

SPECIAL MEETING
JANUARY 21, 2014

A Special 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 21st day of January 2014.

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

Attended by: Numerous Residents, the Mercury Gazette, Attorney Andrew Fleming

Notice of said meeting was sent to the Mercury Gazette on January 16, 2014 with the same being posted on the same date at the Town Hall.

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

Appointment of Town Board Member-

Supervisor Kaluzny stated that this Special Meeting is being held to fill the vacated Board seat of Terry Bush.

Supervisor Kaluzny nominated Clifford (Skip) Evans and seconded by Councilman Hillman. Supervisor Kaluzny stated we will do a voice vote of each Board member.

Supervisor Kaluzny ----- Ayes
Councilman Gietl ----- Ayes
Councilman Hillman ----- Ayes
Councilman Emmons ----- Nays

Supervisor Kaluzny asked the Board for any other nominations.

Councilman Emmons Nominated John Linderman which was seconded by Councilman Gietl. A voice vote was taken:

Supervisor Kaluzny ----- Nays
Councilman Gietl ----- Nays
Councilman Hillman ----- Nays
Councilman Emmons ----- Ayes

Supervisor Kaluzny asked if there are any other nominations on the table for Councilman, again asked are there any other nominations, and again asked are there any other nominations?

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There were no other nominations and Clifford (Skip) Evans was declared the winner.

Resident Dale Carlson then asked to be heard on a point of order. Resident Carlson stated that an appointed Town Supervisor does not have a vote according to Town Law. Councilman Emmons agreed with the statement and corrected it to Deputy Supervisor.

An Extensive Conversation between the Town Board and the Public took place. Many Residents stated Mr. Kaluzny was sworn in as Town Supervisor at the last meeting in front of everybody and it was also in the Mercury Gazette. Resident Carlson stated he was ignored when he spoke up about this issue. Several Residents stated that Deputies do not get sworn in. Resident Carlson stated there needed to be board action. Councilman Geitl stated there would need to be Board action to appoint a Supervisor. Many Residents stated the Board gave Mr. Kaluzny the authority to sign checks and access bank accounts as Town Supervisor. Councilman Gietl stated he did not recall that and he thought it was as Deputy.

Attorney Andrew Fleming then stated that he was here on behalf of the Supervisor Leonard Kaluzny and the Town to retain Mr. Kaluzny's position, and there is an audio tape of Leonard Kaluzny being sworn in as Supervisor. Attorney Andrew Fleming then stated there are signatures of the Town Board members giving Leonard Kaluzny full check signing privileges as Town Supervisor and not Deputy. Resident Carlson asked if there was documentation to back that statement up. Attorney Fleming stated he had the document in his possession. He also stated that there is an audio tape of the Town Clerk swearing Mr. Kaluzny in as Supervisor, and stated the Board confirmed this by their presence at the meeting. Mr. Fleming then stated that as Mr. Kaluzny sits here tonight he is the Town Supervisor.

Resident Tom Schaeper asked the Town Clerk if he had a copy of the Oath that was read because as he remembered, it sounded like the same oath given to every person. Town Clerk Puglisi stated that the Oath is the same for everybody and blanks are left in it to fill in the name and title of a person.

Resident Carlson asked the Town Clerk what he put in as the title.

Town Clerk Puglisi stated Town Supervisor.

Resident Carlson asked by whose authority did he swear Mr. Kaluzny in as Supervisor.

Town Clerk Puglisi stated the Board directed him to swear Mr. Kaluzny in.

Councilman Gietl stated that the Board thought it was Acting Supervisor.

Councilman Hillman stated he was under the impression Mr. Kaluzny was going to perform the duties until the Board names a Supervisor.

Attorney Fleming stated Mr. Kaluzny was sworn in.

Supervisor Kaluzny then stated if you remember the Board told me to come on down and close the meeting and then I stated I was not sworn in and the Board told me to come down and be sworn in as Supervisor.

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Resident Carlson stated that he said it was not necessary for there to be a Supervisor to close the meeting but the Board went ahead and did it anyway.

Resident Colette Schoening asked the Board members who do they want to appoint if Leonard Kaluzny is not Supervisor?

Councilmen Gietl and Emmons stated Dale Carlson because he has more experience than anyone.

Resident Schoening stated that the person does not need experience to be Town Supervisor, and ask why do they need to have Dale Carlson back in office? She also asked Mr. Carlson and the Board why after he lost two elections and was given the pink slip and voted out by the Towns People would they put him back in office. She then stated that between Carlson, Councilmen Emmons and Gietl, they have almost 90 years of experience together. She stated her biggest complaint is that Dale Carlson is a very dishonest man. She then went on to say that many residents of the Town who were Public Officials resigned because of Mr. Carlson.

Resident and Former Justice Carol Evans was asked why she resigned and she stated that Dale Carlson told her numerous times that the Town did not need a Judge.

Resident Carlson stated that is not why she resigned and that it was discussed at a Town Board meeting that we did not need a Judge because the Town was losing money.

Councilman Gietl stated it was never, never discussed by the Board.

Former Justice Evans stated that the Judge for a Town is not here to bring in revenue but to administer justice.

Resident Carlson stated that it was not just the Town but the entire County stating small Towns need to work to share Justices, and I encouraged you to stay on because you were a great Judge.

Former Justice Evans stated she was not encouraged to stay in office.

Resident Schoening asked why they did not take Mike Cremen as a replacement when the Justice Evans resigned. She stated that Mr. Carlson said we did not have a willing person in the Town to take over.

Resident Carlson responded we did not.

Many other Residents then asked why Mr. Cremen was not picked and asked about money for the Justice training course in Albany.

Attorney Fleming asked to be heard for a moment and stated that in his opinion it would be against the election law if the Town Board massaged Mr. Carlson back on the Board after he already lost an election.

Councilman Emmons stated the elected person then walked out, and when there is a vacancy the Board appoints a supervisor.

Attorney Fleming stated the Board already appointed Mr. Kaluzny.

Councilman Emmons stated we did not vote on it.

Resident Collette Schoening asked Councilman Emmons why he is unwilling to keep Leonard Kaluzny as Supervisor.

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Councilman Emmons stated he did not feel he was qualified.

Resident Knapic stated the Board makes all the decisions and it was seen with Former Supervisor Oshei wanting the meetings at 4:00pm and the Board would not do it and he was up and out. He then stated the Board has the control not the Supervisor.

Resident Sharon Palmer stated you were going to give Oshei a chance.

Councilman Emmons stated no the voters were giving him a chance not the Board.

Resident Joel Scime stated that when the Board members first got on the Board they did not have any experience either and that Leonard Kaluzny could gain the experience just like they did. He also stated that if they are a good Board they will be able to give him guidance.

Resident Sharon Palmer stated that Councilman Hillman does not have experience and he is new to the Board.

Resident Schoening stated Mr. Carlson brings up about workmen's comp in a letter he wrote to the Residents.

Councilman Hillman stated that we need to get back to the meeting because this is not about Mr. Carlson and Resident Schoenings animosity towards him.

Resident Schoening asked for the whole issue to be tabled. Also stating everybody in the room except for a few people have animosity towards Mr. Carlson.

Councilman Gietl stated that was personal.

Resident Knapic stated that the vote was 75 to 125 and those were the same people that put both Councilmen Gietl and Hillman in office. He then stated if you are with the people and stand with the people you better vote with the people.

Councilman Gietl asked Mr. Knapic if he was a coach of a football team would he take a second stringer or the starter.

Resident Knapic stated that he is going to work hard to have the Board voted out of office.

Councilman Gietl stated go ahead and try I have never lost an election yet. Mr. Gietl then stated he does not care anymore if he is on the Board.

Resident Jack Palmer asked what is the big thing that Dale Carlson has to be back as Supervisor.

Councilman Gietl stated there is no big thing.

Resident Jack Palmer asked why are the filing cabinets empty.

Councilman Emmons stated he was not aware of what he was talking about and stated a lot of this was because the Town was fully computerized.

Councilman Gietl asked how he knew they were empty?

Resident Jack Palmer asked Town Clerk Puglisi if he felt all the paperwork was on the computer.

Town Clerk Puglisi stated he was not fully aware of where everything is.

Resident Schoening asked Resident and Former Fire Commissioner Knapic why did he quit.

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Resident and Former Commissioner Knapic stated it was politics and always the same people calling the shots.

Resident Schoening then asked Supervisor Kaluzny to table this and that he remains there until they bring in legal proof that he is not Supervisor. She then stated that many years ago Mr. Carlson was a Town Supervisor and a Fire Commissioner and would not leave his seat until many residents brought him to court and had him removed.

Attorney Fleming asked if Mr. Evans had been voted in?

Town Clerk Puglisi stated that with the Supervisors vote it is 3 to 1 and without his vote it is 2 to 1.

Councilman Emmons stated that it was marks nix's whether Mr. Kaluzny was Supervisor or Deputy but there is no argument that Mr. Evans was on the Board.

Councilman Gietl welcomed Mr. Evans to the Board.

Town Clerk Puglisi asked Mr. Evans if he wanted to get sworn in now and Clerk Puglisi left the room to get the Oath book.

Councilman Hillman asked if Supervisor Kaluzny's vote legally counted.

Resident Palmer stated they should know the laws.

Councilman Emmons stated that the question is if Mr. Kaluzny is the Deputy or is he a full blown Supervisor.

Councilman Gietl stated that is the question.

Attorney Fleming stated that this is not the question regarding appointing Mr. Evans.

Councilman Emmons stated that he understood that. He also stated that was marks nix's over and done with.

Resident Carlson stated to the Board they need to consult an attorney. He then stated the Board should adjourn the meeting and consult with the Association of Towns stating he was not an attorney.

Attorney Fleming stated that what was posted on the doors and in the paper for the special meeting was to fill board vacancies. He also stated that the rest of the issues were not put in the notice so the rest of the Town's people are not notified. He stated that they did what they have come to do and have elected Mr. Evans to the Board.

Councilman Gietl stated then we better table the meeting.

Councilman Hillman stated that there is gray area and he wants to make sure the majority vote would put Mr. Evans on the Board without the Supervisors vote counting.

Councilman Emmons stated it would not make a difference.

Resident Carlson stated he does not want to talk over Attorney Fleming and asked Councilman Emmons to come over and talk to him for a minute.

Councilman Emmons got up from the table and went and had a private conversation with Resident Carlson.

Councilman Emmons then came back to the table and asked Clerk Puglisi what was put in the notice? Also if he talked to anybody before he put the notice in the paper.

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Clerk Puglisi stated no he did not talk to anybody before putting the notice in the paper. The Board told him to put a notice in the paper and also include that immediately following the meeting there would be an internal Justice Audit.

Councilman Emmons stated that under the circumstances he would move to close the meeting.

The Residents asked what about swearing Mr. Evans in as Councilman?

Councilman Emmons stated oh I am sorry please do that right now.

Resident Carlson stated that Councilman Emmons motion was proper.

Councilman Hillman stated he wanted to make sure everything was done right and Mr. Evans does have his support.

Resident Carol Evans stated why is Mr. Carlson telling the Board what to do. Stating she does not think that is right.

Attorney Fleming stated that Mr. Kaluzny is the Supervisor and if there is a court challenge they could then challenge Mr. Evans appointment as well.

Councilman Emmons stated that the crocks of the situation is whether Mr. Kaluzny is Supervisor.

Many Residents stated that he was sworn in, in front of everybody and it was put in the Mercury Gazette.

Attorney Fleming stated to Councilman Emmons that with all due respect the crocks of the situation is Mr. Carlson wants to get back on the board. He also stated Mr. Carlson lost the election.

Councilman Emmons stated there was an election and you got yourself a Supervisor, then that person elected walked out.

Resident Palmer stated that's right but he assigned a Deputy.

Councilman Emmons stated it now is an open ball game.

Attorney Fleming stated the ball game changed a week ago when you sworn in Leonard Kaluzny as Supervisor. Leonard is the Supervisor.

Councilman Emmons stated Leonard Kaluzny was sworn in so he could pay checks.

Councilman Hillman stated he was to carry on the business for the Town until a Supervisor was appointed.

Many Residents were upset about those statements.

Attorney Fleming stated the recording is clear that it states Leonard Kaluzny was sworn in as your Town Supervisor.

Supervisor Kaluzny asked to bring something up to the Town Board. He then stated that when this happened it was not stated by either Mr. Carlson or the Town Board members that Clerk Puglisi was able to sign the checks. He then stated you did not have to swear me in to sign the checks, you swore me in as Town Supervisor. Clerk Puglisi had full authority to sign the checks. He stated that the Board told him to come down and get sworn in, and I was sworn in as Supervisor, how could I not be Supervisor. He asked if the Board was having a do over.

Councilman Hillman stated he thought the whole time it was understood that you were being sworn in to carry on the business of the Town until the Board appoints a new one.

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Resident Palmer asked what was he being sworn in as?

Councilman Gietl stated as Acting Supervisor.

Many Residents then stated it is now Acting Supervisor not Deputy Supervisor.

Resident Schoening asked how three Board members can look everybody sitting here in the eye and do this.

Councilman Gietl stated that for thirty years they have been doing this and that every time he needs to put somebody on the Board he looks for the best available person and that person is Dale Carlson who has already sat in the Supervisor chair.

A heated discussion took place between Councilman Gietl and Resident Schoening.

Supervisor Kaluzny called the meeting back to order.

Clerk Puglisi swore in Clifford Evans as Town Board Member.

Councilman Emmons made a motion to adjourn the meeting. Seconded by Councilman Gietl All Ayes and the meeting was adjourned at 7:32pm.

Respectfully Submitted;

Frank Puglisi – Town Clerk