

TB Mtg March 14, 2013
TOWN BOARD MEETING
COLDEN TOWN HALL – March 14, 2013

MEETING CALLED TO ORDER AT 7:02 PM

SUPERVISOR HOFFMAN OPENED THE MEETING WITH A MOMENT OF SILENCE IN HONOR OF ARNOLD FRANTZ, JOSEPH ORFFEO, STEVEN SMITH AND HENRY “HANK” SOLAK WHO WAS A LONG TIME FIREMAN AND HE ALSO WORKED FOR THE TOWN AT ONE TIME, FOLLOWED BY THE PLEDGE OF ALLEGIANCE.

PRESENT: Councilman David Arcara – (absent due to work)
Councilman Gerald Pietraszek
Councilman Patricia Zurbrick
Councilman Patrick Murphy
Supervisor Anne Hoffman

ALSO PRESENT:

Town Justice William Montgomery
Highway Superintendent Paul Clarkson
Bldg. Insp/Code Enf. Officer John Kotlarsz
Town Clerk Christina Kerlin
Approximately 17 residents

MINUTES

MOTION made by Supervisor Hoffman, seconded by Councilman Piertreszek and unanimously approved to accept the minutes of the February 14, 2013 Town Board Meeting.

Supervisor Hoffman had a correction on the recreation report regarding sales tax being collected at the concession stand. The Town needs to find a non-for-profit agency to help with the collection of sales tax.

Amend February Abstract

2013 Highway Abstract \$26,611.06 to \$26,610.76
2012 General Abstract \$8,295.34 to \$8270.92
2013 General Abstract \$45,055.24 to \$45,056.14

BUILDING COMMITTEE REPORT

Councilman Murphy reported work is being done on the Emergency Managers office downstairs in the Town Hall.

Contacted a roofing company and once the weather is better they will come out and check the Senior Center roof leak by the chimney.

INSURANCE REPORT

No Report

CABLE REPORT

Supervisor Hoffman reported that the Highway Building now has cable internet service

HIGHWAY & PARKS REPORT

Highway Superintendent Clarkson reported that he would like to advertise in the Springville Journal for gravel & fuel bids to go out in April.

Highway Superintendents from around NY State went to Albany for Advocacy Day and meet with Senators and Congressman to get \$100,000,000. added to the “CHIPS” money.

A letter was received from Senator Patrick Gallivan on the “bids” requested on extra road work to be done if all goes well the Town could receive \$83,000 for Maltby Road, \$195,000 for Murray Hill Road, and \$99,000 for Blanchard Road.

PARKS REPORT

No Report

YOUTH & ADULT RECREATION

Councilman Zurbrick reported soccer registration has been going steady deadline is March 21, 2013.

Recreation directors would like to start preparations for the summer newsletter announcing the summer programs possibly going out in early or mid-May.

Concession Stand Sales Tax

Councilman Zurbrick contacted 12 Towns with 7 Towns responding back on how they go about collecting sales tax and also contacted the NYS Comptroller’s office of Taxation and Finance and will share the information gathered at the next Town Board Workshop.

PLANNING COMMITTEE REPORT

Councilman Pietraszek reported that there was no meeting last month and at the next meeting the Planning Board will discuss the Towns sidewalks.

Councilman Zurbrick said that she contacted her insurance company on the liability of the homeowner regarding Town sidewalks. Report received back stated that if something occurs on the sidewalk in front of your home the person filing a lawsuit typically pulls every party into a lawsuit, the township and the homeowner would be served. The insurance company recommends homeowners should look into their liability and have a minimum of \$300,000 and there is a \$500,000 policy.

ENVIRONMENTAL COMMITTEE REPORT

No Report

COMMUNITY DEVELOPMENT REPORT

No Report

PERSONNEL REPORT

Councilman Zurbrick reported for the record that 2 councilman requested a special meeting for February 15, 2013 to discuss the personnel policy and to try to put it together but unfortunately that special meeting request was not acknowledged. Special meeting should have been acknowledged within 10 days. Since no meeting took place we will have about six items to cover in the personnel policy at the next workshop.

Supervisor Hoffman asked Councilman Zurbrick to provide the board with whatever she has come up with for the items that were discussed.

Councilman Zurbrick said the board has everything except for jury duty, military and unpaid leave and it will be presented at the next Town Board Workshop.

Supervisor Hoffman said the next regular Town Board workshop will be April 4, 2013 at 6pm.

SOLID WASTE & NEST REPORT

Ken Heiler reported that he attended the meeting early that day and shared what was covered at the meeting, Treasure report, National Drug Drop Event on April 27, 2013 at various locations as before, Household Waste Event on May 18 and June 15.

LIBRARY REPORT

Councilman Murphy reported the Library newsletter has been sent out with all the programs from now until May copies are out in the foyer will also be posted on the bulletin board and on the Town website.

STREET LIGHTING

Councilman Zurbrick reported 3 street lights out in March and the replacement of the historical light in front of 8257 State Road is complete and NYSEG was out and repaired the 2 Historic lights by the Colden Country Store.

DOG CONTROL REPORT

Supervisor Hoffman said that Ag & Markets will be meeting with the Town Clerk and Dog Control Officers to change the inspection form and to go over the Kennel Lease Agreement.

CODE ENFORCEMENT OFFICER REPORT

John Kotlarsz CEO reported 1 Building Permit
1 Certificate of Occupancy Issued
2 Certificate of Compliance Issued
Started Fire inspections around Town

John Kotlarsz, CEO attended 2 classes first was issuing permits on re-roofing and second was hiring the Amish and how to deal with insurance coverage there will be a new form for the Amish to fill out before each job they perform.

Supervisor Hoffman read a letter she received from Debbie Baker which related to the property next door to her home Bach's Log Cabin Lumber Yard. The fence that was put up in the fall has now collapsed and has even fallen towards her yard. Debbie is hoping the Town of Colden will take a firm stand with Mr. Bach and get the mess cleaned up and the situation resolved once and for all.

John Kotlarsz, CEO has contacted Mr. Bach twice on this matter and this case is still ongoing in the courts.

WATER COMMITTEE REPORT

Councilman Pietrasezek reported that Greg Adams has been familiarizing himself with the water district and all the different aspects.

-Meet with Erie County Water Authority on March 8 and asked if ECWA would be willing to take over the water district in the Town of Colden. After a lengthy presentation ECWA took the information back to their board which declined the offer. If the water district would continue down RT. 240 to West Falls they would likely take it over.

-A leak was reported on Lower East Hill after excavation and testing for residuals there was no chlorine to be found in the water, water disappeared and a stand pipe was placed in the trench went back to sample for chlorine residuals none were found.

-Erie County Water Authority came out and checked the area and found nothing.

A water meter leak on Fairview Terrace turned out to be in one of the pits at a vacant house it just let loose apparently was a faulty meter has since been replaced.

-A worker water budget was given to the Town Board showing the revenues received were \$14,846. out of a projected \$176,000. Contractual expenses spent \$700 out of \$11,000. Water supply going to Erie County Water Authority out of \$48,000 have spent \$5,000. Transmission cost \$1,460. out of \$30,000.

-Actively looking for other leaks around town when the weather breaks Stefan Engineering will be back out.

HYDRO-FRACKING COMMITTEE

Ron Fraser reported at the last meeting they looked at a slideshow power point from Chris Berger on Land Use and Impact on Hydro-Fracking the turnout was good around 6-8 residents showed up.

Meeting held last night the committee started working on the final report to be submitted sometime in April.

EMERGENCY MANAGER

No Report

DIRECTOR OF VETERAN AFFAIRS

No report

OLD BUSINESS

eCode360 Proposal Provided by General Code

MOTION made by Supervisor Hoffman and seconded by Councilman Zurbrick to approve eCode360 Town of Colden Code to be placed on the Town's website at a cost of \$1,195 for the initial setup.

On the vote: Councilman Aracara – absent
Councilman Pietraszek - yes
Councilman Zurbrick – yes
Councilman Murphy – yes
Supervisor Hoffman – yes

US Army Corp of Engineers – Streambank Erosion

Supervisor Hoffman and Councilman Pietraszek meet with the Army Corp of Engineers on the Streambank Erosion project that will go from the Town Hall parking lot to the bridge.

Councilman Pietraszek reported that the paperwork started last year with a Determination of Federal Interest where they look at the proposed problem and determine if the Army Corps of Engineers would take on the project.

The Army Corp of Engineers went over – Cost Sharing Requirements The Feasibility study is 100 percent federally funded up to the first \$100,000. Costs that exceed \$100,000 must be shared equally by the federal government and the town. The Feasibility study total costs typically range from \$200,000. to \$300,000. The design portion for plans and specifications would be 65% federal and 35% town. The construction would be 65% federal and 35%town. The timetable for this project would be feasibility study 2012 into possibly 2015, design portion mid 2015 – 2016 and the construction part 2016 – 2017. Alternatives would be heavy rip-rap or a bio rip-rap or to do nothing at all. A detailed report is on file in the Town Clerks office.

RESOLUTIONS

Resolution to set Public Hearing Local Law Intro. No1-2013

Supervisor Hoffman read the resolution:

WHEREAS, Local Law Intro. No. 1-2013 has been introduced to the Town Board on March 14, 2013, and

WHEREAS, Municipal Home Rule Law Section 20(5) requires a public hearing upon five (5) days' notice, and

WHEREAS, Municipal Home Rule Law Section 20(4) provides that no such local law shall be passed until it shall have then in its forum and upon the desks or table of the members at least seven (7) calendar days, exclusive of Sunday, prior to its final passage or mailed to each of them in post-paid properly addressed and secured closed envelopes or wrappers in a post box of a post office of the United States Post Office Department within the local government at least ten (10) calendar days, exclusive of Sunday, prior to its passage,

NOW, THEREFORE, BE IT,

RESOLVED, that the Town Board of the Town of Colden does hereby set the 11th day of April, 2013 at 7:00 pm at the Town of Colden Town Hall, S8812 State Road, Colden, New York, for the purpose of conducting a public hearing on the proposed Local Law to establish a moratorium on the use of land for horizontal drilling and hydraulic fracking in the Town of Colden.

RESOLVED, that the Town Clerk is hereby directed to publish a notice of said public hearing in the Springville Journal.

Motion made by Supervisor Hoffman and seconded by Councilman Murphy to approve Resolution to set Public Hearing Local Law Intro. No1-2013

On the vote: Councilman Arcara - absent
Councilman Pietraszek – yes
Councilman Zurbrick – yes
Councilman Murphy – yes
Supervisor Hoffman – yes

Supervisor Hoffman explained the only change with this moratorium is a 1 year instead of 6 months as was in the past, this will give time for all the studies to be completed and a report submitted.

Resolution in Opposition to NYS Senate Bill 2605 and assembly Bill 3005.

Supervisor Hoffman read the following resolution:

WHEREAS, towns, villages and cities throughout the State of New York are dependent upon the fine revenues collected in their courts to cover a large share of the Justice Court and Police enforcement budgets, and

WHEREAS, Legislation proposed in NYS Senate Bill 2605 and Assembly Bill 3005, if passed would provide that if certain vehicular and traffic violations are reduced to a lower penalty, portions of the fines that are now retained by the municipalities in these cases would be given to the State of New York, and

WHEREAS, if these Senate and Assembly Bills should pass, it is most likely fewer plea bargains would be reached which would lead to more trials which would lead clog the courts and mean more expenses, not only to the local municipalities but to the State of New York, and

WHEREAS, in many instances overtime would have to be paid to enforcement personnel to testify as more cases go to trial, and

WHEREAS, the Town Board of the Town of Colden deems it in the public interest to oppose this proposed legislation;

NOW, THEREFORE BE IT RESOLVED, that the Town of Colden opposes S.2605/A.3005, and

BE IT FURTHER RESOLVED, that a copy of this resolution be sent to the Governor and to each Assemblyman and Senator in Western New York.

MOTION made by Supervisor Hoffman and seconded by Councilman Zurbrick to approve Resolution in Opposition to NYS Senate Bill 2605 and assembly Bill 3005.

On the vote: Councilman Arcara - absent
Councilman Pietraszek – yes
Councilman Zurbrick – yes
Councilman Murphy – yes
Supervisor Hoffman – yes

Resolution For Increase in Justice Court Funding

Supervisor Hoffman read the following resolution

WHEREAS, town justice courts provide an essential service that is primarily funded by local real property taxes; and

WHEREAS, the State established reimbursement fund (General Municipal Law GML §99-L), designed to assist towns with the operational expenses of justice courts, has not been amended to reflect an increase in operational expenses for more than a decade; and

WHEREAS, since last amended, the New York State Police discontinued the practice of prosecuting and pleas-bargaining traffic violations in town justice courts, placing a burden on local governments to provide prosecutors for traffic violations, thereby further increasing court operational expenses; and

WHEREAS, the 2013-2014 Executive Budget seeks to impose limitations on the plea bargaining process as it pertains to speeding tickets issued to drivers in excess of 20 miles over the posted speed limit.

WHEREAS, state law sets forth the surcharges and fines for many actions adjudicated in town justice courts as well as the distribution of fines and surcharges between the state and the town;

NOW, THEREFORE, BE IT RESOLVED that the Town Board of the Town of Colden calls upon the Governor and the State Legislature to increase GML §99-L reimbursement fees to assist local taxpayers in funding justice court operational expenses; and

BE IT FURTHER RESOLVED that the Town Board of the Town of Colden requests legislative action to establish a new surcharge to maintain the office of town prosecutor thereby reducing the expense to town taxpayers; and

BE IT FURTHER RESOLVED that the Town Board of the Town of Colden calls upon the Governor and the State Legislature to ensure that costs associated with new state laws, regulations and policies affecting the courts are not borne by town taxpayers.

MOTION made by Supervisor Hoffman and seconded by Councilman Murphy to approve the resolution for an increase and justice court funding

On the vote: Councilman Arcara - absent
Councilman Pietraszek – yes
Councilman Zurbrick – yes
Councilman Murphy – yes
Supervisor Hoffman – yes

BUDGET TRANSFERS

MOTION made by Supervisor Hoffman and seconded by Councilman Pietraszek for approval of the following transfers for the year ending 2012.

On the vote: Councilman Arcara – absent
Councilman Pietraszek – yes
Councilman Zurbrick – yes
Councilman Murphy - yes
Supervisor Hoffman - yes

2012 Highway Budget Transfer Request:

\$8,421.00 from account DA5142.4 Transfer \$4,238.00 into account DA5130.4
Transfer \$4,183.00 into account DA5110.4

2012 General Budget Transfer Request:

\$5000.00 from Account A6510.4 and \$4625.82 from account A7510.4
Transfer \$27.62 into account A1110.12
Transfer \$181.95 into account A1110.41
Transfer \$207.56 into account A1220.2
Transfer \$307.18 into account A1220.4
Transfer \$774.68 into account A1420.4
Transfer \$73.35 into account A1620.1
Transfer \$943.57 into account A1620.41
Transfer \$389.56 into account A1660.4
Transfer \$212.60 into account A3120.4
Transfer \$208.65 into account A3310.4
Transfer \$2,865.25 into account A3620.11
Transfer \$948.35 into account A3620.4
Transfer \$1,969.80 into account A5010.4
Transfer \$285.93 into account A7310.4
Transfer \$229.77 into account A8760.4

TOWN CLERK REPORT

No Report

SUPERVISOR REPORT

Supervisor Hoffman reported at the request of the Town Clerk to table the resolution on Tax Bill enclosures.

HEAP information has been posted out in the foyer for families or seniors needing assistance.

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Assemblyman David DePietro sent a letter acknowledging the receipt of the resolution on Support for NYS – Contact Information for Vacant Structures.
After contacting the NYS Comptroller’s Office they said the Town could not make a donation to the West Falls Fire Company.

Thank you to Jerold Lewandowski for the donation of case of green colored paper.

Town Board will review Child protection background checks at the next workshop.

PAY BILLS

MOTION made by Supervisor Hoffman, seconded by Councilman and unanimously approved to pay the following bills.

General Fund Warrant Voucher#2013-68 to #2013-103	\$16,660.09
Highway Fund Abstract Voucher #2013-16 to #2013-30	\$27,484.10
Water District Voucher #201305 -to #201309-	\$ 6,241.62
Lighting District Voucher #2013-03 to #2013-04	\$ 2,353.39
Refuse District Voucher #2013-02	\$16,071.68

PRIVILEGE OF THE FLOOR

Ron Fraser commented that on the 2010 Census it stated that there are 100 unoccupied homes in the Town of Colden and was wondering if this could possibly be true.
John Kotlarsz, CEO said it is not out of the question there are quite a lot of vacant and foreclosures in the town.

Marilyn Calhoun-Allen questioned the Kennel Lease Agreement that the Town has with the DCO.

Councilman Zurbrick brought up the extra computer for the Town Hall.
Supervisor Hoffman said George could clean her old computer out for \$100.00 it will not be any faster and she thought maybe placing it over at the Senior Center.

Ken Heiler said that if he understands right the Army Corp of Engineers is only working from the back of the parking lot to the bridge when the creek needs help all the way to Glenwood.

John Kotlarsz made a request for a new flag pole to be placed in the Veterans Memorial Park the cost could run around \$3,000.

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Supervisor Hoffman asked for Councilman Pietraszek and Councilman Murphy to check into a new flag pole, the fire company just purchased a new one at a cost of \$2,500.

Councilman Pietraszek brought up that in the Niagara Falls Visitors Guide there is a picture of the Colden Water Falls in town and a map of the Scenic By-Ways.

ADJOURN

MOTION made by Supervisor Hoffman and unanimously approved to adjourn the meeting at 8:22 pm.

Respectfully submitted,

Christina M. Kerlin
Town Clerk