

June 7, 2021, Regular Board Meeting

The first regular meeting of the Kingsbury Town Board was conducted on June 7, 2021 at the Kingsbury Town Hall at 6 Michigan Street, Hudson Falls.

MEMBERS PRESENT: Dana Hogan, Supervisor  
Richard Doyle, Councilman  
William Haessly, Councilman  
Jane Havens, Councilwoman  
Dan Washburn, Councilman

OTHERS PRESENT: Todd Humiston, Enforcement Officer  
Michael Graham, Highway Superintendent  
Jeffrey Meyer, Town Attorney  
Dave Perkins, Canalway Bike Trail  
Mike LaRose, Highway Employee  
Jim Lindsay, Retired Kingsbury Supervisor  
Town Residents:  
Tim Havens, Lorraine Forcier, Caitlin & John Anderson,  
Maggie & Mike Murphy, Elena Dochak, Amy Kuster,  
Scott Lindsay, Richard McQueen, Michael Campbell II

The meeting was called to order at 7 p.m. by Supervisor Hogan and opened for the order of business with the Flag Salute led by Councilman Haessly.

The minutes of the May 17, 2021, Town Board Meeting and the May 25, 2021, Special Meeting were accepted as submitted by the Town Clerk with a **motion** by Councilman Haessly seconded by Councilwoman Havens and carried by a vote of 5 ayes.

Dave Perkins gave an update on the Bike Path which was declared open at the end of December 2020; the bike path is not complete there is still finishing work to be completed. Paving work was done in Dunham's Basin and a section of the trail from Route 149 to Smith's Basin up to Baldwin's Corners Road. There is not much left to do a lot of landscaping work has been done to clean everything up but is pretty close to being finished. The use of the trail has steadily climbed in the spring. Snowmobiles were on the bike path in the winter; with six miles of maintained trail with two bridges; this is allowed with a permit from Canal Corp. The Canalway Trail effort has been done by a working group that has been around for about 20 years and it has been very slow progress getting the Champlain Canalway Trail in place. Along came the Empire State Trail and within two years every problem encountered in getting the bike path through to the Town of Fort Ann with the biggest obstacle being Dunham's Basin; but with the Empire State Trail funding and the fact they follow the same route as the Champlain Canalway Trail the obstacles were gone. A tunnel was built under State Route 196 and two bridges were put in and has been black topped in that area. People have complained about Towpath Road due to a lot of loose dirt and stones. The working group has formed their own marketing committee to help communities be prepared for an onslaught of bicyclists as they become aware of the trails. At this time, the working group is targeting the communities of Schuylerville, Fort Edward and Fort Ann and eventually include Whitehall. The marketing committee is asking for participation from each town and have sent a letter to the Town. Dave Perkins would like to continue represent the Town to the working group and include the marketing aspect of things. Schuylerville and Fort Ann have posted a board at the entrance to the community that is a map of the downtown area showing the businesses that are there to welcome them. Mr. Perkins stated how is the bike

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path going to benefit Kingsbury and Hudson Falls. Hudson Falls is a distance away from the Champlain Canalway Trail and the only link is through the Feeder Canal. There is a project with the Glens Falls Transportation Council to come up with signage possibilities to put down by the T, where the canal meets the Champlain Canalway Trail, so people will know you can turn left and go to Hudson Falls. The trail goes by an ice cream shop, but there are other businesses that may want the bicyclists to go to them. That will be part of the marketing and hopefully the Town and the Village have input to the working committee. The working committee would like to make the communities bike friendly.

Resident John Anderson, a resident of Smith's Basin, stated there has been an increased presence of individuals that are suspicious. The bike trail is great but may bring a lot of uninvited people and should be on the radar. Supervisor Hogan will contact Sheriff Jeff Murphy and request they increase patrols in the area and hopefully this will alleviate some of the concerns. Mr. Anderson stated he always thought the bike trail would invite bad news; he knows personally through law enforcement that a lot of drugs are coming down the pathway from New York City. Supervisor Hogan asked Mr. Anderson to share the name of the law enforcement officer. Mr. Anderson would not share the name of the law enforcement officer.

Supervisor Hogan asked Dave Perkins if there were any afterhours limitations on the bike trails. Mr. Perkins stated he is not aware of any time restrictions for people walking or biking but once it gets dark there is no reason for anyone to be on the trails. Supervisor Hogan asked if the Empire State Trails had any restrictions; Mr. Perkins does not recall seeing any restrictions.

Mr. Perkins stated the construction company working on the bike trail has had stuff stolen and hopefully when they are done there will be no attraction.

Mr. Anderson suggested signage to indicate use of the trail from dawn to dusk. Supervisor Hogan will contact the Empire State Trail to see if there is signage; he has seen them elsewhere.

Mr. Campbell stated there are people coming from Albany that are transporting drugs; Supervisor Hogan stated allegedly. Mr. Campbell stated someone should be there. Supervisor Hogan stated he will make some phone calls to see if the issue could be addressed.

Attorney Meyer stated the Empire State Trail is open from dawn to dusk, he is not certain if there are any signs. Highway Superintendent Michael Graham will contact Jeremy DuPont to see if signs could be put up on the bike trail.

Councilman Washburn asked Mr. Perkins if there was any projection as to how many bicyclists will be using the bike trail. Mr. Perkins stated they expected 70,000 annually not knowing how long it would take to reach that number. The numbers would not be that impressive right now because nobody knows about it.

Supervisor Hogan thanked Dave Perkins for the update on the bike trail and appreciates the work he did to get the path.

Jim Lindsay asked about the status of the path from Fort Ann to Whitehall. Mr. Perkins it is designated by the Empire State Trail to follow Clay Hill Road, Dewey Bridge Road for a short distance, South Quarry Road then a new trail was opened across Great Meadow Prison to North Quarry Road then into Comstock out to Route 4, then Route 4 all the way to Canada. Eventually it will go into the Village of Whitehall; there is a grant study being done at the County to get a trail shovel ready from Comstock to Whitehall.

Michael Campbell asked if the trail could be made accessible to four-wheelers and side by sides, four strokes only. Supervisor Hogan stated this has already been asked but we would have to rely on local law enforcement to enforce it.

Supervisor has picked out names for appointments to the Right to Farm Law Grievance Committee. The Town of Kingsbury has a Right to Farm Law which requires a Grievance Committee to address grievances in the Town. The committee must consist of 2 farmers, 1 Ag business owner, 1 Town Board member and one at large member. He proposed the following: Farmers - James Lindsay and Denise Dickinson; Ag businessman – Tim Havens; Town Board Member – Bill Haessly and at large member Lisa Catalfamo Flores. A **motion** by Councilman

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Washburn seconded by Councilman Doyle and carried by a vote of 5 ayes to appoint the above named to the Right to Farm Law Grievance Committee.

**PUBLIC COMMENT:**

Supervisor Hogan opened the meeting to Public Comment due to the number of residents present to address their concerns with events that had occurred in the last few weeks.

Supervisor Hogan received a letter addressed to the EPA from Town resident Maggie Murphy in regard to what had occurred as follows:

June 6, 2021

Dear Alia, USEPA, Region 2

I am writing to you about the details discussed pertaining to the biosolids stockpiled at location of 2366 Route 149 Hudson Falls, NY 12839. You provided us with information to guidelines as outlined by EPA, where we read section 503 and the chapter book, specifically chapter 5.

\*Mid-March, Residents of 430 Kingsbury Road, Hudson Falls, NY 12839 started to note 2 piles of dark colored material appearing at the above address.

\*Initially, Mike and Maggie thought a carcass was near our home but quickly found out that it was actually reclaimed human waste also known as biosolids.

\*Early April 3 more piles appeared, being stored only a few feet from Rout 149 and the closest house of John Anderson.

\*May, Maggie Murphy called the DEC to request clarification about biosolids. Washington County DEC was not helpful at all and clearly stated "there is nothing you can do; the smell will go away, unless there is a health issue and legal action can be taken."

\*As the weather started getting warmer the odor got much worse especially with a South wind direction.

\*Mike Murphy called Todd Humiston, Kingsbury Town Code Enforcer. He came to our property and spoke with Mike then went to look at the site. He informed Mike that more research would have to be done. An hour later he called back and informed Mike that he spoke with the DEC, and they told him permits are required. He encouraged Mike to call DEC and file a formal complaint.

\*Mike Murphy called DEC and they refused to accept or file a complaint despite health issues noted.

\*Mike Murphy called DEC as letter of health concern was written for Maggie Murphy her physician. He was told that an officer would come out, but nobody came.

\*As the month of May progressed, and the weather became hotter it became clear that the farmer was in no hurry to remove the piles. The smell became very bad, and we avoided any normal Spring activities outside our house and all windows had to be closed.

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\*Mid to late May the smell became unbearable, and it became clear that we the residents of 430 Kingsbury Road suffered from asthma exacerbation requiring treatment of steroids, antibiotics, cough suppressants, and rescue inhalers. Headaches, burning eyes and respiratory challenges were evident with all residents.

\*During the last week of May, our quality of life had deteriorated significantly as physical and emotional health required treatment, loss of employment due to health issues, inability to enjoy any life events celebrations inside or outside of the house. All windows remained closed, the odor permeated our home, the basement was the worst the air was heavy and difficult to breathe in both indoors and outdoors.

\*May 29, Maggie Murphy spoke with her brother Valentin Kuster, to speak with Dickie or Freddie Burch to come to a friendly solution about this situation. Dickie laughed at my brother, and he said 11 more loads would be coming.

\*May 30, Maggie Murphy used Facebook as a platform to inform Washington County that biosolids are being stored in Washington County and not properly dispersed.

\*May 31, a petition was started and signed by all residents living close to the piles of biosolids. All residents complained of a horrific odor, many suffered headaches, runny nose, burning eyes and respiratory illness.

\*June 1, Maggie Murphy called Todd Humiston and explained that the current living situation is unacceptable. He shared that he spoke with the DEC, and all was legal. To my knowledge the DEC did not review any details, visit the site or speak with anyone.

\*Town of Kingsbury Agree to a meeting including an Ag Committee grievance 65-9 to discuss the biosolids situation.

\*June 2 letter for Maggie Murphy, letter to the Town of Kingsbury and petition was delivered to the Town of Kingsbury.

\*June 2, Town Supervisor Dana Hogan call Maggie Murphy. He was interested in my concerns and appeared supportive to assist in this situation.

\*June 2, a gas leak was called in from Connor Lane, approximately half a mile from the pile site, the Kingsbury volunteer fire dept. Responded to the call, only to discover that it was the smell of the piles that alerted a worried resident.

\*June 3 and June 4 Maggie Murphy contacted the Post Star, local Newspaper to alert the residents of Washington County residents that this new practice and many rules were broken.

\*June 3, Town Supervisor confirmed that biosolids were being shipped from a treatment plant from MA and brought to 2366 Route 149 by Casella Waste Management to be used as fertilizer for farming purposes. Clearly best practices were not completed as the piles of biosolids remained untouched for months. Somehow Dana managed to speak with Casella Waste Management and Dickie Burch. The agreement was to remove the piles and properly dispose of the piles. Paul, from Casella told the residents and town that he would dispatch trucks and loaders to remove the material completely. Despite this agreement the Burch Family started to load the biosolids into the cow manure spreader and started to disperse to land owned by the Burch family, driving

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across a few towns. They were told by the Town to cease and desist immediately as this was not agreed on. They then stopped and a dumpster was brought to the site where it was filled and left overnight. The DEC told Town Supervisor Dana Hogan that the cleanup would be supervised. DEC was not at the site as noted in person and via video taping.

\*June 4, the dumpster of biosolids was removed and dumped at the Burch farm in Whitehall as evident in the video.

\*June 6, John Anderson, the family closest to the piles received his water test results, positive for coliform and extremely high levels of e-coli. Testing was completed by JB3 Consulting, 553 State Route 149 Suite B, Lake George, NY 12845 and “the sample had a heavy growth to the point where it covered the plate and could not count individual colonies”. John and his wife have young children and are expecting another baby in 3 weeks. They are told to not drink or bathe in their water. Other residents are now going to have to test the water at their own expense.

\*The Burch Family, DEC and Casella Waste Management have failed the residents of Kingsbury by their negligence to protect the well-being, physical and emotional health, lack of support as clearly the biosolids were not properly dispersed of. Town of Kingsbury Supervisor, Dan Stec NY State Senator, Carrie Woerner Assemblymember for the 113th District including Washington County. As the piles of biosolids sat for months, the stench became intolerable, and vapors came from the piles. As concerned tax paying residents, many families were impacted by this practice. We have no answers to our questions. How long can a pile of biosolids sit for months before it is deemed not a proper form that was taken from the waste treatment facility. We want to know that proper care was taken in this situation which does not appear to be the case as outlined by both DEC and EPA. DEC and EPA both have documented facts, but it appears that the DEC does not wish to support and uphold the rules as outlined in order to protect the people. As Pictures and videos were taken as encouraged by Alia Roufaeal, EPA, Region 2.

We appreciate any assistance in this matter. Thank you, Maggie and Mike Murphy. 430 Kingsbury Road, Hudson Falls, NY, 12839. 519-480-8686. [mmmurphy1015@yahoo.com](mailto:mmmurphy1015@yahoo.com)

Supervisor Hogan stated it was a tragedy that should not have occurred and apologized for the length of time it took to clean it up. Maggie Murphy requested that a Grievance Committee be appointed to hear the issue about getting the site cleaned up and has questions about the most recent events. Supervisor Hogan asked if she was satisfied with the cleanup or would she like the Grievance Board to address this or perhaps meet with Mr. Burch as well as yourself and the group. Ms. Murphy has no interest in meeting with Mr. Burch because that has been addressed by her brother Valentine Kuster. She would like to include the Anderson’s because they have been impacted the most and it is responsible for Mr. Burch to clean up properly. The concern is what is this material that has been sitting for months and where is the DEC to determine if this is properly cleaned up; It could impact 4 wells and the safety of humans. Supervisor stated at 1:30pm – 2:00pm the Department of Health and the DEC were going to meet to address the concerns and how to address them further; particularly the well. Ms. Murphy asked if all the Board members were aware of what happened, Supervisor Hogan stated he has emailed the Board with all details of the incident and has shared the letter she sent to the EPA.

Supervisor Hogan has sent a letter to Senator Dan Stec, Assemblywoman Carrie Woerner and Ag Commissioner Howard Ball requesting their support in reviewing laws related to biosolids.

Supervisor Hogan stated Casella needs to do a better job on managing their product; the product was dumped knowing it wasn’t being distributed.

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Resident John Anderson stated that was not true, Casella did not dump that product knowing that it wasn't being used properly, that is why it got cleaned up within 24 hours.

Supervisor Hogan asked where Casella dumped the product; Mr. Anderson responded it was dumped in Fort Ann.

A discussion about the delivery of biosolids and other details about the product began with comments from John Anderson and Tim Havens. Tim Havens stated the product has requirements that it cannot be stored or distributed within 200 feet of a well and cannot be used 25 feet of an adjoining property line. Supervisor Hogan asked where he got the information from; Mr. Havens responded it came from Casella. Enforcement Officer Humiston is unable to get any information from Casella. Supervisor Hogan asked Mr. Havens to get the information from Casella in writing.

Maggie Murphy stated aside from everything else we all know it was mismanaged and would like to move this along and come to an agreement that they are not going to tolerate this anymore. She does not care who did it but does not want to repeat the episode.

James Lindsay stated the word incorporate does not mean spreading; incorporate means mixed with the soil.

John Anderson stated incorporate means get it in the ground; Casella does not want this sitting around. He asked why is this in our town, people are able to obtain it and it created the problem it did. There is an unspoken rule with the seller and the end user, which is the farmer, to get it in the ground and why is there no regulation. John Anderson stated initially he suggested buying a big tarp to cover the pile. Maggie Murphy stated her disagreement and stated this was mismanaged by Casella and the farmer.

Mr. Anderson also stated Casella will no longer do business in Kingsbury, NY.

He also stated he is 100% the most impacted by this incident. Supervisor agreed he was definitely the most impacted and he sympathizes with what he is dealing with; he was there, and it was awful.

Mike Murphy stated he did a lot of research and there are a ton of EPA regulations which are not being followed; there is no one to enforce the regulations.

Amy Kuster is a resident whose husband and family have farmed for many years in Kingsbury and stated as a resident the right to farm is very important, and there are many things that neighbors of a farm tolerate. The incident was incompatible with life on the farm or in the area and the Anderson's are the most affected. People using the bike path were affected, people driving to work were affected. She has noticed more of these black piles on other farms and hopes the grievance committee can put into place steps that would prevent this from happening again, not only in Kingsbury. Many of the goals that we have as a community are impacted negatively by this practice. It is not the same as spreading of manure or clearing of hay or plowing or making the road inaccessible because of heavy equipment. It makes you want to sell and move away.

Caitlin Anderson stated they could not put their house on the market for \$20.00 and their quality of life is gone.

Scott Lindsay asked what the next detailed step was for the Board, what is the future of the ground it was spread on and will testing have to occur monthly.

Supervisor Hogan stated the Town is waiting on the response of the joint meeting with the Department of Health and the Department of Environmental Conservation and there should be some kind of a feedback in 24 hours. It is his hope that the wells are taken care of or addressed in some capacity. The Anderson's are in a bad situation right now.

Caitlin Anderson is angry because she is bathing her 14-month-old son in e-coli water.

Supervisor Hogan has asked that our state representatives review the regulation and the enforcement of biosolids. It sounds like there are regulations and laws on the books The DEC said the product is legal and there is nothing they can do; but the storage and application does not seem valid. Supervisor Hogan would like to see a comprehensive review of the sale, the transport, the distribution, the management of the storage and the application of the product. The Town of Kingsbury may outlaw the use of this product in our Town with the support of the Town Board.

John Anderson stated when Casella showed up in his driveway to remove the pile of biosolids, the driver told him he was the most affected person by this. The driver stated this product is designed to be in the ground in 3

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days, it is an unspoken thing; 5 days if the weather is bad. The product needs to be in a rubber-sealed tail-gated truck, it needs to be covered and they have a permit to do this coming from Massachusetts. The product was moved in 1970's, 1980's manure spreaders, in an open spreader and in a personal dump trailer owned by the Casella worker. The product was hauled 6 miles through our community in an uncovered roll-off and then dumped in another community. The permit to handle this was completely disregarded. The mishandling of this product is on video.

Caitlin Anderson stated their 14-month-old son has not been feeling well and will be tested for e-coli. They are defeated and can't live in their home because they have no water.

Councilwoman Havens asked the Anderson's to document everything, your feelings, your concerns, and the appointment with your child. Councilwoman Havens suggested they read an EPA document Part 503 which could be searched on a computer. It is a 180-page document which states there are no regulations for EQ Biosolids, which is what Casella sent, unless set by the EPA or state permitting authority on a case-by-case basis for bulk biosolids to protect public health and the environment. They can say there are no regulations until it becomes a public concern. Councilwoman Havens suggest they contact the DEC constantly, let them know how you feel, document everything and have them test your well.

Councilwoman Havens asked the Board members to ban the use in Kingsbury until the EPA has completed a proper review of the toxins and pathogens in the biosolids. In the 503 there is a list of the heavy metals, the product cannot be spread if the heavy metals reach a certain level.

Tim Havens stated a farmer in the county that uses this product said Hartford has an ordinance against the use of it. Enforcement Officer Humiston stated sludge, this is not considered sludge. A farmer in Greenwich had this product delivered in November, ground conditions did not allow it to be spread, it froze, thawed in the spring and people for a mile thought there was an LP gas leak.

Mr. Havens asks the Town Board to pass an emergency law against the use and importation of human sludge bio-waste to be spread on the fields in the Town of Kingsbury. He also suggests the Town Board, the Anderson's and everyone in attendance implore Casella's to drill a deep well for the Anderson's; have Casella pay for it, they do not need the bad publicity. This is an emergency crisis which be dealt with immediately so the Anderson's can move on with their life. Water is a necessity, not a luxury.

A discussion followed about the depth of wells.

James Lindsay stated when there was an issue on Harrison Avenue the state provided a water trailer.

Maggie Murphy clarified that it was not Casella or Dickie Burch, it was Dana Hogan, Todd Humiston and the Town that moved it along to have the pile removed and she appreciates it. She is concerned that the farmer will not stop bringing the material from his place back to his property in Kingsbury.

Supervisor Hogan asked Attorney Meyer the likelihood that the Town could draft something quickly to get this approved; is a public hearing required or can we do to cease and desist order.

Attorney Meyer stated a Public Hearing is required; the Town could enact a moratorium with no notice. He has not researched the legality or enforceability of such a moratorium, so that may not work as a quick fix.

Washington County has been composting human waste in Kingsbury for a long time and is that biosolids?

Supervisor Hogan replied that it would be, but not land application. It is mulch which has a regulated process which is overseen by a lot of people. Attorney Meyer would like time to research to make sure that a law is necessary and proper and properly drafted to be focused on the issues and to know what is being regulated.

Councilman Haessly stated the situation falls under public nuisance just from the odor.

Attorney Meyer stated it is a private nuisance, the impacted landowners could sue. There is not a hard and fast rule that when 3 properties are impacted it becomes a public nuisance.

Supervisor Hogan stated that the public nuisance law would allow a notice of remedy of 30 days. A resident stated 30 residents signed a petition which would make it a public problem.

Enforcement Officer Humiston there was fireman for an LP gas leak response and there have been police responses so it would fall under the public nuisance law. There is also a right to farm law that would require for

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the grievance committee to meet. The farmers get special treatment, some leeway, when it comes to the Town's Public Nuisance Law.

Councilman Washburn asked if the Board could put on a moratorium effective immediately and let the farmer know the Town has that and, in the meantime, the Town Attorney does research. It would be enough to let the farmer know that we are not going to allow it to be spread while the Board makes it a law in the books.

Enforcement Officer Humiston the biosolids are everywhere and they are used by Disneyland, Disney World, probably in most of your gardens, the local landscaping companies. It is sold at Home Depot and Lowe's. If applied properly, he thinks it is a large-scale project. Casella made a lot of comments and minutes later Casella was doing the opposite. Police and fire response; this is a large-scale issue due to mismanagement. Casella did not fix the problem; Casella moved the problem to a neighboring community and made it their problem; 1200 cubic square yards still has not been utilized. He feels the Board should act on this and pass a law that is enforceable.

Supervisor Hogan stated he believes there are Towns in the State of New York that have passed laws.

Maggie Murphy stated she has done research and the State of Maine has banned many because agriculturally it has affected farmers; their blood contents are high in metals; carcinogens. Cows have died; there are companies like Heinz, DelMonte, who are refusing to buy the products; but it goes back to the mismanagement of the farmer and his buddy deal with Casella. She does not want this product in her backyard.

Supervisor Hogan stated the Town has addressed the problem; but he cannot promise the farmer will not spread the product in a field. He would prefer to get the law correct; allow Attorney Meyer to do some research, rather than try to do something on an emergency basis unless the Board proposes a moratorium.

Councilman Haessly stated in the meantime the people need help with the water and is there a way to supply them with a tank.

Supervisor Hogan asked Highway Superintendent of Highways Graham responded they have a non-potable water tank. Superintendent Graham will reach out to FEMA.

Councilwoman Havens stated Rosick's has tanks, but they are not clean yet.

Councilman Haessly suggested contacting the National Guard who has water buffalos.

Councilman Washburn suggested contacting FEMA for a water tank because there would be no expense, someone would have to pay Rosick's for it.

John Anderson spoke with Sam Hall, Washington County Chairman of the Board of Supervisors, and told him what was going on. He believes there are laws about this style fertilizer, possibly not this specific style. Mr. Anderson is concerned the product cannot be stopped with one law because the product can be modified and named something else that may be acceptable.

Tim Havens stated anyone that is buying this product in Washington County is not paying the full value of the trucking from Quincy, Massachusetts, so that means it is being subsidized probably by the municipality where it is being created in their wastewater treatment plant. The product is then pelletized and as far as he is concerned it is a bad product and a bad idea for us to condone it in anyway.

Word is the farmer has piles of the product on his primary farm in Kingsbury. Mr. Havens asked how much of the product left on a Casella Organics truck the other day to be dumped in Fort Ann. A resident stated four loads left illegally without a tarp. The discussion continued.

Mike Murphy asked if the Town had taken into consideration the possible impact on the Champlain watershed.

Supervisor Hogan stated it had been mentioned to the DEC and EPA.

Councilwoman Havens stated if it is within 33 feet of a US waterway, including creeks it is something the EPA would be on right away.

Richard McQueen lives about a mile north of the Anderson's. The old canal goes right behind his house, the water smelled and was gray like he had never seen before. The discussion continued.

Caitlin Anderson stated the product is organic and should be stored where it is cool, but when it sits for 3 months in 90-degree weather, baking in the sun, steaming, and raining the product becomes something it is not anymore. The product then contaminates everything in its path and is no longer an organic product.

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Supervisor Hogan stated the name of the company is Casella Organics, but they do not use it in the product description, and he does not think it is actually organic.

Caitlin Anderson stated when they received the results of the water testing her husband called Paul of Casella. Paul stated it did not come from them because they are organic, the results indicate bacterial growth which takes us off the hook.

Councilman Haessly is concerned it is a dangerous product if it goes into the soil used to grow hay, corn and crops. Sewers have infiltration of salt, oils that come from vehicles and some sewers are tied into stormwater sewers.

Caitlin Anderson stated we know for a fact the product was mishandled by the farmer, we know for a fact the way it was shipped from Point A to Point B was mishandled, Casella said it was. She asked if the farmer could be issued a citation for not having the product in the ground in a timely manner and for not following the regulations on the Right to Farm. She asked for disciplinary action to the farmer who is not being held accountable. The Town does not have the ability for disciplinary action to the farmer.

Enforcement Officer Humiston stated the laws are EPA Laws which the State cannot enforce. He spoke with someone from DEC in Region 5, he admitted more laws are needed at the State level that mirror the EPA laws. John Anderson would like a copy of the permit for the transport of the product. Supervisor Hogan will try to get a copy of the permit. Supervisor Hogan requested a copy of the MSDS (material data sheet), and Casella did not respond.

Attorney Meyer stated to the extent permits are required whether it is DEC, EPA, whomever the regulatory is all those permits are public record and are available to anyone. Attorney Meyer explained if he sent a letter to the Town Clerk, she has 5 days to reply, she can reply I will get you the document in a reasonable amount of time which could be 8 months or 1 ½ years. The Attorney will do everything he can to get all the necessary record. Jim Lindsay suggests time be spent fixing the Anderson's problem. The Town Board needs the legislation, we need to protect the Town, but it is going to be a long process which will take more than two weeks and just because you have a law it does not mean the law cannot be contested. Supervisor Hogan feels rushing a moratorium is not going to accomplish what the Board wants to do. Attorney Meyer stated the Board needs to determine the definition of biosolids, then the law can follow.

Caitlin Anderson stated they would be the number one step to get things going because their well is positive and now, they must do this legally. Once they prove where the e-coli came from with an environmental lawyer, which will cost them a fortune, it will be easier to pass a law.

Councilman Haessly suggested the Anderson's concentrate on getting clean water with a filtration system and the system could be installed quickly. Councilwoman Havens stated the first goal is getting good water.

Tim Havens stated it was not fair the Anderson's to dig into their own money to pay for an attorney. Someone must advocate for them. They were turned down by two attorneys to fight their case. Casella should stand up and take care of these people.

Supervisor Hogan stated he did send a text to John Kelly to take into consideration what they had done to this neighborhood.

Caitlin Anderson stated they are not owning it and she hopes this does not happen to their friends or neighbors. A resident asked to be updated so they would like accurate information, so they know what is going on.

Councilman Haessly suggested the residents provide their email on the sign in sheet.

Scott Lindsay stated with the ever-changing substance the Town may not receive an MSDS sheet with information the Town wants.

Supervisor Hogan stated he doubts if the Town receives anything at this point. Unfortunately, they are not a public office, and they don't have to share it with the Town.

James Lindsay stated they won't refuse giving the information, but it takes a lot of time.

Maggie Murphy stated she is hopeful that Alia of the EPA is going to be helpful. Supervisor Hogan stated she seemed very interested, in what happened. Alia told Maggie Murphy not to let anyone bully her. Mike Murphy

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stated he thinks Alia was referring to the DEC. He attempted three times to make a formal complaint to the DEC and they absolutely refused.

Supervisor recommended everyone file a formal complaint to the DEC. Mike Murphy again stated DEC refused to accept his complaint. Supervisor Hogan does not understand how the DEC can refuse to accept a complaint. Enforcement Officer Humiston suggested they email Assemblywoman Carrie Woerner's office to report that DEC is refusing to accept their complaint. Councilwoman Havens suggested they contact Congresswoman Elise Stefanik's office for the EPA.

John Anderson asked if they could use the petition that was signed as a formal complaint. Supervisor Hogan suggested a letter be drafted and everyone sign it. Enforcement Officer Humiston stated it needs to be specific with their concern with their property. Mike Murphy stated he had a doctor's note about health issues caused to his wife had due to her asthma and they refused to allow him to send it to them. The DEC said they would send an officer out, but nobody ever came.

Councilwoman Havens asked John Anderson if he had a sample of the biosolid. Mr. Anderson stated he has a sample that he got off the road. She stated she has information from Cornell about submitting a sample so they can test for heavy metals at a \$30.00 charge. If the test results indicate the heavy metal count is too high that could be turned over to the EPA.

Enforcement Officer Humiston stated the DOH does have a way to pinpoint where the contamination came from. Mr. Anderson stated he was told it would take multiple test samples through the yard.

Time Havens formally requested the Board invite Casella to the next Town Board Meeting. Supervisor Hogan stated at the next Town Board Meeting, a Public Hearing is scheduled but he will try to get them at a meeting. John Anderson stated John Kelly of Casella has interest in discussing anything that happened in the Town of Kingsbury. Supervisor Hogan suggested John Kelly stay away, a cooling off period was needed and he agreed, but he did state he would attend the meeting. John Kelly is the Regional Director of Sales for Casella. Supervisor Hogan stated he would invite Casella to a meeting but feels it would be an infomercial about the safety of the biosolid, but he is not convinced they will show up. Supervisor Hogan stated no one in the room is an expert on the product they are pushing. He would like has someone from Cornell Cooperative Extension or someone from the Albany EPA to join the Town in a meeting. Supervisor Hogan spoke with Aaron Gabriel of the Cornell Cooperative Extension who endorses the biosolids product and believes it is safe to use. He also said there were limits on application and suggested you don't want to apply the product where there are homes because of the smell. The farmer said he would follow up to get a better idea of where they are supposed to use it.

Supervisor Hogan does not want a meeting with Casella to be a violent issue; everyone is very angry, and he fears it could potentially turn into a violent issue if emotions get out of hand. He would like to present everything in the appropriate form and know the right questions to ask. He would like to have the permits in hand and know what the law allows and address it with them. He emailed Jeff Weld, the Director of Community Engagement for Casella requesting for a phone call to discuss the management and distribution of the product, but he will not call him.

At 8:49 PM the Board took a recess.  
The meeting resumed at 8:54 PM.

Supervisor Hogan reported Todd Humiston has notified the Town he will no longer be providing cleaning services for the Town Hall. Mr. Humiston has made a recommendation, that Mike LaRose is willing to assume the role if the Board is interested. It would be an added position for him as he works with the Town DPW, for the same fee that Mr. Humiston received. A **motion** by Councilman Washburn seconded by Councilwoman Havens and carried by a vote of 5 ayes for Mike LaRose to provide cleaning services for the Town Hall at the same rate of pay received by Todd Humiston.

<https://www.kingsburyny.gov>

June 7, 2021, Regular Board Meeting

**TOWN CLERK REPORT:**

The first Town Board Meeting in July is scheduled for July 5, 2021; Town Hall is closed in observance of the Fourth of July. The Board will discuss at the next meeting if the meeting should be re-scheduled. Notice was received from the Washington County Public Health that rabies clinics will be resumed with clinics scheduled at the Town of Kingsbury Highway Department on October 2, 2021, and November 9, 2021. A notice will have to be prepared for a Solar Workshop on Thursday June 24, 2021, at 6:30 PM. Maria McCashion NYS Archives has scheduled a visit to Town Hall on June 22, 2021. Her last visit was in December 2019 before COVID-19.

**HIGHWAY REPORT:**

Supervisor Hogan received the following letter from the NYS Canal Corporation supporting a speed limit reduction on Town Path Road:



**NEWYORKCanal**  
STATE

ANDREW M. CUOMO  
Governor

JOHN R. KOELMEL  
Chairman

BRIAN U. STRATTON  
Director

April 26, 2021

Supervisor Dana Hogan  
Town of Kingsbury  
6 Michigan Street  
Hudson Falls, NY 12839

Re: Towpath Road

Dear Supervisor Hogan,

June 7, 2021, Regular Board Meeting

I am writing to express my support for a traffic study to evaluate a speed limit reduction on Towpath Road in the Town of Kingsbury. With the completion of two new Empire State Trail (EST) segments connecting to Towpath Road at New Swamp Road and underneath State Route 196, along with routing of the EST on Towpath Road between these points, bicycle and pedestrian traffic has seen a marked increase in recent weeks. Because it is a dirt road, Towpath Road does not have any clearly delineated bike lanes or shoulders for pedestrians. The safety of trail users in this area warrants a closer look at the situation and a possible reduction in the speed limit.

Towpath Road lies on Canal Blue Line lands under the jurisdiction of the Canal Corporation. However, the Town maintains the road as a local highway under a use and occupancy permit from the Canal Corporation. I also understand that Towpath Road is listed in the Local Highway Inventory for Washington County. As the underlying landowner, the Canal Corporation supports any efforts by the town and county to review Towpath Road and adjust the speed limit to create an environment that is safer and more welcoming for trail users.

If you require additional information from me while pursuing this matter, please do not hesitate to contact me as needed.

Sincerely,



Highway Superintendent Michael Graham is seeking a resolution for permission to request a speed limit reduction on the Towpath Road. A **motion** by Councilman Doyle seconded by Councilman Washburn and carried by a vote of 5 ayes granting permission to Superintendent Graham to request a speed limit reduction on Towpath Road.

The Barnstormers Snowmobile Club trail is at the edge of the property at the Highway Garage. There is a bridge that constricts some of the water flowing through they asked if they purchased some culverts if the Town would dig and put gravel over it for them. The Board has no objections; it is on Town Property.

#### COUNCIL REPORT:

Councilman Washburn reported there was conversation recently about the computers. He reached out to Adirondack Tech to get a jump start on it because currently the Town is operating without a server and having issues with computers. He has received a quote from ADK Techs and was not certain how to proceed. Supervisor Hogan asked if this should go out to bid; Attorney Meyer responded it has to go out to bid. The discussion continued.

Attorney Meyer stated the Board is looking for recommendations and you could have somebody that has some expertise, or you could write an RFP that is vague enough that allows ADK to respond to the bid and include language in the bid that also says or something similar with an explanation that says why. That will enable someone else to come and to say they will do the exact same thing, and this is their proposal.

Councilman Doyle asked if the County IT Department had any specs that the Town should be operating under. Supervisor Hogan has an IT meeting tomorrow and will ask that question.

June 7, 2021, Regular Board Meeting

Councilman Washburn who would write the RFP for a server and computers. Supervisor Hogan will ask Teri McNall of the Washington County IT Department if she could assist with the RFP; they have offered help in the past.

Councilman Haessly attended the Grievance Board Meeting and found they would state off the record while they were trying to fix paperwork. He also noticed the stenographer asking the members of the Board to speak one at a time. He also suggests the set-up be changed so the stenographer can hear and make it easier for the members of the Board of Assessment Review.

Councilman Doyle reported the RFP for the Solar on the Town Landfill was published on May 21, 2021. He has received emails from 2 or 3 people. Questions are due by June 14th; answers out by June 28<sup>th</sup> and submissions by July 19<sup>th</sup>.

Councilwoman Havens received notification late this afternoon that the Town is a recipient of the Greenway Grant. Thirty-eight thousand dollars (\$38,000.00) was awarded to four different entities and the Town will receive \$10,000.00 for Phase I of the update of the Town's Comprehensive Plan.

Councilman Havens requested an executive session to discuss a pending lawsuit and a personnel issue. Attorney Meyer stated on June 24<sup>th</sup> at 7 PM the Zoning Board is hearing an appeal. After discussion, the Solar Workshop will be conducted on July 19, 2021, at 5:30 pm before the regular meeting scheduled to begin at 7 pm.

Supervisor Hogan reported the negotiations for the Champlain Hudson Power Express are ongoing and they are getting close for some arrangements and agreements with TDI, in terms of PILOTS and community host benefit packages. The negotiating committee is finalizing numbers and will soon schedule Public Hearings. There will be at least seven Public Hearings with one conducted in Kingsbury. There will be one in each community that are receiving a community host benefit package which includes Dresden, Putnam, Whitehall, Fort Ann, Fort Edward, Kingsbury, and a sliver of Hartford. Surveying for the water line on Burgoyne began today.

A **motion** by Councilman Doyle seconded by Councilman Washburn and carried by a vote of 5 ayes to enter into an executive session at 9:18 pm to discuss pending litigation and a personnel matter.

A **motion** by Councilman Washburn seconded by Councilman Haessly and carried by a vote of 5 ayes to exit the executive session at 10:04 pm.

The Board accepted a memo related to records retention to all Town Hall associates.

There being no further business before the Board the meeting was adjourned at 10:05 pm.

Respectfully submitted,

Cynthia A. Bardin, Town Clerk