

**TOWN OF WESTERLO
TOWN BOARD
MEETING OF
TUESDAY, JULY 5, 2016**

Meeting opened by Supervisor Rapp at 7:30 PM with the Pledge of Allegiance to the Flag.

Attending: Supervisor Richard H. Rapp
Councilman William F. Bichteman Jr.
Councilwoman Amie L. Burnside
Councilman Anthony W. Sherman

Also attending: Planning Board Chairwoman Dorothy Verch, Highway Superintendent Keith Wright Sr., Deputy Highway Superintendent Jody Ostrander, Clerk to the Supervisor Patricia Boice, Zoning Board member John Sefcik, Clerk to the Assessor Claire Marshall, Town Clerk Kathleen Spinnato, and approximately nine residents.

SUPERVISOR'S REPORT

The Town Board had received Supervisor's Report for the month of May. Councilman Sherman made a motion to accept the Supervisor's Report for May as submitted, Councilman Bichteman seconded, motion carried all in favor.

ABANDONMENT OF A PORTION OF CLICKMAN ROAD

RESOLUTION OF THE TOWN BOARD OF THE TOWN OF WESTERLO

WHEREAS, Clickman Road runs from CR 413 through the Town of Westerlo for approximately 1.35 miles, into the Town of Rensselaerville for approximately .2 miles; and

WHEREAS, Clickman Road is a user road, never formally having been deeded or dedicated to the Town of Westerlo, but rather becoming a highway after having been used by the public for the statutorily required period of time; and

WHEREAS, approximately 4830 feet of Clickman Road running from CR 413 is paved and maintained by the Town of Westerlo; and

WHEREAS, approximately 2288 feet of Clickman Road, extending beyond the paved portion, is not paved (hereinafter referred to as the "unpaved portion"); and

WHEREAS, the unpaved portion of Clickman Road is more specifically described as *"Beginning at a point 150 feet beyond the house currently located at 185 Clickman Road in the Town of Westerlo, New York, and extending approximately 2288 feet through the property now or formerly owned by John and Dianne Sefcik, and ending at the town line between the towns of Westerlo and Rensselaerville, New York"*; and

WHEREAS, NYS Highway Law Section 205(1) states that "every highway that shall not have been traveled or used as a highway for six (6) years, shall cease to be a highway, and every public right of way that shall not have been used for said period shall be deemed abandoned as a right of way"; and

WHEREAS, John and Dianne Sefcik wholly and exclusively own the property on both sides of the unpaved portion of Clickman Road, up to the Town of Westerlo town line (sbl 149.00-2-9); and

WHEREAS, on March 11, 2016 John and Dianne Sefcik submitted a formal request to the Town of Westerlo Town Board (hereinafter referred to as the "Board") that the Board, pursuant to Highway Law Section 205(1), authorize the Town of Westerlo Highway Superintendent to file a Certificate of Abandonment of the unpaved portion of Clickman Road based on the non-use of said portion of Clickman Road by the public for at least six years previous to March 11, 2016; and

WHEREAS, the Town Board, although not required under the Highway Law, held a public hearing on May 25, 2016 to provide the public with the opportunity to be heard on the Sefcik's request (for which notice was provided on the Town website and in the Town's legal newspaper, to wit: The Altamont Enterprise at which time members of the public were heard; and

WHEREAS, the Board provided the opportunity for members of the public as well as the Sefcik's to provide written documentation supporting their requisite positions; and

WHEREAS, the Board has confirmed that the unpaved portion of Clickman road has not been used or maintained as a highway for greater than the statutory period of time; and

WHEREAS, pursuant to Highway Law Section 205(1), the unpaved portion of Clickman Road is abandoned automatically, by operation of law, without any action required on the part of the Highway Superintendent for the Town of Westerlo, but does permit a Certificate of Abandonment to be filed with the Town Clerk upon the written consent of the majority of the Town Board; now therefore be it

RESOLVED, that it is hereby determined that this action is a Type II Action under 6 NYCRR Section 617.5(c)(19) therefore not requiring an environmental review; and be it further

RESOLVED, that the Board hereby acknowledges that the unpaved portion of Clickman Road has been abandoned pursuant to the applicable provisions of NYS Highway Law Section 205(1), being that the Town has not maintained the unpaved portion of Clickman Road for greater than the statutory period of six years, and being that it is evident that said portion of Clickman Road has not been used by the public for at least the statutory period of time, and be it further

RESOLVED, that the Board determines that since Clickman Road is a user road, that the rights of the Town and the public to the unpaved portion of Clickman Road have been abandoned as a right of way, and be it further

RESOLVED, that the Board, in accordance with Section 205(1) of the Highway law, hereby consents that the Highway Superintendent be authorized to file a Certificate of Abandonment with the Town Clerk in the form prepared by the Town Attorney, and be it further

RESOLVED, that by approving this Resolution, at least 3 Board Members have consented to and agreed to sign the Certificate of Abandonment for filing with the Town Clerk as required by Highway Law Section 205(1).

MOTION MADE: Councilman Bichteman
SECONDED BY: Councilwoman Burnside

Richard H. Rapp	aye x	nay
William F. Bichteman Jr.	aye x	nay
Anthony W. Sherman	aye x	nay
Amie L. Burnside	aye x	nay
One Vacancy		

RESOLUTION # 24-2016 was thereby duly adopted.

DATED: 7/5/2016 Kathleen J. Spinnato Town Clerk

ABANDONMENT OF ZEH DRIVE

The Town Board reviewed the background information on Zeh Dr. for the public. As a result of the action taken on Clickman Rd. Zeh Dr. has been identified to be a similar status no official abandonment of Zeh Dr. had ever been done. No property will be landlocked by the abandonment. A resident had questions in reference to Gibson Road and Carr Road. Highway Superintendent Keith Wright and Councilman Bichteman responded to his questions on these roads indicating Gibson Rd. was plowed by the Town of Westerlo ever since Keith started with the Town in 1994. Any decisions made for

prior work done to that road had been made by previous officials. All research done to date indicates that Carr Rd. is owned by the Town of Coeymans. The Town of Westerlo has no jurisdiction and cannot abandon. The Town of Westerlo town line is on the entire west side of Carr Rd. by the deed description. Discussion followed on the abandonment of roads and a landlocked parcel. A resident asked the Town Board for clarification on the abandonment of Rock Hill Rd. which occurred in approximately 2003 or 2004.

RESOLUTION OF THE TOWN BOARD OF THE TOWN OF WESTERLO

WHEREAS, "Zeh Drive", as it is currently referred to, runs from CR 408 in the Town of Westerlo through the lands of Michael and Linda Ruella (sbl 127-1-3.30) to the western end of Abbey Drive in the Town of Westerlo (hereinafter referred to as the "subject road"); and

WHEREAS, Abbey Road is a Town Road and extends approximately 1/10 mile from the end of Zeh Drive to Lake Road; and

WHEREAS, Zeh Drive is a portion of the road historically referred to as Willsie (a/k/a Willsey) Road, which ran from CR 408 in the Town of Westerlo to Lake Drive. Willsie Drive encompassed what is now referred to as Zeh Drive and Abbey Drive; and

WHEREAS, Willsie Drive was a user road, never formally having been deeded or dedicated to the Town of Westerlo, but rather becoming a highway after having been used by the public for the statutorily required period of time; and

WHEREAS, in 1993 the Town was approached by the several property owners who inquired about the status of Willsie Road, and raised the issue that the road was unmaintained and impassable; and

WHEREAS, in 1996 that portion of Willsie Road now known as Abbey Road was added to the Town Road Inventory, thereby indicating the Town's adoption of that portion of Willsie Road, to wit: Abbey Road, as a Town Road ; and

WHEREAS, the Town has improved and maintained Abbey Road from 1996 through the present; and

WHEREAS, the subject road is unpaved and unmaintained; and

WHEREAS , the subject road is more specifically described as "*Beginning at a point on CR 408 which is located wholly within the lands of Michael and Linda Ruella (sbl 127-1-3.30), and running through said parcel until it reaches Abbey Road, which is a Town Road. Abbey Road runs from the end of Zeh Road to Lake Road and is approximately 1/10 mile in distance*"; and

WHEREAS, NYS Highway Law Section 205(1) states that "every highway that shall not have been traveled or used as a highway for six (6) years, shall cease to be a highway, and every public right of way that shall not have been used for said period shall be deemed abandoned as a right of way"; and

WHEREAS Michael Ruella and Linda Ruella wholly and exclusively own the property on both sides of the subject road, up to the beginning of Abbey Road (sbl 127-1-3.30); and

WHEREAS, the Board has confirmed that the subject road has not been used or maintained as a highway for greater than the statutory period of time; and

WHEREAS, pursuant to Highway Law Section 205(1), the subject road, referred to as Zeh Drive, is abandoned automatically, by operation of law, without any action required on the part of the Highway Superintendent for the Town of Westerlo, but does permit a Certificate of Abandonment to be filed with the Town Clerk upon the written consent of the majority of the Town Board; now therefore be it

RESOLVED, that it is hereby determined that this action is a Type II Action under 6 NYCRR Section 617.5(c)(19) therefore not requiring an environmental review; and be it further

RESOLVED, that the Board hereby acknowledges that the subject road, known as Zeh Drive, has been abandoned pursuant to the applicable provisions of NYS Highway Law Section 205(1), being that

the Town has not maintained the Zeh Drive for greater than the statutory period of six years, and being that it is evident that said portion of Zeh Drive has not been used by the public for at least the statutory period of time, and be it further

RESOLVED, that the Board determines that since Zeh Drive is a user road, that the rights of the Town and the public to the unpaved portion of Zeh Drive have been abandoned as a right of way, and be it further

RESOLVED, that the Board, in accordance with Section 205(1) of the Highway law, hereby consents that the Highway Superintendent be authorized to file a Certificate of Abandonment with the Town Clerk in the form prepared by the Town Attorney, and be it further

RESOLVED, that by approving this Resolution, at least 3 Board Members have consented to and agreed to sign the Certificate of Abandonment for filing with the Town Clerk as required by Highway Law Section 205(1).

MOTION MADE: Councilman Bichteman
SECONDED BY: Councilwoman Burnside

Richard H. Rapp	aye X	nay
William F. Bichteman Jr.	aye X	nay
Anthony W. Sherman	aye X	nay
Amie L. Burnside	aye X	nay
One Vacancy		

RESOLUTION # 25-2016 was thereby duly adopted.

DATE: 7/5/2016 Kathleen J. Spinnato Town Clerk

PAYMENT OF MONTHLY BILLS

Supervisor Rapp advised the monthly bills need to be paid 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 # 229 through Voucher # 274 in the amount of \$42,295.73

Councilman Sherman seconded, a roll call vote resulted as follows:

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

NAYS: None

RESOLUTION #26-2016 was thereby duly adopted.

LIBRARY TRUSTEES:

The Town Clerk read a letter from Town of Westerlo Public Library Director Sue Hoadley requesting the Town Board's approval of the reappointment of three Library Trustees; Laura Tenney, Roberta Nunn and Robert Wilcox whose five year terms will expire on 8/23/2016. All three individuals have agreed to be reappointed by the Town Board and the new terms would run through 8/23/2021.

Councilman Bichteman made a motion to adopt the following resolution:

WHEREAS: the Westerlo Public Library has three Library Trustees whose terms will expire on 8/23/2016 and each have agreed to be reappointed to a new five year term, be it hereby

RESOLVED: the Town Board approves the reappointment of Library Trustees:

Laura Tenney, Roberta Nunn and Robert Wilcox
their new term will expire on 8/23/2021.

Councilman Sherman seconded, a vote resulted as follows:

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

NAYS: None

RESOLUTION # 26-2016 was thereby duly adopted.

TOWN CLERK MONTHLY REPORT

The Town Board had received the Town Clerk's report for the month of June. Councilman Sherman made a motion to accept the Town Clerk's report for June as submitted, Councilwoman Burnside seconded, motion carried all in favor.

The Town Clerk/Tax Collector Kathleen Spinnato indicated she would like to review some fees with the Town Board at possibly the next workshop. She also reported the Town of Westerlo Property tax bills are not currently online. The Town Clerk/Tax Collector's office receives requests daily for copies of the tax bills from residents, title companies, tax service agencies, realtors, banks, and attorneys. Placing the tax bills online would better serve the public and tremendously decrease phone calls and faxes. She proposed the Town Board consider placing the property tax bills online for the year 2017 and upgrade the current BAS software to Tier 2. She received a quote from BAS in January and reconfirmed the quoted amounts on June 29th – there were no changes. The cost is based on the number of parcels, system configuration, and an annual host maintenance and support fee. The first year investment is \$2,580, this would decrease the following year to an annual fee of \$600. After a brief discussion concerning compatibility of programs with the Assessor's office and the budget Councilman Bichteman made a motion to adopt the following resolution:

WHEREAS: The Town Clerk/Tax Collector has proposed the Town Board consider placing the 2017 Property Tax bills online by upgrading the current software program to Tier 2 at an initial first year cost of \$2,580, be it hereby

RESOLVED: the Town Board agreed to authorize the spending of \$2,580 due in February 2017 for the upgrade in software for the ITax program for the Tax Collector's office

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

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

NAYS: None

RESOLUTION # 27-2016 was thereby duly adopted.

The Town Clerk also reported she has received dishonored payments for various fees and taxes over the years. Those transactions need to be reversed in the computer, reports need to be corrected, letters need to be written to the person who wrote the check, it is time consuming. She had reached out to the Town Attorney who has advised the Town can collect a fee of \$20 for dishonored checks per General Obligations Law. This can be done by either a resolution or town law. If implemented by the Town Board, it is Attorney Galgay's recommendation this be passed by a resolution. The Town Clerk proposed the Town Board consider the passage of a resolution to charge a fee for dishonored payments. After a brief discussion Councilman Bichteman made a motion to adopt the following resolution:

WHEREAS: The Town Clerk has proposed the Town charge a fee for dishonored checks,
be it hereby

RESOLVED: the Town Board agreed to charge and collect a fee of \$20 for a tendered payment when the payment is dishonored
Councilwoman Burnside seconded the motion, a vote resulted as follows:

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

NAYS: None

RESOLUTION # 28-2016 was thereby duly adopted.

TAX COLLECTOR'S REPORT

Tax Collector Kathleen Spinnato had submitted to the Town Board the 2016 Tax Collector's Summary report: Batches 1 through 142 for their review. Supervisor Rapp made a motion to accept the Tax Collector's report as submitted, Councilman Bichteman seconded the motion, motion carried all in favor.

ZONING BOARD OF APPEALS REPORT

Councilman Bichteman read the report received from ZBA Chairwoman Virginia Mangold. There were no applications received for the month of June and nothing new to report. Councilman Bichteman made a motion to accept the ZBA Report, seconded by Councilman Sherman, motion carried all in favor.

PLANNING BOARD REPORT

Planning Board Chairwoman Dorothy Verch reported the Planning Board had met on 6/28 and approved the application by Stuart J. Beller for a minor subdivision #16-003. Old Business: M & D Farms submitted a driveway design approved by NYS Department of Transportation for access from the upper driveway to the lower parking lot for their special events location.

She also reported on the Broadband Committee which met following the Planning Board meeting. Bob Wilcox extended an invitation on behalf of the Committee to Phil Wagschal President of SLIC Network Solutions. Mr. Wagschal presented an overview of his company which offers broadband and internet services in the "North Country". They have currently worked on supplying broadband to the Long Lake and Schroon Lake region and they are expanding into Fulton County. They are part of Phase I of the broadband offering. The Committee inquired into the possibility of presenting Westerlo with a proposal for broadband service. Mid-Hudson Cablevision seems firm on 20 Houses/Mile contract arrangement. SLIC has found in territories they have become established in 8 Houses/Mile is profitable. The Committee will review the original Franchise Agreement from Mid-Hudson Cablevision and the current contract. She encourages anyone interested in expanding or increasing the broadband in Westerlo to attend the next meeting which will follow the Planning Board meeting on the 4th Tuesday of the month. Councilman Sherman made a motion to accept the Planning Board report, Councilman Bichteman seconded, motion carried all in favor.

BUILDING COMMITTEE REPORT

Councilman Bichteman advised the next Building Committee meeting will be held on Tuesday, July 19th at 7PM in the Town Hall. There will also be a workshop meeting held the same evening.

WATER BOARD REPORT

Councilman Bichteman reported the meters had been read on 7/4/16. A brief discussion followed regarding the building at the Transfer Station which houses the circulator pump for the Water District tank.

PUBLIC COMMENT

Dorothy Verch inquired about the selection process for a replacement of the vacant Councilperson position. Supervisor Rapp advised the Democratic Committee of the Town of Westerlo is scheduled to meet on July 12th to interview applicants. The Committee will make their recommendation to the Town Board, the Town Board makes the appointment. The person appointed will then need to run for office of Councilperson in November. He then indicated the names of the seven members on the Democratic Committee in the Town of Westerlo.

John Sefcik asked for a signed copy of the resolution passed on the abandonment of Clickman Rd. The Town Clerk will provide a copy to him tonight after the Town Board members have signed.

CLOSE MEETING

There being no further business Supervisor Rapp then made a motion to close the meeting, Councilman Bichteman seconded, motion carried all in favor. Meeting adjourned at 8:15 PM.

Respectfully submitted,

Kathleen Spinnato