

**REGULAR MEETING
OF THE TOWN OF WESTERLO
TOWN BOARD
TUESDAY, OCTOBER 1, 2013**

The regular meeting of the Westerlo Town Board was held on Tuesday, October 1, 2013 at the Westerlo Town Hall located at 933 County Route 401, Westerlo. Supervisor Rapp opened the meeting at 7:30 PM with the Pledge of Allegiance to the Flag.

PRESENT WERE: Supervisor Richard H. Rapp
Councilman Alfred L. Field
Councilman William F. Bichteman Jr.
Councilman Theodore S. Lounsbury
Councilman Anthony W. Sherman

Also attending were: NYS Assemblyman 102 District Peter Lopez, Deputy Supervisor Edwin H. Lawson, Highway Superintendent Keith Wright Sr., Planning Board Chairwoman Dorothy Verch, Planning Board Member Doyle Shaver, Zoning Board Chairwoman Virginia Mangold, Town Clerk Kathleen Spinnato and approximately fifteen residents.

Supervisor Rapp asked for a motion to approve the Town Board minutes of September 3, 2013. Councilman Field made the motion to approve, seconded by Councilman Lounsbury and carried all in favor.

Supervisor Rapp asked for a motion to approve the Town Board Public Hearing, Special Town Board Meeting, & Town Board Workshop minutes all held on September 17, 2013. Councilman Sherman made the motion to approve, seconded by Councilman Bichteman and carried all in favor.

Supervisor Rapp reported the Supervisor's Trial Balance for August 2013 had been submitted to the Town Board. He then made a motion to adopt the following resolution:

WHEREAS: the Town Board has received the Supervisor's Trial Balance for August, be it hereby

RESOLVED: the Town Board accepts the Supervisor's Trial Balance as submitted.

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

AYES: Supervisor Rapp, Councilman Lounsbury, Councilman Field, Councilman Sherman, Councilman Bichteman.

NAYS: None.

RESOLUTION # 60-2013 was thereby duly adopted.

Supervisor Rapp reported the Town Clerk Kathleen Spinnato had submitted the Town Clerk's Monthly Report for September 2013. Councilman Sherman made a motion to adopt the following resolution:

WHEREAS: the Town Board has received the Town Clerk's September Monthly Report, be it hereby

RESOLVED: to accept the Town Clerk's Monthly Report as submitted.

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

AYES: Supervisor Rapp, Councilman Sherman, Councilman Field, Councilman Bichteman, Councilman Lounsbury.

NAYS: None.

RESOLUTION # 61-2013 was thereby duly adopted.

Supervisor Rapp asked Planning Board Chairwoman Dorothy Verch to give the Planning Board Report. Dotty presented a draft copy of the Town of Westerlo Comprehensive Plan of 2013 to the Town Board members. She reported the Comprehensive Plan Advisory Committee is presenting this draft to the Town Board for their review and approval. The Town Board had not accepted the previous draft

Comprehensive Plan as submitted and asked the Planning Board to review and revise the Comp. Plan. The Town Board and Planning Board met at previously scheduled Town Board Workshops to discuss critiques and potential suggestions for revisions to the Draft Comprehensive Plan. On September 16, 2013 the Comprehensive Plan Advisory Committee reconvened to address these items. The Comprehensive Plan Meeting was an open meeting with free and active interchange between the attendees and the committee. Discussions, opinions, and suggestions from those meetings were noted. She then read the sections covered and results that followed. She advised Albany County suggests the Comprehensive Plan be reviewed in five years intervals and revisited as circumstances change. The Comp. Plan Advisory Committee is recommending two year intervals to start then five years afterward. She reported it is the recommendation of the Comprehensive Advisory Committee that the Town Board review and accept the revised draft of Town of Westerlo Comprehensive Plan of 2013 and submit to Albany County Planning Board for their approval, once approved the original will be signed.

Supervisor Rapp asked if the Town Board had any questions regarding the draft Town of Westerlo Comprehensive Plan of 2013 as submitted at tonight's meeting. The Town Board had no questions at this time. The Town Board needs to review the document before any decision is rendered.

Supervisor Rapp announced they need to set up interviews of applicants who applied for a vacant position on the Zoning Board of Appeals. Councilman Bichteman suggested holding the interviews in Executive Session at the next Town Board Workshop scheduled for Tue. Oct. 8, 2013 at 7:00 PM. The Town Board agreed all in favor of holding interviews on Oct. 8, 2013.

Councilman Bichteman gave a Water Committee Report. He indicated the Water Board has met once and the Water Committee has met twice. The flushing of the Westerlo Water District #1 is scheduled to start next week through the end of October. Currently are in the process of marking the service connections in the water district. The back up well to the Westerlo Water District #1 is also scheduled to be restarted in the next few weeks. The next Water Board meeting is scheduled for Thurs. Oct. 17th @ 7:30 PM. This will be advertised in the newspaper and on the Town of Westerlo website. Supervisor Rapp asked for a motion to accept the Water Committee Report as reported by Councilman Bichteman. Councilman Field made the motion to accept the Water Committee Report, seconded by Councilman Lounsbury and carried all in favor.

Supervisor Rapp reported that Beaver Shores Rd. was added to the Town of Westerlo Inventory of Roads back in 1969. For some reason Beaver Shores Rd. was missed on the total highway miles on the Highway Inventory List the Town of Westerlo receives CHIPS dollars based on mileage. Councilman Field questioned whether the road meets subdivision code standards. Highway Superintendent Keith Wright reported the Town has maintained and plowed the road for approximately 20 years. Councilman Bichteman questioned where the Town of Westerlo plows to. Keith replied to the end of the road with a one ton pickup. Councilman Bichteman also questioned how much would the Town of Westerlo gain in revenue per lane mile? Does this road qualify for CHIPS money improvements? Is the Town in the position to restrict the adjacent property owners' access due to their personal equipment in the roadway (wood pile in road)? He advised it appears to him that it was a short section of road that then became an extended driveway and the town turned the trucks around at the end when pushing snow. Supervisor Rapp reported it was extended when Central Hudson needed to gain access to electric wires when an airplane had crashed and hit wires. Questions, and discussion followed by residents and the Town Board regarding the number of residents on the road, user road, CHIPS improvements. Supervisor Rapp asked for a motion to add Beaver Shores Road to the Highway Inventory. Councilman Lounsbury stated he would like to request a legal opinion from Town Attorney first on the subject. Councilman Bichteman offered to ask the Town Attorney to give the Town Board a legal opinion on the Beaver Shores Road matter. The Town Board agreed to have Councilman Bichteman contact the Town Attorney and to table any potential decision to add Beaver Shores Road to Highway Inventory at the current time.

Supervisor Rapp reported that Highway Superintendent is requesting a speed limit of 45 MPH on Dunbar Hollow Road. Councilman Bichteman then made a motion to adopt the following resolution:

WHEREAS: Highway Superintendent Keith Wright Sr. has made a request for a speed limit of 45 MPH on Dunbar Hollow Road, be it hereby

RESOLVED: the Town Board of the Town of Westerlo requests a speed limit of 45 MPH on Dunbar Hollow Road, between the intersection of Tan Hollow Road through to the New Scotland town line.

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

AYES: Supervisor Rapp, Councilman Bichteman, Councilman Sherman,
Councilman Lounsbury.

NAYS: Councilman Field.

RESOLUTION # 62-2013 was thereby duly adopted.

Supervisor Rapp asked Town Clerk Kathleen Spinnato to read correspondence received on September 10, 2013 from State of NY Department of Transportation signed by Mark J. Kennedy Regional Traffic Engineer. The Town Clerk read aloud the correspondence which was a response to a Speed Limit reduction request for County Route 312 between State Route 143 and County Route 411 requested by the Town of Westerlo on December 26, 2013. The NYSDOT determined that a reduction of the speed limit was warranted. NYSDOT has written a Notice of Order for a speed limit of 45 mph on County Route 312 between the intersections of State Route 143 and County Route 411.

Supervisor Rapp then reported that the monthly bills need to be paid. He then made a motion to adopt the following resolution:

WHEREAS: the Town Board has audited the monthly bills, be it hereby

RESOLVED: the following bills be paid:

Voucher # 913 through Voucher # 954 in the amount of \$35,908.24

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

AYES: Supervisor Rapp, Councilman Sherman, Councilman Field,
Councilman Bichteman and Councilman Lounsbury.

NAYS: None.

RESOLUTION # 63-2013 was thereby duly adopted.

Supervisor Rapp announced that NYS Assemblyman 102 District Peter D. Lopez is running late and will be attending tonight's. The meeting will continue until he arrives.

Deputy Supervisor Edwin H. Lawson spoke to the Town Board regarding the Zoning Law and some language in Section 7.80 Non Conforming Uses, Paragraph A., #1. Expansions - he feels should be revised. He circled the part that reads: such lots or parcels, he would like to add parenthesis and a sentence to read as long as the setback requirements are met. The property owner would then not have to go through the variance process. He reported there are situations where the property meets the setback requirements, although the lot is considered a nonconforming lot, thereby the building is a nonconforming use. This is holding up individuals for the building process by 2 months when it meets setback requirements, he like would to recommend a change. Councilman Bichteman asked Deputy Supervisor Lawson to clarify the language he wants to add to the Zoning Law and provide a draft copy of the changes he is proposing to the Town Board for review and a copy for the Public a potential Public Hearing would need to be held. Questions were asked by local residents, discussion and answers were provided by two local residents

Deputy Supervisor Edwin H. Lawson also recommended changes in the Zoning Law to. Section 8.40 , 2. Uses Permitted by Right, d. Solar Energy Systems & Section 8.50, 2. Uses Permitted by Right, b. Solar Energy Systems. Currently there is no permit fee schedule for Solar Energy Systems, he advised adding language regarding meeting setback requirements for solar energy systems and a requirement must meet the structural integrity when solar energy system is installed on a roof. Discussion followed

between Councilman Bichteman, Councilman Sherman, Deputy Supervisor Lawson regarding a potential permit fee schedule, setbacks, and structural integrity, public hearing on proposed changes to the Zoning Law, etc. Councilman Bichteman and Councilman Sherman advised that a Public Hearing should be held regarding the changes to the Zoning Law Deputy Supervisor Edwin Lawson is proposing as previously discussed. Councilman Sherman then made a motion to adopt the following resolution.

WHEREAS: the Town Board has been approached to consider changes to the Zoning Law proposed by Deputy Supervisor Edwin H. Lawson be it hereby

RESOLVED: the Westerlo Town Board will hold a Public Hearing regarding proposed Local Law No. 3 of 2013 amendments to the Town of Westerlo Zoning Law to the following Sections: 7.80, (A, -1), 8.40, and 8.50 to be held on Wednesday, November 6, 2013 at the Town Hall at 7:00 PM. The Public Hearing will be immediately followed by the Town Board meeting.

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

AYES: Supervisor Rapp, Councilman Sherman, Councilman Bichteman, Councilman Lounsbury and Councilman Field.

NAYS: None.

RESOLUTION # 64-2013 was thereby duly adopted.

Councilman Bichteman has been asked by Town Attorney Aline Galgay to bring to the Town Board's attention a communication request from Mr. Silver who represents a company called Compensation Consulting Services Inc. He offers to review compensation case claims, if the Town has overpaid on compensation insurance he will secure a refund for the Town. Mr. Silver charges a fee of half of the refund. The Town Attorney has checked with the NYS Attorney General's office to see if there were any fines against the company which was clear. She did not review the references provided by Mr. Silver. Councilman Bichteman is not fond of solicitations like this but asked Supervisor Rapp if there had been any compensation claims since 2008. Supervisor Rapp thought there had been one. Councilman Bichteman advised the Town Attorney has stated in her memo there is no risk to the Town, there are no fees involved, payment is based on recovery of premiums based at a rate of 50%. Councilman Lounsbury stated they would need to know the value of the claim to see if this is worth pursuing. Councilman Bichteman and Councilman Lounsbury will look further into the matter, check references provided by Mr. Silver and report back to the Town Board.

Supervisor Rapp announced that he had received the 2014 Budgets from the Town of Westerlo Vol. Fire Co. and the Westerlo Rescue Squad. He will provide a copy to the Town Board members.

Supervisor Rapp opened the meeting to the Public.

Diane Sefcik reported the Public attending the Comprehensive Plan meeting all seemed to be in support of the goals represented in the revised draft Comprehensive Plan submitted by Planning Board Chairwoman Dorothy Verch to the Town Board this evening. She also reported she has been looking into some impacts of Shale Gas Development and in particular its impact to residents and individual property. She presented a letter to the Town Board, Deputy Supervisor and asked that it be part of the public record. The letter she researched addresses situations regarding the impact to residential lending home mortgages. She reported on Mr. Gregory May's VP, Tompkins Trust Company letter and she read the consequences bulleted in the letter. She hopes these issues will make their way into the Hydrofracking Report.

Anita Marrone asked the Town Board to explain the Code of Ethics posted on the Town of Westerlo website and the Board of Ethics as she was confused about these matters. Councilman Bichteman answered her questions.

NYS Assemblyman 102 District Peter Lopez arrived and reported he would like to hold a Town Hall meeting. He would like to schedule a Town Hall meeting the purpose to meet and have public discussion with the people in his District. He reported on his background in Public Service. Assemblyman Lopez and the Town Board discussed possible dates and then scheduled a tentative Town

Hall meeting for Thursday, November 14 at 7:00 PM at Westerlo Town Hall. Resident Stephen Nappe asked Mr. Lopez questions and commented on a situation pertaining to his property and a neighbor's property. Deputy Supervisor Lawson advised Mr. Nappe and his neighbor Mr. Germani that Mr. Lopez was here for other reasons. Assemblyman Lopez graciously explained possible scenarios and advised how particular situations may be handled. He thanked the Town Board for the opportunity to hold Town Hall meeting.

There being no further comments Councilman Field made a motion to adjourn the meeting, seconded by Councilman Lounsbury and carried all in favor. The meeting adjourned at 9:10 PM.

Respectfully Submitted,

Kathleen Spinnato