

Bennington Town Board
July 13, 2022
Workshop Session 6:30 p.m. Regular Board Meeting 7:30 p.m.
Meeting Agenda

Call Meeting to Order; pledge of allegiance.

Open Public Hearing on Local Laws #2 and #3, Year 2022

Financial Matters: General Fund vouchers # _____ to # _____ \$ _____
Highway Fund vouchers # _____ to # _____ \$ _____
Cowlesville Water vouchers # _____ to # _____ \$ _____
Cowlesville Light vouchers # _____ \$ _____
Financial Reports
Appropriations to Highway Fund

Communications:

Minutes of Previous Meetings: June Regular Meeting

Petitions and public concerns:

Hear Comments on Local Law #2 and #3

Departments: Highway – Projects & work activity; open period to negotiate labor agreement
Town Clerk/Tax Collector –
Assessor –
Zoning/Planning –
Water District –
Court –
Park/Recreation –

Old Business: Local Law #2, Year 2022

Local Law #3, Year 2022

New Business: Water Resources Grant

Any other Business to Come before the Board/County Matters:

Adjourn

- Motion by _____, seconded by _____ to approve the vouchers for payment.
Ayes: _____ Noes: _____ Abstain: _____ Absent: _____
- Motion by _____, seconded by _____ to approve the Financial Reports ending June 30, 2022.
Ayes: _____ Noes: _____ Abstain: _____ Absent: _____
- Motion by _____, seconded by _____ to approve minutes for June Regular Session
Ayes: _____ Noes: _____ Abstain: _____ Absent: _____

Resolution #2022-7-1 LOCAL LAW NO. 2 OF 2022
A LOCAL LAW ENTITLED "ESTABLISHING THE RESIDENCY REQUIREMENTS FOR THE OFFICE OF HIGHWAY SUPERINTENDENT IN THE TOWN OF BENNINGTON"

BE IT ENACTED by the Town Board of the Town of Bennington as follows:

SECTION I. TITLE

This local law shall be entitled "Establishing the Residency Requirements for the Office of Highway Superintendent".

SECTION II. AUTHORITY

New York State Election Law § 1-104(2) defines the term "residence" as "a place where a person maintains a fixed, permanent and principal home and to which he, wherever temporarily located, always intends to return."

This local law is adopted pursuant to Municipal Home Rule Law §§ 10(1)(i) and 10(1)(ii)(a)(1) which grants to local governments the authority to enact local laws pertaining to the qualifications of local officers.

Moreover, the Town Board recognizes that the State Legislature has, on various occasions, for various offices, including that of a Town Superintendent of Highways, in various municipalities, has amended Town Law § 23 and passed special provisions under Public Officers Law § 3 so as to create exceptions to the general residency requirements as set forth in those statutes, thereby rendering said statutes to be special laws, rather than general laws, insofar as the office of a Town Superintendent of Highways is concerned. Accordingly, this Town Board may supersede and amend Town Law § 23, and adopt provisions consistent with the special provisions in Public Officers Law § 3, specifically those provisions made in Public Officers Law §§ 3(16) regarding the Town of New Castle, Westchester County, in regards the residency requirements for the office of Superintendent of Highways of the Town of Bennington.

SECTION III. PURPOSE

The purpose of this local law is to amend the residency requirements of the position of Superintendent of Highways in the Town of Bennington.

SECTION IV. RESIDENCY REQUIREMENTS FOR HIGHWAY SUPERINTENDENT

The provisions of Town Law § 23 and Public Officers Law § 3 requiring a person to be a resident of the political subdivision or municipal corporation of the state for which he

shall be chosen or within which his official functions are required to be exercised, shall not prevent a person from holding the office of Town Superintendent of Highways of the Town of Bennington, provided that such person resides in the county in which such town is located or an adjoining county within the state of New York or such town provides by resolution that such person need not be a resident of such town, but must be a resident of New York state.

SECTION V. SUPERSESSION

This local law shall supersede the residency requirements set forth in Town of Bennington Local Law No. 1 of 2019 and Town Law §23 in regard to their application to the office of Superintendent of Highways of the Town of Bennington. This local law does not supersede the general provisions of Public Officers Law § 3, but rather incorporates the special provisions provided under §§ 3(16) thereof.

SECTION VI. SEPARABILITY

Each separate provision of this Local Law shall be deemed independent of all other provisions herein, and if any provision hereof shall be deemed or declared invalid, all other provisions hereof shall remain valid and enforceable.

SECTION VII. EFFECTIVE DATE

This local law shall take effect upon filing in the office of the New York State Secretary of State.

Ayes: Noes: Absent: Abstain:

Resolution #2022-7-2 LOCAL LAW NO. 3 OF 2022
A LOCAL LAW ENTITLED, "CHANGE THE OFFICE OF HIGHWAY SUPERINTENDENT FROM AN ELECTED OFFICE TO AN APPOINTED OFFICE"

BE IT ENACTED by the Town Board of the Town of Bennington as follows:

SECTION I. TITLE

This local law shall be entitled "Change the Office of Highway Superintendent from an Elected Office to an Appointed Office".

SECTION II. AUTHORITY

This local law is enacted under the authority of Municipal Home Rule Law §§ 10, 22 and 23. The Town hereby expressly states its intention that this local law shall supersede any provision of the Town Law of the State of New York to the contrary, including but not limited to Town Law § 20.

SECTION III. PURPOSE

The purpose of this local law is to abolish the elected position of Superintendent of Highways and replace it with an appointed position of Superintendent of Highways in the Town of Bennington.

SECTION IV. ABOLITION OF ELECTED POSITION; CREATION OF APPOINTED POSITION

The elected position of the Superintendent of Highways in the Town of Bennington is hereby abolished, effective December 31, 2022. The appointed position of the Superintendent of Highways in the Town of Bennington is hereby created, effective January 1, 2023.

SECTION V. TRANSFER OF DUTIES

Except as set forth in Section VII, all duties, authority and power previously vested in the elected Superintendent of Highways shall be vested in the appointed Superintendent of Highways.

SECTION VI. RESIDENCY REQUIREMENTS

The person holding the office of Superintendent of Highways in the Town of Bennington, need not be a resident nor an elector of the Town of Bennington, provided, however, that such person shall reside in Wyoming County or in an adjoining county within the State of New York.

SECTION VII. AUTHORITY OF SUPERINTENDENT; APPOINTING AUTHORITY

(a) The appointed Superintendent of Highways shall have such powers and shall perform such duties as are or hereafter may be conferred or imposed by law, and such further duties as the Town Board may determine not inconsistent with law. Any references contained in the Code of the Town of Bennington to the Superintendent of Highways shall be construed as applying to the duly appointed Superintendent of Highways.

(b) The Town Board shall be the appointing authority for all employees of the Town of Bennington Highway Department.

SECTION VIII. TERM OF OFFICE AND FILLING VACANCY

The appointed Superintendent of Highways of the Town of Bennington shall serve for a term of four (4) years, upon the terms and conditions determined by the Town Board, unless sooner removed by the Town Board in the manner provided for in this local law. A vacancy in the Office of Superintendent of Highways shall be filled by the Town Board for the unexpired term in the manner provided by law.

SECTION IX. SALARY AND REMOVAL OF HIGHWAY SUPERINTENDENT

(a) The salary of the Highway Superintendent shall be fixed by the Town Board and shall be payable in such installments and at such intervals as the Town Board shall determine, which may be modified by resolution of the Town Board from time to time.

(b) The Town Board may remove the Highway Superintendent for malfeasance or misfeasance in office upon written charges presented to the Town Board in the form of one or more affidavits. The Highway Superintendent shall have an opportunity to appear before the Town Board and be heard. Copies of any such charges shall be served upon the Highway Superintendent accused thereby at least ten (10) days before his/her appearance before the Town Board.

SECTION X. MANDATORY REFERENDUM

This local law shall be subject to a mandatory referendum to be held at the next regularly scheduled General Election on November 8, 2022.

**TOWN OF BENNINGTON
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Moreover, the Town Board recognizes that the State Legislature has, on various occasions, for various offices, including that of a Town Superintendent of Highways, in various municipalities, has amended Town Law § 23 and passed special provisions under Public Officers Law § 3 so as to create exceptions to the general residency requirements as set forth in those statutes, thereby rendering said statutes to be special laws, rather than general laws, insofar as the office of a Town Superintendent of Highways is concerned.

Accordingly, this Town Board may supersede and amend Town Law § 23, and adopt provisions consistent with the special provisions in Public Officers Law § 3, specifically those provisions made in Public Officers Law §§ 3(16) regarding the Town of New Castle, Westchester County, in regards the residency requirements for the office of Superintendent of Highways of the Town of Bennington.

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provided that such person resides in the county in which such town is located or an adjoining county within the state of New York or such town provides by resolution that such person need not be a resident of such town, but must be a resident of New York state.

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(b) The Town Board may remove the Highway Superintendent for malfeasance or misfeasance in office upon written charges presented to the Town Board in the form of one or more affidavits. The Highway Superintendent shall have an opportunity to appear before the Town Board and be heard. Copies of any such charges shall be served upon the Highway Superintendent accused thereby at least ten (10) days before his/her appearance before the Town Board.

SECTION X. MANDATORY REFERENDUM

This local law shall be subject to a mandatory referendum to be held at the next regularly scheduled General Election on November 8, 2022.

SECTION XI. SEPARABILITY

Each separate provision of this Local Law shall be deemed independent of all other provisions herein, and if any provision hereof shall be deemed or declared invalid, all other provisions hereof shall remain valid and enforceable.

SECTION XII. EFFECTIVE DATE

This local law shall take effect upon the affirmative vote of a majority of the qualified electors voting therein at such General Election on November 8, 2022, and the filing with the Office of the Secretary of State in accordance with the applicable provisions of law, on January 1, 2023.

MONTHLY REPORT OF SUPERVISOR

TO THE TOWN BOARD OF THE TOWN OF BENNINGTON:

Pursuant to Section 125 of the Town Law, I hereby render the following detailed statement of all moneys received and disbursed by me during the month of June, 2022:

DATED: July 6, 2022

SUPERVISOR

	Balance 05/31/2022	Increases	Decreases	Balance 06/30/2022
A GENERAL FUND - TOWNWIDE				
CASH - CHECKING	218,298.13	6,314.82	27,383.59	197,229.36
CERTIFICATES OF DEPOSIT	700,000.00	0.00	0.00	700,000.00
PETTY CASH - COURT	75.00	0.00	0.00	75.00
PETTY CASH - TOWN CLERK	100.00	0.00	0.00	100.00
TOTAL	918,473.13	6,314.82	27,383.59	897,404.36
DA HIGHWAY FUND - TOWNWIDE				
	0.00	0.00	0.00	0.00
CASH - CHECKING	68,393.94	203,981.82	102,983.41	169,392.35
CASH - CERTIFICATE OF DEPOSIT	500,000.00	0.00	200,000.00	300,000.00
TOTAL	568,393.94	203,981.82	302,983.41	469,392.35
SF1- BENNINGTON FIRE PROTECTION				
	0.00	0.00	0.00	0.00
TOTAL	0.00	0.00	0.00	0.00
SF2- COWLESVILLE FIRE PROTECTION				
	0.00	0.00	0.00	0.00
TOTAL	0.00	0.00	0.00	0.00
SF3- VARYSBURG FIRE PROTECTION				
	0.00	0.00	0.00	0.00
TOTAL	0.00	0.00	0.00	0.00
SF4- HARRIS CORNERS FIRE				
	0.00	0.00	0.00	0.00
TOTAL	0.00	0.00	0.00	0.00
SL1- COWLESVILLE LIGHTING DISTRICT				
CASH - CHECKING	1,139.94	0.00	240.70	899.24
TOTAL	1,139.94	0.00	240.70	899.24
SW1- COWLESVILLE WATER DISTRICT				
CASH - CHECKING	15,696.43	1,733.75	3,896.51	13,533.67
CERTIFICATE OF DEPOSIT	30,000.00	0.00	0.00	30,000.00

MONTHLY REPORT OF SUPERVISOR

	Balance 05/31/2022	Increases	Decreases	Balance 06/30/2022
TOTAL	45,696.43	1,733.75	3,896.51	43,533.67
TA TRUST & AGENCY				
	0.00	0.00	0.00	0.00
Niagara Solar	164.38	0.00	0.00	164.38
TOTAL	164.38	0.00	0.00	164.38
TOTAL ALL FUNDS	1,533,867.82	212,030.39	334,504.21	1,411,394.00