

June 1, 2021

The regular meeting of the Varick Town Board was called to order by Supervisor Robert Hayssen at 7:00 p.m. Present at this meeting were Councilmen Tom Fox, Eric Riegel and Richard McCulloch, Town Clerk, Donna Karlsen, Highway Superintendent, Ben Freier, Water and Sewer Operator, Ben Karlsen, Bookkeeper, Angela Testa, and Attorney for the Town, Joe Midiri. Absent: Richard Peterson

A motion by Richard McCulloch, seconded by Eric Riegel and so carried unanimously to open the public hearing on Local Law No. 1, of 2021, "Noise Regulations of the Town of Varick."

Supervisor Hayssen opened the floor for comment and when there was none, asked for a motion to close the public hearing.

A motion by Eric Riegel, seconded by Richard McCulloch and so carried unanimously to close the public hearing on Local Law No. 1, of 2021, "Noise Regulations of the Town of Varick".

A motion by Richard McCulloch, seconded by Eric Riegel and so carried unanimously to approve Abstract 6, General, Vouchers A0021-078 to A0021-083 in the amount of \$3,315.35, Highway, DA021-40 to DA021-042 in the amount of \$206.49, Varick Water District No. 1, Vouchers VW121-014 to VW121-16 in the amount of \$391.01, Seneca Lake Water District, Vouchers SWS21-044 to SWS-049 in the amount of \$1,178.67, Varick Water District No. 3, Vouchers, VW321-011 to VW321-014 in the amount of \$266.57, Varick Water District No. 4, VW421-019 to VW4-023 in the amount of \$5,334.93, Varick Sewer District No. 1, VS121-024 to VS121-025 in the amount of \$315.74, Varick Sewer District No. 2, SSS21-015 to SSS21-018 in the amount of \$4,074.78, South Seneca Ambulance, Voucher SAF21-005 in the amount of \$6,337.17.

Highway: Highway Superintendent Ben Freier presented to the board two quotes he received from Chemung Supply Corporation for drainage at Kings Corner's Road that Red Creek flows through. The quoted price for the aluminum box culvert is \$37,064.80 and for the concrete box culvert is \$40,900. Mr. Freier reported that to install the concrete culvert box, the provider is requiring an engineer's stamped drawing. The quote from Hunt Engineering to provide a stamped drawing was estimated at a cost not to exceed \$37,000 but could run more depending on what the provider requires. Mr. Freier discussed pipe size, calculated volume of water flow, DEC requirements, Soil & Water involvement regarding the flow of Red Creek and answered further questions presented to him pertaining to the proposed project. He noted that he wanted to apply for CHIPS funding which is time sensitive.

A motion by Eric Riegel, seconded by Robert Hayssen to authorized Highway Superintendent Ben Freier to spend up to \$50,000 to purchase an aluminum box culvert for the Kings Corner Road project.

Discussion: Mr. Fox is not in favor currently to move forward with this project without an engineer's stamped drawing. The board discussed liability concerns that may affect the town with or without an engineer's stamped drawings on all road projects completed by the town.

Mr. McCulloch sought a legal determination from Mr. Midiri, the town's attorney, regarding the town's liability. Mr. Midiri expressed his own opinion and asked the board to allow him time to consult with Attorney Steve Ricci.

Supervisor Hayssen asked the board for their vote on the motion on the floor which is as follows:

A motion by Eric Riegel, seconded by Robert Hayssen to authorize Highway Superintendent Ben Freier to spend up to \$50,000 to purchase an aluminum box culvert for the Kings Corner Road project.

Robert Hayssen: Yes
Eric Riegel: Yes
Tom Fox: No
Richard McCulloch: Abstained
Yes: 2 No: 1 Abstention: 1

The board agreed to hold a special meeting to discuss liability concerns expressed by Mr. Fox and Richard McCulloch. Mr. Midiri reiterated he would consult with Attorney Steve Ricci regarding the board's questions and provide Attorney Ricci's legal determination based on more than just an opinion to Mr. Frier within a couple days.

A motion by Eric Riegel, seconded by Richard McCulloch and so carried unanimously to hold a special meeting June 15, 2021, at 7:00 p.m. to discuss town liability on road projects, to review the King's Corner Road project and any other business that comes before the board.

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

Code Enforcement Report: Nothing to report.

Water and Sewer Report: Mr. Karlsen reported that he met with a candidate interested in the seasonal laborer position to assist with sewer and water projects. This individual is interested in learning about water and sewer and will be submitting a job application for consideration. Mr. Karlsen received approval from the board to hire a seasonal laborer to work up to 40 hours a week.

Water Operator Monthly Report for May 2021

- 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.
- Turned water on as needed.
- Answered questions dealing with each water district and sewer system.
- Called in Dig Tickets for upcoming projects.
- Changed meters.

- Cleaned shop.
- Fixed broken curb stops.
- Inspected new water service on RT 89.
- Installed new water service in Var 3.
- Ordered new parts for upcoming projects.
- Seeded and spread topsoil on lawns affected by water leaks.
- Changed Grinder pumps out.
- Wired new circuit boards in for sewer.
- Cleaned around hydrants, valves.

Varick Water District: Nothing further to report

Seneca Lake Water District: The Mormon church has not contacted Mr. Karlsen with flushing the hydrant at their location, but he has installed a meter on the hydrant. No further discussion has been held regarding the town's request for a 2" meter to be installed at the road to service the cabins.

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

Varick Water District No. 4: Yard surfaces have been repaired and seeded where water line maintenance and repairs were completed.

Varick Sewer District No. 1: Nothing further to report.

Varick Sewer District No. 2: Mr. Karlsen reported that he has been replacing grinder pumps and will continue to monitor the cause of their failure. He will be working with Bill Kolbeck to wire a new fan to draw fumes up into the calf hut in the back field and away from the sewer station.

He reported the Mormon camp will need to contact him to install the grinder pumps he pulled.

Town Clerk's Report: A motion by Richard McCulloch, seconded by Eric Riegel and so carried unanimously to approve the Town Clerk's Report: Supervisor: \$325, NYS Ag & Markets: \$18, Total Disbursements: \$343.

Minutes: A motion by Richard McCulloch, seconded by Eric Riegel and so carried unanimously to approve the minutes of May 4, 2021.

Planning Board: A review of the proposed "Responsible Pet Ownership Ordinance" to replace the current "Responsible Dog Ownership Ordinance" was completed with some questions on wording to be addressed by the town attorney prior to holding a public hearing.

The board approved to adopt Local Law No 1, of 2021 "Noise Regulations of the Town of Varick" as stated in the following resolution:

A resolution to Enact
Local Law No. 1, of 2021
“Noise Regulations of the Town of Varick”

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 June 1, 2021, 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 “NOISE REGULATIONS OF THE TOWN OF VARICK”, 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 June 1, 2021, 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 interest of the Town of Varick to adopt said Local Law; now, therefore, be it

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: Tom Fox
Passed: Unanimously

Local Law No. 1 of 2021 “Noise Regulations of the Town of Varick” is as follows:

NOISE REGULATIONS OF THE TOWN OF VARICK

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, hammering, fireworks 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 such as a Digital Sound Level Meter, or the NIOSH sound Level Meter App for a cell phone. 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) in Day	Maximum Sound (in dBA) at Night*	Maximum Sound (in dBA) in Day	Maximum Sound (in dBA) 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;

Sounds created by watercraft on Seneca or Cayuga Lake, because they are covered in New York State Navigation Law;

and farming operations, because they are covered in the New York State Right to Farm Laws and Department of Agriculture and Markets regulations.

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.

Lawn and garden equipment. Mowing the lawn near the property boundary as part of regular maintenance, and similar transient operations. However, poorly muffled equipment, or excessive use may be considered a nuisance.

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 fine of not less than \$100 nor more than \$500. 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.

8. Effective date

This Local Law shall become effective upon filing with the Secretary of State as provided under the New York State General Municipal Law.

Motion: Richard McCulloch
Seconded: Tom Fox
Roll Call:
Robert Hayssen: Yes
Richard McCulloch: Yes
Eric Riegel: Yes
Tom Fox: Yes
Absent: Richard Peterson

Old Business, New Business, Correspondence:

Supervisor Hayssen and Mr. McCulloch will contact Assessor Anne Morgan for her input regarding the proposed local law for senior and low income disabled sliding fee scales and report back at the July meeting.

A motion by Richard McCulloch, seconded by Eric Riegel and so carried unanimously to adjourn the meeting at 8:15 p.m.

Respectfully Submitted:

Donna Karlsen
Varick Town Clerk