

Evans Town Board

At the regular meeting of the Town Board of the Town of Evans, held at the Evans Town Hall, 8787 Erie Road, Angola, New York on Thursday, July 20, 2011 at 7:00pm there were:

PRESENT:	Keith E. Dash	Councilman
	Paul T. Cooper	Councilman
	Francis J. Pordum	Supervisor
ALSO PRESENT:	Jonica B. DiMartino	Town Clerk
	Samantha Mancini	Intern to Town Clerk's Office
	J. Grant Zajas	Town Attorney
	Jeanne C. Ebersole	Assessor (came in after roll call finished)
	Charles LaBarbera	Building Dept. Head
	Lori Szewczyk	Dir. of Community Development
	Sandra Brant	Dir. of Planning
	Ernie Masullo	Police Chief
	Julie Roach	Seniors Dept. Head
	Patrick Conrad	St Pt Marina Dept Head
	Peggy Manning	Supervisor's Dept
	Gary Noel	Water Dept.
EXCUSED:	Drew Eszak	Dir. of Finance
	Russ Manguso	Parks Commissioner
	Rob Klavoon	Wendel Duchscherer
ABSENT:	Edward Michalski	Highway Superintendent

RESOLUTION 2011-201 Approve Minutes

Supervisor Pordum moved and Councilman Dash seconded that the reading of the minutes of the meeting of June 15, 2011 be dispensed with and approved as submitted by the Town Clerk.

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

Public Comment on Meeting Agenda Items

1. Ben Little- 378 Lakeside- spoke regarding crosswalks, complimented 1 side parking on the fourth of July and expressed thank you to all involved in coordination of Grandview Bay Parade.

7:10 pm Public Hearing for Consideration of the Adoption of PPL#3 of the year 2011 (Amend Live Band Performances/Entertainment)

Supervisor Pordum opened the public hearing by directing the Town Clerk to read the published legal notice as follows:

**LEGAL NOTICE
TOWN OF EVANS**

Please take notice that the Town Board of the Town of Evans, Erie County, New York will hold a public hearing on July 20, 2011 at 7:10pm at the Evans Town Hall, 8787 Erie Road, Angola, NY 14006, for the consideration of Proposed Local Law #3 of the year 2011 to amend Town Code, Chapter 95 Entertainment, Public; Refreshment Businesses, regarding the issuance of licenses for live band performances/entertainment.

A draft copy of the proposed amendments will be available, at the Town Clerk's Office, to review or pick up during normal business hours, Monday thru Friday from 8 am - 4 pm and Wednesday until 6pm.

All parties in interest and citizens shall have an opportunity to be heard at the public hearing to be held aforesaid.

By Order of the Town Board
of the Town of Evans
Jonica B. DiMartino
Town Clerk

No one spoke for or against on this item.

RESOLUTION 2011-202 Close Public Hearing

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

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

RESOLUTION 2011-203 Table & Move PLL #3 of the year 2011 (Amend Live Band Performances/Entertainment) to Old Business

Supervisor Pordum moved and Councilman Dash seconded to table and move PLL#3 (Amend Live Band Performances/Entertainment) to Old Business further discussion and consideration.

**7:15 pm Public Hearing for Consideration of the adoption of PPL#5 of the year 2011
(Establishment of Permanent Crosswalks)**

Supervisor Pordum opened the public hearing by directing the Town Clerk to read the published legal notice as follows:

**Legal Notice
Town of Evans**

Please take notice that the Town Board of the Town of Evans, Erie County, New York will hold a public hearing on July 20, 2011 at 7:15pm at the Evans Town Hall, 8787 Erie Road, Angola, NY 14006, for the consideration of Proposed Local Law #5 to amend the Town Code, so as to establish cross walks at certain locations in the Town of Evans, including, but not limited to, those set forth in a schedule on file with the Town Clerk and available at the Office of the Town Clerk for inspection in advance of such public hearing.

A draft copy of the proposed amendments is available, at the Town Clerk's Office, to review or pick up during normal business hours, Monday thru Friday from 8 am - 4 pm and Wednesday until 6pm.

All parties in interest and citizens shall have an opportunity to be heard at the public hearing to be held aforesaid.

By Order of the Town Board
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Town Clerk

The Town Attorney clarified that the schedule for proposed crosswalks has been available and that the proposed crosswalks are the same as the temporary crosswalks that are in place and that the Public Hearing is to change the code to reflect that these crosswalks become permanent. (the listing as 'temporary' on the agenda was a print error.)

The Town Attorney drafted a preamble for insertion into the code modeled after Section 1154 of the Vehicle and Traffic law (See addendum A)

1. Ben Little- 378 Lakeside- pointed out typographical error in agenda stating 'temporary' instead of permanent. (Clarification was again stated that intent is for permanent crosswalks.) Mr. Little stated his ideas regarding the future of sidewalks in that area.

RESOLUTION 2011-204 Close Public Hearing

Supervisor Pordum moved and Councilman Dash seconded to the close the Public Hearing.

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

RESOLUTION 2011-205 Adoption of PLL# 5 of the year 2011 as LL#3 of the year 2011

Supervisor Pordum moved and Councilman Dash seconded,

RESOLVED, that PLL#5 of the year 2011 be and the same is hereby adopted as Local Law #3 of the year 2011.

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

7:20 pm Public Hearing for Consideration of the adoption of PLL#4 of the year 2011 (Establishment of Term Limits for Certain Officials)

**Legal Notice
Town of Evans**

Please take notice that the Town Board of the Town of Evans, Erie County, New York will hold a public hearing on July 20, 2011 at 7:20pm at the Evans Town Hall, 8787 Erie Road, Angola, NY 14006, for the consideration of Proposed Local Law #4 of the year 2011 to amend the Town Code regarding the establishment of term limits for certain elected officials of the Town of Evans.

A draft copy of the proposed amendments will be available, at the Town Clerk's Office, to review or pick up during normal business hours, Monday thru Friday from 8 am - 4 pm and Wednesday until 6pm.

All parties in interest and citizens shall have an opportunity to be heard at the public hearing to be held aforesaid.

By Order of the Town Board
of the Town of Evans
Jonica B. DiMartino
Town Clerk

1. Dick Hammer, no address stated, spoke in favor of term limits.
2. Stanley Radwan, 8816 Lake Shore Road, commented that he did not have a copy of the proposed local law and asked for clarification. (Councilman Dash read out loud the proposed Local Law and the Town Clerk provided him with a copy of said proposed local law - see addendum B)
3. Robert L. Palmer, 1780 Eden-Evans Center Road, spoke in favor of term limits.

RESOLUTION 2011-206 Close the Public Hearing

Supervisor Pordum moved and Councilman Dash seconded to close the Public Hearing at this time.

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

RESOLUTION 2011-207 Adoption of PLL#4 of the year 2011 as Local Law #4 of the year 2011

Councilman Dash moved and Councilman Cooper seconded,

RESOLVED, that Proposed Local Law #4 of the year 2011, be and the same is hereby adopted as Local Law #4 of the year 2011, Term Limits of the Evans Town Board. (Please refer to Addendum B- as read by Councilman Dash, in its entirety, in the Public Hearing.)

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

RESOLUTION 2011-208 Suspend the rules to discuss a potential conflict of interest

Councilman Cooper moved and Councilman Dash seconded, to suspend the rules, in order to further discuss a potential conflict regarding the appointment of James G. Tresmond, Atty.

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

Councilman Cooper read a statement (Addendum C) and a discussion ensued between Councilman Cooper and Supervisor Pordum on the subject of a potential ethical conflict that may be referenced to a recent court case that was dismissed, however, the specifics of that case were not presented to the Town Clerk, so no attachments are available.

Councilman Dash asked for clarification of how much Mr. Tresmond has received in compensation to date for his services to the Town of Evans. Supervisor Pordum and Councilman Cooper both stated that, at the present time, they have been advised that no monies have been received by Mr. Tresmond for services on behalf of the Town.

Councilman Dash clarified with Councilman Cooper that his motion, as presented, is intended for the protection of Mr. Tresmond, the Supervisor, and the Town Board, if any questions were to be brought forward regarding any impropriety.

RESOLUTION 2011-209 Appt of James G. Tresmond, Atty. be rescinded

Councilman Cooper moved and Councilman Dash seconded,

RESOLVED, that James G. Tresmond Atty.'s appointment, acting as the Town of Evans FOIL Appeals Officer, be rescinded.

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

RESOLUTION 2011-210 Return to the regular portion of the meeting

Councilman Dash moved and Supervisor Pordum seconded to return to the regular portion of the Town Board meeting

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

RESOLUTION 2011-211 Committee and Department Head Reports

Supervisor Pordum moved and Councilman Cooper seconded to approve the Committee and Department Head Reports as reported.

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

RESOLUTION 2011-212 Approve Town Clerk Reports

Supervisor Pordum moved and Councilman Dash seconded,

Town Clerk Monthly Reports

June 2011	
Monthly	\$17,084.12
Interest Earned	\$4.80
Petty Cash	\$-0-
Water Receipts June 2011	\$103,267.86
Interest Earned	\$29.17
2011 County & Town Tax penalties	\$44,861.45
Delinquent notice fees	\$308.00
Court order interest	\$57.17

VOTE RESULT: ADOPTED BY ROLL CALL

Councilman Dash aye
 Councilman Cooper aye
 Supervisor Pordum aye

RESOLUTION 2011-213 Old Business Agenda Items

Supervisor Pordum moved and Councilman Cooper seconded, that the items below remain on old business:

1. PLL#1 of 2011- LWRP Consistency Review Law
2. Approve & Execute "Approval to Purchase"

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

RESOLUTION 2011- 214 Water Bill Adjustments

Councilman Dash moved and Councilman Cooper seconded,

RESOLVED: that an adjustment be made to the following accounts because of water leaks.

GABLE, LARRY & MARY	Account# 01100680
7278 SWEETLAND RD	Adjustment- \$323.50
MAUER, RICHARD	Account# 03070605
9590 POINT BREEZE DR	Adjustment- \$371.70

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

RESOLUTION 2011-215 Authorize Supervisor to enter into an agreement for website design redevelopment services

Councilman Cooper moved and Supervisor Pordum seconded,

RESOLVED: The Supervisor is hereby authorized to sign an agreement for the purchase of the Website Design and Redevelopment Services with , BAS, Inc., at a price not to exceed \$8,700.00 per contract execution including all maintenance and hosting for the first year with a cap placed on all annual maintenance and hosting fees for a minimum of 4 years.

Councilman Dash asked the Town Clerk for clarification of where the funding will be procured from. The Town Clerk stated that the *school tax collector's fee from the*

'outside town' school tax collections will be turned over again in December as a transfer at the end of collection to offset the cost of this project- (Please note that the same monies were transferred in 2010 to offset the BAS Clerk's Accounting software and the implementation of online access to town taxes and school taxes for all areas collected- there is an addendum in the 2010 December minutes in reference to the intention of such funds.)

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

RESOLUTION 2011-216 Authorize the Police Department to purchase electronic control devices- "tasers"

Supervisor Pordum moved and Councilman Dash seconded,

Whereas, it is the interest of public safety to obtain technology to assist in the mission of the Evans Police Department to protect the public, and

Whereas, the Police Department has researched the possibility of obtaining "tasers", an electronic control device to assist in this mission, and

Whereas, the Police Department has been awarded a grant to offset the cost related to upgrading the 911 system, and

Whereas, the cost related to the 911 upgrade was originally included in the negotiations with Chase for capital purchases, and

Whereas, the grant proceeds have released funds reserved for 911 upgrades in the Chase agreement;

NOW THEREFORE BE IT RESOLVED, the Police Department is authorized to purchase electronic control devices, "tasers" for amount not to exceed \$6,500.00, and

BE IT FURTHER RESOLVED, the final purchase price is to be included in the capital purchase agreement with Chase.

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

RESOLUTION 2011-217 Appt of Police Matrons

Supervisor Pordum moved and Councilman Cooper seconded,

RESOLVED, that the following be appointed to the position of Police Matron at the current rate of \$15.00/hour to be called as needed:

Donna Kraft, 1369 Burns Rd., Angola, NY
 Joyce Solop, 9211 Meadow Lane, Angola, NY
 Catherine Wilson, 1426 Darlington, Derby, NY
 Shannon Rovnak, 591 Commercial St., Farnham, NY
 Cheri McMillan, 6920 Schuyler Dr., Derby, NY
 Laurie Wojcik, 1506 eden-Evans Center Rd., Angola, NY
 Karin Stevens, 8567 Lake Shore Rd., Angola, NY

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

RESOLUTION 2011-218 Appt of Public Safety Dispatcher

Supervisor Pordum moved and Councilman Dash seconded,

RESOLVED, that Donna Kraft, 1369 Burns Rd., Angola, NY be appointed to the position of Public Safety Dispatcher at the current rate of \$13.55/hour to be called as needed:

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

RESOLUTION 2011-219 Congratulate Evans Youth Baseball 12 & under for winning NYS Championship

Supervisor Pordum moved and Councilman Dash seconded,

Resolution to congratulate the Evans Youth Baseball, 12 and under on their NYS Championship. They beat the Lou Gehrig Amherst team 9 to 4 this past Sunday.

The Evans Youth Baseball Champs will be going off to the mid-Atlantic Regionals starting next Wednesday, July 27, 2011 in Clifton Park, New York.

The next step would be the Cal Ripken World Series in August.

And some further information our Evans League had only about 60 youth to choose from and the Lou Gehrig Amherst league has over 600 youth.

Good luck in Clifton Park.

VOTE RESULT: ADOPTED

AYES- Dash, Cooper, Pordum
NAYS- none

RESOLUTION 2011-220 Town Licenses

Supervisor Pordum moved and Councilman Cooper seconded,

Licenses

Wayland A. Whittinghill III- Live Band
Jacqueline Newman- Live Band

RESOLVED, that the aforesaid licenses be granted pertaining to the report of the Chief of Police and the Department of Health where appropriate.

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

RESOLUTION 2011-221 Audit of Bills

Councilman Dash moved and Supervisor Pordum seconded,

BE IT RESOLVED, that all properly audited bills be paid forth out of their respective accounts as set forth in the abstract brought forth on July 20, 2011

Date: 06/15/2011
Abstract No. 12
Voucher No. 1034-1160
Prepaid: 26

GENERAL	130,774.02
PART TOWN	26,186.36
HIGHWAY DA	0.00
HIGHWAY	31,785.35
WATER	79,477.52
CAPITAL PROJECTS	318,204.01
SPECIAL DISTRICTS	78,047.56
DEBT SERVICE	0.00
COMMUNITY DEVELOPMENT	<u>0.00</u>
TOTAL	604,474.82

Date: 07/06/2011
Abstract No. 13
Voucher No. 1161-1339
Prepaid: 27, 28

GENERAL	103,156.13
PART TOWN	39,658.02
HIGHWAY DA	0.00
HIGHWAY	18,126.68
WATER	91,598.86
CAPITAL PROJECTS	3,418.00
SPECIAL DISTRICTS	19,665.46
DEBT SERVICE	0.00
COMMUNITY DEVELOPMENT	<u>0.00</u>
TOTAL	275,623.15

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

RESOLUTION 2011-222 Adjournment

Supervisor Pordum moved and Councilman Cooper seconded to adjourn to a Work Session on Wednesday, August 10, 2011 then to an Agenda Meeting on Wednesday, August 17, 2011 at 6:30pm with the regular Town Board meeting immediately following at 7:00pm

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**

I would like to ask that we suspend the rules in order to discuss an issue that has come up recently regarding Foils within the town.

Recently, a few employees of the town were named and served papers in a lawsuit that has been subsequently dismissed.

Of concern is the fact that Attorney James Tresmond: appointed by this board to serve as council on Freedom of Information law issues for the town, was the Attorney for the Petitioner: Francis J. Pordum, who also serves on this Board.

As anyone who has ever been witness or a party to a FOIL request will attest, such FOILS are often antagonistic to the Town Board with respect to policy decision making.

The Evans Code of Ethics (section 16-5 (E)) requires that

“A town employee shall not, by his conduct, give reasonable basis for the impression that any person can improperly influence him or unduly enjoy his favor in the performance of his official duties or that he is affected by kinship, rank, position or influence of any party or person.”

Whereas, that counsel enjoys up to a \$225 per hour Town Appointment, while also serving as personal counsel to a current Board member, may give the appearance that he may be affected by the influence of the current Board Member in the performance of his duties responding to citizen FOIL requests.

While I by no means feel that Mr. Tresmond has done anything improper in his role as the town FOILS Appeal Officer, it would appear that because of his position in this capacity and the fact that he was engaged in the suit on behalf of a current Board Member, that there may appear to be a distinct conflict of interest and a violation of the Town Code of Ethics, Section 16-5 (E).

In order to alleviate any such appearance of conflict and ultimately protect Mr. Tresmond from such scrutiny, I would like to make a motion that Mr. Tresmond's appointment as The Town of Evans Foils Appeal Officer be withdrawn and those duties once again become the responsibility of The Evans Town Supervisor as part of his regular duties.