

August 16, 2021 Town Board Meeting Minutes

4The second regular meeting of the Kingsbury Town Board was conducted on August 16, 2021, at 6 Michigan Street, Hudson Falls, NY.

MEMBERS PRESENT	Richard Doyle, Deputy Supervisor William Haessly, Councilman Jane Havens, Councilwoman Dan Washburn, Councilman
ABSENT	Dana Hogan, Supervisor
OTHERS PRESENT	Jeffrey Meyer, Town Attorney Todd Humiston, Enforcement Officer Rebecca Pomainville, Town Comptroller Michael Graham, Highway Superintendent Terence Nolan, Borrego Solar Travis Rosencranse, Creighton Manning Town Residents: Les Macura, Lillian LaFrance, Jamie L. Brown, Mary A. Brownell, Laura Derrick, Lorraine Forcier, Derek Goodness, Roy Sweet

The meeting was called to order at 7 p.m. by Deputy Supervisor Doyle and opened for the order of business with the Flag Salute led by Councilman Washburn.

The minutes of the Insurance Brokers Presentation and the minutes of the August 2, 2021, Town Board Meeting were reviewed by the Town Board, no changes or amendments are necessary.

The first agenda item is a presentation by Travis Rosencranse of Creighton & Manning and Terence Nolan of Borrego Solar for a proposed solar project on the end of Hillview Drive. They wanted an opportunity to present their proposal even though the Town has imposed a moratorium on large scale solar generating projects. They want to show how their proposal fits from a visual perspective and show their willingness to issue decommissioning and ask if there is a way they can proceed with the project even as the Town is considering changes.

Travis Rosencranse stated the parcel is approximately 73 acres and is zoned RA-1A. The proposal will use or disturb about 23 acres of the 73 acres; a substantial portion north of the solar cells will remain as is, native, and off to the east will remain native as well. There are a lot of wetlands on the site approximately 24 acres of ACOE wetlands have been delineated by a wetland scientist. The site will have 5-megawatt ground mounted panels. One key part which is a typical component of these projects is the construction road, which has a certain detail and method of construction which is in accordance with DEC.

Terence Nolan stated the current landowner, Yolam Construction, has a mining permit in the area they are looking to locate the solar arrays, and they have completed their mining in the area, and they have placed clean fill on the site.

Deputy Supervisor Doyle asked if they would be using Hillview Drive during the construction, the response was yes. Mr. Rosencranse explained from there, there is a gravel road with mandated turnarounds with fire access. Mr. Rosencranse stated the wetland and waterbodies delineation report was prepared by the GEI consultants in April 2021, what really draws this area to a solar project is the low-quality Army Corps wetlands. Solar panels are a permitted use as far as a temporary disturbance in a wetland. The board received copies of photos taken at several locations showing the view of the area where the solar panels would be located. Councilman Washburn asked if residents in the area would be able to see the solar farm from their homes. Terence Nolan responded no because the study they have

done so far; the topography and everything that is done below with the tree cover there would not be a visual impact.

Mr. Rosencranse explained the proposed solar project will tie into the Burdick Station and it will be power generation available to the area.

Resident Jamie Brown asked if people living on Hillview Drive could benefit from the power generation.

Mr. Rosencranse stated they could if they wanted to be subscribers.

Mr. Rosencranse stated in terms of disturbance there are two things of concern; the visual concern and the disturbance during the construction of the solar array. The construction of the solar array generally takes about 6 months. Once construction is complete there will be one or two vehicles a year to check on and test to maintain; there will be a daily monitoring with a computer system.

Mr. Rosencranse continued the presentation via Google Earth at the proposed site of the solar array.

A resident asked which way the transmission lines were going to go; the response was the lines will go towards Burgoyne Avenue and connect to the existing poles. Another resident asked if there was a study conducted to determine the impact on wildlife in the area. The response was no; they are at the very beginning of the process, and they are here in front of the Town Board because they are asking to bring this in front of the Planning Board and go through all the processes if they are able to do that.

Enforcement Officer Humiston asked if there was going to be a need to clear cut. Terence Nolan responded no.

Terence Nolan stated from site perspective, it is a good site for 2 reasons. The site is a reclamation area that can't be used for any other purposes, and he feels they can demonstrate there will be a minimal visual impact to the neighboring residents. This site does not seem to meet a lot of concerns he heard at the Solar Workshop that was conducted on July 19, 2021. He asked if it was okay to proceed with the project.

Deputy Supervisor Doyle stated the moratorium has been extended until February, the Town is in the process of updating their Comprehensive Master Plan and conducting a survey with residents of the Town seeking their input on how to proceed with solar. He asked if there was a lease on the property, the response was yes. With a moratorium in place, they would have to receive a waiver and give a pressing reason for them to proceed now, probably a financial reason and have ongoing cost.

Councilwoman Havens stated she gets the sense they want to be reassured that any investment they make in this project would not be a wasted investment, but that is not the Board's place. They must decide if their investment is worth continuing on. The Board is not going to make a commitment.

Councilman Haessly suggested if they go before the Planning Board, they should have physical pictures on the Towpath Road and the access site. The PILOT agreement which is now in place may change with the moratorium and may not be available. He also suggested the need to talk to all the residents near the project.

Lillian LaFrance asked if they had considered the de-watering facility as a site for a solar farm.; it may be a better location because it has a lot of access roads. Mr. Rosencranse responded he would be happy to look at it. The Hillview Drive proposed site works because it is in close proximity to the 3-phase power on Burgoyne Avenue. Deputy Supervisor Doyle stated you need to be in close proximity to a sub-station, it is important because the further you get away the less likely or viable the project becomes.

Deputy Supervisor Doyle thanked Mr. Rosencranse and Mr. Nolan for their presentation and said if they decide they want to go through a formal variance request they could have their attorneys prepare their request for a future docket.

Deputy Supervisor Doyle opened a discussion about guidelines for Town Hall offices for COVID with the upcoming tax collection season. The Board will leave it at the Town Clerk's discretion to determine what guidelines will be in place; the Town Clerk will inform the Board of guidelines she feels are necessary.

A **motion** by Councilman Washburn seconded by Councilwoman Havens and carried by a vote of 4 ayes to renew the current health insurance for employees with CDPHP. The Board will review the presentations from insurance brokers to determine if the changing of the broker will occur.

Superintendent Michael Graham is seeking permission to go out to bid for quotes for the furnishing and delivery of propane for the highway garage. A **motion** by Councilman Haessly seconded by Councilman Washburn and carried by a vote of 4 ayes to go out to bid for the furnishing and delivery of propane to 437 Vaughn Road; the bids will be opened at the September 20, 2021 Town Board Meeting.

Attorney Meyer, Enforcement Officer Humiston and Town Engineer Tom Jarrett met to discuss the development pressures in the Town. They looked over the existing zoning maps and what the limitations are to define what a large development project could be. The focus and the issues that the Planning Board has been seeing is the larger projects in the LDR zone, which is about 500 feet north of Dix and Burgoyne as it extends towards the village. The existing zone is designed for higher density and commercial uses, it is also where there are patches with no connectivity to municipal water and sewer. Due to the soil limitations in this area and the ground water these properties should connect to municipal water and sewer. There are still a lot of areas where you can build without municipal water and sewer. After discussion they have defined a large development project as a project that is not connected to municipal water and sewer which results in the discharge of more than 500 gallons per day, per acre. For example, you could have a 4-bedroom house on an acre of land; if it is larger than that you need more than an acre. It will be focused on hydrology, whether or not it is ground water issues, you start to look at the large development projects where you are adding water with interruptions on our potential environmental impacts. It is a massive policy decision for the Board to make.

Deputy Supervisor Doyle asked if changes were made would it affect any projects already in the works. Attorney Meyer responded; it is up to the Board. The Board can pick the starting point, new applications, new approvals, it is a line the Board has to draw.

Enforcement Officer Humiston stated there are 2 Schermerhorn projects that are projected to be on municipal water but projected to be on septic systems which is concerning to the Town Engineer. Roy Sweet stated he has a project that was proposed at the last Planning Board Meeting. They had proposed 20 sub-lot divisions in the LDR -25. Enforcement Officer Humiston stated the project is projected to be on wells and septic. Mr. Sweet explained this is a single-family development, a cluster development on County Route 41. Enforcement Officer Humiston stated the concern with Mr. Sweet's project is the separation between well and septic, you have to worry about contamination with 10,000 square foot lots. The lots meet the bare requirements with no room for error if a septic system goes bad. Mr. Sweet stated he does need separation limits on his proposal, they are going to re-submit with larger lots, downsizing the number of lots so they can accommodate septic failure. The property qualifies for wells and septic unless the Board changes it and is being designed under the current laws. They are not asking for a special consideration that is specific to his project. Deputy Supervisor Doyle stated Mr. Sweet may meet the current zoning but there are issues with other areas, he does not have an answer, and his project may get caught in anything the Board does.

Councilwoman Havens stated the Board is in the process of working on the Master Plan and has noticed a lot of activity in the Town. The water and sewer issue has to be addressed.

The community portion of the Master Plan project will kick off in September, the school tax bills will contain information about a survey giving the opportunity to bring forth any concerns and state what you want for Kingsbury.

Attorney Meyer will email his suggestions to the Board in regard to the discussion with the Town Engineer and the Enforcement Officer.

Enforcement Officer Humiston stated most of the zoning laws were written in the 70's and 80's and are no longer effective. The water concerns are throughout the Town, there has been flooding issues where there are clusters of houses, County Route 41, Company Bridge, and County Route 36. The Town is a clay area. As Attorney Meyer stated the Board does have the right to approve based on one on one: if someone comes in with a single family house and can show it is a good use for that piece of property the Town Board does have a right to grant a variance based on the design and build for that individual piece of property if a moratorium is enacted by the Town Board.

Councilman Haessly stated when a septic system fails that is when the problems start. One proposed project is on a site that was filled with concrete that came from the Route 4 Reconstruction and he cannot see how a septic system can go in there. We may have a number of residents that may have a problem with their drinking water.

Deputy Supervisor Doyle asked what the time frame would be if the Town Board imposed a moratorium. Attorney Meyer stated the prior discussion indicated at least a year, possibly two or three. Doyle commented he would hate to see development in the Town to come to a halt, he would prefer to see changes to the zoning, larger lot sizes required, or fewer or density. The Board continued with discussion and the discussion will continue at the next Town Board meeting. Councilman Washburn will provide copies of the zoning district maps.

Roy Sweet stated what will be targeted for expansion in the Town is the LDR district and the Town offers very little for the community for single family development. Where do the do college graduates returning to the community and wants to live and work where he went to school go. There are very few options in the Town. The kind of projects that he is proposing can meet those concerns. He would love to supply Town water in his proposed subdivision, it would not be fair for the contractor to pay for the infrastructure for water because the water is so far away. If the taxpayers create a water district, if people want to tap into the water they can pay a fee, if they don't want to tap into it there is no charge. Councilman Washburn stated it does not work that way, once the infrastructure is in front of your house you must pay an ad valorem fee. Mr. Sweet will consider downsizing the lots in his proposed subdivision to accommodate a failed septic system. Mr. Sweet stated he feels Kingsbury is the next Town people see opportunity in because nearby areas are built up but the Town does not offer much.

Councilwoman Havens stated we have to be careful because the community that is here likes the agricultural and rural community that surrounds it, so it gets balanced. Residents may want to own 50 acres and leave it that way. In the past the Town has done water district projects which require a lot of work ahead of time and then there is the community vote and they do not vote for it.

Mr. Sweet stated he is not trying to bring development into the agricultural and rural out-districts. Mr. Sweet asked where he stands with the proposal he submitted to the Planning Board. Enforcement Officer Humiston stated you have not submitted; you came in for a preliminary you do need to submit an application. Mr. Sweet asked if he submitted tomorrow where it would be caught; he needs to give guidance to the people he is under contract with.

Deputy Supervisor Doyle cannot give Mr. Sweet an answer; the Board needs to decide which way to go, he suggests he submit the application.

Resident Lillian LaFrance stated she supports single-family homes or small developments with single family homes but would not want to see Army-barrack type construction in certain areas of Town. She asked Councilwoman Havens when the Comprehensive Plan would be completed. Councilwoman Havens stated it is an 18 month to 2-year project. Phase I should wrap up before Thanksgiving. She also asked if there was a committee or if the Board was working on it. Councilwoman Havens replied there is an 8-member committee which started in January and have met monthly. In order to proceed they had to find funding, on June 10th they received a grant for Phase I which allowed the Laberge Group to put forth suggestions and tasks for the committee. The committee is building a Facebook page "Imagine Kingsbury".

Resident Derek Goodness of Martindale Avenue is concerned about the sewer and water for the proposed project on Martindale but is also concerned with the foot traffic on Martindale Avenue. There are a lot of students walking on the street now in that area and the sidewalks end on Second Street. The apartments on the end of the street will create more foot traffic on the street with no sidewalks. The speed limit is 25 mph, very rarely policed and people do not go 25 mph. Being a school bus driver he has seen the traffic on Burgoyne Avenue is busy and at times backed up to the bus garage. If more people are in and out of the proposed apartments on Martindale there will be more traffic.

Deputy Supervisor stated there is a Planning Board Meeting at Town Hall where the project is on the docket; that is where you can address your concerns.

A resident asked if it was possible to place a moratorium on multi-family developments and leave the single-family development out of the moratorium, or does it have to be all in one because of the zones. Councilman Washburn stated he thinks the reason for the single-family homes is due to the lot size. Enforcement Officer Humiston stated it is not just the homes, it is businesses who use a lot of water, they have no place to put the water, it is an infrastructure problem, Kingsbury is growing too fast. Ground water, storm water, and waste- water are problems in our community right now. It is not a concern about growth, it is about making sure the right infra-structure is in place so when you drive down the road after a rain- storm you are not hydro-planing and a day after it rains you are not spitting out rainwater when you mow your lawn. He would like to clarify t is not necessarily about an apartment building or single-family house, the Town has an infrastructure problem, and the Town has outgrown its zoning code and needs to update it.

Comptroller Rebecca Pomainville stated in 2017 the Town Board made a resolution to assign the approvals of Budget Transfers solely to the Comptroller. Recently she did a webinar and learned that is not the proper practice. She has provided reports of budget transfers made to date. A **motion** by Councilman Haessly seconded by Councilwoman Havens and carried by a vote of 4 ayes to approve of the reports with all budget transfers made to date. When the Comptroller sees a need for a budget transfer, she will let the Board know prior to making the transfer.

The Comptroller stated in the General Fund-Part Town she is projecting a loss and we will need to increase the actual budget for various reasons. She was going to suggest the Town use some of the ARPA Funds under the lost revenue stipulation. Supervisor Hogan sent an email with information on a company that works for Washington County EFRP Group, CPA's, who is offering services to towns in Washington County to manage the ARPA funds. The Supervisor would like the Board to discuss and have the Comptroller contact them and receive quotes and for the Board to consider for them to manage the ARPA funds. They could tell us whether or not we could use the loss revenue funds for the projected shortfall.

Deputy Supervisor Doyle asked how much the shortfall is. The Comptroller stated she is guessing approximately \$48,000.00 in the General Fund, part-town. She stated the shortfall is due to the employment of an additional person for building permits. Deputy Supervisor Doyle stated he thought the fees collected would offset the pay for the additional employee. The Comptroller stated that in the end it would require an amendment because we had already planned the initial record that didn't include the building permit and that had not come to fruition.

Councilman Doyle asked where the funds would come from. The Comptroller stated ARPA, within ARPA there is a formula that calculates what they call loss revenue, she believes that is the only portion that is ear-marked very granularly specific to things like the broadband and the infra-structure. Councilman Washburn asked if the Town had received the funds. The Comptroller responded the funds have been received but she has not dispersed them; she is looking for the Board approval to speak to the CPA from Washington County. Councilman Haessly stated the Town would have to out to public bidding, which would take a long time. The Comptroller stated it is for professional services so public bidding is not

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necessary. The discussion continued. A **motion** by Councilman Washburn seconded by Councilwoman Havens and carried by a vote of 4 ayes giving permission to the Comptroller to solicit information from the CPA for guidance on how to do an amendment and how to properly use the ARPA Funds. Deputy Supervisor Doyle would like a breakdown on the shortfall of \$48,000.00; the Comptroller will email the information to the Board.

TOWN CLERK REPORT:

A Local Government Records Management Improvement Fund shared Grant has been received from the State Archives. Secure Scan will meet with County employees and provide more details tomorrow. The Kingsbury Town Vital Records will be imaged and then imported into Laserfische. The in-kind contribution from the Clerk's office is to do the index verification and the quality assurance. Receiving grants is great but the Town Clerk is concerned with the unfinished quality assurance of court records that were scanned two years ago.

The Town Clerk has been working with the Enforcement Officer emailing Town residents information related to upcoming meetings and Public Hearings for the Planning and Zoning Boards.

In the basement there are more than 200 binders, the Town Attorney will check to see if they can be donated because they are Town property even though they have no value. There is also a surplus of tables and desks, the Board will discuss at another time.

The Town Clerk has scheduled a meeting with Town Justice Anthony White and Court Clerk Laura Barody in regard to maintaining Court Records.

COMPTROLLER REPORT:

The Town Justice has requested permission to attend the NYS Magistrate Association Conference at the cost of \$75.00 registration fee and \$772.00 for hotel accommodations and meals. A **motion** by Councilman Haessly seconded by Councilman Washburn and carried by a vote of 4 ayes giving permission for Town Justice Anthony White to attend the NYS Magistrate's Conference in Niagara Falls September 26 – 29, the funds are in his budget.

The letters for the Town to be declared the lead agency in the Burgoyne Avenue Water Extension have been sent and they have 30 days to respond; 30 days lands on September 9th. A **motion** by Councilman Haessly seconded by Councilman Washburn and carried by a vote of 4 ayes to schedule a Public Hearing for the formation of a water district on Burgoyne Avenue at the September 20, 2021 Town Board Meeting.

COUNCILMAN REPORT:

Councilman Haessly will meet with EnCon on September 15th to go over remedial plans for the landfill. He asked the Comptroller when would a shovel go in the ground for the Burgoyne Avenue Waterline Extension. The Comptroller does not know; there are no deadlines with state funding. Maps have been received for Water Superintendent Jim Chase to review. Councilman Haessly would like to reach out to Kathleen Suozzo to get an idea as to what is going on with the water district expansion.

Deputy Supervisor Doyle stated this project is very small and asked if it were subject to permissive referendum. Attorney Meyer replied it is. The discussion continued. The Comptroller stated after the Public Hearing on September 20th, the permissive referendum is started which is a 30- day process. In mid-October the Board can adopt the water rules and regulations and then go out to bid.

Councilwoman Havens reported permission has been received to enclose an insert in the school taxes with information regarding a survey for residents for the Master Comprehensive Plan. The discussion continued and was decided to research to find the most inexpensive and professional way to print the surveys.

WRITTEN REPORTS:

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A **motion** by Councilman Washburn seconded by Councilman Haessly and carried by a vote of 4 ayes to accept the reports of certain officers for the month of July as follows:

Town Clerk: Paid to EnCon \$283.42; Paid to Supervisor \$3,43.46; Paid to the Village of Hudson Falls \$30.00; Paid to Ag & Markets for Population Control \$135.00

Code Enforcement Officer: Fire Inspections 5; Permits 4; Research 4; Total Fees \$1,169.00

Town Comptroller: Receipts \$359,169.46; Disbursements \$306,599.35

Dog Control Officer: Complaints/Calls 25; Written Warnings 5; Dogs Seized 3; Unlicensed Dogs 8; Dangerous Dog Cases 3; Mileage 360 (50,393)

A **motion** by Councilman Washburn seconded by Councilman Haessly to enter into an executive session at 9:15 pm at the Town Clerk's request in regard to the appointment of a particular person.

A **motion** by Councilman Haessly seconded by Councilman Washburn and carried by a vote of 4 ayes to exit the executive session at 9:16 pm; no action was taken.

There being no further business before the Board, the meeting was adjourned at 9:16 pm.

Respectfully submitted,

Cynthia A. Bardin, Town Clerk