

TOWN OF GREENWICH

PROPOSAL IMPLEMENTING HOME RULE LAWS ALLOWING:

- **CHANGING OF HIGHWAY SUPERINTENDENT FROM AN ELECTED OFFICE TO AN APPOINTED OFFICE**
- **ESTABLISHING OF A PUBLIC WORKS DEPARTMENT**
- **APPOINTMENT OF HIGHWAY SUPERINTENDENT TO SERVE AS PUBLIC WORKS COMMISSIONER**
- **DIVIDING PUBLIC WORKS DEPARTMENT INTO TWO DIVISIONS: HIGHWAY AND BUILDING & GROUNDS**

INTRODUCTION

The early retirement of the Town's current Highway Superintendent has created an unanticipated review of the Highway Department's operations, planning and budgeting process and a need to better manage the maintenance of the Town's buildings and grounds.

Currently, the Highway Department's primary focus is highway maintenance and improvement of Town roads outside the Village. (Village residents do not pay Town Highway taxes and Town residents that live on County or State roads do not receive Town Highway services.) Also, from time to time Highway Department staff is called upon to maintain the Town's properties, principally the Battenkill Park.

However, the acquisition of the Hudson River Park and its several buildings, some of which will require year-round maintenance, will impose greater strain on the Highway Department's resources which it is not currently organized to handle. As matters stand now, the Town will have to provide separate management and budgeting to deal with the maintenance requirements of newly added buildings and grounds.

Maintenance of the Town Office Buildings and other grounds will continue to be managed on a situation by situation basis, dealing with needs and emergencies, as they arise. As this review has found, it is time to look for a better approach.

RECOMMENDATION

That the Town of Greenwich

- Change the Highway Superintendent from an Elected to an Appointed Position,
- Establish a Public Works Department,
- Appoint a Highway Superintendent to Serve as Commissioner of Public Works, and
- Divide the Public Works Department into Two Divisions: Highway and Building and Grounds.

The appointment will be made by and report to the Town Council.

This proposal will:

1. Streamline the management of Town highways and Town buildings & grounds, and
2. Ensure that the priorities of Department of Public Works are coordinated with the overall budget priorities as established by the Town Council.

PROPOSAL DETAILS

Both the NY Home Rule Law and Town Law provide a method to coordinate the management and budgeting of public works. It is a method which many local governments have adopted, including the Village of Greenwich. That method puts both operations, that is, highway and public works (such as buildings and grounds) under one appointed manager. That appointed

manager reports directly to the Town Council for planning, budgeting and the allocation of resources. In addition, the statutory authorization specifically provides for combining the Highway Superintendent Office with a Public Works Office.

Greenwich is not unique with respect to this issue. Many towns have been struggling recently with the appointed/elected status of their highway superintendents as Town and Village boards seek more control over planning and budgeting for highways as well as other public works functions.

Under the present system, the Town Council's control over the Highway Department is limited to funding and general personnel policies. For example, decisions relating to long- and short-term planning for highway repaving are solely in control of the Highway Superintendent.

On the other hand, an appointed Public Works Commissioner/Highway Superintendent would be responsive to the elected Town Council and Supervisor who would have direct influence and authority over the Department's short- and long-term planning and budget. This is particularly critical as towns contend with tighter budgets and more taxpayer attention to the way the town's roads are maintained.

Other Town Councils who have taken this route believe that the duties of Highway Superintendents are fundamentally running day to day operations, monitoring conditions and making recommendations for long- and short-term highway maintenance. They do not set policy and determine budget and spending priorities.

As of this writing ninety-one (91) towns have made that transition from an elected to an appointed Highway Superintendent, including the Village of Greenwich as noted earlier. **(See Appendix A. Differences between elected and appointed Superintendent of Highways Position.)**

As the Post Star stated in an excellent editorial recommending appointed Highway Superintendents:

“Highway superintendents don't make policy. They carry it out. Municipal boards set highway budgets. Municipal boards decide the size of the payroll. They negotiate the contracts and health benefits and retirement benefits of the employees. And they are the ones who are ultimately accountable to voters for the condition of the community, including the roads.

Yet for some reason, voters and some government board members have insisted on having a separate, independent individual running the highway department. It doesn't make sense, either from a financial or management standpoint. Yet the tradition continues.” (See Appendix B for the entire editorial.)

By appointing the Superintendent, the Town Council can determine the qualifications and accountability associated with an appointed position. It will also provide greater assurance that a team of appointed professionals will work together to achieve goals set by the elected Town Council within the constraints and limitations of the Town Budget.

THERE ARE NO QUALIFICATIONS FOR RUNNING FOR AN ELECTED HIGHWAY SUPERINTENDENT POSITION.

ESTABLISHING A PUBLIC WORKS DEPARTMENT

In conjunction with a move to an appointed Highway Superintendent many, Towns have also taken advantage of the option authorized by the laws noted above to create a Department of Public Works. Under this option the Public Works Department would include Highways and Building & Grounds or other public works as may from time to time arise. As previously indicated, and in accord with the State Home Rule Laws, the appointed Superintendent of Highways would also serve as the Commissioner of Public Works.

Once again, this would allow the Public Works Commissioner to focus, plan and manage the functions and duties of employees between highway operations and public works functions, such as maintaining Town building and grounds. This organizational form is currently used by cities and villages such as the Village of Greenwich, as well as some towns. Under the present organization the two functions are co-mingled on a random basis.

HOW THIS WOULD BE DONE

To change the Highway Superintendent position from elected to appointed, the Town Council must hold a public hearing, pass a local law, and organize a referendum for voters to decide if the law should go into effect.

If the voters approve having an appointed position, the Town determines qualifications for the position, the terms of appointment, for example, a renewable term appointment or open ended, as well as probationary conditions. In any case, the departments would be subject to periodic evaluations to assure that taxpayer concerns are met. **(See Appendix C for Questions & Answers)**

Appendix A. Differences between elected and appointed Superintendent of Highways

	Elected	Appointed
Qualifications	<ul style="list-style-type: none"> No minimum job-related qualifications. Any resident of the town can run if they are 18 years or older. 	<ul style="list-style-type: none"> Town sets minimum qualifications via a job description. The Town Council decides whether to require residency.
	Qualifications are provided in campaign material.	
Financial	<ul style="list-style-type: none"> The Highway Superintendent has wide latitude on spending for equipment, paving and road maintenance within limits set by Town Council. 	<ul style="list-style-type: none"> The Town Council works with the Highway Superintendent on capital plans and spending.
Accountability	<ul style="list-style-type: none"> An elected official cannot be removed from office. 	<ul style="list-style-type: none"> Performance evaluations are done.
	<ul style="list-style-type: none"> Elected officials cannot be disciplined, suspended, terminated or supervised by the Town Council. 	<ul style="list-style-type: none"> If necessary, disciplinary action is allowed if employee is not performing his/her duties.
		<ul style="list-style-type: none"> Hours are determined by the Town Council
	<ul style="list-style-type: none"> Elected officials act independent of the Town Council are not restricted or regulated in the time devoted to official duties. May operate private business 	<ul style="list-style-type: none"> Position is full time
	<ul style="list-style-type: none"> Must take oath to fulfill duties outlined in state law. 	
Compensation	<ul style="list-style-type: none"> Salaries for elected officials are set by the Town Council and cannot be reduced or withheld during the term of office unless a referendum is held. 	<ul style="list-style-type: none"> Salaries are set by the Town Council based on qualification and experience.
Public Participation	<ul style="list-style-type: none"> The voters choose the official. 	<ul style="list-style-type: none"> The voters elect the Town Council and Town
		<ul style="list-style-type: none"> Supervisor who set staffing levels and qualifications
Job Security	<ul style="list-style-type: none"> Elected for 4-year term. No required qualifications except residency. 	<ul style="list-style-type: none"> The appointed positions can be renewable term appointments with job protections to assure continuity.
Time off	<ul style="list-style-type: none"> No restrictions on amount of time taken off for vacation, or sick leave. Sets own work schedule. 	<ul style="list-style-type: none"> Employee must adhere to the Personnel Policy for time off.

Appendix B. Post Star Editorial: Highway Superintendents should be appointed

EDITORIAL: POST STAR Highway superintendents should be appointed

Sep 20, 2011 Updated Jan 9, 2012

Every other position in local government should be under the control of an elected municipal board, to ensure that the board's policies are carried out directly and efficiently.

Highway superintendents don't make policy. They carry it out. Municipal boards set highway budgets. Municipal boards decide the size of the payroll. They negotiate the contracts and health benefits and retirement benefits of the employees. And they are the ones who are ultimately accountable to voters for the condition of the community, including the quality of the roads.

Yet for some reason, voters and some government board members have insisted on having a separate, independent individual running the highway department. It doesn't make sense, either from a financial or management standpoint. Yet the tradition continues.

Highway superintendents don't serve as watchdogs. If anything, elected highway superintendents are often so independent, entrenched, powerful and politically isolated that the municipal board has to serve as the watchdog of them.

And they're certainly not judicial.

So why should they be elected?

Well, some might say that voters should have the choice. If that's important to the proper functioning of government, then why not have voters elect every department head in government, from the police chief to the dog catcher? For that matter, why not have voters elect the entire slate of government employees? That way, they get exactly who they want serving them.

In reality, voters do have a choice, in that they elect people whose job it is to appoint the best qualified, best suited individuals to these positions.

Others might say that having the highway superintendent elected takes politics and nepotism out of the equation. But the reality is that highway superintendents are often the most political positions in town. And once popular highway superintendents are entrenched, they're often the most difficult to get out of office. Sometimes, these jobs are passed down from father to son through generations, simply because voters recognize the name. How does that serve effective government?

One could say that an elected highway superintendent ensures independence from the municipal board. That might be true. But why would taxpayers want a town employee who doesn't have the overall goals of the town or village as his first priority?

Say, for instance, that the town wants to share equipment or personnel with the next town

over in order to build inter-municipal cooperation or just create goodwill for other needs down the road. If the highway superintendent doesn't want to comply - and there are numerous examples of when they haven't - he doesn't have to, because he's separately elected. That ability to defy the board's wishes weakens the board and undermines its authority to work in the best interests of the entire community.

In education, the school superintendent is often the most powerful and influential person in the district. Would it make sense to make that powerful position elected so that the superintendent could carry out policies that might run counter to the school board's? No. That's why school superintendents aren't elected. But for some reason, highway superintendents are. We have a form of representative government. We elect representatives to enact policy and carry it out. If they don't represent us to our satisfaction, we have the right to vote them out and replace them with someone else. But a highway superintendent represents no one but himself and his department. That makes for inefficient and divided government.

And right now, that's the last thing we need.

Appendix C.

Q & A ON HIGHWAY/DEPARTMENT OF PUBLIC WORKS REFERENDUM

Q – What is being proposed?

- Make the Office of Highway Superintendent an appointed post.
- Form a Department of Public Works (DPW) headed by the combined post of DPW Commissioner/Highway Superintendent.

Q – Why is this being proposed now?

- The Highway Superintendent's unanticipated retirement before the end of his term has forced an appraisal of the options for a replacement.
- Currently, the Highway Department's primary focus is highway maintenance of Town roads outside the Village. Also, Highway Department staff are employed maintaining the Town's properties, principally the Battenkill Park.
- The acquisition of the Hudson River Park and its several buildings, which will require year-round maintenance, will impose a greater strain on the Highway Department's resources which it is not currently organized to handle.
- As matters stand now, the Town will have to provide separate management and budgeting to deal with newly added building and grounds. Maintenance of the Town Office Buildings and other grounds will continue to be managed on a random basis, hiring personnel and funds for maintenance & repair as they arise.
- It becomes apparent that this is the time to consider a different approach to this situation.

Q – How do other municipalities choose their highway superintendent?

- Both the Town Law and the Municipal Home Rule Law allow towns the option of
 - appointing rather than electing the Highway Superintendent and
 - consolidating the Highway Superintendent Office with a DPW Office.
- According to the Association of Towns, 91 towns have abolished the elective Highway Superintendent's office (about ten percent of towns statewide).
- Some towns have also consolidated the highway function with a DPW department.
- In cities and villages, including the Village of Greenwich, the Highway Superintendent's Office is carried out under an appointed DPW Commissioner.

What are the advantages?

- Consolidating the functions under a single appointed official will allow the Town Council to manage the Town's revenue (i.e., taxes & State aid) and budget to meet the most demanding Town costs:
 - long & short-term highway resurfacing & equipment replacement and repair,
 - maintenance, (e. g., mowing/plowing), and repair of town buildings and grounds
 - personnel salary and benefits.

Q – Why is this different with an elective Highway Superintendent Office?

- During the 4-year term of office an Elected Highway Superintendent is not accountable to

anyone. The Superintendent alone determines what and when roads are to be paved, how they are maintained, what and when equipment is purchased and hiring or firing of staff. The Town Council only sets the budget.

- Until election time, there is no voter performance evaluation or oversight to show satisfaction dissatisfaction.
- Because there are no required qualifications for an elective Highway Superintendent Office an election does not assure getting a qualified person to manage the towns highways.

Q – How will the change impact my road services.

- Village residents (who do not pay Town Highway taxes) and Town residents that live on County or State roads do not receive Town Highway services.
- Only voters who live on highways maintained by the Town will be impacted.
- All voters should expect more reliable maintenance of town buildings and grounds.

Q – How is this the put into effect?

- 1st, the Town Council must pass a local law providing for the changes outlined above.
- The Local Law is then subject to a referendum.

Q – What happens if the change is not approved in the referendum vote?

- Should the voters not approve these proposals in the referendum, the office will remain elective, and a new Highway Superintendent will be elected in the fall of 2021.
- In the interim, the Town Council will need to appoint someone to carry out the duties of the Highway Superintendent through the end of 2021.
- The Town Council may need to hire or contract for needed maintenance and repair of town buildings and grounds.

GREENWICH PROPOSAL

[SUPERVISOR NOTES]

PROPOSAL TO APPOINT HIGHWAY SUPERINTENDENT

Q – What is being proposed?

- MAKE THE OFFICE OF HIGHWAY SUPERINTENDENT AN APPOINTED POST.
- FORM A DEPARTMENT OF PUBLIC WORKS (DPW) HEADED BY THE COMBINED POST OF DPW COMMISSIONER/HIGHWAY SUPERINTENDENT

Q – Why is this being proposed now?

The Highway Superintendent's unanticipated retirement before the end of his term has forced an appraisal of the options for a replacement.

- Currently, the Highway Department's primary focus is the maintenance of Town roads outside the Village. Also, Highway Department staff are employed maintaining the Town's properties, principally the Battenkill Park.

APPLICABLE LAWS.

The NY Home Rule Law and Town Law authorize towns the option of coordinating the management and budgeting of highways and public works, such as buildings & grounds, under one appointed manager. The statutory authorization specifically provides for combining the Highway Superintendent Office with a Public Works Office. Although optional & adopted by some towns, it is mandatory in cities and villages.

- The acquisition of the Hudson River Park and its several buildings, which will require year-round maintenance, will impose a greater strain on the Highway Department's resources which it is not currently organized to handle.

- As matters stand now, the Town will have to provide separate management and budgeting to deal with newly added building and grounds. Maintenance of the Town Office Buildings and other grounds will continue to be managed on a random basis, hiring personnel and funds for maintenance & repair as they arise.

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COMPARISON

Elected

Appointed

Qualifications	<p>No minimum job-related qualifications. Any resident of the town can run if they are 18 years or older.</p> <p>Qualifications are provided in campaign material.</p>	<p>Town sets minimum qualifications via a job description.</p> <p>The Town Council decides whether to require residency.</p>
Financial	<p>The Highway Superintendent has wide latitude on spending for equipment, paving and road maintenance within limits set by Town Council.</p>	<p>The Town Council works with the Highway Superintendent on capital plans and spending.</p>
Accountability	<p>An elected official cannot be removed from office.</p> <p>Elected officials cannot be disciplined, suspended, terminated or supervised by the Town Council.</p> <p>Elected officials act independent of the Town Council are not restricted or regulated in the time devoted to official duties. May operate private business.</p> <p>Must take oath to fulfill duties outlined in state law.</p>	<p>Performance evaluations are done.</p> <p>If necessary, disciplinary action is allowed if employee is not performing his/her duties.</p> <p>Hours are determined by the Town Council, Position is full time.</p>
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Public Participation	<p>The voters choose the official.</p>	<p>The voters elect the Town Council who set staffing levels and qualifications</p>
Job Security	<p>Elected for 4-year term. No required qualifications except residency.</p>	<p>The appointed positions can be renewable term appointments with job protections to assure continuity.</p>
Time off	<p>No restrictions on amount of time taken off for vacation, or sick leave. Sets own work schedule.</p>	<p>Employee must adhere to the Personnel Policy for time off.</p>

