

**PUBLIC HEARING & REGULAR MEETING
OF THE TOWN BOARD
TOWN OF WESTERLO
TUESDAY, APRIL 3, 2012**

The Town of Westerlo Town Board held a continuation of the Public Hearing (previously held on March 6, 2012) regarding proposed Local Law #1-2012 titled "Unsafe Buildings, Collapsed Structures and Burned Out Buildings" to supersede an outdated ordinance titled "Unsafe Buildings and Collapsed Structures Ordinance". The hearing, followed by the regular meeting, was held in the Westerlo Town Hall 933 County Route 401, Westerlo, NY. Supervisor Rapp called the Public Hearing to order with the Pledge of Allegiance to the Flag at 7:30 PM on April 3, 2012.

PRESENT WERE: Supervisor Richard H. Rapp
Councilman Edward A. Rash
Councilman R. Gregory Zeh Jr.
Councilman Alfred L. Field
Councilman Anthony W. Sherman

Also present were Zoning Administrator/Code Enforcement Officer Edwin H. Lawson, Highway Superintendent John Nevins, Albany County Legislator Deborah Busch, Town Clerk Kathleen Spinnato, several town employees and approximately 30 residents.

Councilman Rash asked that in lieu of a local law could they instead adopt a resolution. Supervisor Rapp replied that's a question for the Town Attorney. Councilman Rash wanted to know if all other options had been exhausted i.e.: assistance from the New York State & Albany County Health Departments. Ed Lawson responded those agencies have made an attempt. Mr. Lawson explained that the proposed local law would aid the Town in making a property come into compliance.

Councilman Rash has complete faith in the current code enforcement officer and the current town board members, but the people elected or appointed can change. He has a concern with vagueness of wording of the draft and would like to see more specifics and feels there may be different ways it could be interpreted. He also has legal questions & concerns pertaining to insurance coverage, who would be doing demolition work, certified contractor for certain kinds of demolition, lien holders responsibilities when a property is abandoned.

Ed Lawson commented that this is not something that would be referred to the Town Highway Dept. It would be done by a demolition contractor and it would be bid for that purpose. Without a law in place you can't condemn a building, and no mechanism in place to satisfy condemnation, nor would you have any way to remedy a situation unless the Town has a law on the books. It was never intended by me to have the Highway Dept. do anything. Currently, there exists a unique situation and the Town has no way to resolve it, this law would give the Town of Westerlo a way to remedy the situation.

Councilman Rash had concerns with the wording of the draft. Councilman Zeh read a portion of proposed law (page 4, bottom section) which reads: removed or demolished by town employees or by independent contractors. Councilman Rash would like it to just read; independent contractors. Councilman Zeh responded the current situation does not involve demolition. The tasks needed are to cover an open septic tank with steel plate, and remove trash in a front yard. More discussion followed between

Councilman Rash, Councilman Zeh, CEO Lawson regarding the time it would take to remedy a situation if condemnation of a property is required.

Mr. Larry Verch asked if the Town Attorney had reviewed the local law. The response was yes. Is the Town covered by insurance for liability if they go on the property to remove garbage? CEO Lawson responded that the Town cannot go on a property unless there is a code violation. He then explained the procedure that would follow and the town's requirement for proof of insurance needed from a contractor before any work is started.

Councilman Zeh commented that this draft has been before the Board for three months, they have received good comments. He has concerns with highway employees working in that vicinity and emergency responders that may have to respond to these types of buildings and their unsafe conditions. The purpose of this law is more a matter of promoting the safety and welfare of the residents of the Town of Westerlo.

The Board also heard comments and concerns from Wilfred VanInderstine, Anita Marrone, Michael Sikule, Gerry Boone, Peggy Duncan, Leonard Laub, and Ned Stevens. All present having the opportunity to be heard having been heard, Councilman Sherman made a motion, seconded by Councilman Field and passed unanimously that the Public Hearing be closed.

Councilman Field made a motion to adopt the following resolution:

WHEREAS: Local Law # 1-2012 has been brought before the public, be it hereby

RESOLVED: that Local Law #1-2012 Unsafe Buildings, Collapsed Structures and Burned Out Buildings be adopted with corrections to modify as discussed by Councilman Rash and Zeh, and supersede the ordinance titled "Unsafe Buildings, Collapsed Structures Ordinance" and the Town Attorney to file same with the Secretary of State.

Councilman Zeh seconded the motion and a roll call vote resulted as follows:

AYES: Supervisor Rapp
Councilman Field
Councilman Zeh

NAYS: Councilman Sherman
Councilman Rash

RESOLUTION # 9-2012 was thereby duly adopted.

Supervisor Rapp opened the regular meeting asking for a motion to approve the Westerlo Town Board minutes of March 6, 2012. Councilman Zeh made the motion to approve, seconded by Councilman Sherman, motion carried all in favor.

Supervisor Rapp asked the Town Clerk to read the bids received for stone, asphalt which had been advertised. She opened and read bids received from the following companies: Callanan Industries, Carver Sand & Gravel, Cobleskill Stone Products, & Peter K Frueh. All bids were read after which Councilman Zeh made a motion to adopt the following resolution:

WHEREAS: bids for stone, asphalt products were properly advertised, received and reviewed by the Town Board, be it hereby

RESOLVED: that Superintendent of Highways John Nevins be authorized to purchase from the lowest bidders, unless, in his opinion the material in

question is found to be inferior quality or unless transportation and/or availability of materials becomes a factor.

Councilman Rash seconded the motion and vote resulted as follows:

AYES: Supervisor Rapp
Councilman Zeh
Councilman Rash
Councilman Sherman
Councilman Field

NAYS: None.

RESOLUTION #10-2012 was thereby duly adopted.

Supervisor Rapp reported the next agenda item is a resolution to pay Callanan for the work they have done, he made a motion to adopt the following resolution:

WHEREAS: the Town of Westerlo needs to borrow monies necessary to pay Callanan Industries up to \$263,900.00 or the amount invoiced for repair work they completed on Tan Hollow Road and Pine Valley Road from damages caused by Hurricane Irene pending reimbursement from FEMA, be it hereby

RESOLVED: that Supervisor Rapp be authorized to borrow monies to pay the amount invoiced \$262,900.00 from Callanan Industries for repair work on Tan Hollow Rd. and Pine Valley Rd caused by Hurricane Irene.

Councilman Zeh seconded the motion and vote resulted as follows:

AYES: Supervisor Rapp
Councilman Zeh
Councilman Sherman
Councilman Rash
Councilman Field

NAYS: None.

RESOLUTION #11-2012 was thereby duly adopted.

Supervisor Rapp asked the Town Board for their opinion on the Town Hall Usage Policy. Councilman Zeh reported that there had been discussion at a town board meeting of having an application for the use of the Town Hall (933 County Route 401) and who would be allowed use of the Town Hall. A draft of the policy has been created and was read aloud by Councilman Zeh.

Mr. Laub asked questions concerning the policy and who could use the facility and Councilman Zeh responded. Councilman Zeh explained the purpose of this policy was to make this administratively feasible for the town hall employees to be able to administer, without making it necessary to come before the Town Board each time someone requests to use the building. If someone wants to use the Town Hall they can request an application. A completed application would then be directed to the Town Board for their decision, and a resolution is needed to allow the applicant use. Councilman Rash requested that they add this change: include anyone other than groups mentioned in the draft also have the opportunity to petition the Town Board with an application for usage of the Town Hall. Councilman Zeh agreed.

Councilman Field made the motion to adopt the following resolution

WHEREAS: the Town Board needs to approve a Town Hall Usage Policy and application process and that the Board include the agreed upon revisions as read aloud by Councilman Zeh

RESOLVED: that a Town Hall Usage Policy be approved with the revisions made as read by Councilman Zeh.

Councilman Zeh seconded the motion and a roll call vote resulted as follows:

AYES: Supervisor Rapp
Councilman Zeh
Councilman Rash
Councilman Field
Councilman Sherman

NAYS: None.

RESOLUTION 12-2012 was thereby duly adopted.

Supervisor Rapp asked Councilman Zeh to report on the draft of the Board of Ethics. Councilman Zeh reported that he has received some commentary back from the Town Board members. There still needs to be a discussion on the number of Board of Ethics members; 3 vs. 5 and discussion is needed on the attendance of the Town Attorney; upon request vs. required.

Councilman Sherman believed there should be five members on the Board of Ethics, but also added that this would be a volunteer board and it may be difficult to get 5 members together at a time, he is fine with 3 members. Councilman Zeh suggested having three voting members and two alternates. Councilman Sherman raised the question what happens if one of the members on a Board of Ethics had overseen an application, then an alternate member steps in and has not had the opportunity to review. Councilman Zeh will ask Attorney Galgay to review the revisions along with the question asked by Councilman Sherman and give the Town Board members legal advice.

Councilman Zeh made the following motion for the Town Attorney review the revisions made to the draft Board of Ethics, the revised draft with revisions be posted on the town's website, and a Public Hearing on the proposed Board of Ethics be held at the next Town Board meeting. Councilman Field seconded the motion and carried with all in favor.

Supervisor Rapp reported that the Household Hazardous Waste Day will be held in the Town of Berne this year and he has not been notified of a definite date, possibly in May or June. The Town of Westerlo will be charged a fee for each resident that participates. Westerlo residents who wish to participate must first obtain a certificate from the Westerlo Town Clerk in order to take items. Councilman Zeh made a motion to adopt the following resolution:

WHEREAS: the Town of Berne is holding a Household Hazardous Waste day be it hereby

RESOLVED: that the Town of Westerlo participate in Berne's HHW day and that any resident of the Town of Westerlo must first receive a certificate from the Westerlo Town Clerk in order to take HHW to Berne.

Councilman Sherman seconded the motion, and a vote resulted as follows

AYES: Supervisor Rapp
Councilman Zeh
Councilman Sherman

Councilman Field
Councilman Rash

NAYS: None.

RESOLUTION #13-2012 was thereby duly adopted.

Supervisor Rapp asked the Board members about their thoughts on the Albany County Shared Services. Councilman Rash and Councilman Zeh asked Supervisor Rapp to ask for more information and clarification from the county. County Legislature Deborah Busch spoke on the matter. When she was asked by Councilman Zeh if she could give anymore insight as to why the county wants the town to do this she explained that the County Executive's office had not shared this information with the County Legislature. She had to solicit a copy of this from a Supervisor in a town that is considering it. The towns should be very careful, it is not clearly stipulated what they will be giving up. She has a resolution going to the Legislature.

Supervisor Rapp stated the monthly bills need to be paid and he made a motion to adopt the following resolution:

WHEREAS: the Town Board has audited the monthly bills, be it hereby
RESOLVED: that the following bills be paid:

Voucher #82, & #124 through #166..... \$39,635.14

Councilman Zeh seconded the motion and a vote resulted as follows:

AYES: Supervisor Rapp
Councilman Zeh
Councilman Rash
Councilman Field
Councilman Sherman

NAYS: None.

RESOLUTION #14-2012 was thereby duly adopted.

Willie VanInderstine a member of the Zoning Board of Appeals, made comments regarding the town attorney's attendance at meetings being upon request, on a letter he received concerning attorney office visits for town business and his possible resignation. He commented on pay cuts to all board salaries and not receiving notification from the Town Board of the cuts. A discussion ensued between Councilmen Rash, Zeh and Mr. VanInderstine. Councilman Zeh made the suggestion that there are times at meetings when the Town Attorney is needed and other times she is not and suggested the boards look to the upcoming agenda items to determine if counsel guidance may be required and request her attendance.

Dawn Jordan from the Town of Berne informed the Town Board that Berne has a Hydrofracking study committee, as does Town of Rensselaerville Jeanette Rice is the secretary. Councilman Field has already spoken with Mrs. Rice.

Ed Lawson spoke in regards to the Planning Board and Zoning Board and the two new members of Planning Board. He had asked for a meeting of those and boards and to have Bruce discuss and go over the Zoning Law, this should be mandatory for educational & for procedural purposes. Councilman Zeh confirmed, continuing education had been previously discussed and that a joint meeting should be held, we will work on scheduling a meeting.

Councilman Zeh announced that there are flyers up front for the Rescue Squad meet & greet scheduled for Sunday April 22nd from 1-3 PM at Town Hall.

Supervisor Rapp made a motion to adjourn the meeting, seconded by Councilman Zeh, motion carried all in favor.

Respectfully Submitted,

Kathleen J. Spinnato
Town Clerk