

**DRAFT MINUTES OF
SPECIAL MEETING AND PUBLIC HEARING
OF THE TOWN OF ELLICOTTVILLE
TOWN BOARD HELD
September 4, 2018 at 6:00 P.M.
At the Ellicottville Town Hall**

Present:	Matt McAndrew	Supervisor
	Greg Fitzpatrick	Councilman
	Steve Crowley	Councilman
	Ken Hinman	Councilman
	John Zerfas	Councilman
	Kathleen Moriarty	Attorney for Town
	Robyn George	Town Clerk

Call meeting to order: The meeting was called to order by Supervisor McAndrew at 6:00p.m.

Public Hearing

Supervisor McAndrew stated that the Public Hearing on the Increase and Improvement of the facilities of the Consolidated Water District No. 1 in the Town of Ellicottville, was now open and asked if there was any interested person who desired to be heard. No one appeared.

Motion by Mr. Hinman, seconded by Mr. Fitzpatrick, to close the public hearing . All Ayes. Carried.

The following resolution was offered by Kenneth Hinman and seconded by John Zerfas, to wit;

In the Matter
of the

Increase and Improvement of Facilities of the Consolidated
Water District No. 1, in the Town of Ellicottville, in the
County of Cattaraugus, New York, pursuant to Section 202-
b of the Town Law.

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**RESOLUTION AND ORDER
AFTER PUBLIC HEARING APPROVING
THE INCREASE AND IMPROVEMENT OF
FACILITIES OF THE CONSOLIDATED WATER DISTRICT NO. 1**

WHEREAS, the Town Board of the Town of Ellicottville (herein called “Town Board” and “Town”, respectively), in the County of Cattaraugus, New York, has, pursuant to Town Law, created the Town of Ellicottville Consolidated Water District No. 1 (the “District”); and

WHEREAS, the Town Board has directed Clark Patterson Lee, competent engineers licensed in New York, to prepare a map, plan and report for a water system capital improvements project within the District; and

WHEREAS, the improvements proposed will be part of a joint water system capital improvements project with the Village of Ellicottville (the “Village”); and

WHEREAS, the Town and the Village have entered into (or will enter into) an Inter-municipal Agreement, pursuant to Article 5-G of the New York General Municipal Law, (the “IMA”) with respect to the design, planning, acquisition, construction, equipping, replacement and reconstruction, as necessary, for such joint project; and

WHEREAS, such joint project will generally consist of (but not be limited to) the rehabilitation of Town and Village wells and the replacement of equipment, the installation of emergency standby generators and associated equipment at the booster pump stations, replacement of the Town’s upper storage tank with a new glass-lined tank and other safety modifications and installation of equipment at such tank site, installation or modification of associated instrumentation, and the replacement of the 360,000 gallon Village Reservoir with a glass-lined tank, as well as other improvements as more fully identified in (or contemplated by) such map, plan and report referred to above, all of the forgoing to include necessary site work, equipment, apparatus and other improvements and costs incidental thereto and in connection with the financing thereof (collectively, the “Joint Project”); and

WHEREAS, pursuant to the direction of the Town, the Engineer has completed and filed with the Town Board such preliminary map, plan and report for such increase and improvement of facilities of the District and has estimated the total cost of the Joint Project to be \$2,389,415; however the portion of the Joint Project that the Town will be responsible to pay is \$1,171,620; said cost to be financed by the issuance of serial bonds of the Town in an aggregate principal amount not to exceed \$1,171,620, offset by any federal, state, county and/or local funds received.

WHEREAS, 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; and

WHEREAS, the Town Board issued an Order at its August 15, 2018 meeting calling for a public hearing to be held at the Town Hall, Ellicottville, New York, on September 4, 2018 at 6:00 o'clock p.m. (prevailing time) or shortly thereafter to consider said increase and improvement of facilities of the District and to hear all persons interested in the subject thereof concerning the same and for such other action on the part of the Town Board with relation thereto as may be required by law, and further ordered the Town Clerk to publish at least once in a newspaper designated as an official newspaper of the Town for such publication, and post on the sign board of the Town maintained pursuant to subdivision 6 of Section 30 of the Town Law, a copy of this Order, certified by said Town Clerk, the first publication thereof and said posting to be not less than ten nor more than 20 days before the date of such public hearing; and

WHEREAS, said notices of the public hearing were properly published and posted and the public hearing duly held at the time and place stated in the notices.

NOW, THEREFORE, BE IT RESOLVED AND DETERMINED BY THE TOWN BOARD OF THE TOWN OF ELLICOTTVILLE, based on the information provided at the public hearing, as follows:

DETERMINED, that it is in the public interest to increase and improve the facilities of the District as hereinabove described and referred to and the estimated total cost of the Joint Project is \$2,389,415; however the portion of the Joint Project that the Town will be responsible to pay is \$1,171,620; and it is hereby

DETERMINED, that the parcels and lots of the District shall be benefited by said increase and improvement of the facilities of the District; and it is hereby

DETERMINED, that all parcels and lots benefited by said increase and improvement of the facilities are included in the District; and it is hereby

ORDERED, that the facilities of the District shall be so increased and improved and that the Engineer shall prepare plans and specifications and make a careful estimate of the expense for said increase and improvement of the facilities, and with the assistance of the Town Attorney, prepare a proposed contract for the execution of the work, which plans and specifications, estimate and proposed contract shall be presented to the Town Board as soon as possible; and it is hereby

FURTHER ORDERED, that the expense of said increase and improvement of the facilities shall be financed by the issuance of serial bonds of the Town in an aggregate principal amount not to exceed \$1,171,620, said amount to be offset by any federal, state, county and/or local funds received for the Joint Project, and unless paid from other sources or charges, the cost of the portion of the Joint Project for

which the Town is responsible for (\$1,171,620) is to 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; and it is hereby

FURTHER ORDERED, that within ten days after adoption of this Resolution and Order, the Town Clerk will record with the Clerk of the County of Cattaraugus copy of this Resolution and Order, certified by said Town Clerk.

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

AYES: Mathew McAndrew	Supervisor
Steven Crowley	Councilman
Kenneth Hinman	Councilman
Greg Fitzpatrick	Councilman
John Zerfas	Councilman

Bond Resolution

There was discussion on the improvements to the Water District that the EFC Grant would help to fund. The Board also asked Mr. Pierson to estimate how much it would cost property owners in either taxes or fees due to the expense of repaying the Bond.

The following resolution was offered by Greg Fitzpatrick and seconded by Kenneth Hinman, to wit;

A BOND RESOLUTION, DATED SEPTEMBER 4, 2018, OF THE TOWN BOARD OF THE TOWN OF ELLICOTTVILLE, CATTARAUGUS COUNTY, NEW YORK (THE "TOWN"), AUTHORIZING THE TOWN'S PORTION OF A WATER SYSTEM CAPITAL IMPROVEMENTS PROJECT WITHIN THE TOWN OF ELLICOTTVILLE CONSOLIDATED WATER DISTRICT NO. 1, AT AN ESTIMATED MAXIMUM COST TO THE TOWN OF \$1,171,620 AND AUTHORIZING THE ISSUANCE OF SERIAL BONDS OF THE TOWN IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$1,171,620 PURSUANT TO THE LOCAL

FINANCE LAW TO FINANCE THE TOWN'S PORTION OF SUCH JOINT WATER SYSTEM CAPITAL IMPROVEMENTS PROJECT, SUCH 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 OF THE TOWN TO THE TOWN SUPERVISOR.

WHEREAS, the Town Board of the Town of Ellicottville, Cattaraugus County, New York (the "Town"), has established the Town of Ellicottville Consolidated Water District No. 1 (the "District"); and

WHEREAS, the improvements proposed will be part of a joint water system capital improvements project with the Village of Ellicottville (the "Village"); and

WHEREAS, the Town and the Village have entered into (or will enter into) an Inter-municipal Agreement, pursuant to Article 5-G of the New York General Municipal Law, (the "IMA") with respect to the design, planning, acquisition, construction, equipping, replacement and reconstruction, as necessary, for such joint project; and

WHEREAS, such joint project will generally consist of (but not be limited to) the rehabilitation of Town and Village wells and the replacement of equipment, the installation of emergency standby generators and associated equipment at the booster pump stations, replacement of the Town's upper storage tank with a new glass-lined tank and other safety modifications and installation of equipment at such tank site, installation or modification of associated instrumentation, and the replacement of the 360,000 gallon Village Reservoir with a glass-lined tank, as well as other improvements as more fully identified in (or contemplated by) such map, plan and report prepared in connection with such project, all of the forgoing to include necessary site work, equipment, apparatus and other improvements and costs incidental thereto and in connection with the financing thereof (collectively, the "Joint Project"); and

WHEREAS, the estimated maximum total cost of the Joint Project is \$2,389,415; however the portion of the Joint Project that the Town will be responsible to pay is estimated to be \$1,171,620; and

WHEREAS, the Town Board has determined to proceed with the Joint Project; and

WHEREAS, the Town Board desires to issue obligations of the Town to finance the costs of the Joint Project.

NOW THEREFORE,

BE IT RESOLVED, by the Town Board (by the favorable vote of not less than two-thirds of all the members of the Board) as follows:

SECTION 1. The Town is hereby authorized to undertake a certain water system capital improvements project, such joint project will generally consist of (but not be limited to) the rehabilitation of Town and Village wells and the replacement of equipment, the installation of emergency standby generators and associated equipment at the booster pump stations, replacement of the Town's upper storage tank with a new glass-lined tank and other safety modifications and installation of equipment at such tank site, installation or modification of associated instrumentation, and the replacement of the 360,000 gallon Village Reservoir with a glass-lined tank, as well as other improvements as more fully identified in (or contemplated by) such map, plan and report prepared in connection with such project, all of the forgoing to include necessary site work, equipment, apparatus and other improvements and costs incidental thereto and in connection with the financing thereof. The estimated maximum cost of the portion of the Joint Project for which the Town is responsible for is \$1,171,620.

SECTION 2. The Town Board plans to finance the Town's portion of the estimated maximum cost of the purpose by the issuance of serial bonds of the Town in an aggregate principal amount not to exceed \$1,171,620, hereby authorized to be issued therefor pursuant to the Local Finance Law, said amount to be offset by any federal, state, county and/or local funds received for the Joint Project. Unless paid from other sources or charges, the cost of the portion of the Joint Project for which the Town is responsible for (\$1,171,620) is to 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 40years.

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 said 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)of the portion of the Joint Project that the Town is responsible for 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 cost of the portion of the Joint Project for which the Town is responsible for (\$1,171,620) is to 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 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 the date hereof or within 60 days prior to the earlier of (a) the date hereof 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 "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.

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. To the extent applicable, the Town Supervisor is hereby authorized to execute and deliver in the name and on behalf of the Town a project financing agreement prepared by the New York State Environmental Facilities Corporation (“EFC”) (the “SRF Project Financing Agreement”). To the extent applicable, the Town Supervisor and the Town Clerk and all other officers, employees and agents of the Town are hereby authorized and directed for and on behalf of the Town to execute and deliver all certificates and other documents, perform all acts and do all things required or contemplated to be executed, performed or done by this resolution or any document or agreement approved hereby, including, but not limited to, the SRF Project Financing Agreement

SECTION 13. 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 14. 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 the 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) Said obligations are authorized in violation of the provisions of the Constitution of New York.

SECTION 15. 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 the Town and designated as the official newspaper of the Town for such publication.

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:

AYES: Mathew McAndrew Supervisor

Steven Crowley	Councilman
Kenneth Hinman	Councilman
Greg Fitzpatrick	Councilman
John Zerfas	Councilman

- Budget Meeting scheduled for September 12th at 4:00pm.
- Justice Court Assistance Program

There is a grant that the Town and Village could apply for that may help pay for Courtroom renovations and/or security. Each grant is \$30,000.00.

Adjournment

MOTION: by Mr. Hinman seconded by Mr. Zerfas to adjourn the meeting at 6:45pm. All Ayes. Carried.

I, Robyn A. George, Clerk of the Town of Ellicottville, County of Cattaraugus, State of NY, do hereby certify that the foregoing constitutes the complete minutes of the Town Board Meeting held on the 4th day of September, 2018, approved by said Board on the 19th day of September, 2018.

Robyn A. George, Town Clerk