

**TOWN OF WESTERLO
REGULAR TOWN BOARD MEETING
OF
TUESDAY, JULY 16, 2024**

The Town of Westerlo Town Board held a regular meeting on Tuesday, July 16, 2024, at 6 PM at the Town Hall 933 CR 401, Westerlo, NY. Supervisor Kryzak opened the meeting with the Pledge of Allegiance to the Flag at 6:02 PM.

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

Also attending were: Previous Highway Superintendent Jody Ostrander, Highway Employees; Sal Spinnato IV, Peter Voisey, Dan Rohrmiller, Justin Case, Blake Shaver & Dave Pecylak, and previous Highway Employee Chuckie Benninger, Town Justices; Joshua Ostrander & Kenneth Mackey, Previous Justice Bob Carl, Clerk to the Justices & Deputy Town Clerk Jaimee Motschmann, Clerk to the Code Enforcement Officer, Clerk to the Assessor & Clerk to the Planning/Zoning Board of Appeals; Claire Marshall, Zoning Board of Appeals; Chairman George Spahmer, Previous Planning Board Chairman Beau Loendorf and Member's Rich Kurylo, Bill Hall & Angela Carkner, Confidential Administrator Lisa DeGross, Library President Maureen Sikule & Library Trustee Mary Ann Witt, Webmaster Eric Markson, Westerlo Volunteer Fire Co. Member Kelley Keefe, Previous Town Board Members Al Field and Tony Sherman, Albany County Sheriff Bray, Museum Director Mary Jane Araldi, Town Attorney George McHugh, Town Clerk Deputy Kathleen Spinnato, Town Clerk Karla Weaver and approximately 22 residents and/or interested individuals.

OPEN MEETING

Supervisor Kryzak made a motion to open the regular Town Board meeting of Tuesday, July 16, 2024. Councilwoman Burnside seconded; all in favor motion carried.

APPROVAL OF MINUTES

Supervisor Kryzak asked if the Town Board had the chance to review the draft Town Board meeting minutes of June 18th. Supervisor Kryzak made a motion to approve the June 18th meeting minutes. Councilwoman Burnside seconded; all in favor motion carried. As for the draft minutes of June 28th, Supervisor Kryzak indicated that the minutes state that no vote was heard by Councilwoman Pecylak by the Town Clerk or the audio recording. He would like to go back and review some video and verify that was the case. The minutes of June 28th were tabled.

TOWN CLERK REPORT – JUNE 2024

Town Clerk Karla Weaver reviewed the Town Clerk report for June 2024. Supervisor Kryzak made a motion to approve the Town Clerk report for June 2024. Councilwoman Pecylak seconded; all in favor motion carried.

SUPERVISOR'S REPORT – JUNE 2024

Supervisor Kryzak reviewed the bank reconciliation. The balance forward for the month of May was \$4,226,383.87 and for the month of June, the Town took in \$22,081.16 across all accounts. Disbursement total for all accounts is \$152,852.06, leaving the monthly bank reconciliation balance at the end of June at \$4,095,612.97. Mr. Kryzak reported that the Budget vs Actual in the general fund was tracking very well, no expenditures out of line, tracking under budget at this time and advised the Town is healthy. Same with Highway, Lighting, Water, Library. Supervisor Kryzak made a motion to approve the Supervisor's report for June 2024. Councilwoman Burnside seconded; all in favor motion carried.

INVESTMENT REPORT – JUNE 2024

All investments with BOGC are collateralized by M&T Bank. The total collateral value is \$4,128,097.29, which means the full balance of the Town's accounts are collateralized through M&T bank and there is no risk of loss. All accounts with BOGC earned \$9,218.64 in interest for the month of June and YTD is \$54,660.77. Only have \$448.42 invested with NYCLASS which only earned \$1.96 this month with an ending balance of \$450.38. Supervisor Kryzak made a motion to approve the Investment Report for June 2024. Councilwoman Pecylak seconded; all in favor motion carried.

PAYMENT OF MONTHLY BILLS JULY 2024

Supervisor Kryzak asked if all Town Board members had a chance to review and sign the monthly bills and if there were any questions, comments or concerns, there being none, Supervisor Kryzak then made a motion to adopt the following resolution:

WHEREAS: the Town Board has audited the July 2024 bills, be it hereby

RESOLVED: the following bills be paid Voucher # 322 through Voucher # 383 in the amount of \$44,555.83.

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

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

NAYS: None

RESOLUTION # 80 - 2024 was thereby duly adopted.

COMMITTEE AND DEPARTMENT REPORTS

Mr. Kryzak announced that he received a report from the CEO, ZBA, Assessor and from the Justice Court.

ASSESSOR

ASSESSOR'S MONTHLY DEPARTMENTAL REPORT

To: Westerlo Town Board
From: Melanie Bunzey, Assessor
Date: July 11, 2024
Re: Monthly Report

The 2024 Final Assessment Roll was completed and file with the Town Clerk on July 1, 2024 and is posted on the Town's website. All required reports have been submitted to the County Director and the State.

Per Michael McGuire, Albany County Director of Real Property Tax Service: The Albany County Legislature adopted Local Law F at their June meeting. LL F allows for the grandparent/parent exemption authorized under RPTL 469. At present this exemption is only allowed at the County level and is effective for the 2025 assessment roll.

NYS RTPL § 469 permits a real property tax exemption for properties that were constructed or reconstructed to provide living quarters for a parent or grandparent who is 62 or older. The property must be located within the County. It must be the primary residence of the child/grandchild and also the primary residence of the parent/grandparent. Furthermore, the construction or reconstruction must have occurred after 1/1/2023, with a CO/CC being issued after 1/1/2023. The exemption amount is equal to the lesser of; the increase in assessed value of the home based on the construction/reconstruction, 20% of the total assessed value of the property, or 20% of median sales price of residential properties as reported by the NYS commissioner of taxation and finance. Applicants must file an annual renewal application with their local assessor certifying that the space is still the residence of the Parent/Grandparent.

If Westerlo is looking to adopt this exemption you should strongly advocate for the 1/1/2023 language to be included. This state law allowing for this exemption was enacted in 2001. Without this language it would be theoretically possible for someone to apply for the exemption on an addition or improvement CO/CCed in 2001.

A "New Sales Transmittal Report" was submitted to the State with 11 sales since last submittal.

The following 2024 STAR reports have been received from New York State and processed:

*Report #1 – Enhanced STAR Eligibility Report
Report #2 – Income Greater than \$250,000 Report
Report #3 – Voluntary Exemption Removal Report – Initial
Report #4 – Tentative Roll Corrections Report
Report #5 – STAR Delinquency Report
Report #6 – Voluntary Exemption Removal Report*

Address changes are made on a regular basis as well as bank escrow information. Routine calls and emails are received and answered on nearly a daily basis.

The system is checked for property owners listed on death notices received, exemptions are then removed if necessary and notifications of exemption change mailed.

*Respectfully submitted,
Melanie Bunzey, Assessor*

CEO REPORT

Report - Building/ Zoning -Jeffry Pine BI/CEO – for June 2024

Applications processed or pending before the boards

Special use – 2 / Variance request- 0 / Sub– divisions – 1

Building permits issued – 9

New houses – 2 / Swimming Pools – 2 / Additions, renovations - 1

Accessory structures – 2 Solar Pv – 1 / Other – 1 Cell tower / commercial - 0

Construction inspections- 28

Site visits – 16 / Fire calls – 0 / Fire safety inspections and follow ups - 2

5 - In-service Training hours. 18 hrs. YTD (24 hours required to maintain certification)

ZONING BOARD OF APPEALS

REPORT

To: Town Supervisor of Westerlo

From: Chairman of the Zoning Board of Appeals

Date: 7/11/24

Subject: Zoning Board of Appeals Report

Dear Matt Kryzak,

Meetings and Attendance:

The Zoning Board of Appeals held its regular monthly meeting on 6/24/24. 4 members were present. 1 was absent.

Old Business:

V-24-4. Gas station sign. The applicant is seeking two Variances. Both are from Zoning Code Section 12.110 Signs. There is an existing non-conforming sign that is over 32sqft and is internally illuminated. The Applicant would like to replace the existing sign with a new internally illuminated sign. This new sign would require a variance for an additional 16 sq.ft. over the maximum allowed and a variance to allow internal illumination and LED price digits for the new sign.

After a public hearing and due deliberation by the ZBA, these variances were approved with 2 conditions. 1) auto shutoff of sign at end of business day. 2) Code enforcement officer has authority to request dimming of the light if he deems necessary.

NEW BUSINESS:

CEO Jeff Pine mentioned that the ZBA board may be receiving an application for a special use permit and a request for a sub-division if the planning board is absolved.

Respectfully submitted,

George B. Spahmer

Chairman of the Zoning Board of Appeals

PLANNING BOARD

Bill Hall reported that the Planning Board approved an application at the last meeting and there is another one pending. They do have an opening; he suggested that the Town Board consider moving him from acting to make things more stable until a decision has been made.

LLRC

Local Law Review Committee Chair Bill Hall reported they are wrapping up their final review before they send the zoning law revisions to the Town Board.

LIBRARY

Library Trustee Mary Ann Witt reported on the library:

- Summer bingo is going on with a variety of activities. Fill out a bingo card to win prizes.
- Museum passes are available to sign out for the day.
- Fishing poles available to sign out.
- Ancestry available.
- Thank you for the blood drive turn out, it was very successful and they plan to do it again in collaboration with the Town.

Mr. Kryzak advised the Town received reports from Justice Court, Planning Board, ZBA, Assessor, Library, and CEO. Supervisor Kryzak made a motion to approve the committee and department reports as submitted or read. Councilwoman Pecylak seconded; all in favor motion carried.

MUSEUM

Mary Jane Araldi Museum Director advised she has been archiving. She mentioned that Greenville has ducks, Catskill has cats, Westerlo now has chairs and will be seen outside buildings throughout town which will be auctioned off at the Fall Festival as a fundraiser for the Museum Building Fund.

HOMETOWN HEROES

Hometown Heroes Meeting - June 25, 2024
Meeting Report

Bank Balance - Committee reviewed the bank balance and reviewed anticipated expenses as related to the Closing Ceremony, Veterans' Day Sunset Service, Banners and Pavers.

Closing Ceremony - Discussed more details about the Closing Ceremony. Members gave updates on confirmations from those participating in the event and those items that still remain open to confirmation.

Also discussed whether or not to hold raffles as we did last year with each member contributing a raffle item or raffle basket. All agreed we should do it again this year. Also discussed, a larger item to be raffled separately and all agreed to have that raffle as well.

Banners - Committee decided to limit the number of banners hung to 90 maximum. We currently have 90 approved poles. The committee recognized that it could take a while to hang 90 banners but from

now on will go faster as we now also have 90 brackets in place. The committee didn't have that many previously. All new banners will take priority. Any rehang banner applications will take up the balance of the poles on a first come, first served basis. There is now a need to date, and time stamp each re-hang application for this reason.

Pavers - Committee was informed that Taylor Monuments has received our second order of pavers. Order totals 22 pavers. They also have the order for the sponsor pavers for the back side of the monument. We now need to develop a strong plan, pick a date and have the pavers permanently set. It was decided the goal would be the beginning of September so that they will be in place for Veterans' Day.

Veterans Day Sunset Service - Committee discussed the details of the Veterans' Day Sunset Service and the need for a guest speaker. Lisa suggested since there is now a strong relationship with the Albany Stratton VA we could reach out to them for a speaker.

Military Flags - The Committee was also made aware that new military flags were ordered. The flags currently in place are starting to get tattered.

Next meeting Tuesday July 23, 2024, 6pm Town Hall

HIGHWAY

Highway Employee David Pecylak reported:

- They are repaving Albany Hill Rd. and Albany Hill Extension. Already put some new pipes in and did some ditching.
- New pipes were put in on Sunset Road.
- Hannay Lane is being repaved, put in a few new box culverts and ditched and put new material down. The Town of New Scotland will be helping to repave.
- Put 2 - 5' culvert pipes on Ingalside Rd. when Mr. Ostrander was still in the office. He had priced that out for \$5,600 for 2 pipes but he found someone else in town and only paid \$4,000 saving the town \$1,600.00.
- May Rd. is done and repaved.
- Getting ready to do Creamery Rd. in the next few weeks.

Lisa DeGroff thanked the Highway Department for putting together the new bleachers for the Park Committee. They are in place at South Westerlo Park.

Mr. Kryzak mentioned he received a report from the Assessor, CEO, ZBA, and a Court written report and verbal reports from the HTH, Highway, Museum and Library. Supervisor Kryzak made a motion to approve the Committee and Department reports for June 2024. Councilwoman Burnside seconded; all in favor motion carried.

OLD BUSINESS

TEMPORARY DOG HOLDING FACILITY

Mr. Kryzak indicated he is aware of the issue with the dogs. He is looking into what it will cost to have the Town's own holding facility and what it will cost to have a new dog box to

haul/transport more than two dogs at a time. Unfortunately, there is not much the Town can do based on the way the order was written. The Town does not have the enforcement mechanisms in place to fit the order. There is nowhere to take the dogs. A resident who lives near the dogs asked when this was going to happen. She wanted to know what happens if these dogs get loose and bite someone. Mr. Kryzak does not know yet. Many towns do not want to use their taxpayer money, he's offered to reimburse for that. Looking for someone to enter into a shared service agreement to help with that. He does not have answers at this time on what the path forward will be if there is another incident besides a citation, but he expressed that he is trying to find another town to help and is also investigating having a holding facility and additional boxes in Westerlo to be self-reliant. This topic was tabled.

WEBSITE

Supervisor Kryzak wanted to try to get some movement on the historian page if it takes someone from the Town Board to sit down with those parties to try to get this taken care of. Councilman Beers offered to sit down and try to get it resolved with Eric Markson and the Town Clerk and Historian to simplify what needs to be done. Eric Markson asked if there was a reason why Mr. Kryzak didn't answer his emails or reach out to him directly. Councilwoman Burnside indicated she has asked the Town Clerk at the last three meetings. Mr. Markson indicated Mrs. Burnside knew his phone number and she indicated she did not respond on purpose this time. Mr. Kryzak advised he did get his email, but he did not have a solution to bring to him as the webmaster. Now Mr. Beers, the Town Clerk, Historian and himself can get together to streamline that to get it up. Mr. Kryzak mentioned, this isn't a witch hunt. Mr. Markson indicated it sounds like a waste of time as he has been working on it since March 3rd, when the page went live. He's been working with the Town Clerk significantly on it. Mr. Kryzak indicated the historian emailed the Supervisor asking to work with Mr. Markson directly, but he advised no one reached out. He is not intending to hurt Mr. Markson's feelings, but the intention is to fix this. Mr. Kryzak thanked Mr. Beers for volunteering.

NEW BUSINESS

ACTING HIGHWAY SUPERINTENDENT APPOINTMENT AND SALARY

Supervisor Kryzak congratulated Jody Ostrander on a 30 year and 5-month career. Mr. Ostrander indicated it was a pleasure and that he is still on call. His retirement was dated 6/27 at midnight so on 6/28. Supervisor Kryzak announced he would like to make a motion to adopt the following resolution:

WHEREAS: The Highway Superintendent position is vacant due to the resignation of Jody Ostrander as of 6/28, be it hereby

RESOLVED: The Town Board appoint Dave Pecylak as the Acting Highway Superintendent until an election can be held.

Councilwoman Burnside seconded; a vote resulted as follows:

AYES: Supervisor Kryzak, Councilwoman Burnside, Councilwoman Pecylak

ABSTAIN: Councilman Beers and Councilman Mahan

RESOLUTION # 81 of 2024 was thereby duly adopted.

Councilman Beers asked Councilwoman Pecylak if she was abstaining and asked if she voted; she responded, yup. He asked if she could vote for her son, she responded yes. Mr. Kryzak advised if there is no pecuniary interest yes, it's not a conflict of interest. Mrs. Pecylak advised she read the Code of Ethics. Councilman Beers indicated that the right thing to do would be to abstain. He abstained because he is related to Dave Pecylak as well and wondered why she didn't. Supervisor Kryzak indicated there is a motion on the floor and asked how Mr. Beers would be voting. Councilman Beers indicated he abstained for obvious reasons, and that Mrs. Pecylak should've done the same.

Supervisor Kryzak advised that the motion carried. He congratulated Dave Pecylak and thanked him for stepping up to the plate.

Supervisor Kryzak indicated that because Mr. Pecylak has been acting in the interim so far to basically backdate his Highway Supervisor pay to that 6/28 date. Supervisor Kryzak made a motion to adopt the following resolution:

WHEREAS: the Supervisor indicated that Mr. Pecylak has been acting in the interim so far as the Supervisor of the Highway Department, be it hereby

RESOLVED: the Town Board approves back dating the Interim/Acting Highway Supervisor pay to become effective as of 6/28 for David Pecylak.

Councilwoman Burnside seconded; a vote resulted as follows:

AYES: Supervisor Kryzak, Councilwoman Burnside, Councilwoman Pecylak

ABSTAIN: Councilman Beers and Councilman Mahan

RESOLUTION # 82 of 2024 was thereby duly adopted.

NEW BUSINESS

TOWN HALL ROOF

Supervisor Kryzak advised that the Town put out a bid for the Town Hall roof replacement, however, only one proposal came back. In line with the procurement policy, the bid proposal needs to be readvertised. The bid opening will be August 15, 2024, at 4 pm. He would like permission to advertise for two weeks. It will be posted in the Altamont Enterprise and on the website. The Town will reach out to the others who previously provided solicitations.

Supervisor Kryzak made a motion to adopt the following resolution:

WHEREAS: The Town of Westerlo Town Hall is in need of a roof replacement, and

WHEREAS: Only one bid was received when it was last put out to bid in May, and

WHEREAS: It's necessary for the Town to advertise for new quotes to replace the Town Hall roof in accordance with the Town of Westerlo's adopted procurement policy, be it hereby

RESOLVED: The Town Board authorizes the Town Clerk to advertise for bids to replace the Town Hall roof with all bids due to the Town Clerk by 4 pm on Thursday, August 15, 2024.

Councilwoman Burnside seconded; a vote resulted as follows:

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

NAYS: None

RESOLUTION # 83 of 2024 was thereby duly adopted.

MICROPHONE AND SPEAKER SYSTEM

Mr. Kryzak indicated the Town has made some adjustments to the speaker system. There have been a few different takes on how it needs to be done. His office has ordered an equalizer to try out to increase the volume and not have feedback. It's on backorder for a month and is a cheap fix. It should increase the volume without getting feedback.

AIR CONDITIONER AND MINI SPLIT SYSTEM

Supervisor Kryzak indicated it is always hot in the meeting room and doesn't want to have the same noise. Right now, there are three companies that will come in to provide estimates, Family Danz, Crisifoli Brothers and B&G Mechanical. Awaiting their estimates and will present that to the Town Board soon and can move into another phase of the Capital Improvement Plan. The Town should move away from window air conditioner units for security and efficiency.

ALBANY COUNTY PARKS & RECREATION GRANT

The Town was awarded the \$18,200 grant for fencing in the basketball court at Veterans Memorial Park. \$68,115.00 have successfully been written by the grant writer for 2024. He thanked Lisa DeGross.

POTENTIAL RIGHT TO FARM LAW

Right now, the Town of Westerlo does not have its own Right to Farm Law. The County has one which the Town falls under. Supervisor Kryzak provided the Board with a revised Albany County Right to Farm Law. He also provided the Greenville, Schaghticoke, New Lebanon and Marlborough Right to Farm laws. He asked the Board to read these laws to see what is applicable to Westerlo and suggested communicating with farmers in the community. He hopes to discuss this next month.

APPOINTMENT OF ALTERNATE TO THE PLANNING BOARD/ZONING BOARD OF APPEALS

Supervisor Kryzak indicated his intention tonight was to appoint Bill Hall as an alternate to the Planning/ZBA Board. He wondered if anyone from the Town Board had any questions, comments or concerns with the recommendation. Councilwomen Burnside and Pecylak responded no. Councilman Beers questioned if it was being done tonight, Mr. Kryzak indicated he would like to do it tonight so Mr. Hall can be at the combined board's next meeting. Mr. Beers believed the position should be advertised and interviews conducted. Supervisor Kryzak mentioned he is coming over from the Planning Board so the intention is that the Town can appoint him as the alternate because he has already held the position. Supervisor Kryzak made a motion to adopt the following resolution:

WHEREAS: The new Planning/Zoning Board is in need of an alternate member, be it hereby

RESOLVED: The Town Board appoints William Hall to the joint Planning Board/Zoning Board of Appeals as an alternate member.

Councilwoman Pecylak seconded; a vote resulted as follows:

AYES: Supervisor Kryzak, Councilwoman Pecylak, Councilwoman Burnside

NAYS: Councilman Beers

ABSTAIN: Councilman Mahan

RESOLUTION # 84 of 2024 was thereby duly adopted.

Supervisor Kryzak thanked Bill Hall for his continued service.

OVER THE RAIL MOWER FOR HIGHWAY

Supervisor Kryzak indicated that the over the rail mower for the highway department is on its last legs. He provided the Town Board with pricing for new mowers but advised that no moves will be made tonight. Right now, the over the rail mower, tractor, grass head, brush head, even with state contract pricing, the Town is looking at around \$205,000 but estimates range up to \$214,000 with all components. Abele Equipment is coming out this week to determine if the old machine is fixable, regardless, the plan is to purchase a new mower that is more efficient and will last longer without maintenance. More information will be coming soon. The Town will be looking at trade in values. Will be doing a budget transfer from the fund balance to cover the purchase of a new over the rail mower in the future.

FARMERS MARKET

Councilwoman Burnside asked how the Farmers Market was going. Bill Hall responded that it is going alright, there are a few vendors. Mrs. Burnside asked if the Town charges vendors to come in. Mr. Hall responded \$20 for the season to cover signs, advertising, etc. She wondered where the money goes, Town Clerk Weaver responded it goes back into the Farmers Market. Mr. Kryzak indicated it goes back through his office.

UNION UPDATE

Councilman Beers wondered if there were any updates on the union. Supervisor Kryzak responded no; he knows there is a hearing coming up that the legal representative for the Town will be at. Moving forward, they can hopefully get all the paperwork in order and can come to the table pretty quickly with negotiations. The hearing is July 23rd. Once the hearing is complete, there are a few other steps to recognize and then can move forward with negotiations.

PROPOSED LAND TRANSFER TO FIRE CO.

Councilman Beers wondered if there were any updates on the land transfer to the Fire Co., Supervisor Kryzak indicated he is just waiting for confirmation from all sides as to the best path forward, not just based on past practice but on what the town needs to do whether it needs to be a sale or some other form of the transaction. Gone through some of the old paperwork, the articles of formation from the Fire Co. trying to figure out how that works and also have buy in from the Fire Co. to see if they want it or not. Still on hold.

INVESTIGATOR BRAY

Investigator Bray advised that Sheriff Apple is holding his national night out on 8/6 from 5 pm -8 pm at the station located at 5 Verda Ave, Clarksville. They are doing all kinds of demos, have free food and an ice cream truck from 6 pm – 7 pm. There will be raffles, games, k-9 demonstrations, and more. Flyers are in the back of the room.

PUBLIC COMMENT

Resident Chuckie Benninger commented on Hometown Heroes. He believed veterans should come first over first responders if there is a 90-banner limit. Mrs. Burnside commented that this is the first year they have had 90 and veterans would come first, if they need to get more poles authorized, they will. Lisa DeGroff commented that the first come first serve is only on the rehang, all new banners have priority and rehangs first come first serve.

Mr. Benninger also heard the basketball court would be fenced in, but he wondered about the kid's playground. He questioned if funds would be better spent on a playground fence, he never sees anyone playing basketball. Supervisor Kryzak advised he is working on that too. Mrs. Marshall indicated there is a park committee person that wants the playground fenced and both Councilwomen Burnside and Pecylak advised she was at the meeting the other night. Mr. Kryzak mentioned the reason why the Town is putting a fence around the basketball court is to keep the ball from going out into the roadway. The fence will be 10' and part of the parameters for that has to do with safety. There is also a plan to hopefully get funds for the playground next to Town Hall to be re mulched, for a handicap swing and to finish the fence, all of which is expensive. Chain-link fence is about \$36/sq foot.

Mr. Benninger commented about the dogs in town and wondered why the sheriffs are not picking them up. He wondered why they couldn't assist the dog control officer (DCO). The DCO advised the Town doesn't have a place to bring the dogs once they are picked up.

A resident advised there was a concerned citizens meeting, and a suggestion came up to live stream meetings. Mr. Kryzak advised they could live stream and the resident responded that many people would appreciate that. She believed in transparency; it would help people understand what is going on. Councilwomen Burnside and Pecylak indicated they liked that idea. Mr. Kryzak advised they had investigated it in the past and he didn't think it would be hard to make that happen. Discussion ensued about different options for live streaming meetings.

A resident asked about the dogs in town. She wondered if the Town would take the dogs once everything is figured out on what to do with them. The dog's owner keeps violating the court order, they are not allowed to be out without a leash or muzzle. Mr. Kryzak advised once the facility is in order the Town Board would just need to contact the judge to execute the order and then the order would come down to the DCO, until that happens, the Town can't ask the judge to make an order they can't follow through on. Hopefully soon.

Town of Berne Highway Superintendent Randy Bashwinger who has worked with Jody Ostrander for 10 years, thanked him indicating he's a great guy and will be missed.

Kelley Keefe wondered if the attendance on the meeting minutes was correct. The Town Clerk advised the copy the Town Board received has been revised, copies just weren't reprinted for the public to save on paper. Ms. Keefe mentioned that was understandable.

Previous Town Board Member Al Fields asked about the food in the meeting room. Mr. Kryzak explained that it is from the Veterans Miracle Network for any veteran who is in need of food. Mr. Fields advised it is against Town Law. He indicated a resolution was passed around 2013 that volunteer organizations were welcome to use the Town Hall with Board approval but at the end of the meeting nonprofit organizations had to put everything back to where it belongs. Mrs. Burnside indicated it is not a store, Mr. Kryzak indicated it's free. Mr. Kryzak is not aware of any law as the Town does a toy drive during Christmas. He will have to look into it.

Barbara Russell asked if there is a job description for the highway superintendent. Supervisor Kryzak believed there was but didn't know off the top of his head. She asked if a copy could be published before an election. Jody Ostrander indicated he went by his Highway Superintendent book. Mr. Kryzak suggested putting some things in writing for a job description, he thought it was done, and indicated it was for all the other positions. Ms. Russell believed it would be nice to have a job description for this position for the upcoming election and for salary. She did not believe Mr. Pecylak had the 30 yrs. and 5 months' experience that Mr. Ostrander had, and she indicated he should not be making that salary. Mr. Kryzak thanked her for her comment. He will try to get a job description together.

Ms. Russell also commented on the agenda. She mentioned it's lacking; it's published on Friday and indicated Mr. Kryzak has been sliding in all sorts of stuff under old and new business. She's unsure if the Board is getting an updated copy but the copy on the website is not up to date. She suggested a cutoff date for agenda topics. Mrs. Burnside advised by law; the Town is not required to provide an agenda. She mentioned there were lots of things that Councilman Beers brought up that should be under old business. Mr. Kryzak indicated he makes the agendas, and he puts on there what is going to be discussed and they generally get posted to the website around Thursday but there may be a few items that need to be added. He will work on it. As for the Freese house, the only update is to see if it has been mowed yet.

Ms. Russell questioned if the Hometown Heroes Closing Ceremony date has been set yet. Mr. Kryzak responded; he does not have that date, Mrs. Burnside indicated it was the 4th of November. Ms. Russell asked if it was after election day, Mr. Kryzak responded it is before. Ms. Russell requested a long time ago that it be after election day, so it is not used as a election gathering spot. She believed it should be close to Veterans Day. Mrs. Burnside advised it's already been set for this year.

Ms. Russell asked if previous Planning Board Member Gerry Boone was asked to be an alternate on the combined Planning Board/Zoning Board of Appeals; Supervisor Kryzak responded no, Bill Hall was. She wondered why Mr. Boone was not asked as he had a lot more experience and

would be more valuable. Mr. Kryzak believed Mr. Hall would be a good fit as he works on a lot of the other boards, and he knows the folks on the ZBA, they have worked with him before.

Previous Planning Board Member Angela Carkner confirmed with the Supervisor as she missed the beginning of the meeting that the Town Board voted to appoint Dave Pecylak as the Highway Superintendent, Mr. Kryzak confirmed that was correct. She wondered if Councilwoman Pecylak abstained; Mr. Kryzak responded no, she did not. She wondered why she didn't abstain as that is her son. Mr. Kryzak advised there is no conflict of interest unless there is a pecuniary interest. She responded there is a big conflict of interest because Ms. Russell just asked if Mr. Ostrander's salary was being paid to Mr. Pecylak and she advised Councilwoman Pecylak made a disgusted face when Ms. Russell spoke. She believed Ms. Pecylak is concerned about her son's salary and wellbeing and that she should've abstained from that situation and Association of Towns advised her of the same. Mr. Kryzak indicated she can file a complaint; she advised she is tired of filing complaints and mentioned it would be nice if the Board started to follow the laws that are in place. Mr. Kryzak indicated if there is no conflict of interest, there is no conflict of interest.

Mrs. Carkner also asked if the AUD has been filed with the Office of the State Comptroller yet. Mr. Kryzak advised it is still with the accountant, he wishes it could've been filed soon but once it comes out it will be published. She indicated we are halfway through the year; it was supposed to be filed within the first 60 days and wondered why it was held up. He advised there was an extension because of the 4th quarter sales tax and issues with having the accountant reconcile ADP payroll, once they are worked through, it will be filed. Discussion ensued regarding the AUD filing. She advised that the Supervisor is responsible for handling the finances in the town, he responded she is correct, but he does not have the AUD yet but as soon as it is here it will be published. It is in process, and he will get it out to the public as soon as he can.

Mrs. Carkner advised that she had requested the live video feed from the Albany County Planning Board (ACPB) meeting where Supervisor Kryzak, Councilwoman Pecylak and Town Attorney George McHugh showed up with Confidential Administrator Lisa DeGroff. At that meeting, she mentioned Supervisor Kryzak told ACPB that the applicant was using acid to clean metal which she expressed was a lie and she wondered if he has exposed the Town of Westerlo to an Article 78 lawsuit; Supervisor Kryzak responded no. He responded that there wasn't any information in the application regarding what type of cleaning process the applicant was going to use and if the cleaning would be on site. With powder coating they either have to sandblast or use an acid bath. Mrs. Carkner mentioned that in the first meeting the applicant said she sends items out for sandblasting, that it is a messy process, so she doesn't want to do it. She indicated by him not knowing that and speaking on behalf of the Planning Board, he believed it exposed the Town to an Article 78; Mrs. Pecylak responded no, that Mrs. Carkner did. Supervisor Kryzak indicated he understands that's her opinion. Mrs. Carkner also indicated that Mrs. Pecylak expressed concern regarding the applicant polluting the air. Councilwoman Pecylak responded, she was at the Planning Board meeting where she watched the whole Planning Board ignore legal advice from the Town Attorney and advised it was horrible what went on at

that meeting. Mrs. Carkner advised that the applicant explained that she uses the highest quality HEPA filters, and this is the cleanest form of painting out there and it's what's recommended. She indicated polluting the air would be a concern if the applicant was not using HEPA filters. Mr. Kryzak asked Mrs. Carkner if the details of the process should be in the narrative of the application, she responded she doesn't know that part. She further explained that the Planning Board does not submit the application to the ACPB, CEO Jeff Pine does that, so she does not know what he is required to do or not. What she does know is that it was discussed and was a non-issue as well as a non-issue with DEC and was documented. The fact that it is supposed to be there or not, he told ACPB that the applicant uses acid, which she is not, she believed that caused harm to the applicant. He advised that the process generally uses acid, but the narrative contained no information. She asked where the Town Attorney was, Mrs. Pecylak advised he was there, and they didn't listen.

Resident Barbara Russell asked if the Town Attorney, Lorraine Pecylak, Matt Kryzak and Lisa DeGroff always go to ACPB meetings, Mr. Kryzak responded no. She wondered why they went to this one. Mr. Kryzak indicated he had a concern about the Boosted Coatings application and also was there to support Local Law No. 3 which he was presenting and was before the ACPB that evening. ACPB meetings are open to the public. She wondered why the Planning Board wasn't there. Mrs. Pecylak and Mrs. Burnside advised you don't need to be invited; you just show up. Councilman Beers asked what ACPB said about abolishing the Planning Board. Mrs. Pecylak indicated the Town Board had already talked about that. Mr. Kryzak responded that they are not huge fans of it, which he's stated before, but they don't have the jurisdiction to say do or don't. Mr. Beers believed it was odd that Mr. Kryzak followed one of ACPB's recommendations but not the other. Supervisor Kryzak mentioned ACPB recommended the combined board go to 7 members but wondered how much business there was in Westerlo. It's not nearly the size of Guilderland or Coeymans. He expressed that the Town is not going to get many more solar applications because the Town finally has laws in place that prohibit solar companies. Supervisor Kryzak advised this is an experiment, if it fails the Board can fix it and go back to what worked. Mrs. Burnside advised it already failed. A resident asked what it will cost the Town to pay those other people extra money, Mr. Kryzak responded as of right now there is no extra money and the Town Board cut \$13,800 in salaries. The resident wondered how many people got trained before they were abolished and commented that there was money to give to the Fire Co. for a side by side, \$18,000 to put a fence up for a basketball court but there is no money for a Planning Board. Mr. Kryzak responded that the \$18,000 for the basketball court was a grant and yes, the money given to the Fire Co. is for life saving measures. The resident responded if money is such a thing, then why did the Town give money to the Fire Co. for the side by side; Mr. Kryzak indicated its dual purpose. Supervisor Kryzak mentioned this is for efficiency, cost savings and he's giving it a whirl but can always go back just like the Town didn't have a Planning Board before and the Town Board took over the duties. He indicated it has worked well in other locations, if it's a disaster, it will go back. If it's successful it's a good case study to continue to do it. The resident believed they were throwing money away.

Mr. Benninger asked whose idea it was to put a fence up around the basketball court that never gets used; Councilwoman Pecylak responded, the Park Committee. It was mentioned that the

grant is supposed to be decided by the Town. Town Clerk Weaver indicated the Park Committee isn't even a voting group.

Mr. Kryzak advised that the Planning Board would've be allowed to override ACPB with a supermajority vote, but they didn't because they didn't have the opportunity.

A resident advised she has a 3 yr. old with complex medical needs and believed the Town should start putting money towards getting quality ambulance services in Westerlo. She has watched her child seize for 35 minutes which is not acceptable. If putting money towards a side-by-side, then the Town should figure out a way to help a variety of people. She expressed it's unacceptable. She can drive to Albany Medical Center faster than waiting for an ambulance.

A resident asked where the Town Attorney was; Supervisor Kryzak responded that he had to leave. The resident wondered why the Town was paying him not to stay to answer questions. Mr. Kryzak advised he is there to give advice to the Town Board when prompted, he's not here to answer questions from the public.

A resident questioned where the money is going that the Town is saving by abolishing the Planning Board. Mr. Kryzak advised that any money leftover from this year will be going into the general fund balance. There will be 6 months of salary leftover from that which will be moved to the general fund balance. That money will be shifted into next year's AUD. Going into budget season, he advised that the Board will not budget for a separate Planning Board. There will be one budget line for the PB/ZBA. The budgets are on the Town's website and the AUD will be posted on the website as well, which shows what was actually spent and where the funds went that were leftover. It's a reconciliation of what was spent versus what was budgeted.

Harold Vadney, a resident of New Baltimore mentioned he is impressed by people showing up and participating. Over the last few months, he has had the opportunity to observe this board in action and has witnessed several events, the June 28th special meeting where he was shocked at how the meeting was conducted and how the Town Board behaved. He was shocked at how quickly, Supervisor Kryzak, Town Attorney George McHugh, and Councilwomen Burnside and Pecylak beelined for the door without even observing parliamentary procedure when one of them made a motion for adjournment and another seconded the motion and then they were gone, there was no vote. He mentioned, under normal circumstances there would've been a vote to adjourn but the fact that the quorum was killed by the departure of the chair and two board members, that was an improper matter of adjourning a public meeting. He indicated he was astonished to observe the vote being taken to appoint the Acting Highway Superintendent, Dave Pecylak who is the son of Board Member Lorraine Pecylak. He advised, this vote may not have been unlawful, it made absolutely no attempt to avoid the appearance of impropriety. He believed Mr. Kryzak was stretching when he commented that there is no pecuniary interest, there is an interest in a degree of kinship. By all sense of decency, he indicated Mrs. Pecylak should've abstained from the vote, recused herself, in which case it would've been a tied vote, which would've been a negative. He believed this gives a very bad impression to the people when an elected public official does not have the decency to recuse herself from a vote that is

going to benefit a first-degree family member. These good people show up to participate in a democracy and what is going on is clearly an oligarchy. He mentioned that they are elected public officers and have taken an oath of office to support the constitution, to do it to the best of their ability. There is no phraseology in the oath, for if it suits your purposes. He indicated, the communication problem they have is appalling, that the Supervisor, Town Attorney and the Confidential Administrative Assistant attend a county Planning Board meeting and then when the question is raised tonight as to why the Westerlo Planning Board wasn't involved, they responded, they could've attended. He wondered why they weren't invited, where is the interoffice communication advising your colleague, your department heads, and committees of what's going on here, this is overstepping. He mentioned they knew that the Planning Board was going to be thrown out. He advised; this has George McHugh's footprints all over it. He mentioned that the Supervisor seems to have lost contact with the fact that he's there to listen to the voice of the people not to a bunch of people who were brought in from Coeymans to suggest to residents what should be done here in Westerlo. Mr. Vadney mentioned that Mr. Cinque and Mr. Nolan who were personally invited by Mr. Kryzak, are two people who just lost a case in the supreme court for screwing up things on their own Planning Board, which was a combined Planning Board at the behest and under the control of the Town of Westerlo's Attorney George McHugh. Yet, these people were brought in as experts on the benefits of a combined Planning Board when he indicated the only thing, they could represent is the criminality of a combined PB/ZBA. The Supervisor was quoted in the Altamont Enterprise on June 28th indicating "it's there, it's whether or not the people want to hear it", but he wondered what that meant. Mr. Kryzak asked him for the context, Mr. Vadney responded he's contacted Altamont Enterprise for the emails and that Mr. Kryzak could rebut when he was done. Another comment Mr. Kryzak made was "My Planning Board has gone rogue". Mr. Vadney explained that the Planning Board is not his, never was. The Planning Board belongs to the community, not him, and not a single member of this board, it's an appointed board to serve this community. He commented, for Supervisor Kryzak to have used a term like rogue, was troubling since the common understanding of the term rogue is something dangerous, or uncontrollable. He mentioned, when a dog becomes a nuisance, it's the owner's responsibility, and if it were true that the Planning Board was Mr. Kryzak's Planning Board, then you have the responsibility for any rogue that was going on in that Planning Board. He commented on statements made by Mrs. Burnside that some of the public comments made at the public hearing on June 18th were flat-out exaggerations and even some lies. He indicated she should not talk about constituents like that, it's offensive, defamatory and unsubstantiated. Blanket assertions and disparagements are unacceptable and irresponsible. He indicated they know what irresponsibility is, voting a son into a well-paid position and don't care about the appearance of impropriety. Such behavior is inimical to democracy. Referring to the Boards association with individuals from the Town of Coeyman's, including Mr. McHugh, he mentioned, "when you lie down with dogs, you wake up with fleas".

Ms. Russell had a question about future meetings, some of the meetings say workshop but wondered if they were voting at those. Supervisor Kryzak responded, they haven't held a workshop, but they can vote at them, a meeting is a meeting, if there is a quorum, it's a meeting. She believed it should say meeting instead of workshop because prior to Supervisor

Kryzak, no votes were taken during workshops. He suggested changing the verbiage to say additional meeting and an agenda will be posted.

Acting Highway Superintendent Dave Pecylak mentioned he had to leave to check on the guys cutting up trees. Mr. Kryzak congratulated him.

A resident mentioned he takes his grandkids to the playground at the park and there are thistle bushes all over the place. He wondered if it was possible for the crew to remove all the weeds around the playground. Another resident indicated there is rock salt around to kill the weeds. Mr. Kryzak advised it's a non-toxic means to kill the weeds. Mrs. Carkner asked about the rock salt. Mr. Kryzak advised he didn't authorize anything down there. Mr. Ostrander advised that the last time the insurance guy was out, that was his suggestion to take care of the weeds.

A resident expressed concern about some of the Board members playing on their phones. He finds it unprofessional and rude. Mr. Beers believed it happens when the Town Attorney is here to feed them their answers. Councilwoman Burnside indicated she has recorded the last four meetings, so she has not been on her phone.

Mrs. Carkner asked at the last meeting how much has been spent on accounting fees, Mr. Kryzak responded, it's in process still. She expressed that she deserves to know how much money they are spending. He indicated he hasn't had a chance to pull it. She wondered when they would get that number, he responded as soon as possible.

Mrs. Witt commented on Ms. Russell's discussion of open items. She wondered what the Board's process was for following open items to conclusion to make sure things don't fall off the list. Mr. Kryzak used the Freese house demo as an example. It would not be under old business but under new business as upkeep. He tries to put the most pressing items first on the agenda and if there is room for other items on the agenda will add the additional items. She understands that not everything has to be on every agenda but wondered how the Board monitors items, so they don't get lost. Supervisor Kryzak advised, there is a rolling tally of open items, it's handled in his office, basically items that need to be addressed, items that are tabled, and concerns. As those things get answered, they might pop back up on the agenda, he mentioned, there just isn't always room for everything.

A resident questioned if everything Mrs. Carkner had been asking for was tabled. Supervisor Kryzak advised, not everything she's asked for but for what has been spent on the accountant, for 2023, he will have that answer in the AUD and he just must go back to see what has been spent for 2024. He will write this down tonight so she can get that information.

Councilman Beers asked what the proper procedure was on terminating a highway employee. Mr. Kryzak advised, there is a lot that goes into that right now and if they want to discuss that, it's a personnel matter. Mr. Beers cut him off and advised he's not talking about a specific person or situation; he just wants to know procedure. He asked if Mr. Kryzak believed he was in charge of doing that; Supervisor Kryzak responded, for that particular case, yes. Mr. Beers asked

why. Mr. Kryzak advised it's under his cost code but that is all he is going to say at this time. Town Clerk Weaver advised it is not under his cost code. Mr. Beers asked if Mr. Kryzak hired that individual; Mr. Kryzak responded it's in the budget, he hired him. Town Clerk Weaver suggested he look at the Organizational minutes. Councilman Beers advised that the Supervisor is in charge of one person in this town, that's his secretary. Mr. Kryzak indicated if Mr. Beers read the handbook, he is. Mr. Beers believed the problem was that Mr. Kryzak thinks he knows his duties, as Supervisor, indicating Councilwomen Burnside and Pecylak think you're the boss to everyone in Town. He advised Mr. Kryzak is in charge of his employee and he runs the meeting and finances. Town Clerk Weaver advised; he does not run this meeting. Supervisor Kryzak responded he is the chairman of the Board. Mr. Beers asked Mr. Kryzak to answer the question, does he believe he has sole authority to fire a highway employee. Mr. Kryzak responded that the individual is not a highway employee and he is not going to talk anymore. Mr. Beers asked if anyone spoke to Councilman Mahan or Councilwomen Burnside or Pecylak, he knows they have a lot of private meetings, and wondered if they had a private meeting about that. The Town Clerk advised, there is no name being discussed, you can absolutely discuss this. A resident asked what the right answer is. Mr. Beers shared it is the Highway Superintendent or his deputy and if they can't handle it, it's the Town Board's vote, not the Supervisor of the Town. Mr. Kryzak indicated it's not something that is going to be discussed right now. Mr. Beers advised they can talk policy in front of everybody, Mr. Kryzak indicated it was implied, Mr. Beers indicated he was not implying anything. Supervisor Kryzak asked if anyone else had anything. Town Clerk Weaver mentioned Mr. Kryzak shouldn't stop Councilman Beers from speaking, he's a Board Member, Mr. Kryzak responded that is great and asked again if anyone else wanted to speak.

Kelley Keefe asked about other town departments. Supervisor Kryzak indicated it wasn't highlighted in Mr. Mahan's book, but he offered to read it from the 2020 Town of Westerlo handbook, "unless otherwise specified in state or local law, the Superintendent of highways will have the authority to hire individuals to fill vacancies in the highway department, the Town Clerk will have the authority to hire individuals to fill vacancies in the Town Clerk's office, and the Town Supervisor will have the authority to hire individuals to fill all other vacancies. An appointment by the Town Supervisor will be subjected to confirmation by the Town Board. In addition, appointment of the Clerk of the Court is subject to the advice of the Town Justices." Mr. Kryzak advised the Board could go into executive session and talk about this case, but he would like to protect the privacy of the individual. Mr. Beers indicated he didn't answer anything by reading that. Town Clerk Weaver advised they are also allowed to fire individuals, Mr. Kryzak agreed. Mr. Vadney commented, that according to town law, the Highway Superintendent has the sole authority for human resource actions to the highway department, the town board's sole authority over the highway department is the purse strings but that is about as far as it goes with administering internal affairs in the highway department. The Highway Superintendent is an elected official running his own department, and included in the town laws state statute is that he has sole authority over hiring, firing and discipline in his department. Town Clerk Weaver agreed. Mr. Vadney agreed with Mr. Beers that discussions of policy are not subject matter for executive session. If you are going to discuss a particular individual it is a personnel matter under article 7 of Open Meetings Law (OML). The Supervisor may suggest and executive session, provided he give to the people in that open meeting an accounting as to why

he feels it's necessary to go into an executive session, then can come back and report if there are results. In all fairness to Mr. Beers, he is correct, if it is a policy question, it is open, if it's a personnel matter it goes into executive session and if it is a highway departments question, it goes to the Highway Superintendent. Mr. Kryzak suggested they view code 1620 in the budget, Mr. Vadney advised state law supersedes whatever he has in his budget. Mr. Kryzak indicated the discussion is about an individual and his concern is that individual's privacy so if they discuss the event any further, he would prefer to protect the individual's identity and reputation. Mr. Vadney indicated under state law, as a public employee privacy plays second fiddle, under the Freedom of Information Law, and OML, the problem that they are dealing with here is what's not discoverable under Freedom of Information Law, which is Article 6, which is excluded from disclosure, are opinions, deliberations, and anything that is not factual or tabulated, that goes into the making of a decision. He continued, the outcome of that decision is public access, as is the reason for going into executive session so he believes he just shot down any reason Mr. Kryzak just had.

ADJOURNMENT OF MEETING

Supervisor Kryzak made a motion to adjourn the meeting although it was noted there were still questions from the public. Mr. Kryzak advised he was done. Councilwoman Burnside seconded. Mr. Kryzak advised; discussion can carry over at the next Town Board meeting. A vote resulted as follows:

AYES: Supervisor Kryzak, Councilwoman Burnside, Councilwoman Pecylak

NAYS: Councilman Beers, Councilman Mahan

Meeting ended at 7:36 pm.

Respectfully submitted,

Karla J. Weaver, Town Clerk