

June 8, 2011

MINUTES

**REGULAR MEETING – EDEN TOWN BOARD
2795 EAST CHURCH STREET
EDEN, NEW YORK
JUNE 8, 2011
7:30 P.M.**

TOWN BOARD MEMBERS PRESENT:

GLENN R. NELLIS	-	SUPERVISOR
MARY LOU PEW	-	COUNCILWOMAN (<i>Absent</i>)
EDWARD KRYCIA, JR	-	COUNCILMAN
VINCENT V. VACCO	-	COUNCILMAN (<i>excused at 8:30</i>)
RICHARD S. VENTRY	-	COUNCILMAN

DEPARTMENT HEADS PRESENT:

Ronald C. Maggs	-	Superintendent of Highways
Michael J. Felschow	-	Chief of Police
Jack Rigley	-	Eden Fire Chief
Robert Pietrocarlo	-	Chairman Board of Assessors
Scott Henry	-	Code Enforcement Officer
Susan Brass	-	Recreation Director

OTHERS PRESENT:

William Trask	-	Town Attorney
Mary Jo Hultquist	-	Town Clerk
Lisa Greiner	-	Administrative Assistant
Mark Cavacoli	-	CRA

Call to Order:

Supervisor Nellis called the Regular Meeting of the Eden Town Board to order at 7:40 P.M.

Pledge of Allegiance:

Supervisor Nellis led the assembly in the Pledge of Allegiance to the flag followed by a moment of silence.

Approval of Minutes:

Supervisor Nellis asked if there were any additions or corrections to the Town Board Minutes of May 11, 2011; there were none.

MOTION was made by Councilman Ventry to approve the Town Board Minutes of May 11, 2011 as presented; seconded by Councilman Vacco; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

Supervisor Nellis asked if there were any additions or corrections to the Town Board Minutes of May 18, 2011; there were none.

MOTION was made by Councilman Ventry to approve the Town Board Minutes of May 18, 2011 as presented; seconded by Councilman Vacco; All “Ayes”; Opposed? – None; Abstain? - None; Motion carried.

Supervisor Nellis asked if there were any additions or corrections to the Town Board Minutes of May 20, 2011; there were none.

MOTION was made by Councilman Ventry to approve the Town Board Minutes of May 20, 2011 as presented; seconded by Councilman Vacco; All “Ayes”; Opposed? – None; Abstain? - None; Motion carried.

Supervisor Nellis asked if there were any additions or corrections to the Town Board Minutes of May 25, 2011; there were none.

MOTION was made by Councilman Ventry to approve the Town Board Minutes of May 25, 2011 as presented; seconded by Councilman Krycia; All “Ayes”; Opposed? – None; Abstain? - None; Motion carried.

Petitions:

There were none.

Budget Transfers/Amendments:

Supervisor Nellis requested approval of the following Highway Budget Transfers:

Date	From	To	Description	Amount
06/08/2011	D2770	D5110.4	Pipe Permits	\$7,753.00
06/08/2011	D5130.4	D5140.4	Over budget	\$ 200.00

Supervisor Nellis requested approval of the following Budget Transfers/Amendments:

From Account	To Account	Reason for Amendment	Amount
A1680 Ambulance Charge	A4540.2 Ambulance- Equipment	Apply money from squad insurance recovery money for purchase of new copier	\$5,405.00
D878 Capital Equip. Reserve Highway	D5130.2 Machinery- Equipment	Move funds for Dump Truck Purchase per Permissive Referendum	\$159,708.73

MOTION was made by Councilman Krycia to approve the Budget Transfers as presented; seconded by Councilman Ventry; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

Audit Bills:

Supervisor Nellis asked if there were any changes or additions to the “Audit of Bills” which are on file in the Town Clerk’s office. There were none.

DESCRIPTION	VOUCHER NUMBERS	AMOUNT
General Fund	296-352	\$42,729.60
Highway Dept. Fund	142-168	\$193,451.57
Fire Dept. Fund	104-116	\$14,937.04
Recreation Dept. Fund	44-66	\$7,499.76
Refuse and Garbage Fund	--	--
Street Lights Fund	12-14	\$4,323.94
Water Fund	16-17	\$5,160.63
Trust & Agency Fund	--	--
Capital Fund H8320.401	7-10	\$343,145.85

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H8320.402	8-9	\$11,295.00
Community Development	--	--

MOTION was made by Councilman Vacco to approve the Audit of Bills as presented; seconded by Councilman Ventry; All “Ayes”? Opposed? – None; Abstain? – None; Motion carried.

Departmental Reports:

Department reports for the month of May 2011 were presented by Jack Rigley, Eden Fire Chief; Michael Felschow, Eden Police Chief; Supervisor Nellis for Ray Zabron, Dog Control Officer; Ronald Maggs, Superintendent of Highways; William Trask, Town Attorney; Mary Jo Hultquist, Town Clerk; Scott Henry, Zoning Code Enforcement Officer; Susan Brass, Recreation Director; Robert Pietrocarlo, Chairman Board of Assessors. All reports are on file in the Town Clerk’s office.

Jack Rigley, Eden Fire Chief requested \$343.40 for the cost of training at New York State Chiefs Show in Verona, New York for 8 members on June 17 & 18, 2011.

MOTION was made by Councilman Ventry to approve the request of \$343.40 for the cost of training at New York State Chiefs show in Verona, New York; seconded by Councilman Vacco; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

Ron Maggs, Highway Superintendent requested permission to help with the Corn Festival as needed.

MOTION was made by Councilman Vacco to allow Ron Maggs, Highway Superintendent to assist with the Corn Festival at his discretion; seconded by Councilman Krycia; All “Ayes”; Oppose? – None; Abstain? – None; Motion carried.

MOTION was made by Councilman Ventry to close the Regular Meeting of the Eden Town Board for public hearing; seconded by Councilman Krycia; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

Supervisor Nellis closed the Regular Meeting of the Eden Town Board at 8:00 p.m.

MOTION was made by Councilman Ventry to open the Public Hearing for Increase and Improvement of Water Facilities; seconded by Councilman Krycia; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

Supervisor Nellis opened the Public Hearing at 8:00 p.m.

8:00 P.M.
Public Hearing
Increase and Improvement of Water Facilities

Supervisor Nellis explained the purpose of the public hearing was to listen to any concerns or questions that citizens have.

Mark Cavacoli, CRA gave a presentation regarding the Increase and Improvement of Water Facilities and explained that the area is Second Street and Violet Parkway.

The following persons spoke or asked questions:

There were no comments.

All persons desiring to be heard, having been heard, Supervisor Nellis closed the public hearing at 8:15 p.m.

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8:15 P.M.
Public Hearing
Request for Special Use Permit for
Automotive Repair Shop at 7341 Southwestern Blvd.

Supervisor Nellis explained the purpose of the public hearing was to listen to any concerns or questions that citizens have.

The following persons spoke or asked questions:

George Capitano, 7321 Southwestern Blvd., asked if there would be junk or disabled vehicles as with the previous owners.

Will Smutz, 3094 East Church Street, asked if the applicant would be getting a dealer license.

Donna Schmitz, daughter of Mrs. Perez, 7423 Townline Road, asked what type of business would be handled at that location.

Mr. Zygyla, the applicant for the Special Use Permit for the automotive repair shop, answered the questions of the residents.

Councilman Krycia stated that if and when this is approved, it would be renewed annually, so if questions or concerns arise during the year, they can be addressed at the time of the renewal of the Special Use Permit.

William Trask, Town Attorney questioned the applicant about the DBA.

All persons desiring to be heard, having been heard, Supervisor Nellis closed the public hearing at 8:25 p.m.

MOTION was made by Councilman Krycia to close the Public Hearing; seconded by Councilman Ventry; All "Ayes"; Opposed? – None; Abstain? – None; Motion carried.

MOTION was made by Councilman Krycia to open the Regular Meeting of the Town Board; seconded by Councilman Ventry; All "Ayes"; Opposed? - None; Abstain? - None; Motion carried.

New and Unfinished Business:

1. Increase and Improvement of Water Facilities

Supervisor Nellis read the following Resolution:

TOWN BOARD OF THE TOWN OF EDEN
STATE ENVIRONMENT QUALITY REVIEW ACT
Negative Declaration

WHEREAS, the Eden Town Board is considering action relative to the construction of approximately 2,200 linear feet of new water line along Second Street and Violet Parkway; and

WHEREAS, this construction is an extension of the existing Shadagee/Route 62 Project; and

WHEREAS, an Environmental Assessment Form (EAF) dated May 11, 2011 was prepared by CRA Infrastructure & Engineering, duly licensed engineers; and

WHEREAS, the Eden Town Board previously determined that the proposed project is an unlisted action and declared itself Lead Agency by resolution dated May 11, 2011, and has conducted a single agency review of the Project; and

WHEREAS, the Board has taken a “hard look” at all potentially adverse environmental impacts pursuant to SEQR.

NOW, THEREFORE, be it resolved by the Board that:

Based upon the Board’s thorough and careful review of the Project, including the Environmental Assessment Form and all other materials submitted in connection therewith, the Board hereby determines that the Project will not result in any significant environmental impacts and hereby issues a negative declaration for the Project pursuant to SEQR.

REASONS SUPPORTING THE NEGATIVE DECLARATION:

1. Air, Water, Noise, Waste, Erosion, Drainage, Site Disturbance Effects:

The Project will not create any adverse change in the existing air quality, water quality or noise levels, nor in solid waste production, nor potential for erosion, nor promote flooding or drainage problems. The Project will produce a minimal disturbance of soil and vegetation, with minimal storm run-off during construction.

2. Aesthetics, Agriculture, Archeology, History, National or Cultural Resource, Community of Neighborhood Characteristics:

The Project will not adversely affect agricultural, archeological, historical, natural, or cultural resources. Long term, the Project will represent an improvement of the neighborhood due to water mains now being located completely within municipal road right-of-way.

3. Vegetation, Fish, Wildlife, Significant Habitats, Threatened or Endangered Species:

No plant or animal life will be adversely affected by the Project.

4. Community Plans, Use of Land or Natural Resources:

The Project is not inconsistent with official community plans and goals and will have no adverse effects on land-use or the use of natural resources by or in the community.

5. Growth, Subsequent Development, etc:

The Project will not induce any significant or adverse growth or subsequent development. The Project area is largely developed already.

6. Long Term, Short Term, Cumulative, or Other Effects:

The Project will not have any significant adverse long term, short term, cumulative, or other environmental effects.

7. Critical Environmental Area:

The Project will not have significant impact on any Critical Environmental Area as designed in 6 NYCRR, subdivision 168.14(g).

8. Public Health and Safety:

The Project will result in increase public health and safety as a result of upgraded, new water mains being completely located within municipal rights-of-way.

6 NYCRR § 617.1 states that it is the intention of the SEQR regulation “that a suitable balance of social, economic and environmental factors be incorporated in

the planning and decision making of State, regional and local agencies. It is not the intention of SEQR that environmental factors be the sole consideration in decision making.”

This Board has considered all of the evidence submitted and has determined that the Project will not have significant adverse environmental impact on the community.

MOTION was made by Supervisor Nellis to approve the resolution for State Environmental Quality Review Act (SEQR) and Negative Declaration; seconded by Councilman Krycia; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

Supervisor Nellis read the following Resolution and Order:

**RESOLUTION AND ORDER
AFTER PUBLIC HEARING APPROVING
THE JOINT INCREASE AND IMPROVEMENT OF
FACILITIES OF THE TOWN OF EDEN CONSOLIDATED
WATER DISTRICT AND WATER DISTRICT NOS. 1, 2, 3, 3A AND 4**

WHEREAS, the Town Board of the Town of Eden (herein called "Town Board" and "Town", respectively), in the County of Erie, New York, has, pursuant to Town Law, created the Town of Eden Consolidated Water District and Water District Nos. 1, 2, 3, 3A and 4 (collectively, the "Districts"), and has directed CRA Infrastructure & Engineering, Inc., a subsidiary of Conestoga-Rovers & Associates, a professional engineering firm licensed in New York, to prepare the second and third addenda to the map, plan and report dated July 2007, and revised May, 2008, for the Districts water improvements, along Route 62 and Shadagee Road.

WHEREAS, such revised project includes, but is not limited to, the construction of a pump station, the installation of a 16-inch transmission main along Shadagee Road, and the installation of approximately 3,500 feet of 10-inch waterline and approximately 1,000 feet of 12-inch waterline, the installation of approximately 1,700 linear feet of 12-inch watermain along Violet Parkway and Second Street and approximately 600 linear feet of 8-inch watermain along Second Street, the replacement of hydrants, service lateral reconnections, and appurtenances, and all of the forgoing to include all necessary site work, equipment, apparatus and other improvements and costs incidental thereto, (collectively, the "District Improvement"); and

WHEREAS, pursuant to the direction of the Town, the Engineer has completed and filed with the Town Board such addenda to the map, plan and report for said joint increase and improvement of facilities of the Districts and has estimated the total cost (including the project scope modifications) thereof to be a maximum amount of \$6,780,000, said cost to be financed by the issuance of serial bonds of the Town in the amount of \$6,780,000, offset by any federal, state, county and/or local funds received; and

WHEREAS, amendments to such original map, plan and report were made by Conestoga-Rovers & Associates to include recommended improvements, including additional necessary water transmission system improvements, and clarification as to the methods of assessment for the Districts and such amended and revised map, plan and report is on file at the office of the Town Clerk, and available for public inspection at said location; and

WHEREAS, such amended map, plan and report (hereinafter referred to as map, plan and report) has not been modified in any material respect other than as described above; and

WHEREAS, the Town Board has previously given due consideration to the impact that the joint increase and improvement of the facilities of the Districts may have on the environment and on the basis of such consideration, the Town Board found that no substantial adverse environmental impact will be caused thereby; and

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WHEREAS, the Town Board and the Town have complied in every respect with all applicable federal, state and local laws and regulations regarding environmental matters, including compliance with the New York State Environmental Quality Review Act, comprising Article 8 of the Environmental Conservation Law and, in connection therewith, duly issued a negative declaration and/or other applicable documentation, which has been filed in the office of the Town Clerk; and

WHEREAS, the Town Board issued an Order at its May 20, 2011 meeting calling for a public hearing to be held at the Town Hall, Eden, New York, on June 8, 2011 at 8:00 o'clock P.M. (prevailing time) to consider said joint increase and improvement of facilities of the Districts and to hear all persons interested in the subject thereof concerning the same and for such other action on the part of the Town Board with relation thereto as may be required by law, and further ordered the Town Clerk to publish at least once in a newspaper designated as an official newspaper of the Town for such publication, and post on the sign board of the Town maintained pursuant to subdivision 6 of Section 30 of the Town Law, a copy of this Order, certified by said Town Clerk, the first publication thereof and said posting to be not less than ten (10) nor more than twenty (20) days before the date of such public hearing; and

WHEREAS, said notices of the public hearing were properly published and posted and the public hearing duly held at the time and place stated in the notices;

NOW THEREFORE BE IT RESOLVED AND DETERMINED BY THE TOWN BOARD OF THE TOWN OF EDEN, based on the information provided at the public hearing, as follows:

DETERMINED, that it is in the public interest to increase and improve the facilities of the Districts as hereinabove described and referred to at the estimated maximum cost of \$6,780,000; and it is hereby

DETERMINED, that the parcels and lots of the Districts shall be benefited by said joint increase and improvement of the facilities of the Districts; and it is hereby

DETERMINED, that all parcels and lots benefited by said joint increase and improvement of the facilities are included in the Districts; and it is hereby

ORDERED, that the facilities of the Districts shall be so increased and improved and that the Engineer shall prepare plans and specifications and make a careful estimate of the expense for said joint increase and improvement of the facilities, and with the assistance of the Town Attorney, prepare a proposed contract for the execution of the work, which plans and specifications, estimate and proposed contract shall be presented to the Town Board as soon as possible, and it is hereby

FURTHER ORDERED, that such costs will be annually apportioned among the districts by the Town Board, unless paid from other sources, the amounts so apportioned among the districts, as determined by the Town Board, shall be levied and collected as follows: a) in the case of the Consolidated Water District and Water District Nos. 1, 2, 3 and 3A, such amounts shall be by the assessment, levy and collection from the several lots and parcels of land within the Consolidated Water District and Water District Nos. 1, 2, 3 and 3A for such purpose in the same manner and at the same time as other town charges to pay the principal of and interest on such portion of said bonds as the same shall become due and payable, except as otherwise provided by law and b) in the case of Water District 4, such amounts shall be by the assessment, levy and collection of special assessments from the several lots and parcels of land within such Water District 4, which the Town Board shall determine and specify to be especially benefited thereby, so much upon and from each as shall be in just proportion to the amount of benefit conferred upon the same, to pay the principal of and interest on said bonds as the same shall become due and payable, except as provided by law; and it is hereby

FURTHER ORDERED, that within ten (10) days after adoption of this Resolution and Order, the Town Clerk shall record with the Clerk of the County of Erie a copy of this Resolution and Order, certified by said Town Clerk.

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MOTION was made by Supervisor Nellis to approve the Resolution and Order; seconded by Councilman Krycia; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

2. Approval of Special Use Permit for Automotive Repair Shop

After much discussion and based on the recommendation of William Trask, Town Attorney, this item will be tabled and moved to “Old Business” to be discussed at a future Town Board meeting.

3. Emergency Squad Roof Repair Report from Nussbaumer & Clarke

Supervisor Nellis stated that this item is informational in nature and that a report was given from Nussbaumer and Clarke with the cost for the roof repair.

Supervisor’s Report:

- Free Fishing Days – June 25 & 26, 2011
- Household Hazardous Waste Day – June 18, 2011 from 9 – 2 ECC South Campus
- Summer Hours – Town Hall – 8:00 – 3:30 Memorial Day to Labor Day
- Bicentennial Committee - report of important dates

Hearing of Visitors:

Barbara Huntoon, water district question
David Eckhardt, report on display for Eden Corn Festival for farm/agriculture
Gerald Neifer, condition of property on 8040 N. Main Street
Robert Stickney, condition of property on 8040 N. Main Street
Phil Muck, condition of property on 8040 N. Main Street
Bill Sickau, condition of property on 8040 N. Main Street

Adjournment:

MOTION was made by Councilman Ventry to adjourn the Regular Meeting of the Eden Town Board; seconded by Councilman Krycia; All – “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

Supervisor Nellis adjourned the Regular Meeting of the Eden Town Board at 9:35 P.M.

NOTE: The Town Board will reconvene this meeting on June 9, 2011 at 5:30 p.m. to complete the Amending Bond Resolution for the Joint Increase and Improvement of Facilities for the Consolidated Water District and Water District Nos. 1, 2, 3, 3A and 4. This meeting will be held to insure that a quorum exists to pass the resolution. Councilwoman Pew was absent and Councilman Vacco was excused earlier in the evening.

Executive Session:

Supervisor Nellis adjourned the Executive Session of the Eden Town Board Meeting at 10:30 P.M.

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MINUTES

**RECONVENED MEETING – EDEN TOWN BOARD
2795 EAST CHURCH STREET
EDEN, NEW YORK
JUNE 9, 2011
5:30 P.M.**

TOWN BOARD MEMBERS PRESENT:

GLENN R. NELLIS	-	SUPERVISOR
MARY LOU PEW	-	COUNCILWOMAN (<i>Absent</i>)
EDWARD KRYCIA, JR	-	COUNCILMAN
VINCENT V. VACCO	-	COUNCILMAN
RICHARD S. VENTRY	-	COUNCILMAN

OTHERS PRESENT:

Mary Jo Hultquist	-	Town Clerk
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Supervisor Nellis read the following Amended Bond Resolution:

A BOND RESOLUTION, DATED JUNE 9, 2011, OF THE TOWN BOARD OF THE TOWN OF EDEN, ERIE COUNTY, NEW YORK (THE “TOWN”), FURTHER AMENDING THE BOND RESOLUTION ADOPTED ON JANUARY 9, 2008, AMENDED ON JUNE 25, 2008 AND FURTHER AMENDED ON JUNE 9, 2010, AND AUTHORIZING A CAPITAL IMPROVEMENTS PROJECT WITHIN THE TOWN OF EDEN CONSOLIDATED WATER DISTRICT AND WATER DISTRICT NOS. 1, 2, 3, 3A AND 4 AT AN ESTIMATED MAXIMUM COST OF \$6,780,000, AND AUTHORIZING THE ISSUANCE OF SERIAL BONDS IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$6,780,000, PURSUANT TO THE LOCAL FINANCE LAW TO FINANCE SAID PURPOSE, SAID AMOUNT TO BE OFFSET BY ANY FEDERAL, STATE, COUNTY AND/OR LOCAL FUNDS RECEIVED, AND DELEGATING THE POWER TO ISSUE BOND ANTICIPATION NOTES IN ANTICIPATION OF THE SALE OF SUCH BONDS TO THE TOWN SUPERVISOR.

WHEREAS, on January 9, 2008 the Town Board of the Town of Eden, Erie County, New York (the “Town Board”) adopted a bond resolution authorizing improvements to the Consolidated Water District and Water District Nos. 1, 2, 3, 3A and 4 (collectively, the “Districts”) in an amount not to exceed \$4,200,000; and

WHEREAS, on June 25, 2008, the Town Board adopted an amending bond resolution to increase the estimated maximum cost from \$4,200,000 to \$5,280,000 due to an increase in the size of the transmission main along Shadagee Road from 12 inches to 16 inches; and

WHEREAS, on June 9, 2010 the Town Board adopted an amending bond resolution to increase the estimated maximum cost from \$5,280,000 to \$6,780,000 due to an increase in bid prices received; and

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WHEREAS, the Town Board has determined to expand the scope of such project to include the reconstruction of additional watermains and to make other improvements in connection therewith and to clarify the methods of assessment for the Districts; and

WHEREAS, the Town Board desires to issue obligations of the Town to finance such revised project;

NOW, THEREFORE, BE IT RESOLVED, by the Town Board (by the favorable vote of not less than two-thirds of all the members of the Board) as follows:

The specific purpose (hereinafter referred to as “purpose”) to be financed pursuant to this resolution is the revised capital improvements project in the Districts along Route 62 and Shadagee Road, which includes but is not limited to, the construction of a pump station, the installation of a 16-inch transmission main along Shadagee Road, and the installation of approximately 3,500 feet of 10-inch waterline and approximately 1,000 feet of 12-inch waterline, the installation of approximately 1,700 linear feet of 12-inch watermain along Violet Parkway and Second Street and approximately 600 linear feet of 8-inch watermain along Second Street, the replacement of hydrants, service lateral reconnections, and appurtenances, and all of the forgoing to include all necessary site work, equipment, apparatus and other improvements and costs incidental thereto. The estimated maximum cost of said purpose is \$6,780,000.

The Town Board plans to finance the estimated maximum cost of said purpose by the issuance of serial bonds in an amount not to exceed \$6,780,000 of the Town, hereby authorized to be issued therefore pursuant to the Local Finance Law, said amount to be offset by any federal, state, county and/or local funds. The cost of such improvements is to be paid by the issuance of serial bonds, and, unless paid from other sources, such costs will be annually apportioned among the districts by the Town Board and shall be levied and collected as follows: a) in the case of the Consolidated Water District and Water District Nos. 1, 2, 3 and 3A, such amounts shall be by the assessment, levy and collection from the several lots and parcels of land within the Consolidated Water District and Water District Nos. 1, 2, 3 and 3A for such purpose in the same manner and at the same time as other town charges to pay the principal of and interest on such portion of said bonds as the same shall become due and payable, except as otherwise provided by law and b) in the case of Water District 4, such amounts shall be by the assessment, levy and collection of special assessments from the several lots and parcels of land within such Water District 4, which the Town Board shall determine and specify to be especially benefited thereby, so much upon and from each as shall be in just proportion to the amount of benefit conferred upon the same, to pay the principal of and interest on said bonds as the same shall become due and payable, except as provided by law.

It is hereby determined that said purpose is an object or purpose described in subdivision 1 of paragraph (a) of Section 11.00 of the Local Finance Law, and that the period of probable usefulness of said purpose is 40 years.

Current funds are not required to be provided prior to the issuance of the bonds authorized by this resolution or any notes issued in anticipation of the sale of said bonds.

It is hereby determined the proposed maturity of the obligations authorized by this resolution will be in excess of five years.

The faith and credit of the Town are hereby irrevocably pledged for the payment of the principal of and interest on such bonds (and any bond anticipation notes issued in anticipation of the sale of such bonds) as the same respectively become due and payable. An annual appropriation shall be made in each year sufficient to pay the principal of and interest on such bonds or notes becoming due and payable in such year. Unless paid from other sources, such costs will be annually apportioned among the districts by the Town Board and shall be levied and collected as follows: a) in the case of the Consolidated Water District and Water District Nos. 1, 2, 3 and 3A, such amounts shall be by the assessment, levy and collection from the several lots and parcels of land within the Consolidated Water District and Water District Nos. 1, 2, 3 and 3A for such purpose in the same manner and at the same time as

other town charges to pay the principal of and interest on such portion of said bonds as the same shall become due and payable, except as otherwise provided by law and b) in the case of Water District 4, such amounts shall be by the assessment, levy and collection of special assessments from the several lots and parcels of land within such Water District 4, which the Town Board shall determine and specify to be especially benefited thereby, so much upon and from each as shall be in just proportion to the amount of benefit conferred upon the same, to pay the principal of and interest on said bonds as the same shall become due and payable, except as provided by law.

Subject to the provisions of this resolution and of the Local Finance Law, pursuant to the provisions of Section 30.00 relative to the authorization of the issuance of bond anticipation notes or the renewals of said notes and of Section 21.00, Section 50.00, Sections 56.00 to 60.00, Section 62.00 and Section 63.00 of the Local Finance Law, the powers and duties of the Town Board pertaining or incidental to the sale and issuance of the obligations herein authorized, including but not limited to authorizing bond anticipation notes and prescribing the terms, form and contents and as to the sale and issuance of the bonds herein authorized and of any bond anticipation notes issued in anticipation of said bonds, and the renewals of said notes, are hereby delegated to the Town Supervisor, the chief fiscal officer of the Town.

The temporary use of available funds of the Town, not immediately required for the purpose or purposes for which the same were borrowed, raised or otherwise created, is hereby authorized pursuant to Section 165.10 of the Local Finance Law, for the purpose or purposes described in Section 1 of this resolution. The Town then reasonably expects to reimburse any such expenditures (to the extent made after the date hereof or within 60 days prior to the date of the January 9, 2008 Bond Resolution) with the proceeds of the bonds authorized by Section 2 of this resolution (or with the proceeds of any bond anticipation notes issued in anticipation of the sale of such bonds). This resolution shall constitute the declaration of the Town's "official intent" to reimburse the expenditures authorized by Section 2 hereof with such bond or note proceeds, as required by United States Treasury Regulations Section 1.150-2.

The Town Supervisor is further authorized to take such actions and execute such documents as may be necessary to ensure the continued status of the interest on the bonds authorized by this resolution, and any notes issued in anticipation thereof, as excludable from gross income for federal income tax purposes pursuant to Section 103 of the Internal Revenue Code of 1986, as amended (the "Code") and to designate the bonds authorized by this resolution, and any notes issued in anticipation thereof as "qualified tax-exempt bonds" in accordance with Section 265(b)(3)(B)(i) of the Code.

The Town Supervisor is further authorized to enter into a continuing disclosure agreement with the initial purchaser of the bonds or notes authorized by this resolution, containing provisions which are satisfactory to such purchaser in compliance with the provisions of Rule 15c2-12, promulgated by the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934.

The Town has complied in every respect with all applicable federal, state and local laws and regulations regarding environmental matters, including compliance with the New York State Environmental Quality Review Act ("SEQRA"), comprising Article 8 of the Environmental Conservation Law and, in connection therewith, duly issued a negative declaration and/or other applicable documentation, and therefore, no further action under the State Environmental Quality Review Act is necessary.

The validity of said serial bonds or of any bond anticipation notes issued in anticipation of the sale of said serial bonds may be contested only if:

- **Such obligations are authorized for an object or purpose for which said Town is not authorized to expend money, or**

if the provisions of law which should be complied with at the date of publication of this resolution are not substantially complied with

and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publication; or

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Said obligations are authorized in violation of the provisions of the Constitution of New York.

The Town Clerk is hereby authorized and directed to publish this resolution, or a summary thereof, together with a notice in substantially the form provided by Section 81.00 of said Local Finance Law, in a newspaper having a general circulation in said Town and designated as the official newspaper of said Town for such publication.

This Resolution is effective immediately.

Nothing in this amendment shall affect the validity of the original January 9, 2008 bond resolution, the June 25, 2008 amending bond resolution, or the June 9, 2010 further amending bond resolution, or any action taken thereunder and any said actions are hereby ratified.

MOTION was made by Supervisor Nellis to approve the Amended Bond Resolution as presented; seconded by Councilman Ventry; All "Ayes"; Opposed? – None; Abstain? – None; Motion carried.

Respectfully submitted by,

Mary Jo Hultquist
Town Clerk