



Town of East Greenbush

225 Columbia Turnpike, Rensselaer, New York 12144

TOWN BOARD AGENDA October 19, 2016

Call to Order **7:00 PM**
Pledge of Allegiance
Town Board Meeting:

Members of Town Board

Present

Absent

Supervisor Conway
Councilor DiMartino
Councilor Matters
Councilor Grant
Councilor Tierney

Communications/Announcements/Reports

Open Public Privilege: NOTE – Each speaker may choose to state name and address prior to addressing the Board and shall be granted the floor for up to five minutes. The Board thanks everyone in attendance for their understanding and also for their desire to actively participate in the decision making process locally. All speakers must conduct themselves in a civil manner. Personal attacks will not be tolerated.

Resolutions and Proposals by Town Board Members:

189-2016 A Resolution to Approve Meeting Minutes

WHEREAS, the minutes of Town Board meetings, as provided in §106 of Article 7 of the New York Public Officers Law, shall be approved by the Board prior to them being finalized, deemed official and disseminated to the public by the Town Clerk; and

WHEREAS, that the minutes of the regular Town Board meeting held on September 21, 2016 have been presented; and

WHEREAS, the Town Board has reviewed these minutes and any necessary corrections have been made;

now, therefore, be it

RESOLVED, that the minutes of the regular Town Board meeting held on September 21, 2016, are hereby approved as submitted.

The foregoing resolution was duly moved by Supervisor Conway and seconded by Councilor Matters and brought to a vote resulting as follows:

Supervisor Conway	VOTED:
Councilor Matters	VOTED:
Councilor DiMartino	VOTED:
Councilor Grant	VOTED:
Councilor Tierney	VOTED:

190-2016 A Resolution Scheduling a Public Hearing on the Preliminary Budget for 2017

WHEREAS, the Town Board of the Town of East Greenbush, County of Rensselaer, State of New York, has been presented with a copy of the proposed Tentative Town Budget for the fiscal year 2017; and

WHEREAS, the Town Board is required to review the Tentative Budget and make any changes, alterations and revisions it considers advisable; and

WHEREAS, upon completion of the review, the Tentative Budget as modified by the Town Board becomes the Preliminary Budget and must be filed in the Town Clerk's Office, and

WHEREAS, said review and filing should be completed prior to conducting a Public Hearing; and

WHEREAS, the Town Board is required to conduct a Public Hearing on the Preliminary Budget, including all Special Districts and the Water and Sewer rates contained therein, and said Hearing must be conducted on or before the Thursday following the November general election; and

WHEREAS, passage of this Resolution by the Town Board is not a statement of agreeing or disagreeing with any of the numbers nor tax rates contained therein, and binds no Board Member to vote for or against it, that changes affecting any rates can occur after said Public Hearing is held; and

WHEREAS, the Town Comptroller confirms the resolution will not have a negative impact to the Town's finances;

now therefore, be it

RESOLVED, that the Town Board shall conduct a Public Hearing at 6:00 PM on November 3, 2016 at the East Greenbush Town Hall, located at 225 Columbia Turnpike, Rensselaer, New York 12144, for the purpose of receiving public input on the proposed Preliminary Budget for the fiscal year 2017, including all Special Districts contained therein;

and be it further

RESOLVED, that if the Town Board does not meet and approve modifications by October 27, 2016, the 2017 Tentative Budget shall be accepted as the 2017 Preliminary Budget for the Public Hearing at 6:00 PM on November 3, 2016.

The foregoing resolution was duly moved by Supervisor Conway and seconded by Councilor DiMartino and brought to a vote resulting as follows:

Supervisor Conway	VOTED:
Councilor DiMartino	VOTED:
Councilor Matters	VOTED:
Councilor Grant	VOTED:
Councilor Tierney	VOTED:

191-2016 A Resolution to Acquire and Finance a Taser Replacement Program

WHEREAS, it is the intent of the Town Board to maintain and modernize the self-defense equipment and systems used by the police department to provide effective public safety; and

WHEREAS, the Chief of Police has informed the Town Board that the existing Taser program has exceeded its operational limits and intended lifespan, its warranty has expired and the program requires replacement; and

WHEREAS, Taser International Inc., a single source vendor able to match the existing inventory of supplies, equipment and technical training already in possession of the police department, has proposed a Taser Replacement Agreement at an annual cost of \$4,320.00, less discount, per year over a five year term; and

WHEREAS, the Town Comptroller confirms this Taser Program maintenance can be funded with the 2016 Budget for account 31204.01.004 Police CE without any budgetary transfer;

now, therefore be it

RESOLVED, that the proposed quote by Taser International Inc. be and hereby is approved;

and be it further

RESOLVED, that the Chief of Police is authorized to enter into said agreement;

and be it further

RESOLVED, that this resolution shall take effect immediately

The foregoing resolution was duly moved by Councilor Grant seconded by Councilor DiMartino and voted as follows:

Councilor Grant	VOTED:
Councilor DiMartino	VOTED:
Supervisor Conway	VOTED:
Councilor Matters	VOTED:
Councilor Tierney	VOTED:

192-2016 A Resolution Approving Local Law No. 3 of 2016 to Adopt an Amended Code of Ethics

WHEREAS, the Town adopted an amended Code of Ethics as Local Law No. 3 of 2013 to establish minimum standards of conduct for officials and employees of the Town to ensure that the business of Town government is free from improper influence and conflicts of interest and to facilitate consideration of problems before they occur; and

WHEREAS, the current Town Board has a commitment to establish transparent frameworks for government officials, to promote and foster public trust in the administration of government and to demonstrate a formal and codified commitment to ethical behavior on the part of government officials; and

WHEREAS, to implement these commitments, the Town Board asked the Board of Ethics to undertake a comprehensive revision of the existing Code of Ethics and the Board of Ethics has produced such a revision and submitted it to the Town Board for their review and approval; and

WHEREAS, the Town Board reviewed the draft submitted by the Board of Ethics and amended two provisions concerned with political activity on the part of certain Town officials but otherwise accepted the draft as submitted; and

WHEREAS, the Board solicited public comment on an amended Code of Ethics at two public hearings, one on July 20, 2016 at 6:15 p.m., and another on September 21, 2016 at 6:15 p.m. and whereas the Board duly considered all comments made at the hearings; and

WHEREAS, the East Greenbush Town Board has determined that it is in the best interest of the Town to amend the Code of Ethics established by Local Law No. 3 of 2013 by adopting Local Law No. 3 of the year 2016, a copy of which is attached hereto and made a part hereof; and

WHEREAS, the Town Comptroller confirms the resolution will not have a negative impact on the Town's finances;

now, therefore, be it

RESOLVED, that the enactment of Local Law No. 3 of 2016, be, and the same hereby is, approved;

and be it further

RESOLVED, that the Town Clerk shall file the Local Law with the New York Secretary of State.

The foregoing resolution was duly moved by Supervisor Conway seconded by Councilor Tierney and voted as follows:

Supervisor Conway	VOTED:
Councilor Tierney	VOTED:
Councilor DiMartino	VOTED:
Councilor Matters	VOTED:
Councilor Grant	VOTED:

193-2016 A Resolution Authorizing a Public Auction of Surplus Equipment

WHEREAS, the Town Board of the Town of East Greenbush, County of Rensselaer, State of New York has received a request from the Commissioner of Public Works to declare the following equipment as surplus; and

WHEREAS, said equipment consists of the following:

One 2012 Ford F450 Dump Truck VIN Number: 1FDXF47F32EC32964
One 1986 Mack Rack Truck VIN Number: VG6M111B2GB025173
One 1989 Ford F800 Single Axle Dump Truck VIN Number: 1FDXK84A5MVA03233
One 1990 JCB 1400B Backhoe VIN Number: 14BT40803539957
One 2002 Mack CL713Tank Truck VIN Number: 1M2AD62C32M012170
One 2002 Locke Hydroseeder VIN Number 1L9FS12122L112021
One 2002 Manac Trash Trailer VIN Number: 2M532146826085867
One 2 Ton Gantry Lift Located at the Corliss Pump Station S/N: Unknown
One 1997 Ingersoll Air Compressor Serial Number: P185-WJD
One International Mowing Tractor Serial Number: 200115VO1151
One Ingersoll Propane Forklift Serial Number: Unknown
One TCM Gasoline Forklift Serial Number: 3940073
One TurfBlazer 727 Mowing Tractor Serial Number: Unknown
One Utility Trailer, Tandem Axle Serial Number: 19486
One Kohler 50 Ampere Standby Generator Serial Number: Unknown
One Beuthing 36" Gasoline Static Roller Serial Number: Unknown; and

WHEREAS, said equipment is not suited for any other Town department; and

WHEREAS, the Town Comptroller confirms the resolution will not have a negative impact on Town's finances;

now, therefore, be it

RESOLVED that said equipment listed is hereby declared as surplus; and be it further

RESOLVED that the Purchasing Clerk is authorized to conduct a public auction, sale or lawfully dispose of said surplus equipment now owned by and in the custody of the East Greenbush Public Works Department.

The foregoing resolution was duly moved by Councilor DiMartino seconded by Councilor Tierney and voted as follows:

Councilor DiMartino	VOTED:
Councilor Tierney	VOTED:
Supervisor Conway	VOTED:
Councilor Matters	VOTED:
Councilor Grant	VOTED:

194-2016 A Resolution Modifying Resolution 101-2016 Authorizing Certain Paving Expenses

WHEREAS, Resolution 101-2016 authorized paving of certain roads in the Town of East Greenbush for an estimated amount of \$253,995.00; and

WHEREAS, the list of roads to be paved included Washington Avenue East, which was subsequently found to have the need for major water line repairs and therefore was not paved, Maryland Avenue East was deemed to be in need of paving and replaced Washington Avenue East; and

WHEREAS, the paving was installed, and due to the unevenness of the roads and increased square yardage the estimated tonnages of blacktop were exceeded; and

WHEREAS, the actual invoice for the pavement installed under New York State contract was for \$273,098.22, an overage of \$19,103.22 or 7.5%; and

WHEREAS, the winter of 2015-2016 was very mild resulting in a balance in the salt account of approximately \$44,926.00; and

WHEREAS, the Town Comptroller confirms the financial impact of this resolution is approximately \$19,103.22 to be paid for by the transfer below;

Fund	Transfer in	Transfer out
5142.4 – Highway (DA) Salt		\$19,103.22.
5112.4 – Highway (DA) Permanent Improvements	\$19,103.22	

now therefore, be it

RESOLVED, that the Town Board modifies Resolution 101-2016 to indicate a not to exceed amount of \$273,098.22 and authorizes the transfer of \$19,103.22 from DA 5142.4, Snow Removal, to DA 5112.4, Permanent Improvements;

and, be it further

RESOLVED, that the list of roads to be paved in Resolution 101-2016 is modified to replace Washington Avenue East with Maryland Avenue East.

The foregoing resolution was duly moved by Councilor DiMartino and seconded by Councilor Grant and voted as follows:

Councilor DiMartino	VOTED:
Councilor Grant	VOTED:
Supervisor Conway	VOTED:
Councilor Matters	VOTED:
Councilor Tierney	VOTED:

195-2016 Town Board Declaration of Intent to seek Lead Agency for East Greenbush Tech Park Phase 2 Planned Development District (PDD)

WHEREAS, Hershberg and Hershberg, on behalf of Greenbush Associated, LLC, has submitted a Planned Development District (PDD) application, pursuant to East Greenbush Zoning Article VI, for the re-zoning of a 56.31 acre parcel located on Mannix Road in the Town of East Greenbush (the “Project”); and

WHEREAS, the application was accompanied by a proposed site plan, Full Environmental Assessment Form, and other submittals; and

WHEREAS, the Town Board of the Town of East Greenbush seeks to establish the Town Board as Lead Agency for this SEQR review; and

WHEREAS, the Town Comptroller confirms the resolution will not have a negative impact on the Town’s finances;

now, therefore, be it

RESOLVED as follows

1. The Planning Clerk is hereby authorized and directed to forward a “Notice of Intent to Seek Lead Agency” to all involved agencies seeking their consent to the designation of the East Greenbush Town Board as Lead Agency for the SEQRA review.
2. The following are or may be:
 - Involved agencies under SEQRA
 - East Greenbush Town Board
 - East Greenbush Planning Board
 - NYS Department of Transportation
 - Rensselaer County Office of Economic Development and Planning
 - Rensselaer County Health Department
 - Rensselaer County Sewer District No.1
 - Interested agencies under SEQRA
 - East Greenbush Fire District
 - East Greenbush Department of Public Works
 - Capital District Transportation Committee
 - NYS Office of Parks, Recreation, and Historic Preservation
 - U.S. Army Corp of Engineers
 - W.F. Bruen Rescue Squad

The foregoing resolution was duly moved by Councilor Tierney and seconded by Councilor Grant and brought to a vote as follows:

Councilor Tierney
 Councilor Grant
 Supervisor Conway
 Councilor DiMartino
 Councilor Matters

VOTED:
 VOTED:
 VOTED:
 VOTED:
 VOTED:

196-2016 A Resolution Authorizing the Supervisor to Sign a Technical Service Change Order (TSCO) for Construction Administration and Inspection Services

WHEREAS, this resolution was tabled at the September 21, 2016 meeting; and

WHEREAS, The Chazen Companies was previously retained to provide construction administration and inspection services for the East Greenbush Waste Water Treatment Plant upgrade project; and

WHEREAS, an additional \$9,000 has been accrued on behalf of the Town and through performance of the following tasks:

- Construction inspection (contractor work performed included but not limited to: Monolith Solar Re-Installation work and site restoration, clarifier work, aeration/blower work, damaged baffles work, fencing repairs, SCADA issues, punch list items);
- Review of UW Marx paperwork including final allowance items and invoices and credited required to get the project to substantial completion;
- Review of the Stilsing Electric contract paperwork and closeout;
- Weekly SWPP inspections (now complete); and

WHEREAS, Chazen anticipates that all additional services and contractor paperwork will be completed at a cost of \$6,000 and will include the following:

- Finalizing Stilsing Electric contract closeout
- Finalizing UW Marx contract paperwork, including:
 - Negative change order(s).
 - Substantial completion certification.
 - Final invoicing and release of retainer.
 - Contract closeout; and

WHEREAS, the sum of \$9,000 and \$6,000 equals a change of \$15,000 as detailed in the project budget lines detailed in the table below; and

Task	Task Description	Current Budget and Type		Change and New Budget	
		Lump Sum	Time & Materials	Increase	New Budget
01	Design & Regulatory Approval	\$137,500	--	No Change	\$137,500
01	Subcontractor	--	\$16,901.01	No Change	\$16,901.01
02	Bidding Services	\$8,100	--	No Change	\$8,100
03	Construction Engineering	\$25,500	--	No Change	\$25,500
04	Construction Administration	\$157,800	--	No Change	\$157,800
05	Construction Inspection	--	\$703,300	\$15,000	\$718,300
06	Post Construction Services	\$22,500	--	TBD	\$22,500
RE	Reimbursable Expenses		\$27,500	No Change	\$27,500
TOTALS			\$1,099,101.01	\$15,000	\$1,114,101.01

WHEREAS, this change request increases the amount of money necessary to finance the Wastewater Treatment Plant; and

WHEREAS, as the Town Comptroller confirmed this is subject to EFC approval of debt funding;

now, therefore, be it

RESOLVED, the Town Board authorizes the Town Supervisor to sign the Technical Services Change Order with Chazen Companies, however, the contract amendment must be submitted to EFC for eligibility determination to ensure that all costs are eligible for financing under the program.

The foregoing resolution was duly moved by Supervisor Conway and seconded by Councilor DiMartino and brought to a vote as follows:

Supervisor Conway	VOTED:
Councilor DiMartino	VOTED:
Councilor Matters	VOTED:
Councilor Grant	VOTED:
Councilor Tierney	VOTED:

197-2016 A Resolution to Change the Provisional Appointment of Roger Sharp From Laborer to Sewage Treatment Plant Operator in the Department of Public Works

WHEREAS, the Town of East Greenbush has spent approximately \$15 million to upgrade its Wastewater Treatment Plant and currently lacks adequate staffing for the upgraded plant as identified by consultants responsible for design and construction monitoring as well as its own internal analysis; and

WHEREAS, Roger Sharp was appointed to the position of Laborer in the Department of Public Works by Resolution 183-2016 at the September 21, 2016 Town Board meeting; and

WHEREAS, Roger Sharp has five years' experience in wastewater treatment and completed courses in Basic Laboratory Course for Wastewater Treatment Operators at Morrisville State College and Basic Operations for Wastewater Treatment Plants and Activated Sludge Processes at SUNY Adirondack College; and

WHEREAS, this combination of experience and education is required to guarantee the efficient operation of the upgraded Wastewater Treatment Plant; and

WHEREAS, the Town Comptroller confirms the resolution will not have a negative impact on the Town's finances;

now, therefore, be it

RESOLVED, that the provisional appointment of Roger Sharp to the position of Laborer in the Department of Public Works is hereby rescinded;

and be it further

RESOLVED, that Roger Sharp is appointed to the position of Sewage Treatment Plant Operator in the Department of Public Works on a provisional basis at a rate of \$21.4445 per hour as required by the CSEA contract. This appointment is dependent on the approval of the Rensselaer County Civil Service Commission and can only be made permanent if Roger Sharp achieves a grade on the Civil Service Exam that permits the Town to hire him on a permanent basis. This provisional appointment is effective as of October 20, 2016.

The foregoing resolution was duly moved by Councilor DiMartino and seconded by Supervisor Conway and brought to a vote resulting as follows:

Councilor DiMartino
Supervisor Conway
Councilor Matters
Councilor Grant
Councilor Tierney

VOTED:
VOTED:
VOTED:
VOTED:
VOTED:

198-2016 A Resolution to Authorize the Award for Removal of Underground Fuel Storage Tank at the Town's Highway Garage

WHEREAS, Town Board Resolution 137-2016 authorized the solicitation of bids for the replacement of the Underground Fuel Storage Tanks at the Town Highway Garage, this requires a bid for removal and a second bid for replacement; and

WHEREAS, IFB 16-2 Removal of Underground Storage Fuel Tanks was posted soliciting bids to remove the current underground storage tanks in order to comply with Order on Consent (#R4-2013-0320-47) for Petroleum Bulk Storage violations; and

WHEREAS, bids were opened and read aloud in a public forum by the Director of Finance and Town Clerk on September 13, 2016; and

WHEREAS, the lowest responsible bidder for the project was:
Corbett Industrial Cleaning Services

WHEREAS, the Base bid was \$17,385.00, soil removal price of \$43.50/ton and includes up to 250 gallons of fuel sludge/waste to be removed; and

WHEREAS, the Town Comptroller confirms the financial impact of this resolution is approximately \$17,385.00 in the Highway Fund for this expense budgeted in 2016; now, therefore, be it

RESOLVED, that the Town Board hereby authorizes the Director of Finance to send an award letter to Corbett Industrial Cleaning Services.

The foregoing resolution was duly moved by Supervisor Conway and seconded by Councilor Grant and brought to a vote resulting as follows:

Supervisor Conway
Councilor Grant
Councilor DiMartino
Councilor Matters
Councilor Tierney

VOTED:
VOTED:
VOTED:
VOTED:
VOTED:

199-2016 A Resolution Authorizing the Settlement of Tax Certiorari Proceeding Entitled East Greenbush Lodging Associates v. the Town of East Greenbush for the Years 2014, 2015 and 2016

WHEREAS, East Greenbush Lodging Associates, LLC and the Town of East Greenbush are desirous of having certain assessment issues resolved as to properties owned by East Greenbush Lodging Associates, LLC on Hampton Inn Drive and Tempel Lane in the Town of East Greenbush at the parcel numbers listed below; and

WHEREAS, a settlement proposal resolving tax certiorari litigation was recommended by the Vincelette Law Firm, special counsel to the Town of East Greenbush, and reviewed by the East Greenbush Town Board at its regular monthly meeting; and

WHEREAS, such a proposed settlement would present the parties with an expeditious and economic alternative to further litigation so as to resolve issues between the parties; and

WHEREAS, the Town Board has determined that the proposed settlement is in the best interests of the Town; and

WHEREAS, the Town Comptroller confirms the resolution will have a negative impact on the Town’s finances due to decreases in assessed values impacting other tax payers billing and decreasing effect on the sales tax share from the County; now, therefore, be it

RESOLVED, that the Town Board of the Town of East Greenbush authorizes the Town Attorney to settle the East Greenbush Lodging Associates, LLC v. East Greenbush Tax Certiorari proceeding, and that the Town Board does hereby accept a proposed settlement for the 2014, 2015 and 2016 tax certiorari proceedings filed by East Greenbush Lodging Associates, LLC in which the 2014 values shall remain unchanged and the 2015 and 2016 assessed value of the subject properties shall be reduced as follows:

<u>Year</u>	<u>Parcel No.</u>	<u>Prior Assessed Value</u>	<u>New Assessed Value</u>	<u>Reduction</u>
2015	155.-3-12	\$869,600	\$869,600	\$0
2015	155.-3-2.12	\$844,400	\$785,600	\$58,800
2015	155.-3-2.111	\$1,471,200	\$968,200	\$503,000
2015	155.-3-2.112	\$967,000	\$668,600	\$298,400
2015	155.-3-2.113	\$1,135,200	\$568,200	\$567,000
2016	155.-3-12	\$5,369,600	\$5,369,600	\$0
2016	155.-3-2.12	\$791,600	\$791,600	\$0
2016	155.-3-2.111	\$968,200	\$968,200	\$0
2016	155.-3-2.112	\$668,600	\$668,600	\$0
2016	155.-3-2.113	\$568,200	\$568,200	\$0

Real Property Tax Law §727 shall apply, and the assessment shall remain unchanged for the 2017, 2018 and 2019 assessment rolls, with the understanding that assessments for vacant land only apply as long as those parcels remain vacant land;

and be it further

RESOLVED, that the Town Board does hereby adopt this resolution to end the litigation between East Greenbush Lodging Associates, LLC and the Town of East Greenbush as to the above referenced assessment.

The foregoing resolution was duly moved by Councilor Matters and seconded by Supervisor Conway and brought to a vote resulting as follows:

Councilor Matters	VOTED:
Supervisor Conway	VOTED:
Councilor DiMartino	VOTED:
Councilor Grant	VOTED:
Councilor Tierney	VOTED:

200-2016 A Resolution Confirming a Negative Declaration Relating to the Amendment of Article VI, Section 4, (E) (2) of the Land Subdivision Regulations.

WHEREAS, this resolution was not able to be submitted in time to be considered on the regularly scheduled pre-board meeting of October 12, 2016 and was subsequently presented to the Town Board on October 17, 2016; and

WHEREAS, the Town Board of the Town of East Greenbush has been asked, by a resolution of the Planning Board, to amend Article VI, Section 4, (E)(2) of the Land Subdivision Regulations, providing for additional notice of major subdivisions to landowners within a specific distance of the land involved in such application; and

WHEREAS, the Town Board has been presented with a duly completed SEQRA evaluation form, setting forth the prospective environmental impacts of said local law; and

WHEREAS, the Town Board has given due consideration to such report, and has concluded that the proposed local law ratifying and adopting the existing Land Subdivision Regulations, and amending the said notification provision, shall have no major impact upon the environment; and

WHEREAS, the Town Comptroller asserts this resolution will have no financial impact; now, therefore, be it

RESOLVED, that the Town Board accepts and adopts the finding of said report, and its negative declaration of significant impact upon the environment.

The foregoing resolution was duly moved by Councilor Tierney and seconded by Councilor Grant and brought to a vote resulting as follows:

Councilor Tierney	VOTED:
Councilor Grant	VOTED:
Supervisor Conway	VOTED:
Councilor DiMartino	VOTED:
Councilor Matters	VOTED:

201-2016 A Resolution Authorizing Payment of a Voucher for \$13,267.61 to Ben Funk, Inc. for Repair of a Single Axle Dump Truck with Plow and Wings

WHEREAS, this resolution was not able to be submitted in time to be considered on the regularly scheduled pre-board meeting of October 12, 2016 and was subsequently presented to the Town Board on October 17, 2016; and

WHEREAS, a Department of Public Works single axle dump truck with plow and wings, VIN # 1HWEAZR27J400877, was brought to Ben Funk, Inc. for repair of a cracked engine head with an anticipated repair cost of \$3,000.00 but diagnostic analysis found significant pressure and temperature problems at inlet and outlet, the need to replace a restricted evaporator, a leak in the cooler, broken bolts in the exhaust manifold, a crack in the engine head, the need for a new head gasket and new head, valves that needed to be adjusted, disrepair of O-rings on injectors, and worn out seals on the rail; and

WHEREAS, it was determined that the vehicle was unsafe to drive until all of these problems were addressed, the Commissioner of Public Works ordered that the work be completed; and

WHEREAS, the cost of labor was \$5,724.00, the cost of parts was \$7,483.61 and miscellaneous other costs totaled \$60.00 for a total invoice cost of \$13,267.61; and

WHEREAS, the Town Comptroller has confirmed the financial impact of the resolution is \$13,267.61 charged and budgeted to the Highway Account Code/Description 51304.02.004/Machinery,

now, therefore, be it

RESOLVED, that the Town Comptroller and Town Supervisor are authorized to sign the voucher submitted by the Commissioner of Public Works and process a payment of \$13,267.61 to Ben Funk, Inc.

The foregoing resolution was duly moved by Councilor DiMartino and seconded by Supervisor Conway and brought to a vote resulting as follows:

Councilor DiMartino
Supervisor Conway
Councilor Matters
Councilor Grant
Councilor Tierney

VOTED:
VOTED:
VOTED:
VOTED:
VOTED:

202-2016 A Resolution Re-Scheduling a Public Hearing to Consider Extending the General Water District to Include Certain Premises Known as 150 Ridge Road, owned by Kamal Swami and Avani Swami

WHEREAS, this resolution was not able to be submitted in time to be considered on the regularly scheduled pre-board meeting of October 12, 2016 and was subsequently presented to the Town Board on October 17, 2016; and

WHEREAS, Kamal Swami and Avani Swami have requested that the General Water District be extended to include the real property owned by them at 150 Ridge Road; and

WHEREAS, the Swamis have indicated that they will be filing the appropriate petition pursuant to Town Law requesting such expansion, including the costs of such extension and the annual costs of being included in said district; and

WHEREAS, the Town Comptroller asserts this resolution will have no financial impact; now, therefore, be it

RESOLVED, that the Town Board hereby schedules a public hearing to consider said petition on Wednesday, November 16, 2016 at 6:45 PM at East Greenbush Town Hall.

The foregoing resolution was duly moved by Councilor Tierney and seconded by Councilor Grant and brought to a vote resulting as follows:

Councilor Tierney
Councilor Grant
Supervisor Conway
Councilor DiMartino
Councilor Matters

VOTED:
VOTED:
VOTED:
VOTED:
VOTED:

203-2016 A Resolution Re-Scheduling a Public Hearing to Ratify and Affirm the Town of East Greenbush Land Subdivision Regulations and Further Amend Section 4 of the Town of East Greenbush Land Subdivision Regulations

WHEREAS, this resolution was not able to be submitted in time to be considered on the regularly scheduled pre-board meeting of October 12, 2016 and was subsequently presented to the Town Board on October 17, 2016; and

WHEREAS, it is in the interest of the community to be properly notified of any major subdivision projects in proximity of homes and businesses; and

WHEREAS, it has been determined by planning staff that notification by mail to property owners within five-hundred (500) feet of land involved in a major subdivision application will enhance community awareness of proposed projects; and

WHEREAS, on August 24, 2016 the Town of East Greenbush Planning Board passed a resolution recommending the Town Board consider amending the subdivision regulations stating as follows: "The Secretary of the Planning Board shall provide notice of any public hearing regarding a major subdivision, including data regarding the substance of the application, to the owners of all property within five hundred (500) feet of the land involved in such application.

Notice shall be provided by either certified or registered mail at least seven (7) calendar days prior to the hearing with costs to be borne by the applicant;" and

WHEREAS, to remain consistent with the current notification requirements of the Zoning Board of Appeals, the notification distance will be to all owners of property within two-hundred (200) feet; and

WHEREAS, such an amendment will require a modification to Section 4 of the Town Land Subdivision Regulations as well as the ratification of previously adopted local subdivision regulations; and

WHEREAS, the Town Comptroller asserts this resolution will have no financial impact, now, therefore, be it

RESOLVED, that the Town Board schedule a Public Hearing on November 16, 2016 at 6:30 PM to discuss affirming existing Town Land Subdivision Regulations and amending Section 4 of the Town Land Subdivision Regulations.

The foregoing resolution was duly moved by Councilor Tierney seconded by Councilor Grant and brought to a vote resulting as follows:

Councilor Tierney	VOTED:
Councilor Grant	VOTED:
Supervisor Conway	VOTED:
Councilor DiMartino	VOTED:
Councilor Matters	VOTED:

204-2016 A Resolution to Schedule a Special Meeting to Approve the Preliminary Budget and Attend to Other Matters

WHEREAS, this resolution was not able to be submitted in time to be considered on the regularly scheduled pre-board meeting of October 12, 2016 and was subsequently presented to the Town Board on October 18, 2016; and

WHEREAS, the Tentative Budget was distributed to members of the Town Board on October 4, 2016; and

WHEREAS, the Town Board must prepare the Preliminary Budget and post it on the website at least five days before the Public Hearing, which is scheduled for November 3, 2016 at 6:00 p.m.; and

WHEREAS, this and other matters pending before the Board will not be resolved by the October 19, 2016 meeting of the Town Board; and

WHEREAS, the Town Comptroller asserts this resolution will have no financial impact; now, therefore, be it

RESOLVED, that the Town Board of the Town of East Greenbush schedule a special meeting for October 24, 2016 at 6:00 p.m. to approve the Preliminary Budget and attend to other matters.

The foregoing resolution was duly moved by Supervisor Conway and seconded by Councilor Tierney and brought to a vote resulting as follows:

Supervisor Conway	VOTED:
Councilor Tierney	VOTED:
Councilor DiMartino	VOTED:
Councilor Matters	VOTED:
Councilor Grant	VOTED:

205-2016 A Resolution Authorizing the Town to Enter into a Cooperative Agreement with East Greenbush Central School District to Pave a Parking Lot on Gilligan Road

WHEREAS, this resolution was not able to be submitted in time to be considered on the regularly scheduled pre-board meeting of October 12, 2016 and was subsequently presented to the Town Board on October 18, 2016; and

WHEREAS, the Town has received from the School Superintendent a letter of understanding dated October 7, 2016 proposing a cooperative effort to pave a parking lot adjacent to various community league baseball and softball fields; and

WHEREAS, the Town DPW Commissioner has located a Rensselaer County cooperative paving bid and provided a cost estimate (\$79,196) that the School is in agreement to pay in full; and

WHEREAS, the Town DPW Commissioner has provided an estimate (\$5,900) for set-up and supervising the job including communicating and requiring input from the community Leagues (East Greenbush Girls Softball League, East Greenbush Castleton Youth Baseball League, Southern Rensselaer County Baseball League); and

WHEREAS, the Town Comptroller has confirmed the net financial impact of the resolution is estimated at \$5,900 charged and budgeted to the Highway Account Code/Description 51104.02.004/General Repair,
now, therefore, be it

RESOLVED, that the Town Comptroller and Town DPW Commissioner are authorized to enter a cooperative agreement with the East Greenbush Central School District as specified in the October 7, 2016 Letter of Understanding to pave the parking lot described in the School Superintendent a letter of understanding dated October 7, 2016

The foregoing resolution was duly moved by Councilor Tierney and seconded by Councilor Grant and brought to a vote resulting as follows:

Councilor Tierney	VOTED:
Councilor Grant	VOTED:
Supervisor Conway	VOTED:
Councilor DiMartino	VOTED:
Councilor Matters	VOTED:

ADJOURNMENT

Motion to adjourn by Supervisor Conway seconded by Councilor Grant and brought to a vote as follows:

Supervisor Conway	VOTED:
Councilor Grant	VOTED:
Councilor DiMartino	VOTED:
Councilor Matters	VOTED:
Councilor Tierney	VOTED:

LOCAL LAW FILING NEW YORK STATE DEPARTMENT OF STATE

99 Washington Avenue • Albany, New York 12231-0001

**TOWN OF EAST GREENBUSH
LOCAL LAW NO. 3 OF THE YEAR 2016**

A local law enacting a new Code of Ethics.

Be it enacted by the Town Board of the town of East Greenbush as follows:

Section 1 – Legislative Intent and Purpose

The Town Board finds that the town’s current code enacted pursuant to Local Law No. 3 of 2013 does not meet adequate standards of municipal ethics. It is, therefore, the intent of this local law to amend the current code by supplanting it with a new code.

The purpose of this code is to establish minimum standards of conduct for officials and employees of the town to ensure that the business of town government is free from improper influence that may result from opportunities for private gain. By requiring public disclosure of financial interests and other actions that may influence or be perceived to influence the proper operations of town government, this code is intended to facilitate consideration of potential problems before they arise, to minimize unwarranted suspicion, and to enhance the accountability of the town government to residents.

This code is designed:

- ▶ to establish transparent frameworks for government officials with respect to voting and other decision-making processes;
- ▶ to ensure transparency and ethical conduct by government employees and officials;
- ▶ to promote and foster public trust and citizen confidence in the administration of government; and
- ▶ to demonstrate a formal and codified commitment to ethical behavior by government officials.

Officers and employees of the town hold their positions to serve and benefit the public, and not for obtaining unwarranted personal or private gain in the exercise and performance of their official powers and duties. The town recognizes that, in furtherance of this fundamental principle, there is a need for clear and reasonable standards of ethical conduct to prohibit acts or actions incompatible with the discharge of public duties in the best interests of the town. This code establishes those standards.

Section 2 - Definitions

- (a) “Board” or “board members” means the governing board of a town and any town administrative board (e.g. planning board, zoning of board of appeals), commission, or other agency or body comprised of two or more town officers or employees.

- (b) “Code” means this East Greenbush town Code of Ethics.
- (c) “Confidential information” is information that at the time of its disclosure or use by a town official is not generally available to the public or is exempt from disclosure by state or federal statute
- (d) “Domestic Partner(s)” means two people aged eighteen (18) years or older, who have been living together on a continuous basis for at least six (6) months. The persons intend to continue living together indefinitely and are not related by blood in a manner that would legally prohibit their marriage. Neither person is married, and neither person has had another domestic partner in within the last six (6) months.
- (e) “Interest” means a direct or indirect financial or material benefit, but does not include any benefit arising from the provision or receipt of any services generally available to the residents or taxpayers of the town or an area of the town, or a lawful class of such residents or taxpayers. A town officer or employee is deemed to have an interest in any private organization when he or she or a relative is an owner, partner, member, director, officer, employee, or directly or indirectly owns or controls more than 5% of the organization’s outstanding stock.
- (f) “Town” means town of East Greenbush.
- (g) “Town officer or employee” means a paid or unpaid officer, employee, or appointed independent contractor of the town of East Greenbush, including, but not limited to, the members of any town board.
- (h) “Recusal” means that the official shall not be present, deliberate, vote or participate in any way in a matter in which they or a relative has an interest. When an official recuses himself or herself, they may not provide input from the audience as a member of the public.
- (i) “Relative” means a spouse, domestic partner, parent, step-parent, sibling, step-sibling, sibling’s spouse, child, step-child, or household member of a town officer or employee, and individuals having any of these relationships to the spouse/domestic partner of the officer or employee.

Section 3 - Applicability

This code applies to the officers and employees of the town, and shall supersede any prior code. The provisions of this code shall apply in addition to all applicable state and local laws relating to conflicts of interest and ethics, including, but not limited to, Article 18 of the New York General Municipal Law and all rules, regulations, policies, and procedures duly adopted by the town.

Section 4 - Financial Disclosure

- (a) Financial disclosure statements as developed by the Board of Ethics are required to be completed by all elected officials, certain employees, officers and independent contractors, including but not limited to:

- (1) Assessor;
- (2) Deputy Assessor;
- (3) Building Inspector;
- (4) Code Enforcement Officer;

- (5) Director of Planning and Zoning;
- (6) Deputy Town Clerk;
- (7) Town Comptroller;
- (8) Commissioner of Public Works;
- (9) Deputy Commissioner of Public Works;
- (10) Director of Finance;
- (11) Chief of Police;
- (12) Assistant Chief of Police;
- (13) Town Services Coordinator;
- (14) Purchasing Agent;
- (15) Deputy Supervisor;
- (16) Appointed Attorneys to the Town;
- (17) Human Resources Administrator;
- (18) Town Engineer; and
- (19) Members of all Town Boards.

(b) Financial disclosure statements shall be submitted to the Town Clerk annually on or before the fifteenth day of April with respect to the preceding calendar year, except that:

- (1) a person who is subject to the reporting requirements of this section who is appointed, elected or hired after the fifteenth day of April shall file disclosure within 30 days of said appointment.

(c) For a person who is subject to the reporting requirements of this section, financial disclosure statements shall contain the following information:

- (1) individual's home address;
- (2) list of household relatives;
- (3) list of positions the individual currently held holds with town;
- (4) list of positions the individual currently held holds with other public entities;
- (5) list of real property ownership of the individual (interest greater than 5%) within the town;
- (6) list of leased property of the individual (interest greater than 5%) within the town;
- (7) list of businesses where the individual has a current ownership interest (interest greater than 5%);
- (8) list of current/past employers (past 12 months) of the individual;
- (9) list of directorships/officer positions of the individual;
- (10) name of any corporation, partnership, unincorporated association, or other unincorporated business of which the individual is an officer, employee, partner, or has an interest, and if the partnership, association or business has engaged within the past 12 months or which is anticipated to have any business dealings with the town within the next 12 months;
- (11) list of the source of any income the individual has derived during the previous calendar year from the town for goods and services; and

(12) list of the representations of the individual before a town department or board in the previous calendar year. Representations shall include applications or matters before a board on which the individual has an interest in the outcome not applicable to the general public.

- (d) If an individual is a person holding a position listed in Section 4 (a) of this code, they must disclose the information requested in this section as applied to their spouse or domestic partner.
- (e) A person subject to this section whose reported information disclosed relative to subsections (C)(1-12) has changed, shall file an amended financial disclosure form reflecting the changes with the Town Clerk within 30 days.
- (f) A person who fails to provide the information required in this section or knowingly violates/falsely reports any information required in this section shall be guilty of a violation and is subject to Section 22 of this code.

Section 5 - Prohibition on Use of Town Position for Personal or Private Gain

No town officer or employee shall use his or her town position or official powers and duties to secure a financial or material benefit for himself or herself, a relative, or any private organization in which he or she has a reported interest.

Section 6 - Disclosure of Interest in Legislation and Other Matters

- (a) Whenever a matter requiring the exercise of discretion comes before a town officer or employee, either individually or as a member of a board, and disposition of the matter could result in a direct financial or material benefit to himself or herself, a relative, or any private organization in which he or she is deemed to have an interest, the town officer or employee shall disclose in writing the nature of the interest.
- (b) The disclosure shall be made when the matter requiring disclosure first comes before the town officer or employee, or when the town officer or employee first acquires knowledge of the interest requiring disclosure, whichever is earlier.
- (c) In the case of a person serving in an elective office, the disclosure shall be filed with the Town Board. In all other cases, the disclosure shall be filed with the person's supervisor or, if the person does not have a supervisor, the disclosure shall be filed with the Town Clerk, and with the town officer, employee, or board having the power to appoint the person's position.
- (d) In the case of a person serving on a town board, a copy of the disclosure shall be filed with that board. Any disclosure made to a board shall be made publicly at a meeting of the board and must be included in the minutes of the meeting.

Section 7 - Recusal and Abstention

- (a) No town officer or employee may participate in any decision or take any official action with respect to any matter requiring the exercise of discretion, including discussing the matter and voting on it, when he or she knows or has reason to know that the action could confer a direct

or indirect financial or material benefit on himself or herself, a relative, or any private organization in which he or she is deemed to have an interest.

- (b) Any town officer or employee exercising the right to recuse and/or abstain shall state the reason on the record before the board or agency of which he or she is a member.

- (c) In the event that this section prohibits a town officer or employee from exercising or performing a power or duty:
 - (1) if the power or duty is vested in a town officer as a member of a board, then the power or duty shall be exercised or performed by the other members of the board;
or
 - (2) if the power or duty is vested in a town officer individually, then the power or duty shall be exercised or performed by his or her deputy. If the officer does not have a deputy, the power or duty shall be performed by another person to whom the supervisor may lawfully delegate the function; or
 - (3) if the power or duty is vested in a town employee, he or she must refer the matter to his or her immediate supervisor, and the immediate supervisor shall designate another person to exercise or perform the power or duty.

Section 8 - Prohibition Inapplicable; Disclosure, Recusal, and Abstention not Required

- (a) This code's prohibition on use of a town position (section 5 hereof), disclosure requirements (section 6 hereof), and requirements relating to recusal and abstention (section 7 hereof), shall not apply with respect to the following matters:
 - (1) adoption of the town's annual budget;
 - (2) any matter requiring the exercise of discretion that directly affects any of the following groups of people or a lawful class of such groups:
 - (i) all town officers or employees;
 - (ii) all residents or taxpayers of the town or an area of the town;
 - (iii) the general public; or
 - (iv) any matter that is required by law, executive order or mandate.

- (b) Recusal and abstention shall not be required with respect to any matter:
 - (1) which comes before a board when a majority of the board's total membership would otherwise be prohibited from acting by section 7 hereof;
 - (2) which comes before a town officer when the officer would be prohibited from acting by section 7 hereof and the matter cannot be lawfully delegated to another person.

Section 9 - Interests in Conflict with Official Duties

- (a) No town officer or employee may acquire:

- (1) Interests that can be reasonably expected to require more than excessive recusal and abstention under Section 7 hereof.
- (b) The Supervisor, Town Board, Comptroller, or their deputies may not have interest in any bank, trust company, or other financial institution named as a depository.
- (c) This section does not prohibit a town officer or employee from acquiring any other interests or real property located within the town and used as his or her personal residence or for any other uses.

Section 10 - Private Employment in Conflict with Official Duties

No town officer or employee, during his or her tenure as a town officer or employee, may engage in any private employment, including the rendition of any business, commercial, professional or other types of services, when the employment:

- (a) can be reasonably expected to require more than excessive recusal and abstention pursuant to section 7 hereof;
- (b) can be reasonably expected to require disclosure or use of confidential information gained by reason of serving as a town officer or employee;
- (c) requires representation of a person or organization other than the town in connection with litigation, negotiations or any other matter to which the town is a party. In addition, no town officer or employee may receive or enter into any agreement, express or implied, for compensation for services to be rendered in relation to any matter before any town board or agency of which he is an officer, member, or employee, or of any municipal agency over which he has jurisdiction or to which he has the power to appoint any member, officer or employee; or receive, or enter into any agreement, express or implied, for compensation for services to be rendered in relation to any matter before any board or agency of the town, whereby his compensation is to be dependent or contingent upon any action by such board or agency with respect to such matter, provided that this paragraph shall not prohibit the fixing at any time of fees based upon the reasonable value of the services rendered.

Section 11 - Future Employment

- (a) No town officer or employee may ask for, pursue or accept a private post-government employment opportunity with any person or organization that has a matter requiring the exercise of discretion pending before the town officer or employee, either individually or as a member of a board, while the matter is pending or within a one year period following the final disposition of the matter.
- (b) No town officer or employee, for a two year period after serving as a town officer or employee, may represent or render services to a private person or organization in connection with any matter involving the exercise of discretion before the town office, board, department, or comparable organizational unit for which he or she serves. Additionally, the organizational unit for which the former town employee served shall refuse to entertain the former employee if they seek to represent or render services to a private person or organization in connection with any matter involving discretion before that organizational unit for a two year period.

- (c) No town officer or employee, at any time after serving as a town officer or employee, may represent or render services to a private person or organization in connection with any particular transaction in which he or she personally and substantially participated while serving as a town officer or employee. Additionally, the town, or organizational unit in which the town officer or employee served, shall refuse to entertain the former employee if they seek to represent or render services to a private person or organization in connection with any particular transaction in which he or she personally and substantially participated while serving as a town officer or employee.

Section 12 - Personal Representations and Claims Permitted.

This code shall not be construed as prohibiting a town officer or employee from:

- (a) representing himself or herself, or his or her spouse or minor children before the town; or
- (b) asserting a claim against the town on his or her own behalf, or on behalf of his or her spouse or minor children.

Section 13 - Use of Town Resources

- (a) Town resources shall be used for lawful town purposes. Town resources include, but are not limited to, real property, personnel, money, vehicles, equipment, materials, supplies or other property owned or retained by the town.
- (b) No town officer or employee may use or permit the use of town resources for personal or private purposes, but this provision shall not be construed as prohibiting:
 - (1) any use of town resources authorized by law or written town policy;
 - (2) the use of town resources for personal or private purposes when provided to a town officer or employee as part of his or her compensation;
 - (3) the occasional and incidental use during the business day of town telephones and computers for necessary personal matters such as family care and changes in work schedule; or
 - (4) the occasional or incidental use when special circumstances necessitate, providing the employee has prior approval of their direct supervisor.
- (c) No town officer or employee shall cause the town to spend more than is reasonably necessary for transportation, meals or lodging in connection with official travel.

Section 14 - Interests in Contracts

No town officer or employee shall have an interest in any contract with the town, when such officer or employee, individually or as a member of a board, has the power or duty to:

- (a) negotiate, prepare, authorize or approve the contract or authorize or approve payment of the contract;
- (b) any town officer or employee who has, will have, or later acquires an interest in any actual or proposed contract with the town shall publicly disclose the nature and extent of such interest in writing to the Board of Ethics as soon as he has knowledge of such actual or prospective interest. Such written disclosure shall be

made part of and set forth in the official record of the proceedings of the Board of Ethics. Once disclosure has been made by an officer or employee with respect to an interest in a contract with a particular person, firm, corporation or association, no further disclosures need to be made by such officer or employee with respect to additional contracts with the same party during the remainder of the fiscal year.

Section 15 – Nepotism

Except as otherwise required by law:

- (a) No town officer or employee, either individually or as a member of a board, may participate in any decision specifically to appoint, hire, promote, discipline or discharge a relative for any position at, for, or within the town or a town board.
- (b) Town board members shall recuse themselves from deliberations and abstain from voting on items pertaining to their relatives.
- (c) Elected officials' spouse/domestic partner, children and step-children shall not be hired or appointed to any position in the town during the elected officials' term in office.
- (d) Nothing contained herein shall prevent those town officers and employees who, as of the effective date of this Code of Ethics currently serve the town, from continuing to do so. Those persons shall be grandfathered in and allowed to remain in their current positions.
- (e) Whenever a relative of a town officer or employee seeks seasonal employment, the potential appointment will be forwarded to the Human Resources Department for final review to assure compliance with the town's current hiring guidelines. Seasonal employment shall be defined as employment for not more than fourteen (14) weeks per calendar year regardless of the number of hours per week the seasonal employee works.
- (f) Whenever a relative of a town officer or employee would be appointed based on their reachable status for selection from an appropriate civil service eligibility list; the potential appointment will be forwarded to the Human Resources Department for final review to assure compliance with the town's current hiring guidelines.
- (g) Nothing contained herein shall prevent the Town Board from appointing, hiring or contracting with a relative of town officers or employees due to urgent needs resulting from an emergency situation posing an obvious and immediate threat to life or property.
- (h) No town officer or employee may directly supervise a relative in the performance of the relative's official powers or duties unless the following conditions have been met:
 - (1) hiring or appointment guidelines of the town have been observed;
 - (2) a non-related individual has been assigned as manager to conduct performance evaluations and recommend promotions or advancements.

Section 16 – Political Activity and Solicitations

- (a) No town officer or employee shall directly or indirectly compel or induce from another town officer or employee any political contribution, whether by gift of money, service or other thing of value.
- (b) No town officer or employee may act or decline to act in relation to appointing, hiring or promoting, discharging, disciplining, or in any manner changing the official rank, status or compensation of any town officer or employee, or an applicant for a position as a town officer or employee, on the basis of the giving or withholding or neglecting to make any contribution of money or service or any other valuable thing for any political purpose.
- (c) No town officer or employee may engage in activities related to any political party while engaged in official town business. Activities prohibited include fundraising, collecting signatures, and organizing meetings.
- (d) No town officer or employee shall engage in political campaign activities while engaged in official town business.
- (e) No town officer or employee shall use town resources for any political campaign or political activities.
- (f) No town officer or employee shall hold any office in a political party represented on the election ballot.
- (g) The following officials are prohibited from serving on a political party committee: members of Town Board, Planning Board, Zoning Board of Appeals, Board of Ethics; Commissioner of Public Works; Town Comptroller; Assessor; Director of Planning and Zoning; and Deputy Supervisor.
- (h) No town officer or employee may serve as a designated campaign treasurer for a candidate.
- (i) No town officer or employee shall request or require a subordinate by a third party to attend political functions, sign political forms or petitions, or otherwise engage in activities for a political party during their normal business hours or while acting as a representative of the town.
- (j) Town officials who are prohibited from serving on political party committees must resign from such committees by January 1, 2017.
- (k) This section should not be construed to limit the right of town officers or employees to engage in political dialogues, discussions, or express political opinions and views.
- (l) No elected member of a county, state or federal legislative body may be appointed to serve as attorney or member of the Planning Board, Zoning Board of Appeals, or Board of Ethics.

(m) This section shall not apply to any position of employment in the town made possible by any act of Congress or of the legislature appropriating, or authorizing the appropriation of funds for work relief or relief purposes.

Section 17 - Confidential Information

- (a) No town officer or employee who acquires confidential information in the course of exercising or performing his or her official powers or duties may disclose or use such information unless the disclosure or use is required by law or in the course of exercising or performing his or her official powers and duties.
- (b) No town officer or employee who acquires confidential information in the course of exercising or performing his or her official powers or duties shall use that information to further their own business, professional, or political career, or that of a relative

Section 18 - Gifts

- (a) No town officer or employee shall solicit, accept or receive a gift in violation of § 805-a (1) (a) of the New York General Municipal Law as interpreted in this section.
- (b) No town officer or employee may accept or receive any gift, or multiple gifts from the same donor, having an annual aggregate value of one hundred dollars or more when:
 - (1) the gift reasonably appears to be intended to influence the officer or employee in the exercise or performance of his or her official powers or duties;
 - (2) the gift could reasonably be expected to influence the officer or employee in the exercise or performance of his or her official powers or duties; or
 - (3) the gift is intended as a reward for any official action on the part of the officer or employee.
- (c) For purposes of this section, a “gift” includes anything of value, whether in the form of money, service, loan, travel, entertainment, hospitality, thing or promise, or in any other form. The value of a gift is the gift’s fair market value, determined by the retail cost of the item or a comparable item. The fair market value of a ticket entitling the holder to food, refreshments, entertainment, or any other benefit is the face value of the ticket, or the actual cost to the donor, whichever is greater. Determination of whether multiple gifts from a single donor exceed one hundred dollars must be made by adding together the value of all gifts received from the donor by an officer or employee during the twelve-month period preceding the receipt of the most recent gift.
- (d) A gift to a town officer or employee is presumed to be intended
 - (1) to influence the exercise or performance of his or her official powers or duties when the gift is from a private person or organization that seeks town action involving the exercise of discretion by or with the participation of the officer or employee.
 - (2) as a reward for official action when the gift is from a private person or organization that has obtained town action involving the exercise of discretion by or with the participation of the officer or employee during the preceding twelve months.

- (e) This section does not prohibit any other gift, including:
- (1) gifts made to the town;
 - (2) gifts from a person with a family or personal relationship with the officer or employee when the circumstances make it clear that the personal relationship, rather than the recipient's status as a municipal officer or employee, is the primary motivating factor for the gift;
 - (3) gifts given on special occasions, such as marriage, illness, or retirement, which are reasonable and customary;
 - (4) unsolicited advertising or promotional material of little intrinsic value, such as pens, pencils, note pads, and calendars;
 - (5) awards and plaques having a value of one hundred dollars or less which are publicly presented in recognition of service as a town officer or employee, or other service to the community; or
 - (6) meals and refreshments provided when a town officer or employee is a speaker or participant at a job-related professional or educational conference or program and the meals and refreshments are made available to all participants.

Section 19 – Board of Ethics

(a) There is hereby established a Board of Ethics for the town.

(1) The Board of Ethics shall consist of:

i. five (5) members, a majority of whom shall not be officers or employees of the town, but at least one of whom must be a town officer or employee; and

ii. two (2) alternate members for purposes of substituting for a member in the event such member is unable to participate because of a conflict of interest. Such alternate members shall serve for a term not to exceed two years.

(2) The terms of members of the board shall be for terms so fixed that the term of one member shall expire at the end of the calendar year in which such members were initially appointed. The terms of the remaining members shall be fixed so that one term shall expire at the end of each calendar year thereafter. At the expiration of the term of each member first appointed, his or her successor shall be appointed for a term which shall be equal in years to the number of members of the board, excluding alternate members. The terms of the members first appointed shall be determined by lot drawn by the Town Clerk in the presence of the Supervisor and at least one Town Board member selected by the Town Board.

(3) The members of the Board of Ethics must be residents of the town.

(4) Town Board members and their relatives are ineligible to serve on the Board of Ethics,

(5) The members shall receive no salary or compensation for their services as members of the Board of Ethics.

(6) The members of such board shall not function as an officer (chairperson, vice chairperson, secretary, treasurer or other elected or appointed office holder) or committee member of a political party.

(7) Members of the Board of Ethics may only be removed by the Town Board for cause, after an opportunity to be heard, including but not limited to the following:

- i. violation of the Code of Ethics;
- ii. violation of the confidentiality of any person who files a complaint, is the subject of an investigation, or appears before the Board of Ethics;
- iii. conviction for a crime while serving on the board;
- iv. excessive absence from meetings of the Board of Ethics. "Excessive" is defined as missing more than 50% of the meetings in a calendar year;
- v. announcing a run for political office.

(b) The Board of Ethics shall render advisory opinions to the officers and employees of the town. Such advisory opinions must be rendered pursuant to the written request of any such officer or employee under such rules and regulations as the Board of Ethics may prescribe. The Board of Ethics shall have the advice of legal counsel employed by the board, or if none, the town's legal counsel, except in cases which such counsel has a conflict. In cases of a conflict of said attorney, the town shall pass a resolution for the appointment of special counsel. In addition, the Board of Ethics may make recommendations with respect to the drafting and adoption of a code, or amendments thereto, upon the request of the Town Board.

(c) Receipt and Investigation of Complaints

- (1) In addition to the other powers and duties granted to the Board of Ethics above, the board shall have the authority to receive from any person a written complaint alleging a violation by any officer or employee of the Town of the provisions of this article. The Board of Ethics may prescribe a form for such complaint.

The written complaint must be signed and notarized, shall include the individual complainant's address, and set forth in reasonable detail and documentation, if any, the facts alleged to constitute the violation(s). Within 15 business days of receipt of a complaint, the Board of Ethics, by a member, shall send a written acknowledgement that the complaint has been received.

- (2) The identity of individuals filing complaints with the board shall remain confidential. All proceedings and actions relating to any complaint received by

the Board of Ethics, including interviews, reviews of documents and other evidence, and deliberations, shall be held in executive session.

- (3) If the board, after reviewing the complaint, determines that it does not state a violation of the code, it shall take no further action. If the board determines that the complaint states a violation of the code, it may make such investigation as it deems proper. If, after such investigation, it determines that there is inadequate proof, the board shall submit a report to the Town Board with its findings and a recommendation that no action be taken. In either case, the complainant shall be notified of the board's action.
- (4) If the board determines, after review of the complaint and such further investigation as the board deems necessary, that a preponderance of the evidence shows that a violation of the Code of Ethics has occurred, the board shall prepare and submit to the Town Board a written report, setting forth the allegations in the complaint, a summary of the board's investigation, and the board's determination that adequate evidence exists that a violation of the Code of Ethics has occurred. A copy of the report shall be provided to the town official or employee who is the subject of the report. The report shall be a public document.
- (5) If a complaint is received that is duplicative of a complaint already in front of the Board of Ethics, it may be combined into a single complaint. In order for a complaint to be deemed duplicative it must be:
 - (a) against the same person;
 - (b) for the same violation; and
 - (c) for the same circumstance.

Repetitive violations whose only difference is the day or time at which they occurred will be considered duplicative.

Section 20 - Posting and Distribution

- (a) The Supervisor must promptly cause a copy of this code, and a copy of any amendment to this code, to be posted publicly and conspicuously in each building under the town's control. The code must be posted within ten days following the date on which the code takes effect. An amendment to the code must be posted within ten days following the date on which the amendment takes effect.
- (b) The Supervisor must promptly cause a copy of this code, including any amendments to the code, to be distributed to every person who is or becomes an officer and employee of the town.
- (c) Every town officer or employee who receives a copy of this code or an amendment to the code must acknowledge such receipt in writing. Such acknowledgements must be completed annually prior to the first day of March or within 30 days after the enactment of a modified code. Such acknowledgments must be filed with the Town Clerk who must maintain such acknowledgments as a public record.
- (d) The failure to post this code or an amendment to the code does not affect either the applicability or enforceability of the code or the amendment. The failure of a town officer or employee to receive a copy of this code or an amendment to such code, or to acknowledge

receipt thereof in writing, does not affect either the applicability or enforceability of the code or amendment to such code.

Section 21 - Training

- (a) Every town officer and employee of the town shall be required to attend a training seminar on the code.
- (b) Attendance at training seminar will be documented and such documentation will be filed with the Town Clerk and maintained as a public record.
- (c) The failure of an employee to attend the training will not affect either the applicability or enforceability of the code or the amendment thereto.

Section 22 - Enforcement

Any town officer or employee who violates this code may be censured, fined, suspended or removed from office or employment.

Section 23 - Annual Report to the Town Board

By the fifteenth day of February, the Board of Ethics shall present to the Town Board an annual report of its activities for the prior year.

Section 24 – Repeal of Local Law 3 of 2013

Local Law No. 3 of 2013 and any amendment hereto is hereby repealed. **Section 25 – Change of the**

Town Ethics Code

The town ethics code is hereby replaced in its entirety by this local law as the town Code of Ethics.

Section 26 – Effective Date

This local law shall be effective immediately upon filing with the New York State Secretary of State.