

**TOWN BOARD MEETING**

**Town of Westfield**

**February 6<sup>th</sup>, 2019**

The regular meeting of the Town Board of the Town of Westfield was called to order at 7:30pm in Eason Hall, 23 Elm Street, Westfield, NY, with the following members and guests present:

Supervisor:	Martha R. Bills	Guest:	William Baurer
Councilmen:	David Brown		Don Eno
	David Spann		Marion Eno
	Will Northrop		Robert Neratko
	James Herbert		Joe Neratko
			Jo Ward, Observer

Code Officer: Bonnie Rae Strickland  
Assessor: Bonnie Rae Strickland  
Town Attorney: Joel Seachrist

Absent: Highway Superintendent: David Babcock

**Pledge of Allegiance**

*Councilman Will Northrop made the motion to waive the reading of the January 9<sup>th</sup> 2019 minutes inasmuch as all members received a copy thereof and the minutes be accepted. Councilman David Spann seconded the motion. The motion was carried unanimously.*

Kurt Charland representative of Bergmann Associates appeared before the board to propose a 19,097sf Tractor Supply Retail Sales Store with 15,000sf of outdoor display area, associated parking, utilities, hours of operation and site appurtenances located at 21 Nichols Ave. The County Planning board had responded with suggestions. The suggested information will be forwarded to Kurt prior to the Town and Village Planning Board meeting scheduled for Wednesday February 13<sup>th</sup> at 7:30am. The Board thanked Kurt for presenting the proposed application that will go before the Village and Town Planning Board. This application will be considered by the Town Board on March 6<sup>th</sup> 2019.

**Reports:**

The Town Clerk's report together with a check in the amount of \$2,570.90 representing fees for the month of January 2019 was turned over to Supervisor Bills. A check for \$22.50 representing fees for the month of January to NYS Department of Health, Marriage Licenses and a check in the amount of \$41.00 was turned over to NYS Department of Agriculture and Markets and NYS Decals in the amount of \$44.41 will be withdrawn on the 15<sup>th</sup>.

- An application of renewal for Barcelona Market Inc, 8246 Rt. 5, Westfield NY 14787 of their restaurant /wine liquor license on January 15, 2019 and all board members received a copy of the letter and notice.
- *Councilman David Spann made the motion to accept the 30 day notification renewal request requested by Barcelona Market, Inc. The motion was seconded by Councilman David Brown and carried unanimously. Councilman James Herbert recused himself from voting.*

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Supervisor Bills did not present the monthly report on the Town's finances due to the printing error of the Town and County tax bills from the County. The 2019 collection of tax bills has been the main focus in the Town office, the Town had to hire an additional tax collector due to this error. Town work has been put on hold at this time to resolve the issues. We are looking to work with the County to make sure that this is better for the future. Supervisor Bills thanked everyone who has been assisting with the tax collection. Supervisor Bills asked the board to have a Special meeting to audit the bills and review the Town's finances. Councilman Will Northrop made the motion to have a Special Meeting on Monday, February 11<sup>th</sup> at 3:30pm. Seconded by Councilman David Brown and carried unanimously.

The Dog Warden's report for January 2019 was received and placed on file.

The Fire Department Report for January 2019 was received and placed on file.

The Town Court report for January 2019 was received and placed on file.

The WPD report for January 2019 was received and placed on file.

### **Highway:**

The Highway Superintendent submitted a written report along with a 5 year equipment plan. The report has been accepted and placed on file.

### **Code Enforcement:**

The Code Enforcement Officer submitted a written report for January 2019 highlighting 2 permits issued in the Town. Inspections of projects and building projects as required have been performed. The report has been accepted and placed on file.

### **Assessor:**

- Taxability of fiber optic cable is now taxable real property. Starting with 2019 rolls, telecommunications ceilings established by our department will include optic cable.
- Cables are taxable real property; the telecommunications industry, T-Mobile Northeast, LLC and Level 3 Communications challenged the taxability of their telecommunications installations and fiber optic cables around the State, asserting they do not fit within the definition of taxable real property in New York Law. The New York Court of Appeals firmly rejected that argument, holding that telecommunication installation and fiber optic cables are taxable under Real Property Tax Law.
- In the Town and Village of Westfield we have a total assessed value of:  
\$455,185 (Town)  
\$228,062 (Village)

### **Barcelona Harbor:**

Closed for the Season

### **Public Comment:**

- Robert Neratko read a statement to the Town Board. The Town Supervisor and Town Clerk received a copy of the statement. Mr. Neratko asked about the court case assessment challenge for Edgewater Condominiums. As of 2003 Assessor Bonnie Rae Strickland inherited the assessed value of Edgewater Condominiums. Condominiums are assessed through a different process and the assessor does not have the right to change the assessment of condominiums. The board was fully aware of the court case. The Board is also aware that Westfield needs to have a revaluation to assess properties. It has been years since one has been done. However, it

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is a very costly thing to do which will include raising our tax cap and having the property owners foot the bill. The Town is looking into a way to do this in the future. Concerns were addressed and discussed at this time.

- Don and Marian Eno asked about the status of East Lake road. The Town is waiting to hear from USDA-RD to go out to bid for the proposed project. The Supervisor is in contact with the Engineer.

**Announcements:**

- Town and County Tax collection: February 6<sup>th</sup>-February 28<sup>th</sup> is a 1% penalty phase. March 1-31 and April 1 at a 2% penalty on original bill.
- McClurg Museum is hoping to open within a week or two to the public.

**Project Updates:**

- Welch Trail- working with the Village and County on the process of selecting a consultant based on submitted RFQ's (request for qualifications).
- Shorehaven water district waiting for final bills to close out.
- Grape Discovery Center-The Town has received a State Grant to extend public water to the Grape Discovery Center.
- Councilman Will Northrop made the motion to set a public hearing for a Special Use Permit application for Tractor Supply Retail Store located at 21 Nichols Ave at 7:25pm on March 6<sup>th</sup>, 2019 prior to the Town Board meeting. Councilman David Brown seconded the motion and carried unanimously.

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**New Business:**

*Councilman David Brown offered the following resolution and moved for its adoption*

**Resolution No. 14 of 2019**  
**TOWN OF WESTFIELD**  
**Audit of 2018 Financial Records**

**RESOLVED**, that on January 22<sup>nd</sup>, 2019 the Westfield Town Board met for the purpose of auditing the 2018 Town financial records.

**BE IT FURTHER RESOLVED**, that on January 22<sup>nd</sup>, 2019 Town Departments, Town Clerk, Town Supervisor and Town Justices submitted their records for examination.

**BE IT FURTHER RESOLVED** Westfield Town Justices submitted for examination of 2018 court dockets and records. All fines and fees that were collected by the Town Court have been turned over to the proper officials. A report has been prepared using the comptroller's suggested "Checklist for Initial Review of Justice Court Records".

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*This was seconded by Councilman David Spann. Voting was as follows: Supervisor Martha Bills, aye; Councilman David Brown, aye; Councilman David Spann, aye; Councilman Will Northrop, aye; Councilman James Herbert, aye.*

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*Councilman Will Northrop offered the following resolution and moved for its adoption*

**Resolution No. 15 of 2019**

**TOWN OF WESTFIELD**

**Annual Review of Shared Services Highway Agreement w/County**

**RESOLVED**, that the Town Board of Westfield after thorough review of the County's *Shared Highway Services Agreement* agrees to keep the document in place for the next year.

*This was seconded by Councilman David Spann. Voting was as follows: Supervisor Martha Bills, aye; Councilman David Brown, aye; Councilman David Spann, aye; Councilman Will Northrop, aye; Councilman James Herbert, aye.*

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*Councilman David Spann offered the following resolution and moved for its adoption*

**Resolution No. 16 of 2019**

**TOWN OF WESTFIELD**

**A RESOLUTION AUTHORIZING THE COST OF PREPARATION OF A MAP, PLAN AND REPORT REGARDING THE INCREASE IN FACILITIES OF THE NORTH TOWN WATER DISTRICT-Bliss Rd East**

**WHEREAS** the Town of Westfield, New York (the "Town") has established the North Town Water District to assist in the funding, construction, and oversight of water distribution systems in the northern part of the Town, which district includes Bliss Road and its surrounds east of the boundary line of the Village of Westfield, and

**WHEREAS** there is a need to provide reliable potable water to residences along Bliss Road east of the Village of Westfield, many of which rely on an aging private line distributing water supplied by the Village and others of which have no municipal supply, and

**WHEREAS** grant funding may be available to facilitate a project to replace and extend water lines in the Bliss Road area, and

**WHEREAS** the Town desires to study the feasibility of such a project,

**NOW, THEREFORE, BE IT**

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**RESOLVED** that, pursuant to Town Law §202-b, the sum not to exceed \$1,500.00 is appropriated to pay the cost of preparing a general map, plan, and report and preliminary environmental review for the construction of a water main and appurtenant facilities in the North Town Water District running along and near Bliss Road east of the village boundary.

*This was seconded by Councilman David Brown. Voting was as follows: Supervisor Martha Bills, aye; Councilman David Brown, aye; Councilman David Spann, aye; Councilman Will Northrop, aye; Councilman James Herbert, aye.*

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*Councilman David Spann offered the following resolution and moved for its adoption*

**Resolution No. 17 of 2019**

**TOWN OF WESTFIELD**

**RESOLUTION CALLING PUBLIC HEARING FOR NYS ROUTE 20 WATER BENEFIT DISTRICT #1**

At a regular meeting of the Town Board of the Town of Westfield, Chautauqua County, New York, held at Eason Hall, in Westfield, New York, in said Town, on the 6th day of February, 2019, at 7:30 o'clock P.M., Prevailing Time.

The meeting was called to order by Supervisor Martha Bills, and upon roll being called, there were

PRESENT: Supervisor Martha Bills  
Councilman David Brown  
Councilman David Spann  
Councilman James Herbert  
Councilman Will Northrop

ABSENT: NONE

The following resolution was offered by Councilman Will Northrop, who moved its adoption, seconded by Councilman David Spann, to-wit:

**RESOLUTION DATED FEBRUARY 6, 2019.**

**A RESOLUTION CALLING A PUBLIC HEARING OF THE TOWN BOARD OF**

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**Town of Westfield**

**February 6<sup>th</sup>, 2019**

**THE TOWN OF WESTFIELD, CHAUTAUQUA COUNTY, NEW YORK, PURSUANT TO SECTION 202-b OF THE TOWN LAW, TO CONSIDER AN INCREASE AND IMPROVEMENT OF THE FACILITIES OF THE NORTH TOWN WATER DISTRICT IN AND FOR SAID TOWN AT A MAXIMUM ESTIMATED COST OF \$188,200.**

**WHEREAS**, the Town Board of the Town of Westfield, Chautauqua County, New York, has had under consideration a map and plan as well as an estimate of cost for a proposed increase and improvement of the facilities of the North Town Water District, consisting of the installation of new water main along NYS Route 20, including approximatey 2,000 feet of 12-inch main, land or rights-in-land, original furnishings, equipment, machinery, apparatus and other costs incidental thereto; and

**WHEREAS**, the boundaries of the proposed benefited area are as follows:

*All that tract or parcel of land situate in the Town of Westfield, Chautauqua County, State of New York, being described as follows:*

*Beginning at a point, being the intersection of the Town of Westfield and Village of Westfield Municipal Boundary Line and the center line of NYS Route 20 (W. Main St.) (66 feet wide right-of-way); thence,*

- 1. Southerly, along the easterly line of tax account number 209.00-2-18.1, a distance of 1,109 feet, more or less, to the southeasterly corner of tax account number 209.00-2-18.1; thence,*
- 2. Westerly, along the southerly line of tax account number 209.00-2-18.1, and the westerly extension of the southerly line of tax account number 209.00-2-18.1, a distance of 314 feet, more or less, to the center line of Munson Road (49.5 feet wide right-of-way); thence,*
- 3. Southerly, along the center line of Munson Road, a distance of 1,800 feet, more or less, to the easterly extension of the southerly line of tax account number 209.00-2-16.1; thence,*
- 4. Westerly, along the southerly lines of tax account numbers 209.00-2-16.1 and 209.00-2-15, a distance of 1,529 feet, more or less, to the southwesterly corner of tax account number 209.00-2-15; thence,*
- 5. Northerly, along a westerly line of tax account number 209.00-2-15, a distance of 1,636 feet, more or less, to the southeasterly corner of tax account number 209.00-2-13; thence,*
- 6. Westerly, along the southerly line of tax account number 209.00-2-13, a distance of 173 feet, more or less, to the southwesterly corner of said tax account number; thence,*

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7. Northerly, along the westerly line of tax account number 209.00-2-13, and the northerly extension

of the westerly line of tax account number 209.00-2-13, a distance of 331 feet, more or less, to the center line of NYS Route 20; thence,

8. Southwesterly, along the center line of NYS Route 20, a distance of 23 feet, more or less, to the southerly extension of the westerly line of tax account number 209.00-1-25; thence,

9. Northerly, along the southerly extension of the westerly line of tax account number 209.00-1-25, and the westerly line of tax account number 209.00-1-25, a distance of 355 feet, more or less, to the southerly line of tax account number 209.00-1-23.2; thence,

10. Westerly, along the southerly line of tax account number 209.00-1-23.2, a distance of 104 feet, more or less, to the southwesterly corner of said tax account number; thence,

11. Northerly, along the westerly line of tax account number 209.00-1-23.2, a distance of 250 feet, more or less, to the northwesterly corner of said tax account number; thence,

12. Northeasterly, along the northerly line of tax account number 209.00-1-23.2, a distance of 27 feet, more or less, to the southwesterly corner of tax account number 209.00-1-22; thence,

13. Northeasterly, along the westerly line of tax account number 209.00-1-22, a distance of 545 feet, more or less, to an angle point; thence,

14. Northwesterly, along the southwesterly lines of tax account numbers 209.00-1-22 and 209.00-1-16, a distance of 1,126 feet, more or less, to the westerly line of tax account number 209.00-1-16; thence,

15. Northerly, along the westerly line of tax account number 209.00-1-16, a distance of 810 feet, more or less, to a northerly line of said tax account number; thence,

16. Northeasterly, along a northerly line of tax account number 209.00-1-16, a distance of 430 feet, more or less, to the Town of Westfield and Village of Westfield Municipal Boundary Line; thence,

17. Southeasterly, along the Town of Westfield and Village of Westfield Municipal Boundary Line, a distance of 3,688 feet, more or less, to the center line of NYS Route 20 and the point of beginning.

Town of Westfield NYS Route 20 Water District, as described above contains approximately 163 acres of land.

All as shown on a map prepared by Clark Patterson Lee, "Town of Westfield NYS Route 20 Water Benefit District No. 1", Drawing Number WD-01, dated January 08, 2019.

**WHEREAS**, the proposed benefited area would be known as the NYS ROUTE 20 WATER

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BENEFIT DISTRICT NO. 1; and

**WHEREAS**, the improvements are as follows: approximately 2,000 linear feet of 12-inch diameter water main; water services and meters, and fire hydrants; and

**WHEREAS**, the maximum estimated cost of such increase and improvement of facilities is \$188,200; and

**WHEREAS**, the proposed method to be employed to pay for such improvements is a \$100,000 SAM grant from the Dormitory Authority of the State of New York, with installation and the remaining balance to be paid by in-kind contributions from the Town of Westfield and Village of Westfield, and

**WHEREAS**, the cost of the improvements to the typical one- or two- family, full-time resident home in the benefited area will be \$0.00 for debt service, an estimated \$651.00 per year for water costs for those who connect, and \$20.00 per year for everyone in the benefit district for operation and maintenance costs, which is a common charge paid by everyone with access to water in the North Town Water District; and

**WHEREAS**, the proposed method of apportioning the costs of such improvement is on a benefit basis to the benefited properties within the newly-defined NYS Route 20 Water Benefit District No. 1, and

**WHEREAS**, said map, plan and estimate of cost are on file in the office of the Town Clerk for public inspection; and

**WHEREAS**, it is now desired to call a public hearing on said proposed increase and improvement pursuant to Section 202-b of the Town Law;

**NOW, THEREFORE, BE IT**

**RESOLVED**, by the Town Board of the Town of Westfield, Chautauqua County, New York, as follows:



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**Section 1.** A meeting of the Town Board of the Town of Westfield, Chautauqua County, New York, shall be held at Eason Hall, 23 Elm Street, Westfield, New York, in said Town, on the 6th day of March, 2019 at 7:15 o'clock P.M., prevailing time, for the purpose of conducting a public hearing on the proposed increase and improvement of the facilities of the North Town Water District in said Town, referred to in the preambles hereof, at which time and place said Town Board will hear all persons interested in the subject thereof concerning the same.

**Section 2.** SEQRA DETERMINATION: It has been determined that the aforesaid purpose constitutes an Unlisted Action under the SEQRA regulations of the State of New York which will not have a significant impact upon the environment.

**Section 3.** The Town Clerk is hereby authorized and directed to cause a notice of said public hearing to be published in the *Dunkirk Observer* and *Westfield Republican*, the official newspapers of said Town, and posted in the manner prescribed by law, which notice shall be in substantially the following form, to-wit:

**NOTICE OF PUBLIC HEARING**

PLEASE TAKE NOTICE that the Town Board of the Town of Westfield, Chautauqua County, New York, will meet at Eason Hall, 23 Elm Street, Westfield, New York, in said Town, on the 6th day of March, 2019, at 7:15 o'clock P.M., prevailing time, for the purpose of conducting a public hearing relating to the increase and improvement of the North Town Water District in said Town, consisting of the installation of approximately 2,000 linear feet of water main along NYS Route 20 in an area to be designated as the NYS Route 20 Water Benefit District No. 1, including land or rights-in-land, original furnishings, equipment, machinery, apparatus and other costs incidental thereto, at a maximum estimated cost of \$188,200, all of which will be paid for by a grant and in-kind contributions from the Town and Village of Westfield, at which time and place said Town

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Board will hear all persons interested in the subject thereof concerning the same.

SEQRA DETERMINATION: The aforesaid purpose constitutes an Unlisted Action under the SEQRA regulations of the State of New York which will not have a significant impact upon the environment.

Section 4. This resolution shall take effect immediately.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call, which resulted as follows:

Supervisor Martha Bills	VOTING	aye
Councilman David Brown	VOTING	aye
Councilman David Spann	VOTING	aye
Councilman James Herbert	VOTING	aye
Councilman Will Northrop	VOTING	aye

The resolution was thereupon declared duly adopted.

*This was seconded by Councilman Will Northrop. Voting was as follows: Supervisor Martha Bills, aye; Councilman David Brown, aye; Councilman David Spann, aye; Councilman Will Northrop, aye; Councilman James Herbert, aye.*

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*Councilman Will Northrop offered the following resolution and moved for its adoption*

**Resolution No. 18 of 2019**  
**TOWN OF WESTFIELD**  
**SHOREHAVEN WATER DISTRICT**  
**PROJECT BUDGET MODIFICATIONS**

**WHEREAS**, the Town of Westfield has received funding from Rural Development for their Shorehaven Water District Project (“Project”); and

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**WHEREAS**, the Town Board wishes to adjust project budget items to more accurately reflect final costs and;

**WHEREAS**, Rural Development requires the Town Board to authorize all changes to the Administrative Budget as shown on the Form E; **NOW**, therefore be it

**RESOLVED**, that the Town Board of Trustees of the Town of Westfield authorizes the following Budget modifications for the project:

Miscellaneous:	Increase of	\$402.00
Legal (Michael J. Bolender)	Increase of	\$4,500.00

I, Andrea Babcock, Town Clerk of the Town of Westfield, do hereby certify that the aforementioned resolution was adopted by the Town Board of the Town of Westfield on February 6, 2019 by the following vote:

	AYE	NAY
Martha Bills, Supervisor	x	—
Dr. David S. Brown, Deputy Supervisor	x	—
David Spann, Councilman	x	—
James Herbert, Councilman	x	—
Will Northrup, Councilman	x	—

***This was seconded by Councilman David Spann. Voting was as follows: Supervisor Martha Bills, aye; Councilman David Brown, aye; Councilman David Spann, aye; Councilman Will Northrop, aye; Councilman James Herbert, aye.***

There being no further business, at 8:23pm Supervisor Martha Bills moved and Councilman David Spann seconded a motion to move to executive session to discuss proposed litigation. Unanimously carried.

At 8:48pm Supervisor Martha Bills moved and Councilman David Spann seconded a motion to return to regular session. Unanimously carried.

No action was taken.

There being no further business at 8:48pm Councilman James Herbert moved and Councilman Will Northrop seconded a motion to adjourn. Unanimously carried.

Respectfully submitted,  
// original signed //  
Andrea L Babcock, Town Clerk