

REGULAR MEETING  
December 09, 2014

A Regular Meeting of the Town Board of the Town of Lyndon, County of Cattaraugus and the State of New York was held at the Town Hall, 852 Lyndon Center Road, Cuba, New York on the 09<sup>th</sup> day of December 2014.

Present: Leonard Kaluzny ----- Supervisor  
Clifford Evans ----- Councilman  
Don Gietl-----Councilman  
Scott Hillman ----- Councilman  
Frank Puglisi ----- Clerk  
George Schneider ----- Supt. of Highways  
Sidney Emmons ----- Councilman \*

\* Councilman Emmons was called to a fire call just before the meeting started and did return later in the meeting as noted.

Attended by: Numerous Residents.

Supervisor Kaluzny called the meeting to order with the Pledge to the Flag at 7:00pm.

Supervisor Kaluzny stated that there was one applicant for the Board of Assessment Review position, that person was Virginia Scime. Supervisor Kaluzny read her resume to the Board. Councilman Evans made a motion to appoint Virginia Scime to the Board of Assessment Review. Councilman Hillman seconded the motion. The following was

ADOPTED Ayes 4 (Kaluzny, Evans, Hillman, Gietl)  
Nays 0

Clerk Puglisi took the role. Councilman Gietl made a motion to approve the November Regular Meeting Minutes. Councilman Hillman seconded the motion. The following was

ADOPTED Ayes 4 (Kaluzny, Gietl, Hillman, Evans)  
Nays 0

**Correspondence**

Supervisor Meeting and Shared Service Meeting- Supervisor Kaluzny stated he attend a Supervisor meeting about Civil Service and Clerk Puglisi and himself attend a Shared Service Meeting. Supervisor Kaluzny stated the shared service meeting was not that informative. He also stated the Civil Service meeting was and found out the Town in the past years have not been reporting things correctly to

Civil Service. He stated he is working with them to fix the problem. Supervisor Kaluzny stated there is also a problem with the State Retirement Fund.

Richardson and Stout- Supervisor Kaluzny stated Rich Ewell sent a letter to him to set up a meeting to go over the insurance policy, and he set the meeting up for next week. The letter also stated that premiums will not increase.

NYMIR- Supervisor Kaluzny stated he received a letter from them stating our insurance rates will not go up. The letter also stated the Town passed the underwriting assessment and there were no recommendations at this time.

Five Star Equipment- Supervisor Kaluzny stated they sent a thank you letter for buying the loader with their company.

David Brautigam- Supervisor Kaluzny read a letter from Town Attorney Brautigam stating he will no longer continue as the Town Attorney after December 2014. Councilman Evans made a motion to accept Brautigam's resignation. Councilman Hillman seconded the motion. The following was

ADOPTED    Ayes   4   (Kaluzny, Evans, Hillman, Gietl)  
                 Nays   0

A detailed discussion took place about who the Town could get as an attorney. Councilman Gietl suggested McAuley from Franklinville. Councilman Evans suggested the associate from Ward and Kutzuba who is the attorney for Farmersville and their Town Prosecutor. Councilman Hillman suggested contacting Southern Tier West to see if there are any attorneys that specialize in town law. Supervisor Kaluzny will contact Southern Tier West and find out and the other attorneys.

Judy Harrington- Supervisor Kaluzny read a letter from Judy Harrington the Court Clerk stating she is going to retire on December 31, 2014. Supervisor Kaluzny stated it is with regret to accepted this letter from her. Councilman Evans made a motion to accept Judy Harrington's resignation letter. Councilman Hillman seconded the motion. The following was

ADOTPED    Ayes   4   (Kaluzny, Evans, Hillman, Gietl)  
                 Nays   0

**Public Comment**

There was no public comment.

**Old Business**

Union Contract- Supervisor Kaluzny stated the Town Highway Workers have voted to accept the contract and he signed the approved contract and sent it to the Union.

Solar Panel Report- Clerk Puglisi stated he did not get a chance to print it, but he stated there is a problem with the lights blinking on the panels. He stated that the usage has been going up instead of down the last two weeks.

Electronic Payroll- Supervisor Kaluzny stated everybody has forms in their folders to fill out so Karen can enter the information to get electronic payroll going. He stated she should be ready to go for the end of the month paychecks.

Weight Limit Law- Superintendent Schneider and Clerk Puglisi are still working on the law.

**New Business**

Transfer Funds- Councilman Evans made a motion to transfer \$9,475.00 from Highway Workers Comp DA9040.8 to General Workers Comp A9040.8. Councilman Hillman seconded the motion. The following was

ADOPTED Ayes 4 (Kaluzny, Evans, Hillman, Gietl)  
Nays 0

Supervisor Kaluzny stated this transfer is because all of the Workers Comp was paid out of the General Fund instead of both.

Notice of Claim- Supervisor Kaluzny stated the New York Secretary of State needs to know who to serve lawsuits on for the Town. He stated the Town Clerk has been this person in the past.

Councilman Hillman made a motion to pass Resolution 14-2014. Councilman Evans seconded the motion. The following Resolution was

ADOPTED Ayes 4 (Kaluzny, Evans, Hillman, Gietl)  
Nays 0

Resolution 14-2014

WHEREAS, General Municipal Law, section 53 requires towns to file a certificate with the Secretary of State designating the Secretary of State as an agent for service of a notice of claim; and

WHEREAS, General Municipal Law, section 53 requires the certificate to include the applicable time limit for filing the notice of claim and the name, post office address and electronic mail address, if available, of an officer or person for the transmittal of notices of claim served upon the Secretary of State as the Town's agent; and

WHEREAS, Pursuant to General Municipal Law, 50-e (1)(a), the applicable time limit for the filing of notice of claim upon a town is 90 days after the claim arises, or in the case of a wrongful death action, 90 days from the appointment of a representative of the decedent's estate; Now Therefor Be It

RESOLVED, that the Town Board of the Town of Lyndon, County of Cattaraugus designates Frank Puglisi in his capacity as records management officer/ Town Clerk, to receive notices of claims served upon the Secretary of State by mail at 852 Lyndon Center Road, Cuba, NY 14727 or by email at [lyndonclerk@inbox.com](mailto:lyndonclerk@inbox.com)

BE IT FURTHER RESOLVED, that the Town Board hereby directs the Town Clerk to file the required certificate with the Secretary of State informing him or her of the town's designation and applicable time limitation for filing a notice of claim with the town on or before January 1, 2015.

Singed this 9<sup>th</sup> day of December 2014.

Fuel Bid Purchase- Clerk Puglisi stated the Town can piggyback off of the contract that the Town of Franklinville bid out for fuel prices with a resolution.

Councilman Hillman made a motion to pass Resolution 15-2014. Councilman Evans seconded the motion. The following Resolution was

ADOPTED Ayes 4 (Kaluzny, Hillman, Evans, Gietl)

Nays 0

#### Resolution 15-2014

WHEREAS: The Town of Lyndon pursuant to the authority granted in General Municipal Law section 103 subsection 16, which allows the Town to make purchases of apparatus, materials, equipment and supplies, and to contract for services related to the installation, maintenance or repair of such items, through a contract let by the United States of America or any agency thereof, any state or any other county, political subdivision or district therein if several prerequisites are met,

WHEREAS: The Town of Franklinville has met the prerequisites by soliciting bids for Diesel fuel and Unleaded Gasoline, and said were noticed properly and received, WHEREAS: Rinker Oil of Cuba New York was the lowest bid price and matches State bid pricing,

WHEREAS: The Town of Lyndon desires to purchase Diesel Fuel and Unleaded Gasoline under the bided contract the Town of Franklinville received from Rinker Oil,

NOW THEREFORE BE IT RESOLVED: By the Governing Board of the Town of Lyndon is authorizing the purchase of Diesel Fuel and Unleaded Gasoline from Rinker Oil of Cuba at State bid pricing.

Dated this 9<sup>th</sup> day of December 2014.

Carbonite backup-

Councilman Evans made a motion to renew the Carbonite backup. Councilman Gietl seconded the motion. The following was

ADOPTED Ayes 4 (Kaluzny, Evans, Gietl, Hillman)  
Nays 0

Supervisor Kaluzny stated the cost to renew was \$59.99.

Petty Cash Fund- Clerk Puglisi turned in the \$200.00 petty cash fund to the Supervisor. Councilman Hillman counted and verified there was \$200.00.

Dates for Year End Meeting and Organizational Meeting- Supervisor Kaluzny stated we need to set up dates for the year-end meeting and organizational meeting. He stated possible dates for the year-end is 12/30/14 at 7:00pm and the Organizational meeting 1/2/15 at 7:00pm.

Emergency Driver- Supervisor Kaluzny stated the Town does not have a replacement driver incase of an emergency if one of the three highway guys is laid up for a while. He stated he spoke with Superintendent Schneider and since he already has a license to drive truck he can fill in until a permanent replacement is found, and he would be covered under the insurance, and he would do it for free. Superintendent Schneider stated he would have to just get a pre-employment drug test, and he would be able to call him if needed. Councilman Evans made a motion for Supervisor Kaluzny to get the pre-employment drug test and have the Town pay for it. Councilman Hillman seconded the motion. The following was

ADOPTED Ayes 4 (Kaluzny, Evans, Hillman, Gietl)  
Nays 0

Best Value Local Law- Clerk Puglisi stated that the Town needs to pass a best value law so that the Town can accept bids that are of best value and not just lowest price. This allows the Town to also piggyback off of bids from other towns that do best value. The Board will review the law and once a new town attorney is in place go forward with it.

Fire District Voucher- Supervisor Kaluzny stated the Fire District will have to submit a regular voucher signed by the appropriate Fire District people, and then it will be signed by the Town Board at the regular January meeting, and it will only be paid out after enough money is collected and received from the Tax Collector. Supervisor Kaluzny stated it will be paid once the amount is turned over from the Tax Collector and not out of the Town Money Market account.

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Bond for Town Trucks- Supervisor Kaluzny stated he talked to the bank about the process on how to get a bond for town trucks. He stated we have to have a letter written up stating how much it will cost and all of the details. The Town Attorney or Bookkeeper can write this letter. He stated we would have to do this a couple of months prior to when the payment is due. The bond is renewed every year and we would have to pay the interest every year and then whatever payment the town wants to put on the principle. Supervisor Kaluzny stated that in the last 3 to 4 years about \$100,000 has been spent on fixing the old trucks. Superintendent Schneider stated it will take a year to get a new truck. A detailed discussion took place. Councilman Evans asked how much would our trucks be worth? Superintendent Schneider stated he is not sure until they are appraised. Councilman Hillman asked if we could get some good used trucks. Superintendent Schneider stated that after 5 to 6 years the trucks start to have problems. Councilman Gietl asked what years where are current trucks? Superintendent Schneider stated 1994, 2001, and 2007. Councilman Gietl asked which one would he get rid of. Superintendent Schneider stated the 2007 because he is having problems again with the truck, and it needs to be fixed and may cost up to \$5,000 to fix the EGR valve. Councilman Gietl asked if we did take a loan out, how long are we shooting to pay it back. Supervisor Kaluzny stated 5 years. Councilman Gietl stated then in five years the oldest truck will be 25 years old and the next will be 20 years old. Superintendent Schneider is going to get approximant truck prices and report back to the Board.

Retirement Audit- Supervisor Kaluzny stated that the Towns retirement has not been report right or done right since 2010. He also stated he is working with State to fix the problem, and he does not have a time frame when it will be all fixed. Councilman Hillman asked if the State contacted the Town. Clerk Puglisi stated yes because the former supervisor did not respond to an audit from May of 2013. He stated that he was in the office when the State called at 9:10am and asked what exactly is wrong. Clerk Puglisi stated that the Town needs to have standard workdays for non-hourly employees, which include the Dog Control Officer, Code Enforcement Officer, Highway Superintendent, and the Assessor. The standard workday is between 6 and 8 hours and the Board will have to determine the hours for each position. Then each person will have to do a calendar of the days worked and what they did each day, and that is used to calculate their rate. The Board will then have to pass the resolution, which includes all of the data, and the Clerk will have to post it for 30 days, and then submit it to the retirement system. Clerk Puglisi also stated a resolution will have to be done for the Highway Workers but that is a standard 8 hours and does not need to be posted.

Christmas- Supervisor Kaluzny asked if the Board does anything for the employees for the holidays. The Board was not sure if they could do anything legally so it was decided nothing would be done.

January and February Meeting Minutes- Clerk Puglisi stated the January and February 2014 meeting minutes have not been approved yet, and they need to be so they can be printed in the minutes book. Clerk Puglisi stated he was not changing the minutes after what was sent out in letters, and the minutes do not need to be approved, they can just be printed in the book. He stated there was nothing falsified or illegal about them and the Clerks minutes are the Clerks minutes. Councilman Gietl asked to refresh his memory on why they were not approved back then. Clerk Puglisi stated there was not a reason given. Councilman Hillman stated the last he remembered Councilman Emmons wanted to sit down and discuss the minutes. Clerk Puglisi stated they did and there was no major changes to the minutes what he wanted in there was Dale Carlson comments about the Citizens Advisory Committee. Councilman Evans made a motion to approve the minutes as written. Councilmen Gietl and Hillman asked if the approval could wait till Councilman Emmons was at the meeting or the year-end meeting. Clerk Puglisi agreed with them and it was decided to wait till the year-end meeting.

### **Supervisor Report-**

A detailed report was given to the Board. Supervisor Kaluzny stated we have \$184,092 in the General and Highway Funds and \$23,023.50 in the Tax Stabilization Fund. Councilman Gietl made a motion to approve the written Supervisor Report. Councilman Hillman seconded the motion. The following was

ADOPTED    Ayes    4    (Kaluzny, Gietl, Hillman, Evans)  
                 Nays    0

### **Clerks Report-**

A detailed report was given to the Board. Clerk Puglisi stated he took in \$159.32 and paid out \$159.32. \$90.06 to the Supervisor, \$33.06 to the DEC, \$28.20 to the County for DPW tickets, and \$8.00 to NY Ag and Markets.

Clerk Puglisi stated he did buy the new printer for the Clerk's office and got a really good deal, and only paid \$79.99 for a \$200.00 printer.

### **Justice Report-**

A detailed report was given to the Board. Supervisor Kaluzny stated we received \$20.00 this month that stays with the Town.

### **CEO Report-**

A detailed report was given to the Board. Supervisor Kaluzny said the report stated 14 permits were issued.

### **Highway Report-**

Superintendent Schneider gave the following report. He stated he submitted all of the CHIPS paperwork to the state, and got a call a couple weeks later stating they were missing the invoices and he faxed them over. He stated the Town should be getting a check towards the end of the month. Superintendent Schneider stated that every year they have problems when they start sanding and plowing the roads, and they had to replace a sander chain that they already fixed once. He stated he needed to go out and buy 5 gallons of fuel treatment because his truck had problems running, and had to baby it to get back to the Town barn. He thinks by changing to regular diesel instead of bio-diesel it will stop some of the filter problems. He stated he put all of the signs for the Town out to bid to two different places and Mark the sign guy put bids in for two different companies. He stated the price range was from \$3,400 to \$6,400 and Cattaraugus County was the cheapest at around \$3,400 so he ordered all of the signs from them. He stated there were no Amish signs in the sign order. Councilman Hillman asked if there is any liability to the Town if we don't have any signs up. Superintendent Schneider stated he would check on the liability and if we need to put up signs. Councilman Gietl stated the County should be putting them on their roads. Councilman Gietl stated we should ask for rough road signs to be put up on County Road 24.

\*Councilman Emmons returned from the fire to the meeting.

Superintendent Schneider stated that the extra CHIPS money the Town received this year is paying for all of the new signs.

January and February Minutes- Since Councilman Emmons was back from the fire to the meeting the issue was able to get discussed before the year-end meeting.

Councilman Emmons asked Clerk Puglisi where are we with them. Clerk Puglisi stated he was not comfortable changing anything after the letter that was sent out saying he falsified minutes, which he stated he did not. Councilman Emmons asked where did this allegation appear in the so-called corrected minutes. Clerk Puglisi said in the election letter that you guys sent out. Councilman Emmons stated the fire department is not running the town so politics is politics. Clerk Puglisi stated you sent out a letter saying I falsified minutes and I did not the Clerks minutes are the minutes. Clerk Puglisi stated that even when we had the meeting about these minutes there were no major disagreements. Councilman Emmons said we had small disagreements but it was not a case of falsification that he could remember.

Councilman Evans made a motion to approve the January and February meeting minutes as written by the Clerk. Councilman Gietl seconded the motion. The following was

ADOPTED     Ayes    5    (Kaluzny, Evans, Gietl, Emmons, Hillman)  
                 Nays    0

Councilman Emmons made a motion to pay Town Abstract 12 of the General Fund, claims 170 thru 187 for \$14,922.51 and Abstract 12 of the Highway Fund, claims 117 thru 123 for \$22,414.00. Councilman Evans seconded the motion. The following was

ADOPTED     Ayes    5    (Kaluzny, Emmons, Evans, Gietl, Hillman)  
                 Nays    0

Being no further business or concerns Councilman Gietl made a motion to adjourn the meeting. Councilman Evans seconded the motion. All Ayes the meeting was adjourned at 8:55pm.

Respectfully Submitted,

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Frank Puglisi, Lyndon Town Clerk