

**TOWN OF WESTERLO
TOWN BOARD WORKSHOP MEETING
OF
TUESDAY, APRIL 4, 2023**

The Town of Westerlo Town Board held a workshop meeting on Tuesday, April 4, 2023 at the Town Hall 933 CR 401, Westerlo, NY. Supervisor Kryzak opened the meeting with the Pledge of Allegiance to the Flag at 6:00 PM.

ATTENDING WERE: Supervisor Matthew Kryzak
 Councilman Peter Mahan
 Councilman Joshua Beers
 Councilwoman Lorraine Pecylak
 Councilwoman Amie Burnside

Also attending were: Highway Superintendent Jody Ostrander and employees Daniel Rohrmiller, Phillip Mackey, Sal Spinnato and Rick Rupeka, Town Attorney George McHugh, Planning Board Chair Beau Loendorf and Members Bill Hall and Angela Carkner, Deputy Town Clerk II Jaimee Motschmann, Hometown Heroes Committee Member/Confidential Administrator Lisa DeGroff, Westerlo Rural Cemetery President Betty Filkins, Clerk to the Planning and Zoning Boards Claire Marshall, Westerlo Fire Department Members Kelley Keefe, Andy & Lisa Joslin and Alan Clickman, Museum Board Member Becky Kryzak and approximately fourteen residents.

Councilman Beers made a motion to open the Public Hearing. Councilman Mahan seconded; all in favor motion carried.

PUBLIC HEARING

PROPOSED LOCAL LAW 1 OF 2023

Councilman Beers made a motion to open the Public Hearing for Local Law No. 1 of 2023 regarding providing real property tax exemptions for volunteer firefighters and ambulance workers pursuant to section 466-A of the real property tax law at 6 pm. Councilman Mahan seconded; all in favor motion carried. The Town Board and public discussed the proposed law. Several questions arose. Councilman Mahan made a motion to close the Public Hearing at 6:15 pm. Councilman Beers seconded; all in favor motion carried.

OLD BUSINESS

VOTE ON PROPOSED LOCAL LAW 1 OF 2023

Supervisor Kryzak made a motion to adopt the following resolution:

- WHEREAS:** the Town Board of the Town of Westerlo has introduced proposed Local Law No. 1 of the year 2023 providing real property tax exemptions for volunteer firefighters and ambulance workers pursuant to section 466-A of the real property tax law (see attached); and
- WHEREAS:** the Town Board duly noticed and held a Public Hearing on the proposed Local Law on April 4, 2023; be it hereby
- RESOLVED:** that the Town Board hereby approves and adopts Local Law No. 1 of 2023 of the Town of Westerlo to provide real property tax exemptions for volunteer firefighters and ambulance workers pursuant to section 466-A of the real property tax law.

Seconded by Councilwoman Pecylak; a vote resulted as follows:

AYES: Supervisor Kryzak, Councilwoman Pecylak, Councilman Beers, Councilman Mahan, Councilwoman Burnside

NAYS: None

RESOLUTION # 43 of 2023 was thereby duly adopted.

CONTINUE DISCUSSIONS REGARDING PROPOSED LOCAL LAW 2 OF 2023

Supervisor Kryzak provided the Town Board with proposed revised Local Law 2 of 2023. The proposed local law is for how positions for Town Court Clerk, Building Inspector, Town Attorney, Assessor, Dog Control Officer, Deputy Highway Superintendent, Deputy Town Clerk in the Town should be filled. Mr. Kryzak explained the rationale behind the law, mentioning it allows towns of small populations the ability to hire qualified non-residents to be appointed to positions within the town. He indicated that an Association of Towns (AOT) Attorney advised employees who are currently on the payroll but are not residents, that the Town can ratify any action after the fact, so long as the Town has the ability to do so in the first instance. Mr. Kryzak mentioned that in this position, the Town would likely just move forward with the proposed Local Law.

Supervisor Kryzak mentioned that Planning Board Member Angela Carkner expressed concerns at the last meeting regarding employees who are public officers. She believed they shouldn't have been paid as employees. Supervisor Kryzak advised that based off the home rule law, the Town can pass the proposed law without doing anything retroactively. Discussion continued. Mrs. Carkner expressed the following concerns regarding how the Town Attorney was hired, how the proposed law could benefit him, pension requirements and that this law was also before another town where Mr. McHugh is the attorney. Mr. Kryzak responded that there is no risk to anyone's retirement and that complaints can be made to the Pension Integrity Bureau for anyone wishing to challenge the law.

Councilman Beers mentioned he contacted an Attorney from AOT who had an issue with Mr. McHugh being employed as it would fall under being a public officer. They believe he should instead be a contactor/consultant due to the fact that he does this job in multiple other towns. The AOT attorney also mentioned that since the Town contracts with Albany County EMS/EMT services, it would only lend Mr. McHugh to be hired as a contracted service. Mr. Kryzak mentioned that under the public officer's law, public officers are eligible for membership with NYSLRS and must be given the opportunity to join. Discussion ensued. Supervisor Kryzak commented how this law also is for other positions. Councilwoman Burnside made a motion to schedule a Public Hearing on proposed Local Law 2 of 2023. Supervisor Kryzak seconded; all in favor motion carried.

Resident Brandon Carkner indicated that Mr. McHugh found out that he was hired incorrectly, proposed his own law and that he acted in bad faith. Mr. Kryzak explained the history of the past two attorneys. Mr. Carkner provided Mr. Kryzak with a document regarding what was stated in a 2021 meeting minute.

A resident mentioned the issue with the previous attorney was that they were contracted and the Town was overbudget so the bills were unknown. She indicated there are several public officials that are affected and you can't just single out one. Councilwoman Burnside indicated the previously contracted attorney was charging roughly \$385-\$400 hour. Mr. Kryzak mentioned by not having a contracted attorney, the cost is controlled and it saves the Town money in the long run.

Mr. Carkner inquired if the Town Attorney was allowed to collect a legal counsel/escrow fee if he is a public officer. Discussion ensued between Supervisor Kryzak and Mr. & Mrs. Carkner. Mr. Carkner didn't

believe the Attorney should collect a \$28,000 salary and then also collect a \$2,500 escrow for subcontracting.

The Town Clerk indicated there was a contract for the Attorney when he was hired.

The Supervisor made a motion to adopt the following resolution:

WHEREAS: The Town Board needs to advertise for a Public Hearing regarding proposed Local Law 2 of 2023, be it hereby

RESOLVED: The Town Board sets the Public Hearing for May 2nd at 6 pm.

Seconded by Councilwoman Burnside; a vote resulted as follows:

AYES: Supervisor Kryzak, Councilwoman Pecylak, Councilman Beers, Councilman Mahan, Councilwoman Burnside

NAYS: None

RESOLUTION # 44 of 2023 was thereby duly adopted.

Further discussion was tabled until the Public Hearing on May 2nd.

Westerlo Rural Cemetery President Betty Filkins asked if the Attorney had to be full time to get health insurance. Mr. Kryzak responded that AOT advised that Town Boards may provide health insurance for its town officers and employees including retired officers and employees. It doesn't differentiate from full-time to part-time but the Employee Handbook does.

BROADBAND GRANT UPDATE

Supervisor Kryzak gave the update on the Broadband grant. He advised that there will no longer be a matching portion of the grant. Neither the Town nor the taxpayers will need to provide any money toward the grant; the utility provider will be responsible instead.

FIRE CO. BUILDING UPDATE

Supervisor Kryzak mentioned the Town received the site map from the surveyors. There is an issue with the driveway and there is a fence that needs to be moved which is being worked on now. Supervisor Kryzak mentioned that he also met with Code Enforcement Officer Jeff Pine to discuss the process. A lot of work still needs to be done with the Planning and Zoning Boards.

UPDATE ON DONATIONS FOR FALL FESTIVAL/CONTINUE OF HOT AIR BALLOON RIDE DISCUSSION

Town Clerk Weaver reported the Town Clerk's office collected \$1,079.00 in donations since March 15th. She hopes to have a new quote for balloon rides by the next Town Board meeting as the old company had to cancel unexpectedly and put her in touch with someone else who is available.

DISCUSS PURCHASING HIGHWAY TRUCK

Highway Superintendent Jody Ostrander reported that there is a truck being held for the Town to purchase in the next 3-4 weeks which will cost \$294,000 and includes all accessories. He still has not heard from the insurance company with a figure for the totaled vehicle. They put a hold on a second truck but Mr. Ostrander needs to let them know by tomorrow if he wishes to move forward with the second truck. The total cost of purchasing two trucks should be around \$600,00.00. There is \$400,000.00 in the highway reserve fund to put toward the cost but the Town would have to transfer the remaining \$200,000.00 to cover the cost. Supervisor Kryzak made a motion to adopt the following resolution:

WHEREAS: The Highway Superintendent is in need of purchasing two new trucks for the

highway department at a cost of \$294,000 each which will include accessories, be it hereby

RESOLVED: The Town Board authorizes the Highway Superintendent to engage in a contract to purchase two new trucks with accessories at the cost of \$294,000 each.

Seconded by Councilman Mahan; a vote resulted as follows:

AYES: Supervisor Kryzak, Councilwoman Pecylak, Councilman Beers, Councilman Mahan, Councilwoman Burnside

NAYS: None

RESOLUTION # 45 of 2023 was thereby duly adopted

NEW BUSINESS

DISCUSS PARK FEE/DEPOSIT FOR TOWN EMPLOYEES

Supervisor Kryzak proposed to waive the park deposit and rental fee for Town employees.

Councilwoman Burnside made a motion to adopt the following resolution:

WHEREAS: The Town Board discussed the possibility of waiving park deposits and rental fees for Town employees, be it hereby

RESOLVED: The Town Board waives the park deposits and rental fees for Town employees, and further

RESOLVED: This will be added to the employee handbook as a benefit for Town employees.

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

AYES: Councilwoman Pecylak, Councilwoman Burnside, Councilman Kryzak, Councilman Beers, Councilman Mahan

NAYS: None

RESOLUTION # 46 of 2023 was thereby duly adopted.

APPROVE CONFIDENTIAL ADMIN TO ATTEND FINANCE SEMINAR

Supervisor Kryzak indicated there is a finance seminar provided by AOT and the State Comptroller and he would like to send his Confidential Administrator. Supervisor Kryzak made a motion to adopt the following resolution:

WHEREAS: The Supervisor requested approval from the Town Board for his Confidential Administrator to attend Town Finance School, be it hereby

RESOLVED: The Town Board authorizes the Confidential Administrator to attend the upcoming finance seminar provided by AOT and the State Comptroller.

Councilwoman Pecylak seconded; a vote resulted as follows:

AYES: Councilwoman Pecylak, Councilwoman Burnside, Councilman Kryzak, Councilman Beers, Councilman Mahan

NAYS: None

RESOLUTION # 47 of 2023 was thereby duly adopted.

DISCUSS ACCOUNTING FIRM

Supervisor Kryzak mentioned that Marvin & Company is not able to do our AUD audit after previous accountant Sarah Morrison's resignation. Confidential Administrator Lisa DeGroff made several phone calls to find a company that would be willing to complete our audit. Right now, the Town is waiting to hear back from them.

DISCUSS PROTONMAIL STORAGE ISSUES AND BENEFITS/COSTS OF SWITCHING TO OFFICE 365

Supervisor Kryzak indicated the Town has a problem with Protonmail and he would like to switch to Office 365. He mentioned he is looking into cost estimates and he will report back as soon as he has those numbers.

DISCUSS PARK BENCH IN MEMORY OF ANITA MARRONE

Supervisor Kryzak mentioned he would like to discuss a potential park bench in memory of Anita Marrone who was a frequent attendee during Town Board meetings. He mentioned that Anita unfortunately passed away during COVID but her wisdom and input she gave the Town Board is greatly missed. Discussion continued and Supervisor Kryzak mentioned he will come back to discuss it further as soon as he has cost estimates.

DISCUSS PROCESS FOR PRESENTING PROPOSALS, IDEAS TO THE TOWN BOARD

Supervisor Kryzak indicated he would like to improve the process for presenting paperwork to residents and the Town Board. Discussion ensued regarding the potential Hudson Valley Greenway Grant.

PUBLIC COMMENT

A resident inquired about the broken equipment at the playground at the Town of Westerlo Veterans Memorial Park. Supervisor Kryzak mentioned he is looking into a playground inspection program and what needs to be done to satisfy New York State Law.

Councilman Mahan asked about the building in Town that is falling down. Since the Town has the "Unsafe Building Law" in place he mentioned that it needs to be taken down as it's a safety hazard. Supervisor Kryzak mentioned that the CEO Jeff Pine is working on it.

ADJOURN THE MEETING

With there being no further comments or questions, Councilman Mahan made a motion to close the workshop meeting. Councilman Beers seconded; all in favor motion carried. Meeting adjourned at 8:10 pm.

Respectfully submitted,

Karla Weaver
Town Clerk

LOCAL LAW INTRODUCTORY NUMBER 1 OF 2023 A LOCAL LAW OF THE TOWN OF WESTERLO PROVIDING REAL PROPERTY TAX EXEMPTIONS FOR VOLUNTEER FIREFIGHTERS AND AMBULANCE WORKERS PURSUANT TO SECTION 466-A OF THE REAL PROPERTY TAX LAW BE IT ENACTED by the Town Board of Westerlo.

SECTION I. Legislative intent and purpose.

a. The Town Board of the Town of Westerlo finds and determines that attracting and retaining quality volunteer firefighters and emergency medical personnel is one of the most critical problems facing our community and that maintaining effective emergency protection depends on the ability to train and retain volunteers.

b. The Town Board finds and determines that it is essential for the Town to provide real property tax exemptions as an incentive to attract new volunteers and help combat a persistent and alarming decline in the number of volunteers serving as active responders to fire and medical emergencies and unless recruits are found to replace retiring volunteers and seasoned members are encouraged to continue their volunteer service, the health and safety of citizens served by the volunteer firefighter and emergency medical personnel corps may be jeopardized.

c. The Town Board further finds and determines that real property tax exemptions are an appropriate way to recognize the personal sacrifices and dedication of these community-spirited men and women who unselfishly give their time and risk their safety to protect their neighbors without compensation. d. The purpose of this Local Law is to adopt the real property tax exemptions provided for volunteer firefighters and emergency medical personnel in accordance with Section 466-a of the Real Property Tax Law to read as follows.

Section 1. Real Property Tax Exemption. Real property owned by an enrolled member of an incorporated volunteer fire company, fire department or incorporated voluntary ambulance service or such enrolled member and spouse residing in the Town of Westerlo shall be exempt from taxation to the extent of 10 percent of the assessed value of such property for Town purposes, exclusive of special assessments.

Section 2. Qualifications. Such exemption shall only be granted to an enrolled member of an incorporated volunteer fire company, fire department or incorporated voluntary ambulance services if:

(a) the applicant resides in the Town of Westerlo and is a member of an incorporated volunteer fire company or fire department or incorporated voluntary ambulance service which provides service within the town.

(b) the real property which is the subject of such exemption is the primary residence of the applicant.

(c) the real property is used exclusively for residential purposes; provided however, that in the event any portion of such property is not used exclusively for the applicant's residence but is used for other purposes, such portion shall be subject to taxation and the remaining portion only shall be entitled to the exemption provided by this Local Law.

(d) the applicant has obtained and displayed a certificate issued by the authority having jurisdiction for the incorporated volunteer fire company or fire department indicating that the applicant has been an enrolled member of such incorporated volunteer fire company or fire department for at least two years or the applicant has been certified by the authority having jurisdiction for the incorporated voluntary ambulance service as an enrolled member of such incorporated voluntary ambulance service for at least two years.

Section 3. Continuation of eligibility requirements. The applicant shall maintain continual eligibility for the exemption by being a continuously active member of the incorporated volunteer fire company, fire department, fire district, or incorporated voluntary ambulance service. An active member shall meet the requirements for active service as defined by each company, department or corporation. Annual attestation by such company, district or corporation is required to maintain this exemption.

Section 4. Twenty-year active members. Any enrolled member of an incorporated volunteer fire company, fire department or incorporated voluntary ambulance service who accrues more than twenty years of

active service, as defined in Section 3 hereof, and is so certified by the authority having jurisdiction for the incorporated volunteer fire company, fire department or incorporated voluntary ambulance service, shall be granted the ten percent exemption as authorized by this section for the remainder of his or her life as long as his or her primary residence is located within the Town of Westerlo.

Section 5. Un-remarried Surviving Spouses of Volunteers killed in the line of duty. An un-remarried spouse of a volunteer firefighters or volunteer ambulance workers killed in the line of duty may receive the real property tax exemption if:

1. Such un-remarried spouse is certified by the authority having jurisdiction for the incorporated volunteer fire company, fire department or incorporated voluntary ambulance service as an un-remarried spouse of an enrolled member of such incorporated volunteer fire company, fire department or incorporated volunteer ambulance service who was killed in the line of duty; and.

2. Such deceased volunteer had been an enrolled member for at least five years; and.

3. Such deceased volunteer had been receiving the exemption prior to his or her death. Section 6. Un-remarried Surviving Spouses of Volunteers with at least Twenty Years of Service. An un-remarried spouse of a volunteer firefighters or volunteer ambulance workers with twenty years of service may receive the real property tax exemption if:

1. Such un-remarried spouse is certified by the authority having jurisdiction for the incorporated volunteer fire company, fire department or incorporated voluntary ambulance service as an un-remarried spouse of an enrolled member of such incorporated volunteer fire company, fire department or incorporated volunteer ambulance service.

2. Such deceased volunteer had been an enrolled member for at least twenty years.

3. Such deceased volunteer and un-remarried spouse had been receiving the exemption of such property prior to the death of such volunteer.

Section 7. Application process.

1. Applications for such exemption shall be filed with the assessor of the town on or before the taxable status date on a form as prescribed by the New York State Commissioner for the Office of Real Property Tax Services.

2. The assessor of the town shall have the duty and responsibility of procuring and filing a copy of such certification prior to granting the exemption provided for by this Local Law.

Section 8. No diminution of current benefits. No applicant who is a volunteer firefighter or volunteer ambulance worker who by reason of such status is receiving any benefit under the provisions of law on the effective date of this Local Law shall suffer any diminution of such benefit because of the provisions of this Local Law.

SECTION II. Effective Date. This local law shall take effect immediately upon filing with the Secretary of State.

PROPOSED LOCAL LAW NO. 2 OF THE YEAR 2023

SECTION 1. TITLE:

This Law shall be known as Local Law No. ____ of the Year 2023 entitled “A LOCAL LAW TO ESTABLISH THE RESIDENCY REQUIREMENTS FOR CERTAIN APPOINTED OFFICES FOR THE TOWN OF WESTERLO”.

SECTION 2. LEGISLATIVE AUTHORIZATION:

This local law is authorized by the Municipal Home Rule Law sections 10(1)(ii)(a)(1), which grants to local governments the authority to enact local laws regarding the qualifications of local officers. Furthermore, this article recognizes that the state legislature has amended Public Officers Law § 3 numerous times, expanding the residency requirements for appointed public offices, thereby rendering the statute a special law, not a general law.

SECTION 3. SUPERCESSION:

This local law shall supersede Town Law, Section 23(1) in its application to the offices of Town Court Clerk, Building Inspector, Town Attorney, Assessor, Dog Control Officer, Deputy Highway Superintendent, and Deputy Town Clerk for the Town of Westerlo.

SECTION 4. RESIDENCY:

Residency requirements for appointed positions in the Town of Westerlo: The person holding the office of Town Court Clerk, Building Inspector, Town Attorney, Assessor, Dog Control Officer, Deputy Highway Superintendent, and Deputy Town Clerk for the Town of Westerlo need not be a resident nor an elector of the Town of Westerlo, provided, however, that such person shall reside in the county in which such town is located or an adjoining county within the State of New York.

SECTION 5. INCONSISTENCY:

If any clause, sentence, paragraph, section, article, chapter or part of this local law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, section, article, chapter or part thereof directly involved in the controversy in which such judgment shall have been rendered.

SECTION 6. SEVERABILITY:

If any clause, sentence, paragraph, word, section or part of this local law shall be adjudged by any court of competent jurisdiction to be unconstitutional, illegal or invalid, such judgment shall not affect, impair or invalidate the remainder, thereof, but shall be confined in its operation of the clause, sentence, paragraph, worked section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

SECTION 7. EFFECTIVE DATE:

This Local Law shall become effective immediately upon filing with the NYS Secretary of State in conformity with NYS Municipal Home Rule Law.