

YORKSHIRE TOWN BOARD MEETING MINUTES – Tuesday January 19, 2016

A Special Town Board Meeting of the Yorkshire Town Board was held on Tuesday January 19, 2016, at the Yorkshire Town Hall, 82 South Main Street, Delevan, NY.

(The Special Meeting was called by Supervisor Spencer to review with Attorney and Board the clarification of role(s) of elected officials

Supervisor Spencer called the meeting to order at 7:00pm with the pledge to the flag of the USA. Roll Call:

Marcia Spencer, Supervisor, Present  
Constance Walker, Council Member, Absent (arrived at 7:02 p.m.)  
Kenneth Fisher, Council Member, Absent (arrived at 7:03 p.m.)  
Tammy George, Deputy Supv & Council Member, Present  
Teresa Hewitt, Council Member, Present

Also present: Fred Clark, Town Clerk; Christopher Lexer, Highway Superintendent, Robert Steinhaus, Town Attorney

Supervisor Spencer began the meeting indicating that with respect to recent board meetings she felt it necessary to invite the Town Attorney, Robert Steinhaus, to the Board Meeting to give some of the key legal points with regards to roles of elected officials. At which point Mr. Steinhaus began his discussion with the Town Board. Key inputs / points noted as follows;

- Referenced Public Officers Law Section 105
- Executive Sessions created to address things so sensitive that public should not be included at this time, such as matters which will imperil the public safety if disclosed; Information relating to current or future investigations or prosecution of a criminal offense; collective negotiations pursuant to article fourteen of the civil service law; medical, financial, credit or employment history of a person or corporation, etc.
- Cannot discuss personal opinions of an elected official in Executive Session
- If any board member feels something being discussed in Executive Session is not appropriate for such session, he or she can object and state as such, with Objection noted by Town Clerk in minutes.
- Insuring proper Executive Session is critical to NYS Open Government and Transparency requirements, such that population can gather mistrust if proper openness is not achieved as required
- Supervisor can stop / table a motion before it is seconded, until next meeting, but cannot continue to table it indefinitely.
- Elected Officials are only responsible to the Citizens
- Town Board for example, cannot restrict use of equipment by Highway Superintendent. If he or she is violating oath, recourse is to bring it to the attention of the police, it is not the Town Boards scope to Police anything
- Financially, in September, all departments bring forth a proposed budget, that is what the Board can approve / control.
- Yorkshire being a 2<sup>nd</sup> tier municipality as defined by population, Supervisor is the Treasurer of the Town. He or She is responsible for the money and accounts of the Town (except for judicial accounts).
- The Board is charged with the responsibility to consider resolutions and/or local laws to enhance the community experience at large. It is improper for a board member to isolate a specific individual or business for restriction/expansion due to personal reasons.
- Your role on the Town Board is only at the meeting. Outside of that you are a citizen.

- As a citizen outside the Board Meetings, If a person approaches you and raises some concerns with regards to any Department, here an elected official is in charge, you must let them know you have no control over this department and direct inquiries to the Elected official in charge, for example Town Clerk or Highway Superintendent or to whichever NYS entity is charged with overseeing said department.
- Supervisor can create a committee to investigate / look into matters related to the town, and those committees must come back and report. The committee has no authority to adopt, hire, implement, etc
- Example is Recreation Committee (not a department), Committee has zero authority other to investigate feasibility and report back to the board as a whole.
- Example 2 Recreation Committee, which is shared with Village of Delevan. Could set a committee to investigate a Joint Recreation and once completed, send to Board for review. The board ultimately could vote to create a recreation department, jointly or otherwise, or not.
- With regards to appointed positions, such as Zoning Boards, Planning Boards, Board of Assessment, Codes Enforcement, etc. The Board has the ability to appoint or not at beginning of year in Organizational meeting. However, Civil Service Law in NYS does impact the ability to NOT reappoint if a person has been in position for a length of time, in this case, is best to consult with the Town Attorney before proceeding.
- After an appointment is made the board cannot remove midstream without “cause.”
- Most appointed areas are also audited by the State or County. If concerns with this area, you can report it to the State / County for review, depending upon the area of concern
- If Board member sees something first hand, which might be impending hazard to community, you should report it to the appropriate appointed person and if no action is taken, then can progress to the state or county.
- Appointed heads, where necessary, must provide updates to the board on items raised for concern, however, the Board Member does not have to “like” the response, i.e., completed, in process, have given extra time, etc.
- Present board with a draft proposal to consider to resolution at next Board Meeting, Titled Rules of Conduct and Decorum. Town Clerk will provide copies to Board Members for review.
- It is clearly counter-productive to the Town Board and its citizens to address issues in a manner that is not appropriate whether it be by comment, concern, personal conflict, etc. Personal attacks or aggressive language or behavior are inappropriate.
- Reviewed the common process of Parliamentary Procedure
- Your comments should never be personal, impertinent or slanderous attack on individuals, regardless of whether the individual is an elected official, Town official or employee or a member of the public (exert from the Rules of Conduct and Decorum Draft)
- Department heads, where a concern has existed (example, compliance, dog licensing, etc) should not accept ongoing failure or repetitive non-conformance for resident or business to comply. They should be cited according to Local or State Law.
- There were several points during the discussion with Town Attorney that various Town Board members gave

some or sought feedback on historical issues and / or clarifications on some items communicated by Town

Attorney.

With no further business, on a Motion of Coun Walker, seconded by Coun Hewitt, the meeting was adjourned at 9:40 pm. Carried unanimously.

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Fred Clark  
Town Clerk