

The Town of Amboy
TOWN BOARD MINUTES-January 20, 2016
Amboy Town Hall-7:00 pm

Present: Kathleen Wilkinson-Supervisor
Bruce Stone, Mark McNabb, & Lawrence Rayder-Council
Members
Mary Ann Clark -Town Clerk

Others Present: John Perkins III-Highway Superintendent
Hon. E.A. Dunham-Town Justice
Tom Oderkirk, Sr.-W. Amboy Fire Dept. President
Richard Bryant- Council Member Appointee

Call to Order: The meeting was called to order at 7 pm, by Supervisor, Kathleen Wilkinson, who thanked everyone for coming, introduced the board members, and asked everyone to join in the Pledge of Allegiance.

Board Position Appointment: Mrs. Wilkinson then announced that after the meeting held on the 18th, to interview possible candidates, a decision had been made. Mrs. Wilkinson then made the motion to appoint Richard Bryant to fill the vacancy until December 31, 2016. Her motion was seconded by Mr. Rayder, and carried. Mr. Bryant was then sworn in by the town clerk, and asked to join the other board members.

Supervisor's Opening Remarks: Mrs. Wilkinson then presented the following statement, to bring the public up to speed as to what has transpired since Mr. Leemann and Mrs. Halbritter resigned. She said I would like to explain the actions of this board since January 6, 2016. During the town board organizational meeting on January 6, 2016, Mr. Leemann appointed Kathleen Wilkinson as Deputy Supervisor. The meeting was adjourned after all appointments were completed. As most of you know, Susan Halbritter then submitted a written resignation from the position of town board member to the Town Clerk, Mary Ann Clark. Barry Leemann then submitted a written resignation from the position as Town Supervisor. As the official town board meeting had been adjourned, no further action was taken at that time.

After exhaustive consultations with the Oswego County Board of Elections, the New York State Comptroller's Office, Town Attorney Allison Nelson, Nelson Law Firm, and Tug Hill Circuit Rider , Paul Baxter, we determined the following facts:

- a deputy position is only valid/legal if the primary position remains filled. As Mr. Leemann had resigned, Mrs. Wilkinson was no longer the deputy supervisor.
- the town had no authority to issue checks including payroll, sign contracts, or handle emergencies without a Chief Financial or Executive Officer.

The following steps were then taken:

- a brief meeting of the town board members Kathleen Wilkinson, Bruce Stone and Mark McNabb was held the morning of January 7, 2016 to discuss the situation, assign duties, and prepare to resolve the multiple issues facing the board;
- several legal notices were placed in the Queen Centarl News and posted on the notice boards at the town hall:

1.a notice advertising an Emergency Meeting of the Town Board would be held at 7:00 pm to address the vacancy of a Chief Financial Officer on 1/11/2016,

2. a notice advising of vacancies on the town board, and our intention to interview candidates on 1/18/2016 at 7:00 pm, and
3. a notice advising of an open work meeting to be held to review bills and abstracts on 1/20/2016 from 6:00 to 7:00 pm, prior to the regularly scheduled Town Board Meeting.

An Emergency Meeting of the Town Board was held on Monday, January 11, 2016-Ms. Clark will present those minutes shortly. This meeting was chaired by senior Town Board member, Kathleen Wilkinson.

After being called to order, the board accepted the resignations of Ms. Halbritter and Mr. Leeman. The written resignations had been provided to the Oswego County Board of Elections on 01/07/2016. To retain a quorum or voting membership, the remaining board members were required to appoint a board member to fill the vacancy created by Ms. Halbritter's resignation. This then allows the appointment of Town Supervisor.

The board accepted Ms. Halbritter's resignation. Mr. Lawrence Rayder accepted the town board position. The Honorable E. A. Dunham, Amboy Town Justice then administered the oath of office. The board then accepted Mr. Leemann's resignation. Mrs. Wilkinson then resigned her position of town board member which the board accepted. The board members then appointed Mrs. Wilkinson to town supervisor. The Honorable E. A. Dunham, Amboy Town Justice then administered the oath of office. A public meeting was held Monday January 18, 2016 to interview interested parties for the remaining board vacancy. Each candidate was interviewed in executive session by Mrs. Wilkinson, Mr. McNabb and Mr. Rayder. Mr. Stone was excused due to work constraints. A long discussion ensued-each candidate was qualified and had excellent qualities that would benefit our town. A very difficult decision was reached and the candidates were notified by Mrs. Wilkinson on Tuesday January 19, 2016. The town board would like to thank the candidates and many people who called to express their interest and ask questions-it was fantastic to have so many interested in serving our town.

Each of the appointed positions will be for the balance of the calendar year ending December 31, 2016. Each of these positions will be on the 2016 ballot to fill the remaining term of each position:

- board member 4 year term ending 12/31/2017
- board member 4 year term ending 12/31/2019
- town supervisor 2 year term ending 12/31/2017.

Reading of the Minutes:

The clerk read the

Minutes from the following meetings:

- December 16, 2015 board meeting
- January 6, 2016 organizational meeting
- January 11, 2016 Emergency Meeting
- January 18, 2016 Candidate Interview Meeting

There were no "corrections" or comments from the board members, so the minutes stood approved, and are file in the clerk's office.

Mrs. Wilkinson then made some appointments, as town supervisor:

- Deputy Supervisor-Lawrence Rayder
- Town Historian-Tim Kelley
- Accounting Officer-Nancy Butler
- Fire Dept. Liasion-Mark McNabb
- Highway Dept. Liasion-Bruce Stone

All prior appointees from the January 6, 2016 Organizational Meeting have agreed to work with and for the Town of Amboy.

Department Head Reports:

Fire Department Report- Tom Oderkirk, Sr., President-Mr. Oderkirk passed out the status report on calls, and the personnel roster to the supervisor, board members, and clerk. Both are on file in the clerk's office. He questioned when the agreement to store the town tractor had taken place? Mrs. Wilkinson let him know that a check for the storage would be issued on Friday. Mr. Oderkirk also reported that the fire dept. had taken in approximately \$700.00 from their pancake breakfast.

Legislator report- David Holst-Mr. Holst was not present at the meeting, no report was given.

Highway report- John Perkins, Superintendent- Mr. Perkins gave a written report to the supervisor, board members, and clerk. It is on file in the clerk's office.

Tug Hill Commission- Paul Baxter reported that the Tug Hill Commission will be meeting in Central Square next Monday, January 25, at 10:00 am, at the Central Square village offices. Commission meetings are open to the public, and everyone is welcome to attend. Prior to the meeting, at 9:30 am, at the same location, there will be a special presentation by representatives of Central New York Raceway, on the status of that project. Again, open to the public, if anyone is interested. Mr. Baxter also reported that the brochures have gone out for the Tug Hill Local Government Conference, on Thursday, March 31, at Jefferson Community College in Watertown. Registrations received by March 9th, have the lowest fee. Mr. Baxter brought extra copies if anyone needed them. He also announced that at the December meeting of the Tug Hill Commission, the commissioners voted to recommend Katie Malinowski as the next executive director of the commission. The next steps in that process will take place in Albany. Mr. Baxter said he will let us know when the next meeting of the Salmon Rivers Council of Governments is scheduled. And lastly Mr. Baxter reported that in the Governor's State of the State address, the Tug Hill Commission was included in the proposed budget for state fiscal year 2016-17, at the proposed funding level. Town website is also up to date, with the exception of the town board page, which Mr. Baxter will be updating, tomorrow.

Town Historian- Tim Kelley gave a written report to the supervisor, board members, and clerk. The report is on file in the clerk's office.

Planning Board- Tim Kelley gave a copy of the minutes from the December 16, 2015 meeting, to the supervisor, board members, and clerk. They are on file in the clerk's office.

Codes Officer- Wayne Hall II submitted a report for the year on building permits, completed building permits, and a summary of violations, to the supervisor, board members, and clerk. The report is on file in the clerk's office.

Dog Control- Karen Ashley did not turn in a report, as she had no incidents to report.

Tax Collector- Nancy Heintz reported that tax collecting is going well. An ad will be in the Queen Central, with a website people can go to if they want to pay their taxes online, with a credit card.

Town Clerk- The clerk gave her monthly report to Mrs. Wilkinson, along with a check for \$57.00. That report is on file in the clerk's office.

Town Justice- The Honorable E.A. Dunham was at the meeting, and had a written statement that she wanted to share with everyone present, and this is what she said:

Open to the Public: After the dept. head reports were finished, the meeting was then opened to the public. Questions were asked by 1.) Reggie Sampson of Little Pond Rd., and 2.) Board member, Richard Bryant. Both questions were answered by Justice Dunham.

Old Business: Mrs. Wilkinson announced that certificates would be sent to both Mr. Leemann, and Mrs. Halbritter, recognizing their contributions to the town, while they were in office.

Emergency Management updates will still be the responsibility of Mrs. Wilkinson, and she will also remain the contact person.

Any updates to the website will be taken care of by Mr. Rayder, or Mrs. Wilkinson, in conjunction with Paul Baxter.

A legal notice will be put in the paper, trying to find candidates to fill the vacancies on the ZBA, Planning Board, and the Board of Assessment Review.

The Dog Control Officer (DCO) and the Town Clerk are updating the current procedures and automated listing of owners and license status. An updated list will be provided to the DCO at the end of each month as necessary. The Town Clerk will mail a reminder to each owner if their dog(s) remain unlicensed. Ms. Ashley will verify with Ms. Clark and then call each owner after 2 weeks. After another two weeks has passed with no license purchase, Ms. Ashley will then issue a ticket. As part of our plan to improve DCO processes, Ms. Ashley will work with the Nelson Law Firm to verify that tickets and accusatory instruments are completed correctly prior to issue. Attorney Nelson will review, update and or improve initial instruments, tickets with Ms. Ashley. We are anticipating a one-time review of each type of legal document, unless Ms. Ashley needs additional assistance.

Mrs. Wilkinson then made the motion to appoint Tom Vona to the ZBA, for a three year term, ending on December 31, 2018. Her motion was seconded by Mr. Rayder, and carried.

New Business:

Work meeting time-open meeting—preceding the regularly scheduled town board meetings from now on, the board members will meet, to review bills, abstracts. A legal notice will be sent to the paper, and has already been posted on the town's bulletin boards, at the Town hall.

Mrs. Wilkinson handed out samples of a Code of Ethics for the board members to review, and any comments will be heard next month, with possible adoption by the board.

An audit of the Town Justice, town clerk, tax collector, and Supervisor/Accounting Officer is scheduled for 2/6/2016, at 1 pm. A legal notice will be in the paper, and posted on bulletin boards.

Mrs. Wilkinson announced that there will be a change to payroll:quarterly employees will now be paid monthly, and all employees will be given the option for direct deposit.

Approval of the bills:

Mr. Rayder made the motion to approve Highway Fund vouchers #1-25, on abstract #001-16, in the amount of \$53,153.06. His motion was seconded by Mr. Stone, and carried. Mr. Bryant abstained.

Mr. Stone made the motion to approve General Fund vouchers #1-25, on abstract #001-16, in the amount of \$7,046.54. His motion was seconded by Mr. Rayder, and carried. Mr. Bryant abstained.

Mrs. Wilkinson made the motion to approve General Fund SF voucher 1A, in the amount of \$70,825.00. Her motion was seconded by Mr. Rayder, and carried. Mr. Bryant abstained. This is the town's first payment to the W. Amboy Fire Dept; for 2016.

Supervisor's Report: Mrs. Wilkinson reported that balance sheets and reconciliation summaries for both the General & Highway funds would be provided, along with the FULL monthly financial statement. A copy of all financial reports are available from Ms. Butler, town accounting officer, or from the supervisor.

Year -end reports are being prepared for both Oswego County, and New York State, and will be filed timely.

Reminder to submit the application for the Local Government Conference to the supervisor, by the next board meeting, February 17, 2016. **Note: Anyone who does not attend the conference after submitting the application, is required to reimburse the town the \$50.00 registration fee**

Supervisor's Closing Remarks:

Mrs. Wilkinson had some closing remarks she wanted to make, before once again opening the meeting to the public

Thank you to Paul Baxter, Tug Hill Commission, Mary Ann Clark, Town Clerk, Bruce Stone, Mark McNabb, Lawrence Rayder and Richard Bryant, Town Board Members, Nancy Butler, Accounting Officer, for their continuing support of our town and their invaluable assistance during this trying time. I am eternally grateful for their support to me personally.

Open to the Public: The meeting was once again opened to the public. Comments were made by both Tom Vona, and Ed Lescenski.

Adjournment: With no other business to attend to, at 8:48 pm, Mr. Bryant made the motion to adjourn. His motion was seconded by Mr. Rayder, and carried.

Respectfully submitted,
Mary Ann Clark
Amboy Town Clerk

During the New Business section of the board meeting, Mrs. Wilkinson made the motion to adopt the following Resolution. Her motion was seconded by Mr. Bryant.

Carried: Stone-yes, Rayder-yes, McNabb-yes, Bryant-yes, and Wilkinson-yes. Below is the resolution, in its entirety.

Resolution #1 of the Town Board Town of Amboy

Resolution Adopting Rules of Conduct for Town Board Meetings and Public Hearings

Date: January 20, 2016

Whereas, the New York State Open Meeting Law (Article 7, Public Officers Law) gives members of the public the right to attend meetings of public bodies but does not give the public the right to speak or otherwise participate at those meetings, except at public hearings and under other limited circumstances, and

Whereas, New York State Town Law authorizes a town board to enact rules and regulations regarding the conduct of public meetings and public hearings conducted by the town board, and the New York State Committee on Open Government has agreed that a public body can adopt reasonable rules that

treat members of the public equally, and

Whereas, the Committee on Open Government has stated that any such rules could serve as a basis for preventing verbal interruptions, shouting or other outbursts, as well as slanderous or obscene language or signs, and that a town board could regulate actions of the public attending meetings so as not to interfere with meetings or prevent others in attendance from observing or hearing the deliberative process, and

Whereas, a town board has a responsibility to insure that everyone has the right to participate in a public hearing and therefore can reasonably limit the length and general nature of public comments to the subject of the public hearing so that a town board can consider various points of view, and

Whereas, a town board can limit other comments from the public at town board meetings to a specific time set in the agenda for public participation and comment.

Now, therefore, be it resolved by the Town Board of the Town of Amboy hereby adopts the following rules for public participation at meetings of the Town Board:

1. Except for public hearings duly designated as such by action of the Town Board, public participation at meetings of the Town Board shall be limited to the public participation segment of the agenda of Town Board meetings.
2. Public comment, whether during the public participation segment of the Town Board meeting or during a duly designated public hearing, shall be limited to three minutes per person. An individual's time may not be given or traded to other speakers or reserved for other portions of the meeting.
3. Any individual wishing to speak during the public participation segment or during a public hearing shall raise his or her hand. When recognized by the Supervisor or the presiding officer, the individual must stand and state his or her name and, if appropriate, group affiliation and must state the subject he or she will be addressing.
4. Comments must relate to the purpose of the public hearing or to legitimate town business.
5. The Supervisor or the presiding officer shall act as timekeeper or shall designate another elected official as timekeeper.
6. Members of the Town Board, speakers and audience members must observe proper decorum. Any statements made during the meeting or during a public hearing by the Supervisor, members of the Town Board, town officials or employees, or members of the general public shall not involve personal, impertinent, or slanderous attacks on individuals, regardless of whether the individual so attacked is an elected official, a town official or employee, or a member of the general public.
7. The Supervisor or the presiding officer shall control the meeting. The use of profane, vulgar, inflammatory, threatening, abusive, or disparaging language or racial or ethnic slurs directed at the Supervisor, members of the Town Board, town officials or employees and members of the general public, or statements by a person attending the meeting which are not made during the public participation segment of the agenda or during a public hearing, shall not be tolerated.
8. It is inappropriate to utilize a public meeting for the purpose of making political speeches, including threats of political action and the same will not be allowed.
9. Comments by speakers must be addressed to the Town Board. Attendees may not address the Town Board unless recognized by the Supervisor or the presiding officer.
10. Discussion between speakers and attendees of the public meeting or hearing is prohibited. A speaker may disagree with or support prior speakers in comments directed to the Town Board.
11. Banners, flyers or other signs are not permitted in the meeting room; distribution of flyers in the meeting room is also not permitted.
12. Any person who disregards the directives of the Supervisor or the presiding officer in enforcing the rules or who generally conducts himself or herself in a boisterous or inappropriate manner while addressing the Town Board disturbs the peace at a meeting and will be barred from further participation and forfeit any balance of time remaining for his or her comments.
13. If a speaker who has violated these rules refuses to step down, the Supervisor or the presiding

officer may ask for the individual to be removed from the meeting room and charged with disorderly conduct as per the Penal law.

14. The above rules shall take effect immediately

Town Justice's Remarks:

Prior to the “changing of the guard” I had requested to address the board to speak on some issues that have come up regarding the Amboy Town Court. Thank you for providing me this time to do so. I’ll be reading from a prepared statement for efficiency’s sake.

I’d like to start by saying I’m sure you might all remember that the U.S. Constitution created THREE separate branches of government. I am here representing
The **JUDICIARY** = an independent branch
= which doesn’t take direction from the other branches

Recently, I have heard several comments that I believe are meant to malign the reputation of this Court and/or of this judge. I’d like to address them now:

1. I believe a board member made the statement “Nothing speedy happens in this court” in relation to a local ordinance case filed in the Court.
2. In conjunction with that statement, I believe an appointed official stated “Nothing has been done in 7 months, so I’m not going to write any more tickets” in relation to the same case I just mentioned.

There is a quote, I’m sure has been paraphrased over time, which states:

“The wheels of justice turn slowly, but grind exceedingly fine.”

This quote is accurate – there are many steps to be followed in every court action. It is the judge’s job to be sure all the steps are adhered to and that all rights and responsibilities of the parties are appropriately effectuated.

These court processes **do not differ for local laws**. The processes are dictated by statute and are always the same regardless of whether one is charged with an unlicensed dog, speeding, burglary, murder or any other offense.

The principle of Speedy Trial is addressed by the U.S. Constitution and the Criminal Procedure Law of New York State. Its purpose is to protect the rights of the accused. The responsibility for speedy trial lies with the prosecution **NOT** the court. Should the prosecution fail to proceed to trial in a timely manner as dictated by statute, then the defendant may make a motion for dismissal of the charges.

3. A third comment, which I believe was made at a town board meeting, was that this town had a **belligerent judge.**

Belligerent is defined as “**of warlike character; aggressively hostile.**”

As far as I know, the gentleman who made this statement has never visited a court session and would have no basis for this remark. In fact, I’m pretty sure anyone who has seen me in Court would agree that I maintain a calm demeanor, for the most part, while being deliberate in my statements. I’ve been repeatedly referred to as being tough but fair. I believe this is what every town should want in their judge.

4. Another comment that has made its way through town is that “We have a one-sided judge. **This is true – I’m on the Right Side!**”
5. And the most recent comment was made on the record by a party in court which was “A board member resigned over this.”

If this statement is true, I think it’s a pretty sad commentary that a member of the legislative branch would “quit” because he/she couldn’t “**CONTROL**” a member of the independent judiciary and because he/she didn’t understand the laws governing court procedures and processes.

I have worked tirelessly on the bench for the past 23 years to give respectability to the Amboy Town Court and I know this Court is highly regarded by the judicial community of the 5th Judicial District of this state.

I do not want that reputation damaged due to uninformed comments such as these.

FYI - I have been called upon to sit in other neighboring courts due to illness and resignation of judges. I have mentored many new judges at the request of our District Judge. I sit on the 5th Judicial District’s Town and Village Courts Advisory Committee and the Peer Assistance Committee. So, I must be doing something right, and it is my hope that this audience will carry that message forward.

Now, if I might have just a few more minutes, I’d like to give you a very brief overview of how the court process goes when a case is filed.

First, paperwork called accusatory instruments is filed with the Court and the accused is directed by

a law enforcement official to appear. These accusatory instruments are the foundation of the case. Their content and form is prescribed by the Criminal Procedure Law. If these documents are facially insufficient, meaning they are faulty under the law, they may likely be dismissed on motion of the defendant. Motions filed by the defense would be answered by the prosecution and then the judge can rule on the paper motions or schedule the motions for oral arguments where both sides would appear and present their position on the matter. The judge would then rule on the motions after due deliberation on the issues.

When the defendant appears for the first appearance an arraignment is done. Unless it is an immediate arraignment, meaning the law enforcement officer brings the accused to the Court at all hours of the day and night, the officer is not present. Although he/she could be as it is open court and anyone can be there. There is **NEVER** a trial held at first appearance, nor is any law enforcement official able to give oral information to the Court at that time. Any spoken testimony is given **ONLY** at trial and under oath.

The arraignment is for the purpose of advising the accused of the charges filed against them and to advise them of their rights under the law. Should they request an attorney, the case is adjourned for them to secure counsel. If they wish to proceed without counsel, they can still get a lawyer later if they so choose.

At the conclusion of the arraignment a plea of guilty or not guilty is taken. If they plead guilty, we may move onto sentencing or adjourn the matter to another day for sentencing, while the judge considers an appropriate sentence.

If they plead not guilty, which is the legal equivalent of a request for trial, and we can set the matter down for trial. Or, they can ask for adjournment to speak with the prosecutor regarding an alternate disposition, or they can request adjournment to still speak with an attorney.

Should a matter go to trial, it will be a bench trial for anything less than a misdemeanor. If it is a misdemeanor the accused may request a bench trial or a jury trial. Trial notices are then sent to the prosecutor and defense noting the trial date. Prior to trial there may be requests for motion hearings on a variety of pre-trial issues that may need to be decided.

At the conclusion of a trial, a verdict is handed down. If the party is found not-guilty the case is dismissed and sealed. If they are found guilty, a sentencing date will be set. Once sentenced, the

case is officially disposed, but may not be closed until the terms of the sentence are carried out.

Adjournments are usually granted many times during the course of a case for various reasons to allow the attorneys and prosecutors to serve the needs of their respective cases. This is why cases don't get completed in one court session and may go on for some time until the case is concluded. This is only a short outline of court procedure but I hope it helps with your understanding of the process. I would be happy to answer any questions you may have now or later regarding the processes and procedures of the Court.

Thank you again for your time.