

September 05, 2018

A Public Hearing was held by the Town Board of the Town of Colchester, Delaware County, New York on Wednesday, September 05, 2018 in the Town Hall for the purpose of said Town Board to consider A Local Law to Regulate and Prohibit the Parking of Trucks and Oversize Vehicles Exceeding 10,500 Pounds on Town Highways for the Town of Colchester, Delaware County, New York.

Present: Arthur M. Merrill Supervisor
Janet L. Champlin Councilwoman
Gregory L. Lavorgna Councilman
Mark W. Mattson Councilman
Recording Secretary: Julie B. Townsend Town Clerk
Others present: Kenneth R. Eck, Jr.-Highway Supt., Michael DeGroat-Town Attorney, Mike Martin-The Reporter, Jeff Francisco-Delaware Engineering, Bonnie Seegmiller, Joan Homovich, Alan Donner and Mary Brawley-Fuat.

Proof of Notice having been furnished, the Public Hearing was called to order by Supervisor Arthur M. Merrill.

Joan Homovich stated that she was in favor of repairs by local contractors (home rehabilitation) but was not in favor of the giving mobile homes (no local mobile home vendors).

No one spoke in favor of the proposed Local Law.

No one spoke against of the proposed Local Law.

All persons desiring to be heard, having been heard, Supervisor Arthur M. Merrill declared the Public Hearing closed at 7:03 PM.

Respectfully Submitted: Julie B. Townsend, Town Clerk

September 05, 2018

The regular meeting of the Town Board of the Town of Colchester, Delaware County, New York was held immediately following the public hearing on Wednesday, September 05, 2018 at 7:04 PM at the Town Hall.

Present: Arthur M. Merrill Supervisor
Mark W. Mattson Councilman
Julie A. Markert Councilwoman entered at 7:11PM
Gregory L. Lavorgna Councilman
Janet L. Champlin Councilwoman
Recording Secretary: Julie B. Townsend Town Clerk

Others present: Kenneth R. Eck, Jr.-Highway Supt., Michael DeGroat-Town Attorney, Mike Martin-The Reporter, Jeff Francisco-Delaware Engineering, Bonnie Seegmiller, Joan Homovich, Alan Donner and Mary Brawley-Fuat

The Meeting was called to order by Supervisor Arthur M. Merrill and led the group in the Pledge of Allegiance.

The minutes of the last regular meeting, August 15, 2018 had been distributed earlier. Greg Lavorgna made the motion to accept the minutes as written, seconded by Mark Mattson, Mark Mattson-aye, Janet Champlin-aye, Greg Lavorgna-aye, Arthur Merrill-aye, Julie Markert -absent, motion carried.

GUESTS: Jeff Francisco of Delaware Engineering reported that Louis Banker has submitted all his paperwork on Contract #TC1-G-2015, the Cooks Falls Water District Improvements Project-DWSRF #16601; Louis Banker has a Maintenance Bond and is responsible for the project for the next year; his final bill is in tonight in the amount of \$3,925; Delaware Engineering will still have an invoice to turn in; Mr. Francisco will check on things from time to time; everything looks good.

Jeff Francisco also reported that we are waiting to bid out the Downsville Water District-Filtration of the DWD Spring System- DWSRF Project No.17537-Downsville Water System Improvement Project Contract#TC1-G-2018 & Contract#TC1-E-2018 for the project to start next year; NYSDOH Matt Curry has stated that the DWD spring on State Hwy 206 must have a sign posted "NOT POTABLE WATER" (not drinkable).

Councilwoman Julie Markert entered at 7:11PM.

Supervisor commented that a meeting needs to be schedules with WPO MacDonald, Mr. Francisco and himself to discuss the NYCDEP hookup to the DWD System.

VISITOR COMMENTS: Joan Homovich inquired to the Town's liability of high water at the Covered Bridge Park; she had seen people swimming near the bridge during the last heavy rain storm; she had notified the Police and Supervisor. Supervisor asked the Town Attorney if when the park is under high waters should it be posted. Town Attorney replied that it would not hurt to show people that they are forewarned.

Board held discussion on the new generator; it has been reported that the transfer switch is not working properly and is shut off.

CORRESPONDENCE:

- Delaware County Sheriff- As of 10/1/18 they will not be mailing notices sex offenders, they will be coming by e-mail.
- New York City- Notice that their drinking water was named best tasting in New York.
- NYSEG e-mail- LED Program will make changes in the order that they were received. Supervisor asked if there are any street lights we can delete or add.

REPORTS- written reports on file at Town Clerk's Office:

- Cooks Falls Water District- August 2018- 20 customers balance due \$2,501; Receipts of \$415.00 disbursed to Supervisor.
- Downsville Water District- August 2018- 45 customers balance due \$8,831.05; Receipts of \$2,216.82 disbursed to Supervisor.
- Town Clerk- August 2018- Total disbursed \$2,430.51 of which \$2,374.01 was Town revenues.
- Police- August 2018 Activity Report.
- Town Justice Edel- August 2018.

Town Attorney Michael DeGroat reviewed the Short Environmental Assessment Form with the Town Board. Town Board discussed the SEQR and proposed Local Law.

NO. 84-2018 09/05/18 SEQR Review – Negative Declaration

Janet Champlin made the following resolution:

WHEREAS, the Town of Colchester, as lead Agency, has conducted a review pursuant to Article 8 (State Environmental Quality Review Act- SEQR) and in accordance with 6NYCRR Part 617 for this Unlisted Action project, and has prepared a Short Environmental Assessment Form; and

WHEREAS, the Town held a public information meeting on September 05, 2018 regarding the project at which time no comments were received; and

WHEREAS, the project scope does not appear to have any adverse environmental impacts based upon Town determination; and

WHEREAS, the Town needs to render a SEQR determination; and

WHEREAS, the Town believes that the requirements of the state environmental review process (6NYCRR Part 617) have been met.

THEREFORE, the Town Board of the Town of Colchester hereby resolves that, to the best of their knowledge:

1. The requirements of 6NYCRR Part 617.11 have been met; and
2. Consistent with social, economic and other essential considerations from among the reasonable alternatives available, the action is the one that avoids or minimizes adverse environmental impacts to the maximum extent practicable by incorporating conditions to the decision those mitigating measures that were identified as practicable; and
3. (if applicable) Consistent with the applicable policies of Article 42 of the Executive Law, as implemented by 19NYCRR Part 600.5, this action will achieve balance between the protection of the environment and the need to accommodate social and economic considerations; and
4. The project will not result in any large or important impact(s) and, therefore, is one which will not have a significant impact on the environment, and therefore a negative declaration is hereby declared.

Resolution was seconded by Gregory L. Lavorgna.

This resolution was put to a vote by roll call and resulted as follows:

Town Supervisor, Arthur M. Merrill	voting aye
Councilperson, Janet Champlin	voting aye
Councilperson, Gregory L. Lavorgna	voting aye
Councilperson, Julie A. Markert	voting aye
Councilperson, Mark W. Mattson	voting aye

The resolution was declared to be duly adopted by the members of the Town Board of the Town of Colchester.

NO. 85-2018 09/05/18 Adopt Local Law 1 of the Year 2018

Gregory L. Lavorgna made the following resolution:

WHEREAS, a resolution was duly adopted by the Town Board of the Town of Colchester for a public hearing to be held by said Governing Body on September 05, 2018 at 7:00 PM at the Town Hall, 72 Tannery Road, Downsville, New York 13755 to hear all interested parties on a proposed Local Law entitled A Local Law to Regulate and Prohibit the Parking of Trucks and Oversize Vehicles Exceeding 10,500 Pounds on Town Highways for the Town of Colchester, Delaware County, New York; and

WHEREAS, notice of said public hearing was duly advertised in The Reporter, the official newspaper of said Town, on August 22nd & 29th, 2018, and

WHEREAS, said public hearing was duly held on September 05, 2018 at 7:00 PM at the Town Hall, 72 Tannery Road, Downsville, New York 13755 and all parties in attendance were permitted an opportunity to speak on behalf of or in opposition to said Proposed Local Law, or any part thereof, and

WHEREAS, pursuant to part 617 of the implementing regulations pertaining to article 8 State Environmental Quality Review Act (SEQRA) it has been determined by the Town Board of said Town that the adoption of said proposed Local Law would not have a significant effect upon the environment and could be processed by other applicable governmental agencies without further regard to SEQRA, and

WHEREAS, the Town Board of the Town of Colchester, after due deliberation, finds it in the best interest of said Town to adopt said Local Law.

NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Colchester hereby adopts said Local Law Number 1 of the Year 2018 entitled A Local Law to Regulate and Prohibit the Parking of Trucks and Oversize Vehicles Exceeding 10,500 Pounds on

Town Highways for the Town of Colchester, Delaware County, New York, a copy of which is attached hereto and made a part of this resolution;

BE IT FURTHER RESOLVED, that the Town Clerk be and she hereby is directed to enter said Local Law in the minutes of this meeting and in the Local Law Book of the Town of Colchester and to give due notice of the adoption of said Local Law to the Secretary of State of New York.

Resolution was seconded by Mark W. Mattson.

This resolution was put to a vote by roll call and resulted as follows:

Town Supervisor, Arthur M. Merrill	voting aye
Councilperson, Janet Champlin	voting aye
Councilperson, Gregory L. Lavorgna	voting aye
Councilperson, Julie A. Markert	voting aye
Councilperson, Mark W. Mattson	voting aye

The resolution was declared to be duly adopted by the members of the Town Board of the Town of Colchester.

TOWN OF COLCHESTER

LOCAL LAW NO.1 OF THE YEAR 2018

A LOCAL LAW TO REGULATE AND PROHIBIT THE PARKING OF TRUCKS AND OVERSIZE VEHICLES EXCEEDING 10,500 POUNDS ON TOWN HIGHWAYS FOR THE TOWN OF COLCHESTER, DELAWARE COUNTY, NEW YORK

Be it enacted by the Town Board of the Town of Colchester, in the County of Delaware, as follows:

Section 1. Purpose

The Town recognizes the potential for dangerous and unsafe conditions for its residents as a result of trucks, commercial vehicles, tractor-semi-trailer combinations, and tractor-trailer-semi-trailer combinations from utilizing certain streets and highways in the Town.

Section 2. Definitions

As used in this Local Law, the following terms shall have the following meanings unless the context shall otherwise clearly require:

“Oversized Vehicle” shall mean any truck, commercial vehicle, tractor, tractor-trailer combinations, trailer, semitrailer or other vehicle not specifically designed for the transportation of persons, with a gross weight exceeding 10,500 pounds.

“Semitrailer” shall mean any trailer which is so designed that when operated the forward end of its body or chassis rests upon the body of chassis of the towing vehicle.

“Tractor” shall mean a motor vehicle designed and used as the power unit in combination with a semitrailer or trailer, or two such trailers in tandem. Any such motor vehicle shall not carry cargo except that a tractor and semitrailer engaged in the transportation of automobiles may transport motor vehicles on part of the power unit.

“Town Road, Street or Highway” shall mean any road or street maintained by the Town of Colchester, whether created by fee or user and shall include the travelled way of the road, all shoulders, ditches, drainage and culvert areas, and appurtenant areas reasonably necessary for the safety of the travelling public, including areas upon which snow is deposited or stored.

“Trailer” shall mean any vehicle not propelled by its own power drawn on the public highways by a motor vehicle as defined in the Vehicle and Traffic Law operated thereon, except motorcycle side cars, car and boat trailers, and vehicles being towed by a non-rigid support and vehicles designed and primarily used for other purposes and only occasionally drawn by such a motor vehicle.

“Truck” shall mean every motor vehicle designed, used or maintained primarily for the transportation of property with a gross weight exceeding 10,500 pounds.

“Vehicle” shall mean every device in, upon or by which any person or property is or may be transported or drawn upon a highway, except devices moved by human power or used exclusively upon stationary rail or tracks.

“Gross weight” shall mean the weight of a vehicle without load plus the weight of any load thereon.

Section 3. Prohibition

No truck or oversize vehicle shall be parked on a Town street, road or highway except as provided in Section 4 and Section 5.

Section 4. Exceptions

The provisions of Section 3 shall not apply to the following:

1. Parking of a truck or oversize vehicle while actually engaged in the delivery or pickup of merchandise or other property, the making of a service call, the rendering emergency service or assistance, or farming;
2. Parking of a truck or oversize vehicle owned or leased by the government, or a commercial vehicle of a government contractor, while acting under government direction and actually engaged in official business;
3. Parking of a truck or oversize vehicle of a utility company while actually engaged in the installation, maintenance, testing or repair of utility facilities; and
4. Parking of a truck or oversize vehicle for the purpose of addressing an emergency threatening the health, safety or welfare of any person or property.

Section 5. Temporary Permit

The Code Enforcement Officer ("CEO") is authorized to issue a temporary permit for parking of one or more trucks or oversize vehicles, otherwise prohibited under this Local law, subject to conditions as determined by the CEO, in the following circumstances:

1. Such parking shall be necessary to complete construction for which a building permit has been issued and no other reasonable alternative shall be available;
2. The temporary permit shall not exceed two (2) months in duration, subject to a single two (2) month renewal, if the terms and conditions of the original permit have been complied with and any construction to which the permit relates has proceeded with due diligence. In exceptional circumstances, additional renewals may be granted by the Town Board on application, in the Town Board's discretion;
3. If required a satisfactory bond for roadway and related damage is posted and satisfactory proof of general liability insurance has been provided naming the Town as an additional insured;

The temporary permit may be revoked by the CEO if, in the CEO's reasoned judgment, the construction for which the permit has been issued has not proceeded with due diligence, has been completed, for non-compliance with the conditions of the permit, or if the health, safety or welfare is threatened by continuing the permit;

The permittee shall pay the fee for a temporary permit in the amount set by resolution of the Town Board.

Section 6. Enforcement

This Local Law shall be enforced by the Town of Colchester Police Department as a traffic infraction pursuant to § 1800 of the Vehicle and Traffic Law, except that the Code Enforcement Officer shall enforce any violation of a condition of a temporary permit issued by the Code Enforcement Officer.

The Town of Colchester Police Department shall also have the authority to tow, impound, or store any unattended vehicle found to be in violation of this ordinance when the vehicle obstructs traffic or impedes the ability of the Town Highway Department to perform maintenance or snow and ice removal. The cost and expense of transportation and storage of any vehicle removed shall be paid to the Town of Colchester in addition to any penalty assessed in Section 7.

Section 7. Penalties for Offenses

A violation of any provision of this Local law, which shall include, but shall not be limited to the conditions established in connection with a temporary permit, shall be punishable upon conviction, as follows:

1. For a first offense, by a fine not exceeding \$100.
2. For a second offense within a 12 month period, by a fine not less than \$100 and not exceeding \$250.
3. For a third offense within a 12 month period, by a fine not less than \$250 and not exceeding \$500, or imprisonment not exceeding 15 days, or by both a fine and imprisonment.

Section 8. Separability

Should any word, section, clause, paragraph, sentence, part or provision of this local law be declared invalid by a court of competent jurisdiction, such determination shall not affect the validity of any other part of this local law.

Section 9. Effective Date

This local law shall take effect immediately upon filing in the Office of the Secretary of the State.

Bonnie Seegmiller reported that Supervisor Merrill has signed the contract for the Clean Energy Communities Program/Grant for the EV Charging Station and it has been forwarded to the NYS Comptroller's Office; she thanked Town Attorney Michael DeGroat for all of his work on this project; as soon as approved we will install the Charging Station.

Supervisor commented that at the last meeting Hwy Supt Eck mentioned about order a sander for the 2020 Freightliner next year; we have an extra \$38,000 in the budget due to snow removal payments; we could order this year.

Supervisor Merrill reported that he and WPO MacDonald will work with Jeff Francisco on the hookup of NYCDEP to the DWD; then we will talk with the Town Attorney about legal issues. Councilwoman Markert inquired if the old auction barn could be hooked up in the future. Supervisor replied yes, a contract would need to be executed.

Supervisor commented that he would like to send a letter of support for implementing the Integrated Restoration Objectives of the UDR Stream Corridor Management Plan; the Friends of the Upper Delaware River are submitting a grant proposal for funding to the National Fish & Wildlife Foundation; they plan to add flood mitigation for Downs Brook to this proposal; we will have in-kind services (man power) including installing rock riffles and changing rock benches on river side to control the water better, therefore to lessen flooding. Board discussed.

NO. 86-2018 09/05/18 Letter of Support for UDR Stream Corridor Management Plan
Julie Markert made the following resolution:

WHEREAS, the National Fish & Wildlife Foundation has a Delaware River Basin Restoration Program Grant; and

WHEREAS, the Friends of the Upper Delaware River on behalf of the Upper Delaware River Tailwaters Coalition (UDRTC) would like to submit an application to said program for funding three projects identified in the Stream Corridor Management Plan, including Downs Brook in the Town of Colchester;

NOW, THEREFORE BE IT RESOLVED that the Town Board of the Town of Colchester hereby authorizes Supervisor Arthur M. Merrill to submit a Letter of Support for the UDR Stream Corridor Management Plan for the Upper Delaware River.

Resolution was seconded by Janet Champlin, all in favor, resolution declared adopted.

Hwy Supt Eck reported that he would like to remove some trees on Huntley Hollow; use an excavator to remove the trees by root and use our chipper to take care of the trees; project cost is approximately \$8,000.

Supervisor Merrill made the following announcements:

- Next Regular Board Meeting Wed., Sept. 19th at 7PM

Councilwoman Markert commented that some of our street signs look bad and the speed limit sign is missing in Corbett. Hwy Supt reported that sign have been ordered from the County. Supervisor added that these signs are made on rainy days when not working for on DPW roads. Councilwoman Markert inquired on the status of the repairs to Depot Street. Hwy Supt replied that it has not been repaired, working on other roads now.

Councilwoman Markert inquired about the new Del Co DPW building. Supervisor replied that the County Board of Supervisors has rescinded their motion for taking the Bishop property by eminent domain.

Councilwoman Markert commented that the 2012 5500Truck has a large repair bill. Hwy Supt replied that the smaller trucks need more repairs. A discussion was held on trucks.

Councilwoman Markert reported that she has spoken to Peter Heimbuecher in regards to the cherry trees; He will write up a recommendation.

Councilwoman Markert inquired if the concrete work at the pool will get done this fall. Supervisor replied that the Cemetery Crew is still mowing and no extra help; Pool Committee needs to bring in their recommendations.

Councilman Lavorgna commented that Frontier service is not great; would like to know what can be done to get MTC into the Fuller Hill/Horton Brook area. It was mentioned that new lines were being run throughout the township. Town Attorney will check their agreement for expansion areas.

Councilman Lavorgna commented that bad weather is coming, can we get the Police vehicles into the garage. Hwy Supt replied yes.

SUBMISSION OF BILL/EXPENSES: Julie Markert made the motion, seconded by Mark Mattson, that the vouchers be approved, subject to any corrections or deletions, all in favor, motion carried. Abstract No.15-2018 Voucher No.443-476; Totaling \$150,329.76.

With no further business, Mark Mattson made the motion for adjournment, seconded by Julie Markert, all in favor, motion carried. Meeting adjourned at 8:17 PM.

Respectfully Submitted:

Julie B. Townsend, Town Clerk