

**Town of Nichols
Regular Meeting
April 13, 2021**

Supervisor Kevin Engelbert brought meeting to order at 7:00pm in the Nichols Elementary School located at 139 Ro-Ki Blvd Nichols NY

PLEDGE OF ALLEGIANCE -

ROLL CALL;

Councilperson Ray Thetga Sr. (present), Councilperson Bill Middleton (present), Councilperson Esther Woods (present), Councilperson Barbara Crannell (present) and Supervisor Kevin Engelbert (present).

Others present;

Will Heveland (Highway Superintendent), Ray Thetga Jr (Buildings and Grounds), K. Hall (Town Clerk), Roger Field, Alicia Field, Nick Woods, Jessica Woods, Rose Cole, Ches Spencer, Pam Moore, Brandon Sickler, Robert McKertich and Robert Nugent.

MINUTES

The motion to accept the minutes from the March 9, 2021 board meeting, made by B. Middleton 2nd by B. Crannell.

Roll Vote;

Ray Thetga (aye), B. Middleton (aye), B. Crannell (aye), E. Woods (aye), K. Engelbert (aye).

Carried 5 aye-0 absent-0 No-0 abstain

QUESTIONS COMMENTS & CRITICISMS FROM THE PUBLIC -

- *Mr. Ches Spencer wanted to publically mention that it's a continued blessing to live in the Town of Nichols and to thank the Englebert family for their assistance with snow removal after last December's snow storm, the act of neighborly kindness is one of the reasons he loves the Town of Nichols. Mr. Spencer went on to say that he was surprised that his Town and County taxes were lower this year, and wanted to thank the Town for being Vigilant in respect to keeping taxes low. His last comment was to say that when he went down to the Town Hall to pay his taxes, he was pleasantly surprised with the professionalism and people skills of the new Town Clerk and told the board that they had done good by hiring her. K. Engelbert mentioned that it was probably Joe and John that helped out and will pass along the thanks and appreciation to them. K. Engelbert went on to say that he inherited a position with the Town being in excellent financial condition and that the thanks goes to Jim Branston. He did a fabulous job managing the Town especially after what he inherited. Also, that the Town has to thank Tioga Downs. Since they've been in our community the Town has been able to lower taxes by 50% since K. Engelbert has been in office. K. Hall thanked Mr. Spencer for his kind words.*
- *Roger and Alicia Field wanted to know how to start the process for getting the Town to fix Herzog Rd. The Fields went on to say that their road has been in disrepair for awhile and hasn't been fully completed. They wanted to know when it would happen as the water runoff in the ditches has eroded away the road so that it's becoming a one lane and the ditch itself has gotten very deep and dangerous. Mr. Field stated that after the Well pad was put in, up the hill from them, it created more water flow in the ditch. He also said that over the years the town has put stone in the ditch but the current of the water has washed them away. He went on to say that the County had put large concrete blocks at the end of the road to slow the water and that the Town should*

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do the same going up the road in the ditch to slow the water down so it doesn't eat up the road. K. Engelbert thanked Mr. and Mrs. Field for coming and talking to the board about this matter. K. Engelbert asked Councilman R. Thetga about past Herzog Rd maintenance since part of the road is in Owego. R. Thetga said that the Town of Nichols has always taken care of that road since he was with the Highway Dept. That there are some shared roads throughout the Town and that the Town of Owego and the Town of Nichols share services for roads that cross borders. If the Town puts in cofers, spread out down that road, it should work. W. Heveland said that for years they have been putting riff raff in the ditch and it just gets washed into the county pipe. Mr. Field said that since the county put their blocks in, that they haven't moved at all. That, every now and then, the county comes out and cleans out the dirt and debris that gets gathered there. Discussion continued on the safety of Herzog Rd. W. Heveland to follow up.

NEW BUSINESS

- *Hunt Creek Rd Project -*

W. Heveland - "It happened in Oct. 2019, the Fema people came to look at it and nobody did anything about it. The only people that have looked at the road erosion are the surveyors, engineers and myself at this time. The erosion of the road from the creek needs to be fixed, but now we have a problem with access to the road through homeowner property and that needs to be addressed sometime by somebody other than the Highway. Superintendent"

B. Middleton - "Didn't we vote on it and approve you to have the work done? Get Prices, line things up. This is your show, do your thing bro"

W. Heveland - "You have to have permission to enter peoples' property to do the work you can't just..."

B. Middleton - "I think that falls under your job"

W. Heveland - "So I have to negotiate with Homeowners to access the property?"

B. Middleton - "Yeah"

K. Engelbert - "Well, between you and our attorney, yes"

Jessica and Nick Woods homeowners on Depot Rd addressed the Board Members because the Town wants access through her property to fix the erosion before the road collapses. Mrs. Woods stated that the erosion of the creek bank has been going on since 2011 and the last rain storm of Oct 2019 has completely destroyed their side of the creek and has undercut the Hunts Creek Rd side of the creek and that the road is close to collapse. Last year the Woods' allowed the Town access and Chuck Hazard mentioned to them he would move some material over to their side to help them out. Mrs. Woods said that W. Heveland has been in contact with them about the severity of the situation and they are frustrated because they only want to fix the roadside part of the creek and she doesn't think only fixing the roadside is in any way beneficial to them as home and property owners. Once the roadside bank is fixed she feels like the water will ricochet off it and further erode her bank causing her kitchen to fall into the creek. Mr. and Mrs. Woods are frustrated with the engineers coming onto their property without prior notification or a letter from the town at least. Mr. and Mrs. Woods want the Town to fix their property if the Town wants access to the creek through their property.

Robert Mckertich (Town's attorney) - "The Town can't do work on private property because that would be using taxpayer funds for the benefit of a private individual. If the Town could work out in that easement, that the Town restored any property traveled on that you own and that we would construct

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the town's side of the waterway in a manner that doesn't impact your property. I think what I am understanding is that you want extra work done on your side"

Jessica Woods - "If you leave it as is and only fix their trail down into the creek then you are going to ricochet the water even worse into my property. I honestly just want to be bought out with all of the industrializing going on in my backyard and NYSEG reaching out to clear a bunch of trees on my property to reroute electrical poles for the solar power that is helping the town. If you guys put any kind of block or riff raff on the other side you will aim that water straight to my kitchen. I am not feeling like this is fair"

E. Woods - "The other thing I don't think is fair to the homeowner, is that she can't hire anyone to fix her side of the creek because DEC will say you can't be in that creek"

Jessica Woods - "When they fixed that bridge after the 2011 flood they took a 20 ft opening and made it a 19ft opening. I invite you to come to my house the next time it rains, water comes out of that pipe like a fire truck hose, it rips trees off of the banks"

Discussion continued about the creek erosion and surveyors going on to The Woods' property without prior notice. K. Engelbert said he was hoping to come to some sort of agreement to get some kind of easement. Mr. Woods said that there wouldn't be an agreement without Town assistance to fix their property erosion.

R. McKertich - "There needs to be a public benefit as opposed to a private one, the Town has restrictions as to what it can and can't do. The Town will need to consult with the engineer to get a full understanding of what needs to be done with the road and the creek. I believe everyone wants an agreement to be in place. The Town has the power of eminent domain, so it can take property, including taking easements. There is always that as an option, but when these things come up I always advise Towns to work with property owners to see if they can reach an agreement."

K. Engelbert - "I understand what they are saying. If that bridge is causing the damage to their property then the case can be made like they said, then the Town needs to do something to protect that side also. But I don't know if that would fly because I have had the same thing happen and we were told to go fly a kite. The DEC wouldn't let us do anything about it. It's frustrating for property owners. If you can get the county to buy your property, I would try that. you got nothing to lose if you went to the county and asked."

J. Woods - "I already went to the IDA about my property and they said they have no need for my property"

K. Engelbert - "I understand your frustration, I know it doesn't seem like it. Let's develop a plan to try and keep this moving forward, when you can sit down with B. McKertich, the engineers and with W. Heveland..."

W. Heveland - "And sit down with the board as well"

K. Engelbert - "Let's take it a step at a time and see what you come up with, because we're not the decision makers on this. It's going to be what you can live with, the Hwy Superintendent and the engineers can live with"

N. Woods - "We are willing to work with you guys"

K. Engelbert - "I wish I could say we'll take care of it, don't worry about it. But we can't just do that and that's the problem."

J. Woods - "I understand the Town doesn't have unlimited funds"

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K. Engelbert - "It's not just that, it's the position it puts the Town in. If we did all that, then others may come forward saying they are losing property to creek erosion and say, "You should come in and fix us too". It's a precedent and law thing. Believe me, we want to get something worked out. I don't want to do eminent domain, period. This is a great little town and that's not what we are all about. I would rather get something worked out that you can live with and that is within the law. We have to protect the road."

B. McKertich - "This is the first time I have heard that the bridge might be the cause of the problem"

W. Heveland - "The engineers submitted their report in November to the Town, everything should be in the report"

B. McKertich - "Can you send that over to me?"

W. Heveland - "I sent it to K. Englbirt"

B. McKertich - "Ok, I will get it from him."

W. Heveland, engineers, B. McKertich to meet with homeowners for further conversation to resolve the problem.

- *Utilities Director Applicant Robert Nugent introduced himself and the Board had a chance to ask questions.
Motion to approve Robert Nugent appointment for Director of Utilities for the Town of Nichols made by B. Middleton 2nd by R. Thetga.
Roll Vote;
Ray Thetga (aye), B. Middleton (aye), B. Crannell (aye), E. Woods (aye), K. Engelbert (aye).
Carried 5 aye-0 absent-0 No-0 abstain*
- *New York State and Local Retirement System requires employers to submit a Standard Employee Workday Resolution and a Standard Workday and Reporting for Elected and Appointed Officials. The Town only needs to approve the employee workday once, unless there needs to be a change made. The Standard Workday and Reporting for Elected and Appointed Officials needs to be done yearly and when there is a new employee appointed, after a 3 month Record of Activity is filled out.
Motion to approve Resolutions #3-2021 Standard Employee Workday made by K. Engelbert 2nd by B. Middleton.
Roll Vote;
Ray Thetga (aye), B. Middleton (aye), B. Crannell (aye), E. Woods (aye), K. Engelbert (aye).
Carried 5 aye-0 absent-0 No-0 abstain*

BE IT RESOLVED, that the Town of Nichols, Location code 30649, hereby establishes the following as standard work days for its employees and will report days worked to the New York State and Local Employees' Retirement System based on the timekeeping system or the record of activities maintained and submitted by these members to the Town Clerk.

Resolution #4-2021 Standard Workday and Reporting for Elected and Appointed Officials made by K. Engelbert 2nd by E. Woods.

Roll Vote;

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Ray Thetga (aye), B. Middleton (aye), B. Crannell (aye), E. Woods (aye), K. Engelbert (aye).

Carried 5 aye-0 absent-0 No-0 abstain

BE IT RESOLVED, that the Town of Nichols, Location code 30649, hereby establishes the following standard work days for for these titles and will report the officials to the New York State and Local Employees' Retirement System on their record of activities maintained and submitted by these officials to the Town Clerk.

The Standard Workday and Reporting for Elected and Appointed Officials will be posted in the Town Hall on the lobby bulletin board for 30 days.

- *Cancel April 28, 2021 meeting*

The motion to cancel the next meeting of April 28, 2021 made by K. Engelbert 2nd by B. Crannell.

Roll Vote;

Ray Thetga (aye), B. Middleton (aye), B. Crannell (aye), E. Woods (aye), K. Engelbert (aye).

Carried 5 aye-0 absent-0 No-0 abstain

ADDITIONAL NEW BUSINESS FROM BOARD MEMBERS -

UPDATE FROM TOWN DEPARTMENTS/PERSONNEL

Highway Department – W. Heveland gave estimates for a tractor and truck he was requested to research for approval to purchase for the Highway Department at the March 9, 2021 board meeting.

Motion made by K. Engelbert to purchase Kubota M511 Series Tractor for \$53,466.00 and 2020 Dodge 3500 truck for \$59,490.00 2nd by B. Middleton

Roll Vote;

Ray Thetga (aye), B. Middleton (aye), B. Crannell (aye), E. Woods (aye), K. Engelbert (aye).

Carried 5 aye-0 absent-0 No-0 abstain

Buildings and Grounds - R. Thetga Jr. gave estimates for a mini excavator and skid steer he was requested to research for approval to purchase for the Buildings and Grounds Department at the March 9, 2021 board meeting. The Justice project at NES building is moving along and Art Mayer has gotten the parts that he needed to get started on phone and internet connections. The fire alarm company is setting up the security cameras and we are waiting on the delivery of the desks. R. Thetga did not have an ETA on when it will be completed. He asked the board if they would still like a "U" shaped desk set up in the Boardroom at Town Hall. Discussion followed and everyone agreed that they would prefer it.

Motion made by R. Thetga to purchase CAT 303.5 Mini excavator with bucket and attachments for \$49,525.00 and a CAT 259 D3 Skid Steer with bucket, fork and mower \$59,351.00, 2nd by B. Middleton.

Roll Vote;

Ray Thetga (aye), B. Middleton (aye), B. Crannell (aye), E. Woods (aye), K. Engelbert (aye).

Carried 5 aye-0 absent-0 No-0 abstain

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OLD BUSINESS -

ADDITIONAL OLD BUSINESS FROM BOARD MEMBERS -

ACCEPT REPORTS AND PAY BILLS

The motion to accept the Reports and Pay Bills made by B. Middleton 2nd by E. Woods.

Roll Vote;

Ray Thetga (aye), B. Middleton (aye), B. Crannell (aye), E. Woods (aye), K. Engelbert (aye).

Carried 5 aye-0 absent-0 No-0 abstain

ADDITIONAL COMMENTS, QUESTIONS & CRITICISMS -

EXECUTIVE SESSION - *Motion to move into executive session at 8:30pm Made by K. Engelbert, 2nd Barb Crannell*

Out of executive session at 9:20pm

ADJOURN -

The motion to Adjourn meeting at 9:21 pm, made by B. Crannell 2nd by E. Woods

Roll Vote;

Ray Thetga (aye), B. Middleton (aye), B. Crannell (aye), E. Woods (aye), K. Engelbert (aye).

Carried 5 aye-0 absent-0 No-0 abstain

Karen Hall

Nichols Town Clerk

04/13/2021