

REGULAR TOWN BOARD MEETING

APRIL 26, 2011

The Town Board of the Town of Conklin held a Regular Town Board Meeting on April 26, 2011, at 7:00 P.M. 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
Highway Superintendent	Patrick Latting
Code Officer	Robert Jones
Assistant to Supervisor	Lisa Houston
Dog Control Officer	Darlene Weidman
Substitute DCO	Kelly Wildoner

GUESTS: **Country Courier** Elizabeth Einstein
Broome Co. Legislature Julie Lewis
John Colley
Ruth Joyner
Joseph Bartosik
Dolly Stout
Laurie Francisco
Peter J. Motsavage

MINUTES: APRIL 12, 2011 REGULAR TOWN BOARD MEETING

Mr. Francisco stated that the April 12, 2011 Regular Town Board Meeting minutes should be corrected on page 7, line 6 from the top to delete the words “driveway and parking lot” and replace them with the word “sidewalk.” Mr. Finch moved to approve the April 12, 2001 Regular Town Board Meeting minutes as corrected.

Seconded by Mr. Francisco.

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

CORRESPONDENCE:

Supervisor Preston acknowledged receipt of a corrected application from Robert Niederriter, President of Buffalo Head Bar and Grill, Inc., for an on premise liquor license.

**ABC APPLICATION/BUFFALO HEAD BAR AND GRILL, INC./NO
OPPOSITION/LIQUOR LICENSE**

Supervisor Preston acknowledged receipt of a corrected application from Robert Niederriter, President of the Buffalo Head Bar and Grill, Inc., applying for an 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:

1539 CONKLIN ROAD

Dog Control Officer Darlene Weidman reported that she responded to a call at 1539 Conklin Road regarding four unlicensed dogs and found the house to be in “terrible shape.” She reported that children live in this building and that there are extension cords on the ground running into the building. Supervisor Preston instructed Code Officer Robert Jones to inspect the situation, write a report and e-mail it to Town Attorney Cheryl Sacco. Mr. Bullock stated that the situation

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should be reported to the Department of Social Services. Mr. Finch asked about the unlicensed dogs and Dog Control Officer Weidman stated that the dogs must be licensed by the end of May.

19 MELODY LANE/DAMAGE TO LAWN FROM SNOW PLOW

Bonnie Gates, of 19 Melody Lane, complained that the Town damaged her lawn with its snow plows while removing snow this winter. She stated that the snow plows peeled 22 inches from her lawn and added that she wants dirt put in its place and the area re-seeded with grass. Highway Superintendent Patrick Latting stated that it is policy for the Town to remove sod if it cannot be tamped back down after being disturbed by the snow plows. He stated that he has re-inspected this site and asked if the mail carrier might also be responsible for destroying that area of her lawn. Ms. Gates stated that this does not happen. Mr. Finch stated that the Town could put down topsoil with grass seed and cover it with hay. Mr. Latting replied that this would be a "big undertaking." Mr. Finch replied, "We should look at it." Mr. Minoia stated that when he was Highway Superintendent, if a roadside shoulder needed to be repaired, it was replaced with gravel, not grass. Mr. Latting stated that his department will repair the damage as soon as is possible, adding that there is considerable road damage in the hills from the recent rain, the repair of which is his first priority currently.

REPORTS:

None.

NEW BUSINESS:

2010 AUDIT

Town Auditor Cheryl DiStefano, of Vieira and Associates, presented her report on the 2010 Audit of the Town of Conklin. She started by discussing the Town's fixed assets, discussed in the management letter attached to the Audit report. Ms. DiStefano explained that prior to 2004, the government didn't track additions or deletions in fixed assets. She explained that with the adoption of the GASPE accounting system by New York State in 2004, fixed assets and their appreciation must be recorded on the books in governmental units. In 2005, Industrial Appraisal Company conducted an inventory of the Town of Conklin's fixed assets for insurance purposes. This inventory was adjusted in 2006 to try to conform to the GASPE requirements. Ms. DiStefano stated that there was a "disconnect" between what the Audit showed to be repairs, capital improvements, or infrastructure, with the findings of the Industrial Appraisal Company. Moving forward, stated Ms. DiStefano, the fixed assets of the Town are updated annually. She added that in 2011, the amount of fixed assets owned by the Town was reduced by \$521,000 to match the findings of the Industrial Appraisal Company.

Turning to page 17 of the Audit, Ms. DiStefano stated that the Town took in revenue in 2010 in the amount of \$2,583,000, but expended only \$2,454,000, leaving a surplus of \$129,000. She stated that there is \$329,000 less in the General Fund Balance, since the Town has been paying down its debt. Ms. DiStefano stated that the Town of Conklin is "in good financial condition." She stated that the Town received \$31,000 more in revenue than was budgeted for 2010, and expended \$210,000 less than was budgeted. She added that in Special Funds, expenditures were down significantly and revenues were down slightly from the amount budgeted.

Mr. Finch stated that the financial health of the Town is due to the personnel in the Town of Conklin and thanked Supervisor Preston and her assistant, Lisa Houston, for their hard work to keep the Town within its budget. Ms. DiStefano stated that when she started working with the Town of Conklin, there was no purchase order system in place, adding that the Town now has a much better system of controlling purchases. She added that Ms. Houston has done "a lot of work to reconcile past fixed assets."

Ms. Houston addressed the Board to explain the discrepancies in the fixed assets amounts, discussed in paragraphs three and four of the management letter. She explained that there had to be re-classifications and corrections regarding locations and values of fixed assets, including the

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Flood Buyout properties obtained following the 2006 Flood. Ms. Houston explained that the Industrial Appraisal Company has a \$2,500 threshold, beneath which an asset is not recorded. For example, each of the four Automatic External Defibrillators purchased by the Town costs less than \$2,500 individually, although the total cost for all four is over \$2,500, so these were not recorded as fixed assets by the Industrial Appraisal Company.

Ms. Houston explained that the paperwork needed to be better scrutinized, but in June 2006, the Town suffered a major flood, resulting in too much paperwork to be processed in relation to the flood recovery, putting the adjustments to the fixed assets records on the “back burner.” She stated that in May 2008, an attempt was made to correct the discrepancies between the two records, but added that 2006-2009 was devoted to processing FEMA (Federal Emergency Management Agency) paperwork relating to the flood recovery. In 2009, a new computer system was installed to handle the water billing, payroll, and accounting systems. Ms. Houston stated that now is a good point at which to correct the discrepancies and move forward. She stated that this issue will be addressed annually with the Town, the Auditors, and Industrial Appraisal Company, before the audit is conducted. Supervisor Preston stated that Ms. Houston will be delegating more of the general office work to Ms. Houston’s assistants, so that she can focus on this project. Supervisor Preston stated that in preparation for the 2012 Budget, a full appraisal will be conducted, as is required every ten years. She stated that the amount of fixed assets held by the Town is important because it affects large grants that the Town might pursue. Supervisor Preston, Mr. Bullock, and Mr. Francisco thanked Ms. Houston for her hard work in reconciling this discrepancy.

OLD BUSINESS:

11 CLEARVIEW AVENUE

Code Officer Robert Jones reported that the house at 11 Clearview Avenue has been removed completely and the foundation has been filled in. He stated that there is some debris on the ground, but the dumpster on site is full and will be moved out soon. Mr. Jones stated that the clean-up of this site is 90% complete, adding that the property owners have until June 30 to complete the clean-up project. He added that someone other than the property owners has brought garbage and dumped it on the property.

66-68 STILLWATER ROAD

Mr. Jones reported that the property at 66-68 Stillwater Road has been completely cleaned up and the debris buried. He added that the fireplace is gone, with only a concrete slab remaining.

Mr. Bullock asked about the debris still at 986 Conklin Road and Mr. Jones stated that he sent a letter to Gorick Construction and the debris will soon be removed.

JULIE LEWIS, BROOME COUNTY LEGISLATURE

Julie Lewis, Broome County Legislature, 6th District, reported that the County Legislature is still working on redistricting, adding that Marchie Diffendorf, 7th District, plans to not seek re-election when his term of office expires.

Ms. Lewis stated that the Legislature received opposition to its timber agreement in Aqua Terra Park and Hawkins Pond Park. She stated that the forest management agreement, in which the timber from the parks would be sold, will bring \$110,000 in revenue to the County. Ms. Lewis stated that Patrick Brennan, recently appointed Broome County Executive to fill this year of the unexpired term of Barbara Fiala, has oversight of this project. Mr. Bullock asked if forest reclamation after the timber harvesting is finished is required in the agreement and Ms. Lewis stated that she “believes so.”

NEW BUSINESS:

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RESO 2011-67: AUTHORIZE PAYMENT/BILL LIST/\$42,518.77

Mr. Bullock 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 \$42,518.77:

General	\$25,324.52
Highway	10,500.99
Light Districts	1,674.64
Sewer District	2,842.84
Water District	<u>2,175.78</u>
Total	<u>\$42,518.77</u>

Seconded by Mr. Francisco.

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

RESO 2011-68: REQUESTING THAT THE BROOME COUNTY LEGISLATURE
REVISE THE SALES TAX SHARING FORMULA TO THE FORMULA IN EFFECT
PRIOR TO 2011

Mr. Finch moved for support of the following resolution:

In the mid 1990s, the New York State Legislature authorized Broome County to collect an additional 1% in sales tax, increasing the tax from a then 7% to the current 8%. The extra one percent was retained by the County and not shared equally with the 24 Broome County municipalities.

In 2005 the then County Administration, again facing rising Medicaid costs, changed the formula from a 50-50 arrangement on the first 3% that the County collects to a 55-45 formula with the remaining 1% to remain with the County. Thereafter, when the State of New York capped Medicaid costs at no more than 3% growth, the County at the request of its local municipalities repealed the 55-45 formula and returned to the original 50-50 formula.

In 2009, the County Legislature changed the formula again so that a cap has now been effectively placed on the amount a municipality can receive. The new formula provides that the local municipalities share during years 2011 through 2014 shall not exceed by more than one-half percent (.5%) the average distribution of the prior year.

A 50-50 sharing arrangement on the first 3% of sales tax revenues collected by Broome County with the 4th percent being wholly retained by the County is in essence an arrangement of two-thirds to one-third. Broome County retains two-thirds of the sales tax revenue and the remaining one-third is shared by the 16 towns, 7 villages and one city within Broome County. The new cap in place essentially says that the local municipalities can only share in bad economic times and can never enjoy good economic times.

To quantify the present allocation, during the fourth quarter of 2010, the local municipalities divided 37.5% (\$39,552,047.54) while Broome County received 62.5% (\$65,936,953.94) of the total \$105,499,001.48 received. The 2010 4th quarter which included holiday shopping total was only \$37,835 more than the 2009 4th quarter.

When Broome County looks to remove the exemption of sales tax on clothing and footwear in the near future and realizes projections of \$5-6 million in additional sales tax revenues, the municipalities will not benefit at all. When the economy gains strength like history tells us it will, the municipalities will not benefit. When Governor Cuomo reduces Medicaid expenses, thereby reducing the County's required match, the municipalities will not benefit. The simple point we put forward is that we suffer when sales tax declines and we believe we should benefit when sales tax is vibrant, but the current arrangement does not allow for that.

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All the municipalities recognize that Medicaid and social service costs are a burden to Broome County. But the extra unshared 1% was designated for that purpose. Local municipalities bear the super-majority of costs related to the economy in that of infrastructure and maintenance, which relates to the creation of sales tax revenues. For these reasons, each local municipality of Broome County strongly advocates for the previous arrangement, i.e., a 50/50 division of the first three percent of sales tax revenues.

Local municipalities as well as Broome County are faced with unprecedented financial challenges. The taxpayers who contribute to the local budgets are the same taxpayers who contribute to the County budget. The undersigned member of the Broome County Association of Towns and Villages respectfully requests that the sales tax formula be brought back again for discussion in the earnest hope that the new members of the Broome County Legislature will consent to reestablishing the former formula and equitably dividing the first three percent of the Broome County Sales tax equally with its local municipalities.

Seconded by Mr. Francisco.

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

Supervisor Preston stated that although an agreement with Broome County regarding distribution of sales tax revenue is currently in place, the results of the 2010 Census have forced municipalities such as Conklin to re-visit this agreement. She explained that the decreased population of the Town of Conklin recorded by the 2010 Census will mean a loss of \$100,000 in sales tax revenue to the Town. She added that the municipalities deserve the sales tax revenue, adding that the “towns have been fiscally responsible, and the County needs to do the same.”

Supervisor Preston stated that the Chairperson of the Broome County Legislature will not allow the topic of re-negotiating the sales tax distribution agreement to be brought to the table for discussion. She asked, “What is the problem with discussing a 50-50 split?” Legislator Julie Lewis replied, “The County doesn’t have any money.” Ms. Lewis added that she will work to bring this topic to the table for discussion. Supervisor Preston stated that all municipalities in Broome County will send this resolution to the Legislature.

STENSON ROAD DAMAGE

Supervisor Preston stated that she received a report from Town Engineer Dan Griffiths of Griffiths Engineering regarding damage on Stenson Road caused by water runoff, adding that the Town “lost everything we put in through FEMA” monies that the Town was granted. Highway Superintendent Patrick Latting stated that there is damage on both Fallbrook Road and Stenson Road, adding that the Town “almost lost the pipes on Fallbrook that were put in through FEMA.” He added that the problem on Stenson Road is an “ongoing issue” in which water is being diverted to the Town of Conklin ditch line instead of onto private property. Mr. Latting stated that some repairs have been completed already. Mr. Finch asked about riprap on Fallbrook Road and Mr. Latting stated that there are some maintenance issues on Fallbrook Road, including a yearly maintenance cost. Mr. Latting stated that repair work was also required on Ketchum Road.

Supervisor Preston stated that the Town was informed at the time of installation that this maintenance would be required. Mr. Finch asked how the Town will pay for the repairs and Supervisor Preston stated that she will transfer funds since this is an emergency. Mr. Latting stated that it is a minimum cost so far, but added that the situation is “precarious.” He added that it is a “tough situation in the creek.” Supervisor Preston asked Attorney Cheryl Sacco to research the property issue on Stenson Road and to discuss it with Mr. Latting.

ROAD REGULATIONS

Supervisor Preston stated that discussion of proposed road regulations regarding heavy equipment traffic will be tabled until the May 24 Town Board meeting.

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PROPANE GEL FOR HYDROFRACTURING

Supervisor Preston distributed information regarding a new process for hydrofracturing for natural gas. This process uses a propane gel in place of the water and chemicals usually used in hydrofracturing, adding that it was developed by a Canadian company. She stated that the process is more expensive, but is safer and involves less traffic on local roadways.

SPEED LIMIT REDUCTION/FELTERS ROAD

Attorney Sacco brought a resolution proposal to ask the State Department of Transportation to conduct a study with the intent of decreasing the speed limit on Felters Road to 30 miles per hour. Mr. Bullock asked if the current speed limit is posted and Mr. Lating replied that he researched the area and the speed limit is posted. He stated that he installed "Children At Play" and "Speed Zone Ahead" signs also, which he is authorized to do at his discretion. The Broome County Sheriff's Department placed one of their "Your Current Speed Is..." signs on Felters Road to raise awareness of the speed travelled on the road.

**RESO 2011-69: RECOMMENDATION TO IMPROVE TRAFFIC SAFETY BY
REDUCING THE SPEED LIMIT AND POSTING SPEED LIMIT SIGNS ON FELTERS
ROAD IN THE 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. Finch Seconded By: Mr. Minoia

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

WHEREAS, the community and the Town of Conklin are concerned about traffic safety and the safety of residents;

WHEREAS, a letter was filed alleging that speed limit signs and a reduction in the speed limit was necessary for Felters Road;

WHEREAS, Felters Road is located off Conklin Road, and Felters Road runs in the City of Binghamton, Town of Binghamton and Town of Conklin;

WHEREAS, the portion of Felters Road in the Town of Conklin has become very residential, where a number of families with young children have moved into the area;

WHEREAS, the portion of Felters Road in the Town of Conklin is on a very steep hill, there are no side walks in the area, no shoulders on the road, and no street lights;

WHEREAS, the portion of Felters Road in the Town of Conklin has a number of hidden driveways, and families in the area take walks in the area;

WHEREAS, the nearby portion of Felters Road in the Town of Binghamton has a listed speed limit of 30 mph; while the portion of Felters Road in the Town of Conklin has a higher speed limit of 40 mph;

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WHEREAS, the community and the Town of Conklin want appropriate action taken to mitigate the life-threatening risk posed by current conditions found on the portion of Felters Road in the Town of Conklin.

NOW, THEREFORE, the Town Board of the Town of Conklin resolves to recommend to the County of Broome and the New York State Department of Transportation that: 1) the speed limit for the portion of Felters Road in the Town of Conklin be reduced to 30 miles per hour and 2) that the speed limit be clearly posted.

RESOLVED, that copies of this resolution, the letter from Mr. and Mrs. Meier and the attached form TE 9a shall be forwarded to Senator Thomas W. Libous, Assemblypersons Clifford Crouch and Donna Lupardo, the Broome County Executive, Jack Williams, (NYS DOT REGION 9 Director at 44 Hawley Street Binghamton, NY 13901) and the County Highway Superintendent ; and it further is

RESOLVED, that this resolution shall take effect immediately.

Resolution Adopted: April 26, 2011

CERTIFICATION

I, Sherrie L. Jacobs, do hereby certify that I am the Town Clerk of the Town of Conklin and that the foregoing constitutes a true, correct and complete copy of a resolution duly adopted by the Town Board of the Town of Conklin at a meeting thereof held at the Conklin Town Hall, 1271 Conklin Road, Conklin, NY on April 26, 2011. Said resolution was adopted by the following roll call vote:

Supervisor Debra A. Preston	Yes
Councilman Gary D. Bullock	No
Councilman Charles Francisco	Yes
Councilman James E. Finch	Yes
Councilman Jerry Minoia	Yes

Mr. Bullock stated that he voted "No" because he believes "people need to be responsible." Mr. Francisco stated that he voted "Yes" because of the increase of population in that area. Mr. Minoia commented that "it is hard to get the DOT to change" speed limits.

TEMPORARY SIGNS IN THE TOWN OF CONKLIN

Mr. Bullock asked about the many temporary signs in the Town, which are in violation of the Town Code, and Mr. Jones stated that he will be addressing this concern soon.

ADDRESS OF CLEANERS SUPPLY COMPANY

Mr. Finch stated that the Planning Board minutes had indicated that the address of Cleaners Supply Company is Conklin Road. Supervisor Preston stated that the correct address is Powers Road, adding that the Planning Board minutes will be corrected to reflect this fact.

CODE ISSUES

Supervisor Preston asked Code Officer Jones about the former Conklin Auto building, which has been vacant since the 2006 Flood. Mr. Jones replied that, after much searching, he has been able to discover who currently owns the property and has contacted the owner, Mr. Levene, and has sent him a letter telling him that the property must be cleaned up. Mr. Jones gave Mr. Levene a deadline of June 1, 2011, and Mr. Levene agreed to have the property cleaned up by this time.

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Mr. Minoia asked Mr. Jones about the garbage problem on Gee Street and Mr. Jones stated that he contacted the owner and the dumpster has been emptied once and since refilled, adding that the clean-up of this property will be completed by April 30, 2011.

RESO 2011-70: EXECUTIVE SESSION/PERSONNEL ISSUE

Mr. Bullock moved to close the Regular Town Board Meeting and move into Executive Session at 8:20 P.M. to discuss a personnel issue.

Seconded by Mr. Finch.

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

An Executive Session of the Town Board of the Town of Conklin was held at the Conklin Town Hall at 8:20 P.M. with Supervisor Debra Preston presiding. Present were: Supervisor Preston, Mr. Bullock, Mr. Minoia, Mr. Francisco, Mr. Finch, and Attorney Cheryl Sacco. Supervisor Preston 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 the medical, financial, credit, or employment history of a particular person or corporation, or matters leading to the appointment, employment, promotion, demotion, discipline, suspension, dismissal or removal of a particular person or corporation.

RESO 2011-71: RE-OPEN REGULAR TOWN BOARD MEETING

After this discussion, Mr. Finch moved to close the Executive Session and re-open the Regular Town Board Meeting at 8:45 P.M.

Seconded by Mr. Bullock.

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

There being no further business to come before the Board, Mr. Francisco moved for adjournment, seconded by Mr. Finch.

The meeting adjourned at 8:46 P.M.

Respectfully submitted,

Sherrie L. Jacobs
Town Clerk