

**TOWN OF WILTON
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Susan Baldwin, Town Clerk
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Supervisor Johnson noted there was a public hearing scheduled for 7:00 p.m. At 4:30 p.m. the applicant advised the clerk he wanted to withdraw the application. There will not be a public hearing on the PUDD amendment. It has also been removed from the agenda since there will be no action taken.

REGULAR TOWN BOARD MEETING-December 5, 2013

Supervisor Johnson called the Regular Town Board meeting to order at 7:00 p.m.

Pledge of Allegiance

Supervisor Johnson led the board and the audience in reciting the Pledge of Allegiance to the Flag.

Roll Call

Roll Call by the Town Clerk showed all board members were present.

Arthur Johnson-Supervisor
John Lant-Councilman
Robert Rice-Deputy Supervisor
Robert Pulsifer-Councilman
Steve Streicher-Councilman

Also present were: Town Comptroller Jeffrey Reale, Town Attorney Richard DeVall and Director of Planning and Engineering, Ryan Riper.

Supervisor Johnson said there are two board members attending their last meeting and he would like to recognize and thank Deputy Supervisor Robert Rice and Councilman Robert Pulsifer for their service.

Public Comment Session

Supervisor Johnson asked if anyone had signed up for the public comment session.

Dan Vincelette said he is the attorney representing the Town of Wilton for assessment and tax matters. He said Attorney DeVall contacted him after last month's board meeting over concerns that were raised over the town's assessment practices and the annual revaluation, specifically, a resident, Nancy Dwyer has made a number of presentations to the town board that are part of the minutes regarding allegations or issues she has raised regarding the revaluations. He said Ms. Dwyer contacted him by

email and submitted a two page letter outlining issues. She did this at the behest and agreement of Attorney DeVall. Ms. Dwyer had contacted Attorney DeVall and Supervisor Johnson. The town takes the issues raised very seriously. Attorney DeVall and Supervisor Johnson asked him to look into them and review the issues raised by Ms. Dwyer. He said he performed an investigation and an analysis of the data. He said he reviewed documents, sales data and certifications from the State of New York and would like to present an opinion letter to the board with attached documents and respectfully ask it be part of the minutes. The letter, in summary, is a five page letter with attachments. Attachment A consists of the annual reassessment guidelines set by the State of New York, the legal ramifications of how an assessment is supposed to be performed when it is part of the annual reassessment cycle. The town takes part in that. Attachment B is the application the town submitted to the State of New York. Supervisor Johnson and the Assessor reviewed it and provided a specific plan for the State of New York. It is a six year plan. It is submitted to the State of New York and it is reviewed each year. If the state finds the assessment was properly conducted, the state approves it, certifies the roll and then the town receives aid in the amount of somewhere between \$2.00 and \$5.00 per parcel. Attachment C is the State of New York Certification as of the 2012 roll. That certification was received in April of 2013. There is a lag between the assessment roll being finalized, filed with the state, analyzed and certified as correct and proper and aid being awarded to the town. Attachment D is the further valuation guidelines by the State of New York. Those are the valuation guidelines the assessor must follow when valuing real property. Attachment E of the opinion letter is the letter transmitted by Ms. Dwyer with the specific issues she raises. That includes a two page letter from her along with a sixteen page summary of data that she has in which she raised purported issues related to various assessments to various discreet properties within the Town of Wilton. To summarize, we reviewed Ms. Dwyer's issues that she has raised and went specifically through them. We did not find any impropriety on behalf of the town or the assessor's office. We found that the assessment was properly performed. The State of New York certified the first year as being correct. In doing the assessment, the assessor has to look at all of the parcels in the town. There are approximately 4,700 parcels in the Town of Wilton. When the assessor does this she has to engage in certain techniques and methodologies. Some of them involve statistical analysis of sales prices and assessments. There is something called the coefficient of dispersion that has to be looked at. It looks at sales of properties versus their assessments and looks at the median values within the town. If the coefficient of dispersion, the statistical test goes over or under a certain number, the assessor has to look at the properties and can make adjustments. This was all provided for in the Town's plan that was submitted to the State of New York. In conducting the investigation or analysis, Ms. Austin was interviewed as far as what she did. Her work was reviewed as well as the documents that were submitted by the State of New York authorizing or certifying that the roll was correct. Again, no improprieties were found. The specific issues raised by Ms. Dwyer are as follows:

- **Issue:** The assessments of properties have been change to their sale price for the sole reason of being at or around a 10% difference between the sale price and the assessment of that property at the time of sale.
Response: This is not true. If the sale price was above or below the 10 percent threshold, and the sale was arm's length, the assessor reviewed the assessment in conjunction with neighborhood data and other market value factors. Not every property with a sale price above or below this threshold was revised to the sale price.
- **Issue:** Assessments that were revised on the 2013 assessment roll that has recent sales (within the past two years) were not compared to their 2012 assessed value.
Response: This is not true. Under the state guidelines and valuation standards, the 2013 assessments that were reviewed and revised were compared.
- **Issue:** The assessed value of "many properties" were changed to their sale prices.

Response: Ms. Dwyer does not supply the number of assessments that she claims were changed based upon sale price, so it is difficult to quantify “many”. As is set forth previously, not every arm’s length sale property had its 2013 assessment revised to its sale price.

- **Issue:** All properties in Wilton that sold in 2010, 2011 and 2012 and were around 10% different than their assessed value at the time of sale were revised.

Response: This general statement is not true. Properties that had sale prices beyond the 10 percent threshold were analyzed. Not every sale property had its assessment revised.

- **Issue:** People in 2012 and 2013 requested that their assessments be changed to the recent sale price of the property and were denied. According to Ms. Dwyer, “no consideration was given to whether the price paid was a certain percentage point different than their assessed value and they were told that the sale price of their property alone was not enough to determine its assessed value”.

Response: This general statement is incorrect. Not every property owner who reviewed their assessment with the assessor was denied. Those that were dissatisfied with their assessment had the ability to file grievances with the Board of Assessment Review. If they were unhappy with that determination, they could file a Small Claims Assessment Review Proceeding or a tax certiorari proceeding in Saratoga County Supreme Court. As is set forth previously, assessments were revised after the assessor reviewed the sale price of the property in conjunction with neighborhood factors and sales of comparable properties. Under the law and the state guidelines, the sale price of a property must be analyzed in conjunction with market data in order to determine whether the sale price truly represents market value.

- **Issue:** Changes in the 2013 assessed values have created discrepancies and unbalanced assessments among and between like properties within the same subdivisions.

Response: Without quantified specifics or details, it is difficult to test the accuracy of this statement. The valuation of real property is a matter of opinion and judgment. In setting the assessments on the Town roll, the assessor has reviewed market data and statistical studies and made determination that are based on her judgment. The 2012 assessment roll was certified by the State of New York; the 2013 assessment roll will undergo the same review process. From my review of the 2013 assessment data in conjunction with the applicable law and guidelines, I have been unable to identify any area where the assessor abused her discretion or abrogated the law or rules. Again, if a property owner is dissatisfied with their assessment, they can avail themselves of the Small Claims Assessment Review or tax certiorari process. That is precisely what Ms. Dwyer did on behalf of her clients.

- **Issue:** In her representation of the property owners of 39 Apple Tree Lane in 2012 and 2013, a property that Ms. Dwyer deemed comparable, 19 Cherry Tree Lane, had been reduced because its sale price in 2011 was different than its 2011 assessed value by a difference of 10% or more.

Response: Assessments were revised under the reassessment plan according to market data, which includes sale prices of properties. The mere fact that 19 Cherry Tree Lane was reduced based upon the assessor’s analysis is consistent with the reassessment program that was submitted and approved by New York State.

Ms. Dwyer has made allegations that the Assessor’s Office has engaged in a policy of “selective reassessment”, in which the assessed value of real property is changed based solely upon its recent sale price.

Selective reassessment, or what is commonly referred to as a “welcome stranger” assessment, is the revision of an assessment based solely upon its recent sale. As is set forth in 10 ORPS Opinion of Counsel 60, when assessments are revised as part of the State’s Annual Reassessment Program through a comprehensive revaluation that includes a review of sales data of all properties within the Town and

that data is applied to the assessments utilizing statistical analysis, such a Program is not "selective reassessment".

In 2012, the Town of Wilton submitted a proposed six year plan in which the Town would update its assessment roll on an annual basis, reviewing market data and applying it to those properties that warranted revision. That plan was approved by New York State. That is precisely what has been done. There is no evidence, in the documents that I have reviewed, that the Assessor has selective reassessed any property in the Town of Wilton.

The 2012 and 2013 assessment rolls of the Town of Wilton conform with the Real Property Tax Law and the applicable valuation guidelines and the Assessor has followed proper procedures. The State of New York has approved the Town's six-year cyclical reassessment plan, and reviews and certifies each year's assessment roll. There has been no indication in the state's review of any impropriety or incorrect methodology. The opposite is the case: the data and documents I have reviewed indicate that the assessment rolls for 2012 and 2013 were properly prepared.

The issues that Ms. Dwyer has raised in her letter are not evidence of any incorrect or improper actions, but are indications of differences of opinion. Ms. Dwyer may not agree with the assessor's interpretation of market data. This disagreement in opinion is not evidence that the Assessor has abused her discretion. Where property owners disagree with the assessor's determinations, they have been able to seek correction through the small claims and tax certiorari procedures.

The Town's 2012 and 2013 assessment rolls were properly prepared.

Nancy Dwyer said the letter and data to Mr. Vincelette was sent to him in confidence to have a discussion. A discussion was requested with the board, the assessor and any attorneys that wanted to be present. I have not been granted that. I did not want to bring this into the public forum. I do not appreciate being sent a letter addressing something that I sent that was never brought out in public. I have many issues with the submittal from Mr. Vincelette that I will not go "tit for tat" at this meeting. With little time to prepare for the meeting, I was just sent the letter regarding information that was supplied to Mr. Vincelette four weeks ago. I have tried on numerous occasions over the past four months to discuss this in private with the board, assessor and attorneys. I have never been granted that. Why the board continues to address this during the public speaking time at our once a month board meeting is something I cannot comprehend. In August, I submitted a letter to this board where I expressed concern for the assessor's three month premature reappointment. This board found it fitting to read Mr. Vincelette's letter out loud at our November board meeting but did not extend the same courtesy to me at our August meeting when I could not be present. I continue to stand by my allegations, many of which have not been made public and I am still waiting on my FOIL requesting the data that Mr. Vincelette refers to in his letter. I have several issues with the letter and description of what was allegedly done for our 2013 reassessments, the biggest being the statement that I have not provided quantifies, specifics or detail regarding the unequal and unbalanced assessments that now exist within several of our neighborhoods in Wilton. This is due, in great part, to the changes our assessor made to the 2013 roll. I supplied numerous reports from our New York State web program, which she addressed, showing exactly that to be the case. I am not only concerned about the ability of our assessor, I have some serious issue with how this board and our town addresses issues that our public residents, tax paying people, have. I do not appreciate receiving a letter an hour before the meeting. I have been trying to keep this at a personal level within and without public hearing.

Attorney DeVall said he would like to correct the record and state he did meet with Ms. Dwyer, at the request of several town board members, on one occasion. **Ms. Dwyer** said at that meeting she realized that Attorney DeVall was not the attorney that could address the issues that she had. After that she said she requested to have a sit down with the board, the assessor and Attorney Vincelette present and has

not been granted that request. She said she wanted to learn what she was missing. What was not happening? She said she knows a lot about assessments and a lot about what is going on and still has reservations. It seems as though this will have to be taken to a level outside of this town because she said she does not believe our problem is being addressed. **Councilman Lant** stated he asked the Supervisor to sit down with Ms. Dwyer, the attorney and two board members. Ms. Dwyer said she agreed and Councilman Streicher also spoke with her. Ms. Dwyer said there are issues that have been raised and have not gotten past the Supervisor and the town attorney and the other board members need to cognizant about and are not. **Supervisor Johnson** said Ms. Dwyer has been given every opportunity to speak at the public comment sessions and the board has listened to her. We have now used town resources to address every issue she has brought forward. He said he thinks they have been adequately addressed by our attorney that is considered an expert in tax assessment law. The town has spent too much time on someone in the public trying to micromanage our assessor's office.

Nancy Gatland said she would like to address the Town of Wilton website. There is an agenda item for an updated website presentation. The website is extremely difficult to use. She said now that she knows where to find them, it takes little time.

Dennis Towers asked if said there is a digital version of Attorney Vincelette's letter that could be provided to the town to put on the website.

Mr. Towers said the Wilton Food Pantry put together 70 baskets for Thanksgiving. This is the third year and the food pantry started cross checking lists to ensure people aren't trying to get more than one basket and if they are trying, they aren't going to succeed. Now it is common practice in order to help take abuse out of the system so the good people that need help making ends meet will step up and use it. On that Saturday, in a two hour period 70 families came through. At the same time, 21 families went through the pantry for normal pantry service. It went very smoothly and is a testament to the good people we have in this town.

The second item is a grant from Google. It is not a monetary grant, it is a service grant for apps that can be used. The first app is called OneToday. There is a link on the website wiltonfoodpantry.org. There is a link on a Facebook page and a link in the Times Union article from today. It is designed for mobile apps for phones. It is also for the web. You can click on it and donate a buck. One dollar can purchase 6.2 lbs of food. That is about 4 meals. Once you do that you can challenge your friends, coworkers and club members to match your buck. That is what the food pantry is doing and it is a 501C3. Please participate in it.

Approve Pending Minutes

On a motion introduced by Councilman Pulsifer, the board adopted the following resolution:

RESOLUTION #166

NOW, THEREFORE, BE IT RESOLVED, to approve the minutes from the November 6, 2013 meeting as typed without amendment.

The adoption of the resolution was seconded by Deputy Supervisor Rice, duly

put to a vote, all in favor. The motion
carried 5-0

Reappointments

Councilman Lant said there are two new board members coming in and would like to see the appointments tabled until next month. It will give the new members a chance to meet and work with people. **Supervisor Johnson** stated this is a practice that has been done for many years. Typically, board members reappointments are done in the month they come due. The people currently on the board probably know the board members better than the incoming board members. It is certainly appropriate for the board to vote on the reappointments and it is nothing that hasn't been done in the past.

Zoning Board (7 yr. Term) **Joseph O'Brien**

On a motion introduced by Councilman Pulsifer, the board adopted the following resolution:

RESOLUTION # 167

NOW, THEREFORE, BE IT RESOLVED, to
approve the reappointment of Joseph
O'Brien, new term 1/1/14-12/31/2020.

The adoption of the resolution was
seconded by Councilman Streicher, duly put
to a vote, all in favor. The motion passed 5-
0.

Zoning Board (7 yr. Term) **James Deloria**

On a motion introduced by Deputy Supervisor Rice, the board adopted the following resolution:

RESOLUTION # 168

NOW, THEREFORE, BE IT RESOLVED, to
approve the reappointment of James
Deloria, new term 1/1/14-12/31/2020.

The adoption of the resolution was
seconded by Councilman Streicher, duly put
to a vote, all in favor. The motion passed 5-
0.

Zoning Board (1 yr. Term, 1st Alternate) **David Buchyn**

On a motion introduced by Councilman Streicher, the board adopted the following resolution:

RESOLUTION # 169

NOW, THEREFORE, BE IT RESOLVED, to approve the reappointment of David Buchyn, 1st Zoning Board Alternate, new term 1/1/14-12/31/2014.

The adoption of the resolution was seconded by Councilman Pulsifer, duly put to a vote, all in favor except Councilman Lant who was opposed. The motion carried 4-1.

Planning Board (7 yr. Term)
Michael Dobis

On a motion introduced by Councilman Pulsifer, the board adopted the following resolution:

RESOLUTION # 170

NOW, THEREFORE, BE IT RESOLVED, to approve the reappointment of Michael Dobis, new term 1/1/14-12/31/2020.

The adoption of the resolution was seconded by Deputy Supervisor Rice, duly put to a vote, all in favor. The motion passed 5-0.

Planning Board (1 yr. Term, 1st Alternate)
David Gabay

On a motion introduced by Deputy Supervisor Rice, the board adopted the following resolution:

RESOLUTION # 171

NOW, THEREFORE, BE IT RESOLVED, to approve the reappointment of David Gabay, 1st Planning Board Alternate, new term 1/1/14-12/31/2014.

The adoption of the resolution was seconded by Councilman Streicher, duly put to a vote, all in favor. The motion carried 5-0.

Historic Preservation Board (6 year term)
Jeannine Woutersz

On a motion introduced by Deputy Supervisor Rice, the board adopted the following resolution:

RESOLUTION # 172

NOW, THEREFORE, BE IT RESOLVED, to approve the reappointment of Jeannine Woutersz, new term 1/1/14-12/31/2019.

The adoption of the resolution was seconded by Councilman Lant, duly put to a vote, all in favor. The motion passed 5-0.

Historic Preservation Board (6 year term)
Elizabeth Harrington

On a motion introduced by Councilman Lant, the board adopted the following resolution:

RESOLUTION # 173

NOW, THEREFORE, BE IT RESOLVED, to approve the reappointment of Elizabeth Harrington, new term 1/1/14-12/31/2019.

The adoption of the resolution was seconded by Councilman Streicher, duly put to a vote, all in favor. The motion passed 5-0.

Supervisor Johnson noted there was one other reappointment, Anthony Mangini, Planning Board Alternate, and he declined. There is an alternate position now open on the Wilton Planning Board. Dennis Towers asked when the letters have to be in by for the openings. Supervisor Johnson said at any time. Applicants should submit an application so they can be interviewed prior to the next meeting. Discussion was held regarding board terms and vacancies. Deputy Supervisor Rice suggested the inclusion of the Councilman and Councilwoman elect if there are any interviews prior to the new year. Supervisor Johnson said there are also two vacancies on the Ethics Advisory Board. There is also an Ethics Advisory Board meeting on Thursday, December 12, 2013 at 7:00 p.m.

Committee Reports

Councilman Streicher said the tree lighting ceremony will be on Friday, December 6, 2013 at 6:00 p.m. On December 16, there is a tentative opening of the ice skating rink at Gavin Park.

Councilman Lant said Sheriff Bowen served for many years and it would be nice if the town presented him a plaque for his dedicated service. Supervisor Johnson agreed.

Supervisor Johnson said there will be a swearing in ceremony on January 1, 2014 at noon. Scott Kingsley, Republican Committee Chairman started this two years ago for our newly elected officials. The Republican Committee will host a reception after the ceremony. All newly elected officials, families and the public are invited.

Supervisor Johnson noted that most of the recent development has taken place along the Route 9 corridor. He said he used to sit on the Capitol District Planning Commission and through the Saratoga County Planning Department there is an opportunity to fund a traffic study. The request will encompass the corridor from Route 50 to Ballard Road. It will look at existing conditions and proposed projects that may come forward. The case will be presented to them and hopefully there will be funding for it.

Highway Radio Tower

Supervisor Johnson said Highway Superintendent Woodcock submitted a request in his budget for a radio tower for communication purposes. It was a \$60,000 item that didn't make the budget. The highway department is still having problems communication with the crews.

Highway Superintendent Kirklin Woodcock stated that their tower used to be on Corinth Mountain Road. The property was sold and the new owner offered a new rental agreement to the town and it was very expensive. The town chose to bring the repeater and newer equipment into the highway garage. The problem is there is only an antennae on the highway garage and it isn't high enough for communications throughout the town. Most of the communication is now being done through cell phones. We cannot expect employees to use their private phones for work. He said he suggested putting the money back into the budget for the tower and that he was advised that a 60' tower would work.

Supervisor Johnson said he would like to appoint a small committee, to include Councilman Lant due to his knowledge of emergency services and communications, to review the request. Ryan Riper and Kirklin Woodcock would also be on the committee and they could determine if we need the tower or if something else would work at a lesser cost.

Councilman Streicher asked how many people use personal phones for work. Mr. Reale said only the foreman have town issued cell phones. Councilman Lant asked if the New York State Police have some of our phones that they don't use. Highway Superintendent Woodcock said he didn't know. **Supervisor Johnson** said the town used to provide the State Police with Nextel. **Councilman Lant** asked if they still have the phones. Highway Superintendent Woodcock stated he did not give anyone town phones. **Supervisor Johnson** said the town board gave the phones to the State Police.

Nancy Dwyer asked if the communications should be on a radio in order for everyone to hear where phones may not give everyone in the department the ability to hear what it being said at any given time.

Highway Superintendent Woodcock agreed and said he needs to be able to communicate with every vehicle.

Councilman Lant asked if there is a base station in the office. **Highway Superintendent Woodcock** said there is a brand new one. Everything on the mountain was moved to the office except for an incompatible receiver. Every radio except one is compatible and can be programmed for the new band. The problem is the reception.

Website

Jeff Reale said the current website was established in 2003. The new site should be up sometime in December. A presentation was given on the new website.

Comptroller's Report

2. 2013 Budget Transfers

On a motion introduced by Councilman Pulsifer, the board adopted the following resolution:

RESOLUTION #174

NOW, THEREFORE, BE IT RESOLVED, to approve the budget transfers and amendments requested for and listed on the Comptroller's 12/05/2013 report to the Town Board.

The adoption of the resolution was seconded by Deputy Supervisor Rice, duly put to a vote, all in favor. The motion carried 5-0.

3. Personnel

On a motion introduced by Councilman Streicher, the board adopted the following resolution:

RESOLUTION #175

NOW, THEREFORE, BE IT RESOLVED, to approve Arthur Johnson, Ryan Riper, Jeff Reale and Steven Streicher to attend the Association of Towns Conference in New York City held February 16-19,, 2013.

AND FURTHER IT BE RESOLVED, to authorize Arthur Johnson as the "voting delegate" and Jeffrey Reale as the "substitute voting delegate at the Association of Towns Conference.

The adoption of the resolution was seconded by Deputy Supervisor Rice, duly put to a vote, all in favor. The motion carried 5-0.

4. New Fuel System for Garage

On a motion introduced by Deputy Supervisor Rice, the board adopted the following resolution:

RESOLUTION #176

NOW, THEREFORE, BE IT RESOLVED, approve a budget transfer of \$2,000 for the Fuel Master System from A5132.4 to A5132.2.

AND FURTHER IT BE RESOLVED, to approve purchases under the Federal General Services Contract.

The adoption of the resolution was seconded by Councilman Lant, duly put to a vote, all in favor. The motion carried 5-0.

5. Snow Plow Contract

On a motion introduced by Councilman Lant, the board adopted the following resolution:

RESOLUTION #177

NOW, THEREFORE, BE IT RESOLVED, to authorize the Town Supervisor to sign the Snow Plowing Contract for the Wilton Fire District and all related documents.

The adoption of the resolution was seconded by Deputy Supervisor Rice duly put to a vote, all in favor. The motion carried 5-0.

6. Capital Project #443 WFD Photovoltaic System

On a motion introduced by Councilman Pulsifer, the board adopted the following resolution:

RESOLUTION #178

NOW, THEREFORE, BE IT RESOLVED, to close completed Capital Project #443 (Wilton Fire District Solar Panels).

The adoption of the resolution was seconded by Councilman Lant, duly put to a vote, all in favor. The motion carried 5-0.

Executive Session

Supervisor Johnson said there will be an Executive Session for personnel.

Deputy Supervisor Rice made a motion to adjourn at 8:04 for Executive Session. The motion was seconded by Councilman Pulsifer with all board members in favor.

Councilman Pulsifer made a motion to reconvene at 8:35 p.m. The motion was seconded by Deputy Supervisor Rice with all board members in favor.

No action was taken in executive session.

Adjournment

On a motion introduced by Councilman Pulsifer, and seconded by Deputy Supervisor Rice with all board members in favor. The meeting was adjourned at 8:36 p.m.

Respectfully Submitted,

Susan Baldwin, Town Clerk

Supervisor, Arthur Johnson

Councilman, John Lant

Councilman, Robert Pulsifer

Deputy Supervisor Rice

Councilman, Steve Streicher