

REGULAR TOWN BOARD MEETING
OCTOBER 23, 2012

The Town Board of the Town of Conklin held a Regular Town Board Meeting at 5:30 P.M. on October 23, 2012, at the Conklin Town Hall. Mr. Finch, Deputy 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
	Highway Superintendent	Patrick Latting
	Code Officer	Robert Jones
	Water & Sewer Superintendent/ Parks Superintendent	Tom Delamarter

GUESTS:	Country Courier	Elizabeth Einstein
	Conklin Vol. Fire Dept.	Paul M. Jacobs
		Megan McCarvill
		Time Parke
		Tom Kelly
		Laurie Francisco
		Bonnie Tolomei
		Angelo Tolomei
		Dolly Stout

MINUTES: OCTOBER 9, 2012 REGULAR TOWN BOARD MEETING

Mr. Bullock moved to approve the October 9, 2012 Regular Town Board Meeting minutes as presented.

Seconded by Mr. Francisco.

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

Town Clerk Sherrie Jacobs stated that the September 25, 2012 Regular Town Board Meeting minutes should be clarified on page 2 in the discussion regarding the \$300,000 Emergency Bond Anticipation Note, noting that the bond will be used to pay for “repairs to the infrastructure caused by the September 2011 Flood,” rather than “costs of the Buyout Program.” FEMA (Federal Emergency Management Agency) will reimburse the Town for these expenditures.

CORRESPONDENCE:

Mr. Finch acknowledged receipt of correspondence from Park Outdoor Advertising responding to the Town’s demand that it remove its billboards from the Town of Conklin. Billboards are a violation of Town Code. He also acknowledged receipt of a letter of resignation from the Highway Department from Ryan Delamarter. Mr. Finch acknowledged receipt of a letter from the Town’s attorneys at Coughlin and Gerhart, LLP, stating that a disputed unemployment insurance claim has been forwarded to New York State for consideration. He also acknowledged receipt of a letter from Shumaker Engineering and Consulting regarding its fees for mitigation and monitoring work in the Town Landfill.



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PUBLIC HEARING

**TO RECEIVE INPUT REGARDING THE PROPOSED 2013 GENERAL AND
HIGHWAY BUDGET FOR THE TOWN OF CONKLIN**

PRESENT: Same as on page one.

Notice of Public Hearing having been duly advertised, Mr. Finch declared the Public Hearing open at 5:35 P.M. and invited those present to speak either for, or in opposition to, the proposed 2013 General and Highway Budget for the Town of Conklin.

Mr. Finch thanked the department heads, adding that Highway Superintendent Patrick Latting has had to tighten his budget each year, adding that Mr. Latting does “a great job.” Mr. Latting responded that he “finds ways to make it work.” Assistant to the Supervisor Lisa Houston stated that the 2013 tax rate will be 2.318, adding that the 2013 Budget reflects a 1.53% increase over the 2012 Budget.

There being no further public comment or questions, Mr. Finch declared the Public Hearing closed at 5:36 P.M.

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PARK OUTDOOR ADVERTISING

Mr. Finch stated that the attorneys for the Town and the attorneys for Park Outdoor Advertising are discussing the dispute regarding billboards in the Town of Conklin. Town Attorney Cheryl Sacco stated that the Town Code does not allow advertising signs (billboards) in the Town except in specific areas with Special Permits approved by the Town Board. Park Outdoor Advertising claims that compensation is required under Highway Law 88(7) and General Municipal Law 74-c if it is forced to remove its billboards.

Mr. Finch polled the Town Board for Board members’ opinions regarding the billboards. Mr. Bullock stated that the Board already agreed to “no signs in the Town of Conklin,” calling them “an eyesore.” Mr. Finch added that the billboards do not generate any revenue for the Town of Conklin, and added that Ms. Sacco had already researched the Highway Law application and has stated that none of the existing billboards are protected by this law. Mr. Francisco stated, “We already agreed not to allow a larger size billboard,” as had been requested by Park Outdoor Advertising. All four members of the Town Board expressed the same opinions that they had at an earlier meeting regarding the removal of the billboards.

Ms. Sacco stated that she is researching Park Outdoor Advertising’s claim that one of its newly installed signs might be subject to an “eminent domain purchase value of \$13,500.” Mr. Minoia asked if this is for the sign that was just installed and Ms. Sacco replied, “Probably.” Mr. Finch asked Code Officer Robert Jones to take pictures on October 24 of each of the billboards so that the Town will know whether or not the billboards have any ads on them. Mr. Jones stated that he believes that all of the billboards have ads on them. Ms. Sacco stated that the two billboards located on property belonging to CP Rail and the newly installed billboard may be the problem areas for the Town. She added that the Town could litigate to have the billboards removed but that action may result in legal fees for the Town. Park Outdoor Advertising states that all of its billboards are located on roadways covered by the Highway Law. Mr. Finch asked if it would be possible to create a franchise and charge a fee for the billboards, similar to the franchise agreement between the Town and Time Warner Cable. Ms. Sacco stated that she will research this possibility.

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RESO 2012-190: ACCEPT RESIGNATION/RYAN DELAMARTER/
EFFECTIVE OCTOBER 29, 2012

Mr. Bullock moved for the following resolution:

Be It Resolved: that the Town Board of the Town of Conklin accepts the resignation of Ryan Delamarter, effective October 29, 2012.

Seconded by Mr. Francisco.

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

Mr. Finch stated that Mr. Delamarter accepted a position with Broome County, adding that this leaves Highway Superintendent Patrick Latting short one worker for his Highway crew. Mr. Latting stated that a former member of the Highway Department is willing to work in weather emergencies, such as snow removal. Mr. Finch stated that another option would be to utilize a member of the Town Parks Department. There would be a set rate of pay, perhaps \$15.00 per hour. Mr. Francisco asked if the Parks Department employee would receive overtime pay and Mr. Finch replied that this arrangement would be used only in emergency situations.

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PUBLIC HEARING
TO RECEIVE INPUT REGARDING PROPOSED 2013 FIRE PROTECTION
CONTRACT/CONKLIN VOLUNTEER FIRE DEPARTMENT, INC.

PRESENT: Same as on page one.

Notice of Public Hearing having been duly advertised, Mr. Finch declared the Public Hearing open at 5:50 P.M. and asked those present to speak either for, or in opposition to, the proposed 2013 Fire Protection Contract between the Town of Conklin and the Conklin Volunteer Fire Department, Inc.

Mr. Finch stated that the proposed 2013 Fire Protection Contract is \$4,000 less than the 2012 Fire Protection Contract, adding that the Town Board is “elated” with this decrease.

There being no further public comments or questions, Mr. Finch declared the Public Hearing closed at 5:51 P.M.

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RESO 2012-191: ADOPT 2013 GENERAL AND HIGHWAY BUDGET/TOWN OF
CONKLIN

Mr. Bullock moved for the following resolution:

Whereas, the Town Board (hereinafter “Town Board”) of the Town of Conklin (hereinafter “Town”), on the 23rd day of October 2012, commencing at 5:35 P.M. at the Conklin Town Hall, 1271 Conklin Road, Conklin, New York, duly held a public hearing on the Town Year 2013 preliminary budget submitted and approved by the Town Board and filed with the Town Clerk of the Town for the fiscal year commencing January 1, 2013, and

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Whereas, the Town Board heard all persons desiring to be heard in the matter, and the matter of the said budget for the Town for such fiscal year was fully discussed and considered by the Town Board,

NOW, THEREFORE, the Town Board of the Town, duly convened in regular session, does hereby resolve as follows:

Section 1. The said Town year 2013 preliminary budget submitted, approved, and filed, as aforesaid, be and the same is hereby adopted and established as the year 2013 annual budget for the Town for the fiscal year beginning January 1, 2013. Said annual budget as so adopted and established shall be entered in detail in the minutes of the proceedings of the Town Board.

Section 2. The Town Clerk is hereby directed to attach to said budget an exemption report in compliance with the requirements of Chapter 258 of the Laws of 2008. Said report shall show how much of the total assessed value on the final assessment roll of the Town of Conklin used in the Town's budgetary process is exempt from taxation.

Section 3. The Town Clerk of the Town shall prepare and certify, as provided by law, duplicate copies of the said Town annual budget hereby adopted and established, and shall deliver one of such copies to the Supervisor of the Town; and the said Supervisor of the Town shall present such copy to the Board of Legislators of the County of Broome as required by law.

Section 4. This resolution shall take effect immediately.

Seconded by Mr. Francisco.

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, New York, on October 23, 2012. Said resolution was adopted by the following roll call vote:

Deputy Supervisor James E. Finch	YES
Councilman Gary D. Bullock	YES
Councilman Charles Francisco	YES
Councilman Jerry Minoia	YES

Dated: October 23, 2012

Town of Conklin Seal

Sherrie L. Jacobs, Town Clerk of the Town of Conklin

RESO 2012-192: AUTHORIZE DEPUTY SUPERVISOR/SIGN 2013 FIRE PROTECTION AGREEMENT

Mr. Minoia moved for the following resolution:

Whereas, the Town Board (hereinafter "Town Board") of the Town of Conklin (hereinafter "Town"), on the 23rd day of October 2012, commencing at 5:50 PM at the Conklin Town Hall, 1271 Conklin Road, Conklin, New York, duly held a public hearing on the Town year 2013 Fire Protection District costs and

Whereas, the Town Board heard all persons desiring to be heard in the matter, and the matter of the said costs for the Town for such fiscal year was fully discussed and considered by the Town Board,

NOW, THEREFORE, the Town Board of the Town, duly convened in regular session, does hereby resolve as follows:

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Section 1. The Deputy Supervisor of the Town of Conklin is hereby authorized and empowered to sign and deliver on behalf of the Town of Conklin the Fire Protection Agreement for the Fire Protection District for the year 2013 between the Town of Conklin and the Conklin Volunteer Fire Department, Inc.

Section 2. Said agreement shall be substantially in accordance with the version thereof which is now on file in the offices of the Town Clerk of the Town of Conklin, and shall be subject to the approval of the Town Attorney of the Town of Conklin.

Section 3. This resolution shall take effect immediately.

Seconded by Mr. Francisco.

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, New York, on October 23, 2012. Said resolution was adopted by the following roll call vote:

Supervisor	VACANT
Councilman Gary D. Bullock	YES
Councilman Charles Francisco	YES
Deputy Supervisor and Councilman James E. Finch	YES
Councilman Jerry Minoia	YES

Dated: October 23, 2012

Town of Conklin Seal

Sherrie L. Jacobs, Town Clerk of the Town of Conklin

PUBLIC COMMENTS:

None.

STORMWATER CONTROL FACILITY MAINTENANCE AGREEMENT

Attorney Sacco distributed copies of a proposed agreement between the Town of Conklin and JVA Deicing, Inc., owned by Joseph Tuzze, of Carbondale, Pennsylvania. She explained that this agreement is in regard to the Stormwater Pollution Prevention Plan (SWPPP) for Mr. Tuzze's Salt Distribution site located off Hardie Road. Ms. Sacco stated that the Town Planning Board approved the site plan for the business. She stated that Mr. Tuzze has asked that the Town decrease the dollar amounts required for the Construction Completion Guarantee (\$50,000.00) and the Maintenance Guarantee (\$5,000.00). The Town Engineer was quoted as saying that the Town Code states that the Town may require such guarantees. Ms. Sacco stated that environmental safeguards are in place at the salt distribution site, and added that the \$50,000 guarantee is a "worst case scenario," and the maximum that can be required. She stated that the \$5,000 for the Maintenance Guarantee is at the "low end."

Mr. Finch commented that Code Officer Jones is "hired to look out for the Town's interests," and could thus monitor the compliance at the site. Mr. Bullock asked if the DEC (New York State Department of Environmental Conservation) would also be monitoring the site and Ms. Sacco stated that the DEC gets notices regarding such situations, but added that its ability to monitor the site would "depend upon manpower available." The Town Engineer was quoted as saying that the bond is not needed.

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PUBLIC HEARING
TO RECEIVE INPUT REGARDING PROPOSED 2013 WATER & SEWER RATES

PRESENT: Same as on page one.

Notice of Public Hearing having been duly advertised, Mr. Finch declared the Public Hearing open at 5:55 P.M. and asked those present to speak either for, or in opposition to, the proposed 2013 municipal water and sewer rates. Mr. Finch explained that a second Public Hearing on the new proposed rates would be required because the rates changed after the notices were published for this Public Hearing. The second Public Hearing will be held at 5:35 P.M. on October 30, 2012. Mr. Finch stated that there will be no increase in the water rate to the residents of the Town, but only to the businesses in the Corporate Park. Water and Sewer Superintendent Tom Delamarter read the proposed rates, which are as follows:

SEWER RESIDENTIAL AND SMALL BUSINESS

Quarterly Basic Fee:	\$15.00 (\$5.00 increase)
Unit Charge Not to Exceed	\$6.65 per Thousand Gallons (\$.10/1,000 increase)

SEWER CORPORATE PARK

Quarterly Basic Fee:	\$30.00 (\$20.00 increase)
Unit Charge Not to Exceed	\$6.85 per Thousand Gallons (\$.30/1,000 increase)

WATER RESIDENTIAL AND SMALL BUSINESS

Quarterly Basic Fee:	\$10.00 (No change)
Unit Charge Not to Exceed	\$2.74 per Thousand Gallons (No change)

WATER CORPORATE PARK

Quarterly Basic Fee:	\$30.00 (\$20.00 increase)
Unit Charge Not to Exceed	\$2.94 per Thousand Gallons (\$.20/1,000 increase)

Mr. Finch noted that the Town has to pay increased costs to the Binghamton-Johnson City Joint Sewage Board, which has stated that it may start charging households and businesses a rate “per bathroom” in the future. Mr. Bullock called this “a ridiculous idea.” Mr. Finch stated that changing the Town’s Water and Sewer rates to the above proposed rates will generate \$4,000 to \$5,000 per year, which he stated will help pay the increased costs to the Joint Sewage Board.

There being no further public comments or questions, Mr. Finch declared the Public Hearing closed at 6:03 P.M.

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STORMWATER CONTROL FACILITY MAINTENANCE AGREEMENT

The Town Board returned to its discussion regarding the Construction Completion Guarantee and the Maintenance Guarantee requirements for Mr. Tuzze’s Salt Distribution center. The Board agreed to drop the dollar amount required for the Construction Completion Guarantee from \$50,000.00 to \$25,000.00. The Board discussed the possibility of changing the time period for which the guarantee is required from “one year from the date of final acceptance” to “until final acceptance,” but after discussion decided that it would be in the Town’s best interest to keep the time period at “one year from the date of final acceptance.” Mr. Jones is to inspect the salt distribution facility immediately after it is completed.

The Board then discussed the \$5,000.00 Maintenance Guarantee, which would be required for an indefinite period of time, as long as the facility remains in operation. Mr. Minoia asked if the DEC would oversee compliance at the site and Ms. Sacco replied that the “DEC may not catch issues; however, Mr. Jones could catch them.” Mr. Minoia asked if this is a liability for the

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Town. Mr. Finch and Mr. Minoia both felt the monitoring of the site should be the responsibility of the DEC. Mr. Finch stated that the Town should not require the \$5,000.00 Maintenance Guarantee. Mr. Francisco stated that Town of Conklin personnel, Mr. Jones, should monitor the site. Mr. Finch stated that if there is a problem, Mr. Jones would then call the DEC. Ms. Sacco stated that the Town, in requiring the Guarantee, is requiring an insurance policy from the developer. Mr. Finch stated that the Town is setting a precedent. Mr. Minoia stated that this is the same as the retention ponds that are required in the Corporate Park.

Mr. Minoia asked why the Town would complete the Salt Distribution Facility if the developer fails to do so. Ms. Sacco replied that if the DEC and the EPA (Environmental Protection Agency) requires the Town to complete the site, the bond would provide money to do so. Mr. Minoia asked what will happen if Mr. Tuzze refuses to allow Mr. Jones to inspect the site and Ms. Sacco stated that there are legal ways to force inspection to be allowed, if necessary. The Town Board agreed to remove the \$5,000.00 Maintenance Guarantee requirement from the Agreement.

RESO 2012-193: AUTHORIZE DEPUTY SUPERVISOR/EXECUTE STORMWATER CONTROL FACILITY MAINTENANCE AGREEMENT/ TOWN OF CONKLIN & JVA DEICING, INC.

Mr. Finch moved for the following resolution:

Be It Resolved: that the Town Board of the Town of Conklin authorizes the Deputy Supervisor to execute the Stormwater Control Facility Maintenance Agreement between the Town of Conklin and JVA Deicing, Inc., as amended.

Seconded by Mr. Bullock.

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

NEW BUSINESS:

NEW YORK STATE REPRESENTATIVE/GRANT/SEWER PLANT

Mr. Finch stated that he, Mr. Bullock, and Mr. Delamarter will be meeting with a representative from New York State on October 25, 2012, to discuss the possibility of the Town obtaining a grant to develop a sewer plant in the southern end of the Town.

TIME WARNER FRANCHISE

Ms. Sacco is still conducting research regarding the Time Warner franchise.

OLD BUSINESS:

2013 GENERAL AND HIGHWAY BUDGET

Mr. Finch stated that there will be no increase to the employees of the Town for the cost of health insurance for 2013, adding that they will pay the same rate they currently pay. Assistant to the Supervisor Lisa Houston stated that the tax values in the Town were decreased due to the homes and businesses lost in the September 2011 flood. She added that the budget would require an increase even if no changes at all were made from the 2012 budget, to make up for the loss in tax base. Ms. Houston stated that the 2013 Budget is a “tight budget.” She stated that the 2013 tax rate will be \$5.56, an increase of 1.298% over 2012, but the Town will collect \$2,480 less in taxes than it did in 2012. She stated that the new rate means that a home assessed at \$100,000 will see an increase in taxes of \$7.13 over the 2012 rate. Ms. Houston stated that this is within the required New York State 2% tax cap.

NEW BUSINESS:

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RESO 2012-194: APPROVE PAYMENT/OCTOBER 23, 2012 BILL LIST/\$68,117.43

Mr. Bullock moved for the following resolution:

Be It Resolved: that the Town Board of the Town of Conklin approves payment of the following October 23, 2012 Bill List in the total amount of \$68,117.43:

General	\$35,056.99
Highway	4,941.51
Flood Emergency	21,393.73
Water District	1,255.20
Non-Budget	<u>5,470.00</u>
Total	<u>\$68,117.43</u>

Seconded by Mr. Francisco.

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

RESO 2012-195: AUTHORIZE MODIFICATION/STATED FROM AND TO BUDGET LINES/AS OF OCTOBER 23, 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 October 23, 2012 (see attached).

Seconded by Mr. Minoia.

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

STREET LIGHTS NOT WORKING

Mr. Bullock told Mr. Francisco that there are street lights that are not working near Fire Station #1, near the Reliable Market, and in the area of Eva Court. Mr. Francisco will contact NYSEG (New York State Electric and Gas Corporation) and ask NYSEG to repair the lights in question.

PLANNING BOARD AND ZBA REAPPOINTMENTS

Mr. Minoia stated that the terms of office of both Jim Hauss of the Planning Board and Norman Pritchard of the Zoning Board of Appeals expire December 31, 2012. Mr. Finch stated that both men have been contacted to determine whether or not they wish to be re-appointed to their respective boards.

There being no further business to come before the Board, Mr. Bullock moved for adjournment, seconded by Mr. Francisco. The meeting adjourned at 6:35 P.M.

Respectfully submitted,

Sherrie L. Jacobs
Town Clerk

