

**TOWN OF WESTERLO TOWN BOARD  
PUBLIC HEARING RE: PROPOSED LOCAL LAW No. 1-2017  
&  
REGULAR TOWN BOARD MEETING  
OF  
TUESDAY, FEB. 14, 2017**

**PUBLIC HEARING-PROPOSED LOCAL LAW No. 1-2017**

The Town of Westerlo Town Board held a Public Hearing on proposed Local Law No. 1 – 2017 entitled “Regulation and Approval Standards for Solar Energy Systems” on Tuesday, Feb. 14, 2017.

The Public Hearing was immediately followed by the Town Board meeting at the Town Hall, 933 CR 401, Westerlo, NY. This was a change of date from 2/7/2017 due to inclement weather conditions. The change of date was advertised in the Altamont Enterprise, posted on the sign board and posted on the Town website. A copy of the proposed law was available for public viewing on the website, at the Town Clerk’s office and at the meeting. Supervisor Rapp opened the Public Hearing at 6:30 PM with the Pledge of Allegiance to the Flag.

Attending were: Supervisor Richard H. Rapp,  
Councilman William F. Bichteman Jr.  
Councilman Anthony W. Sherman  
Councilman Joseph J. Boone

Absent: Councilwoman Amie L. Burnside

Also attending were: Deputy Supervisor & Code Enforcement Officer Edwin H. Lawson, Town Justice Robert Carl, Planning Board Chairwoman Dorothy Verch, Zoning Board member John Sefcik, Town Historian Dennis Fancher, Town Clerk Kathleen Spinnato and approximately eighteen residents or interested persons.

Code Enforcement Officer Ed Lawson gave an overview of the Town of Westerlo Zoning Law in particular Article 8 and the 3 districts; Rural Development/Agricultural, Light Industrial and Residential Hamlet. The intent of proposed Local Law No. 1-2017 is to address the grey area of Commercial and Community Based solar arrays. He explained challenges to the Zoning Law are handled through a process. Applications for a Special Use Permit are submitted to his office, and then reviewed by the Planning Board during their monthly meetings. Any set back issues are handled through an Application for a Variance also submitted to his office and then reviewed by the Zoning Board of Appeals at their monthly meetings. Article 8 of the Zoning Law includes solar energy systems as a use permitted by Right. He reviewed the various setbacks & minimum lot standards for the districts and nonconforming uses. The intent of the law is to provide guidance to the Planning & Zoning Boards, along with the recent implementation of the new NYS Building Code standards, to determine requirements and how they can proceed. He clarified, he did not envision the proposed law, it came about over the growing concern of the Planning Board Chairperson, over the lack of guidance for the ZBA and the anticipation of any solar farms, commercial solar as have been built in other towns. He briefly reviewed NYSERDA regulations and a concern if dismantling of an array becomes necessary.

The Town Board then heard public questions, concerns or comments pertaining to the draft of proposed Local Law 1 of 2017.

A resident and the Chairman of the Board of a local business disclosed they are looking to install a solar array solely for their use. He had concerns for the need to better clarify Commercial and Community Based solar array systems for those which export & sell power. He made the suggestion to the Town Board to include a section in the proposed law regarding a businesses and/or agriculture that would generate solar energy solely for their own consumption. Mr. Lawson indicated that their application for a Special Use Permit had been submitted prior to the enactment of the proposed law. A discussion followed.

A resident asked questions pertaining to the taxing of commercial solar arrays. The resident was informed that this would be the duty of the Assessor's office to research and determine.

Other residents had concerns regarding the following:

- Community Solar array should be classified separately from a Commercial array.
- Waterways as regulated by NYS and the distance of 200 ft. from a waterway.
- Under landscaping, berms.
- Underground electrical service may not be practical in all situations when it is necessary to connect to a service pole across a roadway, creek or ditch.
- Height of fencing at 8 ft.

A member of the audience indicated the National Electric Code determines the height of fencing. Discussions followed regarding code regulations, design and the services of a professional engineer or a licensed architect.

- The need for clarification of definitions of a non-conforming lot, non-conforming use and the setbacks for residential lots.

Mr. Lawson indicated that the residents' concern for clarification is already addressed in the Town of Westerlo Zoning Law under Section 7.80 or by the Variance process. Discussion followed.

- Made the recommendation that there be restrictions of pole mounted solar arrays in front yards
- If a 90 day requirement would be sufficient for the physical removal of a commercial array.

Discussions followed regarding any proposed limitations may not be viable especially if a property meets the set back requirements, the insurance required by the Town, the insurance requirements as related to cell towers and the 90 days for dismantling/removal.

- Remove the language "to prevent glare" and replace with "to minimize glare".
- In regards to fencing that some responsible party maintain that fence, making reference to the unkempt conditions of the fence and vegetation surrounding the cell tower located at the property of the Town of Westerlo Vol. Fire Co. in South Westerlo.
- In regards to Additional Requirements pg. 8, i; Insurance, Escrow; there should be a limit placed on the last sentence. Additional funds, as required, shall be paid by the applicant; there should be a limit.
- Insurance references should be removed concerning; Property Damage Insurance, Umbrella Insurance, Personal Liability, 30 day Notice of Cancelation.
- Clarification on the bond of 20%
- Bond in order of preference- remove cash

Councilman Bichteman asked if he would forward a transcript of these last concerns in writing.

Mr. Lawson thanked everyone for their comments they made good points to assist in moving forward.

A representative from Cypress Creek Renewables a commercial installer offered information on the salvage value of decommissioned arrays for consideration. Discussion followed.

There being no further public comment Supervisor Rapp asked for a motion to close the Public Hearing. Councilman Bichteman made a motion to close, seconded by Councilman Sherman, motion carried by those present. The Public Hearing adjourned at approximately 8:05 PM. The Public hearing was immediately followed by the Regular monthly meeting of the Westerlo Town Board.

#### **TOWN OF WESTERLO TOWN BOARD MEETING**

Supervisor Rapp opened the regular Town Board meeting at 8:05 PM.  
Those present listed in the Public Hearing Minutes of 2/14/2017 listed above.

#### **TOWN BOARD MINUTES**

Supervisor Rapp made a motion to accept the Organizational & Town Board minutes of 1/3/2017 as submitted, Councilman Bichteman seconded, motion carried by those present.

#### **SUPERVISOR'S REPORT**

The Town Board had received the Supervisor's Report for the month of December. Supervisor Rapp made a motion to accept the Supervisor's Report of December as submitted, Councilman Bichteman seconded, motion carried by those present.

#### **TOWN CLERK'S MONTHLY REPORT**

The Town Board had received the Town Clerk's Report for the month of January. Councilman Sherman made a motion to accept the Town Clerk's report for January as submitted, Councilman Bichteman seconded the motion, motion carried by those present.

#### **PAYMENT OF MONTHLY BILLS**

Councilman Boone 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 #17 through Voucher # 70 in the amount of \$129,835.13

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

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

NAYS: None

**RESOLUTION # 8-2017 was thereby duly adopted.**

#### **HIGHWAY DEPARTMENT-EXCAVATOR**

Supervisor Rapp reported Highway Superintendent Keith Wright needs to purchase an excavator. He has received three bids, the lowest bid being Finke Equipment at \$131,546.54. Councilman Boone asked Keith if the options were comparable on the bids, Mr. Wright advised they were. Councilman Bichtman made a motion to adopt the following resolution:

WHEREAS: the Highway Dept needs to purchase an excavator and has received three bids, be it hereby

RESOLVED the Supervisor is hereby authorized to purchase a Kobelco Excavator through a BAN in the amount of \$131,546.54, the Supervisor will contact the Town Attorney to draw up the necessary paperwork.

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

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

NAYS: None

**RESOLUTION # 9-2017 was thereby duly adopted.**

**DRAFT PROPOSED LOCAL LAW No. 1-2017**

No action was taken by the Town Board at this time. The comments and suggestions made by the public will be taken into account and modifications made.

**MUSEUM COMMITTEE REPORT**

Councilman Boone reported the Museum Committee consists of Chairperson Attorney Aline Galgay, Alicia Malanga, Mary Jane Araldi, Claire Marshall, Dennis Fancher and Councilman Boone. They have had approximately three meetings and have looked into issues such as, the review and revision of By-Laws and the proper steps and procedures to cover aspects of making short term repairs or upgrades such as weather proofing. There is also a need for archival software to help with cataloging. A phone with an answering/recording machine has been installed; the new phone number is 518-797-3511. Dennis and Sue Fancher and Mary Jane Araldi have conversed in improving cataloging and categorizing documents. They have also talked about operational supplies, general maintenance and cleaning along with their latest endeavor of relocating artifacts, documents and items stored in the library attic. Community members have graciously donated time to relocate the museum items before their renovations. Approval was sought and received from Supervisor Rapp and Highway Superintendent Keith Wright for the Town's assistance with the removal of some items for relocation to a staging area when time and weather permits. The idea is to scale down to the more pertinent items. They have finalized a more definitive list of the Board of Trustees with five year term limits.

Town Historian Dennis Fancher interjected that he had recently received an inquiry on Philip Myers who was one of the first settlers here in 1763. The inquiry came from an ancestor in New Zealand.

**APPOINTMENTS: MUSEUM INTERIM DIRECTOR & MUSEUM BOARD OF TRUSTEES**

Councilman Bichteman reported the Museum Committee Chairperson has made the recommendation to the Town Board to appoint an Interim Museum Director and to reinstate the current Museum Board Trustees as their terms currently exist. He then made a motion to adopt the following resolution:

WHEREAS: The Museum Committee has made the recommendation concerning the Westerlo Heritage Museum Interim Director and Board of Trustees, be it hereby

RESOLVED: the Town Board appoint Mary Jane Araldi as Interim Museum Director/Curator and reinstate the following members to the Museum Board of Trustees for their current terms which expire at different times; Ronald Bryan exp. 12/31/2018, Alicia Malanga exp. 12/31/2019, Catherine Latham exp. 12/31/2017, Jerald Figel exp. 12/31/2018, Diane Figel exp. 12/31/2018 and Elaine Nevins exp. 12/31/2021 all to retake the Oath of Office and with their terms to be determined when the Museum By Laws are established.

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

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

NAYS: None

**RESOLUTION # 10-2017 was thereby duly adopted.** Town Justice Robert Carl asked about the storage of Museum items with a leak in the Highway Garage Building above the old Assessor's Office. He was advised this had already been repaired. Code Enforcement Officer Ed Lawson will check to verify the repairs have held.

#### **GRANT FOR JUSTICE COURT**

Councilman Bichteman and Justice Carl briefly discussed the expiration date of a grant that the Town Court applied for. Justice Carl indicating the grant would expire 180 days after the Town receives the funds.

#### **PATTISON KOSKEY HOWE & BUCCI (PKHB -4 ENGAGEMENT LETTERS FY 2016)**

Justice Court Clerk Patricia Thompson provided the Town Board with what is needed for the Justice Court fund for their Audit. The report consists of three pages and she asked the Town Board to review it first. She reported last year's audit took approximately 2 to 3 hours. The Court Fund rules state if two Town Board members are were willing to do the audit, they can. She described the audit process and thought they could possibly save money if they made this change.

Councilman Boone asked for clarification on the matter and discussion followed.

Supervisor Rapp made a motion to retain Pattison Koskey Howe and Bucci on all four engagement letters, seconded by Councilman Bichteman, motion carried by those present. Having engaged PKHB again, Councilman Bichteman suggested if they have the option of changing the structure of the Budget for the New Year, he recommended adding more definition to detail and for two Town Board members to discuss the budget with them. Councilman Sherman offered to volunteer to discuss budget with PKHB and Councilman Boone indicated if Councilwoman Burnside does not volunteer, he would volunteer in her place.

#### **ZONING BOARD OF APPEALS REPORT**

Chairwoman Virginia Mangold had previously submitted the following report which was read. The regularly scheduled Zoning Board meeting of 1/23/2017 was canceled due to poor weather conditions. The decision to cancel was made as the road conditions worsened earlier than expected. With no new applications to consider, the meeting was canceled. The next regularly scheduled meeting is set for February 27, 2017 at 7 PM. Councilman Boone made a motion to accept the ZBA report as submitted, seconded by Councilman Bichteman, motion carried those present in favor.

#### **PLANNING BOARD REPORT & BROADBAND RESEARCH COMMITTEE (BRC) REPORT**

Chairwoman Dorothy Verch read the following reports: (See next 3 pages)

PLANNING BOARD REPORT  
TO  
THE WESTERLO TOWN BOARD  
FEBRUARY 14, 2017

The planning board cancelled its regularly scheduled meeting on Jan 24 and the alternate date meeting on Jan 31<sup>st</sup>, due to inclement weather.

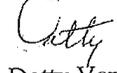
At the December meeting we advised Tarpon Towers II and Cellco d/b/a Verizon Wireless to come back to the Planning Board with solutions to the visual test. A conference call between Matt Rogers of the LaBerge Group, Aline Galgay, Town Attorney and myself was conducted on Feb 8<sup>th</sup>.

We were advised by Ms. Galgay that a waiver was not an option as stated in Section 10 of the Town Law. We were also advised that Tarpon Towers II and Cellco d/b/a Verizon Wireless could apply to the ZBA for a variance. A copy of the application submitted to Ed Lawson, CEO, for presentation at the next ZBA meeting on the 27<sup>th</sup> has been received and will be introduced at the next PB meeting.

The Planning Board, at its regular meeting on Feb. 28<sup>th</sup>, will continue with the Tarpon Towers II and Cellco d/b/a Verizon Wireless application.

We will also be reviewing the application by Stuart Jeff Beller for a Solar system on private property.

Respectfully submitted,

  
Dotty Verch

BRC REPORT  
TO  
WESTERLO TOWN BOARD  
FEBRUARY 14, 2017

We would like to update the Town Board on the activity of the BRC. Broadband Research Committee. Our last formal meeting was November 2016. During this interim, the Town Attorney, Aline Galgay was able to secure a current list of addresses representing the Westerlo residents that subscribe to MHC. The list was given to Eric Markson who plotted all of the locations and Mike Sikule created a 'map' of the locations.

In addition, CR 402 has been identified as a potential candidate for expansion of the MHC services. 8 residents had petitioned MHC for service and, according to a statement by MHC in the Altamont Enterprise, a total of 40 houses were identified thereby qualifying CR402 as a service extension option.

A resident, Mr. Vetere, furnished a list of 12 residents of CR 406 who also desire MHC services. That road, currently, has 14 houses on the service and an additional 12 more wish to be brought on line. A total of 26 homes. This also meets the reduced criteria stated by MHC representative last year.

The recommendation to the Town Board by BRC ,regarding the approval of the Franchise Agreement of 15 years between MHC and The Town is NOT TO APPROVE the agreement.

The current Franchise Agreement is antiquated and one sided. The agreement references only Cable television with a basic service of 38 channels VHF. It has no reference to high speed internet, internet phone and HD services which are promoted on the cable services.

We would ask the Town Board

To allow the BRC to draft a new agreement . It will probably need PSC approval and we will seek legal advice from the Town Attorney in this matter.

In the agreement we would request that MHC identify CR 402 and CR406 as 2 new service areas and complete the cutovers by the end of 2017.

The New NY Broadband program targets 2018 as completion. This should be our requirement as well forcing them to expand quickly by using the NY Broadband Program grants.

When we, in Westerlo, experience a cable outage, the cause has been identified ( by MHC engineers) to be a loss of electricity. It seems that there are 2 'hubs or point of presence' in the Town. When power is lost, that section loses service. We would recommend that these 2 'hubs' have a UPS, or, uninterrupted power source, installed to 'sense' a loss of power and boot so that power is continued and the service is, seamlessly, intact. Similar to the backup systems that the various towers use. There are a number of residents that use internet phone as their only phone . (cell phone service is still spotty in Westerlo).

MHC should verify that the franchise fees collected by them from Westerlo residents, are being applied correctly to the Town of Westerlo. A number of Westerlo residents do not have Westerlo – 12193- zip code. They have Greenville, Medusa, Rensselaerville, Hannacroix, South Berne and Coeymans mailing addresses. If the fees are assigned to these various towns, then Westerlo is losing Franchise fees.

Lastly, we would like to conduct a campaign enlisting the residents of Westerlo to poll their neighbors and provide a list of interested residents so that we can compile a master list to present to MHC for expedited expansion.

Respectfully submitted,

  
Dotty Verch

Chairwoman Verch elaborated more on the subject of Broadband and Mid-Hudson Cable for the Town Board and the audience. ZBA Member John Sefcik had questions about the proposed cell tower, crane test and a variance; discussion followed. Mr. Sefcik also inquired about an application from Mr. Beller for a solar array system; discussion followed regarding Mr. Beller's application which was previously submitted and tabled by the Planning Board. More discussions followed concerning the need for the variance due to the language in Article 17. Regarding the BRC drafting a new Mid-Hudson Cable Franchise Agreement, Councilman Bichteman stated the Town Board would need to discuss it further at the next Workshop meeting.

Councilman Bichteman made a motion to accept the Planning Board & Broadband Research Committee Reports as submitted, seconded by Councilman Sherman, motion carried by those present.

#### **WATER BOARD REPORT**

Councilman Bichteman had nothing new to report.

#### **TOWN HALL - HEATING SYSTEM BIDS**

Councilman Bichteman reported that the Town received two bids for a proposed new heating system; Crisafulli Brothers \$176,000 and B & G Plumbing \$99,000 both bids were considerably above amount estimated by Delaware Engineers. Brad Burgette of Delaware Engineers has made the recommendation to reject both bids. Since the temporary heating system installed in the Town Hall is currently functioning, he suggested rebidding this in the spring. Councilman Bichteman then made a motion to adopt the following resolution:

WHEREAS: Bids for a new heating system for the Town Hall are above amounts estimated, be it hereby

RESOLVED: the Town rebid a new heating system for the Town Hall in the spring, the date to be determined

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

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

NAYS: None

**RESOLUTION #11-2017 was thereby duly adopted.**

#### **PSI ASBESTOS ABATEMENT**

Councilman Bichteman reported on the approximate amounts spent to date on the asbestos abatement billed by Sullivan Contracting in the amount of \$30,600. An estimated balance remains for asbestos removal of approximately \$28,000. In an effort to move forward, he suggested the Town Board authorize Supervisor Rapp to sign PSI's engagement change order letter to investigate and receive the permit from NYS for additional asbestos design services and project monitoring for removal of the floor tile in the Town Hall. Supervisor Rapp then made the motion to authorize the engagement of PSI's for the asbestos abatement change order, Councilman Bichteman seconded, motion carried by those present.

#### **TOWN BOARD WORKSHOP**

The Town Board advised they would discuss more on the BRC at the next Workshop meeting scheduled for February 21<sup>st</sup> at 7 PM.

**CANCELATION/RESCHEDULING OF MONTHLY TOWN BOARD MEETINGS**

Due to recently having to cancel Town Board meetings because of inclement weather, Councilman Bichteman made the suggestion that the Town Board consider passing a resolution to automatically reschedule the regular monthly meeting to the second Tuesday of the month at the same time. The cancelation of regular Town Board meetings on the first Tuesday of the month become an issue due to re-advertising and the need to schedule around other Committee’s meetings. Supervisor Rapp made a motion to adopt the following resolution:

WHEREAS: Regular monthly Town Board meetings held on the first Tuesday of each month are canceled, be it hereby

RESOLVED: the Town Board automatically reschedule the canceled monthly meeting to the second Tuesday of the month at the same time

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

AYES: Supervisor Rapp, Councilman Bichteman, Councilman Boone & Councilman Sherman

NAYS: None

**RESOLUTION #12-2017 was thereby duly adopted.**

Councilman Boone reminded the Town Board of dates he would not be available to attend an upcoming meeting.

**OPEN TO PUBLIC**

A resident thanked the Highway crew for their hard work.

A resident had questions about the repairs to the garage roof. He was advised it was a separate area of the highway garage building roof then had previously been repaired. The newest repair was due to wind damage.

**ADJOURN**

There being no further business Councilman Bichteman made a motion to adjourn, seconded by Councilman Boone, motion carried by those present. Meeting adjourned at 9:01 PM.

Respectfully submitted,

Kathleen Spinnato Town Clerk

