

Minutes of the Town Board Meeting held on September 20, 2018 at 7:30PM

Present: Frank Palermo, Supervisor
Timothy Arone, Jacqueline Hernandez and Robert Hunter, Council
Absent: Michael Essig, Councilman
Also Present: Joseph McKay, Attorney for the Town; Joseph Gianzero, Parks Director; John Smith and Fred Unger, Parks Commissioner; Sandra Capriglione and Maria Hunter, Village Planning Board

Public Hearing - Introductory Local Law #3 – Procurement Law:

A public hearing was held to entertain public comments on Introductory Local Law 3 of 2018 entitled "Procurement Law" which will authorize the use of "best value" and "piggybacking" options in procurement. The public notice was printed in the Times Herald Record on September 12, 2018 and no comments were received. Motion was then offered by Councilwoman Hernandez, seconded by Councilman Arone, to close the public hearing.

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

Motion was then offered by Councilman Arone, seconded by Councilwoman Hernandez, to adopt the following resolution adopting Local Law 3 of 2018 entitled "Procurement":

WHEREAS, a resolution was duly adopted by the Town Board on September 6, 2018, scheduling a public hearing to be held by said Governing Body on September 20, 2018 at 7:30PM, to hear all interested parties on a proposed local law entitled "Procurement" in the Town of Woodbury; and

WHEREAS, on September 6, 2018, 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 September 12, 2018 according to law; and

WHEREAS, said public hearing was duly held on September 20, 2018, at or about 7:30PM 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 hearing, 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 3 of 2018, entitled "Procurement"; 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 Palermo	YES
Councilman Arone	YES

Councilman Essig	ABSENT
Councilwoman Hernandez	YES
Councilman Hunter	YES

Public Hearing - Introductory Local Law #4 - Tax Cap Override:

A public hearing was held to entertain public comment on Introductory Local Law 4 of 2018 entitled "Tax Cap Override" which would override, if necessary, the tax levy limit established in General Municipal Law Section 3-c for the Town's 2019 budget. The public notice was printed in the Times Herald Record on September 13, 2018 and no comments were received. Motion was then offered by Councilman Arone, seconded by Councilman Hunter, to close the public hearing.

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

Motion was then offered by Councilman Hunter, seconded by Councilwoman Hernandez, to adopt the following resolution adopting Local Law 4 of 2018 entitled "Tax Cap Override":

WHEREAS, a resolution was duly adopted by the Town Board on September 6, 2018, scheduling a public hearing to be held by said Governing Body on September 20, 2018 at 7:30PM, to hear all interested parties on a proposed local law entitled "Tax Cap Override" in the Town of Woodbury; and

WHEREAS, on September 6, 2018, 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 September 13, 2018 according to law; and

WHEREAS, said public hearing was duly held on September 20, 2018, at or about 7:30PM 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 4 of 2018, entitled "Tax Cap Override"; 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 Palermo	YES
Councilman Arone	YES
Councilman Essig	ABSENT
Councilwoman Hernandez	YES
Councilman Hunter	YES

1. Public Input (Agenda Items only):

Sandra Capriglione inquired about the proposed lease for the Woodbury Professional Building. She asked where the money for the build-out and improvements to the current Town Hall will be coming from and Supervisor Palermo stated the reserve funds, including the building reserve. She asked what the lease payments were and Supervisor Palermo stated the first two years is \$78K and the third year is \$82K, all budgeted in the General Fund. She asked when the first payment will be do and Supervisor Palermo stated when the lease is signed, which he will not do until the offices are ready to be moved, which he is hoping to be either November 1 or December 1. She asked how much is in the building reserve fund, noting Supervisor Palermo announced in March there was less than \$500K. Supervisor Palermo stated approximately \$130K from that fund was used for the Earl's Reservoir Recreation Building. Mrs. Capriglione asked if parkland fees will replenish that amount when they are collected and Supervisor Palermo stated he did not think so as the goal is to build that fund up. She then asked if a maximum spending limit has been set on the improvements to both buildings and Supervisor Palermo stated there has not been one discussed as of yet. Engineer Fusco will be preparing estimates for the Board to consider. Mrs. Capriglione then asked if work is being done to improve the current Town Hall for a courthouse will the courts be moved into the new town hall that is possibly being constructed in the future and she was told no.

2. Administrative Business:

a. Acceptance of Minutes:

Motion was offered by Councilwoman Hernandez, seconded by Councilman Hunter, to accept receipt of the minutes of the regular meeting held September 6, 2018.

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

Motion was then offered by Councilman Arone, seconded by Councilman Hunter, to accept receipt of the minutes of the worksession held September 17, 2018.

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

b. Approval of Abstract:

Motion was offered by Councilman Arone, seconded by Councilwoman Hernandez, to approve Abstract 18 containing vouchers 20181577 - 20181639 and totaling \$79,249.60.

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

c. Approval of Budget Modification:

Motion was offered by Councilwoman Hernandez, seconded by Councilman Hunter, to approve a modification to the budget of the Woodbury Common BID by decreasing SMB3120.100 (Police Personal Service) by \$1782 and increasing SMB3120.403 (Policing - Other Agency) by \$1782.

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

3. New Business:

a. Schedule a Public Hearing re: Special Assessment Rolls October 4, 2018, 7:30PM at Town Hall:

Motion was offered by Councilman Arone, seconded by Councilwoman Hernandez, to schedule a public hearing to be held on October 4, 2018 at 7:30PM on the adoption of the special district assessment rolls, which are as follows: Refuse District, Consolidated Sewer District, Water 6 (Amdur Park), Sewer 1 (Valley Forge) and Highland Lake Estates Sewer.

ADOPTED AYES 4 Palermo, Arone, Hernandez, Hunter

NOES 0

b. Acceptance of Resignation, Nancy Diaz, Woodbury Court Officer:

Motion was offered by Councilman Arone, seconded by Councilwoman Hernandez, to accept the resignation of Nancy Diaz from the position of Court Officer effective immediately.

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

c. Authorize Supervisor to sign Lease agreement with Kent Companies for 3 years with an option for 2 years and the approval from Attorney Joe McKay:

Motion was offered by Councilman Arone, seconded by Councilwoman Hernandez, to authorize the Supervisor to sign a lease agreement with WPC Associates, LLC, pending review and approval by Attorney McKay. This will be a three year lease with an option for two additional years.

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

d. Acceptance of resignation, Jennifer Potter, Data Collector in the Assessor's Office:

Motion was offered by Supervisor Palermo, seconded by Councilman Hunter, to accept the resignation of Jennifer Potter from the position of Date Collector in the Assessor's Office effective September 28, 2018.

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

4. Old Business:

a. Website Update:

Councilwoman Hernandez stated the website is in the final stages. All notices and events will be on the website as the plan is for this to be the primary source of information for the public. It will also have email addresses listed for all Departments for the residents to easily be able to contact the individual they wish to speak too. All Department Heads and elected officials will have their photos there as well. One section being worked on is tourism which will be done in collaboration with the Chamber of Commerce.

5. Department Reports

- a. Supervisors Report - not received
- b. Town Clerks Report - August 2018
- c. Buildings & Grounds - not received
- d. ACO Report - August 2018
- e. Police/Communications Reports - August 2018
- f. Beautification Committee Minutes - no September meeting held
- g. Library Board Minutes - none received
- h. Parks & Recreation Commission Minutes - August 21, 2018
- i. Budget vs Actual - August 2018

6. Public Comment:

Fred Ungerer, Chairman of the Parks Commission, noted the attendance at both parks had slightly increased this year and the dog swim was a success with about 40 dogs participating. The annual Halloween party is scheduled for October 20 at Earl's Reservoir and the annual Holiday party is scheduled for December 15 at St. Patrick's. The Commissioners would like the Town Board's opinion on

the following issues: upgrading the bathrooms to be accessible for the disabled, having hot water installed in the bathrooms at the John Burke Pool, having security cameras installed at the Recreation Building when construction is complete, and allowing access to the John Burke Pool from Buena Vista by installing a second fence.

Sandra Capriglione asked when the Recreation Building will be completed and Supervisor Palermo stated it should be done in about a month. She then stated at the worksession earlier this week the Board spoke about the possible purchase of a building for the Parks Department office and asked for more information and Supervisor Palermo stated he would prefer not to discuss that at this time. She then asked if the moving company had been met with yet and Supervisor Palermo stated the meeting is scheduled for tomorrow.

John Smith asked if there will be any budget worksession held that will be open to the public. Supervisor Palermo stated on October 2 at 5PM at Town Hall the General Fund will be discussed and on October 17 at 5PM at Town Hall or the Senior Center the Police and Library Funds will be discussed.

7. Board Member Comments:

Councilwoman Hernandez congratulated the Parks Department and Library for all they are doing for the community.

Councilman Hunter thanked the Parks Department for all the events they held this summer.

Supervisor Palermo asked all to drive carefully.

8PM - EXECUTIVE SESSION:

Motion was offered by Councilman Arone, seconded by Councilwoman Hernandez, to enter into an executive session pursuant to Public Officers Law Section 105(1)(d) to discuss current litigation (Town of Woodbury v Village of Woodbury).

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

No minutes of the executive session were recorded.

8. Adjournment:

With no further business to discuss, a motion was offered by Supervisor Palermo, seconded by Councilman Hunter, to end the executive session and adjourn the meeting at 8:35PM.

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

Desiree Potvin, Town Clerk

After adjournment the Board entered into an attorney/client meeting with Attorney McKay.

LOCAL LAW 3 OF 2018

A LOCAL LAW TO AUTHORIZE USE OF "BEST VALUE" AND "PIGGYBACKING" OPTIONS IN PROCUREMENT PURSUANT TO SECTION OF THE NEW YORK GENERAL MUNICIPAL LAW

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

SECTION 1. Title

This local law shall be referred to as the "Procurement Law".

SECTION 2. Purpose

The Town of Woodbury seeks to exercise the local option set forth in section 103, subdivision 1, of the New York General Municipal Law, which authorizes the Town of Woodbury to award purchase contracts and contracts for services subject to competitive bidding under General Municipal Law section 103 on the basis of either lowest responsible bidder or "best value" as defined in section 163 of the New York State Finance Law. This local law also authorizes the Town to award purchase contracts and service contracts on a "piggybacking" basis as authorized by General Municipal Law section 103, subdivision 16.

SECTION 3. Local Law

New Chapter 236 of the Town Code is hereby adopted, with the following text:

Chapter 236 - Procurement

§236-1 Award to other than low bidder

§236-2 Award to lowest responsible bidder; Piggybacking exception

§236-1 Award to other than low bidder

- A. The lowest responsible bidder shall be awarded a purchase or public works contract unless the Town determines that it is in the best interest of the Town and its taxpayers to make an award to other than the low bidder through use of the "best value" option or the "piggybacking" option set out below. If a bidder is not deemed responsible, facts supporting that judgment shall also be documented and filed with the record supporting the procurement.
- B. Best value purchasing - Pursuant to General Municipal Law section 103, the Town may award certain purchase contracts and contracts for services using the "best value" standard, as follows:
 - 1) Definition - For purposes of this section, "best value" means the basis for awarding contracts for purchases and services to the offeror that optimizes quality, cost, and efficiency, among responsive and responsible offerors.
 - 2) Applicability - The "best value" option may be used for purchase contracts involving an expenditure of more than \$20,000 and contracts for services involving an expenditure of more than \$35,000, but excluding purchase contracts necessary for the completion of a public works contract pursuant to Article 8 of the State Labor Law and excluding any other contract that may in the future be excluded under state law from the best value option. If the dollar thresholds of General Municipal Law section 103 are increased or decreased in the future by the State Legislature, the dollar thresholds set forth herein shall be deemed simultaneously amended to match the new General Municipal Law thresholds.

- 3) Standards for best value - Goods and services procured and awarded on the basis of best value are those that the Town Board determines will be of the highest quality and most cost-efficient in the long term. The determination of quality and cost-efficiency shall be based on objectively quantified and clearly described and documented criteria, which may include, but shall not be limited to, any or all of the following: product or service features, quality, durability, reliability, product performance criteria, quality of craftsmanship, cost and extent of maintenance, useful lifespan, availability of replacement parts, availability of maintenance contractors, warranties, proximity to the end user if distance or response time is a significant factor, references, past performance, organization and staffing, and financial capabilities, and any other factors deemed relevant by the Town Board. Such basis may also identify a quantifiable factor for offerors that are small businesses, certified minority or women-owned business enterprises or service-disabled veteran-owned business enterprises, as defined in the Executive Law, to be used in evaluation of offers for awarding contracts for services.
- 4) Documentation - Whenever any contract is awarded on the basis of best value instead of lowest responsible bidder, the basis for determining best value shall be thoroughly and accurately documented.

§236–2 Award to lowest responsible bidder; Piggybacking exception

“Piggybacking” is permissible as an exception to the general bidding requirements set forth in subdivisions one, two and three of General Municipal Law section 103, and section 104 of the General Municipal Law. Consistent with General Municipal Law section 103, subdivision 16, the Town Board may make purchases of apparatus, materials, equipment or supplies, or to contract for services related to the installation, maintenance or repair of apparatus, materials, equipment and supplies, may make such purchases, or may contract for such services related to the installation, maintenance, or repair of apparatus, materials, equipment or supplies as may be required through the use of a contract let by the United States of America or any Agency thereof, any State or any other political subdivision or district therein if such contract was let to the lowest responsible bidder or on the basis of best value and made available for use by other governmental entities.

SECTION 4. Severability

If any word, phrase, sentence, part, section, subsection, or other portion of this article or any application thereof to any person or circumstance is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, section, subsection, or other portion, or the proscribed application thereof, shall be severable, and the remaining provisions of this article, and all applications thereof, not having been declared void, unconstitutional, or invalid, shall remain in full force and effect.

SECTION 5. Conflict with other Laws

Where this article differs or conflicts with other laws, rules and regulations, unless the right to do so is preempted or prohibited by the county, state or federal government, the more restrictive or protective of the Town and the public shall apply.

SECTION 6. Authority

This article is enacted pursuant to subdivisions 1 and 16 of the New York State General Municipal Law as well as the Municipal Home Rule Law.

SECTION 7. Rules and Regulations

The Town Board is authorized to adopt rules and regulations, by resolution, to further implement the provisions of this Local Law.

SECTION 8. Repeal

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

SECTION 9. Effective Date

This Local Law shall take effect immediately upon filing in the office of the New York State Secretary of State in accordance with section 27 of the Municipal Home Rule Law.

LOCAL LAW NO 4 OF 2018

A local law to override the tax levy limit established in General Municipal Law §3-c

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

Section 1. Legislative Intent

It is the intent of this local law to allow the Town of Woodbury to adopt a budget for the fiscal year commencing January 1, 2019 that requires a real property tax levy in excess of the “tax levy limit” as defined by General Municipal Law § 3-c.

Section 2. Authority

This local law is adopted pursuant to subdivision 5 of General Municipal Law §3-c, which expressly authorizes a local government’s governing body to override the property tax cap for the coming fiscal year by the adoption of a local law approved by a vote of sixty percent (60%) of said governing body.

Section 3. Tax Levy Limit Override

The Town Board of the Town of Woodbury, County of Orange, is hereby authorized to adopt a budget for the fiscal year commencing January 1, 2019 that requires a real property tax levy in excess of the amount otherwise prescribed in General Municipal Law §3-c.

Section 4. 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.

Section 5. Effective date

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