

REGULAR TOWN BOARD MEETING
February 15, 2022

PRESENT:

Supervisor Richard A. Purol
 Councilman Robert Penharlow
 Councilman Henry Walldorff
 Councilman Juan Pagan
 Councilman Jay Bishop (absent)

OTHERS PRESENT: Town Clerk, Rebecca Yacklon, Deputy Clerk, Kyle Coughlin, Attorney Jeffrey Passafaro, Sue Hazelton, Gary Hazelton, Joe Muscato, Barbara Warren(via zoom), John Jay Warren(via zoom), Carter Town, Mary Ann Town(via zoom), Phil Leone, Lisa Briggs, Jerry Dziduch, Allison Lang (via zoom), John Jay Warren IV (via zoom), Shari Miller (via zoom), Don Corriere(via zoom), Irene Strychalski, Helen Burlett, Kim Bloise, Chris Simcik, Jane Simcik, Joan Will, Bill Schoetz, Troy Sasse, Jacqueline Pagano, Anthony Dolce from the Observer, Karl Boelter , Bill Jakubowski, Richard Conti, Kevin Standing, Jerry Dziduch, Highway Superintendent, Jeff Feinen

Supervisor Purol opened the regular Town Board meeting up at 6:40 pm with the pledge to the flag.

APPROVAL OF REGULAR MEETING MINUTES JANUARY 18, 2022

Councilman Walldorff made a motion to approve the Regular meeting minutes of January 18, 2022. The motion was seconded by Councilman Penharlow and carried.

ABSTARCT OF AUDITED VOUCHERS

Councilman Pagan made a motion to approve the abstract of audited vouchers as presented by the Town Clerk on the February 15, 2022. The motion was seconded by Councilman Walldorf and carried.

General Fund	\$319,411.96
Highway Fund	\$13,010.94
ELRSD	\$4,168.60
Checking Justice	\$12,914.00
Vineyard Light	\$336.75
Bennett Improvement	\$110.00

ANNOUNCEMENT REGARDING FEBRUARY 16TH VARIANCE HEARING

Supervisor Purol announced to the audience that there was an error in an article that the Observer published in regard to a meeting on February 16th. The meeting is a zoning meeting for Northern Chautauqua Dental for a signage permit and nothing pertaining to VRBO.

Supervisor Purol also announced that the interpretation hearing that was scheduled for February 23, 2022 had been changed to March 30, 2022 due to conflicts with the attorneys.

Supervisor Purol had read a letter that was sent out to both attorneys on each side.

"Re: Appeal of Zoning Enforcement Officer Decision

Dear Mr. Knoer & Mrs. Friedman,

Per Correspondence received by the Zoning Board Chairman, it has been decided that the interpretation hearing scheduled for February 23, 2022 at 6:00 p.m. will be rescheduled.

The Zoning Board will be scheduling this for March 30th at 6:00 p.m. at Town Hall.

The Zoning Board of Appeals is requesting a brief from each party identifying the legal concerns on this matter.

They would like these briefs submitted by March 15th, 2022 by the end of business hours. They will then review these briefs and all written materials previously submitted.

A representative from each party will be allowed to argue their stance for 15 minutes. After each party has had a chance to speak, there will be 5 minutes for rebuttal.

The Zoning Board will then make a determination within 60 days.

If there are any questions or concerns, please contact the Clerk's office at 716-366-3967 or by email at townclerk@dunkirkny.org."

OPEN COMMENTS

Phil Leone of 5208 Woodlands

Stated that he would like to clear up with what was published in the Observer Editor Opinion. He believes that the information as he was quoted came from a couple Board meetings ago because we originally had announced that the 16th was the scheduled date for the VRBO hearing.

Anthony Dolce from the Observer apologized to the Town Board for the misprint.

Susan Hazelton of 5178 Woodlands (Ref. 5184 Woodlands Dr.)

"This is in reference to 5184 Woodlands VRBO, vacation rental property. I have voiced my opinions about these types of properties. I think I have made very good comments as to why this property and VRBO's are not wanted in our community. If everything that has been said please tell me, what part of this mess I'm missing. We have had many residents give their opinions on these matters of 5184 Woodlands. The meetings the board had to discuss the height, size and where advertising signs can be for Town businesses took, I think two meetings. The discussion was done. They all agreed. Our issue with VRBO has been canceled what near two times from Feb 23rd now to March 30th.

Another month prolonging this issue, is not the answer. Also, you would think the owner and investor would want this matter solved. As we the residents who live in this area yearlong permanent residents. I think the owner is stalling. I wonder why? I have not stood up here making points to just hear myself talk. I'm sorry that this may sound a bit boring by now but apparently this needs to be reminded of how this affects all us Woodlands residents."

Jay Warren of 5182 Woodlands

Jay Warren asked the Town Board about a rumor circulating that the Town is taking greater steps to protect people in the Town who are currently operating these vacation rentals. Greater rights to protect these people than the people who are coming to the meetings every month since August. He explained that it's troubling to hear these things. The Town of Dunkirk is supposed to protect people who are illegally operating these vacation rentals. He stated that he hoped this wasn't true. You have seen us meeting after meeting, petition after petition, legal notification after legal notification and they feel like they deserve justice. He stated that they have been in this community a long time, and they like the community, they volunteer. He said he hoped it's not true and felt it was important to address.

Supervisor Purol replied to Jay Warrens question and told him that is not true.

Gary Hazelton 5178 Woodlands (Ref. 5184 Woodlands Dr.)" This spring I checked on putting a shed up. It has to be 50 feet from the road and 5 feet of property line and can't interfere with neighbor's properties or sight lines. We have all kinds of regulations on fences, sheds, what size truck you can

have plus if you are replacing a roof, it must be checked by code enforcement officer. But you are allowing out of town owners with investors to operate an illegal short-term rental in a R-1 district on a private road not a town, county, or state road. Allowing up to ten people and two dogs ten feet away from permanent town residents and permanent resident neighbors. The observer ran a question of the day about VRBO's in an R-1 districts over whelming people didn't want one next to their home either. There is no benefit to the Town with these problem party houses, no trespassing signs, and caution tape is no improvement to the community or town. This could have been resolved in twenty minutes not twenty weeks with a little common sense and not dragged out over this time. Absent people can always go on zoom to state their views or concerns instead of delaying this another month. This is a Town of Dunkirk problem not just Woodlands and west Shorewood Dr. VRBO's making money while residents lose money (property values)."

Jerry Dziduch of 5158 West Shorewood Dr.

Jerry had asked the Town Board if people start walking down the break walls (which some are in beat up shape) and someone gets hurt, can he put the Town on notice if someone gets hurt on his property because they are not supposed to be there? What do they do as owners? Do they put up "no trespassing" signs or "caution" tape? He asked if the Town was liable if someone does get hurt on their property? He asked Mr. Passafaro to answer that question.

Attorney Passafaro had no comment and stated he gives advice to the Town Board only.

Supervisor Purol responded to Jerry Dziduch's question and told him if it was him and he caught someone on his property he would be calling the police. Most people have security cameras for added protection. He also stated that we don't have a police force in the Town anymore but we do pay for extra police patrol so someone could come look and see what's going on.

Irene Strychalski of 5170 West Shorewood Dr.

Irene stated that she didn't know they had police to call and asked how do they call them?

Supervisor Purol stated that you call 911 and tell them whatever your problem is, and they will send someone out.

Allison Lang of 5192 Woodlands

Allison Lang had asked the Board when Councilman Penharlow suggested street lighting in our neighborhood and everyone was against it and wrote letters, the matter was resolved right away. She asked why it is taking so long for the VRBO to go away, when everyone in the neighborhood is against this?

Supervisor Purol responded that these issues are completely different circumstances. He explained that as far as the streetlighting goes National Grid was ready to put those lights up. We had people coming to the Town Hall saying they did not want these streetlights up. We had no choice in the matter to stop it.

Shari Miller of 3889 Williams Street

Shari Miller had a suggestion to the Town Council to help resolve the short-term rentals matter temporarily. She asked the board if they would consider putting up a moratorium much like they did for residential solar, windmills, and large scale solar? If a moratorium was put in place on short-term rentals, it would provide the time period where the proper rules and regulations could be put in

place. It's been talked about our bed taxes being collected, fire safety etc. Shari Miller stated she would like to propose this to the Town Council.

Jay Warren of 5182 Woodlands

Jay Warren commented on Shari Millers suggestion and agreed with her on putting a moratorium in place for the VRBO's so it can be studied more and make sure it gets done the right way.

Lisa Briggs of 5212 Woodlands

Lisa Briggs stated she has been looking on the VRBO web sites and they are booking now for summer, and she also agrees with putting a moratorium in place for short-term rentals and feels it would be the right thing to do.

John Jay Warren IV

John Warren had stated to the board that he submitted a set of questions at the last meeting that he was hoping to have answered. He noted some were already brought up and addressed by Mr. Dziduch. He had asked the board what is the Towns risk mitigation strategy to this? You have to have a plan he stated if someone falls off someone's break wall from an insurance perspective if they get hurt, they most likely will sue the homeowner of the property. So, if the individual is staying at the illegal VRBO on Woodlands Drive if that property isn't insured to take and consider renters their homeowner's insurance will deny the claim because they are not properly taking consideration that a business is being run from that property. He stated that he felt the Town had not factored that in. He further explained that the homeowners will absorb the loss through their homeowner's policy into an umbrella which will then increase their rate to go up and will have a ripple effect to all the homeowner's policy in the neighborhood. A loss will be discovered as a result of that loss it will determine that now a vacation rental is there which is going to cause everyone's homeowner's rates to go up. John Jay Warren also addressed that the Town had started a conversation about a water line and one conversation discussed was resident safety. Resident's safety was a key thing discussed. The resident's safety in this matter is being completely ignored. He then stated that as Mrs. Miller pointed out there should be a moratorium on this. There should be no rentals occurring because right now as the law is written, does not allow for this. He stated that he does not understand how the Town is allowing this to happen. John Jay Warren stated he disagrees with Supervisor Purol on calling 911 and that is not the solution. He also addressed to the Town Board that he would like to know in the set of those question he had sent to the Town if they actually have sat down with local law enforcement to understand the repetitive nuisance claims that will continue to come all summer long from this property because it happened a handful of times last year. He stated that he felt that all the points are very relative and very real but to continue to be completely discounted as a collective group the people that are here year-round that pay their taxes why are they not factored in? As the board as part of the mitigation strategy have you determined what a loss in property value is going to look like for the Town of Dunkirk when this happens. He stated that he welcomed comments on any of these points he made.

TOWN CLERK REPORT (January 2022)

Clerk Fees \$360.00

Zoning Fees \$175.00

Dog Licenses \$64.00

Total amount transferred to Supervisor Purol \$599.00

JUSTICE REPORT (JANUARY 2022)

Total number of cases **262**

TOTAL FINES and surcharges submitted to the Town Supervisor **\$22,983.50**

BOARD MEMBER & COMMITTEE REPORTS

Councilman Pagan shared that last Thursday he attended a North County Water District meeting for the phase two of the Roberts Road water project. He stated that they are having trouble with getting the supplies which have delayed the project.

Councilman Pagan also asked residents in the town to be on alert. He stated on January 6th the troopers stopped at his house to ask questions in regards to a break in that had happened at Tabone's storage facilities located on Bennett Road. Councilman Pagan had stated that he just wanted to make the public aware and to keep your eyes open and if you see anything to call 911.

HIGHWAY SUPERINTENDENT REPORT (Jeff Fienen)

- Been plowing snow on and off
- Clearing snow away from Fire Halls
- Cleaning and removing snow around Town
- Cleaned under guard rails
- Cleared out fire hydrants around Town
- Put new blades and shoes on Steve's truck
- Bought a new blade for the plow. Haven't put it on yet.
- Picked up a lot of trash around town. Williams Street has been getting a lot of dumping again. Picked up a television.
- Also had a road cut on Arrowhead Drive. The sewer line that went in was at the wrong elevation. Had to redo it and it's all taken care off now.

ZONING/CODE ENFORCEMENT OFFICER REPORT (Ryan Mourer Absent)

NO REPORT SUBMITTED

ATTORNEY REPORT

NOTHING REPORTED

SUPERVISOR REPORT

Supervisor Purol reported that he received our Dog Control Officer Inspection Report for the facility that is located in the City of Dunkirk.

Supervisor Purol also announced that our new Dog Control Officer is Tom Rozumalski and that he can be reached by calling the Dunkirk City Police Headquarters and they will forward calls to him.

He also reported that they have been having issues at the trailer park with the sewer district. He informed the Board that he ordered three new pumps and will have to have Becc Electric come and install new electric lines for them. He stated that the trailer park is also looking to expand in the near future.

CORRESPONDENCE

Supervisor Purol read a report submitted from Town Councilman G. Jay Bishop.

"I attended (virtually) the Chautauqua County Planning and Development meeting on 2/1/2022:

Here is my report for the Town Board:

Zoning logs were reviewed, and they discussed solar projects at length including the Solar Projects in Ripley and Pomfret. There are presently 15 Large Scale Solar Arrays in Chautauqua County that

provide over 80 total mW, takes up over 400 acres including 255 acres of agriculture land and the Ripley project will be 1200-1500 acres alone. The committee was extremely complimentary regarding our Town of Dunkirk Solar Law and thought it should be an example for the County, especially how we addressed Battery Storage. They were very complimentary.

There was some discussion regarding limiting farmland for Solar Projects, and there is a Farmland Protection Board.

A map of municipalities across the county that had large scale Solar Laws was provided.

Also discussed was a steady drop in the number of planning referral activity to this committee, from 89 in 2017 down to 60 in 2020.

Other development projects were outlined and discussed in the County including the Southern Chautauqua Credit Union which they had in the Town of Pomfret. When asked to speak, I did give an outline and history of the Town of Dunkirk emphasizing geographical consideration and all the accomplishments we are proud of regarding business on Vineyard Drive, Athenex (now under new ownership), and our other businesses. I emphasized in the TOWN OF DUNKIRK, and that this is a sensitive issue for us when businesses are mistakenly named in the City of Dunkirk or the Town of Pomfret instead of the Town of Dunkirk. The committee was very open to this correction and appreciated all the work we have done promoting businesses and controlled growth.

The 2022 work plan for the committee will include planning, economic development, and addressing the watershed."

Supervisor Purol had reported to the board that the Town received our first Quarter of 2022 Sales Tax Distribution from Chautauqua County in the amount of \$109,466.79.

COVID SUPPLIES

Supervisor Purol made an announcement that we received another shipment of COVID supplies and that they can be picked up at the office Monday – Friday 2:00-4:00 pm daily with proof of residency.

SHOREWOOD WATER

**At A Regular Meeting of the Town
Board of the Town of Dunkirk, County
of Chautauqua, New York, held at
the Town Hall in said Town on the 15th
day of February, 2022.**

PRESENT: Richard Purol, Supervisor

TOWN BOARD:

**Juan Pagan, Councilman
Henry Walldorff, Councilman
Dr. G. Jay Bishop, Councilman - Absent
Robert Penharlow, Councilman**

**In the Matter of the Increase and Improvement
Of Facilities in the Town of Dunkirk, Shorewood
Water District, Town of Dunkirk, County of Chautauqua,
State of New York**

Under Section 202-b of the Town Law

**ORDER CALLING PUBLIC HEARING
TO BE HELD MARCH 15, 2022
At 6:15 PM.**

WHEREAS, the Town Board of the Town of Dunkirk, in the County of Chautauqua, New York, as the governing body of Shorewood Water District, requested and obtained from CPL, Licensed Engineers, licensed in the State of New York, a preliminary map, plan, and report for the increase and improvement of facilities of the District consisting of the construction of approximately 12,900 lineal feet of 8-inch water main to replace existing water main, which has deteriorated over the years; and including lands or rights in land, furnishings, equipment, machinery, and apparatus required therefore; and pursuant to the direction of the Town, the Engineers have completed and filed with the Town Board such map, plan, and report, dated April 2021 for said improvement of facilities, and have estimated the maximum cost thereof to be Two Million, Two Hundred, Ninety-Five Thousand (\$2,295,000.) Dollars, which amount shall be raised by levy and assessment against the lands and properties located in said water district, and

WHEREAS, pursuant to the direction of the Town, the Engineer has completed and filed with the Town Board such preliminary map, plan, and report for such increase and improvement of facilities of the district, and as estimated the total cost thereof to be an estimated maximum amount of Two Million, Two Hundred, Ninety-Five Thousand (\$2,295,000.) Dollars: said cost to be financed by the issuance of serial bonds of the Town in an aggregate principal amount not to exceed Two Million, Two Hundred, Ninety-Five Thousand (\$2,295,000.) Dollars, offset by any federal, state, county, and/or local funds received, and

WHEREAS the expense of said increase and improvement of the facility shall be financed by the issuance of serial bonds of the Town in an aggregate principal amount not to exceed Two Million, Two Hundred, Ninety-Five (\$2,295,000.) Dollars, said amount to be offset by any federal, state,

county, and/or local funds received, and unless paid from other sources or charges, the costs of said increase and improvements of facility shall be paid by the assessment, levy, and collection of special assessments from the several lots and parcels of land within the district for such purpose in the same manner, and at the same time, as other Town charges, to pay the principal and interest on said bonds as the same shall be come due and payable, except as otherwise provided by law, and be it further

NOW THEREFORE, be it

ORDERED that a Public Hearing be held by the Town Board of the Town of Dunkirk at the Town Hall, 4737 Willow Road, Dunkirk, New York 14048, on the 15th day of March, 2022 at 6:15 p.m., to consider said increase and improvement of facilities of the District, and to hear all persons interested in the subject thereof concerning the same, and for such other and further action on the part of the Town Board with relation thereto as may be required by law; and be it further

ORDERED that this resolution shall constitute the declaration and reaffirmation of the Town's official intent, to reimburse the expenditures authorized in this resolution with the proceeds of bonds, notes, or other obligations, as required by United States Treasury Regulations, § 1.150-2; and be it further

ORDERED that the Town Board shall also consider all matters relating to the State Environmental Quality Review Act at said Public Hearing as it pertains to said project; and be it further

ORDERED that the Town Clerk shall post and publish this Order calling for a Public Hearing as required by law.

February 15, 2022

**By Order of the Town Board of the
Town of Dunkirk**

A motion was made by Councilman Pagan to adopt a new order and reschedule the public hearing for the Shorewood Water project for March 15, 2022 at 6:15 p.m. The motion was seconded by Councilman Penharlow and carried.

RESOLVED, that Hodgson Russ LLP is hereby re-appointed Bond Counsel for the Town pursuant to the terms set forth in the engagement letter as presented. Councilman Walldorf made a motion to authorize Supervisor Purol to execute the Bond Counsel Agreement with Hodgson Russ LLP John Alessi. The motion was seconded by Councilman Pagan and carried.

HANDBOOK AMENDMENT

Councilman Penharlow made a motion to insert the following language into the Town of Dunkirk handbook. The motion was seconded by Councilman Pagan and carried.

Due to the availability of work within the highway department, Highway workers (M.E.O's) are subject to schedule changes at the discretion of the Town Board and Highway Superintendent. Highway employees working at least 20 hours per week will be eligible for enrollment in the Town Health insurance plan then in effect. The Town Board reserves the right to amend, modify, or terminate this policy as provided by law.

HIGHWAY EQUIPMENT

Supervisor Purol had stated that at the last meeting they talked about a shared service agreement with the Town of Sheridan on leasing with the option to buy a John Deere Utility tractor with a flail mower, sweepster broom. He quoted it would be just over \$9,000 a year. With advice from the Town Attorney, he stated that both Boards with the Highway Supervisor Jeff Fienen, should come up with a plan on where it would be stored, how it would be shared and the availability of it along with maintenance for it and fuel.

Councilman Walldorff made a motion to permit Attorney Passafaro, Highway Superintendent, Jefferey Feinen, and Supervisor Richard Purol to negotiate the final terms and agreement between the Town of Dunkirk and Town of Sheridan for a shared services agreement, for the new piece of equipment. The motion was seconded by Councilman Penharlow and carried.

ZONING BOOK UPDATES

Supervisor Purol had informed the Board that they received an email from Justine Steinbach from CPL who is the consultant working on the zoning book. In this email Justin stated that it would be another \$3,000 for an addendum scope/fee to continue the updates to the Town Code. He stated that Justin explained he thought there was only roughly another month worth of work left.

A motion was made by Councilman Penharlow to authorize Supervisor Purol to sign the acceptance proposal letter. The motion was seconded by Councilman Walldorf and carried.

ADOPT HAZARDOUS MITIGATION PLAN UPDATE

Councilman Pagan made a motion to adopt the resolution for the Multi-Jurisdictional Hazard Mitigation Plan. The motion was seconded by Councilman Penharlow and carried.

RESOLUTION

WHEREAS, Town of Dunkirk, with the assistance from Ecology and Environment, Inc., has gathered information and prepared the Chautauqua County Multi-Jurisdictional Hazard Mitigation Plan; and

WHEREAS, the Chautauqua County Multi-Jurisdictional Hazard Mitigation Plan has been prepared In accordance with the Disaster Mitigation Act of 2000; and

WHEREAS, Town of Dunkirk is a local unit government that has afforded the citizens an opportunity to comment and provide input in the Plan and the actions in the Plan; and

WHEREAS, the Town of Dunkirk has reviewed the Plan and affirms that the Plan will be updated no less than every five years;

NOW THEREFORE, BE IT RESOLVED by Town Council that Town of Dunkirk adopts the Chautauqua County Multi-Jurisdictional Hazard Mitigation Plan as this jurisdiction's Natural Hazard Mitigation Plan, and resolves to execute the actions in the Plan.

ADOPTED 02/15/2022 at the meeting of the Town Council.

ADJOURNMENT

With no further business, a motion was made by Councilman Penharlow and seconded by Councilman Walldorf. The motion was carried unanimously, and the meeting was adjourned at 7:32 pm.

Respectfully submitted,

Rebecca Yacklon
Town Clerk