

REGULAR TOWN BOARD MEETING
JANUARY 22, 2013

The Town Board of the Town of Conklin held a Regular Town Board Meeting at 5:30 P.M. on January 22, 2013, at the Conklin Town Hall. Mr. Finch, Supervisor, presided. The meeting opened with the Pledge of Allegiance.

PRESENT:	Town Board Members	Bullock, Minoia, Francisco, Finch
	Town Counsel	Cheryl Sacco
	Town Clerk	Sherrie L. Jacobs
	Assistant to Supervisor	Lisa Houston
	Planning Board	Christopher Ostrowsky
	Planning Board	Dell Boyle

GUESTS:	Country Courier	Elizabeth Einstein
	Susquehanna Valley BOE	Suzanne Vimislik
		Laurie Francisco
		Robert Strick
		Michael Gabello
		George Frailey
		Bonnie Tolomei
		Angelo Tolomei
		William Osborne, Jr.
		Ellen Osborne
		William Osborne
		Glen L. Huntley
		Peter J. Motsavage
		Joe Walker
		Andy Lynch
		Chris Kehoe
		Ronald C. Arno
		Gary E. Huntley
		Greg Huntley
		Joanne Huntley
		Don Einstein
		Randy Rivera

MINUTES: JANUARY 8, 2013 REGULAR TOWN BOARD MEETING

Mr. Minoia moved to approve the January 8, 2013 Regular Town Board Meeting minutes as presented.

Seconded by Mr. Bullock.

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

CORRESPONDENCE:

Mr. Finch acknowledged receipt of correspondence from the Susquehanna Valley School District, from New York State Electric and Gas Corporation (NYSEG), from the Binghamton-Johnson City Joint Sewage Treatment Board, from the DEC (New York State Department of Environmental Conservation), and from the New York State Department of Health. The

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Department of Health notified the Town that it won an award for the quality of the water in the Town of Conklin.

PUBLIC COMMENTS:

RESPONSE FROM SUSQUEHANNA VALLEY SCHOOL DISTRICT BOARD OF
EDUCATION PRESIDENT SUZANNE VIMISLIK

Suzanne Vimislik identified herself as the President of the Susquehanna Valley School District Board of Education and read the following statement into the minutes:

“Since November during the public comment portion of Town of Conklin board meetings, Supervisor Jim Finch has made numerous inaccurate and misleading remarks regarding the Susquehanna Valley School Central District finances and budget practices. In an effort to address this misinformation with the facts, the Board of Education wrote a letter to the Editor of the **Country Courier** that was published in the December 5, 2012 edition. As Mr. Finch’s public comments continued he was invited to meet with district representatives by Superintendent Gerardo Tagliaferri in a sincere effort to foster cooperation, open communications and address his concerns and questions. Attending the meeting were Mark Gorgos, the school district’s attorney, Town of Conklin Assessor John McDonald, Vince Smith from the Broome-Tioga BOCES Central Business Office, Ethan Berry, SV’s shared business executive, Tom Delamarter, from the Town of Conklin, and Suzanne Vimislik, SV Board of Education President.

“The meeting covered a wide range of topics – with specific attention paid to concerns voiced by Mr. Finch at Town Board meetings. We felt at the conclusion of the meeting that we had covered important ground and set a positive foundation for a more cooperative relationship. Unfortunately, it appears that Mr. Finch did not share that assessment, considering his comments just five days later at the Town Board meeting, going so far as to call the meeting “a smokescreen.” Considering Mr. Finch’s most recent remarks, it is fitting to re-visit some of the inaccuracies Mr. Finch has raised, and present to you the facts:

“At the November 13, 2012 Town of Conklin Board meeting Mr. Finch said: *‘While the Town of Conklin – along with Binghamton and Kirkwood – put together budgets with minimal increases, SV raised its budget 8% for 2013.’*

Not true. The 2012-13 SV budget, approved by voters May 15, 2012, by a nearly three-to-one margin, carried a year-to-year spending increase of 1.42% - among the lowest increases in the last decade. The accompanying 1.98% Tax levy was within the ‘perceived 2% cap’ and well below our actual cap of 2.95%. A great deal of time was spent at the January 3 meeting explaining this to Mr. Finch and that the tax levy is only one of *three* components in the formula used to calculate the Town’s tax rate: the others being assessments on Town properties and equalization rates. Mr. Finch does not acknowledge the Town’s \$3 million loss of assessed value and lowered equalization rate from the previous year as factors responsible for the town’s increased tax rate. As the Town Board knows, the school district has NO direct or indirect control over assessments as determined by the town or equalization rates set by the state.

“At the same meeting, Mr. Finch said: *The school budget increase has ‘little to do with programs that benefit students.’* Our budget supports every aspect of program encompassing all areas of instruction and services to support our students – from special education services, supplies and equipment, textbooks and computers, transportation, food and health services, athletics and co-curricular programs, to maintaining building and grounds. As student

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enrollment has declined in recent years, the district has implemented cost savings and efficiencies, including staff reductions mostly through attrition, while working diligently to protect and preserve the programs that benefit students.

“At the January 13 Town of Conklin Board Meeting, Mr. Finch referred to the joint meeting as a ‘smokescreen.’ It was no smokescreen. It was a sincere and courteous effort to open lines of communication between the school district and the Town, both of which have a vested interest in cooperating. It does neither the town nor the district any good for this rhetoric to continue. If forward progress and growth are our shared goals, we must both be committed to working toward them. To comment that a hand extended in courtesy as a ‘smokescreen’ is a disservice.

“Mr. Finch said: *‘BOCES has told him the questions he asked were “none of his business.”*” That is an unfortunate mischaracterization. Mr. Finch is aware that there are questions regarding any number of topics relative to school district functions that simply cannot – by law – be answered or addressed. The Town Board has the same limitations on issues like personnel.

“Mr. Finch said: *‘There exist possible conflicts of interest (he later called it an “ethics problem” at another board meeting) for members of the school board who have family members who are employed by the district.’* He was told by Mr. Gorgos that the Commissioner of Education had ruled on the issue statewide and has found there to be no conflict of interest. This was followed up with copies of the Commissioner’s rulings, at Mr. Finch’s request.

“Mr. Finch claims *Mr. Tagliaferri ‘conceded’ school taxes increased 7.14% in the Town of Conklin.* It’s not a question of conceding information that is publicly available. The question – and Mr. Finch’s comments – have to do not with the percentage increase, but how that increase was calculated. It was explained to Mr. Finch that the school district tax levy is one of only several factors influencing the town tax rate, and that other towns within the school district boundaries did not experience that same levy increase. It was pointed out that Binghamton and Windsor had decreases and that Kirkwood and Vestal increased 1.71%. A function of applying assessments and equalization rates to the levy.

“Mr. Finch said he asked Mr. Tagliaferri to urge older teachers to retire and make way for younger ones who would be paid less. He claims Mr. Tagliaferri told him this would ‘affect their retirement’ and that these teachers ‘have a right to keep working.’ Mr. Finch was told by our business official and attorney Gorgos that it is illegal to force older teachers out to make way for younger teachers who make less money. The two comments he shared are out of context and came from conversation explaining the retirement system’s early retirement penalties, and incentives which the district has offered. It was pointed out that eligible staff does not have to accept any incentive offered.

“Setting aside the question of whether Mr. Finch’s using the public comment section of the Town’s business meetings for personal comments is an appropriate or acceptable use of the Board’s time, it must be asked: Does Mr. Finch believe that publicly excoriating the school district in which the entirety of his town is located will be an effective tool in attracting new families and businesses to the Town? When someone is contemplating moving their family or their business, one of the primary factors they tend to consider is the quality of the school district in that location. It is safe to conclude that anyone witnessing an elected leader of a Town disparaging that municipality’s school district would be hesitant to consider moving there.

“It is especially disappointing to see the harsh comments continue and – perhaps – even escalate *after* Mr. Finch’s meeting with district officials. We *all* share a concern over the level of

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taxation being borne by our constituencies. We *all* want to see the economy recover and everyone be able to find good jobs, buy houses, feed their families and live in vibrant, robust communities. When the Town of Conklin was devastated twice by flooding in recent years, we stood together to clean up and bounce back. We are puzzled as to why the leadership of the Town of Conklin try to cast the school district as a villain and pit neighbors and colleagues against each other?

“As stated in our letter to the editor in December, ‘our district is committed to working cooperatively with the leaders of all levels of government, including the leaders of the five townships our district encompasses.’ We expressed that commitment to Mr. Finch on January 3 and do so again to the town board this evening.”

Mr. Finch responded to this statement by stating that he still feels the school district should look at its programs, including tuition-free students, pension plans, and group health insurance, to find a way to reduce taxes. He added that these issues are also being discussed by the Association of Towns. Mr. Finch stated that there are 115 parcels in the Town of Conklin. Mr. Finch stated that a letter has been sent to Governor Cuomo asking for a reduction in sales tax and school tax. He added that he has been told by businesses and builders that businesses and homeowners cannot afford to build or live in Conklin because of the high school taxes. Mr. Finch added that some of the people influencing the decision making at the school district live in the school tax free district.

BANTA ROAD ISSUE

Mr. Finch informed Bonnie Tolomei that the neighborhood issue with materials stored in the Town’s right-of-way on Banta Road, which she and Mr. Tolomei had brought to the attention of the Town Board, is being addressed.

SALT DISTRIBUTION PROJECT

Chris Kehoe of Hardie Road stated that trucks delivering to, or taking delivery from, the salt distribution center, whose access is off Hardie Road, were idling on Hardie Road at 3:00 A.M. last Saturday. It was noted that the center’s stated work hours, according to their site plan, are 7:00 A.M. until 3:30 P.M., Monday through Saturday, with no Sunday hours. Mr. Finch stated that the salt distribution center was approved by both Broome County Planning Department and the New York State Department of Environmental Conservation (DEC). He stated that he will contact the owner of the distribution center tomorrow (January 23) to make sure the truck traffic is compliant with the times approved in the site plan.

Andrew Lynch of Hardie Road stated that no one in the area of the salt distribution center knew that this project was being developed. He stated that the value of his property has decreased since the distribution center was built. Mr. Finch reiterated that the site plan was approved by both Broome County and the DEC, in addition to the Town Planning Board. He added that the original planned access was to be from Shaw Road near Ocean Steel, but the salt distribution center developers could not obtain a right-of-way to enter from that area. Mr. Lynch stated that trucks arrive every two minutes to the site.

William Osborne, Sr., of 123 Hardie Road stated that his house is “right in front of the truck stop” and stated that the dust that is raised on the road and the exhaust from the trucks is “constant” and fills his house, causing breathing issues so bad that he “had to leave the house.” He stated that this occurred last Saturday, when he counted 16 trucks arriving Saturday morning,

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beginning at 4:00 A.M. He also stated that the value of his property has decreased due to the development of the salt distribution center. Mr. Osborne stated that the trucks arrive “day and night,” adding that on Tuesday, the entrance gate was locked and trucks were idling one-half hour on Hardie Road.

Gary Huntley of 22 Hardie Road stated that the salt is going into the ground when it rains, adding that its container sits on only three inches of blacktop, which he stated is breaking up due to exposure to the salt. He added that the salt is over the top of the concrete barriers and is falling on the ground, as well as running out of the drainage areas in the concrete enclosure. Mr. Huntley stated that there is no plastic cover on the salt pile. Mr. Huntley, who drives a water truck for a gas development company, stated that in Pennsylvania it is illegal to use a “jake brake” at night, and if the truck is parked by a house, it can only be allowed to idle for 15 minutes.

Mr. Huntley stated that he understood that the developer of the salt distribution center, Joseph Tuzze, has purchased more property in the same area. Mr. Finch stated that Mr. Tuzze purchased .2 acres more for sand and storage in the event that natural gas drilling is allowed in New York State. Mr. Huntley stated that Broome County, which owns Hardie Road, has stated that the road was not built to withstand tractor-trailer traffic. He added that he understood that the salt was to be delivered by truck, and distributed by train car, and now it is being delivered and distributed by truck. Mr. Huntley stated that other towns are sending their trucks in to pick up salt. He added that the local residents were not notified by letter that the project was being developed near their homes. Mr. Finch reiterated that he will address these problems with Mr. Tuzze tomorrow (January 23).

William Osborne, Sr., stated that he has received “no help by addressing Bob Jones” (the Town Code Officer). William Osborne, Jr., also of Hardie Road, asked, if Mr. Tuzze has purchased more property, does that mean there will be even more trucks? Mr. Finch stated that if Mr. Tuzze wants to expand his business, he will need to come to the Town Planning Board and Zoning Board of Appeals. Town Attorney Cheryl Sacco added that her colleague, Attorney Brady Begeal will notify residents of Hardie Road via letter of any proposed changes to the business. Mr. Osborne stated that the road is breaking up and is covered with mud. He added that the salt piled has never been covered.

Bonnie Tolomei of Montrose Drive asked about the water trucks for the gas well being drilled just over the Pennsylvania border, which will traverse Montrose Drive to reach their destination. Mr. Finch explained that the gas production has been halted by the winter weather. Mrs. Tolomei asked how many trucks will be traveling on Montrose Drive. She added that she “hears ‘jake brakes’ all night.”

REPORT: SUPERVISOR’S OFFICE

Mr. Finch reported that he is still pursuing the issue of non-resident students attending Susquehanna Valley schools tuition-free, as well as other financial issues regarding the school district.

OLD BUSINESS:

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HIGHWAY GARAGE

Mr. Finch reported that access to the Highway Garage has been chained off because people have been stealing old guardrails, appliances, and pipe. He stated that security cameras are being installed, after which the yard will be re-opened.

UPDATE ON SEWER STUDY GRANT

Mr. Finch stated that he and Public Works Superintendent Tom Delamarter will meet with New York State representatives in Cortland on January 23 to discuss the sewer expansion feasibility study grant which was approved for the Town of Conklin. The grant was approved for up to \$30,000.

UPDATE ON PRIDE MANOR WATER

Mr. Finch reported that the municipal water is hooked up at the Pride Manor Mobile Home Park, adding that the back flow valve is being installed. He stated that once the Town of Kirkwood, which supplies the water to the southern end of Conklin, and Conklin Public Works Superintendent Tom Delamarter both inspect and approve the back flow valve installation, and the park owner pays the fees owed for the water hook-up, the water will be turned on to the residents of the mobile home park.

UPDATE ON HIGHWAY TRUCK AT LAING TRUCKING FOR REPAIRS

Mr. Finch stated that the Highway truck that has been at Laing Trucking for repairs for several months will be picked up at 8:00 A.M. on January 23.

UPDATE ON TIME WARNER CABLE FRANCHISE AGREEMENT

Attorney Sacco stated that the Time Warner Cable Franchise Agreement has been sent to Time Warner and the Town is awaiting a response. She added that the Town will be receiving sales tax revenue from this agreement. Ms. Sacco stated that the Town is asking for revenue from all channels and asking that Time Warner not discount this amount as part of its property tax payment.

UPDATE ON PARK OUTDOORS

Mr. Finch stated that Park Outdoors Advertising has removed the billboard near The Big Dipper 2, and will be removing two more billboards. He stated that in the spring, one large billboard will be installed.

NEW BUSINESS:

**RESO 2013-13: AUTHORIZE COUNCILPERSON CHARLES FRANCISCO/SIGN
CHECKING ACCOUNTS/NBT BANK/GENERAL ACCOUNT & PAYROLL TRUST
AND AGENCY ACCOUNT/2013/IN ABSENCE OF TOWN SUPERVISOR**

Mr. Minoia moved for the following resolution:

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Be It Resolved: that the Town Board of the Town of Conklin authorizes Councilperson Charles Francisco to sign checking accounts of NBT Bank for General account and Payroll and Trust & Agency account for 2013 in the absence of the Town Supervisor.

Seconded by Mr. Bullock.

VOTE: Bullock – Yes, Minoia – Yes, Francisco – Abstain, Finch – Yes. Motion carried: 3 – Yes, 1 – Abstain.

RESO 2013-14: AUTHORIZE MONTHLY CELL PHONE REIMBURSEMENT/J. MARSHALL AYRES/\$40 PER MONTH/2013

Mr. Francisco moved for the following resolution:

Be It Resolved: that the Town Board of the Town of Conklin authorizes a monthly cell phone reimbursement, account code A1110.4, in the amount of \$40.00 per month to be paid to Town Justice J. Marshall Ayres.

Seconded by Mr. Minoia.

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

RESO 2013-15: AUTHORIZE PAYMENT/2012 BILL LIST/\$59,582.32

Mr. Minoia moved for the following resolution:

Be It Resolved: that the Town Board of the Town of Conklin authorizes payment of the following 2012 Bill List in the total amount of \$59,582.32:

General	\$31,089.68
Highway	3,893.16
2011 Flood	17,610.06
Light Districts	2,751.69
Sewer District	811.96
Water District	2,225.77
Water District #6	<u>1,200.00</u>
Total	\$59,582.32

Seconded by Mr. Francisco.

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

RESO 2013-16: AUTHORIZE PAYMENT/2013 BILL LIST/\$188,191.57

Mr. Francisco moved for the following resolution:

Be It Resolved: that the Town Board of the Town of Conklin authorizes payment of the following 2013 Bill List in the total amount of \$188,191.57:

General	\$ 74,187.34
Highway	20,447.90
Sewer District #1	333.00

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Water District	8,717.33
Water District #6	167.00
Non-Budget (2012 NYS Retirement & NYS Justice)	84,339.00
Total	\$188,191.57

Seconded by Mr. Bullock.

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

RESO 2013-17: RATIFY MEDICAL POOL PLAN ABSTRACT PAYMENTS/2012

Mr. Bullock moved for the following resolution:

Be It Resolved: that the Town Board of the Town of Conklin ratifies the 2012 Medical Pool Plan abstract payments, account codes A9060.802-3, DA9060.802-3, and SW9060.802-3 (see attached).

Seconded by Mr. Minoia.

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

**RESO 2013-18: AUTHORIZE MODIFICATION/STATED FROM AND TO BUDGET
LINES AS OF 12-31-2012**

Mr. Francisco moved for the following resolution:

Be It Resolved: that the Town Board of the Town of Conklin authorizes modification of the stated from and to Budget lines as of December 31, 2012 (see attached).

Seconded by Mr. Minoia.

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

**RESO 2013-19: AUTHORIZE TOWN SUPERVISOR/EXECUTE CONTRACT WITH
NYS OFFICE OF EMERGENCY MANAGEMENT/FLOOD ACQUISITION &
DEMOLITION PROGRAM**

Mr. Bullock moved for the following resolution:

WHEREAS, the Town of Conklin has been awarded a grant pursuant to FEMA's Hazard Mitigation Grant Program for the acquisition and demolition of 59 substantially damaged properties in the Town of Conklin as a result of the flood of September 2011; and

WHEREAS, the Board finds that it is in the best interests of the Town to approve participation in said program; and

NOW THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Conklin hereby authorizes the Supervisor of the Town of Conklin to execute a contract with the NYS Office of Emergency Management (Contract Number 4020-17), authorizing the Town's participation in the above-referenced flood acquisition and demolition program at a total cost of \$5,349,482.00, of which \$4,012,112.00 shall be the Federal share of the program.

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BE IT FURTHER RESOLVED, that this Resolution shall take effect immediately.

Seconded by Mr. Francisco.

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

CERTIFICATE OF TOWN CLERK

I, Sherrie L. Jacobs, Town Clerk of the Town of Conklin, in the County of Broome, State of New York, HEREBY CERTIFY, that the above resolution was duly adopted by the Town Board of the Town of Conklin on January 22, 2013.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of said Town this 22nd day of January, 2013

Sherrie L. Jacobs, Town Clerk

Ms. Sacco stated that New York State can terminate the contract within 90 days and the Town would be 100% liable, adding that this is a non-negotiable contract. She stated that this contract commits the Town to participation in the Buyout Program but not necessarily for 59 properties, as the property owners have the choice to pull out of the Buyout Program.

UPPER & LOWER LANDFILLS

Ms. Sacco stated that she has the Declaration for the Closing and Deed Restrictions for the Town Upper and Lower Landfills, a project the Town has been working on since 2009. She stated that these documents specify what uses this property can have, as determined by the DEC and the EPA (Environmental Protection Agency). Ms. Sacco stated that this is a non-negotiable agreement. She added that the Town must certify every five years that the conditions are in compliance with the agreement. These conditions stated that the Lower Landfill is restricted with no wells (“no groundwater”) allowed, so it cannot be used for “Residential Use” or “Restricted Residential Use.” Mr. Finch explained that the Landfill is in the Corporate Park, the property for the development of which was obtained by the use of eminent domain by the Broome County Industrial Development Industry (IDA) in the 1970’s. At that time, the Landfill was moved from the Lower Landfill location to the current Upper Landfill location.

RESO 2013-20: AUTHORIZE SUPERVISOR/EXECUTE DECLARATION OF COVENANTS, RESTRICTIONS & ENVIRONMENTAL EASEMENT/UPPER AND LOWER LANDFILL

Mr. Bullock moved for the following resolution:

Be It Resolved: that the Town Board of the Town of Conklin authorizes the Supervisor to execute the Declaration of Covenants, Restrictions, and Environmental Easement for the Upper and Lower Landfill in the Town of Conklin.

Seconded by Mr. Francisco.

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

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RESO 2013-21: APPOINT PETER MOTSAVAGE/SUBSTITUTE SCHOOL CROSSING
GUARD/EFFECTIVE JANUARY 22, 2013

Mr. Bullock moved for the following resolution:

Be It Resolved: that the Town Board of the Town of Conklin appoints Peter Motsavage to the position of Substitute School Crossing Guard, effective January 22, 2013.

Seconded by Mr. Francisco.

VOTE: Bullock – Yes, Minoia – 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. Francisco. The meeting adjourned at 6:28 P.M.

Respectfully submitted,

Sherrie L. Jacobs
Town Clerk