

REGULAR TOWN BOARD MEETING
AUGUST 23, 2011

The Town Board of the Town of Conklin held a Regular Town Board Meeting at 7:00 P.M. on August 23, 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
Highway Superintendent	Patrick Latting
Assistant to Supervisor	Lisa Houston
Code Officer	Robert Jones
Water & Sewer Superintendent/ Parks Superintendent	Tom Delamarter
Dog Control Officer	Darlene Weidman

GUESTS:

Country Courier	Elizabeth Einstein
S & B Water Supply	Tim Bailey
	Ruth Joyner
	Brian McManamon
	John Colley
	Laurie Francisco
	Dolly Stout
	Joe Bartosik
	Tom Kelly
	John Stiloe
	Peter J. Motsavage

MINUTES: JULY 26, 2011 REGULAR TOWN BOARD MEETING

Mr. Finch moved to approve the July 26, 2011 Regular Town Board Meeting minutes as presented.

Seconded by Mr. Bullock.

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

CORRESPONDENCE:

Supervisor Preston acknowledged receipt of reports from the Supervisor's Office, the Town Clerk, the Code Officer, the Highway Superintendent, the Water and Sewer Superintendent, and from the Dog Control Officer.

PUBLIC COMMENTS:

PROBLEMS WITH CP RAIL

Brian McManamon, of 47 Edison Avenue, addressed the Town Board regarding issues he and his family are having with CP Rail. He complained about the trains blowing their horns night and day, even at 3 A.M., when there is no railroad crossing in the area. Mr. McManamon also complained that the rail cars slamming and banging shakes his house at all hours of the day and night and interferes with his telephone and television reception. He also complained about idling trains "less than a football field" from his house. He asked why the rail yard is allowed to be "in his backyard," and suggested that it could be moved. Mr. McManamon stated that his neighbors have similar complaints about not being able to sleep because of the railroad.

Supervisor Preston replied that the railroad yard near Mr. McManamon's home is the main changing yard, which she added is "not new to the Town of Conklin." She added that the Town has no control over the railroad or the noise, adding that Attorney Cheryl Sacco will give him the contact information for the railroad company. Supervisor Preston stated that part of the problem

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is that the area where the rail yard is located is zoned IL (Light Industrial) right next to a Residentially-zoned area. Mr. McManamon suggested that the Town could build a wall to mitigate the noise and Attorney Sacco replied that it is private property and the Town cannot build a wall.

Attorney Sacco and Code Officer Jones will research the zoning in the area as well as the Town's noise ordinance. Supervisor Preston stated that no permit is needed for the railroad tracks.

In another matter, Mr. McManamon complained that road construction has not been maintained nor ditches cleaned. He added that he is "tired of cleaning gravel and of flooding" due to bad drainage. Supervisor Preston stated that Mr. McManamon's drainage issues are caused by runoff water from the nearby hill, which is in the Town of Binghamton. She stated that Highway Superintendent Patrick Latting will give him more information. Supervisor Preston stated that the washout at the entrance to the rail yard at Holmes Place is on property owned by the railroad.

NEW BUSINESS:

S & B WATER SUPPLY

Tim Bailey and John Stilloe of S & B Water Supply presented the Board with a proposal to remove water from the Susquehanna River at 51 Alta Road to provide water to natural gas drilling companies for hydrofracturing. Mr. Bailey explained that the 51 Alta Road site would provide a gravel access for filling and installation of a pump pad and two parking spots. He added that less than ¼ of an acre would be disturbed. Mr. Bailey stated that his company has applied to the Susquehanna River Basin Commission (SRBC) for a permit to remove water from the river. He stated that the company would use a dry hydrant and trailer-mounted pumps.

Mr. Finch asked if S & B Water Supply would bond to repair Town of Conklin roads and Mr. Bailey replied that his company would establish an escrow account for this purpose. Mr. Bailey explained that trucks would drive down Lawrence Boulevard, back into Alta Road, and then drive back out Lawrence Boulevard once they were filled.

Mr. Bailey stated that the site is zoned either R-12 or R-15 (both residential zones). Attorney Cheryl Sacco stated that either the area would have to be rezoned, or, more likely, a Use Variance would have to be sought, since the site is only 3.5 acres and the Town discourages "spot zoning." Mr. Bailey asked about a Special Use Permit, which would probably be tied to the SRBC permit, which has to be renewed every 15 years. Mr. Minoia asked if diesel pumps would be used and Mr. Bailey replied that they will be used. Mr. Minoia stated that this may raise a noise issue in that area. Mr. Bailey replied that perhaps electric pumps could be used. Attorney Sacco stated that the Town Planning Board will need to conduct a site plan review.

Mr. Francisco expressed concern about traffic pulling in and out onto Route 7, in a 50 mile per hour speed zone, causing problems. Mr. Bailey replied that the Susquehanna River is six feet deep in the spot in question, which he stated means that a truck can be filled in ten minutes. Mr. Finch stated that Mr. Bailey needs to "think bigger." All five members of the Town Board expressed interest in and support for the further development of this project. The Town of Conklin owns the property on either side of the 51 Alta Road site, but, Supervisor Preston reminded those present, both properties were acquired through the 2006 Buyout Program and are dedicated green space, which cannot be sold or built upon, and which will be inspected every two years by FEMA (Federal Emergency Management Agency).

Mr. Bailey stated that his company's SRBC permit application requests permission to withdraw 100,000 gallons per day from the river. Supervisor Preston stated that the DEC (New York State Department of Environmental Conservation) may have input into the permit request.

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REPORT: HIGHWAY DEPARTMENT

In addition to his written report, Highway Superintendent Patrick Latting reported that the FEMA road work is progressing well, adding that he is awaiting the second meeting with FEMA representatives. He reported that the "CHIPS" (Consolidated Highway Improvement Program) road work has been completed and the Town is awaiting receipt of the reimbursement money.

Mr. Latting reported that, in the process of removing dead trees, three of his workers came into contact with poison ivy or poison oak. He stated that he is looking for more information regarding this problem, possibly from Cornell Cooperative Extension, to provide a class or seminar on poisonous plants. Mr. Latting stated that, in addition to poison ivy and poison oak, his workers also encounter hogweed and parsnip. It was suggested that applying salt water to the lesions caused by the poison ivy/poison oak could hasten healing.

Mr. Latting reported that he contacted Ms. Holly Meier of 221 Felters Road and informed her that Broome County has conducted a road study and determined that there is no need to reduce the speed limit on Felters Road, as Ms. Meier had requested.

REPORT: CODE OFFICER

In addition to his written report, Code Officer Robert Jones reported that there are two houses located at 9 and 10 Barbara Avenue that have not been repaired since the 2006 Flood, and which are open and are being used by vagrants and children, presenting an unsafe situation. Mr. Jones would like to hire a contractor to board up these two houses. He stated that he has contacted the property owner, Ms. Pamela Wasley of Endicott, New York, regarding the condition of the buildings and she has been "unresponsive." Supervisor Preston stated that these buildings are not on the tax sale list for Broome County. Mr. Jones stated that the buildings are not repairable and will require complete demolition. Attorney Cheryl Sacco stated that this is an emergency situation and Town employees can therefore board up the building. Supervisor Preston stated that Highway Department workers can help with this project, keeping track of materials and man-hours used.

RESO 2011-112: ALLOW LEGAL COUNSEL/COMMENCE PROCEEDINGS/UNSAFE STRUCTURES/9 & 10 BARBARA AVENUE

Mr. Francisco moved for the following resolution:

Be It Resolved: that the Town Board of the Town of Conklin allows legal counsel to commence proceedings under the Unsafe Structures Law regarding structures located at 9 and 10 Barbara Avenue.

Seconded by Mr. Bullock.

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

RESO 2011-113: DECLARE EMERGENCY SITUATION/ALLOW HIGHWAY DEPARTMENT EMPLOYEES TO SECURE STRUCTURES/9 & 10 BARBARA AVENUE/BILL BACK TIME AND MATERIALS AT END OF PROJECT

Mr. Francisco moved for the following resolution:

Be It Resolved: that the Town Board of the Town of Conklin declares an emergency situation and allows the Highway Department employees to secure structures located at 9 and 10 Barbara Avenue, under the condition that the cost of materials and man-hours be billed back to the General Fund.

Seconded by Mr. Finch.

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

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In response to a query from Mr. Minoia, Supervisor Preston explained that a property listed for sale in the Broome County Tax Auction is held by the County if there are no buyers, adding that a municipality can ask to have the property deeded back to the municipality if it so desires. Mr. Minoia asked if Broome County makes each municipality whole at the beginning of the year, whether or not taxes are paid, or if the property is not sold. Supervisor Preston explained that Broome County collects the taxes and is liable for loss of tax money. Lost tax revenue is not billed back to the Town.

Mr. Bullock asked if Mr. Jones will send a registered letter to the property owner notifying her of the proceedings. Mr. Jones stated that he sent an unregistered letter on June 8.

Mr. Bullock asked about the status of the property located across Conklin Road from Pronto Cucina and Mr. Jones replied that some cleaning has been done at that location and added that he sent a letter to the property owner today. Mr. Jones stated that he has stopped several times at this location and no one answers the door.

When asked about the status of 11 Clearview Avenue, Mr. Jones reported that there is still masonry debris on the property which needs to be cleaned up.

In response to an inquiry regarding the property owned by Larry Soucie, next to Dino's Bar and Grill, Mr. Jones reported that the front of the property could be mowed. Supervisor Preston stated that the building on the property "should come down." Mr. Jones is to make an Unsafe Structures report, and send a letter to Mr. Soucie at the Broome County Jail, where he is incarcerated. A question was asked about personal property or hazardous materials that might be stored in the building in question. Attorney Sacco stated that the Town is obligated to store personal property for a set period of time. Mr. Jones stated that the Town could use its brush hog to clear the property, in the front of the property only. Supervisor Preston stated that the Parks Department will take care of boarding up the building. The back of the property will be left untouched. The cost of mowing and boarding up of the building will be billed to Mr. Soucie.

REPORT: WATER & SEWER DEPARTMENT

In addition to his written report, Water and Sewer Superintendent Tom Delamarter reported that Town soccer season has started and that the Town Pool was closed on August 22. He stated that the Buyout properties and Shawsville Cemetery have been mowed.

Mr. Delamarter reported that the water meters were read and this quarter's billing mailed. He stated that the SCADA system at Well 6 was upgraded, and that the Town received \$17,313 from NYMIR (New York Municipal Insurance Reciprocal). Mr. Delamarter stated that the leachate at the Town Landfill was tested and approved for release. He stated that there was a problem at the well, but it was repaired with the installation of a new circuit card, adding that it was still under warranty.

Mr. Francisco commented that traffic cones are needed to control traffic at the Concerts in the Park in Schnurbusch Park.

REPORT: DOG CONTROL OFFICER

Refer to written report.

REPORT: SUPERVISOR'S REPORT

Refer to written report.

REPORT: TOWN CLERK

Refer to written report.

(Copies of all written reports are on file in the office of the Town Clerk.)

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OLD BUSINESS:

None.

NEW BUSINESS:

WATER DISTRICT 6 EXTENSION

Attorney Cheryl Sacco stated that a petition may be sent to the Town from the current and potential new owners of Pride Manor Mobile Home Park requesting that the park be added to the Town water supply system.

Supervisor Preston stated that a petition has been received from the three residences on Walter Avenue requesting that Water District 1 be extended to include those properties. Attorney Sacco will research the petition and will find out if approval by the New York State Comptroller is required. Supervisor Preston stated that the Town cannot afford to pay for the required engineering plan, and the legal and construction costs of this project, given the recently approved 2% cap on property tax. She added that the Town needs to know how much this will cost. She stated that the issue would be to get water to the front of the Pride Manor park, if that petition is received.

A question was raised regarding the potential large increase in costs to the Town from the Binghamton-Johnson City Sewage Treatment Plant, which sustained damage earlier this year.

Supervisor Preston stated that the cost of the water extension, if it happens, would have to be paid "up front," and money put in an escrow account. She reiterated that an estimate of the cost would be the first step.

RESO 2011-114: ACCEPT PETITION/RESIDENTS OF WALTER AVENUE/EXTEND
WATER DISTRICT 1

Mr. Bullock moved for the following resolution:

Be It Resolved: that the Town Board of the Town of Conklin accepts a petition from the residents of Walter Avenue requesting that Water District 1 be extended to include those residences.

Seconded by Mr. Finch.

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

EMPLOYEE POLICY MANUAL UPDATE

Supervisor Preston explained that the Employee Policy Manual will be amended to define the definition of "permanent full-time employee" as someone who works 30 or more hours per week, and "permanent part-time employee" as someone who works less than 20 hours per week.

RESO 2011-115: ACCEPT EMPLOYEE POLICY MANUAL AS AMENDED

Mr. Bullock moved for the following resolution:

Be It Resolved: that the Town Board of the Town of Conklin accepts the Employee Policy Manual as amended.

Seconded by Mr. Finch.

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

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SMOKE FREE TOWN PARKS

Attorney Cheryl Sacco introduced Local Law 1, 2011, to amend Chapter 97 of the Town Code entitled, "Parks." She said the title would change to "Disorderly Conduct" and subsection 1 would be added to prohibit the smoking of legal or illegal substances in Town of Conklin parks. Supervisor Preston stated that smoking is prohibited in all Broome County parks.

RESO 2011-116: SCHEDULE PUBLIC HEARING/PROPOSED LOCAL LAW 1, 2011/REVISION OF CHAPTER 97 "PARKS"/SEPTEMBER 27, 2011/7:05 P.M.

Mr. Finch moved for the following resolution:

Be It Resolved: that the Town Board of the Town of Conklin schedules a Public Hearing at 7:05 P.M. on September 27, 2011, to receive input regarding proposed Local Law 1, 2011, a revision of Chapter 97, "Parks," of the Town of Conklin Code.

Seconded by Mr. Minoia.

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

RESO 2011-117: SCHEDULE PUBLIC HEARING/PROPOSED LOCAL LAW 2, 2011/REVISION OF CHAPTER 55 "ANIMALS"/SEPTEMBER 27, 2011/7:15 P.M.

Mr. Bullock moved for the following resolution:

Be It Resolved: that the Town Board of the Town of Conklin schedules a Public Hearing at 7:15 P.M. on September 27, 2011, to receive input regarding proposed Local Law 2, 2011, a revision of Chapter 55, "Animals," of the Town of Conklin Code.

Seconded by Mr. Francisco.

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

Attorney Sacco explained that this revision corrects New York State Law reference issues in the Dog Licensing Law enacted in December 2010.

RESO 2011-118: APPROVE SUPERVISOR/SIGN CONSULTING AGREEMENT/COMPUTEL CONSULTANTS/REVIEW CABLE TV FRANCHISE AGREEMENT

Mr. Bullock moved for the following resolution:

Be It Resolved: that the Town Board of the Town of Conklin approves Supervisor Debra Preston to sign a consulting agreement with Computel Consultants to review the Cable TV Franchise Agreement.

Seconded by Mr. Francisco.

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

Supervisor Preston stated that any overpayments would be split 50-50 with the Town and Computel Consultants.

RESO 2011-119: RATIFY PAYMENT/DEBRA PRESTON/JULY 2011 MILEAGE REIMBURSEMENT

Mr. Minoia moved for the following resolution:

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Be It Resolved: that the Town Board of the Town of Conklin ratifies payment of check #2859, account code A1220.4, in the amount of \$121.55 to Debra Preston for mileage reimbursement for July 2011.

Seconded by Mr. Francisco.

VOTE: Bullock – Yes, Minoia – Yes, Francisco – Yes, Finch – Yes, Preston – Abstain. Motion carried: 4 – Yes, 1 – Abstain.

RESO 2011-120: RATIFY PAYMENT/CHARLES FRANCISCO/JUNE 2011 MILEAGE REIMBURSEMENT

Mr. Bullock moved for the following resolution:

Be It Resolved: that the Town Board of the Town of Conklin ratifies payment of check #2906, account code A1010.4, in the amount of \$70.89 to Charles Francisco for mileage reimbursement for June 2011.

Seconded by Mr. Finch.

VOTE: Bullock – Yes, Minoia – Yes, Francisco – Abstain, Finch – Yes, Preston – Yes. Motion carried: 4 – Yes, 1 – Abstain.

RESO 2011-121: RATIFY PAYMENT/U.S. POSTAL SERVICE/3RD QUARTER WATER & SEWER BILLING POSTAGE

Mr. Minoia moved for the following resolution:

Be It Resolved: that the Town Board of the Town of Conklin ratifies payment of check #2934, account code SW8310.4, in the amount of \$261.00 for 3rd Quarter Water and Sewer billing postage.

Seconded by Mr. Finch.

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

RESO 2011-122: RATIFY PRE-APPROVED AUGUST 9, 2011 BILL LIST/\$33,179.85

Mr. Francisco moved for the following resolution:

Be It Resolved: that the Town Board of the Town of Conklin ratifies payment of the following pre-approved August 9, 2011 Bill List in the total amount of \$33,179.85:

General	\$ 8,395.86
Highway	22,294.06
Light Districts	264.26
Water District	1,614.88
Sewer District	<u>610.79</u>
Total	\$33,179.85

Seconded by Mr. Finch.

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

RESO 2011-123: APPROVE PAYMENT/BILL LIST/\$39,963.27

Mr. Bullock 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 \$39,963.27:

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General	\$20,388.56
Highway	14,155.11
Light Districts	1,688.80
Water District	2,123.44
Sewer District	<u>1,607.36</u>
Total	<u>\$39,963.27</u>

Seconded by Mr. Francisco.

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

RESO 2011-124: ACCEPT WITH REGRET/RESIGNATION/TOWN ASSESSOR/
JOHN MCDONALD/EFFECTIVE 9-27-2011

Mr. Finch moved for the following resolution:

Be It Resolved: that the Town Board of the Town of Conklin accepts with regret the resignation of John McDonald from the position of Town Assessor, effective September 27, 2011.

Seconded by Mr. Minoia.

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

RESO 2011-125: CANCEL REGULAR TOWN BOARD MEETING ON 9-13-2011
(PRIMARY DAY)/RESCHEDULE FOR 9-14-2011

Mr. Bullock moved for the following resolution:

Be It Resolved: that the Town Board of the Town of Conklin cancels the Regular Town Board Meeting scheduled for September 13, 2011 (Primary Day), and reschedules the Regular Town Board Meeting for 7:00 P.M. on September 14, 2011.

Seconded by Mr. Minoia.

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

RESO 2011-126: APPROVE TOWN OF CONKLIN SPONSORSHIP/CONKLIN FAIR
PARADE/SEPTEMBER 10, 2011/NYS DOT PERMIT PROCESS

Mr. Finch moved for the following resolution:

Be It Resolved: that the Town Board of the Town of Conklin approves the Town's sponsorship of the Conklin Fair Parade, to be held September 10, 2011, for purposes of the New York State Department of Transportation permitting process.

Seconded by Mr. Minoia.

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

2010 CONKLIN ROAD

Mr. Finch asked for an update on 2010 Conklin Road and Attorney Sacco stated that the property owner had contacted the Court and there is no resolution to the situation. She stated that this issue will be further discussed in Executive Session.

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ONE-ROOM SCHOOLHOUSE AT DONNELLY ELEMENTARY SITE

Mr. Finch commented that the demolition of the one-room schoolhouse on the site of the Donnelly Elementary School was “a disgrace,” adding that it would have been more appropriate for it to be used as a museum by the Conklin Historical Society. Town Clerk Sherrie Jacobs agreed.

CHANGE IN POLLING PLACES FOR TOWN OF CONKLIN

Mr. Finch expressed his disagreement with the changes made to polling places for the Town of Conklin. The Town Hall is no longer a polling place for the Town, and residents are now forced to drive past polling places at which they have voted for decades to drive further to a different site. Mr. Finch stated that he went to the Broome County Board of Elections office in person, after he could not get anyone to answer his telephone calls, and also spoke to State Senator Thomas Libous, in an attempt to correct this situation. Town Clerk Sherrie Jacobs also sent a letter to both Election Commissioners expressing the Town’s concerns regarding the changes to the polling place. To date, there has been no response to this letter.

RESO 2011-127: EXECUTIVE SESSION/LITIGATION

Mr. Bullock moved to close the Regular Town Board Meeting and move into Executive Session at 8:30 P.M. to discuss litigation.

Seconded by Mr. Minoia.

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 8:30 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 proposed, pending, or current litigation.

RESO 2011-128: RE-OPEN REGULAR TOWN BOARD MEETING

After this discussion, Mr. Bullock moved to close the Executive Session and re-open the Regular Town Board Meeting at 8:38 P.M.

Seconded by Mr. Francisco.

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. Minoia moved for adjournment, seconded by Mr. Finch. The meeting adjourned at 8:39 P.M.

Respectfully submitted,

Sherrie L. Jacobs
Town Clerk