

The Otsego Town Board held a regular monthly meeting on the 13<sup>th</sup> day of May 2015 at the Town Building, Fly Creek, NY at 7:00 PM.

Town Board Members Present:

Anne Geddes-Atwell	Supervisor
Thomas Hohensee	Councilperson
Bennett Sandler	Councilperson
Carina Franck	Councilperson

Also Present:

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

Supervisor Geddes-Atwell called the Public Hearing for Local Law #2 which states that Grievance Day for Town of Otsego residents will be held on the first Tuesday of June. She explained that three other townships share the current Town Assessor and it is impossible for him to be three places at once. Proof of Notice of Publication was presented.

There were no comments or questions from the public.

MOTION by Councilperson Hohensee, seconded by Councilperson Sandler, to close the Public Hearing.

MOTION CARRIED: All were in favor.

Supervisor Geddes-Atwell called the regular meeting to order and asked all those present to please rise for the Pledge of Allegiance.

MOTION by Councilperson Sandler, seconded by Councilperson Franck, to accept the minutes of April 9<sup>th</sup> and April 21<sup>st</sup>.

MOTION CARRIED: all were in favor.

Supervisor Geddes -Atwell read correspondence received since last meeting. Among the letters was a letter of resignation from former Councilperson Julie Huntsman. Supervisor Geddes-Atwell noted that she personally appreciated all Huntsman had done, especially her efforts concerning gas drilling.

Another letter worth noting was a letter from Friends of Otsego Lake and Route 80 announcing that a new construction design has been put into action that will not destroy the Otsego Lake shore line or three properties as originally planned. This is all possible due to Senator Seward's intervention and a community effort in signing petitions, writing letters, and holding regular meetings.

Supervisor Geddes-Atwell opened the floor for comments.

Jim Atwell talked about what he felt is a clear and present danger to democracy in the Town of Otsego. He has seen signs of cynicism and pettiness among members of our local and appointed bodies, and he resents it. He can't do much about cynicism or pettiness at the state or federal levels, but he can encourage citizens in the Town of Otsego to set aside narrowness and get on with governing "for the people."

Carl Wenner disagreed with Jim Atwell stating that this is a republic, a far cry from democracy. He feels democracy is a dead end. He read from the Declaration of Independence emphasizing the statement "but to secure these rights governments are instituted among men." Wenner believes the Board is either being negligent in their job or violating residents' rights every time they pass a law restricting citizens' rights.

Joseph Potrikus tried to show that the Town Board is not interested in what the Planning Board has to say by reading excerpts from several Town Board minutes starting with January 2013. He is of the mind that nearly every request the Planning Board has made from appointment recommendations to ethic policy recommendations, was denied by the Town Board. Every decision the Town Board made for the Planning Board was made without input from the Planning Board. He agreed with Jim Atwell that people should be working together toward democracy. It was his opinion that the Town Board is creating divisiveness between the members of the Planning Board and community.

John Phillips agreed with Jim Atwell. He pointed out that both the members of the ZBA and Planning

Board are required by law to attend four hours of training every year. Some of the board members attend more hours than required. Phillips felt that the ZBA and Planning Board are good Boards. If the Town Board attended their meetings they would see firsthand what issues the boards are faced with, how they are handled, and realize what good boards they have.

MOTION by Councilperson Sandler, seconded by Councilperson Franck, to close the floor for Comments. .

MOTION CARRIED: All were in favor.

Supervisor Geddes-Atwell gave a financial report. Balances are as follows in the various accounts:

General Savings: \$ 4,678.19	General Checking: \$ 417,145.16
Highway Savings: \$ 7,800.49	Hwy Checking: \$ 678,372.04
Building Reserve Fund: \$172,767.74	Hwy Equipment Fund: \$252,823.07

MOTION by Councilperson Sandler, seconded by Councilperson Hohensee, to accept the financial report as given, pay the following invoices and make the necessary transfers. (Mirabito fuel bill will be paid as soon as the highway superintendent submits the delivery tickets)

GENERAL: #78-#96 #98-#99	\$ 64,428.45
HWY: #66-#80	\$ 7,925.34

MOTION CARRIED: All were in favor.

Councilperson Franck reported that some Planning Board and ZBA members attended a seminar sponsored by Bond, Schoeneck & King Attorneys on “Cost Effective Approaches on Improving Zoning Performance”. This firm will review a Towns Land Use Law, point out inconsistencies and make recommendations on improving clarity in the law for a charge ranging from \$500 to \$1,000.

Councilperson Franck reported that she and former Councilperson Huntsman both attended the April Planning Board meeting whereby the members drafted a proposed Local Law pertaining to regulation procedures to be done before voting on the adoption of a proposed Local Law. The Board reviewed the proposed law.

Councilperson Franck has been researching solar energy. Currently it is not listed as a permitted commercial use in the town. She will call on other towns that either have it or are interested in permitting it commercially for ideas and advice. She also would like to get input from residents.

Planning Board member Joseph Potrikus presented to the Town Board a revised proposed law drafted by Planning Board members, adding additional regulation procedures before voting on the adoption of a proposed Local Law.

The revised draft proposed states:

- Prominent posting of the proposed new law or changes to existing law at three visible locations i.e. general store, supermarket, fire house, outdoors on the Town Building, etc.
- Have a least 2 public hearings as to such laws.
- Post card mailing or email to Town of Otsego residents regarding same.
- Chairperson of Planning Board and ZBA is personally notified at least five business days prior to any public hearing.

Potrikus also informed the Town Board that the Planning Board is recommending that John Phillips be appointed to fill Donna Borgstrom’s vacancy starting with the July meeting. Her term ends 12/31/16. The Planning Board Bi-laws state that the Planning Board will appoint a new Chairman to fill out the remainder of the year.

Councilperson Franck read from the Village of Cooperstown’s Public Comment Guidelines, which she thought the Town Board might want to consider adopting for their own. Those wishing to make a public comment are allowed a maximum of five minutes to speak.

Councilperson Sandler wanted to thank Donna Borgstrom publically for her time served as Planning Board Chairman. He also apologized to Planning Board member Joseph Potrikus for not speaking up at the April meeting when Supervisor Geddes-Atwell spoke to him in a way the Board asks others not to speak to them. That said, Sandler felt it would be more productive and more congenial if the Planning Board changed their liaison appointment, given Potrikus’ recent intense scrutiny of the Town Board.

The Zoning Enforcement Officer report was given by Tavis Austin. The following permits were issued since last meeting:

Zoning Permits: 4                      ZBA Application: 1

Austin discussed the status of the Cobblecote property owned by Addison Bissell.

Dog Control Officer Thomas Steele reported receiving two calls last month.

MOTION by Councilperson Hohensee, seconded by Sandler, to designate the Town Board Lead Agency for proposed Local Law #2 Grievance Day designated date change.

MOTION CARRIED: All were in favor.

MOTION by Councilperson Hohensee, seconded by Councilperson Sandler, designated the adoption of the proposed Local Law #2 as a Type 2 Action.

MOTION CARRIED: All were in favor.

MOTION by Councilperson Sandler, seconded by Councilperson Hohensee, to adopt proposed Local Law #2 designating Grievance Day to be held on the first Tuesday of June.

MOTION CARRIED: Roll call vote was taken:

Supervisor Geddes-Atwell	aye
Councilperson Hohensee	aye
Councilperson Sandler	aye
Councilperson Franck	aye

Councilperson Sandler reminded the Board that the Solar Energy RFP's are due May 28<sup>th</sup>. He is hoping that there will be a meeting with Solomon before the Town Boards June meeting, to discuss the RFP's presented. Given that Village Trustee Lou Allstadt is very knowledgeable about solar energy and the process Sandler suggested that he be invited to the June meeting.

Highway Superintendent John Schallert gave the highway report. Schallert reported that there was an accident with the town loader. No one was seriously hurt and the loader only suffered minor damage. He is looking for a good used older tandem truck for winter use. The tandem Mack truck needs a new dump box. Replacement cost estimated around \$35,000.00. CHIP's notification shows the town has been allocated \$177,602.00 plus an additional \$26,586.00 for severe winter storm reimbursement totaling \$204,188.00. The Town just received a \$41,000.00 FEMA payment reimbursement for storm damage caused by a storm in 2013.

Councilperson Sandler reported on the Watershed Committee activity. NYS D.O.T. has changed to an organic herbicide call Finale to be used along State Hwy 80 along Otsego Lake. Cost is considerably less expensive than regular herbicides. Potrikus stated that organic herbicides do not attack the root system and unwanted vegetation will be back within a week's time.

Supervisor Geddes-Atwell submitted the current Ethic Policy for the Board to review.

MOTION by Councilperson Sandler, seconded by Councilperson Franck, to accept the Ethics Policy as presented with no amendments or changes from last year.

MOTION CARRIED: All were in favor.

Councilperson Sandler reported that he spent a month trying to get in contact with an Army Corps of Engineer representative to see if they would be willing to assist in finding a solution to stop runoff from Murdock and Tripp Hill Road, emptying into the Kegelman's back yard. He has sent them pictures along with a map showing the complexity of the problem. Sandler is hoping a site visit can be scheduled before the June Town Board meeting.

Town Attorney Michelle Kennedy attempted to clarify for Joseph Potrikus the difference between Kegelman's flooding issue and his flooding issue a few years ago concerning his property located on Christian Hill. Kennedy explained that the Kegelman problem is related to flood damage litigation. The Kegelman's claim is that the Town has, over the years, increased the size of the culverts under Tripp Hill Rd. which increases the volume of water being redirected to their property, placing stress on

their pond and increasing the likelihood of flood damage to their property. The question is whether the conduits are moving more water there than normally would reach the property. The purpose of having the conduits is to keep runoff from traveling over the road and washing it out. The Board has called in experts for advice because any modification has ramifications for that entire area. There also has been flood damage related to some of the FEMA claims that the town has had in the past within that entire region. This is not an instance where the town is looking to financially compensate the Kegelman's for any damage. The Board is trying to look at how they can mitigate any future flood damage. In the Potrikus matter, compensation was presented as the primary issue due to the alleged removal of rocks from the property by the Highway Department.

Potrikus felt that his property was seized by the town, property well beyond what the town had any right. Town Highway employees were asked by his wife not to enter their property but returned again and continued to do more damage. It had nothing to do with the stream that flooded.

Regarding Potrikus's FOIL request. Potrikus stated that he has many reasons for asking for specific emails and correspondence. He feels the Board is working under a shroud of secrecy that they are not entitled to. It has to do with open meetings laws and the longer he waits for the information he has requested the more flawed the presentation is. He is asking for information that he is legally entitled to receive. He accused the Board of denying his right to free speech as much as his right to open government. In response to Councilperson Sander's comment that was made earlier, requesting the Planning Board appoint someone else as liaison, he found it ironic that during the public comment period where he got shut down speaking about the Town Board not listening to what the Planning Board wants to do, Councilperson Sandler turns around less than one hour later and makes a recommendation to the Planning Board to appoint someone else as Planning Board liaison. Potrikus felt he could clearly separate his role as Planning Board liaison and his issues with the Town Board as a citizen.

Councilperson Sandler stated that he was not saying he did not want a Planning Board liaison he was saying that given the level of antagonism going both ways it might be more productive for both boards going forward if someone else served as the Planning Board liaison. Sandler clarified that it was not a matter of shutting down the conversation between both boards; it's a matter of having a different conduit. He is not asking that Potrikus be denied any of his requests as a citizen.

Potrikus asked how many more emails he can expect from his FOIL request and in what time frame could he expect to receive them.

Kennedy told Potrikus that with respect to his first FOIL request requesting all e-mails relating to Land Use or Planning issues she had produced all responsive e-mails. After she reviewed four years of emails from all Town Board members, he then clarified his FOIL request stating that he was only looking for all emails that happened between the five Town Board members leading up to the March 11<sup>th</sup> Board meeting when Local Law #1 was adopted. She reminded Potrikus that she called him and explained that she received a phone call in early March from former Councilperson Huntsman requesting that she draft proposed language which is now part of Local Law #1. Kennedy went on to say that she took the assignment and presented the language to the Town Board members at their February 11<sup>th</sup> meeting where it was discussed with two Planning Board members who were not only present but participated in the discussion. The Board felt there was a sense of urgency for the proposed Land Use Law amendment so it was passed at the March meeting. It was mainly a definition change. There was no other discussion other than at the February and March meetings. There were no emails pertaining to this amendment. There was no unlawful deliberation. She told Potrikus that she is perfectly comfortable with the fact that you Potrikus has invited the Attorney General's Office to review the matter. They can come and have full access to her email account. If they feel there is something that should be disclosed then they should disclose it.

MOTION by Councilperson Hohensee, seconded by Councilperson Franck to adjourn.

MOTION CARRIED: All were in favor.

Meeting ended at 8:50PM.

The next regular meeting will be at the Town Building in Fly Creek, on June 10<sup>th</sup> at 7:00PM.

Respectfully Submitted,  
Pamela Deane/Town Clerk