

# Town of Denmark

## Minutes

### October 10, 2016: October 2016 - Regular Meeting

#### Body:

October 10, 2016

The regular monthly meeting of the Denmark Town Board was held October 10, 2016 at the Town Municipal Building. Supervisor Fleming called the meeting to order at 6:00pm with the announcement that the meeting would be recorded digitally followed by the Pledge of Allegiance.

Present were:

Supervisor:	Thomas Fleming
Councilmen:	James Der
	Frank Fazio
	Peter Jones

Absent: David Thoma

Superintendent:	Patrick Mahar
Assessor:	William Vargulick (arrives 6:59)
Budget Officer:	Sharon Fleming
Deputy Clerk:	Katrina Souva
Town Attorney:	Mark Gebo (leaves at 6:16)

Also present: Matt Cooper of Bernier, Carr and Associates (arrives 6:01, leaves at 6:56pm) Deb Der and Sandy Jones.

Supervisor Fleming asked if any of the public present would like to speak. No comments were made.

Councilman Fazio made a motion to approve the amended agenda prepared by Deputy Clerk Souva. The motion was seconded by Councilman Der.

Vote recorded as follows:

Councilman Der	Aye
Councilman Fazio	Aye
Supervisor Fleming	Aye
Councilman Thoma	Absent
Councilman Jones	Aye

Mr. Gebo provided direction on several matters.

Due to the Village of Copenhagen's all time low water levels, a Resolution for the State of Emergency renewal to be extended to 30 day increments was drafted. Supt Mahar had stated the village had found a possible electrical issue in the wells that may have resulted in water levels being misread. Water is still being hauled in from West Carthage. Discussion was held and decision made not to extend the Town's order.

Mr. Gebo had nothing to add for the Offer of Purchase between Town of Denmark and Carroll Farms, LLC.

Copenhagen Wind Cultural Mitigation agreement was discussed. The Town Board has concerns over allocation of funds. The Town Board would like to see more dedicated to cemeteries and less for school programs. It was also discussed that Wind Power Generating Facility Zoning permits were necessary before they can proceed with clearing trees as this was part of the conditions for approval.

Discussion was held on the budgeted funds for Riverside Cemetery. Mr. Gebo stated there are specific provisions in town law to keep cemeteries from being abandoned and having town assume responsibility for them. Mr. Gebo suggested a letter of intent stating funds are for specific use of operating expenses. Councilman Der asked why this wouldn't also apply to the Lewis County Humane Society and their need for upgrading dog kennels. Discussion held. Mr. Gebo stated since the Town already has a contract with the Humane Society, the contract could be amended to include monies toward capital expenses and operating costs.

Last month, the Village of West Carthage Solar Law was discussed. Mr. Gebo had reviewed them and offered comments which were provided to the Town Board in this month's board packet. Mr. Gebo advised they could adopt them now or have a moratorium. Councilman Jones asked if farms are exempt. Mr. Gebo responded that the regulations could not be overly restrictive due to Right to Farm laws. Discussion was held.

Local Law to override the Tax Levy was discussed and Mr. Gebo advised to override if necessary.

Update on Water District Project- Matt Cooper of Bernier, Carr and Associates and Mr. Gebo provided updates on Water District #1 Extension project. Mr. Gebo's office received revised numbers from Rachel Bernat of Bernier, Carr and Associates indicating an increase in bonds from \$2,500,000 to \$2,700,000. This is due to additional users and additional costs relative to the tank portion of the project. Discussion was held on the procedure for calculating the average costs.

Mr. Cooper stated the commitment letter had been sent in and the next step will be to close on the short term financing. Discussion was held on what qualifies as reimbursable expenses. This would include expenses like those from BCA, the purchase of the land for the storage tank and other previously incurred charges. The monies from the Shared Services Grant can be utilized to pay these bills. Mrs. Fleming raised concern about the bill from BCA on the current water abstract in the amount of \$64,365.33; the Town of Denmark Water District currently does not have the funds available to pay this expense. Mr. Cooper responded that the bill could be held until funding from the grant becomes available.

The final maps of the Water District #1 Expansion were made available to the Town Board and discussed.

Mr. Gebo exited the meeting at 6:16 pm.

Councilman Der expressed concern about the proposed lateral line going to Donald (Biff) Green's residence. The lateral line will go from the end of the Village's main, across a parcel owned by Phil Eggleston and onto Mr. Green's property. The parcel owned by Mr. Eggleston will not be charged an EDU and is not part of the water district expansion because the line will be a lateral and not a main. If in the future there is a desire to include this parcel, it would have to be done as part of another expansion. It could not simply be added due to provisions within the law.

Discussion was held on the timeframe for the Public Hearing for Water District #1 Extension and Mr. Cooper stated that financing was dependent on that timeline.

**Councilman Fazio offered the following:**

**Resolution 27-2016: WHEREAS, the Town Board of the Town of Denmark is in receipt of a map, plan and report from Bernier, Carr and Associates with respect to the extension of Water District #1, and WHEREAS, the Town Board has determined that it is in the public interest to proceed with the extension of such District, and**

**WHEREAS, the Town Board has also received a long environmental assessment form for such project and has completed environmental review of such project, and**

**WHEREAS, pursuant Article 12-a of the Town Law a public hearing is necessary on the extension of the District, now, therefore, be it**

**RESOLVED the Town Board of the Town of Denmark does hereby set October 27, 2016 at 6 p.m. at the Town of Denmark Offices as the date, time and place of the public hearing on the proposed extension of Water District #1 in accordance with the map, plan and report on file with the Town Clerk, and as further described on Exhibit "A" annexed hereto, be it further**

**RESOLVED, that the Town Clerk is directed to publish and post a notice of such public hearing as required by Article 12-a of the Town Law indicating among other things that the maximum capital cost to be expended on such project is Two Million Seven Hundred Thousand and No/100 Dollars (\$2,700,000) and anticipated to be eligible for New York State Government Efficiency grant, EFC-DWSRF loans and grants, and/or Serial Bonds or a Statutory Installment Bond. That the cost for typical user, based upon such map plan and report for the proposed extension Water District #1 is:**

**Debt Service \$ 172.00**

**Operation and Maintenance \$ 87.00**

**Water Usage \$ 438.00**

**Total Cost per EDU \$ 697.00**

**EXHIBIT "A"**

- 109.00-1-22.112, 109.00-1-19.112, 109.00-1-19.113, 109.00-1-19.211, 109.00-1-23.1, 109.00-1-18.111, 109.00-1-18.114, 109.00-1-18.112, 109.00-1-18.211, 109.00-1-18.212, 109.00-1-18.113, 109.00-1-19.114, 109.00-2-1.221\*, 109.00-2-8, 109.00-2-7.12, 109.00-2-2.121, 123.00-1-10\*, 124.00-1-1.14\*,
- 124.00-1-1.15, 124.00-1-6.11, 124.00-1-7.4, 124.00-1-7.2, 124.00-1-8.2, 124.00-1-7.3, 124.00-1-10.1, 124.00-1-11, 124.00-1-12, 141.00-3-1.1, 140.00-3-17.11, 140.00-3-15, 140.00-3-6.2, 140.00-3-6.53, 140.00-3-6.3, 140.00-3-6.51, 140.00-3-5, 140.00-3-4.1, 123.00-1-27.1, 140.00-3-3.12, 140.00-3-3.11, 140.00-3-3.2, 123.00-1-24.14, 123.00-1-24.112, 123.00-1-24.113, 123.00-1-24.114, 123.00-1-24.115, 123.00-1-13.223, 123.00-1-13.110, 123.00-1-13.210, 123.00-1-24.117, 123.00-1-22

**\*A portion of these parcels was included in Water District No. 1. With the extension, all of those parcels shall now be included.**

**The Resolution was seconded by Councilman Jones**

Vote recorded as follows:

Councilman Der	Aye
Councilman Fazio	Aye
Supervisor Fleming	Aye
Councilman Thoma	Absent

Councilman Jones

Aye

**Resolution 27-2016 is adopted 10/10/16.**

Deputy Clerk Souva and Mr. Gebo's office will advertise the Public Hearing.

Mr. Cooper provided 3 revised copies of the Preliminary Engineering Report to the Clerk for public viewing.

**Councilman Fazio offered the following:**

**Resolution 28-2016: WHEREAS, the Town of Denmark adopted a bond resolution on March 14, 2016 in the amount of \$2,500,000 for its Water District #1, and**

**WHEREAS, the Town of Denmark has received from its engineers a revised map, plan and report extending Water District #1 with additional users and additional costs relative to the tank portion of the project, and**

**WHEREAS, as a result it is necessary to modify the prior bond resolution as set forth below:**

**AMENDED BOND RESOLUTION DATED OCTOBER 10, 2016**

**A RESOLUTION AUTHORIZING THE ISSUANCE OF SERIAL BONDS OR A STATUTORY INSTALLMENT BOND, IN THE TOWN OF DENMARK IN AN AMOUNT NOT TO EXCEED \$2,700,000, THE PROCEEDS OF WHICH ARE TO BE USED FOR THE CONSTRUCTION OF A NEW WATER DISTRIBUTION SYSTEM INCLUDING WATER MAINS, STORAGE TANK, SERVICE LATERALS, FIRE HYDRANTS AND VALVES AND OTHER APPURTENANT FEATURES AND THE EXTENSION OF THE TOWN OF DENMARK WATER DISTRICT #1.**

**NOW, THEREFORE,**

**BE IT RESOLVED, by the Town Board of the Town of Denmark, Lewis County, New York, as follows:**

**Section 1. The construction of a new water distribution system and the extension to what is known as Water District #1, including water mains, storage tank, service laterals, fire hydrants and valves and other appurtenant features (hereafter, the specific**

**objects and purposes) is in the interest of the citizens of the Town of Denmark. The estimated cost of the installation the specific objects and purposes for said District as determined by the engineers hired by the Town for such purposes is \$2,700,000. This is an increase of \$200,000 of a bond resolution adopted on March 14, 2016.**

**Section 2. It is hereby determined that the period of probable usefulness of the aforesaid specific objects and purposes is forty (40) years, pursuant to subdivision 1 of paragraph (a) of section 11.00 of the Local Finance Law. It is further determined that no down payment is required pursuant to Section 107(d)(3)(a) of the Local Finance Law.**

**Section 3. The plan for the financing of such estimated cost is Serial Bonds and/or Statutory Installment Bonds and it is anticipated the Water District will be eligible for New York State Government Efficiency grant, EFC-DWSRF loans and grants, not exceeding \$2,700,000 for the specific objects and purposes and the Town hereby authorized to be issued therefore, pursuant to the Local Finance Law, for a period in excess of five (5) years.**

**Section 4. The faith and credit of said Town of Denmark, Lewis County, New York are hereby irrevocably pledged for the payment of the principal of and interest on such bonds as the same respectively become due and payable. An annual appropriation shall become due and payable. Annual water rents shall be made in each year sufficient to pay the principal of and interest on such bonds becoming due and payable in such year.**

**Section 5. All other matters, except as provided herein relating to such bonds, including determining whether to issue such bonds having substantially level or declining annual debt service and all matters related thereto, prescribing whether to manual or facsimile signatures shall appear on said bonds, prescribing the method for the recording of ownership of said bonds, appointing the fiscal agent or agents for said bonds, providing for the printing and delivery of said bonds (and if said bond are to be executed in the name of the Town by the facsimile signature of its Town Supervisor), including the consolidation with other issues, shall be determined by the Town Supervisor. It is hereby determined that it is to the financial advantage of the Town not to impose and collect from registered owners of such bonds any charges for mailing, shipping and insuring bonds transferred or exchanged by the fiscal agent, and, accordingly, pursuant to paragraph c of Section 70.00 of the Local Finance Law, no such charges shall be so collected by the fiscal agent. Such bonds shall contain substantially the recital of validity clause provided for in Section 52.00 of the Local Finance Law and shall otherwise be in such form and contain such recitals in addition to those required by Section 52.00 of the Local Finance Law, as the Town Supervisor shall determine.**

**Section 6. The validity of such bonds and bond anticipation notes may be contested only if:**

- (1) Such obligations are authorized for an object or purpose for which said Town is not authorized to expend money, or**
- (2) 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 twenty (20) days after the date of such publication, or**
- (3) Such obligations are authorized in violation of the provisions of the Constitution.**

**Section 7. Upon this resolution taking effect, the same be published in full in the Watertown Daily Times, the official newspaper of said Town for such purpose, together with a notice of the Town Clerk in substantially the form provided in Section 81.00 of the Local Finance Law.**

**Section 8. This resolution is subject to permissive referendum, pursuant to Section 35.00 of the Local Finance Law.**

**Section 9. This resolution shall constitute a statement of official intent for the purposes of Treasury Regulations Section 1.150-2. Other than as specified in this resolution, no monies are, or are reasonably expected to be, reserved, allocated on a long-term basis, or otherwise set aside with respect to the permanent funding of the object or purpose described herein.**

**The Resolution was seconded by Supervisor Fleming.**

Vote recorded as:

Councilman Der	Aye	
Councilman Fazio	Aye	
Supervisor Fleming	Aye	
Councilman Thoma	Absent	
Councilman Jones	Aye	<b>Resolution 28-2016 is adopted 10/10/16.</b>

**Councilman Fazio also offered the following:**

**Resolution 29-2016: To publish the Estoppel Notice after 30 days of publication date of Amended Bond Resolution as long as no petitions filed for a referendum.**

Town of Denmark  
Estoppel Notice

On October 10, 2016 the Town Board of the Town of Denmark passed an Amended Bond Resolution authorizing the issuance of Serial Bonds or a Statutory Installment Bond not exceeding \$2,700,000 for extension of Water District #1 and the construction of a new water distribution system including water mains, water storage tank, service laterals, fire hydrants and valves, and other appurtenant features to be known as the Town of Denmark Route 12 Water District. The probable usefulness of the aforesaid construction is forty (40) years, pursuant to subdivision 1 of paragraph (a) of section 11.00 of the Local Finance Law. A full text of the resolution is available for inspection at the Town of offices, during normal business hours.

The validity of the obligations authorized by such resolution may be hereafter contested only if such obligations were authorized for an object or purpose for which the Town of Denmark is not authorized to expend money or if the provisions of law, which should have been complied with as of the date of publication of this notice were not substantially complied with, and an action, suit, or proceeding contesting such validity is commenced within twenty days of the date of publication of this notice, or such obligations were authorized in violation of the provisions of the Constitution.

**The Resolution was seconded by Councilman Der.**

Vote recorded as:

Councilman Der	Aye	
Councilman Fazio	Aye	
Supervisor Fleming	Aye	
Councilman Thoma	Absent	
Councilman Jones	Aye	<b>Resolution 29-2016 is adopted 10/10/16.</b>

#### **SUPERVISOR'S REPORT:**

Discussion was held in regards to Offer To Purchase agreement between Town of Denmark and Carroll Farms, LLC. Councilman Der questioned the purchase price and why the amount of land was less than previously discussed. Supt. Mahar replied that approximately 1 acre area is all that is necessary and Supervisor Fleming said this was the price Carroll Farms LLC has agreed to. Discussion was held on potential zoning and subdivision for the parcel. Supt. Mahar indicated Lewis County would be consulted.

Councilman Fazio made a motion to approve the signing of the Offer to Purchase by Supervisor Fleming. The motion was seconded by Supervisor Fleming.

Vote recorded as follows:

Councilman Der	Nay	
Councilman Fazio	Aye	
Supervisor Fleming	Aye	
Councilman Thoma	Absent	





**WATER DISTRICT #1 ABSTRACT #31, Claim #18-25, Total \$65,784.30** was provided to the Town Board in their board packet. Per earlier conversation with Matt Cooper, the bill for Bernier, Carr and Associates (Claim #18, \$64,365.33) will be removed. Corrected total is \$1418.97. This was reviewed by Town Board. Councilman Fazio made a motion that the bills be paid as presented. His motion was seconded by Councilman Der.

Vote recorded as follows:

Councilman Der	Aye	
Councilman Fazio	Aye	
Supervisor Fleming	Aye	
Councilman Thoma	Absent	
Councilman Sullivan	Aye	Motion passed.

#### **PUBLIC COMMENT:**

Supervisor Fleming asked if any of the public present would like to speak. Councilman Der suggested that since the bills were no longer being read aloud that the public know that copies of the vouchers are available for viewing in the Clerk's office.

Mrs. Jones also asked for clarification on the different water line terminology, main vs. lateral? Councilman Fazio responded with definitions.

**BUDGET OFFICER REPORT:** Mrs. Sharon Fleming gave copies of her Town Budget Officer's Report for September 2016, financial report for September 2016 and third quarter 2016 Budget vs. Actual Report.

After review of the documents Councilman Fazio made a motion to accept the reports as presented. The motion was seconded by Councilman Der.

Vote recorded as follows:

Councilman Der	Aye	
Councilman Fazio	Aye	
Supervisor Fleming	Abstain	
Councilman Thoma	Absent	
Councilman Jones	Aye	Motion passed

#### **TOWN CLERK REPORT:**

Clerk Kunert provided the Town Board with copies of her report for September 2016 in their board packets prior to the meeting. There were no questions.

Clerk Kunert also provided a letter of intent between the Town of Denmark and Riverside Cemetery Association in the board packet. Councilman Der stated he would like to see their books to review expenses. Discussion held. A stipulation was added to the letter that the Town Board requests a copy of their profit/loss statement before disbursement of funds.

Councilman Fazio made a motion to send the letter. Motion was seconded by Councilman Jones.

Vote recorded as follows:

Councilman Der	Aye	
Councilman Fazio	Aye	
Supervisor Fleming	Aye	
Councilman Thoma	Absent	
Councilman Jones	Aye	Motion passed

**ASSESSOR REPORT:** Mr. Vargulick spoke to the Town Board about the history of the Town of Champion and the Town of Denmark jointly entering into the NYS Tax Cap Program. Originally this program provided additional funding for towns that made an effort to stay at 100% equalization. The towns had to remain at the same levels of assessment. Assessor Vargulick has been able to maintain this in the Towns of Champion and Denmark. The state stopped providing the additional funding as they ran into their own budgetary issues. At this point, Assessor Vargulick has been advised by the state that there is no financial penalty if the towns withdraw from the Tax Cap Program. There is also no benefit to leaving the program. At this time Assessor Vargulick intends to remain at 100% equalization within the Town of Denmark.

Assessor Vargulick also plans to meet Attorney Gebo about lawsuit filed against Town from WGS for their property assessment.

**ZONING AND PLANNING:** Town Board members were provided with copies of the September Zoning Report and the minutes of the September 22, 2016 Planning Board meeting in the board packet.

#### **OLD BUSINESS:**

Discussion was held again on the proposed Solar Laws. Councilman Fazio made a motion that the Town of Denmark hold a Public Hearing for the consideration of a proposed local law 2-2016 for a six (6) month moratorium on Solar Energy Equipment/Systems installed within the town. The Public Hearing to be November 10, 2016 at 7:00pm and would run concurrently with the Fire Contracts and Proposed Budget. Councilman Der seconded the motion.

Vote recorded as follows:

Councilman Der	Aye	
Councilman Fazio	Aye	
Supervisor Fleming	Aye	
Councilman Thoma	Absent	

