



Town Board Regular Meeting

Thursday, August 18, 2022

This regular meeting was held in person and began at 6:00pm

CALL TO ORDER

Supervisor Parete called the meeting to order at 6:04pm and Councilwoman Foote lead the Pledge of Allegiance.

ROLL CALL

Town Clerk Moody took roll call:

Supervisor Parete – Present

Councilwoman Foote – Present

Councilman LaFera – Absent

Councilman Davenport – Absent

Councilman Tim Hunt – Present

Also, Present: Heather Moody; Town Clerk/Tax Collector

PUBLIC COMMENT

There were no public comments on the resolutions presented at the meeting.

APPROVAL OF VOUCHERS & AMENDMENTS

Town Clerk Moody the following amendment to the vouchers from 8/2/2022.

August 2, 2022

Highway Fund

Vouchers

V#261

Total Payment

\$74,463.50

- Supervisor Parete explained that this is the voucher for the chipper that was approved, by resolution, at the 8/2/2022 town board meeting.

A motion was made by Councilman Hunt and Seconded by Councilwoman Foote to approve these vouchers.

Councilman Davenport Voting Absent

Councilman LaFera Voting Absent

Councilwoman Foote Voting Aye

Councilman Hunt Voting Aye

Supervisor Parete Voting Aye

3 Aye -2 Absent; motion carried.

Town Clerk Moody submitted the following vouchers for approval:

<u>August 18, 2022</u>	<u>Vouchers</u>	<u>Total Payment</u>
General Fund	V#521-569	\$53,510.27
Highway Fund	V#262-278	\$15,191.65
High Falls Water District	V#72-75	\$8,897.63
RMC	V#86-103	\$37,391.25
Vly Atwood Fire Protection District	V#5-8	\$708.10

A motion was made by Councilwoman Foote and Seconded by Supervisor Parete to approve these vouchers.

Councilman Davenport Voting Absent

Councilman LaFera Voting Absent

Councilwoman Foote Voting Aye

Councilman Hunt Voting Aye

Supervisor Parete Voting Aye

3 Aye -2 Absent; motion carried.

MEETING MINUTES:

Councilman Hunt made a motion, seconded by Councilwoman Foote to approve the meeting minutes from 8/2/2022. **3 Aye -2 Absent; motion carried.**

RESOLUTION#83-2022: LEGAL FEE AGREEMENT WITH JOULE ASSETS

The following Resolution was offered by Supervisor Parete and seconded by Councilwoman Foote

WHEREAS, the Municipalities, the Individual Plaintiffs and Joule have commenced a legal action by Summons and Verified Complaint filed June 3, 2022. against Defendants Columbia Utilities Power, LLC and Columbia Utilities, LLC (the “**Defendants**”) in Ulster Supreme Court (the “**Court**”), Index EF2022-1113 seeking injunctive equitable and legal relief arising from a breach by Defendants of certain Electricity Supply Agreements (the “**ESAs**”) between and among the Defendants, the Municipalities, the Town of Philipstown, the Village of Cold Spring, and Joule (together with all other claims, actions, collateral proceedings, proceedings in bankruptcy, appeals and settlement negotiations related thereto, the “**Litigation**”);

WHEREAS, the ESAs were entered into in relation to a Community Choice Aggregation Program established by the Municipalities, the Town of Philipstown and the Village of Cold Spring, with Joule serving as Program Administrator, that was to provide electricity supply on an opt-out basis to residents and small businesses of the Municipalities, the Town of Philipstown and the Village of Cold Spring (the “**Program Participants**”);

WHEREAS, on June 7, 2022, the Court issued a Temporary Restraining Order in relation to the relief sought by the Parties in the Litigation;

WHEREAS, on June 13, 2022, the Parties and the Defendants, by their attorneys, agreed to a Court-ordered stipulation that extended the Temporary Restraining Order and extended return dates in relation to the Litigation until late August, 2022;

WHEREAS, the Parties and the Defendants agreed to use this time for settlement discussions;

WHEREAS, in relation to the Litigation, the Parties have each engaged the law firm of Hodgson Russ LLP to collectively represent them (together with any additional or other firm retained by the Parties, “**Plaintiff’s Counsel**”);

WHEREAS, on June 16, 2022, Hodgson Russ received an email from the law firm of McDermott Will & Emery LLP (“**McDermott**”) indicating that McDermott had been retained by Columbia Utilities Power as “restructuring counsel” and would like to discuss Columbia’s financial condition and a potential resolution of the Litigation;

WHEREAS, such discussions have begun and are expected to continue;

WHEREAS, in the event that the Parties and Defendants are unable to resolve the Litigation, it is anticipated that Litigation will proceed in the ordinary course;

WHEREAS, the Parties desire to have an agreed-upon mechanism and understanding for the payment of all legal fees and related costs and expenses incurred in relation to the Litigation (“**Legal Fees**”);

WHEREAS, the Parties desire that Joule be reimbursed for Legal Fees to the extent that the Parties receive a settlement or judgment in relation to the Litigation on their behalf and/or on behalf of the Program Participants in the CCA Program (an “**Award**”);

NOW, WHEREFORE, the Parties agree as follows:

In the event that there is Award paid or payable to the Parties and/or the Program Participants, and prior to the payment to the Parties or Program Participants, proceeds of such Award will be paid first to: (a) any outstanding Legal Fees owed to Plaintiff’s Counsel in relation to the Litigation, and then (b) to reimburse Joule for any Legal Fees previously paid by Joule to Plaintiff’s Counsel in relation to the Litigation;

Except to the extent provided in the foregoing paragraph 1, in no event shall the Municipalities or the Individual Plaintiffs be responsible for any Legal Fees; and

For avoidance of doubt, each Municipality reserves the right to approve all settlements including without limitation any award for attorneys’ fees.

The question of the adoption of the foregoing Resolution was duly put to a vote on roll call which resulted as follows:

Councilman Davenport Voting Absent

Councilman Lafera Voting Absent

Councilwoman Foote Voting Aye

Councilman Hunt Voting Aye

Supervisor Parete Voting Aye

3 Aye-2 absent; Resolution #83-2022 was thereupon adopted.

RESOLUTION#84-2022; SETTING PUBLIC HEARING FOR PROPOSED LOCAL LAW# -2022, CREATING FIRE PROTECTION DISTRICT

The following Resolution was offered by Councilwoman Foote and seconded by Supervisor Parete

WHEREAS, Town Law §170 authorizes the town board of a town or the town boards of more than one town to establish in such towns a fire protection district for the purposes stated in such law provided all of the territory in such fire protection district shall be contiguous and shall be located outside of the boundaries of any incorporated village; and

WHEREAS, at a Regular Meeting of the Town Board of the Town of Marbletown, conducted on August 18, 2022, that was duly scheduled, noticed, and convened for the purposes of, among other things, giving consideration to proposing the establishment of a fire protection district in the area of the town that formerly comprised the territory of the Vly-Atwood Fire District (FD 087) which is now dissolved pursuant to General Municipal Law Article 17-A; and

WHEREAS, the Town Board pursuant to a resolution duly adopted by majority vote of the Board may vote to establish a fire protection district after holding a public hearing on the matter subject to providing notice of such public hearing that is published and posted by the Town Clerk as required by law; and

WHEREAS, the Town Board proposes that a fire protection district be considered and that a public hearing be conducted concerning the establishment of the proposed fire protection district to hear all persons interested in the establishment of a fire protection district; to obtain evidence; to consider if the establishment of a fire protection district is in the public interest; to determine whether all those properties, property owners, and interested persons within the proposed fire protection district are benefitted thereby; and to determine whether all properties or property owners benefitted thereby are included within the boundaries of the proposed fire protection district; and

WHEREAS, upon the establishment of the fire protection district proposed herein, the Town of Marbletown will not become the sponsor of a service award program pursuant to General Municipal Law §216-b, and consequently, this resolution is not subject to referendum pursuant to Town Law §171(2)(a).

NOW THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Marbletown proposes that the Town Board consider the establishment of a fire protection district in the area of the town that formerly comprised the territory of the Vly-Atwood Fire District (FD 087) pursuant to Town Law §170; and

BE IT FURTHER RESOLVED, that the Town Board of the Town of Marbletown directs that a Public Hearing be conducted by the Town of Marbletown to hear all persons interested in the establishment of a fire protection district pursuant to Town Law §170 and §171 on September 6, 2022 commencing at 6:00 pm or as soon thereafter as reasonably practicable at Marbletown Town Hall, 1925 Lucas Ave. Cottekill, NY 12419; and

BE IT FURTHER RESOLVED, that the statutory Notice for such Public Hearing be prepared, published, and posted by the Town Clerk in accordance with Town Law §171.

The question of the adoption of the foregoing Resolution was duly put to a vote on roll call which resulted as follows:

Councilman Davenport	Voting <u>Absent</u>
Councilman Lafera	Voting <u>Absent</u>
Councilwoman Foote	Voting <u>Aye</u>
Councilman Hunt	Voting <u>Aye</u>
Supervisor Parete	Voting <u>Aye</u>

3 Aye-2 absent; Resolution #84-2022 was thereupon adopted.

- A friendly amendment was made by Supervisor Parete to change August 16th to August 18th in the resolution.
- Supervisor Parete stated after the terrible storm there was about \$20,000 worth of tree damage around the Vly Atwood Fire House which will come out of the taxes raised this year for the Vly Atwood Fire District.
- Councilman Hunt asked what happens going forward with taxes? Supervisor Parete responded that hopefully this will be the last year we have to raise taxes for the Vly Atwood Fire House. Parete added that the district boundaries may change and then the new districts will have to raise more taxes. Some may go to Kripplebush, and some may go to Stone Ridge. Parete sent letters to the Commissioners of Kripplebush and Stone Ridge and will follow up.
- Supervisor Parete was told by the Insurance company that something will need to be done with the assets by October 1st. Kripplebush has shown interest in a couple of the trucks.

RESOLUTION#85-2022 SETTING THE PUBLIC HEARING DATE FOR THE PROPOSED LOCAL LAW NUMBER ____ OF 2022, A LOCAL LAW KNOWN AS CODE OF ETHICS

WHEREAS, the Town Board finds it to be in the best interests of the residents of the Town of Marbletown to amend Local Law# 2 of 2021, Code of Ethics, in order to achieve the purposes and objectives set forth in the Local law.

NOW THEREFORE, BE IT RESOLVED as follows:

1. A public hearing shall be held at the Town Hall, 1925 Lucas Avenue Cottekill NY 12419 on Tuesday September 6, 2022, at 6:05pm by interested persons, upon passage of this resolution, to hear all interested parties on the proposed Local Law #__ of 2022 entitled "**A Local Law # __, 2022 Code of Ethics** "
2. The Town Clerk is directed to advertise such public hearing in the official newspaper of said Town, on the website of said Town and is directed to refer the proposed local law to all municipalities adjacent to the Town and any other applicable entities as required.

The question of the adoption of the foregoing Resolution was duly put to a vote on roll call which resulted as follows:

Councilman Davenport	Voting <u>Absent</u>
Councilman Lafera	Voting <u>Absent</u>
Councilwoman Foote	Voting <u>Aye</u>
Councilman Hunt	Voting <u>Aye</u>
Supervisor Parete	Voting <u>Aye</u>

3 Aye-2 absent; Resolution #85-2022 was thereupon adopted.

- A friendly amendment was made by Supervisor Parete to add the time of 6:05pm to the resolution.
- Councilman Hunt stated it will be a good opportunity for community members to know the process for complaints. The protocol for complaints will be taken seriously and the complaints will have to be notarized.

RESOLUTION #86-2022; APPOINTMENTS TO PLANNING BOARD

The following Resolution was offered by Councilwoman Foote and seconded by Councilman Hunt

WHEREAS, the Planning Board has a vacancy due to the recent resignation of a member, and
WHEREAS, Scott R. Boyd has served on the Planning Board as an alternate for two years, and has indicated a desire to be appointed to a permanent position, and
WHEREAS, Ilan Bachrach is interested in filling the vacant alternate position, and
NOW THEREFORE BE IT RESOLVED, that the Town Board of the Town of Marbletown appoints Scott R. Boyd to the Planning Board for a term to expire on 12/31/2022, and Ilan Bachrach as alternate member of the Planning Board for a term to expire 12/31/2022.

The question of the adoption of the foregoing Resolution was duly put to a vote on roll call which resulted as follows:

Councilman Davenport	Voting <u>Absent</u>
Councilman Lafera	Voting <u>Absent</u>
Councilwoman Foote	Voting <u>Aye</u>
Councilman Hunt	Voting <u>Aye</u>
Supervisor Parete	Voting <u>Aye</u>

3 Aye-2 absent; Resolution #86-2022 was thereupon adopted.

- Supervisor Parete stated John Kotsides had resigned from the Planning Board. The terms of the planning board members is 7 years. Parete explained that Ilan Bachrach has become very involved in the town and he will be a great asset to the planning board.
- Councilwoman Foote explained that each planning board member is assigned projects and Ilan will work with someone more experienced until he is up to speed. Ilan will also have to go through training.

OTHER TOWN BUSINESS:

- Supervisor Parete took a moment to acknowledge all the fire departments and volunteers that responded to the fire on Vincent Lane adding that everyone got out safely.
- Supervisor Parete said that Councilman Davenport had attended a meeting earlier that day to discuss the fact that the County would like to put a cell tower, for emergency services, on the RMC property, up in the back field. This is Rosendale property so any permits would go through Rosendale. There would be no cost to Marbletown. The County picked three locations and will be performing balloon tests at each location. Supervisor Parete hopes to have more information for the next meeting.
- Supervisor Parete brought up the subject of the geothermal study stating that the board supports trying to get a grant, but maybe Ulster County Community College would want to contribute funds, adding that ECC Chairman Tom Konrad would reach out to the college for discussion.
- Supervisor Parete stated budget time is here and budget review sheets will go out to the department heads to fill out with needs of each department.

- Councilman Hunt asked if we have seen the financial for the emergency services? Supervisor Parete said he would distribute when received.
- Councilman Hunt provided an update from Youth & Rec Director Jill Mclean:
 - Last day of summer camp is tomorrow, August 19th and they had a fantastic 6-week program.
 - Summer youth basketball program was a great success.
 - Sealing coating of the basketball court is finished at the park and Zebra Striping will go back to finish the striping the court.
 - Crack sealing, seal coating and relining of the parking lot will take place later this month
 - Starting to work on fall/winter programs; wrestling, basketball, trunk or treat and Light up Marbletown
 - Trail committee continues to clean up the trail and did a great job after this last storm.

Motion to adjourn: There being no further discussion Councilwoman Foote made the motion to adjourn the meeting, seconded by Councilman Hunt; 3 Aye-2 Absent; motion carried. The meeting adjourned at 6:58pm.

Respectfully submitted,
Heather Moody
Town Clerk/Tax Collector