

The Otsego Town Board held a regular monthly meeting on the 10th day of June 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 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 May 13th.

MOTION CARRIED: all were in favor.

Supervisor Geddes -Atwell read correspondence received since last meeting. Among the letters were:

- A letter from Peg Wilson asking the Town Board to take into consideration residents on County Highway 26 quality of life when going forward with any large projects. Her feeling was County Highway 26 doesn't need any more large truck traffic. She would like County Highway 26 to remain zoned as a residential/agricultural area and asked that storage units or utility building not be allowed.
- A letter from Planning Board Chairman stating that the Planning Board voted unanimously to appoint Joe Potrikus as the Planning Board Liaison to the Town Board.
- A letter of appreciation to Supervisor Geddes-Atwell from the Otsego Land Trust for her attendance to the ribbon cutting ceremony for the Parslow Road Conservation Area.
- A letter from the State deeming the Town of Otsego's equalization rate at 100%.
- A letter from Patrick Dietz asking that the Town Board look into the building plans of the GOMDE as outlined on their web site. It appears twenty five rooms have been added to the barn for housing. Dietz questioned if this was now a hotel?

MOTION by Councilperson Hohensee, seconded by Councilperson Franck, to open the floor for public comments.

MOTION CARRIED: All were in favor.

Attorney Douglas Zamelis pointed out that the attempt to take care of the Bissell/Cobblescote matter administratively was unsuccessful and requested that the Town Board take civil enforcement action to correct and abate these actions. They have a continuing violation that will remain there unless the Town Board enforces the Land Use Law against them. Boyd Bissell's porch is three inches from the neighbor's property line. His clients are requesting that the porch be cut back to be in compliance. The Bissell's completely ignored the Town's Land Use Law and made these improvements with out any approvals or permits. Currently there is a new building on Peter Bissell's property that has no site plan approval, no use variance, no area variance, no building permit and no certificate of occupancy which will stay in violation unless the Town Board does something about it. His clients respectfully request that the Town Board takes civil enforcement action against both property owners to correct and abate the violations. He warned that if the Town Board does not take civil action they would be sending a strong signal to all other property owners in the Town that they can ignore the Land Use Law without fear of enforcement. And that building first and asking permission later is fully acceptable in the Town of Otsego. A legislative body that just adopts laws and does not enforce them has no credibility.

Later on during the meeting Town Attorney Michelle Kennedy recommended that the Town Board initiate an enforcement action with the County Supreme Court with respect to the violations discussed by Attorney Douglas Zamelis against Boyd and Peter Bissell.

MOTION by Councilperson Sandler, seconded by Councilperson Hohensee, authorizing Town Attorney Michelle Kennedy to file an enforcement action with the County Supreme Court against Boyd and Peter Bissell.

MOTION CARRIED: All were in favor.

Christian Hill resident Bill Deane told the Board that over the last couple of years the spring cleanup from debris left by the highway crew has been four times worse than previous years. He left phone and written messages for Highway Superintendent John Schallert asking that the highway employees stop pushing the snow and sand from Williams Road on his lawn and further requested that they repair his lawn in the spring. He never responded. He asked advice from the Town Supervisor on how to get in touch with Schallert. She said she would try to contact him. After still no response from Schallert, Deane hired Joseph Potrikus owner of Greener World, to power rake the best he could, the debris off his lawn, which measured fourteen feet from the shoulder of the road. The cost to have it power raked was \$64.80. Schallert did finally assess the damage on June 1st, which he disputed. Deane acknowledged that the Town Board may be concerned about setting a precedent. He felt that the precedent they should be setting is one where the highway department takes responsibility for excessive damage they do to a resident's property and elected officials being accountable and fair. He requested reimbursement for \$64.60 for the cost of having the debris power raked.

Later in the meeting when the Highway Superintendents report was given, Deane's request for reimbursement was discussed. Town Attorney Michelle Kennedy told the Board that under highway law they were allowed to reimburse for damages caused to one's property such as in Bill Deane's case, where debris was transferred onto his property a significant distance and the reimbursement cost he is seeking is minimal.

Highway Superintendent John Schallert admitted that the debris on Deane's lawn may have been a little more than what was left on other residents lawn but found it hard to believe it was worse than previous years. The debris that was left on the lawn was all within the town's right-of-way. He was annoyed with Deane for dropping what he thought to be a nasty note in his town mailbox instead of calling him and just saying "hey we have a little problem here". He didn't feel any restitution was in order.

Joseph Potrikus confirmed that he was hired by Deane to power rake his lawn. He assessed the lawn as being worse than some but not as bad as others.

Deane stated that he realizes the highway crew is busy. The note was not meant to be vindictive or personal.

Councilperson Sandler told Deane that he felt bad this happened but was not in favor of the town reimbursing him in fear it would set a precedent. The other Board members expressed the same sentiment. Councilperson Sandler encouraged Schallert that in the future he do everything in his power to address complaints in a timely manner.

Fly Creek resident Carl Wenner gave the example of a neighbor complaining to the Town Board about another neighbor. Now the Town Board passes a law to address the complainant. Now instead of having a feud between two neighbors you have a town wide feud on your hands. Wenner feels the Town Board should only get involved in taking care of the town roads. There would not be any issues of civility if the Town Board did not get involved with personal matters.

Cooperstown resident Jim Atwell disagreed with Wenner. He felt that it is one of the many functions of government to arbitrate situations where there is a feud between neighbors and neither are willing to give. One of the purposes of zoning laws is to improve the relationship between neighbor and neighbor. Atwell concluded by informing the Board that at this very moment a group of citizens are praying for peace in town government at the Fly Creek Methodist Church. Unless there can be a harmonious interaction among people that extends beyond pressuring, bullying, or special interest there can be no peace. He encourages good will on all parties and to also be grateful for those praying for peace at the Fly Creek Methodist Church.

Gene Ellis resident of Bibik Rd., submitted a petition from Bibik Road residents asking that their road be paved. The road is heavily traveled, full of sinkholes and creates an excessive amount of dust. Ellis stated that he was told when Shawn Mulligan was Highway Superintendent there was money set aside to pave Bibik Road and he wanted to know where did that money go? Ellis also questioned how does Schallert justify upgrading roads where there are only one or two families and not a road that is heavily traveled. He tried calling but Schallert's cell phone wouldn't let you leave a message. Schallert told Ellis that he always answers his messages.

Joseph Raymond resident of Bibik Rd., stated that four years ago former Highway Superintendent

Shawn Mulligan paved the road and swept it every spring. This year the dust was horrendous. He didn't think the road was ever swept. The potholes are so bad you have to drive off the road to get around them.

Highway Superintendent John Schallert responded by stating that it was a tough winter and the highway department can't be everywhere at once. He is trying to address town roads that get a lot of traffic first.

Fly Creek resident Sheila Ross wanted to address Bill Deane's complaint. She herself use to live on Christian Hill Road. Everybody has the same problem with debris left on their lawn from the plow and everyone takes care of their own lawn. She thinks the town roads are better then they use to be. She was told when they built the new highway garage that they were going to pave all around the town building and Willow Ave. but she hasn't seen that happen yet and hopes that that will be put into next years budget.

Fly Creek resident John Phillips, thanked Councilpersons Hohensee and Franck for attending the June Planning Board meeting. At the meeting Planning Board members discussed the ramifications of the law that was just past eliminating self storage units from the RA districts and limiting self service trade establishments to 3000 square feet/ one per parcel. Some of the existing business could never expand. He listed a whole host of businesses in the town that would not be allowed to add a storage shed to their existing site plan. Most of the businesses he listed were located in the Business District not in the RA District or Service Trade Establishments.

Later on in the meeting Town Attorney Michelle Kennedy addressed concerns Planning Board alternate John Phillips expressed. She explained that the definition of "Self Storage Units" was a structure containing individual and private storage spaces of varying sizes leased or rented on individual leases for varying periods of time. Kennedy explained to Phillips that this definition does not apply to individual businesses storing their own materials.

Fly Creek resident Joseph Potrikus quoted the First Amendment to the United States Constitution which states "Congress shall make no law abridging freedom of speech or of the press or the right of people to peaceably to assemble". He urged the Board to reconsider limiting the length of time people can speak. Just because it may be legal he didn't think is was right. Another observation he made was the inconsistency of correspondence that is read aloud. Some correspondence is read in its entirety, some summarized and some not at all. He felt that if you are going to recognize some of the correspondence you should recognize all.

Potrikus let the Board know that he is a third generation to live in the Town of Otsego. He has raised his family and started a business here. He would like to see a fourth generation Otsego resident. He asked the Town Board what they have done to create a job for the next generation. You keep writing laws and eliminating business and eliminating opportunities what are you doing to keep the next generation here? He felt young people are needed in our neighborhoods to respond to emergency ambulance and fire calls.

Fly Creek resident Steve Purcell raised four children and none of them live here because there is no place to work.

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

MOTION CARRIED: All were in favor.

Town of Richfield Springs Supervisor Fran Enjem, asked the Town Board if they would consider contributing some of their Bed Tax revenue that the Town will be receiving from the County very soon toward a boat wash Richfield is planning to put in at the NYS Boat Launch on Canadarago Lake. Cost of the equipment needed to help keep unwanted species out of the lake is estimated at \$16,800.00. Richfield Spring Town Board has agreed to contribute \$3,000.00. Enjem stated that he will be also asking the Town of Exeter, Otsego County Representatives, and Senator Seward for contributions.

County Representative Rick Hulse state that the County Board will be voting next month on a proposal distributing bed tax money to towns. Town of Otsego is slated for receiving approximately \$11,000.00. If passed the bed tax money will be distributed to the towns not before 2016.

MOTION by Councilperson Sandler, seconded by Councilperson Franck to contribute \$4,200.00 toward the boat launch.

MOTION CARRIED: Councilpersons Hohensee, Sandler and Franck voted yes. Supervisor Geddes-Atwell voted no.

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

General Savings: \$ 4,679.91	General Checking: \$ 390,366.76
Highway Savings: \$ 7,803.37	Hwy Checking: \$ 647,874.47
Building Reserve Fund: \$172,767.74	Hwy Equipment Fund: \$252,853.79

MOTION by Councilperson Sandler, seconded by Councilperson Franck, to accept the financial report as given, pay the following invoices and make the necessary transfers.

GENERAL: #100-#115	\$ 12,097.30
HWY: # 80-# 96	\$ 9,539.27

MOTION CARRIED: All were in favor.

Highway Superintendent John Schallert requested that the Town foot the bill for pizza for the employees at Suite Kote. They were there with their equipment and got the town loader up righted the day it was on Brodie Mt., rolled backward out of control, and finally came to rest on its side.

The Town Board had no objections.

Councilperson Franck discussed the proposed law Planning Board members submitted to the Town Board last month for review and consideration adding guidelines they would like to see met before a local law can be adopted. Franck stated that she discussed and compared the proposal with the Town Clerk in Oneonta. None of what the Planning Board was requesting is practiced by the Town of Oneonta. Town Attorney Michelle Kennedy suggested that the Town Board adopt a resolution listing the Planning Boards request as aspirational but not mandatory. As far as transparency it would be nice to strive to achieve the objectives the Planning Board requested but adding five more steps to what is by law already lengthy only increases the possibly of a step being missed and having to start the process over. Councilperson Franck volunteered to draft a resolution for the Board's consideration for the July meeting.

Councilperson Franck stated that she felt that Zoning Enforcement Office Tavis Austin should be asked to investigate the building plans of the GOMDE on Glimmerglen Road, as outlined on their website as pointed out by Patrick Dietz.

Councilperson Franck reported that she along with Councilperson Hohensee, attended the June Planning Board meeting during which time the members struggled with whether or not the Heroux Self Storage Unit application is vested under the old law. Since their meeting, Franck talked to an attorney at the Association of Towns, explained the situation and where Heroux is in the process of his application. Heroux is not vested under the old law. To be vested the applicant must show:

- 1.
2. Some valid action by the municipality (such as issuance of a permit, maybe unconditional approval of a site plan)
3. Reliance on that action and
4. Substantial financial loss rendering the improvements valueless.

Supervisor Geddes-Atwell stated that in light of the Fly Creek Methodist Church holding a special prayer meeting, praying for peace between the town boards she wanted to clarify to Joseph Potrikus that she did not say he was not a smart man as he referenced in one of his e-mails. Instead she had acknowledged that he was a smart man but did not feel he had the skills to be a liaison. She apologized to Joseph Potrikus for her statement made at the March meeting. Potrikus thanked her for her apology.

Joseph Potrikus report on Planning Board activity. He noted that Planning Board Attorney Jim Ferrari pointed out that in the future any change to one's site plan, triggers another site plan review process by the Planning Board. Ferrari also pointed out that Service Trade Establishment not located in a business district, are now restricted to 3000 sq. ft. Potrikus objected to a business being restricted and not being able to expand larger than 3000 sq. ft. He felt it really limits people that are either looking to start or grow a business. He also felt that the adoption of this past law limiting Service Trade Establishments to 3000sq. ft. and eliminating Self Storage Units from the RA district would cause unintended consequences.

Town Attorney Michelle Kennedy responded by stating that each of the amendments of the law was

policy driven. It was not unintended but intended. There is a policy interest in causing people to use the heirloom barns as opposed as putting up new structures so that the old barns can be reutilized. It was also policy motivated that if your business gets so big that it is exceeding 3000 sq. ft. then at that point perhaps the operation no longer fits in a residential area and needs to relocate to a business district. The consequences were very much intended. The Board wants people to reutilize old buildings and to situate large businesses in business districts not in residential/agricultural.

Potrikus asked the Town Board appoint a replacement for alternate Trevor Fuller who has not been able to attend any of the meetings, and an alternate to fill the vacancy left by Donna Borgstrom.

Councilperson Hohensee thanked Potrikus for his report. He was hopeful that the relationship between the Planning Board and Town Board was improving. He also felt that the negativity the Planning Board had toward the Town Board was not deserved.

Joseph Potrikus stated that unless the Town Board rescinds the law they just passed in April there will always be tension between the Planning Board and the Town Board.

Supervisor Geddes-Atwell stated that there has been a long history with tension between the two boards. It did not start with the adoption of this past local law. This was a problem she inherited as Town Supervisor.

The idea of having a mediator for the two boards was discussed by the Town Board.

Supervisor Geddes-Atwell read Dog Controller Tom Steele's report which was he had 1 dog running at large complaint.

Highway Superintendent John Schallert reported that he is working on establishing an inventory list for the insurance. He hopes to stone and oil Cook, Hecox and Bristol Road next week.

Joseph Potrikus again brought up the rocks that were removed from his property on Christian Hill after a beaver dam broke sending much debris over the town road in 2013. It was his opinion that former Highway Superintendent Shawn Mulligan removed material he had no right to. Town Attorney Michelle Kennedy and Councilperson Sandler agreed to meet with Potrikus at the site of contention to try to fully get a sense of what happened and whether or not former Highway Superintendent Shawn Mulligan over stepped his bounds.

MOTION by Supervisor Geddes-Atwell, seconded by Councilperson Franck, to go into Executive Session to discuss under Section 105 the proposed litigation with respect to the Kegleman property.

MOTION CARRIED: All were in favor.

MOTION by Supervisor Geddes- Atwell, seconded by Councilperson Hohensee, to go into Executive Session to discuss proposed litigation regarding Cobblecote on Otsego Lake property as well as the neighboring property owned by Boyd Bissell.

MOTION CARRIED: All were in favor. (10:24)

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

MOTION CARRIED: All were in favor. (10:59)

After a short discussion it was the consensus of the Board not to fill Councilperson Julie Huntsman's vacancy given the year is more than half over and it is election year.

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

MOTION CARRIED: All were in favor.

Meeting ended at 11:12PM.

Te next regular meeting will be at the Town Building in Fly Creek , on July8th at 7:00PM.

Respectfully Submitted,
Pamela Deane/Town Clerk

