

MINUTES
SPECIAL MEETING & PUBLIC HEARING
THE GORHAM TOWN BOARD
October 2, 2024 7:00pm

The Gorham Town Board held a Special Meeting and Public Hearing on October 2, 2024 at 7:00 pm at the Town Hall in Gorham, NY.

Present; Supervisor Dale C. Stell

Councilmembers; Jake Chard, Phil Curtis, Brian Lazarus and Chrissy Watkins.

Town Officials in attendance; Highway Superintendent Zach Eddinger and Town Clerk Darby Perrotte.

Guests in person and via Zoom.

The minutes are written as a summary of the main points that were made and are the official and permanent record of the actions taken by the Gorham Town Board. Remarks delivered during privilege of the floor and discussions are summarized and are not intended to be verbatim transcriptions.

The full zoom recording of the meeting is posted on the town website for viewing.

Supervisor Stell opened the meeting with a moment of silence in honor of our Town Justice, Kathy Schwartz, who passed away unexpectedly on September 23, 2024.

1. Call to Order/Pledge to the Flag
2. Privilege of the Floor –
3. Public Hearing – Local Law 3-2024 Abolishing the Elective Office of Highway Superintendent and Creating the Appointed Office of Highway Superintendent of the Town of Gorham.

Town Clerk Perrotte confirmed a public hearing notice was published, and the meeting was duly advertised.

Supervisor Stell Opened the Public Hearing.

Debbie North, County Road 18 resident, stated she was in attendance to voice her support for changing the Highway Superintendent position in the Town from elected to appointed. Mrs. North stated her reasons for support. Mrs. North's notes are attached.

Rodney Miller, Lake to Lake Road resident, stated he is against the proposal. He is a Veteran, he wants a right to vote. He said we're losing the Country right now because of the governance we are dealing with. Mr. Miller stated the current Highway Superintendent should have been removed when he lost his license and drove the town truck without a license. He put the town at risk, he should have been fired. Mr. Miller stated he does not want anyone to take away his right to vote for who he wants to represent him in any position. Under the Constitution, is our right to vote. He disagrees with the process and is 100 percent against the Local Law.

Supervisor Stell stated, in his opinion, the Board is not taking away the right to vote, town residents will vote on whether or not to pass the Local Law.

Sally Napolitano, Lake Drive resident, stated it is important to explain why we are considering a Local Law and what the limitations of the Town Board are on 'firing an elected official'.

Supervisor Stell stated it is impossible to fire an elected official in NY State.

Christine Ayers, Robson Road resident, stated she hopes all the people in town realize the power of their voice, the power of their informed decision to make their vote. She described some of the history in Gorham. Mrs. Ayers described the 'red book', a manual for the Town Highway Superintendent. The book details the powers and duties of the Highway Superintendent. Mrs. Ayers referred to the Public Officers Law that allows the Supreme Court Justice to remove any Town Officer for various reasons. There is also a Code of Conduct. She referred to the years of dysfunctional behavior with the previous Town Board. Mrs. Ayers encourages the new Town Board to read the manual. She said the Board has always had the power that they want, with an appointed position, it just wasn't utilized effectively. She encourages the people of the Town of Gorham to keep their right to decide on their candidate. Many men fought and died for this right and she is not willing to give it up very easily. Mrs. Ayers stated everything in place promotes accountability, it's not a popularity contest, it's a lot of hard work that must be kept up to keep yourself in office.

Councilmember Lazarus would like to consider shortening the term of office for Highway Superintendent from 4 years to 2 years.

Supervisor Stell stated if the Local Law passes after referendum vote, at any time, the Board can restore the position to an elected position by Town Board resolution.

Discussion was held regarding appointed officials and civil service rules.

Sally Napolitano, stated she supports everything Debbie said. She has attended many Town Board meetings over the last 5-6 years. As a taxpayer, she is going to echo what Debbie said. This is the highest paid job within the town, handling the largest piece of the budget. Mrs. Napolitano said we've all witnessed unauthorized purchases and unauthorized sales of equipment. She referred to instances of great lack of collaboration between the Highway Superintendent and the Town Board and the Highway Superintendent and residents. She mentioned the Eldredge drainage issue not being responded to, issues on Lake Drive, waiting 2 years to have water main potholes filled by the Highway Department. The basic reaction to the storm debris after hurricane Debbie and the unwillingness to help the residents of the community. She has witnessed neighboring town's highway departments handing out sandbags, helping clear debris or making the transfer station open to accept debris. She stated it took many emails, back and forth, for the Highway Superintendent to simply show courtesy to assist residents. Mrs. Napolitano reiterated the irresponsibility of losing his license, driving the town truck, his daughter driving the town truck, the risk that put the town at. It seems things need to change.

Mrs. Napolitano stated the ability to go to the Supreme Court to remove an official from office is a long drawn out and expensive process. Mrs. Napolitano thinks by going to an appointed

position, as many of the positions are, the Water Department and Code Enforcement are appointed, that there would be more accountability and transparency. Reporting and reacting to both the Town Board and the residents.

Mrs. Napolitano is in support of making this an appointed position.

Lynn Klotz, Lake Drive resident, stated she echoes Debbie and Sally in support of making this an appointed position.

Bob Smith, Hall road resident, stated in all fairness it appears we are talking about 1 individual it wouldn't be fair to say the highway department. He said he sees the highway department out working. There has been a lot of flooding and there is a lot of work to be done. In all fairness, the workers need to be recognized for the work they are doing. Their leadership is lacking, somebody needs to hold him accountable. He would like to see the Board hold him accountable on following through, answering emails and doing things. He wants to thank the workers that come to work.

Ben Smith, Kearney Road resident, stated the Board is not voting it in tonight. He thinks it's important to let the town decide and important that the Board thinks about that, it's important to put it in the town's hands.

Lynn Klotz asked how many votes would be required at referendum.
50 percent plus 1 of the turnout of voters.

Joan Jones, Dewey Ave resident, asked how residents know about special elections.
Town Clerk Perrotte has to duly advertise the special election, in the newspaper, on sign board and on the website.

Discussion was held regarding the town newsletter and cards being mailed out to residents and registered voters.

Supervisor Stell stated the voting will take place at regular town voting sites on December 3rd, 2024 from noon – 8:00pm.

Brooke Quayle, State Route 247 resident, asked what the timeline is after the special election.

Supervisor Stell stated that if on December 3rd it becomes an appointed position, within 30 days the current Highway Superintendent would be relieved of his duties. The Town Board would appoint a temporary Highway Superintendent and then go through the hiring process. If it stays an elected position the current Highway Superintendent is in office until 12/31/2025 he and/or any town resident can run for the position.

Barb Frank, Goose Street resident, stated it would do a lot for transparency and trust if the town made the effort to send a mailing to all town residents.

Highway Superintendent Zach Eddinger stated, for 2 1/2 years he has been ridiculed, he has been run down, he's done everything. His family has been beaten. All his bills go to the Town Board, they approve all his bills. All his spending is on the Town Board. He has done anything

he can to make anything he does for the town better. He feels it needs to stay an elected position.

Councilmember Lazarus stated he is against a special election. The voter turnout is not an accurate sample of the voters in town.

With no further comment, the public hearing was closed at 7:41pm.

4. Business –

a. Adopt Resolution Approving Local Law 3-2024

Councilmember Curtis offered the following Resolution and called for adoption. Seconded by Councilmember Watkins the resolution was adopted. 4-1

4 - Ayes – Stell, Chard, Curtis, Watkins

1 – Nay - Lazarus

100-2024

**TOWN OF GORHAM
RESOLUTION 33-2024
AUTHORIZING ADOPTION BY THE TOWN BOARD OF THE TOWN OF GORHAM OF
LOCAL LAW NO. 3 OF 2024**

WHEREAS, a resolution was duly adopted by the Town Board of the Town of Gorham for a public hearing to be held by said Town Board on October 2, 2024, at 7:00 p.m. at Gorham Town Hall, 4736 South Street, Gorham, New York, to hear all interested parties on a proposed Local Law to **abolish the elective office of Highway Superintendent and create the appointed office of Highway Superintendent of the Town of Gorham, New York**; and

WHEREAS, notice of said public hearing was duly advertised in the official newspaper of the Town of Gorham, on Thursday September 26, 2024 and all other notices required by law to be given were properly served, posted or given; and

WHEREAS, said public hearing was duly held on October 2nd, 2024, at 7:00 p.m. at the Gorham Town Hall, 4736 South Street, Gorham, New York, 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 Town Board of the Town of Gorham, after due deliberation, finds it in the best interest of the Town of Gorham to adopt said Local Law.

NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Gorham hereby adopts said Local Law No. 3 of 2024, entitled, "A Local Law Abolishing the Elective Office of Highway Superintendent and Creating the Appointed Office of Highway Superintendent of the Town of Gorham, New York", a copy of which is attached hereto and made a part of this resolution, and be it further

RESOLVED, that this Local Law is subject to mandatory referendum according to the provisions of Municipal Home Rule Law §23.

I, Darby L. Perrotte, Town Clerk of the Town of Gorham do hereby certify that the aforementioned resolution was adopted by the Town Board of the Town of Gorham on October 2, 2024 by the following vote:

	<u>Aye</u>	<u>Nay</u>
Dale C. Stell	X_____	_____
Jake Chard	X_____	_____
Phil Curtis	X_____	_____
Brian Lazarus	_____	X_____
Chrissy Watkins	X_____	_____

b. Adopt Resolution Scheduling a Special Election

Councilmember Watkins offered the following resolution and called for adoption. Seconded by Councilmember Curtis the resolution was adopted 4-1

- 4 - Ayes – Stell, Chard, Curtis, Watkins
- 1 – Nay - Lazarus

101-2024

**TOWN OF GORHAM
RESOLUTION 34-2024
SCHEDULING A SPECIAL ELECTION
RELATIVE TO THE APPROVAL OF LOCAL LAW 3 OF 2024**

WHEREAS, on the 2nd day of October 2024 the Town Board of the Town of Gorham adopted a Resolution approving Local Law 3 of 2024 that would abolish the elective office of Highway Superintendent and create the appointed office of Highway Superintendent of the Town of Gorham, New York; and

WHEREAS, pursuant to the New York State Municipal Home Rule Law, said local law is subject to a mandatory referendum; and

WHEREAS, the said local law established that the mandatory referendum would occur at a special election to be held not less than sixty days after the Town Board’s adoption of this local law.

NOW, THEREFORE, BE IT RESOLVED, as follows;

Section 1. That a Special Election of the electors of the Town of Gorham qualified to vote for the elective office of Town of Gorham Highway Superintendent is hereby authorized and directed to be

held on the 3rd day of December, 2024 between the hours of 12:00 p.m. (noon) and 8:00 p.m. for the purpose of voting by ballot on the proposition hereinafter set forth.

Section 2. The Notice of such Special Election shall be substantially by the following form.

**LEGAL NOTICE OF SPECIAL TOWN ELECTION
ON PROPOSITION OF WHETHER TO APPROVE
LOCAL LAW NO. 3 OF 2024 ENTITLED
"A LOCAL LAW ABOLISHING THE ELECTIVE OFFICE OF
HIGHWAY SUPERINTENDENT AND CREATING THE APPOINTED OFFICE OF HIGHWAY
SUPERINTENDENT OF THE TOWN OF GORHAM, NEW YORK"**

NOTICE OF SPECIAL ELECTION

NOTICE IS HEREBY GIVEN, that a Special Election of the qualified electors of the Town of Gorham (County of Ontario, State of New York) will be held on the 3rd day of December, 2024 at the Gorham Fire Company, 4676 Kearney Road in Gorham and the Crystal Beach Fire Department, 4468 Route 364 in Canandaigua. Said polling place will be kept open between the hours of 12:00 p.m. (noon) and 8:00 p.m. for the purpose of voting by ballot upon the following proposition:

PROPOSITION NO. 1

"Shall the action of the Town Board of the Town of Gorham in approving Local Law No. 3 of 2024 entitled "A Local Law Abolishing the Elective Office of Highway Superintendent and Creating the Appointed Office of Highway Superintendent of the Town of Gorham, New York" be approved?"

Section 3. All of the qualified electors of the Town of Gorham shall be qualified to vote at such special election.

Section 4. The Town Clerk is hereby ordered and directed to give notice of such election by publication thereof in the Town's official newspaper, such publication to be at least 10 days prior to the date of such Special Election, and by posting on the Town's official sign board a copy of such notice at least ten (10) days before such special election.

Section 5. The following individuals, who have been previously designated as election inspectors and ballot clerks for general election purposes, are hereby designated to act as election inspectors and ballot clerks for this special election as indicated below:

Karen Kuhl, Don Sloth, Sharon Gage, Fran Colf

Section 6. The Town Clerk is hereby ordered and directed to prepare printed ballots in sufficient quantity for use at said Special Election, and also to prepare for the use of the election officials the necessary oaths and certificates of election, and also to procure and deliver to such election office any and all necessary paraphernalia for the proper conduct of such election.

Section 7. This Resolution shall take effect immediately.

BY ORDER OF THE TOWN BOARD OF THE TOWN OF GORHAM

I, Darby L. Perrotte, Town Clerk of the Town of Gorham do hereby certify that the aforementioned resolution was adopted by the Town Board of the Town of Gorham on October 2nd, 2024 by the following vote:

	<u>Aye</u>	<u>Nay</u>
Dale C. Stell	X_____	_____
Jake Chard	X_____	_____
Phil Curtis	X_____	_____
Brian Lazarus	_____	X_____
Chrissy Watkins	X_____	_____

c. Appoint Justice Olsen to fulfill the role of both Town Justices through 12/31/2024 - Supervisor Stell stated with the untimely death of Town Justice, Kathy Schwartz, the Town Board is appointing Justice Olsen to fulfill the role of both Town Justices until the end of the year.

On the motion by Councilmember Chard, seconded by Councilmember Lazarus, approve appointment of Town Justice, Walt Olsen, to fulfill the role of both Town Justice responsibilities until a new Justice is seated. With additional compensation.
Discussion was held. Motion carried 5-0

5 - Ayes – Stell, Chard, Curtis, Lazarus, Watkins

102-2024

5. Set the Next Meeting Date – October 16, 2024 Regular Meeting and 2025 Budget Public Hearing. 7:00pm at the Gorham Town Hall.

6. Privilege of the Floor –

Wade Ayers, Lake to Lake Road resident asked if there will be residency requirements for the position if Local Law 3-2024 is passed after mandatory referendum.

Supervisor Stell stated that it has not been decided, it would be considered during the whole process.

7. Adjournment – with no further business, on the motion by Councilmember Chard, seconded by Councilmember Lazarus, the meeting was adjourned at 7:56pm.

The motion carried unanimously. 5-0

5 - Ayes – Stell, Chard, Curtis, Lazarus, Watkins

103-2024

Respectfully Submitted,

Darby L. Perrotte
Town Clerk