

**TOWN BOARD MEETING  
Town of Westfield  
March 4, 2020**

Supervisor Bills called the public hearing to order at 7:35pm in Eason Hall auditorium, 23 Elm Street, Westfield, NY, with the following members and guests present. Masks were worn, social distancing practiced.

Supervisor: Martha R. Bills      Guest: William Bauer  
Councilmen: David Brown  
                  David Spann  
                  Will Northrop  
Absent: James Herbert

Town Attorney: Joel Seachrist

Absent: Highway Superintendent: David Babcock  
          Code Officer: Bonnie Rae Strickland

**Pledge of Allegiance**

*Councilman Will Northrop made the motion to waive the reading of the February 3<sup>rd</sup> minutes inasmuch as all members received a copy thereof and the minutes be accepted. Councilman David Brown seconded the motion. The motion was carried unanimously.*

**Reports:**

Supervisor's February monthly report was distributed and accepted as submitted including up to date spending and revenues on all accounts. All board members have received a copy and the monthly report is always available in the Supervisor's office for anyone to view.

The Town Clerk's report for January and February were received and accepted and placed on file. January's report and check in the amount of \$3558.47 was given to the Supervisor on February 10, 2021. A check in the amount of \$2,920.50 representing fees for the month of February 2021 was turned over to the Town Supervisor. A check for \$22.50 representing fees for the month of February to NYS Department of Health, Marriage Licenses and a check in the amount of \$49.00(January) & \$17.00(February) was turned over to NYS Department of Agriculture and Markets and NYS Decals in the amount of \$552.73 will be withdrawn on the 15<sup>th</sup> (January) and \$0.00(February).

- Discussed setting up spring clean-up, e-waste collection and rabies clinic for the month of May. More information will be available at the April meeting.

The Dog Warden's report for February 2021 was not received.  
The Fire Department Report for February 2021 has not been received.  
The Town Court report for February 2021 was received and placed on file.  
The WPD report for February 2021 was received and placed on file.

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**Highway:**

The Highway Superintendent's February 2021 report has been received and placed on file.

- Discussed GPS on plow equipment with a monthly fee of \$20.00 per truck, the Town has 5 trucks, insurance companies like to see this, however it is not mandatory. No action was taken.
- Discussed removal of gravel at the harbor, Highway Superintendent is getting pricing. The Town Highway Dept. will remove the gravel with the help of County trucks, not sure of where to dispose of the gravel at this time, getting pricing.
- Councilman Will Northrop made the motion to go out to bid for products that are used for our roads and to accept the State D.O.T and Chautauqua County annual contract bids for the 2021 year. Seconded by Councilman David Spann. The motion was carried unanimously.
- Councilman David Spann made the motion to post the roads. Seconded by David Brown. The motion carried unanimously.

**Code Enforcement:**

The Code Enforcement Officer submitted a written report for February 2021. The report has been accepted and placed on file.

- Councilman David Spann made a motion to refer a Special Use Permit modification from American Tower Company on Persons Rd for a generator placement for emergency backup within existing fenced telecommunication site to the Town Planning Board and set a public hearing for April 7<sup>th</sup> at 7:20.
- Refer a Special Use Permit for a storage shed at 8267 Sixth St and set a public hearing for 7:25pm. Seconded by Councilman David Brown.

**Barcelona Harbor:**

Closed for the Season.

Discussed the removal of the gravel and debris from the harbor, DEC permits and funding. The area that needs to be addressed is the entrance to the harbor, it is difficult for emergency boats, charter boats, fishing boats etc. to enter and leave. Funding is not available this year for dredging. The Town is applying for permits to do the work. The Highway Department will do the work stock piling the gravel near Monroe Marina. The Highway Superintendent is getting pricing for someone to take the gravel. The gravel cannot be used it has to be screened including the Town Highway department does not have the storage space for it, it would not be feasible to keep it. The Town Supervisor spoke with congressional leaders along with working with DEC for permits and the Army Corp of Engineers. At this time funding is not available until next year. The Town Clerk will post an ad in the newspaper and post on the Town website for Harbor Master position and attendant for the 2021 season. Responses must be in by April 7, 2021.

**Public Comment:** NONE

**Announcements:**

- Village Election March 16, 2021 (12:00pm-9:00pm) at Eason Hall



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- A. Fiber optic cable has been interpreted and taxed as real property for more than thirty years, and should continue to be taxed as real property;
- B. The New York Court of Appeals has ruled that the fiber optic cables meet the definition of real property and constitute lines and wires pursuant to Real Property Tax Law Section 102(12)(i) and are taxable under that section. *T-Mobile v. DeBellis and City of Mount Vernon*, 32 N.Y.3d 594 (2018);
- C. The fiber optic cables constitute fixtures and are taxable real property pursuant to Section 102 (12)(b) of the Real Property Tax Law;
- D. The Appellate Division, Fourth Department has specifically upheld the taxability of Level 3’s fiber optic installations located in Chautauqua County. *Level 3 Communications v. Chautauqua County*, 174 A.D.3d 1502 (4th Dep’t 2019); see also *Level 3 Communications v. Erie County*, 174 A.D.3d 1497 (4th Dep’t 2019).

2. The applications are procedurally improper, because the applications fail to establish a clerical error, unlawful entry, or an error in essential fact as those terms are defined by Section 550 of the Real Property Tax Law. Numerous City and Town tax assessors have also analyzed Level 3’s claims and concluded that its allegations do not constitute an “unlawful entry” as that term is defined in Real Property Tax Law Section 550(7);

3. The applicant’s proper remedy is to bring a tax certiorari proceeding under Article 7 of the Real Property Tax Law challenging the assessments prospectively. No tax grievances or Article 7 proceedings have been filed by Level 3. The applications improperly seek retroactive tax refunds under inapplicable sections of the Real Property Tax Law.

**WHEREAS**, the City/Town of WESTFIELD has carefully considered and fully agrees with the investigation and recommendations of the Chautauqua County Real Property Tax Director, it is hereby

**RESOLVED**, that all of the Applications For Refunds/Credits of Real Property Taxes Form 556 for the 2018 tax year are hereby rejected and denied in their entirety for the reasons set forth above.

***Councilman Will Northrop seconded the motion: Voting was as follows: Supervisor Martha Bills, aye; Councilman David Brown, aye; Councilman David Spann, aye; Councilman Will Northrop, aye;***

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

Subject:	Budget Revision #1 for Budget Year 2021		
<b>Revision Description</b>		Decrease	Increase
To move \$199.00 from A funds contingent account to cover the cost of the increase in Municipal Association Dues For 2021		Expenditures	Expenditures
<b>Budget Journal</b>			
A Funds (General Fund - Townwide)			
A 1990.400	Contingent Account DR	199.00	
A 1920.400	Municipal Assc Dues CR		199.00
<b>Total A Fund</b>		199.00	199.00

***Councilman David Brown seconded the motion: Voting was as follows: Supervisor Martha Bills, aye; Councilman David Brown, aye; Councilman David Spann, aye; Councilman Will Northrop, aye***

***Supervisor Bills moved and Councilman David Brown seconded a motion to audit the bills Warrants dated March 3, 2021 (voucher #'s 739-741) in the amount of \$1,336.85 were drawn on the following funds:***

General \$1,336.85

Warrants dated March 3, 2021 (voucher #'s 63-114) in the amount of \$60,506.73 were drawn on the following funds:

General \$37,505.16  
Highway-Town \$1,601.09  
Highway Part Town \$21,367.23  
Forest Park Sewer \$30.55  
North Town Water -Shorehaven \$2.70

Warrants dated March 3, 2021 (voucher #'s 6-12) in the amount of \$46,714.43 were drawn on the following funds:

Welch Bldg. \$46,714.43

There being no further business, at 9:25pm Supervisor Martha Bills moved and Councilman David Brown seconded a motion to move to executive session to discuss a particular personal history. Unanimously carried.

At 9:40pm 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 9:40pm Supervisor Martha Bills moved and Councilman David Spann seconded a motion to adjourn. Unanimously carried.

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