

February 18, 2020

State of New York

County of Fulton

Town of Oppenheim

Minutes of the Oppenheim Board meeting held on February 18, 2020 at the Oppenheim Town Hall located at 110 Route 331, St. Johnsville, NY 13452

**Present**

Cynthia Breh	--	Supervisor
Kathleen Montana	--	Councilwoman
Dennis Yost	--	Councilman
Robert Norris	--	Councilman
Robert Pierce	--	Councilman
Gloria Brys	--	Town Clerk

**Absent**

Scott DeNinno	--	Highway Superintendent
Dave Rackmyre	--	Codes Enforcement Officer
Ty Stowell	--	Dog Control Officer
Joanne Capek-Young	--	Bookkeeper

Supervisor Cynthia Breh called the meeting to order at 6:30 pm with Pledge to the Flag.

**Local Law #1 of 2020**

Supervisor Breh opened the public hearing at 6:30 pm on Local Law #1 of 2020 which is a Dog Control Law. Anyone present may speak for or against the local law.

Robert Pierce wanted to know if we could change the part in the law about the dog being on a leash. He stated that some people own a lot of land and there is no need to put the dog on a leash.

Supervisor Breh stated that people cannot even go for a walk because there are dogs that come after them. Some dogs that run loose are picked up and taken to the Humane Society and it costs the town a lot of money especially if the dog has not been taken care of and needs medical assistance.

Kathleen Montana stated that all dog owners should be responsible for their dogs.

Robert Norris said that we really need this law.

Supervisor Breh said that this law is not meant to terrorize the people in the town.

### **Local Law Law #2 of 2020**

Supervisor Breh opened the public hearing at 6:45 pm on Local Law #2 Of 2020 which is Grievance Day Change. Anyone present may speak for or against the local law.

### **Carolyn Johnson - resident of the town**

She wanted to know about the trees that was going to be planted at the solar farm.

Supervisor Breh said that she would have to talk to the solar people about the trees.

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### **Bookkeeper Report**

Joanne Capek-Young was absent but had a monthly report for the board members.

Robert Norris made a motion to accept the Bookkeepers report and Robert Pierce seconded it and Kathleen Montana and Dennis Yost were in favor.

### **Dog Control Officers Report**

Ty Stowell was absent but had a report for the board . He said that he has received several calls about nuisance dogs on Route 29 and North Road. He said he talked to the owners and informed them about the lease laws and gave a warning that if further incidents happen, they will be ticketed. He stated that he looked over the new Local Law for dogs and he agrees with the law. There have been no dogs turned over to the Brennan Humane Society for this year.

Robert Pierce made a motion to accept the Dog Control Officers Report and Kathleen Montana seconded it and Dennis Yost and Robert Norris were in favor.

### **Codes Enforcement Officers Report**

Dave Rackmyre was absent but had a written report for the board. He said that he completed and submitted the Annual Code Enforcement Report for the code related activities for 2019 that is required annually by the New York State Code Division.

Mr. Rackmyre said that he received 2 calls for Solar Farm ordinance requests from 2 different companies. He sent them a copy of our solar ordinance so there could be 2 possible new solar farms.

Robert Norris made a motion to accept the Codes Enforcement Officers Report and Robert Pierce seconded it and Kathleen Montana and Dennis Yost was in favor.

### **Town Clerks Report**

Town Clerk Brys presented the monthly report for January 2020.

Kathleen Montana made a motion to accept the Town Clerks monthly report and Robert Pierce seconded it and Dennis Yost and Robert Norris were in favor.

### **Public Hearing - Local Law #1**

Robert Norris made a motion to close the public hearing for Local Law #1 at 7:05 pm and Dennis Yost seconded it and Kathleen Montana and Robert Pierce were in favor.

### **NBT Insurance**

Supervisor Breh said that she met with William VanGorder to go over the new insurance policy. Mr. VanGorder explained the whole policy with Supervisor Breh. The cost of the new Policy for 2020 is \$23,696.76.

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### **Hunting Licenses**

Robert Pierce wanted to know why the town does not sell hunting licenses. Town Clerk Brys said that we used to until the state decided that it was up to the town to supply the computer and supplies. She stated that the town had some regular residents that used to buy the hunting licenses but for what we made on each license it was not worth it. The Town would end up losing money. She stated that most town clerks do not sell the hunting licenses anymore.

### **Public Hearing on Local Law #2**

Robert Norris made a motion to close the public hearing on Local Law #2 at 7:20 pm and

Dennis Yost seconded it and Kathleen Montana and Robert Pierce was in favor.

### **Executive Session**

Robert Norris made a motion to have an executive session at 7:25 pm on personnel and Dennis Yost seconded it and Kathleen Montana and Robert Pierce were in favor.

Robert Norris made a motion to open the meeting back up at 8:10 pm and Robert Pierce seconded it and Kathleen Montana and Dennis Yost were in favor.

### **Hot Water Heater**

The Highway department had 2 proposals for a new hot water heater

1. Moshers Plumbing and Heating - on demand heater      \$2,800.00
  
2. C&J Heating and more, Inc - 2 different proposals
  1. Recovery time of about 2-3 hours      \$1,400.00
  2. Recovery time of about 20-30 min. \$2,400.00

The board members decided to table the water heater

### **Motions**

Motion made by Robert Pierce and seconded by Robert Norris to accept the NBT Insurance Policy for a total cost of \$23,696.76.

Adopted

Ayes - 5 Pierce, Norris, Montana, Yost, Breh

Nays - 0

Motion made by Robert Norris and seconded by Dennis Yost to accept Local Law #1 of 2020 which is the Dog Control Law The law is as follows:

LOCAL LAW NO.1-DOG CONTROL LAW OF THE TOWN OF OPPENHEIM

TOWN OF OPPENHEIM - FULTON COUNTY, NEW YORK

LOCAL LAW NO.1 OF THE YEAR 2020

SECTION 1. Purpose

The Town Board of the Town of Oppenheim finds that the running at large and other uncontrolled behavior of licensed and unlicensed dogs has caused physical harm to persons, damage to property and created nuisances within the Town. The purpose of this local law is to protect the health, safety, and well being of persons and property by imposing restrictions on the keeping and running at large of dogs within the Town.

Section 2. Authority

This local law is enacted pursuant to the provisions of (Chapter 59; Part T of the Laws of 2010) Article 7 of the Agriculture and Markets Law and the Municipal Home Rule Law of the State of New York.

Section 3. Title

The title of this law shall be "Dog Control Law of the Town of Oppenheim"

#### Section 4. Definition of Terms

As used in this local law, the following shall have the following meanings:

**AGRICULTURE AND MARKETS LAW:** The Agriculture and Markets Law of the State of New York in effect as of the effective date of this Chapter. As amended by this Chapter, and as thereafter amended.

**CONFINED:** That's such animal is securely confined or restrained and kept on the owner's premises, either within a building, kennel or other suitable enclosure or securely fastened on a chain, wire or other effective tether of such lengths and so arranged that the animal cannot reach or endanger any person or any adjacent premises or any public street, way or place or if the animal is being transported by the owner, that it is securely confined in a crate or other container, or so restrained or any public street, way or place or if the animal is being transported by the owner, in a vehicle that it cannot be expected to escape therefrom.

**DOG:** Dog shall mean male and female, licensed and unlicensed, members of the species *Canis Familiari*

DOG CONTROL OFFICER: Any person authorized by the Fulton County Legislature or the Town Board of the Town of Oppenheim from time to time to enforce the provisions of this local law or the provisions of the Agriculture and Market Law.

OWNER: The party purchasing the license unless the dog is or has been lost, in such loss reported to the dog warden and responsible search has been made. If an animal is not licensed, the term of owner shall designate and cover any person or persons, control of, harbors, or is otherwise responsible for any animal which is kept, brought or comes within the town. Any person owning or harboring a dog for a period of one (1) week prior to the filing of any complaint charging a violation of this local law shall be held and deemed to be the owner of such dog for the purpose of the local law. In the event any dog found to be in violation of this chapter shall be owned by a minor, the head of the household in which said minor resides shall be deemed to have custody and control of said dog and shall be responsible for any acts of the said dog and violation of this local law.

RUN AT LARGE means to be in a public place or on private land without the knowledge, consent, and approval of the owner of such lands.

g. TOWN means the Town of Oppenheim, County of Fulton, State of New York.

h. HARBOR: To provide food or shelter to any dog.

#### SECTION 5. Restrictions

It shall be unlawful for any owner of any dog in the Town to permit or allow such dog to:

- A. Run at large unless the dog is restrained by an adequate leash at all times. For the purpose of this local law, a dog or dogs hunting in the company of a hunter or hunters shall be considered as accompanied by its owner.
- B. Engage in habitual loud howling, Barking, crying or whining or conduct itself in such a manner so as to unreasonably and habitually disturb the comfort or repose of any person other than the owner of such a dog during the hours of 10:00 pm to 7:00 am.
- C. Uproot, dig or otherwise damage any vegetables, lawns, flowers, garden beds or other property not belonging to the owner of such a dog.
- D Chase, jump upon or otherwise harass any person in such a manner as to responsibly cause intimidation or fear or to put such person and responsible and apprehension of bodily harm or injury.



- E Habitually chase, run alongside or bark at motor vehicles while on a public street or highway or upon public or private property other than property of the owner or person harboring of said dog.
- F Create a nuisance by defecating, urinating or digging on public property or private property other than property of the owner of the dog.
- G. If a female dog, be confined by the owner when in heat.

Establishment of the fact or facts a dog has committed any of the acts prohibited by Section 5 of this local law shall be presumptive evidence against the owner or harborer of such dog that he has failed to properly confine, leash or control his or her dog.

#### SECTION 6. Harboring of Excessive Dogs

Within the limits of the Town of Oppenheim, it shall be unlawful for any owner, occupant, tenant or other person whatsoever to keep or harbor more than six (6) dogs upon any individual assessed property without having obtained a Special Permit from the Town. For the purposes of this local law, dogs under four (4) months of age shall not be included in the total number of dogs kept or harbored upon a property.

#### SECTION 7. Enforcement

This local law shall be enforced by any Dog Control Officer or Peace Officer when acting pursuant to their special duties. no person shall hinder, resist, or oppose a dog control officer or peace officer engaged in the administration or enforcement of the previous provisions of this local law.

Non- liability of Town: The owner of any dog destroyed under the provisions of this local law, or released to an authorized humane society, shelter or veterinarian, shall not be entitled to any compensation, and no action shall be maintainable thereafter to recover the value of such dog or any other type of damage.

## SECTION 8. Licensing of Dogs

No person shall own or possess a dog within the Town unless such a dog is licensed in identified as provided in Article 7 of the Agriculture and Markets Law of the Town.

All dogs within the town that are four (4) months of age or older, unless otherwise exempted, shall be licensed. No license shall be required for any dog which is under the age of four months and which is not at large.

The owner of each dog required to be licensed shall obtain, complete and return to the Town Clerk of the Town a dog license application together with the rabies certificate, license application fee, any applicable license surcharges and such additional fees as may be established by the Town.

## SECTION 9. Fees

### (A) Individual Dog License Fee:

\$7.00 for a spayed or neutered dog

\$14.00 for unspayed or unneutered dog

(b) Fees for Seizure of Dogs: The fee for seizure impoundment of dogs in violation of this law or the laws of New York State Department of Agriculture and Market Law are as follows: First Offense: the same impoundment, vet, and euthanasia fees per animal that are charged to the town for such service, Second Offense: \$150 plus the impoundment, vet, and euthanasia fees per animal.

(C) The town clerk shall assign a town permanent official identification number to a dog when it is first licensed. Such identification number should be carried by the dog on an identification tag which should be affixed to the collar of the dog at all times.

(O) No license shall be transferable. Upon the transfer of ownership of any dog, the new owner shall immediately apply for a new license for the dog. A license cannot be transferred to another dog

## SECTION 10. Penalties

Any person convicted of a violation of this local law shall be liable for a civil penalty of Twenty-Five Dollars (\$25) for a first violation; of Fifty Dollars (\$50) for a second violation and Seventy- Five Dollars (\$75) for subsequent violation.

SECTION 11. Repeal of Inconsistent local law or Ordinances:

This local law shall supersede all prior inconsistent Local Laws, Ordinances, Rules and Regulations relative to the licensing of dogs within the town. All prior inconsistent Local Laws, Ordinances, Rules and Regulations shall be, upon the effectiveness of this Local Law, null and void.

SECTION 12. Severability Clause

The provisions of this local law are declared to be severable, and if any section, subsection, sentence, clause or part thereof is, for any reason, held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of any remaining sections, subsections, sentences, clauses or part of this ordinance.

Adopted

Ayes - 5 Norris, Yost, Montana, Pierce, Breh

Nays - 0

Motion made by Robert Norris and seconded to accept Local Law #2 of 2020 which is

Grievance Board Change The law is as follows:

RPTL, Section 512. Alternate Grievance Days

Note: Section 512 of the RPTL generally provides that the Board of Assessment Review shall convene to hear complaints regarding assessments on the fourth Tuesday of May. Subdivision I-a authorizes an assessing unit to adopt an alternate Grievance Day by local law when its assessor also serves as the assessor for one or more other assessing units.

RPTL § 512 (I-a) requires that a copy of any local law adopted shall be filed with the clerk of the city or town and the Commissioner of the New York State Department of Taxation and Finance.

The current Grievance Day for Oppenheim is as follows:

4th Tuesday in May"

Since this date conflicts with my other assessing commitments I am requesting a local law be adopted to change Grievance Day in the Town. of Oppenheim to read as follows:

1st Friday in June

For 2020 this date would be June 5<sup>th</sup>•

Adopted

Ayes - 5 Norris, Yost, Montana, Pierce, Breh

Nays - 0

February 18, 2020 (cont)

Motion made by Robert Norris and seconded by Robert Pierce to purchase a new time clock for the Highway Department

Adopted

Ayes - Norris, Pierce, Montana, Yost, Breh

Nays - 0

Motion made by Kathleen Montana and seconded by Robert Norris to purchase new cameras

Adopted

Ayes - 5 Montana, Norris, Yost, Pierce, Breh

Nays - 0

Motion made by Kathleen Montana and seconded by Dennis Yost to accept the 2019 report from Justice Joanne Capek-Young

Adopted

Ayes - 5 Montana, Yost, Norris, Pierce, Breh

Nays - 0

**Approval of Minutes**

Motion made Robert Norris and seconded by Dennis Yost to accept the minutes of  
January 21, 2020

Adopted

Ayes - 5 Norris, Yost, Montana, Pierce, Breh

Nays - 0

Motion made by Kathleen Montana and seconded Robert Norris to authorize payment of  
the vouchers

Adopted

Ayes - 5 Montana, Norris, Pierce, Yost, Breh

Nays - 0

With no further business on a motion by Councilman Yost and seconded by Councilman  
Norris the meeting was adjourned at 8:25 pm

Respectfully submitted,

Gloria J. Brys, Town Clerk