

Bennington Town Board
July 13, 2022

Workshop Session was opened at 6:30 p.m. with Supervisor Grant, Councilmen Frounick, Mohun, Domes & Bryman in attendance. Members audited vouchers for the month. Supv. Grant reviewed the work the Highway Department had recently completed on East Bear and a portion of Burrough Roads. They will be starting on paving Poland Hill Road, and following that will be working on North Burrough and a portion of Schad Road. Discussed repairs being made on highway equipment. The Attorney for the Town David DiMatteo joined the meeting to discuss the proposed Local Laws on the agenda, possible rezoning of a parcel on Clinton Street, as well as confidential legal issues.

Regular Board Meeting

Supervisor Grant called the meeting to order at 7:35 p.m., with Councilman Bryman leading the Pledge of Allegiance. All Board Members were in attendance.

Public Hearing on Local Laws #2 and #3, Year 2022 was opened at 7:39 p.m.

Financial Matters: General Fund vouchers #112 to #131 \$9450.79
Highway Fund vouchers #60 to #68 \$70084.79
Cowlesville Water vouchers #27 to #32 \$2787.52
Cowlesville Light vouchers # 7 \$119.90

Motion was made by Bryman, seconded by Frounick to approve vouchers for payment.

Ayes: 5 Noes: 0 Absent: 0 Abstain: 0

The Financial Reports for the month ending June 30, 2022 were reviewed. A motion was made by Mohun and seconded by Bryman to approve the reports as submitted.

Ayes: 5 Noes: 0 Absent: 0 Abstain: 0

Communications: Supervisor's Communications – Notice from NYS Div. of Budget of the second ARPA payment in the amount of \$165,178.98; Certificates of Insurance for County of Wyoming & NY Electrical Inspection Agency; Justice Court reports for May (Wawrzyniak) and June (Linsey); newsletters from Sheldon Historical Society and covered bridge associations. A FOIL request for information on Town employees, titles & contact information was received from SmartProcure and a response sent. Councilman Mohun - an email regarding LaBella engineering on the question on grant funding for road repairs. Mr. Flynn told her there was no funding for road repairs other than what we are already receiving from the state.

Minutes of Previous Meetings: Motion by Domes, seconded by Mohun to approve the June Regular Meeting minutes.

Ayes: 5 Noes: 0 Absent: 0 Abstain: 0

Petitions and public concerns: Russ and Camille Haentges attended to present the Board with a petition signed by 17 residents of Urf Road requesting the speed limit on the road be reduced from 55 mph to 45 mph due to blind spots (hills, curves) and horseback riders. The process for speed limit reductions was reviewed.

Motion to accept the petition and further the request to the appropriate parties was made by Mohun and seconded by Bryman.

Ayes: 5 Noes: 0 Absent: 0 Abstain: 0

Hear Comments on Local Law #2 and #3 – the Board reviewed the proposed Local Laws, with copies available for the public. Motion was made by Mohun, seconded by Frounick to close the public hearing at 8:03 p.m.

Ayes: 5 Noes: 0 Absent: 0 Abstain: 0

Departments: Highway – Road projects that were discussed in the workshop session were reviewed. One truck has been repaired after several months waiting for a part and another will need extensive work done on the emissions system. Supervisor Grant informed members that the open period to negotiate the labor agreement has started. She would like to explore options for health insurance for possible savings. Members requested a copy of the current agreement to review.

Town Clerk/Tax Collector – Nothing to report. Have not recently received any resumes for advertised opening.

Assessor – Nothing to report.

Zoning/Planning – Home Occupation renewal MJ Graphics – Motion was made by Mohun, seconded by Frounick to grant a one year renewal. Ayes: 5 Noes: 0
Absent: 0 Abstain: 0. Members reviewed the copy of the Zoning report for June. A possible rezone may be requested for property on Clinton Street near Maxon Road for a commercial use.

Water District – Water will be discussed later in the agenda.

Court – Nothing to report.

Park/Recreation – Nothing to report other than summer concerts this month.

Old Business:

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.

Motion by Domes, seconded by Mohun to approve.

Ayes: 5 Noes: 0 Absent: 0 Abstain: 0

Resolution #2022-7-2 LOCAL LAW NO. 3 OF 2022
**A LOCAL LAW ENTITLED, "CHANGE THE OFFICE OF HIGHWAY SUPER-
INTENDENT 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.

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.

Motion by Mohun, seconded by Bryman to approve.

Ayes: 5 Noes: 0 Abstain: 0 Absent: 0

New Business: Water Resources Grant: Steve Perkins from the Wyoming County Water Resource Agency spoke to the Board members, public, Water System Operator Mark Pruitt and Water Clerk Judy Brown regarding the NYS grant received for multiple towns to upgrade their water meters and reading systems. He reviewed the grant process and stated what details he would need on our system and will require some spot checks to verify information. This will also help with doing an inventory of any lead pipes being used within the system. Cowlesville will be the first system to get the upgrades. There are some issues involving prices and supplies and he anticipates an eight week lag period for orders. Everything should be approved in August and the work would be done in the fourth quarter of this year. The actual replacement work could be bid out or done in house. The estimated cost to do our system is \$40,000 and we would need to contribute 10 percent or \$4,000. The Clerk will likely need to do two more billings.

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

Motion was made by Mohun, seconded by Bryman to change the authorized signer on the Bennington Town Baseball Account to be changed to that of the Town Supervisor.

Ayes: 5 Noes: 0 Absent: 0 Abstain: 5

Meeting was adjourned at 8:45 p.m. on a motion of Councilman Mohun.