

**REGULAR MEETING OF THE TOWN BOARD  
JANUARY 21, 2020**

**PRESENT**

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

**OTHERS PRESENT :** Town Clerk, Jean Crane, Shari Miller, Peter Miller, Virginia Miller, Jay Warren, Jean Jackson, Seth Krull , Engineer from Clark, Patterson, Lee.

Supervisor Purol opened the regular meeting at 6:52 p.m.

**REGULAR MEETING MINUTES**

Councilman Pagan made a motion to approve the Regular meeting minutes of December 17, 2019. The motion was seconded by Councilman Walldorff and carried.

**ORGANIZATIONAL MEETING MINUTES**

Councilman Walldorff made a motion to approve the Organizational meeting minutes of January 2, 2020. The motion was seconded by Councilman Penharlow and carried.

**ABSTRACT OF AUDITED VOUCHERS**

Councilman Pagan made a motion to approve the payment of bills as presented by the Town Clerk on the January 21, 2020 Abstract. The motion was seconded by Councilman Penharlow and carried.

**END OF YEAR**

General Fund	\$5,955.06
Highway Fund	\$1,573.31
Justice Fund	\$14,335.00
Vineyard Light	\$252.01
East Lake Rd Sewer	\$1,235.60
East Industrial Water	\$3.80
General Fund	\$10,168.98
Highway Fund	\$3,008.02
East Lake Rd. Sewer	\$2,050.48
East Industrial Water	\$2,292.51
Bennett Improvement	\$8,401.27
Water Svc. Area #1	\$89,829.01

DATED 01/21/2020

### **AUDIENCE CONCERNS**

Shari Miller stated she had approached the Town Board four months ago about putting a moratorium on new construction on Bennett Road and asked board members if they have made any decisions. The zoning and planning board had been working very diligently (without a consultant) on the revisions. Currently there were two projects getting ready to build and she would like to see the board endorse a moratorium on new development construction until the zoning and planning boards turn over the completed revisions to the districts to the Town Board for approval. She would also like to see the Town Board hire another consultant that would help finish the zoning code.

Councilman Pagan stated he felt it would be a hinderance to put a moratorium on the any possible construction coming into the area. We have methods in place to mitigate some of those issues. He also stated he was more concerned with signage as far as heights and luminates. Another area of concern was the curve on Deer Run and the narrowness of the road. He was very doubtful the zoning revisions could be finished in three months. Again, he reiterated his opposition on moratorium on construction because it would limit the growth potentially coming into the area. He commended both boards for their hard work and continued support on the revisions to the zoning code.

Jay Warren chairman of the Town planning board member stated the boards had been working on the revisions for several years. The boards try to manage the growth and the type of development along that corridor. We would like that corridor to be the entry way not only for the Town but to the City and down to the lakefront. Right now, we depend on the current zoning code and voluntary compliance. He wasn't quite sure if a moratorium was the way to go but if the boards could just finish up with the revisions to the districts it would give them time before they approve any more building projects to get the revisions written into policy.

Councilman Penharlow was not in favor of a moratorium. He would like developers to know that they were welcomed in the Town of Dunkirk. Right now, we have the process of the zoning and planning boards to review these projects. If something needs changing in the code to better the development of these areas we want to move forward with the revisions, and not discourage or delay development in our community.

### **TOWN CLERK REPORT (December)**

Clerk Fees	\$481.58
Zoning Fees	\$1075.00
Dog Licenses	\$48.00

**TOTAL SUBMITTED TO TOWN SUPERVISOR \$1,604.58**

### **JUSTICE REPORT (December)**

Total number of cases 258

**TOTAL FINES and surcharges submitted to the Town Supervisor \$25,206.00**

### **WEST DUNKIRK FIRE DEPARTMENT**

Annual financial report received as required by fire contract.

**DATED 01/21/20**

**COUNCIL REPORTS**

Councilman Pagan reported he attended the regional presentation of the 2020 State of the State address with Lt. Gov. Kathy Hochul at the Dunkirk Incubator. Monies will be coming into Western New York for different programs.

Had a preliminary meeting with planning Chairman Jay Warren, Code Enforcement officer Ryan Mourer to review building plans for East Dunkirk Fire Company.

A Site Plan Review meeting has been scheduled for North County Dental at 5:00 on January 30<sup>th</sup> at the Town Hall.

**EAST LAKE ROAD SEWER DISTRICT (Richard Purol)**

- Sewer truck had new transmission last year with one-year warranty. Transmission seems to be slipping. May have to take it to Camp road for repair.
- San George cleaned out sewer pits which were coated with a lot of grease.

**STEGELSKE (Supervisor Purol)**

- Allied will be performing annual pump test soon.
- Four batteries replaced.

**SUPERVISOR REPORT**

- Water service area #1 progress meeting was held on January 7<sup>th</sup>. Another bill submitted for work that has been completed.
- Attended County Supervisors meeting in Bemus Point. Will be able to attend monthly since we have moved the meeting dates on North County Water.
- Met with Nate Aldrich to work on Chadwick Bay bylaws.

**CORRESPONDENCE**

Received correspondence from a concerned member of the community and animal shelter volunteer. There were three separate incidences involving stray dogs where the ACO, Police nor Sherriff would provide any assistance. She asked that the City and Town of Dunkirk have some type of temporary measure in place until and ACO officer could be hired. During this time of year, it was critical for dogs that have gone astray to have some type of shelter or they will perish, or possibly cause a traffic accident or property damage.

Supervisor Purol stated hiring of a new dog control officer would be discussed further down on agenda.

DATED 01/21/2020

**BENNETT ROAD IMPROVEMENT DISTRICT**

**RESOLUTION DETERMINING THE ENVIRONMENTAL NON-SIGNIFICANCE OF THE  
AMENDED 202-b, BENNETT ROAD WATER DISTRICT PROCEEDING IN THE TOWN OF DUNKIRK,  
UNDER THE STATE ENVIRONMENTAL QUALITY REVIEW ACT**

Councilman Pagan presented the following resolution and moved that it be adopted:

Pursuant to, and in accordance with, the provisions of Section 617.6 of the New York State Environmental Quality Review Regulations (6NYCRR Part 617), the Town Board of the Town of Dunkirk hereby makes the following determinations and classifications with respect to the Proposed Amendment of the previously approved 202-b Bennett Road Water District Project in said Town of Dunkirk (hereinafter referred to as the Action).

1. The Town Board of the Town of Dunkirk hereby determines that the Action is an unlisted Action under Part 617.
2. That this Action is a proposed amendment to increase the maximum cost to be expended of a previously approved 202-b water project in the Bennett Road Water District.
3. That as part of the Order approving the Bennett Road Water District Improvement Project, the Town Board of the Town of Dunkirk did, on April 5, 2016, adopt a Resolution determining the non-significance of the Bennett Road Water District Project, and authorized the Town to issue a negative declaration under SEQR.
4. The purpose of this amended 202-b proceeding is to increase the maximum cost to be expended from \$1,533,000 to \$1,766,000 pursuant to an amended Map, Plan and Report from CPL engineers dated December 2019, reciting that due to generally increased cost of labor and materials the maximum amount of the project to be expended must be raised as recited above. The amended Map, Plan and Report from CPL engineers did not recite any additional work or installations, or acquisitions in the project that would cause the Town Board of the Town of Dunkirk to revisit the prior determination of non-significance.
5. The Town Board, acting on behalf of the Bennett Road Water District, hereby finds and determines that:
  - a. It has considered the Action, reviewed the original environmental assessment form and engineering report, reviewed the criteria set forth in 6NYCRR Part 617, analyzed the relevant areas of potential environmental concern, and has duly considered all of the potential improvement project environmental impacts and their magnitude in connection with this Action;

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- b. This Action, which simply amends the maximum cost to be expended on the previously approved 202-b project in the Bennett Road Water District for upgrades and improvements, will not result in any large or significant environmental impacts, rather said Action is being undertaken to increase and improve the facilities in the Bennett Road Water District, and therefore is one which will not have a significant impact on the environment.
  
6. The Town Board, acting on behalf of the Bennett Road Water District, as lead agency with reference to the above described project, hereby:
  - a. Re-adopts and re-confirms the negative declaration pursuant to 6NYCRR Part 617 previously issued by the Town Board of the Town of Dunkirk, April 5, 2016.
  - b. Finds that the amended proceedings currently before the Board are simply to increase the maximum cost to be expended on such water project, and not further expand any of the work, facilities, or acquisitions in this water project, already approved.
  - c. Authorizes the Supervisor of the Town of Dunkirk to sign a negative declaration, determination of non-significance with respect to the project, and authorizes the Town Clerk to forward a copy of said negative declaration to New York State DEC and all other involved or interested agencies.
  
7. This resolution shall take effect immediately.

The question of the adoption of the foregoing Resolution was seconded by Councilman G Jay Bishop and duly put to vote on a roll call, which resulted as follows:

**ROLL CALL:**

Supervisor, Richard A. Purol – AYE  
Councilman Henry Walldorff – AYE  
Councilman Robert Penharlow – AYE  
Councilman Juan Pagan – AYE  
Councilman G. Jay Bishop M.D. – AYE

**DATED 01/21/2020**

**ORDER AND RESOLUTION AFTER PUBLIC HEARING TO INCREASE THE MAXIMUM AMOUNT TO BE EXPENDED FROM \$1,533,000 TO \$1,766,000**

WHEREAS, after a Public Hearing duly called and held on April 5, 2016 the Town Board of the Town of Dunkirk, Chautauqua County, New York, duly adopted an Order determining that it is in the public interest to increase and improve the facilities of Bennett Road Water District in the Town of Dunkirk consisting of approximately fifteen hundred (1,500) linear feet of water main on

Arrowhead Drive, ten thousand (10,000) linear feet of eight (8) inch water main along Bennett Road, including water main lines to be replaced on Williams Street East, together with all the lands, rights in lands, equipment, machinery and apparatus required therefore, and ordering that the facilities of the District be so increased and improved at an estimated maximum cost of One million Five hundred Thirty Three thousand dollars (\$1,533,000), and

WHEREAS, due to generally increased costs of labor and materials, the maximum amount now proposed to be expended for said improvement of the water system is One million, Seven hundred Sixty-Six thousand dollars (\$1,766,000), being an increase of Two hundred, Thirty-Three thousand dollars (\$233,000), and

WHEREAS, on December 17, 2019, the Town Board of the Town of Dunkirk adopted an Order, describing in general terms said increase and improvement of facilities at the revised estimated maximum cost of One million, Seven hundred Sixty-Six thousand dollars (\$1,766,000) and stating that the Town Board would meet to hear all persons interested in said increase and improvement of facilities at the revised estimated maximum cost on January 21, 2020 at 6:30 PM at the Town Hall; and

WHEREAS, copies of said Order certified by the Town Clerk were duly published and posted pursuant to the provisions of the Town Law; and

WHEREAS, such further public hearing was duly held, after a copy of such Order was duly posted and published, at the time and place as stated in said Order, and all parties interested in the proceeding having a chance to be heard, whether in favor of or in opposition to said increase in cost of the improvements;

NOW THEREFORE, upon motion of Councilman G. Jay Bishop , seconded by Councilman Pagan it is

RESOLVED AND DETERMINED, that the Notice of Public Hearing described herein was duly posted and published as required by law, and is in all respects satisfactory; and

The construction of the improvements described herein and in the Notice of Public Hearing, is in the public interest; and it is further

RESOLVED AND DETERMINED, that the maximum cost of the previously approved 202-b project in the Bennett Road Water District shall be increased to One million, Seven hundred Sixty-Six thousand dollars (\$1,766,000), and it is hereby

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ORDERED, that the facilities of the District shall be so increased and improved at a maximum cost not to exceed One million, Seven hundred Sixty-Six thousand dollars (\$1,766,000) as recited herein; and it is further

ORDERED, that the expense of said increase and improvement of the facilities shall be assessed, levied, and collected in the same manner as previously approved for all of the improvements and facilities in the Bennett Road Water District, Town of Dunkirk, and any amounts received from grants by Federal or State funds shall be applied to the cost of the increase and improvements of the facilities, or toward redemption of any bonds issued therefore; and it is further

ORDERED, that the Town Clerk record a certified copy of this Resolution and Order in the Office of the Clerk of the County of Chautauqua within ten (10) days after adoption thereof.

**ROLL CALL:**

Supervisor, Richard A. Purol – AYE  
 Councilman Henry Walldorff – AYE  
 Councilman Robert Penharlow – AYE  
 Councilman Juan Pagan – AYE  
 Councilman G. Jay Bishop M.D. – AYE

**AMMENDED BOND RESOLUTION**

Councilman Walldorff presented the following resolution and moved that it be adopted:

A BOND RESOLUTION, DATED APRIL 5, 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 BENNETT ROAD WATER DISTRICT IN THE TOWN, AT AN ESTIMATED MAXIMUM COST OF \$1,533,000, AND AUTHORIZING THE ISSUANCE OF SERIAL BONDS IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$1,533,000, 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 it would be best to authorize an additional amount in bonds due to bids coming in higher than expected for the project; and

WHEREAS, the Town Board directed Clark Patterson Lee to prepare an amendment to the previously filed map plan, and report to include such revised amounts; and

WHEREAS, the Town Board wishes to modify the Original Bond Resolution for the purposes of (a) increasing the estimated maximum cost of the project from \$1,533,000 to \$1,766,000 and (b) increasing the aggregate principal amount of serial bonds authorized to be

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issued from \$1,533,000 to \$1,766,000 and to make other modifications in the Original Bond Resolution as may be consistent with law; and

WHEREAS, the Town Board anticipates that the Town may finance short-term obligations up to the increased estimated maximum cost of \$1,766,000; and

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

WHEREAS, the Town has previously issued bond anticipation notes pursuant to the Original Bond Resolution, but has not yet entered 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 Bennett Road Water District generally consisting of, but not limited to, the installation of approximately 1,500 linear feet of water main running from Arrowhead Drive easterly to Bennett Road, and then south on Bennett Road to an existing fire hydrant, along with an additional 10,000 linear feet of eight inch water main running southerly from the Town of Dunkirk – City of Dunkirk line along Bennett Road (New York State Route 60) to the New York State Thruway lands, and including water main lines along William Street East, together with all lands or rights in land, furnishings, equipment, machinery and apparatus required therefore; as well as other such improvements as more fully identified in (or contemplated by) such amended 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 \$1,766,000.

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 \$1,766,000 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.

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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 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 April 5, 2016 or within 60 days prior to the earlier of (a) April 5, 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.

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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.

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 April 5, 2016 bond resolution or any action taken thereunder, and any said actions are hereby ratified.

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SECTION 16. This Resolution is effective immediately.

The question of the adoption of the foregoing Resolution was seconded by Councilman Pagan and duly put to vote on a roll call, which resulted as follows:

**ROLL CALL:**

Supervisor, Richard A. Purol – AYE  
 Councilman Henry Walldorff – AYE  
 Councilman Robert Penharlow – AYE  
 Councilman Juan Pagan – AYE  
 Councilman G. Jay Bishop M.D. – AYE

The foregoing resolution was thereupon declared duly adopted.

**WATER SERVICE AREA #1**

Supervisor Purol reported that the contractors were in the process of hooking up all the homeowners and finishing up with all the road pushes. All the residents on Roberts road with wells have the shut offs installed and still need to have the meter pits installed.

Supervisor Purol asked board members for a motion to allow him to sign forms for USRDA to release payment of funds to contractor for payment #2 and #3.

Councilman Penharlow made a motion to authorize Supervisor to sign forms to release payment to contractor for payout #2. The motion was seconded by Councilman Pagan and carried.

Councilman Walldorff made a motion to authorize Supervisor to sign forms to release payment to contractor for payout #3. The motion was seconded by Councilman Bishop and carried.

**DFT PROPOSAL FOR ALARM PANEL**

Supervisor stated the keypads in the Town Hall were outdated and replacement parts were no longer available. Received a quote from DFT for a new Vista panel at a cost for purchase and installation of \$599.00

Councilman Pagan made motion to approve quote as presented. The motion was seconded by Councilman Walldorff and carried.

**DOG CONTROL OFFICER**

Supervisor Purol stated he recently met with Denise Zentz and Tom Rozamulski concerning the vacant ACO position due to the retirement of Steve Purol. The City of Dunkirk has hired both to fill their vacancy in the City. Supervisor Purol stated he would like to use the same two dog control officers for the Town. Both agreed to split the budgeted salary of \$140.00 per month.

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Councilman Bishop requested an executive session to discuss the personnel issues.

Motion was made by Councilman Pagan to enter executive session to discuss personnel issues. The motion was seconded by Councilman Walldorff and carried. (7:50 p.m.)

On motion of Councilman Walldorff the board returned to regular session. The motion was seconded by Councilman Penharlow and carried. ( 8:05 p.m.)

A motion was made by Councilman Bishop to hire Denise Zentz and Thomas Rozamulski to fill the Dog Control officer position once County application was received and pending favorable references. The motion was seconded by Councilman Pagan and carried.

**ADJOURNMENT**

With no further business, on a motion of Councilman Pagan seconded by Councilman Bishop the meeting adjourned at 8:44p.m. Carried unanimously.

Respectfully submitted,  
Jean Crane  
Town Clerk

CC: Town Board  
Town Attorney