

**SPECIAL MEETING
TOWN BOARD TOWN OF DUNKIRK
March 28, 2019**

The Town Board of the Town of Dunkirk held a Special Meeting at 6:30 p.m. on Thursday, March 28, 2019 at the Town Hall, 4737 Willow Road, Town of Dunkirk, New York with Supervisor Richard A. Purol presiding.

PRESENT

Supervisor Richard Purol
Councilman Henry Walldorff
Councilman Robert Penharlow
Councilman Juan Pagan
Councilman G. Jay Bishop

OTHERS PRESENT: Attorney Jeffrey Passafaro, Town Clerk, Jean Crane, Jo Ward, Observer reporter.

ABSTRACT OF AUDITED VOUCHERS

Councilman Pagan made a motion to approve the payment of bills as presented by the Town Clerk on the March 28, 2019 Abstract. The motion was seconded by Councilman Bishop and carried.

General Fund	\$2,322.63
Highway Fund	\$9.32
Plaza 59	\$6,636.48
East Industrial	\$282.50
East Lake Rd Sewer	\$688.94

**A RESOLUTION DETERMINING THE ENVIRONMENTAL NON-SIGNIFICANCE
OF THE
PROPOSED IMPROVEMENTS TO COMPREHENSIVE TOWN OF DUNKIRK
WATER DISTRICT, WATER SERVICE AREA NO. 1
IN THE TOWN OF DUNKIRK, AS AMENDED MARCH 2019**

The Town Board of the Town of Dunkirk, duly convened in special session on March 28, 2019, does hereby resolve as follows;

1. The Town Board of the Town of Dunkirk hereby finds and determines that:

(a) It has previously reviewed the EAF as presented for the project as proposed in 2013, and previously adopted a determination for non-significance at that time. The Town Board has also previously adopted a resolution determining the environmental non-significance of this 202-b Water Service Area No. 1 project on December 20, 2016, all based on the then map, plan and report of Clark, Patterson & Lee, and Engineers, dated October 2016.

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That Clark, Patterson & Lee, Engineers prepared and submitted to the Town Board of the Town of Dunkirk an amended map, plan and report dated January 2019 which amended the size of the water mains and made additional improvements which did not and do not change the substantive nature of the previously approved 202-b proceeding in this matter. But, did raise the maximum amount to be expended from \$1,315,000 to \$1,586,000.

That the Town Board has reviewed the criteria set forth in 6 NYCRR Section 617.7(c), thoroughly analyzed the relevant areas of potential environmental concern as regards the amendment since 2016, and has duly considered all of the potential project environmental impacts and their magnitude in connection with the proposed water improvement project to the Comprehensive Town Water District, Town of Dunkirk, Water Service Area No. 1.

(b) That this Town Board did previously adopt a negative declaration for this water improvement project in Service Area No. 1, which resolution is dated December 20, 2016. That this Town Board does hereby incorporate those findings and that resolution to the amendment to the map, plan and report which necessitated a further public hearing and a further finding by the Town Board regarding SEQR, The project, which involves the same installation and replacement of water main lines will not result in any large and important environmental impacts, and therefore is one which will not have a significant impact on the environment, and therefore a negative declaration will be prepared as authorized by this resolution and the Town Board.

(c) The reason supporting this determination is set forth on the environmental assessment form duly reviewed and adopted, both December 2016 and March 2019 by the Town Board of the Town of Dunkirk.

2. The Town Board of the Town of Dunkirk as lead agency with reference to the above-described project, hereby reaffirms the negative declaration pursuant to SEQR, adopted December 2016 with respect to this project, and finds that the amendments to the size of the water mains do not require any changes to said resolution or negative declaration. The Supervisor of the Town of Dunkirk is authorized to sign a negative declaration, determination of non-significance with respect to this project, and the Supervisor and Town Clerk are hereby authorized to notice and file said negative declaration as required by law.

This resolution shall take effect immediately.

ROLL CALL

Supervisor Richard A. Purol - aye

Councilman Henry Walldorff - aye

Councilman Robert L. Penharlow - aye

Councilman Juan Pagan - aye

Councilman G, Jay Bishop - aye

DATED 03/28/19

**ORDER APPROVING COMPREHENSIVE WATER DISTRICT
WATER SERVICE AREA NO. 1
IMPROVEMENTS AFTER PUBLIC HEARING**

WHEREAS, the Town Board of the Town of Dunkirk, County of Chautauqua, New York, did on December 20, 2016, adopt an Order approving a 202-b project for water main improvements, after Public Hearing, for the Comprehensive Water District, Town of Dunkirk, Water Service Area Number 1, at a maximum cost of One Million Three Hundred Fifteen Thousand and No/100 (\$1,315,000), and

WHEREAS, the Town of Dunkirk has been advised that it would be prudent to increase the size of some of the water transmission mains from eight inch to twelve inch lines, and

WHEREAS, the County of Chautauqua through its North Chautauqua County Water District, will contribute to the increased cost and the expense of the improvements, and

WHEREAS, amendments were made to the map, plan and report by Clark, Patterson and Lee, duly licensed engineers in the State of New York, dated January 2019 for the increase and improvement of facilities of the District which consists of construction of approximately 13,500 linear feet of eight and twelve inch water main to serve approximately seventy-three (73) residential and seven (7) commercial units in the Roberts Road area of the Town, and including land or rights in land, equipment, machinery and apparatus required therefore, and pursuant to the direction of the Town, the engineers have completed and filed with the Town Board such amended map, plan and report dated January 2019 for said improvement of facilities, and have estimated the maximum cost thereof to be One Million Five Hundred Eight-Six Thousand and No/100 (\$1,586,000.00), and

WHEREAS, upon filing upon filing and review of the amended map, plan and report, the Town Board of the Town of Dunkirk adopted an Order, dated January 15, 2019, calling a Public Hearing thereon and caused notice of such Public Hearing to be posted and published in the manner provided by the Town Law of the State of New York, which Notice of Public Hearing described in general terms the proposed improvements recited above and specifying One Million, Five Hundred Eight-Six Thousand, and No/100 (\$1,586,000.00) as the maximum cost thereof, and stating that the Town Board would hear all persons interested in the subject matter thereof on February 5, 2019 at 6:30 p.m. in the Town Hall, Town of Dunkirk, New York; and

WHEREAS, a public hearing was held at the time and place aforesaid in the manner described at which time all persons interested in the subject matter were given an opportunity to be heard,

NOW, THEREFORE, upon the evidence given, it is hereby determined as follows:

1. The notice of the public hearing described in the preamble hereof was posted and published as required by law, and is in all respects satisfactory;

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2. The construction of the improvements described above and in the Notice of Public Hearing is in the public interest;
3. That the proposed increase and improvement of facilities to the Comprehensive Town Water District, Town of Dunkirk, Water Service Area No. 1, as specified in the amended engineer's report of Clark, Patterson and Lee, dated October 2016 and January 2019, and as described in the proceedings before the Town Board of the Town of Dunkirk are hereby approved;
4. Preparatory to solicitation of competitive bids relative to such construction, the engineers for the Town, Clark, Patterson & Lee, are hereby directed to prepare definitive plans and specifications, to make a careful estimate of the expense of the improvements, and with the assistance of the Town Attorney, to prepare a proposed contract for execution of the work;
5. The Town Board of the Town of Dunkirk did, prior to the adoption of this resolution, adopt a resolution of no environmental significance, a negative declaration, with respect to the improvement project recited herein, and reaffirmed the negative declaration previously adopted by said Town Board in December 2016;
6. The Town Clerk shall record a copy of this Order in the office of the County Clerk of the County of Chautauqua as required under Section 195 of the Town Law of the State of New York.
7. This order shall take effect immediately.

Supervisor Richard A. Puro – aye
 Councilman Henry Walldorff – aye
 Councilman Robert Penharlow – aye
 Councilman Juan Pagan – aye
 Councilman Bishop – aye

AMMENDED BOND RESOLUTION

The following resolution was offered by Councilman Pagan and seconded by Councilman Walldorff, to wit;

AN AMENDING AND RESTATING BOND RESOLUTION, DATED MARCH 28, 2019, OF THE TOWN BOARD OF THE TOWN OF DUNKIRK, CHAUTAUQUA COUNTY, NEW YORK (THE "TOWN"), AMENDING THE BOND RESOLUTION THAT WAS ADOPTED ON DECEMBER 20, 2016, AND AUTHORIZING A WATER SYSTEM CAPITAL IMPROVEMENTS PROJECT FOR THE TOWN OF DUNKIRK COMPREHENSIVE WATER DISTRICT, WATER SERVICE AREA NO. 1 IN THE TOWN, AT AN ESTIMATED MAXIMUM COST OF \$1,586,000 AND AUTHORIZING THE ISSUANCE OF SERIAL BONDS IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$1,586,000 PURSUANT TO THE

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LOCAL FINANCE LAW TO FINANCE SAID PURPOSE, SAID AMOUNT TO BE OFFSET BY ANY FEDERAL, STATE, COUNTY AND/OR LOCAL FUNDS RECEIVED, AND DELEGATING THE POWER TO ISSUE BOND ANTICIPATION NOTES IN ANTICIPATION OF THE SALE OF SUCH BONDS TO THE TOWN SUPERVISOR.

WHEREAS, on December 20, 2016, the Town Board of the Town of Dunkirk, Chautauqua County, New York (the "Town") adopted a certain bond resolution (the "Original Bond Resolution") entitled:

A BOND RESOLUTION, DATED DECEMBER 20, 2016, OF THE TOWN BOARD OF THE TOWN OF DUNKIRK, CHAUTAUQUA COUNTY, NEW YORK (THE "TOWN"), AUTHORIZING A WATER SYSTEM CAPITAL IMPROVEMENTS PROJECT FOR THE TOWN OF DUNKIRK COMPREHENSIVE WATER DISTRICT, WATER SERVICE AREA NO. 1 IN THE TOWN, AT AN ESTIMATED MAXIMUM COST OF \$1,315,000, AND AUTHORIZING THE ISSUANCE OF SERIAL BONDS IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$1,315,000. PURSUANT TO THE LOCAL FINANCE LAW TO FINANCE SAID PURPOSE, SAID AMOUNT TO BE OFFSET BY ANY FEDERAL, STATE, COUNTY AND/OR LOCAL FUNDS RECEIVED, AND DELEGATING THE POWER TO ISSUE BOND ANTICIPATION NOTES IN ANTICIPATION OF THE SALE OF SUCH BONDS TO THE TOWN SUPERVISOR.

And

WHEREAS, the Town has determined that the scope of such original capital project be increased to include additional improvements in the Town of Dunkirk Comprehensive Water District, Water Service Area No. 1 (the "District"); and

WHEREAS, the Town Board directed Clark Patterson Lee to prepare a revised map. plan and report to include such improvements; and

WHEREAS, the Town Board wishes to modify the Original Bond Resolution for the purposes of (a) modifying the scope of the project to include additional improvements, (b) increasing the estimated maximum cost of the project from \$1,315,000 to \$1,586,000 and (c) increasing the aggregate principal amount of serial bonds authorized to be issued from \$1,315,000 to \$1,586,000 and to make other modifications in the Original Bond Resolution as may be consistent with law; and

WHEREAS, the Town Board anticipates that the County of Chautauqua will provide funds to the Town to cover the increased cost of improvements; and

WHEREAS, the Town Board anticipates that the Town may finance short-term obligations up to the increased estimated maximum cost of \$1,586,000; and

WHEREAS, the Town Board anticipates that the Town will issue long-term obligations (bonds) in an approximate amount of \$1,315,000; and

WHEREAS, the Original Bond Resolution is being modified to include additional improvements in the District as previously described, and is otherwise being reaffirmed and ratified in all other material respects; and

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WHEREAS, the Town has previously issued bond anticipation notes pursuant to the Original Bond Resolution, but has not yet entered into permanent financing arrangements thereunder (i.e., the issuance of long-term serial bonds); and

NOW, THEREFORE, BE IT RESOLVED, by the Town Board of the Town of Dunkirk, in the County of Chautauqua, New York (the "Town") (by the favorable vote of not less than two-thirds of all the members of the Town Board) as follows:

SECTION 1. The Town is hereby authorized to undertake a capital improvements project within the District generally consisting of, but not limited to, the installation of approximately 13,500 linear feet of 8-inch and 12-inch water main in the Roberts Road area of the Town, as well as other such improvements as more fully identified in (or contemplated by) such revised map, plan and report prepared in connection with such project, all of the forgoing to include all necessary site work, equipment, apparatus and other improvements and costs incidental thereto and in connection with the financing thereof (collectively, the "District Improvement"). The estimated maximum cost of said purpose is \$1,586,000.

SECTION 2. The Town Board plans to finance the estimated maximum cost of said purpose by the issuance of serial bonds in an aggregate principal amount not to exceed \$1,586,000 of the Town, hereby authorized to be issued therefore pursuant to the Local Finance Law, said amount to be offset by any federal, state, county and/or local funds received, and unless paid from other sources or charges, the costs of said increase and improvement of facilities shall be paid by the assessment, levy and collection from the several lots and parcels of land within the District for such purpose in the same manner and at the same time as other Town charges to pay the principal of and interest on said bonds as the same shall become due and payable, except as otherwise provided by law.

SECTION 3. It is hereby determined that said purpose is an object or purpose described in subdivision 1 of paragraph (a) of Section 11.00 of the Local Finance Law, and that the period of probable usefulness of said purpose is 40 years.

SECTION 4. Current funds are not required to be provided prior to the issuance of the bonds authorized by this resolution or any notes issued in anticipation of the sale of said bonds.

SECTION 5. It is hereby determined the proposed maturity of the obligations authorized by this resolution will be in excess of five years.

SECTION 6. The faith and credit of the Town are hereby irrevocably pledged for the payment of the principal of and interest on such bonds (and any bond anticipation notes issued in anticipation of the sale of such bonds) as the same respectively become due and payable. An annual appropriation shall be made in each year sufficient to pay the principal of and interest on such bonds or notes becoming due and payable in such year. Unless paid from other sources or charges, the costs of said increase and improvement of facilities shall be paid by the assessment, levy and collection of special assessments from the several lots and parcels of land within the District for such purpose in the same manner and at the same time as other Town charges to pay the principal of and interest on said bonds as the same shall become due and payable, except as

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otherwise provided by law. Should the assessments upon benefited real property be insufficient to pay the principal of and interest on such bonds, there shall annually be levied on all taxable real property of the Town a tax sufficient to pay the principal of and interest on such bonds or notes as the same become due and payable.

SECTION 7. Subject to the provisions of this resolution and of the Local Finance Law, and pursuant to the provisions of Section 21.00 relative to the authorization of the issuance of bonds with substantially level or declining annual debt service, Section 30.00 relative to the authorization of the issuance of bond anticipation notes and of Section 50.00, Sections 56.00 to 60.00, Section 62.00, Section 62.10, Section 63.00, and Section 164.00 of the Local Finance Law, the powers and duties of the Town Board pertaining or incidental to the sale and issuance of the obligations herein authorized, including but not limited to authorizing bond anticipation notes and prescribing the terms, form and contents and details as to the sale and issuance of the bonds herein authorized and of any bond anticipation notes issued in anticipation of said bonds, and the renewals of said notes, are hereby delegated to the Town Supervisor, the chief fiscal officer of the Town. Without in any way limiting the scope of the foregoing delegation of powers, the Town Supervisor, to the extent permitted by Section 58.00(f) of the Local Finance Law, is specifically authorized to accept bids submitted in electronic format for any bonds or notes of the Town.

SECTION 8. 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 Local Finance Law, for the purpose or purposes described in Section 1 of this resolution. The Town then reasonably expects to reimburse any such expenditures (to the extent made after December 20, 2016 or within 60 days prior to the earlier of (a) December 20, 2016 or (b) the date of any earlier expression by the Town of its intent to reimburse such expenditures) with the proceeds of the bonds authorized by Section 2 of this resolution (or with the proceeds of any bond anticipation notes issued in anticipation of the sale of such bonds). This resolution shall constitute the declaration (or reaffirmation) of the Town's original declaration of its "official intent" to reimburse the expenditures authorized by Section 2 hereof with such bond or note proceeds, as required by United States Treasury Regulations Section 1.150-2.

SECTION 9. The Town Supervisor is 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 may designate the bonds authorized by this resolution, and any notes issued in anticipation thereof, as "qualified tax-exempt bonds" in accordance with Section 265(b)(3) of the Code.

SECTION 10. The Town Supervisor is further authorized to enter into a continuing disclosure agreement with the initial purchaser of the bonds or notes authorized by this resolution, containing provisions which are satisfactory to such purchaser in compliance with the provisions of Rule 15c2-12, promulgated by the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934.

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SECTION 11. The Town has complied with applicable federal, state and local laws and regulations regarding environmental matters, including compliance with the New York State Environmental Quality Review Act ("SEQRA"), comprising Article 8 of the Environmental Conservation Law and, in connection therewith, duly issued a negative declaration and/or other applicable documentation, and therefore, no further action under SEQRA is necessary.

SECTION 12. In the absence or unavailability of the Town Supervisor, the Deputy Town Supervisor is hereby specifically authorized to exercise the powers delegated to the Town Supervisor in this resolution.

SECTION 13. The validity of said serial bonds or of any bond anticipation notes issued in anticipation of the sale of said serial bonds may be contested only if:

- (1) (a) Such obligations are authorized for an object or purpose for which said Town is not authorized to expend money, or
 - (b) the provisions of law which should be complied with at the date of publication of this resolution are not substantially complied with and an action, suit or proceeding contesting such validity is commenced within 20 days after the date of such publication; or
- (2) Such obligations are authorized in violation of the provisions of the Constitution of New York.

SECTION 14. The Town Clerk is hereby authorized and directed to publish this resolution, or a summary thereof, together with a notice in substantially the form provided by Section 81.00 of said Local Finance Law. in a newspaper having a general circulation in said Town and designated as the official newspaper of said Town for such publication.

SECTION 15. Nothing in this amendment shall affect the validity of the original December 20, 2016 bond resolution or any action taken thereunder, and any said actions are hereby ratified.

SECTION 16. This Resolution is effective immediately.

The question of the adoption of the foregoing resolution was duly put to vote on a roll call, which resulted as follows:

Supervisor Richard A. Purol – aye
 Councilman Henry Walldorff –aye
 Councilman Robert Penharlow – aye
 Councilman Juan Pagan – aye
 Councilman Bishop – aye

The foregoing resolution was thereupon declared duly adopted.

ADJOURNMENT

With no further business, on a motion of Councilman Walldorff seconded by Councilman Pagan w the meeting adjourned at 6:51 p.m. Carried unanimously.

Respectfully submitted,
 Jean Crane Town Clerk Town Clerk