

**Special Village Board Meeting  
Monday, March 28, 2016 - 7:00 P.M.**

A special Village Board meeting was held on the above date at 7:00 p.m. with the following members present:

PRESENT: Mayor Edward Markunas  
Trustee Frank Hagen, Trustee Moira Hertzman  
Trustee Joseph Russo

ALSO PRESENT: Virginia Menschner, Village Clerk  
Daniel Kraushaar, Village Attorney

ABSENT: Trustee Robert Morris

**A) SET DATE FOR PUBLIC HEARING FOR THE 2016-2017 GENERAL, WATER AND SEWER BUDGETS:**

The Mayor said it is now 7 o'clock March 28, 2016 and this is a special Village Board meeting. He said we are here tonight to set the date for a public hearing for the 2016-2017 General, Water and Sewer Budgets. He said at this time he would like to set a date for the 2016-2017 public hearing for the General budget on April 11, 2016 at 7:30 p.m. The motion was made by Trustee Hagen, seconded by Trustee Russo. Upon vote, the motion was carried.

**B) SET DATE FOR PUBLIC HEARING FOR WATER RATES:**

The Mayor said this is to set a public hearing for April 11 for the Water budget. The Mayor asked for a motion to set the public hearing for April 11, 2016 at 7:35 p.m. Attorney Kraushaar said just to be clear this would be to adopt an amendment to the local law with regard to water rates in the Village of Suffern pursuant to Chapter 261. So the change - and in the future we won't have to do it this way based on a provision in that proposed local law because section 2 of both of these local laws say "the Village Board may in the future amend the water rate" and the other one says "may amend the sewer rate" provided herein by Resolution. But the way that the local laws read right now they provide old water and sewer rates. So for this year we would be amending the water and sewer rates through this local law but thereafter if we were to adopt these local laws we would not have to go through this exercise every year and you could make it part of the budget process or if you follow the fee schedule to amend it. Attorney Kraushaar said the first one

would be to set a date for a public hearing amending the local law of Chapter 261 of the Code of the Village of Suffern regarding water rates. The Mayor said that would be for the water rates. A motion to set a public hearing for April 11, 2016 at 7:35 p.m. was made by Trustee Hertzman, seconded by Trustee Russo. Upon vote, the motion was carried.

**3) SET DATE FOR PUBLIC HEARING FOR SEWER RATES:**

Attorney Kraushaar said there may be further changes to the next proposed local law but at the very least this relates to Chapter 220 of the Code of the Village of Suffern with regard to, right now, what is called sewer rents and through this local law you would be changing those rates for sewer rents for both inside and outside the Village and once again this one also contains the provision that in the future it may amend the rents provided herein by Resolution. So we need a motion to amend Chapter 220 of the Code of the Village of Suffern regarding sewer rent and on this one if we can just put a time of 7:40 p.m. on April 11 at Suffern Village Hall at 7:40 p.m. in consideration of the adoption of that local law. The motion was made by Trustee Hagen, seconded by Trustee Russo. Upon vote, the motion was carried.

**4) SET DATE FOR PUBLIC HEARING AUTHORIZING A PROPERTY TAX LEVY IN EXCESS OF THE LIMIT ESTABLISHED IN GENERAL MUNICIPAL LAW SECTION 3-c:**

Attorney Kraushaar said just to be clear on this one as well this would have to be done by local law and the local law would be to authorize the Village to exceed the tax levy limit established under General Municipal Law section 3-c. So the motion would be to set a public hearing to adopt a local law authorizing a property tax levy in excess of the limit established in General Municipal Law section 3-c. And it would also be for April 11 at 7:45 p.m. The motion was made by Trustee Russo, seconded by Trustee Hertzman. Upon vote, the motion was carried.

Attorney Kraushaar said that by adopting this local law it gives you flexibility in the budgeting process. It doesn't mean that you have to exceed the tax cap and Mr. Genito will, he is sure, explain at the appropriate time - there is a legal fiction that the tax cap is 2%. It doesn't work that way and how you calculate it is different and once again he is going to defer to a much more expert in the financial aspect than he is and we don't have to get into it now. All he is pointing out to them is

that most municipalities adopt this local law just in case. For unforeseen circumstances and to have flexibility. The Mayor asked if anybody had any questions and then asked Mr. Genito to give a quick overview.

Treasurer Michael Genito said basically as our Attorney has said it is 2% or the increase in the rate of inflation and that goes by a formula that the State Comptroller has worked out. It is an average for the year - the rate of inflation and the tax cap for us this year is 0.12%. That is 1/8 of 1%. So it is highly unlikely that too many people can actually stay within that tax cap but also as he said should we stay within that tax cap that is fine. If we could possibly do that and again he has his doubts but the fact of the matter is that without this local law in place if you did exceed the tax cap in adopting the budget and you thought you were within the tax cap you would then have to - once you adopted the budget - reserve funds and set them aside and not be able to use them because you exceeded the tax cap. So this is a way of assuring that if you actually had all the intentions of staying within the tax cap but for some reason you miscalculated in what you did in terms of budgeting that you wouldn't get hurt by adopting this local law. As he said it would be extremely difficult considering that the standard increases in pricing, and although it is the rate of inflation that is used, the typical CPI which is a preferred basket of goods and that the average family lives on - for rent, food, clothing, etc. - most of those necessities don't apply to municipalities. Most of ours are wrapped up in infrastructure repairs and operations - we are not buying food and putting up shelter for our employees. So that is why the CPI ranking is very low but our costs isn't necessarily reflected in that.

The Mayor said so if the Board chose not to vote to increase this tax cap and go above the tax cap - what happens? Mr. Genito said then you would have to stay within the tax cap. Your tax levy could be no more than 1/8 of 1% of the increase and if you did adopt the budget - you couldn't or you shouldn't be adopting a budget more than that. But if you were to adopt the budget even by accident and you thought you were in the tax cap and you miscalculated something and then you found out that you exceeded it any money over that tax cap would have to be set aside in an account that you can't touch for the year and next year be used to lower the taxes. So that is why it is recommended and NY Conference of Mayors is one that recommends that you adopt a local law but you could have the best intentions. He said he knows that a few years ago the Village of Suffern believed it

was within the tax cap but after doing the tax cap we were \$77,000 over the tax cap.

The Mayor said at this time he would like to go into an executive session regarding personnel and we will come back afterwards. A motion to go into executive session was made by Trustee Hagen, seconded by Trustee Russo at 7:15 p.m. Upon vote, the motion was carried.

Attorney Kraushaar said his normal spiel - we will not be voting in executive session. If we are going to vote on anything we would come back into the regular meeting to vote.

A motion to come out of executive session at 7:30 p.m. was made by Trustee Hagen, seconded by Trustee Hertzman. Upon vote, the motion was carried.

A motion to continue with the special meeting at 7:32 p.m. was made by Trustee Hagen, seconded by Trustee Russo. Upon vote, the motion was carried.

#### **5) PERSONNEL:**

The Mayor said he is here to offer a Resolution:

#### RESOLUTION NO. 21A of 2016

WHEREAS, an employee, known as Employee Number SYS022186 has been continuously absent from and unable to perform the duties of his or her position for more than one year by reason of disability other than a disability resulting from occupational injury as defined in the Worker's Compensation law; and

WHEREAS, SYS022186 has been provided a pre-termination opportunity to be heard on January 21, 2016; and

WHEREAS, SYS022186 attended the meeting scheduled for him or her to provide information as allowed for under Civil Service law and provided information, a record of which was provided to the Village Board along with the report of Ed Markunas, Mayor; and

WHEREAS, SYS022186 was provided a second pre-termination opportunity to be heard on February 5, 2016; and

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WHEREAS, SYS022186 did not attend the meeting scheduled for him or her to provide additional information as allowed for under Article 73 of the Civil Service law; and

WHEREAS, the Village Board of the Village of Suffern has reviewed the report of Edward Markunas, Mayor and the information provided by SYS022186.

NOW, THEREFORE, BE IT RESOLVED that SYS022186's employment as Parking Enforcement Aide in the Village of Suffern is hereby terminated pursuant to Article 73 of the Civil Service law and is subject to reinstatement rights provided for therein effective March 28, 2016.

A motion to approve the foregoing Resolution was made by Trustee Hertzman, seconded by Trustee Hagen.

AYES: Mayor Edward Markunas  
Trustee Frank Hagen, Trustee Joseph Russo  
Trustee Moira Hertzman

NOES: None

ABSENT: Trustee Robert Morris

The Mayor said next upon review in our personnel section, he is here to offer the following Resolution:

RESOLUTION NO. 21B of 2016

RESOLVED, that the Village Board of Trustees of the Village of Suffern hereby adopts charges and specifications against Employee Number 10606, dated March 3, 2016, as issued by Chief of Police. Without making any determinations or findings do further appoint Kenneth Bernstein of Hyde Park, New York as a Hearing Officer pursuant to Section 8, Chapter 524 of the Laws of 1936 as amended, also known as Rockland County Police Act, with respect to such charges and specifications and any amendments made thereto and hereby directs said Hearing Officer to conduct a hearing, make Findings of Fact, and issue recommendations to the Village Board.

A motion approving the foregoing Resolution was made by Trustee Frank Hagen, seconded by Trustee Russo. The Mayor said what we are doing here is that we adopted charges and specifications against Employee Number 10606 and we will be hiring a Hearing

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Officer, currently we are adopting the charges and specifications. Upon vote, the motion was carried.

The Mayor said he has another Resolution:

RESOLUTION NO. 21C of 2016

WHEREAS, the Village Board of Trustees has appointed Kenneth Bernstein as a Hearing Officer pursuant to Section 8 of Chapter 524 of the laws of 1936 as amended also known as the Rockland County Police Act to hold a hearing and make recommendations; and

WHEREAS, said Hearing Officer will carry out functions to the Village that are required by law.

NOW, THEREFORE, BE IT RESOLVED that Kenneth Bernstein shall be compensated at a rate not to exceed \$210 an hour for services rendered; and

BE IT FURTHER RESOLVED that the Village Board of the Village of Suffern shall indemnify and hold Kenneth Bernstein harmless from any claims arising out of his appointment and service as Hearing Officer and shall provide Kenneth Bernstein legal representation to assume all costs with respect to any such claim provided that Kenneth Bernstein provides notice of any such claim in writing to the Village Clerk within ten days of receipt of said copy, receipt of same and cooperates fully with the Village in its defense thereof.

The Mayor said so this Resolution is actually hiring and appointing Kenneth Bernstein as the Hearing Officer for this case.

A motion approving the foregoing Resolution to hire the Hearing Officer was made by Trustee Hagen, seconded by Trustee Russo.

AYES: Mayor Edward Markunas  
Trustee Frank Hagen, Trustee Joseph Russo  
Trustee Moira Hertzman

NOES: None

ABSENT: Trustee Robert Morris

Cathy Mills said she had something. She said this is about ASCAP, which is a group that we pay for the rights. Attorney

Kraushaar said we spoke about this. Mrs. Mills said the agreement has to be signed and approved by tonight because it has to be there before March 30. Attorney Kraushaar said we need a motion to authorize the Mayor to sign the agreement with ASCAP for the year 2016. The motion was made by Trustee Russo, seconded by Trustee Hagen. Upon vote, the motion was carried.

A motion to adjourn the special Village Board meeting at 7:40 p.m. was made by Trustee Hagen, seconded by Trustee Russo. Upon vote, the motion was carried.

A motion to enter the workshop meeting for Monday, March 28, 2016 at 7:40 p.m. was made by Trustee Russo, seconded by Trustee Hagen. Upon vote, the motion was carried.