

The second regular meeting of the Kingsbury Town Board was conducted on November 16, 2020 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: Todd Humiston, Enforcement Officer
Michael Graham, Highway Superintendent
Rebecca Pomainville, Comptroller
Jeffrey Meyer, Town Attorney

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.

A **motion** by Councilman Doyle seconded by Councilman Washburn to accept the minutes of the September 8th and September 21, 2020 as submitted by the Town Clerk.

Councilwoman Havens does not want to vote to accept the minutes because she believes they are transcripts, there is a difference between a transcript and a meeting minute; you cannot have in the meeting minutes the first and third person used in the same set of minutes; she believes they should not be accepted at this time. The Town Clerk stated based on the conferences she has attended the minutes mainly need to contain any decisions made by the Town Board; but she does not recall reading that it cannot be a transcript or naming a person and stating what they said in the meeting. The Town Clerk will do some research on the subject of minutes.

Supervisor Hogan asked Attorney Meyer if from a legal standpoint is the Board okay by not approving the minutes and is there a time frame for them to be approved. Attorney Meyer responded no; they should be prepared within ten days of the meeting but there is not a penalty if they are not prepared. Councilman Doyle and Councilman Washburn rescinded their motion to accept the minutes.

Town Clerk stated she had received a request from an attorney for copies of the September meeting and asked for permission to forward them. Attorney Meyer replied they could be sent and should be noted they are a draft or unapproved copy.

Supervisor Hogan opened a Public Hearing to Amend Chapter 130 of the Code of the Town of Kingsbury – Schedule of Fees at 7:04 pm. There being no public comment the Public Hearing was closed at 7:04 pm. Attorney Meyer reviewed the Short Environmental Assessment Form with the Board. A **motion** by Councilman Washburn seconded by Councilwoman Havens and carried by a vote of 5 ayes it was determined that the proposed action will not result in any significant adverse environmental impacts. Supervisor Hogan asked Attorney Meyer if we have the ability to add legal fees to the cost of projects that are being proposed in our community. Attorney Meyer responded yes; when they are before the Planning Board or Zoning Board. Supervisor Hogan asked Attorney Meyer if we were currently doing that now. Attorney Meyer responded yes for engineering, legal no.

Supervisor Hogan proposed to the Board that the Town require that legal fees be paid by the applicants for all projects. Enforcement Officer Humiston stated the Town already significantly charges the highest Planning and Zoning fees in the County. Supervisor Hogan believes the projects that are proposed by the applicant should incur the costs associated with their legal review. Supervisor Hogan is concerned with

applicants that contact the Town Attorney with questions related to their project, the Town may incur fees related to their questions. Councilman Haessly stated some projects require more legal review than others and applicants of smaller projects may not be able to carry the burden of attorney fees. The discussion continued.

Attorney Meyer stated in the last 15 years applicants of projects do not have the ability to email him directly and start ringing up fees without the Chairman of the Planning Board indicating that is a specific example, follow up with our Attorney. A few times the attorney was asked to track time for a specific project with the intention of pushing that onto the applicant. In some other communities it is the larger projects and not necessarily the smaller projects. Supervisor Hogan asked Attorney Meyer how that was defined. Attorney Meyer responded it is gut feeling and scale, the same with the engineer, on certain projects they will bring in Tom Jarrett or Highlander and it is based on the scope of the stormwater. The discussion continued. Supervisor Hogan asked if the Board had any interest in adding legal fees to larger scale projects which involve an engineer. Councilman Washburn replied yes because you could put a lot of hours into larger projects and projects involving millions of dollars should be able to pay the additional legal fees. Councilwoman Havens asked the Town Attorney how common this is. Attorney Meyer replied some applicants see it as a cost of doing business and others do not.

Supervisor Hogan asked if we could add this into our law. Attorney Meyer stated it is already in the law; it would be a conversation with the Chairman of the Planning Board explaining this the new policy going forward and the Enforcement Officer putting the applicant on notice. There being no strong objections from the Board, Supervisor Hogan will further review this subject.

A **motion** by Councilman Washburn seconded by Councilwoman Havens and carried by a vote of 5 ayes to adopt Local Law No. 3 of 2020 to amend the schedule of fees as follows:

TOWN OF KINGSBURY
COUNTY OF WASHINGTON, STATE OF NEW YORK
LOCAL LAW 3 of 2020

A LOCAL LAW AMENDING THE SCHEDULE OF FEES FOR THE TOWN
OF KINGSBURY

Be it enacted by the Town Board of the Town of Kingsbury, as follows:

Section 1. Legislative Intent.

It is the intent of the Town Board (the "Board") of the Town of Kingsbury (the "Town") to amend Chapter 130 of the Kingsbury Town Code (the "Code"), section 130-1 of the previously adopted Schedule of fees established with respect to licenses, permits and activities required or regulated under various provisions of the Code.

Section 2. Schedule of fees.

Chapter 130 of the Kingsbury Town Code is hereby repealed in its entirety and replaced as follows:

130-1 Schedule of fees.

<https://www.kingsburyny.gov>

The Town Board of the Town of Kingsbury shall set and establish, a schedule of fees with respect to licenses, permits and activities required or regulated under the provisions of various chapters of the Code by resolution. Any fee set and established by the Town Board may be amended by the Town Board by resolution with the same full force and effect as a Local Law. Applications for the issuance of such licenses and permits shall be subject to the provisions of the specific chapter of the Code which is indicated for each type of license or permit. The business, activity or operation for which the license or permit is required shall be subject to all regulations set forth in the chapter to which reference is made.

§ 130-2 Posting of fees.

A schedule of fees imposed by the Town of Kingsbury shall be available from the Town Clerk's Office during regular business hours and posted at other locations as may be deemed necessary by the Town Clerk or as direct by the Town Board.

Section 3. Severability.

If any provisions of this Local Law are held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, the remaining provisions of this Local Law shall remain in effect.

Section 4. Effective Date.

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

A resolution establishing the fee schedule as was recently used as Chapter 130 in the schedule of fees for the Town of Kingsbury with a **motion** by Councilman Doyle seconded by Councilman Haessly and carried by a vote of 5 ayes. Attorney Meyer explained the fee schedule is the same as it was before with the exception that any changes to the fee schedule can be made with a motion.

The Public Hearing for the 2021 Preliminary Budget and the Fire Protection Contract for 2021 had remained open at the last Town Board Meeting. Comptroller Rebecca Pomainville would like permission to change one MEO to a Water Operator and go from an hourly rate to a salary of \$54,000.00 for the Water Operator. A **motion** by Councilman Haessly seconded by Councilman Doyle and carried by a vote of 5 ayes giving the Comptroller to make the requested change.

There being no comment Supervisor Hogan closed the Public Hearing for the 2021 Fire District Protection Contract at 7:29 pm. The Board discussed procedures that should be set in place for future budget processes. A **motion** by Councilman Washburn seconded by Councilman Haessly and carried by a vote of 5 ayes to pass the 2021 Preliminary Budget and the 2021 Fire Protection Contract with the Kingsbury Volunteer Fire Co.

LEGAL UPDATE:

Attorney Meyer reported the draft IMA with Washington County Sewer District # 2 is being finalized. There is a hang up in the agreement; if something really expensive breaks who owns the infrastructure and how will it be paid for by the proper parties; this needs to be accounted for in the agreement.

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Councilman Washburn stated some of the sewer lines were turned over to the Village of Hudson Falls. Attorney Meyer would like to request a brief executive session to discuss impending litigation.

TOWN CLERK REPORT:

Town Clerk reported the 2020-21 Hudson Falls Central School Tax Collection is complete and the unpaids have been turned over to the Washington County Treasurer. The next Town Board Meeting will be conducted on December 7, 2020.

ENFORCEMENT REPORT:

Todd Humiston reported notices are being mailed to residents within 500 feet of Planning and Zoning Public Hearing sites.

Humiston received his first application for a house mounted solar. He will contact the applicant to let them know there is a moratorium in the Town for solar. The Board discussed if the moratorium was for all solar in the Town or for large scale generating solar facilities.

Humiston received a request to see if NYS would be willing to put a no left turn into Cumberland Farms on Burgoyne Avenue as they have on State Route 4 at the Stewart's Shop because it blocks the traffic going into that intersection. After discussion, the NYS DOT will be contacted with the request.

Humiston reported he and Councilman Washburn will research options and grant opportunities to expand the water lines in low residential areas because the regulations in the new 2020 Code you cannot have a septic system within 100 feet of water. They can be granted an exemption or a waiver if the septic is near their own well, but the state is not willing to grant a waiver within 100 feet of someone else's well.

Supervisor Hogan asked Attorney Meyer if the solar moratorium applied to large scale solar or all solar. Attorney Meyer responded he did not have a copy of the moratorium. Supervisor Hogan asked if the moratorium is for all solar could the Board narrow the definition of the moratorium. Attorney Meyer responded there is a waiver provision within the moratorium Local Law that one could apply to the Board and request a waiver.

TOWN JUSTICE REPORT:

Supervisor Hogan reported the newly elected Town Justice, Anthony White is working towards his degree in the Town Justice Certification Program. Judge White told Supervisor Hogan he is all set and moving forward with everything.

HIGHWAY SUPERINTENDENT REPORT:

Michael Graham is seeking permission to publish a notice in the Post-Star in regard to no parking on Town roads from 6 pm to 6 am starting November 19, 2020 until March 31, 2021.

A **motion** by Councilman Washburn seconded by Councilwoman Havens and carried by a vote of 5 ayes giving permission to issue the no parking notice on Town roads.

Superintendent Graham had received a request for a speed limit reduction from Mike Cleveland, a resident on Geer Road. Graham spoke with Reed Schultze of the NYS DOT; Mr. Schultze indicated there was no point in requesting a change; the speed limit had already been reduced to 45 mph and is a straight road with no anticipated development. Mr. Cleveland also requested a speed limit reduction on Underwood Road, at this time there are no signs which indicates the speed limit is 55 mph. Graham would like to move forward with the request. Councilman Haessly asked about the request to change the weight limit on Underwood Road. Graham has contacted the Association of Towns Attorney who provided a print-out which indicated the Town should conduct an engineering study. Graham would like to be fiscally responsible and not incur the fees for an engineering study and will continue to research.

Attorney Meyer stated Chapter 260 of the Local Laws of the Town of Kingsbury sets limits on certain roads. In 2006 a weight limit of 8 tons was set on certain roads and there probably was not an engineering study conducted. The Town Board could make the change provided there is a Local Law. The Board continued the discussion.

COMPTROLLER REPORT:

Rebecca Pomainville reported the RP for the Burgoyne Avenue Extension of the water lines has been posted on the NYS Contract Reporter for the next 3 weeks. The deadline for the bids is December 7, 2020 and 3 people will be needed to analyze the bids. She recommends that Councilman Haessly, Councilman Washburn and Water Superintendent analyze the bid. Once the firm has been chosen Mr. DiLorenzo of the NYS DOT will make appointments to watch the project.

COUNCILMAN REPORT:

Councilman Haessly reported he is still waiting to hear back from Spectrum. Councilman Doyle updated the Board on the Kingsbury Landfill solar. He has confirmed with NYSEDA that it does qualify for the developers and spoke to National Grid; there is sufficient infrastructure to accept the energy on the feeder line and the facility on Harrison Avenue. National Grid indicated there is 5 ½ megawatts of power left which should be sufficient for whatever energy is produced at the landfill. Councilman Doyle and Supervisor Hogan have a call with the DEC on November 23rd to make sure they are okay with the Board proceeding. Then they will seek community input and put together an RFP.

SUPERVISOR REPORT:

Supervisor Hogan reported Sheriff Jeff Murphy dropped off surveys which he would like the Board, Town employees and residents to complete. Councilman Haessly asked if the Town was going to take over the roads at the proposed subdivision off Dean Road near Quarry Circle. Councilman Washburn contacted Bill Nikas to let him know it was the Board's intent not to take over the road at this point.

WRITTEN REPORTS:

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

Enforcement Officer: Site Plan \$200.00

Dog Control Officer: Complaints/Calls 12; Seizures 2; Unlicensed Dogs 2; Euthanasia 1; Summons Issued 3; Bites Investigated 3; Mileage 538 (46,927)

Town Clerk: Paid to EnCon \$4,248.91; Paid to Supervisor \$2,409.84; Paid to the Village of Hudson Falls \$190.00; Paid to Ag & Markets for Population Control \$111.00

Town Comptroller: \$161,559.39; Disbursements \$370,580.66

Assessor Sales

A **motion** by Councilman Doyle seconded by Councilman Washburn and carried by a vote of 5 ayes to enter into an executive session at 8:15 pm to discuss impending threatening litigation. Comptroller Rebecca Pomainville and Attorney Meyer were requested to attend the executive session.

A **motion** by Councilman Doyle seconded by Councilman Haessly and carried by a vote of 5 ayes to exit the executive session at 8:28 pm; no action was taken. The meeting was adjourned at 8:28 pm.

Respectfully submitted,

Cynthia A. Bardin, Town Clerk

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