

Evans Town Board

At a meeting of the Town Board of the Town of Evans, held at the Evans Town Hall, 8787 Erie Road, Angola, New York on Wednesday, May 5, 2015 there were:

PRESENT:	Dennis M. Feldmann	Councilman
	Paul T. Cooper	Councilman
	Keith E. Dash	Supervisor
ALSO PRESENT:	Lynn Krajacic	Town Clerk
	J. Grant Zajas	Town Attorney
	Charles LaBarbera	Code Enforcement
	Edward Michalski	Public Works
	Patrick Conrad	Parks Department
	Sandra Brant	Planning Department
	Diana Cafferty	Supervisors Department
	Rob Klavoon	Wendel Engineers

RESOLUTION 2015 -159 Approve Minutes

Councilman Cooper moved and Councilman Feldmann seconded that the reading of the minutes of the meeting of April 15, 2015 and April 29, 2015 be dispensed with and approved as submitted by the Town Clerk.

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

Communications

Supervisor Dash has submitted the Supervisor's Monthly report for December, February and March to the Town Board and filed a copy with the Town Clerk in accordance with Town Law.

Supervisor Dash read a communication from Edward Michalski, Highway Superintendent requesting to attend the New York State Association of Towns Highway School for Superintendents of Highways.

Privilege of the Floor on Meeting Agenda Items and Other Issues

Margaret Loretto, 286 Eastwood Avenue, Angola questioned the status on the building at the Jovial II Bar

Committee and Department Head Reports

Supervisor Dash presented the Town Clerk with a proclamation recognizing the Town Clerk and her staff during Municipal Clerks Week.

7:10pm Public Hearing for Consideration of Proposed Local Law #1 of 2015 Parking on Waring Circle

Supervisor Dash asked the Town Clerk to read the legal notices 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 May 6, 2015 at 7:10 P.M. at the Evans Town Hall, 8787 Erie Road, Angola, New York 14006 to consider the adoption of Proposed Local Law #1 of the year 2015 which will amend Local Law #1 of the year 1993 commonly known as the Vehicles and Traffic Law and any amendments thereto, Town Code, Chapter 193, Article III Section 193-17 Parking Prohibited At All Times and Article VIII, Section 193-45 Schedule XI: Parking Prohibited At All Times. Copies of the Proposed Local will be available for inspection by any interested person in the Office of the Town Clerk during normal business hours Monday, Tuesday, Thursday, Friday from 8am - 4pm, Wednesday from 9am - 5pm and the Town's website www.townofevans.org on and after April 16, 2015.

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

By Order of the Town Board
of the Town of Evans
Lynn M. Krajacic
Town Clerk

RESOLUTION 2015-160 Open Public Hearing

Councilman Cooper moved and Councilman Feldmann seconded to open the: public hearing for the consideration of Proposed Local Law #1 of 2015, amendment to Vehicle and Traffic Law.

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

There being nobody present wishing to speak, the Public Hearing was closed.

RESOLUTION 2015-161 Close Public Hearing

Councilman Feldmann moved and Councilman Cooper seconded to close the Public Hearing.

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

RESOLUTION 2015 -162 Adopt Proposed Local Law #1 of 2015

Councilman Feldmann moved and Councilman Cooper seconded,

BE IT RESOLVED, Proposed Local Law #1 of the year 2015 be the same as hereby adopted as Local Law #1 of the year 2015

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

7:10pm Public Hearing for the Consideration of Proposed Local Law #2 of the year 2015 Prohibiting the use or Possession of Alcoholic Beverages on Certain Town Properties

Supervisor Dash asked the Town Clerk to read the legal notices 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 May 6, 2015 at 7:10 P.M. at the Evans Town Hall, 8787 Erie Road, Angola, New York 14006 to consider the adoption of Proposed Local Law #2 of the year 2015 which will amend Town Code prohibiting the use and/or possession of alcoholic beverages in or on certain Town properties as specified in said Proposed Local Law which will be available for inspection by any interested person in the Office of the Town Clerk during normal business hours Monday, Tuesday, Thursday, Friday from 8am - 4pm, Wednesday from 9am - 5pm and the Town's website www.townofevans.org on and after April 16, 2015.

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

By Order of the Town Board
of the Town of Evans
Lynn M. Krajacic
Town Clerk

RESOLUTION 2015-163 Open Public Hearing

Councilman Cooper moved and Councilman Feldmann seconded to open the: public hearing for the consideration of Proposed Local Law #2 of 2015, prohibiting the use/and or possession of alcoholic beverages in or on certain Town properties.

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

The following people spoke in **Opposition** of the Proposed Local Law:

- Guy Canonico, 9736B Lake Shore Road, Angola
- Mike Slawinski, 9515 Lake Shore Road, Angola
- Rick Manguso, 572 Tuscarora Road, Angola
- Margaret Loretto, 286 Eastwood Avenue, Angola
- Tom Banzer, 125 Middle Lane, Angola
- Jackie Newman, 9211 Lakeside Road, Angola
- Councilman Dennis Feldmann
- Councilman Paul Cooper

Supervisor Dash read a letter submitted by Police Chief Ernest Masullo in **Favor** of the Proposed Local Law.

RESOLUTION 2015-164 Close Public Hearing

Councilman Cooper moved and Councilman Feldmann seconded to close the Public Hearing.

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

RESOLUTION 2015-165 Town Clerks Reports

Supervisor Dash moved and Councilman Feldmann seconded to accept the reports of the Town Clerk as presented for the month of April 2015:

Town Clerk receipts April	\$14,563.24
Interest April	\$ 1.02
Water receipts April	\$ 1,206.81
Interest April	\$.02

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

RESOLUTION 2015-166 Table Proposed Local Law #2 of the Year 2015

Councilman Feldmann moved and Councilman Cooper seconded to Table Proposed Local Law #2 of the Year 2015.

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

RESOLUTION 2015 -167 Advertise Bids for Kennedy Greenway Phase 2

Councilman Feldmann moved and Councilman Cooper seconded,

WHEREAS, the Town of Evans has authorized Wendel WD Architecture, Surveying & Landscape Architecture, PC to complete the plans and specifications for the installation of sidewalks under the Kennedy Avenue Greenway Phase 2 project within the Town of Evans (Contract 15-1), and

WHEREAS, Wendel has completed the plans and specifications and has received the necessary approvals from the reviewing agencies.

NOW, THEREFORE BE IT RESOLVED, that the Evans Town Board authorizes the Town Clerk to advertise for said bids as follows:

- Contract Documents Available: May 14, 2015
- Open Bids: June 11, 2015 at 11:00 AM.

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

RESOLUTION 2015 -168 Appointment of Laborer/Gateguards

Councilman Cooper moved and Supervisor Dash seconded,

RESOLVED: that the following be appointed a part-time laborer/gateguard at the following rate effective immediately:

Ryan Joslyn	\$ 9.00
Drew Bruckel	8.75
Mary Gian	8.75
Connor Govenettio	9.00

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

RESOLUTION 2015 -169 Declare Surplus Vehicle

Supervisor Dash moved and Councilman Feldmann seconded,

RESOLVED, that the following vehicle is hereby declared surplus equipment and will be sold at auction with proceeds to be deposited in the Police Department's Expendable Trust Account - TA996:

2006 Crown Vic VIN # 2FAHP71WO6X110508

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

RESOLUTION 2015 -170 Authorize Supervisor to Enter into Agreement with the SPCA for Sheltering and Care of Dogs Seized

Councilman Feldmann moved and Councilman Cooper seconded,

RESOLVED, that the Supervisor is authorized to enter into an agreement with the SPCA, 205 Ensinger Road, Tonawanda, NY 14150 for the sheltering and care of dogs seized by the Town of Evans effective March 15, 2015 to December 31, 2015, subject to the approval of the Town Attorney and the Director of Finance.

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

RESOLUTION 2015 -171 Appointment of Part Time Clerk

Councilman Cooper moved and Supervisor Dash seconded,

RESOLVED, that Emily M. Ludwig of Angola NY is hereby appointed as a Part Time Clerk effective 5/6/15 at an hourly rate of \$8.75 per hour and that she be called as needed.

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

RESOLUTION 2015 -172 Proclaim National Safe Boating Week

Supervisor Dash moved and Councilman Feldmann seconded,

WHEREAS, Recreational Boating is fun and enjoyable and we are fortunate that we have sufficient resources to accommodate the wide variety of pleasure boating demands, and

WHEREAS, our waterways may become crowded at times and be a place of chaos and confusion, and

WHEREAS, while being a marvelous source of recreation, boating to the unprepared can be a risky sport and not knowing or obeying the Navigation Rules or the nautical "Rules of the Road", drinking alcohol or taking drugs while operating a boat or choosing not to wear your life jacket when doing so is clearly NOT the smart thing to do, and

WHEREAS, on average 700 people die each year in boating related accidents in the U.S. with approximately 70% of these fatalities caused by drowning, and

WHEREAS, the vast majority of these accidents are caused by human error or poor judgment and not by the boat, equipment, or environmental factors, and

WHEREAS, a significant number of boaters who lose their lives by drowning each year would be alive today had they worn their life jacket, and

WHEREAS, today's life jackets are more comfortable, more attractive and more wearable than styles of years past and deserve a fresh look by today's boating public,

NOW THEREFORE BE IT RESOLVED, that the Town Board of the Town of Evans, does hereby support the goals of the North American Safe Boating Campaign and proclaim May 16- May 22, 2015 as National Safe Boating Week and the start of the year-round effort to promote safe boating.

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

RESOLUTION 2015 -173 Appointment of Laborer/ Gate Guard

Councilman Feldmann moved and Councilman Cooper seconded,

RESOLVED: that the following be appointed as part-time laborer/gateguard at the following rate effective May 15, 2015:

Rory Wilson	\$ 9.00
Megan Latimore	8.75
Brandon Joslyn	8.75
Arthur Leonard	8.75
Alyssa Kij	8.75
Richard Truskowski	11.00
Jacob Majuk	8.75

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

RESOLUTION 2015 -174 Issuance of Serial Bonds not to Exceed \$1,700,000.00 for the Purpose of Financing the Costs of Installation of Improvements Relating to Lake Breeze, Laurel, Lancaster, Walden and Theodore Avenues in the Town of Evans

Councilman Cooper moved and Supervisor Dash seconded,

WHEREAS, the Town Board (the “Board”) of the Town of Evans, Erie County (the “Town”) proposes to authorize the issuance of \$1,700,000 in serial bonds of the Town to finance the Town of Evans Roadway Water Consolidation Phase 3 project consisting of the construction, reconstruction and repaving of portions of Lakebreeze Road (between Central and Old Lakeshore Road), Laurel Street (between Waterman Street to the dead end), Lancaster Avenue (between Old Lakeshore Road to the dead end), Walden Avenue (between NYS Route 5 to the dead end) and Theodore Avenue (between NYS Route 5 to the dead end), including in each case the construction or reconstruction of sidewalks, curbs, gutters, drainage, landscaping, grading and incidental improvements and expenses and costs incidental to the financing of the foregoing (collectively, the “Project”);

WHEREAS, by resolution dated December 15, 2014, the Town Board determined pursuant to the State Environmental Quality Review Act and the regulations of the Department of Environmental Conservation promulgated thereunder (6 NYCRR Part 617) (collectively, “SEQRA”), that the improvements included in the Project constitute an “Unlisted Action” within the meaning of SEQRA and that such improvements would not have a significant detrimental effect upon the environment and issued a “negative declaration” (within the meaning of SEQRA) with respect to the Project; and

WHEREAS, the Board now wishes to appropriate funds for the Project and to authorize the issuance of the Town’s serial bonds and bond anticipation notes to be issued to finance said appropriation.

NOW, THEREFORE, BE IT RESOLVED, by the Town Board (the “Town Board”) of the Town of Evans, Erie County, New York (the “Issuer” or the “Town”) (by the favorable vote of not less than two-thirds of all the members of such body), as follows:

SECTION 1. The Town is hereby authorized to undertake the Town of Evans Roadway Water Consolidation Phase 3 project consisting of the construction, reconstruction and repaving of portions of Lakebreeze Road (between Central and Old Lakeshore Road), Laurel Street (between Waterman Street to the dead end), Lancaster Avenue (between Old Lakeshore Road to the dead end), Walden Avenue (between NYS Route 5 to the dead end) and Theodore Avenue (between NYS Route 5 to the dead end), including in each case the construction or reconstruction of sidewalks, curbs, gutters, drainage, landscaping, grading and incidental improvements and expenses and costs incidental to the financing of the foregoing, at an estimated maximum cost of \$1,700,000 and said amount is hereby appropriated therefor. Serial

bonds of the Town (including statutory installment bonds) in the principal amount of \$1,700,000 are hereby authorized to be issued pursuant to provisions of Local Finance Law, constituting Chapter 33-a of the Consolidated Laws of the State of New York (the "Law") to finance said appropriation. The plan of financing includes (i) the issuance of \$1,700,000 in serial bonds of the Town, or bond anticipation notes in anticipation of such serial bonds, to finance said appropriation, and (ii) the levy and collection of taxes on all the taxable real property in the Town to pay the principal of said bonds or notes and the interest thereon as the same shall become due and payable.

SECTION 2. It is hereby determined that the period of probable usefulness for the aforementioned specific objects or purposes is fifteen (15) years, pursuant to subdivision 20.(c) of paragraph a. of Section 11.00 of the Law.

SECTION 3. 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 Law, for the capital purposes described in this resolution. The Town shall reimburse such expenditures with the proceeds of the bonds or bond anticipation notes authorized by this resolution. This resolution shall constitute a declaration of "official intent" to reimburse the expenditures authorized herein with the proceeds of the bonds and bond anticipation notes authorized herein, as required by United States Treasury Regulations Section 1.150-2.

SECTION 4. The final maturity of the bonds herein authorized to be issued shall be in excess of five (5) years measured from the date of issuance of the first serial bond or bond anticipation note issued pursuant to this resolution.

SECTION 5. Each of the serial bonds authorized by this resolution and any bond anticipation notes issued in anticipation of said bonds shall contain the recital of validity prescribed by Section 52.00 of the Law and said serial bonds and any bond anticipation notes issued in anticipation of said bonds shall be general obligations of the Town, payable as to both principal and interest by a general tax upon all the real property within the Town subject to applicable statutory limits, if any. The faith and credit of the Town are hereby irrevocably pledged to the punctual payment of the principal and interest on said serial bonds and bond anticipation notes and provisions shall be made annually in the budget of the Town by appropriation for (a) the amortization and redemption of the bonds and bond anticipation notes to mature in such year and (b) the payment of interest to be due and payable in such year.

SECTION 6. Subject to the provisions of this resolution and of the Law, pursuant to the provisions of Section 30.00 relative to the authorization of the issuance of serial bonds and bond anticipation notes or the renewals of said obligations and of Sections 21.00, 50.00, 54.90, 56.00 through 60.00, 62.10 and 63.00 of the Law, the powers and duties of the Town Board relative to authorizing serial bonds and bond anticipation notes and prescribing terms, form and contents as to the sale and issuance of bonds herein authorized, including without limitation the determination of whether to issue bonds having substantially level or declining debt service and all matters related thereto, and of any bond anticipation notes issued in anticipation of said bonds, and the renewals of said bond anticipation notes, are hereby delegated to the Supervisor,

as the chief fiscal officer of the Town (the “Supervisor”). Such notes shall be of such terms, form and contents as may be prescribed by said Supervisor consistent with the provisions of Local Finance Law. Further, pursuant to paragraph b. of Section 11.00 of the Law, in the event that bonds to be issued for any of the objects or purposes authorized by this resolution are combined for sale, pursuant to paragraph c. of Section 57.00 of the Law, with bonds to be issued for any of the other objects or purposes authorized by this resolution and/or with bonds to be issued for one or more objects or purposes authorized by other resolutions of the Board, then the power of the Board to determine the “weighted average period of probable usefulness” (within the meaning of paragraph a. of Section 11.00 of the Law) for such combined objects or purposes is hereby delegated to the Supervisor, as the chief fiscal officer of the Town.

SECTION 7. The Supervisor is hereby 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, if applicable, as “qualified tax-exempt bonds” in accordance with Section 265(b)(3)(B)(i) of the Code.

SECTION 8. The Supervisor is further authorized to enter into a continuing disclosure undertaking with or for the benefit of the initial purchasers of the bonds or notes in compliance with the provisions of Rule 15c2-12, promulgated by the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934.

SECTION 9. The intent of this resolution is to give the Supervisor sufficient authority to execute those applications, agreements and instruments, or to do any similar acts necessary to effect the issuance of the aforesaid serial bonds or bond anticipation notes without resorting to further action of the Board.

SECTION 10. Pursuant to subdivision b. of Section 35.00 of the Law, this resolution is subject to a permissive referendum in the manner prescribed by Article Seven of the Town Law of the State of New York (the “Town Law”). The Town Clerk is hereby authorized and directed, within ten (10) days after the date of adoption of this resolution, to post and publish a notice satisfying the requirements of Section 90 of the Town Law, which shall set forth the date of adoption of this resolution, shall contain an abstract hereof, and shall specify that this resolution was adopted subject to a permissive referendum. Such notice shall be published in the official newspaper of the Town for such purpose.

SECTION 11. This resolution shall take effect thirty (30) days after the date of its adoption or, if within such thirty (30) day period there is filed with the Town Clerk a petition subscribed and acknowledged by the number of qualified electors of the Town required by Section 91 of the Town Law and in the manner specified in such Section, until approved by the affirmative vote of a majority of such qualified electors voting on a proposition for its approval.

SECTION 12. The validity of the bonds authorized by this resolution and of any bond anticipation notes issued in anticipation of said bonds may be contested only if:

(a) such obligations are authorized for an object or purpose for which the Town is not authorized to expend money; or

(b) the provisions of law which should be complied with at the date of the publication of such resolution are not substantially complied with,

and an action, suit or proceeding contesting such validity is commenced within twenty (20) days after the date of such publication; or

(c) such obligations are authorized in violation of the provisions of the constitution.

SECTION 13. Upon this resolution becoming effective, the Town Clerk is hereby authorized and directed to cause a copy of this resolution, or a summary thereof, to be published, together with a notice attached in substantially the form as prescribed in Section 81.00 of the Law, in the official newspaper(s) of the Town for such purpose, together with a notice of the Town Clerk substantially the form provided in Section 81.00 of the Law.

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

RESOLUTION 2015 -175 Suspend the Rules for Consideration of an Additional Resolution

Supervisor Dash moved and Councilman Feldmann seconded,

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

RESOLUTION 2015 -176 Authorize Highway Superintendent to Attend the Annual Highway School for Superintendents of Highways

Councilman Feldmann moved and Councilman Cooper seconded,

BE IT RESOLVED, that the Evans Town Board now grant Highway Superintendent, Edward Michalski permission to attend the annual Association of Town Highway School June 1 - June 3, 2015 and that all and actual necessary expenses be paid from the respective accounts as set forth by the Town's policy on training and travel.

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

RESOLUTION 2015-177 Town Licenses

Supervisor Dash moved and Councilman Cooper seconded,
License

Michael & Deborah Slawinski - Fireworks - July 3rd (July 4th rain date)
 Eugene Wachala D/B/A Pasquales - Refreshment

RESOLVED, that the aforesaid license 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 2015-178 Audit of Bills

Councilman Cooper moved and Councilman Feldmann seconded,

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

**DATE: 4/22/2015
 ABSTRACT NO. 9
 VOUCHER NO. 709-781
 PREPAID:**

GENERAL	48,108.25
PART TOWN	4,081.58
HIGHWAY DA	
HIGHWAY	3,634.50
WATER	7,288.10
CAPITAL PROJECTS	14,296.01
SPECIAL DISTRICTS	12,220.18
DEBT SERVICE	
COMM DEVELOPMENT	
TOTAL	\$ 87,628.62

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

RESOLUTION 2015-179 Adjournment

Supervisor Dash moved and Councilman Cooper seconded, to adjourn to Wednesday May 13, 2015 at 6:15pm for a Work Session and then to Wednesday, May 20, 2015 at 6:30pm for an Agenda Meeting and 7:00pm 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 M. Krajacic
Town Clerk