

Evans Town Board

At the work session of the Town Board of the Town of Evans, held at the Evans Town Hall, 8787 Erie Road, Angola, New York on Wednesday, October 29, 2014 there were:

PRESENT:	Paul T. Cooper	Councilman
	Dennis Feldmann	Councilman
	Keith E. Dash	Supervisor
ALSO PRESENT:	Kim Milks	Deputy Town Clerk
	Grant Zajas	Town Attorney
	Scott Dill	Director of Finance
	Diana A. Cafferty	Supervisor's Office
	Jeneen McSkimming	Assessor's Office

RESOLUTION 2014-308 Authorize Supervisor to sign agreement with Penflex

Supervisor Dash moved and Councilman Cooper seconded,

WHEREAS, the Town Board of the Town of Evans adopted a resolution regarding participation of certain volunteer firefighters in the Service Award Program; and

WHEREAS, a Plan Document regarding such Service Award Program was adopted in 1997; and

WHEREAS, continued investigation into the terms and provisions of such Service Award Program has been undertaken by the Town; and

WHEREAS, in light of such investigation and review it is deemed appropriate that such Plan Document governing such Service Award Program be updated and revised; and

WHEREAS, in consequence of the above the Town of Evans has engaged the services of Penflex, Inc. to review and prepare such Plan Document and the same has been presented to the Town Board, being dated September, 2014; and

WHEREAS, in consideration of the same it is deemed prudent, reasonable and advisable to adopt such Plan Document so prepared and dated, as well as a Summary of Program Provisions to be made available to those who participate or may participate in such Service Award Program governed and described in the afore said Plan Document; and

WHEREAS, in connection with the foregoing, Penflex, Inc. has submitted a Service Fee Agreement covering the services by them to be provided for the period of November 1, 2014 and continuing through October 31, 2015; and

WHEREAS, the proposal for such services to be provided and which have been provided by Penflex, Inc. is hereby deemed reasonable and the provision of such proposed service prudent;

NOW THEREFORE BE IT RESOLVED, that the aforesaid Plan Document dated September, 2014 and the said Summary of Program Provisions above, a copy of which shall be retained by the Town Clerk, are hereby adopted for the governance of such Service Award Program; and

BE IT FURTHER RESOLVED, that the Town Board of the Town of Evans hereby authorizes and directs the Supervisor of the Town of Evans, Keith E. Dash or his designee to execute and deliver such Service Fee Agreement, a copy of which is to be held on file with the Town Clerk, and to deliver an executed copy of the same, in as many counterparts as deemed by the supervisor to be appropriate to Penflex, Inc. and to direct and facilitate the payment of such sums as may become due to Penflex, Inc., pursuant to the terms of such Agreement.

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

RESOLUTION 2014-309 Unpaid Water Bills & Demolition Charges

Supervisor Dash moved and Councilman Feldmann seconded,

RESOLVED, that in accordance with New York State Town Law, section 198 that the Town Board has the authority to place unpaid accounts for water, sewer, refuse and other unpaid town services by placing a lien upon the real property for which services were provided.

NOW THEREFORE BE IT RESOLVED

that the Assessor of the Town of Evans is hereby authorized to place the following on the 2015 Tax Roll:

Unpaid Water Bills- Evans	\$ 7,201.38
Unpaid Water Bills- ECWA	\$ 18,722.53
Total Demolition Charges (Including Surcharge)	\$289,610.50

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

RESOLUTION 2014-310 Enter Agreement Granting and Allowing the Installation of Water and Sewer Service and Driveway within the confines and bounds of Point Breeze Drive (Maurer's)

Supervisor Dash moved and Councilman Cooper seconded,

WHEREAS, it appears that, heretofore, Richard Mauer and Marjorie Mauer (hereinafter the MAUERS) acquired title to premises commonly and locally known as No. 9590 Point Breeze Drive in the Town of Evans (hereinafter the PREMISES); and
WHEREAS it further appears that incident and appurtenant to the acquisition of PREMISES and to allow access to said PREMISES the MAUERS had an easement for ingress to and egress from PREMISES upon Point Breeze Drive; and

WHEREAS the MAUERS had sought from, and obtained from, the Town of Evans (hereinafter the TOWN) a Water, Sewer and Driveway Easement Agreement (hereinafter the AGREEMENT) to allow the installation of water and sewer service to PREMISES and the installation of a driveway for the purposes of ingress and egress, the same to be done within the confines and the bounds of said Point Breeze Drive, which easement was to be temporary in nature unless and until completed to the satisfaction of the TOWN and in accord with such AGREEMENT; and

WHEREAS the MAUERS constructed and installed, or caused to be constructed and installed, equipment and materials to provide such water and sewer service and such driveway allowing such ingress and egress; and
WHEREAS it has become apparent that in the installation of such service and such driveway the MAUERS failed to fully comply with the terms and requirements of such AGREEMENT and violated any grant of easement; and

WHEREAS said AGREEMENT and such temporary easement have since expired; and
WHEREAS the MAUERS have approached and requested the TOWN to allow the correction of, and remediation of, the failure to abide by, and comply with, the terms of said now expired AGREEMENT; and

WHEREAS the MAUERS have acknowledged such violation of, and breach of, such AGREEMENT and have offered and agreed to remove any and all such water and sewer service installations and equipment and such driveway as have been installed on, under or through property of the TOWN outside of, and beyond the bounds of, said Point Breeze Drive and to restore such affected lands and property to a state acceptable to the TOWN; and

WHEREAS the MAUERS acknowledge the construction an installation of such water and sewer service and related equipment and such driveway was done and accomplished outside of the bounds of the intended grant of easement and acknowledge that they have acquired no right, title or interest, whatsoever, to or in such affected property beyond and outside of the confines and bounds of said Point Breeze Drive and/or to surrender and renounce any and all such claim and/or interest; and

WHEREAS the MAUERS understand and have offered that the entire expense of such remediation and installation shall be borne entirely and utterly by the MAUERS; and WHEREAS it is understood by the MAUERS that any easement which may be granted by the TOWN shall be temporary in nature and shall expire by its terms if such installation and construction is not completed, and approved by the TOWN, within the time to be set forth in any agreement to be entered into by the TOWN and the MAUERS; and

WHEREAS the MAUERS as an inducement to the TOWN offer and understand that in addition to the surrender of any right, title or interest which might ever in any fashion be claimed by the MAUERS, the MAUERS acknowledge that any intrusion upon the lands of the TOWN was without right or claim of right; and

WHEREAS as further inducement to the TOWN the MAUERS offer and understand that any and all maintenance of such installations and or such driveway shall be the responsibility of the MAUERS and such burden and obligation shall run with the land and be binding upon any successors in interest to said PREMISES or any portion thereof, and the use of said driveway and said Point Breeze Drive by the MAUERS shall be non exclusive to the MAUERS and shall be inferior to the interest of the TOWN and/or any person or party claiming under the TOWN or by grant or allowance of the TOWN; and

WHEREAS the TOWN reserves the right to accept Point Breeze Drive as a roadway, to be added to the inventory of roads maintained and/or owned by the TOWN, but is further understood that the TOWN at this time has made no such acceptance, reserving such right for the future, however; and

WHEREAS the MAUERS have offered to present to the TOWN an AGREEMENT acceptable to the TOWN to acknowledge the provisions outlined in, but not limited to, foregoing;

NOW THEREFORE BE IT RESOLVED, subject to the approval of the Town Engineer and the Town Attorney, the Supervisor or his designee is authorized and directed to enter into an agreement granting and allowing the installation of such water and sewer service and such driveway within the confines and bounds of Point Breeze Drive and the confines and bounds said Point Breeze Drive for the access appurtenant to the grant of title to the PREMISES in the deed to the MAUERS or set forth in and passing to the MAUERS by virtue of the fore title to said PREMISES and deed.

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

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,

**Kim Milks
DeputyTown Clerk**