

Minutes of the Town Board Meeting held on October 3, 2019 at 7:30PM

Present: Frank Palermo, Supervisor
Jacqueline Hernandez and Robert Hunter, Council
Absent: Timothy Arone and Michael Essig, Councilman
Also Present: Lia Fierro, Attorney for the Town; Kevin Watson, Police Chief; Joseph Gianzero, Parks Director; Thomas Burke and John Smith, Parks Commissioner

Worksession for Town Board at 6:15PM: Attorney/Client - Highland Lakes Estate Lawsuit¹

Pledge of Allegiance Led by Hailey Calore; Junior Deputy Supervisor

Present Recognition Award to Giana Ferrara – Works of Charity and Generosity

Supervisor Palermo stated Giana Ferrara took on an initiative to organize a fundraiser which raised \$250 which she used to purchase a gift card that she donated to the Animal Shelter. He feels that doing so at her age is a fantastic way of showing that she is a leader. She was presented with a certificate of recognition and gratitude.

I. Public Hearings:

a. Special Assessment Rolls:

Town Clerk Potvin stated the public notice announcing the public hearing on the assessment rolls for the special districts was printed in the Times Herald Record on September 26, 2019. She noted the assessment rolls apply only to property located in such special districts and are charged by units, not ad valorem.

CONSOLIDATED SEWER DISTRICT:

The public hearing on the assessment roll for the Consolidated Sewer District was opened. There were no comments received. Motion was offered by Supervisor Palermo, seconded by Councilman Hunter, to close the hearing on the Consolidated Sewer District assessment roll.

ADOPTED AYES 3 Palermo, Hernandez, Hunter
NOES 0

WATER DISTRICT #6:

The public hearing on the assessment roll for Water District #6 was opened. There were no comments received. Motion was offered by Councilwoman Hernandez, seconded by Councilman Hunter, to close the hearing on the Water District #6 assessment roll.

ADOPTED AYES 3 Palermo, Hernandez, Hunter
NOES 0

SEWER DISTRICT #1:

The public hearing on the assessment roll for Sewer District #1 was opened. There were no comments received about the roll but a resident did state they are happy with the amount of taxes they pay compared to where they previously lived. Motion was then offered by Councilwoman Hernandez, seconded by Councilman Hunter, to close the hearing on the Sewer District #1 assessment roll.

ADOPTED AYES 3 Palermo, Hernandez, Hunter
NOES 0

¹ NOTE - Worksession was not held.

REFUSE DISTRICT:

The public hearing on the assessment roll for the Refuse District was opened. There were no comments received. Motion was then offered by Supervisor Palermo, seconded by Councilwoman Hernandez, to close the hearing on the Refuse District assessment roll.

ADOPTED AYES 3 Palermo, Hernandez, Hunter
 NOES 0

HIGHLAND LAKE ESTATES SEWER DISTRICT:

The public hearing on the assessment roll for the Highland Lake Estates Sewer District was opened. There were no comments received. Motion was then offered by Councilwoman Hernandez, seconded by Councilman Hunter, to close the hearing on the Highland Lake Estates Sewer District assessment roll.

ADOPTED AYES 3 Palermo, Hernandez, Hunter
 NOES 0

Motion was then offered by Councilwoman Hernandez, seconded by Councilman Hunter, to accept and adopt the assessment rolls for the following special districts:

Consolidated Sewer District	Water District #6
Sewer District #1	Refuse District
Highland Lakes Estates Sewer District	

ADOPTED BY ROLL CALL AS FOLLOWS:

Supervisor Palermo	AYES
Councilman Arone	ABSENT
Councilman Essig	ABSENT
Councilwoman Hernandez	AYES
Councilman Hunter	AYES

b. Public Hearing – Introductory Local Law 1 of 2019 - Tax Cap Override:

A public hearing was held to entertain public comment on Introductory Local Law 1 of 2019 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 2020 budget. The public notice was printed in the Times Herald Record on September 25, 2019 and the following comments were received:

Supervisor Palermo explained the State does not allow a municipality to levy taxes over the tax cap amount without first adopting a local law allowing it. This law needs to be adopted prior to finalizing the budget so that it is in place if deemed necessary. He noted that should the budget fall below the tax cap amount, the Board can then repeal the law by local law.

With no further comments received, a motion was offered by Councilwoman Hernandez, seconded by Councilman Hunter, to close the public hearing.

ADOPTED AYES 3 Palermo, Hernandez, Hunter
 NOES 0

Motion was then offered by Supervisor Palermo, seconded by Councilman Hunter, to adopt the following resolution adopting Local Law 1 of 2019 entitled "Tax Cap Override":

WHEREAS, a resolution was duly adopted by the Town Board on September 5, 2019, scheduling a public hearing to be held by said Governing Body on October 3, 2019 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 5, 2019, 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 25, 2019 according to law; and

WHEREAS, said public hearing was duly held on October 3, 2019, at or about 7:30PM at the Town of Woodbury Town Meeting Room, located at 615 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 1 of 2019, entitled "Tax Cap Override"; and
- 4) the Town Clerk is hereby directed to enter said Local Law in the minutes² 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	AYES
Councilman Arone	ABSENT
Councilman Essig	ABSENT
Councilwoman Hernandez	AYES
Councilman Hunter	AYES

II. Public Input:

Robin Crouse thanked the Board for holding the informational meeting regarding the pool remodel and she thanked Councilwoman Hernandez for her efforts in getting the word out about the changes and the meeting. Going forward she suggests that the meeting be held in a venue that is sized appropriately for the anticipated attendance. Supervisor Palermo stated he would consider holding the meeting at the Recreation Center. Mrs. Crouse stated this evening there is a budget modification for \$25,000 at the pool she asked if that is for the proposed remodel. Supervisor Palermo stated it is to expand the area where the games and concession is located to accommodate additional games that have been donated. Mrs. Crouse then asked about two vouchers for Fusco Engineering that appears on the abstract relating to the pool. Supervisor Palermo stated the one is for work Engineer Fusco did with Mr. Petroccione and for preparing the bid specifications. The other he is not sure what it is for but he will look into it and Mrs. Crouse stated she will submit a FOIL. Mrs. Crouse then stated there is an invoice for Attorney McKay's firm for \$10,000 for the Town v Village litigation. She again asked that the lawsuit be stopped and she is at a loss of words for why it still continues. Supervisor Palermo stated a statement will be read later in the meeting addressing the Board's opinion on the issue.

² The law, in its entirety, is printed at the end of these minutes.

Brandon Calore thanked the DPW workers and all that they do in Woodbury. Since he moved to Woodbury he finds the services to be exemplary. He added that whether it is the village or the town there is a lot of aspects that go into making the community great.

John Smith stated he also attended the pool remodel informational meeting the other night and was surprised by the hostility and mistrust that was addressed at the meeting. He has been involved in the process since the planning started and he has also conducted his own site visits to see what is actually used at the pool and what is needed. He is not sure what aspect of the project upsets everyone, maybe the bonding, but he feels the expert that was hired is doing a great job. He hopes that the outline of the proposed pool is marked at the existing pool so residents can go and visualize it clearly. He then noted the budget meetings will begin next week and he hopes the Board members "sharpen their pencils and bring big erasers". He feels there are some organizations in town that are not doing their fair share to bring the taxes down and that budgets should not be "rubberstamped", adding he is concerned about the spending done by the library. Supervisor Palermo noted a change in the budget meeting schedule - the "B" fund will be done October 10 instead of October 9 due to Yom Kippur.

III. Administrative Business:

a. Acceptance of Minutes:

Motion was offered by Councilwoman Hernandez, seconded by Councilman Hunter, to accept receipt of the minutes of the September 19, 2019 meeting.

ADOPTED AYES 3 Palermo, Hernandez, Hunter
 NOES 0

b. Approval of Abstract:

Motion was offered by Supervisor Palermo, seconded by Councilwoman Hernandez, to approve Revised Abstract 17 by voiding voucher 20191510 (check #21380) in the amount of \$60. This reduces the total abstract to be \$142,469.14.

ADOPTED AYES 3 Palermo, Hernandez, Hunter
 NOES 0

Motion was offered by Supervisor Palermo, seconded by Councilman Hunter, to approve Abstract 19 containing vouchers 20191637 - 20191725 and totaling \$203,036.65.

ADOPTED AYES 3 Palermo, Hernandez, Hunter
 NOES 0

c. Budget Modification(s):

Motion was offered by Councilwoman Hernandez, seconded by Councilman Hunter, to approve modifications to the 2019 budget as follows:

- 1) Police - increasing B3120.466 (Computer Consultant) by \$5000 and decreasing B3120.415 (Legal/PBA Contract) by \$5000;
- 2) Buildings/Grounds - increasing A2665 (Sale of Equipment) by \$16,166 and increasing A1620.200 (Equipment) by \$16,166;
- 3) Supervisor - increasing A1220.462 (Computer Supplies/Checks) by \$240 and decreasing A1220.400 (Contractual Expense) by \$240;
- 4) Special Revenue Fund (Parkland Fees) - increasing CM599 (Appropriated Fund Balance) by \$25,000 and increasing CM7989.400 (Other Culture & Recreation) by \$25,000;
- 5) Library - increasing L7410.101 (Compensated Absences) by \$8000 and decreasing L7410.100 (Library Personal Services) by \$8000.

ADOPTED AYES 3 Palermo, Hernandez, Hunter

NOES 0

IV. New Business:

a. Approve 2019/2020 Justice Court Assistant Program:

Motion was offered by Councilwoman Hernandez, seconded by Councilman Hunter, to authorize the Woodbury Justice Court to apply for a JCAP grant in the 2019-20 grant cycle up to \$30,000, or the exact amount being requested.

ADOPTED AYES 3 Palermo, Hernandez, Hunter
 NOES 0

b. Tentative Budget for 2020 has been submitted to Town Clerk and distributed to the Town Board:

Town Clerk Potvin stated that, pursuant to Town Law Section 106(3), a copy of the Fiscal Year 2020 Tentative Budget was received by her office on September 25, 2019, and has been distributed to the Board members via e-mail on September 26, 2019. Supervisor Palermo noted the tentative budget is on the town website. He thanked his secretary, Clara Rivera, for going the extra mile to make sure Robin received the hard copy of the budget that she requested.

c. Approval for the Town Clerk to publish Public Hearing for the 2020 Budget, Nov. 7th at 7:30 PM; location Town Hall Lower Level

Motion was offered by Councilwoman Hernandez, seconded by Councilman Hunter, to schedule a public hearing to be held on November 7, 2019 at 7:30PM to entertain public comments on the FY2020 Preliminary Budget.

ADOPTED AYES 3 Palermo, Hernandez, Hunter
 NOES 0

d. Stratagem Updated OGS Contract to be reviewed and approved:

The proposal previously approved has been revised based on the new OGS contract (OGS Group 77201-Award PT68864). The price difference from the previous proposal is an increase of \$678. Motion was offered by Supervisor Palermo, seconded by Councilwoman Hernandez, to approve and authorize the Supervisor to sign the revised proposal.

ADOPTED AYES 3 Palermo, Hernandez, Hunter
 NOES 0

Supervisor Palermo noted this is for the cameras to be installed at the town parks and on the corner of County Route 105 and State Route 32.

e. Resolution authorizing the Town Supervisor to provide all relevant documents, including the complaint, deposition transcripts and related information, to the NYS Attorney General's Office to review the real property transfers between the town and the village:

Motion was offered by Councilwoman Hernandez, seconded by Councilman Hunter, to authorize the Town Supervisor to provide all relevant documents (including the complaint, deposition transcripts and related information) to the NYS Attorney General's Office to review the real property transfer between the Town of Woodbury and the Village of Woodbury.

ADOPTED AYES 3 Palermo, Hernandez, Hunter
 NOES 0

The following statement was read by Councilwoman Hernandez: *"In August of 2017, former Town Supervisor David Sutz secretly completed land transfers between the Town of Woodbury and the Village of Woodbury in Orange County. He did so without notifying the Town Board and without receiving any opinion or advice from the Town's Attorney regarding the transfers. More specifically, Mr. Sutz*

unilaterally hired a surveyor, subdivided Town land without Planning Board approval, personally made boundary line determinations, conveyed away designated Park Land without Legislative approval, and arranged for the recording of the Deeds in the Orange County Clerk's Office - without the knowledge or consent of the Town Board or the Town and Village Attorneys. Thereafter, Mr. Sutz served out the rest of his term from August to December of 2017 and never disclosed his actions to the Town or Village Boards, the incoming Town Supervisor or the Town or Village Attorneys. All of this is undisputed and supported by the public record and the sworn testimony described below. Set forth below in chronological order are the actions that we believe were illegal, unauthorized, an abuse of power, and a violation of the public trust:

- 1) In September of 2016, former Supervisor Sutz hired an outside surveyor for the purpose of performing surveys of the Town's Highway property, rather than utilize the services of the Town's own surveyor. This action was taken without the knowledge of the Town Board and without its approval. It should be noted that the outside surveyor works in the Orange County Real Property Department.*
- 2) In 2017, the outside surveyor performed Surveys of Woodbury's Highway property without the knowledge of the Town Board.*
- 3) Former Supervisor Sutz determined on his own and without the authority of the Town Board the respective property boundaries for the subdivided land (the outside surveyor testified that former Supervisor Sutz and Mayor Queenan asked him to survey the land "and split off a long a chain link fence" stating specifically, "David [Sutz] actually walked the fence and said 'this is where I want the line'").*
- 4) In the Spring of 2017, at a Town Board Meeting and during other conversations with Town Board Members, former Supervisor Sutz promised to deliver to them a "packet" of information "with visuals of both properties". Each member of the Town Board, who served in 2017, testified that they expected to receive such a packet from the former Supervisor, and that former Supervisor Sutz never delivered any such packet nor any information about the land transactions. Our Town Clerk, Desiree Potvin, testified that if pertinent information for the land swap was provided to the Town Board Members prior to a meeting, it would have been circulated by her in a "packet" and that she keeps copies of all packets circulated prior to all meetings in her office as the Clerk. She further confirmed via email following her deposition that "[she] checked the packets for both the [Town Board] meeting of 7/20/17 and [Village Board] meeting of 7/27/17 and there was nothing relating to the land transfer in either packet that [she] distributed".*
- 5) In July of 2017, Supervisor Sutz put before the Town Board a resolution to transfer the Town property based upon three explicit preconditions: (1) the final preparation of the conveyance documents by our Town Attorney; (2) the full review of the proposed transaction by our Town Attorney; and (3) the "go ahead" or authorization by our Town Attorney. Our Attorney, Joseph G. McKay, with the Newburgh firm of Catania, Mahon, Milligram & Rider, PLLC, always reviewed contemplated Board actions and submitted his opinion advising the Board of the relevant legal issues or considerations before we voted to proceed.*
- 6) Despite the above explicit preconditions, the outside surveyor and former Town Assessor, Laura Breslin, testified that former Supervisor Sutz prepared the transfer documents with help from the outside surveyor (Ms. Breslin testified that Sutz said he specifically did not ask the Town's Attorney to prepare the deeds, because it was "cheaper" to do it himself). Former Supervisor Sutz never provided the Town Board or Town Attorney with any maps, documentation, lot line changes or visuals of any kind in connection with the transfer. Moreover, former Supervisor Sutz never notified the Town Board or Town Attorney of the survey he had performed, the Deeds or the recording of the Deeds.*

- 7) *Rather than go before the Village Planning Board for final approval for the subdivision, he approached the then-Planning Board Chairwoman, Maria Hunter, to sign off on the subdivision plans. She testified as to this, and testified that she refused to sign the map because none of the Planning Board Members had an opportunity to review any applications. Thereafter, Ms. Hunter was not appointed to another term as Chairwoman.*
- 8) *Supervisor Sutz used Village Building Department personnel to communicate with the outside surveyor concerning the subdivision, then delivered the unsigned subdivision maps to him in the Orange County Real Property Office for Approval of the same plans that he drew up.*
- 9) *Meanwhile, Supervisor Sutz signed both the Village and Town deeds and filed the false documents with the Orange County Clerk. Sutz even transferred an additional Town-owned property, SBL 219-5-8 ("Lot 8"), to the Village, that the Town and Village Boards never discussed.*
- 10) *Not only did former Supervisor Sutz fail to work with or notify the Town Attorney, he also never conducted a title search of the Town Property. It was later determined in April 2018 that the Town of Woodbury still owed monies on a bond for the same property which was illegally conveyed. Importantly, residents of the Village of Harriman paid the bond on the property for decades, which Sutz knew, but transferred the property to the Village anyway, depriving the residents of the Village of Harriman of the benefit of the funds they paid for the property.*
- 11) *Moreover, during this entire time, the Mayor of the Village of Woodbury, Michael Queenan, worked hand-in-hand with former Supervisor Sutz. Mayor Queenan never brought the Village Lawyer any of the materials to review. In fact, during Mayor Queenan's deposition testimony, the Mayor claimed that he expected that the Town's Attorney also acted on behalf of the Village for the land-swap. In reality, and confirmed by both the testimony of Town Attorney Joseph G. McKay, Esq. and Village Attorney, Richard B. Golden, Esq., neither the Town Attorney nor the Village Attorney had any knowledge of these transactions until the truth emerged the following year.*
- 12) *The Village property on which the Earl Reservoir Park sits, which is "Park Land", was never bought before the State Legislators to approve the Park Land Transfer.*
- 13) *After Frank Palermo became the new Town Supervisor in January of 2018, he discovered that his predecessor, former Supervisor Sutz, prepared, executed and filed the deeds and that the land was already transferred without attorney review, and without any knowledge or approval from Members of the Town Board.*

The Town Board is asking the Attorney General's Office to investigate the above misconduct. Public lands, including Park Land, were fraudulently conveyed without Planning Board approval; without Legislative approval; without the knowledge of the Town and Village Boards; and without the knowledge or approval of the Town and Village Attorneys. We have provided the original Complaint filed against the Village of Woodbury. We have also provided transcripts generated from the depositions of former Supervisor David Sutz, the Village Trustees, Mayor Michael Queenan, the Town Board Members, the outside surveyor, the former Town Assessor, the Town and Village Clerk, and the former Planning Board Chairwoman. The Town believes that former Supervisor Sutz acted above the law, overstepped his authority as a Town Supervisor, and forged documents in the land transfer."

Councilman Hunter stated this past year he has had many emotions about this: anger, frustration and disgust. He feels this is a sad day and he does not know how it will turnout. His hope is that the town will heal and stressed that he is disgusted with the way this project happened. Supervisor Palermo stated the Board would not have spent money on this if it was done the right way. Councilwoman Hernandez stated the Town Board has been accused of using this lawsuit as a form of retaliation. She noted the position of Town Supervisor has only one vote and that all FIVE board members voted unanimously once presented with the information that the former Supervisor acted illegally. She feels

that one person made a unilateral decision and for the Town to believe that the Town Board is not acting on behalf of all of Woodbury is, in her mind, incomprehensible. She feels if this is allowed to occur and not be challenged the illegal actions that were done could set a precedent for Woodbury that could hurt us as a community. The Board is doing this to correct the illegal actions that were done by the former Town Supervisor and she takes it personal since she voted for him and entrusted that he would do the right thing. She feels it is imperative that all Board members are kept aware of what is happening and that the Board is fighting for the sovereignty of Woodbury to preserve it.

V. Board Meeting Comments:

Councilwoman Hernandez thanked all that attended the informational session that was held earlier this week regarding the plans for the pool remodel. She stressed the Board is listening to all the comments and suggestions that were received and the next day the plans were revisited to try to preserve what we had and adding more to the swimming area. The Board, as a whole, was very supportive to these amendments. The soil will be tested at the site, the concrete will be looked into and the size/spacing of the mushrooms will be reworked. A cost analysis of these changes will be created and all will be shared with the Commissioners first and then the public. The Board welcomes all constructive criticism because it knows the pool means a lot to the community.

Councilman Hunter stated he is glad Officer Tremper is recuperating well. He then sent condolences to the family and friends of NYPD Officer Brian Mulkeen who passed away in the line of duty on September 29, 2019.

Supervisor Palermo also thanked all that attended the public information meeting held earlier this week. He noted some were angry and some were happy with the plans proposed. He also noted the Board did not ask to build a new pool but it needs to be done. He thanked Councilwoman Hernandez for coming up with some design alternatives and he stated the Board will probably be holding another presentation in about a week or so and it will probably be in a larger venue. He wished all that are celebrating Rosh Hashanah a happy and healthy new year. He then noted he received correspondence from the NYSDOT that a walkthrough will be held and paving will begin on Route 32 in November.

Clerk Potvin stated Orange & Rockland has announced that they will be installing smart meters beginning next month to customers that reside on Bakertown Road, Blueberry Lane, Seven Springs Road and Skytop Road. All contractors will be carrying badges and wearing bright yellow vests. Their vehicles will also be wrapped in orange with Orange & Rocklands logo.

VI. Adjournment:

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

ADOPTED AYES 3 Palermo, Hernandez, Hunter
 NOES 0

Desiree Potvin, Town Clerk

LOCAL LAW NO 1 OF 2019

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, 2020 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, 2020 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.