

**Town of Delaware Town Board
Regular Board Meeting
September 12, 2018**

Members Present:

Edward T. Sykes, Supervisor
Cindy Herbert, Councilwoman
Alfred Steppich, Councilman
Christopher Hermann, Councilman
John Gain, Councilman

Also present: Tess McBeath, Town Clerk; Kenneth C. Klein, Town Attorney

6:30 p.m. PUBLIC HEARING: Local Law #3-2018: A local law amending Chapter 220, entitled Zoning, of the Code of the Town of Delaware

Supervisor Sykes opened the public hearing at 6:30 p.m. with a pledge to the flag. Heather Guinan asked for a definition of Section 1, A.2.[2] "any major public viewing point." Anywhere where the public at large could be able to visibly see whatever is proposed to be constructed; i.e., on a highway, or on a hillside, responded Attorney Ken Klein.

Ms. Guinan questioned the remote monitoring in Section 1, A.3.[10] fire protection and emergency response plan as this doesn't say anything about it. Attorney Klein doesn't think there's anything specific but that is something that the Planning Board has discretion on.

Section 1, A.3[11] speaks of the Environmental Assessment Form and a study of the potential property value and other economic indicators. Ms. Guinan asked what they going to base it on. Attorney Klein stated that it could actually also be somewhere out of the area. Until you have some actual marketing of real estate that compared before the facility and after, it's purely speculative.

Anne Maus is concerned with Section 1, A.2.[2] Lighting. She said there hasn't been much information about the lighting. She wondered how high the light poles will be, and why they have to be motion lights which can be triggered by an animal. Attorney Klein informed her that would be a subject that the Planning Board would consider on a case-by-case basis. He said there will be discussion with the Planning Board as to what kind of lighting is proposed, does it point down, and there is a thing called dark sky lighting, which has features like being fully shielded, are within maximum wattage limits, etc. This is obviously a concern he expects the Planning Board would hear from the neighbors, the exterior lighting and what kind of impact it would have on the area at large. Terry Zieres said all that gets discussed.

The Supervisor received a text from Rich Winter stating he has no problems with the new law. One item sets the prescribed preferred size of the array at 6 MW. He feels stating a particular size array could be construed as a cap which he feels is arbitrary. By using new and more efficient panels they have now sized the 8 MW system to fit the same footprint as a 6 MW.

Supervisor Sykes commented that the Planning Board felt we should change it. It's not a perceived cap, they can look at it. He said many eyes have looked at the proposed changes and have concurred. We have a great Planning Board, they're thoughtful with the matters before them and do a good job.

With regard to §7(h). Councilman Steppich spoke about single phase or 3-phase. He thinks it was a typographical technicality and should be upgraded to a single phase. Attorney Klein will check into it with Delaware Engineering. Mike Puerschner said 3-phase is when all 3 lines are charged.

Supervisor Sykes stated that nothing in the law has anything to do with any specific project. These are guidelines the Planning Board has to follow for all projects. Any project still has to go through Planning Board approval.

Jen Diehl informed the Board she and her husband are building on the opposite side of the stone wall from the proposed solar farm. They have just begun construction of their home and it's directly on the opposite side of their wall. If it gets to the Planning Board and it's approved, how is that going to impact the value of their property? At what point will they know if this is going

to be approved? Attorney Klein responded that this is a site-specific question. It won't be resolved at the Town Board level, it's pending at the Planning Board level and you need to bring it up with them. He suggested she follow the proceedings at the Planning Board meetings.

Mrs. Diehl asked if the full environmental assessment form (EAF) will be part of the review? Attorney Klein responded that the EAF will be done by the Planning Board, who will direct the applicant to provide certain information to them. It will be reviewed by the Town's engineer and if they decide they want other consultants to give an opinion they can do so. Planning Board member input, developers input, and the public's input all result in a final decision by the Planning Board.

Motion to close the public hearing at 7:00 p.m. by Councilman Gain, seconded by Councilwoman Herbert and carried unanimously.

7:00 p.m. PUBLIC HEARING: Local Law #4-2018: A local law to override the tax levy limit established by General Municipal Law Section 3-c

Supervisor Sykes said we're just starting the budget process, and they're going to try very hard to keep the budget below the 2% tax cap. A lot of expenses such as Sewer may cause us to exceed the tax cap, but we can't exceed it unless this law is passed.

Ms. Guinan asked what happened with the sewer last weekend. Supervisor Sykes responded that there's a pump station behind the Youth Center that broke and caused the sewer to back up; it was a small incident, nothing serious. The Supervisor mentioned that every time the sewer gets plugged with grease it has to be removed, and it costs about \$9,000 per event (we've had about three of them this year). Supervisor Sykes stated that we have an aging plant that we plan to replace but we need a location first. Jerry Smith confirmed that those monies were paid for by the sewer district. Alice Diehl asked if there's insurance on that when there's a weather issue. Councilman Gain said we've got a 26 year old sewer system which has a 20-year lifespan.

Motion to close the public hearing at 7:05 p.m. by Councilman Steppich, seconded Councilman Gain; all in favor

Supervisor Sykes opened the regular meeting at 7:05 p.m.

GUEST TO THE BOARD: John Erik Karkula of the Callicoon Beautification Committee addressed the Board with an update on the summer beautification projects. He outlined funding, their projects and accomplishments including, with the help of Job Corps students, clearing invasive Japanese knotweed in the Callicoon Creek Park. Mr. Karkula asked if the public works department could assist their efforts by digging holes, bringing in and spreading truckloads of mulch or soil for the larger garden projects. He requested permission to mount brackets on telephone poles to hang banners and was referred to the phone company. Mr. Karkula further requested a \$1,000 contribution toward the Callicoon Beautification effort. The Supervisor stated they would take that up during the budget process, but that Callicoon is only part of the Town of Delaware, a lot of taxpayers live outside of Callicoon.

RESOLUTION #80-2018 - ACCEPTANCE OF MINUTES: Minutes of the August 8 and August 30, 2018 meetings were approved on motion of Councilman Steppich, seconded by Councilman Gain and carried unanimously.

BUILDING INSPECTOR/CEO: Jim McElroy did not attend but on his behalf the Clerk requested a fee increase for Record Searches. A poll was taken among the clerks and our fee is one of the lowest. Mr. McElroy recommended the fee be increased to \$75.00 per search.

RESOLUTION #81-2018 - FEE INCREASE FOR RECORD SEARCH: On motion of Councilman Gain, seconded by Councilman Hermann, it was

RESOLVED, that the fee for Records Searches be increased to \$75.00 per search. Resolution carried unanimously.

TOWN CLERK: (1) August receipts totaled \$3,669 with \$3,603 turned over to the Supervisor. Of that, \$3,236 was building fees. (2) The railroad request for reimbursement was sent out on August 14, now we wait. (3) A notice from DPW was received regarding repair and repaving

on County Route 131. (4) The last couple of weeks have been spent working with Delaware Engineering to gather information for a couple of grant applications for the water district.

ASSESSOR: No report.

HIGHWAY SUPT.: No report

GRANTS UPDATE: Supervisor Sykes reported (1) we've already received approval for a grant for the water district. 60% of the cost is covered by a grant, and we got a commitment of 0% financing for the balance. (2) Phase I of the highway department project is getting pretty close to going out to bid. We have to remove 15,000 yards of fill. The people who want it will have to truck it which will ease the expense. It requires complete grading of the site, a road being put in, electric, storm water drainage, and also a well.

CALLICOON BUSINESS ASSOCIATION: Nicole Vallance provided an update on the train depot. Although their bid was challenged by the owners of the Narrowsburg Union and others, the Upper Delaware Scenic Byway voted to partner with the CBA and they are working on an agreement. They are also working on a business plan along with developing educational, cultural and artistic programming for the community. Ms. Vallance also provided details on the Callicoon Art Walk.

Supervisor Sykes had spoken with Buck Moorhead about the project. The Supervisor is 100% behind it but his only concern is sustainability. Ms. Vallance responded that the first phase of the Upper Delaware Scenic Byway visitors center is up and running. The CBA is working with a paid grant writer, and the Mid-Hudson Small Business Alliance will help with Phases II and III. A cornerstone of the project is it needs to be financially sustainable. They are partners with Cornell Cooperative Extension who signed on to help with programming, ENGN; they've established a relationship with the Job Corps, Director of Education and Training; they'll get a letter of commitment to develop a program to help them staff it. This will expand the students' knowledge base and also solve a staffing issue.

UDC REPRESENTATIVE: Harold Roeder (1) reviewed the reservoir levels; on September 10 Cannonsville was at 90.7% capacity. Together, the Cannonsville, Pepacton and Neversink reservoirs have daily storage of 246.8 billion gallons, which is 21 billion gallons above a year ago. (2) The spotted lantern fly was found in Albany County; they eat our apples. (3) TAG grants. Mr. Roeder explained that the Park Service is making it difficult and only 4 towns out of 13 applied for TAG grants. Mr. Roeder, who has been on the Upper Delaware Council for 21 years, explained that the UDC is a liaison between the municipalities and the park service.

Alice Diehl asked for an explanation of the Upper Delaware River corridor. It starts where the east and west branches join together in Hancock. It's supposed to be highest ridge from NY to highest ridge in PA. Originally it was an imaginary line of what you could see on either side of the river from Hancock. Mr. Roeder said he couldn't believe what we had to go through to get the NPS to go along with the Cideries on Seminary Hill. We were saved because the State looks upon cideries as an agricultural activity; i.e., agri-tourism.

SUPERVISOR'S REPORT: Supervisor Sykes stated that a representative from Senator Bonacic's office will be at Town Hall on Friday Sept. 14 from 10-3.

OLD BUSINESS:

a. The local law amending zoning was tabled on motion of Councilman Gain, seconded by Councilman Steppich as the SEQR and 239-review were not obtained by meeting time. Motion carried unanimously.

b. RESOLUTION #82-2018 - ADOPTION OF LOCAL LAW 4-2018 AS LOCAL LAW #2-2018: A LOCAL LAW TO OVERRIDE THE TAX LEVY LIMIT ESTABLISHED BY GENERAL MUNICIPAL LAW §3-c:

Moved by: Councilman John Gain

Seconded by: Councilman Alfred Steppich

§1. Legislative Intent.

It is the intent of this local law to override the limit on the amount of real property taxes that may be levied by the Town of Delaware, County of Sullivan, pursuant to General Municipal

Law §3-c, and to allow the Town of Delaware, County of Sullivan, to adopt a town budget for (a) town purposes, (b) fire protection districts and (c) any other special improvement district governed by the Town Board for the fiscal year 2018 that requires a real property tax levy in excess of the “tax levy limit” as defined by General Municipal Law §3-c.

§2. Authority.

This local law is adopted pursuant to subdivision 5 of General Municipal Law §3-c, which expressly authorizes the Town Board to override the tax levy limit by the adoption of a local law approved by vote of sixty percent (60%) of the Town Board.

§4. Severability.

If any clause, sentence, phrase, paragraph or any part of this local law shall for any reason be adjusted finally by a Court of competent jurisdiction to be invalid, such judgment shall not effect, impair or invalidate the remainder of this local law, but shall be confined in its operation and effect to the clause, sentence, phrase, paragraph or any part thereof, directly involved in the controversy or action in which such judgment shall have been rendered. It is hereby intended to be the legislative intent that the remainder of this local law would have been adopted had any such provisions not been included.

§5. Effective date.

This local law shall take effect immediately upon filing in the office of the Secretary of State.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call, resulting as follows:

- Supervisor Edward T. Sykes voting aye;
- Councilwoman Cindy Herbert voting aye;
- Councilman Christopher Hermann voting aye;
- Councilman Alfred Steppich voting aye;
- Councilman John Gain voting aye.

The resolution was thereupon declared duly adopted, AYES-5, NAYS-0.

NEW BUSINESS:

RESOLUTION #82-2018 - MEMORIAL PROCLAMATION:

**In Memory of
Richard Ferber**

August 26, 1932 – August 31, 2018

WHEREAS, the people of the Town of Delaware have been grieved by the passing of one of our former Assessors who served with honor and dignity, Richard Ferber, a respected citizen of the Town of Delaware; and

WHEREAS, Richard Ferber had served the Town of Delaware as a member of the Board of Assessors from 1976 through 1994 and as Chairman of the Board of Assessors from 1990 to 1994;

WHEREAS, during his long period of service he had diligently performed his duties and worked for the betterment of our community; and

WHEREAS, Richard Ferber always conducted himself with integrity, honesty and kindness toward his fellow man and for the welfare of the Town; and

WHEREAS, he has earned the affection of a host of area residents who were proud to call him “friend;” and

WHEREAS, his death leaves our community with a deep feeling of sorrow for the loss of such an honored and respected citizen;

NOW, THEREFORE, BE IT RESOLVED, that the Town of Delaware Town Board expresses its most sincere sympathy at the passing of Richard Ferber, and extends its

condolences to his family, and in respect of his memory cause this Resolution to be published in the official town newspaper and made a part of the official minutes of the Town Board.

PUBLIC COMMENT: None.

RESOLUTION #83-2018 - PAYMENT OF BILLS: On motion of Councilman Steppich, seconded by Councilman Gain, it was resolved that the bills be paid on Abstract #9-2018 in the following amounts:

Callicoon Light	Voucher #9	\$ 800.98
General Fund	Voucher #287-323	61,157.04
Highway Fund	Voucher #175-193	64,883.24
Kohlertown Light	Voucher #9	213.78
Sewer #2	Voucher #117-132	11,329.81

Resolution was thereupon APPROVED: AYES-5, NAYS-0.

ADJOURNMENT: With no further business, on motion of Councilman Steppich, seconded by Councilman Gain, the meeting adjourned at 7:45 p.m.

Respectfully submitted,

Tess McBeath, RMC
Town Clerk