

December 27, 2012

The regular meeting of the Town Board of the Town of Warwick was held on Thursday, December 27, 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 – Absent
DPW Commissioner, Jeff Feagles
Police Chief, Thomas McGovern, Jr.

TOWN BOARD RECOGNITION OF FLORIDA GIRL SCOUTS

Supervisor Sweeton and the Town Board presented the Florida Girl Scouts with certificates and proclamations for receiving their Silver Awards for outstanding achievements they have completed.

ACCEPTANCE OF MINUTES:

1. Regular Meeting, 12/6/2012

Motion Councilman DeAngelo, seconded Councilman Gerstner to accept the minutes as written from the Regular Meeting held on December 6, 2012.

Motion Carried (5 ayes, 0 nays)

CORRESPONDENCE:

ELIZABETH MITCHELL – 7 Cascade Lake Rd, Warwick – Letter to the Supervisor and Town Board asking the Town Board to waive the recreation fee in the amount of \$2,500.00 in regards to a two-lot subdivision that is before the Town Planning Board for approval. The number of homes will not increase in this instance; it's just a new lot line being created.

CULLEN O'BRIEN – C.T. Male Associates, Engineering, Surveying, Architecture & Landscaping Architecture, P.C., 652 Rte. 299, Highland, NY 12528 - Letter to the Clerk regarding key services offered by their Energy Services Group and grant writing services to examine ways of implementing energy efficiency upgrades beyond those typically considered.

LAURA BARCA, PE – HDR Engineering, Inc., 7 Coates Drive, Suite 2, Goshen, NY 10924 – Letter to the Supervisor requesting that the remaining amount of a Performance Bond in the amount of \$5,000.00 for Rock Spring Estate be released to Michael Hazard.

BEN ASTORINO – Chairman, Town of Warwick Planning Board – Letter to the Supervisor and Town Board requesting a budget transfer in the amount of \$400.00 be moved from Office Expenses (B00.00.3120.466) to Equipment (B00.00.8020.200) for the purchase of purchasing a printer and toner.

STEVE RUELKE, IAO – P.O. Box 1621, Newburgh, NY 12551 – Letter to Deborah Eurich, Assessor, asking for consideration to perform basic analyses to provide the Assessor with written documentation needed to negotiate settlements with claimants in connection with small claims assessment appeals for a flat rate of \$75.00 per parcel without field work or \$125.00 per parcel if field work is required.

THOMAS F. MCGOVERN, JR. – Police Chief, Town of Warwick Police Department – Letter to the Supervisor and Town Board requesting that Samuel L. Davies be appointed as a part time dispatcher to supplement their staffing.

BOARD’S DISCUSSION ON CORRESPONDENCE

VISITING ELECTED OFFICIALS

REPORTS OF BOARDS AND COMMISSIONS

1. **Katie O’Reilly – Warwick Valley Central School District Liaison**

COMMITTEE REPORTS

ENVIRONMENTAL CONSULTANTS REPORT

DEPARTMENT OF PUBLIC WORKS

WORK BEING

DONE

LOCATION

REASON FOR WORK

LENGTH

CULVERT PIPES	Iron Mountain Rd.	Replace pipe	20 ft. 12 in.
DITCH WORK	Iron Mountain Rd.	Clean leaves out of ditches	
TREE WORK	Walling Rd.	Clean road sides	
	Onderdonk Rd.	Clean road sides	
BRUSH PICK UP	Town wide	As needed	
POT HOLES	Town wide	As needed	
SNOW PLOWING	Town wide	Storm on Dec. 7th	
	Town wide	Storm on Dec. 24th	
	Town wide	Storm on Dec. 26th	
ROAD SIGNS	Town wide	As needed	
MAIL BOXES	Town wide	As needed	
HAUL MATERIAL	To GWL Barn	Haul sand/salt mix	

WATER DEPT. Grissom St. Repair water main

COUNCILMAN DE ANGELO REPORT

1. The Warwick Valley Humane Society would like to publicly thank the Warwick DPW Commissioners and crew for all of their help that they have provided the past year. They have received new cat cages as a result of fundraising by the group The Friends of the Warwick Valley Humane Society which can be found on Facebook. On March 10th, 2013 there is going to be another Acupuncture for Pets Clinic and it's been so successful that there's currently a waiting list due to the positive results from previous clinics. We have 130 cats needing a new home so we are in dire need of ground cat food and wood pine pellets that is used for litter.

COUNCILMAN KOWAL REPORT

1. The building at Union Corners Park has been undergoing and is almost completed. The repairs needed were from storm damage of a tree falling upon it.

COUNCILMAN GERSTNER REPORT

1. Our Recreation Commission Chairman Mike Cipolla is in the process of setting up a meeting with all of our summer rec program directors. We hope to do that after the first of the year to get everyone together and share programs so everyone is aware of what is going on around the town.
2. I would like to wish all the residents a Happy and Healthy New Year.

COUNCILMAN SHUBACK REPORT

1. I want to wish everyone a Happy New Year.

ATTORNEY'S REPORT – Absent

TOWN CLERK'S REPORT

1. Request for Proposals were received from the following vendors for elevator maintenance.

Hudson Elevator Group
963 Van Duzer St.
Staten Island, NY 10304
Tel: (877) 876-7878 5 Year Proposal: \$245.00/month

Hunter Elevator Co., Inc.
P.O. Box 1126
Monroe, NY 10950
Tel: (845) 783-2601 Proposal: \$203.25/month (service every month)

Kone, Inc.
25 Post Rd.
Albany, NY 12205
Tel: (518) 542-4685

1 Year Proposal: \$235.00/month
Payable in advance yearly (\$2,820)
\$239.70/month – semi annual
\$242.05/month – quarterly
\$244.40/month – monthly

3 Year Proposal: \$210.00/month
Payable in advance yearly (\$2,520)
\$214.20/month – semi annual
\$216.30/month – quarterly
\$218.40/month – monthly

5 Year Proposal: \$195.00/month
Payable in advance yearly (\$2,340)
\$198.90/month – semi annual
\$200.85/month – quarterly
\$202.80/month – monthly

Schindler Elevator Maintenance Proposal: \$195.00/month
12 Walker Way 8 hr. callback with major
components
Albany, NY 12205 \$110/month without major
components

Thyssenkrupp
500 Executive Blvd., Suite 135
Elmsford, NY 10523

Old 10 Year Proposal: \$339.45/month - quarterly
Yearly \$4,073.44
(\$237) month before price

adjustments

New 3 Year Proposal: \$180/monthly – quarterly in advance
Service – regularly scheduled?
Subject to annual price adjustments

Supervisor Sweeton – For the Boards information Thyssenkrupp was the vendor we had a 15 year agreement with prior to my coming here and they had a pretty good deal going. We knew that was coming up and we solicited proposals and since we're going to switch obviously to a new vendor you can see they dropped their price in hopes to keeping the business. We don't intend to go with them; we're going to select one based on all of the proposals, are all state bid companies, and we are going to take one on a one year basis.

Councilman DeAngelo – Good.

Supervisor Sweeton – Before we look into anything longer term. I'm glad we could get that corrected.

SUPERVISOR'S REPORT

1. **FEMA Repairs - Unfortunately because of the heavy rain event that we had a week or so ago with 3.5" of rain over night caused many of our streams to swell and flow heavily. A lot of these projects have been delayed by approximately 7-10 days. The most critical one is the Cascade Road Bridge that had all of its components in place. They were ready to attach and cement the wing walls when the rain event happened which breached the bypass dam and caused water to flow in both channels so we had to wait for the water to recede a little bit. We were there today and the water is now just about below where the bypass dam had given way so they can repair that and then dewater around the structure and get on with attaching the wing walls. That project now is probably looking to reopen somewhere around the week of January 8th. Ryerson Road structures are being delivered tomorrow morning and the work will be scheduled to start the beginning of next week and because that's all staged there it should go a little faster than Cascade so they are estimating the week of January 10th. Ketchum Road is pretty much complete they just have some guardrail installation but that project is done. The estimate for Black Rock Road is now January 4th for completion, Distillery Road water flow was high so they extended the completion on that until January 10th and then East Shore Road which was unrelated and wasn't a FEMA project but it was a slippage of that stack stone roadway had really been held up by O&R when O&R got inundated with the Sandy damage. They put that project lower on their list and they've notified us that they have rerouted electric through that stretch so the contractor can now begin to layout when he's going to get that work done. We will have an update at our next meeting. They are still talking about early January to finish that.**

2. **Community Preservation Fund receipts for November were \$51,320.03 which brings the total in the fund to date to \$2,706,620.89 so the \$51,000 is about what the fund has averaged since its inception.**

3. **I want to clarify a question that was raised last week this has to do with a truck. Mr. Murtie asked the question. Back in December there was a bond resolution and that was passed on December 8th and the total was \$282,000. That was the authorization of the bond resolution. That encompassed an estimate of \$70,000 for a mason dump, \$200,000 for a plow truck and \$12,000 for a mower. At that same meeting on 12/8 we passed a resolution awarding a bid for a mason dump for \$69,776.51 and then in March we passed a resolution for a mower that came in on a bid at \$10,240.00 and in April we passed a resolution for the cab and the chassis for the plow truck in the amount of \$101,828.00 and on April 12th we accepted a bid for the body in the amount of \$83,995.00 which brings the total of those purchases to \$265,839.80 which is under the \$282,000 authorization, so that is the recap of that and I will answer questions on that at the end if you would like.**

4. **Monthly Budget Review - I have completed that and the journal entries were approved so far for this month and we are working on the year-end ones.**

4. **I wish everyone a Happy, Safe and Healthy New Year and look forward to a good 2013.**

5. 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:

#R2012-295 BUDGET TRANSFERS – BOOKKEEPER

Motion Councilman Gerstner, seconded Councilman Shuback to adopt a resolution to authorize the attached budget transfers as prepared by the Bookkeeper.
Motion Carried (5 ayes, 0 nays) Supervisor declared this resolution duly adopted.

#R2012-296 APPOINTMENT OF MARRIAGE OFFICER – MICHAEL NEWHARD

Motion Supervisor Sweeton, seconded Councilman Gerstner to adopt a resolution to appoint Michael Newhard as a Marriage Officer for the remainder of 2012.
Motion Carried (5 ayes, 0 nays) Supervisor declared this resolution duly adopted.

Discussion: Supervisor Sweeton stated that the Mayor was asked to perform a wedding in the town and that's why we're appointing him.

#R2012-297 AUTHORIZATION TO SIGN STIPULATION AGREEMENT WITH TOWN OF WARWICK PBA

Motion Councilman DeAngelo, seconded Councilman Gerstner to adopt a resolution to authorize the Supervisor to sign a stipulation agreement with the Town of Warwick PBA relating to issues arising from the implementation of the experimental scheduling program.
Motion Carried (5 ayes, 0 nays) Supervisor declared this resolution duly adopted.

#R2012-298 AUTHORIZATION TO SIGN AGREEMENT WITH THE TOWN OF BLOOMING GROVE FOR CONTINUED MANAGEMENT OF TRANSPORTATION SERVICES

Motion Councilman Shuback, seconded Councilman Gerstner to adopt a resolution to authorize the Supervisor to sign an agreement with the Town of Blooming Grove for continued management of transportation services.
Motion Carried (5 ayes, 0 nays) Supervisor declared this resolution duly adopted.

Discussion: Supervisor Sweeton stated that we are renewing this at the same rate for the same service as last year and Blooming Grove approved it yesterday.

**#R2012-299 ACCEPT BID FOR ELEVATOR MAINTENANCE – HUNTER
ELEVATOR CO. INC.**

Motion Councilman Kowal, seconded Councilman DeAngelo to adopt a resolution to accept the proposal for elevator maintenance from Hunter Elevator Co. Inc, P.O. Box 1126, Monroe, NY at a cost not to exceed \$203.25 per month. Motion Carried (5 ayes, 0 nays) Supervisor declared this resolution duly adopted.

**#R2012-300 BOND RELEASE – ROCK SPRINGS ESTATES – MICHAEL
HAZARD**

Motion Councilman Gerstner, seconded Councilman DeAngelo to adopt a resolution to authorize the release of the remaining amount of the Performance Bond in the amount of \$5,000.00 to Michael Hazard for the satisfactory completion of soil erosion and stormwater management measures for Rock Springs Estates. Motion Carried (5 ayes, 0 nays) Supervisor declared this resolution duly adopted.

**#R2012-301 APPOINTMENT OF STEVE RUELKE TO CONDUCT SCAR
REVIEWS & ANALYSES**

Motion Supervisor Sweeton, seconded Councilman DeAngelo to adopt a resolution to appoint Steve Ruelke to conduct SCAR analyses for the Assessor at a flat rate of \$75.00 per parcel for basic analysis without field work and \$125.00 per parcel if field work is required. Monies for this service have been allocated in the 2012 budget. Motion Carried (5 ayes, 0 nays) Supervisor declared this resolution duly adopted.

#R2012-302 BUDGET TRANSFER – PLANNING DEPARTMENT

Motion Councilman Gerstner, seconded Councilman Shuback to adopt a resolution to approve the following Planning Department budget transfer:

FROM	TO	AMOUNT
Office Expenses	Equipment	\$400.00
(B00.00.8020.466)	(B00.00.8020.200)	

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

#R2012-303 TERMINATION OF EMPLOYMENT – MARIE KEATING

Motion Councilman DeAngelo, seconded Councilman Gerstner to adopt a resolution to terminate the employment of Marie Keating as a part time dispatcher with the Warwick Police Department effective December 27, 2012.

Roll Call Vote:

Supervisor Sweeton aye
Councilman Kowal aye

Councilman Gerstner aye
Councilman Shuback aye

Councilman DeAngelo aye

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

#R2012-304 APPOINTMENT OF PART TIME DISPATCHER – SAMUEL L. DAVIES

Motion Councilman DeAngelo, seconded Councilman Gerstner to adopt a resolution to appoint Samuel L. Davies as a part time Dispatcher at a rate of pay of \$14.15 per hour effective December 29, 2012.

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

#R2012-305 SEQR STATE ENVIRONMENTAL QUALITY REVIEW (SEQR) – BOND RESOLUTION FOR EMERGENCY CULVERT REPAIRS

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

WHEREAS, the Town Board of the Town of Warwick is considering action on a \$2.5 million bond resolution, financed by FEMA, for emergency culvert repairs on Town roads as a result of recent storms in the Town of Warwick, Orange County, New York, and

WHEREAS, after comparing the thresholds contained in 6 NYCRR 617.4 and 5, the Town Board has determined that the proposed action is a Type 2 Action that meets the thresholds found in 6 NYCRR 617.5(c)(1) and (2) and, therefore, SEQR does not apply, and

WHEREAS, the Town Board has determined that the Federal Emergency Management Agency is involved as a result of it's financing of the funds to be used for the repairs and such federal agency is not subject to SEQR.

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 the purpose for this is all of the FEMA repairs that need to be done are reimbursable by FEMA; they're not paid upfront so for us to keep the contractors working and to be able to pay them we're doing a short term financing of this until we submit for repayment from FEMA.

#R2012-306 BOND RESOLUTION - RECONSTRUCTION OF VARIOUS CULVERTS AND BRIDGES DAMAGED BY HURRICANE IRENE

Motion Councilman Kowal, seconded Councilman Gerstner to adopt the following resolution:

BOND RESOLUTION OF THE TOWN OF WARWICK, ADOPTED DECEMBER 27, 2012, AUTHORIZING RECONSTRUCTION OF VARIOUS CULVERTS AND BRIDGES DAMAGED BY HURRICANE IRENE, STATING THAT THE ESTIMATED MAXIMUM COST

THEREOF IS \$2,500,000.00, APPROPRIATING SAID AMOUNT THEREFOR, AND AUTHORIZING THE ISSUANCE OF \$2,500,000.00 SERIAL BONDS TO FINANCE SAID APPROPRIATION, AND STATING THAT THE TOWN EXPECTS TO BE REIMBURSED BY THE UNITED STATES OF AMERICA FEDERAL EMERGENCY MANAGEMENT AGENCY AND THE STATE OF NEW YORK IN AN AMOUNT NOT TO EXCEED \$2,500,000.00 AND AUTHORIZING ANY AMOUNTS SO RECEIVED TO BE EXPENDED TOWARDS THE COST OF SAID CLASS OF OBJECTS OR PURPOSES OR REDEMPTION OF ANY BONDS OR NOTES ISSUED THEREFOR OR BUDGETED AS AN OFFSET TO THE TAXES TO BE LEVIED FOR A PAYMENT OF THE PRINCIPAL OF AND INTEREST ON SAID BONDS OR NOTES.

WHEREAS, all conditions precedent to the financing of the capital project hereinafter described, including compliance with the provisions of the State Environmental Quality Review Act, have been performed; and

WHEREAS, it is now desired to authorize the financing of such capital project;

NOW THEREFORE,

BE IT RESOLVED BY THE TOWN BOARD OF THE TOWN OF WARWICK IN THE COUNTY OF ORANGE, NEW YORK, (by the favorable vote of not less than two-thirds of all the members of said Board) AS FOLLOWS:

Section 1. The Town is hereby authorized to reconstruct various culverts and bridges damaged by Hurricane Irene. The estimated maximum cost of said class of objects or purposes, including preliminary costs, cost of maps, plans, surveys, estimates, advertisements, legal documents and costs incidental hereto and the financing thereof, is \$2,500,000.00 and the said amount is hereby appropriated therefore. The plan of financing is the issuance of \$2,500,000.00 serial bonds to finance said appropriation and the levy of a tax on all the taxable real property within the Town to pay the principal of said bonds and interest thereon as the same shall become due and payable. It is expected that the United States of America Federal Emergency Management Agency and the State of New York will reimburse the Town in an amount not to exceed \$2,500,000.00 and the Town is hereby authorized to expend any amounts so received towards the cost of said class of objects or purposes or redemption of said bonds or any bond anticipation notes issued in anticipation of the sale of such bonds or to be budgeted as an offset to taxes to be levied for payment of such principal and interest.

Section 2. Serial bonds in the principal amount of \$2,500,000.00 are hereby authorized to be issued pursuant to the Local Finance Law, constituting Chapter 33-a of the Consolidated Laws of the State of New York (herein called "Law"), to finance said appropriation.

Section 3. The following additional matters are hereby determined and stated:

a) The period of probable usefulness applicable to the purpose for which said serial bonds herein authorized are to be issued, within the limitations of Section 11.00a.10 of the Law, is twenty (20) years.

b) The proposed maturity of the bonds authorized by this resolution will not exceed five (5) years.

c) The proceeds of the bonds herein authorized and any bond anticipation notes issued in anticipation of said bonds may be applied to reimburse the Town for expenditures made after the effective date of this resolution for the purpose for which said bonds are authorized. The foregoing statement of intent with respect to reimbursement is made in conformity with Treasury Regulation Section 1.150-2 of the United States Treasury Department.

d) Current funds are required by the Law to be provided as a down payment prior to the issuance of the bonds herein authorized or any notes in anticipation of the sale of such bonds, and, the sum of \$ is hereby appropriated for such down payment. Provision for down payment on bonds, and transfer there from to the capital account for this project is hereby specifically authorized and directed.

Section 4. The bonds authorized by this resolution and any bond anticipation notes in anticipation of the sale of said bonds, shall contain the recital of validity prescribed by Sec. 52.00 of the Law and said bonds and any notes issued in anticipation of such bonds, shall be general obligations of the Town, payable as to both principal and interest by a general tax upon all the taxable real property within the Town without limitation of rate or amount. The faith and credit of the Town are hereby irrevocably pledged to the punctual payment of the principal of and interest of said bonds and any notes issued in anticipation of said bonds, and provisions shall be made annually in the budget of the Town by appropriation for (a) the amortization and redemption of the bonds and notes to mature in each year and (b) the payment of interest to be due and payable in each year.

Section 5. Subject to the provisions of this resolution and of the Law and pursuant to the provisions of Sec. 21.00 relative to the authorization of the issuance of bonds with substantially level or declining annual debt service, and of Sec.30.00 relative to the authorization of the issuance of bond anticipation notes and of Sec. 50.00 and Sec. 56.00 to 60.00 and 168.00 of the Law, the powers and duties of the Town Board relative to authorizing bond anticipation notes and prescribing the terms, form and contents as to the sale and issuance of the bonds herein authorized and of any bond anticipation notes issued in anticipation of said bonds, and the renewals of said bond anticipation notes, and relative to providing for substantially level or declining annual debt service, are hereby delegated to the Town Supervisor, the chief fiscal officer of the Town.

Section 6. The validity of the bonds authorized by this resolution and of any notes issued in anticipation of said bonds, may be contested only if:

- (a) such obligations are authorized for an object or purpose of which the Town is not authorized to expend money, or
- (b) the provisions of the 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 days after the date of such publication or

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

Section 7. This resolution shall take effect immediately.

Section 8. The object or purpose described in Section 1 hereof has been determined to be a Type II Action pursuant to the regulations of the New York State Department of Environmental Conservation promulgated pursuant to the State Environmental Quality Review Act.

RESOLVED BY THE TOWN BOARD OF THE TOWN OF WARWICK IN THE COUNTY OF ORANGE, NEW YORK, AS FOLLOWS:

Section 1. The Town Clerk is hereby authorized and directed to publish the foregoing bond resolution, in summary, in the WARWICK VALLEY DISPATCH, a newspaper published in Warwick, New York, the official newspaper of said Town and having a general circulation therein, together with Notice attached in substantially the form as prescribed by Sec. 81.00 of the Local Finance Law of the State of New York.

Section 2. This resolution shall take effect immediately.

Roll Call Vote:

Supervisor Sweeton aye	Councilman Gerstner aye
Councilman Kowal aye	Councilman Shuback aye
Councilman DeAngelo aye	

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

#R2012-307 SEQR STATE ENVIRONMENTAL QUALITY REVIEW (SEQR) – BOND RESOLUTION FOR ACQUISITION OF DEVELOPMENT RIGHTS FOR BOLLENBACH FARM LLC

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

WHEREAS, the Town Board of the Town of Warwick is considering action on a \$1.962 million bond resolution for the acquisition of development rights of the Bollenbach Farm LLC in the Town of Warwick, Orange County, New York, and

WHEREAS, after comparing the thresholds contained in 6 NYCRR 617.4 and 5, the Town Board has determined that the proposed action is a Type 2 Action that meets the thresholds found in 6 NYCRR 617.5(c)(1) and (2) and, therefore, SEQR does not apply.

**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.**

#R2012-308 BOND RESOLUTION –AUTHORIZATION TO ACQUIRE DEVELOPMENT RIGHTS FOR BOLLENBACH FARMS LLC

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

BOND RESOLUTION OF THE TOWN OF WARWICK, ADOPTED DECEMBER 27, 2012, AUTHORIZING THE PURCHASE OF OPEN SPACES AND AREAS, STATING THAT THE ESTIMATED MAXIMUM COST THEREOF IS \$1,962,000.00, APPROPRIATING SAID AMOUNT THEREFOR, PROVIDING FOR A DOWN PAYMENT OF \$582,000.00 FROM CURRENT FUNDS AND AUTHORIZING THE ISSUANCE OF \$1,380,000.00 SERIAL BONDS TO FINANCE THE BALANCE OF SAID APPROPRIATION

WHEREAS, all conditions precedent to the financing of the capital project hereinafter described, including the filing of a negative declaration and compliance with the provisions of the State Environmental Quality Review Act, have been performed; and

WHEREAS, it is now desired to authorize the financing of such capital project;

NOW, THEREFORE,

BE IT RESOLVED BY THE TOWN BOARD OF THE TOWN OF WARWICK IN THE COUNTY OF ORANGE, NEW YORK, (by the favorable vote of not less than two-thirds of all the members of said Board) AS FOLLOWS:

Section 1. The Town is authorized to acquire open spaces and areas pursuant to General Municipal Law Section 247 from Bollenbach Farms, LLC and Mary V. Bollenbach and John D. Bollenbach. Acquisition of open spaces and areas includes, among other things, the purchase of development rights in farmland to preclude residential or other development of such properties. All or a portion of the indebtedness for such purpose may be issued in the form of land installment purchase obligations pursuant to Local Finance Law Section 29.10. The estimated maximum cost of said specific object or purpose, including preliminary costs, cost of maps, plans, surveys, estimates, advertisements, legal documents and costs incidental thereto and the financing thereof, is \$1,962,000.00 and the said amount is hereby appropriated therefore. The plan of financing is the payment of \$582,000.00 from current funds and the issuance of \$1,380,000.00 serial bonds to finance the balance of said appropriation and the levy of a tax on all the taxable real property within the Town to pay the principal of said bonds and interest thereon as the same shall become due and payable.

Section 2. Serial bonds in the principal amount of \$1,380,000.00 are hereby authorized to be issued pursuant to the Local Finance Law, constituting Chapter 33-a of the Consolidated Laws of the State of New York (herein called "Law"), to finance said appropriation.

Comment [Comment1]: TITLE: (Keep)
(Delete) down payment clause

Comment [Comment2]: ection 1:
(Keep) (Delete) "cost of maps, plans, surveys, estimates, advertisements,"
(Keep) (Delete) down payment clause

Section 3. The following additional matters are hereby determined and stated:

- a) The period of probable usefulness applicable to the purpose for which said serial bonds herein authorized are to be issued, within the limitations of Section 11.00a.21 of the Law, is thirty (30) years.
- b) The proposed maturity of the bonds authorized by this resolution will exceed five (5) years.
- c) The proceeds of the bonds herein authorized and any bond anticipation notes issued in anticipation of said bonds may be applied to reimburse the Town for expenditures made after the effective date of this resolution for the purpose for which said bonds are authorized. The foregoing statement of intent with respect to reimbursement is made in conformity with Treasury Regulation Section 1.150-2 of the United States Treasury Department.

Section 4. The bonds authorized by this resolution and any bond anticipation notes in anticipation of the sale of said bonds shall contain the recital of validity prescribed by Sec. 52.00 of the Law, and said bonds and any notes issued in anticipation of such bonds shall be general obligations of the Town, payable as to both principal and interest by a general tax upon all the taxable real property within the Town without limitation of rate or amount. The faith and credit of the Town are hereby irrevocably pledged to the punctual payment of the principal of and interest of said bonds and any notes issued in anticipation of said bonds, and provisions shall be made annually in the budget of the Town by appropriation for (a) the amortization and redemption of the bonds and notes to mature in each year and (b) the payment of interest to be due and payable in each year.

Section 5. Subject to the provisions of this resolution and of the Law and pursuant to the provisions of Sec. 21.00 relative to the authorization of the issuance of bonds with substantially level or declining annual debt service, and of Sec.30.00 relative to the authorization of the issuance of bond anticipation notes and of Sec. 50.00 and Sec. 56.00 to 60.00 and 168.00 of the Law, the powers and duties of the Town Board relative to authorizing bond anticipation notes and prescribing the terms, form and contents as to the sale and issuance of the bonds herein authorized and of any bond anticipation notes issued in anticipation of said bonds, and the renewals of said bond anticipation notes, and relative to providing for substantially level or declining annual debt service, are hereby delegated to the Town Supervisor, the chief fiscal officer of the Town.

Section 6. The validity of the bonds authorized by this resolution and of any notes issued in anticipation of said bonds, may be contested only if:

- (a) such obligations are authorized for an object or purpose of which the Town is not authorized to expend money, or
- (b) the provisions of the 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 days after the date of such publication or

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

Section 7. This resolution is subject to permissive referendum.

Section 8. The object or purpose described in Section 1 hereof has been determined to be an unlisted Action or non Action pursuant to the regulations of the New York State Department of Environmental Conservation promulgated pursuant to the State Environmental Quality Review Act, with respect to which said Town Board has made a "Negative Declaration" based on review and consideration of a Long Environmental Assessment Form.

RESOLVED BY THE TOWN BOARD OF THE TOWN OF WARWICK IN THE COUNTY OF ORANGE, NEW YORK, AS FOLLOWS:

Section 1. The Town Clerk is hereby authorized and directed to publish the foregoing bond resolution, in summary, in WARWICK VALLEY DISPATCH, a newspaper published in Warwick, New York, the official newspaper of said Town and having a general circulation therein, together with Notice attached in substantially the form as prescribed by Sec. 81.00 of the Local Finance Law of the State of New York.

Section 2. This resolution shall take effect immediately.

Roll Call Vote:

Supervisor Sweeton aye	Councilman Gerstner aye
Councilman Kowal aye	Councilman Shuback aye
Councilman DeAngelo aye	

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

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

PRIVILEGE OF THE FLOOR (GENERAL)

Richard Murtie – Resident, Town of Warwick, NY 10990 – In regards to the plow truck that meeting came up December 8th like you said and the truck when I questioned it December 8th, it wasn't December 8th I'm sorry it was April 12th if that was the same truck that was authorized to purchase in December. I think I showed you all this where it said it was an International chassis model 4x4 with a four season dump body, with the body, accessories and all for \$200,000. I did my homework before I came back here and Mr. Shuback said that truck was just the cab and chassis for \$200,000 and then the night I brought it up again Mr. Astorino was here and said that truck was \$191,000. My only question was the fact that in December when it was authorized for \$200,000 that in April you're looking for another \$84,000 to finish the truck.

Supervisor Sweeton – No, no let me clarify again for you. Ok let me clarify one more time for you, there was one bond resolution in December for \$282,000.

Richard Murtie – Yes.

Supervisor Sweeton – Which included an estimate for a complete plow truck for \$200,000.

Richard Murtie – Yes.

Supervisor Sweeton – Subsequently there were two bids accepted.

Richard Murtie – Yes.

Supervisor Sweeton – One was for the cab and chassis, whatever you want to call it. I'm not a truck guy but the thing you drive in and the frame for \$101,000 and change subsequently a body to go on that truck....

Richard Murtie – Yes.

Supervisor Sweeton – Was bid and the bid was accepted for \$83,000 plus for a total of \$185,000 under the \$200,000 in the original bond resolution. They were no additional bond resolutions and no additional payments other than the \$184,000 for that truck, so if I gave you misinformation the day in April that you asked me the question I apologized for that at least once maybe twice, so I'm telling you again there was one bond resolution for \$282,000 for a mason dump, a mower and a complete plow truck.

Richard Murtie – That was in December?

Supervisor Sweeton – Correct.

Richard Murtie – Then why were you looking for \$84,000 more?

Supervisor Sweeton – Incorrect, a bid was accepted in April for \$83,000. That was a bid. We were not issuing any further bonds. That bid was accepted under the original bond resolution.

Richard Murtie – Ok.

Supervisor Sweeton – Did I clarify that?

Richard Murtie – Somewhat, because when I asked Mr. Astorino he said it was \$191,000.

Supervisor Sweeton – Yeah, that was off the top of his head that night at that meeting correct, so I'm giving the exact numbers which I read to you during my report. The body was \$83,995.00 resolution #R2012-124, the cab and chassis was \$101,828.29 on resolution #R2012-124.

Richard Murtie – That number was never in any paperwork, never.

Supervisor Sweeton – Well you can go back to the minutes it's in the bid which is a state bid right off the state list.

Richard Murtie – I have all the minutes and nowhere is it.

Supervisor Sweeton – Right off the state list which we are authorized to do, the state bid list. It was a state bid cab and chassis.

Councilman Shuback – On a state bid you don't have to go to multiple bids.

Supervisor Sweeton – That's right, you don't have to go to multiple bids you take it off the state bid list, which is exactly what was done.

Richard Murtie – Then typically there was three bids.

Supervisor Sweeton – Not off the state bid list, it's not required.

Richard Murtie – That other number the \$101,000 was never printed anywhere in the agenda or the minutes and when I asked in April you said you were going to make an addendum to it and in eight months you haven't, so I appreciate you doing your homework now for it.

Supervisor Sweeton – No problem.

Richard Murtie – Thank you.

Bill Makofsky – Resident, Town of Warwick, NY 10990 – I talked to you before about the ban on fracking and I would just like to spend a moment tonight because it seemed appropriate at the end of the year to think about the future. There is a lot of uncertainty attached with fracking and I would like to address some of those uncertainties. What exactly are we certain about and what are uncertainties, well we're fairly certain that the state will issue fracking regulations at the end of February, that seems pretty certain. It also seems pretty certain that Home Rule, the ability of local municipalities to issue regulations, will be curtailed once the state comes out and issues regulations. It is also certain that we underline a portion of the Utica shale in Warwick, there's no uncertainty on that. We were led to believe it was different but there is no uncertainty on that. It also seems to me very certain that the organic content, that's the amount of gas and oil in that shale, is much lower in this region that is to the Marcellus and the Utica shale to the west of us.

They have about 2 to 3% organic content and we have less than 1%. On the other hand, John Conrad who was a speaker here, if he could enlighten me on the organic content of the Utica shale in Warwick and he said there has been so little exploration that we really don't know what to bank on this. We know it's probably less than 1% based on USGS studies though we don't know really what it is. I would like to take a slightly different view of this and I'm sure Mr. Sweeton will agree with me the history of resource extraction shows that the highest concentrations are always extracted first because they are the most profitable, well technological advancement and increasing scarcity allows lower concentrations to be profitably extracted as things go on. To put this into perspective for the gas no one thought any of the gas in the Marcellus shale was able to be extracted as little as 10 years ago. When we talk about uncertainties and not knowing there was definitely a lot of uncertainty then. Secondly, no one thought the United States would ever export natural gas, today however, the price of natural gas in some countries is as high as \$14 per thousand cubic feet and it's about \$3 per cubic feet in this country. There's increasing pressure to export the natural gas that's being extracted from fracking and indeed there's pressure to build export facilities that can liquefy the gas and send it overseas. I want to raise the question if gas extraction at 2% in the Marcellus is highly profitable today, who is to say that an amount below 1% will not be considered exploitable in the future? Suppose it was half a percent that's only a factor of four between that and the 2% that's being extracted today. I think we should be cautious in our assessment about what can or cannot happen in the future even in the relatively near future and we should also realize while improved technology and increasing scarcity might provide impetus to extract gas in Warwick in the future. It may not allow the gas to be extracted more safely regardless of any regulations that are put into place in Albany. So if we agree that fracking as it is currently done is not a good thing for Warwick, now or perhaps you think as we do that it would be a disaster for Warwick, then just the possibility of these future events should impel us to act now to ensure Warwick's citizens safety, health and economic security as best as we can. That is why we should enact a ban on fracking.

Supervisor Sweeton – So you are aware our Planner, Ted Fink, has been asked to provide some options for the town on how we should possibly address this; so we eagerly await those.

Mary Makofsky – Resident, Town of Warwick, NY 10990 – I think there's a much more immediate threat as Bill said we don't know what the future is going to be with the Utica shale, but the more immediate threat that I see is with the waste from fracking that they've already got in Pennsylvania. If we are going to open up New York State to fracking they'll be fracking to the west of us and we will have all this waste and people will be looking for places to put them. I'm really concerned that we have something in place to protect us from having it disposed of here, stored here or have it used as a deicer which has been done in some place because these things are so full of dangerous chemicals and there are a number of them arsenic, mercury, lead, toluene, benzene, methanol, there's a huge list. I thought I would read a quick

quotation from a report of chemicals used in hydraulic fracking from the US House of Representatives New York Energy and Commerce this was April 2011. In the conclusion they go through the whole list of many chemicals suspected carcinogens, non-carcinogens neurotoxins and so forth. In the conclusion it says between 2005 and 2011 the 14 leading hydraulic fracking companies in the United States used over 2,500 hydraulic fracking products containing 750 compounds. More than 650 of these products contained chemicals that have none or possible human carcinogens regulated under the Safe Drinking Water Act or listed as hazardous air pollution. Fracking is not regulated and has exemptions from the Clean Drinking Water Act, Clean Air Act, but all the other industries have to have regulations on all of these. I think this is really, really important for us and we don't want this to come here. I'm still a little confused and I know you're still working on it but I would like to know what the schedule looks like that we were sort of hoping that there would be some laws or a law published and put out there for a public hearing. I'm just wondering what the progress is on that?

Supervisor Sweeton – The progress is Ted is working up different possibilities. One thing that made complete sense to us was whether you call it a resolution or whatever you want to call it I'm not using that product as a road deicer. That made complete sense and that's just a resolution that probably will happen I would guess by the next meeting. We don't want to do it piecemeal; we want to see what Ted has come up with. Bill had mentioned about the Utica shale thing and there are different maps that have come out and Ted has provided one and he trying to refine that because apparently there's different levels of productivity in some of these Utica shale deposits, so he's trying to put those maps together for us. We understand potentially a deadline of the end of February from the State, it could be sooner, so we understand there's some sense to move forward but we don't want to do it piecemeal.

Mary Makofsky – Ok, so there looks like there's going to be some kind of a law coming up.

Supervisor Sweeton – When I met with Ted at the last Planning Board meeting which was last week we talked about some of his research and he will have something to us by the middle of January at the latest. He's been involved with different communities on this particular issue so it's not like he has to start from ground zero.

Mary Makofsky – So you would expect that he would make a report by January.

Supervisor Sweeton – Yes, something that the Board could be in a position to consider.

Mary Makofsky – What would happen? Would a law be drawn up and there would be an announcement of a public hearing?

Supervisor Sweeton – In order to set the hearing you have to have a law, yeah. You have to have what you’re considering enacting.

Mary Makofsky – Ok, basically what my real concern is, and I think what all of our concern is, we would like to see this discussed publicly and we really need to have some kind of a forum for the public. We want to know what your positions are and why and if you would be opposed to or in favor of banning fracking and doing any other restrictions on the waste water or solid waste that someone might be looking to put somewhere.

Supervisor Sweeton – You have to go back to our regulations you couldn’t make a deal with a company to store fracking liquid on your land. You would have to go through the planning process. You can’t clear more than a quarter of an acre of land without going through a whole SEQRA process, the planning process if there’s no use in our zoning to do it, so it’s essentially illegal to do it. To have someone come down here and say Jeff has 10 acres and I need 3 acres of it to store fracking liquid it’s not going to happen, it can’t under our current zoning today as it exists.

Mary Makofsky – Ok, or putting it into any waterways or private property.

Supervisor Sweeton – Right, you can’t. So those things are in place but could we use it on the roads yes, but that’s a decision that we would have to make as managers and we already said we are not going to do that plus it’s impractical for us anyway. If we have to formalize that in a resolution the Board would be happy to do that.

Mary Makofsky – I think there’s going to be a lot of people who would like to know exactly why the decision is being made. I just don’t want it to come up to a vote and you say we’re just not going to consider it. I really wanted it out there so people can be here to talk about it and ask questions.

Supervisor Sweeton – I think we said from the beginning regardless of what happens we kind of want to, I personally want to hear more from people. I was at the forum and essentially the room was full of people who were kind of against it for the most part so what does everybody else think, I don’t know. I’ve started to talk I went to Rotary this week and asked them their opinions and I’m going to continue to do that and then we would have some kind of a public hearing.

Geoff Howard - Resident of Town of Warwick, NY 10990 - Tape malfunction

Brian Baird – Resident, Town of Warwick, NY 10990 – I talked to a lot of people in the Warwick area about this topic of fracking and it seems like despite any typical convenience for the populous of Warwick, it seems to be a 10 to 1 or 8 to 1 body count of support of banning of fracking. I swing in some fairly conservative circles and have a lot of conversations with people who get fairly upset with me initially about the fact that I am anti-business. A year ago I would have been sitting on the

same side of the conversation as them but I've been doing a lot of work to understand what fracking is all about. I want to highlight some notes from the arguments that I have gotten from people who thought banning of fracking was a bad thing and point out the things that I thought were irrelevant counterpoints to them. One is fracking is not coming to Warwick that was mentioned a few times by people. There is no certainty either way at this time but it seems as Bill pointed out the industry has the need for finding profitable exploitation exploration they will continue to go where there are thin resources and that's been demonstrated in other industries as well. If it's not banned and it does come to Warwick as we already pointed out it's not compatible with the Comprehensive Plan, local businesses and the way of life and the economics of our local community. From my perspective we need control and we need the option to say no and Home Rule is the only way to apply that. Industry activity water taking, waste disposal are also a real tragedy and we've already outlined it. Property rights, our rights are severely limited by reminding me of my ability to sell my rights to somebody to make money for exploitation exploration of such gases. I firmly believe even if I wanted to my rights should severely be limited by the risks to others it might impose. The reality is in other parts of the country this has been shown environmentally challenging and not necessarily the economic boom that's been published in the New York Times and a few other locations as well. It's been demonstrated and published in the New York State Bar Journal that insurance, mortgages, property values and most of New York forces leases become a factor of loss property rights. My property would be devalued by the industry, I'd be forced into a lease by the industry, I could lose my mortgage or the ability to get a second mortgage or sell my property and insurance can be cancelled on me because I'm involved or near a fracking site. Protection by government, the DEC is not focused on whether it's a yes or no issue. They are not saying if it's safe or not they are saying how are we going to do this because that's what their job is right now. The DEC has already created a law, a regulation allowing 100,000 gallons of water to be secreted from public sources everyday so it's not like that is protection so in Warwick if you take one of our bodies of water and take out 100,000 gallons of water everyday just for this industry that would be a very serious problem. Compulsory integration I don't see that law that's the one that allows you to be forced into a lease. I don't see that as protecting me but as something that breeches my property rights it doesn't support them. If the government was really protecting us the industry wouldn't have fought and received exemptions from the Clean Air and Clean Water Acts and there is no fracking waste regulation in place so they really can dispose of the way they best see fit. Industry claims that it's a safe process you'd have to be exempt from the Clean Water Act and Clean Air Act which seems counterintuitive or counterproductive in terms of thinking. Industry data shows 7% of all wells that they start fail at start so that means contaminants right there at the land surface. Six hundred plus chemicals including biochemical lubricants for in and out process and then out of the material that comes out can be super saline that can kill plant and animal life and radioactive and there are no restrictions on this waste because of that exemption from the Clean Air and Water Act. The government is over reaching that's another thing I hear, so I really want to remind people that ok maybe the government might be over

reaching government services safely first but not necessarily and governs other people so people should have the responsibility of making sure government serves them and rights anybody down when they put other rights at risk particularly safety, health and cleanliness. I've been told this is a political battle between pro-business and tree huggers stay out of it I've heard that many times and I said no this is a safety and protection issue this is not a political issue. I am a pro-business person by the way and I find that the challenge to this industry is as much as it might be pro-business topic for them it's incompatible with our way of life. This community that I moved into would not be the same if we had fracking or the fracking waste brought in. The last thing I want to point out is the economics; the industry is talking about economics to the person who owns the land to be leased that it will bring jobs to the community and things like that. So far the jobs have always come from elsewhere never the community. Any interim bloom that they bring to the local economy it's always been interim so they may support industries like restaurants and hotels temporarily but when they leave it's forgotten, so its not long term. Our economy is based on agriculture and tourism and things like that and those are not compatible with this industry so I just want to reassert things you might have already heard and consolidate them based on the arguments against the banning of fracking. I feel that there are enough positive counterpoints the ones that are making most sense to outweigh these arguments of not supporting it.

Supervisor Sweeton – I appreciate that thank you.

Paula Cornine – Resident, Town of Warwick, NY 10990 - I just want a quick verification the 2.5 million from FEMA you're going to levy taxes to pay for that?

Supervisor Sweeton – No, we're just putting in place a short term borrowing of that money until we can get the reimbursement from FEMA, so we'll do like we do with many bans, bond anticipation notes, with one of our banks in an up to 2.5 million dollar loan. The projects are getting completed as we speak and we've paid some out of our reserves but we don't want to deplete those reserves so we can get the projects done. As soon as we get the projects done and we have the checks we can submit them all to FEMA and we'll get the checks back which takes 30 to 35 days. We're just getting authorization to get the money so we can pay the contractors, wrap the projects up and get reimbursed from FEMA. The money from FEMA has already gone to the state so it's sitting in the state as a pool and it's just a matter of getting the reimbursement back them. There's no levy of taxes on anybody.

Paula Cornine – You'll pay the loan.

Supervisor Sweeton – Correct, it's likely we'll pay that note within six months but it'll be a one year note because that's the way they're set up. The projects are all getting done right now.

Paula Cornine – The Bollenbach thing the community preservation what was that?

Supervisor Sweeton – It’s part of our farmland preservation programs.

Paula Cornine – PDR.

Supervisor Sweeton – PDR, the Bollenbach Farm has been in the process for 3.5 years now. It was one that got awarded 75% from the State of New York. When the fiscal crisis happened the State of New York said we’re getting out of the business, we just shelved the Bollenbach Farm. About a year ago they closed on we had 2 farms the Bellvale Iron Forge Farm and the Bollenbach Farm. The Bellvale Farm was very close when they shut everything down and about a year ago we got an email that said we’re ready to close on the Bellvale Farm if you are and we did and they sent us the money. We just shelved the Bollenbach Farm because we figured the States out of the business, there’s no more money and we don’t have enough in the Community Preservation Fund to do it so we’ll just let it go. Well low and behold three months ago we got a letter from the State saying we haven’t heard anything are you going to do anything with the Bollenbach Farm? So we scrambled to try to get the 290 acre farm closed and that’s what this bond resolution is doing. It’s going to allow us to close on that farm getting reimbursed 75% from the State of New York, so of the 1.9 million the State is going to give us 75% of that and the 580,000 is coming from the Community Preservation Fund, again there’s no tax levy to anybody on that. The money for these farms going forward unlike PDR which was the bond referendum the money for farm preservation going forward is all coming out of the Preservation Fund which is not a general tax but a payment by someone who purchases property.

ADJOURN: Motion Councilman Shuback, seconded Councilman Gerstner that the regular meeting be adjourned. Motion Carried (5 ayes, 0 nays) 8:45 p.m. 12-27-12 CP.

Marjorie Quackenbush, Town Clerk