

Minutes of the Town Board Meeting held at Town Hall on March 16, 2017 at 7:30PM

Present: David Sutz, Supervisor  
Timothy Arone, Michael Essig, Robert Hunter and Frank Palermo, Councilmen  
Absent: None  
Also Present: Joseph McKay, Attorney for the Town; Kevin Watson, Police Chief; Pamela Gambuti, Animal Control Officer; Tracy Maggio, Clerk to the Supervisor; John Smith, Parks Commissioner; Maria Hunter, Village Planning Board

**I. Public Hearing:**

a. Introductory Local Law #2 - Taxpayer Protection Act:

A public hearing was held to entertain public comment on Introductory Local Law 2 of 2017 which will establish a new Chapter 65 of the Town Code entitled "Taxpayer Protection Act". The public notice was printed in the Times Herald Record on March 8, 2017 and the following comments were received:

Supervisor Sutz explained the law would require applicants to post an escrow account that would be used to pay for consultant costs associated with their application so there is no impact to the taxpayer.

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

**ADOPTED** AYES 5 Sutz, Arone, Essig, Hunter, Palermo  
NOES 0

Motion was then offered by Councilman Arone, seconded by Councilman Palermo, to adopt the following resolution of the Town Board of the Town of Woodbury adopting Local Law #2 of 2017 establishing a new Chapter 65 of the Town Code entitled "Taxpayer Protection Act":

**WHEREAS**, a resolution was duly adopted by the Town Board on February 16, 2017, scheduling a public hearing to be held by said Governing Body on March 16, 2017 at 7:30 p.m., to hear all interested parties on a proposed local law to establish a Taxpayer Protection Act in the Town of Woodbury; and

**WHEREAS**, on February 16, 2017, 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, on March 8, 2017 according to law; and

**WHEREAS**, said public hearing was duly held on March 16, 2017, at or about 7:30 p.m. at the Town of Woodbury Town Hall, located at 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

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

**NOW, THEREFORE, BE IT HEREBY RESOLVED BY THE TOWN BOARD OF THE TOWN OF WOODBURY THAT:**

- 1) the proposed local law constitutes an Unlisted action pursuant to SEQRA;
- 2) the proposed local law has no significant adverse environmental impacts and the Town Board hereby issues a negative declaration thereon;
- 3) 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. 2 of 2017, entitled "Taxpayer Protection Act"; and

- 4) the Town Clerk is hereby directed to 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 Sutz	AYES
Councilman Arone	AYES
Councilman Essig	AYES
Councilman Hunter	AYES
Councilman Palermo	AYES

*Full copy of the law is printed at the end of these minutes.*

**II. Administrative Business:**

a. Acceptance of Minutes:

Motion was offered by Councilman Arone, seconded by Councilman Hunter, to accept the minutes of the regular meeting held March 2, 2017.

**ADOPTED**    AYES    5        Sutz, Arone, Essig, Hunter, Palermo  
                 NOES    0

b. Approval of Budget Modifications:

Motion was offered by Councilman Essig, seconded by Councilman Palermo, to approve a modification to the 2017 budget of the Police Department by increasing B599 (Appropriated Fund Balance) by \$8686 and increasing B3120.488 (K-9) by \$8686.

**ADOPTED**    AYES    5        Sutz, Arone, Essig, Hunter, Palermo  
                 NOES    0

Motion was then offered by Councilman Arone, seconded by Councilman Essig, to approve a modification to the 2017 budget of the Woodbury Common BID by decreasing SMB3120.200 (Equipment) by \$7695 and increasing SMB3120.488 (K-9 Program) by \$7695.

**ADOPTED**    AYES    5        Sutz, Arone, Essig, Hunter, Palermo  
                 NOES    0

c. Approval of Abstract:

Motion was offered by Councilman Arone, seconded by Councilman Hunter, to approve Abstract 6 containing vouchers 20170386 - 20170503 and totaling \$225,279.73.

**ADOPTED**    AYES    5        Sutz, Arone, Essig, Hunter, Palermo  
                 NOES    0

d. Acceptance of Resignation - Police Lieutenant:

Motion was offered by Councilman Arone, seconded by Councilman Essig, to accept, with regrets, the resignation of Arthur Abbott from the position of Police Lieutenant effective March 31, 2017.

**ADOPTED**    AYES    5        Sutz, Arone, Essig, Hunter, Palermo  
                 NOES    0

It was noted Lieutenant Abbott has worked for Woodbury since October 1987 and he was recognized for his almost 30 years of service to the community. He was wished the best in his retirement. Chief Watson stated it has been a pleasure working the Lieutenant Abbott and hopes he enjoys his retirement. The Board agreed and also sincerely thanked Lieutenant Abbott for his dedication. Councilman Hunter added that in addition to serving the community as Lieutenant he also volunteered in the community, citing the ESO sleepover that used to be held at Earl Reservoir.

e. Appointment of Part-Time Dispatcher:

Motion was offered by Councilman Palermo, seconded by Councilman Hunter, to approve the appointment of Daniel Bennet to the position of part-time dispatcher (no start date was requested by department). Mr. Bennet will be paid \$21.46/hour pursuant to the Dispatcher's PBA contract.

**ADOPTED**      AYES    5            Sutz, Arone, Essig, Hunter, Palermo  
                     NOES    0

**III. Old Business:**

a. Authorize Supervisor to Sign - Contract of Sale of Property:

Motion was offered by Councilman Arone, seconded by Councilman Hunter, to adopt the following resolution of the Town Board of the Town of Woodbury authorizing the sale of real property and issuing a negative declaration under the New York State Environmental Quality Review Act:

**WHEREAS**, the Town had previously purchased certain parcels of real property identified as Section 225/Block 1/Lots 7.1 & 4.4 (the "Real Property") from the County of Orange at tax auction; and

**WHEREAS**, it has been determined that a parcel adjoining the Real Property has a structure that encroaches onto the Real Property, thereby placing a cloud on the title to the Real Property; and

**WHEREAS**, the adjoining owner/encroacher approached the Town and 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"); and

**WHEREAS**, the Town Board of the Town of Woodbury (the "Town Board") has determined that the purchase of the Real Property is in the public interest of the residents of the Town; and

**WHEREAS**, on February 2, 2017, the Town Board adopted a resolution that determined that it would be the lead agency with respect to the review of the Project in accordance with New York State Environmental Quality Review Act ("SEQRA") and part 617 of the regulations implementing SEQRA, since there were no other agencies that have the authority to approve the Project; and

**WHEREAS**, the Town Board's resolution of February 2, 2017 preliminarily classified the action as an unlisted action under SEQRA; and

**WHEREAS**, on February 2, 2017, the Town Board adopted a resolution that authorized the Town Supervisor to execute the required purchase agreement, subject to: (1) a permissive referendum pursuant to the New York State Town Law; and (2) the issuance of a negative declaration pursuant to the New York State Environmental Quality Review Act ("SEQRA"); and

**WHEREAS**, on February 2, 2017, the Town Board authorized and directed the Town Clerk to forward a full copy of the proposed action to all interested agencies; and

**WHEREAS**, on February 2, 2017, the Town Board authorized and directed the Town Clerk to post and publish an abstract of its resolution in accordance with New York State Town Law section 90; and

**WHEREAS**, the abstract of the February 2, 2017 resolution was published on February 11, 2017 in the Times Herald Record; and

**WHEREAS**, no petition was filed seeking a permissive referendum; and

**WHEREAS**, all conditions outlined in the February 2, 2017 resolution were met; and

**WHEREAS**, the Town Board of the Town of Woodbury has reviewed the short form EAF prepared for the Project;

**NOW, THEREFORE, BE IT HEREBY**

**RESOLVED**, that the Town Board of the Town of Woodbury hereby determines that the project is an unlisted action pursuant to Part 617 of the regulations implementing SEQRA; and it is further

**RESOLVED**, that the Town Board determines that the Project will have no significant adverse impacts on the environment and issues a negative declaration for the project and authorizes the Town Supervisor to execute Part 3 of the EAF; and it is further

**RESOLVED**, that the Town Supervisor is authorized to execute all documents, easements, financing and related documents required to complete the sale of the Real property.

**ADOPTED**     AYES    5           Sutz, Arone, Essig, Hunter, Palermo  
                  NOES    0

**IV. New Business:**

a. Schedule Public Hearing - OCCD FY2018:

Motion was offered by Councilman Palermo, seconded by Councilman Arone, to schedule a public hearing to be held on April 6, 2017 at 7:30PM to entertain public suggestions for projects to be applied for funding through the Orange County Community Development FY2018 grant program.

**ADOPTED**     AYES    5           Sutz, Arone, Essig, Hunter, Palermo  
                  NOES    0

b. Authorize Expenditure - Monitoring of Woodbury Stream:

Motion was offered by Councilman Essig, seconded by Councilman Arone, to authorize the expenditure of \$25,500 to pay for 1/4 of the cost for an independent contractor to monitor the Woodbury Stream in order to collect data about the water shed. This is for a two year period and the cost is being shared between four municipalities.

**ADOPTED**     AYES    5           Sutz, Arone, Essig, Hunter, Palermo  
                  NOES    0

EXTRA ITEM - Granting of Easement:

Motion was offered by Councilman Palermo, seconded by Councilman Arone, to adopt the following resolution of the Town Board of the Town of Woodbury authorizing the granting of an easement and issuing a negative declaration under the New York State Environmental Quality Review Act:

**WHEREAS**, as a condition of the approval of a portion of the "Woodbury Junction Project", Woodbury Villas, LLC (the "Developer") was required to make certain improvements to Nininger Road, including the installation of a culvert pipe under Nininger Road; and

**WHEREAS**, Nininger Road is a County Road and therefore the County of Orange (the "County") is responsible for the repair and maintenance of Nininger Road, including the repair of the culvert pipe; and

**WHEREAS**, in order for the County to be able to access and repair the culvert pipe, when necessary, the County must be able to have access to the area around the culvert pipe, which area lies within that certain parcel of Town Property identified on the tax maps of the County of Orange as Section 254/Block 1/Lot 24.2 (the "Town Property"); and

**WHEREAS**, in order to for the Town to legally provide such access to that certain portion of the Town Property necessary to access the culvert pipe, an easement (the "Easement") must be granted; and

**WHEREAS**, The Town Board of the Town of Woodbury (the "Town Board") has determined that it will be the lead agency with respect to the review of the granting of the Easement (the "Project") in accordance with 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

**WHEREAS**, the Town Board has reviewed the short form EAF prepared for the Project;

**WHEREAS**, the Town Board has determined that the granting of the Easement is in the public interest of the residents of the Town.

**NOW, THEREFORE, BE IT HEREBY**

**RESOLVED**, that the Town Board of the Town of Woodbury hereby determines that the Project is an unlisted action pursuant to Part 617 of the regulations implementing SEQRA; and it is further

**RESOLVED**, that the Town Board determines that the Project will have no significant adverse impacts on the environment, issues a negative declaration for the Project and authorizes the Town Supervisor to execute Part 3 of the EAF; and it is further

**RESOLVED**, that the Town Supervisor is authorized to execute the Easement and any ancillary documents required to complete the recording of the Easement; and it is further

**RESOLVED**, that said Easement is to be recorded in the real property records of Orange County.

**ADOPTED**      AYES    5            Sutz, Arone, Essig, Hunter, Palermo  
                     NOES    0

EXTRA ITEM - Contract with Arrow Park:

Motion was offered by Councilman Arone, seconded by Councilman Palermo, to authorize the Supervisor or Senior Director to execute a contract with Arrow Park for an event scheduled for June 14, 2017, subject to review and approval by the Town Attorney as to form and content.

**ADOPTED**      AYES    5            Sutz, Arone, Essig, Hunter, Palermo  
                     NOES    0

#### **V. Department Reports:**

a. Supervisor's Report - February 2017

Motion was offered by Councilman Arone, seconded by Councilman Hunter, to approve the Supervisor's Report for February 2017 with receipts totaling \$492,941.98 and disbursements totaling \$918,471.93.

**ADOPTED**      AYES    5            Sutz, Arone, Essig, Hunter, Palermo  
                     NOES    0

b. Town Clerk's Report - February 2017

c. Buildings/Grounds Report - Not Received

d. Animal/Goose Control Report - February 2017

e. Police/Communications Report - February 2017

f. Police Commissioners Minutes - None Received

g. Beautification Committee Minutes - March 9, 2017

h. Library Minutes - February 28, 2017

i. Parks/Recreation Minutes - February 21, 2017

j. Budget vs. Actual - February 2017

#### **VI. Public Comment:**

Dan Burke stated he is a former Councilman in Monroe for four years and DCO in Monroe for one year. He believes Monroe currently has a very good dog control department consisting of three part-time workers. He understands there is an Inter-Municipal Agreement with Monroe that would have Woodbury providing dog control services to Monroe. He believes this is being rushed by the Town of Monroe and urged Woodbury not to make changes to their department based on this issue. He suggested Woodbury hold a public hearing on this issue to solicit comments from the residents of Monroe. He also wrote a complaint to the NYS Department of Agriculture and Markets about the issue. Attorney McKay stated an agreement was provided to Monroe several months ago and he was informed that changes were made to it but he has not received a copy of it yet. Councilman Palermo confirmed that Mr. Burke would like Woodbury to not approve this agreement and Mr. Burke stated he want Woodbury to vote no. Clerk Potvin informed Mr. Burke that he also has misinformation regarding this issue. She watched the over two hour public hearing held in Monroe and was surprised with the misinformation stated, specifically about Woodbury's ACO being promoted to full-time solely for the

Monroe agreement which is untrue since she was hired full-time in 2012. ACO Gambuti also spoke with NYDAM about the issue and they stated they have no concerns as long as a copy of the agreement is readily available upon request.

Maria Hunter, speaking as Chair of the Village Planning Board, stated the "Notice of Intent" will be mailed this week of the Planning Board's intent to be Lead Agency for the Woodbury Garden development (transit orient). She looks forward to the Village and Town working together on this issue to submit comments about their concerns. Supervisor Sutz asked about how the parkland fees would be paid since they are condos/units and Clerk Potvin stated the Village Building Department collects parkland fees on behalf of the Town and believes it is done when the Certificate of Occupancy is issued. Commercial properties do not pay parkland fees. Supervisor Sutz stated he is also concerned about the existing wetlands that are at this location. Councilman Palermo suggested the Town Board have a worksession meeting with the developer so they can tell him what the Town wants from this project. Mrs. Hunter stated members of the Town Board can attend the Village Planning Board meeting to make their comments, which is the appropriate venue to do so. Councilman Arone asked how long the project will take to complete and Mrs. Hunter stated the phasing has not been discussed yet.

**VII. Board Member Comment:**

Councilman Arone acknowledged Senior Director Rick Walls. He received the "West Point Volunteer of the Quarter" recognition.

Councilman Palermo recognized the Village Highway Department for all the work they did during the recent storm. He urged all to drive patiently during the inclement weather.

Supervisor Sutz thanked all the Departments, Village and Town, that were out during the recent storm doing what they do to keep the community safe. Clean-up will continue as best as it can. He also urged all to drive carefully, especially when entering intersections where the snow banks are unusually high.

**VIII. Adjournment:**

With no further comments received or business to discuss, a motion was offered by Councilman Palermo, seconded by Councilman Arone, to adjourn the meeting at 8:10PM.

<b>ADOPTED</b>	AYES	5	Sutz, Arone, Essig, Hunter, Palermo
	NOES	0	

Desiree Potvin, Town Clerk

**Local Law 2 of 2017**

**A LOCAL LAW CREATING CHAPTER 65 OF THE CODE OF THE TOWN OF WOODBURY ENTITLED  
“TAXPAYERS PROTECTION ACT”**

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

**Section 1.** A new Chapter 65 of the Town Code is enacted as follows:

**CHAPTER 65 – TAXPAYERS PROTECTION ACT**

**§65-1 Title and Authority**

**§65-4 Appeal Rights**

**§65-2 Purpose**

**§65-5 Additional Rights of Town**

**§65-3 Application of Law**

**§65-1 Title and Authority**

This Local Law shall be known as the Town of Woodbury (herein referred to as “Town”) “Taxpayers Protection Act.” This Law involves the allocation and payment of costs and expenses incurred in the Town when reviewing certain land use matters. It is adopted pursuant to the Municipal Home Rule Law.

**§65-2 Purpose**

Responsible government is reflected in responsible growth within a responsible tax base. Where there are municipal expenses that are non-general in nature as well as specific to a land use matter, the specific applicant seeking certain permits or approvals should be responsible for payment of those specific or other non-general expenses incurred by the Town that would otherwise be paid by the taxpaying public. To minimize the burden of government to the Town taxpayers from such costs, expenses or other charges that the Town incurs in specifically reviewing any applications or petitions or otherwise enforcing the rights of the Town, all such specific and non-general costs and expenses should be paid by the applicant (or other person or entity responsible involved) in all situations except applications or petitions for matters involving the construction of a one or two-family residence only.

**§65-3 Application of Law**

Any and all such specific and non-general costs or expenses incurred by the Town in reviewing any application or petition for any license, franchise agreement, amendments to any approved text of the Town Code, as well as any other submissions to the Town Board or otherwise enforcing the rights of the Town regarding a specific applicant or property owner which require the use or employment of Town Counsel, Special Legal Counsel, Bond Counsel, Transactional Counsel or other legal advice or representation, consultants, engineers, experts, accountants, appraisers or other professionals or persons that may be deemed reasonably necessary by the Town to review, act upon or otherwise provide advice on any such matter shall be charged to and paid solely by the applicant or petitioner as well as property owner involved or other person seeking relief or otherwise responsible to the Town that makes such specific and non-general action or review by the Town appropriate or necessary. Any such costs paid or incurred by the Town that are reasonable and customary in the County of Orange regarding the foregoing shall be charged to and paid by the applicant as well as property owner involved provided the applicant as well as property owner involved is seeking a benefit or other relief or approval from the Town and said costs are necessary expenditures, and not expenditures for the convenience of a Board in fulfillment of its own decision-making responsibilities. Said legal cost shall be reasonable in amount and shall not exceed five (5%) percent of the cost of the fair market value of the estimated cost of construction or the infrastructure and other site improvements involved in said application. The

payment of such costs shall be deducted from an escrow account to be established for such application in amount determined by the Town in accordance with the Town's fee schedule or as determined by Town Board Resolution. Such escrow account must be maintained in an amount sufficient to pay such fees or costs at the time they are incurred and must be replenished as directed by the Town.

#### **§65-4 Appeal Rights**

The person or entity required to pay said costs pursuant to this Local Law has a right to contest any obligation to pay any or all of such costs or fees by notifying the Town in writing within 30 days of being advised of such cost or the obligation to pay. The Town shall properly supply written documentation to the person or entity from whom such costs are sought to be paid. That person or entity has thirty (30) days from the date of transmittal of such documentation to object in writing to part or all of the costs or fees sought to be paid to the Town. If within that thirty (30) day period of time the entity or person objects to payment of some or all of the cost or fees to be imposed, the person or entity shall file in writing a detailed appeal to the Town Board specifying the basis for any objection to said payment. Within ninety (90) days of the date of receipt of the appeal, the Town Board shall determine the appeal and decide what costs or fees, if any, shall be paid by the person or entity making the appeal. In the event that the Town Board requires payment of some or all of the costs or fees to be imposed, the person or entity shall have the right to file an appeal to the Supreme Court for the County of Orange pursuant to Article 78 to challenge any such determination by the Town Board. Where a person or entity objects to any payment by the filing of an Article 78 proceeding, such amount shall remain in, but not be deducted from escrow until such time as the Supreme Court for the County of Orange makes a determination regarding the same, if such an Article 78 proceeding is brought by the person or entity regarding said costs. In the event the escrow is insufficient to cover any disputed amount, the applicant must replenish the escrow account with an amount sufficient to cover the disputed expense (in addition to any other ongoing expenses) until such dispute is resolved or otherwise determined by the Supreme Court for the County of Orange. After any review by the Orange County Supreme Court, the applicant or other entity shall have a right to pursue an appeal to the Appellate Division, Second Department. Notwithstanding the same, the amount determined to be due from the applicant by the Orange County Supreme Court shall be deducted from escrow, or paid by the applicant if the escrow is insufficient, unless a stay from a Court of competent jurisdiction is issued restraining the Town from regarding making such payment.

#### **§65-5 Additional Rights of Town**

Nothing herein shall diminish or eliminate the right of the Town to obtain reimbursement of costs or expenses as provided for in any other law, rule or regulation. Nothing herein shall prohibit the Town and any applicant from entering into an agreement as to the payment of professional fees where such application is unique or otherwise different and where the amount of an escrow for payment of reasonable costs may be difficult to ascertain. If the parties do not mutually assent to a written agreement concerning such fees in said situation, then provisions of this local law shall control.

#### **Section 2. Severability**

The invalidity of any clause, sentence, paragraph or provision of this Local Law shall not invalidate any other clause, sentence, paragraph or part thereof.

#### **Section 3. Effective Date**

This Local Law shall take effect upon filing with the Secretary of State and shall apply to all applications or matters for which final approvals have not already been granted by the Town.