

**TOWN OF DELHI**

**Public Hearing  
October 9, 2018  
7:15PM**

**LOCAL LAW NO. 001-2018 - LOCAL LAW TO OVERRIDE THE TAX LEVY LIMIT  
ESTABLISHED IN GENERAL MUNICIPAL LAW 3-C**

Supervisor Tuthill called the public hearing to order at 7:15 pm.

Those present:

Councilmember's: Janet Tweed, William Cairns, Matt Krzyston, and Al Perkins.

Highway Superintendent Daren Evans

Town residents: Richard Gumo, Jeff Barthelmes

Supervisor Tuthill invited the public to come forward to comment. Jeff Barthelmes questioned the tax cap; Supervisor Tuthill explained that we have not gotten all the unexpended balances figured out yet and making the cap will be difficult as we had to do a five year plan to get the roads caught up and have roughly two years left on the plan. Also, he stated this year the swimming pool got added in which is going to be a "pretty decent piece of change also."

There being no further public comment the public hearing was closed at 7:30pm.

**TOWN OF DELHI  
BOARD MEETING**

**October 9, 2018**

**7:30PM**

Supervisor Tuthill called the meeting to order at 7:35pm.

Those present:

Councilmember's: Janet Tweed, Matt Krzyston, Al Perkins, Bill Cairns

Highway Superintendent: Daren Evans

Resident(s): Richard Gumo, Jeff Barthelmes

**The Pledge of Allegiance** was led by Supervisor Tuthill.

**Privilege of the Floor:**

Richard Gumo was given privilege of the floor. Mr. Gumo stated he had read information regarding the Bramley Mountain Fire Tower proposal. He questioned whether the Town of Delhi owned the fire tower. Supervisor Tuthill stated it was not owned by the town. Gumo then questioned if the town owned the land in which the tower may be erected, and what was the town's obligation to the tower. Supervisor Tuthill stated the land is also not owned by the town and that the board needs to discuss this further, as he has had a long conversation with the town attorney and he strongly recommended that the town stay completely away from this proposal. Gumo joins in his opinion, as an attorney with fifty one years experience Gumo said doing a lot of negligence work if it is not the town's tower or on town property; it is not going to be a position that the town wants to be placed in where it could be responsible for maintaining or injuries to others. He hopes the town follows the attorney's recommendation; it is not a project the town wants to get involved with. Supervisor Tuthill agrees with Gumo, as the town's attorney has many issues with the town participating and liabilities involved. Councilmember Perkins stated he can assure Gumo from his standpoint (an insurance standpoint) our insurance carrier and their attorneys have said they had no problem with it what so ever. Mr. Gumo disagreed with Councilmember Perkins and asked if he was familiar with the term "insurable interest" and questioned what insurable interest the town has in a fire tower it does not own, which is not on town owned property. Councilmember Perkins stated it does not need to be on town owned property we depending on what the agreement is with the person who owns the tower, if the town takes that tower on as a lease or loan to us now we have an insurable interest and other towns do exactly the same thing. There are fire towers all over the place and other towns are involved with this, this is not NYMIR's first rodeo with towers, they do this all the time and have no issue with it. Mr. Gumo then asked if Councilmember Perkins could give him the name of who he spoke with at the insurance company. Councilmember Perkins said he is telling him what was said; if Gumo really thinks he needs it he will, Perkins first instinct was absolutely not he felt exactly the same way Gumo does and the town attorney who whatever his experience is Perkins was not going to go there, but he is just saying that at first he didn't want the town to go there as the town doesn't own the tower and it is on city land; he was totally

against it. Perkins was totally surprised when NYMIR came back and said they did not have any issues with this. Gumo again requested the name of the person from the insurance company, Perkins told him to contact Chris Sloanaker the agent for the Town of Delhi, the clerk can give him the number. He further stated this is a project that is two years in the making; the owners (the Clark family) do not want to sell the tower. Supervisor Tuthill stated that through his contact with the Clark's they do not want to sell it, if for some reason it needs to come down they want the tower back, which our attorney said if the tower has to come back down who is doing the bond for taking it back down, who will be responsible for the cost of dismantling it. Councilmember Perkins stated none of that expense would be the towns, maintenance anything to do with it is not the towns expense, that all falls on the people of the club. Perkins is not too sure this will ever happen as the cost needing to be raised. Mr. Gumo then questioned what would be the towns responsibility, what obligation is the town assuming with this project? Councilmember Perkins stated the town would be assuming coverage for the fire tower, depending on how it works; if they were to donate it to us for "x" number of years or lease it to us for \$1.00 then we would insure it for a very minimum amount for \$25,000 coverage and then the liability will fall on us as well as NYC. Perkins is surprised NYC wants to do this because they cannot get out of the liability of this as they own the property so they are just as liable for an accident as would be the town. Mr. Gumo stated the only person getting out of this is the trail association, Perkins said that is the way they operate. Supervisor Tuthill stated the city wants us to totally indemnify them. Councilmember Perkins then said there is a lot that needs to be worked out, he again said he is totally surprised the insurance company is going along with this but there are a lot of things that need to be worked out before this is going to happen. Mr. Barthelmes questioned that without the towns insurance this would not be happening, Perkins said they have approached the Town of Bovina also but they do not want to do it, he assumes it could happen somehow without us there is nothing saying that any town is obligated to do anything on advice from our attorney. Barthelmes stated it may be in the town's best interest to stay out of this, Perkins said he can't disagree with that but he likes to find ways to move things forward that could benefit our area but we also have to be **cognizant** that we could be jeopardizing a lot of liability; that was his concern from the get go. Mr. Gumo questioned if there was a trail there already on city property, Perkins stated yes. Supervisor Tuthill stated the city has quite a few hiking trails, there are issues now with the city over the Windham Trail as Windham and Hunter want to connect a section of their bike path and the city is taking a hard stance "no" on a bike path, they will sometimes on an old railroad trail. Hiking trails they are lenient on. He is surprised they want to get involved with a tower; Perkins said the city thinks this is a wonderful thing. To which Mr. Gumo said sure they are not responsible. Councilmember Perkins gave Gumo a copy of information on the tower.

**Approval of September 11, 2018 Regular Meeting Minutes & Public Hearing Minutes, September 25, 2018 Minutes:**

Supervisor Tuthill asked for approval of both the regular and public hearing minutes of the September 11<sup>th</sup> minutes as presented and the September 25<sup>th</sup> workshop meeting minutes. Councilmember Krzyston made the motion to approve the all of the above meeting minutes. Councilmember Tweed seconded the motion, motion carried.

**Old Business:**

Councilmember Krzyston provided the board with a draft of an MOU for the Bramley Mountain Fire Tower which he and Councilmember Tweed have been working on with the Catskill

Mountain Club, this draft is different from last month as he now has input from Councilmember Tweed and the CMC, and the only change is where it state should any changes “it should be returned to the owner, at their expense and he added Tom Clark as a signer of the MOU. He also added details of the cost of the lease. Councilmember Perkins wished to add that they are looking at a project that by making a decision by signing an agreement/mou on a project we are locking in a future board into something that by the time the project comes to the rules, regulations and feelings about the whole project may be different at that time than it is right now. This is concerning to him that we may be holding a future board with something that we could be signing now telling a board they have to do this. Perkins would almost feel better if they (the CMC) came back before the board once they have collected all the monies and then asking if the board could do this, stressing at the time they are ready, as he sees a lot of time in-between; this is concerning to him. Supervisor Tuthill stated this also gives NYC time to change their mind too as should there be a change in administration there they may decide they don't want a fire tower just as now they do not want bike trails. Councilmember Krzyston stated he hears what Councilmember Perkins is says but disagrees that is precisely why we should be signing something now, this way we can make sure there is a commitment as he sees there may be an issue in the future. Councilmember Perkins wonders if there is a way to word this as to leave the door open in two years, Councilmember Krzyston wondered how they would raise funds without a commitment. Councilmember Perkins felt they could still raise funds with or without a commitment. Councilmember Cairns did not agree with Councilmember Krzyston's concerns and stated a lot of money was raised in this community for a swimming pool with no commitment, with that being said he agrees with Councilmember Perkins and is not in favor of making a decision tonight on a project like this that will encumber potential other board members in the future, we are not talking about a decision that is vital to infrastructure to the town of Delhi; if this was regarding road work that needed to be done two years down the road would be another issue. He further stated the board is fairly well split on this project already. Councilmember Tweed stated she felt this is a nice chance for our community to have something that isn't essential; we do have exit strategies if the tower needs to be returned and we are not liable to do any fundraising. The Catskill Mountain Group came to us and said can you help us do this one piece write up the agreement so they could move forward. Doing this is the right thing and also it's the intangibles of doing something nice but also it's the chance to promote tourism and to possibly bring more income to the town or village which would be tremendously beneficial because if we don't capture some of these easy wins then we will just fall behind the rest of NYS. Supervisor Tuhill stated that if they wanted to move ahead with signing an agreement we definitely need to get our attorney over here to have a sit down with us and voice his concerns. Tuthill also stated we are getting sucked in to leasing the tower and providing the insurance coverage whatever is required by NYC, they are saying if the tower needs to come down they will take it down at their own expense, he questions how if they don't have money to build the tower how are they going to get money to take it down; someone is going to have to post a performance bond. Supervisor Tuthill said there are an awful lot more details we need before anyone can think about signing anything. Councilmember Perkins is concerned about the city as we never know what they will do, two years from now they could change their view, costs could change; how does the town draw the line. Councilmember Krzyston does not understand how others are pulling this off. Councilmember Perkins stated

most others are on town owned property or state owned property it makes it a simpler situation, with the third party (NYC) they could request to be held harmless and that would require the town to pick up their liability as well, things could get very complicated. Councilmember Perkins admits it's a great project and he would like to see it built and is 100% for it but he also has to look at the legal end of it; the liabilities of who is involved here and that's what makes him nervous. He feels uncomfortable making a decision that could "hog tie" a future board in something that is not happening yet. Councilmember Krzyston stated maybe we could learn more if there is any precedence for this exact situation, meaning property that isn't owned by the city. Councilmember Perkins stated the only thing he knows is that farmers use NYC land all the time; they have written agreements with a two million liability with the city named as additional insured. It's not a costly proposition to do that but they have to go through the process and sign contracts in order to use their property. Supervisor Tuthill is being told NYC will require more on this project. Councilmember Krzyston stated give him a chance to get more information to make people feel more comfortable and we will again discuss it at the next meeting. Supervisor Tuthill stated if there is talk about moving forward we will have our attorney present for his input; tabled till next month.

Highway Superintendent Evans stated the cab and chassis for the new truck, the Western Star is in Syracuse and is getting the modifications that are needed. He has given Supervisor Tuthill the dollar amounts requested by the state for the grant, Supervisor Tuthill hopes this time this will suffice.

Evans said hopefully by the middle or end of next week it will be in Watertown to be built, it will be there around a month. It's good news it's in NYS. Highway Superintendent stated at the last minute he received contact back from the insurance company he updated the board as to what they were going to give the town originally was for totaling out the truck which was totaled was \$47,801 with a \$500 deductible which would be taken off of it. The salvage price is \$7,100 to buy the truck back to use the equipment, so at that point we would have \$40,000 coming back to us with the opportunity of buying back the truck. Everyone agreed earlier that that was too low, Evans personally thought it was too long considering all the new equipment which was on that truck, after giving them information the insurance company came back with a different proposal of \$37,428 on top of what was already offered, they deducted 10% per year for depreciation of the plow, dump box and equipment for five years, as that is how old the equipment is. The cost new was \$74,857.00, the total we would be getting back after buying back the truck back would be \$77,629, and Evans believes this is a good deal as does Supervisor Tuthill and this allows him a little more money to look for a truck. They highway department is still actively looking for a truck and have not found one. Councilmember Perkins made a motion to accept the offer from NYMIR for the 2004 and to purchase the salvage truck back for \$7,100. Councilmember Cairns seconded the motion. Motion carried.

Supervisor Tuthill questioned the Franchise Agreement with Charter Communications and Councilmember Krzyston stated he has been in communications with Kevin Egan twice since our last meeting including today. . Egan asked that we table the agreement till our next meeting, they are willing to help us with the recording files but not the live feed as this cost would require a rate increase to customers. He suggests we do what we do with DTC. Egan

needs more time to discuss with his tech department. Egan also stated he decreased the term from 15 to 10 years. Tabled till next month.

Supervisor Tuthill stated the All Hazard Mitigation Plan is being updated and Tanglewood Lake will be mentioned in the new upgraded plan. It does not put the town in any obligation to change anything but will allow Tanglewood to apply for grant money. They also gave Supervisor Tuthill copies of the regulations as to why it way reclassified, what the different classifications of dams are and from what the planning department is telling him and from what he is reading, Tuthill does not believe the dam will be reclassified, as they still have issues at Tanglewood that they need to address with DEC. The county has gone out and looked at Tanglewood and does not see how the town can put bigger culverts or box culverts in and eliminate any threat of overtopping the road if for some reason the dam does fail. This should give the residents the opportunity to get at least some grant money to do some upgrades.

Supervisor Tuthill stated another budget workshop is necessary, October 23<sup>rd</sup> at 4:15pm by then the final changes should be done. A motion was also made for a Public Hearing for November 13<sup>th</sup> at 7:15 for the preliminary budget by Councilmember Perkins, seconded by Councilmember Cairns seconded. Motion carried. Clerk to advertise workshop and public hearing.

**New Business:**

Supervisor Tuthill stated that a motion was necessary to pass Local Law No. 001-2018 – Local Law to Override the Tax Levy Limit Established in General Municipal Law §3-c. Councilmember Cairns made the motion to approve with Councilmember Perkins seconding. Roll call as follows:

	Aye	Nay	Absent
Supervisor Tuthill	<u>X</u>	_____	_____
Councilmember Krzyston	_____	<u>X</u>	_____
Councilmember Tweed	<u>X</u>	_____	_____
Councilmember Perkins	<u>X</u>	_____	_____
Councilmember Cairns	<u>X</u>	_____	_____

Town Clerk to file Local Law 001-2018 with the state.

Supervisor Tuthill presented the board with bills for the new pool project:

- Schoolhouse Construction Services LLC - \$7,000.00
- Atlantic Testing Lab - \$820.00
- Lakeside Engineering - \$3,465.00
- Andrew R. Mancini Assoc. Inc. - \$249,318.00

Supervisor Tuthill asked for a motion approving them for payment. Councilmember Perkins made the motion approving both bills for payment with Councilmember Tweed seconding. Motion carried with the Town Clerk emailing them to Bryan Boyer of Delaware National Bank for payment.

Supervisor Tuthill stated that the court would like to open an account for bail monies; this would be an escrow account. Councilmember Perkins made the motion for Town

Justice Richard Gumo to open the account with Councilmember Krzyston seconding. Motion carried.

Supervisor Tuthill stated he had received a letter from the O'Connor Foundation the playground grant with a balance of \$1,242 will be extended through December 31, 2019.

Councilmember Perkins stated he had given board members a copy of the new "Sexual Harassment Prevention" training policy from NYMIR and NYS. He put it together using their outline, this is required. He would like the board to approve the policy and complaint form. He and Councilmember Tweed will make sure the information is given to employees as they will have to sign stating they have received the written policy along with a complaint form. It will be posted at the Town Hall and at the Highway Garage. Training must be complete within the year, Councilmember Perkins stated they have paperwork for training and it can be done by he and Councilmember Tweed or employees will have to watch a webinar taken at their leisure. Councilmember Perkins made the motion to accept the Sexual Harassment Policy, with Councilmember Tweed seconding. Motion carried.

Councilmember Krzyston stated that for the highway department he had thought possibly the O'Connor Foundation could fund a vehicle or roof. He contacted Heather Rosa (Executive Assistant) and was told that they "have not seen anything exactly like that." She encouraged the town to try. Supervisor Tuthill stated for the roof he is going to try for a SAM grant when the next round of those comes out. A lot of towns have good luck getting them for roofs. Councilmember Tweed and Cairns thought there was no reason not to try for monies to help the highway department. Councilmember Perkins felt that the O'Connor Foundation has already helped the town out by about \$900,000 for the pool so as not to say it will not have anything to do with applying for it but he just wanted to remind the board of that. Councilmember Cairns had one other idea in mind and asked Highway Superintendent Evans if he had figures on the cost of a new flat bed on the 550, Evans said installed the cost would be just shy of \$10,000, but we could install in house so as to cut costs, but the cost is on state contract. We could possibly build one in house, but the hoist cannot be fixed. Councilmember Cairns thought by going to the O'Connor Foundation we could get an answer back relatively quick. Evans stated this is a project that must be done before snow falls. Councilmember Krzyston will meet with Highway Superintendent and work on an application for a grant.

### **Committee Reports:**

**Highway/Machinery:** (Councilmember's Perkins & Cairns) – Highway Superintendent Evans provided the board with a written report.

**Health/Youth:** (Councilmember's Tweed & Cairns) – Councilmember Tweed stated the sixth grade design build club from Delaware Academy is looking to do the first project for the playground which would be built next spring around the time the pool would be opening. Councilmember's Tweed and Cairns will be interviewed by the club on Thursday to get some ideas as to what project they will build. It is led by Max Daney (?) one of the architect professors at SUNY Delhi and he has a grant to cover the building supplies; the sixth graders will be designing and with his direction going through the playground code and building it. She also attended a bicycle summit for NYS, this is a tourism option it's called Wallet's on Wheels; New York is becoming a bike mecca. It could be an area where Delhi can be bike friendly. With

sharo's, painting road signs, or signs directing to the pool because that's a place where you can cool off after hiking over our gentle hills. There should be more room for improvement; also NYC is doing an initiative where they are teaching 8<sup>th</sup> graders and are making it part of competency for them to learn how to ride a bike. Supervisor Tuthill stated NYC is against bike trails, where Councilmember Tweed stated only mountain biking. Tuthill states there are a lot of things involved and he believes too many people got involved and it turned into a mess, he is going to try and set up a meeting with Bob Gulam (?) the Windham Supervisor and a couple of people from the city to see if they can work out a friendly agreement on doing something as he believes some of the requests have just been over the top and it has turned the city off.

**Economic Development/Shared Services:** (Councilmen Perkins & Krzyston) – Councilmember Perkins stated the only thing is the upcoming purchase of a new liner for the skate rink, we have not heard back from the village yet. He further stated that the SUNY students went up and cleaned and organized the skate shack.

**Recreation:** (Councilmember Perkins) – Councilmember Perkins stated the pool is nearing completion, it has been backfilled things are moving along very well right now. They will probably hold off on the final coating till spring, this was recommended by Watson the pool company; they could do it but if we do not have the cover it could stain over the winter. They will come in the spring and drain the pool and do final coating, it only takes a couple of days to do it at no cost before the Memorial Day weekend projected opening. We do have the approval from the O'Connor Foundation to purchase the solar heated cover, but we don't know if we can coordinate it in time. Councilmember Krzyston questioned if they were nervous about getting it opened on time; Councilmember Perkins stated they have a lot of work to do in the next few months hiring people to work at the pool; that's the next thing to happen. They have reached out to several towns, at this time we have heard back from Bovina and Meredith. The town of Meredith has it on discussion of their budget, the town of Bovina wanted a presentation which they wanted tonight Perkins spoke to Tina Mole and explained they were unable to get there tonight and she understood, she will speak to her councilmember's and see if they can have a special meeting where Perkins and Maney can go and answer questions. Councilmember Cairns asked what other towns we are waiting to hear back from, Perkins said they had reached out to Hamden, Meredith and Bovina and have not heard any response from Hamden. They are considering a couple of other towns as it was suggested to reach out to South Kortright; they are involved with Andes but they might be interested in doing something different and also the Treadwell area, but they may be involved with Franklin. The towns that do participate, swimming lessons are included; if the town does not participate anyone who wants lessons will have to pay for them. Towns that do participate will serve on the board overseeing the pool. South Kortright buses children to Andes. Councilmember Cairns wondered how this would compete with SUNY; Councilmember Perkins stated there will be no swimming lessons held at the college.

**Personnel:** (Councilmember Perkins & Councilmember Tweed) – Perkins stated just the policy already discussed.

**Building:** (Councilmember's Cairns & Krzyston) – Councilmember Cairns stated he had Jim Dewitt at the town hall looking at the entrance way roof mentioned last month, the windows in the clerk's office are inoperable (Cairns is not sure about the Supervisors or Bookkeepers office windows) they need new hardware. He is looking at potentially changing out the air

conditioner in the clerk's office to a different style that would not stick out past the roof and let water in her office, this way we can fix her wall. He also asked him what the cost would be to insulate the ceiling in that area. He is waiting for numbers. Supervisor Tuthill asked Cairns to have Mr. DeWitt take a look at the court room to change the seating area. Councilmember Tweed wished to thank the members of Omega Delta Xi and Zeta Delta Tau came to help with the outside clean up and the gardens. They did a really good job Town Clerk Schmitz led, Tweed appreciates her guidance.

**IT:** (Councilmember Tweed) - N/A

**CODES:** (Councilmember Cairns) –Councilmember Cairns stated four permits issued in September. Dale has been doing fire inspections.

### **CODES Monthly Report:**

A motion was made by Councilmember Cairns to accept the September 2018 Code Report. Councilmember Krzyston seconded the motion. Motion carried.

### **Justice Court Report:**

Supervisor Tuthill stated this was the last report done by Cathy Fletcher as Court Clerk. A motion was made by Councilmember Perkins and seconded by Councilmember Tweed to accept the September 2018 Justice Report. Motion carried.

### **Clerk's Monthly Report:**

A motion was made by Councilmember Tweed to accept the September 2018 Clerk's Report, and seconded by Councilmember Perkins. Motion carried.

### **Supervisor's Financial Report:**

Supervisor Tuthill presented the board with September 2018 Supervisors Financial Report with Councilmember Perkins making the motion to accept and Councilmember Tweed seconding. Motion carried.

### **Supervisor's County Report:**

Supervisor Tuthill stated they should be closing on the property in Walton for the Mental Health site very soon. The subdivision is done as are the environmentals; basically everything is ready for a closing on the property. There are several new state programs kicking in, one is "Raise the Age" in which Judge Gumo got training on now the county is trying to see what this will do to the budget at this point they do not know. Tomorrow there will be a meeting at the county there will be a presentation on the indigent defense and whether they will be setting up a public defender's office, Gumo explained there are only two attorneys in our area.

Supervisor Tuthill announced Wayne Reynolds of DPW has retired, Sue Macintyre will be filling in; there have been no proposals as to the DPW.

The preliminary budget should be finalized in the next week or so, they may make the tax cap. With "Raise the Age" the state will reimburse for three years, from there it is not known what will happen.

Councilmember Perkins would like to make a note that with health insurance this year it has only gone up 1.5%, normally we have seen double digit increases. The dental cost did not have any increase at all. The bookkeeper has been given this information.

**Abstracts:**

Councilmember Perkins made the motion to approve Abstract #010 - 2018 accounts A – SF Voucher No. 425 – 473 \$217,837.18 and account TA Voucher No. 170-172 = \$12,418.65. Total of presented vouchers for Abstract #010-2018 is \$230,255.83. Councilmember Tweed seconded the motion. Motion carried.

Councilmember Krzyston questioned if we needed to keep the Sportsfield account open as there is nothing in it, Supervisor Tuthill stated this account is used for CDBG grants, we called it Sportsfield but will use it for Greenslate once they have a draw down it will get a direct deposit to that account, we keep that account open to handle those grants because we have to keep them separate.

**Adjourn:**

A motion to adjourn was made by Councilmember Perkins at 9:00pm and seconded by Councilmember Cairns. Motion carried.

Respectfully submitted,

*Elsa Schmitz*

Elsa Schmitz

Town Clerk, Town of Delhi