

Minutes of the Town Board Meeting held at Town Hall, 511 Route 32, Highland Mills, New York on October 1, 2009 at 7:30PM

Present: John Burke, Supervisor
Geraldine Gianzero, Councilwoman
Amidee Haviland, Carlton Levine and James Skoufis, Councilmen

Absent: None

Also Present: Richard Liberth, Attorney for the Town; Peter Stabile, Highway Superintendent; Robert Kwiatkowski, Police Chief; Fred Ungerer, Parks Commission; Timothy Egan, Village Trustee; George Pedersen, Village Zoning Board; Lorraine McNeill and Maria Hunter, Village Planning Board

I. Public Hearings:

a. Peddling and Soliciting:

A public hearing was held to entertain comments on Introductory Local Law 3 of 2009 amending Chapter 234 of the Town Code entitled "Peddling and Soliciting". The public notice was printed in the Times Herald Record on September 24, 2009 and the following comments were received:

Councilman Levine thanked the committee that worked on the corrections to the law.

John DeJulia thanked Supervisor Burke and Chief Kwiatkowski for their work on the law.

With no further comments received, a motion was offered by Councilman Levine, seconded by Councilman Skoufis, to close the public hearing.

ADOPTED AYES 5 Burke, Gianzero, Haviland, Levine, Skoufis
 NOES 0

Motion was then offered by Councilman Skoufis, seconded by Councilman Levine, to adopt Local Law 3 of 2009 as printed on pages 303 - 304 of this minute book.

ADOPTED BY ROLL CALL AS FOLLOWS:

Supervisor Burke	AYES
Councilwoman Gianzero	AYES
Councilman Haviland	AYES
Councilman Levine	AYES
Councilman Skoufis	AYES

b. Deputy Highway Superintendent:

A public hearing was held to entertain comments on Introductory Local Law 4 of 2009 amending Chapter 50 of the Town Code entitled "Officers and Employees" by adding an Article II to permit the Town Board to appoint the Town Supervisor as Deputy Highway Superintendent. Notice of publication was sent to the Times Herald Record on September 24, 2009 but an affidavit of publication was not received by this evening. (*NOTE – Affidavit was received October 2 stating the notice was printed on September 26, 2009*). The following comments were received:

Councilman Skoufis stated he has had the opportunity to drive around Town with Supervisor Burke to be updated on projects that are currently being worked on by the Highway Department. He is confident that Supervisor Burke is more than capable of doing the job and believes he has the knowledge to do so as well.

Maria Hunter asked what the duties of the Deputy Highway Superintendent would be. Councilman Levine stated the position serves at the pleasure of the Highway Superintendent. He noted that Supervisor Burke will work closely with the Foreman of the Department, who will be handling the day-to-day operations. In addition, it was noted that Supervisor Burke has declined any compensation of the position as the budget is an obvious concern. Mrs. Hunter then inquired about the union negotiations and if Supervisor Burke would still serve on that committee. Councilman Levine stated the

negotiations of the UPSEU contract have been completed and are not due for discussion again for approximately two years. Mrs. Hunter asked if a union issue were to arise in the Highway Department who would represent the department and who would represent the Board and, since Supervisor Burke is the Chief Fiscal Officer of the Town, can he also work on the budget for the Highway Department. Councilman Levine stated the budget for the Highway Department for 2010 has already been prepared by Superintendent Stabile for the Board to consider. He then noted that Supervisor Burke has been dedicated to the infrastructure and the financial security of the Town.

With no further comments received, a motion was offered by Councilwoman Gianzero, seconded by Councilman Levine, to close the public hearing.

ADOPTED AYES 4 Gianzero, Haviland, Levine, Skoufis
 ABSTAIN 1 Burke

Motion was then offered by Councilman Levine, seconded by Councilwoman Gianzero, to adopt Local Law 4 of 2009 as printed on page 305 of this minute book.

ADOPTED BY ROLL CALL AS FOLLOWS:

Supervisor Burke	ABSTAIN
Councilwoman Gianzero	AYES
Councilman Haviland	AYES
Councilman Levine	AYES
Councilman Skoufis	AYES

Superintendent Stabile stated he departs Saturday to begin his service in Afghanistan and his orders indicate that he will return October 2010. He thanked the residents for their expression of support.

II. Administrative Business:

a. Acceptance of Minutes:

Motion was offered by Councilman Skoufis, seconded by Councilman Haviland, to accept the minutes of the regular meeting held September 17, 2009.

ADOPTED AYES 5 Burke, Gianzero, Haviland, Levine, Skoufis
 NOES 0

b. Approval of Abstract:

Motion was offered by Councilwoman Gianzero, seconded by Councilman Levine, to approve Abstract 20, Vouchers #20092054 - #20092152, totaling \$251,343.29.

ADOPTED AYES 5 Burke, Gianzero, Haviland, Levine, Skoufis
 NOES 0

c. Schedule Special Meeting – Monroe/Harriman Joint Fire District:

Motion was offered by Councilman Haviland, seconded by Supervisor Burke, to schedule a special meeting to be held at 7:30PM on October 13, 2009 at the Pine Tree Elementary School to meet with the Boards of the Town of Monroe, Village of Harriman and the Village of Monroe to discuss the proposed Joint Monroe/Harriman Fire District.

ADOPTED AYES 5 Burke, Gianzero, Haviland, Levine, Skoufis
 NOES 0

d. Schedule Budget Sessions:

Motion was offered by Supervisor Burke, seconded by Councilman Levine, to schedule budget worksession to be held at 7:30PM at the Town Hall, or Highway Garage if the Town Hall is not available, on October 5, 6, 19, 20, 22, 27, 28 and 29, 2009.

ADOPTED AYES 5 Burke, Gianzero, Haviland, Levine, Skoufis
 NOES 0

EXTRA ITEM – Receipt of 2010 Tentative Budget:

Clerk Potvin noted the Board members have each received copies of the 2010 Tentative Budget received by her office on September 30, 2009.

e. Cancel October 12 Worksession:

Motion was offered by Supervisor Burke, seconded by Councilman Haviland, to cancel the worksession scheduled for October 12, 2009 due to the Columbus Day holiday. Any and all business will be conducted at the regularly scheduled meeting of October 15, 2009.

ADOPTED AYES 5 Burke, Gianzero, Haviland, Levine, Skoufis
 NOES 0

EXTRA ITEM – Budget Modifications:

Motion was offered by Councilwoman Gianzero, seconded by Supervisor Burke, to approve a modification to the budget of the Buildings and Grounds Department by increasing A2705 (Gifts and Donations) by \$1,950 and increasing A1620.462 (Repairs/Materials) by \$1,950.

ADOPTED AYES 5 Burke, Gianzero, Haviland, Levine, Skoufis
 NOES 0

Motion was then offered by Councilman Levine, seconded by Councilman Skoufis, to approve a modification to the budget of the Assessor’s Office by decreasing A1355.444 (School/Dues) by \$130 and increasing A1355.430 (Transportation /Travel) by \$130.

ADOPTED AYES 5 Burke, Gianzero, Haviland, Levine, Skoufis
 NOES 0

Motion was then offered by Supervisor Burke, seconded by Councilman Levine, to approve a modification to the budget of the Town Clerk’s Office by increasing A3060 (State Aid, Records Management) by \$10,000 and increasing A1410.200 (Town Clerk Equipment) by \$9,437 and increasing A1410.461 (Records Management) by \$563.

ADOPTED AYES 5 Burke, Gianzero, Haviland, Levine, Skoufis
 NOES 0

Motion was then offered by Supervisor Burke, seconded by Councilman Levine, to approve modifications to account for the MTA Tax as follows: decreasing A9010.800 (State Retirement) by \$4,800 and increasing A1980.400 (Payment of MTA Payroll Tax) by \$4,800; decreasing B9015.800 (State Retirement) by \$6,800 and increasing B1980.400 (Payment of MTA Payroll Tax) by \$6,800; decreasing DB9010.800 (State Retirement) by \$2,100 and increasing DB1980.400 (Payment of MTA Payroll Tax) by \$2,100; decreasing L9010.800 (State Retirement) by \$1,000 and increasing L1980.400 (Payment of MTA Payroll Tax) by \$1,000; decreasing SR9010.800 (State Retirement) by \$35 and increasing SR1980.400 (Payment of MTA Payroll Tax) by \$35; decreasing SMB9010.800 (State Retirement) by \$395 and increasing SMB1980.400 (Payment of MTA Payroll Tax) by \$395.

ADOPTED AYES 4 Burke, Gianzero, Levine, Skoufis
 ABSTAIN 1 Haviland

III. Old Business:

a. Authorize Supervisor to Sign – Fuel Oil Lock-In:

Motion was offered by Councilman Skoufis, seconded by Councilwoman Gianzero, to authorize the Supervisor to sign the “Price Protection Program” applications with H Reynolds and Son, Inc., for fuel oil service November 1, 2009 – April 30, 2010. The cap price is \$2.799 per gallon, less the discounts given pursuant to the bid received on June 30, 2009.

ADOPTED AYES 5 Burke, Gianzero, Haviland, Levine, Skoufis
 NOES 0

IV. New Business:

a. Schedule Public Hearing – Special District Assessment Roll:

Motion was offered by Supervisor Burke, seconded by Councilman Skoufis, to schedule a public hearing to be held at 7:30PM on October 15, 2009 regarding the assessment rolls for the following special districts: Consolidated Sewer, Refuse, Highland Lake Estates Sewer, Water 6, Sewer 1. It was noted that this hearing is for property owners to correct the assessment rolls if their property is in one or more of these special districts and is being charged the incorrect number of units.

ADOPTED AYES 5 Burke, Gianzero, Haviland, Levine, Skoufis
 NOES 0

b. Authorize Supervisor to Sign – Dental Renewal:

Motion was offered by Councilman Haviland, seconded by Councilwoman Gianzero, to authorize the Supervisor to sign the Dental Insurance renewal agreement with Empire Blue Cross/Blue Shield for 2010. It was noted that the premiums have not increased.

ADOPTED AYES 5 Burke, Gianzero, Haviland, Levine, Skoufis
 NOES 0

V. Public Comments:

Councilman Levine congratulated the Monroe-Woodbury Football teams on their recent victories.

Fred Ungerer stated many residents are leaving their trash receptacles out for several days prior to collection day. He feels the Board should review the garbage collection policy to prohibit this from occurring. Supervisor Burke stated the Board will continue to monitor and agreed there has been abuse. Notices will be mailed out again, as they are done annually, reminding the public of the policies to be followed. There will also be something put on Channel 22 and the website. Councilman Levine stated he appreciated being alerted to the issue and urged residents to contact Supervisor Burke with any other issues they may have. Mr. Ungerer submitted pictures and literature.

8:15PM - Executive Session:

Motion was offered by Supervisor Burke, seconded by Councilwoman Gianzero, to enter into an executive session pursuant to Article 7 of the Public Officers Law to discuss one item of personnel relating to employment.

ADOPTED AYES 5 Burke, Gianzero, Haviland, Levine, Skoufis
 NOES 0

During the executive session the Board discussed the findings of a hearing that was held on September 17, 2009 to address an appeal made by UPSEU regarding a grievance. Each Board member signed the findings which stated the appeal by the employee was denied. Said grievance was filed by an employee in the Buildings/Grounds Department.

VII. Adjournment:

With no further business to conduct or comments received, a motion was offered by Supervisor Burke, seconded by Councilman Skoufis, to adjourn the meeting at 9:15PM.

ADOPTED AYES 5 Burke, Gianzero, Haviland, Levine, Skoufis
 NOES 0

Desiree Potvin, Town Clerk

**TOWN OF WOODBURY
LOCAL LAW 3 OF 2009**

A LOCAL LAW AMENDING CHAPTER 234 OF THE CODE OF THE TOWN OF WOODBURY ENTITLED
"PEDDLING AND SOLICITING" TO PROVIDE FOR SEVERAL AMENDMENTS/CORRECTIONS.

BE IT ENACTED by the Town Board of the Town of Woodbury, Orange County, New York, as follows:

SECTION 1. Section 243-3(4) is hereby amended by adding the following sentence at the end of the paragraph:

"All individuals 17 years and under must be under direct adult supervision at all times within three hundred feet of where solicitation is occurring."

SECTION 2. Section 234-3(B) is hereby amended by adding the following sentence at the end of the paragraph:

"The Town Clerk will issue a permit that must be carried by each individual."

SECTION 3. Section 234-9(A)(1) is hereby repealed and replaced with the following new Section 234-9(A)(1):

"Not falsely or fraudulently misrepresent the quantity or quality of any article offered for sale or offer for sale any unwholesome, tainted, expired, outdated or diseased provisions or merchandise."

SECTION 4. Section 234-9(A)(3) is hereby repealed and replaced with the following new Section 234-9(A)(3):

"Not peddle, huckster, hawk, vend or solicit before 9:00AM or after sunset."

SECTION 5. The last sentence of the Section 243-9(A)(7) is hereby repealed and replaced with the following:

"However, this restriction shall not apply to an ice cream vendor who attracts attention to his wares by ringing a bell or playing music, so long as it is done during the specified times of 9:00AM to sunset and while in motion. When stopped, the noise devise cannot be in use."

SECTION 6. Section 234-9(A) is hereby amended by adding a new Section 239-9(A)(12) as follows:

"12. All individuals must use the front door of all houses and/or buildings to be solicited."

SECTION 7. Section 234-11 is hereby repealed and replaced with the following new Section 234-11:

"Whenever the Town Clerk shall have information and belief that any person to whom a license has been issued under this chapter has violated any of the provisions of this chapter or that any promoter, agent or solicitor of a permit holder has misrepresented the purpose of the solicitation, the Town Clerk shall immediately suspend the license temporarily and give the license holder written notice by certified mail of a hearing to be held within ten days of such temporary suspension to determine whether or not the license should be suspended. This notice must contain a statement of the facts upon which the Town Clerk has acted in suspending the license. If, after such hearing, the Town Clerk finds that the chapter has been violated and the purpose of the solicitation has been misrepresented, he or she shall, within ten days after the hearing, suspend the license and give the applicant written notice of the suspension and the reasons therefore. Such suspension shall be appealable to the Town Board in the manner set forth in § 234-10 of this chapter, except that the Town Clerk shall bear the burden of proof.

Any conviction of the license holder, its employees, agents or representatives of a violation of any provision of this chapter shall be prima facie grounds for suspension.”

SECTION 8. Section 234-12(B) is hereby repealed and replaced with the following new Section 234-12(B):

“A notice of the hearing for the revocation of a license shall be given by the Town Clerk, in writing, setting forth specifically the grounds of complaint and the time and place of the hearing. Such notice shall be mailed, postage prepaid, to the holder of the license at the address given on the application at least ten days prior to the date set for the hearing or shall be delivered by an agent of the Town in the same manner as a summons at least three days prior to the date set for the hearing.”

SECTION 9. Savings Clause.

If any clause, sentence, paragraph, section or part of this local law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall be confined in its operation to the clause, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

SECTION 10. Effective Date.

This local law shall take effect immediately upon filing with the Secretary of State in Albany.

TOWN OF WOODBURY
LOCAL LAW 4 of 2009

A LOCAL LAW ADDING ARTICLE II TO CHAPTER 50, "OFFICERS AND EMPLOYEES" OF THE TOWN CODE AUTHORIZING THE WOODBURY HIGHWAY SUPERINTENDENT TO APPOINT THE TOWN SUPERVISOR TO SERVICE AS THE DEPUTY HIGHWAY SUPERINTENDENT.

SECTION 1. ARTICLE II, Deputy Highway Superintendent, is hereby added to Chapter 50 as follows:

§ 50-2 Legislative Intent

Due to unique circumstance, which will be discussed below this legislation is to adopt a local law which supersedes the doctrine of incompatibility and the common law Whitehall Doctrine, thereby authorizing the Woodbury Highway Superintendent to appoint the Town Supervisor to serve as the Deputy Highway Superintendent. The need to provide this local law is so that the Town can save money in these difficult economic times as the Town Supervisor has indicated that he will act in the capacity of Deputy Highway Superintendent without compensation and further due to the indefinite time period for which the need for a Deputy Highway Superintendent will exist.

§ 50-3 Appointment by Highway Superintendent of the Town Supervisor to the position of Deputy Highway Superintendent

- A. Pursuant to Town Law Section 32 the Town Board has created the position of Deputy Highway Superintendent.
- B. The Town Highway Superintendent shall appoint the Town Supervisor to serve as Deputy Town Highway Superintendent at the pleasure of the Town Highway Superintendent.
- C. The Town Supervisor will not receive additional compensation for the period during which he serves as the Deputy Highway Superintendent.
- D. The Town Supervisor will continue to act as the Deputy Highway Superintendent during the period of time that the Highway Superintendent remains on active duty with the United States Military.
- E. Upon the Highway Superintendents return from active duty and upon his ability to resume his duties as Highway Superintendent this Article of the Town Code will sunset and be null and void.

SECTION 2. Savings Clause.

If any clause, sentence, paragraph, section or part of this local law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall be confined in its operation to the clause, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

SECTION 3. Effective Date.

This local law shall take effect immediately upon filing with the Secretary of State in Albany.