

February 02, 2022

The regular meeting of the Town Board of the Town of Colchester, Delaware County, New York was held on Wednesday, February 02, 2022 at 7:00 PM at the Town Hall.

Present: Arthur M. Merrill Supervisor
Janet L. Champlin Councilwoman
Gregory L. Lavorgna Councilman
Julie A. Markert Councilwoman
Daniel J. Pinner Councilman

Recording Secretary: Julie B. Townsend Town Clerk

Others present: Kenneth R. Eck, Jr.-Highway Supt., Alan Donner, and Officer Cawley. Zoom Attendees: The Reporter-Lillian Browne, Ron MacDonald and John Bell.

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, January 19, 2022 had been distributed earlier. Janet Champlin made the motion to accept the minutes as written, seconded by Dan Pinner, all in favor, motion carried.

VISITOR COMMENTS: Alan Donner commented that on the Town's website, the Planning Board's Applications have the previous Chairperson's contact info, can we get this changed; talked with Dawn D'Addezio and she is not familiar on how to change; if someone lets me into website, I could try to change. Supervisor replied that we will try to get Sarah Hood to help us out. It was suggested not to put names on forms, possibly the email address for Planning Board.

CORRESPONDENCE:

- Office of the State Comptroller- Webinar- Improving the Effectiveness of Your Claims Auditing Process- 02-16-2022.
- Town of Deposit- Shared Service Agreement.
- Dept. of Health, Oneonta Office- CFWD Monitoring Requirements for 2022 and the 2021 Samplings that have not been received.
- Dept. of Health, Oneonta Office- DWD Monitoring Requirements for 2022 and the 2021 Samplings that have not been received.

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

- Cooks Falls Water District- January 2022- 23 customer balance due \$1,155.00; Receipts of \$3,050.01 disbursed to Supervisor.
- Downsville Water District- January 2022- 61 customers balance due \$5,361.15; Receipts of \$13,364.80 disbursed to Supervisor.
- Town Clerk- January 2022- Total disbursed \$808.00 of which \$778.00 was Town revenues.
- Police- January 2022 Activity Report.
- Town Justice Edel- January 2022.
- Planning Board- Minutes of December 16, 2021.
- Tax Collector- As of 1/31/22 1973 Transactions -Base Tax Total \$6,601,578.81- 67% Paid.

Supervisor Merrill reported that we need to give more information on the Downsville Park Paddle Project to obtain the permit for the boat launch.

Supervisor reported that CEO Rich Hascha is trying to firm up the date for the delivery of the Mobile Office Unit.

Supervisor Merrill reported that the Removal of Obstructions from Right-of-Way on Ackerman Acres Road has been removed. Hwy Supt Eck reported now we have an issue on Tub Mill Road, but it seems the landowners have gone away for the winter.

Supervisor reported that Clifford L. Olsen operating as Catskill Sporting Goods has appraised the three surplus firearms at a fair market value of \$400 each; after viewing he has appraised them as 70% of the Bluebook Gun Value; both previous Colchester Police Officers would like to purchase the firearms that they used. Board discussed. It was concluded that the five 15 round magazines for the Sig Sauer P226 9mm cal. Semi-auto pistol serial #U553711 can only be sold to law enforcement officer.

NO. 16-2022 02/02/22 Sale of Surplus Firearms

Janet Champlin made the following resolution:

WHEREAS, on December 15, 2021 the Town Board of the Town of Colchester adopted Resolution No.128-2021 accepting the following as Surplus Inventory of the Town of Colchester Police Department:

- Sig Sauer P220 .45 cal. Semi-auto pistol serial #G341846, with three 7 round magazines.
- Sig Sauer P220 .45 cal. Semi-auto pistol serial #G341847, with three 7 round magazines.
- Sig Sauer P226 9mm cal. Semi-auto pistol serial #U553711, with five 15 round magazines. And,

WHEREAS, on January 05, 2022 the Town Board of the Town of Colchester adopted Resolution No. 10-2022 authorizing Supervisor to contact Clifford L. Olsen a Federal Arms Dealer and Gunsmith operating as Catskill Sporting Goods to appraise said surplus guns at fair market value; and that the Town would offer to sell said firearms to retired Town of Colchester Police Officers first, who used that firearm while employed by the Town of Colchester, at fair market value, and

WHEREAS, Catskill Sporting Goods has reviewed and appraised said firearms at 70% of the Bluebook Gun Values, at a price of \$400.00 for each said firearm;

NOW, THEREFORE, BE IT RESOLVED that the Town Board hereby authorize to sell the Sig Sauer P220 .45 cal. Semi-auto pistol serial #G341846, with three 7 round magazines and the Sig Sauer P226 9mm cal. Semi-auto pistol serial #U553711, **without the five 15 round magazines** to Christopher L. D'Addezio, a former Town of Colchester Police Officer, at a price of \$400.00 each;

BE IT ALSO RESOLVED that the Town Board hereby authorize to sell the Sig Sauer P220 .45 cal. Semi-auto pistol serial #G341847, with three 7 round magazines to Christopher W. Erwin, a former Town of Colchester Police Officer, at a price of \$400.00;

FURTHER, RESOLVED that the Town Board of the Town of Colchester hereby authorizes Clifford L. Olsen a Federal Arms Dealer and Gunsmith operating as Catskill Sporting Goods to transfer said firearms to D'Addezio and Erwin and all necessary paperwork, at a cost of \$35.00 per firearm.

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 L. Champlin	voting aye
Councilperson, Gregory L. Lavorgna	voting aye
Councilperson, Julie A. Markert	voting aye
Councilperson, Daniel J. Pinner	voting aye

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

Supervisor reported that our Auditors, Mostert, Manzanero & Scott LLP will be performing the 2021 Audit on Mon. Feb. 7 & Tues., Feb. 8.

Supervisor Merrill reported that Nick Carbone, Watershed Affairs coordinator with the Delaware County Planning Board was soliciting towns to assess whether or not a resolution was passed in support of Delaware County's position in regards to the Streamside Acquisition Program; the

County would like NYCDEP to stop buying properties. Board discussed and reviewed the resolution offered.

NO. 17-2022 02/02/22 Resolution of the Colchester Town Board in Support of Delaware County Board of Supervisors' Resolution No. 162

Greg Lavorgna offered the following resolution:

WHEREAS, on October 27, 2021, the Delaware County Board of Supervisor passed Resolution No.162 entitled: **Delaware County Requests that a Moratorium on New Purchase Contracts for FEE Title and DEP Conservation Easements, be Implemented in Delaware County Pending a Comprehensive Review of the Land Acquisition Program to Identify the Need for the Continuation of Land Acquisition, the Benefits of Land Acquisition, the Impact of Land Acquisition on Community Sustainability and the Other Tools Available to Achieve MOA Land Acquisition Objectives.**

WHEREAS, the Colchester Town Board ("Town Board") has reviewed Resolution No. 162 in detail and by this resolution is indicating its support and its adoption of the facts and principles set forth therein. For purposes of transparency, this resolution restates the rationale and conclusion from the perspective of the Town of Colchester ("Colchester"). A copy of Resolution No. 162 is also attached hereto.

WHEREAS, the fundamental principle of the 1997 New York City Watershed Memorandum of Agreement (the "**MOA Watershed Objective**") is the following: "[T]he parties recognize that the goals of drinking water protection and economic vitality within the watershed communities are not inconsistent and it is the intention of the parties to enter into a new era of partnership to cooperate in the development and implementation of a watershed protection program that **maintains and enhances** the quality of New York City drinking water supply and **the economic vitality and social character of the watershed communities**"; and

WHEREAS, the 1997 New York City Watershed Memorandum of Agreement ("MOA") also defined the MOA Land Acquisition Objectives as follows: "the parties agree that the City's Land Acquisition Program, the City's watershed regulations, and the other programs and conditions contained in this agreement, when implemented in conjunction with one another, **would allow 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; and that the City's land acquisition goals **ensure that the availability of developable land in the watershed will remain sufficient to accommodate projected growth** without anticipated adverse effect on water quality **and without substantially changing future population patterns** in the watershed communities" (hereinafter "**Land Acquisition Objectives**"); and

WHEREAS, the City's Land Acquisition Program is premised on the principal that surface runoff from impervious surfaces and concentrated human activity poses a contamination threat to the City's water supply. In developing the City Land Acquisition Program, the parties were concerned that the vast amount of open space within the West of Hudson Watershed created the potential for new significant adverse development in an unfiltered watershed. The City's Land Acquisition Program was a tool to prevent and control such development; and

WHEREAS, in 1997 when the parties executed the MOA, approximately 11% of the watershed lands within Delaware County were under New York City and/or New York State control. Twenty-three years later, according to the December 2020 Land Acquisition Report, 28.4 % of the watershed lands within Delaware County are under New York City and/or New York State control and such control is closing in on the 30% benchmark (as suggested in the 2012- 2022 Long-Term Land Acquisition Plan) when memorandum of contract properties are included; and

WHEREAS, on October 31, 2017 Delaware County issued the following report: *New York Land Acquisition Town Level Assessment 2017: Delaware County Evaluation and Response* ("*Delaware County 2017 Report*"), which found a substantial number of Delaware County towns had an insufficient amount of remaining developable land to "allow existing development to continue and future growth to occur in a manner that is consistent with the existing community character and planning goals" of those communities. The report concluded the "City's land

acquisition goals for those communities did not ensure... the availability of developable land... will remain sufficient to accommodate projected growth” and thus the continuation of City’s land acquisition could “substantially changing future population patterns...”; and

WHEREAS, the 2017 City of New York Filtration Avoidance Determination (“FAD”) requires that an application for new Water Supply Permit to succeed the 2010 WSP be filed by June 2022. The City of New York must also develop a new Long-Term Land Acquisition Plan, which will cover the period 2023-2033 and consider the findings and recommendations of the National Academies (“NAS”) Expert Panel review; and

WHEREAS, in August, 2020, the NAS published its report entitled, *Review of the New York City Watershed Protection Program*, which recommended that expenditures in the land acquisition program be reduced to fund other programs that will lead to more direct improvements to water quality. NAS Report, p.385. NAS recommended that the City be provided flexibility to implement an optimal variety of programs that would focus watershed management actions on the most valuable lands for water quality protection and that it shift funding and emphasis from acquiring large parcels in the fee-simple and conservation easement programs to the protection of riparian lands on critical areas of tributary streams through programs that provide an opportunity to simultaneously address community needs and watershed protection. Programs which provide a “financial mechanism” to promote community well-being and economic vitality in the watershed while promoting the protection of high potential water quality impact areas were specifically encouraged. See NAS Report p. 215-216 [discussing the NYC Flood Buyout Program].

WHEREAS, with the assistance of the Coalition of Watershed Towns and CWC, Delaware County has developed an Alternative Land Acquisition Program Option (the “Alternative Option”) that provides an opportunity for impacted communities to provide robust/enhanced protection of environmentally sensitive lands in a manner that does not rely on one-time payments for fee title acquisitions of large parcels or conservation easements that burden land in perpetuity. The Alternative Option focuses on environmentally sensitive lands (such as riparian or stream buffers) which directly contribute to water quality and provides for a fixed-term annual rental payment to the landowner; a model that has proven to be effective in Delaware County; and

WHEREAS, the Alternative Option would allow landowners to retain ownership of their property while receiving periodic payments that reflect the water quality protection value their property provides. The Alternative Option provides a financial mechanism to promote community well-being and economic vitality while promoting water quality, thereby achieving the balance of interests required by the MOA. The County envisions an impacted municipality would make a determination and a commitment to participate in the Alternative Option program as a way to provide enhanced protection of sensitive lands in lieu and as a substitute for the continuation of the traditional DEP Land Acquisition Program. The municipal commitment would be for a period of years (e.g., 10 years) during which time, Land Acquisition Program would be suspended within that community; and

WHEREAS, in April 2018, the Delaware County Board of Supervisor passed Resolution No. 74 demanding relief from the City Land Acquisition Program to ensure the continued availability of developable land to accommodate future growth and prevent substantial changes to future population patterns. The DEP, in consultation with DOH, denied Delaware County’s request but agreed that the Delaware County Alternative Option has merit and deserves further discussion; and

WHEREAS, the government stakeholders concurred that the appropriate opportunity for further discussion of the Alternative Option would be in the proceeding to amend the 2010 City of New York Water Supply Permit, which may provide for the expansion of the current Stream Acquisition Program (“SAP”) beyond the Schoharie Basin and the development of a new Long-Term Land Acquisition Plan for the period 2023-2033. The findings of the NAS Expert Panel will be considered as part of this proceeding and Delaware County will be provided an opportunity to seek a permit modification adding its Alternative Option program to the Water Supply Permit. All parties reserved whatever rights they have to oppose or support such a modification; and

WHEREAS, DEC recently announced it will make a determination to expand SAP beyond the Schoharie basin to the entire watershed, that this determination is not subject to review under the State Environmental Quality Review Act (“SEQRA”) and does not require due process or a modification to the 2010 Water Supply Permit. According to DEC, homeowners will have the ability to request that SAP acquisitions of individual parcels in excluded hamlet areas and hamlet expansion areas be approved on a case-by-case basis by making direct appeals to the Town/Village Board. This may include both vacant lots and improved lots, both of which are eligible for SAP acquisition under the 2010 Water Supply Permit (although DEC states that the purchase of improved lots is not intended); and

WHEREAS, the Town maintains the potential impacts that would result from an extension of SAP to the entire watershed (and resulting expansion of the land acquisition program) must be reviewed under SEQRA. There has been a significant change in circumstances since the SAP program was first envisioned and implemented under the 2010 Water Supply Permit. This change in circumstances requires the preparation of a supplemental Environmental Impact Statement (EIS) in order to identify and take a “hard look” at the impact this expansion of the land acquisition program would have on the environment and the sustainability of our community; and

WHEREAS, fee acquisitions under SAP are subject to Section 82 of the MOA which requires the City to grant to NYSDEC a conservation easement to ensure that such land is “held in perpetuity in an undeveloped state in order to protect the watershed and New York City’s drinking water supply.” The Conservation Easement required by DEC under Section 82 of the MOA prohibits in perpetuity the following activities on the acquired property:

- “construction of any new ... structures normally requiring a building code permit”;
- “storage of petroleum ..., hazardous materials”
- “excavating, extraction, grading, or removal of soil, sand and gravel”
- “use of snowmobiles, dune buggies, motorcycles, all-terrain vehicles or other motorized vehicles recreation purposes”
- “the expansion of any existing or construction of any new paved driveways, roads, and parking lots”
- “the commercial, residential or industrial use”
- “except in accordance with Article 49 of the ECL, the siting or routing of any facilities required for ... the transmission, or distribution of **gas, electricity, water, telephone, or cable television services** on, *over* or under the Protected Property”
- “the commercial, residential or industrial use of the Protected Property(ies) in such a manner that: (i) causes the introduction of sediments, ... or other pollutants to any watercourse or wetland on the Protected Property(ies) that may adversely affect the quality of such watercourse or wetland; (ii) interferes with or disturbs open space, vegetated areas or steep slopes on the Protected Property(ies); or (iii) is otherwise inconsistent with the purposes of this Easement.”

WHEREAS, the Town requests that the DEC, the Catskill Center and DEP identify and evaluate the potential adverse impacts on municipal and private functions if the City proceeds with an expansion of SAP beyond the Schoharie basin and encumbers large sections of stream buffer/corridors with restrictive conservation easements in perpetuity. Specific areas of concern include impacts on the following:

- Installation and upgrade of electrical, water, gas, telephone, broadband/cable lines as needed to provide basic utilities
- Maintenance, upgrade, expansion, widening, safety improvements to existing roads and extension of existing roads.
- Installation, expansion, and replacement of communication towers (including the necessary utilities)
- The siting, maintenance, and expansion of stream crossings
- Flood mitigation projects
- Renewable Energy Projects

NOW, THEREFORE, BE IT RESOLVED the Town of Colchester Town Board joins in the Delaware County Board of Supervisors petition to DEC, DOH and DEP requesting for the following relief:

- (1) The FAD requires application for a WSP to succeed the 2010 WSP is required by June 2022 and that the City develop a new Long Term Land Acquisition Plan, which will cover the period 2023-2033 and which will consider the findings of the National Academies Expert Panel review. Given the uncertainties created by the change in circumstances, effective January 1, 2022 and extending through completion of the permitting process, the City refrain from entering into new contracts to purchase fee title and/or conservation easements under the Land Acquisition Program within the Town of Colchester;
- (2) In developing the Long-term Land Acquisition Plan for the period 2023-2033 and the WSP renewal application due June, 2022, that DEP limit its land and conservation easement acquisition within the Town to WAC Conservation Easements, flood mitigation projects, stream protection/management, the Delaware County Alternative Pilot Land Acquisition Proposal and a voluntary SAP plan.

BE IT FURTHER RESOLVED that this resolution be sent to New York Governor Kathy Hochul, US Congressman Antonio Delgado, NYS Senator Mike Martucci , NYS Assemblymen Joe Angelino, EPA Region 2 Acting Director Walter Mugdan, NYSDEC Commissioner Basil Seggos, NYCDEP Commissioner Vincent Sapienza and NYSDOH Commissioner Mary Bassett 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, Gregory L. Lavorgna	voting aye
Councilperson, Julie A. Markert	voting aye
Councilperson, Daniel J. Pinner	voting aye

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

Supervisor asked the Board if they had any suggestions on how to spend the American Rescue Plan money. Councilman Lavorgna suggested that the Police Dept. could use a new radar unit for one of the police vehicles; Cooks Falls Court would like their parking lot to be tar & chip or paved. Councilmen Lavorgna and Pinner suggested Premium Pay for the three full-time employees that worked during the onset of COVID-19 and were working with the public: Transfer Station Supt. Kenneth Kipp, Officer Ernest Cawley and Officer Keith Gavette. Supervisor commented that the highway crew was paid to stay home for 21days=168hours. Councilman Pinner suggested to put money into the Transfer Station building and packers. Councilwoman Champlin suggested a roof over the C&D bin at the Transfer Station. Supervisor commented that Ken Kipp would like some clear panels installed to let some of the sun shine into the transfer station. Supervisor suggested a rolling gate in front of the C&D bin. Councilwoman Markert suggested the salt shed, remodeling of Town Hall and the Police Building. Supervisor replied that we need to look at our grant for the salt shed first. Councilman Lavorgna reported that CEO Rich Hascha has looked at the Cooks Falls Court Building and Spectra is coming next week to look at setting up a new service. Supervisor stated that we now need to get estimates and designs for some of these ideas. Board discussed ARP Premium Pay. Supervisor reported that we have \$201,000 in ARP funds to spend; we need to know by 2024 how we are going to spend and have until 2026 to spend the funds. Board discussed further.

NO. 18-2022 02/02/22 ARP Premium Pay

Greg Lavorgna offered the following resolution:

WHEREAS, the Town of Colchester received funds from the American Resue Plan Act Coronavirus Local Fiscal Recovery Fund; and

WHEREAS, said ARP funds may be used for providing Premium Pay for essential workers (those who worked directly with the public during the coronavirus pandemic);

THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Colchester hereby authorizes Supervisor Arthur M. Merrill to pay a \$5,000 Premium Pay stipend to each of the

following: Transfer Station Supt. Kenneth Kipp, Police Officer Ernest Cawley and Officer Keith Gavette.

Resolution was seconded by Dan Pinner.

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, Gregory L. Lavorgna	voting aye
Councilperson, Julie A. Markert	voting aye
Councilperson, Daniel J. Pinner	voting aye

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

Councilwoman Markert asked if we could apply for a grant through the County Bed Tax Program. Supervisor replied that a municipality could not apply.

Councilwoman Champlin inquired to the status of the wooden eagles. Supervisor replied that they cannot go outside; plan was to place in the building at Pepacton Park.

Councilwoman Champlin also inquired about the NYS ban on polystyrene (Styrofoam) food containers; she uses these for the delivery of Senior Meals; she has purchased different containers but they are hot to handle for seniors and cost more money for less quantity. Councilwoman Markert asked if the County was mandating the ban and if they were offering a waiver. Supervisor replied that he has not heard anything about the ban or waivers.

Board discussed the bridge on Knox Avenue. Due to the extreme cold weather we have been having, the road has risen up (bridge is lower) causing a bump. County states that it is a County Bridge and a Town Road. Board asked Hwy Supt Eck to place signs at bridge.

SUBMISSION OF BILL/EXPENSES: Janet Champlin made the motion, seconded by Julie Markert, that the vouchers be approved, subject to any corrections or deletions, all in favor, motion carried. Abstract No.03-2022 Voucher No.67-91; Totaling \$352,081.83.

Supervisor Merrill made the following announcements:

- Next Regular Meeting is Wed., Feb. 16th - Live and ZOOM Public Hearing at 7PM.

Supervisor commented that he will not be at the March 2nd meeting. Councilman Lavorgna commented that he will not be at both meetings in March. Councilman Pinner commented that he was thinking of going south again in March. Board discussed and approved that the meeting of March 2nd be canceled.

NO. 19-2022 02/02/22 Cancel March 02, 2022 Town Board Meeting

Julie Markert offered the following resolution:

WHEREAS, the Town Board Meetings of the Town of Colchester have been scheduled for the first and third Wednesday of each month; and

WHEREAS, the first Wednesday in March the Supervisor and two Board Members will not be able to attend;

THEREFORE, BE IT RESOLVED that the Town Board of the Town of Colchester does hereby cancels the following meeting date of Wed., March 02, 2022.

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

With no further business, Janet Champlin made the motion for adjournment, seconded by Greg Lavorgna, all in favor, motion carried. Meeting adjourned at 7:55 PM.

Respectfully Submitted:

Julie B. Townsend, Town Clerk