**TOWN OF HAMPTON**

**PROPOSAL TO CHANGE HIGHWAY SUPERINTENDENT FROM AN ELECTED OFFICE TO AN APPOINTED OFFICE**

# **INTRODUCTION**

The decision of the Town's current Highway Superintendent not to run again has created an unanticipated review of the Highway Department's operations, planning and budgeting processand a need to better manage our highways in a different way.

Currently as an elected position a person running for the office does not need any skills or experience in highway operations potentially leading to inefficiencies and waste on highway operations. We are also limited on the pool of people we can draw from and since a highway superintendent is not a full time working position the pay does not attract qualified people who can spend the time and effort needed to properly run the department.

# **RECOMMENDATION**

That the Town of Hampton change the Highway Superintendent from an Elected to an Appointed Position. The appointment will be made by and report to the Town Council.

This proposal will help ensure that the priorities of Highway Department are coordinated with the overall budget priorities as established by the Town Council and with the needs of the community.

# 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. This method puts both operation of the highway department under one full time appointed manager. That appointed manager reports directly to the Town Council for planning, budgeting and the allocation of resources.

Hampton 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.

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 and maintenance are solely in control of the Highway Superintendent.

On the other hand, an appointed 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, higher costs for maintenance and equipment, 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

Superintendent**s** 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 Hampton 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 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.

# 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 department 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

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

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

EDTORIAL: 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.

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.

**Q – Why is this being proposed now?**

* The Highway Superintendent’s decision not to run for another term has forced an appraisal of the options for a replacement.

**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 .
* According to the Association of Towns, 91 towns have abolished the elective Highway Superintendent’s office (about ten percent of towns statewide).
* In cities and villages Highway Superintendent’s Office is carried out under an appointed superintendent.

**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: ong & short-term highway resurfacing & equipment replacement and repair, maintenance, (e. g., mowing/plowing).

**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 every four years, 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 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.