

March 16, 2016

A Public Hearing was held by the Town Board of the Town of Colchester, Delaware County, New York on Wednesday, March 16, 2016 in the Town Hall for the purpose of hearing the public's comments regarding a Proposed Local Law to protect the Town from liability associated from injuries occurring on a street, highway, sidewalk, crosswalk, bridge or culvert from a defect unless prior written notice was received by the Town Clerk of the Town of Colchester. Proof of Notice having been furnished, the Public Hearing was called to order by Supervisor Arthur M. Merrill.

No one spoke in favor of the proposed Local Law.

No one spoke against of the proposed Local Law.

All persons desiring to be heard, having been heard, Supervisor Arthur M. Merrill declared the Public Hearing closed at 7:05 PM.

Respectfully Submitted:
Julie B. Townsend, Town Clerk

March 16, 2016

The regular meeting of the Town Board of the Town of Colchester, Delaware County, New York was held on Wednesday, March 16, 2016 immediately following the Public Hearing at 7:05 PM at the Town Hall.

Present:	Arthur M. Merrill	Supervisor
	Janet L. Champlin	Councilwoman
	Mark W. Mattson	Councilman
	Julie A. Markert	Councilwoman
	Gregory L. Lavorgna	Councilman
Recording Secretary:	Julie B. Townsend	Town Clerk

Others present: Kenneth R. Eck, Jr.-Highway Supt., Michael DeGroat-Town Attorney, Lillian Brown-Walton Reporter, Bonnie Seegmiller, Colleen Griffith, Joan Homovich, Dan Pinner and Dan Snider.

The Meeting was called to order by Supervisor Arthur M. Merrill and led the group in the Pledge of Allegiance.

The minutes of the last regular meeting, March 02, 2016 had been distributed earlier. Julie Markert questioned Resolution NO. 39-2016- Tioga Construction Co., Inc. Lease Agreement; her understanding was that the rental agreement was for the placement of a storage container for an office not equipment. Board discussed further. Mark Mattson made the motion to accept the minutes as written, seconded by Janet Champlin, Mark Mattson-aye, Janet Champlin-aye, Greg Lavorgna-aye, Arthur Merrill-aye, Julie Markert-no, motion carried.

VISITOR COMMENTS: none

Dan Snider of Catskill Regional Invasive Species Partnership gave a presentation on Emerald Ash Borer; they are flying insects that infest larva in ash trees; attacking healthy and unhealthy ash trees of all sizes; asking everyone to keep an eye out for the signs of infested trees and then call NYSDEC; funding is available for Towns at a 50/50 basis. More information can be received at www.nys.info, www.emeraldashborer.info, www.forestconnect.info or contact Dan Snider at dsnider@catskillcenter.org. Board thanked Mr. Snider for his presentation.

CORRESPONDENCE:

- Catskill Watershed Corp.- In 2015 the CWC received a NYS Catskill Park Smart Growth Implementation Grant; the Delaware County outreach session will be held March 22nd at the CWC Offices in Margaretville at 6PM.

REPORTS- written reports on file at Town Clerk's Office:

- Town Justice DeRosia- February 2016.
- Town Justice Edel- February 2016.
- Tax Collector- February 2016- 2413 Transactions -Base Tax Total \$6,713,357.01- 83% Paid. Supervisor inquired if there was any discussion regarding the proposed local law regarding Prior Written Notice of Defect; discussion was held on sidewalk defects and who is responsible for repairs; Town Attorney commented that most sidewalks are in the Town's right-of-way; Supervisor replied that most are on State Hwy 30&206; Councilman Mattson commented that the Town put in sidewalks on 30&206 when the water line were put in during 1985; Town Attorney will follow-up with more research and suggested that the local law could be adopted now as it will go into affected once the Dept. of State has notified us that the local law has been filed. Board discussed further.

NO. 40-2016 03/16/16 Adopt Local Law 1 of the Year 2016

Janet Champlin made the following resolution:

WHEREAS, a resolution was duly adopted by the Town Board of the Town of Colchester for a public hearing to be held by said Governing Body on March 16, 2016 at 7:00 PM at the Town Hall, 72 Tannery Road, Downsville, New York to hear all interested parties on a proposed Local Law entitled A Local Law to Require Prior Written Notice of Certain Dangerous Conditions for the Town of Colchester, and

WHEREAS, notice of said Public Hearing was duly advertised in The Reporter, the official newspaper of said Town on March 2 and March 9, 2016; and

WHEREAS, notice of said Public Hearing was duly posted on the official signboard at said Town Hall; and

WHEREAS, said Public Hearing was duly held on March 16, 2016 at 7:00 PM at the Town Hall, 72 Tannery Road, Downsville, New York and all parties in attendance were permitted an opportunity to speak on behalf or in opposition to said proposed Local Law or any part thereof; and

WHEREAS, the Town Board of the Town of Colchester, after due deliberation, finds it in the best interest of said Town to adopt said Local Law;

NOW, THEREFORE, BE IT RESOLVED that the Town Board of the Town of Colchester does hereby adopt said Local Law Number 1 of the Town of Colchester for the Year 2016, a local law to protect the Town from liability associated from injuries occurring on a street, highway, sidewalk, crosswalk, bridge or culvert from a defect unless prior written notice was received by the Town Clerk of the Town of Colchester;

BE IT FURTHER RESOLVED, that the Town Clerk be and she hereby is directed to enter said Local Law in the minutes of this meeting and in the Local Law Book of the Town of Colchester and to give due notice of the adoption of said Local Law to the Secretary of State of New York.

Resolution was seconded by Greg Lavorgna.

This resolution was put to a vote by roll call and resulted as follows:

Town Supervisor, Arthur M. Merrill	voting aye
Councilperson, Janet Champlin	voting aye
Councilperson, Gregory L. Lavorgna	voting aye
Councilperson, Julie A. Markert	voting aye
Councilperson, Mark W. Mattson	voting aye

The resolution was declared to be duly adopted by the members of the Town Board of the Town of Colchester.

TOWN OF COLCHESTER

LOCAL LAW NO. 1 OF THE YEAR 2016

A LOCAL LAW TO REQUIRE PRIOR WRITTEN NOTICE OF CERTAIN DANGEROUS CONDITIONS FOR THE TOWN OF COLCHESTER, DELAWARE COUNTY, NY

Be it enacted by the Town Board of the Town of Colchester as follows:

Section 1.

No civil action shall be maintained against the Town of Colchester (the "Town") or the Superintendent of Highways of the Town, or against any improvement district in the Town for damages or injuries to person or property (including those arising from the operation of snowmobiles) sustained by reason of any highway, bridge, culvert, highway marking, sign or device, or any other property owned, operated or maintained by any improvement district therein, being defective, out of repair, unsafe, dangerous or obstructed unless written notice of such defective, unsafe, dangerous, or obstructed condition of such highway, bridge, culvert, highway marking, sign or device, or any other property owned, operated or maintained by the Town, or any property owned, operated or maintained by any improvement district, was actually given to the Clerk of the Town or the Superintendent of Highways of the Town, and that there was a failure or neglect within a reasonable time after the giving of such notice to repair or remove the defect, danger or obstruction complained of; and no such action shall be maintained for damages or injuries to persons or property sustained solely in consequence of the existence of snow or ice upon any highway, bridge, culvert or any other property owned by the Town or any property owned by any improvement district in the Town unless written notice thereof, specifying the particular place, was actually given to the Clerk of the Town or the Superintendent of highways of the Town and there was a failure or neglect to cause such snow or ice to be removed or to make the place otherwise reasonably safe within a reasonable time after the receipt of such notice.

Section 2.

No civil action will be maintained against the Town and/or the Superintendent of Highways of the Town for damages or injuries to person or property sustained by reason of any defect in the sidewalks of the Town or in consequence of the existence of snow or ice upon any of its sidewalks, unless such sidewalks have been constructed or are maintained by the Town or the Superintendent of Highways of the Town pursuant to statute, nor shall any action be maintained for damages or injuries to person or property sustained by reason of such defect or in consequence of such existence of snow or ice unless written notice thereof, specifying the particular place, was actually given to the Clerk of the Town or to the Superintendent of Highways of the Town and there was a failure or neglect to remedy such defect, to remove such snow or ice, or to make the place otherwise reasonably safe within a reasonable time after receipt of such notice.

Section 3.

The Superintendent of Highways of the Town shall transmit, in writing, to the Clerk of the Town, within five (5) days after the receipt thereof, all written notices received by him/her pursuant to this law, and he/she shall take any and all corrective action with respect thereto as soon as practicable.

Section 4.

The Clerk of the Town shall keep an index record, in a separate book, of all written notices which the Town Clerk shall receive of the existence of a defective, unsafe, dangerous or obstructed condition in or upon, or of an accumulation of ice and snow upon, any Town highway, bridge, culvert or sidewalk, or any other property owned by the Town, or by any improvement district, which record shall state the date of the receipt of the notice, the nature and location of the condition stated to exist, and the name and address of the person from whom the notice is received. The record of such notice shall be preserved for a period of five (5) years from the date it is received. The Town Clerk, upon receipt of such written notice, shall immediately and in writing notify the Superintendent of Highways of the town of the receipt of such notice.

Section 5.

Nothing contained in this law shall be held to repeal or modify or waive any existing requirement or statute of limitations which is applicable to these causes of action but, on the

contrary, shall be held to be additional requirements to the rights to maintain such action, nor shall anything herein contained be held to modify any existing rule of law relative to the question of contributory negligence, nor to impose upon the Town, its officers and employees, and/or any of its improvement districts any greater duty or obligations than that it shall keep its streets, sidewalks and public places in a reasonably safe condition for public use and travel.

Section 6.

If any clause, sentence, phrase, paragraph or any part of this law shall for any reason be adjusted finally by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this law but shall be confined in its operation and effect to the clause, sentence, phrase, paragraph or part thereof directly involved in the controversy or action in which such judgment shall have been rendered. It is hereby declared to be the legislative intent that the remainder of this section would have been adopted had any such provisions not been included.

Section 7.

This Local law shall take effect immediately upon the filing with the New York State Secretary of State.

Supervisor Merrill then read the resolution for the procedure for Prior Written Notice of Defects. Board discussed.

NO. 41-2016 03/16/16 Prior Written Notice of Defect

Janet Champlin made the following resolution:

BE IT RESOLVED, that the Town Board of the Town of Colchester seeks to protect the Town from liability associated from injuries occurring on a street, highway, sidewalk, crosswalk, bridge or culvert from a defect unless prior written notice was received by the Town Clerk of the Town of Colchester.

BE IT FURTHER RESOLVED, the Town of Colchester upon written notice of a defect must be given reasonable time after such receipt to correct such indicated defect. Notice of the defect must be in writing on the form provided by the Town (see attached) and will be directed to the Town Clerk.

BE IT FURTHER RESOLVED, the Town Clerk will record all written notices of defect and upon receipt of a written notice will refer to the Superintendent of Highways for corrective action. The Town Clerk will keep a record of all written notices of defect which shall include the following:

- Date and time of receipt of the notice;
- Type of defect and its location;
- Name and address of the person from whom the notice is received;
- Follow-up procedure (who, when and how);
- The date, time and method of repair;
- If no action was needed, the reasons;
- If repair could not be done immediately, corrective action taken to protect the public;
- Accurate recording of follow-up activity.

The Superintendent of Highways will:

- Inspect the location and assess the conditions;
- Have immediate repairs of small defects made;
- Have temporary repairs suitable to correct the condition when time is needed to purchase supplies or when weather or other urgent jobs cause delay;
- Restrict pedestrian traffic in the area when repair can't begin immediately;
- Advise the Town Clerk of the date, time and method of repair.

BE IT FURTHER RESOLVED, the Town Board will adhere to this resolution and complaints must be made in writing on the required form and will not be accepted in any other manner. A form for providing written notice of a defect is attached.

Resolution was seconded by Mark Mattson.

This resolution was put to a vote by roll call and resulted as follows:

Town Supervisor, Arthur M. Merrill	voting aye
Councilperson, Mark W. Mattson	voting aye
Councilperson, Julie A. Markert	voting aye
Councilperson, Janet L. Champlin	voting aye
Councilperson, Gregory L. Lavorgna	voting aye

The resolution was declared to be duly adopted by the members of the Town Board of the Town of Colchester.

Highway Supt. Eck reported that the online auction for the tires has ended and recommends accepting the final bid of \$70.00; in the January auction, previous bidder Scoop007 bid 41.00 and decided they did not want the tires, nor did the other two bidders. Board discussed.

NO. 42-2016 03/16/16 Accept Bid from Auctions International

Mark Mattson made the following resolution:

WHEREAS, the two Goodyear Tires did not sell at the January 2016 online auction with Auctions International of 11167 Route20-A, East Aurora, New York, and was re-listed for the next online auction; and

WHEREAS, said online auction was held Feb. 29 to March 14, 2016 and is now closed for bids;

THEREFORE, BE IT RESOLVED that the Town Board of the Town of Colchester hereby accepts the following bid from the online auction of *plattekill* in the amount of \$70.00 for the 2 Goodyear tires;

FURTHER RESOLVED, that the Town Board hereby authorizes Auctions International, Inc. to invoice said bidder on behalf of the Town of Colchester.

Resolution was seconded by Julie Markert, all in favor, resolution declared adopted.

Supervisor reported that Mike Sabansky of Real Property Tax Services gave a presentation at the last County Board of Supervisors "Solar Arrays and Taxation"; the Board of Supervisors will propose a procedure for all Towns to adopt so all Towns are doing the same procedure.

Supervisor Merrill reported that we have received quotes for the renovation of the kitchenette and ADA room; Matt Hood-\$40 per hour and Loren Shellman-\$32 per hour; we have received JCAP Grant #3602 in the amount of \$7,500 for the construction of these rooms; we will purchase the materials. Board discussed.

NO. 43-2016 03/16/16 Enter into Agreement with Loren Shellman

Mark Mattson made the following resolution:

WHEREAS, the Town of Colchester had applied for a JCAP Grant for the construction of a the kitchenette and ADA Conference Room; and

WHEREAS, the Town of Colchester was granted JCAP Grant #3602 and has received funds in the amount of \$7,500 for the construction of said project;

NOW, THEREFORE, BE IT RESOLVED that the Town Board of the Town of Colchester hereby enters into Agreement with Loren Shellman for the construction of a Kitchenette and ADA Conference Room located at Town Hall, 72 Tannery Rd, Downsville, NY. Resolution was seconded by Janet Champlin, all in favor, resolution declared adopted.

Supervisor reported that we have critters in the building; this morning when the Town Clerk entered her office, there was a noise in the ceiling; we called Pestech to investigate; Pestech found signs of mice, bats and squirrels and gave us quotes to take care of them: mice-\$385; bats-\$2,100; squirrels-\$3,100; or all three at \$4,100. Pestech also suggested that we fill up the holes on the outside of the building to keep critters from getting inside. We have decided that we will do this approach to try an eliminate critters from intruding the building.

Supervisor Merrill reported that he has spoken with JR MacDonald and he is willing to become the Cemetery Supervisor; Dan Bennett will be staying at the Highway Dept. and Dan realizes that he forfeits the extra forty cents an hour. We will be conducting interviews for the Cemetery Dept. on Friday. Board discussed.

NO. 44-2016 03/16/16 Appoint Ronnie L. MacDonald Jr. as Cemetery Supervisor

Julie Markert made the following resolution:

BE IT RESOLVED that the Town Board of the Town of Colchester hereby appoints Ronnie L. MacDonald Jr. as Cemetery Supervisor with an increase in pay of forty cents (0.40) per hour effective immediately.

Resolution was seconded by Janet Champlin, all in favor, resolution declared adopted.

Councilwoman Champlin inquired in the status of the used culvert pipes? Highway Supt Eck replied that no one has asked for any since it was last talked about. Supervisor replied that it is up to the discretion of the Hwy Supt and should be documented.

Supervisor Merrill made the following announcements:

- Next Regular Board Meeting Wed., April 6th

Councilwoman Champlin commented that there is an issue alongside the road on Coles Clove Rd. Highway Supt will look into it.

SUBMISSION OF BILL/EXPENSES: Greg Lavorgna made the motion, seconded by Janet Champlin, that the vouchers be approved, subject to any corrections or deletions, all in favor, motion carried. Abstract No.05-2016; Voucher No.110-136; Totaling \$13,500.69.

Janet Champlin made the motion to go into executive session to discuss police personnel issues, seconded by Mark Mattson, all in favor, motion carried. Board entered executive session at 8:35 PM. Officers Pagillo and Cawley were invited to stay. Board held discussion. Greg Lavorgna made the motion to enter back into regular session, seconded by Janet Champlin, all in favor, motion carried. Board entered regular session at 9:30 PM. Board made the following resolution to re-hire Matt Davis as a part-time police officer.

NO. 45-2016 03/16/16 Appoint Part-time Police Officer

Mark Mattson made the following resolution:

WHEREAS, the Town Board of the Town of Colchester recognizes the need of continuing its Police Dept. for the safety and welfare of its residents; and

WHEREAS, the Town Board of the Town of Colchester recognizes the need of Part-time Police Officers for the future of the Police Dept.;

NOW THEREFORE, BE IT RESOLVED that the Town Board of the Town of Colchester hereby appoints the following certified officer, Matthew C. Davis of Meredith, New York, as a Town of Colchester Part-time Police Officer pending submission of all necessary forms at the pay rate of \$20.00 per hour with no benefits

Resolution was seconded by Janet Champlin, Mark Mattson-aye, Janet Champlin-aye, Greg Lavorgna-aye, Arthur Merrill-aye, Julie Markert-no, resolution declared adopted.

With no further business, Greg Lavorgna made the motion for adjournment, seconded by Julie Markert, all in favor, motion carried. Meeting adjourned at 9:34 PM.

Respectfully Submitted:

Julie B. Townsend
Town Clerk