

A Town Board Meeting was held Monday, December 27, 2010, at 7:00PM at Town Hall, 18 Russell Avenue, Ravena, New York

PRESENT: James C. Youmans, Supervisor
Dawn Rogers, Councilwoman
Thomas A. Boehm, Councilman
Richard N. Touchette, Councilman
Thomas E. Dolan, Councilman

ALSO PRESENT: Diane L. Millious, Town Clerk
Greg Darlington, Chief of Police
David Wukitsch, Attorney for the Town

Supervisor Youmans opened the meeting and led the Pledge of Allegiance.

OPENING COMMENT

Supervisor Youmans stated that the record should reflect the presence of a full Town Board as well as Town Clerk Millious, Chief of Police Darlington and Attorney for the Town Wukitsch.

AGENDA

- Public Announcement
 - Town Offices Closed December 31st
- Public Comment
- Supervisor's Report
 - November 2010
- Department Reports
 - Building Department, November
 - Sewer Department, November
 - Town Clerk
- Old Business
 - Property on Rte. 9W
 - Retainer & Fees for Legal Services by Attorney for the Town
 - Pre-registration for Association of Towns 2011 Training School & Annual Meeting
- Resolutions
 - Appoint Planning Board Member
 - Establish Sewer Rates 2011
 - Authorize Inclusion of Dog Licensing Insert with Tax Bill Mailing
 - Opposition of State Mandated Real Property Tax Caps
 - Approve December Abstract
- Town Board Workshops / Meetings
 - Organizational Meeting, January 1, 2011, 10:30am

PUBLIC ANNOUNCEMENT

Supervisor Youmans stated that on Friday, December 31, 2010, all Town offices will be closed in observance of the New Year Holiday with the exception of the Police Department, which is a 24/7 operation.

PUBLIC COMMENT

Supervisor Youmans invited the public to comment at this time, hearing none he moved to the next item on the agenda.

SUPERVISOR’S REPORT

November 2010

Supervisor Youmans read the Supervisor’s Report as follows:

Fund	Balance Fwd.	Receipts	Disbursements	Balance
General	\$584,397.48	\$ 47,315.44	\$286,023.11	\$345,689.81
Part-Town	\$213,070.70	\$ 26,207.66	\$ 18,819.84	\$220,458.52
Highway	\$ 92,156.97	\$ 253.22	\$ 46,748.58	\$ 45,661.61
Bridge Const.	\$314,441.14	\$ 75.37	-0-	\$314,516.51
Sewer	\$255,290.82	\$ 28,938.64	\$ 63,217.22	\$221,012.24
Special Water	\$ 75,791.86	\$ 7,471.06	\$ 83,236.94	\$ 25.98
Police Forfeit.	\$ 5,071.50	\$ 1.36	-0-	\$ 5,072.86
Trust & Agcy.	\$ 19,306.86	\$208,251.01	\$209,209.25	\$ 18,348.62
Capital Proj.	\$ 35,967.77	\$ 8.17	-0-	\$ 35,975.94
Section 8 HUD	\$129,105.05	\$ 38,959.15	\$ 40,777.31	\$127,286.89
			Total Rec. Bal.	\$1,334,048.98

SAVINGS ACCOUNTS	COLLATERAL COVERAGE	FDIC COV.	COLLATERAL	
Unemployment	\$ 4,067.99	Bank of Greene	\$250,000.00	\$1,842,581.14
Grove Cemetery	\$40,801.60	National Bank	\$250,000.00	\$ 158,986.72
Sewer-Dedicated	\$ 6,310.95			
Total	\$51,180.54			

Supervisor Youmans asked for a motion to approve the report.

MOTION

On motion of Councilman Touchette, seconded by Councilman Boehm, the Supervisor’s Report was accepted as presented and read.

APPROVED – VOTE – AYES 5 – NAYS 0 – SO MOVED

DEPARTMENT REPORTS

Building Department – November

Supervisor Youmans asked that Councilwoman Rogers give the Building Department Monthly Report.

Councilwoman Rogers continued by giving the report.

Supervisor Youmans offered a motion to approve the report.

MOTION

On motion of Supervisor Youmans, seconded by Councilman Boehm, the Building Department Monthly Report was accepted as presented and read.

APPROVED – VOTE – AYES 5 – NAYS 0 – SO MOVED

Sewer Department – November

Supervisor Youmans asked that Councilman Touchette give the Sewer Department Monthly Report.

Councilman Touchette continued by giving the report.

Supervisor Youmans offered a motion to approve the report.

MOTION

On motion of Supervisor Youmans, seconded by Councilwoman Rogers, the Sewer Department Report was accepted as presented and read.

APPROVED – VOTE – AYES 5 – NAYS 0 – SO MOVED

Town Clerk – November

Supervisor Youmans asked that Town Clerk Millious give the Town Clerk's Monthly Report.

Town Clerk Millious continued by reading the report.

Supervisor Youmans asked for a motion to approve the report.

MOTION

On motion of Councilwoman Rogers, seconded by Councilman Dolan, the Town Clerk's Report was accepted as presented and read.

APPROVED – VOTE – AYES 5 – NAYS 0 – SO MOVED

OLD BUSINESS

Property on Rte. 9W

Supervisor Youmans stated that at the Workshop last week they discussed a letter that was sent to the Town from a person who owns a vacant parcel on Rte. 9W that they were no longer interested in owning and wanted to transfer ownership to the Town. He continued by saying that it was after discussion at the Workshop, it was left that he would discuss it with Attorney for the Town Wukitsch to see if there were any legal reasons why they should not accept the property. He continued by saying that upon their discussion earlier last week, they discussed that because the property lies within the flood plain and abuts the creek that causes all the flooding on Miller Road, he advised that it would not be wise for the Town to take possession of that property because everyone is aware that when there is flooding it looks like a lake and they have to send people in with boats to get people out of there. He went on by saying that if the Town owned that piece of property they could be facing what they dealt with in Joralemon Park with that creek where they could be taken to court to remediate the flooding. He concluded by saying that the Town Board has a copy of the letter that he sent to the individual stating the Town's intention and then asked if there was any discussion.

Attorney for the Town Wukitsch interjected that there really are three reasons why the Town should not be an owner and added that the first reason is that the property would

come off the tax rolls, the second would be that any land owner, whether it is the Town or a private owner, is required to maintain the property in a safe condition for people who may use it including trespassers under New York law and the third reason is what the Supervisor eluded to which is that the property may contain dangerous conditions, whether they be environmental or other. He concluded by saying that unless the Town has a municipal purpose for owning property such as location of a Town building, public park or some other municipal purpose he does not think that it is a good idea for the Town to become a land owner and this is some substance as to the way that he looks at it.

Councilman Boehm stated that they had discussed the Coeymans Creek during the Watershed Council presentation and continued by asking if they should make them aware of it and see if they might be interested in taking it on.

Councilman Touchette stated that there is also the Open Space Institute who might very well be interested.

Attorney for the Town Wukitsch interjected that they might be interested as well as the Nature Conservancy because this is the business that they are in and it is not the business the Town is in.

Supervisor Youmans stated that even for the Town to act as a pass through in that transaction would not be a good idea because in the interim they would be exposed to liability.

Attorney for the Town Wukitsch agreed.

Supervisor Youmans asked if there was any further discussion, hearing none he moved to the next item on the agenda.

Retainer & Legal Fees for Legal Services by Attorney for the Town

Supervisor Youmans stated that he was in receipt of a proposal for retainer fees for legal services for Attorney for the Town Wukitsch for 2011 and continued by reading the following excerpt:

“Payment of a retainer in the amount of \$28,000.00 to be disbursed by the Town in equal quarterly payments of \$7,000.00 each, upon submission of a voucher and statement.”

Councilman Boehm stated that he would offer a motion.

MOTION

On motion of Councilman Boehm, seconded by Councilwoman Rogers, to accept the proposal in the amount of \$28,000.00 and authorize the Supervisor to sign the agreement.
APPROVED – VOTE – AYES 5 – NAYS 0 – SO MOVED

Councilman Boehm interjected that he wanted to thank Attorney for the Town Wukitsch for his previous services and added that they all use his service and he has been very available.

Attorney for the Town Wukitsch stated that it has been fun and he is looking forward to 2011 and getting a lot accomplished.

Supervisor Youmans stated that he does a great job for them.

Albany County Stop DWI Agreement

Supervisor Youmans stated that he has the contract that needs to be signed for the Albany County Stop DWI Program, which amounts to \$6,000.00 and continued by saying that it is the standard contract.

Councilman Touchette stated that he would offer a motion.

MOTION

On motion of Councilman Touchette, seconded by Councilwoman Rogers, authorizing the Supervisor to sign the Agreement between the County of Albany and the Town of Coeymans Police Department.

APPROVED – VOTE – AYES 5 – NAYS 0 – SO MOVED

Pre-Registration for Association of Towns 2011 Training & Annual Meeting

Supervisor Youmans stated that the Association of Towns Training School and Annual Meeting for 2011 will take place February 20-23, 2011 and in previous years a motion has been requested of the Board to permit the pre-registration for those that will be attending. He continued by saying that pre-registration saves a few dollars and it is \$100.00 per Town Official before January 21st and after that it is \$135.00 and then asked for a motion.

MOTION

On motion of Councilman Boehm, seconded by Councilwoman Rogers, authorizing the Supervisor to engage in pre-registration for the Association of Towns Conference.

APPROVED – VOTE – AYES 5 – NAYS 0 – SO MOVED

RESOLUTIONS

RES. #108-10 APPOINT PLANNING BOARD MEMBER

On motion of Councilman Touchette, seconded by Councilman Dolan, the following resolution was APPROVED – VOTE – AYES 5 – NAYS 0 – SO MOVED

WHEREAS, the term of Cynthia Kunz on the Planning Board expires on December 31, 2010, and

WHEREAS, the Town Board has determined her service to be of value to the Town, and

WHEREAS, Ms. Kunz has been contacted and has expressed an interest in retaining a seat on the Planning Board.

NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Coeymans does hereby appoint Cynthia Kunz to a seven-year term on the Town of Coeymans Planning Board to expire December 31, 2017.

Councilman Boehm stated that he wanted to thank Ms. Kunz for her service and added that he had an opportunity to work with her when he was on the Planning Board and she is very conscientious and has done a great job and he looks forward to working with her in the future.

Supervisor Youmans stated that he would echo Councilman Boehm's comments.

RES. #109-10 ESTABLISH SEWER RATES FOR 2011

On motion of Councilman Boehm, seconded by Councilman Touchette, the following resolution was APPROVED – VOTE – AYES 5 – NAYS 0 – SO MOVED

WHEREAS, the Town Board of the Town of Coeymans is required to establish Sewer Rates for 2011, and

WHEREAS, the Town Board considers the number of uses per parcel to calculate the parcel billing for operation and maintenance and each use is charged:

- \$375.00/ per unit * per year - Residential & Commercial – Coeymans Sewer District
- \$375.00/ per unit * per year - Martins Hill Gray Water Sewer

- \$100.00 per year - Vacant Lot

* One unit is the equivalent of 80,000 gallons of water or fraction thereof.

WHEREAS, the Town Board has established a late payment penalty of 10 (10) percent to be imposed on all balances thirty (30) days from the due date of the billing.

NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Coeymans does hereby authorize the Town Clerk to collect the first and second billing cycle of 2011, pursuant to the above established rules.

RES. #110-10 AUTHORIZE INCLUSION OF NOTICE OF DOG LAW CHANGE WITH 2011 PROPERTY TAX BILLS

On motion of Councilwoman Rogers, seconded by Councilman Touchette the following resolution was APPROVED – VOTE – AYES 5 – NAYS 0 – SO MOVED

WHEREAS, effective January 1, 2011, the New York State Department of Agriculture and Markets will no longer be licensing dogs and the Town Clerk will now be responsible for doing this, and

WHEREAS, the most cost effective and efficient way to communicate this to the residents of the Town would be to include a Notice with the 2011 Property Tax Bills, and

WHEREAS, Section 1826 of Property Tax Law permits the Town Board to adopt by resolution, by unanimous vote, authorization to enclose a Notice relating to sewer, water rates and rentals, permit and other fees and charges payable to the Town, and

WHEREAS, Attorney for the Town Wukitsch has advised that such Notice is proper and within the law,

NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Coeymans does hereby authorize the Town Clerk / Collector, Diane L. Millious to include a Notice of the dog licensing change with the 2011 Property Tax Bill.

Supervisor Youmans stated that he wanted to comment on the following resolution and added that one of Governor Elect Cuomo's campaign platforms was a property tax cap, which on the surface sounds great and if you are a taxpayer it sounds good to you. He continued by saying that he needs to explain that under the proposal it means that no taxing entity would be able to raise property taxes by more than 2% in any given year, which sounds good on the surface but if you are going to place a property tax cap on a municipality, it would be very important that in going forward, the State mandates that are unfunded would have to be lessened. He went on by saying that there are rising costs in health care, pensions, insurance and a lot of other things beyond the Town's control when it comes to what taxes would have to be raised in any given year and as everyone recalls they did raise taxes by 2.8% and 1% of the tax levy is \$17,000.00, which sounds like a lot and it's hard to imagine years where things don't go up by more than \$30,000.00. He added that sales tax is unpredictable, the mortgage tax is off and many of the revenues are flat to down and it would affect them in a negative way if they can't raise taxes and with no other income coming in it would mean providing fewer services, which he does not think is feasible either and it is going to be a tremendous burden on them as well as the school district with the Board members saying that a very large portion of their budget is State mandates that they have no control over. He concluded by saying that none of them want to pay any more property taxes but this is a short sighted way to go about it and the Board had discussed it and they came up with a resolution. He then asked that Councilman Dolan read the resolution.

RES. #111-10 AUTHORIZE OPPOSITION OF STATE MANDATED REAL PROPERTY TAX CAP

On motion of Councilman Dolan, seconded by Councilman Touchette, the following resolution was APPROVED – VOTE – AYES 5 – NAYS 0 – SO MOVED

WHEREAS, towns provide services to more than eight million New Yorkers, yet account for less than 15% of the overall Real Property Tax burden, and

WHEREAS, towns are uniquely dependent upon the Real Property Tax to fund town services, more so than counties, cities and villages in that towns do not have the authority to levy sales taxes, occupancy taxes, gross receipt taxes or income taxes, and

WHEREAS, non-property tax revenues (e.g. mortgage recording taxes fell by \$164.00 million from 2006-2008, sales taxes declined by \$30 million from 2008-2009, and state/federal aid/grant programs decreased by 5%) are subject to market fluctuations and the ability of the federal, state and county governments to share revenue with towns, and

WHEREAS, the costs to provide town services and to fund town operations continue to increase despite declining revenues such as: health care \$279,391.92, pension contributions \$263,455.00, and transportation/water/wastewater, which will continue to rise.

WHEREAS, many town expenses are dictated by compliance with Federal and State mandates, most notably: storm water management, prevailing wage, procurement requirements, collective bargaining procedures, and the administration of real property exemptions, and

WHEREAS, New York State has primarily provided Real Property Relief through ad hoc property exemptions rather than comprehensive property tax reform, resulting in a tax shift rather than a tax reduction as well as additional administrative and litigation costs, and

WHEREAS, simply capping property taxes will not reduce the cost of health care, mandate compliance, pension contributions or the public's expectation of governmental services, and

WHEREAS, the Town of Coeymans have taken initiative in lowering property taxes through staff and salary reductions and program cuts,

NOW, THEREFORE, BE IT RESOLVED, that based upon Home Rule principles the Town of Coeymans has traditionally opposed state mandated property tax caps, and

BE IT FURTHER RESOLVED, that the Town of Coeymans calls upon the Governor and members of the State Legislature to fund and/or eliminate state mandates, reform the Real Property Tax System and address cost drivers in the provision of local government services/operations before implementing a property tax cap, and

BE IT FURTHER RESOLVED, that in order for a real property tax cap to lower property taxes while ensuring the delivery of essential services, the program must include at a minimum:

- Exemptions for structured costs such as pension contributions, debt service, contract obligations, reductions in State or Federal aid and emergencies and costs associated with unfunded and under-funded mandates;
- Hardship relief on a case by case basis;
- Mandate relief and reform;
- Increase and predictable State revenue sharing and aid formulas;
- Additional locally generated revenue streams;
- A defined floor of 4% with the possibility of an increased cap based upon a percentage of inflation, and
- Local override by super-majority vote of the Town Board.

Councilman Touchette stated that he wanted to reiterate the fact that many of their costs are fixed costs from their point of view such as pension contributions that they have no control over as well as some of the mandates that they have from the State like the Workplace Violence Prevention Program that they have to do. He continued by saying

that it is unrealistic to be held to those without having some sort of remedy in the revenue side as well.

Supervisor Youmans stated that he would agree.

RES. #112-10 APPROVE DECEMBER ABSTRACT

On motion of Councilman Touchette, seconded by Councilman Boehm, the following resolution was APPROVED – VOTE – AYES 5 – NAYS 0 – SO MOVED

BE IT RESOLVED, that the Town Board, of the Town of Coeymans, does hereby approve and allow the following claims of vouchers for the December 2010 Abstract.

FUND	VOUCHER #	AMOUNT
GENERAL (A)		
General Pre-Pay	2336-2393, 2449, 2572, 2579,2581	\$306,236.72
General	2451-2504	\$ 34,950.97
	General Total	\$341,187.69
POLICE FORFEITURE		
Police Forfeiture	2580	\$ 500.00
	Police Forfeiture Total	\$ 500.00
PART-TOWN (B)		
Part-Town Pre-Pay	2394-2406, 2450, 2573	\$ 45,030.18
Part-Town	2505-2506	\$ 1,512.22
	Part Town Total	\$ 46,542.40
HIGHWAY (D)		
Highway Pre-Pay	2407-2417, 2574	\$ 54,559.06
Highway	2507-2552	\$ 12,223.66
	Highway Total	\$ 66,782.72
SEWER (SS)		
Sewer Pre-Pay	2418-2438, 2575, 2578	\$ 22,787.76
Sewer	2553-2568	\$ 10,017.77
	Sewer Total	\$ 32,805.53
CAPITAL PROJ. (H35)		
Cap. Proj. New Sewer	2569-2571	\$ 61,816.79
	Capital Proj. Total	\$ 61,816.79
	Total For All Funds	\$549,635.13
TRUST & AGENCY (TA)		
Trust & Agency Pre-Pay	2439-2448, 2576-2577	\$328,263.48
	Trust & Agcy. Total	\$328,263.48

TOWN BOARD WORKSHOPS / MEETINGS

- Organizational Meeting, January 1, 2011, 10:30am

Supervisor Youmans stated that the schedule of Meetings and Workshops for 2011 will be established and adopted at that time.

ADDITIONAL COMMENTS

Supervisor Youmans asked if there were any additional comments.

Councilman Touchette stated that he wanted to wish everyone a Happy New Year.

Councilman Boehm also wished everyone a Happy New Year and then asked Chief Darlington how the recent Snow Emergency went.

Chief Darlington stated that it went well and added that he just received a report saying that between the Village and the Town they only had to tow four vehicles.

Councilwoman Rogers wished everyone a safe and Happy New Year.

Councilman Dolan stated that he wished to do the same.

Town Clerk Millious stated that she is currently waiting for the tax bills to mail and then wished everyone well.

Attorney for the Town Wukitsch stated that he sent an e-mail relative to the proposed Lease Agreement for the tower on Gedney Hill Road and added that he received a note from J&S saying that if it does not get done by the end of the year, the proposed tenant, AT&T walks and will not do the deal unless the Town Board gives approval for the lease and they will not be meeting again before January 1st. He continued by saying that he reviewed the Agreement and forwarded some modifications that he requested with the three things that he thinks should be changed which are the term and after the initial ten year term the Town should have some way of terminating the Agreement, which is basically a 25-year lease and the tenant wants it that way. He went on by saying that after the first term he wants the Town to be able to get out and if the tenant does not pay the Town can terminate the lease but cannot terminate if they continue to pay and there are other problems such as failure to maintain the property. He added that the other changes are that he does not believe that the Town should be giving environmental indemnities because they don't really know anything about the condition of the property but an Environmental Assessment Report has been requested at this point in time and the Town isn't in a position to render a warranty on the environmental condition of the property and continued by saying that he also requested a change be made in the assignment paragraph to allow the Town to assign the lease to a third party. He concluded by saying that their options are to either take more time to look at the Agreement and the changes that he proposed or give him approval to close the negotiations and offer a motion to approve it subject to the changes that he has requested if they are concerned that AT&T is going to walk.

Supervisor Youmans stated that he would think that it makes perfect sense.

Councilman Boehm inquired as to if he will communicate directly with the Supervisor so that they won't have to have the Town Board convene.

Supervisor Youmans stated that he believes that he is saying that they could move to authorize him to close it as long as those stipulations are agreed to by the other side.

Councilman Boehm stated that his concern is that there might be something in between that and they might not agree to one, some or all of the suggested modifications.

Attorney for the Town Wukitsch stated that it could happen.

Councilman Boehm suggested that they authorize the Supervisor to work directly with Attorney for the Town Wukitsch on the changes.

Attorney for the Town Wukitsch stated that it should also authorize the Supervisor to sign the Agreement subject to any changes that they deem appropriate.

Chief Darlington interjected that he spoke directly with an AT&T representative the same time the day he got the e-mail and there was some misunderstanding with AT&T thinking that the Town of Coeymans was dragging their feet and had an issue with AT&T's contract. He continued by saying that he had got the e-mail earlier in the day and the AT&T representative was going to go to J&S and express his unhappiness with them because he thought that it was the Town that was doing it.

Supervisor Youmans asked Chief Darlington if he indicated a willingness to walk away after the first of the year.

Chief Darlington stated that he does not want to lose it and he is the one that has been working on it and because of budget and fiscal issues, everything is going to be scrutinized after January 1st and he strongly recommends that they get it signed before January 1st when everything starts to get scrutinized. He added that there would be less of a chance of losing it once it is signed.

Supervisor Youmans asked Attorney for the Town Wukitsch if he believes that AT&T will agree to the terms.

Attorney for the Town Wukitsch stated that he is not sure.

Supervisor Youmans asked if there was a motion on the floor authorizing him to sign the contract.

Councilman Boehm stated that he would offer a motion.

MOTION

On motion of Councilman Boehm, seconded by Councilman Dolan, authorizing the Supervisor to sign the Contract on behalf of the Town Board after conferring with Attorney for the Town Wukitsch.

VOTE – AYES 5 – NAYS 0 – SO MOVED

Supervisor Youmans asked if there were any further comments.

Chief Darlington stated that he wanted to announce to those that might not be aware that the new car arrived and the lights are being put on it and it is being striped the following day. He added that they are waiting for a few more items and the car should be in service shortly after January 1st.

Supervisor Youmans asked if there were any other comments, hearing none he offered a motion to adjourn the Meeting.

ADJOURNMENT

MOTION

On motion of Supervisor Youmans, seconded by Councilwoman Rogers, the Town Board Meeting was adjourned.

VOTE – AYES 5 – NAYS 0 – SO MOVED

Time – 7:40PM

Respectfully Submitted,

APPROVED:

Diane L. Millious, Town Clerk