

TOWN OF CONCORD TOWN BOARD MEETING
7:00 p.m.

February 9, 2012

MEETING CALLED TO ORDER BY GARY A. EPPOLITO, SUPERVISOR.

PRESENT: GARY A. EPPOLITO, SUPERVISOR
JAMES M. KREZMIEN, COUNCILMAN
WILLIAM F. SNYDER, III, COUNCILMAN
PAUL F. SALZLER, COUNCILMAN
DEBORAH A. KING, COUNCILWOMAN

ALSO PRESENT: DARLENE SCHWEIKERT, Town Clerk
DEBORAH M. BARONE, Town Atty
MICHAEL F. BARONE, Deputy Town Atty
DENNIS M. DAINS, Hwy Supt
DENISE CISZAK, Bookkeeper
JEREMIAH KANE
GEORGE DONHAUSER
CAROLYN ROBINSON

INVOCATION DELIVERED BY TOWN CLERK SCHWEIKERT.

PLEDGE TO THE FLAG LED BY SUPERVISOR EPPOLITO.

ITEM #1. APPROVAL OF MINUTES

a) Town Board Organizational Meeting – 1/5/2012 - Motion by Councilman Krezmien, seconded by Councilwoman King, to approve the minutes as presented. Councilwoman King, Councilmen Krezmien, Salzler & Snyder; Supervisor Eppolito, voting aye. Carried.

b) Town Board Meeting – 1/5/2012 – Motion by Councilman Krezmien, seconded by Councilman Salzler, to approve the minutes as presented. Councilwoman King, Councilmen Krezmien, Salzler & Snyder; Supervisor Eppolito, voting aye. Carried.

ITEM #2. PUBLIC COMMENT

Supervisor Eppolito opened the floor for Public Comment. Denise Ciszak noted that in the budget, there is a line for the skate park. In 2011, \$2,500 was budgeted in this line. Five Hundred Dollars (\$500) was spent for our share of the Insurance which is split with the insurance. A while back, Joanie Taylor sent a letter to the Town Board asking for a donation for the skate park and the Town Board approved \$1,000. There is still \$1,000 in that budget line. She would like to see the Town Board make a motion to spend the remaining \$1,000 for the purchase of the equipment. The funds that support that budget line do not come from the taxpayer's tax bills. It comes from the sales tax, General Fund B. There is a group of kids who have raised over \$8,000 toward their equipment. They need \$3,000 more. She would also like to see the Town challenge the Village to come up with the other \$2,000. There is only a short period of time before this equipment might not be available. Supervisor Eppolito noted that a decision cannot be made during Public Comment. He asked the Board members to think about this matter during the meeting and he would bring it up later.

Supervisor Eppolito welcomed Jeremiah Kane into the Town of Concord.

Motion made by Councilman Salzler, seconded by Councilman Snyder, to close Public Comment. Councilwoman King, Councilmen Krezmien, Salzler & Snyder; Supervisor Eppolito, voting aye. Carried.

ITEM #3. MONTHLY REPORTS

Motion by Councilman Krezmien, seconded by Councilwoman King, to approve the Monthly Reports, Items a-h. Councilwoman King, Councilmen Krezmien, Salzler & Snyder; Supervisor Eppolito voting aye. Carried.

- a) Code Enforcement Officer/Building Inspector Report
- b) Dog Control Officer
- c) Nutrition Site Report – December 2011
- d) Nutrition Site Report – January 2012
- e) Judge Gibbin Report – December 2011
- f) Judge Frank Report - December 2011
- g) Supervisor’s Report – December 2011
- h) Town Clerk’s Final Report - 2011
- i) Fire Department - Hwy Supt Dains noted the calls for his fire department for the month. There was a sizable structure fire on Maple Avenue this month. Demolition will occur once asbestos testing is completed.
- j) Highway Superintendent Report. Hwy Supt Dains read his filed report.
 - 1) Hwy Supt Dains noted that with regard to the placement of the street light on Scoby Hill, he attended a meeting at the Village as Fire Chief, the Village Board authorized the approval to let the Village do the work in conjunction with the contract from the State DOT. The proposed light at Scoby Hill is estimated at \$35,000. The project involves installing 32 poles and approximately 8,000 feet of wire from a point where the old Scoby Hill meets the new Scoby Hill and then southerly to the intersection of South Cascade Drive and Scoby Hill. Signing of this agreement allows the DOT to prepare the formal contract for the work to be done. It is in the process of being finalized and done.
 - 2) Hwy Supt Dains had given the Town Board members information regarding a Resolution that has to be done for the State DOT in regards to allowing the Town Highway Department to do work within the State Right-of-Way. This Resolution will then be filed with the State with a copy of our Certificate of Insurance.

Councilwoman King moved the adoption of Resolution 4, seconded by Councilman Salzler:

BE IT RESOLVED that the Town Board of the Town of Concord hereby authorizes the Town of Concord Highway Superintendent Dennis Dains to enter into an agreement with the New York State Department of Transportation which will allow the Town of Concord Highway Department to work within the State Right of Way.

Voting as follows:

Councilwoman King	Aye
Councilman Krezmien	Aye
Councilman Salzler	Aye
Councilman Snyder	Aye
Supervisor Eppolito	Aye

3) Hwy Supt Dains requested the Town Board’s permission to attend the Annual Advocacy Day in Albany on March 6th and 7th for the Town Highway Superintendent’s Association CHIP’s efforts for continuing funding for the project. The Association pays the cost of the hotel. Motion by Councilman Krezmien, seconded by Councilman Snyder, to allow Hwy Supt Dains to attend the Annual Advocacy Day in Albany on March 6th and 7th. Councilwoman King, Councilmen Krezmien, Salzler & Snyder; Supervisor Eppolito, voting aye. Carried.

4) Hwy Supt Dains noted that the Town Board needs to make a decision on the status of Rocky Road. Concerns have been raised since 2005 regarding the proper procedures and filing done by the then Hwy Supt, Town Board and Town Attorney. The then Hwy Supt was not present at the Town Board meeting when the then

Town Board finalized this matter. Hwy Supt Dains had given the members a packet in November 2011. Supervisor Eppolito noted that he had reviewed this matter with Michael Barone who stated that clearly it was not properly processed at that time but it doesn't mean that the process couldn't be completed at this point in time. The Hwy Supt at that time never approved this road according to Town Law. The Town Board ignored the recommendation of the Town Engineer. Supervisor Eppolito noted that the Town has been maintaining that road for approximately six years. Discussion ensued about possible options as to how to proceed to rectify this matter. Deputy Town Attorney Barone stated that the way to clear this up is to do it properly since the record is not clear. Have the Hwy Supt examine the report from the Engineer, which should be updated, and the Hwy Supt can then decide if he wants the road under his jurisdiction. It can then be either sanctioned or rejected on the Hwy Supt's recommendation. Supervisor Eppolito asked Hwy Supt Dains to review the matter with Town Engineer Mark Alianello, the Town Attorneys, and Dan Spitzer, legal counsel, and bring a plan back to the Town Board to do this correctly.

Supervisor Eppolito noted that the Springville Fire Department Installation dinner was excellent and thanked the fire department. Supervisor Eppolito noted that he had an opportunity to talk with Bob Darling (Mortons Corners) and Matt Willibey (East Concord). He noted that they spend a lot of time with their fire companies and appreciates all that they do.

Supervisor Eppolito noted that the Association of Erie County Governments just passed a resolution regarding the new sign legislation. The Association, based on requests from the Highway Superintendents, passed a resolution to be sent to the State of New York. The cost involved in replacing the signs is ridiculous. The signs are expensive enough but the high intensity signs which will be required by 2015 are more costly. Hwy Supt Dains noted that the first stage is done. The signs are in his possession for the west side (Kaiser Road back to Transit Line/Middle Road) cost almost \$3,000. These are the actual road signs; not the road name signs. Hwy Supt Dains noted that he will budget this amount every year to continue the project.

Motion by Councilman Krezmien, seconded by Councilman Snyder, to approve the fire department report and the Highway Superintendent Report. Councilwoman King, Councilmen Krezmien, Salzler & Snyder; Supervisor Eppolito, voting aye. Carried.

ITEM 4. NEW BUSINESS

a) **Audit of the Bills** – Supervisor Eppolito stated that these bills were audited by Councilwoman King, and reviewed by the Board.

General Fund A, abstract 17, bills 1583-1605
 General Fund A, abstract 2, bills 33-109 & 163
 General Fund B, abstract 17, bill 1606
 General Fund B, abstract 2, bills 110-117
 Library Fund, abstract 17, bill 1607
 Library Fun, abstract 2, bills 118-121
 Fire Protection, abstract 2, bill 122
 Joint Van, abstract 17, bill 1608
 Joint Van, abstract 2, bills 123-126
 Joint Youth, abstract 17, bills 1609-1610
 Joint Youth, abstract 2, bills 127-129
 Craneridge Lighting, abstract 17, bill 1611
 Craneridge Sewer, abstract 17, bills 1612-1618
 Craneridge Sewer, abstract 2, bills 130-132
 Highway DA, abstract 2, NONE
 Highway DB, abstract 17, bills 1619-1627
 Highway DB, abstract 2, bills 133-156
 Kissing Bridge Water, abstract 2, bill 157

Kissing Bridge Sewer, abstract 2, bill 158
 Trevett Rd. Water, abstract 17, bill 1628
 Trevett Rd. Water, abstract 2, bill 159
 Trust & Agency, abstract 2, bills 160-162
 Capital, abstract 2, NONE

Motion made by Councilwoman King, seconded by Councilman Salzler, to approve the bills as presented. Councilwoman King, Councilmen Krezmien, Salzler & Snyder; Supervisor Eppolito, voting aye. Carried.

b) Mobile Home Court Permit – North Street – CEO Atkinson had inspected the premises and the Town Board needs to approve the Mobile Home Permit – North Street. Motion by Councilman Krezmien, seconded by Councilwoman King, to approve the Mobile Home Court Permit – North Street. Councilwoman King, Councilmen Krezmien, Salzler & Snyder; Supervisor Eppolito, voting aye. Carried.

c) Surplus Equipment - There are several items of surplus equipment in the Town Hall. Supervisor Eppolito emailed the County and the County does pick up the surplus equipment. Supervisor Eppolito will then work with someone to determine the value of the dishes and the antique desk. Discussion about the possibility of a joint venture with the Village and School for recycling/disposal of electronic equipment for our residents. Councilman Snyder volunteered to look into this matter. Motion made by Councilman Krezmien, seconded by Councilwoman King, to declare the items surplus. Councilwoman King, Councilmen Krezmien, Salzler & Snyder; Supervisor Eppolito, voting aye. Carried.

d) Lawrence Kelly Resignation – Since Lawrence Kelly was appointed to the Planning Board at the January 2012 meeting, he must submit his resignation from the Zoning Board of Appeals because he cannot be on both Boards. Motion by Councilman Krezmien, seconded by Councilwoman King, to accept Lawrence Kelly's resignation from the Zoning Board of Appeals. Councilwoman King, Councilmen Krezmien, Salzler & Snyder; Supervisor Eppolito, voting aye. Carried.

e) Deputy Dog Control Officer – Dog Control Officer Carolyn Robinson has asked the Town Board to appoint David Graves as her Deputy Dog Control Officer, at no charge to the Town. Motion made by Councilwoman King, seconded by Councilman Salzler, to appoint David Graves as the Deputy Dog Control Officer, at no charge to the Town. Councilwoman King, Councilman Krezmien, Salzler & Snyder; Supervisor Eppolito, voting aye. Carried.

f) 2012 Junk Yard Permits - Motion made by Councilman Krezmien, seconded by Councilman Salzler, to approve the following junkyard permits, as recommended by the Planning Board. Councilwoman King, Councilman Krezmien, Salzler & Snyder; Supervisor Eppolito, voting aye. Carried.

- a. Jordan's Salvage
- b. Southern Tier Auto Center
- c. Arthur P. King
- d. Ronald Miller

g) 2012 Mining Permits – Motion made by Councilman Krezmien, seconded by Councilman Salzler, to approve the following mining permits, a through k, as recommended by the Planning Board. Councilwoman King, Councilman Krezmien, Salzler & Snyder; Supervisor Eppolito, voting aye. Carried

- a. McEwan Trucking
- b. Schreiber & Winkelman
- c. McCarthy Gravel
- d. Gernatt – Belscher Road
- e. Gernatt – Vaughn (Dewald)
- f. Gernatt – Vaughn (Middle Road)
- g. Gernatt - Zylinski Clay Mine
- h. Cold Spring Construction – Sharp St

- i. Cold Spring Construction – Hofmann South
- j. Michael J. Hannon Landscaping & Excavation
- k. Triple R Properties

l. Greg Waterman

The Waterman permit was submitted including their new DEC expansion project. The Planning Board approved the Waterman permit using their previous Special Use Permit. Motion by Councilman Snyder, seconded by Councilman Salzler, to approve the Waterman mining permit as recommended by the Planning Board. Councilwoman King, Councilman Krezmien, Salzler & Snyder; Supervisor Eppolito, voting aye. Carried.

The Waterman expansion project was discussed. A hearing is required within 62 days after the application is submitted to the Town and that requirement cannot be waived. If Waterman would want the Public Hearing to be in April, the application must be withdrawn and resubmitted at a later date. Town Attorney M. Barone will draft a letter to Waterman advising of this timetable and determine if Waterman will withdraw their Special Use Permit application.

h) Skate Park - There is a mutual agreement with the Village that was established when the Skate Park and the budget line amount is \$2,500. The Town's share of the insurance was paid from the 2011 budget and the Board has given the Skate Park \$1,000 previously toward equipment leaving a \$1,000 balance in that line. This line is funded by the sales tax money. Councilman Snyder noted that this sales tax money is to be used to offset taxes in the town. Supervisor Eppolito informed the Board that there are so few things that the sales tax money can be used for. It has to be used for people outside of the Village and highway. The property the skate park sits on is Village owned. Motion by Councilwoman King, seconded by Councilman Krezmien, to give \$1,000 from the 2011 budget line to the skate park to be used for the purchase of the equipment. Councilwoman King, Councilman Krezmien, Salzler; Supervisor Eppolito, voting aye. Councilman Snyder, voting nay. Carried.

ITEM # 5. OLD BUSINESS

There was none. Motion made by Councilman Krezmien, seconded by Councilman Salzler, to close Old Business. Councilwoman King, Councilmen Krezmien, Salzler & Snyder; Supervisor Eppolito voting aye. Carried.

ITEM #6. CONSENT AGENDA

- a) Speed Limit Middle Road
- b) S. Cornett re: Cattaraugus Creek
- c) Southtowns Meals on Wheels Minutes 1/10/2012
- d) Gallivan re: Medical Assistance
- e) John Mills
- f) 2012 WYN Dairy/Ag Festival Minutes 1/10/2012
- g) NEST Minutes 11/10/2011

Motion made by Councilman Krezmien, seconded by Councilman Salzler, to approve the Consent Agenda, Item a-g. Councilwoman King, Councilmen Krezmien, Salzler & Snyder; Supervisor Eppolito voting aye. Carried.

ITEM #7. COUNCILMAN NOTES

a) Councilman Salzler is on the Bicentennial Committee and noted that there will be having a time capsule. If any councilman has anything to put in, let the committee know. It will be planted right here at the Town Hall to be disinterred in 2062.

b) Supervisor Eppolito informed the Board that the State Comptroller is now pushing all Towns and Villages to provide their Code of Ethics. Our Town's Code of Ethics was done in 1970 with an amendment in 1995. An Ethics Panel is required and our Code does not have such a panel. Supervisor Eppolito will discuss this matter with Town Attorney D. Barone to draft the Code of Ethics policy. This Code would be a Local Law.

c) Supervisor Eppolito informed the Board that the Violence in the Workplace Policy will be discussed next month. The Department of Labor was at the Town doing an inspection. The Town needs to have a Workplace Violence Policy in place and our Employee Handbook has to be updated.

d) Supervisor Eppolito attended a Farmland Protection Meeting on January 24th. Planning Board members George Donhauser and Bruce Luno were also present.

e) Supervisor Eppolito and Joan Taylor met with the Town of Hamburg to put together some joint activities as part of our Bicentennial festivities.

f) Supervisor Eppolito attended a meeting on the Governor's Budget. The casino issue was discussed at that meeting. The contract with the Seneca's expires in 2016.

g) Supervisor Eppolito also met with Rich Toby, Deputy County Executive, who will be our contact in the County.

h) Supervisor Eppolito attended the Lake Erie Water Protection Meeting on January 25th. The Town of Concord, with Eden and Brant, founded this group. There may be an opportunity to get some large amounts of federal and state monies for erosion.

i) Supervisor Eppolito noted that with regard to Southtown's Planning Group, he met with Tom Dearing, Deputy Commissioner of Environment & Planning, last week.

j) Supervisor Eppolito thanked the Board for attending all the meetings with the State DOT regarding the bridge closure. The meeting on February 7th went well. The Chamber of Commerce, John Mills, Pat Gallivan, Kevin Smardz, Brian Higgins all need to be thanked.

k) Supervisor Eppolito, Judge Frank and Judge Gibbin met with Jabulani Mangena, the auditor from the Comptroller's Office. It was an excellent audit and he complimented the Judges. The final report should be available in a couple weeks.

l) Supervisor Eppolito met with the architect from the library. The County sent out an architect to review the outside and inside of the building, procedures on how to handle book check-outs. The lighting at the back of the library is not very bright. The Town will need to start replacing these lights with security lights. A copy of the report was given to the Board.

ITEM #8. MOTION TO ADJOURN

Motion by Councilman Krezmien, seconded by Councilman Salzler, and passed unanimously, to adjourn the meeting at 8:35 p.m. in memory of:

Dorothy Fox
Irene Forster
Gertrude L. Forde
Judith Ann Rosso
Margaret Luther
Ruth M. Maul
Helen Kuhn
Constance Hesse
Anthony Golabek

Darlene G. Schweikert
Town Clerk