

WORK SESSION
FEBRUARY 23, 2016

The Conklin Town Board held a Work Session at 5:30 P.M. on February 23, 2016, at the Conklin Town Hall. Mr. Finch, Supervisor, presided. The meeting opened with the Pledge of Allegiance.

PRESENT:	Town Board Members	Bullock, Boyle, Dumian, Francisco, Finch
	Town Counsel	Cheryl Sacco
	Town Clerk	Sherrie L. Jacobs
	Highway Superintendent	Brian Coddington
	Public Works Superintendent	Tom DeLamarter
	Assistant to Supervisor	Lisa Houston
	Code Officer	Ron Lake
	Town Justice	J. Marshall Ayres

GUESTS:	Country Courier	Elizabeth Einstein
	Broome County	Dan Schofield
	Broome County	Leslie Boulton
	Rainbow International	Jeff Finch
	Town of Binghamton	Stan Scobie
	Town of Binghamton	Gail Kumpan
		Laurie Francisco
		John Colley
		Judy Kelly
		Jerry Russell
		Gaige Russell

DISCUSSION/BROOME COUNTY SOLAR FARM/BROOME CORPORATE PARK

Dan Schofield, Broome County Public Works Commissioner, provided a presentation regarding Broome County's proposed solar farm to be located in the Broome Corporate Park. He stated that the County is contracting with Solar City to install a solar farm, which will reduce the overall cost of electricity to the County. Mr. Schofield stated that Broome County applied to NYSERDA (New York State Energy Research and Development Authority), and then looked for suitable property within the County. Suitable property was found in the Broome Corporate Park and the County is purchasing this property from the BCIDA (Broome County Industrial Development Agency). Mr. Schofield stated that Broome County will design the solar farm and Solar City will build it.

Town Attorney Cheryl Sacco stated that the County has been applying for grants for this project. Mr. Schofield stated that there will be a benefit of \$250,000 per year to Broome County, adding that the County can assign which meters get the reduced cost electricity. He stated that this will save the taxpayers money on their County taxes. Ms. Sacco stated that the Town has asked whether or not the County is immune from Town of Conklin zoning laws. She stated that she completed the nine-step determination process and recommends that the County be determined to be immune from Town zoning laws. She stated that New York State has awarded almost \$2 billion in grants for solar power through New York Sun. Broome County is very willing to cooperate with the Town and this project is related to a governmental function, stated Ms. Sacco.

Mr. Schofield stated that the County completed the long-form SEQR (State Environmental Quality Review). Ms. Sacco stated that the Town can send a letter to the County requesting that it address any specific concerns. She added that if the Town doesn't approve the proposed

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resolution declaring the County immune from the Town zoning laws, the Special Permit process must be completed.

Code Officer Ron Lake asked if the applicant is Solar City or Broome County and Mr. Schofield replied that the applicant is Broome County. Mr. Bullock asked about the anticipated timeframe and Leslie Boulton from the Broome County Planning Department stated that the County hopes to have it completed in 2016. Ms. Boulton stated that the County will be declared Lead Agency at the March legislative session and added that comments will be welcome until the April legislative meeting. It was asked if the access will be off Carlin Road or Corporate Drive and Mr. Schofield stated that it will be accessed from Corporate Drive. Mr. Francisco asked if NYSEG (New York State Energy and Gas Corporation) will need to upgrade the lines in the area in question and Ms. Boulton stated that there are no upgrades needed, as there is already plenty of grid capacity.

Mr. Boyle stated that he had some legal questions, adding that the Broome County permitting process “is not allowing private solar farms.” He asked who will be responsible for clean-up should the solar farm become inoperable and Mr. Schofield stated that clean-up would be Broome County’s responsibility. Mr. Francisco stated that this is a “thorough process” with applications. Ms. Boulton commented that Broome County doesn’t issue electrical or solar power permits – this permitting is done by NYSEG.

NOTICE TO NEIGHBOR PROPOSED LOCAL LAW

Ms. Sacco distributed copies of the proposed local law dealing with Notice to Neighbor requirements. She stated that the proposed law sets a limit of 1,000 feet from the site for commercial sites, and 500 feet from the site for residential projects, within which notices are required. She stated that signboards are required for all applicants, and added that notice requirements are only for within the boundaries of the Town. The proposed law would provide for “extraordinary costs” of mailers, signboards, etc., to be borne by the applicants. Mr. Dumian stated that there should be separate requirements for residential vs. commercial applicants. He added that he feels the Town should focus on business development, encouraging small businesses. Ms. Sacco stated that she will e-mail the proposed local law to the Town Board members.

At 6:00 P.M., Mr. Finch closed the Work Session and opened the Regular Town Board Meeting, as scheduled.

REGULAR TOWN BOARD MEETING
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The Town Board of the Town of Conklin held a Regular Town Board Meeting at 6:00 P.M. on February 23, 2016, at the Conklin Town Hall. Mr. Finch, Supervisor, presided.

PRESENT: Town Board Members Bullock, Boyle, Dumian, Francisco, Finch

 Town Counsel Cheryl Sacco
 Town Clerk Sherrie L. Jacobs
 Highway Superintendent Brian Coddington
 Public Works Superintendent Tom DeLamarter
 Assistant to Supervisor Lisa Houston
 Code Officer Ron Lake
 Town Justice J. Marshall Ayres

GUESTS: **Country Courier** Elizabeth Einstein
 Broome County Dan Schofield
 Broome County Leslie Boulton
 Rainbow International Jeff Finch
 Town of Binghamton Stan Scobie
 Town of Binghamton Gail Kumpan
 Laurie Francisco
 John Colley
 Judy Kelly
 Jerry Russell
 Gaige Russell

**RESO 2016-28: GRANT IMMUNITY OF PROPOSED BROOME COUNTY SOLAR
INSTALLATION PROJECT FROM TOWN OF CONKLIN ZONING REGULATIONS**

PRESENT: Supervisor James E. Finch
 Councilman Gary D. Bullock
 Councilman Charles Francisco
 Councilman William Dumian, Jr.
 Councilman Dell Boyle

ABSENT: _____

Offered By: Councilman Bullock **Seconded By:** Councilman Francisco

WHEREAS, 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 Conklin Town Board received information from Broome County regarding a potential solar installation on property located in the Town of Conklin, owned by Broome County, and

WHEREAS, the Town Code Enforcement Officer issued a letter indicating that the project might be exempt from zoning, and

WHEREAS, the Town of Conklin finds their community to be the site of a development action by the County, as such the Town Board must determine if the zoning regulations apply to this development or whether the proposed action is preempted or immune, and

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WHEREAS, certain acts of government may be exempt, or “immune,” from zoning, and Counties are accorded only a limited immunity and may be subject to local land use regulations, and

WHEREAS, the New York Court of Appeals in the *Matter of County of Monroe v City of Rochester*, 72 N.Y.2d 338, 533 N.Y.S.2d 702, established the method to resolve inter-governmental land use disputes using the “balancing of public interests” approach, and

WHEREAS, unless a statute exempts it, the encroaching governmental unit is presumed to be subject to the zoning regulations of the host community where the land is located and then the host community considers several factors to determine whether or not it is in the public interest to continue to subject the encroaching government to its land use regulations, and

WHEREAS, the host community is to weigh the following nine factors:

1. The nature and scope of the instrumentality seeking immunity;
2. The encroaching government’s legislative grant of authority;
3. The kind of function or land use involved;
4. The effect local land use regulation would have upon the enterprise concerned;
5. Alternative locations for the facility in less restrictive zoning areas;
6. The impact upon legitimate local interests;
7. Alternative methods of providing the proposed improvement;
8. The extent of the public interest to be served by the improvements; and
9. Intergovernmental participation in the project development process and an opportunity to be heard.

THEREFORE, BE IT RESOLVED that the Town is interpreting if the proposed application from Broome County is immune from zoning or whether it is subject to the Town’s zoning; this is not a coordinated review; the Town is designated as lead agency; and as such that this interpretation is action is a Type II action under the Environmental Quality Review Act, 6 NYCRR 617.5(c)31, and therefore no further environmental review is needed; and

RESOLVED that the Town of Conklin, as the host community in applying and weighing these nine factors, finds that:

- 1) The nature and scope of the County of Broome is broad and that this proposed application is within that scope. “A county is a municipal corporation comprising the inhabitants within its boundaries and formed for the purpose of exercising such powers and discharging such duties of local government and administration of public affairs as may be imposed or conferred upon it by law.” County Law Section 3.
- 2) The County’s legislative grant is pursuant to County Law and the County’s own charter adopted on or about 11-5-1968 by L.L. No. 9-1968; and amended thereafter. The Town of Conklin is located within the County of Broome.
- 3) The proposed solar installation is a 5,462.82 kilowatt fixed-tilt ground-mounted solar photovoltaic system and is located at 375 and 399 Broome Corporate Parkway, totaling 47.72 acres in the Economic Development zoning district. The solar installation shall create power using sunshine from the sun which will be stored and transmitted to an electric company. Either the County will be able to use the energy or shall receive a financial credit towards its utility bills. The proposed project will be installed on property owned by the County.
- 4) The Town’s Code Section 140-75, which addresses the subject zoning district, does not provide an inclusive list of allowed uses, but only notes that residential uses within the district are not permitted. All other uses would be subject a special permit process. Therefore, this use would be subject to a special permit process.

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- 5) There is no less restrictive zoning for this proposed project. The other zoning districts have an inclusive list of enumerated permitted uses, and a solar farm (or the like) is either not specifically listed or potentially, if determined to be covered as a public utility structure, would then be required to obtain a special permit. No zoning district allows by right an installation like this, without a special permit within the Town.
- 6) There is no alternative method to providing the proposed improvement. It cannot be constructed as an accessory use to an existing structure on this land. Nor can it be located easily elsewhere. The subject large parcel of land and its location allow the proper, appropriate and safe placement and design of the proposed installation. The use should not increase light, noise or traffic issues in the area. The County owns a large amount of the surrounding area and as such this development should not be created a nuisance of any type on any adjacent neighbors. Overall, the impact upon legitimate interests will be more positive than negative.
- 7) Theoretically, the County could look at any other large parcels of land in or outside the County to house the solar installation. The County owns this parcel and some of the surrounding property to this site. The County can easily, and at a much lower cost, design and install this installation at this site. Moreover, the purpose of the project is to allow the County to reduce or eliminate its electricity costs. Alternative methods for providing the proposed improvement may be cost prohibitive and counterproductive to the purpose of lowering costs. The object of the proposed project is in the best interests of the County residents.
- 8) The extent of the public interest to be served by the improvement is vast. Governor Cuomo has made a commitment to protect the environment and to lower energy costs for all New Yorkers by improving the efficiency and reliability of the electric grid. As a result, the Governor created the NY-Sun Initiative. This Initiative aims to increase the number of solar electric systems across New York State. This is being done with cost incentives. To date, the Governor made a commitment of almost One Billion Dollars to NY-Sun. New York State has determined that it is in the public interest of all of New York to invest in Solar Energy and that Solar Energy for various reasons is safe and important to New York.
- 9) Broome County has indicated a willingness to fully cooperate with the Town of Conklin in the building process. The intergovernmental participation in the project development process is positive and Broome County is agreed to give the Town of Conklin an opportunity to be heard during the process, and

RESOLVED that this proposed government project for the reasons stated above is exempt, or “immune,” from zoning; and

RESOLVED that this resolution will take effect immediately.

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, at 6:00 P.M. on February 23, 2016. Said resolution was adopted by the following roll call vote:

Supervisor James E. Finch	YES
Councilman Gary D. Bullock	YES
Councilman Charles Francisco	YES
Councilman William Dumian, Jr.	YES
Councilman Dell Boyle	NO

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Town of Conklin Seal

Dated: February 23, 2016

Sherrie L. Jacobs
Town Clerk of the Town of Conklin

MINUTES: FEBRUARY 9, 2016 REGULAR TOWN BOARD MEETING

The Town Board held over approval of the February 9, 2016 Regular Town Board Meeting minutes until the March 8, 2016 meeting.

CORRESPONDENCE:

Mr. Finch acknowledged receipt of correspondence from the USDA and from a furniture company.

PUBLIC COMMENTS:

THANK YOU/HELP DURING WATER PIPE BREAK FLOODING

Town Justice J. Marshall Ayres thanked Assistant to the Supervisor Lisa Houston, Administrative Clerk Mary Plonski, Town Clerk Sherrie Jacobs, Deputy Town Clerk Elizabeth Einstein, Court Clerk Laurie Gregory, and Jeff Finch and his crew from Rainbow International for all of their assistance in moving files, furniture, and clean-up during the recent flooding throughout the building caused by a water pipe break. He stated that everyone worked well together to do what had to be done to recover from the event. Judge Ayres stated that Rainbow International was “very easy to work with.” He added that the Conklin Town Court is one of the “premier digital courts” in New York State and added that he and his Justice Clerk would be happy to help any of the other Town offices work toward becoming more paperless in their record-keeping.

REPORTS:

None.

OLD BUSINESS:

UPDATE/RISING COMMUNITY GRANT

Mr. Finch reported that the Stillwater Road Stormwater Drainage Improvement Project will be going out to bid. He stated that the Dormitory Authority, created by Governor Cuomo, will be doing all of the paperwork on the proposed evacuation route.

UPDATE/UPSTATE TOWERS

Mr. Finch reported that the Town is working on a leasing agreement with Upstate Towers for a possible five cell towers to be located in Conklin.

UPDATE/BOARD ROOM SOUND SYSTEM

Mr. Finch stated that the Town has received information from the Town of Windsor regarding its sound system, manufactured by Sweetwater and designed by Terry Burke. That system cost approximately \$1,300. Mr. Finch stated that the Town of Conklin could “piggyback” on the Town of Windsor’s purchase. Randy Bidwell of ProCon Solutions will provide a second quote for the sound system.

NEW BUSINESS:

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DISCUSSION/TOWN HALL WATER PIPE BREAK & SUBSEQUENT FLOODING

Mr. Finch stated that the water line in the boiler room broke, and water subsequently flooded the Town Hall, because the gears in the shutter system were stripped and the shutter was left open to the extreme cold outside temperatures, which froze the water in the pipe. He stated that the room got very cold because the boiler room door must remain closed for safety reasons, so heat from the rest of the building was not able to enter the room. Mr. Finch stated that a new heater has been installed in the boiler room. Mr. Dumian asked if the Town had a maintenance agreement to take care of the heating/cooling system, and Mr. Finch replied that the agreement is with Tri-Cities Temperature Control, Inc. "Did they know there was a problem?" asked Mr. Dumian. Mr. Bullock recalled that the boiler room door used to be left open when Debra Preston was Supervisor. Mr. Boyle stated that "everything worked last fall and early winter." Mr. Dumian stated that the Town needs "a three or four point check system." Mr. Finch stated that the system is checked every three months. He stated that it was a mechanical failure. Mr. Bullock asked if there is glycol in the lines and Mr. Boyle stated that glycol has been replaced with a new material. Mr. Finch stated that a sensor has been ordered for the floor that will send a text if there is a problem. Mr. Francisco stated that the sensor should have high and low set points. Mr. Bullock stated that the Town may need a new heater and thermostat. He also stated that there is a break in the water line exiting the building. Mr. Dumian stated that this should be fixed.

RESO 2016-29: RATIFY PAYMENT/U.S. POSTAL SERVICE/POSTAGE FOR 1ST QUARTER WATER & SEWER BILLING

Mr. Francisco moved for the following resolution:

Be It Resolved: that the Town Board of the Town of Conklin ratifies payment of check #10456, account code SW8310.4, in the amount of \$315.00 to the U.S. Postal Service for payment for postage for the 1st Quarter Water and Sewer billing.

Seconded by Mr. Dumian.

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

RESO 2016-30: AUTHORIZE PAYMENT/BILL LIST/\$79,806.05

Mr. Francisco 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 \$79,806.05:

General	\$ 39,099.08
Highway	25,786.56
Light Districts	2,891.53
Sewer District #1	8,140.26
Water District	<u>3,888.62</u>
Total	\$ 79,806.05

Seconded by Mr. Boyle.

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

RESO 2016-31: APPOINT JAMES T. KELLY/MEMBER/ZONING BOARD OF APPEALS/FIVE-YEAR TERM/2/23/2016-12/31/2020

Mr. Bullock moved for the following resolution:

Be It Resolved: that the Town Board of the Town of Conklin appoints James T. Kelly as a member of the Zoning Board of Appeals for a five-year term running from February 23, 2016, through December 31, 2020, at a pay rate of \$1,250.00, with the pay for 2016 pro-rated from the

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effective date.

Seconded by Mr. Dumian.

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

RESO 2016-32: APPOINT PAUL W. SCHOFIELD/MEMBER/ZONING BOARD OF APPEALS/FIVE-YEAR TERM/2/23/2016-12/31/2020

Mr. Francisco moved for the following resolution:

Be It Resolved: that the Town Board of the Town of Conklin appoints Paul W. Schofield as a member of the Zoning Board of Appeals for a five-year term running from February 23, 2016, through December 31, 2020, at a pay rate of \$1,250.00, with the pay for 2016 pro-rated from the effective date.

Seconded by Mr. Bullock.

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

Mr. Francisco commented that both of the new appointees must attend ZBA training and meetings.

PUBLIC COMMENTS:

None.

RESO 2016-33: RECESS FOR LEGAL ADVICE

Mr. Boyle moved to close the Regular Town Board Meeting and recess for legal advice at 6:20 P.M.

Seconded by Mr. Francisco.

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

RESO 2016-34: COME OUT OF RECESS AND RE-OPEN REGULAR BOARD MEETING

Mr. Bullock moved to come out of recess and re-open the Regular Town Board Meeting at 6:45 P.M.

Seconded by Mr. Dumian.

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

RESO 2016-35: RATIFY VERBALLY PRE-APPROVED USE OF FUNDS TO PROVIDE ONE-TIME BONUS TO EACH TOWN EMPLOYEE

Mr. Finch moved for the following resolution:

Be It Resolved: that the Town Board of the Town of Conklin ratifies the Board members' verbal pre-approved use of funds to provide a one-time bonus to each Town employee at the rate of one dollar an hour based upon full-time hours, except the crossing guards, who received a flat amount of \$500.00 each, effective February 11, 2016.

Seconded by Mr. Francisco.

VOTE: Bullock – No, Boyle – Yes, Dumian – Yes, Francisco – Yes, Finch – Yes. Motion carried: 4 – Yes, 1 – No.

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Mr. Bullock stated, "I don't like what is going on around here and I want it in the minutes that I am returning my voided check," holding up his voided Town of Conklin check. "This shouldn't be for part-time elected officials."

Mr. Bullock stated that the employees "did an outstanding job" during the recent flooding in the Town Hall.

PRIVATE SOLAR FARMS

Mr. Boyle stated that the ZBA should create new laws to "make it a level playing field" for development of solar, wind, and natural gas. Ms. Sacco stated, "Zoning is the only thing the Town of Conklin controls." Mr. Boyle stated that permits are prohibited for the installation of private solar farms. Ms. Sacco replied that NYSEG and NYSERDA control the issuance of these permits, adding that he could go to the Public Hearing on the proposed County solar farm, either as an individual, or, if approved by the Board, as a representative of the Board. Mr. Bullock stated, "I think it is a level playing field," adding that Mr. Boyle should "go as an individual, not representing the Board."

EMPLOYEE POLICY MANUAL/JOINT MEETING WITH ZBA & PLANNING BOARD

Mr. Dumian asked when the Employee Policy Manual will be discussed and Mr. Finch replied that it will be discussed at the March 8 meeting. Mr. Finch stated that the joint meeting with the Town Board, Planning Board, and Zoning Board of Appeals will occur on March 22. He stated that the focus will be discussion of zoning for alternative energy. Mr. Dumian stated that the discussion should consider zoning regulations for manufactured (not mobile or modular) homes to "make sure it is done properly." Ms. Sacco stated that some restrictions are regulated by New York State rather than by Town Code.

COMMUNITY CENTER RENTAL FEES

Mr. Francisco stated that he thinks the Town may be "pushing people away" from renting the Community Center because of last year's increase in rental fee to \$500, with a \$200 refund. Mr. Finch stated that maybe the cost should be \$400, with \$100 refund, adding that the Board should look at the issue again. Mr. Bullock commented that he thinks \$400 is too much. Mr. Dumian commented that the pavilions present different problems for maintenance than the Community Center, adding that he does not think the rental rates for pavilions should be changed. He suggested charging \$300, with \$100 refund, for the Community Center.

THANK YOU/RAINBOW INTERNATIONAL & BLUESTORM TECHNOLOGIES

Town Clerk Sherrie Jacobs thanked Jeff Finch and his crew from Rainbow International for their excellent work in drying out and cleaning up the Town Hall after the recent flooding from the broken water pipe. She also thanked BlueStorm Technologies, the Town's IT provider, for their excellent work in getting the Town computers up and running again. Mr. Finch echoed these sentiments.

RESO 2016-36: EXECUTIVE SESSION/PERSONNEL ISSUE/PARTICULAR INDIVIDUAL

Mr. Francisco moved to close the Regular Town Board Meeting and move into Executive Session at 7:05 P.M. to discuss a particular personnel issue.

Seconded by Mr. Bullock.

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

An Executive Session of the Town Board of the Town of Conklin was held at the Conklin Town Hall at 7:05 P.M. with Supervisor James Finch presiding. Present were: Supervisor Preston, Mr. Bullock, Mr. Boyle, Mr. Dumian, Mr. Francisco, and Attorney Cheryl Sacco. Ms. Sacco

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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 2016-37: RE-OPEN REGULAR TOWN BOARD MEETING

After this discussion, Mr. Dumian moved to close the Executive Session and re-open the Regular Town Board Meeting at 7:15 P.M.

Seconded by Mr. Bullock.

VOTE: Bullock – Yes, Boyle – Yes Dumian – Yes, Francisco – Yes, Finch – Yes. Motion passed unanimously. No action was taken.

There being no further business to come before the Board, Mr. Dumian moved for adjournment, seconded by Mr. Bullock. The meeting adjourned at 7:15 P.M.

Respectfully submitted,

Sherrie L. Jacobs
Town Clerk