

The meeting was called to order by Supervisor Tyler at 6:38 p.m.

Members present on a roll call were:

Councilperson Kirkby  
Councilperson Viens  
Councilperson Morrison  
Supervisor Tyler

Others present:

Catherine L. Simmer, Town Clerk  
Michael Fergot  
Cynthia Schera  
Jen Williams  
Phyllis Perna  
Richard Arndt  
David Gloembach  
Christopher Golembach  
Eric Westover  
Susan Bullock  
Anne-Marie Fitzgerald

**PUBLIC COMMENT:** No comment

**RESOLUTION #141  
APPROVE MINUTES**

On a motion by Councilperson Viens, seconded by Councilperson Kirkby and approved with an all in favor.

4 Ayes            Morrison, Viens, Kirkby, Tyler  
0 Nays

**RESOLVED** to approve the July 25, 2023 Regular Board Meeting minutes as presented.

**YOUTH COMMISSION:** No comment

**RESOLUTION #142  
APPROVE THE BILLS**

On a motion by Councilperson Morrison, and seconded by Councilperson Viens, and approved with a roll call vote.

4 Ayes            Morrison, Viens, Kirkby, Tyler  
0 Nays

**RESOLVED** to approve Abstract #26 for \$26,492.23; vouchers #409-426; and Abstract #27 for \$721.76; vouchers #427-428.

**RESOLUTION #143**

**ADVERTISE FOR BOARD OF ASSESSMENT REVIEW VACANCY**

On a motion by Councilperson Morrison, and seconded by Councilperson Viens, and approved with an all in favor.

4 Ayes            Morrison, Viens, Kirkby, Tyler  
0 Nays

**RESOLVED** to advertise in the local newspaper regarding the vacancy created by James Herrmann’s resignation as a member of the Board of Assessment Review.

**RESOLUTION #144**

**LOCAL LAW NO. 2 OF 2023**

On a motion by Councilperson Viens, and seconded by Councilperson Morrison, and approved with a roll call vote.

4 Ayes            Morrison, Viens, Kirkby, Tyler  
0 Nays

**RESOLVED** to adopt Local Law No. 2 of 2023 entitled “A Local Law to Provide a Property Tax Exemption to Volunteer Firefighters and Volunteer Ambulance Workers”.

**WHEREAS**, by Resolution duly adopted on July 11, 2023 the Town of Westport introduced proposed Local Law No. 2, entitled “A Local Law to Provide a Property Tax Exemption to Volunteer Firefighters and Volunteer Ambulance Workers”; and

**WHEREAS** that a Public Hearing was duly held on the 8<sup>th</sup> day of August 2023 at 6:30 pm to hear any and all persons concerning the adoption of said local law; and

**BE IT RESOLVED** that the Town of Westport Town Board hereby adopts Local Law No. 2 of 2023 entitled “Local Law to Provide a Property Tax Exemption to Volunteer Firefighters and Volunteer Ambulance Workers” reading and provided as follows:

TOWN OF WESTPORT LOCAL LAW NO. 2 OF 2023  
LOCAL LAW TO PROVIDE A PROPERTY TAX EXEMPTION TO VOLUNTEER  
FIREFIGHTERS AND VOLUNTEER AMBULANCE WORKERS

**BE IT ENACTED**, by the Town of Westport Town Board as follows:

**Section 1-PURPOSE**

The purpose of this local law is to implement the authority granted to local taxing jurisdictions by Real Property Tax Law Section 466-a-Tax Exemption for Volunteer Firefighters and Volunteer Ambulance Workers. The Town Board of the Town of Westport finds and hereby determines that New York Real Property Tax Law Section 466-

a makes available a tax exemption for volunteer firefighters at the option of the local municipality. The Town Board further finds and determines that the Town of Westport should exercise said option and implement said tax exemption because it would enhance the ability to recruit and retain the volunteers that are the lifeblood of the volunteer fire organization currently serving the residents of Westport.

### **Section 2-AUTHORITY**

This local law is proposed pursuant to NY RPTL ~466.a and NY Municipal Home Rule Law ~10, all as the same may be amended from time to time.

### **Section 3-BODY OF THE LOCAL LAW**

The Town Board of the Town of Westport hereby proposes Town of Westport Local Law No. 2 of 2023 entitled “Local Law to Provide a Property Tax Exemption to Volunteer Firefighters and Volunteer Ambulance Workers” as follows:

1. Real property owned by an enrolled member of an incorporated volunteer fire company, fire department or incorporated voluntary ambulance service, or such enrolled member and spouse residing in the Town of Westport shall be exempt from taxation to the extent of ten percent of the assessed value of such property for Town purposes, Town special district purposes, and exclusive of special assessments.
2. The exemption authorized by paragraph 1 shall be granted to an enrolled member of an incorporated volunteer fire company, fire department or incorporated voluntary ambulance service residing in the Town of Westport only if:
  - a. The applicant resides in the town or village which is served by such incorporated volunteer fire company or fire department or incorporated voluntary ambulance service;
  - b. The property is the primary residence of the applicant;
  - c. The property is used exclusively for residential purposes; provided however, that in the event any portion of such property is not used exclusively for the applicant’s residence but is used for other purposes, such portion shall be subject to taxation and the remaining portion only shall be entitled to the exemption provided by paragraph 1;
  - d. The applicant has been certified by the authority having jurisdiction for the incorporate volunteer fire company, fire department, or voluntary ambulance service as an enrolled member of such incorporated volunteer fire company, fire department, or voluntary ambulance service for at least two years or the applicant has been certified by the authority having jurisdiction of the incorporated voluntary ambulance service as an enrolled member of such incorporated voluntary ambulance service for at least two years. It shall be the duty and responsibility of the each incorporated volunteer fire company, each

incorporated volunteer fire department and each incorporated voluntary ambulance service to file an affidavit signed by a responsible officer annually, prior to the applicable taxable status date, with the assessor or other appropriate agency, department or office of each assessing unit served by such incorporated volunteer fire company, incorporated volunteer fire department or incorporated voluntary ambulance service listing its enrolled members with two or more years of service.

3. Any enrolled member of an incorporated volunteer fire company, fire department or incorporated voluntary ambulance service located in Essex County, New York who accrues more than twenty years of active service and is so certified by the authority having jurisdiction for the incorporated volunteer fire company, fire department or incorporated voluntary ambulance service, shall be granted the ten percent exemption as authorized by this local law for the remainder of his or her life as long as his or her primary residence is located within Westport, New York.
4. The exemption authorized by this local law shall be continued for the un-remarried spouse of a deceased firefighter or volunteer ambulance worker killed in the line of duty provided that:
  - a. Such un-remarried spouse is certified by the authority having jurisdiction for the incorporated volunteer fire company, fire department or incorporated voluntary ambulance service as an un-remarried spouse of an enrolled member of such incorporated fire company, fire department or incorporated voluntary ambulance service who was killed in the line of duty;
  - b. Such deceased volunteer has been an enrolled member for at least two years; and
  - c. Such deceased volunteer has been receiving the exemption prior to his or her death.
5. The exemption authorized by this local law shall be continued for the un-remarried spouse of a deceased volunteer firefighter or volunteer ambulance worker provided that:
  - a. Such un-remarried spouse is certified by the authority having jurisdiction for the incorporated volunteer fire company, fire department or incorporated voluntary ambulance service as an un-remarried spouse of an enrolled member of such incorporated volunteer fire company, fire department or incorporated voluntary ambulance service; and
  - b. Such deceased volunteer has been an enrolled member for at least twenty years; and
  - c. Such deceased volunteer and un-remarried spouse has been receiving the exemption for such property prior to the death of such volunteer.

6. Application for the exemption described in this local law shall be filed on a form prescribed by the New York State Board of Real Property Services with the assessor or other appropriate agency, department, or office of the assessing unit in which the real property is located on or before the taxable status date.

**EFFECTIVE DATE:** This local law shall take effect immediately upon filing with the Secretary of State.

**THE TOWN BOARD IS IN RECEIPT OF JULY MONTHLY REPORTS FOR:**

Westport Town Court  
Westport Town Clerk  
Westport Town Supervisor

**RESOLUTION #145**

**INTERMUNICIPAL AGREEMENT WITH ESSEX COUNTY**

On a motion by Councilperson Kirkby, and seconded by Councilperson Morrison, and approved with a roll call vote.

4 Ayes            Morrison, Viens, Kirkby, Tyler  
0 Nays

**WHEREAS**, in 1999, the Essex County Board of Supervisors adopted a local law imposing a hotel/motel occupancy tax pursuant to enabling legislation authorized by Part T of Section 1 of Chapter 406 of the Laws of 1999, instituting a 3% occupancy tax on the rental of rooms in hotels/motels and other similar types of accommodations in Essex County for the purpose of promoting tourism and publicizing the advantages of Essex County; and

**WHEREAS**, in 2013, the Essex County Board of Supervisors adopted a local law amending the hereinabove law, increasing the occupancy tax from 3% to a total of 5% with the monies to be used to promote tourism and publicize the advantages of Essex County; and

**WHEREAS**, pursuant to New York State Tax Law Section 1202-s (l 0), Essex County has contracted with ROOST (formerly the Lake Placid-Essex County Visitors Bureau) to provide marketing and tourism promotion in Essex County; and

**WHEREAS**, the enabling legislation provides that of the overall revenues collected by the imposition of the tax, 5% is to be retained by Essex County to defer necessary expenses in administration of the tax, and the remaining 95% of the monies is to be used for tourism promotion in Essex County. The legislation provides that Essex County contract with the Lake Placid-Essex County Visitors

Bureau (now ROOST) to provide tourism and promotional programs publicizing the advantages of the County; and

**WHEREAS**, from 100% of the tax collected, ROOST and the County have agreed that ROOST shall retain 60% of these monies and the County shall retain 40% of these monies; and

**WHEREAS**, from the 40% held by Essex County, the County shall deduct \$40,000 to be used for the fairgrounds, \$85,000 to be paid to ROOST for administrative expenses, and 5% for the County for its expenses. The remaining monies after these deductions shall be distributed to the towns with 60% of the remaining monies to be divided equally amongst the towns and 40% thereof to be divided amongst the eighteen (18) towns based upon a blended percentage of Airbnb and hotel/motel/STR rentals from each town. Attached hereto is an example of the distribution.

**NOW, THEREFORE**, the parties hereto agree as follows:

1. After the deduction of the \$40,000 to be used for fairground purposes, the \$85,000 ROOST administration fee and the \$5,000 County administration fee from the 40% allocation of all hotel/motel occupancy taxes collected in Essex County each year, the County agrees to pay to each town its respective share of these monies based upon the following formula:

A. 60% of the remaining 40% County allocation shall be divided equally amongst the eighteen (18) towns.

B. 40% of the remaining 40% County allocation shall be divided amongst the towns based upon a blended percentage of the Airbnb and hotel/motel/STR rentals from each town.

1. As consideration of the payment by the County to the towns, the Town agrees to use the funds pursuant to the dictates of New York State Tax Law Section 1202-s and to enhance the local economy, improve quality of life, publicize the Town and promote tourism and related activities within the Town.

2. Attached at Schedule A is the Essex County 2023 Guidance Document which sets forth what the Town can spend these occupancy tax funds on. The Town agrees to contact the Chairman of the Board of Supervisors for approval of the use of any and all of these monies. Failure to adhere to the 2023 Guidance Document will be a breach of this contract and may result in the cessation or diminution of payment of allotted monies to the Town.

3. Payments to the Town will be issued biannually to the Town in January and June of each year. Payments will be made based upon the agreed upon formula

and can vary from year to year at the sole discretion of the Essex County Board of Supervisors.

4. It is acknowledged and agreed by the parties that this Agreement is contingent upon the ability of Essex County to continue to receive 40% of the overall Essex County Hotel/Motel Occupancy Tax and will terminate in the event that the receipt of these monies by Essex County ceases or is diminished.

5. The term of this Agreement is for one (1) year from January 1, 2023, and shall automatically renew for additional one (1) year terms until such time as either party may seek to terminate this Agreement. If either party decides to terminate this Agreement, that party shall provide written notice of its intent to terminate twelve (12) months prior to the date of termination.

6. Essex County reserves the right to change the formula of distribution as hereinabove set forth, the amounts distributed to the Town and the purposes for which these monies may be used in its sole and absolute discretion and will provide the Town with notice thereof.

7. This Agreement shall be construed under the laws of the State of New York.

8. This Agreement may not be amended or modified except by written agreement signed by all the parties.

9. Town shall indemnify, defend and hold harmless the County to the fullest extent allowed by law, and notwithstanding any insurance requirements, from and against any and all liability, losses, claims, actions, demands, damages, expenses, suits, judgments, orders, causes of action and claims, including but not limited to attorney's fees, legal costs, and all other costs of defense, by reason of any liability whatsoever imposed by law or otherwise upon the County for damages to person, property or of any other kind in nature, including but not limited to those for bodily injury, property damage, death arising out of or in connection with its officers, employees, agents, contractors, sub-contractors, guests or invitees' negligence or its/their performance or failure to perform this agreement.

**IN WITNESS WHEREOF** this agreement has been executed by the parties hereto to be effective as of the day and year first above written.

**RESOLUTION #146**  
**C & E FENCING, LLC FOR DOG PARK**

On a motion by Councilperson Viens, and seconded by Councilperson Morrison, and approved with a roll call vote.

4 Ayes            Morrison, Viens, Kirkby, Tyler  
0 Nays

**RESOLVED** to award C & E Fencing, LLC the contract to install a dog park at Lee Park in the amount of \$11,570.00.

**RESOLUTION #147**  
**M J ENGINEERING LEAD SERVICE LINE INVENTORY AGREEMENT**

On a motion by Councilperson Viens, and seconded by Councilperson Morrison, and approved with a roll call vote.

4 Ayes            Morrison, Viens, Kirkby, Tyler  
0 Nays

**RESOLVED** to authorize Supervisor Tyler to sign the Lead Service Line Inventory Authorization to Proceed document with M J Engineering in the amount of \$5,000.00.

SUPERVISOR

**PUBLIC COMMENT:**

**Dave Golembach** was present to address the board regarding a culvert on Ledge Hill Road. Discussion about the challenges of the significant rain this summer along with the location of Mr. Golembach home. Supervisor Tyler has had engineers out on many occasions over the past eight years to assess the area. Further discussion if there are emergency funds to help residents experiencing flooding. Essex County has declared a State of Emergency a couple of weeks ago, so there may be emergency funds available at some point.

**Jennifer Williams** is conducting a survey of residents about their wants and needs for the community. She intends to share the data with the Town. Supervisor Tyler stated we had completed a survey a couple of years ago. We received a Development Main Street Reinvestment Grant, and are currently working with the Westport- Wadhams Alliance (aka Westport Chamber of Commerce) to best utilize this grant.

**Ann Marie Fitzgerald** is present to address the runoff due to her neighbors clear cutting. Clear cutting is a big problem. Supervisor Tyler has contacted the state regarding the problem. The Town has fixed Ms. Fitzgerald's driveway. Michael Fergot asked if there is FEMA money available? Supervisor Tyler explained that the County had declared a State of Emergency for a recent storm a couple of weeks ago but not sure if this would help for this past rain event.



**DPW SUPERINTENDENT REPORT:** Due to storm damage Keven was excused to care for the Town.

**RESOLUTION #148  
ADJOURNMENT**

On a motion by Councilperson Morrison, seconded by Councilperson Viens, and approved on an all in favor to adjourn the meeting at 7:11 pm.

Minutes respectfully submitted,

Catherine Simmer,  
Town Clerk