

**PUBLIC HEARING CONTINUATION & REGULAR MEETING  
OF THE WESTERLO TOWN BOARD  
TUESDAY JUNE 5, 2012**

The Town of Westerlo Town Board held a continuation of the Public Hearing (previously held on May 1, 2012). The purpose of the continuation is to determine the number of uncompensated members (3) vs. (5) to serve on a Board of Ethics Committee. A draft of the proposed Board of Ethics was previously posted on the Town of Westerlo website and copies were available. 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 June 5, 2012.

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

Also present were Zoning Administrator/Code Enforcement Officer Edwin H. Lawson, Highway Superintendent John Nevins, Planning Board Chairwoman Dorothy Verch, Planning Board Member Edwin (Ned) Stevens, Town Clerk Kathleen Spinnato, several town employees and approximately 25 residents.

The Public had the opportunity to be heard, all those who spoke seeming to be in favor of a five member Board of Ethics Committee. All present having been heard Supervisor Rapp made a motion to close the Public Hearing, seconded by Councilman Sherman, motion carried unanimously.

The regular meeting then opened by Supervisor Rapp  
Councilman Sherman made the motion to adopt the following resolution:

WHEREAS: the Town Board has reviewed the Board of Ethics be it,

RESOLVED: the Board of Ethics is hereby adopted with the following revisions: The number of Board of Ethics members changed from: three (3) to: five (5) members and under the section titled Powers and Duties: paragraph F, line 5, the two words "and approved" by the Town Attorney be stricken.

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

AYES: Supervisor Rapp  
Councilman Rash  
Councilman Zeh  
Councilman Sherman

NAY: Councilman Field

**RESOLUTION # 16-2012 was thereby duly adopted.**

The next item on the agenda was an Ethics Committee. Councilman Zeh made a motion to post in the newspaper for persons interested in becoming members of the Board of Ethics Committee. Councilman Field seconded, the motion unanimously carried. Councilman Zeh requested the Town Clerk draft the notice for his review, before being posted in the newspaper.

Supervisor Rapp asked for a motion to approve the May 1, 2012 Town Board minutes. Councilman Rash made the motion to approve the minutes, seconded by Councilman Sherman, motion carried, Councilman Zeh abstained.

Supervisor Rapp asked the Town Board for their input on proposing a moratorium on gas drilling. Councilman Rash had heard even though a municipality may pass a moratorium that it may not hold up. Discussion on the topic of hydrofracking, water well pollution, home rule, and a moratorium followed. Most comments made by the public seeming to be in favor of a moratorium, one person seeming to be against, and another unsure if a moratorium is appropriate at this time. Councilman Zeh suggested having a draft moratorium prepared for the Town Board to consider. He would also ask the Town Attorney to research the legality of whether a moratorium would withstand the scrutiny from a gas line or property owner, as well as, address what would happen if New York State issues a license to someone when there is a moratorium in place.

Councilman Zeh then clarified a topic which came up during the prior discussion. He had heard several comments from the public tonight regarding the Town Attorney not attending the meeting. The Town Attorney serves at the pleasure of this Board to provide legal advice. It is the Town Board's option as to whether or not the Town Attorney shall attend a meeting. There is no requirement for the attorney to be at the meetings. The attorney shall provide legal advice and guidance to the Town Board. If an issue arises that the Town Board needs to address, and we can't, then the situation will be readdressed.

Councilman Zeh then made the following motion to allow Councilman Field and Town Attorney Galgay to continue their work on a draft moratorium (hydrofracking/ gas drilling) and provide the draft to the Town Board members for review. As well as, have the Town Attorney look into the legality of a moratorium and whether or not under scrutiny it may hold up to from either a gas corp. or landowner, as well as, whether or not it would stand up to scrutiny of New York State to issue a permit. Councilman Rash seconded the motion and carried all in favor.

Town of Westerlo resident Helena Kosorek asked the Town Board who is on the Hydrofracking Committee and what is their purpose. Councilman Field responded that they have not met yet. The purpose is to research both sides of the argument, gather information and report back to the Town Board with the information on a neutral basis. The Town Board can then make a decision. Councilman Field then reported the committee consists of: Jerry Boone, Cliff Richardson, Larry Verch, Robert Snyder and Councilman Alfred Field. Mr. Verch clarified that he is on the committee but this was the first he had heard a list of names and confirmed the committee is just forming and has not met. Mrs. Kosorek then commented that she was interested in being on the committee. Supervisor Rapp acknowledged and informed her that if someone declines they will keep her in mind.

Councilman Zeh clarified that the only direction the Town Board had given Councilman Field was to be the representative of the Town Board to research information and gather it. Are you now presenting to the Town Board a list of persons you found that are interested in being on the Committee and are you looking for the Town Board to adopt a Hydrofracking Committee? Councilman Field acknowledged in the affirmative and made a motion to adopt the following resolution

WHEREAS: the Westerlo Town Board needs to gather information on  
Hydrofracking be it hereby,

RESOLVED: that a Hydrofracking Committee formed to gather information only and report to the Town Board their findings  
Councilman Rash seconded the motion and a roll call vote resulted as follows

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

NAYS: None

**RESOLUTION #17-2012 was thereby duly adopted.**

Three bids were received for the remodel/conversion of a former classroom at the Westerlo Town Hall located at 933 CR 401 into two office spaces for the Town Clerk/Tax Collector/ Registrar and the Building Department and were read aloud by the Town Clerk. The bids received were from Rupeka Construction \$8,500.00, David Atkinson \$11,200.00, and Bruce Martell \$12,560.00. Councilman Zeh made a motion to adopt the following resolution:

WHEREAS: three bids for remodeling & converting a room into two offices have been received, be it hereby

RESOLVED: to accept the bids and allow Code Enforcement Officer Edwin H. Lawson to review the bids and award to the lowest bidder

Councilman Sherman seconded the motion and the vote resulted as follows

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

NAYS: None

**RESOLUTION # 18-2012 was thereby duly adopted.**

Supervisor Rapp informed the Town Board that a new copier is needed for the office. Kim Slingerland the Administrative Aide to the Town Supervisor advised the cost to replace with a new copier \$6,100 or trade in the current copier a Canon Image Runner 2270 for a reconditioned copier, cost \$3,500. A service contract is available. Ricoh the current company that now services the existing copier has informed Kim that replacement parts are harder to get for the older Canon copier. Councilman Zeh will work with Kim to get prices from other companies on the maintenance for Canon. Councilman Zeh then made a motion to table the discussion for a new or reconditioned copier. Councilman Field seconded and motion unanimously carried.

Supervisor Rapp reported the decision for Speed Limit Request for County Routes 401, 403, 405 & Creamery Road in the Hamlet of South Westerlo was received from New York State Department of Transportation. The NYSDOT letter of May 30, 2012 indicated that reduction of the 40 mph speed limit for County Routes 401, 403, & 405 (for specific areas on such County Routes as described by the letter from the December 1, 2011 request) was **not** warranted. NYS DOT did a study based on radar measurements and found traffic exceeding the posted speeds. They recommend the enforcement of the existing speed limit and will notify the police agencies of their

findings. On Creamery Road between County Route 405 and NYS Route 32 was reviewed. NYSDOT determined the reduction of speed from 40 mph to 35 mph on Creamery Road is justified. Kevin Bucci a four month resident who lives near the Westerlo hamlet on County Route 401 also voiced his concern over the excessive speeds of vehicles passing by his home.

Councilman Zeh made a motion to adopt the following resolution:

WHEREAS: the Town Board has received a decision from NYSDOT advising enforcement of speed limits on County Route 401, 403, & 405 in the hamlet of South Westerlo hereby

RESOLVED: Supervisor Rapp to forward a copy of the NYSDOT letter of May 30, 2012 to the various law enforcement agencies encouraging enforcement of speed limits in both Westerlo & South Westerlo hamlets.

Councilman Field seconded and vote resulted as follows:

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

NAYS: None.

**RESOLUTION # 19-2012 was thereby duly adopted.**

Dotty Verch the Planning Board Chairperson gave the Planning Board report on the May 22<sup>nd</sup> presentation by Paradigm Liaison Services attended by Rich Kurylo, Gerry Boone, and herself. The 90 minute presentation focused on pipeline emergency response & awareness for excavator operation and call 811 before you dig. Councilman Zeh clarified that “before you dig dial 811” and “if there is an emergency or gas odor dial 911”. He also advised all present that the Town of Westerlo Vol. Fire, Westerlo Rescue Squad, Albany County Dispatch & Paramedics have attended the presentation in the past and have received the booklets which they carry in the first response vehicles.

Supervisor Rapp stated the monthly bills need to be paid and 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 # 220 through # 270 .....\$299,971.37

Councilman Zeh seconded the motion and vote resulted as follows:

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

NAYS: None.

**RESOLUTION # 20-2012 was thereby duly adopted.**

Supervisor Rapp asked if there was any other business. Councilman Field advised that he had been approached by Honorable Judge Robert Carl in regards to the leaks in the roof at 671 County Route 401 which he believed Supervisor Rapp and the Town Board were aware of. Discussion followed on leaks, necessary repairs, previous

proposals and prior quotes between the Town Board and Code Enforcement Officer Lawson.

. Councilman Field requested access to the roof along with Mr. Lawson to make his determination. Mr. Lawson provided more details, the direction he recommends for each section of the building, with the Highway Garage being a priority due to the deterioration of the concrete block walls. Councilman Zeh asked Mr. Lawson to provide the Town Board with two options and schedule a meeting with them to discuss the options. Option A: Repairing the roof in the 3 roof sections as discussed and the current cost. Option B: Replace the roof and the current cost. Mr. Lawson reported should the Town Board decide to go with trusses they will need to hire an architect to design & make sure, structurally, the building can handle the trusses. Councilman Zeh made the motion to adopt the following resolution:

WHEREAS: the Town Board is aware of existing problems with leaks in the roof for the building located at 671 County Route 401 hereby

RESOLVES: authorizes Code Enforcement Officer Lawson to solicit bids in the manner described for roof repairs for the town building at 671 CR 401, to be broken into three roof sections so the Town Board can make a later decision.

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

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

NAYS: None.

**RESOLUTION # 21-2012 was thereby duly adopted.**

Supervisor Rapp asked if there was anyone else who wished to speak. Code Enforcement Officer Lawson wanted to address a comment made earlier this evening. The Unsafe Building law was not to address issues for just one septic system. It was to address conditions and possible conditions and also to address mandated laws of New York State. The Unsafe Building Law has not affected one person to this date. Currently, Deputy CEO Bruce Bunzey is working with a contractor and a structural engineer to evaluate and rebuild a home on Maple Ave. which sustained extensive fire damage. Mr. Lawson has also been in contact with the Health Department on a situation involving a home on County Route 406. The bank had the septic system pumped and removed contents by tank truck. There is still more to do at that location but there is no life threatening situation.

Anita Marrone asked about the Employee Handbook. Councilman Zeh reported that the review is ongoing and he does **not** expect the review to be completed in a few months, it is a long process.

There being no further comments, Councilman Zeh advised there would be no further business to address and made a motion for the Town Board move to Executive Session to consider a discussion on employee matters. Councilman Sherman seconded and motion carried unanimously. The Town Board members entered into Executive Session at 8:50 PM. The Town Board exited Executive Session at 9:16 PM.

Councilman Zeh made a motion to adjourn the meeting at 9:16 PM, seconded by Councilman Field and unanimously carried.

Respectfully Submitted,

Kathleen Spinnato