

Minutes of a special meeting of the Town Board of the Town of Durham held August 8, 2017 at the Town Hall commencing at 7:30 pm.

Present: William Carr, Supervisor
Joan Breslin, Council Member
Jerry Cunningham, Council Member
Nick Nahas, Council Member
Shawn Marriott, Deputy Supervisor

Recording Secretary: Janet Partridge, Town Clerk

Others Present: 24 community members

Supervisor Carr called the meeting to order at 7:37 pm with the Pledge to the Flag.

Supervisor Carr explained to everyone the purpose of the special meeting, to discuss a memorandum obtained from special council on issues pertaining to the Durham Police Department and a proposed local law. There were four questions the Board asked special council Ralph Ambrosio, Esq. and he answered them in a memorandum.

The focus of the memorandum was on the duties of Durham Peace Officers and whether the board could enact a proposed local law. Carr informed everyone that currently the Peace Officers in Durham have done equal duties as a Police Officer.

The current duties of the peace officers were explained. They use the police cars to do traffic control, welfare checks, EMS calls, and property checks. They also help with court security every Monday.

Deputy Supervisor Marriott explained for 911 calls and traffic tickets, a certified police officer needs to be there. A peace officer can be along for backup. He further explained that in emergency situations, like a natural disaster, the proposed law gives the sergeant the ability to have a peace officer participate in the situation as he sees necessary.

Breslin expressed she feels a local law is needed to cover the town as far as liability, adding that it would also cover the peace officer in a liability instance.

Carr feels a new local law would take too many responsibilities away from the department and the department is currently running in compliance with NYS guidelines. He added the only time there is a problem with liability is when someone applies deadly force.

Marriott explained that certified police officers get 650 hours of training before becoming a police officer. A peace officer goes through a minimum of 99 hours and maximum of 180 hours of training to become a certified peace officer. Both must have 40 hours of firearms training. 160 hours of the police training is field training and 80 is traffic stop training which includes EVOAC training. Using the lights and traveling at high speeds requires training and Marriott is afraid someone might get hurt and that liability will come back on the town.

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Councilmember Nahas reminded everyone this is not a public hearing; it is a special meeting for the board to have a discussion on the proposed local law. He feels there are two major issues. First, the police officers have to have 4 times as much training as a peace officer and it is incumbent upon the town to make a distinction and ask ourselves what more are we getting when we have 4 times as much training with our police officers as our peace officers. The other issue he sees is if a civilian can tell the difference between a police officer and a peace officer according to their uniform. He feels uncomfortable with the fact that they can't.

Sergeant Sutton would like to continue to use all of the police department employees as he see fit. He has worked hard to keep the department in working order and he feels they have done a good job over the years. They haven't had any lawsuits or any accusations of lawsuits against them and they try to do everything as quietly as they can.

A community member who has been a resident of the town for 30 years and represents a union of peace officers and security guards in New York City wanted to explain his thoughts on the memorandum. He agreed with Ambrosio, the town can make the law as far as the functions of the police department and its employees but he doesn't like the case law that is referenced by Ambrosio in the memo. The union members he represents in New York City do not wear uniforms that say police officer, they say special patrolman.

Councilmember Breslin asked for our town Attorney Rappleyea to give his thoughts on the situation. Rappleyea suggested they move away from the arguments about personal feelings and focus on what is the topic at hand, this is a policy decision for the board. What special authorities will they grant to the peace officers and what their powers will be? The board should also specifically explain in the law what the uniform will be for the peace officers and then everyone will be on the same page. Once the duties are outlined, if a peace officer is acting outside of their duties, this could cause a lawsuit against himself. Once the peace officers are acting within their authorized duties, then we won't have the kind of liability we are worried about and the peace officers would be protected from personal liabilities.

Breslin asked Rappleyea if he was in support of Durham having a local law that spells out clearly the roles of a peace officer to protect the peace officer themselves as much as the town. He confirmed he did and it could be in resolution form or as a local law as suggested by DCJS.

One of Durham's current police officers explained he has been an officer for 38 years and he never had field training when he first started. Many regulations have changed since then. Marriott read a long document on all the additional training a police officer gets than a peace officer.

There were several comments from the audience. Some community members wanted the police department to stay the same and some were in support of the proposed local law.

One community member expressed his concern that the local law will limit the abilities of the police department to a point that they will not be able to function properly. Breslin informed everyone that the proposed law is not to limit the whole police department but to just set guidelines for the peace officers to cover the town against liability. Nahas reminded everyone that Sutton has done a wonderful job running the department over the years but one day he will want to retire and making provisions for the future would help keep our police department stable and intact through any transition that arises.

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The distinction between certified police officer uniforms and peace officer uniforms was then discussed. Liability of certification is the first thing that is questioned in any situation. The Town of Durham currently has three peace officers on staff.

The proposed local law is a draft, there are sections that need improvement and the board can revisit the law in 4 weeks.

Since the Town has a grant to install a metal detector for the court room, Judge Tirpak asked Sergeant Sutton if he was going to have someone man it for Court since that is a stipulation when there is a metal detector. She raised concern that even though on court nights there is a police officer or peace officer in the building, they are not always in the court as all other courts in the area have. With the way times have changed, she feels our town needs to insist on an officer being present at all times during court session. Sutton agreed that there will be an officer in the court room and they will man the metal detector once it is installed.

Councilmember Nahas motioned to adjourn, seconded by Councilmember Cunningham, all in favor, motion carried. (Yeas-5, Carr, Breslin, Cunningham, Nahas, Marriott)

Respectfully submitted,

Janet Partridge
Town Clerk/Collector