

TB Mtg December 12, 2019
REGULAR TOWN BOARD MEETING
COLDEN TOWN HALL – December 12, 2019

MEETING CALLED TO ORDER AT 7:04 PM

SUPERVISOR DePASQUALE OPENED THE MEETING WITH A MOMENT OF SILENCE FOR RICHARD ELLIS FOLLOWED BY THE PLEDGE OF ALLEGIANCE

PRESENT: Councilman David Arcara - absent
Councilman Jesse Hrycik
Councilwoman Patricia Zurbrick
Councilman Gerald Pietraszek
Supervisor James DePasquale

ALSO

PRESENT: Town Clerk Christina Kerlin
CEO/Bldg. Inspector John Kotlarsz
Asst. CEO/Fire Inspector Thomas Dziulko
Highway Superintendent Clarkson
Planning Board Chairman Walt Kammer
Approximately 7 Residents

MINUTES:

MOTION made by Councilwoman Zurbrick and seconded by Councilman Pietraszek and unanimously approved the minutes of the November 14, 2019 Town Board Workshop and November 14, 2019 Town Board Regular meeting as presented.

COMMITTEE REPORTS

BUILDING REPORT

Supervisor DePasquale reported that the roof at the Town Hall is complete except for one area that needs to be addressed with Buffalo's Best roofing a representative will be meeting with Asst. CEO Tom Dziulko to remedy the problem before the final check is released. Bilco door is being put together by the highway department and just needs a little bit of an alignment before being placed at the Senior Center.

CODE ENFORCEMENT OFFICER REPORT

Report for the month of November –Bldg. Insp/Code Enf. Officer, John Kotlarsz reported that there were:

- 5 Building Permits
- 1 Certificate of Occupancy
- 13 Certificates of Compliance
- 1 Court Appearance
- 1 Building Permit Denied
- 2 Fire Inspection

1 building permit was denied the matter is going before the ZBA on December 19, 2019

COMMUNITY DEVELOPMENT REPORT

Councilwoman Zurbrick reported the following:

On December 6th the Town held there annual Christmas Ornament and Tree decorating at the Senior Center and was well attended.

Friday December 13th, BOLO will hold “How the Grinch Stole Christmas” the book will be read followed by the movie, popcorn and hot chocolate will be served.

Saturday, December 14th, from 9-3, BOLO will hold a “Winter Fare” shop local handcrafted items and giftware.

Saturday, December 14th Santa will be at the Colden Fire Hall at 6:00pm

Part 2 of Adult recreation “Paint Night” is going on tonight at the Senior Center.

DOG CONTROL OFFICER REPORT

Supervisor DePasquale read the following DCO report for November 1, 2019 – November 30, 2019.

-A resident called on South Hill Road called about a pug mix and another dog running at large no dogs were found.

-A resident called about dogs chasing deer on Hayes Hollow Road, found to be her neighbor’s dogs.

-Three ongoing court cases two were cases were heard one did not show up for court.

ENVIRONMENTAL BOARD REPORT

Councilman Pietraszek reported that he received a call from Mark Gaston with Erie County Soil and Water on the Streambank Stabilization program. There are some issues with the Colden Elementary School easement entering into the stream. Once the issues are cleared up and the weather breaks in the spring the contractor will start work on the project.

HIGHWAY REPORT & PARKS

Highway Superintendent Clarkson reported the OshGosh Snowblower was picked up Monday. Paul asked the Town Board if they had a chance to look over the 3 bids for the Dual Auger Snowblower for the New Holland Tractor. There was discussion on the snowblower and how beneficial the blower would be for the town.

Councilman Hrycik questioned horse power and time frame to receive the snowblower.

Highway Superintendent Clarkson stated that horse power would be fine and there is a 3-4 week wait period.

Councilwoman Zurbrick asked how often the blower would be used in town.

Highway Superintendent stated that it would be used to remove snow build up on the bridges and at the intersections as well as on the side of the roads where snow builds up.

Councilwoman Zurbrick stated for the record so there should be no problem keeping the snow off the bridge on the Boston-Colden Road sidewalk especially for the safety of the children at Colden Elementary School in case of an emergency evacuation. Highway Superintendent Clarkson stated that Dave Grace has a procedure for clearing the sidewalk on the Boston-Colden Road Bridge, but he could keep it open with the new snowblower as well.

Town Board agreed to the purchase of the Dual Auger Snowblower based on Highway Superintendent Clarkson recommendation.

Dual Auger Snowblower Bids

Tri-County Supply	\$7,997.00
Larry Romance & Son, Inc.	9,150.00
Argo Trend	9,200.00

Approve Dual Auger Snowblower

Motion made by Councilman Pietraszek and seconded by Councilwoman Zurbrick and unanimously approved the purchase of a Dual Auger Snowblower on the recommendation of Highway Superintendent Clarkson from Tri-County Supply at a cost of \$7,997.00 for the New Holland Tractor.

Councilwoman Zurbrick read a resignation letter submitted from Sean Andrews MEO in the highway department he is taking a position in the Town of Concord's highway department as of December 22, 2019.

Accept Sean Andrews Resignation from the Highway Department

MOTION made by Supervisor DePasquale and seconded by Councilman Hrycik and unanimously approved to accept Sean Andrews resignation in the Highway Department effective December 22, 2019

Supervisor DePasquale stated that Highway Superintendent Clarkson may appoint a person to the position without having to advertise and with the resignation coming this time of year the need to fill the position is urgent. Highway Superintendent Clarkson keeps his eyes open to persons who may be a good candidate for the highway department and does have a candidate in mind. Highway Superintendent Clarkson would like to appoint Michael Schneider Jr. to the MEO position in the highway department, Michael is a town resident, he has a Class A CDL license and is also a member of the Colden Fire Company.

There was some discussion on training Michael Schneider Jr. and riding along with one of the MEO's on one of the plow runs and starting rate of pay per hour.

Highway Superintendent Clarkson was told that training in the vehicles plow run could not take place due to insurance coverage. After some discussion the rate of pay per hour was set at \$23.25 for the first 6 months the following 6 months at \$25.60 and after a successful evaluation at a year the rate would be at \$27.85.

Approve Michael Schneider Jr. - MEO Highway Department

MOTION made by Supervisor DePasquale and seconded by Councilwoman Zurbrick and unanimously approved to appoint Michael Schneider Jr on December 23, 2019 as MEO in the Highway department at a rate of \$23.25 for the first 6 months the following 6 months at \$25.60 and after a successful evaluation at a year the rate would be at \$27.85 with personal and sick time stated in the personnel policy.

Deputy Highway Superintendent

The Town Board discussed creating a position for Deputy Highway Superintendent in the absence of the Highway Superintendent while he is on vacation, at a conference, or for a period away from his job. The deputy would oversee making any decision that the highway superintendent would make while being present on the job. The deputy would have access to the cell phone and highway superintendents' truck and a rate increase while serving as deputy while the highway superintendent is away. Highway Superintendents cell phone would stay with the acting Deputy while the Superintendent was away that way when a call was received the phone would be answered in town to make a decision instead of contacting the Superintendent out of town. The Superintendent could leave his personal cell phone information to be contacted if a problem came up. The decision for a Deputy would be made by the Highway Superintendent within 5 days of a resolution being passed and he would contact the Town Clerk with his appointment otherwise the Town Board could appoint a deputy.

Councilman Hrycik read the following definition “§2-14 Deputies” from the Highway Superintendent's manual.

“§2-14 Deputies

Where a position of deputy is authorized by resolution of the town board, a town superintendent of highways shall appoint a deputy within five days after the town board establishes such office: any deputy so appointed serves at the pleasure of the town superintendent of highways. The town board shall appoint a deputy if the superintendent of highways does not act within the aforementioned time limit.

INSURANCE REPORT

No Report

LIBRARY REPORT

Councilman Hrycik reported that activities are winding down for the year.
West Falls Library will hold Cookie Decorating on December 12th from 1pm-3pm
Boston Library will hold Kids Yoga on December 14th at 11am

-Book mobile is at the Town Hall on the fourth Tuesday's of the month from 9am - 11am

PERSONNEL & TRAINING REPORT

No report

PLANNING BOARD REPORT

Councilman Hrycik reported that at last month's Planning Board meeting the board attended a Solar Farm meeting in Sardinia. The Planning Board is looking into the fees being collected for towers and colocations on the towers in town..

WATER REPORT

Councilman Pietraszek reported at the present time water consumption billed to ECWA for the prior month was 1,581,000 gallons at a cost of \$4,089.30 + \$256.25 = \$4,345.55 expenditure.

-Ehmke Well Drillers tapped a new site at Route 240 & Gutekunst Road for site 53 which also touches Stanfield Road and Route 240 water district (Goodermote). Waiting for Ehmke to finish landscaping, Greg working on clean up issues

-Valves have been exercised

-All hydrant poles marked

YOUTH/ADULT RECREATION REPORT

Recreation Director Kip Palmateer would like to approve Abigail Mary for floor hockey, at minimum wage.

The Christmas Ornament and Tree lighting night was attended by over 40 children and parents.

Upcoming events:

-Movie Night at the Senior Center, January 3rd at 7pm the movie will be the original Lion King

-Floor Hockey starts January 9th

-“Gnome Class” for adults on January 22nd at 7pm

Approve Abigail Mary

MOTION made by Supervisor DePasquale and seconded by Councilwoman Zurbrick and unanimously approved Abigail Mary for the recreation department for floor hockey at minimum wage.

OLD BUSINESS

Town Board discussed tablets, laptops and WiFi and decided to table the tablets and for now just do the WiFi and Town Clerks laptop.

Approve WiFi and Town Clerk Laptop

MOTION made Supervisor DePasquale and seconded by Councilwoman Zurbrick and unanimously approved the purchase of a laptop for Town Clerk Kerlin and WiFi for the Town Hall not to exceed \$1,640.

NEW BUSINESS

None

RESOLUTIONS

Supervisor DePasquale read the following resolutions:

SUPPORT LEGISLATION TO HALT NEW CRIMINAL JUSTICE REFORM
(BAIL & DISCOVERY REFORM)

WHEREAS, protecting the people from harm by enforcing the rule of law is the foundational role of government, and

WHEREAS, County governments are vested by the State of New York with the responsibility to protect the most vulnerable among us, including the socioeconomically disadvantaged, the disabled, the elderly, and children; and

WHEREAS, no group is more vulnerable than the victims of crime, and a just society demands that crime victims should be recognized as key participants within the criminal justice system and be treated with dignity, fairness, and respect; and,

WHEREAS, for the past twenty-five years the State of New York has committed itself to reducing crime, and has succeeded as evidenced by official U.S. Department of Justice Uniform Crime Reporting Statistics showing that New York transformed from the second most dangerous state in America in the early 1990s to the safest large state in America by the early 2000s; and

WHEREAS, in the final stages of adopting its FY 2020 budget, the State of New York enacted sweeping criminal justice reforms including the elimination of cash bail for many specific

enumerated crimes and the imposition of stringent discovery mandates on police and prosecutors; and

WHEREAS, under bail reform, beginning January 1, 2020, judges will be stripped of their discretion to set bail for many specific enumerated crimes, which means those suspected of committing these crimes can no longer be held in jail after their arrest, regardless of the strength of the case against these defendants, or the length of the potential sentence faced by these defendants, or the extent of the harm allegedly caused by these defendants, and instead these defendants will be released back into the general public; and

WHEREAS, these crimes include those that result in the deaths of innocent people, including several subcategories of homicide and manslaughter, resulting in those responsible for these deaths being released back into the community of grieving families; and

WHEREAS, these crimes include Making a Terroristic Threat and Money Laundering in Support of Terrorism in the Third and Fourth degree, resulting in those alleged to have supported terrorism in this manner, or who have threatened to commit acts of terrorism, being released immediately from police custody; and

WHEREAS, these crimes include Promoting an Obscene Sexual Performance by a Child; Possessing an Obscene Sexual Performance by a Child; Failure to Register as a Sex Offender; and Patronizing a Person for Prostitution in a School Zone, resulting in suspected child predators being released and returning into our community; and

WHEREAS, these crimes include Aggravated Assault Upon a Person Less than Eleven Years Old; Reckless Assault of a Child by a Daycare Provider; Criminal Sale of a Controlled Substance to a Child; Abandonment of a Child; and Criminal Possession of a Weapon on School Grounds, resulting in those suspected to have physically harmed or endangered children in this manner being free from custody; and

WHEREAS, these crimes include Endangering the Welfare of a Vulnerable Elderly Person or an Incompetent or Physically Disabled Person, resulting in the potential for further endangerment of seniors and these defenseless individuals; and

WHEREAS, these crimes include Aggravated Cruelty to Animals; Torturing Animals and Injuring Animals, resulting in the immediate release of those suspected of deliberately injuring, torturing and killing animals; and

WHEREAS, these crimes include Assault in the Third Degree, Aggravated Vehicular Assault, and other crimes of physical violence against people; and

WHEREAS, these crimes include Burglary of a Residence, resulting in the immediate release of these individuals back into the neighborhoods they are suspected of targeting; and

WHEREAS, these crimes include Bail Jumping and Unlawfully Fleeing a Police Officer in a Motor Vehicle, resulting in release on recognizance of the very individuals who have demonstrated a propensity to evade the law; and

WHEREAS, all of the offenders mentioned heretofore are at risk of not showing up for court, thereby placing a burden on public employees who, under this law, are required to send multiple court appearance reminders to these offenders, as well as police officers and District Attorneys who must commit resources to tracking and pursuing those who evade prosecution; and

WHEREAS, all offenders who are currently being held in custody for non-qualifying crimes including those mentioned heretofore will be eligible for release from custody on January 1, 2020; and

WHEREAS, the discovery mandates imposed by the State of New York will require police and District Attorneys, beginning January 1, 2020, to turn over voluminous trial-related materials to defense attorneys within 15 days, creating a mandate that will inevitably not be achieved in some cases and may result in the inability of the People to properly prosecute cases against criminal defendants; and

WHEREAS, discovery reform will also result in an opportunity for defendants to gain access to crime scenes that may include a victim's residence, thereby giving defendants accused of burglaries, assaults, rapes and other crimes committed in victims' homes the right to return to those same homes; and

WHEREAS, the issues mentioned heretofore will undeniably impact past, present and future victims of crime in a negative manner, and in so doing, the bail and discovery reforms adopted by the State of New York will themselves further victimize these innocent individuals; and

WHEREAS, these bail and discovery laws, in their current form, represent a clear and present danger to society, will tilt the scales of justice in favor of suspected criminals and away from innocent crime victims, and risk reversing decades of bipartisan progress made by the State of New York in reducing crime; and

WHEREAS, the fundamental responsibility of governments to protect the vulnerable in society demands that the shortcomings of these laws be remedied prior to their effective date of January 1, 2020,

BE IT RESOLVED, that the Town Board of the **Town of Colden** hereby supports legislation (S.6853) introduced by Senator Chris Jacobs and implores the State of New York to immediately amend or otherwise delay implementation of these laws by convening an emergency session of the State Legislature, or by emergency executive authority, or by any other means deemed possible by the State, and to do so before December 31, 2019; and

BE IT FURTHER RESOLVED, that the Colden Town Board asks all counties in New York State to urge their state representatives to take immediate action on the foregoing issues, and

BE IT FURTHER RESOLVED, that copies of this resolution be provided to Attorney General Letitia James, Governor Andrew Cuomo, Lieutenant Governor Kathy Hochul, Senator Charles Schumer, Senator Kirsten Gillibrand, the New York State Association of Counties, the New York State Sheriffs' Association, the New York State Association of Chiefs of Police, the District Attorneys Association of New York, the New York State Defenders Association, the New York State Probation Officers Association, the New York Council of Probation Administrators, the Association of Justices of the Supreme Court of the State of New York, the New York State Association of City Court Judges, the County Judges Association of the State of New York, and the County Attorneys' Association of the State of New York.

Motion made by Councilwoman Zurbrick and seconded by Councilman Hrycik and,

On the Vote: Councilman David Arcara - absent
Councilman Jesse Hryck – yes
Councilwoman Patricia Zurbrick – yes
Councilman Gerald Pietraszek – yes
Supervisor James P. DePasquale – yes

RESOLUTION AUTHORIZING THE POSITION OF
DEPUTY HIGHWAY SUPERINTENDENT

WHEREAS, During the absence of the Highway Superintendent, for a period of 24 hours or more, it is imperative to have the consistency of having the highway working,

WHEREAS, the Town of Colden will be authorizing the position of Deputy Highway Superintendent with the Town Highway Superintendent having 5 calendar days to appoint from within the department

WHEREAS, at the 6th day if no Deputy Highway Superintendent is appointed the Town Board will then formally appoint a deputy superintendent

NOW, THEREFORE, be it

RESOLVED, on December 12th, 2019 the Town Board of Colden does hereby approve the creation of the position of deputy highway superintendent

RESOLVED, that the deputy highway superintendent while in the position will receive five dollars additional per hour while acting and seven dollars and fifty cents additional at an overtime rate

RESOLVED, the Town Clerk record this resolution as town record

Motion made by Councilwoman Zurbrick and seconded by Councilman Hrycik and,

On the Vote: Councilman David Arcara - absent
Councilman Jesse Hryck – yes
Councilwoman Patricia Zurbrick – yes
Councilman Gerald Pietraszek – yes
Supervisor James P. DePasquale – yes

BUDGET TRANSFERS

None

TOWN CLERK REPORT

Town Clerk Kerlin reported that Local Law 2 to Override the Tax Levy Limit and Local Law 3 To amend Chapter 95 Taxation to Exclude the provisions of real Property Tax Limit were received by State of New York Department of State.

Set the Reorganizational Meeting and Regular January Meeting

MOTION made by Councilwoman Zurbrick and seconded by Supervisor DePasquale and unanimously approved the Reorganizational Meeting and the Regular January Meeting for January 9, 2020 at 6:00pm. Town Clerk Kerlin will advertise in the Springville Journal.

Advertise BAR Member Position and Planning Board Member

Motion made by Councilwoman Zurbrick and seconded by Supervisor DePasquale and unanimously approved to advertise for a Board of Assessment member in the Springville Journal.

SUPERVISOR’S REPORT

Supervisor DePasquale reported that he met with Asst. CEO Tom Dzilko and Mike Biloni who is the liaison to the Erie County Clerk’s Zombie Properties. They are teaming with the WNY Law Center to support municipalities and communities facing zombie foreclosures. Supervisor DePasquale read a Memorandum of Understanding from the Erie County Clerk’s office to enter into an agreement with the WNY Law Center and the Town of Colden. The agreement is on file in the town clerk’s office.

Approve Agreement Between WNY Law Center and the Town of Colden

MOTION made by Councilwoman Zurbrick and seconded by Councilman Hrycik and unanimously approved to enter into an Agreement with the WNY Law Center and the Town of Colden which relates to Erie County Clerk’s ZOMBIES Initiative.

PAY BILLS

MOTION made by Councilman Hrycik and seconded by Councilman Pietraszek and unanimously approved to pay the following bills.

General Fund Warrant Voucher #2019-436 to #2019-465	\$ 25,572.15
Highway Fund Abstract Voucher #2019-163 to #2019-180	\$ 19,651.62
Water District Voucher #2019-71 to #2019-75	\$ 4,970.88
Refuse District Voucher #2019-33	\$ 19,444.25
Lighting District Voucher #2019-18	\$ 213.07

PRIVILEGE OF THE FLOOR

Bernie Horschal asked about the shed that was not moved from the Ramsey Property on State Road the ZBA Board denied the permit. The matter is still ongoing in court.

ADJOURN

MOTION made by Councilwoman Zurbrick and seconded by Councilman Pietraszek and unanimously adjourned the meeting at 9:00pm.

Respectfully submitted,

Christina M. Kerlin
Town Clerk