

**REGULAR MEETING OF THE TOWN BOARD**  
**July 13, 2021**

**PRESENT:**

Supervisor Richard A. Purol  
Councilman Robert Penharlow  
Councilman Henry Walldorff  
Councilman Juan Pagan  
Councilman Jay Bishop (via zoom)

**OTHERS PRESENT:** Town Clerk, Rebecca Yacklon, Attorney Jeffrey Passafaro, Deputy Clerk, Kyle Coughlin, Highway Superintendent, Jeffrey Feinen, Representative from Americold, Mark Auer, and Dunkirk Observer, Anthony Dolce, Representative from UISC, Bill Clink, Shari Miller, Mike Miller, Pete Miller

Supervisor Purol opened the regular Town Board meeting at 5:49 pm.

**DISCUSSION FROM PUBLIC HEARING**

Councilman Penharlow thanked everyone who attended the public hearing and stated he felt the medical use of Marijuana has benefits, however he explained that we were not discussing the medical uses of marijuana. He stated that he had concerns. One of his concerns about marijuana is the black market. He further stated that the black market will continue to exist and be involved in the sales of marijuana and taxes will not be collected on these sales. Councilman Penharlow stated that he felt that the Town shouldn't get involved in the distribution of marijuana at this time. He further stated that money is not an issue because there are things money can't buy.

Councilman Bishop had addressed to the board that he did research on the topic of legalization of marijuana. He stated that it's not a question on whether we want to sell it, rather the question is does this fit into our Town. He stated that if it does fit into our town, what are the restrictions? He looked into forty states that had extensive restrictions. He stated that New York State had already implemented many of these restrictions, he read these to the other board members. He then went on to say that no one had shown a dollar amount in revenue to be expected for sales tax. His next major concern was in terms of the zoning code and the Town of Dunkirk's ability to create a law in a timely and efficient manner. He felt that it would be more proper to allocate funds towards the updating of the Zoning Code, as that is something that has been over a two-year process. He stated that he would be concerned for the safety of Town Residents.

Councilman Walldorff stated that he felt it is not in the character of the Town to encourage the sale of drugs. He stated that no one had approached him that was in support of it. However, he had more residents that were not in support of it coming to the Town of Dunkirk.

Councilman Pagan stated he was completely for the legalization of marijuana. He explained that this was not a new idea. He stated that throughout history there are many illegal things that have been made legal and regulation was always key. He also explained that he felt that the Town should cash in on the revenue. He stated that he did not think it would have a tremendous impact on the community. He stated that the state had already started the process of decriminalizing marijuana and felt that this would be the next step in that process.

Supervisor Purol stated that he was for opting in rather than opting out. He agreed with Councilman Bishop and emphasized the importance of adopting this into the zoning code, in order to regulate it.

Councilman Bishop then stated he was concerned if the Town could handle doing so without hiring a consultant. He asked if we do not opt out, where are dispensaries going to be located and who would craft the law to adopt this into the current code. He also added that he felt it there would be minimal tax revenue from New York State.

Councilman Pagan stated that the board could follow up with a consultant if it were necessary, he added that the current zoning consultant was very efficient and could provide knowledge on the topic.

Attorney Passafaro mentioned to the Board that Hanover was opting out and Pomfret still was not sure. He stated that even the Federal and State are not in the agreement over the legalization. He also told the Board that he had examples for zoning code from Massachusetts, which would be easily adoptable and would not require a consultant.

After hearing all concerns from the Town Board members, Supervisor Purol stated that he would like to vote on whether the Town would like to opt in or opt out of the two licenses as presented by New York State.

One last time Board Members voiced their opinions.

Councilman Bishop stated he would like to make sure that the board would feel confident with the Zoning Board being able to craft a law in an efficient manner, while being able to meet all the requirements necessary for the Town.

Councilman Pagan stated he felt this could be done as long as everyone works together to regulate the use and placement of these dispensaries and on-site consumption locations.

Councilman Penharlow stated that he felt that whether we opt in or out, adoption of Zoning code and marijuana will still need to occur. He stated that the Town could use material from neighboring Towns to help in that aspect.

Mike Miller of 3889 Williams St. stated that Councilman Bishop brought up many good points and regulations that will need to be made and adopted. He explained that as far as he was concerned, he would be totally against on site consumption, personally. He then said, as a member of the Town Zoning Board, he felt they could copy all the information that Councilman Bishop has searched so far and use that to help update the zoning code.

Councilman Penharlow made a motion to adopt the Local Law as presented, which has the effect of adopting out of the two licenses of marijuana as allowed by the State of New York. The motion was seconded by Councilman Walldorff.

A roll call vote was called by the Town Clerk, Rebecca Yacklon.

|  | AYE | NAY |
|--|-----|-----|
| Richard A. Purol, Supervisor                                 |     | X   |
| Robert Penharlow, Councilman                                 | X   |     |
| Juan Pagan, Councilman                                       |     | X   |
| Henry Walldorff, Councilman                                  | X   |     |
| Dr. G. Jay Bishop, Councilman( not able to vote due to zoom) |     |     |

With a tie in the vote, the motion failed and subsequently so did the opt out law for marijuana.

**APPROVAL OF REGULAR MEETING MINUTES**

Councilman Pagan made a motion to approve the Regular meeting minutes of June 15, 2021. The motion was seconded by Councilman Penharlow and carried.

**ABSTRACT OF AUDITED VOUCHERS**

Councilman Walldorff made a motion to approve the abstract of audited vouchers as presented by the Town Clerk on the June 15, 2021. The motion was seconded by Councilman Pagan and carried.

|                      |             |
|----------------------|-------------|
| General Fund         | \$18,456.53 |
| Highway Fund         | \$4,406.33  |
| Vineyard Light       | \$167.79    |
| East Town Industrial | \$384.29    |
| Bennett Improvement  | \$17,104.00 |

**OPEN COMMENTS**

Shari Miller of 3889 Williams St. told the town Board that the team at the Town of Dunkirk had done an outstanding job in updating the website to paint a better picture and present more information. She stated the page showed beautiful pictures and information of how nice the Town of Dunkirk is.

**ARROWHEAD DRIVE**

A letter from highway superintendent Jeffrey Feinen was read by Supervisor Purol.

“Dear Town Board Members,

After reviewing the project plans, I as Highway Superintendent of the Town of Dunkirk recommend that the Town Board moves forward with the realignment of Arrowhead Drive as it was presented to me in the plans.

I feel that the presented realignment is beneficial to all parties involved.

Sincerely,

Jeff Feinen

Highway Superintendent

Town of Dunkirk”

Mark Auer, a representative from Americold talked about exactly what they were doing to Arrowhead Dr. He stated that the Northern 400 feet of Arrowhead that runs into Williams Street is in fair to degrading condition now.

He stated that they are looking into taking the elbow out of Arrowhead that goes northwest and straighten it, so its more of a North Road and tie it back into Williams. He explained the advantage it provides for Americold is that it simplifies the truck entrance into the facility and provides separation from the entrance to Arrowhead so traffic won't be as unencumbered. He stated that Americold feels this will provide safer conditions in terms of traffic. He stated that they will be absorbing all costs needed to improve this road. He said that by improving this road, it will subsequently make it safer for residents and employees as the building is erected and operational.

**RESOULTUION AUTHORIZING ABANDONMENT  
OF PART OF TOWN ROAD AND EXCHANGE  
OF PROPERTIES TO STRAIGHTEN TOWN ROAD,  
ARROWHEAD DRIVE**

WHEREAS, the Town of Dunkirk previously dedicated Arrowhead Drive, as a public right-of-way, 50 feet in width, recorded in Liber 2320 at page 817 in the Office of the Chautauqua County Clerk, and

WHEREAS, Arrowhead Drive intersects with Williams Street West in said Town, and

WHEREAS, the Town is desirous of straightening Arrowhead Drive as it intersects with Williams Street West in said Town, and

WHEREAS, Americold Real Estate, L.P. intends to construct a cold storage warehouse, serving industry in the Northern Chautauqua County region, which warehouse operation had been approved by the Town of Dunkirk, County of Chautauqua, New York, and

WHEREAS, it has been determined by engineers reporting to the Town of Dunkirk that it would be beneficial for traffic on Arrowhead Drive if the intersection of Arrowhead Drive and Williams Street West was changed to straighten the intersection from the existing curved right-of-way intersection, and

WHEREAS, both Americold Real Estate, L.P., owner of the proposed new right-of-way of Arrowhead Drive proceeding in a northerly direction to the intersection of Williams Street West, and the Town of Dunkirk, owner of the existing Arrowhead Drive as it intersects with Williams Street West on a curve are both amenable to exchanging like properties to straighten the Arrowhead Drive right-of-way.

NOW, THEREFORE, on motion of Councilman Pagan, seconded by Councilman Penharlow, it is

RESOLVED, that the Town Board of the Town of Dunkirk exchange like properties with Americold Real Estate, L.P. as shown on a map prepared by GPI, Licensed Engineers in New York, dated May 25, 2021, attached hereto and made a part hereof, showing the existing curved portion of Arrowhead Drive, and the proposed straightened portion of Arrowhead Drive as it would intersect with Williams Street West, and it is further

RESOLVED, that the Town Board of the Town of Dunkirk does hereby abandon that part of the existing Arrowhead Drive right-of-way as shown on said map, and it is further

RESOLVED, that the Town of Dunkirk will accept a deed to the proposed new right-of-way of Arrowhead Drive as shown on said map, and grant its deed to the abandoned portion of Arrowhead Drive to Americold Real Estate, L.P., and it is further

RESOLVED, that the exchange of lands for said right-of-way is subject to examination of clean title passing to the Town of Dunkirk for said amended right-of-way, and it is further

RESOLVED, that the Supervisor of the Town of Dunkirk is authorized to execute a deed of conveyance, and accept a deed of conveyance for the property exchange as contemplated herein, and it is further

RESOLVED, that this Resolution is subject to permissive referendum as provided by law, and the Town Clerk is authorized to post and publish Notice of Adoption thereof.

Dated: July 13, 2021.

**Roll Call:**

**AYE/NAY**

|          |                                |   |
|----------|--------------------------------|---|
| PRESENT: | Richard Purol, Town Supervisor | X |
|          | Dr. G. Jay Bishop, Councilman  | X |
|          | Juan Pagan, Councilman         | X |
|          | Robert Penharlow, Councilman   | X |
|          | Henry Walldorff, Councilman    | X |

**TOWN CLERK REPORT ( June)**

Zoning Fees                \$200.00  
Clerk Fees                 \$290.00  
Dog Licenses              \$114.00

**Total amount transferred to Supervisor Purol \$604.00**

**JUSTICE REPORT (June)**

Total number of cases **165**

**TOTAL FINES** and surcharges submitted to the Town Supervisor **\$18,136.00**

**DOG CONTROL OFFICER REPORT (June)**

- There were **6** calls for service during the month of June regarding animal complaints.
- There was a total of **3** impounds during the month of June  
An invoice was issued to the Town in the amount of \$600.00 for three dogs that were held per a homicide investigation with the NYS police from 6/11/2021 thru 6/15/2021.
- **0** Dog at large citations issued.
- **0** Unlicensed dog citations issued.
- Contract between City of Dunkirk and the Town of Dunkirk for dog shelter services was signed and is in place for impound services at the City Dog Shelter.

**BOARD MEMBER & COMMITTEE REPORT**

Councilman Pagan reported that North County Water had continued to progress. He stated that CBI had also continued to progress and work out some of the issues they had experienced.

**HIGHWAY SUPERINTENDENT REPORT (Jeffrey Feinen)**

- Cleaned debris from under Railroad bridge
- Nova Chip New Road
- Helped Hanover, Sheridan, Pomfret chip and stone Roads
- Mowed shoulders seconded time
- Hand patched Williams, Vineyard at Aldi's, Chestnut and Town Hall
- Fill from shop to Fred's
- Grade yard
- Trash from Arrowhead to transfer station
- Sink hole on Bennett west today
- Fix signage
- Sewer jobs

**ZONING/CODE ENFORCEMENT REPORT (Ryan Mourer Absent)**

- Permit for roof issues
- Permit for barn on Temple Street completed
- Demo permit on Rt.5 and Wilbur Rd. in effect
- Interior remodel for home at Cliffwood issued
- Permit of Cold Storage issued, and construction is continuing
- Dental construction underground is being worked on. Trusses being reinspected by an

engineer due to timeline in the weather

- Bob Evans conversion to bank is getting closer
- Working on Permit for new home on Roberts Road
- Working with a business that is moving in by Tops, next door to Verizon

**ATTORNEY REPORT**

Discussed all legal matters, nothing left to comment.

**SUPERVISOR REPORT**

Supervisor Puroi notified the board that the Town received Mortgage tax distribution from 10/1/2020-4/30/2021 with a payment date of 6/24/2021 in the amount of \$17,966.90.

He also informed the Board that a letter was received from the Office of the State Comptroller regarding our submission for the American Rescue Plan Act (ARPA) funding in which we are eligible for a total ARPA payment of \$127,786.00 of which half will be paid this Summer of 2021 and half in the Summer of 2022. These funds may only be used on specific fund projects.

**CORRESPONDENCE**

No Correspondence to report

**ADJOURNMENT**

With no further business a motion was made by Councilman Pagan and seconded by Councilman Walldorf. The motion was carried unanimously, and the meeting was adjourned at 6:29 pm.

Respectfully submitted,

Rebecca Yacklon  
Town Clerk