

The Otsego Town Board held three Public Hearings and a Regular Monthly meeting on the 11<sup>th</sup> day of January 2017 at the Town Building, Fly Creek, NY at 7:00 PM.

Town Board Members Present:

Meg Kiernan	Supervisor
Thomas Hohensee	Councilperson
Carina Franck	Councilperson
Bennett Sandler	Councilperson
Joseph Potrikus	Councilperson

Also Present:

John Schallert	Highway Superintendent
Michelle Kennedy	Town Attorney
Pamela Deane	Town Clerk

Supervisor Kiernan called the meeting to order and asked everyone to please rise for the Pledge of Allegiance.

Supervisor Kiernan open the public hearing on the proposed Ordinance regarding the Demolition of Historic Structures.

Village Trustee Cindy Falk also a professor at the Cooperstown Graduate Program where she teaches Historic Preservation thanked the Town Board for taking an interest in preserving historic buildings. She was concerned with the language addressing the criteria needed to claim hardship but over all very much in favor of the law and volunteered her student's services to help the Town Board if at any time they felt they needed help perfecting the law.

There were no other comments from the public.

MOTION by Supervisor Kiernan, seconded by Councilperson Sandler, to close the Public Hearing on the proposed Ordinance regarding the Demolition of Historic Structures.

MOTION CARRIED: All were in favor.

Supervisor Kiernan opened the Public Hearing on the proposed Land Use Law amendment, which places a moratorium on Section 3.15 Heirloom Barns and Buildings.

Cindy Falk stated that she wrote a book on barns, which is a subject near and dear to her heart. She again volunteered her student's services if the Town Board felt they needed help perfecting the law.

John Phillips reminded everyone that the present Heirloom Barn Law has only been used twice. He suggested the Town Board take a look at the State of Vermont's preservation laws and consider mirroring the law along those lines. He did not think the present law was as fast track as the past meetings had indicated. He was in favor of people generating a small income from old historic building and barns to help off set the expense for repairs. Phillips closed by saying that he felt it was a good way to make historical structures a viable entity, keeping them on the tax roll, and preserving our rural character.

Kathy Chase was in favor of historic preservation but felt the current law needs tweaking. She felt more emphasis needs to be placed on the impact on neighbors and that the Hickory Grove application set a dangerous precedent for reviewing future applications. Chase thought the six-month moratorium on Section 3.15 of the Land Use Law Heirloom Barns and Buildings was a good idea.

Supervisor Kiernan stated that the Town Board received letters from Maryann Dietz, Pat and Bob Hanft, Doug and Ginny Hastings, and David and Deborah Creedon, all in favor of the moratorium.

MOTION by Councilperson Hohensee, seconded by Councilperson Franck to close the Public Hearing on Land Use Law Section 3.15 Heirloom Barns and Buildings.

MOTION CARRIED: All were in favor.

Supervisor Kiernan opened the Public Hearing for the Flood Damage Prevention Local Law.

There were no public comments.

MOTION by Councilperson Sandler, seconded by Councilperson Franck, to close the Flood Damage Prevention Local Law Public Hearing.

MOTION CARRIED: All were in favor.

MOTION by Councilperson Sandler, seconded by Councilperson Franck, to accept the minutes of December 28th as presented.

MOTION CARRIED: All were in favor.

MOTION by Councilperson Hohensee, seconded by Councilperson Sandler, to accept the minutes of January 2<sup>nd</sup> as presented.

MOTION CARRIED: All were in favor.

Supervisor Kiernan reviewed correspondence received since last meeting.

Supervisor Kiernan opened the floor for comments.

Tripp Hill resident Brian Kegelmann stated that District Attorney John Muehl said the town under State Law, was within its right to dig up the culvert across the road from his pond. However he was within his legal right to close the culvert on the side that abuts his pond. Muehl also stated that Kegelmann was allowed to build a berm to prevent the water from coming into the pond and the town would be precluded from removing that even though it might be in the right-of-way. Kegelmann stated that Muehl was going to convey this information to the town attorney.

Town Attorney Michelle Kennedy informed Kegelmann that she has had no contact with District Attorney Muehl.

Town Supervisor Kiernan also stated that she has not heard from the District Attorney either.

MOTION by Councilperson Sandler, seconded by Councilperson Hohensee to close the floor for public comment.

MOTION CARRIED: All were in favor.

NYSERDA representative Dan Sullivan explained the two steps in the NYSERDA program, which is designed to give municipalities a leading role in helping NYS become more energy efficient and clean energy based. Under Step 1 the town would have to complete 4 out of 10 high-impact actions, which he reviewed with the Board. Municipalities under a population of 4000 would be eligible for a \$50,000.00 or \$100,000.00 no match grant funding. While the Board is looking at and achieving four high-impact actions to select they also need to be thinking about the project that they want to use the grant money for because once the fourth designation is achieved the town would only have ninety days to submit their project ideas to NYSERDA. NYSERDA is willing to be flexible and work with the municipalities on their project ideas. The grant money will be awarded on a first come-first serve bases. To date no one has applied. The first four designated communities under the 4000 population level qualify for the \$100,000.00. The next ten designated communities qualify for the \$50,000.00.

Supervisor Kiernan thanked Sullivan for coming and his explanation of the program.

Supervisor Kiernan gave a financial report. The Board discussed the following balances in the various accounts at great lengths:

General Savings: \$ 4,692.22	General Checking: \$ 340,796.79
Highway Savings: \$ 7,823.89	Hwy Checking: \$ 410,699.99
Building Reserve Fund: \$179,667.32	Hwy Equipment Fund: \$ 263,945.61

Supervisor Kiernan had a few questions for Highway Superintendent John Schallert. At the November 9<sup>th</sup> meeting Kiernan stated the CHIPS reimbursement check should arrive in mid-December. At the December 14<sup>th</sup> meeting Kiernan stated that she thought the CHIPS reimbursement check would arrive in the next couple of days. On December 28<sup>th</sup>, when the expected \$221,000.00 had not arrived, she questioned John Schallert who at that point admitted he had filed for the reimbursement late and the money would not be coming until much later. Supervisor Kiernan then stated that she called NYS DOT on December 30<sup>th</sup> and was told Schallert had not filed for the CHIPS money at all. The Town will be reporting a loss in the highway funds for 2016 to NYS on their annual report, as they cannot claim any monies received 60 days after the close of the prior year.

Schallert admitted it was all true but assured the Board that the CHIPS reimbursement had now been filed and the Town should see reimbursement sometime in March. He had been waiting for the rest of the bills to come in that he needed for the report. Supervisor Kiernan reminded him that he had the cancelled checks in October and the dead-line for the reimbursement report was November 7<sup>th</sup>. Schallert had no comment.

Councilperson Sandler asked Schallert if during his time on the Town Board had the Highway Superintendent ever filed late? Schallert responded no. Sandler told Schallert that it goes without saying that reimbursements need to be filed in a timely fashion. Schallert had no comment.

MOTION by Councilperson Hohensee, seconded by Councilperson Sandler, to accept the financial report.

MOTION CARRIED: All were in favor.

MOTION by Councilperson Sandler, seconded by Councilperson Franck, to pay the following invoices, as corrected, and make the necessary transfers.

GENERAL:	#1-# 17	\$ 7,216.55
HWY:	# 1-# 8	\$ 6,463.90

MOTION CARRIED: All were in favor.

Dog Control Officer Thomas Steele reported answering two running at large calls.

Planning Board Liaison Chip Jennings discussed applications the Planning Board is currently now reviewing.

Zoning Enforcement Officer Edward Hobbie reported that he has been very busy.

MOTION by Councilperson Hohensee, seconded by Councilperson Franck, to appoint Tom Huntsman Chairman of the Planning Board.

MOTION CARRIED: Supervisor Kiernan, Councilpersons Hohensee, Sandler and Franck voted yes. Councilperson Potrikus voted no.

Councilperson Potrikus wanted it noted that he voted no because Tom Huntsman has never complied with Town Law Chapter 7, Article 3, Subchapter 14 which states that Planning Board Members must annually complete four hours of Town Board approved training. Another reason he voted not to appoint Tom Huntsman Chairman was because he is always late, often absent or leaves early. Potrikus did appreciate why he is either late, absent or leaves early. Being a doctor takes priority but he felt their needs to be continuity to be a Chairman or member of the Planning Board and therefore thought it a mistake to appoint Tom Huntsman Chairman of the Planning Board.

Supervisor Kiernan stated that she voted for Huntsman because no other Planning Board member would take it.

Councilperson Potrikus had several issues he wanted to discuss with the Town Board. Some are listed below. He claimed that numerous constituents are afraid to come to Town Board meetings and voice their opinion, for fear of retribution. For that reason they have asked him to keep them in the loop. With that, Potrikus sent out an e-mail on November 20<sup>th</sup> asking for their help and telling his constituents that:

- The Town Board continues to promote an agenda that he feels will be detrimental to our town's long-term existence.
- John Phillips is at risk of losing his reappointment to the Planning Board. A man who has been on the Planning Board for many years.
- James Ferrari is at risk of losing his reappointment as Planning Board Attorney.
- The Town Board needs to be reminded that they have no business appointing or influencing the Planning Board Attorney appointment decision. Potrikus stated that while serving as Planning Board Chairman he relied on Ferrari's expertise many times and it is the Planning Board's job to appoint their own attorney. He encouraged his constituents that if they know of anyone who is interested in serving on the Planning Board or ZBA to please talk to them.
- The Town Board balanced the budget by using significant fund balance reserves in significant proportions. He did not think this was sustainable and if continued the reserves will be exhausted in two years and property taxes will see increases of 20% or better.
- The Town Board's main responsibility is fiduciary and they are not doing that.
- The Town Board is playing politics with Planning Board and ZBA appointments to put whomever they think are the right people but in reality they are the wrong people because they do not know what they are doing.
- He ended by reading a section from Town Law which states that if the Town Board does not agree with a Planning Board or ZBA decision they have no authority to review or change the decision.

Councilperson Potrikus asked to be excused for personal reasons.

Highway Superintendent John Schallert brought up once again the moving of Willow Avenue to border the southern 5-acre highway parcel of land on Cemetery Road. His reasoning was he would like to move the sand pile so it would gain more sun exposure to help it thaw.

Supervisor Kiernan asked if Councilperson Potrikus had spoken with neighboring property owners Walter and Irene Dusenbery, as discussed a couple of months ago. Schallert thought it had not occurred. Councilman Sandler asked for the cost estimate of the project. Schallert had not yet done the research.

Schallert alerted that Board that he may run out of salt and sand and was wondering how he was going to pay for it.

Supervisor Kiernan told Schallert that he needs to keep track of his expenses and stay within his budget. Schallert was also told that he needed to start identifying each bill he submits as DA or DB so she knows what account to withdraw the bill amount from.

Schallert was asked if he had gotten other Fire Extinguisher Service estimates and he answered "no".

Councilperson Franck announced that that the next Safety Meeting will be February 6<sup>th</sup>.

Councilperson Sandler raised some questions concerning the Upstate Annual Support Contract offered by owner Scott Dibble to maintain the Towns computers. Further discussion was tabled until the February meeting.

Attorney Michelle Kennedy submitted the SEQRA form for the proposed moratorium on Section 3.15 of the Land Use Law Heirloom Barns and Buildings for the Board to review.

MOTION by Councilperson Sandler, seconded by Councilperson Franck, to designate the Heirloom Barn Law Moratorium a TYPE II action under SEQRA.

MOTION CARRIED: Supervisor Kiernan and Councilpersons Franck, Sandler, and Hohensee voted yes.

MOTION by Sandler, seconded by Councilperson Hohensee, to appoint the Town Board Lead Agency of the Ordinance regarding Demolition of Historic Structures.

MOTION CARRIED: Supervisor Kiernan and Councilpersons Franck, Sandler, and Hohensee voted yes.

Attorney Michelle Kennedy submitted the SEQRA form for the proposed Ordinance regarding Demolition of Historic Structures for the Board to review.

MOTION by Councilperson Hohensee, seconded by Councilperson Franck, to declare a Negative Declaration on the proposed Ordinance regarding Demolition of Historic Structures.

MOTION CARRIED: Supervisor Kiernan and Councilpersons Franck, Sandler, and Hohensee voted yes.

Attorney Kennedy submitted for the Town Boards review, the State Environmental Quality Review.

MOTION by Councilperson Hohensee seconded by Councilperson Sandler to adopt the State Environmental Quality Review.

MOTION CARRIED: Supervisor Kiernan and Councilpersons Franck, Sandler, and Hohensee voted yes.

MOTION by Councilperson Hohensee, seconded by Councilperson Franck that the Town Board act as Lead Agency under SEQRA for the proposed Flood Damage Prevention Local Law.

MOTION CARRIED: Supervisor Kiernan and Councilpersons Franck, Sandler, and Hohensee voted yes.

MOTION by Councilperson Hohensee, seconded by Councilperson Sandler, to declare the proposed Flood Damage Prevention Local Law a Negative Declaration under SEQRA.

MOTION CARRIED: Supervisor Kiernan and Councilpersons Franck, Sandler, and Hohensee voted yes.

MOTION by Councilperson Sandler, seconded by Councilperson Hohensee, to adopt SEQRA determination as written.

MOTION CARRIED: Supervisor Kiernan and Councilpersons Franck, Sandler, and Hohensee voted yes.

It was the decision of the Town Board to submit all three proposed Local Laws to the County Planning Board for review and comment.

Yearly department audits were assigned as follow:

Supervisor	Councilperson Franck
Town Clerk	Councilperson Hohensee
Tax Collector	Councilperson Sandler
Justices	Councilperson Potrikus

Attorney Kennedy discussed her concerns with the County Snow and Ice Agreement with the Town Board. She will discuss her concerns with County Attorney Ellen Cocoma. No action was taken at this time.

Supervisor Kiernan informed the Board that they needed to appoint a delegate to vote on the Towns behalf at the Association of Town Conference held in February in New York City.

MOTION by Councilperson Sandler, seconded by Councilperson Franck, to appoint Supervisor Kiernan to act as the Town's delegate.

MOTION CARRIED: Supervisor Kiernan and Councilpersons Franck, Sandler, and Hohensee voted yes.

Supervisor Kiernan submitted the Town Code of Ethics, which the Town Board Members read and signed.

The Town Clerk submitted her year-end report, which was reviewed and signed by the Town Board Members.

MOTION by Councilperson Hohensee, seconded by Councilperson Franck, to go into Executive Session to discuss Bissell litigation and also attorney client privilege.

MOTION CARRIED: Supervisor Kiernan and Councilpersons Franck, Sandler, and Hohensee voted yes.  
{9:05PM)

MOTION by Councilperson Sandler, seconded by Councilperson Franck, to come out of Executive Session.

MOTION CARRIED: All were in favor. (10:10PM)

MOTION by Councilperson Sandler, seconded by Councilperson Franck, to pay a one-time \$250.00 fee to collect an affidavit from surveyor Duane Sprague in support of the Bissell Litigation.

MOTION CARRIED: Supervisor Kiernan and Councilpersons Franck, Sandler, and Hohensee voted yes

MOTION by Councilman Sandler to adjourn.

MOTION CARRIED: All were in favor.

Meeting ended at 10:14PM.

Respectfully Submitted,  
Pamela Deane/Town Clerk