

TB Mtg October 13, 2022
REGULAR TOWN BOARD MEETING
VIA – Go To Meeting at Colden Town Hall & Virtual 7:00pm

MEETING CALLED TO ORDER AT 7:04PM

SUPERVISOR DePASQUALE OPENED THE MEETING WITH A MOMENT OF SILENCE FOR ROBIN MRUK AND JOHN “HANK” BAKER FOLLOWED BY THE PLEDGE OF ALLEGIANCE.

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

ALSO

PRESENT: Bldg. Insp/Code Enf. Officer John Kotlarsz
Bldg. Insp/Code Enf Officer Thomas Dzuilko
Highway Superintendent Lee Wohlhueter
Town Clerk Christina Kerlin
Approximately 6 Residents

MINUTES:

MOTION made by Councilman Robinson and seconded by Councilman Pietraszek and unanimously approved the minutes for the Regular Town Board meeting held on Thursday, September 8, 2022, at 7:00pm.

OLD BUSINESS:

None

NEW BUSINESS:

None

PUBLIC HEARING: Proposed Local Law – 2023 Tax Cap
Supervisor DePasquale stated that the Public Hearing for the Local Law was published in the Springville Journal and the Town Board has reviewed the Local Law and has no questions
Supervisor DePasquale read the following Local Law into record:

TOWN OF COLDEN

LOCAL LAW INTRO. NO. 01-2022

LOCAL LAW 01-2022

A LOCAL LAW TO OVERRIDE THE TAX LEVY LIMIT ESTABLISHED IN GENERAL MUNICIPAL LAW SECTION 3-c FOR THE “2023” BUDGET.

BE IT ENACTED BY THE TOWN BOARD OF THE TOWN OF COLDEN AS FOLLOWS:

SECTION 1. LEGISLATIVE INTENT

It is the intent of this Local Law to override the limit on the amount of real property taxes that may be levied by the Town of Colden, County of Erie pursuant to General Municipal Law Section 3-c, and to allow the Town of Colden, County of Erie to adopt a Town budget for (a) town purposes (b) fire protection districts and (c) any other special or improvement district governed by the Town Board for the fiscal year “2023” that requires a real property tax levy in excess of the Atax levy limit@ as defined by General Municipal Law Section 3-c.

The Town of Colden is concerned about uncertainties in the existing tax cap law, including how uncertain expenditures mandated by law and uncertain expenditures and revenues controlled by the county and state interact with the tax cap. The Town Board is obligated to prepare a responsible budget, which meets the Town=s mandated obligations and provides beneficial services, while minimizing the tax burden on Town citizens.

SECTION 2. AUTHORITY

This Local Law is adopted pursuant to Subdivision 5 of General Municipal Law Section 3-c, which expressly authorizes the Town Board to override the tax levy limit by the adoption of a Local Law approved by a vote of two-thirds (2/3) of the Town Board.

SECTION 3. TAX LEVY LIMIT OVERRIDE

The Town Board of the Town of Colden, County of Erie is hereby authorized to adopt a budget for the fiscal year “2023” that requires a real property tax levy in excess of the limit specified in General Municipal Law Section 3-c.

SECTION 4. SEVERABILITY

If any clause, sentence, paragraph, subdivision, or part of this Local Law or the application thereof to any person, firm or corporation, or circumstances, shall be adjusted by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause,

sentence, paragraph, subdivision, or part of this Local Law or in its application to the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

SECTION 5. EFFECTIVE DATE

This Local Law shall take effect immediately upon filing with the Secretary of State.

Public Hearing Opened:

No comments from the audience or online.

Public Hearing Closed

Supervisor DePasquale read the following resolution into record:

TOWN OF COLDEN
COLDEN, NEW YORK
RESOLUTION# 2022-09

**RESOLUTION APPROVING ADOPTION OF LOCAL LAW
IN RELATION TO THE TAX LEVY LIMIT**

WHEREAS, General Municipal Law Article 2, Section 3-c places a limit upon real property tax levies by local governments, and

WHEREAS, General Municipal Law Section 3-c(5) provides for a local government to adopt a budget that requires a tax levy that is greater than the tax levy limit for the coming fiscal year, provided the governing body of such local government first enacts, by a vote of two-thirds (2/3) of the total voting power of such body, a local law to override such limit for such coming fiscal year only, and

WHEREAS, the proposed budget is required to accurately appropriate funds in the operation of the Town with an unprecedented increase in costs such as highway salt, medical coverage, New York State pension costs and others, and

WHEREAS, it is required to adopt a Local Law to override the tax levy prescribed by General Municipal Law Section 3-c, and

WHEREAS, the Town has complied with the provisions of New York Municipal Home Rule Law regarding the requirements for adoption of the Local Law including a Public Hearing.

NOW, THEREFORE, be it

RESOLVED, the Town Board does hereby approve and enact Local Law 01-2022 providing for an override of the tax limit prescribed by General Municipal Law Section 3-c for the fiscal year 2023, and be it further

RESOLVED, the Town Clerk is hereby directed to immediately file the Local Law with the New York Secretary of State.

MOTION made by Councilwoman Zurbrick and seconded by Councilman Hrycik.

Duly adopted this 13th day of October, 2022 by the following vote.

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

2023 Community Development Block Grant

Supervisor DePasquale stated that the Public Hearing for the CDBG 2023 was published in the Springville Journal and the Town Board has discussed at last month's Town Board workshop for that the funding could be used for 1. Replacement of the stairs, accessible entrance, and parking area at the Colden Senior Center and 2. Rural Transit Van Service.

Public Hearing Opened:

Dakota Forgione asked if the funding was used for only infrastructure. Supervisor DePasquale stated that no, but the funding for Colden only qualifies for senior projects. The town always puts in for Rural Transit Service Van and usually the town receives funding every 3 years for a project at the Senior Center.

No comments online.

Public Hearing Closed

Town Board Vote:

**TOWN OF COLDEN
COLDEN, N.Y. 14033
RESOLUTION #2022 - 11
2023 COMMUNITY DEVELOPMENT GRANT FUNDS**

WHEREAS, at a meeting of the Colden Town Board held on October 13, 2022, at 7:00 pm, the Town Board of the Town of Colden authorizes Supervisor James P. DePasquale to sign, submit and execute a contract with Erie County Development Grant Program for the following project upon approval of 2023 ECCDBG Funds.

- 1) Replace the Front Stairs, Accessible Entrance and Parking Area at the Senior Center, 8811 State Road, Colden, 14033
- 2) Rural Transit Van Service

MOTION made by Councilwoman Zurbrick and seconded by Councilman Hrycik:

Duly adopted this 13th day of October, 2022, by the following vote.

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

CHANGE OF USE: Deborah Tatko & Dakota Forgione
10969 Darien Road

Supervisor DePasquale stated that a Change of Use was submitted back on July 21, 2002 by John Schenne P.E. for the applicants, Environmental Board reviewed the SEQR on August 3, 2022 And the Planning Board has met several times with the applicants on the Change of Use and prepared a recommendation to the Town Board which was received on October 12, 2022.

The Town Board reviewed the SEQR part 2 and 3 prior to tonight's meeting at the Town Board Workshop there are no new questions on the SEQR and the Town Board will vote to except the SEQR as the Lead Agency.

Approve SEQR for 10969 Darien Road

MOTION made by Councilwoman Zurbrick and seconded by Councilman Pietraszek and unanimously approved to have Supervisor DePasquale sign part three of the SEQR form as the Lead Agency for the Town of Colden with there being no significant negative environmental impact.

Town Board reviewed several items at the workshop prior to tonight's meeting and have several questions on the easement and driveway access. Supervisor DePasquale will meet with Town Attorney Bennett to clarify the driveway and easement agreement and conditions of the Change of Use. Town Board will hold a workshop prior to next month's town board meeting with updates and clarification.

COMMITTEE REPORTS

BUILDING REPORT

Councilman Robinson reported that Simplex Controls will be installing the new wireless fire alarm system for the Town Hall on Thursday, October 20, 2022. Dennis also checked to see if the NARCON was up to date which it was.

CODE ENFORCEMENT OFFICER REPORT

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

12 Building Permits Issued
3 New Dwelling
1 Certificate of Occupancy
10 Certificates of Compliance
7 Fire Inspections

COMMUNITY DEVELOPMENT REPORT

Councilwoman Zurbrick reported the following:

Blueberry Treehouse Farm Fall Festival will take place on October 15th & 16th from 11:00am – 10:00pm, There will be music, craft vendors and kid’s activities
West Falls Fire Department will display their new ambulance and trucks.
West Falls Center for Arts will be participating as well.

Colden Fire Company Meat Raffle

Saturday, October 22nd, 6:00pm There will also be tickets available for a basket auction. Wheelbarrow of cheer, 50/50 tickets and a chance to win a cooler of meat. \$5.00 admission beverages and food will also be available.

Colden Fire Company Auxiliary

Will be holding the Holiday Gift Fair on November 13th more info to come.

Colden Halloween Hike

Saturday, October 29th from 2-5pm
Visit the Colden Market & Café, the Town Hall & BOLO to Trick or Treat at all the decorated cars. Also, Redeemer Church from 4-7pm

Town of Colden Adult Recreation

YOGA – Six week session, bring your own mat and block, class is for 16 & up
Wednesdays, November 9th-December 14th, at 7:00pm, at the Colden Senior Center, Cost is \$65.00

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

Tuesday, 10am – 5pm
Wednesday, 1pm – 5pm

Thursday, 3pm – 6pm
Friday, 10am – 6pm
Saturday, 9am – 2pm

Food Pantry Hours:

Thursday, 3pm – 5pm
Saturday, 9am – 11pm

Mobile Food Truck

Mobile Food Truck is every fourth Thursday of the month starting at 1:30pm at the Colden Fire Hall on Gutekunst Road. This will be the last one until January 2023.

Seniors

Seniors meet every second Tuesday of the month starting at noon at the Colden Senior Center at 8811 State Road. Last meeting for this year was October 11th.

Supervisor DePasquale stated that Feed More WNY submitted a letter requesting a donation from the town in the amount of \$1,500.00 to help support the residents in Colden who rely on this service. With that said the request will be placed in the town’s budget for 2023.

DOG CONTROL OFFICER REPORT

Councilman Robinson reported that DCO Shannon Miller received some phone calls from September 8th through September 23rd and resolved them or referred to the correct town.

ENVIRONMENTAL BOARD REPORT

No report

HIGHWAY REPORT & PARKS

Highway Superintendent Wohlhueter reported that the park bathrooms have been winterized, mowing will be completed this week. Trucks are being prepared for winter and the salt/sand barn is full.

Murray Hill Road Seasonal Closing/Snow on the Right of Way/Property Owners Mailboxes

MOTION made by Supervisor DePasquale and seconded by Councilwoman Zurbrick and unanimously approved to advertise the temporary closing of Murray Hill Road from November 14, 2022 to April 1, 2023. Advertise snow on the right of way and property owner’s mailboxes.

INSURANCE REPORT

Councilman Robinson reported that there have been no problems with the insurance renewal that took effect in September.

LIBRARY REPORT

Councilman Hrycik read a “Thank You Note” was received from the Boston Library for their annual donation.

Colden West Falls library will be holding the following:

Monday, October 31, 2022, from 6:30pm – 7:30pm Kids Geology 101, No Charge

Saturday, October 29, 2022, at 1pm “Famous Women of Forest Lawn Presentation and Tea” No Charge

Check the Library Website for more activities:

West Falls Library Hours

Monday 6pm – 8pm

Tuesday 2pm – 4pm

Wednesday 6pm – 8pm

Thursday 10am – Noon (Story Hour 10:30am)

Friday 10am - Noon

Boston Library Hours

Monday 10am – 7pm

Tuesday 12pm – 8pm

Wednesday Closed

Thursday 10am – 7pm

Friday 12pm – 5pm

Saturday 10am – 2pm

PERSONNEL & TRAINING REPORT

Councilwoman Zurbrick reminded that the training for some employees still needs to be completed.

PLANNING BOARD REPORT

Councilman Hrycik reported that the Planning Board met with the team from CPL and WWS Planning for another Public Impact meeting on the Comprehensive Plan and Farmland Protection Plan around 60 people attended the meeting.

WATER REPORT

Councilman Pietraszek reported that:

- At present time consumption billed by ECWA for prior month 1,368,000 gals. at a cost of \$4,076.64 + \$296.46=\$4,373.10 expenditure
- Dollar General owners (Gorhar Reality Corp) have filled all needed paperwork and paid meter rental fee. Broadway Group meter rental fee returned.
- Williamson Law has almost fixed the sewer posting issue.
- Water usage is up across the system.
- Relevy letters sent on 9/30/22 with return payment by 10/21/2022 to avoid relevy on their tax bill.
- All valves turned and marked
- Chlorine residuals are reading good, and flushing is complete.

YOUTH/ADULT RECREATION REPORT

Councilwoman Zurbrick reported that the town recreation department will be participating at the Town Hall for “Trunk or Treating” on October 29th.

A 6-week Yoga class will be starting on November 8th applications are at the Town Hall. Christmas ornament and tree lighting will be held on December 9th at the Senior Center.

Supervisor DePasquale reported that the first nine holes are completed for the Disc Golf Course at Kummer Park and landscaping the area around will be completed in the near future, but the course is open and has had good reviews on the App UDisk.

Supervisor DePasquale stated that Scott Kirby submitted a request for payment on some equipment used for the disc golf course. He based the cost from machine rentals from companies that rent out tractor and equipment in the area.

The Town Board had a discussion on how Scott Kirby stated that he would volunteer to put in the disc golf course. Approving payment will be tabled until next month’s Town Board workshop meeting so Scott Kirby can address the Town Board on the request he submitted

RESOLUTION

Supervisor DePasquale read the following Resolution into record:

TOWN OF COLDEN
COLDEN, NEW YORK
RESOLUTION# 2022-10

A RESOLUTION IN OPPOSITION TO SENATE BILL S.51001 AND ASSEMBLY A.41001
REGARDING NEW YORK STATE ACTIONS CONCEALED CARRY LAW AND
RESTRICTING 2ND AMENDMENT RIGHTS

WHEREAS, The Town of Colden has a long, proud tradition of staunchly supporting the 2 Amendment of the United States Constitution, and

WHEREAS, The Town of Colden supports and promotes safe and responsible gun ownership rights of residents across the State of New York, and

WHEREAS, in the wake of the evil, heinous actions against defenseless persons at Tops Market in Buffalo, the New York State Legislature, after that terrible tragedy seized the opportunity to rush through 10 new laws that are meant to erode the right of legal gun owners and punish the legal & legitimate businesses in the firearms industry, and

WHEREAS, shortly thereafter, the Bruen Opinion was handed down from the United States Supreme Court striking down the restrictive nature of laws limiting and pertaining to Pistol Permits in New York, and

WHEREAS, The New York State Senate and Assembly, in response to the Bruen Opinion, rushed to pass S.51001 & A.41001 during an Extraordinary Session that essentially gutted the Second Amendment rights of citizens across New York State to carry their concealed firearm in public, and

WHEREAS, the New York State Sheriffs' Association recognized, these new laws as "punitive licensing requirements that aim only to restrain and punish law-abiding citizens who wish to exercise their Second Amendment Rights", and

WHEREAS, as Town Board members in the Town of Colden, we take an oath of office to uphold the Constitution and this a clearly flagrant violation of the constitutional rights of our citizens, taking away their ability to protect themselves and their loved ones and creating a bureaucratic betrayal of the Law Abiding Citizens of New York State that ultimately seeks to disarm our residents, now therefore, be it

RESOLVED, that the Colden Town Board is committed to pursuing all legislative remedies, either alone or in concert with other like-minded municipalities, counties and organizations, to overturn this assault on our Constitutional rights and,

RESOLVED, that copies of this resolution be sent to all Erie County local governments with hope that we can join to overturn these wrong-headed laws.

BE IT FURTHER RESOLVED, that a certified copy of this resolution be forwarded to Honorable Governor Kathy Hochul, Honorable Senate Majority Leader Andrea Stewart-Cousins,

Honorable Senate Minority Leader Robert Ortt, Honorable Speaker of the Assembly Carl E. Heastie, Honorable Majority Leader of the Assembly Crystal People-Stokes, Honorable Minority Leader of the Assembly William A. Barclay, and the Western New York Delegation and Erie County Executive Mark Poloncarz and the Erie County Legislature, The Association of Towns, and New York State Conference of Mayors.

MOTION made by Councilwoman Zurbrick and seconded by Councilman Robinson.

Duly adopted this 13th day of October 2022 by the following vote.

On the Vote:	Councilman Dennis Robinson - yes
	Councilman Jesse Hrycik – 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 the Town Board should have received their copy of the Preliminary Budget for 2023 and a Public Hearing needs to be set for the budget approval in November.

Advertise Public Hearing 2023 Preliminary Budget

MOTION made by Supervisor DePasquale and seconded by Councilman Hrycik and unanimously approved to advertise the Public Hearing for the 2022 Preliminary Budget on Thursday, November 10, 2022, at 7:00pm at the Colden Town Hall.

Town Clerk Kerlin reported that Michael Sullivan with the Colden Boy Scouts has put in the yearly request for the use of the senior center for Boy Scout meetings.

Early voting starts Saturday October 29th till November 6th weekends 9am – 5pm weekdays noon -9pm.

SUPERVISOR’S REPORT

Supervisor DePasquale reported that Troy & Banks, Inc. completed the first phase of their investigation into the monthly charges for the telephone billing. There were no overbillings identified. The audit findings for electric, gas, street lighting, cable and workers compensation and taxes will be reported separately.

Complaints were received from a couple of residents on Supervisor Avenue of cars driving over the speed limit. Advised to contact Law Enforcement on the issue.

PAY BILLS

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

General Fund Warrant Voucher #2022-381 to #2022-433	\$ 30,673.50
Highway Fund Abstract Voucher #2022-120 to #2022-143	\$ 23,806.19
Water District Voucher #2022-48 to #2022-54	\$ 4,865.29
Lighting District Voucher #2022-14 to #2022-16	\$ 3,370.05
Refuse District Voucher #2022-10	\$ 25,678.10
Cares Act Voucher #2022-7 to #2022-8	\$ 3,845.41

PRIVILEGE OF THE FLOOR

No comments

ADJOURN

MOTION made by Councilwoman Zurbrick and seconded by Councilman Hrycik and unanimously adjourned the meeting at 8:19pm.

Respectfully submitted,

Christina M. Kerlin
Town Clerk