

**Town of North Hudson
Special Town Board Meeting
April 7, 2022
7:30 pm**

Present:

Supervisor- Stephanie DeZalia
Councilwoman- Maureen Marsden
Councilman- Brian Caza
Councilman- Brian DeZalia
Councilman- Larry Koller
Town Clerk- Martha King

Guests present:

Joyce Burdick, Maureen Duntley, Nicole Duntley, Kevin Duntley,
Kevin Rice, Rhiannon Rice, Deborah Duntley, Donna Moses
The meeting was called to order at 7:30 pm and led all in the pledge.
Supervisor DeZalia made the following statement-

“This meeting was called for the purposes of discussing the possible need to appoint an Interim Justice and to discuss possible litigation as it pertains to such justice position. I called this meeting based on information provided to myself and the Town Board by the Attorney for the Town and by an Attorney for the Association of Towns. At this time, we will head into Executive Session to discuss and consider the information being provided to us.”

Executive Session

Supervisor DeZalia motioned to go into executive session at 7:37 pm for a personnel matter and to discuss possible litigation of the matter.

second by Councilwoman Marsden

All in favor.

Ayes-5 Noes-0

So moved

Return from Executive session

Councilwoman Marsden moved to return from Executive session at 8:14 pm with a second by Councilman Koller

All in Favor

Ayes-5, Noes-0

So moved

Supervisor DeZalia made the following statement upon return from Executive session.

“Pursuant to Election Law 4-106(4) Within 3 days after the occurrence of any vacancy in an office required to be filled the Town Clerk is required to file with the County Board of Elections a certificate indicating the occurrence of the vacancy.

Pursuant to § 64(5) of Town Law, the Town Board shall fill such vacancy that exist in any town office, the town board, or a majority of the members thereof, may appoint qualified person to fill the vacancy, If the appointment being made is to fill an elective office, the person so appointed shall hold office until the commencement of the

calendar year next succeeding the first annual election at which the vacancy may be filled for the unexpired term of the office. If an elected town officer resigns or vacates office prior to September 20, the vacancy is filled by appointment by the Town Board for the balance of the year, and a successor is elected at the general election in November.

The question at hand was whether or not the office of the Justice had legally become vacant due to the fact that the oath of office was not on file in the Town Clerks or County Clerk's office in the required 30-day period, thereby rendering the office vacant by order of the law.

Based on provided information today, established by a 1966 case statute, it was determined that, as long as either the Town Clerk or the County Clerk had the oath of office in their possession, it was hereby considered filed in their respective offices even if not officially entered and filed.

Considering this case law information now at hand and that we now have a copy of an administered Oath of Office by the Town Justice dated March 31st 2022 and a letter statement by County Clerk Joseph Provoncha, stating that the Oath of Office was in his possession prior to the 30-day deadline of January 31st and that it had gotten misplaced thereby causing it not to be filed in a timely fashion.

I contend, and the Board agrees that, at this time we, will accept the information provided to us and considered by us. We thereby will not be exercising our right to appoint an Interim Justice. We firmly feel that it is in the best interest of the law, of our Town, of the taxpayers of North Hudson and the parties involved.

We are here tonight to just consider the facts at hand and what we needed to do and we don't need to do anything.

However, I do want to establish and speak on the importance of the Oath of Office for all elected, appointed and municipal employees.

Pursuant to Public Officers Law, Civil Law, Town Law, Judicial Law and Election Law it is established that prior to any elected, appointed official or municipal employee before assuming job responsibilities or duties of their office they are required by these laws to execute and file a constitutional oath of office. This requirement of the taking and filing must be fulfilled within 30-days of commencement of their term of office or their employment or thereby be it considered declined and the office is by order of the law considered vacant.

An Oath of Office can be administered by any Notary Public, The Town Clerk, Town Supervisor or any other officer authorized to administer an Oath.

**County Clerk*

** Judicial Officer*

** Judge*

** Clerk of the Court*

**County Auditor or Deputy Auditor*

** County Commissioner or County Councilman*

**Clerk of a City*

** Town Clerk or Deputy Town Clerk*

There are many people that can administer the oath so simply there is no excuse for an Oath of Office to not be taken and filed in a timely manner."

Privilege of the Floor

Discussion took place regarding the filing of an oath of office and the possible effects of none being filed.

Adjournment

Motion to adjourn by Supervisor DeZalia Second by Councilman B DeZalia

All in favor

So moved

Meeting adjourned at 8:36 pm

Respectfully submitted

Martha M King

Town Clerk