

TB Mtg March 10, 2022
REGULAR TOWN BOARD MEETING
VIA – Go To Meeting at Colden Town Hall & Virtual

MEETING CALLED TO ORDER AT 7:04PM

SUPERVISOR DePASQUALE OPENED THE MEETING WITH A MOMENT OF SILENCE FOR MEREDITH ELEANOR JOSEPHINE ZYBERT FOLLOWED BY THE PLEDGE OF ALLEGIANCE.

PRESENT: Councilman Dennis Robinson
Councilman Jesse Hrycik
Councilwoman Patricia Zurbrick
Councilman Gerald Pietraszek
Supervisor James DePasquale

ALSO

PRESENT: Highway Superintendent Paul Clarkson
Bldg. Insp/Code Enf. Officer John Kotlarsz
Asst. Bldg. Insp/Fire Insp. Thomas Dzuilko
Planning Board Chairman Walter Kammer
Town Clerk Christina Kerlin
Approximately 7 Residents

REGULAR TOWN BOARD MEETING

MINUTES:

MOTION made by Councilwoman Zurbrick and seconded by Councilman Hrycik and unanimously approved the minutes for the regular Town Board meeting held on February 10, 2022.

Supervisor DePasquale amended the agenda at tonight's meeting for a request from Joseph Calkins from the Aurora Colden Fire Company, Joseph spoke about the a Capital Improvement project at the Aurora Colden Fire Hall on State Road, the project is in the beginning stage. On behalf of the Aurora Colden Fire Company, Joseph asked the Town Board to consider a portion of the ARPA Funds the town has received to be used for the Capital improvement project at the Fire Hall. There are different ways the ARPA funds could be used to offset the cost of the project. Joseph stated that a small area of Colden is serviced by the Aurora Colden Fire Company, he submitted a packet of information on the project along with the cost, also included were fire and rescue calls that were attended for the years 2020, 2021 and for the beginning of this year for the Wets Falls/Colden Fire Company.

The Town Board will review the packet of information and bring the matter up at later date

COMMITTEE REPORTS

BUILDING REPORT

Councilman Robinson reported that a quote was received from WNY Imaging on an updated copier for the Town Hall. After some discussion on whether to lease or purchase a copier out right a decision was made to purchase the copier.

Approve the Purchase of Copier

MOTION made by Supervisor DePasquale and seconded by Councilman Zurbrick and unanimously approved the purchase of a Kyocera Taskalfa 3554ci at a cost of \$7,725.00, price includes \$400.00 trade in credit for Kyocera 255ci, monies for the copier will come from CARES act.

CODE ENFORCEMENT OFFICER REPORT

Report for the month of February 2022 – Bldg. Insp/Code Enf. Officer, John Kotlarsz reported that there were:

- 2 Building Permits Issued
- 1 Certificate of Occupancy
- 2 Certificates of Compliance
- 1 Order to Remedy
- 2 Court Appearance
- 1 Fire Inspection
- 2 Phone Complaints

CEO Year End report was submitted to the New York State Building & Codes.

An email was received from Dollar General about placing a propane exchange and ice container, both were approved in the Special Use permit and would have to meet NY State requirements.

COMMUNITY DEVELOPMENT REPORT

Councilwoman Zurbrick reported that the following:

Colden Fire Company Annual St. Patrick's Day Breakfast

Sunday March 13th starting at 8AM until sold out, Adults \$10, Children under 12 - \$5

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

Tuesday, 10am – 5pm

Wednesday, 1pm – 5pm

Thursday, 3pm – 6pm

Friday, 3pm – 6pm

Saturday, 9am – 12pm

Food Pantry Hours:

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

Mobile Food Truck

The mobile Food Truck has started back up and is every fourth Thursday of the month starting at 1:30pm at the Colden Fire Hall on Gutekunst Road.

COVID tests kits are available through NYS.gov
Masks are available still at Town Hall during business hours.

Connect Life

Connect Life along with the Colden Fire Company will be holding blood drives the months of June, August and December information will be posted as dates get closer.

BOLO Fundraiser Batavia Downs

Monday, May 2nd, Cost \$35 per person and are available during business hours at Bread of Life/Gabe's on the Hill. Bus departs at 9:30am return 4:30pm

Old Country Presents-Nashville Show Trip

Councilwoman Zurbrick stated for the record that David Kloiber has organized a Nashville Show trip 6 days and 5 nights Monday-Saturday, October 24-29 depart Colden at 8am, Cost is \$655. Check the website for details on both trips.

DOG CONTROL OFFICER REPORT

Councilman Robinson reported that on February 7th the dog control officer received a call from a woman complaining about her neighbor's dog barking. The dog's owner works second shift, and the dog is inside the house and barks throughout the night, there also seems to be a private dispute between both parties. Erie County Sheriff's called about two dogs running on State Road after making contact the next day they had no other information.

NYS Ag & Markets were out to inspect the kennel at the Dog Control Officer's home. A report will be sent to the Town stating what areas need to be corrected and or adhered to.

ENVIRONMENTAL BOARD REPORT

Councilman Pietraszek reported that the Environmental Board reviewed the SEQR for a Change of Use for SBA/T-Mobile Tower on State Road. The EB found no negative impact on the Change of Use. Planning Board will hear the matter at their upcoming meeting on March 15th.

HIGHWAY REPORT & PARKS

Highway Superintendent Clarkson reported that things are going well for the end of the snow season, the roads have taken a beating this winter. Road work will probably be reevaluated with the cost of fuel and oil going up in price.

There was discussion on the tools at the highway garage being updated through Snap On Tools. The contract would be lifetime warranty for replacement and the town would piggyback off the state contract. The tools that the highway department has now are very old and need to be replaced, Highway Superintendent Clarkson will provide an inventory list of the tools, the tools will then be turned over to the Parks department.

Approve Purchase of Fleet Pro Set of Tools and Toolbox

MOTION made by Councilman Robinson and seconded by Councilman Pietraszek and unanimously approved the purchase of Fleet Pro Set of tools and toolbox from Snap On Industrial at a cost of \$22,594.19 with lifetime replacement. Monies to come from Cares Act

Drug Testing

The town board clarified a voucher in for payment for drug testing there was no name for who had been tested and it turns out it is for the maintenance fee that was being paid for on the bill. There was discussion on which highway employees are on the list and are randomly drug tested throughout the year. The following are required highway superintendent, and highway men and after some more discussion they will now add the parks employee since she drives a town vehicle as well.

Councilman Hrycik asked Highway Superintendent Clarkson about in incident with the new 1-ton truck that went into a ditch. Clarkson stated that there was no damage to the truck it slid off the road in the snow, but no damage was done. Councilwoman Zurbrick asked if the GPS had been placed in the new truck yet, Highway Superintendent stated no.

INSURANCE REPORT

Supervisor DePasquale stated that the health insurance rates have gone up this year, and the cost may be more than what the town can afford to cover for eligible employees. The Town Board is looking into what the cost will be for employees to contribute to the health insurance coverage. A meeting is planned for Thursday, March 24th at 11:30 with April Hartloff, Employee Benefit Specialist, and eligible employees to go over Health insurance rates and plans.

LIBRARY REPORT

Councilman Hrycik reported that the Boston Library is offering a “Drop in Craft” it is free event.

Check out the website for the West Falls/Colden Library and Boston Library for updated events and Storytime’s along with various rentals of games, virtual activities and other events posted.

PERSONNEL & TRAINING REPORT

No report

PLANNING BOARD REPORT

Councilman Hrycik reported that the Planning Board has been working on the Comp Plan Status Review along with various other future actions.

- Special Use Permit for the SBA/T-Mobile Tower
- Change of Use for High Point of Erie County LLC Tree Farm
- Chairman, under his duties as Colden Energy Benchmarking Manager, issued the required notice that all records are complete, and the data will be entered into the required Federal & State web sites and the required report will be posted within the next reporting period on the Colden Web sit

There was discussion on the Comprehensive Plan and a survey that is attached to the updating of the Master Plan and making sure all residents and only residents would participate in the survey.

WATER REPORT

Councilman Pietraszek reported that:

- At present time consumption billed by ECWA for prior month 1,657,000gals. at a cost of \$4,937.86 + \$296=\$5,234.32 expenditure
 - Letters were sent to all water customers about the price that resulted in one question received about abbrevitions on the bills
 - Working on the annual AWQR report for mailing out in May
 - Dollar General has still not updated paperwork, bills to Broadway Group
- Councilman Pietraszek met with the Town Attorney along with Water Clerk Ron Smith and Water Operator Greg Adams on the meter flow problem. Town Attorney will set up a discussion with Erie County Water District Engineer on fixing the ongoing water flow from the meter up on Lower East Hill Road.

YOUTH/ADULT RECREATION REPORT

No report

OLD BUSINESS

Supervisor DePasquale read the following:

Special Use Permit: Nikki Kuznicki
Charles Kuznicki
8350 Irish Road
Zoning Section 108-124B 1-3
Section 36-21 Kennel License Dog Kennel

SPECIAL USE PERMIT

Pursuant to Article 22 of the Zoning Code of the Town of Colden, a Special Use Permit is hereby granted by the Town of Colden in accordance with the following:

APPLICANT: Nikki Kuznicki
Charles Kuznicki
PREMISES: 8350 Irish Road
CODE: Zoning Section 108-124B 1-3
Section 36-21 Kennel License
USE: Dog Kennel

Additional conditions and safeguards are deemed necessary by the Town Board to implement the purpose and intent of the Special Use Permit. This permit is contingent and subject to the following:

1. **CODE REQUIREMENTS**: Full compliance with all sections of the Colden Code in effect at the time of issuance. Any subsequent requested amendments will be in compliance with the Code existing at such time.
2. **APPLICATION AND PLANNING BOARD**: Subject to all plans and specifications of the Planning Board, Environmental Board and additional conditions and terms as adopted by the Town Board.
3. **VIOLATION**: Any violation of the provisions of the Permit or any other applicable law, code, rule or regulation of any government or department shall subject this Permit to suspension or revocation at the discretion of the Town Board.
4. **RENEWAL**: This Permit is subject to an annual renewal of the Permit. It is subject to review and future amendment or modification by the Town Board for compliance with the terms and conditions set forth herein.
5. **ATTACHMENT**: This permit is subject to any special conditions attached hereto and made a part thereof

Acknowledgement: The undersigned as applicant for this Special Use Permit does hereby acknowledge receipt of a copy of this Permit and agrees and accepts the provisions herein. The applicant further acknowledges that a violation or breach of covenants, provisions or conditions of this Special Use Permit will result in suspension or revocation of the Special Use Permit. The undersigned agrees to all terms and provisions of this Special Use Permit as herein stated or as hereafter may be amended.

DATED: 3-11-2022

Nikki Kuznicki
Applicant

Charles Kuznicki
Applicant

James DePasquale
Supervisor

ADDENDUM OF TERMS AND CONDITIONS

- 1:** Number of Dogs on property will be a maximum of **4**
- 2:** A yearly inspection will be conducted and reviewed annually.
- 3:** There will be no boarding of any animals that are not registered with the Town of Colden Clerks office for the address of 8350 Irish Road.
- 4:** The applicant must insure the “Pet Stop” electronic canine control equipment remains operational, at a good level of maintenance and functionality, and if there are any equipment failures or malfunctions that steps be taken immediately to guarantee that the canines will not leave the property
- 5:** All relevant NYS DEC and/or Erie County regulations related to Dogs/Canines must be met and not violated for all activities on the property for the term of the Special Use Permit
- 6:** The outside area of use should be maintained in a manner to protect the health, safety, lifestyle of Colden and for the protection of its residents. The applicant must maintain a safe and healthy environment for all animals present, and for all citizen users of the adjacent roads and woods for walking, cycling, and other activities, and outdoor purposes.

Supervisor DePasquale asked Nikki and Charles Kuznicki if they understood the requirements and had any questions on the Special Use Permit. Response was absolutely, they understood and had no questions.

Approve Special Use Permit Dog Kennel– 8350 Irish Road.

MOTION made by Councilman Hrycik and seconded by Councilman Robinson to approve the above Special Use Permit to permit for the housing of four dogs at 8350 Irish Road, Charles, and Nicki Kuznicki.

On the Vote: Councilman Dennis Robinson - yes
Councilman Jesse Hrycik – yes
Councilwoman Patricia Zurbrick – yes
Councilman Gerald Pietraszek – yes
Supervisor James P. DePasquale – yes

NEW BUSINESS:

Change of Use: High Point of Erie County, LLC
9168 Center Street
Christmas Tree Farm

Attending for the hearing: Attorney Friedfertig and Bill Getzman

Supervisor DePasquale stated that the following was completed:

Letter of Intent and rough sketch of property indicating building and use of property.
Building Inspector Report
Certificate of Zoning Compliance
Form 239-M from Erie County Division of Planning received with no recommendation.
Town matter.
Environmental Board Recommendation
Planning Board Recommendation
Form 239-M from Erie County Division of Planning received with no recommendation.
Town matter.

SEQR form submitted and signed by Environmental Board Chairman Craig Bouquin on March 10, 2022 and that the proposed action will not result in any significant adverse environmental impacts. No negative impact.

Supervisor DePasquale asked if the Town Board had any questions or comments. None

Approve Part 3 – SEQR Form

Motion made by Councilwoman Zurbrick and Seconded by Councilman Pietraszek to accept the part 3 SEQR form with the Town Board to accept the Lead agency.

On the Vote: Councilman Dennis Robinson - yes
Councilman Jesse Hrycik – yes
Councilwoman Patricia Zurbrick – yes
Councilman Gerald Pietraszek – yes
Supervisor James P. DePasquale – yes

CHANGE OF USE PERMIT

Pursuant to Article XXI of the Zoning Code of the Town of Colden, a Change of Use Permit is hereby granted by the Town Board of the Town of Colden in accordance with the following:

APPLICANT: High Point of Erie County, LLC

PREMISES: 9168 Center Street, Colden NY 14033

CODE: Article X, 108-36 (13)

USE: Christmas Tree Farming

Additional conditions and safeguards are deemed necessary by the Town Board to implement the purpose and intent of the Change of Use Permit. This permit is contingent and subject to the following:

1. Code Requirements: Full compliance with all sections of the Colden Code as presently codified or as may be amended from time to time.
2. Application and Planning Board: Subject to all plans and specifications submitted with the application, recommendations of the Planning Board and additional conditions and terms as approved by the Town Board.
3. Violation: Any violation of the provisions of the Permit or any other applicable law, code, rule or regulation of any government or department shall subject this Permit to suspension or revocation in the discretion of the Town Board.
4. Amendment: Any amendment or modification to this Change of Use Permit is subject to approval by the Town Board.

This permit is contingent and subject to the following Special Conditions:

The land is presently a “vacant/fallow” parcel. The new proposed Tree Farming Use is permitted in the underlying Ag zoning, subject to a Change of Use request per §108-108.

- The Change of Use is conditional upon compliance with the scope presented in the Applicant’s formal “Forestry Stewardship Management Plan”, dated 1/21/21, as prepared by a NYS DEC Forester. It is required that the landowners will follow that management plan going forward over the 10-year period represented by the Plan to establish the tree farming enterprise.
- This parcel is a good location for this type of “farm oriented” action. It is located near other substantial Ag & Farm activities of various forms. The use, and area of such use, is consistent with Zoning and with the existing Colden Master Plan which encourages such use. No conversion of existing Ag-land to other purposes will be done without Town approval.

Consistent with any Town Board action on this application, the Code Enforcement has issued a “Certificate of Zoning Compliance” (as required under §108-108), to confirm that this proposed change of use complies with the provisions of Chapter 108 of the Town Code.

- All principle and accessory buildings can only be used to support the Tree Farm Enterprise.
ACKNOWLEDGMENT: The undersigned as applicant for this Change of Use Permit does hereby acknowledge receipt of a copy of this Permit and agrees and accepts the provisions herein. The applicant further acknowledges that a violation or breach of any covenants, provisions or conditions of this Change of Use Permit will result in suspension or revocation of this Change of Use Permit. The undersigned agrees to all terms and provisions of this Change of Use Permit as herein stated or as hereafter may be amended.

DATED: _____, 2021 By: _____

ACKNOWLEDGED AND APPROVED AS TO FORM AND SUBSTANCE.

DATED: _____, 2021

JAMES DEPASQUALE, Supervisor
Town of Colden

Supervisor DePasquale corrected page 1 to reflect the address as Town of Holland. The property will be certified Christmas Tree Farm with no selling as of now. The trees will be sold wholesale when they do mature.

A building permit will be required for the second building that was built on the premises without a permit. Attorney Friedfertig stated that he and his clients understand fully the Change of Use and know that a building permit is required and that the cost would be double for building prior to having a permit.

CEO John Kotlarsz stated that he is concerned that the owners will continue to use the property as a shooting range and that the Change of Use is not consistent with an actual tree farm business. John also stated that the building without a permit should be torn down since the previous owners did not comply with what was on the permit held prior. John also stated that the owners have gone many years without paying the correct taxes on that building. John would also like to inspect the building and property to see if it meets what the change of use is intended for.

There was discussion on the shooting range that is on the property and if it was a club verses private and the buildings uses on the property.
Town Board tabled any decision tonight until next month after the Code Enforcement Officers inspected the property.

RESOLUTIONS

None

BUDGET TRANSFERS

Supervisor DePasquale read the following budget transfers.

General Fund Budget Transfers

From: A1620.4 Building	5469.35
To: A8090.4 Environ Contr.	5469.35
From: A1620.4 Building	1537.26
To: A1910.4 Insurance	1537.26
From: A1620.4 Building	565.00
To: A1440.4 Engineering	565.00
From: A8020.4 Planning	3169.87
To: A5010.4 Highway Contr	3169.87
From: A7310.4 Youth Contr.	1008.35
To: A7110.4 Parks	1008.35
From: A3310.4 Traffic Control	534.37
To: A3620.4 Code Enforcement	534.37
From: A1220.4 Supervisor	191.52
To: A1670.4 Print/Mail	191.52
From: A1220.4 Supervisor	123.50
To: A1010.4 Town board	123.50
From: A1220.4 Supervisor	64.59
To: A7550.4 Celebrations	64.59
From: A9030.8 Soc Ser	36.52
To: A9055.8 Empl-Dis	36.52
From: A1110.11 Justice	6.40
To: A1220.11 Supervisor Staff	3.20
To: A1440.11 Deputy TC	3.20

Highway Fund Transfer

From: DA5142.4 Snow Removal 16,052.85
To: DA5110.4 Gen Repairs 16,052.85

Approve Budget Transfers

MOTION made by Councilman Hrycik and seconded by Councilwoman Zurbrick and unanimously approved the transfers for the General Fund and Highway Fund for the year 2021.

TOWN CLERK REPORT

Town Clerk Kerlin reported that the last day to pay your 2022 Town & County Tax bills without penalty is Tuesday, March 15, 2022.

SUPERVISOR’S REPORT

Supervisor DePasquale reported that he has received numerous calls on flags that are hanging on homes and properties. After speaking with the town attorney and other neighboring towns on the flags, there is nothing the towns can do to prevent someone from expressing their First Amendment of Freedom of Speech. The town does not condone the vulgarity on the flag but does not have a choice, a person is entitled to their opinion and the town cannot infringe on his constitutional rights.

PAY BILLS

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

General Fund Warrant Voucher #2022-59 to #2022-91	\$ 15,137.13
Highway Fund Abstract Voucher #2022-22 to #2022-37	\$ 33,154.18
Water District Voucher #2022-07 to #2022-09	\$ 5,528.06
Lighting District Voucher #2022-02 to #2022-03	\$ 2,036.11
Refuse District Voucher #2022-02	\$ 25,152.70

PRIVILEGE OF THE FLOOR

No comments

ADJOURN

MOTION made by Councilman Robinson and seconded by Councilman Hrycik and unanimously adjourned the meeting at 9:23pm.

Respectfully submitted,

Christina M. Kerlin
Town Clerk