

TOWN OF FLORIDA
PUBIC HEARING – LOCAL LAW #1 OF 2021
“Town of Florida Road Preservation Law”
March 15, 2021 @ 6:45pm

Public Hearing for Local Law #1 of 2021 was opened at 6:45pm by Supervisor Eric Mead. Also present were Councilman Guy Robataille, Councilman Harold Alikonis, Councilman Matthew Gogis, Councilman Steve Rackowski, Attorney Deb Slezak and Clerk Emily Staley.

Supervisor Mead explained the location of the signs; at the end of Fort Hunter Road and Denise Road where they come out on to Route 161 and at the end of Fort Hunter Road at Route 5S. There will be a fine amount on signs also. This law does not apply to local farm deliveries and deliveries to local homes and businesses. This applies to out of state large tractor trailer deliveries to distribution centers on Route 5s. The Sheriff’s officers can check log books to see where the drivers are going to.

Patrick Baurle, 1046 Fort Hunter Road stated that he sees large unmarked trucks driving on Fort Hunter Road. They have a DOT # but no other identifying information.

Councilman Harold Alikonis asked what, if any, the weight limit will be for large trucks. Attorney Slezak said this law is to prohibit non-local deliveries. The truck must be able to show proof that they have a delivery for an address on one of those roads. They cannot use Fort Hunter or Denise Roads to “cut” over to Route 5S and the distribution centers.

Public Hearing closed at 7:02pm

TOWN OF FLORIDA BOARD MEETING
March 15, 2021
7:00pm

The regular monthly meeting of the Town of Florida Town Board; was called to order at 7:03 pm by Supervisor Eric Mead. Also present for the meeting were Councilman Harold Alikonis, Councilman Matthew Gogis, Councilman Steve Rackowski, Councilman Guy Robataille, Attorney Deb Slezak and Town Clerk Emily Staley.

Councilman Guy Robataille led the salute to the flag.

Motion by Councilman Guy Robataille and seconded by Councilman Steve Rackowski to accept the Agenda; all in favor and passed.

Motion by Councilman Harold Alikonis and seconded by Councilman Guy Robataille to approve and accept minutes of the February 15, 2021 Board Meeting; all in favor and passed.

Committee Reports:

Communications & Announcements:

- Large scale solar project on land off Bullshead and Pattersonville Roads has been approved by the NYS Siting Board. Supervisor Mead was made aware of a PILOT program that the governor’s office will be in charge of. There will be no negotiations between NEXTERA and the County and Town for any payments of taxes or PILOT.

Assessor:

- Lisa is wrapping up the exemption paperwork due to the state and county. She is curious about how the solar agreement will affect how she can assess the land if it is not used for agriculture. Lisa will do some research to see what other Assessor’s have experienced.

Engineering:

- Veteran’s Park camera system is being installed and upgraded. Need to get power run in the ground by the 9/11 steel. There is a problem with the electrical panel in the basement of the Town Hall. When conduit was run they drilled directly through the wall into the panel and water is leaking into the panel box at the bottom. The gap needs to be filled in; Supervisor Mead said he will meet with Steve Anderson to discuss options.

Attorney:

- Attorney Slezak informed the Board that she has sent two (2) letters to Josephine Schaufelberg regarding the illegal auto salvage business being operated out of her property and has gotten no response. She will send one more letter and then a summons to court will be issued.
- The attorney for LaBate in Fort Hunter responded that the septic issue is not his clients. Attorney Slezak met with John and got more information together and responded to him. It is Mrs. LaBate's burden to prove it is not her septic that is the problem, not the Town's burden to prove it is.
- There is a hearing date set for March 23 in regards to Ahmed Shah's tax certiorari case.

Planning and Zoning:

- Paul Slansky has reached out to James Frolke regarding the burned trailer still sitting on Route 5S. No response. Supervisor Mead asked Attorney Slezak what is the recourse if the Town has the trailer removed. Can the cost be re-levied to the Town & County Tax Bill? Attorney Slezak said a judgment has to be filed and also a lien against the property. Mr. Frolke does not have the means to clean up the trailer. John Sampone stated the adjacent property owner would like to buy the property from Mr. Frolke and would clean it up.
- Paul informed the Town Board that he has received complaints about the Dollar General truck drivers urinating on the adjacent landowner's property. Mr. Baurle sees this happening on a regular basis and it's very frustrating. There is also the issue of garbage blowing across the parking lot on to his property. Paul is going to reach out again to speak with the facilities manager and see what resolution can be found.
- John Sampone said Target has to replace their interior fire loop due to there being leaks. They are also going to be upgrading their electrical system.
- The Town Board interviewed Peter Rea for the Planning Board. Mr. Rea has experience working for the NYS DOT. Would be a good addition to the Planning Board.

Building Maintenance:

- The lights at the refuse site are up and it is very bright over there.
- Steve is going to get a quote for new gutters for the truck barn.
- The power for the new digital sign will be run when the ground dries up.

Highway:

- Steve has a quote from Henderson for a new truck. Waiting for a quote from Tracey.
- Got a price from Larry for a new air compressor; \$4,575. Grainger's price was \$4,338. Fastenal was \$4,243. Steve would like to purchase the one from Larry because it has some extra options that would be useful. The Town Board agreed he could order it.
- The pick-up truck was sold at auction for \$36,100. Our purchase price was \$39,000.
- Steve brought the quote from Tracey for the new plow truck; \$240,214

MOTION by Councilman Harold Alikonis and seconded by Councilman Guy Robataille to add **RESOLUTION #45** to authorize the Highway Superintendent to purchase a new 2022 Western Star at a price not to exceed two hundred forty thousand two hundred fourteen dollars (\$240,214); all in favor and passed.

MOTION by Councilman Guy Robataille and seconded by Councilman Matthew Gogis to amend the Agenda to add **RESOLUTION #45**; all in favor and passed.

Water and Sewer:

- Only one issue since the last Board Meeting. John said Adirondack Septic is at Target Distribution almost every day to pump out their lines.

Youth:

- Egg hunt March 27th at 1pm.
- Fonda Little League asked if the Town would donate to their program again this year. Supervisor Mead said the Town gave \$600 last year and he would like to give the same amount again. There are kids who live in the Town that play in that league. Will put it on April's abstract.

Veterans:

- Cannon from the point is currently being sandblasted by Rich's Sandblasting in Broadalbin. When that is done, Broadalbin Manufacturing will take it and replace the steel that eroded away from the base and then it will be sent back to sandblasting and then primed and painted. An informational sign will be done as well.

- Drive-thru breakfast March 21 from 8am – 12 noon. Tickets are \$8. Egg and cheese sandwich with choice of meat (ham, bacon, sausage), potatoes and coffee and orange juice.
- The Veteran’s committee would like to get a bigger shed and put it in the northwest corner. Town would take the old shed and put the snow blower in it.

Old Business:

- Nothing at this time.

New Business:

1. **RESOLUTION #41** sponsored by Councilman Guy Robataille and seconded by Councilman Steve Rackowski to accept the updated Town of Florida Employee policy as the Town’s official Employee Policy; all in favor and passed.
2. **RESOLUTION #42** sponsored by Councilman Harold Alikonis and seconded by Councilman Guy Robataille authorizing the Highway Superintendent, Steve Anderson to spend CHIPS money for 2021 in the amount of one hundred sixty three thousand three hundred twenty five dollars and thirty-three cents (\$163,325.33). All in favor and passed.
3. **RESOLUTION #43** sponsored by Councilman Matthew Gogis and seconded by Councilman Steve Rackowski to appoint Mr. Peter Rea, 888 Millers Corners Road to the Town of Florida Planning Board to fulfill the unexpired term left by the passing of Christopher Holloway; this term expires December 31, 2022. All in favor and passed.
4. **RESOLUTION #44** sponsored by Councilman Guy Robataille and seconded by Councilman Harold Alikonis to approve the passage of Local Law #1 of 2021 “Town of Florida Road Preservation Law”. Clerk Emily Staley will send certified copies to Supervisor Eric Mead to pass on to Sheriff Jeff Smith. All in favor and passed.

**LOCAL LAW NO. 1-2021
TOWN OF FLORIDA, NEW YORK**

A LOCAL LAW ENTITLED "TOWN OF FLORIDA ROAD PRESERVATION LAW"

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

Section 1. Title

This local law may be cited as the "Town of Florida Road Preservation Law".

Section 2. Authority for this Local Law

The Town Board of the Town of Florida enacts this local law under the authority granted by Section 10 subsection l(ii)(a)(6) of the New York State Municipal Home Rule Law, New York State Constitution Article IX § 2(c) 6 and Town Law, which allow towns to adopt local laws regarding the acquisition, care, management and use of its highways, roads, streets, avenues and property.

This Local Law is enacted pursuant to the authority of Highway Law Section 140, wherein the Highway Superintendent must cause certain highways and bridges within the Town, to be kept in repair, to bring an action in the name of the town, against any person or corporation, to sustain the rights of the public, in and to any town highway in the town, and to enforce the performance of any duty enjoined upon any person or corporation in relation thereto, and to recover any damages sustained or suffered, or expenses incurred by such town, in consequence of any act or omission of any such person or corporation, in violation of any law or contract in relation to such highway and other powers there under.

Additionally, this Local Law is enacted pursuant to the authority of Highway law section 320, which requires that those that injure any highway or bridge maintained at the public expense, by drawing or propelling over the same a load of such weight as to injure or destroy the culverts or bridges along the same, or of such weight that will destroy, break or injure the surface of any improved town highway, or by any other act shall for every such offense forfeit treble damages.

Lastly, this Local Law is enacted pursuant to Vehicle and Traffic law section 1660, which allows towns to provide for the creation of truck routes, for the permanent and temporary exclusion of certain traffic and for the adoption of additional reasonable ordinances and local laws with respect to traffic as local conditions require.

Section 3. Purpose

The purpose of this Local Law is to maintain the safety and general welfare of Town residents by regulating high impact commercial activities that have the potential to adversely impact roads and property. Well-maintained roads are important to the economic well-being of the Town. Construction, maintenance, and operation of high impact commercial endeavors (e.g. distribution centers, commercial centers, timber harvesting, mining, natural gas drilling, wind energy facilities and telecommunication facilities) can be economically beneficial. This Law is not intended to regulate such endeavors, but the intent is to protect the Town roads and property from damage from such endeavors that typically require high frequency use of heavy equipment with heavy loads. It is the intent of this Law to ensure that the Town's roads are not damaged or harmed to the overall detriment of the Town by a few individual users who utilize the roads in a manner that causes extraordinary deterioration to the roads.

Heavier trucks deteriorate the pavement structure at an accelerated rate. A study at University of Texas found that one big rig pass causes the damage equivalent to 2,000 to 3,000 cars. That damage increases exponentially: a 95,000-pound truck does two to three times the damage of an 80,000-pound truck. One 80,000-pound truck can cause the same damage as 800 to 1,000 cars. Multiple passes exacerbate the damage caused. As such, it is the intent of this Law to protect town roads from the frequent passes of heavier trucks. In the U.S. Department of Transportation's 1998 Draft Comprehensive Truck Size and Weight Study, it was written that "pavement deterioration increases with axle weight and with the number of axle loadings a pavement experiences."

Nothing contained in this Chapter shall be deemed to limit the right to farm as set forth in Article 25-AA of the New York State Agricultural and Markets Law and the Town of Florida Town Code.

Nothing contained in this Chapter shall be deemed to unlawfully interfere with Interstate Commerce.

Section 4. Definitions

The following terms shall have the following meaning in this Chapter.

Code Enforcement Officer: The building and code inspector of the Town, Town code enforcement officer, or such other Town official who exercises similar building, code and enforcement powers.

Highway Superintendent: The Highway Superintendent of the Town.

Local delivery: Delivery or pickup of merchandise or other property to residences or businesses located on the Town Road that the truck is traversing upon.

Other Town Property: Any real property (including any improvements therein, thereon or there under) or personal property owned by, or leased to, the Town.

Motor vehicles: Every vehicle operated or driven upon a public highway which is propelled by any power other than muscular power, except (a) electrically-driven mobility assistance devices operated or

driven by a person with a disability, (b) vehicles which run only upon rails or tracks, (c) snowmobiles, (d) all-terrain vehicles, (e) fire and police vehicles other than ambulances, (f) farm type tractors and all-terrain type vehicles used exclusively for agricultural purposes, or for snow plowing, other than for hire, farm equipment, including self-propelled machines used exclusively in growing, harvesting or handling farm produce, and self-propelled caterpillar or crawler-type equipment while being operated on the contract site.

Town: Town of Florida, a municipality located in the County of Montgomery, State of New York.

Town Board: The Town Board of the Town of Florida; which is comprised of the Council persons and Supervisor duly elected.

Town Clerk: The duly elected Town Clerk of the Town of Florida.

Town Road: Any Town highway, road, street, avenue, boulevard, parkway, shoulder guard rail, concourse, driveway, easement, right of way, bridge, culvert, sluice pipe, ditch, dock, tunnel, sidewalk, or any utilities or improvements therein, thereon or thereunder, outside of the Town of Florida.

Truck: Every motor vehicle designed, used, or maintained primarily for the transportation of property.

Vehicle: Every device in, upon, or by which any person or property is or may be transported or drawn

upon a highway, except devices moved by human power or used exclusively upon stationary rails or tracks.

Section 5. Permanent Truck Restriction

- A. All trucks, tractors commercial vehicles, tractor-trailer combinations, tractor semitrailer combinations, tractor trailer-semitrailer combinations, shall be restricted from driving on Fort Hunter Road and Denise Road. More specifically:
 - a. All trucks, tractors commercial vehicles, tractor-trailer combinations, tractor semitrailer combinations, tractor trailer-semitrailer combinations, shall be prohibited from travelling on Fort Hunter Road and Denise Road;
 - b. Fort Hunter Road and Denise Road shall be limited to local deliveries only. Such local deliveries to be defined as mail or package deliveries to residences and businesses on the road.
- B. There shall be signs installed at all major highways entering Town, indicating that trucks are prohibited and that such roads are for local delivery only.

Section 6. Violation of Local Law; Penalties Therefore

- A. Every person convicted of a traffic infraction for a violation of any of the provisions of this chapter shall for a first conviction thereof be punished by a fine of not more than one hundred fifty dollars or by imprisonment for not more than fifteen days or by both such fine and imprisonment; for a conviction of a second violation, both of which were committed within a period of eighteen months, such person shall be punished by a fine of not more than three hundred dollars or by imprisonment for not more than forty-five days or by both such fine and imprisonment; upon a conviction of a third or subsequent violation, all of which were committed within a period of eighteen months, such person shall be punished by a fine of not more than four hundred fifty dollars or by imprisonment for not more than ninety days or by both such fine and imprisonment.

Section 7. Severability

If any part or provision of this Local Law or the application thereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part or provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this Local Law or the application thereof to other persons or circumstances, and the Town Board of the Town of Florida hereby declares that it would have passed this Local Law or the remainder thereof had such invalid application or invalid provision been apparent.

Section 8. Repealer

All ordinances, local laws and parts thereof inconsistent with this Local Law are hereby repealed.

Section 9. Effective Date

This Local Law shall take effect immediately upon filing in the office of the New York State Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.

- 5. **RESOLUTION #45** sponsored by Supervisor Eric Mead and seconded by Councilman Matthew Gogis to allow the Highway Superintendent, Steve Anderson to purchase a Western Star with a plow at a cost not to exceed two hundred forty thousand two hundred fourteen dollars (\$240,214). All in favor and passed.

Public Comment: Opened at 7:45pm

Vijay Puran, 859 Bullshead Road. Disappointed that the NYS Siting Board approved the solar farm application from NextEra. Would like the Town to consider challenging the decision in the higher courts. The citizens group exhausted all of their intervener funds. He would do all of the leg work and research if an attorney would be willing to read over his writing. He had many questions and felt that the siting board did not address any of the concerns. Supervisor Mead said he talked to Attorney Michael Crowe and he thinks the appeal would be denied but he will do what the Town Board wants. The Town has no intervener funds either. Councilman Harold Alikonis wants a meeting with Mike Crowe to discuss options.

Dave Slezak, 205 Mohr Road. Expressed his concerns with the setback of the panels from adjoining properties. He is concerned about a fire hazard. He stated that NextEra told him he would be liable if a fire originated on his property and spread to the panels. He thanked the Town Board for all their efforts in fighting against the project.

Public Comment: Closed at 8:10pm

MOTION by Councilman Guy Robataille to audit and pay the monthly bills was seconded by Councilman Steve Rackowski; all in favor and passed.

MOTION by Councilman Steve Rackowski to approve the Supervisor's Report was seconded by Councilman Guy Robataille; all in favor and passed.

MOTION by Councilman Matthew Gogis to adjourn was seconded by Councilman Guy Robataille; all in favor and passed. The meeting was adjourned at 8:34pm.

Respectfully Submitted
Emily Staley - Town Clerk