

TB Mtg June 10, 2021
REGULAR TOWN BOARD MEETING
VIA – Go To Meeting at Colden Town Hall & Virtual

MEETING CALLED TO ORDER AT 7:07pm

SUPERVISOR DePASQUALE OPENED THE MEETING WITH A MOMENT OF SILENCE FOR EDWARD RUTKOWSKI, JOSEPH P. DEPASQUALE AND CAROL FLECKENSTEIN FOLLOWED BY THE PLEDGE OF ALLEGIANCE.

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

ALSO

PRESENT: Town Attorney Ronald Bennett
Planning Board Chairman Walt Kammer
Bldg. Insp/Code Enf. Officer John Kotlarsz
Asst. Bldg. Insp/Fire Insp. Thomas Dzuilko
Highway Superintendent Paul Clarkson
Town Clerk Christina Kerlin
Approximately 12 Residents

MINUTES:

MOTION made by Councilman Hrycik and seconded by Councilman Pietraszek and unanimously approved the minutes of the May 13, 2021 Town Board Regular meeting as presented.

Correction. On the agenda under Old Business the Change of Use address should reflect 8680 State Road.

AMEND THE AGENDA

Supervisor DePasquale stated that the agenda will be amended tonight to let Peter Baker address the Town Board on the proposed Dollar General at 8680 State Road.

Peter Baker introduced his attorney Jessica Keltz who was given some of Peter's time to speak on his behalf. Jessica spoke about community character and a building of that size just does not fit in the Town of Colden and the concerns of the neighbors in that area. She stated the Environmental Board had various concerns with the site plan and that there were concerns of a lawsuit if the Change of Use was denied. There are grounds to deny the Change of Use if it does not meet a harmonious relationship in the town.

Peter Baker addressed the Town Board stating his concerns with the Dollar General being built next to residential homes with the increase of traffic, noise and having a commercial building of that size next door to him and his neighbors. The Town Board as elected leaders took an oath and must protect the people who voted you in not protect a company like The Broadway Group. You would not want a building of that size next to your house. Every legal remedy should be taken to stop this business from coming into town. This business is not a harmonious use in that area and not only continues to affect us now but in the future as well.

Amend the Meeting.

Supervisor DePasquale amended the meeting to move Old Business for the Change of Use at 8680 State Road, The Broadway Group Development -Proposed Dollar General to be heard at this time.

Supervisor DePasquale asked the Town Board if they had had any questions on Part 1 and 2 of the SEQR that was reviewed on June 3, 2021, Town Board workshop. Town Board had no questions.

Supervisor DePasquale read Part 3 of the SEQR Full Environment Assessment Form for 8680 State Road, and no changes were made by the Town Board.

Approve Part 3 of the SEQR FEAF at 8680 State Road

MOTION made by Councilman Pietraszek and seconded by Councilman Arcara to approve Part 3 of the SEQR Full Environmental Assessment Form, at 8680 State Road. The form will be signed by Supervisor DePasquale as the proposed action will not result in any significant adverse impacts from the project as conditioned and, therefore, this conditioned negative declaration is issued.

On the Vote: Councilman David Arcara - yes
Councilman Jesse Hrycik - yes
Councilwoman Patricia Zurbrick - yes
Councilman Gerald Pietraszek - yes
Supervisor James DePasquale - yes

Supervisor DePasquale read a letter that was received from Peter Baker which is on file in the Town Clerk's office as well as attached to the Town Board minutes for June 10, 2021.

A 5-minute recess was called by Supervisor DePasquale.
Meeting called back to Order.

Supervisor DePasquale read a proposed Change of Use Permit for The Broadway Group, 8680 State Road. Attached is the proposed Change of Use permit.

A change was made on the applicant part to strike MPR Properties of WNY, LLC they have no part with this application. Tara Mathias from The Broadway Group agreed with that change. Attorney Marc Romanowski for the Broadway Group was asked if there were any questions on the proposed Change of Use permit.

Attorney Marc Romanowski stated that Amendment #4 is usual an agreement up until the Building Permit is issued and then there is no further modification to the project. The SPEDES-Storm Water is in place by NYS and is required only during the construction process. Other than the two points made there the permit seems consist of and otherwise agree with the permit.

Town Board agreed to the Change of Use permit and would like to see the amendments left in the permit.

Change of Use Permit – 8680 State Road The Broadway Group/Proposed Dollar General
MOTION made By Supervisor DePasquale and seconded by Councilwoman Zurbrick to deny the Change of Use permit for 8680 State Road, The Broadway Group/Proposed Dollar General due to irreconcilable differences to the Change of Use Permit on Amendment #4 and the SPEDES – Storm Water.

On the Vote: Councilman David Arcara - yes
Councilman Jesse Hrycik - yes
Councilwoman Patricia Zurbrick - yes
Councilman Gerald Pietraszek - yes
Supervisor James DePasquale - yes

COMMITTEE REPORTS

BUILDING REPORT

No report

CODE ENFORCEMENT OFFICER REPORT

Report for the month of May 2021 – Bldg. Insp/Code Enf. Officer, John Kotlarsz reported that there were:

9 Building permits Issued
8 Certificates of Compliance
2 First Notice of Violations
2 Order to Remedy Violation
2 Fire inspections
1 Phone Complaints

COMMUNITY DEVELOPMENT REPORT

Councilwoman Zurbrick reported that a letter was received from Bread of Life Outreach Center for the donation that was given from the Town. Letter is on file.

Bread of Life Outreach and Gabe’s on the Hill Hours:

Tuesday, 10am – 5pm
Wednesday, 2pm – 7pm
Friday, 10am – 6pm
Saturday, 9am – 2pm

Food Pantry Hours:

Thursday, 3pm – 6pm
Saturday, 9am – 12pm

“Spice Up Your Cooking” A live cooking demonstration show is starting up check the website or Facebook page.

Farmers Market

Starts Saturday in May and runs through October from 9am – 1pm
Food Truck give away takes place the 4th Thursday of the month at the Colden Fire Hall from 1:30 – 3:30

A special event will be held at “Blessings from the Hollow” 8839 Hayes Hollow Road for Flag Day, June 14th at 9am. They will be raising the Flag and saying, “The Pledge of Allegiance” and playing “The Star-Spangled Banner”. Bring your coffee and a chair.

Supervisor DePasquale stated that this year the “Concert Series at the Gazebo” is back. The first concert is June 16th, with the “Good Question Band”. Followed by the “July 4th Celebration” which will be held at Kummer Park on July 3rd at 6pm with “Penny Whiskey” playing and Fireworks to follow at Dusk.

DOG CONTROL OFFICER REPORT

Councilman Arcara read the following DCO report for May 1, 2021 – May 30, 2021.

Received a call from the Town of Boston on two missing dogs.

An issue with two neighbors accusing each other of their dogs going on each other’s property.

A call received from Springville looking for a missing dog.

Call received about a Peacock on their porch.

Town Board “Thanked” Bernie for his service as DCO and wished him well in his future endeavors.

Shannon Miller has been appointed the new DCO for the Town of Colden and is transitioning into the job.

ENVIRONMENTAL BOARD REPORT

Councilman Pietraszek reported that the Environmental Board reviewed the SEQR for NYSEG the current tower is 180ft and will be taken down and replaced with a new tower at 350ft.

HIGHWAY REPORT & PARKS

Highway Superintendent Clarkson reported that at the park the soccer fields are good and packed with people, summer programs have started. Kayla is doing a great job in the park. Completed oil and stoning of roads for this year. Ditching, mowing, and cleaning shoulders is on going.

Seneca Brook will see six culverts replaced this year.

Researching the cost of replacing the culvert on Heath Road this will be a major repair to the culvert that has deteriorated a lot more than expected.

INSURANCE REPORT

Councilman Arcara reported that the health insurance renewal for this year has come down by 1%. Town Board will act on the renewal at next month’s meeting.

LIBRARY REPORT

Councilman Hrycik reported that the Boston Library has a survey online for future planning of the library take a moment to fill out the survey and have a chance at a \$15.00 gift card to Tim Hortons. Check out the website for story time and summer activities.

PERSONNEL & TRAINING REPORT

Councilwoman Zurbrick reported that annual training information has been supplied to all employees and various boards with a deadline of June 30th. The training consists of 3 courses Workplace Violence, Blood Borne Pathogens, Right to Know. Highway employees as well as the new hires for the highway department will need to take an additional course Hazwoper. Once course is complete a certificate is generated.

Shannon Miller has been appointed as DCO as Councilman Arcara stated in the DCO report.

PLANNING BOARD REPORT

Councilman Hrycik reported that the Planning Board has reviewed the Waste Management Hazardous Waste Program and The Broadway Group application and submitted their recommendations.

WATER REPORT

Councilman Pietraszek reported at the present time water consumption billed to ECWA for the prior month was 1,663,000. gallons at a cost of \$4,656.40 + \$278.37 = \$4,934.77 expenditure.

-Jerry Grudzien on South Hill has been hooked up as an out-of-district water customer as of 6/4/2021.

-Greg has taken the key on all turn offs at Lower East Hill and Route 240 north to hear turbulence indicating a leak. Numbers show an increase since 5/15/21.

-1.5in meter at trailer park has been fixed.

-Radio rebuilt kits have been ordered to resolve our 10yr. battery life span, at present time 7 radios have been swapped out.

-Chlorine residuals are good.

Discussion on water usage for a fire that took place at a residence out of the water district and the cost of the water that was used. The cost amounted to \$17.49.

YOUTH/ADULT RECREATION REPORT

Asst. Rec Director Carrie DePasquale reported that soccer games have been going great. The season will be finished next week. Trophies have been ordered, and a pizza party is planned for the youth group players on the final night. Summer program registration is ongoing. The garden fence is up, the garden has been weeded and several vegetables have been planted watering is ongoing.

Approve Summer Rec Employees

MOTION made by Councilwoman Zurbrick and seconded by Supervisor DePasquale and unanimously approved to hire the following for the summer rec program at a rate of \$12.50 Abigail Mary, Hans Solly, McKayla Ruhland, Lauren Smith, Ethan Hallett, James Wohlheuter, Jacy Schelble and Brooke Sellers.

OLD BUSINESS

Change of Use 8680 State Road, The Broadway Group Development was amended to the beginning of the meeting.

NEW BUSINESS

1. Patrick Martino from Waste Management. Review of the addition of a “Hazardous Waste Pickup Program” to the Waste Management contract starting in the fiscal year of 2022. Was Tabled until next month’s meeting.

2. Annual Special Use Permit Inspection Reports:

The following SUP Inspections were read by Councilman Hrycik.

Buffalo Ski Club
State Road

- Type of Special Use Permit – Bridge Permit
- General Appearance – Deck is deteriorating on top & bottom. Approaches (2 east end, 1 west end) need better protection for vehicles going into creek.
- Conformity to SUP – Last inspected 7/19 – due this year
- Recommendations- Inspection, concentrate on deck. 2 photos attached.
- Inspected by: CEO John Kotlarsz, Councilman Gerald Pietraszek, Planning Board Chairman Walter Kammer, Asst CEO Thomas Dziulko

Frank Hrycik
8698 Lower East Hill Road

- Type of Special Use Permit – Junkyard Permit
- Inventory of Vehicles – 31
- General Appearance – As per last year, needs some consolidation of materials, vegetation needs cutting.
- Fencing & Shrubs – Shrubs overgrown
- Disposition of Oil – N/A
- Recommendations – Consolidate junk & cut vegetation
- Inspected by: CEO John Kotlarsz, Asst. CEO Thomas Dziulko, Councilman Gerald Pietraszek, Planning Board Chairman Walter Kammer

David Kloiber
Kloiber Auto Recycling
10349 Darien Road

- Type of Special Use Permit – Junkyard Permit
- Inventory of Vehicles – 315
- General Appearance – Many campers – 20, Scrapping out therefore, less vehicles somewhat organized
- Fencing or shrubs – Good
- Disposition of Oil - Good
- Recommendations – None
- Inspected by: CEO John Kotlarsz, Councilman Gerald Pietraszek, Planning Board Chairman Walter Kammer Asst. CEO Thomas Dziulko

Michael Saia
Holland Glenwood Road

- Type of Special Use Permit – Tower
- General Appearance – New building is up, old building still there. Entire area is gravel covered – no grass. New barbed wire fence on top.
- Conformity to SUP – Good
- Recommendations – None
- Inspected by: CEO John Kotlarsz, Councilman Gerald Pietraszek, Planning Board Chairman Walter Kammer

Dr. Gregory Young
8590 Phillips Road

- Type of Special Use Permit – Tower
- General Appearance – Good
- Conformity to SUP – Good
- Recommendations – None
- Inspected by: CEO John Kotlarsz, Councilman Gerald Pietraszek, Planning Board Chairman Walter Kammer, Asst. CEO Thomas Dziulko

SBA Communications Corp.
State Road-Buffalo Ski Club

Type of Special Use Permit – Tower
-General Appearance – Very Good
-Conformity to SUP – Yes Last inspected 2/22/2016
-Recommendations- Subgrade electrical box needs two stainless steel bolts on east side to secure the box.
-Inspected by: CEO John Kotlarsz, Councilman Gerald Pietraszek, Planning Board Chairman Walter Kammer Asst. CEO Thomas Dzuilko.

Alfred Kaefer
Falls Road

-Type of Special Use Permit – Gravel Pit
-General Appearance – Good, working on the northwest corner. Deeper than last year. Two loaders, 1 dozer, 1 hoe, 1 grader and 1 trailer on site.
-Conformity to SUP – Yes
-Recommendations – None
-Inspected by: CEO John Kotlarsz, Asst. CEO Thomas Dzuilko, Planning Board Chairman Walt Kammer, Councilman Gerald Pietraszek

Paul Cohn
8213 Center Street

-Type of Special Use Permit – Wind Turbine
-General Appearance – Good, Anti-Climb device in place not running currently.
-Conformity to SUP - Good
-Recommendations – None
-Inspected by: CEO John Kotlarsz, Councilman Gerald Pietraszek, Planning Board Chairman Walter Kammer, Asst. Thomas Dzuilko.

Approval of Annual Special Use Permits

MOTION made by Councilwoman Zurbrick and seconded by Councilman Hrycik and unanimously approved the following Special Use Permits; David Kloiber - Kloiber Auto Recycling, SAIA Communications - Tower, Dr. Young - Tower Permit, SBA Tower - Buffalo Ski Club, Al Kaefer - Gravel Permit, Paul Cohn – Windmill.

Hold off on the following Buffalo Ski Club Bridge and Frank Hrycik’s Junkyard Permit until they conform to their SUP.

CEO John Kotlarsz will inspect the following Auto related Special Use Permit Keith Van Lew, Charles McMicken and Gene Long

RESOLUTIONS

None

BUDGET TRANSFERS

None

TOWN CLERK REPORT

Town Clerk Kerlin reported that New York State Free Fishing Days is coming up on June 26th and 27th.

A request was made for the use of Kummer Park Shelter, Heichberger Family, on July 17th

Approve the use of Kummer Park

MOTION made by Supervisor DePasquale and seconded by Councilwoman Zurbrick and unanimously approved the requests for the use of Kummer Park on July 17th for the Heichberger Family.

Early voting will take place Saturday June 12, 2021 to June 20, 2021 week days from Noon to 9:00pm and weekends noon to 6:00pm. The primary election will take place on June 22, 2021, polls will be open from 6am to 9pm.

SUPERVISOR’S REPORT

Supervisor DePasquale reported that he received a letter from Jim Howe, Chairman of the Celebrate Colden Committee requesting the following

In Kind Support:

Overnight Security Saturday night
Constable on site Saturday
Port a potties – cost \$400.00
Use of tables and chairs from the Senior Citizen Center
Town Highway Department putting up and taking down festival banners on telephone poles.

The use of Town Hall property

The Town Hall for vendor breaks and restrooms.
The Town Hall parking lot
The Town Gazebo and grassy area around it

Garbage cans and bags

Trash pick up

Financial Support

Reimbursement for insurance-Cost \$165.00
Shuttle. Cost \$412.00
Horse Drawn Carriage \$500.00

Town Board discussed the above requests.

Approve Request from Celebrate Colden Committee

MOTION made by Supervisor DePasquale and seconded by Councilman Arcara and unanimously approved the above request along with a total donation of \$1,477.00 for Port a potties, insurance, shuttle, and Horse Drawn Carriage.

Approve Fireworks Display for July 3, 2021

MOTION made by Councilwoman Zurbrick and seconded by Councilman Arcara and unanimously approved to enter a contract with Matt Shaw from Skylighters of New York, for fireworks display to be held on July 3, 2021.

Supervisor DePasquale “Thank you” to the Planning Board, Environmental Board, Zoning Board of Appeals and Town Board for how hard they worked to follow the Town Codes and protecting the town residents during the Change of Use process. The stipulations for this Change of Use could not be met the recommendations that were provided, and the boards worked very hard to follow all town codes.

PAY BILLS

MOTION made by Councilman Pietraszek and seconded by Councilwoman Zurbrick and unanimously approved to pay the following bills:

General Fund Warrant Voucher #2021-169 to #2021 -213	\$ 28,139.33
Highway Fund Abstract Voucher #2021-66 to #2021-79	\$ 40,608.19
Water District Voucher #2021-26 to #2021-34	\$ 6,486.75

TB Mtg June 10, 2021
REGULAR TOWN BOARD MEETING
VIA – Go To Meeting at Colden Town Hall & Virtual

Page 12

Lighting District Voucher #2021-09 to #2021-10	\$ 1,262.62
Refuse Fund Voucher #2021-05	\$ 22,032.83
Trust & Agency Voucher #2021-01	\$ 21,783.26

PRIVILEGE OF THE FLOOR

John Kotlarsz stated that he thought the parade for Memorial Day was great and a nice way for things to start back up and again and their was a nice crowd of people that turned out for the ceremony.

Councilman Arcara stated that he was disappointed in the people who attended tonight's meeting and just left after the vote and did not stick around for any explanation. This Change of Use was a long-drawn-out process with a lot of hard work that went into the Change of Use and I do not believe that this matter is over.

Discussion took place on the Change of Use and the process for 8680 State Road.

ADJOURN

MOTION made by Councilman Hrycik and seconded by Councilman Pietraszek and unanimously adjourned the meeting at 9:03pm.

Respectfully submitted,

Christina M. Kerlin
Town Clerk