Minutes of the Town Board Meeting held at Town Hall on April 17, 2014 at 7:30PM

Present: John Burke, Supervisor

Timothy Arone, Robert Hunter, Frank Palermo and Marilyn Prestia, Councilpersons

Absent: None

Also Present: Joseph McKay, Attorney for the Town; Robert Weyant, Highway Superintendent;

Maria Hunter and Chris Scibelli, Village Planning Board

I. Public Hearing:

a. Introductory Local Law #1 – Fees:

A public hearing was held to entertain comments on the adoption of Introductory Local Law #1 of 2014 entitled "Fees" to permit the establishment of fees and escrows deposits by resolution of the Town Board. The public notice was printed in the <u>Times Herald Record</u> on April 9, 2014.

There were no comments received from the public. Attorney McKay explained that this was being done since our current law needed some changes made to it. The Town needed to delete certain fees for services that we no longer provide, since the Village of Woodbury was created. Secondly, the resolution also changes the way the fee schedule is amended. In the past, a local law needed to be adopted to amend the fee schedule. However, with this new Resolution, the Town can adopt a new schedule of fees by resolution alone.

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

ADOPTED AYES 5 Burke, Arone, Hunter, Palermo, Prestia

NOES 0

Motion was then offered by Supervisor Burke, seconded by Councilman Palermo, to adopt the following resolution adopting Local Law 1 of 2014 to permit the establishment of fees and escrow deposits by resolution of the Town Board:

WHEREAS, a resolution was duly adopted by the Town Board of the Town of Woodbury on April 3, 2014, scheduling a public hearing to be held by said Governing Body on April 17, 2014 at 7:30 p.m., to hear all interested parties on a proposed local law entitled "A LOCAL LAW REVISING CHAPTER 143 OF THE TOWN CODE, ENTITLED "FEES", TO PERMIT THE ESTABLISHMENT OF FEES AND ESCROW DEPOSITS BY RESOLUTION OF THE TOWN BOARD"; and

WHEREAS, on April 3, 2014, the Town Board designated itself as Lead Agency with respect to the SEQRA review of the foregoing proposed local law, preliminarily classified the proposed action as an Unlisted action under SEQRA, and scheduled a SEQRA public hearing with respect to the action; and

WHEREAS, notice of said public hearing was duly advertised in the Times Herald-Record, the official newspaper of said town, according to law; and

WHEREAS, said public hearing was duly held on April 17, 2014, at or about 7:30 p.m. at the Town Hall of the Town of Woodbury, 511 Route 32, Highland Mills, New York, and all parties in attendance were permitted an opportunity to speak on behalf of or in opposition to said proposed Local Law, or any part thereof, and to conduct environmental review with respect to the potential adverse environmental impacts of said local law, pursuant to SEQRA; and

WHEREAS, the Town Board of the Town of Woodbury has reviewed and considered the proposed local law, the short environmental assessment form prepared in connection therewith, and the public comment provided at the aforesaid public hearing, and after due deliberation thereon,

NOW, THEREFORE, BE IT HEREBY RESOLVED that the Town Board finds that:

- 1) the proposed action is an unlisted action pursuant to SEQRA;
- 2) the proposed local law has no significant adverse environmental impacts;

- 3) the Town Supervisor is authorized to execute the EAF to reflect that the Town Board has hereby issued a negative declaration with respect to the project;
- 4) that the adoption of the proposed local law is in the best interests of the residents of the town, and the Town Board hereby adopts said Local Law No 1 of 2014, entitled "A LOCAL LAW REVISING CHAPTER 143 OF THE TOWN CODE, ENTITLED "FEES", TO PERMIT THE ESTABLISHMENT OF FEES AND ESCROW DEPOSITS BY RESOLUTION OF THE TOWN BOARD", a copy of which is attached hereto and made a part of this resolution; and
- 5) hereby directs that the Town Clerk enter said Local Law in the minutes of this meeting and in the Local Law Book of the Town of Woodbury, and to give due notice of the adoption of said Local Law to the Secretary of State of New York.

ADOPTED BY ROLL CALL AS FOLLOWS:

Supervisor Burke	AYES
Councilman Arone	AYES
Councilman Hunter	AYES
Councilman Palermo	AYES
Councilwoman Prestia	AYES

LOCAL LAW NO 1 OF 2014 - LOCAL LAW REVISING CHAPTER 143 OF THE TOWN CODE, ENTITLED "FEES", TO PERMIT THE ESTABLISHMENT OF FEES AND ESCROWS DEPOSITS BY RESOLUTION OF THE TOWN BOARD

Be it enacted by the Town Board of the Town of Woodbury as follows:

Section 1 Title.

This Local Law shall be referred to as a "LOCAL LAW REVISING CHAPTER 143 OF THE TOWN CODE, ENTITLED "FEES", TO PERMIT THE ESTABLISHMENT OF FEES AND ESCROWS DEPOSITS BY RESOLUTION OF THE TOWN BOARD".

Section 2 Legislative Intent.

Chapter 143 of the Town Code currently lists specific fees and/or escrow deposits that applicants are required to pay or advance when seeking required licenses, permits, land use and other approvals from the town. Since the time of the enactment of the existing code provisions, the Village of Woodbury has been formed, and many approvals previously issued by the town board or its subsidiary boards, are now within the jurisdiction of the Village of Woodbury and its subsidiary boards.

In addition, the fees previously set forth in the town code have become outdated over time, and must be raised due to the town's increased operating costs, and due to general increases in the market value associated with the goods and services required for the review and approval of certain applications. In the past, each time the town board determined that it was necessary to increase a fee or escrow deposit, a legislative modification was required to be made to the town code.

It is the intent of this local law to allow the Town of Woodbury Town Board to determine and set, and to modify from time to time, application fees and escrow deposits by resolution, rather than having to do so through a costly legislative process. In addition, the Town Board is amending the existing provisions of Chapter 143 to better define the types of applications for which fees and/or escrow deposits are required, and to eliminate the now moot provisions related to planning, zoning and other municipal functions that are currently within the jurisdiction of the Village of Woodbury.

Section 3 Authority.

This local law is adopted in accordance with §§ 10.1(1) and 10.1(ii)(9-a) of the Municipal Home Rule Law of the State of New York.

Section 4 Revisions to Town Code Chapter 143.

Chapter 143 of the Town Code is hereby amended by deleting former sections 143-1, 143-2 and 143-3, and replacing those provisions with the following new text:

"§143-1 Purpose.

The purpose of this chapter is to authorize the Town Board to adopt, by resolution, a schedule of fees and escrow deposits to be charged in the administration of town laws, ordinances, regulations and resolutions.

§143-2 Schedule of fees.

- A. The schedule of fees and/or escrow deposits of the Town of Woodbury, including but not limited to fees and/or escrow deposits related to permits, licenses, variances, parkland fees, peddling and soliciting licenses, fees for access to public records, impound fees, petitions for annexation, amendments to the official maps of the Town and its districts and/or tax maps, amendments to the Town Code, and any other submissions and/or petitions to the Town Board, which require the use or employment of Town counsel, special legal counsel, bond counsel, transaction counsel, or other legal advice or representation, planning consultants, zoning consultants, engineers, accountants, experts, appraisers or other professionals or persons that may be deemed reasonably necessary to review, act, or otherwise provide advice and/or guidance on any matter ("Consultants") shall be set by the Town Board, and shall be ratified or updated by resolution of the board from time to time as necessary. The current schedule of fees and/or escrow deposits shall be maintained by the Town Clerk and shall be made available to the public during normal business hours.
- B. In the event that the fee and/or escrow deposit required for a particular submission or application does not appear on the schedule adopted by the Town Board, the Town Board shall set a fee and/or escrow deposit that it reasonably expects will cover all necessary and appropriate expenses to be incurred by the town in connection with such submission or application.
- C. Consultants' Fees.
 - 1) The Town Board, in the review of any submission or application which is presented to it whereby Consultants are to be retained to advise the board, may refer any such submission or application to such Consultant as it shall deem necessary to enable it to review such submission or application as required by law. The amount of the fee shall be determined pursuant to the provisions of subsection C(2).
 - 2) Escrow. The applicant shall deposit with the Town Clerk an escrow to cover the costs to be incurred by the town for the aforesaid consulting services or other special retained expert in connection with submissions or applications before its boards. The initial amount of the aforesaid escrow deposit shall be determined by the town board by resolution as necessary. The Town Clerk or Treasurer shall cause statements to be rendered to the applicant or other person(s) seeking relief or otherwise responsible for payment, reflective of the actual expenses of the Town. Such statements shall be due and payable upon presentation or paid for from the active escrow account described herein.

- 3) Replacement of escrow account. If the escrow account falls below twenty percent (20%) of the initial deposit, and as often as necessary thereafter, the town board may require that the applicant pay additional funds into the escrow account up to an amount necessary to replenish the initial deposit. In the event said applicant fails to deposit such additional escrow, any further review, approval, permit or certificate issuance may be withheld until such escrow deposit is made.
- 4) Reimbursement of escrow. In the event that an applicant shall withdraw his or her application at any stage of the proceedings or when the application review and approval process has been completed, the excess funds in the applicant's escrow account, if any, either shall be remitted to the applicant or, if so directed by the applicant, shall remain on deposit as the applicant's initial payment toward the post-approval inspection requirements.
- Deficiency of account. The applicant shall be responsible for all of the foregoing fees, notwithstanding that the escrow account might be insufficient for said fees or expenses. In the event that the applicant fails to pay any outstanding expenses or charges, said uncollected fees or expenses shall be a lawful charge against the real property of the applicant, petitioner or other person(s) seeking relief or otherwise responsible, to be assessed, levied and collected in the same manner provided for the levying and collection of real property taxes. The lien of such assessment shall be prior and superior to every other lien or claim, except the lien of existing tax assessment or other lawful charge imposed by the state or political subdivision or district thereof.
- 6) Review of application. No review shall be undertaken by the Consultants or the matter scheduled before the board until the escrow account and all fees, as set forth herein, are paid."

Section 5 Severability.

If a court determines that any clause, sentence, paragraph, subdivision, or part of this local law or the application thereof to any person, firm or corporation, or circumstance is invalid or unconstitutional, the court's order or judgment shall not affect, impair, or invalidate the remainder of this local law, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, or part of this local law or in its application to the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

<u>Section 6</u> Supersession of other laws.

This chapter supersedes, and is in derogation of, any contrary provisions of the New York State Town Law, the Code of the Town of Woodbury, County of Orange, and State of New York.

Section 7 Repeal.

All ordinances, local laws and parts thereof inconsistent with this local law are hereby repealed.

Section 8 Effective Date.

This local law shall take effect immediately when it is filed in the Office of the New York State Secretary of State in accordance with § 27 of the Municipal Home Rule Law.

II. Administrative Business:

a. Acceptance of Minutes:

Motion was offered by Councilman Arone, seconded by Councilman Palermo, to accept the minutes of the regular meeting held April 3, 2014.

ADOPTED AYES 5 Burke, Arone, Hunter, Palermo, Prestia

NOES 0

b. Approval of Abstract:

Motion was offered by Councilwoman Prestia, seconded by Councilman Palermo, to approve Abstract 7 containing vouchers 20140788 – 20140959 and totaling \$263,944.75.

ADOPTED AYES 5 Burke, Arone, Hunter, Palermo, Prestia

NOES 0

c. Budget Modification(s):

Motion was offered by Councilman Arone, seconded by Councilwoman Prestia, to approve a modification to the budget of the Senior Center by increasing A510 (Estimated Revenue) by \$400 and increasing A7620.469 (Kitchen/Food Supplies) by \$400.

ADOPTED AYES 5 Burke, Arone, Hunter, Palermo, Prestia

NOES 0

Motion was then offered by Councilwoman Prestia, seconded by Councilman Arone, to approve a modification to the budget of the Animal Control Officer by decreasing A3510.431 (Vet Fees) by \$150 and increasing A3510.404 (Water Bills) by \$150.

ADOPTED AYES 5 Burke, Arone, Hunter, Palermo, Prestia

NOES 0

d. Acceptance of Resignation:

Motion was offered by Supervisor Burke, seconded by Councilman Arone, to accept, with regrets, the resignation of Jessica McClennan from the position of part-time Central Administration Clerk effective April 25, 2014.

ADOPTED AYES 5 Burke, Arone, Hunter, Palermo, Prestia

NOES 0

III. Old Business:

a. Resolution – Satisfaction of Judgment – Banda:

Motion was offered by Councilwoman Prestia, seconded by Councilman Arone, to adopt the following resolution authorizing the issuance of a "Satisfaction of a Judgment" docketed on February 7, 2006 against Jacob Banda, Goldie Banda and Abraham Weider, and authorizing the Supervisor, Town Clerk and the Town's Counsel to execute all required documents in connection with the satisfaction of said judgment:

WHEREAS, a settlement had been reached with regard to the Judgment (the "Judgment") currently held by the Town of Woodbury (the "Town") against Jacob Banda, Goldie Banda and Abraham Weider; and

WHEREAS, pursuant to the terms of a Settlement Agreement executed by Goldie Banda and Abraham Weider (Jacob Banda being deceased), the Town of Woodbury has received payment in the amount of Two Thousand and 00/100 (\$2,000.00) Dollars as verified by Eileen Sutherland, the Treasurer for the Town of Woodbury; and

WHEREAS, pursuant to the terms of a Settlement Agreement executed by Goldie Banda and Abraham Weider (Jacob Banda being deceased), and the written authorization of Abraham Schwartz, the Town of Woodbury had received authorization to transfer Four Thousand Nine Hundred and Eight and 07/100 (\$4,908.07) Dollars, from an account in the name of "Kiryas Joel aka Sunny Kroft payable to A. Schwartz, Kiryas Joel Colony" to the general fund of the Town of Woodbury, upon execution of the satisfaction of Judgment; and

WHEREAS, the receipt of the two sums mentioned above being all that is required of Jacob Banda, Goldie Banda and Abraham Weider pursuant to the settlement agreement; and

WHEREAS, all conditions required to satisfy the Judgment having been met by Jacob Banda, Goldie Banda and Abraham Weider;

NOW, THEREFORE BE IT HEREBY

RESOLVED, that the Town Board hereby authorizes and directs the Town's Counsel, to prepare and review the Settlement Agreement, Satisfaction of Judgment and the General Releases of Jacob Banda, Goldie Banda and Abraham Weider and all documentation related to same; and be it further

RESOLVED, that the Town Board hereby authorizes the Town's Counsel to execute all documents pursuant to the filing of the Satisfaction of Judgment mentioned herein; and be it further

RESOLVED, that the Town Board hereby authorizes the Supervisor to execute written General Releases of Jacob Banda, Goldie Banda and Abraham Weider as provided for in the Settlement Agreement; and be it further

RESOLVED, that the Town Board hereby authorizes the Judgment to be satisfied; and be it further

RESOLVED, that the Town Board hereby authorizes the transfer of the funds mentioned above, totaling Six Thousand Nine Hundred and Eight and 07/100 (\$6,908.07) Dollars to the general fund of the Town of Woodbury; and be it further

RESOLVED, that the Town Board hereby authorizes the filing of a Satisfaction of Judgment with the Town of Woodbury Justice Court and the Orange County Clerk's office by the Town's Counsel, Catania, Mahon, Milligram & Rider, PLLC; and be it further

RESOLVED, that the Town Board hereby authorizes the Supervisor, the Town Clerk and the Town's Counsel to execute any and all additional documents necessary to facilitate the Satisfaction of Judgment.

ADOPTED BY ROLL CALL AS FOLLOWS:

Supervisor Burke	AYES
Councilman Arone	AYES
Councilman Hunter	AYES
Councilman Palermo	AYES
Councilwoman Prestia	AYES

IV. New Business:

a. Boy Scout Proclamation:

Motion was offered by Councilman Palermo, seconded by Councilman Hunter, to adopt the following proclamation:

WHEREAS, the rank of Eagle Scout is the pinnacle achievement in Boy Scouting. It is a rank that requires significant effort, dedication and service to one's home, troop and community.

THEREFORE, BE IT RESOLVED that the Town of Woodbury Town Board, at its meeting held April 17, 2014, recognizes and commends the outstanding achievement of **Robert Vincent Lutz** as he receives his Eagle Scout badge at his Court of Honor ceremony on May 3, 2014.

ADOPTED AYES 5 Burke, Arone, Hunter, Palermo, Prestia NOES 0

b. Schedule Public Hearing – FY2015 OCCD:

Motion was offered by Supervisor Burke, seconded by Councilman Arone, to schedule a public hearing to be held at 7:30PM on May 1, 2014 to entertain public suggestions of projects to be applied for through the FY2014 Orange County Community Development program.

ADOPTED AYES 5 Burke, Arone, Hunter, Palermo, Prestia

NOES 0

V. Department Reports:

a. Supervisor's Report – March 2014

Motion was offered by Councilman Arone, seconded by Councilman Palermo, to approve the March 2014 Supervisor's Report with receipts totaling \$99,795.92 and disbursements totaling \$1,177,143.15.

ADOPTED AYES 5 Burke, Arone, Hunter, Palermo, Prestia

NOES 0

- b. Town Clerk's Report March 2014
- c. False Alarm Report February 2014
- d. Parks/Recreation Minutes None Received
- e. Animal/Goose Control Report March 2014
- f. Police/Communications Report March 2014
- g. Beautification Commission Minutes April 10, 2014
- h. Library Minutes None Received
- i. Budget vs. Actual March 2014

VI. Public Comment:

Councilman Arone announced that there is a Charity Volleyball Game being held on Saturday, April 26th to benefit The Truth 365, an organization that contributes all of its funds to benefit the research of pediatric cancer. To register or for more info email bumpsetspikeforacure@gmail.com.

Councilman Hunter feels as though the Town Board should put together a letter to the State Department of Transportation regarding the conditions of Route 32. The pot holes in the road need to fixed because they pose a dangerous situation. Supervisor Burke agrees a letter to the DOT is a good idea. Last Sunday they were out with their road crews, at overtime rates, fixing pot holes near Cosimo. Superintendent Weyant added that the DOT can only do coal patches on the weekends because they cannot get hot patches. He added that Route 32 will be patched before the Memorial Day Parade and then they will come back at a later date to do the entire area between Midland and Buena Vista in Central Valley.

Supt. Weyant reminded everyone that the Electronics Collection Event at the Highway Garage is scheduled for April 25th from 2-5 PM for businesses in Woodbury and for Woodbury Residence on Saturday, April 26th from 8AM-1PM. Supt. Weyant announced that May 10th is the Town of Woodbury's Annual Clean-Up Day beginning at 10AM (volunteers meet beforehand at Smith Clove Elementary located on Smith Clove Road in Central Valley). At the conclusion of Clean-up Day, lunch will be provided by Woodbury Community Association.

John Smith, Highland Mills wanted to confirm the information he heard regarding the repairs of Route 32. He also had questions about the Judgment for Banda. Supervisor Burke and Attorney McKay explained that this judgment arose out of a fine/fee from Justice Court dating back to 2006 or 2007. The debt is finally being taken care of and all the necessary paperwork has been signed.

George Sewitt, Highland Mills questioned what has been going on with the Town Board as far as the casinos are concerned. He feels this is crucial and \$6.9 million is a lot of money and we shouldn't let this money slip by us. He would be more than happy to help as a volunteer to expedite things. Supervisor Burke explained that the Town Board has not been acknowledged as a "host community" and

has not been involved in anything. The Town Board was not invited to any meetings and therefore nothing has been done and they do not have any comment.

VII. Adjournment:

With no further comments received or business to discuss, a motion was offered by Councilman Arone, seconded by Councilwoman Prestia, to adjourn the meeting at 8:05 PM.

ADOPTED AYES 5 Burke, Arone, Hunter, Palermo, Prestia NOES 0

Frances Huang, Deputy Town Clerk

After adjournment the Board met with Attorney McKay in closed session.