

TB Mtg July 13, 2023
REGULAR TOWN BOARD MEETING
COLDEN TOWN HALL – July 13, 2023

MEETING CALLED TO ORDER AT 7:00PM
SUPERVISOR DePASQUALE OPENED THE MEETING WITH A MOMENT OF SILENCE
FOR JUDY RAUCH, FOLLOWED BY THE PLEDGE OF ALLEGIANCE.

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

ALSO

PRESENT: Town Clerk Christina Kerlin
Deputy Town Clerk Deborah Jusiak
Approximately 5 Residents

REGULAR TOWN BOARD MEETING

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,
June 8, at 7:00pm at the Colden Town Hall.

AMEND AGENDA

Supervisor DePasquale stated that he will amend the agenda tonight for the following resolution.

OLD BUSINESS - AUDIT NYS ELECTION 2022

Supervisor DePasquale stated that at last month's meeting Mark Wolfring was in attendance to
present information on a 2022 Election Audit for Local, County and State levels of government
Audits are great and keeps things transparent.

See Attached Resolution that was passed on July 13, 2023.

Mark Wolfring "Thanked" the Town Board for their effort listen to them on their findings on an
Audit Election being done. They are hoping other towns will act on the resolution as well.

NEW BUSINESS

Supervisor DePasquale reported that the Colden Festival Committee has submitted a letter of
request as in the past for some in-kind and financial support.

The following is a list of items requested:

- Overnight security Saturday night
- Constable on site Saturday and Sunday
- Port a Potties
- Use of the Senior Center, if needed
- No parking signs along Rt. 240 in front of the festival.
- 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 the grassy area around it.
 - Town parking lot on Boston-Colden Road (Colden Café site)
- Garbage cans and bags.
 - Trash bags
- Financial Support
 - Requested amount was \$1,685 after some discussion the Town Board agreed to \$1,700.

Approve Colden Festival Request

MOTION made by Councilwoman Zurbrick and seconded by Councilman Pietraszek and unanimously approved the request stated above from Colden Festival Committee to be held on September 9th and 10th.

PUBLIC HEARING:

Spectrum Franchise Renewal Agreement

Supervisor DePasquale asked the Town Board if they had a chance to look over the renewal contract and if there are any questions. Town Board stated that they had enough time to look things over and had no questions.

Public Hearing opened: No Comments or Questions, Public Hearing Closed

Approve the Spectrum Franchise Renewal Agreement

Supervisor DePasquale Read the following Resolution:

STATE OF NEW YORK
Town of Colden
County of Erie

**TOWN OF COLDEN
COLDEN N.Y. 14033
RESOLUTION #2023-08**

**In the Matter of the Granting of a Cable Television Franchise Held by
Spectrum Northeast, LLC in the Town of Colden, County of Erie, New York**

:

An application has been duly made to the Board of the **Town of Colden, County of Erie**, New York, by **Spectrum Northeast, LLC**, an indirect subsidiary of Charter Communications, Inc. (“Charter”), a limited liability company organized and existing in good standing under the laws of State of Delaware doing business at 2604 Seneca Avenue, Niagara Falls, NY 14305, for the approval of a renewal agreement for Charter's cable television franchise for fifteen (15) years commencing with the date of approval by the Public Service Commission.

The franchise renewal agreement would bring the franchise into conformity with certain provisions of the Federal Cable Communications Policy Act of 1984, as amended, and certain court rulings. A public hearing was held in the Town of Colden, New York on July 13, 2023, at 7:00P.M. and notice of the hearing was published in the Springville Journal on June 29, 2023.

NOW, THEREFORE, the Board of the Town of Colden finds that:

1. Spectrum Northeast, LLC has substantially complied with the material terms and conditions of its existing franchise and with applicable law; and

2. Spectrum Northeast, LLC has the financial, legal and technical ability to provide these services, facilities and equipment as set forth in its proposal attached; and
3. Spectrum Northeast, LLC can reasonably meet the future cable-related community needs and interests, taking into account the cost of meeting such needs and interests.

BE IT FURTHER RESOLVED that the Board of the **Town of Colden** hereby grants the cable television franchise of Spectrum Northeast, LLC and the **Town of Colden** for fifteen (15) years commencing with the date of approval by the Public Service Commission and expiring fifteen (15) years hence.

BE IT FURTHER RESOLVED that the Board of the **Town of Colden** hereby confirms acceptance of this franchise renewal agreement.

MOTION made by Councilman Hrycik and seconded by Councilman Robinson,

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

The foregoing having received a Yes vote was thereby declared adopted.

PUBLIC HEARING
8769 Lower East Hill Road
Colden Code Chapter 31 Buildings Unsafe

Supervisor DePasquale stated that the Public Hearing being held tonight is for an unsafe building located at 8769 Lower East Hill Road. Building Inspectors John Kotlarsz and Thomas Dzuilko have deemed this house unsafe. On March 3rd Building Inspector Dzuilko received a call from fire dispatch regarding a house collapse. Upon arrival to 8769 Lower East Hill Road the owner Jean Childs was sitting on the curb in front of her house. The first floor of the home collapsed into the basement. The utility companies were notified, and the power and water were shut off to the home, the gas had been terminated at an earlier date. Caution tape was wrapped around the perimeter and a “Do Not Occupy Sign” was placed on the front door. (a plywood board was placed over front door later after a complaint of door being opened) Pictures were taken of the inside and outside of the house. Many attempts were made to contact Jean Childs.

The first “Order to Remedy” was mailed out on March 3, 2022. With no response back from Jean Childs.

The seconded “Order to Remedy” was mailed out on May 14, 2023. With no response back from Jean Childs.

Supervisor DePasquale read the following Legal Notice:

LEGAL NOTICE OF
UNSAFE AND DANGEROUS PROPERTY

Notice is hereby given that the Town Board of the Town of Colden has adopted a Resolution pursuant to Chapter 31 of the Codes of the Town of Colden that property located at 8769 Lower East Hill Road, Colden, New York titled to Ronald Childs and Jean M. Childs has been found to be dangerous and unsafe by the Town Building Inspector. The Town Board will conduct a Hearing to be held on July 13, 2023 at 7:00 p.m. for a final determination to affirm, modify or annul the Order of the Town Building Inspector that the property is dangerous and unsafe. In the event of a default by the owners, an Order may be entered to include, but is not limited to, causing the structure to be removed and assessing the cost and expenses thereof for the proceeding and removal of the structure against the land on which the structure is located and institute a special proceeding against the owners to collect such costs pursuant to Section 78-b of the General Municipal Law.

The following Legal Notice was sent to the Springville Journal for posting and to Jean Childs last known address.

Public Hearing opened for Comment at 7:30p.m.

No Comments

Public Hearing closed at 7:32p.m.

Approve to Demolish and Removal of Structure at 8769 Lower East Hill Road

MOTION made was made by Councilman Robinson and seconded by Councilman Hrycik to authorize approval to demolish and remove the structure at 8769 Lower East Hill Road and to assess all expenses of the proceeding and removal against the land on which the structure is located and to commence a special proceeding to collect said costs from the owner.

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

Supervisor DePasquale stated that the Building Inspectors will obtain three quotes to demolish and for removal of the structure. Once the quotes are obtained the Town Board will review for a decision at the next Town Board meeting.

COMMITTEE REPORT

BUILDING REPORT

No report

CODE ENFORCEMENT OFFICER REPORT

Report for the month of June 2023 – Supervisor DePasquale read the following report:

10 Building Permits Issued
1 Certificate of Occupancy
7 Certificates of Compliance
2 First Notice of Violation
1 Court Appearance
1 Fire Inspection
3 Hours of School
3 Hours of School

Annual Special Use Inspections

Supervisor DePasquale read the following Special Use Permits inspection reports that were completed.

Brody Hacker
7715 Bleistein Road

- Type of Special Use Permit – Custom Shop/Mechanical Trades-
- General Appearance – Well kept.
- Conformity to SUP — Good, In the process of finalizing plans as presented
- Recommendations – None

Gene Long
“Second Hand Lions”
8561 Falls Road

- Type of Special Use Permit – Automobile Sales & Storage
- General Appearance – Good
- Conformity to SUP – Yes
- Recommendations – None

Keith VanLew
8207 Hayes Hollow Road

- Type of Special Use Permit – Shop/Mechanical Trades
- General Appearance – Good
- Conformity to SUP – Yes
- Recommendations – None

Charles McMicken
McMicken Motor Sports
10818 Crump Road

- Type of Special Use Permit – Motor Vehicle Sales
- General Appearance – Good
- Conformity to SUP – Yes
- Recommendations – None

Dr. Gregory Young
8590 Phillips Road

- Type of Special Use Permit – Tower
- General Appearance – Good
- Conformity to SUP – Yes
- Recommendations – None

Michael Saia
SAIA Communications
Holland Glenwood Road

- Type of Special Use Permit – Tower
- General Appearance – Good
- Conformity to SUP – Yes
- Recommendations – None

Approve Yearly Special Use Permits

Motion made by Councilwoman Zurbrick and seconded by Councilman Hrycik and unanimously approved the following Special Use Permits for the year beginning September 30, 2023 – September 30, 2024.

Councilman Pietraszek stated that he inadvertently left Tom Dzuilko off the list of first inspections that were completed on June 6, 2023.

COMMUNITY DEVELOPMENT REPORT

Councilwoman Zurbrick reported the following events:

- GIVE 716 is taking place July 16-18 and the Bread of Life Outreach Center is one of the places that will be available to donate too.
- Concert Summer Series are on ever other Wednesdays starting at 6:30pm at the Town Gazebo next concert will be on July 26th with the Good Question Band taking the stage.
- Colden Car Show will be taking place on Saturday, August 19th more info to come. Rain date August 20th.

Free Lunch

BOLO holds a free lunch once month, check the website for details.

Feed More Mobile Food Truck

Feed More Food Truck Giveaway is available the 4th Thursday of the month, starting at 1:00pm till gone at the Colden Fire Hall. Residents will receive a variety of fresh fruits and vegetables along with non-perishable food items.

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

DOG CONTROL OFFICER REPORT

Councilman Robinson reported that Shannon received a call about a raccoon on Stanfield Road. There was a dog bite incident that took place on State Road. The owner and the person who was bit were married at one time, it sounds like there was a domestic situation that went on at the time and neither one wants to press charges.

A call was received from a homeowner who came home and found a husky eating one of her chickens. The matter was resolved between the neighbors and safeguards were put in place.

A call was received about a lost cat, Shannon stated that she is only dog control and if she heard anything she would pass it along.

Councilman Robinson stated that he went with DCO Shannon Miller on Thursday June 15th for the Dog Kennel permit inspections one of which was rescheduled for a later date, all were complying, clean, well-kept with no issues.

Councilman Robinson went by himself on June 26th to inspect the remaining kennel permit inspection on Partridge Road and found the conditions unsatisfactory, the dogs looked feed and clean, but the environment was very poor, also a couple of the dogs were not current with their licensing. He did contact SPCA to come out again as they did last year and is waiting for a follow up from them.

The Town Board discussed revoking her kennel permit and sending her to court for not having the dogs licensed. After discussion the Town Board decided to table the decision and have Councilman Robinson reinspect the kennel and give her two weeks to bring her dog licenses up to date.

Approval of Dog Kennel Permits

MOTION made by Councilman Hrycik and seconded by Councilman Pietraszek and unanimously approved the following dog kennel permits from September 30, 2023 to September 30, 2024:

Anthony & Nancy Wurzer
Daryl & Jackie Gallagher
Mark Leitzan
Daniel Geile
David & Allison Giambra
Janice Kidd
Nikki & Charles Kuznicki

ENVIRONMENTAL BOARD REPORT

No meeting

HIGHWAY REPORT & PARKS

Councilman Robinson reported that the highway department took delivery of the new F350 utility truck. A F250 was ordered but Ford made a mistake, and the town was given the F350 for the cost of the F250.

- The surplus international plow truck went to auction and brought a return of \$18,200.00.
- Oil & stone of the roads has been completed and our “Thanks” goes out to the towns of Aurora, Boston, Concord, and Sardinia for there trucks and operators to get the job done.
- The first round of shoulder road grass cutting on town roads has been completed.
- Monday morning the highway department will be starting the project in the park for frisbee golf. Phase 1 of culvert pipe installs will be done. Followed by Phase 2 of building the tee pads.

Town Board discussed the renting of a 6Ton Wheel Dumper for a week for use by the highway department to maneuver stone around up at the park for the T-Pads for Frisbee Golf Course.

Approval of 6Ton Wheel Dumper

MOTION made by Supervisor DePasquale and seconded by Councilwoman Zurbrick and unanimously approved the rental of a 6Ton Wheel Dumper at a cost of \$1,645.00 for a week. For the use up at Kummer Park for the highway department to use to install the t-pad bases for the Frisbee Golf Course.

Town Board received 3 bids today for the concrete pads that will be placed on the t-pad base they will review them and discuss at the next Town Board meeting. Signs with the Frisbee Golf LOGO are being done by Greg Culver and there has been a lot of activity on the U-Disc App about the course up at Kummer Park.

INSURANCE REPORT

Councilman Robinson reported that he met with April Hartloff about the employee's health insurance. There was a significant increase this year. Last year the Town Board decided on a policy where the employees would cover 10% of the increase that occurred with the health insurance renewal. This year again there will be an increase to the member that would have to add another 10% of the increase to what they pay already.

Town Board discussed covering the new 10% increase with funds that were received last month from Comp Alliance for a Safe Workplace Award. The award was for its performance during policy year 2021, the check amount was \$2,782.00. That would cover the members increase and possible for next year as well.

Approve Health Insurance Renewal

MOTION made by Councilwoman Zurbrick and seconded by Supervisor DePasquale to approve the health insurance renewal for 2023-2024 with the increased costs being covered by the Comp Alliance check that was received in the amount of \$2,782.00 and members will still pay the amount that has been being deducted in their bi-weekly paycheck.

LIBRARY REPORT

Councilman Hrycik reported that the Boston Library has a Summer Jamboree Fundraiser taking place on Thursday, July 27, 2023 from 5pm – 8pm at the Boston Town Hall Lions Shelter. Check out the libraries Facebook page for events and happenings.

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

No report

PLANNING BOARD REPORT

No report

WATER REPORT

Councilman Pietraszek reported that at the present time consumption billed by Erie County Water Authority for the prior month is 1,498,000 gallons at a cost of \$998.64 + \$332.04 = \$6330.68 expenditure.

*ECWA water cost \$3.52/Thousand

*Williamson Law moving to cloud app, zoom presentation viewed. Will continue as is for next 2years or so until it is made for the cloud app.

*Ross valve to repair both pressure reducers on hill. It's been 7+years of its 10-year expectancy. Valves have been leaking and are getting progressively worst.

*Residuals are good and staying in range

YOUTH/ADULT RECREATION REPORT

Recreation Director Kip Palmateer reported that they had a fun trip to Camp Tahigwa on June 23rd. The summer program is going well. We had a rough first week. With the weather, and wildfire smoke, we had to have one half day, and cancelled 2 days. Our next field trip is July 31st, to Beaver Meadow Audubon.

RESOLUTION

Supervisor DePasquale read the following resolutions:

**TOWN OF COLDEN
COLDEN N.Y. 14033
RESOLUTION #2023-**

RECORDS DESTRUCTION AUTHORIZATION

Resolved, By the Town Board of Colden that Retention and Disposition Schedule for New York Local Government Records (LGS-1), issued pursuant to Article 57-A of the Arts and Cultural Affairs Law, and containing legal minimum retention periods for local government records, is hereby adopted for use by all officers in legally disposing of valueless records listed therein.

FUTHER RESOLVED, that in accordance with Article 57-A:

- (a) only those records will be disposed of that are described in Retention and Disposition Schedule for New York Local Government Records (LGS-1), after they have met the minimum retention periods described therein;
- (b) only those records will be disposed of that do not have sufficient administrative, fiscal, legal, or historical value to merit retention beyond established legal minimum periods.

Duly adopted this 13th day of July 2023.

Motion made by Councilman Robinson and seconded by Councilman Hrycik,

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

**TOWN OF COLDEN
COLDEN N.Y. 14033
RESOLUTION #2023-09**

TOWN of COLDEN, NEW YORK

RESOLUTION IN OPPOSITION TO NEW YORK STATE SENATE BILL

S-00139B and ASSEMBLY BILL A-1358B

Excerpt from the minutes of a meeting of the Town Board of the Town of Colden held at the Colden Town Hall, 8812 State Road, Colden, Erie County New York on July 13, 2023 at 7: 00p.m.as follows:

WHEREAS, New York Senate Bill number S-00139B has been passed which, if adopted by the NYS Assembly (A 1358-B) and signed by the Governor, would require all Judges presiding in the 100 largest Town and Village Courts to be licensed to practice law in the State and to have been admitted to the NYS Bar for at least five years; and

WHEREAS, The Town and Village Courts in Erie County are among the nearly 1,200 Justice Courts in the State of New York that collectively handle close to 1 million cases each year; and

WHEREAS, The Town and Village Courts are known as the “Courts Closest to the People” and have broad jurisdiction, presiding over civil and criminal matters, thereby performing a vital role in the New York State Unified Court System; and

WHEREAS, The Town Court of Colden is a vital service to our residents and Erie County community as a whole; and

WHEREAS, The Justices in Erie County’s Town and Village Courts have pledged to be ever mindful of their neutrality and impartiality, and render equal justice to all, while continually adhering to judicial rules of ethics and pronouncements of the New York State Commission on Judicial Conduct; and

WHEREAS, The Justices are required to be on-call 24 hours a day, 365 days a year to review/sign arrest and search warrants, perform arraignments, and issue orders of protection; and

WHEREAS, The Justices of Town and Village Courts ensure that the rights afforded to defendants by the Constitutions of the United States and the State of New York are provided and protected; and

WHEREAS, The Justices of Town and Village Courts preside over trials involving misdemeanor and violation level offenses, thereby ensuring that the victims of those offenses can be heard; and

WHEREAS, The Town and Village Courts provide a venue for Citizens to pursue a low-cost and efficient procedure for individuals to resolve civil disputes and landlord/tenant matters; and

WHEREAS, The Justices continually strive to improve the administration of justice through participation in mandatory education programs, seminars, meetings of the Erie County Magistrates Association and the New York State Magistrates Association; and

WHEREAS, The New York State Office of Court Administration must certify all as having successfully completed mandatory training both following election and in each subsequent year; and

WHEREAS, The New York State’s Commission on Judicial Conduct’s most recent annual report (2023) identifies that only 13% of the complaints filed against the judiciary were against Town and Village judges while the remaining complaints were against either “State-paid” judges, (constituting approximately 40% of the judiciary) who accounted for approximately 67% of the complaints received, or against non-judicial entities (20%); and

WHEREAS, This Bill attempts to usurp the right of voters to elect those in their communities that they believe to be fair and impartial, and who would best serve that community, whether they be attorneys or non-attorneys; and

WHEREAS, This Bill implicitly suggests that members of a community are incapable of making informed decisions about who should sit in judgment of matters from the straight-forward to the highly complex as may arise in their local courts; and

WHEREAS, this legislative body views the intention of this Bill is not to actually improve the courts, but a blatant and unconscionable attempt by the New York State Bar Association, an organization that represents approximately only fifteen percent (15%) of the State’s attorneys, to generate increased opportunities for its members, and to dictate who voters may choose to serve in our local governments;

NOW THEREFORE, BE IT RESOLVED, That the Governing board of the Town of Colden strongly, and in unequivocal terms, calls on both the leadership in the Senate and Assembly, and the Governor to reject this poorly conceived and hastily fashioned seizure of voters’ rights to determine, for themselves, who they would choose to sit as their judges as has been the case for almost two hundred years.

MOTION made by Councilwoman Zurbrick and seconded by Councilman Robinson,

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

Adopted by unanimous consent this 13th day of July 2023.

BUDGET TRANSFERS

None

TOWN CLERK REPORT

Town Clerk Kerlin reported that “Thank you notes” were received from the Bread of Life Outreach Center for the \$1,000. dollar donation that was made from the Town of Colden.

SUPERVISOR’S REPORT

Supervisor DePasquale reported that a complaint was received from a resident on the speed limit posted on Heath Road, the vehicles that speed on that road and their concern for the safety of drivers and people that may be walking on that road. The complaint was given to Erie County highway department, and they will have their Traffic Safety Engineer review and complete a study on the road.

There was also a complaint received about a sump pump drain pipe draining on the neighbors lawn. The matter has been referred to the Building Inspectors.

Councilwoman Zurbrick stated that she received a complaint about speeding on State Road and for the record she has contacted the Erie County Sheriff’s office.

PAY BILLS

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

General Fund Warrant Voucher #2023-245 to #2023-301	\$ 33,283.15
Highway Fund Abstract Voucher #2023-105 to #2023-129	\$172,148.70
Water District Voucher #2023-25 to #2023-29	\$ 6,630.25
Lighting District Voucher #2023-10 to #2023-11	\$ 1,521.54
Refuse Fund Voucher #2023-06	\$ 26,612.10
Cares Act Voucher #2023-02 to #2023-03	\$ 1,344.59

PRIVILEGE OF THE FLOOR

Deputy Town Clerk Deb Jusiak “Thanked” the Town Board for renewal of the Health Insurance at no additional cost to the employee for the upcoming yearly renewal.

ADJOURN

MOTION made by Councilwoman Zurbrick and seconded by Councilman Pietraszek and unanimously adjourned the meeting at 8:45pm.

Respectfully submitted,

Christina M. Kerlin
Town Clerk