

Town of Hamilton Regular Board Meeting Minutes
Thursday, July 9, 2020 at 6:30 p.m.
Via ZOOM VIDEOCONFERENCING

Present: Eve Ann Shwartz, Peter Darby, Shari Taylor, Darrell Griff (Late 6:43), Mary Lee Dinski (Late 6:47). Others Present: Sue Reymers, Town Clerk, Brynley Wilcox, Bookkeeper, Luke Dowsland, Highway Superintendent.
Public: Jim Leach.

Call to order & Welcome: The meeting was called to order at 6:35 p.m.

ZOOM Videoconferencing Notations and Rules: This meeting is being recorded. A transcript will be available at a later date. Disruptive or inappropriate behavior will be cause for removal from the videoconference. No exceptions. Zoom Questions? Email s.reymers@townofhamiltonny.org.

Public Comments: None.

Public Hearing on Proposed Local Law #A of 2020 “To Provide for the Securing, Repair, Removal or Demolition of Unsafe Buildings and Structures in the Town of Hamilton”

RESOLUTION 2020-73: Open the public hearing for Proposed Local Law #A of 2020–Unsafe Buildings

On a motion of Councilmember Darby, seconded by Councilmember Taylor, the following resolution was: ADOPTED: Ayes: 3, Nays: 0
Resolved that the public hearing be opened at 6:37 p.m.

Supervisor Shwartz read a letter from Deborah and Karen Hotaling (ATTACHMENT A). Ms. Shwartz explained that the purpose of this law is to give the town, some actual ability to act when we have a property where the resident is not in care of it and not responding to that process. So, it's basically giving us the ability when we get no answer, no response, from the owner to actually take action to clean it up or demolish it if absolutely necessary if it was beyond repair and then that the cost of that would then be charged back against the property. With Darrell Griff and Mary Dinski arriving, there was a brief discussion about the intent of the law. At the end, Ms. Shwartz asked that a board member should call them to follow-up on their concerns.

RESOLUTION 2020-74: Close the public hearing for Proposed Local Law #A of 2020–Unsafe Buildings

On a motion of Councilmember Darby, seconded by Councilmember Taylor, the following resolution was: ADOPTED: Ayes: 5, Nays: 0
Resolved that the public hearing be opened at 6:58 p.m.

DEPARTMENT REPORTS:**Highway Superintendent – Luke Dowsland****GENERAL REPAIRS:**

- Put shoulders on Morse Road
- Patched on Thayer, Preston Hill, and Cole Hill
- Put 2 driveway culverts in; one on Payne St and one on Rhodes Rd
- Rented an excavator from 5-Star to fix a ditch that was washing a driveway out on Horton, cleaned out a stream that was full of shale on Bonney Rd and ditched on Kiley, Chappel, Hill, Mason, Sacco and Spring St
- Fixed a small sinkhole on Borden Road
- Continued to mow roadsides
- Ditched the bottom of Preston Hill with the State DOT
- Tore out and replaced a curb in Hubbardsville
- Moved a stop sign on Williams to make it more visible

EQUIPMENT:

- I had Churchville Fire Equipment undercoat 2 of the newest trucks
- The mowing tractor broke 4 times. Every time it was something different. Whites and the manufacturer don't want anything to do with warranting anything.
- Serviced 16
- 15's sander chain broke, we replaced it with one we had in stock

TREE REMOVAL:

- Cleaned up 8 large trees that came down; one on Wickwire, three on Excell
- Brought all the limbs back to the shop due to the fact that we have no place to dump them. I will get with the landfill to have their tub grinder chip all of ours when they do theirs

CHIPS:

- Chip sealed Morse Rd, Rhodes Rd, Thayer Rd and Bonney Road with help from the Town of Madison
- New guiderail was installed on Excell Rd and Rhodes Rd

OTHER:

- Purchased a used grader from the Town of Pittsfield, we have serviced it and replaced a few minor things that were wrong with it.
- The new loader was delivered
- Mowed the cemetery 3 times
- Checked in on the office project regularly
- Met with Steve Eidt-NYSDHS about Borden Road – he expressed concern about the costs for the project but optimistic that it qualifies for funding.

There was a discussion on the equipment schedule.

Supervisor/Bookkeeper – Brynley Wilcox

There was a discussion on the 2021 Budget and CHIPS funding.

FRANCHISE FEES:

- \$2,885.26 was received from Charter Communications
- 2020 YTD: \$ 5,868.40; *BUDGET*: \$10,400.00

MORTGAGE TAX:

- \$14,886.07 was received from Madison County
 - October 2019 – March 2020 house sales
 - 137% over same payment last year (\$6,280.32)
- 2020 YTD: \$ 15,874.55; *BUDGET*: \$ 25,000.00

INTEREST & EARNINGS:

- NYCLASS from 02/20 – 02/29: \$ 696.03
- NYCLASS from 03/01 – 03/31: \$ 1,580.93
- NYCLASS from 04/01 – 04/30: \$ 803.01
- NYCLASS from 05/01 – 05/31: \$ 586.83
- NYCLASS from 06/01 – 06/30: \$ 390.75
- NYCLASS year-to-date: \$ 4,057.55
 - CB & NBT in all of 2019: \$ 2,234.41
- Interest rate as of 6/30: 0.31%

2% FOREIGN FIRE TAX MONEY: \$3,536.39 was direct deposited into the NBT Checking account on 06/30/20. A RESOLUTION is needed to process the distribution of monies to the fire departments and districts. What is the Foreign Fire Tax Program? The foreign fire tax program as set forth in New York Insurance Law §9104 and §9105 requires foreign and alien insurance companies to pay a 2% tax on premiums written for insurance against loss or damage by fire on property located in the State. Excess line brokers licensed to place insurance business with an unauthorized insurer as set forth in New York Insurance Law §2118 are required to pay a 3% tax on fire insurance premiums on property located in the State. The tax collected from the insurance companies and brokers by the Department of Financial Services is distributed to fire departments, fire districts, fire department benevolent associations, and the Firemen's Association of the State of New York.

RESOLUTION 2020-75: Audit of Claims

On a motion of Councilmember Darby, seconded by Councilmember Dinski, the following resolution was: ADOPTED: Ayes: 5, Nays: 0

Resolved that the bills contained on Abstract #7 have been reviewed by the Town Board and are authorized for payment in the following amounts:

General Fund A	No.	190	<i>through</i>	226	112,329.94
General Fund B	No.	35	<i>through</i>	42	314.17
Highway Fund DB	No.	83	<i>through</i>	102	79,792.98
Street Lighting SL	No.	13	<i>through</i>	14	433.00
Prepays					47,867.26

RESOLUTION 2020-76: Authorization to Distribute Foreign Fire Tax Program

On a motion of Councilmember Darby, seconded by Councilmember Dinski, the following resolution was: ADOPTED: Ayes: 5, Nays: 0

Resolved that the town be authorized to distribute the Foreign Fire Tax Program, total amount, \$2,888.94, in the following disbursements:

- Hamilton Fire Co.: \$1,560.03
- Hubbardsville Fire Co.: \$1,011.13
- Earlville Fire Co.: \$ 317.78

Amount is based on coverage areas and road lane miles in a jurisdiction which determines the percentages, which is the same every year.

Town Clerk Reports – Sue Reymers

Clerk Reymers updated the board that the Magee vouchers were all sent in to NYSDOS. She has reached out to them via phone call and email and have not heard back yet. She also updated about the front desk and Earlville for Earlville. Shared about communicating with other towns on their re-opening procedures. Also, a family is interested in adopting an arctic fox. Research is needed due to the concerns and rabies. A retired teacher Chuck Hall wants to donate a display (18 x 24 inches) to the town that is currently on loan at the Hamilton Library. It's about the diesel engine of the railroad.

Codes Enforcement Officer Report – Mark Miller

June 2020 Activity

- 4 New Zoning Permit Applications.
- Conducted 3 inspections.
- Followed up with property maintenance violations.
- Conducted oversight of Town Hall project.
- Helped coordinate scheduling of sub-contractors.
- Solicited bids for interior painting of Town Hall project.
- Attended Zoning Update Committee Meetings
- Reviewed incoming documents for an area variance.
- Attended ZBA meeting via zoom for variance request.
- Attended zoom meeting for building committee.
- Currently corresponding with builders and permit holders about progress of projects

COMMITTEE REPORTS:

SOMAC – Nothing to report.

Partnership for Community Development

Mary Dinski reported on recent activities of the PCD and Earlville for Earlville.

Recreation and Youth Committee

Mary Dinski updated that kids are signing up for a modified summer program.

Zoning Update Committee

The Zoning Update Committee meets with the Town Council on Thursday July 16 at 7 p.m. via Zoom to finish work on density for the updated Zoning Law.

SPECIAL PROJECTS:**Hamilton Climate Preparedness Working Group**

The Hamilton Climate Preparedness Working Group meets this Friday at 8. The focus for the summer and into the fall will be creating a Climate Action Plan (CAP) for the Village and the Town. Like a Comprehensive Plan the CAP will lay out a road map with actions, in this case, for creating climate resiliency and lowering our municipalities' greenhouse gas footprint.

Town Office Building

Mr. Darby reported that the painting is done. Trim has been installed. Danny Ashcraft is installing the windowsills. Flooring gets installed next week. REA prepped the floors. Injector pump was hooked up and working properly. The missing piece was not missing or never needed. That took two months to figure out. It was suggested that the transom window above the freight door be painted with a mural. Cabinets were ordered and Danny Ashcraft is lined up to install them. Kevin is looking up switches and lights. Interior painters need to come back after windowsills are installed.

Earlville for Earlville – Already reported on.

OLD BUSINESS:**RESOLUTION 2020-77: Resolution to Adopt Local Law #1 of 2020 "To Provide for the Securing, Repair, Removal or Demolition of Unsafe Buildings and Structures in the Town of Hamilton"**

The following resolution was offered by Councilor Mary Dinski, who moved its adoption, seconded by Councilor Darrell Griff, to wit:

WHEREAS, pursuant to the provisions of the Municipal Home Rule Law, a proposed local law titled Local Law No. A-2020, "A Local Law to Provide for the Securing, Repair, Removal or Demolition of Unsafe Buildings and Structures in the Town of Hamilton," was presented and introduced at a regular meeting of the Town Board of the Town of Hamilton held on June 11, 2020; and

WHEREAS, a public hearing was held on such proposed local law on this 9th day of July, 2020, by the Town Board of the Town of Hamilton and proof of publication of notice of such public hearing, as required by law, having been submitted and filed, and all persons desiring to be heard in connection with said proposed local law having been

heard, and said proposed local law having been in the possession of the members of the Town Board of the Town of Hamilton in its final form in the manner required by Section 20 of the Municipal Home Rule of the State of New York; and

WHEREAS, the enactment of Proposed Local Law No. A-2020 has previously been determined to be an unlisted action and will have no significant effect on the environment thus concluding the SEQR review process; and

WHEREAS, it is in the public interest to enact said Proposed Local Law No. A-2020.

NOW, THEREFORE, it is

RESOLVED, that the Town Board of the Town of Hamilton, Madison County, New York, does hereby enact proposed Local Law No. A-2020 as Local Law No. 1-2020 as follows:

“TOWN OF HAMILTON LOCAL LAW NO. 1 OF 2020 - A LOCAL LAW TO PROVIDE FOR THE SECURING, REPAIR, REMOVAL OR DEMOLITION OF UNSAFE BUILDINGS AND STRUCTURES IN THE TOWN OF HAMILTON”

Be it enacted by the Town Board of the Town of Hamilton as follows:

SECTION 1. LEGISLATIVE PURPOSE AND INTENT.

Unsafe buildings and collapsed structures pose a threat to life, health, and property in the Town of Hamilton. Buildings and structures may become unsafe by reason of damage by fire, or other casualty damage, the elements, age or general deterioration. Vacant buildings not properly secured at doorways and windows are nuisances and serve as a congregation area for vagrants, the homeless, mentally incompetent and children who may be injured therein. A dilapidated building or collapsed structure may also serve as a place of rodent infestation and thereby create a health menace to the community. Debris, rubble or parts of buildings left on the ground or in disrepair and not removed constitute a dangerous, unhealthy and unsightly condition. It is the purpose of this Local Law to provide for the safety, health, protection and general welfare of people and property in the Town of Hamilton by requiring such unsafe buildings, structures and/or premises to be secured, repaired, removed and/or demolished.

SECTION 2. AUTHORITY.

This Local Law is enacted pursuant to the New York State Constitution and New York Municipal Home Rule Law § 10.

SECTION 3. DEFINITIONS.

As used in this Local Law, the following terms shall have the meanings indicated.

BUILDING – Any building, structure or portion thereof used for residential, business, industrial, recreational or any other purpose.

CODE ENFORCEMENT OFFICER – The Code Enforcement Officer of the Town of Hamilton or such other person appointed by the Town Board to enforce the provisions of this Local Law.

PORTION OF BUILDING OR STRUCTURE – Any debris, rubble or parts of buildings which remain on the ground or on the premises after demolition, reconstruction, fire or other casualty.

UNSAFE BUILDING OR STRUCTURE – Any building or structure or portion thereof that endangers the health, safety or welfare of the public, and may include, without limitation, buildings or structures with any or all of the following:

- A. Open at the doorways or accessible by and a source of attraction to minors under 18 years of age, as well as to vagrants and other trespassers;
- B. Which may become a place of rodent infestation, or infestation by other insects or pests;
- C. Those which are so dilapidated, decayed, unsafe and/or unsanitary that they are unfit for human habitation in accordance with normally accepted standards set for human habitability;
- D. Parts thereof which are so inadequately attached that they may fall and injure members of the public or property;
- E. Consisting of debris, rubble or parts of buildings left on the ground after demolition, reconstruction, fire or other casualty; and/or
- F. Presenting any other danger to the health, safety, morals and general welfare of the public.

SECTION 4. MAINTENANCE OF BUILDINGS AND STRUCTURES.

It shall be unlawful for any owner, tenant or occupant of any building or structure or portion of any building or structure in the Town of Hamilton to maintain an unsafe building or structure as defined herein.

SECTION 5. INVESTIGATION AND REPORT.

When, in the opinion of the Code Enforcement Officer or Town Engineer, any building or structure located in the Town of Hamilton shall be deemed to be an unsafe building or structure as defined herein, the Code Enforcement Officer or Town Engineer shall make a formal inspection thereof and report in writing to the Town Board their findings and recommendations with regard to the building or structure.

SECTION 6. ORDER TO SECURE, REPAIR OR REMOVE; HEARING; COSTS AND EXPENSES; TIME LIMITS.

The Town Board shall thereupon consider said report from the Codes Enforcement Officer or Town Engineer, and if it finds that such building or structure is dangerous and unsafe to the public, it shall, by resolution, order its repair if the same can be safely secured and/or repaired, if not, its removal and demolition, and shall further order that a hearing be held before the Town Board at a time and place therein

specified and on at least five days' notice to the owner of the building or structure or persons having an interest therein to determine whether said order to repair or remove shall be affirmed or modified or vacated and, in the event of modification or affirmance, to assess all costs and expenses incurred by the Town in the repair or removal of such building or structure against the land on which said building or structure is located. The order shall also provide that the repair or removal of the building or structure shall be commenced within 30 days after receipt of the notice and shall be completed within 60 days thereafter.

SECTION 7. CONTENTS OF NOTICE.

The notice shall contain the following statements:

- A. The name of the owner or person in possession as appears from the tax and deed records.
- B. A brief description of the premises and its location.
- C. A description of the building or structure which is unsafe or dangerous and a statement of the particular ways in which it is unsafe or dangerous.
- D. An order requiring the same to be secured and/or repaired to a safe and secure condition or to be removed.
- E. An order that the securing, repairing and/or removing of the building or structure shall be commenced within 30 days of the service of the notice and shall be completed within 60 days thereafter.
- F. The time and place of the hearing to be held before the Town Board, at which hearing the owner or occupant shall have the right to contest the order and findings of the Town Board.
- G. That in the event that such owner, occupant or other person having an interest in said premises shall fail to contest such order and fail to comply with the same, the Town Board may order the repair or removal of such building or structure by the Town and that the Town will assess all costs and expenses incurred in such repair or removal against the land on which such building or structure is located.

SECTION 8. SERVICE AND FILING OF NOTICE.

- A. A copy of the notice issued by the Town Board shall be personally served upon the owner or some one of the owners executors, legal representatives, agents, lessees or other person having a vested interest or contingent interest in the premises as shown by the collector of taxes and/or in the office of the Madison County Clerk or Madison County Treasurer.
- B. If no such person can be reasonably found for personal service, then a copy of the notice shall be mailed to such person by certified mail addressed to the their last known address as shown on said records and by personally serving a copy of said notice upon any adult person residing in or occupying the

premises or by securely affixing a copy of said notice upon the building or structure.

SECTION 9. HEARING.

The Town Board shall conduct the hearing at the time and place specified in the notice to secure, repair and/or remove, and may adjourn the hearing from time to time until all interested parties are heard and until the hearing is completed. At the conclusion of the hearing, the Town Board shall determine by resolution to:

- A. Revoke the order to repair or remove;
- B. Modify the order; or
- C. Continue and affirm said order and direct the owner or other persons to complete the work within the time specified in the order or by such other time as shall be determined by the Town Board.

SECTION 10. FAILURE TO COMPLY.

If the owner or person so notified fails or neglects to comply with the order of the Town Board within the time specified in the order made following the hearing, the Town Board may provide by resolution that such buildings or structure be made safe and secure or removed and demolished by Town employees, by independent contractors, or by other lawful means available to the Town.

SECTION 11. COSTS ASSESSED; COLLECTION; SPECIAL PROCEEDING.

- A. All costs incurred by the Town in enforcing this Local Law shall be recoverable from the owner of the premises deemed unsafe or dangerous hereunder. Such costs hereunder shall include, but not be limited to the following:
 - 1) Actual attorney fees and disbursements for services rendered with or without the commencement of litigation;
 - 2) Actual engineering fees or disbursements, including the costs of the Town's Code Enforcement Officer;
 - 3) Actual costs of securing, repairing, removing and/or demolishing the building or structure deemed dangerous or unsafe;
 - 4) Costs of serving and/or publishing notices; and
 - 5) Costs of title and tax searches.
- B. The costs incurred in enforcing this Local Law shall be added to the next assessment roll for Town taxes against the tax parcel(s) which include the unsafe or dangerous building or structure involved and shall be collected and enforced in the same manner as other taxes for that parcel(s).
- C. In addition to any other remedies herein, the Town may commence a special proceeding under Article 4 of the Civil Practice Law and Rules in a court of competent jurisdiction to collect the costs incurred by the Town in enforcing

this Local Law. Should the Town recover and be paid said costs through such a proceeding (and after costs have been added to the assessment rolls), the assessment roll and tax records shall be adjusted accordingly to properly credit amounts so paid and recovered.

SECTION 12. SUPERCESSION.

This Local Law shall supersede in part Town Law § 130(16).

SECTION 13. EMERGENCY CASES.

Where it reasonably appears that a building or structure presents a clear and imminent danger to the life, safety or health of any person or property, unless such building or structure is immediately secured and repaired or demolished by its owner or occupant, the Town Board may by resolution authorize the Code Enforcement Officer or Town Engineer to immediately cause the repair or demolition of such unsafe building or structure. The expenses of such repair or demolition shall be a charge against the land on which it is located and shall be assessed, levied and collected as provided in Section 11 hereof.

SECTION 14. SEVERABILITY.

If the provisions of any article, section, subsection, paragraph, subdivision or clause of this Local Law shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any article, section, subsection, paragraph, subdivision or clause of this Local Law.

SECTION 15. EFFECTIVE DATE.

This Local Law shall be effective upon filing with the office of the Secretary of State."

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

Peter Darby	Councilor	Voted	Yes
Shari Taylor	Councilor	Voted	Yes
Darrell Griff	Councilor	Voted	Yes
Mary Lee Dinski	Councilor	Voted	Yes
Eve Ann Shwartz	Supervisor	Voted	Yes

The foregoing resolution was thereupon declared duly adopted.

Potential 2020 Budget Amendments due to COVID-19: Already discussed.

NEW BUSINESS:

Introduction of Policy Against Discrimination and Harassment for approval at 8/13/2020 meeting. Policy was sent to the town council. NYMIR asks that this get adopted by August. Annual training is required for everyone at the town.

FUEL BID RESOLUTION**RESOLUTION 2020-78: Authorization to go out to Bid for Fuel**

On a motion of Councilmember Darby, seconded by Councilmember Dinski, the following resolution was: ADOPTED: Ayes: 5, Nays: 0

Resolved that the town is authorized to go out to bid for fuel oil and diesel.

Concerns of Town Board: None.

Supervisor's Report: Madison County Activities: Nothing to report. Discussion on Colgate's reopening.

EXECUTIVE SESSION**RESOLUTION 2020-79: Executive Session**

On a motion of Councilmember Dinski, seconded by Councilmember Darby, the following resolution was: ADOPTED: Ayes: 5, Nays: 0

Resolved that this Board move into an Executive Session for the purposes of personnel at 8:56 p.m.

RESOLUTION 2020-80: Return to Regular Session

On a motion of Councilmember Darby, seconded by Councilmember Dinski, the following resolution was: ADOPTED: Ayes: 5, Nays: 0

Resolved that the Board return to regular session at 9:06 p.m.

With no further business, on a motion of Councilmember Taylor, seconded by Councilmember Darby, the meeting was adjourned at 9:07 p.m. Carried unanimously.

Respectfully submitted,
Sue Reymers
Town Clerk