

**TOWN OF WESTERLO  
TOWN BOARD  
MEETING OF  
TUESDAY, JUNE 2, 2015**

The Town of Westerlo Town Board held a regular monthly meeting on Tue., June 2, 2015 in the Town Hall located at 933 County Route 401, Westerlo NY. Supervisor Richard H. Rapp called the meeting to order at 7:33 PM with the Pledge of Allegiance to the Flag.

ATTENDING WERE: Supervisor Richard H. Rapp  
Councilman Alfred L. Field  
Councilman Theodore S. Lounsbury III  
Councilman Anthony W. Sherman

ABSENT: Councilman William F. Bichteman Jr.

Also attending were: Delaware Engineering Fred Grober, Town Attorney Aline D. Galgay, Town Clerk Kathleen Spinnato, Town Justices Robert Carl & Kenneth Mackey, Highway Superintendent Keith Wright Sr., Deputy Highway Superintendent Jody Ostrander, Zoning Board of Appeals Chair Virginia Mangold, ZBA member John Sefcik, Planning Board Member Edwin Stevens and approximately twenty-five residents/interested persons.

Supervisor Rapp asked for a motion to accept the Town Board meeting minutes of 5/5/2015. Councilman Field made the motion to accept, seconded by Councilman Lounsbury and unanimously carried by those in attendance.

Supervisor Rapp asked for a motion to accept the Town Board Workshop minutes of 5/19/2015. Councilman Sherman made the motion to accept, seconded by Councilman Lounsbury and unanimously carried by those in attendance.

Supervisor Rapp asked for a motion to accept the Town Clerk's monthly report for May. Councilman Sherman made a motion to accept the Town Clerk's monthly report, seconded by Councilman Field and unanimously carried by those in attendance.

Supervisor Rapp asked for a motion to accept the Supervisor's Reports previously submitted to the Town Board for January 2014 through December 2014 and currently submitted to the Town Board for January 2015 through April 2015. Councilman Lounsbury made the motion to accept the Supervisor's Reports, seconded by Councilman Field and unanimously carried by those in attendance.

Supervisor Rapp advised the monthly bills need to paid and 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 # 206 through Voucher # 254 in the amount of \$ 95,602.36

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

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

NAYS: None.

**\*\*RESOLUTION # 22-2015 was thereby duly adopted. \*\***(Note Resolution # 21-2015 follows)

Supervisor Rapp asked for the Planning Board Report. Planning Board Member Edwin Stevens submitted and read the following report. Meeting was held on May 26, 2015 with two Public Hearings:

1. Application # 15-001 from John Dolce for 6003 State Route 32 formerly known as Hilltown Agway store and described the intended use to sell and service vehicles for the motor sports industry i.e. motorcycles, 4 wheelers and ATV's and other small engine . A letter of objection was received from Mr. & Mrs. Wayne Overcash, of Dormansville. After public comment period,

the Public Hearing was closed. The Planning Board voted unanimously to approve, with restrictions, the Special Use Permit.

2. Application #15-002 from Alan Jeffrey Pelton for a minor subdivision. A one cut subdivision was taken from his current 2 parcels to create approx. 10 acres he intends to give to daughter and son-in-law. Public Hearing was closed. Planning Board voted unanimously to approve the one cut Minor Subdivision.

There was a change in file numbers for each application listed above. 15-001 was erroneously labeled as 14-006 & 15-002 was erroneously labeled as 14-007. Councilman Sherman made a motion to accept the Planning Board report as submitted, seconded by Councilman Field and unanimously carried by those attending.

Supervisor Rapp asked for the Zoning Board Report. Zoning Board of Appeals Chairwoman Virginia Mangold reported the ZBA met on Wed. May 27<sup>th</sup> a change from the normal Monday due to the Memorial Day holiday. Following the Pledge of Allegiance the ZBA had neither old or new business to discuss. Many times never having enough time after regular meetings to discuss the Town's needs and wants, the ZBA reviewed the latest Town Board Workshop meeting. Meeting adjourned at approximately 8:30 PM. Next meeting is scheduled for Monday, June 22, 2015. Councilman Lounsbury made a motion to accept the ZBA report, seconded by Councilman Field and unanimously carried by those in attendance.

Supervisor Rapp stated the next item on the agenda is the review of Zoning Recommendation Committee Report. Councilman Sherman stated this should be discussed at the next workshop meeting on June 16<sup>th</sup>.

There was a brief discussion from the public regarding the proposed Town Hall building renovation and new Highway Garage construction project and the upcoming Public Informational Meeting for the proposed project to be held on June 16<sup>th</sup> at 7:00 PM. Councilman Sherman answered the question regarding workshop meetings; he indicated that they are posted on the Town website, they had been previously advertised in official newspaper, they are held on the 3<sup>rd</sup> Tuesday of each month at 7:00 PM, and no decisions can be made at a workshop.

Supervisor Rapp reported the next item on the agenda was for proposed Bond Resolution for renovations to Town Hall & potential new construction of highway garage. Councilman Sherman asked Supervisor Rapp if Fred Grober of Delaware Engineering would give an overview of the proposed project for the people in the audience so they have an understanding of where we are and what is going on.

Mr. Grober gave a history of the previous plans for renovations to the Highway Garage with all bids coming in high for a renovation project the Town Board elected instead to seek information on replacement of the Highway Garage rather than refurbishing the building. Delaware Engineering was then contacted. Delaware Engineering approached the conceptual project with the following guidance for concerns: energy efficiency of structures, the consolidation and relocation of Town Court and NYS Police to be moved to the existing Town Hall which will need renovation as well as upgrades of old steam heating system, insulation for energy efficiency, ADA compliance. He reviewed the estimated calculations for the average taxpayer, cost was \$100 a year based on an average assessment of \$1,418.34. For homeowners with an assessed valuation under \$1,400 they will pay less, if assessed valuation is more than \$1,400 those homeowners will pay more this includes commercial and industrial parcels, it will not include tax exempt parcels. Right now this is in the conceptual stage plan, a Public Information Meeting will be held on June 16<sup>th</sup> at 7:00 PM. Town Attorney Aline Galgay advised the meeting on June 16<sup>th</sup> is for the public presentation of conceptual plans to the public, this differs from a Public Hearing.

Fred Grober asked Town Attorney Aline Galgay to explain required legalities. She advised the public and reviewed the process covering the following topics: conceptual stage planning, Bond Resolution, 30 Day Permissive Referendum, Petition, Referendum-vote, 20 Day Estoppel Period, actual planning-design stage phase, & Public Hearing and answered questions.

The Public then commented, voiced concerns, or stated opinions on the following:

- Objected to the lack of presentation to the public for the \$2.8 (conceptual plan) cost of the proposed project
- Several agreed improvements are needed but felt the public should be notified before a vote takes place on a bond resolution
- Maintenance Plan: Town Hall & Highway Garage buildings
- Renovations compared to replacement
- Discussions or meetings held by Building Committee/Town Board
- Fire Company budget
- Wanted to know the actual cost of each building
- Posting of meetings and a sign board
- Permissive Referendum period start/end date
- Questioned if there was also a proposed addition to Town Hall

Fred Grober of DE, Town Attorney Galgay, Supervisor Rapp, and Town Board members responded to and their questions accordingly based on the information provided by Delaware Engineering to date for the proposed project.

A suggestion was made by a resident that the Town Board make a motion to approve a vote. Town Attorney Galgay advised the Town Board members if they decide to have a Permissive Referendum on their own she suggested they take on a Global Permissive Referendum, it would deal not only with bonding but the entire project. She informed the public "What the Town Board needs to deal with now is **not** the approval of any particular building or conceptual plan, it's merely authorizing the Supervisor to engage in borrowing up to the maximum of \$2.75 million should the Town Board finalize and approve the construction project. This is conceptual borrowing, you can always change. This is an opportunity to move forward, it is very hard for the engineer to continue to design plans when he doesn't have an idea what is being provided for funding." She also advised the Board of another option which would cover a three year period but would change the figures and the construction time line.

Town Attorney Galgay advised another issue the Town Board had not had the opportunity to discuss yet tonight is the Bonding itself. She indicated one of the ways the Bond Resolution is worded was to Bond the maximum of \$2.75 million in single or multiple bonds. Meaning, does the Town do a one year BAN for the renovations to Town Hall and then figure out a five year or ten year Bond on just that, basically financing the parts of the project separately. The Town is not borrowing \$2.75 million up front it means the Town can finance the current construction, the rest of the project financing is done in parts until they need to borrow that financing. She advised according to Finance Law renovations differ from construction for the terms and conditions. The Town was just hoping to get the whole publication done in all one fell swoop.

A resident asked a question regarding monies previously budgeted for roof repairs was there \$200,000 sitting in an account somewhere for this. Supervisor Rapp and Councilman Sherman indicated that money was budgeted for roof repairs on the last two budgets. Supervisor Rapp stated " budgeted means nothing, it does not mean it was actually funded."

A resident asked a question pertaining to a resolution passed at the last Town Board meeting regarding a negative SEQR on the project and wondered why Planning Board review is not necessary for any environmental issues with the building. Fred Grober responded it is a replacement in-kind. Town

Attorney Galgay advised the building is not going to create Environmental issues in its existence. If there is any kind of construction/renovation if there is asbestos roofing it has to be taken care of in the proper ways that asbestos removal is done, we've discussed these issues whether or not there is soil contamination or asbestos these would have to comply with NYS Environmental Laws. Mr. Grober advised that would require a 360 Permit and there has been budgeted into the contingency, a sufficient amount to take care of these. A resident inquired about the septic systems. Mr. Grober responded the same was done for the septic systems, until Delaware Engineering can get to a full design phase they have budgeted for either reuse or replacement of the septic systems should they not be in good condition when they get to that phase.

Councilman Sherman then advised that there is a Bond Resolution before the Town Board. He then read aloud the Resolution for the Public and made a motion to adopt the following resolution:

### **BOND RESOLUTION**

BOND RESOLUTION OF THE TOWN OF WESTERLO, ALBANY COUNTY, NEW YORK, ADOPTED JUNE 2, 2015 AUTHORIZING THE IMPROVEMENTS AND RENOVATION OF TOWN HALL AND DEMOLITION OF THE EXISTING TOWN GARAGE AND ACQUISITION AND CONSTRUCTION OF A NEW HIGHWAY GARAGE ON THE SAME SITE, INCLUDING GRADING AND IMPROVING OF THE SITE AND ORIGINAL FURNISHINGS, EQUIPMENT, MACHINERY AND APPRATUS TO BE USED IN CONNECTION THEREWITH, STATING THE ESTIMATED MAXIMUM COST OF SAID RENOVATION AND REPLACEMENT CONSTRUCTION, TOGETHER WITH CERTAIN COSTS PRELIMINARY AND INCIDENTAL THERETO, IS \$2,750,000, APPROPRIATING SAID SUM THEREFOR, AUTHORIZING THE ISSUANCE OF UP TO \$2,750,000 SERIAL BONDS OF THE TOWN TO FINANCE SAID APPROPRIATION, AND PROVIDING THAT THIS RESOLUTION IS SUBJECT TO A PERMISSIVE REFERENDUM.

### RECITALS:

WHEREAS, the Town Board of the Town of Westerlo, New York (the "Town") has determined that it is in the best interest of the Town and its residents to renovate the existing Town Hall building to accommodate the Town Court system and the State Police substation currently located in the existing Town Highway Garage. The existing Highway Garage will be replaced with a new Highway Garage. This will be accomplished by demolishing the existing Town Highway Garage and acquire and construct on the same location a new highway garage containing approximately 8,900 square feet, including grading and improving of the site and original furnishings, equipment, machinery and appliances to be used in connection therewith (collectively, the "Project"); and

WHEREAS, the Town Board has determined that the renovation of existing space at Town Hall and demolition of the existing Highway Garage and the acquisition and construction of both Projects is a

Type II Action within the meaning of the State Environmental Quality Review Act and the regulations issued pursuant thereto (collectively, “SEQRA”) and no further action pursuant to SEQRA needs to be taken with respect to such renovation, demolition, acquisition and construction;

NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE TOWN BOARD OF THE TOWN OF Westerlo (BY AT LEAST TWO-THIRDS (2/3) OF THE ENTIRE TOWN BOARD) AS FOLLOWS:

Section 1. The Recitals set forth above are incorporated herein by reference.

Section 2. The Town of Westerlo, Albany County, New York (the “Town”) is hereby authorized to renovate Town Hall to accommodate the Town Court & State Police Substation within the existing Town office facilities and demolish the existing Town highway garage and to acquire and construct a new highway garage containing approximately 8,900 square feet, including grading and improving the site and original furnishings, equipment, machinery and a apparatus to be used in connection therewith (collectively, the “Project”).

Section 3. The estimated maximum cost of acquiring and constructing the Project, including preliminary costs and costs incidental thereto and the financing thereof, is \$2,750,000 and said amount is hereby appropriated therefore. To finance said appropriation, serial bonds of the Town are hereby authorized to be issued in the aggregate principal amount of up to \$2,800,000 pursuant to and in accordance with the provisions of the Local Finance Law, constituting Chapter 33-A of the Consolidated Laws of the State of New York (the “Law”).

Section 4. The plan of financing includes issuing up to \$2,750,000 aggregate principal amount of serial bonds of the Town in such series and amounts as may be necessary to pay said sum, together with other costs. The serial bonds may (but need not) be issued in the form of a single bond, known as a statutory installment bond, in accordance with Section 62.10 of the Law. The annual debt service on the bonds may (but need not) be substantially level or declining annual debt service as provided in Section 21.00(d) of the Law. The interest rate on the bonds (and any notes issued in anticipation thereof) may, but need not, be a variable rate of interest as provided in Section 54.90 of the Law.

Section 5. The following additional matters are hereby determined and stated:

(a) The period of probable usefulness of the specific objects or purposes which the bonds authorized by the resolution are to be issued is twenty (20) years, within the limitation of Section 11.00(a)(12-a) of the Law, with respect to the renovation of Town Hall and demolition of the existing highway garage, and thirty (30) years within the limitation of Section 11.00(a)(11) of the Law with respect to the acquisition and construction of the new garage. It is not expected, however, that the maturity of the bonds authorized hereby will exceed twenty (20) years, excluding the term of any notes issued in anticipation of such bonds.

(b) Current funds are not required by the Law to be provided prior to the issuance of the bonds authorized by this resolution or any bond anticipation notes issued in anticipation thereof, pursuant to Section 107.00(d)(9) of the Law.

(c) The proposed maturity of the bonds authorized by this resolution will exceed five (5) years.

(d) Pursuant to Section 35.00 of the Law, this resolution is subject to a permissive referendum.

(e) The bonds authorized by this resolution are not private activity bonds as defined in Section 141 of the Internal Revenue Code of 1986, as amended (the "Code").

(f) All of the proceeds of the bonds authorized by this resolution and any notes issued in anticipation of the sale of said bonds shall be used to finance the renovation, demolition, acquisition and construction of the Project and to pay costs incidental and preliminary thereto (including, without limitation, costs relating to the issuance of the bonds and any notes issued in anticipation of the issuance of said bonds).

Section 6. Each of the bonds authorized by this resolution and any bond anticipation notes issued in anticipation of the sale of said bonds shall contain the recital of validity prescribed by Section 52.00 of the Law, shall be issued in fully registered form and shall be general obligations of the Town. The faith and credit of the Town are hereby irrevocably pledged to the punctual payment of the principal

of and interest on said bonds and any notes issued in anticipation of said bonds. To the extent not paid from other sources, provision shall be made annually in the budget of the Town by appropriation for (a) the amortization and redemption of the bonds and notes to mature in such year, and (b) the payment of interest to be due and payable in such year.

Section 7. The temporary use of available funds of the Town, not immediately required for the purpose or purposes for which the same were borrowed, raised or otherwise created, is hereby authorized, ratified and confirmed, pursuant to, and subject to the restrictions of, Section 165.10 of the Law, for the objects or purposes described in Section 1 hereof. As provided in Section 165.10 of the Law, the Town intends to reimburse such funds from the proceeds of the bonds or notes authorized hereto. This resolution is a declaration of official intent under Section 1.150-2 of the Treasury Regulations issued pursuant to the Code.

Section 8. The Town hereby covenants and agrees with the holders from time to time of the bonds authorized hereby, and any bond anticipation notes issued in anticipation thereof, that the Town will duly and faithfully observe and comply with the provisions of the Code relating to actions which the Town must take or cause to be taken to ensure the status of the interest on the bonds authorized hereby, and any notes issued in anticipation thereof, is excludable from federal income taxation.

Section 9. The Supervisor of the Town, upon the advice of Bond Counsel, is hereby authorized to designate as a “qualified tax-exempt obligation” pursuant to and within the meaning of Section 265(b) of the Code the bonds authorized hereto and any notes issued in anticipation thereof.

Section 10. Subject to the provisions of this resolution and the Law, and pursuant to the provisions of Section 30.00 of the Law relative to the authorization of the issuance of bond anticipation notes and of Section 50.00 and Sections 54.90 to and including 63.00 of the Law, the powers and duties of the Town Board relative to prescribing the terms, form and content and as to the sale and issuance of the bonds herein authorized and any notes issued in anticipation of such bonds, and the renewals thereof, are hereby delegated to the Supervisor of the Town, as the Chief Fiscal Officer of the Town.

Section 11. The validity of the bonds authorized by this resolution, and of any notes issued in anticipation of said bonds, may be contested only if:

(a) such obligations are authorized for an object or purpose for which the Town is not authorized to expend money; or

(b) the provisions of law which should be complied with at the date of the publication of such resolution or summary thereof, are not substantially complied with, and an action, suit or proceeding contesting such validity is commenced within twenty (20) days after the date of such publication; or

(c) Such obligations are authorized in violation of the provisions of the constitution.

Section 12. Within ten (10) days after the adoption of this resolution, the Town Clerk is hereby authorized and directed to cause to be published at least once in the Altamont Enterprise, being a newspaper having a general circulation in the Town and hereby designated as the official newspaper of the Town (the "Official Newspaper"), and to be posted on the sign board of the Town maintained pursuant to the Town Law a notice which shall set forth the date of adoption of this resolution and contain an abstract hereof concisely stating its purpose and effect and specifying that this resolution was adopted subject to a permissive referendum.

Section 13. This resolution shall take effect thirty (30) days after adoption, unless there shall be filed with the Town Clerk a petition signed and acknowledged by the electors of the Town qualified to vote upon a proposition to raise and expend money, in number equal to at least five percent (5%) of the total vote cast for governor in the Town at the last general election held for the election of State offices, protesting against this resolution and requesting that the matter be submitted to the qualified electors of the Town at a referendum in the manner provided by Article Seven of the Town Law.

Section 15. Following the effective date of this resolution, the Town Clerk is hereby authorized and directed to publish this resolution, or a summary thereof, together with a notice in



substantially the form provided by Section 81.00 of the Local Finance Law, in the Official Newspaper.

INTRODUCED BY: Councilman Anthony W. Sherman

SECONDED BY: Councilman Theodore S. Lounsbury III

AYES: Councilman Anthony W. Sherman, Councilman Theodore S. Lounsbury III, Supervisor Richard H. Rapp and Councilman Alfred L. Field.

ABSENT: Councilman William F. Bichteman Jr.

NAYS: None.

**RESOLUTION # 21-2015 WAS THEREBY DULY ADOPTED.**

Supervisor Rapp said the next item is the Peddler's Ordinance. The Town Board unanimously decided to table discussion of the Peddlers Ordinance until next month.

A resident had a question pertaining to the hoarding of junk vehicles which were filled with other stuff. She was advised by the Town Attorney to file a written complaint with the Town of Westerlo Code Enforcement Officer Edwin H. Lawson.

There being no further business Councilman Sherman made a motion to adjourn the meeting, seconded by Councilman Lounsbury and unanimously carried by those present. The meeting adjourned at approximately 9:22 PM.

Respectfully submitted,

Kathleen Spinnato

