

July 20, 2016

The regular meeting of the Town Board of the Town of Colchester, Delaware County, New York was held immediately following the Public Hearing on Wednesday, July 20, 2016 at 7:00 PM at the Town Hall. Present:

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

Recording Secretary: Julie B. Townsend

Others present: Kenneth R. Eck, Jr.-Highway Supt., Michael P. DeGroat-Town Attorney, Jeff Francisco-Delaware Engineering, Abby Butler-Walton Reporter, Joan Homovich, Alan Donner, Phil Lavorgna, Vincent & Juanita Picece and Bill Morton

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, July 06 2016 had been distributed earlier. Janet Champlin made the motion to accept the minutes as written, seconded by Greg Lavorgna, all in favor, motion carried.

GUESTS: Bill Morton, Village Trustee from Middleburgh in Schohaire County gave a power point presentation of "Route 30 and 30A Proposed Scenic Byway": very scenic in Delaware County and we want to attract tourism to the area; this is not a state mandate, local stakeholders want this; looking for support: a resolution from the Town Board in support of the by-way; need a steering committee to set goals, draft a vision statement, do mapping, inventory resources and work with District DOT. We need to identify 6 intrinsic qualities: scenic, natural, historic, cultural, archeological and recreational. We would like to establish a bike lane for Route 30 and connect all the bike trails and scenic byways. A long process and we need approval from: State Scenic Byway Advisory Board; Commissioner of NYSDOT; Enact Legislation and then approval from the Governor. First step is to compose a steering committee with one person from each town (Board Member, Planning Board Member or Community Member that could meet periodically and report back to Towns). Board asked questions and thanked Mr. Morton for his presentation.

VISITOR COMMENTS: none

CORRESPONDENCE:

- Charter Communications- They have completed their merger with Time Warner Cable- Cable Franchisee is now under the control of Charter Communications, Inc.
- MTC- Invitation to their 100th Anniversary Celebration on August 5th.

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

- Town Justice DeRosia- July 2016.

Jeff Francisco an Engineer from Delaware Engineering reported that NYSDOH has no problem with us using two smaller tanks for the Cooks Falls Water District Water System Rehabilitation Project; bids came in double the amount we have left in the NYSEFC DWSRF Grant; switching to smaller tanks omits having to use a crane and cuts the cost down. Board discussed. Board agreed to have Delaware Engineering re-bid this project to put out to bid as soon as possible; we need to get this project done this year.

NO. 97-2016 07/20/16 Re-Bid Contract TC1-G-2015

Julie Markert made the following resolution:

WHEREAS, the Town has entered in contract with Delaware Engineering, DPC for engineering services for the Cooks Falls Spring Water System Improvement Project; and

WHEREAS, on July 6th the Town Board rejected all bids for Contract TC1-G-2015;

NOW, THEREFORE, BE IT RESOLVED that the Town Board of the Town of Colchester hereby gives authorization to Delaware Engineering, DPC to re-bid Contract No. TC1-G-2015- Cooks Falls Spring Water System Improvement Project.

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

Jeff Francisco also reported that the contract for the DWD project is waiting for EFC approval.

Supervisor Merrill presented the revised Police Canine Unit Policy & Procedures; Supervisor and Town Attorney are still reviewing the Garcia Agreement; dog is certified, handler still needs many hours of training; initial training is in Binghamton and we are not paying for that; handler is introducing the dog to our community. Board discussed. Councilwoman Markert stated she is sticking with her view, that we do not need a canine unit and is voting no.

NO. 98-2016 07/20/16 Police Canine Unit Policy & Procedures

Greg Lavorgna made the following resolution:

BE IT RESOLVED that the Town Board of the Town of Colchester hereby approves and authorizes the implementation of the Town of Colchester Police Department Police Canine Unit Policy & Procedures, annexed to this resolution and presented at this meeting, with a review of said policy to be made on an annual basis by the Town Board at the Organizational Meeting; and

BE IT FURTHER RESOLVED that such Policy shall take effect immediately.

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, Janet L. Champlin	voting aye
Councilperson, Mark W. Mattson	voting aye
Councilperson, Gregory L. Lavorgna	voting aye
Councilperson, Julie A. Markert	voting no

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

Colchester Police Department Police Canine Unit

Policy

It shall be the policy of the Colchester Police Department to utilize the Canine Unit, whenever necessary, in support of police functions of this department and other police agencies. This specialized canine law enforcement unit will be for use in patrol, tracking, narcotics detection, article/evidence detection, and for public relations informational demonstrations.

Procedure

The Colchester Police Department Canine Unit is trained and certified for deployment profiles involving narcotics detection, tracking, evidence recovery, and protection of other police personnel. The canine unit is assigned a patrol vehicle equipped with a kennel system.

- Narcotics Detection

Provides a support service to Colchester Police units in the field of operations as required and assists patrol and specialized units with sniffs for illicit drugs.

The Canine Unit will deploy and sniff vehicles, packages and places for the presence of the odor of illegal narcotics that are hidden in areas not detected by routine search.

The CPD Canine is trained to locate a variety of drugs including, but not limited to, marihuana, cocaine, hash, heroin and methamphetamines.

In all instances, an initial visual search must be done.

- **Tracking**

The Canine Unit will be deployed for the tracking of perpetrators of crimes and for lost and/or missing persons.

The area where the individual was last seen should be preserved to avoid contamination. Officers should avoid entering the area unless circumstances dictate otherwise. Any other agencies and all other first responders designated to assist the Canine Unit shall follow the direction of the Canine Officer during the tracking procedure, no matter the rank.

Officers designated to assist the Canine Unit should follow the direction of the Canine Officer during the tracking procedure.

- **Deployment**

Members of the CPD will make every effort to provide accurate information to the Canine handler for the purpose of deployment.

- **On Duty**

The CPD Canine Unit is restricted to the Town of Colchester except for special circumstances. In the event that another police agency requests assistance from the CPD Canine Unit, the request would only be fulfilled with approval of Police Commissioner for those special circumstances.

- **Off Duty**

If circumstances warrant that the off-duty CPD Canine Unit be notified to report to work, such notification will be done with the approval of the Police Commissioner.

- **Injury of a Canine Officer while on Duty**

If the canine handler is down or injured and cannot handle the canine, the assisting officers will attempt to control the dog and place the dog in the police canine vehicle or any marked vehicle with a prisoner cage.

The assisting officers will then attempt to get another person familiar with the canine on scene as soon as possible.

- **Canine Identification**

Whenever the Canine is on duty or training, the Canine will wear an identification patch with "POLICE" in bold letters displayed on the dog.

The Canine will be issued a Colchester Police Department identification ID and badge identification # assigned by the Officer in Charge.

- **Canine Deployment Reports**

The canine handler shall be responsible for filing a K9 utilization report to include all K9 team activities.

A month end report will be completed and submitted to the Police Commissioner. The monthly reports will be comprised of deployments, training, public demonstrations, monies seized, evidence seized, arrests and training aids recorded.

An annual report will be completed and submitted to the Police Commissioner/Town Board Members.

- **Dog Bite Memorandum**

Whenever a K9 is deployed in a tactical situation, which results in a bite, the handler will file the appropriate use of force incident report.

- **Garcia Law**

Canine handler will enter into a “Garcia Agreement” with the Town of Colchester which will authorize handler to use a patrol vehicle for his and the canine’s transportation to and from work in exchange for the care, maintenance and grooming of the canine by the handler.

By order of Colchester Town Board

Dated: 07/20/2016

Supervisor reported that over the last couple of years the County has submitted a few Consolidated Funding Applications for the Town; last year a main street re-habilitation project and we did not get awarded; this year a project to do the park, bridge and recreation trail; National Park Services and a couple of other planners suggested adding a paddle trail, a trail to go all the way to East Branch; also paddle trail on the reservoir to adjoin Margaretville and Hancock; we may be getting a donation of two 80ft beams for a walking trail over Downs Brook. Board discussed.

NO. 99-2016 07/20/16 Authorizing the Submission of an Application to the NYS Department of State, Office of Planning and Development in the 2016 Funding Consolidated Funding Application Round

Janet Champlin made the following resolution:

WHEREAS, the Town of Colchester, Inc. has identified a need for the development of a park, recreation trail, and paddle trail project within the Town of Colchester; and

WHEREAS, the Town has worked to complete the planning phase of the project and has identified an appropriate funding opportunity and intends to apply for funding; and

WHEREAS, the project will create a more enjoyable and walkable community and result in a safer and healthier community; and

WHEREAS, the project will require grant funding in order to bring the project to fruition; and

WHEREAS, applications are being accepted by way of the Consolidated Funding Application for requests under the Local Waterfront Revitalization Program through the Department of State, Office of Planning and Development; and

WHEREAS, as a requirement under the rules of these programs, said municipality or not-for-profit must obtain the approval/endorsement of the governing body of the municipality in which the project will be located.

NOW THEREFORE BE IT RESOLVED, that the Town Board of the Town of Colchester does hereby approve and endorse the submission of applications for a grant under the Local Waterfront Revitalization Program for a park, recreation trail, and paddle trail project within the Town of Colchester, Delaware County, New York.

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

Councilwoman Markert inquired if we should compensate Pio Deroda for all the grant writing and work she has done for us; we appreciate everything she has done for us and would not like

her to get discouraged; the community is in support of the many grant projects. Board discussed. Supervisor commented that many grants have 20% for administration and a lot of these grants we have to do in-kind work.

Councilwoman Markert also inquired if we can do something with the eagles; can we get a group together to repair them; many people have inquired to their status.

Supervisor Merrill reported that we need to write a letter of support for the WQIP (Water Quality Improvement Program) Grant; a group from Soil & Water, County Planning and others were here on Monday; we have some culverts that need repairs; they suggest that we have 2 of 3 that could apply to the program; they are working on our application for a culvert in Gregorytown and one in Gregory Hollow. Board discussed.

NO.100-2016 07/20/16 Letter of Support for WQIP Grant

Julie Markert made the following resolution:

WHEREAS, New York State Department of Environmental Conservation has a Water Quality Improvement Project (WQIP) program, a competitive, statewide reimbursement grant program open to local governments and not-for-profit corporations for projects that directly address documented water quality impairments; and

WHEREAS, the Upper Delaware River Tailwaters Coalition (UDRTC) would like to submit an application to the WQIP Program for culvert replacement and stream restoration in Gregorytown and/or Gregory Hollow in the Town of Colchester; and

WHEREAS, Delaware County Planning Department has offered to assist with said application on behalf of the UDRTC;

NOW, THEREFORE BE IT RESOLVED that the Town Board of the Town of Colchester hereby authorizes Supervisor Arthur M. Merrill to submit a Letter of Support for the WQIP Grant Program.

Resolution was seconded by Greg Lavorgna, all in favor, resolution declared adopted.

Supervisor reported that we have been asked to support the Coalition and Watershed Counties execution of the Side Agreement- Second Supplemental Agreement among West of Hudson Watershed Stakeholders Concerning the NYC-Funded Flood Buyout Program. Board discussed.

NO. 101-2016 07/20/16 Second Supplemental Agreement among West of Hudson Watershed Stakeholders Concerning the NYC-Funded Flood Buyout Program- Side Agreement

Julie Markert made the following resolution:

In 1997, Town Supervisor Eugene M. Merrill, on behalf of the Town of Colchester, executed the 1997 Memorandum of Agreement with New York City, New York State's Department of Health and Environmental Conservation, various environmental parties and over 39 Towns and Villages West of the Hudson within the New York City Watershed ("MOA").

WHEREAS, the MOA Objectives were identified therein as follows:

The City's LAP, the City's Watershed Regulations and the other programs and conditions contained in the Watershed MOA, when implemented in conjunction with one another, are intended to protect water quality while allowing existing development to continue and future growth to occur in a manner that is consistent with the existing community character and planning goals of each of the Watershed communities.

WHEREAS, in the 19 years since the MOA was executed, the Partnership created by the MOA has been very successful at protecting drink water quality;

WHEREAS, in the 19 years since the MOA was executed, due to and notwithstanding the Partnership, the following has occurred:

1. In the 1990s, EPA, DOH, DEC and other stakeholders worked with DEP to identify the threats to an unfiltered water supply and to identify programs and

controls to mitigate those threats. The approach selected was to filter/treat the water at the sources of pollution rather than treat/filter the entire supply. In order to force treatment at the sources of the pollution, under the MOA and as a requirement of the FAD, the City was allowed to regulate all sewage within the watershed and all new construction (i.e., storm water restrictions and permits). By mitigating these two sources, the MOA and the partnership programs required by the MOA have achieved substantial water quality improvements.

2. The controls required by the City for wastewater treatment plants have proven to be cost prohibitive for the West of Hudson watershed residents. The capital cost of the regulatory upgrade for a sewage treatment plant (“WWTP”) to comply with the WRR range from \$2,000,000 to in excess of \$4,000,000 (\$200,000 per home) for each WWTP and the annual operating cost of the upgrade facility is as much as \$7,500 per home.
3. At the time of the MOA, it is estimated that there were over 22,000 septic systems in the West of Hudson Watershed. DEP takes the position that all of the 1997 existing septic systems do not comply with the WRR requirements for existing systems and as such are non-complying regulated activities. Under DEP’s interpretation of its WRR, those existing homes institutions and small businesses connected to an existing septic system cannot alter or modify their septic system without coming into compliance with the City’s regulations for new systems (or to the extent determined possible by DEP).
4. The Partnership Programs have drastically improved the overall nature of sewage disposal within the watershed. The results include the rehabilitation of over 4400 residential septic systems, the construction of 16 community sewer systems, the extension of city owned sewer line to over a hundred homes/businesses; the closing of over 12WWTPs with connections to community systems, the upgrade of over 90 WWTPs to meet requirements of WRR (both east and west of the Hudson). Those improvements also would not have occurred if DEP acted as a bull/enforcer; they occurred because DEP has honored the partnership and, for the most part, has been fair, respectful and reasonable to community stakeholders.
5. In comparison, the DEP storm water requirements have been a major obstacle to new construction and to improvements and enhancement to existing municipal infrastructure and, at a minimum, have resulted in significant delay and costs out of sync with the size of the project and the water quality impacts. In contrast, in a study conducted in 2007, DEP determined that the 71-87% of the turbidity within the Schoharie Reservoir was due to natural erosion within the stream itself. In other words, runoff from the terrestrial areas is not a major source of turbidity and does not have a measurable impact on drinking water quality.
6. Hundreds of farmers, involving tens of thousands of acres have implemented Whole Farm Plans. Stream Corridor management programs have added another layer of water quality protection. The cooperative development of the NYC Watershed Flood Mitigation is a continuation of successful partnerships that are mutually beneficial to all parties. The common denominator in these successes involves a growing and improving partnership between the City and upstate communities through partnership programs implemented and administered on the local level (CWC).
7. Over the past 19 years there has not been the rabid and expansive development that was feared and projected at the time of the MOA. Development is weak and will remain weak, similar to the remainder of rural upstate New York, due in part to national trends (globalization, loss of manufacturing, inability of small farms to compete; the cost of transportation), the high cost of living in New York State (in particular taxes and energy) and a myriad of overlapping and at time onerous

regulations. Since 1997, there has been an outmigration of jobs and people from our communities. Data also shows more and more daily travel outside the country for available jobs. Unfortunately, according to a report published by the National Oceanic and Atmospheric Administration (“NOAA”), evaluating the 50 worst places to own a home, Delaware County ranked as the 10th worst place to own a home. The mean household income is 30% lower than the state median household income. Further, demographic projections by Cornell University show a decline of population of 43% for the age group 0 to 60 and an increase of 21% for ages 60 to 85.

WHEREAS, in 2015 the Coalition of Watershed Towns (“Coalition”) conducted an extensive outreach to evaluate the success and failures of the Watershed Protection Programs, the Partnership Programs and the Watershed Rules and Regulations (“WR&R”) and issued a report to DEP and its regulatory agencies in December, 2015. In that report and in subsequent documentation, the Coalition has recommended certain modifications/enhancements to the Partnership Programs administered by CWC and certain modifications to the Watershed Rules and Regulations (“Partnership Objectives”);

WHEREAS, the purpose of the Partnership Objectives is to enhance the sustainability of our communities while, at the same time, enhancing drinking water quality;

WHEREAS, as part of the 2017 FAD process, the City (together with its regulatory agencies) have agreed to pursue common sense, practical and available solutions based on science consistent with the MOA Objectives to achieve the Partnership Objectives.

NOW THEREFORE BE IT RESOLVED,

1. that the Town Board of the Town of Colchester respectfully requests that the New York State Department of Health address and incorporate into the 2017 FAD Renewal the Partnership Objectives and the common sense practical solutions necessary to achieve those objectives.
2. Based upon the City’s (and its Regulations) commitment to pursue common sense, practical and available solution to achieve the Partnership Objectives, the Town Board supports the Coalition and Watershed Counties execution of the Side Agreement.

Resolution was seconded by Janet Champlin.

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

Town Supervisor, Arthur M. Merrill	voting aye
Councilperson, Janet L. Champlin	voting aye
Councilperson, Julie A. Markert	voting aye
Councilperson, Mark W. Mattson	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 on the 20th day of July, 2016, at a regular meeting of the Town of Colchester.

Supervisor Merrill made the following announcements:

- Next Regular Board Meeting Wed., August 3rd at 7 PM

Councilwoman Markert inquired how things were going with the town pool; is it necessary to have an air-conditioner in the pump house? Supervisor replied that DOH held an inspection today; only a couple of issues; WPO Ronnie MacDonald is looking into the air-conditioner; the chlorine levels need to be checked more frequently. Councilman Mattson suggested a high speed fan.

Councilwoman Champlin asked Officer Pagillo how the canine training was going. Officer Pagillo replied that he is doing as much as possible; he still has a couple hundred hours of training left to do; doing on his time, except for two days a month it is on Colchester time. Dog is certified.

Joan Homovich suggested that a light be installed at the Covered Bridge Park.

SUBMISSION OF BILL/EXPENSES: Janet Champlin made the motion, seconded by Greg Lavorgna, that the vouchers be approved, subject to any corrections or deletions, all in favor, motion carried. Abstract No.13-2016; Voucher No.346-361; Totaling \$210,077.02.

Mark Mattson made the motion to go into executive session to discuss police personnel, seconded by Julie Markert, all in favor, motion carried. Board entered executive session at 8:40 PM. Officers Pagillo and Cawley were invited to stay. Board held discussion. Julie Markert made the motion to enter back into regular session, seconded by Mark Mattson, all in favor, motion carried. Board entered regular session at 9:10 PM. Board made no decision forthcoming.

With no further business, Janet Champlin made the motion for adjournment, seconded by Mark Mattson, all in favor, motion carried. Meeting adjourned at 9:10 PM.

Respectfully Submitted:

Julie B. Townsend
Town Clerk