

Evans Town Board

At a Special Meeting of the Town Board of the Town of Evans, in the County of Erie, New York, scheduled & held at the Town Hall, located at 8787 Erie Road, Angola, New York 14006 on May 18, 2011 at 6:30pm, there were

PRESENT: Keith E. Dash Councilman
Paul T. Cooper Councilman
Francis J. Pordum Supervisor

ALSO PRESENT: Jonica B. DiMartino Town Clerk
J. Grant Zajas Town Attorney

ABSENT: none

6:30 pm Public Hearing

Supervisor Pordum opened the Public Hearing and directed the Town Clerk to read the Notice of Public Hearing as follows:

**NOTICE OF PUBLIC HEARING
TOWN OF EVANS**

PLEASE TAKE NOTICE that a public hearing will be held by the Town Board of the Town of Evans, Erie County, New York on May 18, 2011 at 6:30 p.m. at the Town of Evans Town Hall, 8787 Erie Road, Angola, New York 14006 to consider an increase in the maximum estimated cost of the improvements described below.

By resolution adopted on August 15, 2007, said Town Board previously approved, in accordance with Section 202-b of the Town Law, certain improvements for the joint increase and improvement of the water facilities of the Town for consolidation with the Erie County Water Authority, including (i) upgrades to meet Authority standards to include replacement of approximately 5,200 water meters with remote meter reads, installation of tilesets, replacement of approximately 265 fire hydrants, elimination of duplicate watermains, replacement of approximately 49,000 linear feet of waterlines less than six inches in diameter; and replacement of an additional approximately 3,000 linear feet of water main; (ii) further improvements to include construction of an elevated water storage tank, and (iii) construction of public roadway access improvements to service residences currently located on unimproved right-of-ways, including the construction or reconstruction of curbs, gutters, drainage, landscaping and grading, and including in each case any equipment, furnishings, machinery or apparatus, and any ancillary or related work required in connection therewith, all as is more particularly described in the Map, Plan and Report dated August, 2007 prepared at the direction of the Town Board by Wendell Duchscherer Architects and Engineers, all at a maximum estimated cost of \$12,600,000.

The Town Board is now considering an increase in the maximum estimated cost of the above described improvements from \$12,600,000 to \$13,235,000.

All interested persons shall have an opportunity to be heard at such public hearing to be held as aforesaid.

By Order of the Town Board of the Town of Evans,

Jonica B. DiMartino, Town Clerk

Supervisor Pordum turned over the Public Hearing to Drew Eszak, Town Comptroller, to give a brief overview and accept public comment at this time. Mr. Eszak gave a brief explanation of the intent of the public hearing being held.

Speakers (for/opposed as presented to public)

Edward J. Conboy, Jr.- 8168 Hillside St. comments to Mr. Eszak)	opposed (submitted written
Ernest Waddell, 600 Milsom Pkwy comments to Mr. Eszak and provided Town Clerk with additional copy)	opposed (submitted written
Robert L. Palmer, 1780 Eden Evans Center Rd.	opposed
Edward Schneider, 9575 Redwing, Angola comments to Mr. Eszak and provided copy to Town Clerk)	opposed (submitted written
Tebra Howard, 1520 Eden Evans Center, Angola copy of documents- agreed to copy and send to Mr. Eszak)	opposed (only had one
Stacey Howard, 11 Middle Lane, Angola were answered-chose not to speak	stated that her questions
Cheryl St.George, 6440 Hamilton Dr., Derby, NY (Mr. Eszak stated, "For the record, I have seen no FOILS regarding this public hearing.")	opposed
Tebra Howard, 1520 Eden Evans Ctr . speak per direction of Mr. Eszak to sign in again.	second opportunity to
Edward J. Conboy, Jr.- 8168 Hillside St. speak per direction of Mr. Eszak to sign in again.	second opportunity to

Resolution 2011-158a Close Public Hearing

Supervisor Pordum moved and Councilman Cooper moved to close the public hearing and resume the meeting.

VOTE RESULT: ADOPTED
 AYES- Dash, Cooper, Pordum
 NAYS- none

Resolution 2011-159 Town Law Section 202-b Resolution

The following resolution was offered by Supervisor Pordum, who moved its adoption, seconded by Councilman Cooper, to-wit:

RESOLUTION OF THE TOWN BOARD OF THE TOWN OF EVANS, ERIE COUNTY, NEW YORK (THE "TOWN") PURSUANT TO SECTION 202-b OF THE TOWN LAW DECLARING IT IS IN THE PUBLIC INTEREST TO AUTHORIZE AN INCREASE IN THE MAXIMUM COST OF THE JOINT INCREASE AND IMPROVEMENT OF THE WATER FACILITIES OF THE TOWN OF EVANS FOR CONSOLIDATION WITH THE ERIE COUNTY WATER AUTHORITY (THE "AUTHORITY"), CONSISTING OF UPGRADES TO MEET AUTHORITY STANDARDS, CONSTRUCTION OF AN ELEVATED WATER TANK AND ROADWAY ACCESS IMPROVEMENTS

WHEREAS, the Town Board of the Town of Evans, Erie County, New York (the "Town"), has previously duly caused the firm of Wendel Duchscherer Architects & Engineers, engineers duly licensed in the State of New York (the "Engineers"), to prepare a map, plan and report dated August 2007 (the "Map, Plan and Report") including an estimate of the cost relating to the joint increase and improvement of the water facilities of the Town for consolidation with the Authority, consisting principally of (i) upgrades to meet Authority standards to include replacement of approximately 5,200 water meters with remote meter reads, installation of tilesets, replacement of approximately 265 fire hydrants, elimination of duplicate watermains, replacement of approximately 49,000 linear feet of waterlines less than six inches in diameter; and replacement of an additional approximately 3,000 linear feet of water main; (ii) further improvements to include construction of an elevated water storage tank, and (iii) construction of public roadway access improvements to service residences currently located on unimproved right-of-ways, including the construction or reconstruction of curbs, gutters, drainage, landscaping and grading, and including in each case any equipment, furnishings, machinery or apparatus, and any ancillary or related work required in connection therewith (collectively, the "Project"); and

WHEREAS, by resolution dated June 6, 2007, the Town Board determined, in accordance with the regulations of the New York State Department of Environment Conservation promulgated under the State Environmental Quality Review Act (collectively, "SEQRA") that the Project would not have a significant adverse impact on the environment and adopted a Negative Declaration under SEQRA to such effect; and

WHEREAS, at a meeting of the Town Board duly called and held on July 18, 2007, a resolution was duly adopted by it and entered in the minutes specifying the Town Board would hold a public meeting on the undertaking of the Project at a maximum estimated cost of \$12,600,000 and to hear all persons interested in the subject thereof concerning the same on August 15, 2007 at 7:50 p.m. at the Evans Town Hall, 8787 Erie Road, Angola, New York 14006; and

WHEREAS, notice of said public hearing certified by the Town Clerk was duly published and posted as required by law, to wit: a duly certified copy thereof was published in the official newspaper of the Town, on August 1, 2007 and a copy of such

order was posted on August 1, 2007 on the signboard maintained by the Town Clerk, pursuant to Town Law Section 30(6); and

WHEREAS, said public hearing was duly held at the time and place set forth in said notice, at which all persons desiring to be heard were duly heard; and

WHEREAS, by resolution dated August 15, 2007, following completion of said public hearing the Town Board determined that it is in the public interest to undertake the Project; and

WHEREAS, by letter dated May 4, 2011, from the Engineers to the Town Supervisor and the members of the Town Board, the Engineers amended the Map, Plan and Report to (i) advise the Town Board that the estimated cost of undertaking the Project has increased from \$12,600,000 to \$13,235,000.00, and (ii) recommend that Town Board authorize such an increase in the maximum cost of the Project; and

WHEREAS, the increase in the maximum authorized cost of the Project will not result in an increase in the maximum amount of debt to be incurred by the Town therefore, as such additional costs are to be funded out of the following grant funds received by the Town and totaling \$635,000: (i) 2008 Community Development Block Grant of \$100,000; (ii) 2010 Community Development Block Grant of \$100,000; and (iii) 2009 Local Government Efficiency Grant of \$435,000; and

WHEREAS, at a meeting of the Town Board duly called and held on May 4, 2011, a resolution was duly adopted by it and entered in the minutes specifying the Town Board would hold a public meeting on the proposed increase in the maximum estimated cost of the Project from \$12,600,000 to \$13,235,000, and to hear all persons interested in the subject thereof concerning the same on May 18, 2011 at 6:30 p.m. at the Evans Town Hall, 8787 Erie Road, Angola, New York 14006; and

WHEREAS, notice of said public hearing certified by the Town Clerk was duly published and posted as required by law, to wit: a duly certified copy thereof was published in the official newspaper of the Town, on May 7, 2011 and a copy of such order was posted on May 11, 2011 on the signboard maintained by the Town Clerk, pursuant to Town Law Section 30(6); and

WHEREAS, said public hearing was duly held at the time and place set forth in said notice, at which all persons desiring to be heard were duly heard.

NOW THEREFORE, THE TOWN BOARD OF THE TOWN OF EVANS, ERIE COUNTY, NEW YORK (THE "TOWN") HEREBY RESOLVES, AS FOLLOWS:

SECTION 1. Upon the evidence given at the aforesaid public hearing, it is hereby found and determined that the maximum cost of the Project, as hereinabove described and as more particularly described in the Map, Plan and Report, as amended by the May 4, letter from the Engineers to the Town Board, is hereby increased from \$12,600,000 to \$13,235,000, and that it is in the public interest to undertake the Project at such increased maximum authorized cost of \$13,235,000.

SECTION 2. This order shall take effect immediately.

The following vote was taken and recorded in the public or open session of said meeting:

AYES:	Councilman Dash	NAYS:	none
	Councilman Cooper		
	Supervisor Pordum		

Resolution 2011-160 Amending Bond Resolution dated August 15, 2007

The following resolution was offered by Supervisor Pordum, who moved its adoption, seconded by Councilman Dash, to-wit:

RESOLUTION OF THE TOWN BOARD OF THE TOWN OF EVANS, ERIE COUNTY, NEW YORK (THE "TOWN") AMENDING BOND RESOLUTION, DATED AUGUST 15, 2007, RELATING TO THE AUTHORIZATION OF \$12,600,000 IN SERIAL BONDS OF THE TOWN TO FINANCE THE COST OF THE JOINT INCREASE AND IMPROVEMENT OF THE WATER FACILITIES OF THE TOWN OF EVANS FOR CONSOLIDATION WITH THE ERIE COUNTY WATER AUTHORITY (THE "AUTHORITY")

WHEREAS, pursuant to proceedings undertaken by this Town Board under Section 202-b of the Town Law, including in particular a resolution adopted on August 15, 2007, the Town Board approved, and determined it was in the public interest to undertake, certain improvements for the joint increase and improvement of the water facilities of the Town for consolidation with the Authority, including (i) upgrades to meet Authority standards to include replacement of approximately 5,200 water meters with remote meter reads, installation of tilesets, replacement of approximately 265 fire hydrants, elimination of duplicate watermains, replacement of approximately 49,000 linear feet of waterlines less than six inches in diameter; and replacement of an additional approximately 3,000 linear feet of water main; (ii) further improvements to include construction of an elevated water storage tank, and (iii) construction of public roadway access improvements to service residences currently located on unimproved right-of-ways, including the construction or reconstruction of curbs, gutters, drainage, landscaping and grading, and including in each case any equipment, furnishings, machinery or apparatus, and any ancillary or related work required in connection therewith, all as is more particularly described in the Map, Plan and Report dated August, 2007 prepared at the direction of the Town Board by Wendell Duchscherer Architects and Engineers (the "Project") at an estimated maximum cost of \$12,600,000; and

WHEREAS, by resolution dated June 6, 2007, the Town Board determined, in accordance with the regulations of the New York State Department of Environment Conservation promulgated under the State Environmental Quality Review Act (collectively, "SEQRA") that the Project would not have a significant adverse impact on the environment and adopted a Negative Declaration under SEQRA to such effect; and

WHEREAS, by a bond resolution dated August 15, 2007 (the "Bond Resolution") the Town Board previously authorized the issuance of serial bonds and bond anticipation notes of the Town in the aggregate principal amount not to exceed \$12,600,000 to finance the estimated cost of Project, composed of \$10,900,000 in serial bonds to finance the estimated cost of the portion of the Project consisting the joint increase and improvement of the water facilities of the Town for consolidation with the Authority, and \$1,700,000 in serial bonds to finance the estimated cost of the portion of the Project consisting of the construction of public roadway access improvements to service residences currently located on unimproved right-of-ways; and

WHEREAS, pursuant to proceedings undertaken by the Town Board in accordance with Section 202-b of the Town Law, including in particular a resolution dated May 18, 2011 adopted immediately prior to the consideration of this resolution, the Town Board authorized an increase in the maximum cost of undertaking Project from \$12,600,000 to \$13,235,000, and determined that it was in the public interest to undertake the Project at such increased maximum cost; and

WHEREAS, the Town Board now wishes to amend the Bond Resolution in order to increase the maximum estimated cost of the portion of the Project consisting of the joint increase and improvement of the water facilities of the Town for consolidation with the Authority from \$10,900,000 to \$11,535,000 and to amend the plan of finance for such portion of the Project as a result of such increased maximum cost, but without increasing the maximum authorized amount of the serial bonds or bond anticipation notes to be issued for the Project;

NOW THEREFORE, THE TOWN BOARD OF THE TOWN OF EVANS, ERIE COUNTY, NEW YORK (THE "TOWN") HEREBY RESOLVES (by the affirmative vote of not less than two-thirds of all the members of such body), TO AMEND THE BOND RESOLUTION DATED AUGUST 15, 2007 AS FOLLOWS:

1. The penultimate sentence of Section 1 of the Bond Resolution is hereby amended to read as follows:

It is hereby determined that the maximum estimated cost of the aforementioned specific object or purpose is \$11,535,000 said amount is hereby appropriated therefore and the plan for the financing thereof shall consist of the issuance of the \$10,900,000 in serial bonds of the Town authorized to be issued pursuant to this resolution or bond anticipation notes issued in anticipation of such bonds, and the expenditure of grant moneys received or to be received by the Town from the Federal and New York State governments in the following respective amounts: (i) Federal Community Development Block Grants of \$200,000; and (ii) a New York

State Local Government Efficiency Grant of \$435,000.

2. Except as specifically amended herein, all the terms and provisions of the Bond Resolution shall remain in full force and effect.

The following vote was taken and recorded in the public or open session of said meeting:

AYES:	Councilman Dash	NAYS:	none
	Councilman Cooper		
	Supervisor Pordum		

RESOLUTION 2011-161 Grant Town Attorney's request to include an additional resolution to the meeting this evening

Councilman Dash moved and Councilman Cooper seconded to include an additional resolution to the meeting per request of the Town Attorney.

VOTE RESULT: ADOPTED
 AYES- Dash, Cooper, Pordum
 NAYS- none

RESOLUTION 2011-162 Advertise for a Public Hearing

Supervisor Pordum moved and Councilman Dash seconded,

BE IT RESOLVED, that the Town Clerk be and is hereby authorized to advertise for a public hearing for consideration of and receipt of public comment upon proposed local law number 2 of the year 2011 to be held at the Evans Town Hall, 8787 Erie Road, Evans, New York, on June 15, 2011 at 7:15pm for the proposed amendment of Chapter 196 of the Town Code of the Town of Evans, including, but not limited to, Article IX thereof, and the requirement of, and cost of, installation of back flow preventers and related equipment and services and payment for such related items and/or equipment.

VOTE RESULT: ADOPTED BY ROLL CALL
 Councilman Dash aye
 Councilman Cooper aye
 Supervisor Pordum aye

RESOLUTION 2011- 163 Adjournment

Supervisor Pordum moved and Councilman Dash seconded to adjourn the May 18, 2011 special meeting at this time.

VOTE RESULT: ADOPTED
 AYES- Dash, Cooper, Pordum
 NAYS- none

These minutes are an unofficial copy unless the original signature of the Town Clerk is affixed below. The original official paper minutes are stored in the Town's vault.

Respectfully Submitted,

**Jonica B. DiMartino
Town Clerk
Town of Evans**