

June 15, 2016

The regular meeting of the Town Board of the Town of Colchester, Delaware County, New York was held on Wednesday, June 15, 2016 at 7:03 PM at the Town Hall.

Present: Arthur M. Merrill Supervisor
Janet L. Champlin Councilwoman
Mark W. Mattson Councilman
Julie A. Markert Councilwoman

Absent: 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, Alan Donner, Vince & Juanita Picece, Joan Homovich, Mary Brawley-Fuat, Amy Brown, Bob Praschil and Larry Guglielmo.

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, June 01, 2016 had been distributed earlier. Janet Champlin made the motion to accept the minutes as written, seconded by Mark Mattson, Janet Champlin-aye, Julie Markert-aye, Mark Mattson-aye, Arthur Merrill-aye, Greg Lavorgna-absent, motion carried.

VISITOR COMMENTS: Joan Homovich inquired to the cost of a police uniform. Supervisor replied around \$100 for shirt & pants.

Joan Homovich reported that a street light is flickering by the home of Bob Edwards. Highway Supt. added that one by Dukes is also flickering. Supervisor will advise NYSEG.

CORRESPONDENCE:

- Sarah Hood- She has offered an Aqua-Fit Class the last three years at the Town Pool and would like the Board to consider approving the class again this year; class is twice a week during adult lap swim hour.

NO. 81-2016 06/15/16 Authorize Aqua-Fit Program at Town Pool

Janet Champlin made the following resolution:

BE IT RESOLVED, that the Town Board of the Town of Colchester hereby authorizes Sarah Hood of Head to Toe Fitness Studio to hold an Aqua-Fit Program this summer at the Town of Colchester Pool located at 14728 State Hwy 30, Downsville, New York.

Resolution was seconded by Julie Markert, Janet Champlin-aye, Julie Markert-aye, Mark Mattson-aye, Arthur Merrill-aye, Greg Lavorgna-absent, resolution declared adopted.

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

- Town Justice Edward J. DeRosia III- May 2016.
- Town Justice Arthur C. Edel- May 2016.
- Supervisor Operating Statement as of 06/14/2016.

Supervisor reported that the Cooks Falls Water District- Water System Rehabilitation Project #TC1-G-2015 Bid Opening will be held on Tues., June 28th at 10am at Town Hall.

Supervisor Merrill reported that Delaware Opportunities has sent us another project to approve for the NYS CDBG Project #260CRF-HR113-14 Program, Housing Rehabilitation Grant; Del. Opp. has approved bid for File No.CTRCD-06 to D&N Improvements in the amount of \$26,900.00; plus an additional \$550 for cost of Lead Based Paint Risk Assessment by EcoSpect

Inc.; the Community Development Specialist estimated the total cost of the project at \$30,247. Board discussed.

NO. 82-2016 06/15/16 CDBG #260CRF-HR113-14 Board Approval No.CTRCD-06

Upon recommendation of Delaware Opportunities Inc., Mark Mattson made the following resolution:

BE IT RESOLVED, that the Town Board of the Town of Colchester hereby approves File No.CTRCD-06 for the CDBG Project #260CRF-HR113-14, Housing Rehabilitation Grant and hereby authorize Supervisor Arthur M. Merrill to sign said grant approval in the amount of \$27,450.00.

Resolution was seconded by Janet Champlin, Janet Champlin-aye, Julie Markert-aye, Mark Mattson-aye, Arthur Merrill-aye, Greg Lavorgna-absent, resolution declared adopted.

Supervisor Merrill reported that Delaware Opportunities has sent us another project to approve for the NYS CDBG Project #260CRF-HR113-14 Program, Housing Rehabilitation Grant; Del. Opp. has approved bid for File No.CTRCD-09 to D&N Improvements in the amount of \$16,995.00; plus an additional \$550 for cost of Lead Based Paint Risk Assessment by EcoSpect Inc.; the Community Development Specialist estimated the total cost of the project at \$18,373. Board discussed.

NO. 83-2016 06/15/16 CDBG #260CRF-HR113-14 Board Approval No.CTRCD-09

Upon recommendation of Delaware Opportunities Inc., Janet Champlin made the following resolution:

BE IT RESOLVED, that the Town Board of the Town of Colchester hereby approves File No.CTRCD-09 for the CDBG Project #260CRF-HR113-14, Housing Rehabilitation Grant and hereby authorize Supervisor Arthur M. Merrill to sign said grant approval in the amount of \$17,545.00.

Resolution was seconded by Mark Mattson, Janet Champlin-aye, Julie Markert-aye, Mark Mattson-aye, Arthur Merrill-aye, Greg Lavorgna-absent, resolution declared adopted.

Supervisor Merrill reported that Delaware Opportunities has sent us another project to approve for the NYS CDBG Project #260CRF-HR113-14 Program, Housing Rehabilitation Grant; Del. Opp. has approved bid for File No.CTRCD-11 to FM General Contracting in the amount of \$28,000.00; plus an additional \$550 for cost of Lead Based Paint Risk Assessment by EcoSpect Inc.; the Community Development Specialist estimated the total cost of the project at \$28,550. Board discussed.

NO. 84-2016 06/15/16 CDBG #260CRF-HR113-14 Board Approval No.CTRCD-11

Upon recommendation of Delaware Opportunities Inc., Julie Markert made the following resolution:

BE IT RESOLVED, that the Town Board of the Town of Colchester hereby approves File No.CTRCD-11 for the CDBG Project #260CRF-HR113-14, Housing Rehabilitation Grant and hereby authorize Supervisor Arthur M. Merrill to sign said grant approval in the amount of \$28,550.00.

Resolution was seconded by Janet Champlin, Janet Champlin-aye, Julie Markert-aye, Mark Mattson-aye, Arthur Merrill-aye, Greg Lavorgna-absent, resolution declared adopted.

Supervisor Merrill reported that Delaware Opportunities has sent us another project to approve for the NYS CDBG Project #260CRF-HR113-14 Program, Housing Rehabilitation Grant; Del. Opp. has approved bid for File No.CTRCD-12 to FM General Contracting in the amount of \$22,900.00; plus an additional \$550 for cost of Lead Based Paint Risk Assessment by EcoSpect Inc.; the Community Development Specialist estimated the total cost of the project at \$22,996. Board discussed.

Upon recommendation of Delaware Opportunities Inc., Mark Mattson made the following resolution:

BE IT RESOLVED, that the Town Board of the Town of Colchester hereby approves File No.CTRCD-12 for the CDBG Project #260CRF-HR113-14, Housing Rehabilitation Grant and hereby authorize Supervisor Arthur M. Merrill to sign said grant approval in the amount of \$23,450.00.

Resolution was seconded by Janet Champlin, Janet Champlin-aye, Julie Markert-aye, Mark Mattson-aye, Arthur Merrill-aye, Greg Lavorgna-absent, resolution declared adopted.

Supervisor reported that the 2016 Ford Utility Police Interceptor should be here any day.

Councilwoman Markert asked for the Town Attorney's opinion regarding the letter of Amy L. Brown dated May 18, 2016 before we proceeded any further.

Town Attorney Michael DeGroat presented his letter dated June 01, 2016- RE: Conflict of Interest/Recusal and explained to the Board his findings/opinion:

1. Town Law states that the Town Supervisor shall preside at meetings; there is no statutory right authorizing public discussion; however, the Town Board may promulgate or adopt rules and procedures governing discussion of issues before the Board.
2. Town Law Manual suggests that questions to the Board be addressed to the Supervisor who can either answer on his own behalf, direct it to specific members for discussion or direct it to the Town Attorney for review.
3. The two statues addressed in Brown's letter are not relevant to a Town Council person's conflicts of interests; in the Town of Colchester, the Town Supervisor is the Police Commissioner; there is no Board of Commissioners; therefore, Councilwoman Markert has no direct duties relating to the operation or management of the police department, but only the general responsibility of a Town Council member. Article 18 of the GML states that a municipal officer has a prohibited interest in any contract with their municipality if they receive a direct or indirect pecuniary or material benefit as a result of that contract. Town Attorney also discussed the differences in the application of Village Law and Town Law in such circumstances.
4. The Town of Colchester does not have an Ethics Board; however, in 1970 the Town passed a Resolution Adopting Code of Ethics; an officer must determine whether they believe they have the ability to act impartially and must consider how their actions are perceived by the public; if the officer believes they can act impartially and in the best interest of the taxpayers, then they need not recuse themselves; if the officer believes that they cannot act impartially or if they perceive a real potential for the appearance of impropriety based upon the prospect of financial or personal gain, then they should recuse themselves.

Town Attorney concluded that based upon the facts disclosed in his letter that as owner of The Schoolhouse Inn Ms. Markert will somehow benefit from her opposition to the purchase of a police dog he does not see how such a conflict exists.

Councilwoman Julie Markert stated that the liquor license is not in her name, she is an employee of the Schoolhouse Inn; she apologized for walking out of the meeting on May 18th, but it was the second time in six months that she was asked to recuse herself and it was very disheartening; she is not resigning from the Town Council and will answer questions from her constituents and bring forward their issues and concerns.

Supervisor reported that enough donations have been raised to purchase the police canine; Southern Tier Police Canine Association is waiting for the checks to clear. Councilwoman Champlin stated that she understood that the Board voted to see if we could get enough donations to purchase a dog. Supervisor replied that the Board voted to go forward if enough donations were received. Councilwoman Champlin stated that she had a concern with the

donation letter; letter stated that “if Rich Pagillo left the dog would go with him as the handler”; this was not explained to us and we were misled. Officer Pagillo stated that Southern Tier requested that the letter be given to those that donated and Supervisor agreed. Supervisor asked for comments on the canine policy and procedures. Councilwoman Markert stated that she does not approve the policy as she does not approve the program. Board held discussion. Supervisor asked for comments and he would like to draft the policy and procedures with Board’s input for the next meeting. We need to adopt this or not and then move on.

Supervisor Merrill commented that he would like to do a couple of budget amendments now instead of waiting to the end of the year; we have been paying bills on the renovation project of the kitchenette that the JCAP Grant will pay for and we did receive the funds. The other amendment is for the police car; the police have also submitted a request for a new computer off State Bid for the 2016 Ford; we are a little under \$1,000 going over the \$45,000, this will come out of the police budget. Board discussed. Councilwoman Markert stated that she has not agreed with having another police vehicle, therefore she will be voting no.

NO. 86-2016 06/15/16 Budget Amendment for JCAP Grant

Mark Mattson made the following resolution:

WHEREAS, the Town of Colchester Justice Courts had made an application to the 2015-2016 New York State Justice Court Assistance Program in the amount not to exceed \$30,000.00; and

WHEREAS, the NYSJCAP has approved funds for the Colchester Town Court, Delaware County in the amount of \$9,350.00; and

WHEREAS, the Town of Colchester has received said NYSJCAP funds in the amount of \$9,350.00;

NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Colchester hereby authorizes Supervisor Arthur M. Merrill to amend the 2016 Budget by increasing the General Revenue NYS Grant Fund #3060.1 by \$9,350.00 and increasing the General Appropriations Justice Edel JCAP Grant #11104.01.014 by \$9,350.00.

Resolution was seconded by Julie Markert, Janet Champlin-aye, Julie Markert-aye, Mark Mattson-aye, Arthur Merrill-aye, Greg Lavorgna-absent, resolution declared adopted.

NO. 87-2016 06/15/16 Budget Amendment for Police Equipment

Mark Mattson made the following resolution:

WHEREAS, on December 02, 2015 the Town Board of the Town of Colchester adopted a resolution subject to a permissive referendum to transfer funds from the General Capital Reserve Fund in the amount not to exceed \$45,000.00 for the purpose of replacing a vehicle in the Police Department; and

WHEREAS, no petitions for permissive referendum were filed; and

WHEREAS, on February 03, 2016 the Town Board adopted a resolution to purchase a 2016 Ford Utility Police Interceptor AWD Vehicle;

NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Colchester hereby authorizes Supervisor Arthur M. Merrill to amend the 2016 Budget by increasing the General Revenue Capital Reserve Fund #5031.1 by \$45,000.00 and increasing the General Appropriations Police Equipment Line #31202.1 by \$45,000.00;

FURTHER RESOLVED, that the Town Board of the Town of Colchester hereby authorizes Supervisor Arthur M. Merrill to transfer \$45,000 from the Capital Reserve Account #ending 1479 to the Supervisor’s General Checking Account #ending 3905.

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

NO. 88-2016 06/15/16 Patrol PC Core I Value Intel Generation 3 Fixed Mounted Computer
Janet Champlin made the following resolution:

BE IT RESOLVED, that the Town Board of the Town of Colchester hereby accepts the quote from PATROL PC for the purchase of one (1) Patrol PC Core i Value Intel Generation 3 FIXED MOUNT COMPUTER Package with printer at the price of \$5,067.50 and hereby authorizes Supervisor Arthur M. Merrill to enter into contract with PATROL PC of 344 John L Dietsch Blvd, Unit #2, North Attleboro, MA 02763, for said purchase at the total price of \$5,067.50.

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

Highway Supt. Kenneth Eck reported that when Justin McAdams was hired we stated that once he had his CDL license he would become full-time; he has received his CDL classification and therefore I recommend that he be upgraded to HEO1/Cemetery Laborer. Board discussed.

NO. 89-2016 06/15/16 Upgrade Classification of Justin W. McAdams to HEO1/C.L.
Janet Champlin made the following resolution:

WHEREAS, on April 06, 2016 the Town Board of the Town of Colchester hired Justin W. McAdams as Part-time Cemetery Laborer; and

WHEREAS, Justin W. McAdams has acquired a Class B Driver License (CDL) as of June 06, 2016;

NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Colchester hereby upgrades the classification of Justin W. McAdams of 7 Marylou Street, Downsville, New York to a HEO1/Cemetery Laborer Provisional 1st year at a pay rate of \$16.15 per hour effective Wednesday, June 22, 2016;

FURTHER RESOLVED that the Full-time Status and Anniversary Date of Justin W. McAdams will be July 01, 2016, when all benefits are effective.

Resolution was seconded by Julie Markert, Janet Champlin-aye, Julie Markert-aye, Mark Mattson-aye, Arthur Merrill-aye, Greg Lavorgna-absent, resolution declared adopted.

Supervisor Merrill reported that the Paige Cemetery survey is approximately half done.

Supervisor reported that he would like the Board to consider hiring Kenzy Hammond through Delaware County's Summer Youth Employment Program; we would like her to do some filing here at Town Hall and possibly logging some cemetery burials to get our records up to date; the program allows them to start June 26th; the program normally runs for 7 weeks, but no more than 180 hours total; \$9.00 per hour up to 35 hours per week; the program ends Sept. 5th. Board discussed.

NO. 90-2016 06/15/16 Delaware County's Summer Youth Employment Program
Mark Mattson made the following resolution:

WHEREAS, Delaware County has a Summer Youth Employment Program; and

WHEREAS, the Town of Colchester recognizes the need to hire a youth through this program;

NOW, THEREFORE, BE IT RESOLVED that the Town Board of the Town of Colchester hereby authorizes Supervisor Arthur M. Merrill to submit an application to the Delaware County's Summer Youth Employment Program to hire Kenzy Hammond to assist with Town Hall filing and paper work.

Resolution was seconded by Julie Markert, Janet Champlin-aye, Julie Markert-aye, Mark Mattson-aye, Arthur Merrill-aye, Greg Lavorgna-absent, resolution declared adopted.

Supervisor Merrill made the following announcements:

- Town Clerk's Office Closing at Noon on Monday, June 27th
- Town Hall Offices Closed Monday, July 4th- Independence Day
- Next Regular Board Meeting Wed., July 06, 2016 at 7PM
- Town Board Meeting of July 20th Presentation of Rte. 30 Scenic Byway by Bill Morton

Amy Brown inquired if any voting of the Board was considered as management? Supervisor replied that he as Police Commissioner has the daily management of the Police Dept.; the Town Board votes on policy and procedures.

SUBMISSION OF BILL/EXPENSES: Mark Mattson made the motion, seconded by Janet Champlin, that the vouchers be approved, subject to any corrections or deletions, Janet Champlin-aye, Julie Markert-aye, Mark Mattson-aye, Arthur Merrill-aye, Greg Lavorgna-absent, motion carried. Abstract No.11-2016; Voucher No.290-316; Totaling \$64,076.95.

Officer Cawley reported to the Board that the bullet proof vest order has been sent in; the police car is held up in special services but should be here by the end of the month.

Mark Mattson made the motion to go into executive session to discuss highway personnel issues, seconded by Janet Champlin, Janet Champlin-aye, Julie Markert-aye, Mark Mattson-aye, Arthur Merrill-aye, Greg Lavorgna-absent, motion carried. Board entered executive session at 8:10 PM. Highway Supt Eck was invited to stay. Board held discussion. Janet Champlin made the motion to enter back into regular session, seconded by Julie Markert, Janet Champlin-aye, Julie Markert-aye, Mark Mattson-aye, Arthur Merrill-aye, Greg Lavorgna-absent, motion carried. Board entered regular session at 8:28 PM. Board made held discussion and made the following resolution.

NO. 91-2016 06/15/16 Promote Kenneth R. Young Jr. to Highway Mechanic

Janet Champlin made the following resolution:

WHEREAS, on December 09, 2009 the Town Board of the Town of Colchester hired Kenneth R. Young Jr. as a HEO1 of the Town of Colchester Highway Dept.; and

WHEREAS, Kenneth R. Young Jr. has performed Mechanic duties and has performed them well;

NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Colchester hereby promotes Kenneth R. Young Jr. to Highway Mechanic at a pay rate of \$18.25 per hour with benefits, effective June 22, 2016, assignments and duties at the discretion of the Highway Superintendent.

Resolution was seconded by Mark Mattson, Janet Champlin-aye, Julie Markert-aye, Mark Mattson-aye, Arthur Merrill-aye, Greg Lavorgna-absent, resolution declared adopted.

With no further business, Mark Mattson made the motion for adjournment, seconded by Janet Champlin, Janet Champlin-aye, Julie Markert-aye, Mark Mattson-aye, Arthur Merrill-aye, Greg Lavorgna-absent, motion carried. Meeting adjourned at 8:30 PM.

Respectfully Submitted:

Julie B. Townsend
Town Clerk