

**REGULAR TOWN BOARD MEETING  
December 21, 2021**

**PRESENT:**

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

**OTHERS PRESENT:** Town Clerk, Rebecca Yacklon, Deputy Clerk, Kyle Coughlin, Attorney Jeffrey Passafaro, Nathan Rizzo, Solar Liberty, Joe Muscato, Barbara Warren, Gary Hazelton, Sue Hazelton, Jay Warren, Cindy Jusko, Lisa Briggs, Phil Leone, Irene Strychalski, Anthony Dolce, Dunkirk Observer, Jerry Dziduch, Allison Lang (via zoom), Dan Leary, Our Generation (via zoom), Riley Rising, Seaboard Solar (via zoom) Jennifer Friedman (via zoom)

Supervisor Puro opened the regular Town Board meeting up at 6:31 pm with the pledge to the flag.

**APPROVAL OF REGULAR MEETING MINUTES**

Councilman Penharlow made a motion to approve the Regular meeting minutes of November 16, 2021. The motion was seconded by Councilman Walldorff and carried.

**APPROVAL OF SPECIAL MEETING MINUTES**

Councilman Walldorff made a motion to approve the Special Meeting minutes of November 3,2021. The motion was seconded by Councilman Pagan and carried.

**APPROVAL OF ABSTRACT OF AUDITED VOUCHERS**

Councilman Pagan made a motion to approve the abstract of audited vouchers as presented by the Town Clerk on the December 21, 2021. The motion was seconded by Councilman Penharlow and carried.

General Fund	\$ 68,647.91
Highway Fund	\$ 26,864.51
ELRSD	\$ 530.00
Checking Justice	\$ 34,061.00
Vineyard Light	\$ 251.07

**OPEN COMMENTS**

Phil Leone 5208 Woodlands stated that when they received the review from the Code Enforcement Officer that stated the language regarding the VRBO in the R-1 district was ambiguous, He wondered if there was some way whether or not they would be notified what the ambiguities in that code are. Were they with respect to what is a single-family resident? What is a family? What are some of the other permitted uses or excluded uses? They have received no guidance as to what “ambiguous” meant. He explained that all they got was the code doesn’t say it therefore, it must be allowed. He said that their attorney on this matter submitted a letter to the zoning board of appeals regarding a hearing. He asked if a date was set for this yet?

Supervisor Purol stated to Mr. Leone that there is no date set yet.

Mr. Leone also mentioned that he had been following the code revision workshops and attended the last four of them and was looking over the minutes and from what he read at the last meeting. He stated that Supervisor Purol stated that vacation rentals would not be discussed due to ongoing litigation. Mr. Leone stated he was very unclear as what litigations he meant because they have not pursued any at this time He wondered if someone else's lawyers had started a litigation process. He asked if Supervisor Purol used the wrong choice of words in this instance.

Supervisor Purol had informed Mr. Leone he met to say that we were not discussing VRBO. We were there to discuss what was on the agenda for the evening.

Mr. Leone had another concern as to the difference from first consultant from many years ago had submitted a proposed revision to the code regarding R-1 districts its completely different from what the R-1 revision submitted by the current consultant. He asked if the committee would have discussion on that at the next meeting or blow off this concern too.

Supervisor Purol informed Mr. Leone that it is still a working progress, and it hasn't come to the Town Board yet. He stated it is still in the hands of the zoning and planning committee right now. He stated that there will be revisions to the R-1 and the R-2 still. Supervisor Purol told Mr. Leone that he goes to these meetings because he's interested and likes to know what is going on. He is not in control of this discussion or decisions that are made by the committee members.

Jay Warren 5182 Woodlands explained that he was following up on what Mr. Leone had said. He said that to the best of his knowledge, all board members received a letter from their attorney, addressed to Supervisor Purol and Councilman members. He specifically mentioned in the letter that changing the code and updating it would be beneficial only if they receive proper input from the community. He stated that he explained to concerned residents that there is a draft in place, and it's being reviewed.

Supervisor Purol had informed Mr. Warren that the book is not ready for review and that he should know that because he is on the committee working on the updates.

Mr. Warren stated for the clarity of the people at the meeting he wanted to make sure he was on the same page with that fact. He asked Mr. Purol since the draft is a working progress but once it is ready, that there will be a public hearing at some point when it is final format or a draft format.

Mr. Warren had also touched base with the board on a letter submitted at the last meeting from Jim He then asked the board members if they remember Mr. Mintuns letter from the last meeting. They all did. He stated that Jim was a former resident of their neighborhood and a leader in the community for years. Within the letter he discussed the decisions that are going to be made and how it would affect neighborhoods everywhere. Especially in an R-1 district. He asked is the board going to change the character of these neighborhoods, and allow these vacation rentals, that have no regulations and permitting in place. He stated zoning laws and proper enforcement is huge. He said that the Town has zoning laws, but they have to be enforced. He further stated that as property owners they are simply doing what anyone else would do to protect their community. He stated that he hoped the board would take Jim Mintuns advice and move ahead considering putting these in a R-2 district putting or

in a commercial district. He stated that the R-1 district has strict guidelines for single family resident homes. He stated that all they have been doing is going through the proper channels and asking for support from the board. He explained that they felt like the board supported the owner of the vacation rental more than the residents of that area. He asked how can someone from Lancaster come into our town, start a business in a residential district without a permit and then the code is suddenly ambiguous? He asked the Board if they were going to side with the investor or the 27 residents that have attended meetings and voiced their concerns.

Supervisor Purol informed Mr. Warren that they understand their concerns. He stated that not one person has taken a side one way or another. There is nothing that the code enforcement officer said he can shut them down for. He stated that was why they are looking this over through our zoning code. That where they stand, he explained. He stated that they were not being ignored you but there is a procedure that had to be followed. He said they were not scheduling any meetings for December due to people on vacation and the holidays. He stated they were looking at January.

Sue Hazelton of 5178 Woodlands Dr.

Read a letter she wrote to the Town Board.

“The ongoing issue property 5184 Woodlands you know we have been very transparent with their remarks. We the people of this Woodlands community and also parts of East & West townships have every right to stand up for this ongoing situation of Woodlands. We are the supporters of this town we do vote for those we think will help benefit the town and its issues. Helping us out and guide us. Work with us as friends and neighbors. We are the backbone of this town not the outsiders. We are a R-1 district plain and simple. This R-1 works, it was put into place to protect us and our properties. I still stand by my thoughts you can't have a business such as 5184 Woodlands or a party house in our residential area. This issue is a bit discouraging because it's taking so long to solve to have a resolution. But we residents are still here! Because this issue is very important enough to stick with. Ask yourself would you want this type of party house on a very short-term rental property that may pop up next to you your home that you have worked so hard for and care for. There is already a very big eye sore close by and I don't want to tell strange people to get off my private property. I shouldn't have too. You know some people today are not as respectful as years ago. Thank you.”

Gary Hazelton of 5178 Woodlands Dr.

Read a letter he wrote and submitted.

“The law about short term rentals has been on the books for years with no problems but now a rental property in question has come up because its illegal. Now for some reason no one knows what it means. The board must think a good neighborhood made of short-term rentals, no trespassing signs, caution tape, extra security, calling the police for trespassers and party houses telling people to get off your private property. Steels and Lang's have owned property in Woodlands for almost eighty years. This is the first year for putting up chains across the driveways to keep owners and renters of 5184 from using it as a personal parking lot. I've had to ask people to get off my land as have other residents in the neighborhood. Listened to renters at 5184's dogs barking from Ohio, Pennsylvania, Georgia. Picked up after there dogs. People have bought these properties for peace and quiet and live here year-round. Most everyone is in there 60's,70's or 80's and don't need party houses next door. Be careful about what you wish for. One may be coming near you, so you can put up with the noise and buying some no trespassing signs, extra security for our properties and decrease your property value.”

Barbara Warren of 5182 Woodlands Drive stated that she would like to share how much they would appreciate their consideration in this situation. She stated how difficult the summer was. She explained they have lived there for over forty-two years and all these people have worked together as neighbors to make it a beautiful, private, and secure neighborhood. She explained that now they have people coming in and out every three to four days. She elaborated on Mrs. Hazelton's point that you can't even imagine what it feels like to live in a group of homes and having this kind of activity. If it happened to someone in your family, you would see how difficult and frightening it is. She stated that they are no longer enjoying the beautiful lake front because their lives have been turned upside down by vacation rentals. They tried to resolve this right from the beginning, and they have been accused of something they have not done. She thanked the board for their time and consideration.

Supervisor Purol had asked the residents of Woodlands if they are still there now.

Audience had responded and said it was booked for Christmas week, but no one showed up.

Gary Hazelton also noted that where Mr. Warren lives, and the rental property is there is only ten feet between the two houses. You can imagine what it is like if there are ten – twenty people partying half the night.

Irene Strychalski had asked who they would have to contact for a sick fox in their neighborhood. Supervisor Purol had told them to reach out to the DEC.

Jerry Dزيدuch stated that he had been to many meetings and that he is very concerned. The R-1 is pretty clear black and white. He stated that he had noticed a car driving up and parked this summer, when he approached them, they said they were there to watch the sunset. He stated that he informed them that was private property. I told them that they can't be down here. He explained that they pay a lot in taxes for their private property and so why do they have to put up with this?

Supervisor Purol agreed with Jerry and told him that he was correct. The town tried once to make them town roads and it didn't work out.

Irene Strychalski had made mentioned that she noticed someone driving by her area. Someone said to someone else that they were down there looking for VRBO rental property. She stated she's not sure if the word is getting out or not.

Jay Warren had committed on Irene Strychalski's statement and said that's exactly what Jim Mintun's was referring to. He stated that people are going to buy these houses and look into making money on them. He then asked Supervisor Purol how will people be notified about the zoning meeting when the time comes?

Kyle Coughlin Deputy Clerk, and Zoning/Planning secretary informed Mr. Warren that anyone within five hundred feet of the property will receive a letter and that this is how they have always done it.

Supervisor Purol had also stated that a notice will be published in the Observer as well.

Joe Moscato had asked Supervisor Purol what happened to the girl that was hired, at his time when he was on the board to work on the zoning problems.

Supervisor Purol informed Mr. Moscato that was along time ago and they have since hired Clark Patterson Lee to work on updating the zoning book and his name is Justin.

### **CORRESPONDENCE**

- Supervisor Purol read a letter from Allison Lang 5192 Woodlands Dr. Dunkirk. dated 12/20/2021.

“Gentlemen,

I understand that the Town Board is revising the zoning code to allow short term vacation rentals, including bed and breakfast and lodging houses, in R-1 RESIDENTIAL Districts.

I would like to know if this is true. If you are considering this action, I would like to know why.

Are there any Officials or employees of the Town of Dunkirk who own, or plan to own, short term vacation rental, bed and breakfast and/ or lodging houses in the Town of Dunkirk in R-1 Residential Districts? This should be made public to avoid any conflict of interest.

Sincerely,

Allison lang”

Supervisor Purol commented on Allison Lang’s letter and stated to the best of his knowledge he was not aware of anyone seeking to plan on doing a VRBO.

Received a letter from the judges stating that the OCA’s internal audit services will be in contact to audit an examine the court records in the future.

### **TOWN CLERK REPORT (NOVEMBER 2021)**

Clerk Fees \$190.00

Zoning Fees \$1,477.92

Dog Licenses \$72.00

**Total amount transferred to Supervisor Purol \$1,739.92**

### **JUSTICE REPORT (NOVEMBER 2021)**

Total number of cases **317**

**TOTAL FINES** and surcharges submitted to the Town Supervisor **\$33,649.00**

### **BOARD MEMBER & COMMITTEE REPORTS**

Nothing to report.

### **HIGHWAY SUPERINTENDENT REPORT**

Highway Superintendent Jeffrey Feinen was unable to attend, and no report was submitted.

**ZONING/CODE ENFORCEMENT OFFICER REPORT**

Code Enforcement Officer Ryan Mourer was absent, and no report submitted.

**ATTORNEY REPORT**

Legal matters are on the agenda.

**SUPERVISOR REPORT**

Supervisor Purol had notified the board that the Town received \$8,137 in State Aid.

**SOLAR BATTERY LAW**

Supervisor Purol told the board that they have heard the comments and asked the board for their opinion. He did make note that there was a typo error on page four under Commercial Scale (Tier 2) Solar Energy systems above 20kWh should just read 20kW.

Attorney Passafaro had addressed to the Board that the Chautauqua County Planning had responded very fairly on our effort to enact to this new Battery Law.

Councilman Pagan made a motion to adopt the Local Law for Battery Storage under the matter of Legislation and a negative declaration is declared under SEQR. The motion was seconded by Councilman Walldorf and carried.

**Roll Call:**

Richard A. Purol, Supervisor – AYE  
Robert Penharlow, Councilman – AYE  
Juan Pagan, Councilman --- AYE  
Henry Walldorff, Councilman -- NAY  
Councilman Bishop (via zoom) marked for the record unable to vote

**REVISED SOLAR LAW**

Supervisor Purol had told the board that you have heard the comments and asked the board for their opinion on changing the 20kW to 25kW or leaving it at 20kW.

Councilman Pagan had addressed to the Board that he felt we should leave it at 20kW. We have put a lot of time and effort into this the planning, and zoning board the consultants and clerks. When we discussed the 20kW, I believe there was a reason for that to try and keep more of a confined area then allowing over 25 kW. I think we should stay at what we have worked on all these months we have come to this point and it's a job well done by all concerned and it has my stamp of approval.

After back and forth the board decided to change the reading of 20 kW to 25 kW.

Councilman Penharlow made a motion for kW as a definition to go from 20 kW to 25 kW and not to exceed. The motion was seconded by Councilman Bishop and carried.

**Roll Call:**

Richard A. Purol, Supervisor – AYE

Robert Penharlow, Councilman – AYE

Juan Pagan, Councilman --- AYE

Henry Walldorff, Councilman -- NAY

Councilman Bishop (via zoom) marked for the record unable to vote

Councilman Penharlow made a motion to adopt the revised Solar Facilities Law for 2021 with the amendment to the definition of small-scale Tier 1 as not exceeding 25 kW. The motion was seconded by Councilman Pagan and carried.

Councilman Pagan made a motion on the matter of Legislation and a negative declaration is declared under SEQR. The motion was seconded by Councilman Walldorff and carried.

**APPROVAL OF 2022 OFFICIALS LIST**

Councilman Penharlow made a motion to approve the Officials List for the year 2022.

The motion was seconded by Councilman Pagan and carried.

**RE-APPOINT SCOTT PAGANO TO ZONING BOARD FOR 5 YEAR TERM**

A motion was made by Councilman Pagan to re-appoint Scott Pagano for a 5-year term to the Zoning Board of Appeals. The motion was seconded by Councilman Penharlow and carried.

**APPOINT TAX COLLECTOR AND DEPUTY TAX COLLECTOR**

Councilman Penharlow made a motion to appoint Rebecca Yacklon as the Tax Collector for the year 2022 and Kyle Coughlin as the Deputy Tax Collector. The motion was seconded by Councilman Pagan and carried.

**APPOINT VITAL STATISTICS AND DEPUTY OF VITAL STATISTICS**

Councilman Walldorff made a motion to appoint Rebecca Yacklon as Register of Vital Statistics and Kyle Coughlin as Deputy Register of Vital Statistics. The motion was seconded by Councilman Penharlow and carried.

**SCHEDULE ORGANIZATIONAL MEETING**

Councilman Pagan made a motion to schedule the organizational meeting for Tuesday, January 4, 2022, at 6:30 p.m. The motion was seconded by Councilman Walldorff and carried.

**AMBULANCE**

Supervisor Purol addressed some of his concerns to the Town Board in regard to ambulance service in the Town of Dunkirk. He explained that both the East and West Town do not have the ability to transport. Last year the Town of Dunkirk and Sheridan were in an agreement with Allstar in a shared contract. He told the Town Board that Sheridan decided to go on their own this year. Supervisor Purol met with Allstar and worked out a better rate for the Town.

**ADJOURNMENT**

With no further business, a motion was made by Councilman Penharlow and seconded by Councilman Walldorff. The motion was carried unanimously, and the meeting was adjourned at 7:21 pm.

Respectfully submitted,

Rebecca Yacklon  
Town Clerk