

August 7, 2020

The regular meeting of the Varick Town Board was called to order at 7:00 p.m. by Supervisor Hayssen. Present at this meeting were Councilmen Richard McCulloch, Tom Fox, Richard Peterson, and Eric Riegel, Town Clerk, Donna Karlsen, Highway Superintendent, Ben Freier Attorneys for the Town, Frank Fisher and Joe Midiri, Planning Board member, Tom Bjorkman and Town Assessor, Anne Morgan. Absent, Bookkeeper, Angela Testa.

A motion by Eric Riegel, seconded by Richard McCulloch and so carried unanimously to open the public hearing on Local Law No. 1 of 2020, "Town of Varick Sewer Districts Sewer Use Law". at 7:00 p.m.

Supervisor Hayssen stated that anyone in attendance was now permitted an opportunity to speak on behalf of or in opposition to said Local Law which is replacing the current sewer use laws that was adopted for Varick Sewer Districts Number 1 and 2.

No comments were presented and Supervisor Hayssen called for a motion to close the public hearing.

A motion by Tom Fox, seconded by Eric Riegel and so carried unanimously to close the public hearing at 7:05 p.m.

Petitioners to Address the Board: Thomas Bjorkman thanked Highway Superintendent Ben Freier for the new road surface on East Varick Street. Mr. Freier stated that they will be finishing off with a topcoat in a few weeks.

Abstract: A motion by Tom Fox, seconded by Eric Riegel and so carried unanimously to approve Abstract No. 8, General, Vouchers A0020-090 to A0020-96 in the amount of \$8,471.60 in the amount of \$8,417.60, Highway, Vouchers DA002071 to DA020-70 in the amount of \$9,823.28, Varick Water District No. 1, Vouchers VW120-014 to VW120-15 in the amount of \$12,836.20, Seneca Lake Water District, Vouchers SWS20062 to SWS20065 in the amount of \$232.56, Varick Water District No. 3, Vouchers VW320-018 to VW320-019 in the amount of \$7,036.71, Varick Water District No. 4, Vouchers VW420-023 in the amount of \$25, Varick Sewer District No. 1, Vouchers VS120-026 to VS120-028 in the amount of \$17,791.43, Varick Sewer District No. 2, Vouchers SSS20-015 to SSS20-016 in the amount of \$10, 205, Building Capital Project, Voucher HO120-005 in the amount of \$1,250.

Highway: Mr. Freier reported that the Western Star is inoperable, and Penn Power Group is coming to analyze the problem and provide a quote for repair. He noted that the truck only has 28,000 miles on it. He reported he is over budget in his machinery expense line which is the result of repairs required to highway machinery this year.

He reported that the towns of Romulus and Fayette, Seneca County Highway and the City of Geneva assisted them in resurfacing East Varick Street and Suit-Kote is providing him with a concrete sealer estimate to complete this job.

He noted sharing equipment and manpower is beneficial between municipalities, and they will be assisting these municipalities once the Western Star is up and running.

He reported that he has been attempting to reach Chris Covert to discuss the intersection at Route 89 and the south end of Town-line Road as well as the Intersection at Route 96 and Dilts Road, but as of this date has not been able to discuss this with him. He noted he would like to have them milled and repaired while working with the state to address the intersections. He is also looking at completing work at some point on Hahnel Road and Kings Corners Road to Wellers Road pending budget restraints.

Supervisor's Report: A motion by Eric Riegel, seconded by Richard McCulloch and so carried unanimously to approve the Supervisor's Report.

The bookkeeper provided the fines collected by the judge as being \$5,140 as of July 30, 2020. In her report she noted that the courts anticipated revenue for 2020 was budgeted in the amount of \$12,000. Due to the courts being shut down in March and only recently being allowed to do limited business due to the Covid Virus, revenue will be substantially lower this year.

Water Operator/Sewer Maintainer July 2020 Report:

- Marked out Dig Safety's
- Got weekly meter reads
- Did weekly water tests for each district
- Took bac t samples in all 4 districts
- Filled out and submitted monthly water report to health department
- Data logged water usage in each district
- Ordered Parts to fulfill inventory and for upcoming projects
- Turned water on as needed
- Exercised and did maintenance on fire hydrants on Seneca Lake
- Helped Highway when needed
- Replaced Grinder pump for sewer
- Installed New water service on East Lake Rd
- Painted Fire Hydrants on Seneca Lake District
- Hauled away and cleaned up driveway down at sewer pump station
- Met with Builders for new home being built in Var1 discussed Water and Sewer connections
- Answered questions dealing with each water district and sewer system
- Hauled stone down to sewer project

Varick Water District No. 1: Nothing to report.

Seneca Lake Water District: Mr. Midiri will contact Mr. Fisher to find out the status of the letter he was to write to the Mormon Camp regarding the installation of a meter at their connection at East Lake Road.

Varick Water District No. 3: Nothing further to report.

Varick Water District No. 4: Nothing further to report.

Sewer: Mr. Hayssen asked that the board approve the Varick Sewer District Sewer Use Law as presented at the public hearing through a resolution as Local Law No. 1 of 2020 known as “Town of Varick Sewer District Sewer Use Law” and will replace all sewer use laws passed previously for Sewer District No. 1 and Sewer District No. 2.

A RESOLUTION TO ENACT
LOCAL LAW No. 1, OF 2020, “TOWN OF
VARICK SEWER DISTRICTS SEWER USE LAW”

WHEREAS, a resolution was duly adopted by the Town Board of the Town of Varick, New York for a Public Hearing to be held by said Town on August 4, 2020 at 7:00 p.m. at the Varick Town Office Building, 4782 Route 96, Romulus, New York, to hear all interested parties on a proposed Local Law entitled “TOWN OF VARICK SEWER DISTRICTS SEWER USE LAW”; and

WHEREAS, notice of said public hearing was duly advertised in the official newspaper of the Town; and

WHEREAS, said public hearing was duly held on August 4, 2020 at 7:00 p.m. at the Town Office Building, and all parties in attendance were permitted an opportunity to speak on behalf of or in opposition to said proposed Local Law, or any part thereof; and

WHEREAS, the Varick Town Board, after due deliberation, finds it in the best interests of the Town of Varick to adopt said Local Law; now, therefore, be it

RESOLVED, that the Town Board of the Town of Varick, New York hereby adopts Local Law No. 1 of the year 2020 “TOWN OF VARICK SEWER DISTRICTS SEWER USE LAW” to read substantially as provided in the attached Exhibit consisting of sixty-eight pages, and it is further

RESOLVED, that this Local Law shall take effect upon filing with the Secretary of State as provided under the New York State General Municipal Law.

Moved: Richard McCulloch

Seconded: Eric Riegel

Passed unanimously

Mr. Fox reminded the board that Ben Karlsen has accepted the position of Sewer Maintainer in addition to being the Water Operator for the town’s water districts which has added more responsibility and on-call time and wanted to be sure he is compensated appropriately. He also noted that he may need occasional assistance in completing maintenance and it would be good to train another person in the case of his absence.

Varick Sewer District No. 1: Mrs. Karlsen reported that Hunt Engineering completed their I & I study and submitted said report to the Supervisor for his review. This study was grant funded in the amount of \$15,000 and the funds were received in 2019. The bookkeeper has requested the board pass a resolution that will be attached to these meeting minutes to amend the Town of Varick Sewer 1 budget to pay Hunt Engineering's bill:

A motion by Richard McCulloch, seconded by Eric Riegel and so carried unanimously to approve Amendment to the Town of Varick Sewer One, Resolution No 1 of 2020.

Varick Sewer District No. 2: Mr. Hayssen reported that repairs to the pump station is progressing. He received quotes for replacement of the pumps from Xylem in the amount of \$34,426.61 and from Siewert Equipment in the amount of \$44,814. He has authorized purchase of these pumps from Xylem. Blue Heron Construction has been contracted to complete the necessary work on a time and material basis plus a 18% markup for overhead and profit and a \$2,500 Mob/Demob charge with the cost not to exceed \$75,000. This cost does not include two days of repairs prior to starting the complete overhaul. They have installed a temporary system and hope to have new pumps installed and running by the end of August.

Town Clerk's Report: A motion by Tom Fox, seconded by Richard McCulloch and so carried unanimously to approve the Town Clerk's Report: Supervisor: \$275, NYS Ag & Markets: \$33, Total Disbursements: \$308.

Minutes: A motion by Richard McCulloch, seconded by Eric Riegel and so carried unanimously to approve the minutes of July 7, and July 22, 2020.

Judge: Nothing to report.

Assessor: Anne Morgan reported that she is required to attend 12 to 18 hours of continuing education which she is behind on due to COVID 19. She also reported that she has her 2021 budget ready for the board's review and will be holding a meeting in Ovid at the firehouse for town representatives to review. Mr. Fox is the representative for the town and she will notify him of the meeting date once it has been set. She also reported NYS Real Property Tax office has updated her program remotely this year.

Planning Board: Mr. Bjorkman reported the Planning Board had received considerable input about nuisances that have been particularly associated with short-term vacation rentals. He presented the board with the following documentation that describes current and potential enforcement mechanisms for the various nuisances described in this report.

PROBLEM	REGULATION	ENFORCEMENT
Fires:		
Smoky	None found	
Trash	State ECL 215 Open burning regulation	Conservation Officer

Unattended	State ECL 215 Open burning regulation	Conservation Officer
Dogs		
Trespassing	Varick Dog Law	Varick Dog control officer
Harassing people	Varick Dog Law	Varick Dog control officer
Defecating on road	Potential addition: Add to dog law	<i>Varick Dog control officer</i>
Barking	Varick Dog Law	Varick Dog control officer
Noise		
Late night party	Current: disturbing the peace	Sheriff
Noisy events all summer	Potential addition: Short-term rental permit	<i>Permit holder, New Varick enforcement position</i>
Fireworks	Potential addition: noise ordinance	Sheriff or NYSP
Parking	Potential addition: require owner to provide parking, and allow no more vehicles that the space allows (including guests)*.	<i>New Varick enforcement position Permit holder</i>
Blocking private road	Fire regulation? Potential addition: Homeowners Association Potential addition: Short-term rental permit	HOA <i>New Varick enforcement position</i>
Blocking public road	State Traffic law	Sheriff
On neighboring property	Trespassing?	Sheriff
Water pollution		
Inadequate septic	Potential addition: Short-term rental must pass septic inspection before receiving use permit*	Varick Code Enforcement
Speeding		
	Request law-enforcement monitoring at high-risk times	State highways: State Police Other roads: Seneca County Sheriff
Quality of life		
Losing neighborhood feel of owner-occupied homes	Potential addition: Short-term rental permit. Limit on # permits	<i>New Varick enforcement position</i>

*This regulation would apply only to short-term rentals as part of the Zoning Code
Unless noted, the rules apply to all properties and is not specific to short-term vacation rentals
Items in italics would be new responsibilities.

Definition: Short-term rental is a property available to rent for stays of 30 days or less. These are subject to the Seneca County room tax.

Agricultural activities are exempt from noise ordinances and other local restrictions on normal agricultural practices, under the State Right-to-Farm law.

The Lakeshore Residential District has the most short-term rentals. This district also has particular priorities in the Varick Comprehensive Plan. In this district, we want to emphasize the enjoyment of a quiet, safe and uncongested lakefront experience. Some of the major threats to that goal are excessive density of housing, water pollution from inadequate waste systems, parking, high-volume and high-speed traffic, noise-generating activities.

In addition to this report, he provided a first draft of a Noise Ordinance prepared by the Planning Board for the Town Board's review and discussion as follows:

1. Title.

This chapter shall be known as "Noise Regulations of the Town of Varick."

2. Purpose.

In order to maintain peace, good order and safety for the people residing in and who are visitors to the Town, this chapter is intended to prevent unreasonably loud or disturbing noises which are of a character, intensity or duration as to be detrimental to the peace, welfare or good order of the people.

3. Public nuisance

By this Ordinance, the Town of Varick declares noise to be a public nuisance.

4. Definitions; standards for decibel readings.

As used in this chapter, the following terms shall have the meanings indicated:

AMBIENT NOISE. The background average noise level within an area, exclusive of extraneous sounds.

CONTINUOUS SOUND. Any sound that is not impulsive.

dBA. The abbreviation for A-weighted sound level in decibels.

FAST RESPONSE. The characteristic of a sound level meter which allows for accurate measurement of impulsive sounds such as a horn blasts, explosive sounds, firearm discharges or passing motor vehicles.

IMPULSIVE SOUND. Characterized by excursions of the sound pressure which exceed the ambient by six or more decibels, but that last two seconds or less.

INDUSTRIAL/AGRICULTURAL OPERATION. The production, fabrication and storage of man-made goods, the production, transformation and storage of energy in all forms, and farm equipment used in farming operations.

MAXIMUM SOUND LEVEL. The recorded or noted maximum room-mean-square (RMS) sound-pressure level noted using an instrument which meets requirements. Maximum impulsive sound shall be measured using the fast-response setting. Maximum continuous sound level shall be measured using the slow-response setting.

NIGHTTIME HOURS. Nighttime hours shall be the hours between 10:00 p.m. and 7:00 a.m.

NUISANCE NOISE. Noise that is plainly audible and creates a noise disturbance at the real property boundary.

REAL PROPERTY BOUNDARY. **The** property line along the ground surface, and its vertical extension, which separates the real property owned by one person or entity from that owned by another person or entity.

RECEIVING LAND. The property line of the real property where the sound is being heard and where appropriate level restrictions apply. In the case of any apartment, townhouse or condominium, the point of measurement is within the affected unit.

SOUND LEVEL. The quantity in decibels, measured using an instrument (ANSI S1.4-1983). "Sound level" is the frequency-weighted sound-pressure level obtained with fast or slow response.

SOUND LEVEL METER. An instrument designed to detect and measure sound-pressure levels and display this information in decibels, either in analog or digital form (ANSI S1.4-1983, Type 1 or 2).

5. Standards.

A. Absolute maximum. The following tables set forth the maximum permissible sound levels by a receiving land. Any noise source that produces sound in excess of those levels, as measured within the boundary of the receiving land, shall constitute a violation of this chapter. Noises below these limits may also be a nuisance under the ordinance.

Zoning District	Continuous sound: Measured with slow-response level meter.		Impulsive sound: Measured with fast-response level meter	
	Maximum Sound (in dBA)		Maximum Sound (in dBA)	
	in Day	at Night*	in Day	at Night*
Hamlet and Lakeshore Residential	70	65	75	70
Other Districts	75	65	80	70

*Nighttime hours shall be the hours between 10:00 p.m. and 7:00 a.m.

(3) Where ambient (background) noise level for receiving land exceeds the standards, the following maximum sound levels shall apply:

- (a) Any continuous sound which exceeds the ambient by 8 dB or more.
- (b) Any impulsive sound which exceeds the ambient by 20 dB or more.

B. Nuisance noise. Nuisance noise severity depends on the quality of the sound and on the ambient sounds. Noise limits based on sound level (dBA) do not address sound quality, so they are used as a baseline for objectional noise.

Standards to be considered in determining whether a noise disturbance exists shall include but not be limited to the following:

1. The volume of the noise.
2. The intensity of the noise.
3. Whether the nature of the noise is usual or unusual.
4. Whether the origin of the noise is usual or unusual.
5. Whether the noise is yelling or shouting and amplified music.
6. The volume and intensity of the background noise, if any.
7. The proximity of the noise to residences.
8. The time of day or night the noise occurs.
9. The duration of the noise.
10. Whether the nature of the sound is inherently annoying.
11. Whether the noise source is temporary.
12. Whether the noise is continuous or impulsive in character, such as fireworks or hammer blows.

6. Exceptions.

There shall be excepted from compliance with this chapter

all vehicles and machinery used in conducting an actual farm operation within the Town of Varick; vehicles used for delivery of produce, equipment or inventory traveling on state highways or county roads through the Town of Varick; vehicles and equipment operated by Town of Varick employees or contractors of the Town in the course of conducting Town business vehicles and equipment operated by employees of the State of New York; police, fire or emergency apparatus or any police, fire or emergency headquarters or station; required safety equipment, such as backup alarms; parades; contractors of the State of New York in the course of conducting state business such as snow removal; and farming operations.

Conditional exemptions are provided for Construction: construction during the daytime, while active construction is in progress. Mitigations should be put in place to minimize impact on neighbors, especially if the construction activity is prolonged (over 2 months).

Concerts and festivals. Events that occur a few times per year and last for several hours at a time, not after 10 pm, and are contained within the property.

These are permitted on the condition that the neighbors not find them too loud, too long, or too frequent.

7. Penalties for offenses; enforcement.

A. Any person, firm, partnership, corporation, or other party who violates any provision of this chapter shall be guilty of a violation and subject to a fine of not less than \$50 nor more than \$100 for the first offense. Any subsequent violation of the provisions of this chapter shall be a violation and subject to a larger fine. The imposition of any such penalty for the violation of this chapter shall not excuse such violation or permit the continuance thereof. The application of the above penalty or penalties for a violation of the provisions of this chapter shall not be held to prevent the removal of conditions prohibited by this chapter by such legal means as may be proper.

B. This chapter shall be administered and enforced by the Seneca County Sheriff's Department, the New York State Police or any law enforcement agency.

He also reminded the board the planning board had previously submitted a recommendation to amend the Dog Ordinance to include under Section 6 – Prohibition of Nuisance By Dog, letter (E) Defecating on public or private property, other than property owned by the owner or handler of the dog, unless feces are removed promptly and disposed of sanitarly.

Mr. Bjorkman briefly reviewed the items within the Noise Ordinance and noted the decibel levels were associated with parties and fireworks. The board discussed issuing permits to govern short-term rentals but noted that the development of said permit needs to address concerns and be enforceable. Mr. McCulloch expressed concerns about the proposed decibel levels and noted that chainsaws, lawn mowers and gun fire at a safe distance from a residence can exceed the levels set in this proposal. Mr. Fox reported that you can download an app to measure sound decibels. Mr. McCulloch cautioned that the ordinance needs to be reasonable and enforceable by the Code and Law Enforcement and not a tool for disputing neighbors to use against one another. Mr. Bjorkman indicated that Sheriff Luce has been asked to review these documents for his input. He noted this is the first draft and is open for suggestions.

Declaration Energy Center Solar Project: Wendy Marsh from Hancock Estabrook in an email to Mr. Hayssen reported that she was in touch with Mike Nozzolio, who indicated that the town will not be receiving the Preliminary Scope Plan until late summer. She will stay in touch with Mr. Nozzolio so we have a heads up when that document will be filed, as that will then trigger our deadline to submit the application for intervenor funds and the nominations for the ad hoc board member.

She also reported that B&L has experience in the Article 10 process. She questioned if the Board would like to coordinate interviews with MRB and with B&L so we know which consultant to ask to submit the application for intervenor funds. This will be at no cost to the town.

It was also noted that town never received further information from BQ Energy regarding their proposal to the town for solar energy.

Old Business, New Business, Correspondence:

Mr. Midiri reported that he still needs to meet with Mr. Hayssen regarding the Water Contract the Village of Waterloo has submitted. Mr. Hayssen reminded Mr. Midiri that he has met with the Village on this contract and requested revisions to the contract and has not received the revised contract for the town's further review.

A motion by Richard Peterson, seconded by Tom Fox and so carried unanimously to adjourn the meeting at 8:00 p.m.

Respectfully submitted:

Donna Karlsen
Varick Town Clerk