

Minutes of the Town Board Meeting held at Town Hall on February 2, 2017 at 7:30PM

Present: David Sutz, Supervisor
Michael Essig, Robert Hunter and Frank Palermo, Councilmen
Absent: Timothy Arone, Councilman
Also Present: Joseph McKay, Attorney for the Town; Joseph Gianzero, Parks Director; John Smith, Parks Commissioner; Maria Hunter, Village Planning Board

I. Public Hearing:

a. Introductory Local Law 1 of 2017 - Hotel Room Occupancy Tax Law:

A public hearing was held to entertain public comments on Introductory Local Law 1 of 2017 which will create a new Chapter 279 of the Town Code entitled "Hotel Room Occupancy Tax Law" to establish a hotel/motel occupancy tax of 5%. The public notice was printed in the Times Herald Record on January 25, 2017 and the following comments were received:

Clerk Potvin explained the history of this legislation. The Town has requested permission from the State Legislature to permit Woodbury to impose this tax since the State's 2001/2002 legislative session. On the Board at the time was James Galvin, John Kelemen, Lorraine McNeill, Henry Dobson and Theodore Jones was serving as Supervisor. Every session it stalled in committee until the 2013/2014 session where it passed both houses but the Governor vetoed the bill. This past session, 2015/2016, the bill again passed both houses and the Governor signed it into law on December 31, 2016. The law has a sunset provision of three years from its effective date - December 31, 2019 - so a request will need to be made in the 2019/2020 Legislative Session to permit the taxing to continue. In the home rule resolution the Town Board adopted on May 5, 2016, the Board stressed their justification for requesting this tax imposition is to "offset the cost of the emergency communication program that is used to ensure residents are aware of emergency conditions in Town via cellphone, landlines, electronic mail and text messaging".

Charles Bazydlo spoke representing the owner of the Hampton Inn. He has reviewed the law and understands the Town has been asking permission to impose this tax for quite some time. He believes this tax will be a "radical" change for the Board and is happening "out of the blue". He urged the Board to not be hasty in enacting law, noting that just because the State has granted permission it does not mean that the tax has to be enacted. He noted Orange County already imposes a 5% occupancy tax, in addition to the 8.125% sales tax being collected. He feels an additional 5% occupancy tax will negatively affect the hotel businesses in Town and will cause customers to seek lodging in nearby competitive areas (Chester, Mahwah, Rockland County). This will not only negatively impact his client but also revenue the County receives from their occupancy tax and the possible revenue the Town anticipates from this proposed tax. He further noted his client's customers are not just those that go to Woodbury Common - it is also business individuals with work in the area as well. He feels the Board should meet with representatives from the two hotels prior to enacting the law to discuss the potential impacts and implementation. Supervisor Sutz asked Mr. Bazydlo what the percentage of occupancy is at the Hampton Inn year round. Mr. Bazydlo stated he does not have the numbers with him but they could be provided if a worksession is held with the hotel owners.

Councilman Palermo stated he believes he was on the Board when this issue began discussion - between 1996-1999. He feels the Board needs more time to talk and review the law. He would like the vote to be postponed to the next meeting. Supervisor Sutz stated he feels this law is important enough that it should be voted upon tonight. Councilman Essig stated he feels the vote can be held off until the next meeting so the Board can consider the comments received this evening. Supervisor Sutz stated he is not sure why the Board wants to delay the vote on the issue since it has waited so long for permission to be granted by the State.

Maria Hunter stated in addition to the two hotels in Town there is also a legal Bed & Breakfast. Clerk Potvin added there are also homes advertised on AirBnB that may be part of this law. A discussion was held about the legality of homes registered on AirBnB and whether the law would apply to these units as well. Supervisor Sutz stated the Village Building Department should be notified of these homes on AirBnB so that codes can be enforced.

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

ADOPTED AYES 4 Sutz, Essig, Hunter, Palermo
 NOES 0

II. Administrative Business:

a. Acceptance of Minutes:

Motion was offered by Councilman Palermo, seconded by Councilman Hunter, to accept the minutes of the regular meeting held January 19, 2017.

ADOPTED AYES 4 Sutz, Essig, Hunter, Palermo
 NOES 0

b. Budget Modification:

Motion was offered by Councilman Hunter, seconded by Councilman Palermo, to approve a modification to the 2016 budget of the Woodbury Common BID by decreasing SMB3120.409 (Interpreters) by \$142 and increasing SMB1980.400 (MTA Tax) by \$1, SMB3120.100 (Police Personal Services) by \$137, SMB9030.800 (FICA) by \$4.

ADOPTED AYES 4 Sutz, Essig, Hunter, Palermo
 NOES 0

Motion was then offered by Councilman Palermo, seconded by Councilman Hunter, to approve a modification to the 2016 budget of the General Fund by decreasing A1010.400 (Town Board Cont Exp) by \$41, A1110.100 (Justice Ct Salaries) by \$2062, A1320.400 (Audit) by \$660, A1420.414 (Attorney/Litigation) by \$20,000, A1620.100 (Personal Services) by \$3014, A1650.401 (Central Telephone) by \$1185, A7110.100 (Parks Personal Services) by \$2055, A7620.100 (Adult Rec Services) by \$1017, increasing A2025 (Day Care Charges) by \$1080, A1010.415 (Special Prosecutor) by \$16, A1010.444 (Town Board School/Dues) by \$25, A1110.200 (Justice Ct Equip) by \$407, A1110.411 (Office Supplies) by \$1639, A1110.412 (Postage) by \$16, A1320.401 (GASB) by \$660, A1420.400 (Attorney) by \$20,000, A1620.462 (Repairs/Materials Replacements) by \$3000, A1620.463 (Tools) by \$14, A1650.400 (Cable) by \$1185, A7110.402 (Parks Electric) by \$229, A7110.411 (Office Supplies) by \$1331, A7110.472 (Field Maintenance) by \$472, A7110.430 (Day Camp Expenses) by \$1080, A7110.462 (Repairs/Materials Replacement) by \$23, A7620.402 (Electricity) by \$218, A7620.403 (Heating Oil/Gas) by \$154, A7620.411 (Office Supplies) by \$553, A7620.469 (Kitchen/Food Supplies) by \$92.

ADOPTED AYES 4 Sutz, Essig, Hunter, Palermo
 NOES 0

Motion was then offered by Councilman Essig, seconded by Councilman Palermo, to approve a modification to the 2016 budget of the Police Fund by decreasing B3120.203 (Card/Live Scan) by \$2290 and increasing B3120.423 (Ammo/Range Equipment) by \$2290.

ADOPTED AYES 4 Sutz, Essig, Hunter, Palermo
 NOES 0

Motion was then offered by Councilman Palermo, seconded by Councilman Hunter, to approve a modification to the 2016 budget of the Animal Control by decreasing A3510.403 (Heating Oil/Gas) by \$2426, A3510.448 (Miscellaneous) by \$60, A3510.469 (Food Supplies) by \$170 and increasing A3510.100 (Personal Services) by \$2656.

ADOPTED AYES 4 Sutz, Essig, Hunter, Palermo
 NOES 0

c. Approval of Abstract:

Motion was offered by Councilman Palermo, seconded by Councilman Essig, to approve Abstract 3 containing vouchers 20170104 - 20170162 and totaling \$93,533.93.

ADOPTED AYES 4 Sutz, Essig, Hunter, Palermo
 NOES 0

d. Approve Salary Increase - Police Chief Probationary Period Ended:

Motion was offered by Councilman Essig, seconded by Councilman Palermo, to increase the salary of the Police Chief from \$120,000 to \$126,000 effective January 30, 2016 due to the completion of his probationary period. In addition, the Police Chief will not receive paid holidays.

ADOPTED AYES 4 Sutz, Essig, Hunter, Palermo
 NOES 0

III. Old Business:

a. Change Order #1 - Demolition of Buildings:

Motion was offered by Councilman Palermo, seconded by Councilman Hunter, to authorize the Supervisor to sign Change Order #1 for the Demolition of Buildings project totaling \$47,000 (which increases to contract total to \$187,000) for additional work to demolition two large structures and one shed.

ADOPTED AYES 4 Sutz, Essig, Hunter, Palermo
 NOES 0

b. Authorize Advertising for Bids - CV Library Improvements:

Motion was offered by Councilman Hunter, seconded by Councilman Palermo, to adopt the following resolution setting the scheduling for the invitation for bids for the improvements to the Central Valley Library:

WHEREAS, the Town of Woodbury actively pursues grant opportunities, and

WHEREAS, the Town of Woodbury received a 2015 Community Development Block Grant for \$80,000 for Ida Cornell Library ADA Improvements.

NOW, THEREFORE, BE IT

RESOLVED, that the Town Board of the Town of Woodbury, in its capacity as governing body of the Town of Woodbury, does hereby order the Invitation to Bid for the ADA Improvements be published in the Times Herald Record the week of February 6, 2017 with plans available for pick on February 9, 2017 and the bid opening to be held on Thursday, March 9, 2017 at 10:00AM in Town Hall; and be it further

RESOLVED, that a walk-through of the facility be scheduled for Thursday, February 28, 2017 at 10:00 am.

ADOPTED BY ROLL CALL AS FOLLOWS:

Supervisor Sutz	AYES
Councilman Arone	ABSENT
Councilman Essig	AYES
Councilman Hunter	AYES
Councilman Palermo	AYES

c. Authorize Advertising for Bids - Parks Addition to Prefab Building:

Motion was offered by Councilman Palermo, seconded by Councilman Essig, to authorize the Engineer and Town Clerk to advertise for bids for an addition to the pre-fab building at Earl Reservoir.

ADOPTED AYES 4 Sutz, Essig, Hunter, Palermo
 NOES 0

Director Gianzero noted the addition will increase the size of the building to be 64' x 40' and total 2400 square feet with heat and air condition. He then listed several possible uses for the building, including some year-round uses.

EXTRA ITEM -Sale of Property:

Attorney McKay noted the property was purchased by the Town from the County at tax sale (*in 2014 for \$18,000*). Since then it was discovered that the adjoining property owners have a structure that encroaches on the now Town owned property. This structure has always encroached on this property, even prior to the Town purchasing it. The adjoining property owner has offered to purchase the property at full market value (\$85,000) and to pay for all legal fees associated with this purchase. SEQRA review is required and the sale is subject to a permissive referendum. Councilman Palermo asked for confirmation that the property is not being "given away" and that the buyer is paying market value. Attorney McKay confirmed.

Motion was offered by Councilman Hunter, seconded by Councilman Palermo, to adopt the following resolution for the sale of Section 225, Block 1, Lot 7.1 and Section 225, Block 1, Lot 4.4:

WHEREAS, the Town previously purchased real property from the County of Orange at tax auction; and

WHEREAS, it has been determined that an adjoining parcel has a structure that encroaches onto the Town's property, thereby placing a cloud on the title to the Town's property; and

WHEREAS, the adjoining owner/encroacher has proposed to purchase the real property from the Town at its current market value of \$85,000.00 and to pay the Town's legal fees and other expenses incurred in the transfer (the "project");

NOW, THEREFORE, BE IT HEREBY RESOLVED THAT:

1. The Town Board hereby determines that the sale of the real property is in the public interest of the residents of the town; and
2. The Town Board shall be the lead agency with respect to the review of the proposed sale of property located at Section 225, Block 1, Lot 7.1 and 4.4. in accord with the New York State Environmental Quality Review Act ("SEQRA") and part 617 of the regulations implementing SEQRA, since there are no other agencies that have the authority to approve the project; and
3. The Town Board hereby preliminarily classifies the action as an unlisted action under SEQRA, and authorizes the Town Supervisor to execute a contract of sale and related documents to transfer the property, subject to: (1) a permissive referendum pursuant to section 64(2) of the New York State Town Law; (2) the issuance of a negative declaration pursuant to the New York State Environmental Quality Review Act ("SEQRA"); and (3) the review and approval of the Contract of Sale and closing documents as to form and content by the Attorney for the Town; and
4. The Town Clerk is hereby requested and authorized to post and publish an abstract of this resolution in accordance with New York State Town Law Section 90.

ADOPTED BY ROLL CALL AS FOLLOWS:

Supervisor Sutz	AYES
Councilman Arone	ABSENT
Councilman Essig	AYES
Councilman Hunter	AYES

IV. New Business: *There was no new business to discuss.*

V. Public Comment:

John Smith asked for the address of the property that the Board approved for sale this evening to the neighboring property owner. Councilman Palermo stated the property is located across the street from the school but he was not aware of the exact address. Supervisor Sutz noted the property is mostly vacant land with the exception of the encroachment. With regards to the hotel occupancy tax, Mr. Smith feels it is a good idea that Councilman Palermo suggested the Board wait two weeks before voting on the law. He feels during that time the Board should meet with the management of the hotels to discuss the tax.

Maria Hunter thanked the Board for getting the hotel occupancy law put together and feels it is a good law that should be moving forward as it has been requested since 2001. She disagrees that the law is a "surprise" as it has been discussed for the past sixteen years. She feels someone should follow-up with the Building Department regarding the AirBnB's that are currently listed as being within Woodbury. She then thanked the Beautification Committee for all their hard work during the year to keep the Town looking beautiful. The committee is a seven member volunteer board and she named the members and acknowledged their work.

VI. Board Comment/Department Comments:

Councilman Palermo reminded all that garbage collection will be delayed by one day the week of President's Day. He also reminded all that the John P Burke Memorial pancake breakfast is this upcoming weekend.

Supervisor Sutz wished all a Happy Valentine's. He also announced there are still tickets available for the Woodbury Community Association Heart Dance. Regarding the hotel occupancy tax law, he has done a lot of research on the issue. In his travels almost every hotel has an occupancy tax. This is revenue that will come to the town that has zero impact on the taxpayers and will help reduce the tax burden.

VII. Adjournment:

With no further business to discuss or comments received, a motion was offered by Councilman Essig, seconded by Councilman Hunter, to adjourn the meeting at 8:25PM.

ADOPTED AYES 4 Sutz, Essig, Hunter, Palermo
 NOES 0

Desiree Potvin, Town Clerk