

REGULAR TOWN BOARD MEETING
FEBRUARY 22, 2011

The Town Board of the Town of Conklin held a Regular Town Board Meeting at 7:00 P.M. on February 22, 2011, at the Conklin Town Hall. Mrs. Preston, Supervisor, presided. The meeting opened with the Pledge of Allegiance.

PRESENT:	Town Board Members	Bullock, Minoia, Francisco, Finch, Preston
	Town Counsel	Cheryl Sacco
	Town Clerk	Sherrie L. Jacobs
	Assistant to Supervisor	Lisa Houston
	Highway Superintendent	Patrick Latting
	Code Officer	Robert Jones
	Dog Control Officer	Darlene Weidman
	Substitute DCO	Kelly Wildoner
GUESTS:	Country Courier	Elizabeth Einstein
	Broome Co. Legislature	Julie Lewis
		Ruth Joyner
		Dolly Stout
		Joe Bartosik
		John Colley
		George Frailey
		Peter J. Motsavage
		Laurie Francisco

MINUTES: FEBRUARY 8, 2011 REGULAR TOWN BOARD MEETING

Mr. Bullock moved to approve the February 8, 2011 Regular Town Board Meeting minutes as presented.

Seconded by Mr. Francisco.

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

CORRESPONDENCE:

Supervisor Preston acknowledged receipt of correspondence from Victoria Tedeschi, President of Moxie, Inc., applying for renewal of the on premise liquor license.

ABC RENEWAL APPLICATION/MOXIE, INC./NO OPPOSITION LIQUOR LICENSE

Supervisor Preston acknowledged receipt of correspondence from Victoria Tedeschi, President of Moxie, Inc., applying for renewal of the on premise liquor license to sell alcoholic beverages in accordance with Section 109 of the Alcoholic Beverage Control (ABC) Laws.

No opposition was voiced.

PUBLIC COMMENTS:

None.

OLD BUSINESS:

UPDATE ON VACANT PROPERTIES/12 WOODCREST WAY

Supervisor Preston explained that the owners of 12 Woodcrest Way moved out of New York State following the 2006 Flood and have not paid property taxes on the property since then. She stated that this is the third year of non-payment, which means that in October 2011, if the taxes remain unpaid, Broome County will claim the property and give ownership to the Town of Conklin, after which time the Town can move forward with clean-up of the property.

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TOWN PROCUREMENT POLICY

Attorney Cheryl Sacco distributed marked copies of the proposed changes to the Town's Procurement Policy, asking the Board to review the changes that have been requested since the last Town Board meeting. She explained that General Municipal Law has increased the threshold dollar amounts at which competitive bidding must take place to \$25,000 or more for goods and \$35,000 or more for services. Attorney Sacco stated that she disagrees with the suggestion to delete the exceptions from the competitive bidding requirements listed on page one of the Procurement Policy, adding that these exceptions provide the Town of Conklin with options. She also addressed Secretary to the Supervisor Lisa Houston's questions regarding Town policy of requiring three quotes for a Purchase Order request if the item in question is more than \$500, explaining that the General Municipal Law requirements for the Procurement Policy are different from the Town's internal controls on purchasing. Following discussion of this point, the "estimated amount of purchase contract" (page 3) was changed to "\$0 to \$500, discretion of purchaser," for goods, and "\$500 to \$5,000, three quotes required." For services, the amounts were set at "\$500 to \$3,000, oral request," and "\$3,000 to \$20,000, three quotes required." For all purchases, the words "previously allocated" were deleted and replaced with "currently available" in regard to sufficient funds being present for purchasing. Attorney Sacco clarified that the term "public works" refers to any department which contracts for services, or physical labor, usually Highway, Parks, and Water and Sewer Departments. The question was raised as to whether or not service contracts on equipment constitute public works contracts and Attorney Sacco stated she would research this point.

Page 5 of the proposed Procurement Policy discusses emergency purchases and services. Ms. Houston asked if there is a definite time period in which purchases could be construed as emergency, perhaps 24 to 48 hours. Attorney Sacco recommended not setting a time constraint in the occurrence of an unforeseen event. On page 6, d, under exemptions to competitive procurement practices, the dollar amount for goods was changed from \$250 to \$500 and the phrase "and public works contracts for less than \$500" was added back into the policy. On page 6, g, the requirement that lease or rental rates be approved by the Town Board was changed to require approval by the Town Supervisor. Supervisor Preston added on page 7, #8, that "However, regardless of amount, all requisitions above \$500 must be submitted to the Supervisor for her review and her decision." Attorney Sacco stated that New York State law allows municipalities to utilize County contracts only for goods, not for services. She added that since the Board is enacting this Procurement Policy by resolution rather than by local law, it will be easier to change it in the future, if the need to do so arises.

RESO 2011-40: ADOPT PROCUREMENT POLICY FOR TOWN OF CONKLIN

PRESENT:

Supervisor Debra A. Preston
Councilman Gary D. Bullock
Councilman Charles Francisco
Councilman James E. Finch
Councilman Jerry Minoia

ABSENT:

Offered By: Mr. Francisco **Seconded By:** Mr. Finch

The Town Board (hereinafter "Town Board") of the Town of Conklin (hereinafter "Town"), duly convened in regular session, does hereby resolve as follows:

WHEREAS, Section 104-b of the General Municipal Law requires the governing body of every municipality to adopt internal policies and procedures governing all procurement of goods and services which are not required by law to be publicly bid, and

Comments have been solicited from all officers in the Town of Conklin involved in the procurement process,

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NOW, THEREFORE, BE IT RESOLVED, by the Town Board of the Town of Conklin, in regular session duly convened, that the Town of Conklin does hereby adopt the following procurement policy which is intended to apply to all goods and services which are not required by law to be publicly bid.

PROCUREMENT POLICY FOR THE TOWN OF CONKLIN

1. a. Every prospective purchase of goods to be made must be initially reviewed to determine whether it is a purchase contract or a public works contract. Once that determination is made, a good faith effort will be made to determine whether it is known or can reasonably be expected that the aggregate amount to be spent on the item of supply or service is not subject to competitive bidding, taking into account past purchases and the aggregate amount to be spent in a year.

b. The following items are not subject to competitive bidding pursuant to Section 103 of the General Municipal Law: purchase contracts under \$20,000.00 and public works contracts under \$35,000; emergency purchases; certain municipal hospital purchases; goods purchased from agencies for the blind or severely handicapped; goods purchased from correctional institutions; purchases under State and County contracts, and surplus and second-hand purchases from another government entity and leases of equipment with operators under the control and supervision of Town officers and employees. The Town must first explore and exhaust purchase options under State and County Contracts, surplus and second-hand purchases from other government entities, certain municipal hospital purchases, goods purchased from agencies for the blind or severely handicapped and goods purchased from correctional institutions.

c. The decision that a purchase is not subject to competitive bidding will be documented in writing by the individual making the purchase. This document may include written or verbal quotes from vendors, a memo from the purchaser indicating how the decision was arrived at, a copy of the contract indicating the source which makes the item or service exempt, a memo from the purchaser detailing the circumstances which led to an emergency purchase or any other written documentation that is appropriate.

d. Leases which in substance are really purchases will be considered purchases for competitive bidding purposes and for compliance with this procurement policy.

e. Installment purchase contracts for equipment, machinery and apparatus are subject to competitive bidding requirements and for compliance with this procurement policy. Lease arrangements, where the purchase price is less than a reasonably accurate estimate of fair market value of the equipment at the time of purchase, so that a component of the annual rental charge is really an installment payment towards the purchase of the equipment including arrangements where there is a normal purchase price or where title will automatically pass, is to be considered an installment purchase.

f. Where a true rental or lease agreement includes provision for separate service or maintenance charges in addition to rental charges, the service and maintenance aspect constitutes a separate public works contract subject to competitive bidding requirements and compliance with this procurement policy. However, where service and maintenance are purely incidental to the rental agreement and no separate charge is fixed, competitive bidding would not be involved.

2. All goods and services not subject to competitive bidding will be secured by use of written requests for proposals, written quotations, verbal quotations or any other method that assures that goods will be purchased at the lowest price and that favoritism will be avoided. Whenever possible, requests or quotations will be solicited for local or minority vendors and contractors to whom special consideration shall be extended in the awarding of contracts. Local minority vendors and contractors desiring to be considered for such work may submit notice of their intent and qualifications to the Town Board and Highway Superintendent.

3. a. The following method of purchase will be used when required by this policy in order to achieve fair and reasonable pricing and the highest savings:

<u>Estimated amount of purchase contract</u>	<u>Method</u>
\$500 to \$5,000	Oral request for the goods and oral/fax/quotes from three vendors, so long

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as there are sufficient funds currently available in the budget.

\$5,000 to \$20,000

A written Request for Proposal (RFP) and written/fax/quotes from three vendors, after obtaining authorization from Town Board so long as there are sufficient funds currently available in the budget.

Over \$20,000

Competitive bids pursuant to General Municipal Law Section 103 after obtaining authorization from Town Board so long as there are sufficient funds currently available in the budget.

Estimated amount of
public works contracts

Method

\$500 to \$3,000

Oral request for the goods and oral/fax/quotes from three vendors, so long as there are sufficient funds currently available in the budget.

\$3,000 to \$20,000

Written RFP and written/fax/ proposals from three contractors, after obtaining authorization from Town Board so long as there are sufficient funds currently available in the budget.

\$20,000 to \$35,000

Written RFP and written/fax/ proposals from three contractors, after obtaining authorization from Town Board so long as there are sufficient funds currently available in the budget.

Over \$35,000

Competitive bids pursuant to General Municipal Law Section 103 after obtaining authorization from Town Board so long as there are sufficient funds currently available in the budget.

b. Any written RFP shall describe the desired goods, quantity and the particulars of delivery. The purchaser shall compile a list of all vendors from whom written/fax/oral quotes have been requested and the written/fax/oral quotes offered.

c. A good faith effort shall be made to obtain the required number of proposals or quotations. If the purchaser is unable to obtain the required number of proposals or quotations, the purchaser will document the attempt made at obtaining the proposals. In no event shall the failure to obtain the proposals be a bar to procurement.

d. All information gathered in complying with the procedures of this policy shall be preserved and filed with the documentation supporting the subsequent purchase or public works contract.

4. The lowest responsible proposal or quote shall be awarded the purchase or public works contract unless the purchaser prepared a written justification providing reasons why it is in the best interest of the Town and its taxpayers to make an award to other than the low proposer. Such justification may give special consideration to local or minority vendors or contractors pursuant to Section 2. If a proposer is not deemed responsible, facts supporting that judgment shall also be documented and filed with the records supporting the procurement. In order to minimize and/or preclude these situations, it is expected that the purchaser would not solicit quotes from suppliers previously deemed unacceptable due to justifiable reasons.

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5. Pursuant to General Municipal Law Section 104-b(2)(f) the solicitation of alternative proposals or quotations will not be required in the best interests of the municipality in the following circumstances where proper qualifications are not necessarily found in the individual or company that offers the lowest price and the nature of these services are such that they do not readily lend themselves to competitive procurement procedures:

a. Professional services or services requiring special or technical skill, training or expertise. The individual or company must be chosen based on accountability, reliability, responsibility, skill, education and training, judgment, integrity and moral worth.

In determining whether a service shall fit into this category, the Town Board shall take into consideration the following guidelines:

(1) Whether the services are subject to state licensing or testing requirements;

(2) Whether substantial formal education or training is a necessary prerequisite to the performance of the services; and

(3) Whether the services require a personal relationship between the individual and municipal officials.

Professional and technical services shall include but not be limited to the following: services of an attorney; services of a physician; technical services of an engineer or architect engaged to prepare plans, maps and estimates; securing insurance coverage and/or services of an insurance broker; services of a certified public accountant; investment management services; printing services involving extensive writing, editing or artwork; management of municipally owned property; and computer software or programming services for customized programs or services involved in substantial modification and customizing of prepackaged software.

b. Emergency purchases pursuant to Section 103(4) of the General Municipal Law. Due to the nature of this exception, these goods or services must be purchased immediately and a delay in order to seek alternate proposals may threaten life, health, safety or welfare of the residents. This section does not preclude alternate proposals if time permits.

c. Purchases of surplus and second-hand goods from any source. If alternate proposals are required, the Town is precluded from purchasing surplus and second-hand goods at auctions or through specific advertised sources where the best prices are usually contained. It is also difficult to try to compare prices of used goods and a lower price may indicate an older product.

d. Goods under \$500 and public works contracts for less than \$500. The time and documentation required to purchase through this policy may be more costly than the item itself and therefore not be in the best interests of the taxpayer. In addition, it is not likely that such de minimis contracts would be awarded based on favoritism.

e. Sole Source - When it can be justified that this supplier is the only source which can manufacture a product or provide a service so that there is no possibility of competition (i.e. patent, directed by law, possesses unique expertise).

f. Single Source - Source identified as the result of previous standardization of a specific purchase when there are no other suppliers of that item for the Town service area.

g. Lease of equipment so long as the project is under the complete control and supervision of the Town. However, in such event competitive proposals are to be solicited from vendors who can provide a similar type service when the Town wishes to make such leases or rentals in the future; and any lease or rental rates shall be subject to the prior approval of the Town Supervisor.

6. No portion of this resolution shall be construed as preventing the competitive bidding of purchase contracts under \$20,000 or public works projects under \$35,000, if so desired.

7. Pursuant to Chapter 402 of the Laws of 2007 amending Town of Conklin Procurement Policy, the following individuals are responsible for purchasing goods and services for the Town:

Superintendent of Highways -	Purchases related to Highway
Water & Sewer Superintendent -	Purchases related to Parks, Sewer, Water, landfill, pools and cemeteries
Code Enforcement Officer -	Purchases related to Town Hall and Community Center
Town Justices-	Purchases related to Town Court;
Each Department Head	Purchases related to their respective department.

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(This information shall be updated biennially.)

8. Where the cost of the item exceeds the sum of \$3,000 for public works contract and/or \$5,000 for a purchase, no officer or employee of the Town of Conklin, other than the Highway Superintendent of the Town of Conklin and Water & Sewer Superintendent of the Town of Conklin, shall purchase on behalf of the Town of Conklin, or place any order for the purchase of any item on behalf of the Town of Conklin, unless and until a majority of the members of the Conklin Town Board shall have voted, in advance, to approve such purchase or such order. However, all requisitions above \$500 must be submitted to the Supervisor for her review and her decision.

9. This policy shall be reviewed annually, unless otherwise prescribed by law, by the Town Board at its organizational meeting or as soon thereafter, as is reasonably practicable.

10. The current Procurement Policy adopted by the Town Board of the Town of Conklin in 1993 and amended in 1997, is hereby repealed, provided, however, that the repeal of that Resolution shall not affect or impair any act done or right accruing, accrued or acquired prior to the time such repeal takes effect, but the same may be enjoyed, asserted, and enforced as fully and to the same extent as if such repeal had not been effected.

11. This resolution shall take effect immediately.

Supervisor Debra A. Preston - YES
Councilman Gary D. Bullock - YES
Councilman Charles Francisco - YES
Councilman James E. Finch - YES
Councilman Jerry Minoia - YES

Motion passed unanimously.

QUOTES FOR DEMOLITION OF CONDEMNED PROPERTIES

Supervisor Preston reported that Gorick Construction submitted a quote for \$2,250 for the demolition and clean-up of the property at 66-68 Stillwater Road, and a quote of \$5,950 for the clean-up of the property at 986 Conklin Road, with the Town paying the tipping fees for the asbestos mitigation for this site. AP Construction submitted a quote of \$8,500 for the clean-up of the property at 986 Conklin Road, which includes the tipping fees. Supervisor Preston stated that if the Town awarded the job to AP Construction, the Town would be required to hire an independent asbestos monitoring firm, such as Link Environmental, which would cost an additional \$600, making the total cost for AP Construction \$9,100.

RESO 2011-41: AWARD CLEAN-UP OF PROPERTY/986 CONKLIN ROAD/GORICK CONSTRUCTION

Mr. Bullock moved for the following resolution:

Be It Resolved: that the Town Board of the Town of Conklin awards the clean-up of the property at 986 Conklin Road to Gorick Construction for a cost of \$5,950.00.

Seconded by Mr. Finch.

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

Code Officer Robert Jones reported that the house has been demolished at the property at 11 Clearview Avenue and the foundation has been filled in. He reported that a dumpster on the site is half full, with another dumpster load of debris on the ground. The Town Board decided to hold over the Public Hearing on 11 Clearview Avenue until the March 8 Town Board meeting.

Mr. Jones reported that the lumber has been removed for the property at 66-68 Stillwater Road, but the foundation is still open and debris, including cinder blocks, is still on the ground at that site. He reported that the fireplace is still intact, which the Board stated would be acceptable to leave in place. The Public Hearing on 66-68 Stillwater Road has been held over until the March 8 Town Board meeting.

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NEW BUSINESS:

RESO 2011-42: AUTHORIZE SUPERVISOR/ENTER AGREEMENT/YMCA/SUMMER SWIM LESSONS/2011

Mr. Francisco moved for the following resolution:

Be It Resolved: that the Town Board of the Town of Conklin authorizes the Supervisor to enter an agreement with the Broome County YMCA to conduct the Summer Swim Program in Conklin for the Summer 2011 season.

Seconded by Mr. Finch.

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

MUNICIPAL CLEAN-UP DAYS

Highway Superintendent Patrick Latting stated that he has not yet received confirmation from Broome County stating that the County will waive the tipping fees for tire collection, as it usually does during the annual municipal clean-up days. The decision of whether or not to hold the municipal clean-up days and to advertise them will be held over until the March 8 Town Board meeting and Broome County Legislator Julie Lewis will research the tipping fee issue.

UPDATE/BROOME COUNTY LEGISLATOR JULIE LEWIS

Broome County Legislator Julie Lewis, 6th District, reported that Broome County plans to reduce the number of election districts in the County from 190 to 137, a move she stated will save the County \$100,000. Ms. Lewis stated that Broome County Executive Barbara Fiala will be delivering her “State of the County” address on February 24, adding that the County Democratic Committee has five candidates as potential replacements for Ms. Fiala, who will be leaving her office to assume the role of New York State Commissioner of Motor Vehicles.

RESO 2011-43: RATIFY PAYMENT/U.S. POSTAL SERVICE/2011 1ST QUARTER WATER & SEWER BILLING POSTAGE

Mr. Finch moved for the following resolution:

Be It Resolved: that the Town Board of the Town of Conklin ratifies payment of check #2207, account code SW8310.4, in the amount of \$262.00 to the U.S. Postal Service for postage for the 2011 1st Quarter Water and Sewer billing.

Seconded by Mr. Francisco.

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

RESO 2011-44: AUTHORIZE PAYMENT/BILL LIST/\$35,611.65

Mr. Minoia moved for the following resolution:

Be It Resolved: that the Town Board of the Town of Conklin authorizes payment of the following Bill List in the total amount of \$35,611.65:

General	\$ 9,398.74
Highway	8,973.69
Fire District	14,245.00
Light Districts	626.68
Sewer District	894.21
Water District	<u>1,473.33</u>

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Total **\$35,611.65**

Seconded by Mr. Francisco.

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

RESO 2011-45: AUTHORIZE T. DELAMARTER/ATTEND NYRWA CONFERENCE/MAY 9-12, 2011/REGISTRATION AND ALL NECESSARY EXPENSES

Mr. Finch moved for the following resolution:

Be It Resolved: that the Town Board of the Town of Conklin authorizes Water and Sewer Superintendent Tom Delamarter to attend the New York Rural Water Association (NYRWA) Conference to be held May 9-12, 2011, with registration and all necessary expenses.

Seconded by Mr. Francisco.

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

2000-2010 CONKLIN ROAD

Attorney Cheryl Sacco stated that the litigation paperwork regarding 2000-2010 Conklin Road is in place and ready to move forward, however, she added that she just today received a letter from the property owner's attorney asking the Town to wait on legal action and meet with the property owner instead. She stated that this meeting will occur by the end of the month.

LIGHT AT COMMUNITY CENTER

Mr. Francisco stated that NYSEG (New York State Electric and Gas Corporation) required more information before it could install the light at the driveway of the Maines Community Center, adding that this information has been submitted to NYSEG.

RESO 2011-46: PRESERVE HISTORICAL RECORDS AND ARTIFACTS OF CONKLIN HISTORICAL SOCIETY

Mr. Francisco moved for the following resolution:

Be It Resolved: that the Town Board of the Town of Conklin will preserve the historical records and artifacts of the Conklin Historical Society, in the event that the Society should become temporarily unable to function.

Seconded by Mr. Finch.

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

PROPERTY ACROSS CONKLIN ROAD FROM TOWN HALL

Mr. Finch asked if the Town received a letter of intent to purchase the Town-owned property located across Conklin Road from the Town Hall and Supervisor Preston stated that no letter has been received. Mr. Bullock asked if this property has been appraised and Supervisor Preston replied that it will be appraised. She added that a stipulation would be added that would prohibit any businesses from being opened on the site.

There being no further business to come before the Board, Mr. Bullock moved for adjournment, seconded by Mr. Francisco. The meeting adjourned at 8:05 P.M.

Respectfully submitted,

Sherrie L. Jacobs, Town Clerk

