

## **Town Board Minutes September 19, 2007**

Present: Councilmen Brien M. Hopkins, Richard K. Hawkins, Councilman Dennis J. Mead, Councilwoman Cathleen M. Dobson and Supervisor William A. Eagan.

Also Present: Highway Superintendent Telaak, Town Attorney Downey, Code Enforcement Officer Ferguson and Deputy Code Enforcement Officer Juda.

Florence Wendling, St. John the Baptist Church, opened the meeting with a prayer.

A motion was made by Supervisor Eagan and seconded by Councilman Hawkins to adopt the minutes of the September 5, 2007 regular meeting.

five (5) Ayes    Carried

A motion was made by Councilman Mead and seconded by Councilman Hopkins, upon review by the Town Board, that fund bills on the Abstract dated September 13, 2007 in the amount of \$105,366.55 be paid.

five (5) Ayes    Carried

Received and filed the Town of Brant Resolutions supporting the Society for the Prevention of Cruelty to Animals.

REQUESTS FROM THE FLOOR

William Donovan, 9149 Feddick Road, commented that he would like to see the town reopen the dead road (Winkleman) between Feddick and Zenner Roads.

Highway Superintendent Telaak noted the road has been closed for quite a few years but he will look into it.

Supervisor Eagan noted if it was a qualified abandonment the property owners agreed to the abandonment so the property owners would be responsible to redo the road. Town Attorney Downey will investigate.

Thomas Smith, 6267 Hillcroft Drive, requested maintenance consideration be given to the Hillcroft Road bridge.

Highway Superintendent Telaak noted the bridge is a county bridge and he should contact them.

A motion was made by Councilman Mead and seconded by Councilman Hopkins to approve the following Transfer of Appropriations:

General Fund

FROM: Acct.

Appropriations A 960 38,890.00

Contingency 1990.4 38,890.00

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Total 38,890.00 38,890.00

TO: Acct.

Appropriation A 960 38,890.00

Attorney-Contractual 1420.4 3,600.00

Engineer-Contractual 1440.4 5,000.00

Records Mgt-Equipment 1460.2 6,555.00

Buildings-Equipment 1620.2 22,760.00

Municipal Assoc. Dues 1920.4 575.00

Conservation-Contractual 8710.4 400.00 \_\_\_\_\_

Total 38,890.00 38,890.00

five (5) Ayes Carried

A motion was made by Supervisor Eagan and seconded by Councilman Mead, on the recommendation of Code Enforcement Officer Ferguson, to approve an additional accessory building for William Donovan, 9149 Feddick Road with the clarification that town codes/specifications stipulated by the Code Enforcement Officer be adhered to.

five (5) Ayes Carried

A motion was made by Supervisor Eagan and seconded by Councilman Hopkins to refer to Town Attorney Downey, a Site Plan Review for Webber, 7074 Boston State Road, with a request to obtain a response from Foit Albert Engineers by Friday, September 21, 2007 and to file a written report with the Supervisor by Monday, September 24, 2007.

five (5) Ayes Carried

The following bids were received for the demolition of 6892 Boston Cross Road ? Asbestos Removal Project:

AAC Contracting, Inc. \$ 7,637.00

Empire Building Diagnostic, Inc. \$ 9,730.00

Arric Corp. \$12,000.00

A motion was made by Councilman Hawkins and seconded by Councilwoman Dobson on the recommendation of Town Attorney Downey to accept the AAC Contracting, Inc. bid of \$7,637.00 for the Asbestos Removal Project of 6892 Boston Cross Road.

five (5) Ayes Carried

RESOLUTION 2007-21 ERIE COUNTY ROAD MAINTENANCE

RESOLUTION 2007-22 IN SUPPORT OF THE ANIMAL ALLIANCE OF  
WESTERN NEW YORK AND THE ERIE COUNTY SPCA

A Public Hearing was held at 7:45 p.m. to hear comments regarding the Increase and Improvement of Facilities of Water District No 2.

Supervisor Eagan noted this is the area on the west hill: Shero Road from Zimmerman to Feddick, Rockwood Road and Feddick Road from just North of Shero to Zenner Road.

Residents were presented with a list of County, NYS and Federal officials and were encouraged to contact them requesting financial assistance so the costs of Water District improvements can be reduced.

Supervisor Eagan read the  
legal notice.

Philip Koren, 8503 Feddick Road, commented that he did not receive a letter about the public hearing.

Supervisor Eagan apologized noting that the map that was used to determine affected addresses was not updated. The Town Engineer is now using the corrected map.

Bruce Shear, Nussbaumer & Clarke, presented a brief overview of the handout that includes a schedule of proposed fees.

William Donovan, 9149, Feddick Road: I live on the southeast corner of Feddick and Zenner and wonder if water will stop at Zenner or go across the road.

Supervisor Eagan: In this phase it will not go across Zenner. Originally we tried to loop it down Feddick to Rice Road and back to Rockwood which is 9 tenths of a mile. Without federal assistance to reduce costs, it is cost prohibitive due to the void of homes to offset the cost. The only way this can be adjusted is with county, state or federal money to be applied to our cost.

William Donovan: I expect your grant writers are trying to get more money.

Supervisor Eagan: Our grant writer is working with Urban Development that is our main source for borrowing. The East Hill phase-two project was 3.6 million dollars and we received \$435,000 from Urban Development. The federal government cut funds available to Urban Development so Bruce Shear is researching to see if we can expect any money. We need to put pressure on our elected officials and when the people put pressure on officials it can be effective. The Town Board will help residents coordinate requests for funds.

Highway Superintendent Telaak: The pipeline stops fifty feet from Mr. Donovan's house, but it is continuing from the last house on Feddick all the way to Zenner where there is not a house for three or four hundred feet. It makes no sense that it is running that far down the road with no houses in front and then stops.

Supervisor Eagan: It was taken to the corner because if Eden would want us to help bring water to East Eden Road we would have a point for them to go in. Whatever we do now will save us money later.

Allison Mackenzie, 5230 Shero Road: Wasn't the funding for the engineering appropriated years ago for this during the first phase? I lived on Keller Road then and they said the money was already in place for phase two.

Supervisor Eagan: This is Water District No. 2 extension. You had Water District 2 and what you saw put in place on Keller Road and part of Zimmerman and Shero was Water 2 extension 2. That phase is what was funded that the engineering costs came out of for design, the cost of the pump station, the tank and fire hydrants. It is stated on the handouts. You can only finance what you are doing. We now have to finance for the second phase that at some point will be blended.

Supervisor Eagan Cont'd: The cost of Water District 2 extension 2 is for whoever is in that new district 2 extension. I know it is confusing. When they say Water District 2 extension 2 they probably could have said Water District 4 so it might be more clearly defined. It is a separate and distinct area for water service. It is funded separately and if you do it in phases, every one of those phases is a chunk of money that is separately financed.

Dennis Barone, 8450 Zimmerman Road: Is this something we are thinking about or is this something that is going to happen next year?

Supervisor Eagan: The purpose of this Public Hearing is so we can move forward with the project. We are 99% sure on the design. We are working with Bond Council, finance people, town engineers, and the Town Board. When we did Water District 3 Extension 2, the costs estimated for that project were two or three years old and when we went to bid there were about eighteen contractors bidding so we thought the price would come down. It actually increased by about 20%. To get a better price all three of the water projects were put to bid at the same time. When we are done with this and we get our answer

from the state it is the intention of the Town Board that we do these three separate and distinct projects, the East Hill, West Hillcroft and Shero/Feddick.

Supervisor Eagan Cont?d: We will bid them all at the same time in hopes to get one contractor and a better price. When we did Water District No. 3 the cost was \$52 or \$56 dollars a foot for the line. It is \$70 some dollars today and every day we wait it costs more. A county official is sending us the new prevailing.

Timothy Murray, 5124 Shero Road: Are the numbers on the proposed fee schedule determined using monies from the state or other agencies?

Supervisor Eagan: No. This is a worse case scenario.

Timothy Murray: When will this go to bid?

Supervisor Eagan: One of the projects we have to send the map, plan and report to the NYS Comptroller?s Office for approval. When we get it back we will go to bid shortly after. Most likely it will take four months. We are hoping to go to bid sooner than later.

Timothy Murray: If we go to bid when would we start the project next summer?

Supervisor Eagan: Our goal is to start construction in 2008.

Bruce Shear: If we have a spring bid and open March 1st I would expect you would see building on May 1st. It has a lot to do with snow.

Councilman Hawkins: If we are doing all three projects at the same time can we start one and wait on another if it is held up.

Bruce Shear: There is a project that needs state approval. If all these projects are going to bid at the same time we need to have approval from the State Comptroller and certainly from the Water Authority, the Health Department and all the regulatory agencies all at the same time. So the answer is no.

Supervisor Eagan: We would be defeating the purpose if we start one without the other because the contractors that are bidding on this are looking at three potential projects.

Chris Fest, 9047 Rockwood: The schedule says first annual fees. Can we expect them after that every year?

Supervisor Eagan: Yes, you will have fees every year. This is the worst-case scenario unless the bids come in lower. Under the projections put forth by the engineering firm we are trying to give you some idea of what the costs will be. Again, it is without any kind of grant money figured in. I met last Friday with Congressman Higgins's chief of staff and other staff members. It was the second or third meeting with them this year to try and get an appropriation for these projects. Mr. Smith has made several phone calls for his West Hillcroft project on his own.

Chris Fest: When water does come down your street is it going to be up to the resident to pay to have it brought to the house?

Supervisor Eagan: Yes. You incur the cost of bringing water to your home.

Bruce Shear: Part of the equation that was left out is that it is a recurring fee. We are talking about a 38-year loan so it is a long-term commitment for everyone that is here.

Supervisor Eagan: Part of the problem, and I am not encouraging building in the town, but we are rural and we don't have a lot of houses in heavily populated areas that could further reduce the cost of this water service. Funding from our elected officials outside of town boundaries is very important to all three projects.

Councilman Mead: We can't propose a project that is going to be millions of dollars and be a hindrance to our residents without State Audit and Control saying that this is a fair amount.

Thomas Smith, 6267 Hillcroft Drive: I have made several phone calls to political people and to others. It is my understanding that the State Comptroller's Office has to approve the projects and they are not going to approve the projects if they feel that there is a tremendous financial burden for the people. They will hopefully be instrumental in getting some funds to alleviate this particular problem. Unfortunately we are at a point in these three projects where we can't really say what those numbers are and that is why every single one of these projects is worst-case scenario. Let's underline that in our thought process. Hopefully it is going to be a lot less and that is why it is so important that everyone in this room write to those six or seven letters. Tell your elected officials how important this is.

A motion was made by Supervisor Eagan and seconded by Councilman Hawkins to close the Public Hearing at 8:14 p.m.

five (5) Ayes    Carried

A Public Hearing was held at 8:14 p.m. to hear comments regarding the Establishment of Extension No. 3 to Water District No. 2.

Supervisor Eagan noted this is the (West) Hillcroft/Deer Run area, aka Polish Hill.

Residents were presented with a list of County, NYS and Federal officials and encouraged to contact them requesting financial assistance so the costs of Water District improvements can be reduced.

Supervisor Eagan read the legal notice.

Bruce Shear: Those interested in the Hillcroft project have a handout very similar to the one we had before only you won't see any B3 and B4 parcels because everyone in this district is either a B1 or a B2. It either has a house on it or it is a vacant lot because we are proposing a water line on Hillcroft and on

Deer Run. What makes this project different from the others is the hydraulics of the project. We have to have a pump station at the point of connection to get water up to the top of the hill. The water in the existing line is from District No. 1. It is Bruce Shear Cont'd: fed off the Crestwood tank on Chestnut Ridge Road near Boston State Road. It will only put water up so high on the hill and therefore we need a pump station to get the water up to the end of Hillcroft and also on to Deer Run. The pump station adds to the expense and there is also an operation and maintenance component to that pumping station. A rough estimate will cost each dwelling another \$240 each year to maintain and operate this station. We don't know at this point what the Erie County Water Authority is going to do with regard to a station like that. It is not a large pumping station. It is a very small station that would serve the few homes involved on these water lines.

Paul Tuttle, Deer Run: We have the property at the end of Deer Run with the pond. We haven't built yet, but I'm asking the engineer who said there would be approximately 35 pounds of pressure. Is that correct?

Bruce Shear: Yes.

Paul Tuttle: Is that maximum?

Bruce Shear: Yes.

Paul Tuttle: We will have a big problem. We have a 30 to 50 foot elevation change and for every foot elevation change you lose basically half a pound or .43. By the time we build our house we are going to have ten pounds of pressure so we will have a trickle. Is there any way that can be corrected other than us investing in an extra pump and everything else?

Supervisor Eagan: We had this issue in Water District 3. We had one error in the design of the project. They relocated the pump station. Had they not done that the error would not exist that exists today which is low pressure for one of the property owners that will be corrected in the next phase for Water District No. 3. For Mr. Tuttle I don't think the pumping station and the design will make that same mistake.

Bruce Shear: What regulates the pressure in the system we are talking about is a little bladder tank that sits at the base of the hill inside that pumping station. So yes if we accept the threshold pressure at 60 pounds just means that the horsepower is a little bit more on this small station. That is really all it means. It is good to know that.

Paul Tuttle: We have a list of questions and rather than take up everyone's time could we sit down with the Board at another time and iron out some other problems?

Supervisor Eagan: You can come to one of our agenda review meetings. See Town Clerk Shenk after the meeting and we can set it up for you.

Bruce Shear: There is no fire protection on this system. There are no hydrants. We have some dispensation from the Health Department to use the pond at the top of the hill (Tuttle's pond). There won't be any public hydrants on this water line otherwise we would have to have a huge pump station there and I don't even know if we could power it.

Councilman Hawkins: That pond was put in a few years ago when the subdivision was built. The Chief of the Patchin Fire Company and a few members noted they could not fight fires on that hill.

Councilman Hopkins: If that pond wasn't put in there we weren't going to allow any homes to be built there.

Paul Tuttle: I understand the pond is there for that reason and we said we don't care if there is a house burning in Springville, drain it if you have to. We don't have a problem with that. We just want to make the fact that it is our pond. We are not going to fill it in and we understand that is what you needed it for. It is referred to is Boston's pond and it is getting to be a community pond now.

A motion was made by Supervisor Eagan and seconded by Councilman Hopkins to close the Public Hearing at 8:26 p.m.

five (5) Ayes    Carried

A Public Hearing was held at 8:29 p.m. to hear comments regarding the Increase and Improvement of Facilities of Water District No. 3.

Residents were presented with a list of County, NYS and Federal officials and encouraged to contact them requesting financial assistance so the costs of Water District improvements can be reduced.

Supervisor Eagan read the

legal notice.

Bruce Shear: The improvements being proposed on the East Hill basically will water the entire hill. We are proposing right now to extend water on Burr Road, Old Lower East Hill Road, Lower East Hill Road from Burr Road to Omphalius Road, the remainder of Wohlhueter from the tank easement to Cole Road, Cole Road from Eddy to the southern boundary of the district and Liebler Road from Cole all the way down to the west boundary of the district. Another area is from the pumping station north to Ward Road where we have some excessively low pressures because it is on the suction side of our pump station and its pressure is supplied by the Ward Road tank which doesn't have sufficient elevation to provide the appropriate pressure there so we are extending a parallel line. We have a 10 inch line there now. We are extending a parallel line probably a 4 or a 6 inch line all the way to Ward Road from the high pressure side of our pump station so that we can service that frontage on both east and west sides of Cole Road. You have a similar hand out and the second sheet will give you some idea of what we project the first year fee to be. There is an alternative to copper. Copper is very expensive now. If you have a house that sits a thousand feet from the road copper will be very expensive because you may be putting in an inch and a half, inch and a quarter line because there is so much pressure drop over that distance. This is polyethylene, pressure rated 200 pounds. It costs about a tenth of copper and it is quite acceptable and you are seeing a lot more people go to it. This is not well piping. This is pressure rated high-density polyethylene.

Supervisor Eagan: When Bruce says we are doing the entire hill what we are attempting to do is complete the entire Water District No. 3.

Joseph Fiorella, 7584 Wohlhueter Road: Will there be fire hydrants?

Supervisor Eagan: Yes.

James Bergantz, 7544 Wohlhueter Road: Do you have an estimate of how much it will cost per foot to lay any kind of pipe let alone that kind of pipe? My house is 1,800 feet off the road. I am speaking of the imminent taxation without any availability of hooking up. I heard you say \$30 a foot.

Supervisor Eagan: I said years ago it might have cost \$30 a foot. I'm not talking about today. Maybe back in 1991.

James Bergantz: 1800 feet, \$54,000. I will use a highball number. You are talking about 3 million dollars for 35,000 feet. Highball number that is \$85 a foot. That is \$153,000 for me. I want to know if there is any way I can opt out of this without mortgaging my house all over again at the same time as my taxes and fees go up disproportionately to my ability to pay.

Supervisor Eagan: Most of us were not here when this water district was proposed and I know of your issue that was brought to my attention last Friday. I am researching that, I have a call in to our bond council to find out what can be done in a situation like yours.

Town Attorney Downey: I think you are using apples and oranges here. I am not minimizing that it is going to be expensive, but the cost of this project includes pump stations, it doesn't work to use it to extract it. You are talking about prevailing wage and there are a lot of things here that will not apply to you so you can't use that figure for individual houses.

James Bergantz: I am just throwing out a number and I realize there is a lot of shock value in that number and I know it is not realistic. I just want to know it has to be somewhere south of that figure.

Supervisor Eagan: The cost you would have to incur to bring the water back to your house, it's not the cost of bringing the water to the front of your property that concerns you. It is the cost of laying that water line from the street to your home.

James Bergantz: When I have a fire protection pond and a perfectly good well, yes. You said you would look into that so that is good enough for me.

James Bergantz Cont'd: Is there any environmental review involved in view of the fact that people who have had septic tanks for ten-fifty years will suddenly be using two to three times as much water and flooding their septic tanks?

Town Attorney Downey: I don't think there is a review for that because my understanding of the state law and then applied to the county is that when you get water and when you are allowed to put in a well you sign something that says when you get water you will tap into the water. As a convenience to the homeowner they say we will let you do this until we get water because we feel our water is safer and therefore you have to use it. It is actually a requirement that when the water is put in that you have to use it.

James Bergantz: You are telling me I am mandated to put in water. I am mandated to pay whatever it is going to cost to bring the water from the road to my house.

Councilman Hopkins: They are mandated to bring it to the house, but they do not have to hook in.

Supervisor Eagan: This is a perfect example of why we can't give you a definite answer. I am referring your concern to the attorneys we are working with, the bond counsel who structured this. You will be well informed of the answer.

James Bergantz: It was mentioned that NYS Audit and Control has to review one of these three projects. Which one?

Supervisor Eagan: The Hillcroft project.

Jeff Genzel, 7033 Cole Road: Presented the Town Board with a letter from the Erie County Health Department. I am checking to see where the design is on my water line extension.

Bruce Shear: We haven't started that yet.

Jeff Genzel: Supervisor Eagan said my mistake would be fixed within a year and now we are on two years. Is there a plan to fix it before all these other districts?

Bruce Shear: The water lines will be open to bid next spring.

Jeff Genzel: You don't have any approved funding so are you going to fix my problem?

Supervisor Eagan: I know you have had communication from Erie County and so do I. The Health Department is satisfied with the fact that when we do the next phase we will cure your problem. We are not going to start your project and add additional cost because we are doing a single job. The Erie County Health Department will not sign off on any plans unless we include the loop from the pumping station back to your property and you know that to be the truth.

Jeff Genzel: I sent you a letter stating that this is to be remedied before you start these other phases.

Supervisor Eagan read the letter from the Erie County Health Department dated 9/13/06 noting that approval for Water District 3 will be withheld until the Genzel problem is remedied. The remedy is to bring Mr. Genzel water and will be included in the Water District 3 project.

Jeff Genzel: Just as long as the whole Town Board is made aware of that correspondence. So I have to wait until Water District 3? You are not going to remedy the situation sooner?

Supervisor Eagan: We are going to remedy your situation in order to not inconvenience the rest of the people in Water District 3.

Donald Mania, 7693 Old Lower East Hill Road: We are currently charged an ad valorem tax. My water tax without water service is \$204. I want to know if the proposed schedule is in addition to our current water tax or will that be the final tax bill.

Bruce Shear: It will be your final tax bill not in addition to what you already pay.

Donald Mania: The town levied \$22,780 last year for Water District 3. What happened to it?

Supervisor Eagan: That is the total cost of the debt service for that tax period which is applied to the 3.6 million dollars that was invested in the last phase. That is what we have to pay and what you are paying is a portion of it. It includes a charge for operating and maintenance and the capital improvement. We have to budget every year. We know the interest rate and the principal and we put that into a budget and when the budget is done and the rate is determined then the tax bills are built off of that and that is how you get that \$204 cost against the \$22,780 debt for that year.

Donald Mania: It does seem crazy that we are paying tax in a water district when we didn't actually have water.

Supervisor Eagan: I understand that. After we found out that the bids came in higher we had to re-bid it, go back to the State Comptroller's office and file an updated map, plan and report, which cost us more time. This administration did not design that phase. We tried to put in place what we had as quickly as we could in order to take care of some segment of the population in Water District 3. I don't think any of us could understand why that upper part of Lower East Hill, Old Lower East Hill and part of Burr Roads were not included.

Donald Mania: The reality is that we will not see water until the spring of 2009. You indicated that it is going to take a twelve-month period. You are budgeting now but I guarantee you that 2 years from now cost will certainly be even higher.

Supervisor Eagan: That is why we go to bid.

Dean Overhoff, 7606 Wohlhueter Road: When are we going to get water on Wohlhueter? What approximately will it cost to tie in for an average home 100 feet from the road?

Supervisor Eagan: Once the water bids are out a number of contractors will knock on your door and if enough neighbors get together and pick one contractor you can negotiate a better price.

Councilman Hopkins: My father lives in East Aurora about 70 feet off the road and it cost him about \$1,200 last summer. A number of neighbors had the same contractor.

Dean Overhoff: So it is up to each homeowner to negotiate his own deal? Wouldn't it be better off averaging it all to help the guy with the greatest distance? Wouldn't we be better off if you negotiated for us?

Supervisor Eagan: No, because it is private property, we wouldn't get involved. The more people you get together to negotiate with one or two contractors the better deal you should get, which would help the guy down the road. There are programs out there that are income driven and once we know we are going to start this process we will send letters to everyone. Anyone in Water District 3, Extension 2 knows that we communicated every three or four months. This will be an ongoing process and no one will be in the dark. Our Grant Writer will give everyone details on a grant program that some may qualify for.

Harold Frantz, 7515 Wohlhueter Road: Can you tell me what side of Wohlhueter Road it is coming down?

Supervisor Eagan: I think it will be on the same side of Wohlhueter Road as the tank, the north side.

Harold Frantz: For the people on the south side, who pays for going under the road? I heard in Colden it didn't matter what side you were on the price was the same.

Supervisor Eagan: They may have paid the same for the tap-in fee, but the actual cost of running a line across the street with the material which is referred to as the far side. I don't think it is the same issue that you are referring to.

Harold Frantz: I am not telling them to come down my side of the road. They could come down the other side of the road then that guy wouldn't have to pay as much.

Supervisor Eagan: I agree with you, but what do we do? Run it down the middle of the road to make it equal? I will look into it.

Supervisor Eagan: There is so much work that has to be done. That is why we are trying to get all three of these districts done. Rather than stagger these public hearings, we tried to get everyone here on one night so we can accelerate this process.

Chris Fest: When can we actually tap into the water line? Is it when the water line is run dry in front of our house or is when the spicket is turned on? It matters because you have to budget from \$2,000 to \$10,000.

Bruce Shear: We can't have any tie in to the water line until it is accepted by the Health Department. That means it is full of water at that point.

Brad Beck, 7867 Burr Road: I live on the north side. Is the line put on the property wherever? How is that decided? I have a narrow entrance and a steep embankment. It is either going to go through the woods or go very close to my driveway.

Bruce Shear: When we choose alignments I will get together with the Highway Superintendent and we will walk the alignments and take note of the geography in the area. In previous projects we put lines under the ditches and his preference is on the far side of the ditch. Some of the topography makes it very difficult to dig on an angle. Sometimes we have to come out on the pavement if we physically can't get through the topography that is outside the pavement. Another thing that figures into it is density. If all houses are on one side of the street it would be foolish to go on the other side of the street because then everyone is far side. We work with you to determine where you want your service to come into your house. They will tap the line where you want it to come in your house and they extend to a shut off that will be at the highway boundary or your property line. From that shut off to your house is where you take over.

Brian Kramer, 6848 Liebler Road: If a line goes down the north side of the road water would be supplied to either side of the right-of-way from that line so that would mean that they would cross the road to supply it and if it was on the opposite side of my house it would come under the road and stop at the right-of-way for me to tie into it. Would that be included in the project cost?

Bruce Shear: Yes. When Harold Franz was talking about the fees being charged in Colden, those were tap-in fees. Those weren't the fees that are built into the contract. The contractor actually does the tap to the water line and he runs that service to the highway Bruce Shear Cont'd: boundary whether it is a near side or a far side and that is part of the project cost. Your cost is from that shut off to your house and the tap-in fee. If the town chooses to make near and far side the same then everybody pays the same tap-in fee. In previous projects it was 2 to 1, the far side paid more than the near side.

Brian Kramer: If it runs to my side of the road to the right-of-way that is 30 feet off the center line and I already have a pipe sitting there waiting for it, what would you do there? Is there a meter pit that you put in at the road?

Bruce Shear: Erie County Water Authority requires a meter pit if you are more than 150 feet off the right-of-way line. It is just a curb stop shut off at the right-of-way. The meter itself is not part of the contract. The meter pit is but the Water Authority provides the meter.

Brian Kramer: In the past property owners or B1's have paid toward a Water District fee in their taxes. Is that a recent fee or has that been paid since people have had homes along these non-service roads? If that is the case, are any of these three projects being supported by taxes by other people in town that have had water or anyone else?

Supervisor Eagan: Water Districts are separate and distinct. Water District 2 customers are not paying off debt in Water District 3. They have their own debt to pay off. If you were in Water District 3 when they had a referendum for or against water, they were given information on the project that was part of the map, plan and report that is West Hillcroft and Deer Run because that is a new District. It is not part of an existing district. We have to do what is a map, plan and report. Those residents to date have already received a map, plan and report showing them what the costs are and what it entails. The same thing happened on the east hill when the previous administrations worked on developing Water District 3. They had to go to the people and say do you want water or don't you. The people passed it based on the information they had on cost which told them that when this water district goes in even if you are not getting service you are still going to pay some portion small or large, to contribute to the debt service of paying off the tank and the pumping station that at some point you will have the benefit of. That is why they call it a benefit.

Brian Kramer: Do you know which side of the road the lines are planned for at this point or is there a determining factor besides population?

Bruce Shear: All I have right now are points of interconnection. I have valves with a flange on them and that is where I am going to pick up. I have an idea as to what side they might be on, but again I am going to look at density. I don't want to have a water line that zigzags across the road but I am certainly going to take into account if I have a thousand feet with a huge amount of density on it I might want to have an extra cross in the road just to avoid all those far side connections.

Brian Kramer: These B1 first year fees, is there any projection beyond year one? Is this an annual fee for thirty-five years or is this a continuous decreasing fee?

Supervisor Eagan: As we said what we are giving you is a worst-case scenario because we haven't taken in any potential for financial contributions from state or federal government.

Bruce Shear: The annual fee is comprised of your principal and interest payment and operation and maintenance. Once the principal and interest is locked in that is not going to change. The operation and maintenance costs change. Right now the operations and maintenance cost is a hydrant fee. The town is charged an annual fee from ECWA for every hydrant fee for every hydrant in the district. Right now that fee is \$160.80. We have no control over this fee as they raise rates to improve their revenue stance. They do the same thing with their hydrant fees. So as hydrant fees go up it will cause your annual payment to go up. That is why it is called a first year payment instead of for the lifetime. We have a component for a cash reserve fund. Part of the lease management agreement with ECWA to operate and maintain these facilities is for the town to have a cash reserve fund because it is the responsibility of the town to make major improvements in case a pump fails, etc. Bruce Shear Cont'd: Those are costs that get passed along to the town so that is what will cause your costs to rise. What is not in these numbers is the cost of water. That is running about \$2.80 a thousand today.

Brian Kramer: Is there a committee for any mechanism that people affected can volunteer for that would take some of the heat off the people that are doing a lot of the leg work at this point? Do you have a recommendation as to what information you would want to pass along to these senators etc.?

Supervisor Eagan: No, but that would not be a bad idea. We will assist in helping you put these letters together. I think individual letters and e-mails to them would be very helpful. It could also be followed

up with a petition from everybody in Water District 3. Get everyone to sign it and reinforce your letters. As we move along and get the final design and engineering ready we will have a map posted in our planning boardroom with a set of plans for residents to look at. In the past we had a few residents that were identified as neighborhood leaders that were invited to meetings to see how the process unfolds for the construction.

Charles Digangi, Burr Road: I live on Burr Road in the town of Colden, but I own property in Boston. How far down the road does Water District 3 extend? Is it the whole length of Burr Road?

Supervisor Eagan: No, it is only in the Town of Boston.

David Casacci, 8535 Cole Road: Do we have to hook-up if the water lines come through?

Supervisor Eagan: I want to get an answer to that from an expert.

Town Attorney Downey: It is my understanding that if you don't hook-up within a certain period of time; they increase the tap-in fees fairly significantly.

Supervisor Eagan: In the last process residents were sent a card from Erie County Water Authority stating if they wanted to tap in it would cost this much, but once the project is done the cost to tap in would be about aprox. double to about \$1,500. Once we relinquish control of that Water District you deal with them.

David Casacci: Once this is all done somebody is not going to say now you have to do it.

Supervisor Eagan: If you sell your house you might find that the buyer will have to tap in.

Carl Borowicz, 7108 Liebler Road: Will this information be available on the town website?

Town Clerk Shenk: The minutes of this meeting will be posted on the website after Town Board approval at the October 3, 2007 meeting. E-mails sent to town officials should be responded to in a timely fashion.

Thomas Shanahan, 8277 Cole Road: If all of these projects will be put to bid at the same time will there be three separate bids and three separate contracts? Are there variations in the bids and would there be more than one contractor to work on these projects?

Supervisor Eagan: Yes, the financing can't be blended. They have to be separate and distinct. There are variations in the bids and there could be more than one contractor, but we are hoping for just one.

Arthur Hider, 7716 Old Lower East Hill Road: Since there are three separate projects do you go to the government individually for funding for each project? Is it possible that two may get funding and the third district won't?

Supervisor Eagan: If Urban Development has grant money available, it is very possible they may give us grant money for one project and not the other. We are trying to get grant money for all the projects. We are requesting one lump sum and will split it up between the different projects. With Urban Development we can only get funding for the specific projects.

Brian Kramer: When the line comes down one side of the road does the price of the project pay for it to go to either side of the right of way. It was mentioned that it can be done equally, or it can be charged to the individual homeowner higher on one side to the other. So that comment is irrelevant.

Bruce Shear: What I was referring to was the town charges. They have the discretionary determination as to how much to charge. In previous projects it was 2 to 1. It has nothing to do with the contractor running that line from the main to your home.

Brian Kramer: If it can be done, and I don't care what side of the road it goes down, if it can be done this way is that whatever property owners are on that road or within the whole breath of the project that everybody shares equally in having their line available to them at the right of way in front of their property. What I've just heard is contradictory.

Supervisor Eagan: Say we run the water line the North side of Wohlhueter, he's on the south side, and our contractor goes through with the money that we finance for this project. Is our contractor going to run a line from the North Side to the South side and set up a tap as part of that original contract or is the homeowner going to pay for that line to come across the street? So it will be part of the original contract, I hope that clarifies this that when he's talking about tap in fees, when he says discretionary on the part of the town, what that funding does is set up the first, you need a small chunk of money in there in case something has to be fixed. We had to take a main line out of Back Creek Road. We had to take money which depleted the surplus in Water 1 & 2 in order to meet the expenses of relocating a main that for years ran underneath the rock bed of 18-mile creek. We had to relocate it to the Mill Street Bridge. We were lucky to have those funds in surplus because it covered a great deal of that cost. When you establish these water districts, you create a reasonable amount of surplus in anticipation of something going wrong two years down the road. We don't know how much the tap-in fee is going to be yet.

Councilman Hopkins: He wants to know if the tap is going to be on his side of the road, even though the water line is on the other side.

Supervisor Eagan: He wants the cost to be equal.

Brian Kramer: Right, because it's being left at the right of way.

Supervisor Eagan: The point at which you put your line to the water source, is your tap-in. If you are on the opposite side of the water line, there is going to be a line going underneath the road to your side. It's from that point and location that the tap-in fee applies. The fee is not necessarily different because of what side you are on. The last project was slightly different, but that is the way it was put together. We learned a lot from the last project. If there is a mistake along the way, we will work to change it. But right now we're trying to keep these costs where they are. This is why it has taken so long to come up with this stage of the plan. I agree with you, both sides should pay the same.

Harold Frantz: As far as I understand the people on Omphalius that lived on the wrong side of the road had to pay to go under the road. Is that right, Sir?

Bruce Shear: Everybody paid a tap-in fee.

Harold Frantz: Who paid to go under the road to get to them?

Bruce Shear: That was part of the project cost.

Harold Frantz: I don't believe it, sir.

Bruce Shear: You have to believe it because I did it.

Harold Frantz: My neighbors told me they paid for it, more than the next neighbor that was on the same side.

Bruce Shear: I'm saying that the tap-in fees for your side on the last project were less than the tap-in fees of the far side people.

Harold Frantz: I understand the Town of Colden did this and everybody paid the same no matter what side of the road they were on.

Supervisor Eagan: That is what we are working towards. There are many steps that are taking place in this and what we learned from the other project, we are trying to address now. I agree that if you are on the far side you shouldn't be paying more than the person on the near side. That hasn't been determined yet. Our goal is to make it even.

Harold Frantz: I didn't tell this gentleman what side to put the line on.

Supervisor Eagan: I totally agree with you.

An audience member asked what the main line is being quoted for?

Bruce Shear: The main line is PVC. It is a standard of the industry.

Cheryl Mitchell, 6304 Hillcroft: I have to apologize because I'm not this district, I'm the district prior. I already have public water. I'm included in this proposal.

Supervisor Eagan: Are you on lower level of Hillcroft Drive from Deer Run?

Cheryl Mitchell: I'm part way up the hill.

Supervisor Eagan: You're in water 2. We're creating a water 2, ext. 3. You won't be in that.

Cheryl Mitchell: You have me in it.

Supervisor Eagan: Were you the house that was given the out of district tap?

Cheryl Mitchell: I have letters stating that I'm in District and letters stating that I applied to be an out of district water customer.

Supervisor Eagan: I've seen those documentations that refer to the board action of allowing you as an out of district water customer. The water line on West Hillcroft only went part way. When your house was built you asked if you could tap into the water.

Supervisor Eagan asked Mrs. Mitchell to stay so her issue can be addressed and asked if there were any other questions for Water 3.

A motion was made by Supervisor Eagan and seconded by Councilman Hawkins to close the public hearing at 9:33 p.m.

five (5) Ayes Carried

RESOLUTION 2007-23 AN ORDER AFTER PUBLIC HEARING APPROVING THE INCREASE AND IMPROVEMENT OF FACILITIES OF WATER DISTRICT NO. 2, IN THE TOWN OF BOSTON, ERIE COUNTY NEW YORK, PURSUANT TO SECTION 202-B OF THE TOWN LAW.

RESOLUTION 2007-24 A BOND RESOLUTION DATED SEPTEMBER 19, 2007, OF THE TOWN OF BOSTON, ERIE COUNTY, NEW YORK (THE "TOWN"), AUTHORIZING THE INCREASE AND IMPROVEMENT OF FACILITIES OF WATER DISTRICT NO. 2 AT A MAXIMUM AMOUNT NOT TO EXCEED \$1,813,200, AND AUTHORIZING THE ISSUANCE OF SERIAL BONDS IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$1,813,200, OFFSET BY ANY FEDERAL, STATE, COUNTY AND/OR LOCAL FUNDS RECEIVED FOR SAID OBJECT OR PURPOSE OR REDEMPTION OF THE TOWN'S OBLIGATION ISSUED THEREFOR, PURSUANT TO THE LOCAL FINANCE LAW TO FINANCE SAID PURPOSE AND DELEGATING THE POWER TO ISSUE BOND ANTICIPATION NOTES IN ANTICIPATION OF THE SALE OF SUCH BONDS TO THE TOWN SUPERVISOR.

A motion was made by Supervisor Eagan and seconded by Councilman Hawkins upon the recommendation of the Nussbaumer and Clarke, Inc. the Town Board has classified Extension No. 3 to Water District No. 2 as an unlisted action under SEQR and therefore declares lead agency status.

five (5) Ayes Carried

A motion was made by Supervisor Eagan and seconded by Councilman Hawkins upon the recommendation of the Nussbaumer and Clarke, Inc. that the Town Board as lead agency has determined that after taking a long hard look into Extension No. 3 to Water District No. 2 finds that the proposed action will not have a significant impact on the environment, and declares a Negative Declaration and that no further action is required per 6 NYCRR part 617.

five (5) Ayes Carried

RESOLUTION 2007-25 AN ORDER APPROVING EXTENSION NO. 3 TO WATER DISTRICT NO. 2, IN THE TOWN OF BOSTON, ERIE COUNTY NEW YORK, IN SAID TOWN SUBJECT TO APPROVAL OF NEW YORK STATE COMPTROLLER

RESOLUTION 2007-26 AN ORDER AFTER PUBLIC HEARING APPROVING THE INCREASE AND IMPROVEMENT OF FACILITIES OF WATER DISTRICT NO. 3, IN THE TOWN OF BOSTON, ERIE COUNTY, NEW YORK, PURSUANT TO SECTION 202-B OF THE TOWN LAW.

RESOLUTION 2007-27 A BOND RESOLUTION DATED SEPTEMBER 19, 2007, OF THE TOWN OF BOSTON, ERIE COUNTY, NEW YORK (THE "TOWN"), AUTHORIZING THE INCREASE AND IMPROVEMENT OF FACILITIES OF WATER DISTRICT NO. 3 AT A MAXIMUM AMOUNT NOT TO EXCEED \$3,006,223, AND AUTHORIZING THE ISSUANCE OF SERIAL BONDS IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$3,006,223, OFFSET BY ANY FEDERAL, STATE, COUNTY AND/OR LOCAL FUNDS RECEIVED FOR SAID OBJECT OR PURPOSE OR REDEMPTION OF THE TOWN'S OBLIGATION ISSUED THEREFOR, PURSUANT TO THE LOCAL FINANCE LAW TO FINANCE SAID PURPOSE AND DELEGATING THE POWER TO ISSUE BOND ANTICIPATION NOTES IN ANTICIPATION OF THE SALE OF SUCH BONDS TO THE TOWN SUPERVISOR.

Received and filed a monthly report from the Supervisor, Town Clerk, Dog Control Officers, Code Enforcement Officers, Recreation Director and Town Engineers.

Councilwoman Dobson stated that contract negotiations with the Boston Emergency Squad have concluded and she would like to approve the contract tonight.

Town Clerk Shenk noted that the Town Board can not take further action on this contract until a public hearing has been held.

Supervisor Eagan directed Town Attorney Downey to clarify the need for a public hearing.

A motion was made by Supervisor Eagan and seconded by Councilwoman Dobson to adjourn the meeting at 9:50 p.m.

five (5) Ayes Carried

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DAVID J. SHENK, TOWN CLERK