

A Town Board work session meeting of the Town Board of the Town of Lewisboro, Westchester County, New York, was held on November 27, 2023, at 7:30 p.m. at the Lewisboro Town House, 11 Main Street, South Salem, New York.

PRESENT:

Supervisor	Tony Gonçalves
Council Members	Andrea Rendo, Mary Shah, Richard Sklarin, Daniel Welsh
Town Clerk	Janet L. Donohue
Absent	None

Also attending was the Attorney for the Town Gregory Folchetti, Maintenance Employee Shawn Johannessen, Chief of Police David Alfano, Comptroller Nisha Singh, and Chief of Staff Kerri Wolfe.

Approximately 17 residents/observers attended the live meeting and approximately 57 participated via Zoom.

Supervisor Gonçalves called the meeting to order at 7:34 p.m.

EMERGENCY PROCEDURE

Supervisor Gonçalves noted the exits to be used in the event of an emergency.

PLEDGE OF ALLEGIANCE

The Supervisor led the Pledge of Allegiance to the flag.

PUBLIC HEARING – Chapter 203 Tree Preservation Amendment (7:35 – 8:10 p.m.)

Supervisor Gonçalves called the public hearing to order for a proposed local law of the Town Code of the Town of Lewisboro to amend Chapter 203 of the Lewisboro Town Code entitled “Tree Preservation”. There was no objection to the time or form of the public notice (attached).

On motion by Supervisor Gonçalves, seconded by Councilman Sklarin, the Board voted as follows:

THE VOTE:	Yes	- Gonçalves, Rendo, Shah, Sklarin, Welsh	(5)
	No	- None	(0)
	Absent	- None	(0)

RESOLUTION

RESOLVED, that the public hearing regarding an amendment to the Town Code, Chapter 203 Tree Preservation, of the Town of Lewisboro, is now open.

Supervisor Gonçalves stated that the proposed scope of changes being considered as part of this round of updates to the tree ordinance are as follows:

1. To make the ordinance consistent with Westchester County on licensing
2. Tighten up language to prevent clear cutting.
3. Correction of an error for Special Character district
4. An additional remedy/penalty: This relates to the tree replacement schedule being placed as a discretionary component of permit issuance.

Councilwoman Rendo made the following comments:

1. §203-3: *Although I appreciate the removal of the language originally suggested by Mr. Wolff pertaining to contractors being licensed by the County of Westchester, I am still of the opinion that homeowners should be able to choose the contractor they wish to use for tree removal. Many homeowners live on the border of CT and, in some places, are almost part of CT. These residents should not be limited in who they are permitted to hire to this type of work. At the very least, a contractor licensed and insured in the State of CT should be acceptable as well. The fact remains that it is Westchester County Law and the town, to my knowledge, cannot override that. Also, there is nothing preventing out-of-state contractors from getting licensed in Westchester. The one I use is from CT and he is licensed in Westchester. The licensing requirement also protects the homeowner from liability of an unlicensed contractor.*
2. §203-4: *Tree removal in connection with construction etc., should meet the vision of the homeowner and their architect. To allow the building inspector to determine what is and what is not “essential,” is over-reaching to say the least. Maybe we can have a productive conversation about a perimeter around the proposed construction outside of which the building inspector would have some discretion but this, as written, goes too far. Maybe language like “reasonably necessary” to the construction and/or vision. In addition, the inclusion of the additional language in this section makes it very confusing. First we are saying that removal of trees in connection with an issued building permit, but then the next line talks about how there must be a building permit that includes the same trees? So is it not really an exception because the trees to be removed still have to be approved withing the building permit application? This revision cleans up poor wording in the original law and also better reflects the intent of the Tree Preservation Ordinance to allow new construction to clear cut is inconsistent with the spirit of the law and it is inconsistent with what the ordinance imposes on current homeowners. The Tree Ordinance was passed to preserve trees in Lewisboro as they are a significant part of the character of the town. The original wording did not provide any real guidance or provide any authority for tree removal on new construction, and this is inconsistent with the rest of the law. The building inspector is the enforcing agent for the tree ordinance and as such is in the best position to make the decision, just as the wetland inspector does for tree removal in the wetland. To have one group cut whatever they want and another having to adhere to the law makes little sense. As to overreaching, opponents of the ordinance (and the wetland law) would say it is all overreaching. However, we have such laws to protect*

- what the town and the town board deems important to the character of the town and the environment.*
3. §203-6 (G): *I think there may be some typos so just re-read. I would like to know where the authority for these numbers came from. What expert determined, for example, that a tree removed that between 24 and 30 inches is equivalent to needing 6 trees to replace it? Is there some scientific authority? The other problem I have with this amendment is that it seems to me that wealthy residents who can afford the fines or the tree replacement can do whatever they want with the trees on their property because the cost is merely a small drop in the bucket for them. The rest of us will be constrained in our vision and desire for what we want to see on our property. In addition, who decides where these trees are going to be planted? This section gives the building inspector and the homeowner who violated the law some additional option other than a fine. While fines may be a deterrent, they don't repair the damage but unauthorized tree removal. The numbers were chosen from a law in existence, the City of Poughkeepsie. These seem to be good numbers as they are part of an existing code that is in practice. The town board is free to suggest or implement other numbers.*
 4. *Shouldn't this ordinance also take into consideration the size of the property upon which trees are being removed? Shouldn't there be a difference when trees are removed from a 20 acre lot versus an acre lot? That is not part of this update and was discussed two years ago with the town board and it chose to not use the size of property. The complete ordinance is not part of this hearing or update.*
 5. *Shouldn't there also be a different set of rules for people who want to put fields in for animals such as horses? Again, this is not part of this update to involve agricultural districts. This could be introduced by the town board at a later time if they so desired. The ordinance is "owned" by the town board.*
 6. *I think we need to better define who the "approving authority" is. It cannot be the Building Inspector or our wetlands inspector. They have no basis to decide what trees need to be planted or how they are to be replaced. Maybe we should allow for the resident to have the option of hiring a certified arborist to create a proposal to submit with the tree approval application? The town has an on-call arborist for these kinds of decisions.*

Councilman Sklarin proposed the following be added as 203-3 (B)

(6) Meet and confer with the tree removal applicant (if requested in writing) or applicant's representative before making a determination to grant, deny or grant with conditions a tree removal permit under this chapter.

Conservation Advisory Council Chair John Wolff did state that a property owner can meet with the building inspector to discuss a plan to remove trees during the building permit process. He also stated that trees per acreage was addressed when the tree ordinance was passed last time, and it was brought up to the Town Board and they opted not to have this in there. The suggestion of the tree committee is outside of the scope of the currently proposed changes to the tree ordinance. Also, there is nothing to prevent out of state tree cutters getting licensed in Westchester.

Resident Dean Travalino agreed with the comments from Councilwoman Rendo and Councilman Sklarin. He feels you should look at some of the best practices such as in Bedford. He read the survey responses for the master plan and feels many like the rural character. Mr. Travalino submitted his comments in writing (see attached).

Conservation Advisory Council member Sally Frank made a few points. We want to preserve and protect trees because they are good for us. This should not be an adversarial situation. Also, the Building Inspector is not going to make a random decision about removing trees. The decision is based on drainage issues, wetland issues, etc.

Supervisor Gonçalves read the below letter from Callie Bauer:

Dear Tony and members of the board,

Our understanding is that the town board has undertaken to make revisions to the current Tree Preservation Law and is holding a public hearing on Tuesday, October 10, 2023. We would like to take this opportunity to ask that you consider revising the current definition of "Agricultural Activity" as it relates to what activities are exempt from the ordinance in order to help preserve the equestrian community in Lewisboro and encourage its future development.

Under the existing law the agricultural exemption applies only to "the activity of an active farm" including "raising and watering of livestock" and "using the land for growing agricultural products," but makes no provision for the equestrian facilities and backyard barns that contribute to the town's rural charm, open space and recreational opportunities, and generate jobs and significant payroll, sales and real estate taxes. Specifically excluded from the exemption are "dude ranch or similar facility."

We ask that you consider a related provision contained in North Salem's tree law which reads as follows:

FARMING OPERATION

Any operation on a parcel of land, not less than four acres, that is used for soil-dependent cultivation of agricultural crop production and/or the raising of livestock, poultry or dairy products, raising of fur-bearing animals, the keeping of horses and livery or boarding stables, as permitted under Chapter 250, Zoning. The definition of "farming operation" excludes dog kennels.

Please read this letter into the record of the hearing on Monday. Thank you for your consideration.

*Sincerely,
LEWISBORO HORSEMEN's ASSOCIATION*

On motion by Councilwoman Shah, seconded by Councilwoman Rendo, the Board voted as follows:

THE VOTE:	Yes	- Gonçalves, Rendo, Shah, Sklarin, Welsh	(5)
	No	- None	(0)
	Absent	- None	(0)

RESOLUTION

RESOLVED, that the public hearing regarding an amendment to the Town Code, Chapter 203 Tree Preservation, of the Town of Lewisboro, is now closed.

The Board will incorporate the suggested changes and will re-notice a public hearing early in the new year.

PUBLIC HEARING - State Tax Cap Legislation

Supervisor Gonçalves opened the public hearing, seconded by Councilwoman Shah, to adopt a local law to override the limit on the amount of real property taxes that may be levied by the Town of Lewisboro, County of Westchester pursuant to the General Municipal Law §3-c, and to allow the Town of Lewisboro, County of Westchester to adopt a town budget for (a) town purposes, (b) fire protection districts and (c) any other special or improvement district governed by the Town Board for the fiscal year 2022 that requires a real property tax levy in excess of the "tax levy limit" as defined by General Municipal Law §3-c. All were in favor. There was no objection to the time or form of the public notice (attached). Supervisor Gonçalves asked for comments from the audience.

There were no comments.

On motion by Supervisor Gonçalves, seconded by Councilman Welsh, the Board voted as follows:

THE VOTE:	Yes	- Gonçalves, Rendo, Shah, Sklarin, Welsh	(5)
	No	- None	(0)
	Absent	- None	(0)

RESOLUTION

RESOLVED, that the public hearing for adopting a local law to override the limit on the amount of real property taxes that may be levied by the Town of Lewisboro, County of Westchester pursuant to the General Municipal Law §3-c, and to allow the Town of Lewisboro, County of Westchester to adopt a town budget for (a) town purposes, (b) fire protection districts and (c) any other special or improvement district governed by the Town Board for the fiscal year 2024 that requires a real property tax levy in excess of the "tax levy limit" as defined by General Municipal Law §3-c, is now closed.

TAX CAP LEGISLATION – Local Law Passed

On motion by Supervisor Gonçalves, seconded by Councilman Welsh, the Board voted as follows:

THE VOTE:	Yes	- Gonçalves, Rendo, Shah, Sklarin, Welsh	(5)
	No	- None	(0)
	Absent	- None	(0)

RESOLUTION

RESOLVED, that the Town Board adopted a local law to override the tax levy limit established in general municipal law, §3-c.

LOCAL LAW #4 OF THE YEAR 2023 LOCAL LAW TO
OVERRIDE THE TAX LEVY LIMIT ESTABLISHED IN
GENERAL MUNICIPAL LAW 3-C

SECTION 1. LEGISLATIVE INTENT

It is the intent of this local law to override the limit on the amount of real property taxes that may be levied by the Town of Lewisboro, County of Westchester pursuant to General Municipal Law § 3-c, and to allow the Town of Lewisboro, County of Westchester to adopt a town budget for (a) town purposes (b) fire protection districts and (c) any other special or improvement district governed by the Town Board for the fiscal year 2024 that requires a real property tax levy in excess of the “tax levy limit” as defined by General Municipal Law § 3-c.

SECTION 2. AUTHORITY.

This local law is adopted pursuant to subdivision 5 of General Municipal Law § 3-c, which expressly authorizes the town board to override the tax levy limit by the adoption of a local law approved by a vote of sixty percent (60%) of the town board.

SECTION 3. TAX LEVY LIMIT OVERRIDE.

The Town Board of the Town of Lewisboro, County of Westchester is hereby authorized to adopt a budget for the fiscal year 2024 that requires a real property tax levy in excess of the limit specified in General Municipal Law § 3-c.

SECTION 4. SEVERABILITY.

If any clause, sentence, paragraph, subdivision, or part of this Local Law or the application thereof to any person, firm or corporation, or circumstance, shall be adjusted by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, or part of this Local Law or in its application to the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

SECTION 5. EFFECTIVE DATE.

This local law shall take effect immediately upon filing with the Secretary of State.

PUBLIC HEARING – Preliminary Budget 2024 (8:16 – 8:50 p.m.)

Supervisor Gonçalves opened the public hearing on the Preliminary 2024 Budget, seconded by Councilwoman Shah, all were in favor. There was no objection to the time or form of the public notice (attached). Supervisor Gonçalves asked for comments from the audience.

There were no public comments.

Comptroller Nisha Singh did an overview of minimal changes that were made to the budget that did not affect the tax cap. Ms. Singh stated that healthcare for individuals was going up by 10% and up 9% for families. \$4,000 was added to the budget for and employee medical buyout. And \$130,000 was added back into the highway paving and resurfacing line. With these added amounts, it would bring the tax increase number up to 4.2% (or \$62.00) as opposed to 2.57% (or \$38.00).

A discussion was had at the last meeting regarding lowering the highway paving and resurfacing line and borrow \$450,000 but the decision was made to restore the \$130,000 back into that line bringing the total to \$180,000. By doing this, the board would break the tax cap and would have to borrow less money.

On motion by Councilman Sklarin, seconded by Councilwoman Shah, the Board voted as follows:

THE VOTE:	Yes	- Gonçalves, Rendo, Shah, Sklarin, Welsh	(5)
	No	- None	(0)
	Absent	- None	(0)

RESOLUTION

RESOLVED, that the public hearing regarding the Preliminary Budget for 2024, is now closed.

BUDGET – Adoption of 2024 Budget

On motion by Councilman Sklarin, seconded by Councilman Welsh, the Board voted as follows:

THE VOTE:	Yes	- Rendo,Shah, Sklarin, Welsh	(4)
	No	- Gonçalves	(1)
	Absent	- None	(0)

RESOLUTION

RESOLVED, that the Town Board does adopt the 2024 Budget with the modifications that were made at tonight's meeting (see attached).

PUBLIC COMMENT PERIOD I (8:51– 8:32 p.m.)

A total of 15 residents spoke or had letters read.

ISRAELI – HAMAS CONFLICT

A total of 11 residents spoke out either in person, via Zoom or via email letters against Councilman Welsh and his anti-Israeli comments that he made on his personal Facebook page. Several of these residents suggested that Councilman Welsh should resign as Councilman and one individual suggested that he not be reappointed as the Deputy Town Supervisor. A resident also asked why the Israel and Ukraine flags are no longer flying in front of the Town House.

During polling of the Board, Supervisor Gonçalves stated that it was brought to his attention that it is unlawful to display the flags of foreign nations on municipal buildings as per NYS Law, Public Buildings (PBB), Chapter 44, Article 5 §141.

A total of 4 residents spoke in favor of Councilman Welsh's comments stating they support his courage and that he is no antisemite but that he is honest and is looking at the humanity on the other side.

During polling of the Board, Councilwoman Rendo stated she was in support of Councilman Sklarin's comments and stated the following:

"I too have read Councilman Dan Welsh's post and the comments and posts related to it. I would like to thank Councilman Richard Sklarin for his well thought out and articulate comment in response, and to lend my support to all that he said.

I hold our 1st Amendment rights in very high regards and do not feel that any voice should be silenced just because we may disagree. That said, as an elected Town official, we have a duty to serve the people of the Town of Lewisboro and sometimes that may mean putting aside what we want to say in order to keep focus on the job we were elected to do.

Mr. Welsh's post, in his capacity as a public official, has distracted us from our jobs as Members of the Town Board and has offended and angered many of our residents. I can only hope Mr. Welsh thinks twice before posting such reckless comments again over the next four years he sits as your councilman."

During polling of the Board, Councilwoman Shah was also in support of Councilman Sklarin's comments and stated the following:

"I am against terrorism and gun violence. I am against antisemitism and Islamophobia as well as anti-Arab and anti-Asian hate. I'm also against misogyny and LGBTQIA hate, as well as anti-Black hate, because I believe in equity, diversity, and inclusion. I try to meet people where they are, respect differences, foster connections and make a difference for all who live and work in Lewisboro."

During polling of the Board, Councilman Sklarin stated the following:

"I have known Mr. Welsh for a long time and have engaged with him in open and honest dialogue in person and on Facebook. Nobody is more tolerant and aware to people in our community than Dan historically, everything from our Juneteenth and Pride celebrations and everything we do to try to bring our community together. But Dan, in this situation you have not conveyed the same human sensitivity for Lewisboro's Jewish community as you have to other community groups in the same way that you typically would. That gives me a little bit of a pause.

And that's just something to reflect in the continued dialogue. I am the only Jewish member of this board, a proud Jewish American who has been in this community for 25 years. There is a large Jewish community in town, and I support that community."

During polling of the Board, Supervisor Gonçalves stated the following:

"When we sit up here at the dais, words are important. So, we have to be careful whether that be public spoken comments or Facebook posts. We have an obligation to really think about things before we make statements publicly and I think we can all learn from the situation and do better and focus on town business, which is where we should be focused."

During polling of the Board, Councilman Welsh stated that he heard what everyone said. He is anti-war and wants to stop seeing the violence. He stated that all feelings are valid and that he is listening and learning.

"My highest priority is the end of violence. I've been an antiwar activist for probably 40 years, and I think that everybody who knows me knows that in my spare time I've been out on the street for that. And what I want to see happen now is the end of the violence. But I understand everybody has very valid feelings and backgrounds on this and I am listening and trying to learn from that. I never wanted to make it a town board matter. I am glad everyone had their chance to speak. I want to hear them. I also think it's important that someone speaks out for the Palestinians. I am trying to do that, perhaps not as artfully as I might, but silence is not an acceptable option for me."

COMMUNICATIONS

NYSDOT

Supervisor Gonçalves stated that he received a formal letter from the NYS Department of Transportation formalizing that they would be starting the paving project on Route 35 in the Spring of 2024. This information can be found on the NYSDOT website.

CONSENT AGENDA

MINUTES - Approved

On motion by Councilman Sklarin, seconded by Councilwoman Shah, the minutes of the November 13, 2023, Town Board meeting were approved.

THE VOTE:	Yes	- Gonçalves, Rendo, Shah, Sklarin, Welsh	(5)
	No	- None	(0)
	Absent	- None	(0)

HIGHWAY MOA WITH TEAMSTERS 456 UNION – Authorize Supervisor to Sign

On motion by Councilwoman Shah, seconded by Councilwoman Rendo, the Board voted as follows:

THE VOTE:	Yes	- Gonçalves, Rendo, Shah, Sklarin, Welsh	(5)
	No	- None	(0)
	Absent	- None	(0)

RESOLUTION

RESOLVED, that the Town Board authorizes the Supervisor to sign the Memorandum of Agreement with the Local 456 Teamsters Union as the bargaining representative for the Highway Department.

STORMWATER – MS-4 Interim Report

On motion by Councilman Sklarin, seconded by Councilwoman Shah the Board voted as follows:

THE VOTE:	Yes	- Gonçalves, Rendo, Shah, Sklarin, Welsh	(5)
	No	- None	(0)
	Absent	- None	(0)

RESOLUTION

RESOLVED, that the Town Board does accept the Interim MS4 Report and be it further

RESOLVED, that the Town Board authorizes the Supervisor to sign said report.

TOWN OFFICES – Authorize Closing

On motion by Councilwoman Shah, seconded by Councilwoman Rendo the Board voted as follows:

THE VOTE:	Yes	- Gonçalves, Rendo, Shah, Sklarin, Welsh	(5)
	No	- None	(0)
	Absent	- None	(0)

RESOLUTION

RESOLVED, that the Town Board does hereby authorize an extended lunch period from 11:45am – 2:15pm on Thursday, December 14 with a snow date of Friday, December 15 for an employee function.

WESTCHESTER COUNTY CLERK LANDRECORDS MOU – Authorize Supervisor to Sign

On motion by Councilwoman Rendo, seconded by Councilwoman Shah, the Board voted as follows:

THE VOTE:	Yes	- Gonçalves, Rendo, Shah, Sklarin, Welsh	(5)
	No	- None	(0)
	Absent	- None	(0)

RESOLUTION

RESOLVED, that the Town Board does hereby authorize the Supervisor to sign the Memorandum of Understanding (MOU) with the Westchester County Clerk for free access to land records.

ONATRU BARN ROOF REPLACEMENT – Accept Proposal

On motion by Councilman Sklarin, seconded by Councilwoman Shah the Board voted as follows:

THE VOTE:	Yes	- Gonçalves, Rendo, Shah, Sklarin, Welsh	(5)
	No	- None	(0)
	Absent	- None	(0)

RESOLUTION

RESOLVED, that the Town Board does accept the proposal from Martinez Carpentry and Roofing for Onatru Farm parks barn roof replacement.

OPEN SPACE & PRESERVES ADVISORY COMMITTEE – Appoint Member

On motion by Councilman Sklarin, seconded by Councilman Welsh the Board voted as follows:

THE VOTE:	Yes	- Gonçalves, Rendo, Shah, Sklarin, Welsh	(5)
	No	- None	(0)
	Absent	- None	(0)

RESOLUTION

RESOLVED, that the Town Board does appoint Philip Holt as a member of the Open Space and Preserves Advisory Committee (OSPAC) to fill the unexpired term of Prescilla Page, expiring on 12/31/24.

PARKS & RECREATION GROUNDSKEEPER – New Hire

On motion by Councilman Sklarin, seconded by Councilwoman Shah, the Board voted as follows:

THE VOTE:	Yes	- Gonçalves, Rendo, Shah, Sklarin, Welsh	(5)
	No	- None	(0)
	Absent	- None	(0)

RESOLUTION

RESOLVED, that the Town Board does authorize the hiring of Michael Gallagher as the new Parks & Recreation Groundskeeper with a start date of December 4, 2023.

PUBLIC COMMENT PERIOD II for New Business Only

A total of one resident spoke.

ONATRU ROOF REPLACEMENT

A resident asked for clarification regarding the roof replacement at Onatru regarding the second bid.

During the polling of the board, Supervisor Gonçalves explained that the approval tonight was based on a request for approval. The bid for the other roof at Onatru (maintenance barn) was a larger project and it was over the threshold and required it to go out to bid.

CLAIMS – Authorized for Payment

On motion by Supervisor Gonçalves, seconded by Councilman Sklarin, the Board voted 5-0 to authorize payment of the Town's bills in the amount of \$254,200.43.

POLLING OF THE BOARD

POOL COMMITTEE

There has been a pool subcommittee, and they would like to be formalized at the Organizational Meeting.

NYALERT

The Board reminded residents to sign up for the free emergency service notifications as www.alert.ny.gov.

HOLIDAY CELEBRATION

The Christmas Tree will be lit at the Town Park on Monday, December 4, 2023, at 6:30 pm. The Menorah will be lit at the Library on December 7, the first night of Hanukkah at 4:45 p.m.

EV CHARGERS

Councilman Welsh stated that he will be visiting town owned property tomorrow with a consultant from the County for possible EV charging sites. There are subsidies that could be available.

MEETINGS – Dates Set

There will be a meeting on **Tuesday, December 12, 2023**, at 7:30 p.m. at the Town House, 11 Main Street, South Salem, New York.

EXECUTIVE SESSION – To Discuss Real Estate Issues

On motion by Supervisor Gonçalves, seconded by Councilwoman Shah, the Board voted 5-0 to go into executive session at 9:54 p.m. to discuss legal issues.

On motion by Councilwoman Shah, seconded by Councilman Welsh, the Board voted 5-0 to come out of executive session at 10:24 p.m.

ADJOURNMENT

On motion by Supervisor Gonçalves, seconded by Councilman Sklarin, the Board voted 5-0 to adjourn at 10:25 p.m.

Janet L. Donohue
Town Clerk