

TOWN OF LYNDON
REGULAR BOARDMEETING
JANUARY 14, 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 14th day of January 2014.

Present: Leonard Kaluzny -----Deputy Supervisor
Sidney Emmons ----- Councilman
Don Gietl ----- Councilman
Scott Hillman ----- Councilman
Frank Puglisi ----- Clerk
George Schneider ----- Supt. of Highways
Absent: Terry Bush ----- Councilman

Attended by: Numerous Residents and the Mercury Gazette.

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

Deputy Supervisor Kaluzny welcomed everybody to the first regular meeting and introduced himself as the new Supervisor stating the last Supervisor resigned.

Clerk Puglisi took the role and Terry Bush was absent. Clerk Puglisi also provided the Town Board with the minutes from the year end meeting.

Councilman Emmons made a motion to accept the minutes as published. Councilman Gietl seconded the motion. The motion carried

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

Correspondence:

Deputy Supervisor Kaluzny read a correspondence from a Keith Fruehauf regarding the Assessor. An extensive discussion took place involving the Town Board and members of the public. Councilman Emmons said that Mr. Fruehauf must go to the grievance day in May because the Town Board does not have control over the Assessor. Councilman Emmons asked Clerk Puglisi to send a letter from the Board in response to Mr. Fruehauf's letter. A resident asked if the Assessor had office space and hours in the Lyndon Town Hall. Another resident asked why the Assessor is only in the Franklinville Town Hall and not here in Lyndon as well. Both residents stated they tried multiple times to reach the Assessor but were unable. Councilmen Emmons and Hillman both responded and stated that it is more cost effective and there are more hours for residents to be able to access the Assessor. Councilman Emmons stated that if you don't get the reasonable service you need you can always come to the Board. A resident asked when the grievance day will be and Deputy Supervisor Kaluzny stated it would be in May.

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Deputy Supervisor Kaluzny read a second correspondence from Councilman Bush. Councilman Bush resigned due to health reasons and stated it was a pleasure to serve on the Board. A motion was made by Councilman Gietl to accept the resignation of Terry Bush from the Town Board. Councilmember Hillman seconded the motion. The motion carried.

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

A resident asked what happens to Terry Bush's spot. Emmons responded: What happens is, in the case of the Supervisor and the Board member, the Board can appoint whomever they wish, but only until the end of the year.

Residents Jack Palmer and Clifford Evans both expressed interest in becoming Councilmen.

A motion was made by Councilman Emmons to accept the resignation of Robert Oshei. Councilman Gietl seconded the motion. The motion carried.

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

Deputy Supervisor Kaluzny stated that we have a Board member to replace and Councilman Emmons nominated Tom Schaeper. Councilman Gietl nominated Dale Carlson. Councilman Hillman wanted to take more time and get a pool of candidates for the Board to review and table this appointment until the February meeting. Councilman Emmons stated that he needs to make a motion.

Councilman Hillman made a motion to table the appointment until the February meeting. Councilman Gietl seconded the motion. The motion carried.

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

Councilman Emmons stated we do not have a Supervisor at the moment and Supervisor Kaluzny is only temporary. Councilman Gietl stated he thought that Mr. Kaluzny fills in until the November Election. He also stated that is how he became Supervisor himself.

An extensive discussion took place regarding this issue. The Town Board and the Public took part in the discussion that centered on the laws. Councilman Emmons read a segment of the Town Law Manual. "In the case where the office of Supervisor becomes vacant, any deputy supervisor in office at the time of such vacancy shall occur, shall continue to serve until the successor of the deputy supervisor is appointed." and "It (Town Law 64, subdivision 5) provides that whenever a vacancy shall occur or exist, the Town Board, or a majority of all the members thereof may appoint a person to fill the vacancy". "That's the key". Emmons further offered "remember, the Deputy Supervisor cannot vote" and "there's no question in the law, you can argue the timing, but there's no

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question in the law that we have to appoint a supervisor". Many residents wanted to know why the Deputy would not take over until the November election. Councilman Emmons asked the Board what action they wanted to take. Councilman Gietl stated he is still confused on the issue. Councilman Hillman anticipated "the best option then would be to appoint him then and move forward from there and he would then appoint a deputy". A resident stated that Councilman Hillman and Councilman Emmons were not on the same page. Councilman Emmons stated no we are not.

Councilman Emmons moved to appoint Dale Carlson for Supervisor. Councilman Gietl seconded the motion.

An extensive discussion took place and many Residents were upset that the Board would appoint Mr. Carlson. Several residents stated they should appoint Leonard Kaluzny as Supervisor. Councilman Emmons stated that Dale Carlson has more experience than anybody as Supervisor. A town resident then stated that the new Town Clerk Frank Puglisi did not have any experience and that he has impressed people already. Councilman Emmons stated that he agreed with him. A resident then asked Councilmen Gietl and Hillman to read the law for themselves, before they take any action. Councilman Gietl stated that he would like to see the law. Another resident asked the Board to take into consideration what the people are expressing here tonight, and that many people were not happy with Mr. Carlson. Councilman Gietl stated that was clear by the election results. Deputy Supervisor Kaluzny stated it might be better to have a full Board before any votes were taken. Councilman Emmons agreed. Councilman Emmons withdrew his nomination of Dale Carlson and Councilman Gietl withdrew his seconded nomination of Dale Carlson.

Councilman Gietl made a motion to wait until Tuesday January 21, 2014 to appoint or nominate any person to any vacant position on the Board. Councilman Emmons seconded the motion. The motion carried.

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

Councilman Gietl made a motion to:

Whereas security and safety of Town banking accounts is paramount, and the Community Bank, NA requires formal Board notice to amend signature cards, and

Whereas the Supervisor's term of office, held by Robert Oshei, expires 1/14/2014, and new Supervisor Leonard Kaluzny Sr., takes office 1/14/2014,

Be it resolved that all Lyndon Town Supervisor's primary banking privileges and responsibilities be transferred to Mr. Kaluzny effective, 1/14/2014 and that all bank checks, supporting material and endorsed signature cards be turned over by 1/16/2014.

Councilman Emmons seconded the motion. The motion carried.

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

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Public Comments:

Public Comment was made by a resident stating he liked that the former Supervisor Dale Carlson sent a letter with the tax receipts stating Town information and elected officials, about the web site and such, and it was inexpensive. Clerk Puglisi informed the Board and that resident that it was not legal to send that letter in tax bills. Councilman Emmons asked about sending it in tax bill receipts and Clerk Puglisi stated that the Association of Towns did not make that clear. Clerk Puglisi stated he would look into if it was legal or not. Councilman Emmons asked if and when do the tax bill receipts get sent back? Clerk Puglisi stated that as soon as the persons check clears in the bank the receipts go out. Stating that if the check is deposited on Monday by Wednesday the check should clear and the receipt then gets mailed.

Committee Reports:

LEAP report was provided. Kathy Beam asked to speak stating the LEAP committee is not getting any public participation, and if they do not get any they might have to dissolve the committee. The regular meetings are on the first Saturday of the month at 11:00am.

Old Business:

Clerk Puglisi wanted to inform the Board that the Deputy Clerk is also the Deputy Tax Collector.

New Business:

An extensive discussion occurred regarding the Verizon bill and whose name to put it in. Councilmen Hillman and Emmons stated it would make sense to put it in Clerk Puglisi name. no action was taken on the issue. Clerk Puglisi then informed the Board that this month we may go over the usage because 75% of the internet was used between December 25, 2013 and January 1, 2014 which was before his term in office.

Town Clerk Puglisi stated that there is a \$75,000 grant for records management and that he would like to take the Tax Collector pay and move it into the Records Management Department. Clerk Puglisi stated he would collect taxes for \$1 this year so this can be done. Councilmen Gietl and Emmons had some questions regarding the grant that Clerk Puglisi answered. Councilman Hillman asked Clerk Puglisi about indexing and if this would help it. Clerk Puglisi stated that indexing was not a state mandate but this would help with it. No action was taken so that Clerk Puglisi could receive more information and bring it to the board.

Clerk Puglisi asked the Board to make a motion so that he could begin the process of getting the D.E.C license back in the town. A discussion took place and the Board wanted to know what it would cost the Town. Clerk Puglisi stated that there would be no cost to the Town whatsoever & the only thing we would need to do is open a new bank account so the State could take their money from it. Clerk Puglisi stated that the bank account is

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free to open. Councilman Emmons asked if the Town will get any money from the sales and Clerk Puglisi stated yes a small amount that is on a sliding scale depending on how many licenses are bought. The Board stated that it was a convenience for the Town and thought it would be a good idea.

Councilman Emmons made a motion to allow Clerk Puglisi to bring the D.E.C license back to the Town. Councilman Gietl seconded the motion. The following Resolution was ADOPTED Ayes 4 Kaluzny, Emmons, Gietl, Hillman
Nays 0

Councilman Gietl asked Councilman Emmons if his insurance matter with the Town of Ischua was resolved. Councilman Emmons stated that Ischua's Board meeting was tonight so he will not know until next meeting.

Supervisors Report: No report was given at this meeting.

Clerk Report: Clerk Puglisi stated that all Board members received the report. He took in \$19.00 and paid out \$19.00. \$15.00 was to the Supervisor and \$4.00 was to the State for dog license fees.

Tax Collectors Report: Clerk Puglisi stated that we took in \$96,439.93 and he has paid out \$30,353.21 to the Supervisor and will write a check tomorrow to the Supervisor as well.

Justice Report: was provided. Resident Skip Evans asked to be heard stating that the Court Clerk Judy Harrington has not paid yet since December of 2013. The Board will look into this and get her paid.

Highway Report: Supt. of Highways Schneider stated they have been plowing the roads and doing some small maintenance. He has a highway spending agreement that he needs to present to the Board every January and send to the County. He stated he would like to chip Grove Road and check on the culvert pipes. Councilman Emmons asked if this was a five year or one year resurfacing. Highway Supt. Schneider stated it was a five year resurfacing. He also stated that he anticipates spending \$80,000 this year which is under his budget of \$110,000. He also stated he would like to work on Snyder Hill Road and rebuild a section of the road to be able to accommodate large trucks. Councilman Hillman asked if was still able to get sand. A resident asked what is the mix that is put on the Town roads. Highway Supt. Schneider stated he is able to get the sand and the mix is one bucket of salt to nine parts sand. Highway Supt. Schneider stated the new loader was not working during the cold weather last week and John Deere came out the next day and could not find the problem. The Board asked what is going to be done by John Deere. Highway Supt. Schneider stated that John Deere thinks it is in the hydraulics not the computer. John Deere can not figure this out at the moment. They said to call the dealer in Orchard Park if the issue happens again. Councilman Gietl asked if

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there is a snow storm and the loader goes down can they still fill the trucks. Highway Supt. Schneider stated there is not an easy way to fill the trucks without it.

Motion to pay General fund, claims 1 thru 10 for \$54,121.73 and
To pay the Highway funds, claims 1 thru 11 for \$5993.24.

Councilman Emmons made the motions. Councilman Gietl seconded the motion. The motion carried.

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

A motion was made by councilman Gietl to adjourn. Councilman Hillman seconded. All members voted Ayes and the meeting adjourned at 8:15pm.

Respectfully Submitted:

Frank Puglisi – Town Clerk

NOTE: Nine motions were carried 4 to 0, including the Deputy Supervisor's vote when the Deputy Supervisor cannot vote. Since only three votes are necessary to carry, there was no effect on the outcome.