

The second regular meeting of the Kingsbury Town Board was conducted on July 20, 2020 at 6 Michigan Street.

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

OTHERS PRESENT: Rebecca Pomainville, Town Comptroller  
James Chase, Water Superintendent  
Todd Humiston, Enforcement & Dog Control Officer  
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 Councilman Haessly .

A **motion** by Councilman Haessly seconded by Councilman Washburn and carried by a vote of 5 ayes to accept the minutes of the July 6, 2020 Town Board Meeting with the following correction:  
The minutes of the June 15, 2020 Town Board Meeting were accepted as submitted by the Town Clerk with a **motion** by Councilman Haessly seconded by Councilman Doyle and carried by a vote of 4 ayes.

At 7:03 PM Supervisor Hogan opened a Public Hearing for Local Law amending the number of members of the Zoning Board of Appeals. There being no public comment the Public Hearing was closed at 7:03 PM.

**TOWN BOARD OF THE TOWN OF KINGSBURY  
COUNTY OF WASHINGTON, STATE OF NEW YORK**

RESOLUTION NUMBER 2 OF 2020  
Adopted July 20, 2020

Introduced by Councilman Washburn who moved its adoption  
Seconded by Councilman Doyle

**RESOLUTION AUTHORIZING THE ADOPTION OF LOCAL LAW 1 OF 2020  
ENTITLED: A LOCAL LAW AMENDING THE NUMBER OF MEMBERS OF THE  
ZONING BOARD OF APPEALS**

**BE IT RESOLVED** by the Town Board of the Town of Kingsbury (the “Town”), in the County of Washington, on this 20<sup>th</sup> day of July 2020, as follows:

**WHEREAS**, the Town scheduled a public hearing to be held before the Town Board on July 22, 2020 at 7:05 p.m. at the Offices of the Town of Kingsbury, 6 Michigan Street, Hudson Falls, New York, to hear all interested parties regarding proposed Local Law 1 of 2020; and

**WHEREAS**, there are presently two (2) vacancies on the Zoning Board of Appeals for the Town of Kingsbury and there is one alternate members; and

**WHEREAS**, the Town Board of the Town of Kingsbury has been unable to retain members and the necessary attendance of the Town of Kingsbury Zoning Board of Appeals; and

**WHEREAS**, proposed Local Law 1 of 2020, in pertinent part, reduces the number of members of the Zoning Board of Appeals from seven (7) to five (5) to enable the Zoning Board of Appeals to continue to effectively serve the public; and

**WHEREAS**, notice of said public hearing was duly posted and then published in *The Post Star*, the official newspaper of the Town, pursuant to and in conformance with the Municipal Home Rule Law; and

**WHEREAS**, said public hearing was duly held and all parties in attendance were permitted an opportunity to speak on behalf of or in opposition to proposed Local Law 1 of 2020 and

**WHEREAS**, the Town previously found this action to be a Type II action pursuant to the State Environmental Quality Review Act.

**NOW, THEREFORE, BE IT RESOLVED**, the Town Board, upon due deliberation of the proposed local law finds that the adoption of the same is in the best interests of the Town; and be it further

**RESOLVED**, the local law entitled “A Local Law Amending the number of Members of the Zoning Board of Appeals” is hereby adopted, a copy of which is attached hereto and made a part hereof; and be it further

**RESOLVED**, the unexpired terms of the two vacant members are hereby terminated and the annual appointment of one (1) member of the Zoning Board of Appeals per calendar year, shall continue in accordance with the unexpired terms of the existing members; and be it further

**RESOLVED**, pursuant to and in accordance with the Municipal Home Rule Law, the Town Clerk is hereby directed to enter Local Law No. 1 of 2020 into the minutes of this meeting and file the same with the Office of the Secretary of State of New York; and be it further

**RESOLVED**, that this resolution shall take effect immediately.

TOWN BOARD OF THE TOWN OF KINGSBURY  
COUNTY OF WASHINGTON, STATE OF NEW YORK

**Local Law 1 of 2020**

## **A LOCAL LAW AMENDING THE NUMBER OF MEMBERS OF THE ZONING BOARD OF APPEALS**

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

### **Section 1.      Title and Authority.**

This Local Law shall be known as “A Local Law Amending the Number of Members of the Zoning Board of Appeals.” The Town Board has determined that in order promote the public health, safety and welfare of the Town, the Town having established the Zoning Board of Appeals needs to reduce the number of members from seven (7) to five (5). This is being done in order to have a more efficient and responsive board, and in partial response to the Town Board being unable to find willing and qualified residents to serve on the Zoning Board of Appeals. This Local Law is adopted pursuant to NYS Town Law § 267, and NYS Municipal Home Rule Law § 10.

### **Section 2.      Zoning Board of Appeals.**

§ 280-11 Zoning Board of Appeals of the Code of the Town of Kingsbury shall be amending by deleting the existing section and replacing the same as follows:

#### **§ 280-11 Zoning Board of Appeals.**

Pursuant to § 267 of the Town Law, the Town of Kingsbury has created a Zoning Board of Appeals consisting of **five (5)** members appointed by the Town Board in such manner and for such term as provided in Town Law. The Zoning Board of Appeals shall perform the duties and have the powers granted by and be controlled by the provisions of the Town Law and amendments thereto and by this chapter. The Zoning Board of Appeals shall have appellate jurisdiction for all matters pertaining to this Zoning Chapter.

### **Section 3.      Repealer.**

Any and all local laws, resolutions or ordinances or parts of local laws, resolutions, or ordinances in conflict with any part of this Local Law are hereby repealed in its entirety.

**Section 4. Severability.**

If any clause, sentence, paragraph, subdivision, section, or part of this Local Law or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section, or part of this Local Law, or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

**Section 5. Effective Date.**

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

Supervisor Hogan reported the Town had been notified they were in receipt of a grant for water extensions from Kingsbury Volunteer Hose to the NYS DOT on Burgoyne Avenue. The Town is eligible for funding under a NYS Program administered by the NYS DOT in the amount of \$250,000.00.

Superintendent James Chase stated it could possibly go to Franklin Street if the money works out.

Superintendent Chase said the engineering for the project was complete by Jarrett Engineering and approved in 2010 by the NYS Health Department. He called the Health Department and asked if anything had to be changed or needed to be redone. He was told he needed to place restraints near the manholes. All the archeological stuff is done and everything is legal. The extension will go above the NYS DOT driveway and then across the road; a fire hydrant will be placed in front of the firehouse and then the water line will hook into the Kingsbury Firehouse itself. On the scene inspection will be necessary and they will need help in administering the grant. The materials should be purchased by the Town ahead, because as you buy you are reimbursed by the grant and then bids would be accepted for the installation of the project. If installed by a good company it will be guaranteed for a year; it must pass pressure tests and chlorine tests.

Councilman Washburn asked if they were successful with getting someone to do a labor only project. Superintendent Chase responded yes; this is a simple process and there are a couple of outsourcing things.

Councilman Doyle asked if the water line would be coming from the shopping center. Superintendent Chase- responded yes; there is a 12- inch valve there, we must keep a 10- foot separation from the sewer lines, and restraints must be placed in case the water and sewer fail at the same time.

Supervisor Hogan commented not only did Jim Thatcher make the previous project easy but Superintendent Chase also made it very easy for everyone. He would like to recognize Superintendent Chase for the work done on the previous project.

Superintendent Chase stated the new water line will be a very good thing for the Kingsbury Volunteer Hose Company. Supervisor Hogan notified Fire Chief Bryan King. Supervisor Hogan stated it was Senator Betty Little who helped the Town obtain the grant.

Superintendent Chase will work with Mike Fiorillo (Village Superintendent of Public Works) to create a notice to bidders for the installation, administration and inspection of the water line.

Councilman Doyle asked if the money for the project would be paid for through the water fund and not the general fund. Comptroller Rebecca Pomainville stated as part of the grant we must designate where we will pull the money from to pay for initially. The money is available in the General Fund – Whole Town and you can do an inter-fund loan that will go into the Capital Project Fund and she will be able to

track the spending in that Special Fund. When the reimbursement is received it will be journalized and returned to the General Fund – Whole Town. A discussion followed.

Water Superintendent James Chase stated there is a problem with the Dean Road pumping station which is owned by the Town of Kingsbury. The Town of Kingsbury makes no revenue from any of the sewer, all the money collected from sewer fees paid by residents goes to Washington County Sewer Agency. Washington County will assist with physical things but they will not help the Town with any monetary expenses. A problem was encountered with the pumps kicking off at the pumping station indicating there was an overdraw, overpower. The drives are burning up; they are 10 years old and are too small for the pumps. The draw on them during the hot weather is creating the problem. Tim Tesiero checked the motors and the motors are fine. He provided a quote in the amount of \$5,220.15 to replace two drives with an 18-month guarantee. A discussion followed.

At this time there is \$15,000.00 in the sewer fund; money that was received when Mary Ordway was the Town Comptroller. A **motion** by Councilman Washburn seconded by Councilman Doyle and carried by a vote of 5 ayes to approve an emergency repair at the Dean Road pump station in the amount of \$5,220.15. Councilman Washburn suggested the Town bill the residents in that district for this repair. Water Superintendent Chase if you attempt to put more of a bill on those residents they will be up in arms, they are already are paying so much for sewer now. One resident used 100,000 gallons of water to water his yard and did not have a sewer deduct meter. The resident paid \$300.00 to \$400.00 for the water and approximately \$1,000.00 for water he put on his lawn.

Supervisor Hogan asked how does the Town pay for the sewer district when they are not receiving revenue.

Attorney Meyer stated the only people that use sewers are charged for sewers. As it relates to Dean Road there is a properly formed district. Reviewing the documents on record that he has obtained and speaking to the attorney for Washington County District # 2, the way things are set up despite people's best intentions and what was supposed to happen at the time; Washington County does not bill for operation and management costs in the Town of Kingsbury. So, to the extent that Kingsbury resident sewer district members the operation & management costs starts at the Washington County Sewer District. The way to fix it is for the Town to start billing and maintain the records of the individual sewer districts or for an Inter-Municipal Agreement to be prepared to agree with Washington County Sewer District #2 so they will start collecting. The most opportune time to do anything is when there is no debt on the district and the Town of Kingsbury is in that position with all of their districts.

Councilman Washburn stated that is why it is very important to do everything we can to get the Washington County Sewer to extend the sewer district and tie everybody in. At that point it would become one and potentially lower their fees.

Supervisor Hogan stated in 2016 it was necessary to do a map plan review to start the process of extending the sewer district. Councilman Washburn stated the map plan was done and includes a lot of Kingsbury. Supervisor Hogan has asked Joe Brilling of the Washington County Sewer District what the holdup is. Mr. Brilling does not see this being taken care of in the near future. The County does have the systems in place to do the billing right now. There will probably be a charge to the residents if an IMA is agreed upon, it will not be a free service. A discussion followed.

Councilwoman Havens suggested we submit the invoice for the drives for the Dean Road pump station to the Washington County Sewer Agency for an under-engineered project. If they come back and say no, we could request they possibly split the cost.

Supervisor Hogan requested clarification on the engineering of the Dean Road pump station project. Superintendent Chase stated it was approved by Fischebeck. This was an area to be developed, some townhouses were built and then houses were being built. There were 3 or 4 services for the townhouses which had to be taken out and replaced with one service for the houses and one sewer tab. Everything was approved and tested, everything is tight in there. The developer has to pay Washington County

Sewer \$2,500.00 to hook up to the sewer system for each home built, the money does not go to the Town but to the Washington County Sewer Agency. A discussion followed.

Councilman Doyle would like to open up discussion with the Washington County Sewer Agency for an IMA for the operation and maintenance of the Kingsbury Sewer Districts. A discussion followed.

Councilman Washburn stated Joe Brillling, Executive Director of the Washington County Sewer Agency, would like an IMA with the Town of Kingsbury. Supervisor Hogan stated we need to start moving before something happens and the Town is responsible for possible costly repairs. Councilman Washburn and Supervisor Hogan will start to consider terms for an IMA agreement and hopefully have something for the next meeting.

#### LEGAL UPDATE:

Attorney Meyer received the marked-up comments from Spectrum which have been forwarded to Councilman Haessly. Attorney Meyer is trying to schedule a meeting with Spectrum.

Supervisor Hogan asked if we sent the 60-day notification letter of the PILOT to Kingsbury Solar. Attorney Meyer responded we never got the notice they are coming in. The Planning Board did not get a plan until the night of the meeting.

#### TOWN CLERK REPORT:

DECALS is still not up and running, documents have been mailed to the Albany office for registration purposes.

The Recreation page on the Town website still contains events not occurring at this time. The Town Clerk will contact Tom Darfler to update the website with a link to the Hudson Falls Central School website for information on events and contact information for the Athletic Director, Kathy Dudley.

#### ENFORCEMENT REPORT:

Todd Humiston sent information to the Board in regard to transitional zoning and cell and wind towers. A business in town contacted Humiston about hosting some food trucks. Information was sent to the Board for codes for food trucks in Saratoga and Glens Falls. Humiston's only concern with the food trucks is parking on the side of the road. Supervisor Hogan's concern is food trucks parking near or in front of a restaurant. Attorney Meyer stated you could place limitations. A discussion followed. Humiston will review the code for the Village of Hudson Falls and if the Board has any thoughts they would like to share on food trucks, the discussion will continue at the next Board Meeting.

#### DOG CONTROL OFFICER:

The County has resumed rabies clinics and they are by appointment only.

#### COMPTROLLER:

Rebecca Pomainville asked if she should start charging late fees on water bills; the Board had opted to waive the late fees during the early phases of the pandemic. A **motion** by Councilman Washburn seconded by Councilwoman Havens and carried by a vote of 5 ayes to charge the late fees to water bills. An employee is considering a vacation in Florida and questioned if they would be entitled to sick time upon return during their quarantine time due to COVID-19. After discussion it was determined it would be unpaid time off with the option to use vacation time; the use of sick time would not be an option. Attorney Meyer will research this topic.

#### COUNCILMAN REPORT:

Councilman Haessly stated a long time ago there was a resolution for the prohibition of a firearm on any Town property. A **motion** by Councilman Haessly to rescind the local law prohibiting the possession of

firearms on Town property. A second to the **motion** by Councilwoman Havens to open a discussion and suggested allowing only Town officials to carry. Councilwoman Havens asked what the original document was before the local law prohibiting the possession of firearms on Town property was adopted. Attorney Meyer stated it is in Chapter 136 of the Code of the Town of Kingsbury. Enforcement Officer Humiston stated he inquired when first hired and was told the Town does not carry insurance for employees to carry a firearm. Councilwoman Havens would like to continue the conversation in an executive session pertaining to a prior employee. Councilman Haessly withdrew his motion so the Town Attorney and the Town Clerk could research the circumstances that led to Local Law to ban firearms. Councilman Washburn stated the Board could modify the current Local Law to allow said employees who are trained for the capability of carrying and protecting themselves to be able to deal with a situation. Attorney Meyer stated there is an exception in the Local Law stating: A Town official or Town employee specifically authorized by the Town Board to possess a firearm on Town property, according to any and all restrictions or limitations which the Town Board may place upon such authorization. Councilwoman Havens would like to know the quote on the cost to insure Town employees for carrying firearms and would forgo her pay for Councilwoman to pay part of it, if it is necessary. Supervisor Hogan stated we have not had an issue, anytime we have had a security concern Sheriff Murphy has provided us with someone to be here if we need them and he would like to know if the cost of the insurance is one of the reasons for the local law prohibiting firearms on Town property. Attorney Meyer read from the Local Law as follows: HISTORY: Adopted by the Town Board of the Town of Kingsbury 6-20-2005 by L.L. No. 2-2005 (Ch. 46A of the 1983 Code).

After discussion an amendment to Councilman Haessly's **motion** to further investigate the feasibility of exempting Town employees from Chapter 136. Firearms. Councilwoman Havens was in agreement.

Councilman Doyle thanked Enforcement Officer Humiston for sending the Board some Local Laws from other towns on buffer zones. Councilman Doyle stated it appears most Towns have a narrower buffer but requiring fencing or vegetation to be planted in the narrow buffer zone. It is something the Town may want to consider; at some point the Board should have a further discussion on what they want to do about transition zones; the buffer zone from commercial to residential.

#### SUPERVISOR REPORT:

Supervisor Hogan formally thanked Fire Chief Bryan King for allowing the use the Kingsbury Volunteer Hose Company for a recent Planning Board Meeting.

Supervisor Hogan received a letter from Deb Prehoda with the following legal notice:

### LEGAL NOTICE

PLEASE TAKE NOTICE, that Consolidated Agricultural District No. 6, consisting of 42,708.27 acres in the Towns of Kingsbury, Hartford, Fort Edward, Argyle, Greenwich, Hebron, County of Washington was first formed on April 16, 1981.

PLEASE TAKE FURTHER NOTICE that under Section 303(a) of the Agriculture and Markets Law, the County is required to review a district eight years after its creation and every eight years thereafter.

PLEASE TAKE FURTHER NOTICE, that a map of the district will be on file and open to public inspection in the office of the County Clerk and during this 30-day period, any municipality whose territory encompasses the above Agricultural District, any State Agency or any landowner within or adjacent to the District, may propose a modification of the district.

PLEASE TAKE FURTHER NOTICE that any proposed modification must be filed with the County Clerk and the Clerk of the County Legislative Body within thirty (30) days specified.

PLEASE TAKE FURTHER NOTICE, that at the termination of the thirty (30) day period, the district and proposed modifications will be submitted to the Washington County Agricultural and Farmland Protection Board and that thereafter a public hearing will be held on the District, proposed modifications and recommendations of said Board. Said thirty- day period will expire August 21, 2020.

Debra R. Prehoda, Clerk Board of  
Supervisors

DATED: July 17, 2020  
Fort Edward, New York

Supervisor Hogan received an email from the NYS DOT in regard to the closing of the bridge on New Swamp Road. He contacted them to make them aware that New Swamp Road was used as a detour due to the closing of State Route 196. They are certain State Route 196 will be reopened in time for the closure of New Swamp Road Bridge and will adjust if necessary, to accommodate.

WRITTEN REPORTS:

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

Enforcement Officer: No. CO's 1; Variances 1; Research Fees 2; Total Fees \$1,235.00

Dog Control Officer: Complaints/Calls 30; Unlicensed Dogs 14; Bites Investigated 1; Mileage 465 (45,033); Written Warnings 5

Town Clerk: Paid to EnCon \$255.08; Paid to Supervisor \$3,008.42; State Share of Bingo \$90.00; Paid to the Village of Hudson Falls \$310.00; Paid to Ag & Markets for Population Control \$122.00

Town Comptroller: \$133,526.05; Disbursements \$264,816.25

Town Justice for April: Fees Collected \$3,799.00

Assessor Sales

A **motion** by Councilman Washburn seconded by Councilman Doyle and carried by a vote of 5 ayes to enter into an executive session at 8:45 PM to discuss a potential legal matter for the Town of Kingsbury. Enforcement Officer Todd Humiston was invited to attend.

A **motion** by Councilman Doyle seconded by Councilwoman Havens and carried by a vote of 5 ayes to exit the executive session at 9:04 pm. No action was taken.

There being no further business before the Board a **motion** by Councilman Doyle seconded by Councilman Washburn and carried by a vote of 5 ayes to adjourn the meeting at 9:04 pm.

Respectfully submitted,

Cynthia A. Bardin, Town Clerk

<http://www.kingsburyny.gov>