

Official Minutes

A joint meeting with the Village & regular meeting of the Town Board of the Town of Lima, County of Livingston and the State of New York was held at the Town Hall, 7329 East Main Street, Lima, New York, on the 1st day of September 2016 at 6:00 P.M. Notice was printed in the Mendon-Honeoye Falls-Lima Sentinel.

PRESENT: Supervisor, Pete Yendell
Deputy Supervisor, Cathy Gardner
Councilperson, Bruce Mayer
Councilperson, Bill Carey
Councilperson, Dan Marcellus
Town Clerk, Jennifer Shanks, CMC/RMC
Town Attorney, Steve Kruk
Highway Superintendent, Keith Arner

Village Members:

Mayor, Carl Luft
Deputy Mayor, Jean Lacey
Trustee, Jerry Warsaw
Trustee, John Correll – arrived at 6:10 PM
Trustee, Joe Schwing
Superintendent of Public Works, Ben Luft

Supervisor Yendell called the meeting to order at 6:00 P.M., with the Pledge to the Flag.

Guest(s):

George Gotscik- Chair of the Planning Board informed both boards money was granted to provide assistance with design for the possible development of park space, in the village, parcel adjoining Town Hall to the East. He also mentioned the possibility of a senior development behind George's restaurant.

Tami Snyder, Assessor- discussed the C.E.N settlement with the board.

Joint Meeting with the Village opened at 6PM

Ash Trees - discussion was held regarding ash trees in the village and town. Both Superintendents Keith Arner and Ben Luft are working to remove these trees and replacing same.

Joint Newsletter – Supervisor Yendell informed the village board that the Town is now mailing newsletters and asked the village to think about combining the two newsletters as a shared service. No further discussion.

Mark Tubbs Park – much discussion was held regarding the park. Ben Luft and Keith Arner have and will continue to work on the bigger projects they thought needed the most attention, such as the security cameras, bathroom, locks, etc. Both mentioned that after the Labor Day holiday most of the road projects in the village and town would be completed and work at the park, such as trimming trees and bushes, mowing, work on the stone dust path, remove trees and branches along the trails, repair asphalt walkways and create a new walking path inside of guardrail to Park from Zeigler Drive to safeguard pedestrians from cars as they enter or exit the park. It was agreed to purchase a rear mounted disc to rid of weeds and split the cost of same between the Town and Village.

Summer Recreation – discussion was held and agreed that any increases should be paid by the family unitizing the summer recreation services. Both the Mayor and Supervisor will be attending the HF-L school meeting on September 4th. Both Correll and Gardner agreed no more subsidizing for families unless they receive reduced or free lunch assistance.

Joint Committees on ZBA – if no agreement is located in the Town or Village Clerks' office, the village and town agreed that Attorney Kruk will distribute the agreement to both boards for their review and update as they see fit, specifically the Vice Chairman terms. Updates will follow.

Motion by Trustee, Warsaw to adjourn the joint meeting at 6:50PM, seconded by Councilperson Mayer, the vote was unanimous.

Regular Town Board Meeting - 6:51PM

Re-Open Public Hearing to Override the Tax Levy Limit.

Supervisor Yendell re-opened the public hearing at 6:35 PM (this was during the joint meeting with the village) to override the tax cap. No discussion at this time. Carl Luft did make a statement about the village overriding the tax cap as he did not trust New York State because of the way they handled the grant they applied for as they extended the deadline because they didn't get enough applications in on time. He indicated that the Villages application was handed in on time.

Audit of Claims

Resolved that the bills contained on Abstract #9 have been reviewed by the Town Board and are authorized for payment in the following amounts:

General Funds:	No. 228 through 260	\$ 12,749.85
Water Funds 1, 2, &3:	No. 30 through 32	\$ 2,818.40
Highway Funds:	No. 150 through 176	\$ 9,961.11

On a motion by Councilperson Gardner, seconded by Councilperson Mayer the vote went as follows:

CARRIED: Ayes: 5 Yendell, Gardner, Mayer, Marcellus, Carey
 Nays: 0

Reports-Motion to Accept Supervisor's Report -Review Ambulance & Building Inspector Reports (if received)

Supervisor Yendell read the Supervisor's Report and mentioned receipt of the Building Inspector Report and Ambulance Report. On a motion by Councilperson Mayer to accept the Supervisor's reports, seconded by Councilperson Gardner the vote went as follows:

CARRIED: Ayes: 5 Yendell, Gardner, Mayer, Marcellus, Carey
 Nays: 0

August 4, 2016 Town Board Minutes

The minutes of the August 4th meeting were approved as presented on a motion by Councilperson Gardner, seconded by Councilperson Marcellus, the vote went as follows:

CARRIED: Ayes: 5 Yendell, Gardner, Mayer, Marcellus, Carey
 Nays: 0

C.E.N. Properties, LLC Update

Supervisor Yendell informed the Board of developments in the settlement of the tax certiorari case with C.E.N. Properties LLC. According to the Town's special counsel, Chad Hummel, Esq., Supreme Court Judge Ark has encouraged a settlement of the pending tax certiorari case upon the following terms: the Town of Lima would agree to a new property assessment valuation of 1.2 million dollars, which stipulated assessment valuation would be fixed for a term of three years. In lieu of Town payment of a refund of Town taxes paid by C.E.N. in excess of this stipulated assessment for each of the challenged tax years claimed by the plaintiff, the plaintiff would accept one single payment of \$2000.00. Upon effectuating these settlement terms, the tax certiorari case would be terminated, and the Town's liability satisfied.

This proposal has been reviewed by our Town Assessor, Tami Snyder. Ms. Snyder recommends that the Town accept this settlement proposal upon obtaining confirmation that the terms outlined above have been offered by the plaintiff and meet with the Court's approval.

A motion was made by Councilperson Gardner, seconded by Councilperson Mayer to accept the offer to settle and compromise the tax certiorari case C.E.N. Properties, LLC v. Town of Lima upon the terms outlined above, upon receipt of a formal offer to stipulate to that settlement from the plaintiff or from the chambers of Judge Ark. The motion is further qualified by the requirement that such settlement offer be formally tendered to the Town of Lima within seven (7) days of the date of communication of this motion to the plaintiff's attorney by the Town's special counsel, Chad Hummel, Esq. If after seven (7) days no such settlement offer has been submitted to the Town Clerk, Town Supervisor Yendell is directed to contact the chambers of Judge Ark to determine the status of the settlement offer.

The motion passed unanimously.

Councilperson Gardner requested the Town ask the County for a proportionment on legal fees and settlement fees pertaining to this matter.

Complaint Letter

Discussion was held regarding an anonymous written complaint received by Town Board members and Charlie Johnson, Code Enforcement Officer. Charlie reviewed the items in the letter and noted that without a signature he is unable to communicate with the complainant. He did mention most of the items listed in the letter were not in his jurisdiction to change or were in compliance with regulations. He also stated that he appreciates when residents point out situations that need attention. The Board requested that any items outlined in the letter that need attention be addressed by Mr. Johnson. His responses will be discussed and recorded at a future meeting.

Lighting Proposal from National Grid

No new information. Updates to follow.

Fuel Bids for Highway Department

Upon motion by Councilperson Mayer to receive bids on approximately 10,000 gallons of Low Sulfur Diesel fuel, and approximately 3,000 gallons of gasoline, seconded by Councilperson Gardner, the vote went as follows:

CARRIED: Ayes: 5 Yendell, Gardner, Mayer, Marcellus, Carey
 Nays: 0

Approval to Change Water Readings

Superintendent Arner and Clerk Shanks received two (2) calls regarding meter readings and an overcharge. After double checking the meter readings, it was found that the meters were read incorrectly as old meters have recently been replaced with new meters that are read differently. Upon motion by Councilperson Gardner to approve changes on accounts #1-38 & #1-35, seconded by Councilperson Marcellus, the vote went as follows:

CARRIED Ayes: 5 Yendell, Gardner, Mayer, Marcellus, Carey
 Nays: 0

Extension of State Snow & Ice Control Agreement

Town Clerk Shanks received an Agreement, from the Livingston County Highway Department, to extend the State Snow & Ice for the 2018-2019. With Superintendent Arner's approval, a motion was made by Councilperson

Gardner to extend same, seconded by Councilperson Mayer the vote went as follows:

CARRIED Ayes: 5 Yendell, Gardner, Mayer, Marcellus, Carey
 Nays: 0

RESOLUTION #4 of 2016

*At a Regular Meeting of the Town Board
Of the Town of Lima
Held at the Town Hall
On September 1, 2016*

Snow & Ice Control

RESOLVE, that the agreement which became effective July 1, 1974, between the County of Livingston and this Town, relating to the control of snow and ice on the State Highways within this Town, and such adjacent territory within said County as might be agreed upon by the County and the Town Superintendent of Highways, and the changes and modifications of said agreement heretofore approved by this Town, be and the same hereby are extended for an additional period of one year, until June 30, 2019.

State of New York

County of Livingston

I, Jennifer Shanks, Town Clerk of the Town of Lima, DO HEREBY CERTIFY that I have compared the foregoing with the original resolution duly adopted by the Town Board of the said Town on the 1st day of September, 2016 and that the foregoing is true and correct copy of said original resolution, and of the whole thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of said Town this 1st day of September, 2016.

Board of Assessment Review Vacancy

Supervisor Yendell informed the board he received a letter of resignation from Gary Milburn from the Board of Assessment Review. A legal notice will be placed in the Sentinel and on the website to fill vacancy.

Close the Public Hearing to Override the Tax Levy Limit

Upon motion by Councilperson Mayer to close the public hearing at 8:25 P.M., seconded by Councilman Gardner, the vote was unanimous.

Upon motion by Councilperson Mayer to accept said local law to override the tax levy limit, seconded by Councilman Mayer the vote went as follows:

CARRIED Ayes: 5 Yendell, Gardner, Mayer, Marcellus, Carey
Nays: 0

Local Law No. 2 of the year 2016 Town of Lima, County of Livingston

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

Section 1. Legislative Intent

It is the intent of this local law to override the limit on the amount of real property taxes that may be levied by the Town of Lima, County of Livingston pursuant to General Municipal Law §3-c, and to allow the Town of Lima, County of Livingston to adopt a town budget for (a) town purposes (b) fire protection districts and (c) any other special or improvement district governed by the town board for the fiscal year 2017 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 the town board to override the tax levy limit by the adoption of a local law approved by vote of sixty percent (60%) of the town board.

Section 3. Tax Levy Limit Override

The Town Board of the Town of Lima, County of Livingston, is hereby authorized to adopt a budget for the fiscal year 2017 that requires a real property tax levy in excess of the limit specified in General Municipal Law, §3-c.

Section 4. Severability

If any clause, sentence, paragraph, subdivision, or part of this Local Law or the application thereof to any person, firm or corporation, or circumstance, shall be adjusted by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, 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.

Upon Motion by Councilperson Gardner to adjourn at 8:30 P.M., seconded by Councilperson Mayer, the vote was unanimous.

Respectfully Submitted by:

Jennifer Shanks, CMC/RMC
Town Clerk