

**TOWN OF WESTERLO  
TOWN BOARD MEETING  
OF  
TUESDAY, DECEMBER 6, 2016**

The Town of Westerlo Town Board held a Town Board meeting on Tuesday, December 6<sup>th</sup> 2016 at the Town Hall 933 County Route 401, Westerlo, NY. Supervisor Rapp opened the Meeting at 7:30 PM with the Pledge of Allegiance to the Flag.

ATTENDING WERE: Supervisor Richard H. Rapp  
Councilwoman Amie L. Burnside  
Councilman Joseph J. Boone  
Councilman William F. Bichteman Jr.

ABSENT: Councilman Anthony W. Sherman

Also attending were: Highway Superintendent Keith Wright Sr., Deputy Highway Superintendent/Dog Warden Jody Ostrander, Deputy Dog Warden Salvatore Spinnato IV, Deputy Supervisor/Code Enforcement Officer/Zoning Administrator Edwin H. Lawson, Town Justice Robert Carl, Town Historian Dennis Fancher, Planning Board Chairwoman Dorothy Verch, Zoning Board of Appeals member John Sefcik, Deputy Town Clerk II Karla Weaver, Albany Co. Sheriff Investigator Amy Kowalski, Town Clerk Kathleen Spinnato and approximately six residents.

**Town Board Minutes**

Supervisor Rapp asked for a motion to approve the following Town Board minutes;

Town Board minutes of 11/9/2016 motion to accept made by Councilman Boone, seconded by Councilwoman Burnside, motion carried.

Town Board Public Hearing/Emergency meeting minutes of 11/15/2016, motion to accept made by Councilman Bichteman, seconded by Councilwoman Burnside, Councilman Boone abstained due to his absence, Supervisor Rapp in favor, motion carried.

Special Town Board minutes of 11/30/2016, motion to accept made by Councilwoman Burnside, seconded by Councilman Boone, Councilman Bichteman abstained, Supervisor Rapp in favor, motion carried.

**Supervisor's Report –October**

Supervisor Rapp reported the Town Board had received the Supervisor's Report for October and he asked for a motion to approve. Councilman Bichteman made a motion to accept the Supervisor's Report for the month of October as submitted, seconded by Councilwoman Burnside, motion carried.

**Town Clerk's Report-November**

Supervisor Rapp reported the Town Clerk had submitted the Town Clerk's report for November to the Town Board, he asked for a motion to accept. Councilman Boone made a motion to accept the Town Clerk's report for November as submitted, seconded by Supervisor Rapp, motion carried.

**Dog Redemption Fee**

The Town Clerk reported a resident of another town has not paid a dog redemption fee of \$350 on one of two unlicensed/unidentified dogs seized in the Town of Westerlo in May. The two dogs were taken to the Mohawk & Hudson Humane Society (MHHS) by the Westerlo Dog Warden. The person did pay

the redemption fee on one dog and signed a Promissory Note on May 6<sup>th</sup> to pay the remaining \$350 for the second dog. The individual has not responded to any letters sent by the Town or made any of the scheduled payments in the amount of \$87.50 each were due on 6/15, 7/15, 8/15 and 9/15 of this year as outlined in the promissory note. There has been no known attempt made by the person to contact the Town Clerk's office to resolve the matter to date. The Supervisor had authorized a payment schedule in order to assist this person. The Town Attorney has advised me to bring the issue before the Board to ask how you would like to proceed with the matter. Dog Warden Jody Ostrander answered questions from the Board. Councilman Bichteman made a motion to authorize the Town Attorney to follow through on the collection of the dog redemption fee with the Town of Rensselaerville Court, seconded by Councilwoman Burnside, motion carried.

**Payment of Monthly Bills**

Supervisor Rapp announced 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: the following bills be paid

Voucher # 487 through 526 in the amount of \$148,468.18

Councilman Bichteman seconded the motion, a vote resulted as follows;

AYES: Supervisor Rapp, Councilman Bichteman, Councilwoman Burnside and Councilman Boone

NAYS: None

**RESOLUTION #52-2016 was thereby duly adopted.**

**Transfers**

Supervisor Rapp read Pattison Koskey Howe & Bucci's (PKHB) letter & email of 12/2/16 from Rick Rider CPA to make the following bank transfers. Councilman Bichteman made a motion to adopt the following resolution:

WHEREAS: PKHB has made a request for bank transfers which included the reason for each in order to prepare balance sheet accounts prior to the year end, be it hereby

RESOLVED: the Town Board has agreed to authorize bank transfers for these funds;

From	To	Amount
General Checking	Health Plan Reimburse Checking	\$ 5,952.33
Health Plan Reimburse Checking	Health Plan Deductible Checking	\$ 8,695.08
General Savings	Payroll Checking	\$ 4,226.91
Payroll Checking	Highway Savings	\$ 4,227.27
Payroll Checking	Library Savings	\$ 45.72
Water Savings	Payroll Checking	\$ 38.92
Highway Savings	General Savings	\$13,403.00
General Savings	Highway Savings	\$ 2,016.87

In addition PKHB made the following recommendations:

Highway Abstract transfer \$1,019.81 less to General Checking

Water Fund owes General Fund \$63,710.97. A payment plan is needed. Supervisor Rapp advised \$1,000 has been paid back by the Water District.

Check for \$3,647.29 from Payroll Checking to General Savings-Health Insurance Withholding

Check for \$11,955.56 from Payroll Checking to Highway Savings-Health Insurance Withholding

Councilman Boone seconded the motion, a vote resulted as follows;

AYES: Supervisor Rapp, Councilman Bichteman, Councilman Boone and Councilwoman Burnside  
NAYS: None.

**RESOLUTION # 53-2016 was thereby duly adopted.**

#### **Board of Assessment Review Member**

Sara Statham's term on the Board of Assessment Review expired on 9/30/2016. The Assessor's Office and Sara would like to renew her appointment. Supervisor Rapp made a motion to adopt the following resolution:

WHEREAS; the Board of Assessment review needs to reappoint a member, be it hereby

RESOLVED: the Town Board reappoints Sarah Statham to the Board of Assessment Review the five yr. term effective 10/1/2016 through 9/30/2021.

Councilman Bichteman seconded the motion, a vote resulted as follows:

AYES: Supervisor Rapp, Councilman Bichteman, Councilwoman Burnside and Councilman Boone

NAYS: None.

**RESOLUTION # 54-2016 was thereby duly adopted.**

#### **Zoning Board of Appeals Report**

Virginia Mangold had contacted the Town Clerk to report the ZBA held no meeting on Nov 28<sup>th</sup>, there were no applications before the Board.

#### **ZBA & Planning Board Member**

The Town Board was advised by the Town Clerk that the appointments of Zoning Board of Appeals member Wilfred Van Iderstine and Planning Board member Richard Kurylo are due to expire on 12/31/2016. The Town Clerk had reached out to the Chairpersons of both Boards regarding the matter and Mr. Van Iderstine responded with interest to serve another term. Chairman Verch will contact Mr. Kurylo. The Town Board will address the reappointments of both individuals at the Special Town Board meeting on Dec. 29th.

#### **Planning Board Report**

Chairwoman Dorothy Verch reported a meeting was held on 11/22/16. Discussion continued on application #16-005 Tarpon Towers, LLC on behalf of Cellco d/b/a Verizon Wireless. Balloon test was attempted on 11/16 with little success because of high winds. Tectonic submitted 25 photos, only 2 or 3 showed the balloon at the designated height. It has been requested that a repeat test be performed using a crane. The Laberge Group, which has been selected to assist the Planning Board in the review process, was represented by Vice Pres. Ben Syden and technical advisor Matt Rogers. Mr. Snyder did not have enough time to review any documentation and will do so and report back. Chairwoman Dorothy Verch has received the information as well as the contractual agreements which will be submitted to the Town Attorney.

More discussion continued regarding safety issues with the proposed tower as well as a possible negative impact on property values.

Tom Diedrich of the Westerlo Fire Co. asked if the cell tower at the fire house was considered. Mr. Josh Silver, of the Murray Law Firm, stated that the height of 100' was not an option. Mr. Diedrich informed the Planning Board that the original approval was for 140' and that they never extended to the approved height. It was requested that this tower be reconsidered, given the new height, to be put into their equation and re-evaluated.

An application submitted by Stuart Beller for a solar farm was tabled until proposed revisions to Zoning Law regarding solar energy (ground mounted and solar farms) is approved. Next Planning Board meeting is on Dec. 27<sup>th</sup> at 7:30 PM.

### **Broadband Research Committee (BRC)**

Dorothy Verch reported the BRC met on 11/29/16. They received copies of franchise agreements between Mid-Hudson Cable (MHC) and the Towns of Rensselaerville, Greenville and Coeymans. There were marked differences in services and service areas. Westerlo's proposed agreement was not in line with the surrounding townships. The question arises, is Westerlo receiving the accurate amount of franchise fees from MHC? The services of the Town Attorney have been requested in obtaining this financial documentation. The next meeting has not been scheduled yet.

Councilman Bichteman made a motion to accept the Planning Board and BRC reports, seconded by Councilwoman Burnside, motion carried.

### **Water Board Report**

Councilman Bichteman reported the Water Committee met on Nov.29<sup>th</sup>. They discussed the need to rebid an Emergency Repair Contract which is two years old with the recommendation that the proposed new bid cover a two-year period. The rates for the Water District will remain the same and they will be re-evaluated after the first of the year. The Water District will have a small surplus and he recommended that they repay the Town \$1,000 on the amount owed. The next meeting has not been scheduled but it should take place sometime after the first of the year. Councilman Bichteman then made a motion to adopt the following resolution:

WHEREAS: the Emergency Repair Contract needs to be rebid, be it hereby

RESOLVED: the Town Board approve the rebidding of the Emergency Repair Contract for the Water District for a two year contract period. The Town Attorney prepare an updated contract document with the appropriate new 2 yr. term, dates, new rates, machinery would be the same.

Councilwoman Burnside seconded the motion, a vote resulted as follows:

AYES: Supervisor Rapp, Councilman Bichteman, Councilwoman Burnside and Councilman Boone

NAYS: None.

**RESOLUTION # 55-2016 was thereby duly adopted.** Councilman Bichteman would like to be able to advertise the Emergency Repair Contract by the beginning of the year.

### **Schedule meetings**

Supervisor Rapp asked when the Town Board wanted to schedule a Special Town Board meeting for the end of the year payment of bills. Discussion followed on dates. Councilman Bichteman made a motion to adopt the following resolution:

WHEREAS: a Special Town Board meeting needs to be held for payment of year end bills, be it hereby

RESOLVED: a Special Town Board meeting is scheduled to be held on Thursday, Dec. 29 at 7PM, Councilman Boone seconded the motion, vote resulted as follows:

AYES: Supervisor Rapp, Councilman Bichteman, Councilman Boone and Councilwoman Burnside

NAYS: None

**RESOLUTION # 56-2016 was thereby duly adopted.**

Supervisor Rapp asked the Board when they wanted to schedule the Organizational meeting.

Councilman Bichteman made a motion to adopt the following resolution:

WHEREAS: the Town Board needs to schedule an Organizational Meeting, be it hereby

RESOLVED: the Organizational Meeting be scheduled for Tuesday, January 3, 2017 at 7 PM,  
immediately followed by the Regular Town Board meeting

Councilman Boone seconded the motion, vote resulted as follows:

AYES: Supervisor Rapp, Councilman Bichteman, Councilman Boone and Councilwoman  
Burnside

NAYS: None

**RESOLUTION # 57-2016 was thereby duly adopted.**

### **Town Hall Heating System:**

Supervisor Rapp reported there is still no heat in the Town Hall, Delaware Engineering (DE) is working on documents to bid out a new heating system. He advised that he had received an estimate in the amount of \$15,260 from Stants Combustion for a new steam boiler with the reuse of existing steam controls and oil burner. Councilman Bichteman discussed the issue of asbestos removal which needs to be addressed first and the deterioration of the wood floor due to prior leaks from steam piping. Councilman Bichteman gave his opinion that there is no benefit from installing steam again. The Town should move forward and follow the plan laid out by Delaware Engineering, provided the insulation can be done at the same time, in order to size a new heating system to take care of the total problem. The asbestos abatement should be done by the third week in January. Discussion followed. Councilman Bichteman made a motion to call Brad Burgette from DE to move forward, Supervisor Rapp will phone Brad.

### **Public Comment-Proposed Solar Regulations**

ZBA member John Sefcik inquired about the agenda and any progress on proposed new Zoning regulations in reference to solar energy for solar farms or ground mounted solar arrays and how the Planning Board should proceed with the lack of regulations on any applications moving forward. Councilman Bichteman indicated it was his intent to have solar on the agenda but he neglected to bring it forward. The Town Board does have information as presented by Virginia Mangold, Ed Lawson, Attorney Aline Galgay for the Town Board to review/discuss on the topic. Dorothy Verch has also sent to the Board her comments on a proposed law and he would like to hear about another caveat, Community Solar, which has been brought to their attention tonight.

Dennis Fancher reported on Hudson Solar's - Community Solar array. Hudson Solar Project Manager Garrett Lee was present and spoke about the standard design of a Community Solar array it uses usually less than one acre of land. Mr. Lee gave details of ownership of solar panels. Any panels not owned by the property owner would be leased to other homeowners in the area by the property owner. He commented on the various size of arrays, production of energy, single or three phase custom designs, and residential vs. commercial, off site consumption, etc. Councilman Bichteman asked questions regarding this type of array, Mr. Lee responded and a discussion followed.

Zoning Administrator/Code Enforcement Officer Edwin reported on the need to discuss solar concerns jointly by Chairpersons of Zoning & Planning, the Town Attorney, himself & Town Board at a workshop meeting regarding details for guidelines necessary in approval of these type of solar system;

- Special Use Permits
- One/Three phase systems
- Any restrictions
- Any fencing regulations
- Kilowatts
- If energy produced is sent off site
- NYSERDA acceptance of 10 acres on commercial systems
- Definition of commercial vs. residential
- The use of the term photovoltaic panels should be changed to solar array
- Codes / Commercial Systems & NYS Licensed Architects & Engineers
- Inspections
- Location of inverters
- Fees /Bonding
- Tax assessment
- Vegetation

He advised that the Zoning Law already covers some concerns.

Mr. Sefcik raised a concern over existing or new applications. He was advised the Planning Board had tabled an application for a 20 acre solar site. The property owner is aware of the Town's concerns for implementation of regulations and its need to be addressed first and he has no issue with this. The Town will not accept any new applications. Any proposed changes to the law would be subject to a Public Hearing. A resident inquired about the solar moratorium, she was advised that the draft solar moratorium was never adopted. The Town has decided instead to work on addressing solar energy concerns with modifications to the law.

#### **Town Hall Asbestos Abatement Contract**

Councilman Bichteman then discussed the Asbestos Abatement Removal contract of \$30,600 with Sullivan Contracting which had come in at considerably less than the amount originally appropriated for the Town Hall basement asbestos abatement project. He proposed the Supervisor be authorized to extend the project to include Town Hall floor tiles that are non-friable. Delaware Engineering & PSI would solicit from Sullivan Contracting the additional cost of the removal of floor tiles. Councilman Bichteman then made a motion to adopt the following resolution:

WHEREAS: the Town needs to remove non-friable asbestos floor tile in the Town Hall Building, be it hereby

RESOLVED: the Town Board authorized Supervisor Rapp to be able to extend the Asbestos Abatement contract with Sullivan Contracting to include the removal of non-friable floor tiles in the Town Hall, assuming the additional cost is within the existing asbestos abatement funding remaining of approximately \$30,000 plus or minus.

Councilwoman Burnside seconded the motion, a vote resulted as follows:

AYES: Supervisor Rapp, Councilman Bichteman, Councilwoman Burnside and Councilman Boone

NAYS: None.

**RESOLUTION # 58-2016 was thereby duly adopted.**

## Open to Public

A resident inquired about the Town recouping money from any scrap metal by the proposed replacement of the Town Hall boiler. It was discussed that the cost recouped would be very low and not covering cost to pay an employee and the use of a Town truck to haul the scrap metal. The contractor usually does this instead.

A resident commented and offered an opinion that if a solar installation is used to earn money it should be considered a business and should be assessed and taxed as a business. It would put other regularly classified businesses at a disadvantage. Discussion followed on the definitions of a business, cottage industry vs. a commercial enterprise.

A resident asked questions regarding the Westerlo Vol Fire Co. cell tower, the extension of height on another cell tower, if Mr. Story still works for the Westerlo Water District, and the former Shepard's Farm Resort/Lucky Moose property. Councilman Bichteman and Dorothy Verch responded to the questions.

Councilman Boone reflected as a new Board member. He commented on the time and commitment it takes to be on a Board, the review of items on their own time and the attendance of meetings. He personally thanked the audience for their commitment of time to attend the meetings, for their input, interest and dialogue. He stated "Hopefully, we are all here for the purpose of improving the Town".

Town Clerk Kathleen Spinnato announced the Albany County Sheriff's Dept. has a Hilltown Christmas Party donation jar in the Town Clerk's Office. The Sheriff's Dept. annually holds a Christmas Party for children and families in need. Anyone who wished to donate should stop by the Town Clerk's office.

There being no further business or public comment Supervisor Rapp requested a motion to adjourn. Councilman Boone made a motion to adjourn the meeting, seconded by Councilwoman Burnside, motion carried. Meeting adjourned at 9:05 PM.

Respectfully submitted,

Kathleen Spinnato Town Clerk

