

Minutes of the Town Board Meeting held at Town Hall on July 5, 2018 at 7:30PM

Present: Frank Palermo, Supervisor
Timothy Arone, Michael Essig and Robert Hunter, Council
Absent: Jacqueline Hernandez, Council
Also Present: Joseph McKay, Attorney for the Town; Kevin Watson, Police Chief; Joseph Gianzero, Parks Director; John Smith, Parks Commission; Sandra Capriglione and Maria Hunter, Village Planning Board; Timothy Egan, Village Trustee; Laurie Tautel, County Legislator

Pledge of Allegiance Led by Maxwell Salvo, Junior Deputy Supervisor

1. Public Input (Agenda Items only):

Sandra Capriglione asked questions about Item 3c. Whereas #4 states the "Town Board just recently learned" about certain things and she would like to know when that happened. Supervisor Palermo stated he does not have an exact date but it has been ongoing since he took office. Whereas #6 states the Town Board "previously verbally authorized" Attorney McKay to file the lawsuit and she asked when that occurred. Supervisor Palermo stated at a worksession and Attorney McKay added during an attorney client/executive session. Mrs. Capriglione asked if a vote was taken were there minutes and Attorney McKay stated there would not be minutes of an attorney/client session. Supervisor Palermo added there was no formal vote held. Mrs. Capriglione noted the press release sent to the newspaper stated a 5-0 vote was held and Supervisor Palermo stated again there was no vote held and he did not deem it necessary to correct the article that appeared in the newspaper. Whereas #3 states Attorney McKay's law firm will be compensated but no financial parameters set and that the Village is being asked to reimburse the Town for these attorney fees. Supervisor Palermo stated that is correct and added the previous Supervisor and current Mayor did not do what the Town Board approved them to do. He then stated had former Supervisor Sutz spoke to Attorney McKay prior to filing the documents then "we would not have been here now". Mrs. Capriglione asked if an attempt was made to speak to the Village about the issue prior to a suit being filed and Supervisor Palermo stated there was not. He then mentioned an encounter that he had with Mayor Queenan that was not cooperative. Mrs. Capriglione stated she feels this lawsuit is awful.

Robin Crouse asked questions about Item 3c, noting she had the same questions as Mrs. Capriglione. At the June 21 meeting it was noted that Councilman Essig and Councilman Arone would be reaching out to the Village to discuss the issue prior to more money being spent but she feels it is obvious that more money has been spent. She feels it is time for both entities to sit down and talk to each other. She asked how much this lawsuit has cost taxpayers thus far and Supervisor Palermo stated no invoices have been submitted yet. Mrs. Crouse stated there is a lack of transparency.

Maria Hunter asked questions about Item 3c. In Resolved #5 she feels the wording "after informing all TB members of any and all information that may arise to continue to prosecute this lawsuit" should be added so the other Board members have the opportunity to comment on it and so the Supervisor does not have sole discretion. Attorney McKay stated this section is a formality noting his firm represents the entire Board and will take no action unless a majority of the Board authorizes the action to be taken. Supervisor Palermo stated he has no problem adding the language suggested. With regards to Item 3a she has reviewed the budget and in 2016 \$6100+ was budgeted, nothing in 2017 or 2018 as the budget was done by then Supervisor Sutz and Eileen Sutherland at no additional cost saving taxpayers \$12,000. Now there is a quote to have a budget consultant do the budget at a 6.1% increase over what was charged in 2015. She has faith that Supervisor Palermo and Eileen Sutherland are more

than capable to do the 2019 budget. Supervisor Palermo stated he is finding revenues were grossly over budgeted and expenditures were under budgeted. Departments are running out of money as the previous Supervisor changed the budget by combining a lot of line-items into one without allocating appropriately. Councilman Arone stated he agrees the merging of the line-items caused a lot of problems. Supervisor Palermo noted Mrs. Pitt was worked with the Town for many years (under previous Supervisor's Conroy, Burke and Caruso). He added that because of her help, the State told us we were in great shape and did not need an audit. He then stated that Mrs. Sutherland has confided in him that she asked former Supervisor Sutz to some things differently but he would not. Mrs. Hunter stated she finds it disappointing that the Board and Department Heads did not realize they were short money. Councilman Arone stated the Department meetings that he attended there was a lot of back and forth on that issue. Supervisor Palermo added the previous Supervisor only permitted the Board to review the budget at one meeting which lasted one and a half hours. More time was requested but was denied. He feels there were lies made by former Supervisor Sutz and he was unable to answer questions about the budget when asked. Mrs. Hunter, speaking as Village Planning Board Chairperson, noted there are several projects coming down the line and scoping documents will be disseminated. They should be reviewed closely as they relate to the Police Department and if there are needs the Planning Board should be informed.

Joseph Zlata submitted a letter about his disagreement with the lawsuit the Town filed against the Village several weeks ago but is only authorizing it to be done this evening (which he thinks in doing so raises serious questions as to the validity of the suit and the suit should be immediately withdrawn). He is concerned about the repercussions this suit will bring adding the cost to the three municipalities involved will be borne by the taxpayers. He feels properties the Town controls should be owned by the Town and the same with the Village and that the NYS Comptroller should be allowed to conduct its investigation and let its outcome decide what will be done. He feels this suit will divide the community.

2. Administrative Business:

a. Acceptance of Minutes:

Motion was offered by Councilman Hunter, seconded by Councilman Essig, to accept receipt of the minutes from the June 21, 2018 meeting.

ADOPTED	AYES	3	Palermo, Essig, Hunter
	ABSTAIN	1	Arone

b. Approval of Abstract:

Motion was offered by Councilman Hunter, seconded by Councilman Arone, to approve Abstract 12 containing vouchers 20181097 - 20181190 and totaling \$147,897.15.

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

c. Approval of Budget Modification(s):

Motion was offered by Councilman Arone, seconded by Councilman Essig, to approve a modification to the budget of the Animal Control by increasing A510 (Estimated Revenues) by \$15,300 and increasing A3510.466 (Expenditure of Donations) by \$15,300.

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

Motion was then offered by Councilman Essig, seconded by Councilman Hunter, to approve a modification to the budget of the Town Board by increasing A599 (Appropriated Fund Balance) by \$900 and increasing A1010.400 (Town Board Contractual Expense) by \$900.

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

Motion was then offered by Supervisor Palermo, seconded by Councilman Essig, to approve a modification to the budget of the Library by decreasing L7410.411 (Office Supplies) by \$1100, L7410.466 (Expenditure of Donations) by \$500 and increasing L7410.412 (Postage) by \$100, L7410.444 (Schools/Dues) by \$500, L7410.465 (Processing Supplies) by \$1000.

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

3. New Business:

a. Approval of Lorelei Pitt as a Budget Consultant \$6,965.00:

Motion was offered by Councilman Arone, seconded by Supervisor Palermo, to contract with Lorelei Pitt as Budget Consultant for the 2019 budget for \$6965 which will include the following work: budget worksheets, attendance at budget meetings, preparation of tentative, preliminary and adopted 2019 budget, submission and communication with required agencies, property tax freeze report and certification, and dues for NYSGFOA.

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

b. Approval to advertise bids for Refuse Contract:

Motion was offered by Councilman Arone, seconded by Councilman Essig, to authorize the Town Clerk to advertise for bids for the collection of refuse, bulk and recycling for the 2019-2020 fiscal years.

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

c. Approval of Resolution for Attorney Joe McKay to proceed with filing law suit, Woodbury vs Village of Woodbury:

Motion was offered by Councilman Arone, seconded by Councilman Essig, to adopt the following resolution formally authorizing the Town of Woodbury to commence litigation against the Village of Woodbury, its Village Board of Trustees and Orange County:

WHEREAS, the Town Board of the Town of Woodbury, New York (“Town”) has a right and responsibility to be certain all laws, rules and regulations are complied with involving matters impacting Town residents; and

WHEREAS, under New York State Town Law §64.2, the Town Board must authorize any and all conveyances or acquisitions of real property; and

WHEREAS, although the Town Board preliminarily discussed a property exchange with the Village of Woodbury (the “Village”) in 2017, no determination was ever made as to exactly what property, or properties, would be conveyed to the Village; and

WHEREAS, the Town Board just recently learned that former Town Supervisor Sutz completed an unlawful exchange with the Village that not only exceeded any limited authority the Town Board previously conditionally granted; but it also violated many procedural and substantive requirements that should have been complied with before completing the property exchange; and

WHEREAS, the Town Board desires to initiate as well as participate in any and all lawful challenges to that illegal property exchange between former Supervisor Sutz and the Village of Woodbury; and

WHEREAS, the Town Board has indeed previously verbally authorized the attorneys for the Town [Catania, Mahon, Milligram and Rider PLLC (“CMMR”)] to commence a lawsuit as quickly as

possible and file a Notice of Pendency on the properties in question in order to preserve the Town's rights; and

WHEREAS, that lawsuit was commenced by CMMR on June 11, 2018 under Index Number EF006036-2018 in the Supreme Court of Orange County; and

NOW THEREFORE, it is resolved by the Town Board as follows:

- 1) All "WHEREAS" paragraphs are incorporated herein by reference as though set forth in full herein; and
- 2) The Town Board acknowledges that it had previously authorized CMMR in attorney client session to commence the lawsuit against the Village and Orange County and hereby formally ratifies that authorization, as ratification of the lawsuit after filing the complaint is sufficient to give the Town capacity to sue under Town Law Section 65; and
- 3) CMMR is formally authorized to continue to appear and prosecute the lawsuit and shall be compensated for all services performed for the Town Board with regard to the aforesaid proceeding against the Village of Woodbury and Orange County; and
- 4) The Town Board hereby authorizes the necessary expenditure of funds for said litigation; and
- 5) The Town Supervisor is formally authorized to execute any and all documents, subject to review and approval by CMMR, necessary to prosecute such litigation, after informing all Town Board members of any and all information that may arise to continue to prosecute this lawsuit; and
- 6) This Resolution shall take place effective immediately.

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

4. Old Business:

Supervisor Palermo stated work is progressing at the Reservoir and Camp Rez is open.

5. Board Member Comments:

Councilman Essig stated he hopes everyone had a safe Independence Day and he agrees the work at the Reservoir is looking good. He reminded all the Woodbury Fireworks is scheduled for July 7.

Supervisor Palermo stated he also hoped everyone had a nice Independence Day and urged all to use our park facilities.

6. Executive Session; Attorney/Client:

Motion was offered by Councilman Essig, seconded by Supervisor Palermo, to enter into an attorney/client session.

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

7. Adjournment:

With no further business to discuss, a motion was offered by Supervisor Palermo, seconded by Councilman Arone, to adjourn the meeting at 9:45PM.

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

Desiree Potvin, Town Clerk