

York Town Board Meeting  
August 11, 2016

Present: Supervisor Gerald Deming, Council Members Lynn Parnell, Norman Gates, Frank Rose Jr. and Amos Smith.

Others: Town Attorney James Campbell, Highway Supt. George Worden, Code/Zoning Officer Carl Peter, Henry Fuller and Kirk Richenberg.

Supervisor Deming opened the Town Board Meeting at 7:35 pm and invited Mr. Smith to lead with the Pledge of Allegiance.

MINUTES

RESOLUTION offered by Mr. Gates and seconded by Mr. Smith to approve the minutes of the July 14<sup>th</sup>, 2016 Town Board Meeting. Voted on and approved, Yes- 5, No-0.

HIGHWAY REPORT

Mr. Worden stated that his crew is currently working on Cowan and Dow Road true leveling shoulders and laying blacktop but the extreme heat continues to create problems. As a result, it was necessary to back off until temperatures cool. Supt Worden mentioned that the Highway Dept has assisted Livingston County with the ongoing oil and stone project on MacIntyre Road as well as chip sealing McPherson Road. His crew is scheduled to start working next week on Old State Road.

Supervisor Deming asked Mr. Worden about the status of the end of Cowan Road to Rt. 36 with Mr. Worden stating that the State is responsible from the STOP sign to Rt.36 and hoping to work with them to get it paved.

The Supervisor spoke briefly about having a weight limit on McPherson Road and asked the Hwy Supt for his thoughts. Mr. Worden agreed that weight restrictions or signage would help protect our road. Mr. Deming inquired as to what the steps needed were to move forward with that. Mr. Worden replied that it would require Town Board authorization for him to order signs.

Councilman Smith asked what the cost of that might be with Mr. Worden responding that the signs are \$50, posts \$30 plus the labor.

Councilman Rose asked about including "Local Delivery only" on the signage but Mr. Worden stated that he would be inclined to leave that off and discussed the possible wording. The Hwy Supt encouraged any Town Board member if they wished to talk to the business owners in that area as he had previously spoken to them regarding truck traffic issues. Mr. Smith asked if they were receptive and Mr. Worden said yes they were.

Supervisor Deming asked if having a weight limit in place on McPherson Road would create a traffic problem. Mr. Worden suggested that if there were a turn around of some type at the actual place of business then additional truck traffic may be avoided on the nearby road. Mr. Smith suggested that we (Town) talk to them to see if they would entertain putting up signage with the Board agreeing that this is a start.

Lastly, Mr. Worden wanted to inform the Board that he has an employee that will be retiring at the end of this month and would like permission to start the process of advertising for this position. Supervisor Deming asked if he had been presented with

formal written notification of the pending retirement and Mr. Worden replied “No...just that it was written on the calendar and verbally from the employee”. Supervisor Deming noted that the employee’s vacation and sick time will need to be confirmed as well as additional verification of the official date of retirement.

RESOLUTION offered by Mr. Smith and seconded by Mr. Gates to authorize Highway Supt. George Worden to advertise for the upcoming vacancy of a Highway MEO position. Voted on and approved, Yes-5, No-0

### WATER/SEWER REPORT

Mr. Worden reported that annual flushing had started and they were a good portion down on Rt. 36 almost to Retsof Road. In addition, he reported a water break that occurred on York Road East on Saturday 8/6. An older cast iron line as well as the increase in water sales at the Highway Barn due to the dry weather may have contributed to the problem. Mr. Worden said that we may want to think about replacing that portion of the line down the road noting that the cost alone for piping would be approximately \$3500.00. Mr. Smith asked about total cost of project and Mr. Worden said with his men doing the work, he estimated it being somewhere in the neighborhood of \$15,000.00 due to the additional cost of restoration to black top driveways and seeding.

Mr. Worden also mentioned that a pay application had recently been submitted for approval included with the bills by Randsco Pipeline. The application was for \$35,356.02 and associated with Wadsworth water main project. Mr. Worden noted that the Town would be retaining \$2500.00 until all terms were met and satisfied.

At a previous meeting Mr. Worden had inquired and was given permission by the Town Board to hire a contractor to flush the sewers. As an update to that request, Mr. Worden stated that he contracted with WYCO out of Warsaw and to date, they are approximately half done with the remainder slated to be completed within the next month or two.

### PUBLIC HEARING

Supervisor Deming opened the Public Hearing at 7:45 pm with Town Attorney Jim Campbell reading the following:

#### **LEGAL NOTICE**

#### **NOTICE OF PUBLIC HEARING**

NOTICE IS HEREBY GIVEN, pursuant to the provisions of the Code of the Town of York, and pursuant to Town Law §130 and §264, that a public hearing shall be held by the Town Board of the Town of York at the Town Hall, located at 2668 Main Street, York, New York at 7:45 p.m. on Thursday, August 11, 2016 for the purpose of considering public opinion and comment about or concerning a proposed local law relating to the following:

A proposed local law authorizing the Town of York Town Board to appoint alternate members of the Planning Board and Zoning Board of Appeals to act in

place of existing regular members that may not be able to attend a meeting or participate regarding a particular application.

A copy of the proposed local law is available for review by the public at the office of the Town Clerk during regular hours or by viewing on the website at [www.yorkny.org](http://www.yorkny.org)

All interested persons are invited to appear and be heard at the aforesaid time and place.

Mr. Deming asked if anyone had questions/comments.

Mr. Richenberg spoke up and asked if there was any idea as to what it would cost to implement this...lawyers' fees, advertisement etc. Both the Supervisor and the Town Attorney stated that they could not provide Mr. Richenberg with a number for the costs associated.

In addition, Mr. Richenberg asked if the Town had any idea how many times the Planning Board or Zoning Board of Appeals could not hold a meeting due to the lack of a quorum?

Mr. Deming responded "No, we have used the alternates so it never has been an issue not having a quorum."

Mr. Richenberg stated that it looked to him like it was 2010 when the use of alternates started. Supervisor Deming and Mr. Campbell were unable to confirm a specific year.

Attorney Campbell reiterated that it is important for us to clearly define what alternates can and can not do and the Town is trying to set guidelines as to what is expected of a member.

Mr. Richenberg read points from the Declaration of Policy listing 3 items that would be cause for a lack of a quorum. Noting understandably that he did not have an issue with sickness but certainly extended vacations would be as it is not appropriate for members who make the commitment to sit on a Board and not follow through with their responsibility.

Mr. Campbell suggested that we can look into a changing the wording to reflect a more accurate description or guide line for member responsibility.

Mr. Fuller provided his interpretation that if you make a commitment to any Board, you should follow through. Perhaps notifying at a prior meeting that you are unable to attend was his suggestion. Mr. Fuller added that there are 17 towns in Livingston County with only 4 currently using alternates.

Attorney Campbell interjected that we need to make sure wording is correct so that a Board can function and carry out the duties they have been appointed to do. We can talk about members not fulfilling obligations but a sudden illness or long term health situation might take a member out of the equation unexpectedly therefore not allowing notification. Supervisor Deming mentioned having the Town Board set up some guide lines and Mr. Campbell agreed.

Mr. Fuller then broached the subject that he knew for a fact there are members on the ZBA that are not current with their training hours. At that time, Mr. Richenberg asked Supervisor Deming who enforces that...and do you send them home as a result?

Mr. Campbell answered stating that despite those members not current with training hours they are still able to participate and vote in meetings. As agreed by both the Attorney and Supervisor Deming, we need Board members who can participate and serve in good faith.

Mr. Richenberg commented that this Board (meaning the Town Board) does it (meets) all the time with no alternates.

Mr. Fuller believes that some serious thought should be given to these members who vacation and the Planning Board Chair should appoint alternates on their behalf.

Supervisor Deming said job criteria should be the same for members as well as alternates and that going forward the Town Board will need to work on creating a clear description.

In his opinion, Councilman Rose believes that having alternates in attendance are positive as it provides 2 more minds and additional perspectives to a discussion or conversation despite not being able to vote.

Mr. Campbell then posed the question to Mr. Richenberg "What do you think of the proposal?" Mr. Richenberg stated "I don't like it" and added that it looks suspicious as it seems to correlate with discussions from a previous meeting in March. At that point, Supervisor Deming stated that this is absolutely the reason why this is being discussed/proposed.

Mr. Campbell then explained to Mr. Richenberg that he was the one that had brought up this issue questioning it. "The Town has listened and is now addressing your concerns yet the timing seems to somehow be unclear and suspicious to you?" The attorney reminded Mr. Richenberg as well as those in attendance that that Planning and Zoning Board members are not professional planners and are there to serve their community. The real question seems to be how we could best implement a process to bring all up to speed having procedures and protocol that is suitable. Commenting as to whether the Town will want to expend funds and resources to do a better job adding that anyone can point out a problem but it takes real time and thought into finding a solution.

Mr. Fuller took a moment to say that he appreciated that the Town Board took the time to look at this issue which is a step in the right direction. Trying to fix the problem in more detail is the first step.

Councilman Smith asked Mr. Deming if there would be a vote this evening with the Supervisor saying that the Board could if they wish to go that route.

Mr. Rose said that we are a small town and finding people to serve the community is hard but appreciated. Mr. Fuller replied given that statement maybe the

cheese plant issue may be out of their hands as it is a multi million dollar project with numerous details and extensive planning needed.

Mr. Campbell agreed and said that he was absolutely right that sometime small communities are hit with huge projects that are above their level of projection which can be tough on a board.

Mr. Richenberg brought up the issue that the engineer for the Town of York also happens to be working on behalf of the cheese plant as well. Councilman Rose commented that he did not think it there was a need to change as there does not appear to be a conflict at this time.

Mr. Campbell continued the discussion by asking what happens if a board member has a serious affliction...chemo, dialysis something long term? We can come up with policy to guide us but in the event circumstances such as that arise makes it difficult. The attorney did agree with Mr. Fuller that if possible, giving notification at prior meeting is a good starting point.

Supervisor Deming reminded the group that we can not call in an alternate unless we have a local law in place for both Planning and Zoning Board of Appeals along with a job description. Mr. Campbell agreed and added that having procedure and policy in place so that all can be aware of what is expected. Going forward, Mr. Campbell provided the following options for the Board...keep the Public Hearing open for commenting purpose, make modifications, close it, never take action, do SEQR.

Mr. Fuller asked what happens to all the other meetings prior to this topic being brought to the Board's attention in March.

Mr. Campbell said he was not prepared to say to the Town that everything done thus far is invalid. Anyone thoughtful would not want to proceed this way. Saying that sometimes it is better to consider harmless errors rather than undo all that has been done over time. He would be remiss to declare previous decisions invalid.

Mr. Richenberg said that if the Board is considering adopting a Local Law, he would like to first see how it would be spelled out as to the process that alternates would be notified and would like to see a clear cut way of notification.

Mr. Campbell suggested notification in writing or posting on Town web site. Also, saying that we can also add on language to note whether a member or alternate is serving.

Mr. Fuller addressed that the Planning Board minutes do not reflect what actually happens at their meetings. Mr. Campbell said he understood his concern while Mr. Fuller said "that doesn't cut it". Mr. Campbell continued to explain that the law does not require minutes to be verbatim so it becomes an interpretation of what/how we all hear what is being said. Mr. Fuller felt that we needed to concentrate on cleaning the act up rather than masking it.

Councilwoman Parnell said that in terms of a member's job descriptions we do need to go in to greater detail.

Councilman Rose shared with the group that he would recues himself from this matter when voting as his father happens to be an alternate on the Planning Board.

Councilman Smith stated stand as is

Councilman Gates stated stand as is

At that point after a brief discussion the Board opted to bring the matter to a vote.

RESOLUTION offered by Mr. Smith and seconded by Mrs. Parnell to move forward with the adoption of Town of York Local Law #3 of 2016.

Voted on and approved Yes-4, No- 0, Abstain-1

Supervisor Deming- Aye  
Council Member Parnell- Aye  
Council Member Smith- Aye  
Council Member Gates- Aye  
Council Member Rose- Abstain

Supervisor Deming closed the Public Hearing and reopened the Town Board meeting at 8:30 pm.

At that time Mr. Campbell asked the Board if they wanted to go ahead with the SEQR for the Local Law. The Board agreed and Mr. Campbell read aloud a project description for alternate members in place of Board members while asking the Town Board members to individually respond to the following formatted SEQR questions. Supervisor Deming stated that there would be no real environmental impact and questioned the need for those particular questions to which the attorney agreed but said this has to be done as it is a requirement.

RESOLUTION offered by Mrs. Parnell and seconded by Mr. Smith to adopt short environmental assessment form (SEQR). Voted on and approved Yes-5, No- 0

Upon adoption,

RESOLUTION offered by Mr. Smith and seconded by Mrs. Parnell to declare a negative declaration. Voted on and approved. Yes-5, No-0.

Motion was made by Mr. Smith and seconded by Mrs. Parnell for the Supervisor to sign negative declaration. Voted on and approved. Yes-5, No-0.

RESOLUTION offered by Mrs. Parnell and seconded by Mr. Rose for the York Town Board to adopt Local Law # 3 of 2016. Voted on and approved. Yes-5, No-0

\*Mr. Dustin Geiger arrived at 8:45 pm

OLD BUSINESS

Supervisor Deming stated there were informational hand outs available this evening for anyone interested regarding the Solar Array/Energy Development that had been discussed previously at a prior meeting.

Supervisor Deming mentioned that at the July 14th meeting the Town Board voted to approve an increase in water rates and asked Mr. Worden if the meter at the Highway Barns will reflect the increase. Mr. Worden stated that it would. The Town Engineering firm Clark Patterson Lee calculated rates for out of district customers as seen below:

**TOWN OF YORK  
CONSOLIDATED WATER CUSTOMERS**

The York Town Board at their July 14th, 2016 regular meeting approved a \$.14 water rate increase for Consolidated Water customers. At the August 11th meeting, they approved reduction of the Out of District Rate. The rate increase will take effect for the October 2016 billing cycle.

The increase is necessitated due to the fact that the Village of Geneseo has increased their rate to the Town and for the increasing cost of operation and maintenance of our system.

The new rates will be as

follows: **Inside the District**

<b>Min. Rate</b>	<b>Units</b>	<b>New Rate</b>	<b>Per Unit</b>
<b>\$ 29.35</b>	<b>0-6,000</b>		
	<b>6,001-20,000</b>	<b>\$ 5.01</b>	<b>1,000</b>
	<b>20,001- 50,000</b>	<b>\$ 5.00</b>	<b>1,000</b>
	<b>50,001- 250,000</b>	<b>\$ 4.95</b>	<b>1,000</b>
	<b>250,001- 1,000,000</b>	<b>\$ 4.90</b>	<b>1,000</b>
	<b>1,000,001- 2,000,000</b>	<b>\$ 4.89</b>	<b>1,000</b>
	<b>2,000,001- 3,000,000</b>	<b>\$ 4.86</b>	<b>1,000</b>
	<b>3,000,001-4,000,000</b>	<b>\$ 4.83</b>	<b>1,000</b>
	<b>4,000,001- 5,000,000</b>	<b>\$ 4.78</b>	<b>1,000</b>
	<b>5,000,001 and greater</b>	<b>\$ 4.58</b>	<b>1,000</b>

<b>Outside the District-R2</b>		<u><b>New Rate</b></u>	<u><b>Per Unit</b></u>
<u><b>Min. Rate</b></u>	<u><b>Units</b></u>		
<b>\$ 53.40</b>	<b>10,000</b>	<b>\$ 5.34</b>	<b>1,000</b>

<b>Town of Leicester District- MR2</b>		<u><b>New Rate</b></u>	<u><b>Per Unit</b></u>
<u><b>Min. Rate</b></u>	<u><b>Units</b></u>		
<b>\$ 53.40</b>	<b>10,00</b>	<b>\$ 5.34</b>	<b>1,000</b>

RESOLUTION offered by Mr. Gates and seconded by Mr. Rose to approve the Out of Districts Water rates as per listed above.

Voted on and approved. Yes -5, No- 0

#### NEW BUSINESS

Supervisor Deming stated again that after the Public Hearing discussion earlier in the evening pertaining to policy and procedures for Planning and Zoning Board members, he will be setting up a meeting to compile a list of rules and regulations consistent for all Boards. The Supervisor asked for a Town Board Member to assist with this and Councilman Smith volunteered to work with Mr. Deming.

In addition, Supervisor Deming reminded all department heads that budgets are due to him by August 15 as work sessions for the upcoming 2017 budget will begin with Baldwin Business Services.

#### PRIVILEGES OF THE FLOOR

Mr. Richenberg addressed the Board about a concern regarding the tree removal work that was recently done on Flats Road. He then referred to a comment that a logger on the project had made and asked if there was any cost to the Town for services which Mr. Worden replied "No". He posed an additional question as to whether there were any agreements in place between the farmers who owned the land and the Town of York for which Mr. Worden emphatically replied "No".

Supervisor Deming then asked Mr. Richenberg why he would find that so hard to believe as Mr. Richenberg's body language signified otherwise when Mr. Worden quickly answered his question.

Mr. Richenberg then apologized that his body language was not to Mr. Deming's liking.



On another topic, Mr. Richenberg inquired as to the legal fees associated with use of Harris Beach law firm for Bond/BAN purposes relating to the proposed cheese plant. Mr. Campbell answered by saying that the Town has not yet seen a bill for these services and explained that the Town needs expertise on big projects at times so using a law firm that specializes in bonding is necessary. Mr. Campbell also said that he expected there would not be a cost to the Town as it will come from Dairy Farmers of America (DFA)

In his privileges, Mr. Richenberg also wished to address what he termed an ethics issue from a previous discussion at a prior meeting involving a conflict of interest with a board member. He suggested that the Town Board members may want to contact the Attorney General as to ethics and standards for all members.

Mr. Richenberg took a moment to say that he was displeased that the Town Board went through with the Local Law earlier in the evening. For supposedly having the pulse of the community, he did not agree that the Board should have gone forward with their decision at this time.

Lastly, Mr. Richenberg questioned “What does it mean when previous meeting minutes get approved?” Supervisor Deming stated that the Town Board approves of the content. Mr. Campbell reiterated that once the Board has taken the time to review the contents of the minutes, it is then legal to vote to approve even though they did not attend that specific meeting.

Mr. Fuller asked why there is not a roll call vote on minutes and Mr. Campbell said that the law does not requires a roll call vote only in certain situations.

In addition earlier comments, in Mr. Fuller’s privileges he wished address the Board as to the Conservation Advisory Council (CAC) expressing that he did not feel that Mr. Nagel should be heading this committee. Noting that along with Mr. Nagel only 4 people spoke at the recent meeting despite it being well attended.

Discussion and questions about the trees being taken down along the Town right of way were brought up and Councilman Smith stated that Donnan’s paid to have them taken down as they own to the center of the road. As a result, questions arose and additional comments and facts were discussed by the group clearing up the actual boundaries of Town right of ways.

## BILLS

RESOLUTION offered by Mrs. Parnell and seconded by Mr. Smith to approve all claims brought before the Board. Voted on and approved, Yes-5, No-0.

• General Fund Claim	#226- 257	\$ 17,856.48
• Joint Water & Sewer Claim	#173- 203	\$146,065.90
• Highway Fund Claim	#148- 166	\$ 71,374.67
• York –Leicester Youth Claim	# 12- 14	\$ 1,594.65
• Street Lighting Claim	# 7	\$ 1,421.24
• Capital	# 8	\$ 35,361.02

ADJOURNMENT

RESOLUTION offered by Mrs. Parnell and seconded by Mr. Rose to adjourn the Town Board Meeting until September 8<sup>th</sup>, 2016. Voted on and approved, Yes-5, No-0.

The Town Board Meeting closed at 8:50 p.m.

Respectfully Submitted,

Patricia A Barefoot,  
Deputy Town Clerk