

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

November 12, 2020

MEETING CALLED TO ORDER BY CLYDE M. DRAKE, SUPERVISOR

PRESENT: CLYDE M. DRAKE, SUPERVISOR
JAMES M. KREZMIEN, COUNCILMAN
KENNETH D. ZITTEL, COUNCILMAN
WILLIAM F. SNYDER, III, COUNCILMAN
PHILIP DROZD, COUNCILMAN

ALSO PRESENT: DARLENE G. SCHWEIKERT, Town Clerk
BRIAN F. ATTEA, Town Atty
BARRY A. EDWARDS, Hwy Supt
CAROLYN ROBINSON, Dog Control Officer
JOHN J. MILLS, Erie County Legislator

MAX BORSUK, Springville Journal GEORGE DONHAUSER
ROBERT ADLER

INVOCATION DELIVERED BY TOWN CLERK SCHWEIKERT

PLEDGE TO THE FLAG LED BY SUPERVISOR DRAKE

ITEM #1 APPROVAL OF MINUTES

a) Public Hearing Community Development Block Grant – 10/08/2020 – Motion by Councilman Krezmien, seconded by Councilman Zittel, to approve the minutes as presented. Councilmen Krezmien, Zittel, Snyder & Drozd; Supervisor Drake, voting aye. Carried.

b) Public Hearing Local Law #1 of 2020 – 10/08/2020 – Motion by Councilman Krezmien, seconded by Councilman Snyder, to approve the minutes as presented. Councilmen Krezmien, Zittel, Snyder & Drozd; Supervisor Drake, voting aye. Carried.

c) Town Board Meeting – 10/08/2020 - Motion by Councilman Zittel, seconded by Councilman Drozd, to approve the minutes as presented. Councilmen Krezmien, Zittel, Snyder & Drozd; Supervisor Drake, voting aye. Carried.

d) Special Town Board Meeting – 10/19/2020 – Motion by Councilman Zittel, seconded by Councilman Krezmien, to approve the minutes as presented. Councilmen Krezmien, Zittel, Snyder & Drozd; Supervisor Drake, voting aye. Carried.

e) Public Hearing – 2021 Budget – 10/29/2020 - Motion by Councilman Zittel, seconded by Councilman Drozd, to approve the minutes as presented. Councilmen Krezmien, Zittel, Snyder & Drozd; Supervisor Drake, voting aye. Carried.

ITEM #2 PUBLIC COMMENT

a) Robert Adler addressed the Board. Mr. Adler is here to ask the town not for something but for something to be taken away. A guardrail was put across his driveway about 15 years ago and it stopped him from accessing his property across the road from where he lives. There is a pond and stream on the property. He had provided the Board with a diagram; he doesn't know what the procedure is but that is why he is here. Supervisor Drake noted that Mr. Adler had been in contact with Hwy Supt Edwards. Mr. Adler noted that he owned the property since 1985; he used to mow there and have grass carp in the pond. They came up one day and put guardrails across the driveway and all the way down the road. Every year he has called and asked to have it removed and every year he was told they would get back to him. This year he had a

meeting in April/May because during COVID he wanted to access this part of the property. They discussed trying to put a gate in and then that was dismissed but this is the access point to his pond and there is no way he can get down there with a tractor or any piece of equipment. He is asking permission to remove two sections of the guardrail. Town Attorney Attea advised that he just became aware of this matter this morning and has just reviewed it. First and foremost, the Town Board certainly has no interest in denying you the opportunity to gain access to the other portion of your property but the Town Board doesn't necessarily make a determination where that guardrail should be located. That determination is typically made by the company that are experts in determining based on engineering, slope, pitch, arch of the road, width of the road, and all kinds of other measurements to determine where it is most appropriate for safety purposes to put the guardrails. Likewise, he does not think the Board has the expertise in that area to make a determination to reverse the determination previously made by the experts as to where that guardrail should go. If the Town Board were to make that determination, it could create a liability for the Town and potentially to you as the owner. Town Attorney Attea advised that his best advice that he could give him right now, not trying to make the process more difficult for you but he sincerely does not have the answer as to what the appropriate protocol would be. Town Attorney Attea believes that Mr. Adler should start by consulting his own attorney to determine what the appropriate path would be; it might not necessarily be difficult, there might be a path by which the Town or the appropriate Board or committee for the Town could make a determination to grant that request. He would not be in a position to offer legal advice nor would the Town Board; consult with your own attorney to determine the appropriate method petition the Town in making that request. Then it could be reviewed appropriately and a determination could be made. He understands that that might some cumbersome but in order for the Town to give you the appropriate answer this is the path to follow. Mr. Adler noted that he is 70 years old and asked if this would take more than 15 years to determine. Town Attorney Attea stated that he did not know because if it took 15 years to get to this point; this is the first time he is meeting Mr. Adler. If the Town could somehow grant the relief you are requesting, the Town needs to know that it was handled legally and properly so that the Town has covered all potential liability concerns and the determination made is the right one. He could ask his attorney how long the process would take. Mr. Adler noted that he cannot imagine why an attorney would have any expertise in where guardrails should be put. Mr. Adler signed off on an easement on the property when the culvert pipe was rebuilt and is not sure if that would help; whenever the Town has done work on that culvert pipe, the guardrail was taken down. Does the Town want him to start a legal argument that he can't access his own property? Town Attorney Attea answered that nobody is making a legal argument; if there are experts that need to be identified your attorney would help you do that; find the right experts. Mr. Adler commented that he needs to find a guardrail expert and a lawyer to say that this was put in his driveway so he can't access his property and bring it back to the Town? Town Attorney Attea noted that the attorney would help him fashion the appropriate manner in which to address the Town so that the Town can make a determination. If you do retain an attorney for this purpose, feel free to have that attorney reach out to the Town Attorney directly. Mr. Adler noted that this is not very satisfying; no solution was proposed. Town Attorney Attea advised that the Town would hope that through this process, he would approach it in a manner so that it can be handled appropriately by the Town and then maybe there will be a resolution. If the Town starts sending to the Highway Department around every time someone was asking for a piece of guardrail to be removed; guardrails were put up for specific purposes and where those guardrails are located is determined by experts from the public safety standpoint. The Town does not have the discretion to just start taking the guardrails down because people don't like where they are located. Mr. Adler stated that the question, for him, is the people who put the original guardrail in there to begin with realize there was a driveway there and if that is the case, they didn't have that piece of information. Town Attorney Attea advised Mr. Adler that the Town is not going to argue that matter here tonight. Town Attorney Attea and the Board thanked Mr. Adler. Mr. Adler thanked the Board and left the meeting at 7:10 p.m.

Motion by Councilman Krezmien, seconded by Councilman Zittel, to close Public Comment. Councilmen Krezmien, Zittel, Snyder & Drozd; Supervisor Drake, voting aye. Carried.

ITEM #3 MONTHLY REPORTS

Motion by Councilman Krezmien, seconded by Councilman Drozd, to approve the Monthly Reports, Items a-g. Councilmen Krezmien, Zittel, Snyder & Drozd; Supervisor Drake, voting aye. Carried.

- a) Code Enforcement Officer – October 2020
- b) Dog Control Officer - October 2020
- c) Supervisor Report – September 2020
- d) Town Clerk Report – October 2020
- e) Judge Gibbin – September 2020
- f) Judge Frank – September 2020
- g) Van Report – October 2020

h) Highway Report - Hwy Supt Edwards read his report. His report is included in the Minute Book. Councilman Snyder asked Hwy Supt Edwards what company provided the training. Hwy Supt Edwards noted that the training was provided by PERMA; the Sexual Harassment training was provided for all town employees and then the Highway crew stay and do the rest of their training. Hwy Supt Edwards added that the crew graded, top-soiled and seeded two spots on Cattaraugus Street. Supervisor Drake thanked Hwy Supt Edwards for continuing to go out of his way to save the Town money; he helped with the leak on Cattaraugus Street and also saved the Town money on the backhoe which the department fixed in house. Hwy Supt Edwards noted that Councilman Zittel also helped on Cattaraugus Street.

Motion by Councilman Drozd, seconded by Councilman Zittel, to accept the Highway Report. Councilmen Krezmien, Zittel, Snyder & Drozd; Supervisor Drake, voting aye. Carried.

ITEM #4 OLD BUSINESS

There was nothing for Old Business.

ITEM #5 NEW BUSINESS

a) Erie County Legislator John J. Mills – Legislator Mills thanked the Board for letting him speak; he is making his rounds like he does every year. Legislator Mills advised that the County Budget is 1.47 billion dollars so it is up about 5% over the 2020 budget. This budget is holding funds for the Culturals to keep them from going under. There is also an additional \$500,000 allocated for Libraries; Soil & Water Conservation has been kept at full budget. The County is in the budget process now and he does not see a big problem with it. One big problem that he does see is that the County Executive wants to cut the Road budget to 46 million. This is close to Legislator Mills' heart because if you don't pay now, you will pay much more later. The County Executive put aside 20 million in the 2021 budget for COVID funding; he does not completely agree with that; he does believe that the federal government will come through with funding.

Legislator Mills had attended an Environment & Planning Meeting today. They approved the Town's Agricultural Planning Grant in the amount of \$9,500 for the Town of Concord to help with the Comprehensive Plan, solar and agricultural. There was \$75,000 allocated to Erie County and five towns were awarded grants; four from his district: Sardinia, Concord, Eden and North Collins.

Supervisor Drake asked if the County Executive continues to borrow even though he does not have to just to pad the fund balance; does Legislator Mills see this? Legislator Mills noted that he calls this creative accounting; moving money around. The County has been retiring debt every year so that is a good thing. County Executive Poloncarz will take some of the money we have and move it around. In March of 2021, he will come up with budget amendments and move money around again but the Legislature will be watching but he does not think that the County Executive is borrowing to pad the fund balance.

Supervisor Drake thanked Legislator Mills for supporting the CARES Act. The Town will receive \$20,207.01 through that Act. The Town only had two weeks to figure out what would qualify and he really thinks the smaller towns paid the price for not having engineers and staff to dedicate themselves to this application. Legislator Mills discussed how 43 North handled the applications for businesses; managed publicity with TV commercials and mailings. There were over 1,700 applications received. The worst part of this is that he feels the funds will go to certain zip codes and what really bothers him is that 43 North was paid \$845,000 for pushing 20 million out to businesses. Legislator Mills is keeping a close eye on what is going on.

Councilman Drozd asked Legislator Mills about the south end of Trevett Road; he heard that money was allocated this fiscal year to get it fixed. Legislator Mills asked if the design work was finished. Councilman Drozd said he has been keeping close tabs on it and about a month ago the engineering firm was back down there. Legislator Mills will check into the status. He knows it is in design and believes it will be done in 2021. Legislator Mills will contact Councilman Drozd with his update. Councilman Drozd advised that Mortons Corners Fire Company has safety concerns about road conditions.

The Board thanked Legislator Mills for the update and he thanked the Board.

b) Audit of the Bills – Supervisor Drake stated that these bills were audited by Councilman Drozd; and reviewed by the Board.

General Fund A, abstract 11, bills 1001-1077; \$110,124.62
 General Fund B, abstract 11, bills 1078-1086; \$2,712.31
 Library Fund, abstract 11, bill 1087; \$327.38
 Fire Protection, abstract 11, NONE
 Joint Van, abstract 11, bills 1088-1090; \$694.67
 Joint Youth, abstract 11, NONE
 Craneridge Lighting, abstract 11, bill 1091; \$1,671.39
 Craneridge Sewer, abstract 11, bills 1092-1104; \$6,725.68
 Highway DA, abstract 11, NONE
 Highway DB, abstract 11, bills 1105-1128; \$32,373.350
 Kissing Bridge Water, abstract 11, bills 1129-1130; \$146.00
 Kissing Bridge Sewer, abstract 11, bills 1131-1133; \$3,388.50
 Trevett Rd. Water, abstract 11, NONE
 Cattaraugus St. Water, abstract 11, bill 1134; \$311.43
 Trust & Agency, abstract 11, NONE
 Capital (HA) Craneridge Sewer, abstract 11, NONE
 Capital (HB) Land, abstract 11, NONE
 Capital (HD) Catt St, abstract 11, NONE
 Capital (HE) Sr. Ctr, abstract 11, NONE
 Capital (HF) Hwy Equip, abstract 11, NONE
 Capital (HG) Waste Study, abstract 11, NONE

Motion by Councilman Drozd, seconded by Councilman Zittel, to approve the bills as presented. Councilmen Krezmien, Zittel, Snyder & Drozd; Supervisor Drake, voting aye. Carried.

c) Resignations Senior Center – Supervisor Drake received two letters of Resignation. The first one was from Keith Cordaro who did the snow blowing at the Senior Center. Motion by Councilman Krezmien, seconded by Councilman Drozd, to accept the resignation of Keith Cordaro with regrets. Councilmen Krezmien, Zittel, Snyder & Drozd; Supervisor Drake, voting aye. Carried. The second one was from Amber McGranor who was the cleaner at the Senior Center. Motion by Councilman Drozd, seconded by Councilman Krezmien, to accept the resignation of Amber McGranor with regrets. Councilmen Krezmien, Zittel, Snyder & Drozd; Supervisor Drake, voting aye. Carried.

d) New Hire Senior Center – Supervisor Drake advised that the Town has been lucky enough to get one person to do both of the above jobs. Supervisor Drake wanted this hire entered into Town Board Minutes. Steven Nellis was hired on October 15, 2020 at the rate of \$12.82 to replace both Keith Cordaro and Amber McGranor at Concord Senior Center. This is a probationary appointment for six months at the rate of \$11.80 as 80% of rate is less than minimum wage. Mr. Nellis was interviewed by Supervisor Clyde Drake and Senior Center Director Eleanor Eschborn. Town Board member approval had been discussed and unofficially received prior to hire. Mr. Nellis was hired under State of Emergency Powers of fulfill critical senior citizen center needs.

e) Approval of 2021 Budget - Supervisor Drake noted that the 2021 budget as it stands we are not going over the tax cap; it's \$1,274 short of going over. He thanked the Board for the efforts; there were five long work sessions on the budget and the Board went through this budget a little closer than in the past years in his tenure. This budget does include a 2% wage increase for town employees but to offset that the Town Board decided to take away the longevity pay. When this was reviewed, it was found that it was not being applied fairly and consistently and reaching out to other Towns and Villages, longevity has pretty much gone by the wayside.

The short and long of this budget: On a \$100,000 home, the increase would be \$6.22. In comparison to last year, the budget was \$22.52. In 2020 the Town hit the brakes pretty hard with COVID and resources were not where they were budgeted. He believes the Town will be short at least \$50,000 in Fund A because of the Courts not being able to open. In talking to the Court Clerks, the Court is up to about June in processing tickets which are primarily all being done by mail. The Town did manage to keep the highway department working and the Town was paying some people who were working from home.

- In General Fund A, the budget is taking \$70,000 out of fund balance. The tax rate for Fund A is \$3.46; last year it was \$2.33.
- \$25,000 will be taken out of the fund balance for General Fund-Outside Village which will then be transferred the Highway Outside Village. \$10,000 of that is going to increase the repairs line which has consistently been under and putting \$15,000 into reserves in that account. These are the only two funds that the budget really dipped into the fund balance.
- Fire Protection – the Town did new contracts on that. The rate on that is going up from \$3.85 to \$3.94.
- Craneridge Sewer per unit is going from \$750 per unit to \$779. This increase goes to district residents only.
- Kissing Bridge Sewer is one of the biggest increases. It was \$490 up to \$574. This is a big adjustment but the DEC keeps wanting more and more; he's not saying the DEC is wrong in their requirements but the Town needs to be prepared. This increase goes to district residents only.
- Cattaraugus Street Water District has been increased since the Public Hearing because the line sprung a leak. This district was increased by \$1,000 so the rate is up; about \$125 per unit.
- The total appropriations is \$4,398,917.67 and total revenues is \$2,211,842.70. Unexpended fund balance to be used is \$95,000; leaving \$2,092,074.97 to be raised by taxes.

Supervisor Drake noted that the Board has gone over every account and removed any fat; adjusting the accounts down to be realistic. The budget keeps a safety factor in it for any potential increases that might hit the Town next year. The contingent account was increased from \$25,000 to \$55,000. The Town does have old buildings. He feels confident that this is a budget that gives some relief to the taxpayers especially with COVID; some people are having troubles. It is a tight budget but he believes it is something that the Town could work with. Supervisor Drake asked if there were any comments or questions. Councilman Drozd noted that everything was said at the budget work sessions.

Councilman Snyder moved the adoption of Resolution 13, seconded by Councilman Zittel:

WHEREAS, Town Clerk Schweikert had published the Notice of Public Hearing in the Springville Journal on October 22, 2020. Said Notice of Public Hearing was also posted on the Town of Concord website: townofconcordny.com and on the signboard at the Town Hall on October 16, 2020;

WHEREAS, that the Town Board of the Town of Concord held a public hearing on Thursday, October 29, 2020;

NOW, THEREFORE BE IT

RESOLVED, that the Town Board of the Town of Concord does hereby adopt the 2021 Budget.

Voting as follows:

Councilman Drozd	Aye
Councilman Krezmien	Aye
Councilman Snyder	Aye
Councilman Zittel	Aye
Supervisor Drake	Aye

The foregoing Resolution was thereupon declared duly adopted.

Supervisor Drake asked for a motion to add Item (f) to the Agenda. Councilman Drozd brought this to his attention. Item (f) Reappoint Susan Fischbeck to the Library Board. Motion by Councilman Drozd, seconded by Councilman Zittel, to add Item (f) to New Business. Councilmen Krezmien, Zittel, Snyder & Drozd; Supervisor Drake, voting aye. Carried.

f) Reappoint Susan Fischbeck to the Hulbert Library Board – Motion by Councilman Drozd, seconded by Councilman Zittel, to reappoint Dr. Susan Fischbeck to the Hulbert Library for another five-year term effective January 1, 2021. Councilman Drozd has spoken with Dr. Fischbeck and she is very interested in being reappointed. She is currently President of the Board. Councilmen Krezmien, Zittel, Snyder & Drozd; Supervisor Drake, voting aye. Carried.

Councilman Drozd asked Supervisor Drake if he could add Item (g) to the Agenda. The Concord Public Library has received a grant of \$5,000 from Senator Gallivan’s office and would like to explore putting a security system/camera on the Town owned building. The Library Board would like the Town’s permission to get some quotes on the security system and bring the information back to the Board. The Library will pay yearly monitoring fees/maintenance if there is any; let the Board start the process of getting quotes for a system. Motion by Councilman Zittel, seconded by Councilman Drozd, to add Item (g) to New Business. Councilmen Krezmien, Zittel, Snyder & Drozd; Supervisor Drake, voting aye. Carried.

g) Hulbert Library Board – Supervisor Drake advised that the Town Board needs to have something in writing that the Library will be paying any monitoring or maintenance fees. Motion by Councilman Drozd, seconded by Councilman Zittel, to let the Hulbert Library investigate a security system and get their findings back to the Town Board before a final determination is made. Councilmen Krezmien, Zittel, Snyder & Drozd; Supervisor Drake, voting aye. Carried.

There was no Executive Session.

ITEM #7 CONSENT AGENDA

There was nothing for Consent Agenda.

ITEM #8 COUNCILMAN NOTES

a) Councilman Zittel advised that the East Concord Fire Company got their sign up. The Fairview Cemetery also got a new sign.

b) Councilman Snyder noted that a lot of work went into the Budget and he believes this is one of the best budgets passed in a long time. The Board looked at every single line. He thanked Supervisor Drake and the rest of the Board for the really good budget especially with COVID.

c) Councilman Drozd advised that the Springville Fire Company's paving project is complete. All the final paperwork is in to the USDA after a 2 ½ year process; they are waiting to close on the loan.

d) Supervisor Drake shared with the Board the November 11th Press Release from Governor Cuomo's office with the updated COVID rules which go into effect tomorrow; copy of Release provided the members.

e) Supervisor Drake attended the Veteran's Day ceremony. A copy of the speech he gave was provided to the Board. Councilman Snyder would like the Speech entered into the Minutes.

"Today we gather to remember our service men that have paid the ultimate price to protect our freedoms. I also want to thank the Veterans here today for their military service. They too have pledged to defend our country with their lives if called upon. So thank you for your service!

This Veteran's Day we find our country deeply divided. Probably the most divided our country has been since the Civil War. Our recent election shows almost a 50/50 split in our populations' political ideas and the direction this country will be heading. This summer we have seen our cities burn with riots in the streets. We have witnessed our flag being desecrated and citizens refusing to recognize our national anthem. History tells us that most empires and great societies have tended to crumble from within. Is America crumbling from within? Our many enemies certainly watch and hope so.

History has also shown us that fighting a common enemy has brought diverse factions together. Today we are at war with an enemy in the corona virus. This enemy has already killed a quarter of a million Americans with no victory in sight for us. It is time for us to look for common ground in our political views and fight this war together. During the Revolutionary War period Thomas Paine wrote a pamphlet "Common Sense" to encourage Americans to come together. Perhaps we need an updated edition of "Common Sense." It is time for state and national politicians to seriously work on social injustices and restore law and order in our nation.

In High School I took typing and one of the phrases we typed over and over to learn the home keys was "now is the time for all good men to come to the aid of their country". Perhaps today it is time for all freedom loving Americans to come to the aid of their country.

What better way to honor our Veterans then to heal our nation and restore meaning to their sacrifices?

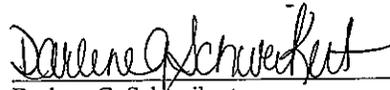
f) Supervisor Drake prepared a draft revision of the Employee Manual

and asked the Board to review the draft. The prior one was 37 pages and now it is 54 pages. It now includes the Sexual Harassment Policy, the Cyber Policy and the Cellphone Policy. Supervisor Drake asked the Board to review the draft and call him with any questions. He would like to put this on the December Agenda for approval.

ITEM #9 MOTION TO ADJOURN

Motion by Councilman Drozd, seconded by Councilman Zittel, and passed unanimously, to adjourn the meeting at 7:54 p.m. in memory of:

Joseph A. Dudziak
Hilda Lenczyk
Stanley K. Wallace
Martha Rose Roth
Kevin Rolf
David D. Beeman
Helen M. Gephart



Darlene G. Schweikert
Town Clerk