

TOWN OF NEW BALTIMORE **Draft 10/17/17**
COUNTY OF GREENE **Approved 11/13/17**
PUBLIC HEARING ON LOCAL LAW 2 OF 2017
EXPANDING THE RESIDENCY REQUIREMENTS FOR
CODE ENFORCEMENT AND BUILDING INSPECTOR
TOWN HALL, 3809 COUNTY ROUTE 51, HANNACROIX, NY 12087
October 9, 2017 – Page 1

OPENING OF REGULAR MEETING

Supervisor Dellisanti opened the meeting at 7:00 PM and the Pledge of Allegiance was said. Also attending Deputy Supervisor Ruso, Councilmembers Irving and VanEtten, Tal Rappleyea, Esq., Deputy Town Clerk Jordan, Highway Superintendent Jordan, and 7 members of the public who signed the attendance book.

Absent: Councilmember Briody and Town Clerk Finke

Supervisor Dellisanti: Good evening everyone. This is the Public Hearing at 7:00. ***‘TOWN OF NEW BALTIMORE NOTICE OF PUBLIC HEARING/BUDGET WORKSHOP*** The Town Board of the Town of New Baltimore will hold a Public Hearing on Monday, October 9, 2017 at 7:00 PM at the Town Hall, 3809 County Route 51, Hannacroix, NY 12087 to accept public comment on a proposed local law expanding the residency allowance of the Code Enforcement Officer. The Regular Board Meeting and Budget Workshop will follow. A copy of the proposed budget is available for public inspection in the Town Clerk’s Office, 3809 County Route 51, Hannacroix, NY 12087. By Order of the Town of New Baltimore Town Board, Barbara M. Finke Town Clerk.’

LOCAL LAW #2 OF 2017

**A LOCAL LAW EXPANDING THE RESIDENCY REQUIREMENTS FOR
ENFORCEMENT AND BUILDING INSPECTOR**

Be it enacted by the Town Board of the Town of New Baltimore as follows:

SECTION 1. Pursuant to Section 20 of the State of New York Town Law the position of Code Enforcement Officer/Building Inspector has previously been established. The Town Board acknowledges that in the event such position is established, the appointee must be a resident of the Town unless otherwise changed by local law.

SECTION 2. The Town Board hereby determines and enacts that the Code Enforcement Officer/Building Inspector of the Town of New Baltimore need not be a resident of the Town.

SECTION 3. This local law shall take effect immediately when it is filed in the Office of the New York State Secretary of State in accordance with section 27 of the Municipal Home Rule Law.

Supervisor Dellisanti: That’s the change we’d like to make. Does anyone like to speak on the residency change? Ellie.

Ellie Alfeld: I have requested to speak tonight about the change. It’s my belief that if we want to have somebody representing us, we should have somebody that lives in the Town. For the past I don’t know ten-fifteen years now, we’ve had John Cashin, we had Ray, and since then we’ve gone through at least I think three different gentlemen. Now I don’t know whether it’s because of the salary; I don’t know whether it’s because of lack of communications with Town officials; I don’t know what the reasoning is, but this is a job that every person in this room depends on in some way because they were Data Collectors as well as Building Inspectors and Code Enforcement. You can’t wear three hats at one time with the salary that we are paying and expect excellence. What are you offering for this position might I ask is his salary for this department?

Supervisor Dellisanti: The previous salary I think was \$13.40 an hour.

Ellie Alfeld: And are you continuing to do that for the gentleman I believe you have, is it Fishburn, Fish...?

Supervisor Dellisanti: Elliott Fishman.

Ellie Alfeld: I’m sorry. Is that what you have offered this gentleman?

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Supervisor Dellisanti: No, he's being offered \$100 an hour.

Ellie Alfeld: \$100 an hour.

Supervisor Dellisanti: But not for the same amount of hours that the other people were working.

Ellie Alfeld: That's my next question. What are we talking about as far as hours?

Supervisor Dellisanti: He's doing between ten and twelve hours a month.

Ellie Alfeld: Well, if New Baltimore is gonna grow and we're gonna stay on top of some of the violations that are occurring in this Town, it may take even more time than this gentleman is going to be appointed for. The assessment and Data Collector, is important to everyone here because it indicates if everybody is paying their fair share and if we can't go out and make sure that it's done, then we all pay the price because we can't seem to either get somebody that's qualified or get somebody who is dedicated to the job. So, before anybody is appointed, I'd like to know this gentleman or at least have him presented to the Townspeople before all of a sudden he's onsite here, says he knows the job, but as far as I understand he's not at this moment qualified. Am I correct?

Supervisor Dellisanti: No, you're not correct.

Ellie Alfeld: He has all the stipulations needed according to the State of New York for Data Collector, Building Inspector, Code Enforcement?

Councilmember VanEtten and Supervisor Dellisanti: Code Enforcement.

Ellie Alfeld: It's all three positions.

Supervisor Dellisanti: Yes, as far as I know, yes.

Ellie Alfeld: As far as you know. Has anybody done an investigation to make sure?

Supervisor Dellisanti: We've all interviewed him about two-three weeks ago. I have his resume, I have all of his...

Ellie Alfeld: Training.

Supervisor Dellisanti: Training that's listed on his resume.

Ellie Alfeld: And it's up to date.

Supervisor Dellisanti: Yes, it is.

Ellie Alfeld: Thank you.

Supervisor Dellisanti: You're welcome. Anyone else like to speak on the Code Enforcement Officer? Yes, Mr. Guthrie.

Richard Guthrie: Good evening ladies and gentlemen and friends and neighbors. I am Richard Guthrie, your friend and neighbor from the hamlet down on Mill Street in New Baltimore. I'm here this evening to comment about the proposed resolution to adopt a Local Law. What is the Local Law number just for my record?

Supervisor Dellisanti: Number two.

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Richard Guthrie: Number two, thank you. As I understand, the intent of this resolution being considered here is, I applaud the Town Board for reaching out to fulfill this basic requirement of good Town governance which is to ensure the health and safety of it's residents and visitors. To that end, the Board is seeking to facilitate this by contracting out the office of Building Inspector and Code Enforcement Officer, an important position of delegated authority of the Town. That office has the responsibility to issue building permits, to inspect a project in it's various stages to ensure that the project complies with the State and Town Codes, and issues Certificates of Occupancy when the project is completed, certifying that the project complies with the permit that's been issued in addition to issue notices of appearances for alleged contraventions. I understand that the Inspector is obligated to conduct periodic annual fire inspections to insure building and fire codes are upheld for the safety of occupants of buildings and public gatherings such as this Town Hall, motels, day care, and housing facilities, factories, restaurants, and the like. Well, this begs a question, what have we been doing up til now? Has the Town, through the offices of the various Building Inspectors and Code Enforcement Officers, have been conducting these actions for the past several years? Have these efforts been in accordance with Town Law, the State Town Law? Given the effort to comply with the Town Law through this resolution in the past several years were the Town offices acting without sufficient authority? What about the Building Permits that have been issued; have they been inspected; have the Certificates of Occupancy been issued or is there a backlog of applications awaiting action? In that regard, are residents and building owners suffering from financial hardship and unexpected expenses in final inspection and/or certificates that have not been issued and (unable to understand) holders await the signoff to release the debt and obligation and to pay accumulated interest charges? And if Building Permits, Certificates of Occupancy, or Notices of Appearance have been issued, were they valid?; were any Court Orders or Judgments valid and enforceable given the questionable legality of any indictment? In addition, can we be assured that any contracting out authorized by the resolution be held to prudent and sound fiscal restraints or will the taxpayers of our Town be subject to inflated costs above the nominal salaries and reimbursements we have been paying in the past? Thank you, ladies and gentlemen; that concludes my comments this evening. There are unanswered questions.

Supervisor Dellisanti: Yes.

Eilleen Vosburgh: I just have a couple questions. Why at this point are we expanding the residency for a CEO?

Supervisor Dellisanti: We have advertised on a number of occasions and no one has applied for the job from the Town of New Baltimore.

Eilleen Vosburgh: Is a nonresident that is a CEO, was it valid for them to do discretionary duties of a CEO such as Certificates, Building Permits, Order or Tickets of Appearance? What I have read in the *Town Topics Journal* that goes out to the, from the Association of Towns, in the July and August issue there was an article in there that had opinions from the State Comptroller that said that those discretionary duties had to be performed by a resident of the Town. The Town could go ahead and expand the requirements, the residency requirements. My question is the last three CEOs were not residents of this Town and what Mr. Guthrie was asking were those permits, Certificates of Occupancy, and furthermore discretionary duties, were they valid if they were not supposed to be doing this?

Tal Rappleyea, Esq.: My opinion is they are because you have, I'm trying to think of what the legal term is (unable to understand), the presumption of legitimacy is out there because we did appoint each of those three appropriately and they did perform the job and they were all certified and so they were within the bounds of their job to do what they did. This new opinion is just that, it's a new opinion; it's not been tested in a court of law so we just don't know. It's simply just that, an opinion.

Eilleen Vosburgh: What I read in there it stated several cases where it had been in a court of law and my question is that it also said that the Town can hire a consultant or contractor, but they had to be a person and not a corporation. Are you hiring this Mr. Fishman as a person, his

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own consulting agency, or are you hiring him through Santo Associates surveying and engineering firm out of Catskill, New York?

Supervisor Dellisanti: He's going to be an Independent Contractor, I think the term is.

Eilleen Vosburgh: Alright, thank you very much.

Supervisor Dellisanti: You're welcome. Yes.

Jake Coldwell: My question is are we putting any type of cap on the amount of time and the amount of money that's going to be spent at this \$100 an hour rate?

Supervisor Dellisanti: What we're doing is the other two CEOs were working 15 hours a week at the \$13 an hour salary and that amounts to about between \$1,000 and \$1,200 per month. What we're doing is ten to twelve hours a month for Mr. Fishman which will come out to basically the same amount of money we were spending for the two Code Enforcement Officers that we had on the payroll.

Jake Coldwell: About the same. Did we put that in writing at any point?

Supervisor Dellisanti: It will be in the contract when it's...

Jake Coldwell: It will be in the contract that there's a stipulated amount maximum.

Supervisor Dellisanti: Yes.

Jake Coldwell: Okay and are we doing anything specific to fill the gaps because clearly ten to twelve hours is not going to be the same amount of work done by those individuals. What are we doing to fill those gaps in services?

Supervisor Dellisanti: He's a professional, he's a public engineer. He has already done more inspections than we had in a month in the last two weeks. So, I think you'll see definitely a progress report coming out.

Jake Coldwell: Thank you.

Supervisor Dellisanti: Thank you.

Joseph Farrell: I'm Joseph Farrell, the Town Justice, one of the Town Justices in the Town. On this particular point, the Code Enforcement Officer in the Town has been authorized to prosecute cases. Is this individual going to be authorized to prosecute cases in the local court?

Supervisor Dellisanti: Yes, I imagine so.

Joseph Farrell: Okay, because that can take some time. I just want to make sure that we're covered there that's all.

Supervisor Dellisanti: It will be in his contract I'm sure.

Justice Farrell: Okay, thank you.

Supervisor Dellisanti: Thank you, Joe.

Richard Guthrie: Can I do a follow-up?

Supervisor Dellisanti: Sure.

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Richard Guthrie: Unanswered question as yet and that is whether the authority of the prior Code Enforcement Officers had. It's been stated that has been accepted as acceptable and yet not tested. Apparently it has been tested. I'm just wondering if there is a potential challenge to the Town for any actions taken or actions not taken by prior enforcement officers? I know that this is a legal question certainly out of my field, but I think that it still remains open and needs to be resolved if there are any potential lawsuits or litigation or claims for inadequate coverage. I don't know what the answer of that will be, but I think that it is still an important consideration that needs to be addressed.

Councilmember VanEtten: Well I don't think that we have any more backlog than we've had in the past five or six years that we've been coming to Board meeting before we were on. We've been backlogged; you know there's been the same amount of building inspections out there for many years.

Ellie Alfeld: Final question from me. You said that he, I believe, Shelly, someone said that he has performed inspections in the past two weeks or whatever.

Councilmember VanEtten: I didn't say that.

Supervisor Dellisanti: I did, yeah.

Ellie Alfeld: Before he got an official appointment?

Supervisor Dellisanti: We hired him on an Emergency basis.

Ellie Alfeld: So he's not officially...

Supervisor Dellisanti: His contract is being worked out with Mr. Rappleyea.

Ellie Alfeld: And when will it be dated for, as of when?

Tal Rappleyea, Esq.: When it gets signed.

Ellie Alfeld: Alright, I was just making sure because this man's already doing the job. I mean I haven't seen any emergencies around and I know there's at least two sites that are building now that need the services of the Building Inspector.

Supervisor Dellisanti: He's been on the one on 9W that you're probably talking about.

Ellie Alfeld: No that's not, but it will do for one of them, yeah.

Councilmember VanEtten: Well if they had told us then it should have gone to him. Marjorie would have forwarded that.

Supervisor Dellisanti: Marjorie's put quite a list together for him to take a look at and he's been prioritizing it in order.

Ellie Alfeld: Okay.

Supervisor Dellisanti: Yes.

Eileen Vosburgh: It doesn't have anything to do with the residency, but I'm questioning are you going to appoint or hire two CEOs?

Supervisor Dellisanti: No, not at this time.

Eileen Vosburgh: You don't intend to?

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Supervisor Dellisanti: No.

Eilleen Vosburgh: I spoke with Mr. Albert Gasparini today who had just resigned. He did not retire, but he resigned on September 12 and I asked him about the fire inspections that were done this year. There have been no fire inspections done this year and when he did some last year, they were several years old and I'm concerned about something like that because there are businesses such as the day care which I believe would need the fire inspection in order to be certified. I'm questioning how could you go from two people to one when you lost this Mr. Gasparini because of the amount of double work that he was going to have to do.

Supervisor Dellisanti: If you go through some of the Building reports, if you go back on the website and go through some of the Building reports, you will see that hardly any inspections were done by Mr. Mantor and Mr. Gasparini in the last few months and I can tell you as of Friday, Mr. Fishman has already done four.

Deputy Supervisor Ruso: By the way I know of one fire inspection that, whether Mr. Gasparini's aware of it or not, but I know that there was a fire inspection where part of the, not sure if it's the motel or the truck stop or it's the other one, but part of the motel was shut down. It might be the one up here on Acquetuck Road.

Councilmember VanEtten: There was a fire there and Elliott, Mr. Fishman, did go out and did inspect the fire.

Deputy Supervisor Ruso: So I know there's been one anyway.

Eilleen Vosburgh: One since Mr. Fishman did it. So, I hate to put words in your mouth, but what were they doing?

Councilmember VanEtten: We don't know.

Supervisor Dellisanti: That's a good question.

Councilmember VanEtten: It is a good question.

Deputy Supervisor Ruso: Well, I got complaints from people because they got letters because their lawn was too high. I got 10 complaints.

Sharon Locke: What was too high?

Deputy Supervisor Ruso: Their grass was more than ten inches long.

Sharon Locke: I see.

Deputy Supervisor Ruso: I spoke to one resident today about the fact that he had, his lawn was ten inches longer, or excuse me, the grass was ten inches or longer and he wasn't too happy about it, but we had fire inspections that didn't get done. I'm not too happy with that either folks. I don't think anyone should be. I know the person and her husband had a stroke and they sent her a threatening letter saying the grass was too high. She never mowed the lawn and her husband couldn't. So, I'll only speak about one of the resignations because one of our Code Enforcement Officers said that unless we purchase a new four wheel drive vehicle for him to drive with, he is resigning. Well, the Town doesn't have that money; we're barely have the money to buy one for the Garage as Denis well knows. You can't spend \$30,000 for a Code Enforcement Officer's vehicle. We're not about to.

Eilleen Vosburgh: Mr. Gasparini spoke to me.

Deputy Supervisor Ruso: He wasn't the one, by the way.

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Eilleen Vosburgh: Mr. Gasparini did speak to me about using his car and the fact that what would happen if he was in an accident. Right now I think they get \$0.53 a mile, but he did question why couldn't they have a used vehicle, like a \$3,000 vehicle so it must have been Mr. Mantor who asked that?

Deputy Supervisor Ruso: Right.

Eilleen Vosburgh: It was, okay.

Councilmember VanEtten: But I don't think that ever before that we've ever had a car for the Building Department.

Eilleen Vosburgh: No, but I...

Deputy Supervisor Ruso: We did for awhile have a...

Councilmember VanEtten: We got it.

Deputy Supervisor Ruso: A used patrol car and that was about for about two years.

Councilmember VanEtten: Yes, we did. We got it from the Sheriff's, but unfortunately...

Eilleen Vosburgh: But I can understand Mr. Gasparini's concern since he was getting \$13.39 an hour and doing the work of two people and questioning you know what would happen if I had an accident and he had a \$1,000 deductible. This is not the issue. The issue is and what I'm concerned about is losing people who know our Town and the community and...

Councilmember VanEtten: Well, Mr. Gasparini nor Mr. Mantor were Town residents.

Eilleen Vosburgh: Yes, I know that, but the problem is and you see it in any government or business losing people costs money because they have to be retrained even just to get their feet wet and start the job. That costs money and now we are in the situation of paying someone \$100 an hour which I would say that most people in the Town without getting any more information about that would be quite upset.

Councilmember VanEtten: Well if they didn't understand anything behind it like I said.

Eilleen Vosburgh: And I think that's why we are here.

Councilmember VanEtten: And again Mr. Fishman is a professional, he's also the Code Enforcement for Catskill. He's experienced.

Eilleen Vosburgh: But still at \$100 an hour, I think that that's why we are here to understand what is going on with the Code Enforcement position in this Town because Ellie is right, it does affect us all.

Councilmember VanEtten: So, okay if we're getting more work out of one guy than we did out of the two, which seems to be so far; we're getting way more building inspections than we have been, way more. So...

Eilleen Vosburgh: We'll be asking those questions.

Councilmember VanEtten: Good, so we'll wait.

Supervisor Dellisanti: Anyone else like to speak on the resolution? Hearing none, I'll make a Motion to close the Hearing at 7:20 PM, seconded by Councilmember VanEtten. Any other questions or comments? Hearing none...

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AYES: Dellisanti, Ruso, Irving, VanEtten

NAYS:

ABSTAIN:

ABSENT: Briody

Respectfully Submitted,

Barbara M. Finke
Town Clerk