

**REGULAR TOWN BOARD MEETING**  
**OCTOBER 11, 2016**

The Town Board of the Town of Conklin held a Regular Town Board Meeting at 6:00 P.M. on October 11, 2016, at the Conklin Town Hall. Mr. Finch, Supervisor, presided. The meeting opened with the Pledge of Allegiance.

<b>PRESENT:</b>	Town Board Members	Bullock, Boyle, Dumian, Francisco, Finch
	Town Counsel	Cheryl Sacco
	Town Clerk	Sherrie L. Jacobs
	Highway Superintendent	Brian Coddington
	Assistant to Supervisor	Lisa Houston
	Administrative Assistant	Mary Plonski
	Public Works Superintendent	Tom DeLamarter
	Assessor	John McDonald
	Planning Board Member	Christopher Ostrowsky
	Zoning Board of Appeals	Tom Kelly

<b>GUESTS:</b>	<b>Country Courier</b>	Elizabeth Einstein
		John Colley
		LeRoy Jenkins
		Laurie Francisco
		Kathleen McHale
		Willis Platt
		Phil McKenzie
		Thomas J. Emule
		Judy Kelly

**RESO 2016-133: RECESS FOR LEGAL ADVICE**

Mr. Finch moved to close the Regular Town Board Meeting and recess for legal advice at 6:02 P.M.

Seconded by Mr. Bullock.

VOTE: Bullock – Yes, Boyle – Yes, Dumian – Yes, Francisco – Yes, Finch – Yes. Motion passed unanimously.

**RESO 2016-134: RE-OPEN REGULAR TOWN BOARD MEETING**

Mr. Bullock moved to close the recess and re-open the Regular Town Board Meeting at 6:15 P.M.

Seconded by Mr. Finch.

VOTE: Bullock – Yes, Boyle – Yes, Dumian – Yes, Francisco – Yes, Finch – Yes. Motion passed unanimously.

**MINUTES: SEPTEMBER 27, 2016 REGULAR TOWN BOARD MEETING**

Mr. Bullock moved to approve the September 27, 2016 Regular Town Board Meeting minutes as presented.

Seconded by Mr. Francisco.

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VOTE: Bullock – Yes, Boyle – Yes, Dumian – Yes, Francisco – Yes, Finch – Yes. Motion passed unanimously.

Town Clerk Sherrie Jacobs stated that, although the September 14 minutes had already been approved, a clarification should be made to page 7 to state that Mr. LeRoy Jenkins is leasing 9 MacGeorge Avenue, not 5 MacGeorge Avenue, as stated in the resolution. Mr. Jenkins resides at 5 MacGeorge Avenue.

**CORRESPONDENCE:**

Mr. Finch acknowledged receipt of correspondence from FEMA (Federal Emergency Management Agency) advising the Town that a ruling had been made on the issue of sewage at Fountain Bleau Mobile Home Park. This information will be forwarded to the Rising Community Grant Committee, and hopefully progress can begin on the Stillwater Road Drainage Project, which had been stalled pending this ruling.

Mr. Finch also acknowledged receipt of correspondence from Attorney Alan Pope regarding the property adjacent to Mr. Tuzzi's salt distribution center. It was stated that the Town could acquire the property on which to build an access road to the distribution center through eminent domain. The Town would own the road and Mr. Tuzzi has agreed to pay for construction of the road. The intent is to relieve some of the traffic congestion on Hardie Road. Mr. Dumian and Highway Superintendent Brian Coddington both stated that they are opposed to the Town owning and being responsible for the road. Town Attorney Cheryl Sacco stated that the Town should not receive the property through eminent domain and then give it to a private citizen.

Mr. Dumian stated that he is concerned with the five residences on Powers Road and Progress Parkway that will be impacted by this action. He stated that he is concerned with the potential increased truck traffic on Powers Road and feels a public meeting should be held to receive feedback from residents in the neighborhood that will be impacted by this action. Mr. Finch predicted that there will be approximately 30 trucks per day. Mr. Francisco pointed out that the area in question is part of the Two Rivers Walkway project, plus there are young children and bicyclists that utilize the area. The Code Office will notify neighbors, using the 500 foot distance, of an opportunity to discuss this to be held at 7:00 P.M. during the November 22 Town Board meeting, which begins at 6:00 P.M., following a Work Session at 5:30 P.M.

**PUBLIC COMMENTS:**

**REQUEST TO REZONE 1245 CONKLIN ROAD FROM RESIDENTIAL (R15) TO NEIGHBORHOOD COMMERCIAL**

Mr. Christopher Ostrowsky asked the Board to rezone 1245 Conklin Road from R15 (Residential) to Neighborhood Commercial. He stated that the property in question is "surrounded by greenspace" and across from Temple Inland, which is zoned Industrial. Mr. Ostrowsky added that the area is prone to flooding. He also stated that he wants to put two business offices in the structure – his construction business and his son's insurance business, with no changes to the outer appearance of the structure.

Ms. Sacco stated that a local law would be required to rezone the parcel, adding that she will check to see if that is appropriate zoning, and not spot zoning, which is not allowed, as Mr. Finch reminded the Board. Mr. Ostrowsky stated that Code Officer Ron Lake had stated that the parcel must be rezoned or Mr. Ostrowsky could not have his business offices in that building. Mr.

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Dumian stated that he would approve a rezoning of that parcel. Mr. Ostrowsky stated that the nearby gas station, apartment houses, and possibly Conklin Dance Academy are all zoned Neighborhood Commercial. Ms. Sacco reiterated that she will research the area to make sure it is not spot zoning. The Board stated that it would approve the rezoning as long as it met legal criteria.

**VEHICLES AND MATERIAL STORAGE ON DAVID DRIVE**

Phil McKenzie of Sharon Drive stated that the development in which he lives has approximately 40 homes and is a residential area zoned R12. He stated that there are “three lots on David Drive that are being used as Industrial,” adding that rusted vehicles and trusses are stored there, which, he stated, is a violation of the Town Code. Citing several specific parts of the Code, Mr. McKenzie stated that the Town Code Office “needs to address the issue.” Mr. Finch stated that he will have Mr. Lake send a letter to the owner of the vehicles (a Mr. Woodruff), adding that the New York State Code is even stricter than the Town Code and does not allow any unregistered vehicles on a property. If there is no building on a parcel of property, no vehicles are allowed to be stored there. Mr. Dumian stated that he would like to see the Town “try to work with the property owner first,” then send a letter of violation if necessary.

Addressing Mr. Francisco, Mr. McKenzie added that the political signs in front of the Conklin Cemetery “are tacky.” Mr. Francisco stated that his sign and the other one in question “are not on cemetery land.”

**TRUCKS FROM BOLAND EXCAVATING**

Kathleen McHale from Conklin Forks Road East stated that the trucks from Boland Excavating travel from Conklin Forks Road East to Millburn Drive, then to Boland Excavating. She would like to see them utilize the other entrance to Millburn Drive. Highway Superintendent Brian Coddington stated that he could install a sign stating “No Trucks Allowed,” but added that this cannot be enforced by law. Mr. Finch stated that he will speak with Mike Boland about the installation of a sign reading “Boland Exit Next Left.”

**REPORT: SUPERVISOR’S REPORT**

Refer to written report.

**REPORT: TOWN CLERK**

In addition to her written report, Town Clerk Sherrie Jacobs explained that new TownRequest software program which launched today. It allows residents to send messages to the Town directly to the departments responsible for the particular issues, and allows the department heads to respond so that residents can see when an anticipated resolution to their request should occur.

**REPORT: HIGHWAY DEPARTMENT**

In addition to his written report, Highway Superintendent Brian Coddington stated that the blocks for the front of the Castle have been delivered and the repairs should begin by the end of the week. He asked if the Board wants his crew to match the blocks to the original dentil work, and Mr. Finch stated that he should ask Mr. Bullock and Mr. Francisco. Mr. Coddington stated that they will use standard block and stucco. Mr. Francisco stated that there used to be a roof over the porch, and the Board looked at a painting of the original building to see the detail on the

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front of the building. Mr. Dumian stated that the masons should “make the porch look like the roof” (with the dentil work) and the Board agreed.

**REPORT: WATER & SEWER DEPARTMENT**

In addition to his written report, Public Works Superintendent Tom DeLamarter stated that the drive at Well 6 has been re-installed and it should be back online soon, adding that the Town received a check from the insurance company for the power surge that damaged the drive. He stated that his department is flushing hydrants every evening. Mr. DeLamarter stated that the SCADA alarm system for the sewer system is not working, adding that there are no alarms and the problem must be fixed immediately. He stated that it will cost approximately \$22,000, adding that there is “no problem with the Budget” for this expense. Mr. Francisco and Mr. Dumian agreed that the Town must fix this equipment immediately.

**REPORT: CODE OFFICE**

Refer to written report. Administrative Assistant Mary Plonski stated that applications for lease of FEMA Buyout properties have been sent to FEMA for approval. She asked the Board how it wants the Code Office to notify previous owners, whom the Board wants to have first option to lease a parcel of property, adding that one letter she sent to a previous owner who now lives in Florida was returned. Ms. Plonski asked if the Board wants both proposals from neighbors, if both are interested in a particular parcel, or if it wants a “first come, first served” policy. Mr. Bullock stated that the Code Office should give both proposals to the Board. Ms. Sacco stated that the Town cannot split a lease of one parcel between two parties. She stated that if the Code Office sends a letter to the previous owner, and it is returned, or a certain amount of time has passed, the neighbors should then be notified of availability.

**PROPOSED LOCAL LAW/ZONING/OVERLAY DISTRICT/ “KEEPING SMALL ANIMALS”**

Ms. Sacco distributed a proposed local law regarding zoning and creating an overlay district, entitled, “Keeping Small Animals.” The proposed law would allow four hens, no rooster, no sale of eggs or animals, with setback requirements, as well as requirements that the animals be kept in the back yard with adequate space, fencing to keep them confined, and covering. She added that the number of chickens greater than four that would be allowed would be tied to the size of the property in question. The overlay district would include areas zoned R12, R15, and R-M (all Residential). Ms. Sacco stated that she based much of the language in the proposed local law on the City of Ithaca Code. Mr. Dumian stated that large parcels should be allowed more hens and Ms. Sacco stated she would work on a number of chickens allowed per square foot. The Board will review this proposed law for further discussion at a later meeting.

Mr. Dumian asked what the qualifications are for Agricultural/Rural zoning and Mr. Boyle replied that there is a list of qualifications, adding that he could provide this list. Ms. Sacco stated that a local law is required to rezone an area to Agricultural/Rural. She stated that another solution to the issue of chickens is to make the owner seek a Special Permit or a variance from the Zoning Board of Appeals (ZBA) or through a site plan from the Planning Board. Mr. Dumian stated that a building permit is not required for a chicken coop or fencing. No businesses would be allowed to have chickens, only areas zoned R12, R15, and R-M. Mr. Dumian stated that more thought and discussion is needed regarding the number of hens above the basic four that would be allowed depending upon the square footage of the parcel in question.

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**PROPOSED LOCAL LAW/ZONING/MANUFACTURED HOMES**

Ms. Sacco stated that the Board could remove the overlay district from the proposed local law regarding manufactured homes because New York State Uniform Code has changed the requirements regarding foundations. She stated that sections a, b, c, d, f, and g would be repealed and section e changed by the proposed local law. Ms. Sacco stated that she must submit the Form 239 to Broome County and so needs the final version of the proposed law. She asked if the Board is ready to hold a Public Hearing on the proposed local law.

**NEW BUSINESS:**

**DISCUSSION/CNY POMEROY APPRAISER, INC. PROPOSAL**

Town Assessor John McDonald discussed some of the issues with the tax certiorari being brought against the Town by Johnson Outdoor, although since it is pending litigation, he was limited in the amount of information he could discuss in open session. He stated that the Susquehanna Valley School District has agreed to pay one-third of the tax reimbursement up to a certain dollar amount, adding that the years 2013-2016 are being considered. Ms. Sacco stated that some companies file tax certioraris every year, with action occurring on the case in the fourth year.

Mr. McDonald stated that Johnson Outdoor has stated that since it was flooded twice, its assessment should be decreased. However, stated Mr. McDonald, the company received approximately \$1,000,000 to build a flood wall, which mitigates its flood risk. He stated that tax certioraris usually do not go to trial. Mr. McDonald stated that the Town received an appraisal from an appraiser from Syracuse. Mr. Finch and Mr. McDonald both cautioned that the Town is setting a precedent with the way in which it handles this case. Broome County has stated that it will not be involved in this issue. Ms. Sacco stated that she will ask for an Executive Session to discuss strategy for a pending litigation.

**OLD BUSINESS:**

**TIME WARNER CABLE (CHARTER COMMUNICATIONS) FRANCHISE**  
**AGREEMENT**

Ms. Sacco suggested that the Board look at the changes proposed in the new Time Warner Cable (Charter Communications) Franchise Agreement and write down any suggestions for changes they would like to see in the proposed agreement. She stated that she does not know what the Board is requesting – security, TV channels, free access, or other options. Mr. Finch commented that the Town is still receiving payments but at the old rates. The Board will discuss this further at the October 25 Work Session.

**UPSTATE TOWERS**

Mr. Finch stated that Upstate Towers has made some changes to its proposed lease agreement. The company would like a total of five towers but is considering building four towers and re-evaluating the situation. Mr. Dumian asked for confirmation about the proposed locations of these towers. Mr. Finch stated that the Board will discuss this at the October 25 Work Session.

**NEW BUSINESS:**

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**RESO 2016-135: APPROVE TOWN JUSTICE/APPLY FOR 2016-2017 JUSTICE COURT ASSISTANCE PROGRAM GRANT**

Mr. Bullock moved for the following resolution:

Be It Resolved: that the Town Board of the Town of Conklin approves the Town Justice, J. Marshall Ayres, to apply for the 2016-2017 Justice Court Assistance Program (JCAP) Grant, with the grant award amount to be determined by the New York State Unified Court System Board.

Seconded by Mr. Francisco.

VOTE: Bullock – Yes, Boyle – Yes, Dumian – Yes, Francisco – Yes, Finch – Yes. Motion passed unanimously.

**RESO 2016-136: ACCEPT DONATION/WILLIAM BANOVIC/FIELD USE/OAKDALE PHYSICAL THERAPY SOFTBALL GAME**

Mr. Francisco moved for the following resolution:

Be It Resolved: that the Town Board of the Town of Conklin accepts a donation, account code A2705, in the amount of \$100.00 from William Banovic for field use for the Oakdale Physical Therapy softball game.

Seconded by Mr. Dumian.

VOTE: Bullock – Yes, Boyle – Yes, Dumian – Yes, Francisco – Yes, Finch – Yes. Motion passed unanimously.

**RESO 2016-137: APPROVE SCHEDULING/PUBLIC HEARING/OCTOBER 25, 2016/6:05 P.M. /PROPOSED 2017 MUNICIPAL WATER & SEWER BILLING RATES**

Mr. Francisco moved for the following resolution:

Be It Resolved: that the Town Board of the Town of Conklin approves scheduling of a Public Hearing at 6:05 P.M. on October 25, 2016, to receive input regarding proposed 2017 Municipal Water and Sewer Billing Rates.

Seconded by Mr. Finch.

VOTE: Bullock – Yes, Boyle – Yes, Dumian – Yes, Francisco – Yes, Finch – Yes. Motion passed unanimously.

**RESO 2016-138: APPROVE SCHEDULING/PUBLIC HEARING/OCTOBER 25, 2016/6:15 P.M./PROPOSED 2017 FIRE PROTECTION CONTRACT**

Mr. Bullock moved for the following resolution:

Be It Resolved: that the Town Board of the Town of Conklin approves scheduling of a Public Hearing at 6:15 P.M. on October 25, 2016, to receive input regarding the proposed 2017 Fire Protection Contract with the Conklin Volunteer Fire Department, Inc.

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Seconded by Mr. Boyle.

VOTE: Bullock – Yes, Boyle – Yes, Dumian – Yes, Francisco – Yes, Finch – Yes. Motion passed unanimously.

**RESO 2016-139: APPROVE SCHEDULING/PUBLIC HEARING/OCTOBER 25, 2016/6:25 P.M./PROPOSED 2017 GENERAL AND HIGHWAY BUDGET**

Mr. Francisco moved for the following resolution:

Be It Resolved: that the Town Board of the Town of Conklin approves scheduling of a Public Hearing at 6:25 P.M. on October 25, 2016, to receive input regarding the proposed 2017 General and Highway Budget for the Town of Conklin.

Seconded by Mr. Finch.

VOTE: Bullock – Yes, Boyle – Yes, Dumian – Yes, Francisco – Yes, Finch – Yes. Motion passed unanimously.

**RESO 2016-140: APPROVE PAYMENT/BILL LIST/\$63,557.33**

Mr. Boyle moved for the following resolution:

Be It Resolved: that the Town Board of the Town of Conklin approves payment of the following Bill List in the total amount of \$63,557.33:

General	\$ 9,646.54
Highway	19,506.66
Sewer District	603.56
Water District	29,576.84
Water District 6	777.73
Non-Budget	<u>3,446.00</u>
<b>Total</b>	<b>\$ 63,557.33</b>

Seconded by Mr. Dumian.

VOTE: Bullock – Yes, Boyle – Yes, Dumian – Yes, Francisco – Yes, Finch – Yes. Motion passed unanimously.

**HALLOWEEN CURFEW**

A Town of Conklin local law establishes a curfew for those under the age of 18 years to be off the streets, unless accompanied by an adult aged 21 years or older, between the hours of 8 P.M. and 6 A.M. on October 30 and 31 and on November 1.

**RESO 2016-141: APPROVE PAYMENT/SHERIFF'S DEPARTMENT/TO PATROL OCTOBER 29, 30, 31, 2016 FROM 7 TO 10 P.M.**

Mr. Finch moved for the following resolution:

Be It Resolved: that the Town Board of the Town of Conklin approves payment to the Sheriff's Department to patrol Conklin streets from 7 to 10 P.M. on October 29, 30, and 31, 2016.

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Seconded by Mr. Dumian.

VOTE: Bullock – Yes, Boyle – Yes, Dumian – Yes, Francisco – Yes, Finch – Yes. Motion passed unanimously.

**RESO 2016-142: APPROVE STANDARD WORK DAY AND REPORTING OF SPECIFIED ELECTED OFFICIALS/REPORT TO NYS AND LOCAL EMPLOYEES RETIREMENT SYSTEM BASED ON RECORD OF RECERTIFICATION OF ACTIVITIES**

Mr. Finch moved for the following Resolution

BE IT RESOLVED, that the Town of Conklin, Location Code 30247, hereby establishes the following standard work days for these titles and will report the officials to the New York State and Local Retirement System based on the record of recertification of their record of activities maintained and submitted by said officials to the clerk of this body:

Title	Name	Term Begins & Ends	Record of Activities Result
Councilperson	Charles W. Francisco	1/01/13-12/31/16	2.73
Town Clerk	Sherrie L. Jacobs	1/01/13-12/31/16	23.39
Justice of the Peace	J. Marshall Ayres	1/01-13-12/31/16	22.39
Councilperson	Gary Bullock	1/01/13-12/31/16	1.08

Seconded by Mr. Bullock.

VOTE: Bullock – Yes, Boyle – Yes, Dumian – Yes, Francisco – Yes, Finch – Yes. Motion passed unanimously.

**RESO 2016-143: APPROVE CODE DEPARTMENT/SUBMIT APPLICATION TO FEMA SEEKING APPROVAL FOR LEASES ON BUYOUT PROPERTIES**

Mr. Francisco moved for the following resolution:

Be It Resolved: that the Town Board of the Town of Conklin approves the Code Department to submit application to FEMA seeking approval for leases on the following Buyout properties by the following individuals for the following uses, with each lease being a five year term for a total cost of \$25.00:

1235 Conklin Road, Conklin, NY 13748	Gary Bullock	Mow & Maintain Property
2 Lilac Place, Conklin, NY 13748	Gloria Galazyn	Mow & Maintain Property
9 JR Blvd, Binghamton, NY 13903	Willis Platt	Mow & Maintain Property
1219 Conklin Road, Conklin, NY 13748	Gregory Sutton	Mow & Maintain Property

Seconded by Mr. Boyle.

VOTE: Bullock – Abstain, Boyle – Yes, Dumian – Yes, Francisco – Yes, Finch – Yes. Motion carried: 4 – Yes, 1 – Abstain.

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**2017 BUDGET**

Assistant to the Supervisor Lisa Houston stated that there have been changes made to the Schedule A of the proposed 2017 Budget, and added that the debt service line was increased because Broome County is charging the Town more for the Landfill.

**PUBLIC COMMENTS:**

**SPEED LIMIT REDUCTION REQUEST/ROUTE 7**

Ms. Plonski asked for an update on the Town's request to New York State to reduce the speed limit on Route 7 from the Community Center to the Susquehanna Valley High School, noting that there are many walkers on that route and accidents happen frequently in that area. Mr. Finch stated that he will research the request to see if there are any updates.

**BRIDGE BY BOLAND EXCAVATING**

Mr. Boyle stated that the bridge on Millburn Drive was open when Boland Excavating moved into their current site and asked if the bridge could be re-opened or a construction bridge installed for truck traffic. Mr. Finch stated that the current bridge cannot be re-opened because it does not pass New York State inspection.

**LIGHTS AT BACK OF TOWN HALL**

Mr. Dumian asked if the lights have been repaired/bulbs replaced in the back of the Town Hall, as Judge Ayres requested, and Mr. Finch stated that Mr. DeLamarter is coordinating this effort with the Conklin Volunteer Fire Department.

**STREET LIGHT REPAIRS**

Mr. Francisco stated that the street lights in need of repair have been turned in to NYSEG (New York State Electric and Gas Corporation) and added that they will be repaired by Halloween.

**RESO 2016-144: EXECUTIVE SESSION/LITIGATION**

Mr. Francisco moved to close the Regular Town Board Meeting and move into Executive Session at 7:40 P.M. to discuss pending litigation.

Seconded by Mr. Bullock.

VOTE: Bullock – Yes, Boyle – Yes, Dumian – Yes, Francisco – Yes, Finch – Yes. Motion passed unanimously.

An Executive Session of the Town Board of the Town of Conklin was held at the Conklin Town Hall at 7:40 P.M. with Supervisor James Finch presiding. Present were: Supervisor Finch, Mr. Bullock, Mr. Boyle, Mr. Dumian, Mr. Francisco, Town Assessor John McDonald, and Attorney Cheryl Sacco. Ms. Sacco assumed duties of secretary of the meeting.

A discussion was held pursuant to Public Officers Law section 100 of the State of New York regarding proposed, pending, or current litigation.

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**RESO 2016-145: RE-OPEN REGULAR TOWN BOARD MEETING**

Mr. Bullock moved to close the Executive Session and re-open the Regular Town Board Meeting at 8:07 P.M.

Seconded by Mr. Finch.

VOTE: Bullock – Yes, Boyle – Yes, Dumian – Yes, Francisco – Yes, Finch – Yes. Motion passed unanimously.

**RESO 2016-146: HIRE CNY POMEROY APPRAISERS, INC./AUTHORIZE SUMMARY APPRAISAL REPORT/JOHNSON OUTDOOR CASE/NOT TO EXCEED \$4,500**

Mr. Bullock moved for the following resolution:

Be It Resolved: that the Town Board of the Town of Conklin authorizes hiring of CNY Pomeroy Appraisers, Inc., and further authorizes the Summary Appraisal Report in the Johnson Outdoor tax certiorari case, in an amount not to exceed \$4,500.

Seconded by Mr. Finch.

VOTE: Bullock – Yes, Boyle – Yes, Dumian – Yes, Francisco – Yes, Finch – Yes. Motion passed unanimously.

There being no further business to come before the Board, Mr. Bullock moved for adjournment, seconded by Mr. Finch. The meeting adjourned at 8:07 P.M.

Respectfully submitted,

Sherrie L. Jacobs  
Town Clerk