

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 Wednesday, June 20, 2012 at 7:00pm there were:

PRESENT:	Dennis M. Feldmann	Councilman
	Paul T. Cooper	Councilman
	Keith E. Dash	Supervisor
ALSO PRESENT:	Lynn R. Stoessel	Deputy Town Clerk
	J. Grant Zajas	Town Attorney
	Jeanne C. Ebersole	Assessor
	Scott Dill	Finance Dept.
	Edward Michalski	Highway Superintendent
	Patrick Conrad	St. Pt. Marina Dept. Head
	Diana Cafferty	Supervisor's Dept.
	Gary Noel	Water Dept.
	Rob Klavoon	Wendel Duchscherer
EXCUSED:	Charles LaBarbera	Building Dept. Head
	Lori Szewczyk	Dir. of Community Development
	Sandra Brant	Dir. of Planning
	Ernie Masullo	Police Chief
ABSENT:	Russ Manguso	Parks Commissioner
	Julie Roach	Seniors Dept. Head

RESOLUTION 2012- 223 Approve Minutes

Councilman Feldmann moved and Councilman Cooper seconded that the reading of the minutes of the meeting of the regular meeting of June 6, 2012 be dispensed with and approved as submitted by the Town Clerk.

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

Communications

Supervisor Dash read a thank you letter from Reid Smith regarding the proclamation that was read at the June 6, 2012 Town Board meeting.

Supervisor Dash read a letter from Chief Masullo regarding Lt. George's actions during an incident that occurred at ECMC hospital.

Privilege of the Floor on Meeting Agenda Items & Other Issues

There was no one signed in to speak under privilege of the floor.

Committee and Department Head reports

Councilman Cooper mentioned that the Climate Task Force has met again and that the free electronic waste drop off is ongoing.

Supervisor Dash commended the Disaster coordinator, Guy Cannoci and the Chief of Police for the establishment of cooling stations for the seniors of our community at volunteer fire companies (Highland Hose, Evans Center & Lake Erie Beach), Town Hall & the Senior Center for today and tomorrow.

- One Town Board meeting for the month of July and one for the month of August
- Wish everyone a Happy Independence Day

RESOLUTION 2012- 224 Old Business

Councilman Feldmann moved and Councilman Cooper seconded to remove the Appt of a full-time Patrolman from the Old Business.

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

RESOLUTION 2012-225 Old Business

Councilman Cooper moved and Councilman Feldmann seconded to remove Proposed Local Law #3 of the year 2011, PBA contract and Proposed Water Rate Increase from Old Business.

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

RESOLUTION 2012-226 Suspend the Rules of Order

Councilman Feldmann moved and Councilman Cooper seconded to suspend the rules of order for the conduct of business for the consideration of three resolutions.

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

RESOLUTION 2012-227 Proposed Local Law #3 of the year 2012

Supervisor Dash moved and Councilman Cooper seconded,

Whereas a public hearing was conducted to consider proposed local law number 3 of the year 2011 regarding the regulation of licenses for the performances of live bands and/or orchestras and related issues in the Town of Evans; and

Whereas following the close of such public hearing consideration of the said local law was tabled and the matter remained on old business of the Town Board pending resolution of the same; and

Whereas upon review of the same it appeared that amendment thereto to address matters regarding the regulation of issues concerned in said proposed local law was deemed appropriate;

Now therefore be it resolved that said proposed local law number 3 of the year 2011 is hereby amended as set forth in the attachment hereto and as such is hereby adopted as local law number 2 of the year 2012 to take effect upon adoption hereof. (Addendum B)

VOTE RESULT:	ADOPTED BY ROLL CALL
	Councilman Feldmann Aye
	Councilman Cooper Aye
	Supervisor Dash Aye

RESOLUTION 2012 -228 Fees for LL #2 of the year 2012

Supervisor Dash moved and Councilman Cooper seconded,

Whereas provisions have been enacted for the issuance, upon approved application, of licenses to permit performance of live bands and/or orchestras at premises holding a refreshment license and for special events as authorized by said Town Code; and
Whereas the code authorizing the consideration and application for such license authorizes the fees relative to the same to be set by the Town Board from time to time; and

Whereas the Town Board had taken into consideration said issues and deems it appropriate that those holding live band and/or orchestra licenses issued for the calendar year 2012 issued prior hereby, or who have made application for the same by or before June 30, 2012 shall be deemed, upon the issuance of such license, to hold a license authorizing such live band and/or orchestra license for the 2012 calendar year or for the date authorizing such performance if other than a calendar year license and shall be governed by the provisions of the Code as now enacted;

Whereas the Town Board deems it appropriate that any license issued to the Town of Evans or any department of the same, or to the department head making such application on behalf of the Town of a department of the same, ought be waived in that such event is for the common enjoyment of the residents and guests of the Town;

Now therefore be it resolved that

- 1) The fee for any license application for a live band and/or orchestra license filed on or after July 1, 2012 pursuant to §95-4, B shall be \$ 250.00
- 2) A \$25.00 late fee shall be due for any license issued for a prior year and sought to be renewed if said application is postmarked January 1 of the renewal calendar year or later.
- 3) The fee for any license application a Special Event License filed on or after July 1, 2012, pursuant to §95-4, C shall be \$75.00 for such event; and
- 4) No fee shall be charged for a special event license applied for by the Town of Evans, any of its departments or on behalf of the same.

VOTE RESULT: ADOPTED
 Ayes: Feldmann, Cooper, Dash
 Nays: none

RESOLUTION 2012 -229 PBA contract

Supervisor Dash moved and Councilman Feldmann seconded,

WHEREAS, the Collective Bargaining Agreement with the Evans Police Benevolent Association has expired on December 31, 2011.

WHEREAS, the Town of Evans and the Evans Police Benevolent Association have negotiated in good faith a new Collective Bargaining Agreement for the period of January 1, 2012 through December 31, 2016.

WHEREAS, the Evans Police Benevolent Association held a vote and approved the new Collective Bargaining Agreement.

NOW THEREFORE BE IT RESOLVED, that the Town Supervisor is authorized to sign a Memorandum of Understanding with the Evans Police Benevolent Association to approve the new Collective Bargaining Agreement.

VOTE RESULT: ADOPTED BY ROLL CALL
 Councilman Feldmann Aye
 Councilman Cooper Aye
 Supervisor Dash Aye

RESOLUTION 2012 -230 Proposed water rate increase

Supervisor Dash moved and Councilman Cooper seconded,

WHEREAS, a public hearing was held on May 16, 2012 seeking input and comments from the residents regarding a proposed water rate increase; and

WHEREAS, such hearing was held and comments and concerns, as such, were considered;

NOW THEREFORE BE IT RESOLVED, that the out of district water rate be increased from \$5.80 per thousand gallons to \$6.30 per thousand gallons of water Effective July 1, 2012.

VOTE RESULT: ADOPTED BY ROLL CALL
 Councilman Feldmann Aye
 Councilman Cooper Aye
 Supervisor Dash Aye

RESOLUTOIN 2012 - 231 Suspend the Rules of Order

Councilman Feldmann moved and Councilman Cooper seconded to the suspend the rules of order for the conduct of business for the consideration of the following three resolutions:

- purchase of police vehicle
- pressure relief repairs
- unpaid student intern for climate task force

VOTE RESULT: ADOPTED
 AYES: Feldmann, Cooper, Dash
 NAYS: none

RESOLUTOIN 2012 - 232 Suspend the rules

Councilman Cooper moved and Councilman Feldmann seconded to suspend the rules of order for the conduct of business for the consideration of the approval of a live band license as applied for by Erica DiBerdino.

VOTE RESULT: ADOPTED
 AYES: Feldmann, Cooper, Dash
 NAYS: none

RESOLUTOIN 2012 - 233 Purchase police vehicle

Supervisor Dash moved and Councilman Feldmann seconded,

WHEREAS, the Town of Evans Police Department’s vehicle fleet is aging and numerous vehicles have high mileage and are in need of repair.

WHEREAS, the Town of Evans Police Department is requesting to purchase one (1) 2013 Ford Interceptor Sedan and options, and

WHEREAS, \$16,500.00 of the funds has been budgeted in the 2012 budget, and the remaining funds will be paid from the amount collected pertaining to the Crown Castle Lease,

NO THEREFORE BE IT RESOLVED, that the Chief of Police is hereby authorized to purchase the said vehicle from Delacy Ford, 3061 Transit Road, Elma, NY 14059 pursuant to the New York State OGS Contract #PC 64893, Group 40410 - Police Vehicles, Award #21895 at a cost from the New York State concession price of \$25,418.00

VOTE RESULT: ADOPTED BY ROLL CALL
 Councilman Feldmann Aye
 Councilman Cooper Aye
 Supervisor Dash Aye

RESOLUTOIN 2012 - 234 Training for Water Dept. employees for the PRV pits

Supervisor Dash moved and Councilman Cooper seconded,

WHEREAS, the Town of Evans needs to have their employees properly trained on the maintenance and repairs of PRV pits for the Water Departments,

NOW THEREFORE BE IT RESOLVED, that the Town Board authorizes Ross Valve Manufacturing 79 1022nd Street P.O. Box 595, Troy NY 12181, to start on June 25, 2012 to train the needed employees in the proper maintenance and repairs for the PRV pits for the Water Department; and

BE IT FURTHER RESOLVED, that the cost of \$2,190.00, per day, which includes training and mileage be approved.

VOTE RESULT: ADOPTED BY ROLL CALL
 Councilman Feldmann Aye
 Councilman Cooper Aye
 Supervisor Dash Aye

RESOLUTOIN 2012 - 235 Student Intern for Climate Grant Communities

Councilman Cooper moved and Supervisor Dash seconded,

RESOLVED: that the Supervisor is hereby authorized to accept a proposal for participation with the University of Buffalo for the Climate Grant Communities Student Internship Program as outlined in an attached letter to Ryan McPherson dated June 5, 2012. (Addendum A).

VOTE RESULT: ADOPTED
 AYES: Feldmann, Cooper, Dash
 NAYS: None

RESOLUTION 2012 - 236 Water Bill adjustment

Councilman Cooper moved and Supervisor Dash seconded,

RESOLVED: that an adjustment be made to the following water account because of a leak:

Patrick Callahan, 8912 Lake Shore Road
 Account #02020130
 Adjustment: \$301.74 + penalty

VOTE RESULT: ADOPTED BY ROLL CALL
 Councilman Feldmann Aye
 Councilman Cooper Aye
 Supervisor Dash Aye

RESOLUTION 2012- 237 Road Closure (portions of Kennedy Ave Eisenhower Ave) for 4th of July celebration on July 3rd or raindate of July 4th

Councilman Feldmann moved and Councilman Cooper seconded,

WHEREAS, the July 4th celebration in the Lake Erie Beach/Point Breeze area brings several thousand plus people to this community to honor our nation's birth; and

WHEREAS, the public safety responsibility for those people enjoying the celebration, those people residing in this celebration area, and the people who will transverse this area, are a responsibility that is best served through the following road closures; therefore be it

RESOLVED, that the Town Board of the Town of Evans hereby authorizes the closing of Kennedy Avenue and Eisenhower Road from Lake Shore Road to Quebec Street for the purpose of providing public safety to all participants, residents, and traffic during the 3rd of July (rain date 4th of July), in addition to all other public safety measures as set forth under the Code of the Town of Evans; and be it further

RESOLVED, that the Town Clerk is hereby authorized and directed to publish this resolution in the Angola Pennysaver and the The Sun, the official paper of the Town of Evans.

VOTE RESULT: ADOPTED
 AYES: Feldmann, Cooper, Dash
 NAYS: None

RESOLUTION 2012-238 Execute contract with NYS Housing Trust Fund Corporation 2012 New York Main Street Program for building renovations and streetscape enhancements in the Lake Erie Beach neighborhood commercial center

Supervisor Dash moved and Councilman Feldmann seconded,

WHEREAS, the Town of Evans recently completed a comprehensive neighborhood revitalization strategy for the Lake Erie Beach residential area, and

WHEREAS, the Town engaged in a public input program to build support and understanding for the plan and to incorporate the visions of the community's stakeholders in the strategy and its development process; and

WHEREAS, the strategy recommends revitalization efforts in the Lake Erie Beach Neighborhood commercial area as a way to enhance economic opportunities and stimulate small business development in the community; and

WHEREAS, the Town of Evans has the capacity to act as Local Program Administrator to implement the proposed Lake Erie Beach Revitalization project; and

NOW THEREFORE, BE IT

RESOLVED, that the Evans Town Board intends to prepare and submit an application to the New York State Housing Trust Fund Corporation 2012 New York Main Street Program for Building Renovations and Streetscape Enhancements in the Lake Erie Beach neighborhood commercial center, and

BE IT FINALLY

RESOLVED That the Town Board authorizes Supervisor Dash and/or appropriate Town Officials to sign, submit and execute a contract with New York State Housing Trust Fund Corporation 2012 New York Main Street Program for an amount not to exceed \$250,000 upon approval of NYSHTFC.

VOTE RESULT:	ADOPTED BY ROLL CALL	
	Councilman Feldmann	Aye
	Councilman Cooper	Aye
	Supervisor Dash	Aye

Resolution #4 (Water rates for out of district customers) on tonight’s agenda was adopted under Old Business.

RESOLUTION 2012-239 Appt of Climate Smart Community Task Force members

Councilman Cooper moved and Councilman Feldmann seconded,

WHEREAS, the Town of Evans desires to create policies and programs to reduce greenhouse gas emissions, enhance operational and energy efficiencies and reduce energy costs; and

WHEREAS, a Climate Smart Communities Program has been implemented;

NOW THEREFORE BE IT RESOLVED, that the following be appointed to the Climate Smart Community Task Force,

Councilman Paul Cooper
Town of Evans
8787 Erie Road
Angola NY 14006

Director of Community Development
Lori A. Szewczyk
Town of Evans
8787 Erie Road
Angola NY 14006

Aliesa Adelman
Wendel Duchscherer
140 John James Audubon Pkwy
Suite 201
Buffalo NY 14228

Climate Coordinator
David Farinacci
Tradesman International

Robert Trembath
Sales Auditor
Lime Energy
190 Lawrence Bell Drive
Suite 104
Buffalo NY 14221

Tim Feider
Lake Shore Central Schools
959 Beach Road
Angola NY 14006

Gary Huber
Town of Evans
8787 Erie Road
Angola NY 14006

VOTE RESULT: ADOPTED
AYES: Feldman, Cooper, Dash
NAYS: None

RESOLUTION 2012-240 Advertise for request for proposals for Traditional Suppliers or Alternate Sources of electricity

Councilman Feldmann moved and Councilman Cooper seconded,

WHEREAS, the Town of Evans is interested in environmental preservation and cost savings,

NOW THEREFORE BE IT RESOLVED, that the Town Clerk is hereby authorized and directed to advertise for requests for proposals to provide to the Town of Evans sources of electricity, either through traditional suppliers or alternate sources of such electricity, as more fully set forth in information/specifications which will be available at the Town Clerk's Office on or after June 28, 2012. Proposals to be received by said Town Clerk by or before 10:00am on July 10, 2012, at which time and on such date the same shall be opened and reviewed.

VOTE RESULT: ADOPTED
Ayes: Feldmann, Cooper, Dash
Nays: None

RESOLUTION 2012-241 Road Closure (portion of Lakeside) for 4th of July celebration

Supervisor Dash moved and Councilman Feldmann seconded,

WHEREAS: Grandview Bay Association has started a tradition in this community to honor our nation's birth on the 4th of July by having their annual Grandview Bay Community Parade; and

WHEREAS: the public safety responsibility for those people enjoying the celebration, those people residing in this celebration area, and the people who will transverse this area are a responsibility that is best served through the following road closure:

RESOLVED: that the Town Board of the Town of Evans hereby authorizes the closing of Lakeside Road from Lake Shore Road to Berrywood on Wednesday, July 4th, 2012 between the hours of 9:30am and 11:30am for the purpose of providing public safety to all participations and residents.

VOTE RESULT: ADOPTED
AYES: Feldmann, Cooper, Dash
NAYS: NONE

RESOLUTION 2012-242 Sign agreement with Wendel Duchscherer for construction administration and observations services related to Kennedy Avenue Greenway Path contract 12-1

Councilman Cooper moved and Supervisor Dash seconded,

RESOLVED: the Supervisor of the Town of Evans is hereby authorized to sign the agreement with Wendel Duchscherer dated June 12, 2012 for construction administration and observations services for contract 12-1 related to the Kennedy Avenue Greenway path, subject to the approval of the Town Attorney.

VOTE RESULT: ADOPTED
AYES: Feldmann, Cooper, Dash
NAYS: None

RESOLUTION 2012-243 All terrain vehicle training

Councilman Feldmann moved and Councilman Cooper seconded,
Be It Resolved that the Supervisor of the Town of Evans, or his designee, is hereby authorized and directed to enter into an agreement with the Town of Hamburg for the provision of training to Police Officers of the Town of Evans Police Department regarding the operation of all terrain vehicles.

VOTE RESULT: ADOPTED
AYES: Feldmann, Cooper, Dash
NAYS: None

RESOLUTION 2012- 244 Approve Town License

Supervisor Dash moved and Councilman Feldmann seconded,

Licenses:

1. Erica L. DiBerdino - 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
 AYES - Feldmann, Cooper, Dash
 NAYS - none

RESOLUTION 2012- 245 Audit of Bills

Councilman Cooper moved and Supervisor Dash seconded,

BE IT RESOLVED, that all properly audited bills be paid out of their respective accounts per abstract brought forth on June 6, 2012

Date: 6-6-2012
 Abstract No. 10
 Voucher No. 851-983
 Prepaid: 27, 28, 29, 30

GENERAL	68,640.99
PART TOWN	6,005.35
HIGHWAY DA	0
HIGHWAY	53,466.00
WATER	84,695.26
CAPITAL PROJECTS	217,988.35
SPECIAL DISTRICTS	21,424.98
DEBT SERVICE	0.00
COMMUNITY DEVELOPMENT	<u>0.00</u>
TOTAL	452,220.93

VOTE RESULT: ADOPTED BY ROLL CALL
 Councilman Feldmann Aye
 Councilman Cooper Aye
 Supervisor Dash Aye

RESOLUTION 2012-246 Adjournment

Supervisor Dash moved and Councilman Feldmann seconded, to adjourn to Wednesday, July 11, 2012 at 6:30pm for a Work Session, Wednesday, July 18, 2012 @ 6:30pm for an Agenda Meeting and 7pm for the Town Board Meeting.

VOTE RESULT: ADOPTED
 AYES- Feldmann, Cooper, Dash
 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,

Lynn R. Stoessel
Deputy Town Clerk
Town of Evans

Jonica B. DiMartino
Town Clerk
Town of Evans



June 5, 2012

Ryan McPherson
Office of Sustainability
220 Winspear Avenue
Buffalo, NY 14260

Subject: Town of Evans Climate Smart Communities Student Internship Program

We are pleased to submit this proposal to the University at Buffalo, Office of Sustainability for a student internship program through the Town of Evans Climate Smart Communities initiative.

The Climate Smart Communities (CSC) program was developed through a partnership between the Department of Environmental Conservation (DEC), the New York State Energy Research and Development Authority (NYSERDA), the Department of State, the Public Service Commission and the Department of Transportation. Its goal is to reduce greenhouse gas emissions through climate smart actions that promote health and safety, affordability, economic vitality and quality of life for communities.

Through a resolution submitted on November 9, 2011, the Town of Evans became one of the first Climate Smart Communities in the WNY region. In an effort to align the goals and mission of the Town with the principles set forth in the CSC program, a task force will collaborate with stakeholder groups, the community, and applicable municipal departments. An integral part of the procedure will include identifying sources of greenhouse gas emissions, creating a baseline, setting goals for reduction, and developing a plan for implementation.

The University at Buffalo has been key to the WNY regional sustainability effort and as such the Town of Evans is proposing an internship opportunity for students within the newly formed Sustainability College. Students will be tasked with providing assistance to the Town CSC team for the items below.

- Gathering and compiling inventory data using a recognized industry Greenhouse Gas Inventory Protocol
- Analyzing and reporting results
- Assisting with educational outreach opportunities



The CSC internship program aligns with both the guiding principles of the CSC initiative and the educational requirements of the University at Buffalo. The educational objective of the program is to provide myriad learning opportunities and real-time experience associated energy & resource conservation measures; operational impacts on the environment at a municipal level; quantitative and qualitative data analysis. This is a non-compensatory program and student efforts will be supported through experiential learning, Letters of Recommendation, and program recognition applicable to the University at Buffalo.

Respectfully Submitted,

(Town Rep)

Acceptance / Authorization:

Accepted this 20th day of JUNE, 2012

Print Name: KEITH E. DASH

Signature: Keith E. Dash

Title: TOWN SUPERVISOR

§95-3. Shall be amended to provide as follows:

§95-3. License required; term; fees; number required; exemptions. [Amended 6-6-2001 by L.L. No. 4-2001]

- A. No person or party shall establish, maintain or conduct an amusement, public entertainment or refreshment business, as herein defined, without first having procured from the Town Board of the Town of Evans a license for that purpose.
- (1) Except as otherwise provided in this chapter, such licenses shall run for the calendar year and shall expire on December 31, following their date of issuance.
 - (2) Fees.
 - (a) The fee for such a license shall be established by the Town Board and listed as set forth in Chapter 106, Fees.
 - (b) Late filing. License renewal applications filed later than December 31 will be charged a late-filing fee, which shall be set by resolution of the Town Board and as set forth in Chapter 106, Fees.
 - (3) One license shall be required for a business which has numerous stands, places, rooms or enclosures which are in direct connection with or are contiguous to each other. Rooms, places or enclosures not contiguous to or directly connected with one another shall be deemed separate places of business and shall require a separate license.
- B. No person or party shall establish, maintain or conduct or permit the use, detonation, display or exhibition of fireworks, as herein defined, which shall be deemed to be, for the purposes of this chapter, a public entertainment (whether or not admission or fee is charged, and regardless of whether admission to view the same is free or without any charge whatsoever, and whether or not such use, detonation, display or exhibition of fireworks is intended to produce profit or gain, for any person or party), without first having obtained from the Town Board of the Town of Evans a fireworks license for such purpose.
- (1) Such license shall license the otherwise prohibited use, detonation, display or exhibition of fireworks, for a period of time not to exceed four consecutive hours, and shall expire upon the expiration of such four-hour period.
 - (2) No license shall be issued unless the applicant shall furnish the town with a comprehensive liability insurance policy, issued by a company duly licensed by the State of New York, insuring the applicant against liability for damage to persons or property with limits of not less than \$1,000,000, single limit coverage, with no aggregate, for bodily injury or death, and limits of not less than \$100,000, single limit coverage, with no aggregate, for property damage, which said policy shall name the town as an additional insured and shall be noncancelable without 30 days' prior written notice to the town. In the event that such insurance is canceled, for any reason, any such license issued shall be deemed null and void.
 - (3) Fees. The fee for the application for such license, as well as for the issuance, shall be as set by resolution of the Town Board, from time to time made and passed as set forth in Chapter 106, Fees. Such fee shall be nonrefundable, regardless of whether such application is approved and such license is granted or such application is denied.
 - (4) Notwithstanding other provisions of this chapter, Erie County Health Department investigation and approval shall not be required prior to the issuance of such license where no statute, rule or regulation, other than the provisions of this chapter, would otherwise require the investigation by, or approval of, the premises or applicant.
 - (5) In addition, unless specifically excused by the Town Board in the consideration of such application, such application shall be filed with the Town Clerk not less than 45 days in advance of the date upon which such event, which is the subject of such application, is to take place. The Town Board, by specific action in connection with the consideration of such application, may excuse a failure to file such application in a timely fashion, upon good cause shown.
 - (6) Nothing herein shall be deemed to abrogate or repeal any provisions of the Town Code of the Town of Evans relative to noise, or the regulation of noise, except that the issuance of a license

permitting a fireworks display, as hereinabove set forth, shall suspend the operation of such prohibitions against noise and exempt such fireworks display from the application of such provisions regarding noise regulation.

§95-4. Restrictions on licenses is hereby repealed.

And in its place the following is hereby enacted and adopted:

§95-4. Live Band or Orchestra License.

- A. Except as hereinafter provided by license to be issued pursuant hereto no live band or orchestra shall be permitted to perform out-of-doors or amplify the sound of such performance out of doors.
- B. Any business licensed as a refreshment business as defined in this chapter may apply for a license, to run on a calendar year, for the performance of a live band or orchestra and/or for the amplification of the sound of such performance out of doors.
 - (1) Such performance and/or the amplification of the same shall be allowed only between the hours of 3:00 pm and 11:00 pm.
 - (2) Nothing herein shall be deemed to abrogate or repeal any provisions of the Town Code of the Town of Evans relative to noise, or the regulation of noise.
 - (3) The fee for such license shall be set, from time to time, by resolution of the Town Board
- C. For the purpose of a special and specific event not otherwise governed by the terms and provisions of this chapter a "special event license" may be issued upon application and review thereof as set forth in this chapter, for a "special event license" which will permit a live band or orchestra to perform out-of-doors and/or amplify to the out-of-doors the performance of the same and/or for the amplification of the sound of such performance or sound from any sound producing equipment out of doors in the Town of Evans.
 - (1) Any application for such license, in addition to the information required pursuant to §95.5 of this chapter, shall specify the date and the time of the intended performance of such live band or orchestra or the production of such amplified sound out of doors, which time shall not exceed 4 consecutive hours specified in such application between the hours of 3:00 pm and 11:00 pm.
 - (2) No such special event license shall be issued to the same person, persons, party or parties, and no premises shall be the site of such live band or orchestra performance, more frequently than 4 times in any calendar year.
 - (3) Nothing herein shall be deemed to abrogate or repeal any provisions of the town Code of the Town of Evans relative to noise, or the regulation of noise.
 - (4) The fee for such license shall be set, from time to time, by resolution of the Town Board