Town of Kingsbury.

Dave Perkins reached out to Superintendent of Highways Michael Graham to let the Board know they would like to stay on the shoulder of New Swamp Road an additional 200 feet; a new land owner does not want the Barnstormers riding on his property. Superintendent Graham stated it will not change the way they plow snow and it will not impede any traffic. The Board has no issues with the request. The Barnstormers also travel by the Town Barn and through the pit; Superintendent Graham will get a hold harmless agreement and a copy of their liability with the Town of Kingsbury listed as additionally insured.

A **motion** by Councilman Freebern seconded by Councilman Washburn and carried by a vote of 5 ayes to adopt the following resolution:

**RESOLUTION
TOWN OF KINGSBURY**

**TOWN OF KINGSBURY TOWN BOARD
6 MICHIGAN STREET, HUDSON FALLS, NEW YORK**

RESOLUTION NUMBER 9 OF 2018

WHEREAS, the Town of Kingsbury, with the assistance from Washington County and Tetra-Tech, has gathered information and prepared the Washington County Hazard Mitigation Plan; and

WHEREAS, the Washington County Hazard Mitigation Plan has been prepared in accordance with the Disaster Mitigation Act of 2000; and

WHEREAS, the Town of Kingsbury is a local unit of government that has afforded the citizens an opportunity to comment and provide input in the Plan and the actions in the Plan; and

WHEREAS, the Town of Kingsbury have reviewed the Plan and affirms that the Plan will be updated no less than every five years;

NOW THEREFORE, BE IT RESOLVED by the Kingsbury Town Board that the Town of Kingsbury adopts the Washington County Hazard Mitigation Plan as this jurisdiction's Natural Hazard Mitigation Plan, and resolves to execute the actions in the Plan.

ADOPTED this 5th day of November, 2018 at the meeting of the Kingsbury Town Board.

Supervisor

Town Clerk

<http://www.kingsburyny.gov>

A **motion** by Councilman Washburn seconded by Councilman Freebern and carried by a vote of 5 ayes for the Town Clerk to have published in the Post-Star a notice to Town of Kingsbury residents for no parking on Town roads commencing November 12, 2018 until March 31, 2019 from 6 p.m. until 6 a.m.

Supervisor Hogan reported modifications must be made in the Town Employee Handbook in regard to sexual harassment and workplace violence. Comptroller Mary Ordway stated the state laws had changed and the Town must follow state policy. A discussion followed; Councilman Washburn and Councilman Haessly did not receive their copy of the proposed changes; this will be tabled until the next Board meeting.

TOWN CLERK REPORT:

Local Law's 2 & 3 of 2018 were filed with the Department of State on October 22, 2018.

The school tax collection is complete and the unpaid tax bills will be returned to the Washington County Treasurer's Office this week.

The scheduling of the poll inspectors for elections is no longer done in the Town Clerk office due to shortage of available inspectors; the Board of Elections will contact and schedule the inspectors.

A **motion** by Councilman Freebern seconded by Councilman Doyle and carried by a vote of 5 ayes for Comptroller Mary Ordway to be paid 201 hours for her extra time worked which will be charged to the water district.

DOG CONTROL OFFICER REPORT:

Todd Humiston reported he had found a new vendor to publish the books used in the Dog Safety presentations. The new vendor is local so there will be no shipping fees and they charge less for the books.

Humiston has been busy with dogs running at large.

HIGHWAY SUPERINTENDENT REPORT:

Company Bridge Road paving is complete.

The plow frames and wings are on the trucks, have been tested, and are ready for plowing snow.

Rabies clinic was conducted on Saturday November 3, 2018 at the Highway Garage.

SUPERVISOR REPORT:

Supervisor Hogan received a thank you note from the Luciano family thanking the Town of Kingsbury for their continued assistance with the Annual 5K Tony Luciano Race.

Supervisor Hogan sent a copy of the Town's Solar Energy Pilot Law to Cypress Creek; Cypress Creek was under the impression that the Town was negotiating on behalf of the County and School. Supervisor clarified to them that we are not.

The Washington County Budget has balanced and remained under the tax cap this year.

A **motion** by Councilman Freebern seconded by Councilman Doyle and carried by a vote of 5 ayes to accept the reports of certain officer for the month of October as follows:

Code Enforcement Officer: No Activity

Dog Control Officer: Complaints/Calls 59; Seizures 4; Unlicensed Dogs 10; Mileage 574 with 82 charged to Fort Edward & 144 charged to Fort Ann

Town Clerk: Paid to EnCon \$3,547.86; Paid to Supervisor \$2,367.70; Paid to NYS Dept. of Health \$202.50; Paid to the Village of Hudson Falls \$150.00; Paid to Ag & Markets for Population Control \$139.00

Town Comptroller: Receipts \$729,366.93; Disbursements \$748,063.50
For September – Town Justice; Fees Collected: \$17,557.40

There being no public comment or further business before the Board a **motion** by Councilman Freebern seconded by Councilman Haessly and carried by a vote of 5 ayes to adjourn the meeting at 7:57 P.M.

Respectfully submitted,

Cynthia A. Bardin, Town Clerk