

REGULAR MEETING
FEBRUARY 11, 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 11th day of February 2014.

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

Attended by: Numerous Residents, The Mercury Gazette, Attorney Andrew Fleming, Four Cattaraugus County Sheriff Deputies, and Three Lyndon Constables.

Supervisor Kaluzny called the meeting to order at 7:08pm with the Pledge to the Flag.

Councilman Emmons insisted Supervisor Kaluzny read and enforce the following: “To assure fairness and order, the public will be asked to hold their questions and comments until the public comments section of the meeting. At that time, speak only when recognized by the chair, only one at a time and please refrain from interrupting Town officers that have the floor. Violators will be asked to leave the building.”

Supervisor Kaluzny asked the Board to adopt a resolution to have Constables for the Town and an upcoming jury trial. Councilman Emmons made a motion to appoint Town Constables. Councilman Gietl seconded the motion. The following was
ADOPTED Ayes 5 (Kaluzny, Emmons, Gietl, Hillman, Evans)
Nays 0

Clerk Puglisi swore in the Town Constables Kimberly Baumgart, Timothy Chase, Robert McNally.

Supervisor Kaluzny appointed Clifford Evans as his Deputy Supervisor.

Clerk Puglisi took the role of the meeting all Councilman and the Supervisor was present. The Highway Superintended was absent.

Councilman Hillman made a motion to table the approval of the January minutes “because there may be several inaccuracies in the minutes of the three January meetings, I move we table the approval of all January minutes until they can be compared to audio files.” Councilman Gietl seconded the motion.

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The following was

Adopted: Ayes 3 Emmons, Gietl, Hillman
Nays 2 Kaluzny, Evans

Supervisor Kaluzny announced the resignation of John Linderman from the Board of Assessment Review. Councilman Emmons made a motion to accept the resignation of John Linderman.

Councilman Hillman seconded the motion. The following was

Adopted Ayes 5 Kaluzny, Emmons, Gietl, Hillman, Evans
Nays 0

Correspondence:

There was three letters of correspondence from:

The Franklinville Supervisor regarding the agreement to share the Assessor and the Towns portion of the bill.

Cattaraugus County Public Works regarding an agreement to spend highway funds.

Carl Crane the Chairman of the Lyndon Fire District asked to continue to have commissioner meetings and continue to buy fuel from the Town and have the Fire Districts mail be delivered and put in the inside Town mail cubbies and have access to them. A discussion took place regarding this issue by the Board. Councilman Emmons stated this was business as usual and Supervisor Kaluzny stated his thinks the Town should be the Town and the Fire District should be the Fire District.

Councilman Emmons made a motion to accept the proposal as read. Councilman Gietl seconded the motion. The following was

ADOPTED Ayes 3 Emmons, Gietl, Hillman
Nays 2 Kaluzny, Evans

Committee Reports-

LEAP- Report was given stating there was no meeting because the minimum number of individuals was not in attendance. The LEAP committee suggested to the Town Board that the LEAP Committee be suspended until there is an increased interest in it. Linda Hallett the President of the LEAP Committee submitted her resignation.

Councilman Emmons made a motion to accept Linda Hallett's resignation. Councilman Evans seconded the motion. The following was

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

Supervisors Report- A detailed report was given to the Board members. Supervisor Kaluzny stated the bank statements and accounts receivable were in the report.

Clerks Report- A detailed report was given to the Board. The Clerk took in \$168.50 and paid out \$168.50

Tax Collector Report- A detailed report was given to the Board. The Town has been paid in full for its share of the County and Town Taxes.

Justice Report- A detailed report was given to the Board.

Code Enforcement Officer- A detailed report was given to the Board.

Highway Report- A detailed report was given to the Board.

Councilman Emmons asked Supervisor Kaluzny to take up old business before going on with the meeting. Supervisor Kaluzny stated he has an agenda and would like to stick with it.

Councilman Emmons made a motion to take up old business. Councilman Gietl seconded the motion. The following was

ADOPTED Ayes 3 Emmons, Gietl, Hillman
 Nays 2 Kaluzny, Evans

Old Business-

Councilman Emmons read a letter from an Attorney from the Association of Towns regarding filling vacancies on the Town Board.

Councilman Gietl citing the letter then made a motion to appoint John Linderman Supervisor immediately. Attorney Andrew Fleming representing Supervisor Kaluzny stated the Town already has a Supervisor. Councilman Emmons stated it was not time for public comment. Supervisor Kaluzny stated that he feels that he is the Supervisor because the Board had him sworn in on the record and that he is the duly appointed Supervisor.

A Cattaraugus County Sheriff Deputy then spoke stating he does not care what is going on at this meeting politically but there will be order in this room and they will remove anybody who is out of order.

Councilman Emmons asked Supervisor Kaluzny if he was going to honor the motion on the floor. Supervisor Kaluzny stated no.

Councilman Emmons then made a motion to abolish the position of Deputy Town Supervisor.

Councilman Gietl seconded the motion. Councilman Emmons then called for a vote.

The following was

ADOPTED Ayes 3 Emmons, Gietl, Hillman
 Nays 2 Kaluzny, Evans

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Councilman Emmons then asked the Board to allow him to be the temporary chair of the meeting.

Councilman Emmons made a motion to be named chairperson of the meeting. Councilman Gietl seconded the motion. The following was

ADOPTED Ayes 3 Emmons, Gietl, Hillman
Nays 1 Evans

Councilman Emmons then stated that John Linderman was the new Supervisor until the elections and the end of the year.

Attorney Fleming wanted to make comments on the record before the Sheriff Deputies escorted him out of the meeting. Councilman Emmons stated he was not interested and Attorney Fleming stated he was going to make them anyway. Attorney Fleming stated on behalf of the Supervisor he was duly appointed and everybody in this town knows this. He was sworn in with all of you present. He was then escorted from the building.

Councilman Emmons asked Clerk Puglisi to swear in John Linderman and Clerk Puglisi stated no he has already swore in another person and he will not get in the middle of this.

Councilman Emmons then asked Councilman Gietl to swear John Linderman in as Supervisor and Councilman Gietl did. Resident Paul Knapic was also escorted from the building because he spoke out of turn.

John Linderman then addressed the Board and the Public.

John Linderman then stated that because there is still a vacancy on the Board that needs to be filled because of the resignation of Terry Bush. John Linderman made a motion to appoint Clifford Evans to the Board. Councilman Emmons Seconded the motion. The following was

ADOPTED Ayes 4 Emmons, Gietl, Hillman, Linderman
Nays 0

Councilman Gietl made a motion to:

Whereas: NYS Town Law Section 62,63, requires Town Boards of Towns of the second class to establish, by resolution, fixed days & times of regularly scheduled public meetings,

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Be it resolved: that the regular Town Board meetings will be held the second Tuesday of each month at 7pm, that any standing committee meetings be held the second Tuesday of each month at 6pm, and any special meetings be called and announced as directed in NYS open meeting law.

Councilman Emmons seconded the motion. The following was
ADOPTED Ayes 5 Emmons, Gietl, Hillman, Evans, Linderman
Nays 0

Councilman Hillman made a motion for Rules of Procedure at a public meeting. Councilman Gietl seconded the motion. The follow was
ADOPTED Ayes 5 Emmons, Gietl, Hillman, Evans, Linderman
Nays 0

Councilman Emmons made a motion for Health Insurance Premiums to be capped at \$9,436 per employee per year. Councilman Gietl Seconded the motion. The following was
ADOPTED Ayes 4 Emmons, Gietl, Hillman, Linderman
Nays 1 Evans

Before Councilman Evans voted he wanted to read the last part of the resolution. Councilman Evans asked if this was ok with the Highway Department and Councilman Emmons stated probably not. A discussion took place regarding this issue. Scott Hawley a highway employee stated it was defiantly not ok with the Highway Department. Councilman Hillman stated this was business as usual. Councilman Emmons stated the workers are paying \$1000 out of pocket. Scott Hawley stated it was \$2,400 a year out of pocket.

Public Comment-

Councilman Emmons stated to John Linderman this would be a good time for public comments but you better limit the time. John Linderman stated we should limit the time for each person to talk to one minute. Many Residents were not happy and it was settled on two minutes for each person and after everyone was done the Residents could have another opportunity. Resident Carol Evans stated it was ridiculous what happened here tonight. Resident Jack Palmer asked what Linderman's Federal experience was and John Linderman stated he was a postmaster in Cuba and Franklinville. Resident Palmer asked if he had any supervisor experience in relation to a Town Board. John Linderman stated no in relation to a Town Board but it was similar to where he worked. Resident Palmer asked to the Town Board wasn't that the problem with Leonard Kaluzny not having enough experience. Resident Palmer stated how is Linderman more experienced than Kaluzny. Attorney Fleming asked for his two minutes. Attorney Fleming stated he was here representing Leonard Kaluzny. Fleming then stated to Councilman Emmons that what happened tonight was

an old fashioned coup and this meeting should be held in Sochi, you swear a gentleman in and you are not happy with that gentleman because it's not Mr. Carlson's guy. That is pretty obvious to what happened most of the people were here at the special meeting and you Councilman Emmons are running the Town with the fellow in the corner. Attorney Fleming stated that Councilman Emmons called the Sheriff department because he wanted to restrict free speech and boot somebody that was sworn in legally and what you gentleman did here tonight you should be ashamed of, Leonard Kaluzny is perfectly qualified to be Town Supervisor.

Secretary of the Lyndon Fire District Kathy Behm stated she received the funds from Supervisor Kaluzny that was signed 2/10/2014 and was it still good. Councilman Emmons stated it was good but horribly late and the law says it should be paid immediately. Councilman Emmons stated he talk with Leonard Kaluzny about why the check was not written. Leonard Kaluzny stated that Councilman Emmons was absolutely right I had question about it because all that was shoved into Clerk Puglisi and mines face was a piece of paper with \$49,000 on it by Councilman Emmons. I was new at this position and I tried to ask the Board about it at two meetings but the Councilmen did not stay after the meeting. He then stated Kathy Behm was good enough to try and give us answers but the paper work was not all complete and nothing was held maliciously, and why should we do something that we are not sure of so you guys can say we got you and you did something wrong. Councilman Emmons stated that regardless of what you thought the Board approved payment and you could have questioned all of us on the phone and this has been happening for thirty years. Leonard Kaluzny stated that Franklinville has already got there check for the ambulance. Councilman Gietl stated I take your word for this but you could have called on the phone. Councilman Evans asked did we have enough tax money to pay the bill. Clerk Puglisi stated when this voucher was signed no the Town had only received around \$33,000 from the tax collector.

Attorney Fleming asked for another two minutes to speak. Attorney Fleming asked that if Leonard Kaluzny was not the Supervisor why did you submit the voucher for him to sign. Councilman Emmons stated we were blindsided by what happened at the meeting no thanks to Attorney Fleming and the Board did not operate right. Clerk Puglisi stated that the voucher was signed at the January 14, 2014 meeting not the January 21st meeting. He also stated that Councilman Emmons and Resident Dale Carlson came into the back offices and stood over him until he wrote the voucher out.

Resident Colette Schoening stated she felt Councilman Emmons should not comment on this because of stuff he had done previously, and felt Councilman Emmons should not be on the Board anymore. Councilman Emmons stated Mrs. Schoening was very bitter and mean.

Resident Dave Schichtel stated that New York State law section 64 subsection 5 states how vacancies are to be filled. He stated that what was done tonight was done right and the Board according to section 63 of the law has the right to name a chairperson if there is no Supervisor.

Resident Schoening asked who personally invited you to come and read this. Resident Schichtel stated he is a tax payer and has every right to be here.

Secretary of the Lyndon Fire District Kathy Behm wanted to know what the procedure is for her next year to ask for her check and would somebody please advise her on it.

Resident Dave Yost stated he thought Councilman Emmons should resign.

Old Business-

Clerk Puglisi was asked about the \$75,000 records management grant. He stated that the Town is eligible for the full \$75,000, and the Town had also received two pervious grants in 2000 and 2001. The amount of the grant depends on how well the grant is written and the needs for the Town. Councilman Hillman asked what is covered in the grant. Clerk Puglisi stated the grant would cover the Town Clerk and Records and would make it more convenient and safe for the Clerk to do business. Councilman Evans asked if it would cover putting up a separate building. Clerk Puglisi stated it all depends on what is put into the grant.

John Linderman made a motion for the Clerk to proceed with the Records Management Grant. Councilman Emmons seconded the motion. The following was

ADOPTED Ayes 5 Emmons, Gietl, Hillman, Evans, Linderman
Nays 0

New Business-

Councilman Emmons made a motion for the new Town Supervisor to have banking privileges and access to the Town computers and access codes for the building. Councilman Hillman seconded the motion. The following was

ADOPTED Ayes 3 Emmons, Gietl, Hillman
Nays 1 Evans

Councilman Emmons made a motion for a resolution governing Meeting Minutes Approval. Councilman Gietl seconded the motion. The following was

ADOPTED Ayes 5 Emmons, Gietl, Hillman, Evans, Linderman
Nays 0

John Linderman made a motion to create a Citizen's Advisory Committee. Councilman Emmons seconded the motion. The following was

ADOPTED Ayes 5 Emmons, Gietl, Hillman, Evans, Linderman
Nays 0

Many Residents were upset by this and asked Mr. Linderman who wrote the resolution for you. Mr. Linderman stated the Town Board wrote the resolution and presented it to him. Councilman

Hillman stated he got it emailed to him. Many residents asked who first sent out the email. Councilman Emmons stated the Board can seek advice from whomever they want. The Board stated that Mr. Carlson brought this to the Boards attention.

A Resolution regarding the operation of the Town Hall and who has access was discussed and Clerk Puglisi stated he was not comfortable with this because he is legally responsible for the records and the Clerks money. Clerk Puglisi also stated there was an incident where people got into the back office and left a cabinet unlocked that he does not have a key for.

Councilman Emmons made a motion to table this resolution. Councilman Evans seconded the motion. The following was

ADOPTED Ayes 5 Emmons, Gietl, Hillman, Evans, Linderman
Nays 0

John Linderman stated he was not comfortable with the Supervisor bookkeeping records of the Town from January 1, 2014 to present. Linderman made a motion to have an internal audit of the Supervisor accounts. Councilman Hillman seconded the motion. The following was

ADOPTED Ayes 5 Emmons, Gietl, Hillman, Evans, Linderman
Nays 0

The Town Credit Card was discussed and Clerk Puglisi stated the Town did not have receipts from a purchase in December 2013 and a previous balance on the card. The card was paid to avoid a negative impact on the Towns credit. The credit card was not turned over to Robert Oshei when he took office. Clerk Puglisi stated the card was closed due to that fact.

Judy Harrington's voucher for payment was short by five hours which equated to \$50.00 missing from her paycheck. The Board asked Clerk Puglisi why it was short the Clerk stated it was done by the previous Clerk and he was not aware. The Board decided to write another voucher for \$50.00 to pay Judy Harrington.

The Verizon wireless account needs a current Town Employee on the bill. Clerk Puglisi stated that the Town may be eligible for up to a 25% discount on the account but to find out the name needs to be changed.

Councilman Emmons made a motion giving Town Clerk Frank Puglisi permission to be on the Verizon wireless account for the Town of Lyndon and remove Dale Carlson from the account. Councilman Evans seconded the motion. The following was

ADOPTED Ayes 5 Emmons, Gietl, Hillman, Evans, Linderman
Nays 0

Access to the Town website was discussed and the Supervisor should get access.

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Electronic payroll checks were discussed and Councilman Emmons made a motion for the Highway works and Superintendent of Highways to receive their paychecks thru electronic bank transfers. Councilman Hillman seconded the motion. The following was

ADOPTED Ayes 5 Emmons, Gietl, Hillman, Evans, Linderman
Nays 0

A motion by Councilman Emmons to pay General Fund, claims 11 thru 25 for \$25,239.40 and To pay Highway funds, claims 12 thru 21 for \$7999.48.

Councilman Gietl seconded the motion. The following was

ADOPTED Ayes 5 Emmons, Gietl, Hillman, Evans, Linderman
Nays 0

Councilman Gietl made a motion to adjourn the meeting. Councilman Hillman seconded the motion all Ayes. The meeting adjourned at 8:50pm.

Respectfully Submitted;

Frank Puglisi - Town Clerk