

February 5, 2014

Two Public Hearings and the regular monthly meeting of the Lockport Town Board were conducted at 7:30 p.m. on Wednesday, February 5, 2014, at the Town Hall, 6560 Dysinger Road, Lockport, New York.

Present were: Supervisor: Marc R. Smith
Town Council Members: Mark C. Crocker
Paul J. Siejak
Thomas J. Keough
Absent: Patricia Dufour

Also present: Nancy A. Brooks, Town Clerk; Michael J. Norris, Town Attorney; David J. Miller, Town Highway Superintendent; Judith Newbold, Deputy Town Clerk; and Robert Klavoon, of Audubon Engineering (Wendel).

Following the Pledge of Allegiance, Supervisor Smith opened the meeting as follows:

OATH OF OFFICE ADMINISTERED: Thomas J. Keough, Town Councilman

Town Justice, Cheryl A. Antkowiak, administered the Oath of Office to newly appointed Councilman, Thomas J. Keough. Councilman Keough was appointed by the Town Board to fill the vacancy left when Cheryl Antkowiak was elected to the position of Town Justice. Judge Antkowiak congratulated Mr. Keough and wished him well as he fills the position she once occupied.

PUBLIC HEARING: to Consider Certain Capital Improvements to Town of Lockport Sewer District #3.

The Town Clerk read a summary of the Notice of Public Hearing as was published in the Union Sun Journal on January 22, 2014. Councilman Siejak read a short statement in which he made argument that the proposed Capital Improvement projects for both Sewer District #3 and Water District #3 are in the public's interest and are needed to continue the integrity of the Town's sewer and water infrastructure. He added that the Town's infrastructure is aging and that improvements made now will cut the costs of "band aide" fixes which occur when Town highways must be dug up to make repairs, and will also result in the reduction of the Town's current water losses which are estimated to be at 33%, when the industry's average is near 15%. Supervisor Smith then opened the floor for public comment.

Mr. John Benoit, speaking as Chairman and on behalf of the Eastern Niagara Chamber of Commerce, stated that the local businesses are very much in favor of the Town investing in its infrastructure at this time, citing that it will encourage growth and development in the local economy now and in the foreseeable future.

No others spoke on the matter and the Public Hearing was closed.

PUBLIC HEARING: to Consider Certain Capital Improvements to the Town of Lockport Water District #3

The Town Clerk read a summary of the Notice of Public Hearing as was published in the Union Sun Journal on January 22, 2014. Supervisor Smith opened the floor for public comment. No one spoke to the matter; the Public Hearing was closed and the regular business meeting was opened.

Continued next page

REGULAR BUSINESS MEETING:

1. Approval of Minutes

MOTION (2014-38) to approve the Town Board minutes of 01/06/2014, 01/08/2014, and 01/22/2014 was made by Council Member Siejak and seconded by Council Member Crocker. The motion was CARRIED: AYES-4, NAYS-0. Voting AYE: Siejak, Crocker, Keough and Smith.

2. Approval of Payment of Bills

MOTION (2014-39) to approve the payment of the bills for the month of February was made by Council Member Crocker and seconded by Council Member Keough. The motion was CARRIED: AYES-4, NAYS-0. Voting AYE: Siejak, Crocker, Keough and Smith.

3. Communications.

The Town Clerk read the names of candidates for volunteer fire service who were approved through the Town Fire Prevention Bureau and who required Town Board approval. The list of candidates are as follows:

Eric E. Comins.....Rapids Fire Co.
Jenna L. Kreutinger.....Rapids Fire Co.
Ryan E. Little.....Wr. Corners Fire Co.

MOTION (2014-40) to accept the candidates listed above for volunteer fire service in the Town of Lockport was made by Council Member Siejak and seconded by Council Member Crocker. The motion was CARRIED: AYES-4, NAYS-0. Voting AYE: Siejak, Crocker, Keough and Smith.

4. Building Inspector's Report

Supervisor Smith read the report for the month of January 2014 which states that 16 building permits were issued; \$49,418.65 was collected in fees; and the estimated cost of construction was \$170,136,960.00 Supervisor Smith added that the large figure in the estimated cost of construction reflected the soon to begin Yahoo, Inc. construction in the Industrial Development Park.

MOTION (2014-41) to approve the Building Inspector's Report as submitted was made by Council Member Keough and seconded by Council Member Crocker. The motion was CARRIED: AYES-4, NAYS-0. Voting AYE: Siejak, Crocker, Keough and Smith.

5. Supervisor's Monthly Financial Report

MOTION (2014-42) to approve the Supervisor's Monthly Financial Report which was previously submitted at the Town Board work session on February 3, 2014 was made by Council Member Crocker and seconded by Council Member Siejak. The motion was CARRIED: AYES-4, NAYS-0. Voting AYE: Siejak, Crocker, Keough and Smith.

6. Authorization for Contract with Niagara County Historical Society

MOTION (2014-43) to authorize the Supervisor to enter an agreement with the Niagara County Historical Society to provide discount passes to the Erie Canal Discovery Center was made by Council Member Crocker and seconded by Council Member Keough. The motion was CARRIED: AYES-4, NAYS-0. Voting AYE: Siejak, Crocker, Keough and Smith.

7. Authorization for Bark for Life of WNY to Conduct Fund Raiser

MOTION (2014-44) to authorize Bark for Life of WNY to conduct a fund raiser to benefit the American Cancer Society, to be held at the Day Road Park on August 24, 2014 from 9:00 a.m. – 2:00 p.m., was made by Council Member Siejak and seconded by Council Member Keough. The motion was CARRIED: AYES-4, NAYS-0. Voting AYE: Siejak, Crocker, Keough and Smith.

8. Authorization to fill the position of Real Property Appraisal Technician

MOTION (2014-45) to authorize the Town Assessor to hire Casey Anderson to the position of Real Property Appraisal Technician at a salary of \$16.50 per hour was made by Council Member Keough and seconded by Council Member Crocker. The motion was CARRIED: AYES-4, NAYS-0. Voting AYE: Siejak, Crocker, Keough and Smith.

9. Resolution: Determination of Type II Action of Non Significance under SEQRA for Capital Improvements to Sewer District #3.

MOTION (2014-46) on a motion by Council Member Siejak and seconded by Council Member Keough, the following resolution was duly ADOPTED: AYES-4, NAYS-0. Voting AYE: Siejak, Crocker, Keough and Smith.

**TOWN OF LOCKPORT
RESOLUTION**

Whereas, the Town of Lockport will be funding the Sewer District No. 3 Capital Improvements through the issuance of a Bond and completing the project in accordance with the Map, Plan and Report dated December 2013; and

Whereas, the funding of a project and the subsequent construction of these improvements are subject to the New York State Environmental Quality Review Act, SEQRA; and

Whereas, the proposed project has been determined to be a Type II action under SEQR [Section 617.5 (c)] in that the project involves the replacement, rehabilitation or reconstruction of a structure, facility, in kind, on the same site, and a short EAF has been completed for the project; and

Whereas, in accordance with the State Environmental Quality Review Act (SEQRA), Type II actions have been determined to not have a significant impact on the environment or are otherwise precluded from environmental review under Conservation Law, Article 8.

Now, Therefore, Be It Resolved, that the Lockport Town Board hereby determines that the proposed project is a Type II action and therefore is not anticipated to result in any significant adverse environmental impact, and in accordance with SEQR, no SEQR determination of significance, EIS or findings statement is required, and

Be It Finally Resolved, that the Supervisor is authorized to sign the EAF, and the EAF and associated materials will be placed in the Town's files.

10. Resolution: Determination of Negative Declaration under SEQRA for Capital Improvements to Water District No. 3

Speaking to the Town Board's issuance of a Negative Declaration under SEQRA for the proposed Capital Improvements to Water District No. 3, Mr. Norris read the recommended responses for Part II and Part III of the short Environmental Assessment Form after which the Town Board took action as follows:

MOTION (2014-47) on a motion by Council Member Crocker and seconded by Council Member Siejak, the following resolution was duly ADOPTED: AYES-4, NAYS-0. Voting AYE: Siejak, Crocker, Keough and Smith.

**TOWN OF LOCKPORT
RESOLUTION**

Whereas, the Town of Lockport will be funding the Water District No. 3 Capital Improvements through the issuance of a Bond and completing the project in accordance with the Map, Plan and Report dated December 2013; and

Whereas, the funding of a project and the subsequent construction of these improvements are subject to the New York State Environmental Quality Review Act, SEQRA; and

Whereas, the proposed project has been determined to be an Unlisted Action under SEQR and a short EAF has been completed for the project; and

Whereas, the Lockport Town Board, in accordance with the State Environmental Quality Review Act (SEQRA) has determined that the proposed project will not adversely affect the natural resources of the State and/or the health, safety and welfare of the public and is consistent with social and economic consideration, based on completion of Parts 1, 2 and 3 of the EAF.

Now, Therefore, Be It Resolved, that the Lockport Town Board hereby determines that the proposed project is not anticipated to result in any significant adverse environmental impact and issues a Negative Declaration (authorizing the attached short EAF to act as the SEQR Negative Declaration in accordance with recent SEQR amendments), and the Supervisor is authorized to sign the EAF.

11. Authorization for Contract with Wendel for Survey & Design of Sidewalks on Locust Street and Shimer Drive

MOTION (2014-48) to authorize the Supervisor to enter an agreement with Wendel to provide survey & design for new sidewalks along Locust Street and Shimer Drive, at a cost not to exceed \$38,300.00, was made by Council Member Keough and seconded by Council Member Siejak. The motion was CARRIED: AYES-4, NAYS-0. Voting AYE: Siejak, Crocker, Keough and Smith.

12. Authorization for Contract with Lockport Little League

MOTION (2014-49) to authorize the Supervisor to enter an agreement with Lockport Little League to provide baseball and/or softball activities for Town of Lockport children during the 2014 season was made by Council Member Crocker and seconded by Council Member Keough. The motion was CARRIED: AYES-4, NAYS-0. Voting AYE: Siejak, Crocker, Keough and Smith.

13. Authorization for the Purchase of a New Plow for Highway Dept.

MOTION (2014-50) to authorize the Town Highway Superintendent to purchase one new snow plow from Niagara Performance, the low bidder, in the amount of \$4,000.00 was made by Council Member Siejak and seconded by Council Member Keough. The motion was CARRIED: AYES-4, NAYS-0. Voting AYE: Siejak, Crocker, Keough and Smith.

14. Resolution Authorizing the 202-b Undertaking for Certain Capital Improvements to Sewer District #3

MOTION (2014-51) on a motion by Council Member Crocker and seconded by Council Member Siejak, the following resolution was put to a ROLL CALL vote and was duly ADOPTED: AYES-4, NAYS-0. Voting AYE: Siejak, Crocker, Keough and Smith.

RESOLUTION OF THE TOWN BOARD OF THE TOWN OF LOCKPORT, NIAGARA COUNTY, NEW YORK (THE "TOWN") PURSUANT TO SECTION 202-b OF THE TOWN LAW DETERMINING THAT IT IS IN THE PUBLIC INTEREST TO UNDERTAKE CERTAIN IMPROVEMENTS TO THE TOWN'S SEWER DISTRICT NO. 3

WHEREAS, the Town Board of the Town of Lockport, Niagara County, New York (the "Town") is considering whether to authorize certain improvements to the Town's Sewer District No. 3 that are necessary to replace and rehabilitate certain pump stations and to inspect and repair certain sanitary sewers (collectively, the "Project"); and

WHEREAS, the Town has caused a certain map, plan and report, for the proposed Project (the "Map, Plan and Report"), to be prepared by Wendel Companies, a firm of engineers duly licensed in the State of New York ("Wendel"); and

WHEREAS, the proposed Project, as more particularly described in a Map, Plan and Report, dated December, 2013 prepared by Wendel, consists of the following:

(I) the inspection and rehabilitation of all existing pump stations, including in particular but without limitation, the IDA Drive pump station, the Keck Road pump station and the Niagara County jail pump station; and

(II) the inspection, assessment, rehabilitation and improvement of the Tonawanda Creek Road sanitary sewer line including, without limitation, slip lining the existing pipe using Cured-in-Place (CIP) piping, and any ancillary or related work required in connection therewith; and

WHEREAS, the estimated maximum cost of the Project is \$2,837,500; and

WHEREAS, by resolution adopted on January 8, 2014, at a regular meeting of the Town Board held on such date, the Town Board directed that a public hearing be held on whether to authorize the Project, and to hear all persons interested in the subject thereof concerning the same on February 5, 2014 at 7:30 p.m. at the Town Hall, 6560 Dysinger Road, Lockport, New York 14094; and

WHEREAS, notice of said public hearing certified by the Town Clerk was duly published and posted as required by law, to wit: a duly certified copy thereof was published in the *Lockport Union Sun & Journal*, the official newspaper of the Town, on January 22, 2014 and a copy of such notice was posted on January 10, 2014 on the signboard maintained by the Town Clerk, and on the Town's website, pursuant to Town Law Section 30(6); and

WHEREAS, said public hearing was duly held at the time and place set forth in said notice, at which all persons desiring to be heard were duly heard; and

WHEREAS, by resolution dated February 5, 2014, adopted immediately prior to consideration of this of this resolution, the Town Board determined pursuant to the State Environmental Quality Review Act and the regulations of the Department of Environmental Conservation promulgated thereunder (6 NYCRR Part 617.5(c)) (collectively, "SEQRA"), that each of such public improvements and purposes constitutes a "Type II" action under the New York State Environmental Quality Review Act and the regulations promulgated thereunder (6 NYCRR Part 617.5(c)) (collectively, "SEQRA") and therefore no further action need be taken by the Town Board under SEQRA as a pre-condition to the adoption of this resolution.

NOW THEREFORE, THE TOWN BOARD OF THE TOWN OF LOCKPORT, NIAGARA COUNTY, NEW YORK HEREBY RESOLVES, AS FOLLOWS:

SECTION 1. Based upon the evidence given at the aforesaid public hearing, it is hereby found and determined that it is in the public interest to undertake the Project as herein above described at the maximum cost of \$2,837,500. The Project is hereby approved.

SECTION 2. The Town Clerk is hereby authorized and directed to cause a certified copy of this resolution to be duly recorded in the office of the Clerk of Niagara County, New York within ten (10) days after the adoption hereof, in accordance with Section 195 of the Town Law.

SECTION 3. This resolution shall take effect immediately.

15. Resolution Authorizing the 202-b Undertaking for Certain Capital Improvements to Water District #3

MOTION (2014-52) on a motion by Council Member Siejak and seconded by Council Member Keough, the following resolution was put to a ROLL CALL vote and was duly ADOPTED: AYES-4, NAYS-0. Voting AYE: Siejak, Crocker, Keough and Smith.

RESOLUTION OF THE TOWN BOARD OF THE TOWN OF LOCKPORT, NIAGARA COUNTY, NEW YORK (THE "TOWN") PURSUANT TO SECTION 202-b OF THE TOWN LAW DETERMINING THAT IT IS IN THE PUBLIC INTEREST TO UNDERTAKE CERTAIN IMPROVEMENTS TO THE TOWN'S WATER DISTRICT NO. 3

WHEREAS, the Town Board of the Town of Lockport, Niagara County, New York (the "Town") is considering whether to authorize certain improvements to the Town's Water District No. 3 including the replacement of certain waterlines, the replacement of certain pressure reducing valves, the acquisition of a water monitoring system and the conducting of a leak detection survey within the Town's water distribution system (collectively, the "Project"); and

WHEREAS, the Town has caused a certain map, plan and report, for the proposed Project (the "Map, Plan and Report"), to be prepared by Wendel Companies, a firm of engineers duly licensed in the State of New York ("Wendel"); and

WHEREAS, the proposed Project, as more particularly described in the Map, Plan and Report, dated December, 2013 prepared by Wendel, consists of the following:

(I) the replacement of existing ductile iron watermains with 10" PVC watermains at the following locations: (a) approximately 1,130 lineal feet of watermain along Leete Road from the intersection of Sunset Drive and Leete Road eastward, (b) approximately 3,600 lineal feet of watermain on Slayton Settlement Road from the Town of Lockport town line westward, (c) approximately 2,700 lineal feet of watermain along Shimer Road from Transit Road to Locust Street Extension, (d) approximately 3,150 lineal feet of watermain on Upper Mountain Road from Junction Road eastward, (e) approximately 3,300 lineal feet of watermain along Bowmiller Road from the intersection of Lincoln Avenue and Bowmiller Road southward, (f) approximately 7,200 lineal feet of watermain along Old Saunders Settlement Road from the intersection of Old Saunders Settlement Road and Saunders Settlement Road to the intersection of Old Saunders Settlement Road and Upper Mountain Road, (g) approximately 8,500 lineal feet of watermain along Keck Road from the intersection of Akron Road and Keck Road northward, (h) approximately 14,000 lineal feet of watermain along Junction Road from the intersection of Junction Road and Lockport Road northward to Upper Mountain Road, (i) approximately 3,900 lineal feet of watermain along Ernest Road between Lincoln Avenue and East High Street, (j) approximately 9,500 lineal feet of watermain along Purdy Road from the intersection of Purdy Road and Ridge Road southward to Old Niagara Road, (k) approximately 16,300 lineal feet of watermain along Transit Road from the Tonawanda Creek northward to Robinson Road, and (l) approximately 8,080 lineal feet of watermain along Beattie Avenue from Dysinger Road to Lincoln Avenue; and

(II) the replacement of pressure reducing valves (PRVs) at the following locations: Old Niagara Road, Lake Avenue, Leete Road, Sunset Drive/Leete Road, Sunset Drive/Niagara Street, Lockport IDA/Upper Mountain Road, Candlewood Estates, Cold Springs Road/Old Niagara Road, Cold Spring Road/East Avenue, Day Road, and Slaton Settlement/Day Road;

(III) the acquisition of a water monitoring system to provide the Water Department with future leak detection capabilities; and

(IV) the conducting of a leak detection survey within the Town's water distribution system to locate and pinpoint leaks; and

WHEREAS, the estimated maximum cost of the Project is \$14,080,000; and

WHEREAS, by resolution adopted on January 8, 2014, at a regular meeting of the Town Board held on such date, the Town Board directed that a public hearing be held on whether to authorize the Project, and to hear all persons interested in the subject thereof concerning the same on February 5, 2014 at 7:30 p.m. at the Town Hall, 6560 Dysinger Road, Lockport, New York 14094; and

WHEREAS, notice of said public hearing certified by the Town Clerk was duly published and posted as required by law, to wit: a duly certified copy thereof was published in the *Lockport Union Sun & Journal*, the official newspaper of the Town, on January 22, 2014 and a copy of such notice was posted on January 10, 2014 on the signboard maintained by the Town Clerk, and on the Town's website, pursuant to Town Law Section 30(6); and

WHEREAS, said public hearing was duly held at the time and place set forth in said notice, at which all persons desiring to be heard were duly heard; and

WHEREAS, by resolution dated February 5, 2014, adopted immediately prior to consideration of this of this resolution, the Town Board determined pursuant to the State Environmental Quality Review Act and the regulations of the Department of Environmental Conservation promulgated thereunder (6 NYCRR Part 617) (collectively, "SEQRA"), that the improvements included in the Project constitute an "Unlisted Action" within the meaning of SEQRA and that such improvements would not have a significant detrimental effect upon the 3 environment and issued a "negative declaration" (within the meaning of SEQRA) with respect to the Project.

NOW THEREFORE, THE TOWN BOARD OF THE TOWN OF LOCKPORT, NIAGARA COUNTY, NEW YORK HEREBY RESOLVES, AS FOLLOWS:

SECTION 1. Based upon the evidence given at the aforesaid public hearing, it is hereby found and determined that it is in the public interest to undertake the Project as hereinabove described at the maximum cost of \$14,080,000. The Project is hereby approved.

SECTION 2. The Town Clerk is hereby authorized and directed to cause a certified copy of this resolution to be recorded in the office of the Clerk of Niagara County, New York, within ten (10) days after the adoption hereof, in accordance with Section 195 of the Town Law.

SECTION 3. This resolution shall take effect immediately.

16. Authorization for the Issuance of up to \$2,837,500.00 in Serial Bonds for Capital Improvements to Sewer District #3

MOTION (2014-53) on a motion by Council Member Siejak and seconded by Council Member Crocker, the following resolution was put to a ROLL CALL vote and was duly ADOPTED: AYES-4, NAYS-0. Voting AYE: Siejak, Crocker, Keough and Smith.

BOND RESOLUTION OF THE TOWN BOARD OF THE TOWN OF LOCKPORT, NIAGARA COUNTY, NEW YORK (THE "TOWN"), AUTHORIZING THE ISSUANCE OF UP TO \$2,837,500 IN SERIAL BONDS OF THE TOWN TO UNDERTAKE CERTAIN IMPROVEMENTS TO TOWN'S SEWER DISTRICT NO. 3

WHEREAS, the Town Board of the Town of Lockport, Niagara County, New York (the "Town") is considering whether to authorize certain improvements to the Town's Sewer District No. 3 that are necessary to replace and rehabilitate certain pump stations and to inspect and repair certain sanitary sewers (collectively, the "Project");

WHEREAS, by resolution adopted dated February 5, 2014, adopted prior to the consideration of this resolution, the Board determined that public improvements and purposes constitutes a "Type II" action under the New York State Environmental Quality Review Act and the regulations promulgated thereunder (6 NYCRR Part 617.5(c)) (collectively, "SEQRA") and therefore no further action need be taken by the Town Board under SEQRA as a pre-condition to the adoption of this resolution; and

WHEREAS, by resolution dated February 5, 2014, adopted immediately prior to the consideration of this resolution, in accordance with Section 202-b of the Town Law (the "202-b Order"), the Town Board determined it to be in the public interest to undertake the Project, consisting of the following: (i) the inspection and rehabilitation of all existing pump stations, including in particular but without limitation, the IDA Drive pump station, the Keck Road pump station and the Niagara County jail pump station; and

(ii) the inspection, assessment, rehabilitation and improvement of the Tonawanda Creek Road sanitary sewer line including, without limitation, slip lining the existing pipe using Cured-in-Place (CIP) piping, and any ancillary or related work required in connection therewith; and

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

THE TOWN BOARD OF THE TOWN OF LOCKPORT, NIAGARA COUNTY, NEW YORK HEREBY RESOLVES (by the affirmative vote of not less than two-thirds of all the members of such body), **AS FOLLOWS**:

SECTION 1. The Town is hereby authorized to undertake the Project as hereinabove described and issue up to \$2,837,500 principal amount of serial bonds (including, without limitation, statutory installment bonds) pursuant to the provisions of the Local Finance Law, constituting Chapter 33-a of the Consolidated Laws of the State of New York (the "Law") to finance the estimated cost of the Project.

SECTION 2. It is hereby determined that the maximum estimated cost of the aforementioned specific object or purpose is \$2,837,500, said amount is hereby appropriated therefor and the plan for the financing thereof shall consist of the issuance of the \$2,837,500 in serial bonds of the Town authorized to be issued pursuant to Section 1 of this resolution, or bond anticipation notes issued in anticipation thereof, and the levy and collection of taxes on all the taxable real property in the Town to pay the principal of said bonds and the interest thereon as the same shall become due and payable.

SECTION 3. It is hereby determined that the period of probable usefulness for the aforementioned specific object or purpose is forty (40) years, pursuant to subdivision 4. of paragraph a. of Section 11.00 of the Law.

SECTION 4. The final maturity of the bonds herein authorized to be issued pursuant to Section 1 of this resolution shall be in excess of five (5) years measured from the date of issuance of the first serial bond or bond anticipation note issued.

SECTION 5. The temporary use of available funds of the Town, not immediately required for the purpose or purposes for which the same were borrowed, raised or otherwise created, is hereby authorized pursuant to Section 165.10 of the Law, for the capital purposes described in this resolution. The Town shall reimburse such expenditures with the proceeds of the bonds or bond anticipation notes authorized by Section 1 of this resolution. This resolution shall constitute a declaration of "official intent" to reimburse the expenditures authorized by Section 1 hereof with the proceeds of the bonds and bond anticipation notes authorized herein, as required by United States Treasury Regulations Section 1.150-2.

SECTION 6. Each of the serial bonds authorized by this resolution and any bond anticipation notes issued in anticipation of said bonds shall contain the recital of validity prescribed by Section 52.00 of the Law and said serial bonds and any bond anticipation notes issued in anticipation of said bonds shall be general obligations of the Town, payable as to both principal and interest by a general tax upon all the real property within the Town without legal or constitutional limitation as to rate or amount. The faith and credit of the Town are hereby irrevocably pledged to the punctual payment of the principal and interest on said serial bonds and bond anticipation notes and provisions shall be made annually in the budget of the Town by appropriation for (a) the amortization and redemption of the bonds and bond anticipation notes to mature in such year and (b) the payment of interest to be due and payable in such year.

SECTION 7. Subject to the provisions of this resolution and of the Law, pursuant to the provisions of Section 30.00 relative to the authorization of the issuance of bond anticipation notes or the renewals of said obligations and of Section 21.00, Section 50.00, Section 54.90, Sections 56.00 through 60.00 and Sections 62.10 and 63.00 of the Law, the powers and duties of the Town Board relative to authorizing serial bonds and bond anticipation notes and prescribing terms, form and contents as to the sale and issuance of bonds herein authorized, including without limitation the determination of whether to issue bonds having substantially level or declining debt service and all matters relating thereto, and of any bond anticipation notes issued in anticipation of said bonds, and the renewals of said bond anticipation notes, are hereby delegated to the Supervisor of the Town, the chief fiscal officer of the Town (the "Supervisor"). Further, in connection with bonds and bond anticipation notes issued under the authority of Section 1 hereof, the power to contract with and issue bonds and bond anticipation notes to the New York State Environmental Facilities Corporation pursuant to Section 169.00 of the Law and to approve the terms, form and content of such bonds and bond anticipation notes, consistent with the provisions of the Law, is hereby delegated to the Supervisor. Further, pursuant to subdivision b. of Section 11.00 of the Law, in the event that bonds to be issued for one or more of the objects or purposes authorized by this resolution are combined for sale, pursuant to subdivision c. of Section 57.00 of the Law, with bonds to be issued for one or more objects or purposes authorized by other resolutions of this Town Board, then the power of the Town Board to determine the "weighted average period of probable usefulness" (within the meaning of subdivision a. of Section 11.00 of the Law) for such combined objects or purposes is hereby delegated to the Supervisor, as the chief fiscal officer of the Town.

SECTION 8. The Supervisor is hereby further authorized, at his sole discretion, to execute a project financing and loan agreement, and any other agreements with the New York State Department of Environmental Conservation and/or the New York State Environmental Facilities Corporation, including amendments thereto, and including any instruments (or amendments thereto) in the effectuation thereof, in order to effect the financing or refinancing of the specific object or purpose described in Section 1 hereof, or a portion thereof, by a serial bond, and, or a bond anticipation note issue in the event of the sale of same to the New York State Environmental Facilities Corporation.

SECTION 9. The Supervisor of the Town is hereby further authorized to take such actions and execute such documents as may be necessary to ensure the continued status of the interest on the bonds authorized by this resolution and any notes issued in anticipation thereof, as excludable from gross income for federal income tax purposes pursuant to Section 103 of the Internal Revenue Code of 1986, as amended (the "Code") and to designate the bonds authorized by this resolution and any notes issued in anticipating thereof, if applicable, as "qualified tax-exempt obligations" in accordance with Section 265(b)(3)(B)(i) of the Code.

SECTION 10. The Supervisor is further authorized to enter into continuing disclosure undertakings with or for the benefit of the initial purchaser of the bonds or notes in compliance with the provisions of Rule 15c2-12, promulgated by the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934.

SECTION 11. The intent of this resolution is to give the Supervisor sufficient authority to execute those applications, agreements and instruments, or to do any similar acts necessary to effect the issuance of the aforesaid serial bonds or bond anticipation notes without resorting to further action of this Town Board.

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

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

(b) the provisions of law which should be complied with at the date of the publication of such resolution are not substantially complied with, and an action, suit or proceeding contesting such validity is commenced within twenty (20) days after the date of such publication; or

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

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

17. Authorization for the Issuance of up to \$14,080,000.00 in Serial Bonds for Capital Improvements to Water District #3

MOTION (2014-54) on a motion by Council Member Keough and seconded by Council Member Siejak, the following resolution was put to a ROLL CALL vote and was duly ADOPTED: AYES-4, NAYS-0. Voting AYE: Siejak, Crocker, Keough and Smith.

BOND RESOLUTION OF THE TOWN BOARD OF THE TOWN OF LOCKPORT, NIAGARA COUNTY, NEW YORK (THE "TOWN"), AUTHORIZING THE ISSUANCE OF UP TO \$14,080,000 IN SERIAL BONDS OF THE TOWN TO UNDERTAKE CERTAIN IMPROVEMENTS TO TOWN'S WATER DISTRICT NO. 3

WHEREAS, the Town Board of the Town of Lockport, Niagara County, New York (the "Town") is considering whether to authorize certain improvements to the Town's Water District No. 3 including the replacement of certain waterlines, the replacement of certain pressure reducing valves, the acquisition of a water monitoring system and the conducting of a leak detection survey within the Town's water distribution system (collectively, the "Project"); and **WHEREAS**, the Board, acting as lead agency under the State Environmental Quality Review Act and the regulations of the New York State Department of Environmental Conservation adopted thereunder (collectively, "SEQRA"), by resolution dated February 5, 2014 and adopted prior to the consideration of this resolution, determined that the Project constitutes an "Unlisted" action within the meaning of SEQRA, that it will not have a significant impact on the environment; and adopted a negative declaration under SEQRA to such effect; and

WHEREAS, by resolution dated February 5, 2014, adopted immediately prior to the consideration of this resolution, in accordance with Section 202-b of the Town Law (the "202-b Order"), the Town Board determined it to be in the public interest to undertake the Project, consisting of the following:

(i) the replacement of existing ductile iron watermains with 10" PVC watermains at the following locations: (a) approximately 1,130 lineal feet of watermain along Leete Road from the intersection of Sunset Drive and Leete Road eastward, (b) approximately 3,600 lineal feet of watermain on Slayton Settlement Road from the Town of Lockport town line westward, (c) approximately 2,700 lineal feet of watermain along Shimer Road from Transit Road to Locust Street Extension, (d) approximately 3,150 lineal feet of watermain on Upper Mountain Road from Junction Road eastward, (e) approximately 3,300 lineal feet of watermain along Bowmiller Road from the intersection of Lincoln Avenue and Bowmiller Road southward, (f) approximately 7,200 lineal feet of watermain along Old Saunders Settlement Road from the intersection of Old Saunders Settlement Road and Saunders Settlement Road to the

Continued next page

intersection of Old Saunders Settlement Road and Upper Mountain Road, (g) approximately 8,500 lineal feet of watermain along Keck Road from the intersection of Akron Road and Keck Road northward, (h) approximately 14,000 lineal feet of watermain along Junction Road from the intersection of Junction Road and Lockport Road northward to Upper Mountain Road, (i) approximately 3,900 lineal feet of watermain along Ernest Road between Lincoln Avenue and East High Street, (j) approximately 9,500 lineal feet of watermain along Purdy Road from the intersection of Purdy Road and Ridge Road southward to Old Niagara Road, (k) approximately 16,300 lineal feet of watermain along Transit Road from the Tonawanda Creek northward to Robinson Road, and (l) approximately 8,080 lineal feet of watermain along Beattie Avenue from Dysinger Road to Lincoln Avenue;

(ii) the replacement of pressure reducing valves (PRVs) at the following locations: Old Niagara Road, Lake Avenue, Leete Road, Sunset Drive/Leete Road, Sunset Drive/Niagara Street, Lockport IDA/Upper Mountain Road, Candlewood Estates, Cold Springs Road/Old Niagara Road, Cold Spring Road/East Avenue, Day Road, and Slaton Settlement/Day Road;

(iii) the acquisition of a water monitoring system to provide the Water Department with future leak detection capabilities; and

(iv) the conducting of a leak detection survey within the Town's water distribution system to locate and pinpoint leaks; and

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

THE TOWN BOARD OF THE TOWN OF LOCKPORT, NIAGARA COUNTY, NEW YORK HEREBY RESOLVES (by the affirmative vote of not less than two-thirds of all the members of such body), **AS FOLLOWS**:

SECTION 1. The Town is hereby authorized to undertake the Project as hereinabove described and issue up to \$14,080,000 principal amount of serial bonds (including, without limitation, statutory installment bonds) pursuant to the provisions of the Local Finance Law, constituting Chapter 33-a of the Consolidated Laws of the State of New York (the "Law") to finance the estimated cost of the Project.

SECTION 2. It is hereby determined that the maximum estimated cost of the aforementioned specific object or purpose is \$14,080,000, said amount is hereby appropriated therefor and the plan for the financing thereof shall consist of the issuance of the \$14,080,000 in serial bonds of the Town authorized to be issued pursuant to Section 1 of this resolution, or bond anticipation notes issued in anticipation thereof, and the levy and collection of taxes on all the taxable real property in the Town to pay the principal of said bonds and the interest thereon as the same shall become due and payable.

SECTION 3. It is hereby determined that the period of probable usefulness for the aforementioned specific object or purpose is forty (40) years, pursuant to subdivision 1. of paragraph a. of Section 11.00 of the Law.

SECTION 4. The final maturity of the bonds herein authorized to be issued pursuant to Section 1 of this resolution shall be in excess of five (5) years measured from the date of issuance of the first serial bond or bond anticipation note issued.

SECTION 5. The temporary use of available funds of the Town, not immediately required for the purpose or purposes for which the same were borrowed, raised or otherwise created, is hereby authorized pursuant to Section 165.10 of the Law, for the capital purposes described in this resolution. The Town shall reimburse such expenditures with the proceeds of the bonds or bond anticipation notes authorized by Section 1 of this resolution. This resolution shall constitute a declaration of "official intent" to reimburse the expenditures authorized by Section 1 hereof with the proceeds of the bonds and bond anticipation notes authorized herein, as required by United States Treasury Regulations Section 1.150-2.

SECTION 6. Each of the serial bonds authorized by this resolution and any bond anticipation notes issued in anticipation of said bonds shall contain the recital of validity prescribed by Section 52.00 of the Law and said serial bonds and any bond anticipation notes issued in anticipation of said bonds shall be general obligations of the Town, payable as to both principal and interest by a general tax upon all the real property within the Town without legal or constitutional limitation as to rate or amount. The faith and credit of the Town are hereby irrevocably pledged to the punctual payment of the principal and interest on said serial bonds and bond anticipation notes and provisions shall be made annually in the budget of the Town by appropriation for (a) the amortization and redemption of the bonds and bond anticipation notes to mature in such year and (b) the payment of interest to be due and payable in such year.

SECTION 7. Subject to the provisions of this resolution and of the Law, pursuant to the provisions of Section 30.00 relative to the authorization of the issuance of bond anticipation notes or the renewals of said obligations and of Section 21.00, Section 50.00, Section 54.90, Sections 56.00 through 60.00 and Sections 62.10 and 63.00 of the Law, the powers and duties of the Town Board relative to authorizing serial bonds and bond anticipation notes and prescribing terms, form and contents as to the sale and issuance of bonds herein authorized, including without limitation the determination of whether to issue bonds having substantially level or declining debt service and all matters relating thereto, and of any bond anticipation notes issued in anticipation of said bonds, and the renewals of said bond anticipation notes, are hereby delegated to the Supervisor of the Town, the chief fiscal officer of the Town (the "Supervisor"). Further, in connection with bonds and bond anticipation notes issued under the authority of Section 1 hereof, the power to contract with and issue bonds and bond anticipation notes to the New York State Environmental Facilities Corporation pursuant to Section 169.00 of the Law and to approve the terms, form and content of such bonds and bond anticipation notes, consistent with the provisions of the Law, is hereby delegated to the Supervisor. Further, pursuant to subdivision b. of Section 11.00 of the Law, in the event that bonds to be issued for one or more of the objects or purposes authorized by this resolution are combined for sale, pursuant to subdivision c. of Section 57.00 of the Law, with bonds to be issued for one or more objects or purposes authorized by other resolutions of this Town Board, then the power of the Town Board to determine the "weighted average period of probable usefulness" (within the meaning of subdivision a. of Section 11.00 of the Law) for such combined objects or purposes is hereby delegated to the Supervisor, as the chief fiscal officer of the Town.

SECTION 8. The Supervisor is hereby further authorized, at his sole discretion, to execute a project financing and loan agreement, and any other agreements with the New York State Department of Environmental Conservation and/or the New York State Environmental Facilities Corporation, including amendments thereto, and including any instruments (or amendments thereto) in the effectuation thereof, in order to effect the financing or refinancing of the specific object or purpose described in Section 1 hereof, or a portion thereof, by a serial bond, and, or a bond anticipation note issue in the event of the sale of same to the New York State Environmental Facilities Corporation.

SECTION 9. The Supervisor of the Town is hereby further authorized to take such actions and execute such documents as may be necessary to ensure the continued status of the interest on the bonds authorized by this resolution and any notes issued in anticipation thereof, as excludable from gross income for federal income tax purposes pursuant to Section 103 of the Internal Revenue Code of 1986, as amended (the "Code") and to designate the bonds authorized by this resolution and any notes issued in anticipating thereof, if applicable, as "qualified tax-exempt obligations" in accordance with Section 265(b)(3)(B)(i) of the Code.

SECTION 10. The Supervisor is further authorized to enter into continuing disclosure undertakings with or for the benefit of the initial purchaser of the bonds or notes in compliance with the provisions of Rule 15c2-12, promulgated by the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934.

SECTION 11. The intent of this resolution is to give the Supervisor sufficient authority to execute those applications, agreements and instruments, or to do any similar acts necessary to effect the issuance of the aforesaid serial bonds or bond anticipation notes without resorting to further action of this Town Board.

Continued next page

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

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

(b) the provisions of law which should be complied with at the date of the publication of such resolution are not substantially complied with, and an action, suit or proceeding contesting such validity is commenced within twenty (20) days after the date of such publication; or

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

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

18. Authorization to Enter Contract with Harris, Beach to provide Bond Counsel Services for the Capital Improvements to Sewer District #3

MOTION (2014-55) to authorize the Town Supervisor to enter an agreement with Harris, Beach for the purpose of providing Bond Counsel Services for the Capital Improvements to Sewer District #3 was made by Council Member Crocker and seconded by Council Member Siejak. The motion was CARRIED: AYES-4, NAYS-0. Voting AYE: Siejak, Crocker, Keough and Smith.

19. Authorization to Enter Contract with Harris, Beach to provide Bond Counsel Services for the Capital Improvements to Water District #3

MOTION (2014-56) to authorize the Town Supervisor to enter an agreement with Harris, Beach for the purpose of providing Bond Counsel Services for the Capital Improvements to Water District #3 was made by Council Member Keough and seconded by Council Member Siejak. The motion was CARRIED: AYES-4, NAYS-0. Voting AYE: Siejak, Crocker, Keough and Smith.

20. Authorization to Enter Contract with Municipal Solutions to provide Financial Advisory Services for the Capital Improvements to Sewer District #3

MOTION (2014-57) to authorize the Town Supervisor to enter an agreement with Municipal Solutions for the purpose of providing Financial Advisory Services for the Capital Improvements to Sewer District #3 was made by Council Member Crocker and seconded by Council Member Siejak. The motion was CARRIED: AYES-4, NAYS-0. Voting AYE: Siejak, Crocker, Keough and Smith.

21. Authorization to Enter Contract with Municipal Solutions to provide Financial Advisory Services for the Capital Improvements to Water District #3

MOTION (2014-58) to authorize the Town Supervisor to enter an agreement with Municipal Solutions for the purpose of providing Financial Advisory Services for the Capital Improvements to Water District #3 was made by Council Member Keough and seconded by Council Member Crocker. The motion was CARRIED: AYES-4, NAYS-0. Voting AYE: Siejak, Crocker, Keough and Smith.

22. Authorization to Enter Contract with Wendel to provide Engineering Services for the Capital Improvements to Sewer District #3

MOTION (2014-59) to authorize the Town Supervisor to enter an agreement with Wendel for the purpose of providing Engineering Services for the Survey, Design and Bidding Services for the Capital Improvements to Sewer District #3 in an amount not to exceed \$124,000.00 was made by Council Member Crocker and seconded by Council Member Siejak. The motion was CARRIED: AYES-4, NAYS-0. Voting AYE: Siejak, Crocker, Keough and Smith.

23. Authorization to Enter Contract with Wendel to provide Engineering Services for the Capital Improvements to Water District #3

MOTION (2014-60) to authorize the Town Supervisor to enter an agreement with Wendel for the purpose of providing Engineering Services for the Survey, Design and Bidding Services for the Capital Improvements to Water District #3 in an amount not to exceed \$424,800.00 was made by Council Member Siejak and seconded by Council Member Keough. The motion was CARRIED: AYES-4, NAYS-0. Voting AYE: Siejak, Crocker, Keough and Smith.

24. Town Board Comments/Reports

Councilman Crocker welcomed everyone in attendance and thanked them for coming out on such a poor weather evening. He was please to see the Hinman Road residents in attendance and addressed the questions asked concerning the Town's Master Plan, stating that yes, it is currently being worked on and it is hoped that the plan should be ready for public comment sometime in the spring or early summer.

Additionally, he welcomed Mr. Keough to the Town Board and that having served with Mr. Keough in his capacity at the Niagara Falls Air Base; he had every confidence that Mr. Keough will have a positive impact on the Town Board.

Lastly, he addressed the brutal winter weather stating that the Town Highway crews have done a wonderful job keeping up with the tremendous amount of snow accumulated this winter. He asked residents to be patient with snow plowing and with brush pickup as the Highway crews will get to brush pickup as soon as they are able. Streets however, take a priority.

Councilman Siejak also stated that he appreciated that residents came out on a poor weather evening and that he appreciated those who spoke. He also welcomed Mr. Keough and stated it was a pleasure to meet his family.

Councilman Keough stated that it was a honor to serve as a Town Board member and that he looks forward to serving the residents of the Town of Lockport.

25. Supervisor's Comments/Reports.

Supervisor Smith also reported that the Town's Master Plan is underway and that he's hoping that public information meetings on the Plan can be scheduled as early as May. He stated that articles will be placed in the newspaper alerting residents to the date and time when the meeting(s) are scheduled.

As for the Hinman/Murphy Road residents meeting with LaFarge, he thought it was a good idea to create an informational committee and the possibility of appointing an outside appraiser to do base line appraisals of homes in that region may be a possibility but there is no plan to do so at this time.

Lastly, he also welcomed Mr. Keough on board as a Town Council member.

26. Adjournment.

MOTION (2014-61) to adjourn was made by Council Member Siejak and seconded by Council Member Keough. The motion was CARRIED: AYES-4, NAYS-0. Voting AYE: Siejak, Crocker, Keough and Smith.

The meeting was ended at 8:00 p.m. The Lockport Town Board will next meet at 1:00 p.m. on Wednesday, February 26, 2014.

Respectfully submitted,

Nancy A. Brooks, RMC, MMC
Lockport Town Clerk