

September 13, 2012

The regular meeting of the Town Board of the Town of Warwick was held on Thursday, September 13, 2012 at the Town Hall, 132 Kings Highway, Town of Warwick. Supervisor Sweeton called the meeting to order at 7:30 p.m.

ATTENDANCE: Supervisor Michael Sweeton
Councilman Floyd DeAngelo
Councilman Russell Kowal
Councilman James Gerstner
Councilman Mickey Shuback

Town Attorney, John Hicks
Deputy DPW Commissioner, William Roe
Police Chief, Thomas McGovern, Jr.

ACCEPTANCE OF MINUTES:

1. Regular Meeting, 8/16/12
2. Special Meeting, 8/27/12

Motion Councilman DeAngelo, seconded Councilman Kowal to accept the minutes as written from the Regular Meeting held on August 16, 2012 and the Special Meeting Held on August 27, 2012. Motion Carried (5 ayes, 0 nays)

CORRESPONDENCE:

JEN CROVER – Supervisor of Transportation, Town of Warwick Dial-A-Bus – Letter to the Supervisor and Town Board requesting permission for Donna Palaj to attend the 19A Examiners class in October located in Albany, New York.

THOMAS F. MCGOVERN, JR. – Police Chief, Town of Warwick Police Department – Memo to the Town Board requesting a budget transfer in the amount of \$150.00 from the Town of Clarkstown Police Department to B02.00.3120.480.

ALLEN B. CLARKSON – President, Fox Hill Park Homes Association, 42 Fox Hill Road, Warwick, NY 10990 – Letter to the Town Board requesting a road name change in the Fox Hill Park Homes Association Development from Fox Hill Parkway to Kays Way.

STEVEN MYRUSKI – 162 Jessup Road, Warwick, NY 10990 – Letter to the Town Board requesting to be re-appointed to the Town of Warwick Agriculture and Open Space Board.

DEBORAH EURICH – Assessor, Town of Warwick – Memo to the Town Board requesting approval to attend the New York State Assessors' Association Fall Training Session on Assessment Administration held in Lake Placid on September

30th through October 3rd. Monies for this training have been appropriated in the current budget.

STEPHEN H. WELLE – Mayor, Village of Harriman, P.O. Box 946, 1 Church Street, Harriman, NY 10926 – Letter to Suzyn Barron, President Warwick Valley Humane Society thanking her and Rebecca Hanlon, an Animal Control Officer, for their invaluable assistance on August 9th, 2012 to the Village of Harriman Police Department with an animal abandonment and neglect situation involving 1 dog and 11 cats.

SHANYIN COUNTY PEOPLE’S GOVERNMENT – Letter to the Town Clerk inviting her to their first China Shanyin County Frontier Culture Week and Cow Festival to be held September 8th to the 15th 2012 in Shanyin County.

PETER D. BARLET AND NANCY DEANGELO – Justices, Town of Warwick – Memo to the Supervisor requesting approval for Lois Murtie to attend the New York State Association of Court Clerks Annual Conference to be held on September 30th to October 3rd 2012 in Albany, NY. Funds were allocated in the current budget for this meeting.

STEVE DEFEIO – P.O. Box 1710, Greenwood Lake, NY 10925 – Letter to the Supervisor and Town Board requesting to be appointed to the Greenwood Lake Commission.

THOMAS F. MCGOVERN, JR. – Police Chief, Town of Warwick Police Department – Memo to the Town Board supporting a leave of absence request from Officer Derek Kerstner from now until April 1, 2013.

BOARD’S DISCUSSION ON CORRESPONDENCE

VISITING ELECTED OFFICIALS

REPORTS OF BOARDS AND COMMISSIONS

COMMITTEE REPORTS

ENVIRONMENTAL CONSULTANTS REPORT

Town Of Warwick - Water and Wastewater Operations Report - August, 2012

Wickham Water District

Wells #11, monthly production	2,569,200 gal
Average daily use	82,900 gal
Sodium Hypochlorite used	200 qt
Orthophosphate used	48 qt
Soda Ash	750 lbs

Bellvale Park Water District

Total monthly production	139,400 gal
Average daily use	4,500 gal
Sodium Hypochlorite used	8 qt

Eurich Heights Water District

Total monthly production	207,000 gal
Average daily use	6,700 gal
Sodium Hypochlorite used	4 qt
Orthophosphate used	24 qt

Pine Island Water District

Total monthly production	345,200 gal
Average daily use	11,100 gal
Sodium Hypochlorite used	40 qt

Westside #1 Water District

Total monthly production	4,434,100 gal
Average daily use	143,000 gal
Sodium Hypochlorite used	320 qt
Orthophosphate used	160 qt
Caustic Soda	300 gal

The Fairgrounds

Total monthly production	515,300 gal
Average daily use	16,600 gal
Sodium Hypochlorite used	20 qt

Sewer District #1 Wastewater Treatment Facility

Mid-Orange Correctional District	33,800 gal	1%
Wickham Village District	1,878,094 gal	52%
Kings Estates District	1,775,216 gal	49%
<u>Total District Flow</u>	3,584,232 gal	100%
<u>Average Daily Flow</u>	115,620 gal	

All facility maintenance has been done for the month. (Oil grease, filters)

The belt press ran for 20 hrs. and .75 gal of polymer was used.

20 cu. Yd. of sludge and .5 cu. ft. of grit were removed from the site this month.

Sewer District #2 Wastewater Treatment Facility – The Fairgrounds

Total District Flow **188,290 gal**
Average Daily Flow **6,074 gal**

DEPARTMENT OF PUBLIC WORKS REPORT

<u>WORK BEING DONE</u>	<u>LOCATION</u>	<u>REASON FOR WORK</u>
CULVERT PIPES	Melody Lane	220 Feet of 12"
	Lower Wisner Rd.	40 Feet of 36"
	East Ridge Rd.	40 Feet of 24"
CATCH BASINS	Melody Lane	Install 4 basins
	Round Hill Rd.	Clean basins
	Chardavoynne Rd.	Clean basins
DITCH WORK	Sleepy Valley Rd.	Clean ditches
	Jessup Rd.	Clean ditches
TREE WORK	Overhill Lane	Clear intersection
MOWING	Town wide	As needed
POT HOLES	Town wide	As needed
ROAD SIGNS	Town wide	As needed
WATER DEPT.	Indian Park	Assist water dept. on leak

Supervisor Sweeton – Deputy Commissioner Roe do you have anything to add?

Commissioner Roe - I do not.

Supervisor Sweeton – I want to thank you and commend you for the work going on at Greenwood Lake Park. It seems to be progressing well.

COUNCILMAN DEANGELO REPORT

- 1. I have a letter from a gentleman from Warwick Grove commending the PD for helping out with the press and so forth at the residence of a family who lost a loved one in a tragic accident in Manhattan.**
- 2. I have a letter from the Mayor of Harriman that was sent to Suzyn Barron the President of the Warwick Valley Humane Society about a problem they had with an animal abandonment and neglect situation with 1 dog and 11 cats. It says, “When you and Rebecca Hanlon arrived at the site you both immediately began the process of catching and crating all of the animals. Even though the conditions were deplorable you and Rebecca were very professional and your deep concern for the well-being of the animals was evident. Again, thank you for helping us with this situation and for all of the work you and your organization does.”**
- 3. The Warwick Valley Humane Society will be having a rabies clinic on Sunday, September 30th for cats only from 10:00 a.m. until 10:45 a.m. and dogs only from 10:45 a.m. until 12:00 p.m. It is \$15 per pet cash only and there is no**

preregistration and you can call 986-2473 for any questions or to make a reservation.

4. The Warwick Humane Society has a wish list of supplies for natural wood stove pellets, ground canned cat food and bleach are needed very urgently.

COUNCILMAN KOWAL REPORT

1. The parks are in very good shape and things are getting ready for the fall sports season. The cooler weather and the help of Mother Nature is making the grass grow. Like you mentioned, the Greenwood Lake Parks are starting to green up nicely and hopefully the grass will catch up from the summer drought that we had.

2. It was my pleasure to serve at the senior picnic again this year. We had a lot of good people there, a lot of fun and it's always enjoyable to see that multitude of people come out and have a good time.

Police Chief McGovern – Now that the school is open and obviously we all need to pay attention to the kids that are walking due to the revamping of the school districts policies with the busing. You are going to see a few more kids out there walking the shoulders than you did previously. I just ask everybody to keep your eyes open and pay attention because kids are unpredictable and we don't want anything to happen while you're passing through those school zones.

Supervisor Sweeton – I want to mention for the presses information that the Warwick Soccer Club cut the ribbon on field A1. They put in their own money to refurbish that field and it has always since we first graded it. It has some drainage issues and they resolved the drainage issues, re-sod it and it really does look beautiful. It's a great example of the public and the private working together to create these great facilities and we thank them very much for that.

COUNCILMAN GERSTNER REPORT

1. We received a notice from Cablevision relating to the blackout of WPIX and other Tribune Company owned stations on Cablevision. The bankrupt Tribune companies and their hedge funds and banks that own it include Oak Tree, Capital Management, Angelo Gordon and Company and others are trying to solve the Tribunes financial problems on the back of Cablevisions customers. Tribune and their hedge fund owners are demanding tens of millions in new fees for WPIX and other stations they own. They should stop their anti-consumer demands and work productively to reach an agreement. This is from Cablevision and customers from Cablevision can be kept informed at their website at www.cablevision.com/tribune for additional information.

2. This year's beach report; we were up about 23%, our commercial passes were \$180.00 the same as last year, our daily non-residents were \$8,140.00 up from \$4,816.00, the daily resident passes were \$13,512.00 up from \$11,916.00, our adult seasons were pretty much the same \$1,100.00 from \$1040.00, child season was \$700.00 up from \$675.00, family season was \$7,810.00 up from \$6,900.00 and the senior season passes were \$900.00 up from \$600.00. It was another fine year. We had good weather for the beach and the guys did a great job out there; it always look well and we look forward to next year already.

COUNCILMAN SHUBACK REPORT

1. The Highway Department had a problem getting parts for the mower and I had people complain to me about it but they got the part and it was the wrong one and it took 3 to 4 weeks before they finally got it. They got it back in line this past week so I hope they catch up in the next week or two.

ATTORNEY'S REPORT

TOWN CLERK'S REPORT

1. Fees Collected – Month of August, 2012 – Wickham Lake Permit Fees, Resident, \$120.00; Wickham Lake Additional Stickers, \$2.00; Certified Marriages, \$60.00; Photocopies, \$43.00; Peddlers Permit, \$100.00; Use of Kitchen Fees, \$50.00; Use of Senior Center, \$50.00; Interest in Checking Account for Month of July, \$1.55; Town Park Pavilion Fees, \$25.00; Marriage License Fees, \$402.50; Bid Spec Fees, \$1,000.00; Cascade Park Trail Maps, \$10.00; Conservation Licenses, \$514.32; Dog Licenses Issued/Renewed, \$1,558.00; Use of Room Fees, \$60.00; Registrar Fees, \$390.00; Waterfront Park Daily Fees, Non-Resident, \$1,580.00; Waterfront Park Daily Fees, Resident, \$3,916.00; Waterfront Park Wedding Fees, \$90.00; Town Park Deposits, \$50.00; Little League Field Deposit, \$200.00. Total Collected, \$25,087.55

2. Fees Paid – Month of August, 2012 – New York State Dept. of Health for Marriage Licenses, \$517.00; New York State Dept. of Ag & Markets for Spay/Neuter Program, \$182.00; New York State Dept. of Environmental Conservation for Conservation Licenses, \$12,815.68; Village of Florida for Registrar Fees, \$60.00; Village of Warwick for Registrar Fees, \$1,190.00; Village of Greenwood Lake for Registrar Fees, \$100.00. Total Fees Paid to Supervisor, \$10,222.37

3. Bid opening on September 7, 2012 at 12:00 p.m. to replace the temporarily installed culverts on Cascade, Black Rock, Ketchum and Distillery roads culverts.

**Cascade Road
(2 bids)**

**CMC Construction Group
P.O. Box 9
Slate Hill, NY 10973
Tel: (845) 355-8600
Bid: \$192,000.00**

**Cal Mart Enterprises
4 Burts Rd.
Congers, NY 10920
Tel: (845) 638-1330
Bid: \$338,338.00**

**Distillery Rd.
(4 bids)**

**Allied Excavating
71 Waterbury Rd.
Warwick, NY 10990
Tel: (845) 986-9841
Bid: \$158,223.00**

**Earth Tec
57 Vernon Crossing
Vernon, NJ 07462
Tel: (973) 827-1700
Bid: \$132,132.32**

**Cal Mart Enterprises
4 Burts Rd.
Congers, NY 10920
Tel: (845) 638-1330**

**CMC Construction Group
P.O. Box 9
Slate Hill, NY 10973
Tel: (845) 355-8600**

	<u>Bid: \$186,186.00</u>	<u>Bid: \$162,873.00</u>
Ketchum Rd. (4 bids)	Cal Mart Enterprises 4 Burts Rd. Congers, NY 10920 Tel: (845) 638-1330 <u>Bid: \$110,110.00</u>	Allied Excavating 71 Waterbury Rd. Warwick, NY Tel: (845) 986-9841 <u>Bid: \$92,795.00</u>
	CMC Construction Group P.O. Box 9 Slate Hill, NY 10973 Tel: (845) 355-8600 <u>Bid: \$68,990.00</u>	Earth Tec 57 Vernon Crossing Vernon, NJ 07462 Tel: (973) 827-1700 <u>Bid: \$69,969.00</u>
Black Rock Rd. (2 bids)	Cal Mart Enterprises 4 Burts Rd. Congers, NY Tel: (845) 638-1330 <u>Bid: \$364,364.00</u>	CMC Construction Group P.O. Box 9 Slate Hill, NY 10973 Tel: (845) 355-8600 <u>Bid: \$243,541.00</u>

4. Bid proposals were received for repairs to the pavilion roof at the Union Corners Park which were submitted to Selective Insurance for review.

**G Rhein Builders, Inc.
9 Bianca Court
Warwick, NY 10990
Tel: (914) 522-2005
Proposal: \$7,900.00**

**Thom Woglom Construction LLC
585 State Route 94 N Ste. A
Warwick, NY 10990
Tel: (845) 987-7577
Proposal: \$9,500.00**

SUPERVISOR'S REPORT

1. The Community Preservation Fund receipts for August were \$39,026.64 bringing the total fund balance to \$2,580,648.98.

2. FEMA permanent repairs - You heard the bids; just so that you know the two bids accepted at the Special Meeting were for the Cascade Road, Bellvale Lakes Side by 17A, that is where the temporary bridge is in place. We expect that work will commence sometime around the beginning of October and that section of the road will have to be closed for 3 to 4 weeks while they dismantle the old bridge and put the new bridge in place. The other major one was Ryerson Road and that will also commence about the same time and then the bids that we just heard tonight we'll hopefully be accepting. Those are smaller culverts and we expect the disruption of traffic through those areas will be minimized. There's three projects still outstanding in which we're disputing the cost estimate with FEMA and the scope of the work with FEMA and those are in the appeal process so we hope to resolve them within a few weeks and then we can get bids out on those and get them repaired as well.

3. Mid-Orange Correctional Facility Update - I just want to let everybody know

that our discussions continue with the State of New York. We will be meeting with them next week in Albany and we hope to have some news for you at our next Board meeting on the disposition of that property and hopefully the redevelopment of it. We continue to talk with interested parties about locating on portions of it.

4. The Old Dutch Hollow culvert repair is a project that was affected by the storm but was not qualified as a FEMA damaged facility but the condition of it was such that the Town felt it needed to for the health and safety of the residents in that area to travel on that road and we needed to repair it. We did go out to bid, we had an award and the contractor has finished the work but is going to keep it closed over the weekend so the concrete has a little bit more time to cure but it will reopen again on Monday morning.

5. I really don't have much to say on Orange County Route 1 out by Blooms Corners Road where the blinking light is. We had some residents concerned with the increase of accidents there. The Chief contacted the Sheriffs Department and they had also been looking at it. We passed it along to the County and we got a letter back from the County saying that they are reviewing it so until they are done with that review, however long that will take, we will then know whether or not they want to do something to improve the safety through that road which is a County road.

6. The monthly budget review and journal entries - I have reviewed them and they were in order and I have signed off on them. Our auditors are all done and we've seen some draft reports and everything is in pretty good shape and we will be getting that report and as soon as we get it we will be releasing that to the press.

7. There is going to be a forum on fracking held here at Town Hall in the meeting room on Thursday, September 20th at 7:00 p.m. until 9:00 p.m. and it's billed as find out what hydrofracking for natural gas might mean for New York State. They have two speakers lined up which should give a balanced view of it. John Conrad from Conrad Geosciences and a member of the Independent Oil and Gas Association of New York State so the pro and Carl Arnold of the Sierra Club Gas Drilling Task Force which I assume would be the con. There will be time for questions and answers following the presentation. I think it will be good and informational. We will see what it's all about. We don't have much in the way of those deposits in this area but we should be aware of it and what impact it could have if it reaches down this way.

8. For the Boards information the Orange County Procurement Division, Jim Burpoe the County Commissioner of General Services, has set up a procurement conference on October 3rd from 8:30 a.m. until 5:00 p.m. at the 911 Center in Goshen. They will go over purchasing what you should know and what you should avoid, bid and spec writing, understanding and utilizing state and county contracts what your allowed to do and training on the system called BIDNET, so I probably will attend a portion of that and maybe a couple of the department heads do that.

9. Supervisors Corner is published each week in the Warwick Dispatch, with excerpts printed in the Warwick Advertiser.

PRIVILEGE OF THE FLOOR (AGENDA ITEMS)

There were no comments or questions on the agenda items.

NEW BUSINESS:

**#R2012-216 SPECIAL EVENT PERMIT – RICHARD JACOB RUDY
MEMORIAL FUND – CHARITY RUN/WALK 5K**

Motion Councilman DeAngelo, seconded Councilman Gerstner to adopt a resolution to authorize the use of Jessup Road in the Town of Warwick to the Richard Jacob Rudy Memorial Fund for a charity run/walk 5K event to be held on Saturday, September 29, 2012 from 8:30 a.m. to 12:00 p.m. Application and proof of insurance are on file in the Clerk's office. The Chief of Police has approved the application and will provide one police officer to cover this event. Motion Carried (5 ayes, 0 nays) Supervisor declared this resolution duly adopted.

**#R2012-217 RE-APPOINTMENT TO AGRICULTURE AND OPEN SPACE
BOARD – STEVEN MYRUSKI**

Motion Councilman Shuback, seconded Councilman Gerstner to adopt a resolution to re-appoint Steven Myruski to the Agriculture and Open Space Board for a five year term expiring September 13, 2017. Motion Carried (5 ayes, 0 nays) Supervisor declared this resolution duly adopted.

**#R2012-218 AUTHORIZATION TO ATTEND NYS ASSESSORS'
ASSOCIATION TRAINING SESSION – DEBORAH EURICH**

Motion Councilman Gerstner, seconded Councilman DeAngelo to adopt a resolution to authorize Deborah Eurich to attend the NYS Assessor's Association fall training session to be held in Lake Placid, September 30th through October 3rd. Funds have been allocated for this training in the current budget. Motion Carried (5 ayes, 0 nays) Supervisor declared this resolution duly adopted.

#R2012-219 AUTHORIZING SETTLEMENT – AMITY INVESTORS, LLC

Motion Supervisor Sweeton, seconded Councilman Gerstner to adopt the following resolution:

WHEREAS, a Petition and Notice of Petition for taxation for the year 2011 (March 1, 2010 Taxable Status Date) and for the year 2012 (March 1, 2011 Taxable Status Date) of the real estate owned by Amity Investors, LLC (the "Petitioner") in the Town of Warwick, County of Orange, State of New York, Tax Map No. 12-1-12.21, was served upon the Assessor, the Board of Assessors, the Board of Assessment Review of the Town of Warwick and the Town of Warwick (the "Respondents") on or about July 26, 2011 and July 27, 2012, respectfully, and

WHEREAS, said Respondents, with the assistance of Bonacic, Krahulik, Cuddeback, McMahon & Brady, LLP (“Special Counsel”), having duly made and filed their Appearance to said Petition, and

WHEREAS, the Respondents have utilized the assistance of Town Assessor to review the assessment placed on said property, and

WHEREAS, the Respondents and said property owners are prepared to enter into an agreement and stipulation of compromise and settlement of their differences in summary as follows:

- (a) **The parties have agreed that the 2011 assessment of \$98,000.00 should be reduced to \$93,000.00 for the year 2011, based upon a Fourteen Percent (14%) equalization rate for that year, and that Petitioner is entitled to a refund for taxes already paid to each of the Town, County and all applicable schools districts and special districts, and**
- (b) **The parties have agreed that the 2012 assessment of \$98,000.00 should be reduced to \$93,000.00 for the year 2012, based upon a Fifteen Percent (15%) equalization rate for that year, and that Petitioner is entitled to a refund for taxes already paid to each of the Town, County and all applicable schools districts and special districts, and**
- (c) **That the assessment be fixed for three (3) years pursuant to Real Property Tax Law Section 727.**

WHEREAS, it appears to be in the best interests of the Town of Warwick to settle said matters as recommended by the Town Assessor and Special Counsel of the Town without further attendant legal and appraisal costs relating to said matters,

NOW, THEREFORE, BE IT RESOLVED by the Town Board of the Town of Warwick in regular session duly convened as follows:

1. The Special Counsel of the Town of Warwick is authorized to consent to entry of appropriate court orders to accomplish said settlement and upon entry of the court orders directing the establishment of assessments for 2011 and 2012 as aforesaid to execute stipulations of discontinuance of the said proceedings.

2. This Resolution shall take effect immediately.

Motion Carried (5 ayes, 0 nays) Supervisor declared this resolution duly adopted.

#R2012-220 APPOINTMENT OF PART TIME CLERK – MARGARET FINN

Motion Councilman Gerstner, seconded Councilman DeAngelo to adopt a resolution to appoint Margaret Finn as a part time clerk in the Receiver of Taxes office at a rate of pay of \$13.75/hr. effective August 28, 2012.

Motion Carried (5 ayes, 0 nays) Supervisor declared this resolution duly adopted.

Discussion: Supervisor Sweeton stated that Margaret has experience and is filling the slot that was held by Carolyn Marion who has received a full time job with BOCES and we wish her well; she was great.

#R2012-221 BUDGET TRANSFER – POLICE DEPARTMENT

Motion Councilman DeAngelo, seconded Councilman Gerstner to adopt a resolution to approve the following Police Dept. budget transfer:

<u>FROM</u>	<u>TO</u>	<u>AMOUNT</u>
Check from Clarkstown Police Dept.	Training Budget Line B02.00.3120.480	\$150.00

Motion Carried (5 ayes, 0 nays) Supervisor declared this resolution duly adopted.

**#R2012-222 AUTHORIZATION TO SIGN AGREEMENT WITH ORANGE
COUNTY LAND TRUST**

Motion Supervisor Sweeton, seconded Councilman DeAngelo to adopt a resolution to authorize the Supervisor to sign an agreement with Orange County Land Trust to provide monitoring services for conservation easements for the Town of Warwick at a rate not to exceed \$65.00 per hour.

Motion Carried (5 ayes, 0 nays) Supervisor declared this resolution duly adopted.

Discussion: Supervisor Sweeton stated that he met with Jim Delaune who is the Executive Director of the Orange County Land Trust. Historically the late Seymour Gordon would spearhead the monitoring. Bill Wadeson has taken that up but doesn't quite have as much time as Seymour did because Seymour was retired and Bob Scott is assisting Bill but we worked with the Orange County Planning Department to get all of our farms which we now have 18 farms under easement to get them on a schedule when the monitoring can take place. We are glad that the Land Trust has offered to assist us in that and I think it makes sense because we still have a duty to do the annual monitoring. It will be great and we'll be the first municipality that the Orange County Land Trust has been able to include an agreement with like this.

**#R2012-223 AUTHORIZATION TO ATTEND 19A EXAMINERS CLASS –
DONNA PALAJ**

Motion Councilman Kowal, seconded Councilman Gerstner to adopt a resolution to authorize Donna Palaj to attend the 19A Examiners class to be held in Syracuse, NY on October 19th and 20th and October 26th and 27th. Funds have been allocated in the current budget for this training.

Motion Carried (5 ayes, 0 nays) Supervisor declared this resolution duly adopted.

Discussion: Supervisor Sweeton stated that this will give us some backup to Jen who is the only 19A examiner that we have and Donna actually filled in very well during the transition period.

**#R2012-224 APPOINT JACOBOWITZ AND GUBITS, LLP TO REPRESENT
THE TOWN OF WARWICK – TAX CERTIORARI PROCEEDINGS**

Motion Councilman Gerstner, seconded Councilman Shuback to adopt a resolution to appoint Jacobowitz and Gubits, LLP to represent the Town in tax certiorari proceedings commenced against the Town to contest the 2012-2013 tax roll. The cases are as follows:

Warwick Developers, LLC and
Warwick Valley Telephone Co.

Motion Carried (5 ayes, 0 nays) Supervisor declared this resolution duly adopted.

#R2012-225 PROCLAMATION - NATIONAL PATRIOTISM WEEK

Motion Supervisor Sweeton, seconded Councilman Gerstner to adopt the follow resolution:

WHEREAS, the Benevolent and Protective Order of Elks, through its Constitution, is a Patriotic Order, and

WHEREAS, the order promotes the ideals that the citizens of this nation live in freedom, won through the great sacrifices and many tribulations which have provided the foundation for a free, prosperous and independent life, and

WHEREAS, we realize that each generation must work to maintain this freedom, otherwise, through carelessness or indifference, the rights and liberties enjoyed may vanish, and

WHEREAS, it is fitting and proper to recognize this freedom and to honor the nation, which provides it, now

THEREFORE, I, Michael P. Sweeton, Supervisor of the Town of Warwick, New York, do hereby proclaim September 10-16, 2012, as National Patriotism Week, during this event, I urge all citizens to join with the Benevolent and Protective Order of Elks in expressing gratitude for the privilege of American Citizenship with appropriate celebrations and observances.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the Town of Warwick, New York to be affixed this 13th day of September 2012. Motion Carried (5 ayes, 0 nays) Supervisor declared this resolution duly adopted.

#R2012-226 ACCEPT BID – REPLACEMENT OF TEMPORARY CULVERT ON DISTILLERY ROAD

Motion Councilman Shuback, seconded Councilman Gerstner to adopt a resolution to accept the bid from Earth Tec Associates, Inc., 57 Vernon Crossing, Vernon, NJ 07462 for the replacement of the temporary culvert on Distillery Road at a cost not to exceed \$132,132.32. Motion Carried (5 ayes, 0 nays) Supervisor declared this resolution duly adopted.

#R2012-227 ACCEPT BID – REPLACEMENT OF TEMPORARY CULVERT ON KETCHUM ROAD

Motion Councilman Kowal, seconded Councilman DeAngelo to adopt a resolution to accept the bid from CMC Construction Group, P.O. Box 9, Slate Hill, NY 10973 for the replacement of the temporary culvert on Ketchum Road at a cost not to exceed \$68,990.00 pending proof, within 72 hours, that the insurance company that issued the bid bond is certified in New York. Motion Carried (5 ayes, 0 nays) Supervisor declared this resolution duly adopted.

#R2012-228 ACCEPT BID – REPLACEMENT OF TEMPORARY CULVERT ON BLACK ROCK ROAD

Motion Supervisor Sweeton, seconded Councilman Gerstner to adopt a resolution to accept the bid from CMC Construction Group, P.O. Box 9, Slate Hill, NY 10973 for the replacement of the temporary culvert on Black Rock Road at a cost not to exceed \$243,541.00 pending receipt, within 72 hours, of amended bid bond to meet the required threshold of five percent (5%) and proof that the insurance company that issued the bid bond is certified in New York. Motion Carried (5 ayes, 0 nays) Supervisor declared this resolution duly adopted.

#R2012-229 ACCEPT BID – REPLACEMENT OF TEMPORARY CULVERT ON CASCADE ROAD

Motion Councilman Shuback, seconded Councilman Gerstner to adopt a resolution to accept the bid from CMC Construction Group, P.O. Box 9, Slate Hill, NY 10973 for the replacement of the temporary culvert on Cascade Road at a cost not to exceed \$192,000.00 pending proof, within 72 hours, that the insurance company that issued the bid bond is certified in New York.

Motion Carried (5 ayes, 0 nays) Supervisor declared this resolution duly adopted.

#R2012-230 AUTHORIZATION TO SIGN COOPERATIVE AGREEMENT FOR THE ACQUISITION OF DEVELOPMENT RIGHTS ON FARM KNOWN AS APPLE RIDGE ORCHARDS

Motion Councilman Kowal, seconded Councilman Gerstner to adopt a resolution to authorize the Supervisor to sign a cooperative agreement between the United States of America Commodity Credit Corporation acting through the Natural Resources Conservation Service and the Town of Warwick for the acquisition of development rights on a farm known as Apple Ridge Orchards formally known as the Bates Orchard.

Motion Carried (5 ayes, 0 nays) Supervisor declared this resolution duly adopted.

Discussion: Supervisor Sweeton stated that we announced we got this award and the process is you sign this agreement with the federal government acknowledging that you have the additional funding, it's a 50/50 match.

#R2012-231 RESOLUTION DECLARING DEFAULT - DRAINAGE AND ROADWAY IMPROVEMENTS ALONG A SECTION OF EAST SHORE ROAD - PIN 8759.47

Motion Supervisor Sweeton, seconded Councilman Gerstner to adopt the following resolution:

WHEREAS the Town of Warwick entered a Contract with Harrison Park Associates, Inc. ("Contractor" and/or "Principal") for the proper completion of certain Drainage and Roadway Improvement along a Section of East Shore Road; and

WHEREAS a Performance Bond - Bond Number CSC-218098 - was posted by Colonial Surety Company ("Surety") to assure the prompt and faithful performance of the Contract; and

WHEREAS the Contract, for which final payment has not been made, is incomplete and items of work performed do not meet the specifications of the Contract, as confirmed by the NYSDOT which has rejected reimbursement for such items; and

WHEREAS Harrison Park Associates, Inc., after attempts by the Town to resolve the matter, has refused to return and complete and/or correct the work and as a result the Town of Warwick has been damaged in an amount exceeding \$180,000;

NOW THEREFORE, BE IT RESOLVED by the Town Board of the Town of Warwick, Orange County, New York, as follows:

1. Harrison Park Associates, Inc. is hereby declared in default of the Contract, PIN 8759.47, Drainage and Roadway Improvement along a Section of East Shore Road.

2. Colonial Surety Company is hereby called upon to remedy the default, or to exercise its options under Performance Bond Number CSC-218098.

3. A hearing before the Town Board is hereby scheduled for 7:30 p.m. or as soon thereafter as the matter can be heard on September 27, 2012 at which time the Board may: confirm or rescind this resolution, enter an agreement to correct the default and complete the contract, or arrange for obtaining bids for completing the Contract in accordance with its terms and conditions, and/or commence an action for damages resulting from the default, together with any other action which is necessary and proper to satisfactorily complete the contract.

Motion Carried (5 ayes, 0 nays) Supervisor declared this resolution duly adopted.

Discussion: Supervisor Sweeton stated that this is the Era project on East Shore Road that has been going along fairly well to completion. It was at the very end when the contractor was doing the final paving things went awry they did not complete it to the satisfaction of the DOT and the DOT is required to sign off on the project before they pay anything and they are refusing. We've spent the last six months negotiating and meeting with the contractor in an effort to resolve it and we did receive a letter just yesterday from the contractors saying they have no intention of returning so we're putting them on notice that we will call the bond as of the 27th unless we can come to an agreement and we notified DOT of that as well.

#R2012-232 AUTHORIZATION TO ATTEND NYS ASSOCIATION OF COURT CLERKS ANNUAL CONFERENCE – LOIS MURTIE

Motion Councilman Gerstner, seconded Councilman DeAngelo to adopt a resolution to authorize Lois Murtie to attend the New York State Association of Court Clerks Annual Conference to be held on September 30th to October 3rd 2012 in Albany, NY. Funds have been allocated for this conference in the current budget. Motion Carried (5 ayes, 0 nays) Supervisor declared this resolution duly adopted.

#R2012-233 APPOINTMENT TO THE GREENWOOD LAKE COMMISSION – STEVE DEFEO

Motion Councilman DeAngelo, seconded Councilman Gerstner to adopt a resolution to appoint Steve DeFeo to the Greenwood Lake Commission serving at the Pleasure of the Board.

Motion Carried (5 ayes, 0 nays) Supervisor declared this resolution duly adopted.

Discussion: Supervisor Sweeton stated that Steve had been our chairman and the appointee in the past and had to resign for business and health reasons. He is

now in a position where he's asked to be reappointed and we welcome him because he has vast knowledge.

Supervisor Sweeton – Before we go any further I do want to point out at their last legislative meeting the County and the County Executive did appoint Floyd DeAngelo as a representative to the Bi-State Commission for the County of Orange.

#R2012-234 RESOLUTION TO CLASSIFY THE ACTION ENTITLED “REPAIR OF EAST SHORE ROAD” UNDER SEQR

Motion Supervisor Sweeton, seconded Councilman Gerstner to adopt the following resolution:

WHEREAS, the Town Board of the Town of Warwick is considering authorization to repair approximately 80 linear feet of roadway embankment on East Shore Road near Greenwood Lake, approximately 1/8 mile northeast of Woods Road, due to a collapse condition caused by heavy rains, and

WHEREAS, after comparing the thresholds contained in 6NYCRR 617.4 and 5, the Town Board has determined that the proposed project is a Type 2 Action that meets the thresholds found in 6 NYCRR 617.5(c)(2) because it involves the “replacement, rehabilitation or reconstruction of a structure or facility, in kind, on the same site....” And, therefore SEQR does not apply, and

NOW THEREFORE BE IT RESOLVED, that the Town Board hereby declares that no further review under SEQR is required.

Motion Carried (5 ayes, 0 nays) Supervisor declared this resolution duly adopted.

Discussion: Supervisor Sweeton stated that this is not the same situation as the previous resolution earlier. This was a partial collapse of a small section of the road. It's a stacked block road that slipped into the lake although it's stable at the moment but we are monitoring it and this will allow us to repair it.

#R2012-235 ACCEPT LEAVE OF ABSENCE REQUEST – DEREK KERSTNER

Motion Councilman DeAngelo, seconded Councilman Gerstner to adopt a resolution to accept the leave of absence request from part time Officer Derek Kerstner from now until April 1, 2013.

Motion Carried (5 ayes, 0 nays) Supervisor declared this resolution duly adopted.

Discussion: Supervisor Sweeton thanked him for the great job that he's done to this point, we wish him well and look forward to him returning in April.

BILLS: Motion Councilman DeAngelo, seconded Councilman Gerstner to pay the bills as audited. Motion Carried (5 ayes, 0 nays)

PRIVILEGE OF THE FLOOR (GENERAL)

Councilman Gerstner – I have a question on the two bids we got for the park. That is just so we can get the insurance money to repair them right?

Supervisor Sweeton – Exactly except the insurance company has asked for those bids to be itemized as opposed to a lump sum and so we've gone back to try and get itemized bids that's why we're waiting for that.

Councilman Gerstner – OK.

Supervisor Sweeton – We sought bids for the repairs, we got bids for the repairs but they were not itemized to the degree that the insurance company had asked for, so we are getting new numbers.

Councilman Gerstner – Just to see how much we're getting back.

Town Clerk – The dog park, are there any restrictions or rules for the dog park other than the dogs need to be licensed and they need to pick up after them?

Supervisor Sweeton – There are rules there.

**ADJOURN: Motion Councilman Shuback, seconded Councilman Gerstner that the regular meeting be adjourned. Motion Carried (5 ayes, 0 nays) 8:05 p.m.
09-13-12 cp.**

Marjorie Quackenbush, Town Clerk