

April 21, 2021

The regular meeting of the Town Board of the Town of Colchester, Delaware County, New York was held on Wednesday, April 21, 2021 at 7:00 PM at the Town Hall.

Present: Arthur M. Merrill Supervisor
Julie A. Markert Councilwoman
Janet L. Champlin Councilwoman
Mark W. Mattson Councilman Entered at 7:07PM
Gregory L. Lavorgna Councilman
Recording Secretary: Julie B. Townsend Town Clerk

Others present: Kenneth R. Eck, Jr.-Highway Supt., Daniel Pinner and Officer Cawley. ZOOM attendees: Nicholas S. Cortese-Town Attorney, Vicky Klukkert-The Reporter, Bonnie Seegmiller and Ron MacDonald.

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, April 07, 2021 had been distributed earlier. Janet Champlin made the motion to accept the minutes as written, seconded by Greg Lavorgna, Janet Champlin-aye, Greg Lavorgna-aye, Julie Markert-aye, Arthur Merrill-aye, Mark Mattson-absent, motion carried.

VISITOR COMMENTS: Daniel Pinner commented on the speed zones changes; if you post at 40mph you're telling them they can go that speed, what about curve signs?? Signs can be up every 4000 feet. Supervisor replied that we have not thought of this; we will need more signage. Councilman Mattson entered the meeting at 7:07PM.

Board discussed further. Supervisor stated that we need to know what requirements are needed and asked our Town Attorney to look into this further.

CORRESPONDENCE:

- Tax Collector, AJ Vessey has submitted a report stating that as of 3/31/2021 89% of taxes have been collected.

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

- Town Justice DeRosia- March 2021.
- Planning Board- Minutes of March 18, 2021.

Supervisor Merrill stated that we have had some discussion regarding extending terms of office for the Supervisor and Highway Supt. and asked Town Attorney Nicholas Cortese to review the options with the Board. Town Attorney stated the following: *The Highway Superintendent's term can be changed by local law subject to mandatory referendum at the November 2021 Election. And, as long as we include a provision in the local law stating that the lengthened term begins on January 1, 2022, the length of the term will change right away, provided that the referendum passes. The other nice thing about using the local law method to alter term length is that the referendum can be put on the ballot so long as the local law calling for it is passed 60 days before the election. So, in this instance, as long as the Town Board passed this local law by or before September 1, 2021, it could be on the ballot. We can't use the same method for the Town Supervisor position, because Delaware County has a Board of Supervisors, rather than an independently elected County Legislature. The local law method of altering term lengths is governed by Municipal Home Rule Law § 10(1)(ii)(a)(1), which expressly allows municipalities to pass local laws regarding the terms of elected officials "except that cities and towns shall not have such power with respect to members of the legislative body of the county in their capacities as county officers." This exception has been repeatedly interpreted to mean that town supervisors who also serve on a county board of supervisors cannot have their term lengths changed by local law. So, for the Town Supervisor position, the Town's only option is to follow the resolution method provided by Town Law s. 24-a, which was amended, in part, to give municipalities in counties with boards of supervisors a way around the prohibition on changing the supervisor's term by local law. The silver lining is that this is the perfect time to be talking about such a resolution, as it would need to be passed at least 150 days before the biennial Town election, which, here, would be roughly by the end of May. However, the big issue with this approach, is that, if the referendum succeeds, the resolution method cannot affect an immediate change in the length of the Supervisor's term like the local law method can. Rather, the term change would not kick in until the next time the Supervisor is up for reelection. So, for example, Art was up for reelection to a 2-year term this November, and the referendum changing his term to 4 years were passed at the same election, the term change would not actually go into effect until Jan 1, 2024.*

Supervisor thanked Nick Cortese for his review and stated that we will discuss this further.

Supervisor reported that we have received Requisition Number 1 (#7) from NYSEFC for the Downsville Water System Improvement Project DWSRF #17537, therefore we need a Budget Amendment and a resolution to pay back the loan of \$32,000 that was done on 3/3/21 as an Inter-Fund Transfer to DWD. Board discussed.

NO. 36-2021 04/21/21 Budget Amendment for DWD

Julie Markert made the following resolution:

WHEREAS, the Downsville Water District has made Requisition Number 1 (#7) to the New York State Environmental Facilities Corporation in the amount of \$32,088.40 for the DWD DWSRF #17537 Project; and

WHEREAS, the Town of Colchester has received said NYSEFC funds in the amount of \$32,088.40;

NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Colchester hereby authorizes Supervisor Arthur M. Merrill to amend the 2021 Budget by increasing the DWD Revenue State Aid/Water Capital Project Fund #3991.08 by \$32,088.40 and increasing the DWD Appropriations Rehabilitation Grant Fund #8668.4.08 by \$32,088.40.

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 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.

NO. 37-2021 04/21/21 DWD Payback Loan to Supervisor's General Fund

Greg Lavorgna made the following resolution:

WHEREAS, the Downsville Water District had insufficient funds for the Downsville Water District Improvement Project, D0-17537 to pay the final invoices to Richard W. Wakeman, Inc, Delaware Engineering and Rodenhausen Chale & Polidoro LLP.; and

WHEREAS, funding from NYSEFC would not be available until the closing of the Long-Term Financing, around March 23, 2021 or after; and

WHEREAS, on March 03, 2021, per Resolution No. 24-2021, the Town Board of the Town of Colchester authorized Supervisor Arthur M. Merrill to make an Inter Fund Transfer from the Supervisor's General Fund to the Downsville Water District Fund in the amount of \$32,000.00; and

WHEREAS, on April 15, 2021 NYSEFC deposited Requisition Number 1 (#7) to the DWD;

NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Colchester hereby authorizes Supervisor Arthur M. Merrill to payback the Supervisor's General Fund the said loan of \$32,000.00.

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 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.

Supervisor Merrill reported that he has received an email from NYCDEP regarding the Downsville Water District Contract; NYCDEP has secured \$360,000 in funding for this project. Supervisor asked if DEP's Attorney has contacted our Town Attorney. Nick Cortese stated no. Supervisor suggested that he contact Mike DeGroat to come up to speed on this project.

Supervisor reported a request for funds has been submitted for the NYS CDBG #260HR301-18 Housing Rehabilitation Program Project; project has been extended to August 31st.

Supervisor reported that we are still waiting on a permit for the Downsville Park Paddle Project.

Supervisor Merrill reported that he has started some paperwork on the Speed Zone for River Road and Fuller Hill Road/Horton Brook Road.

Supervisor asked the Board to discuss the changing of term of offices. Councilman Lavorgna stated that he was not in favor of changing to a four-year term; in the future you could get someone in office who wasn't doing their job and get stuck with them for four years; he also added that he has not seen a Hwy Supt get voted out. Supervisor stated that he was not in favor

of changing the Supervisor's term; he agrees that you could get someone in for four years and it not be a good situation. Councilwoman Markert stated that she was in favor of a four-year term for the Hwy Supt. Board discussed further.

NO. 38-2021 04/21/21 Start Process to Extend Supt. of Highway's Term

Julie Markert made the following resolution:

BE IT RESOLVED that the Town Board of the Town of Colchester hereby supports changing the Term of Office for the Superintendent of Highways from a two-year term to a four-year term and hereby authorizes Town Attorney Nicholas Cortese to draft a Local Law to be presented at the next regular Town Board Meeting.

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

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

Supervisor Merrill reported that the James S. Moore American Legion Post 167 has asked him to file a parade permit for the annual Memorial Day Parade to be held May 31st. Board discussed.

NO. 39-2021 04/21/21 Sponsor Memorial Day Parade & File Permit

Janet Champlin made the following resolution:

BE IT RESOLVED that the Town Board of the Town of Colchester hereby sponsors the Memorial Day Parade to be held May 31, 2021 on NY State Highway 30, Downsville, New York and hereby authorizes the Supervisor to file the NYSDOT Special Use Permit Application on behalf of the James S. Moore American Legion Post 167.

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

Supervisor reported that we have received an application for a Public Facility Permit; the Colchester Chamber of Commerce would like to hold music concerts at the Covered Bridge Park from 4PM to 8PM on seven different Saturdays in June, July and August. Board discussed.

NO. 40-2021 04/21/21 Public Facility Permit No.04-2021

Mark Mattson made the following resolution:

WHEREAS, Dominick Dominguez on behalf of the Colchester Chamber of Commerce has applied for a Public Facility Permit to use Downsville Covered Bridge Park located at 48 Bridge Street on seven Saturdays: June 5th, June 19th, July 3rd, July 24th, July 31st, August 7th and August 21st, from 4:00PM to 8:00PM for live music concerts;

THEREFORE, BE IT RESOLVED that the Town Board of the Town of Colchester hereby authorizes the Town Clerk to issue Public Facility Permit No.04-2021 to the Colchester Chamber of Commerce for the use of Downsville Covered Bridge Park located at 48 Bridge Street, Downsville, NY.

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

Supervisor Merrill commented that we had a discussion this morning if the Colchester Historical Society needed a Public Facility Permit to hold a meeting for an hour at the Covered Bridge Park. Since it is the Town's Historical Society a permit is not necessary; we will meet on Thursday, April 29th at 10AM, all are welcome.

Supervisor reported that we have received notification of the Delaware County Youth Program for the Summer of 2021. Hwy Supt Ken Eck stated that he could use one youth again this year. Supervisor added that we will see if we can take one of the Cemetery youth workers for this program. Board agreed. Supervisor will contact the County to state that we would like to have two youths in this program. Supervisor added that we have 3 applications for Summer Cemetery Laborers and 1 new app has been handed out; we would like to start them as soon as they are available. Board discussed the Town's Summer/Youth Employment Policy; if needed we may have to put a temporary hold on the policy if we do not get enough Student Youth applying.

NO. 41-2021 04/21/21 Appoint 2021 Seasonal Cemetery Laborer

Mark Mattson made the following resolution:

WHEREAS, the Town's Summer/Youth Employment Policy states that youths must be students continuing their education and must be enrolled full-time status and verification of student status is required;

NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Colchester hereby hire the following students for the 2021 Season with no benefits.

Kailee F. Young	Returning Seasonal Cemetery Laborer	\$13.00 per hour
Zachary A. Gannett	Returning Seasonal Cemetery Laborer	\$13.00 per hour
Brodie J. Kipp	Returning Seasonal Cemetery Laborer	\$13.00 per hour

FURTHER RESOLVED, that verification of all necessary documents must be completed and filed before anyone will be allowed to start work.

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

Supervisor Merrill reported that half of the equipment that is in the 2016 Ford Police Vehicle will not fit into the new 2020 Ford that we approved and have received; we have a proposal from KJBL Electronics, Inc in the amount of \$4,235.91; the two cages are most expensive, cannot be transferred from one vehicle to the other; he added that we could go to Syracuse, but then we would have to pay for two officers to take vehicles up and back again, too costly. Board discussed.

NO. 42-2021 04/21/21 Accept Proposal from KJBL Electronics, Inc.

Janet Champlin made the following resolution:

BE IT RESOLVED, that the Town Board of the Town of Colchester hereby accepts the proposal of KJBL Electronics, Inc., of Downsville, New York for the transfer and installation of various police equipment to the Town of Colchester 2020 Ford Utility Police Interceptor for the total price not to exceed of \$4,235.91.

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

Supervisor reported that we were notified that due to COVID-19 we overpaid NYS Unemployment \$13,661.10 for the months of Sept-Oct-Nov-Dec 2020; we could wait and use up the amount of unemployment or ask for a refund. Board discussed. Supervisor will be asking for a refund.

Supervisor Merrill made the following announcements:

- Next Regular Meeting is Wed., May 5th - Live and ZOOM at 7PM.
- Colchester Historical Society Meeting Thursday, April 29th at 10am at the Downsville Covered Bridge Park

Hwy Supt Eck stated that by May 1st we need to submit paperwork for the NYS OGS Procurement Services Group Road Salt Contract; he would like to order 200ton. Board discussed.

NO. 43-2021 04/21/21 NYS OGS Procurement Services Group Road Salt Contract

Greg Lavorgna made the following resolution:

BE IT RESOLVED, that the Town Board of the Town of Colchester hereby authorize Highway Supt. Kenneth Eck to sign and file Requirement Letter of the NYS Office of General Services to be able to participate in the NYS OGS Procurement Services Group Road Salt Contract for the period of September 01, 2021 to August 31, 2022 for 200ton of road salt.

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

Councilman Mattson commented that he would like to discuss a County Issue: EMS is very critical throughout the County; all the Towns are having hard time fulfilling their departments; is it possible to install a County Tax for a paid EMS and help pay for County Car 1 & Car 2. Supervisor replied that he is not on the Public Safety Committee; maybe PSC should have a meeting with all departments. Board discussed further.

Councilwoman Markert commented that several residents have addressed concerns to her regarding the transfer station; residents are trying to dump their garbage while others are looking at stuff dropped off on the side; got to be too much; it's a transfer station not a thrift shop; she suggested that we need permits; some towns charge for the permits. Councilwoman Champlin added that our C&D charges have gotten out of hand. Board discussed. The Highway & Transfer Station Committee of Councilmen Mark Mattson & Greg Lavorgna will look into this further.

Councilwoman Champlin inquired to the Planning Board's decision of denial for the Darryl Houck sub-division on Montgomery Road. Board discussed. Supervisor commented that he had talked with CEO Zampolin and the lot is not big enough to support its own septic system.

SUBMISSION OF BILL/EXPENSES: Greg Lavorgna made the motion, seconded by Mark Mattson, that the vouchers be approved, subject to any corrections or deletions, all in favor, motion carried. Abstract No. 09-2021 Voucher No.217-243; Totaling \$39,878.76.

With no further business, Janet Champlin made the motion for adjournment, seconded by Mark Mattson, all in favor, motion carried. Meeting adjourned at 8:29 PM.

Respectfully Submitted:

Julie B. Townsend, Town Clerk