

**TOWN OF WESTERLO  
TOWN BOARD MEETING  
OF  
TUESDAY, OCTOBER 3, 2017**

The Town of Westerlo Town Board held a meeting on Tue. Oct. 3, 2017 at Westerlo Town Hall, 933 County Route 401, Westerlo, NY. Supervisor Rapp opened the meeting at 7 PM with the Pledge of Allegiance to the Flag.

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

Also attending were: Albany County Legislature Christopher Smith, Justice Robert Carl, Code Enforcement Office/Zoning Administrator Edwin H. Lawson, Highway Superintendent Jody Ostrander, Planning Board Chairwoman Dorothy Verch and members Edwin Stevens & Gerry Boone, Zoning Board of Appeals member John Sefcik, Museum Director Mary Jane Araldi, Clerk to the Assessor Claire Marshall, Dog Warden Salvatore Spinnato IV, Deputy Dog Warden Justin Case, Clerk to the Supervisor Patricia Boice, Town Clerk Kathleen Spinnato and nine residents.

**2018 TENTATIVE BUDGET**

Supervisor Rapp announced he had prepared the 2018 Town of Westerlo Tentative Budget and each of the Town Board members had received a copy. Copies were distributed to the public upon their request at the close of the meeting.

**WORKSHOP MEETINGS**

The Town Board discussed the need to schedule two workshop meetings for the month of October. Councilman Bichteman made a motion to hold a Workshop meeting on Tue, Oct. 10<sup>th</sup> at 7PM where a representative from NYSERDA will provide information on solar and if time allows, it will be followed by the Town Board's initial review of the 2018 Tentative Budget. A second workshop will be held on Tue., Oct. 17<sup>th</sup> for the purpose of continuing the review of the 2018 Tentative Budget. Councilwoman Burnside seconded the motion, motion unanimously carried.

**MINUTES**

Councilman Boone made a motion to accept the Town Board Workshop minutes of 8/15/2017, seconded by Councilman Sherman, motion unanimously carried.

Councilman Bichteman made a motion to accept the Town Board minutes of 9/5/2017, seconded by Councilwoman Burnside, motion unanimously carried.

**SUPERVISOR'S REPORT**

Supervisor Rapp made a motion to accept the Supervisor's report for the month of August as submitted. Councilman Sherman seconded, motion unanimously carried.

**TOWN CLERK'S REPORT**

Councilman Boone made a motion to accept the Town Clerk's monthly report for September as submitted. Councilwoman Burnside seconded, motion unanimously carried.

## **PAYMENT OF MONTHLY BILLS**

Councilman Sherman 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 # 493 through Voucher # 541 in the amount of \$44,527.72

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

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

NAYS: None

**RESOLUTION # 37-2017 was thereby duly adopted.**

## **ZONING BOARD OF APPEALS REPORT**

Virginia Mangold Chairwoman submitted to the Town Board the following report read by the Town Clerk:

*The Town of Westerlo Zoning Board held their regular monthly meeting on September 25, 2017 at 7 p.m.*

*Following The Pledge of Allegiance, the ZBA reviewed an upcoming public hearing on October 23<sup>rd</sup> for applicant, Bernie Boyle. With further questions for applicant, the board will go over all at the Public Hearing.*

*With no further business, board chairperson, Virginia Mangold, requested Code Enforcement Officer, Ed Lawson, for a review on some of our laws regarding multi-family properties. The session lasted an hour. Members agreed the session to be very informative. With that said, Chair Mangold is asking Town Board members to regard this hour to be credited to each of the ZBA members and clerk in attendance.*

*ZBA meeting adjourned at 8:10 p.m.*

Councilman Bichteman made a motion to accept the ZBA report as submitted, Councilman Boone seconded, motion unanimously carried.

Councilman Bichteman then made a motion that the ZBA members in attendance of the 9/25/17 meeting earn 1 hour of accreditation for training certification, Councilman Boone seconded, motion unanimously carried.

## **PLANNING BOARD REPORT**

Dorothy Verch Chairwoman submitted and read the following report:

*The Planning Board met on Sept. 26<sup>th</sup>. There were 2 Public hearings. The first Public Hearing was a Barbara Brandon's minor subdivision. Public Hearing was opened. There were no comments. Public Hearing was closed.*

*The second Public Hearing was Costanza Solar, LLC for a 2 MW Community Solar facility. Ann Walling, the representative from Cypress Creek Renewables was present and questions and answer period was conducted. A number of items are still outstanding as well as the green cards were not returned.*

*The meeting was opened and the Brandon minor subdivision was unanimously approved by the board. The Public Hearing for Costanza Solar, LLC 2 mw Community Solar facility was adjourned until October 24.*

*A new application for a minor subdivision was submitted by Mr. Tobin. Part 1 of the SEQRA was conducted. The Board unanimously accepted the application and a Public Hearing will be scheduled for October 24<sup>th</sup>. A site visit will be conducted.*

### **BROADBAND RESEARCH COMMITTEE (BRC)**

Dorothy Verch submitted and read the following report:

*The BRC met on Sept. 28<sup>th</sup>. Present were Bob Wilcox, Eric Markson, Mike Sikule, and a new addition John Sefcik.*

*We worked on trying to determine the boundaries of the zip codes other than 12193 and Eric cross referenced the tax rolls to identify the number of residents in each zip code. It appears that 12083 contains 415 Westerlo residents; 12023, South Berne contains 57 Westerlo residents. Once the Franchise Agreement is approved, our intention is to have an audit of these 2 zip codes in order to determine misapplied franchise monies. Mr. Guzzo of Hudson Valley Wireless had a last minute conflict and will attend the October 26<sup>th</sup> meeting.*

*It was suggested that we obtain maps from Greenville, Rensselaerville and Berne/South Berne Post Offices to try and determine Westerlo residents with other zip codes to cross reference the information that will be supplied by MID-Hudson Cable (MHC).*

*The Public Hearing for the MHC Franchise Agreement will be held on November 8<sup>th</sup> before the regular 7PM monthly meeting. Mr. Fingar will be present to answer questions. The Public Hearing will be conducted by the Town Board.*

*BRC is compiling information regarding cable and broadband in a format that can be made available on the Town website.*

Councilman Bichteman made a motion to accept both the Planning Board and BRC Reports as submitted. Councilman Boone seconded, motion unanimously carried.

Councilman Bichteman had questions regarding the draft MHC Franchise Agreement. Dorothy Verch advised:

- August 24<sup>th</sup> document is the final drafted version of the contract.
- Areas of expansion are for County Route 402 and 410.
- The BRC drafted the Franchise Agreement but Mr. Fingar altered it because he didn't like the application of the boundaries with the roads that the BRC had identified, as it didn't fit into the census blocks. At the beginning of the document there is a section with three paragraphs those are his words.

Councilman Bichteman mentioned it is his understanding that the Town Attorney has not reviewed or approved the contract. He was under the impression from the last time the BRC spoke with the Town Board, that the Public Hearing for MHC expansion within the Town was something that was forced upon the Town and required by the Public Service Commission (PSC). Dorothy advised she would need to look back into the chain of events, but she advised this is something Mr. Fingar had advised needed to be done. She also reported:

- MHC is responsible for the advertising and has scheduled the Public Hearing for November 8<sup>th</sup>.
- Town Clerk will provide Joanne @ MHC the contact information for the Altamont Enterprise.

Councilman Bichteman advised that he will follow-up with the Town Attorney on the contract.

Councilman Boone asked if the Public Hearing was required by the PSC or if this was MHC's requirement. Dotty advised she was unsure and would look through her notes to confirm. They also

discussed the franchise fees which the BRC believes have been inappropriately applied to other neighboring towns instead of Westerlo.

Councilman Sherman asked about the Planning Board report on the Public Hearing for the application for Costanza Solar and why they hadn't received all the USPS Return Receipt response "green cards" back. Dotty advised the cards have been delayed in their return because an individual had a change in address and are still in circulation within the delivery system of the US Postal Services.

#### **MUSEUM BOARD REPORT**

Mary Jane Snyder-Araldi Director of the Westerlo Heritage Museum submitted and read the following report:

*We continue to meet once a month on the second Thurs of the month.*

*We are meeting as time allows sort through museum items.*

*The reception is this coming Friday, October 6<sup>th</sup>.*

*The museum will be open Sat. 10/7 from 10am – 4pm.*

*The museum was open on Sept 16<sup>th</sup> for the Farm and Artisans tour.*

*Sat. Nov 4<sup>th</sup> is the last day for regular hours for the museum; however, I plan to open the museum with special displays during the Fireman's breakfasts in Jan, Feb, and March. In Jan, we will have a display of antique Christmas ornaments, Feb will be old sleighs, skis, ice skates, etc; and March is to be decided.*

Councilman Bichteman made a motion to accept the Museum Report as submitted. Councilwoman Burnside seconded, motion unanimously carried.

#### **WATER BOARD REPORT**

Councilman Bichteman reported that the Water District is installing different thermostats for the heating. This will allow the District to keep the temperatures lower hopefully resulting in cost savings. They also have installed motion sensor switches for the lighting, lights will turn off automatically.

A property which is within the district but was formally dormant has been converted, so this will add one more user to the system.

The Water Board will meet on Monday, Oct. 9<sup>th</sup> at 7PM the meeting is open to the public.

Councilman Boone made a motion to accept the Water Board Report. Councilman Sherman seconded, motion unanimously carried.

## **OLD BUSINESS**

### **BIDS HEATING/INSULATION**

Councilman Bichteman reported the original bid date opening for Contract 2A General Construction and Contract # 4-Heating for the Town Hall was originally scheduled for Sept. 21<sup>st</sup>. The bid date was delayed and it was re-advertised with a return of bids and an opening date of Wed., Sept. 27<sup>th</sup> at 2 pm. Two bids were received on 10/27/2017 for Contract 4-Heating;

- D & E Contractors \$104,423.00
- BPI Piping \$138,900.00

The bids included bond security, non-collusion affidavit and the bids submitted were reviewed by Delaware Engineering. Delaware Engineering has made the recommendation that D & E Contractors be awarded the bid contract. \$140,000 was initially budgeted for the heating and insulation package. There were no bids received for the insulation package. This is the second time no bids were received on this contract therefore the town is now free to solicit prices from local vendors.

There are two parts to the insulation; injected in walls and batting in ceilings. Councilman Bichteman advised residents the \$104,000 includes new baseboard heat, new boiler, new plumbing and demolition of the existing heating system. A brief discussion followed on how the insulation would be injected into the town hall walls through the paneling.

Councilman Bichteman made a motion to adopt the following resolution:

WHEREAS: Delaware Engineering had advertised and two bids were received for a new heating system for the Town Hall, be it hereby

RESOLVED: the Town Board award Contract # 4 - Heating to D & E Contractors in the amount of \$104,423 and notification be sent informing them they are the low bidder.

Councilman Boone seconded, a vote resulted as follows:

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

NAYS: None.

**RESOLUTION #38-2017 was thereby duly adopted.**

Councilman Bichteman reported that originally Delaware Engineering had given the Town a scope of work for the administration of the contract. The hourly rate for the inspection and administration of the contract had a base price of \$25,000. Code Enforcement Officer Edwin Lawson has offered to do the inspection and contract administration. Councilman Bichteman asked Mr. Lawson to coordinate with D & E Contractors. Once all insurance certificates and drawings are received he would issue a notice to proceed and have a preconstruction conference as planned. Mr. Lawson agreed.

### **REMOVAL OF ASBESTOS FLOOR TILE**

Councilman Bichteman reported that Sullivan Contracting has completed the removal of the asbestos floor tiles from the Town Hall building. Although it was an inconvenience, the Town staff did an excellent job working around it and conducting business from the stage. The Highway Dept laid the plywood floor down and will continue with the painting of the exterior soffits and moving on with the list of repairs needed at the Town Hall.

### **PLANNING BOARD-CONSULTING ENGINEER**

Dotty Verch inquired if a decision has been made regarding an engineering firm who will consult and work with the Planning Board on the review of the Costanza solar application. She has also contacted CT Male, Katterskill Associates, Delaware Engineering and LaBerge. She advised the Town Board of her conversations with these firms over the low amount of escrow \$2,500 and the rates firm's charge. Discussions followed between Dotty and Councilmen Bichteman and Boone regarding the Town's fiduciary responsibility to the applicant to reduce spending for engineering costs by having engineers attend meetings only when necessary, along with the advantage or benefit of using the preliminary advice from the Town Attorney and /or the Code Enforcement Officer. Councilman Bichteman had reviewed the LaBerge agreement and gave an opinion on it. The Town Board listened to comments from several residents on the matter. Edwin Lawson mentioned that the \$2,500 has the ability to be increased but would have to know beforehand what the scope of services are. The cell towers are a little more technical than the solar panels in that solar panels are on a fixed piece of property that doesn't emit radio waves. In Article 18 of the zoning law, it specifically states what they need to do. Edwin Lawson explained the entire process. Councilman Bichteman then read the standard agreement for professional services. Discussion continued about the current application in front of the planning board in locking in 60 acres and there being a 20 acre maximum per the law. Edwin Lawson and Councilman Bichteman agreed that the Town Attorney address this matter and review. Councilman Bichteman indicated that it is an hourly contract, not a lump sum contract. It was suggested by a resident who works for CDRPC to reach out to NYSUN for help and the possibility for a free public outlet through NYSUN for hiring a consulting firm. Dotty responded that NYSUN will be here next Thursday and she did not feel the public hearing would be closed in October. Councilman Bichteman feels the Town is in agreement and can ask LaBerge to give a constructive estimate while the Town pursues NYSUN. Dotty will draft it up and send to the Board for approval prior to sending it to LaBerge.

### **NEW BUSINESS**

There being no new business to discuss, Councilman Bichteman commented that the Board would move to executive session following public comment regarding a personnel issue.

### **PUBLIC COMMENT**

Non-resident, Marc Gronich, who works with Channel Albany-Public Education and Government (PEG) commented that he wrote an article in the latest edition of Association of Towns magazine about people cutting cable and going to non-wired video distribution sources which bring down the amount of the cable franchise fees. He is also with a group called the Alliance and Community Media of NY and mentioned there are only 75 public access systems around in the state and intends to put together a county wide PEG access. They would put a business plan together, figure out cost for equipment, and would provide three cameras which would be controlled remotely to allow people who can't make it to the meeting to stream the meeting live on the internet at home. You could stream other towns meetings as well. It would be a public private partnership.

Supervisor Rapp asked County Legislator, Chris Smith if he had anything to discuss. Mr. Smith responded they were just busy with the election, nothing new to discuss.

Planning Board member Gerry Boone mentioned that the Planning Board had a few large applications in front of them recently. He requested that the Town Attorney be present at some of these meetings.

Another resident inquired about the tarp on the roof on the water building. Supervisor Rapp indicated that it would be addressed.

A resident requested permission to allow the Town Clerk to advertise in the Greenville Pioneer to service the South Westerlo residents. Supervisor Rapp did not have an issue with it, but it is only released every other week. No action was taken by the Board on this topic.

As a follow up to a previous comment about the request for the Town Attorney's presence at meetings, another resident inquired about legal representation at the Town Board meetings moving forward. Councilman Bichteman addressed the topic and indicated that legal questions are adequately answered by the Town Attorney promptly. Councilman Bichteman attested that the Town Attorney is very hard working and makes herself available for the Town even when she is away. She responds to questions and gives advice immediately and he believes she earns every penny of her salary. Sometimes if contacted at the last minute she does have a conflict, but he believes she spends a lot more time working for the Town than she is paid for. It might be hard for the residents to see, but he knows how responsive she is. Ed Lawson commented that the Town Attorney is the attorney for the Town and Town Board and not for answering legal questions of residents at these open meetings. With that said, she has always made herself available through email and if any of the Board's needed her, she would be available. In addition to that, he mentioned she also took over the court. Ed Lawson advised that if the planning board needed her to review an application, she could do so externally without her being present. Her attendance at meetings became more of a personal attack against her than it was for the business at hand. Both the Town Clerk and Assessor's office agreed that she is

very responsive and helpful whenever she is needed even when she is on vacation and in addition to her private business. The Museum Board agreed that she has been very supportive of them in getting rules and regulations established. Councilman Boone has reached out to Mrs. Galgay on several occasions, where she has provided timely, accurate and professional information to him, which he found helpful over the last year being the newest Board member.

It was also mentioned by another resident that the LaBerge contract was now the second contract not reviewed by the Town Attorney and indicated that the franchise agreement was the first. Councilman Bichteman responded that the LaBerge contract was not reviewed by the Attorney because she received an email from Dotty indicating she did not need to review it as it was already taken care of. Dotty indicated that the new solar contract was identical to the one that was approved for the cell tower and the name was the only change. Councilman Bichteman mentioned that the Board didn't get to review the LaBerge contract because Dotty already hired them prior to Board approval. At that point, the Board could not say they didn't like the contract and because of that, the Town Attorney wanted to have the second contract to review before the Supervisor signed it. Discussion continued between Dotty and Councilman Bichteman.

Councilman Boone complimented Mr. Ostrander and his Transfer Station crew that the grounds up there and the facility are spotless. They are courteous and professional and he wanted to thank them.

Councilman Boone mentioned that Jean Forte, a Knox resident who was involved in many things including girl scouts, PTA and sports booster had passed away a few years ago. Unfortunately with her passing she left a void in that town in many of the youth related services. He was recently contacted by one of Jean's friends, Tami Hanley about if our town has a youth council, which we do not. There will be a Jean Forte 5k run on Saturday October 14<sup>th</sup> at Thompsons Lake and they are looking for volunteers to work at water stations and to stand along the race route directing the flow of the runners. A resident inquired about who benefits from the run and it was stated that there is a scholarship with BKW school. Councilman Boone reported a sign-up sheet was available on the table for those who wanted to volunteer.

The Cemetery Association and Fire Company are having a Trunk or Treat on October 28<sup>th</sup> at the Town Park for the younger kids and the Fire Co. has a haunted house for the older kids at Woodmans Hall and wondered if they could put this on the website for residents to see. The Town Clerk said she would have it put under Community Activities.

It was reported that the Reformed Church was having a Roast Pork Dinner on October 14<sup>th</sup>.

South Westerlo Fire Co. wanted to thank the Highway crew for helping to improve their parking lot.

Dotty thanked the highway crew for paving Myrtle Lane.

Judge Bob Carl inquired about the grant money and if the Town needed to apply for an extension or if he could use it in other ways at the current Court. Supervisor Rapp asked him to get the extension and he was working on a plan.

With there being no further business to discuss and no other public comment, Councilman Bichteman made a motion to enter into Executive Session at 8:47pm, seconded by Councilman Sherman, all in favor motion carried. The Town Board returned from Executive Session at 9:42pm.

Councilman Bichteman made a motion to adjourn the meeting, seconded by Councilman Boone, all in favor motion carried. Meeting adjourned at 9:42pm.

Respectfully Submitted,

Kathleen Spinnato  
Town Clerk