

Minutes of August 13, 2019 Public Hearing regarding Alternate members to the Planning Board and Zoning Board of Appeals/Local Law No. 2 of 2019 held in the Germantown Town Hall, 50 Palatine Park Road, Germantown, New York, commencing at 6:30pm.

Present: Supervisor Beury
Councilwoman DuFresne
Councilman Kukon
Councilman Sullivan

Attorney, Corinne Smith

Absent: Councilman Moore

Recorded by: Town Clerk, Joyce Vale

Supervisor Beury opened the Public Hearing and Led with the Pledge to the Flag.

Motion to open the Public Hearing made by Councilman Kukon, seconded by Councilwoman DuFresne, with all in favor and none opposed.

Town Clerk read the following:

PUBLIC HEARING
TOWN OF GERMANTOWN

Notice is hereby given that the Town Board of the Town of Germantown will hold a Public Hearing on Tuesday, August 13, 2019 on Alternate Members to the Planning Board and Zoning Board of Appeals (Local Law No. 2 of 2019) at 6:30pm to be followed by a regular Board Meeting at 7:00pm held in the Germantown Town Hall, 50 Palatine Park Road, Germantown, New York.

Corinne Smith read the following from NYS Town Law §271:

Alternate members. A town board may by local law or ordinance, or as part of the local law or ordinance creating the planning board establish alternate planning board member positions for purposes of substituting for a member in the event such member is unable to participate because of a conflict of interest. Alternate members of the planning board shall be appointed by resolution of the town board, for terms established by the town board. The chairperson of the planning board may designate an alternate member to substitute for a member when such member is unable to participate because of a conflict of interest on an application or matter before the board. When so designated the alternate member shall possess all the powers and responsibilities of such member of the board. Such designation shall be entered into the minutes of the initial planning board meeting at which the substitution is made. All provisions of this section relating to planning board member training and continuing education, attendance, conflict or interest, compensation, eligibility, vacancy in office, removal, and service on other boards, shall also apply to alternate members.

Supervisor Beury opened the Public Hearing to public comments.

Kaare Christian said having a clear procedure for the alternates law is a good idea and he is in favor of it. Kaare had two suggestions. First one a smaller pool of alternates for a town of our size and the alternate that is replacing a member should take over that member's term.

Pamela Wallace asked if the alternates will have the same training as the board members? Pamela also asked if the alternates would have to attend all of the meetings? Ms. Wallace asked if the other towns were doing this? Supervisor Beury said it is the law and that other towns are using it.

Joe Guida asked if the Town Board will appoint the pool of 4 alternates? Supervisor Beury answered yes.

Heather Lincoln mentioned that she has an issue with the zoning board for the last 2 years and is glad that this is happening.

Billy Kimmel's concern is, will the alternates be required to attend all meetings whether sitting on the board or not?

Supervisor Beury answered by saying this would become operative if there is a conflict and they couldn't listen to an application the chairman could pick from the pool of alternates before the application is first heard.

Corinne Smith said all members are required to familiarize themselves with the entire record on any particular matter.

Ellen Epstein had been approached to be one of these alternates and would like to see the Ethics Law first beforehand.

Carmen the news reporter asked about members recusing themselves in certain cases?

Corinne Smith answered by saying the member will recuse themselves if they pre-judged an application.

Joe Guida gave an example he is a member of the zoning board and had attended all the meetings with PriMax and walked away as a citizen that had an opinion.

Pamela Wallace said the alternate and ethics laws are getting complicated.

Supervisor Beury said the Ethics Law applies everyone and the town is required to have an Ethics Law. We placed on our website a side-by-side comparison of the town Ethics Law and the NYS model Ethics Law to show where the sections came from.

Pamela Wallace said the alternates will be pro PriMax.

Corinne Smith said the Board of Ethics is there for any employee or member who has a conflict or problem.

Supervisor Beury said we haven't had a Ethics Board in years and if there is a complaint it will be handled by the County Board of Ethics. Supervisor Beury added the Board of Ethics is here to help members not to punish them.

Billy Kimmel said there have been many years of unethical doings.

Councilwoman DuFresne said that is the reason to adopt the Ethics Law.

Supervisor Beury said they are not adopting the Ethics Law tonight this is just a discussion and he asked the public to keep asking questions and they will be answered.

Joe Guida said there is a loophole with the Town Board appointing the Ethics Board if a town board member was charged with something.

Supervisor Beury said they can't get 3 people to serve on the Ethics Board and there haven't been any complaints in 12 years. These things don't usually come up.

Carmen questioned the Town of Germantown has had an Ethics Law just not members?

Supervisor Beury answered by saying the town is working on getting all the Local Laws in one place in digital form and in the process came across there was no Ethics Law that was not filed with the NYS Secretary of State.

Corinne Smith said the Ethics Law from 1992 and 2009 were not filed with the Secretary of State and were not adopted in the minutes.

Carmen asked why a new Ethics Law and not a revised one?

Councilwoman DuFresne and Supervisor Beury answered by saying they don't know if the Ethics Law was adopted.

Jaia Orient appreciates the effort made to incorporate comments into the revision but still has major concerns. Jaia thinks the language in section 9B is vague and leaves for personal interpretation. Ms. Orient also finds section 27B problematic and is concerned a person could lose their home after serving on a town board.

Judy Bernstein gave the Town Clerk a letter from Carole Neville.

Motion to close the Public Hearing made by Councilman Sullivan, seconded by Councilman Kukon, with all in favor and none opposed.

Public Hearing closed at 7:12pm.

Respectfully submitted,