

Minutes of March 12, 2019 Germantown Town Board meeting, held in the Germantown Town Hall, 50 Palatine Park Road, Germantown, NY, commencing at 7:00pm.

Present: Supervisor Beaury
Councilman Moore
Councilwoman DuFresne
Councilman Kukon
Councilman Sullivan

Town Attorney: Corinne Smith

Recorded by: Town Clerk, Joyce Vale

Motion to approve the February 12, 2019 public hearing and regular meeting minutes and the February 26, 2019 special meeting minutes made by Councilwoman DuFresne, seconded by Councilman Kukon, with all in favor and none opposed.

Motion to pay audited bills made by Councilman Kukon, seconded by Councilwoman DuFresne, with all in favor and none opposed.

Written Communications to Town Clerk

Email from Tim Otty regarding the Planning Board.

Email from George Sharpe regarding the Planning Board.

Email from Doris Dubac about extending the sidewalks to the municipal parking lot.

Resignation from Jen Crawford as co-chair of the Waterfront Advisory Committee, Jen would like to remain on the committee.

Town Department Reports

Maintenance

No report this month.

Dog Control

No report this month.

Highway by Councilman Kukon

- Hopefully winter is almost done.
- Been out plowing & sanding in the past month
- Been servicing and getting sweeping equipment out.
- Brooming and fixing shoulders.
- Working with Maintenance department cleaning brush, dead trees and cattails around the pond by the dog park.
- On March 21, 2019 they will all be attending a "Call Before You Dig" class, then taking a test to be certified on digging around underground facilities. A new law takes place May 4, 2019.
- In the next couple of weeks will be working with Maintenance fixing & then installing docks at Cheviot.
- Will be in touch with DEC on installing Anchorage docks.

Sewer by Councilman Sullivan

- Average flow is 21,000 gallons per day.
- Everything is running well.
- Getting ready for construction.

Presentation by Ellen Jouret Epstein about the Columbia County Natural Resources Inventory. Ms. Epstein said they worked with the land conservancy and the County in getting funding from the Hudson River Estuary Program to create these maps. The maps will have useful information for all Towns and there will be workshops coming up in May and June. The Town will have at least two copies. Ms. Epstein said they are hoping to get more funding for additional maps. They are waiting for the Board of Supervisors to adopt this as a formal document. Ellen said once the County adopts it she would like a resolution for the Town to adopt it.

Motion to go into executive session at 7:09pm to discuss the employment history of a particular person, or matters leading to the appointment, employment, promotion, demotion, discipline, suspension, dismissal or removal of a particular person; and to discuss proposed, pending or current litigation made by Councilwoman DuFresne, seconded by Councilman Kukon.

Motion to come out of executive session at 7:29pm made by Councilman Sullivan, seconded by Councilwoman DuFresne, with all in favor and none opposed.

Motion re-enter regular session made by Councilman Sullivan, seconded by Councilman Kukon, with all in favor and none opposed.

Old Business

- Motion to defer to the Planning Board the appointment of an Acting Chairperson of the Planning Board to serve at the pleasure of the Town Board made by Councilwoman DuFresne, seconded by Councilman Kukon, with all in favor and none opposed.

Town Board discussion on leaving Planning Board with 7 members. Councilman Sullivan said they are looking for qualified candidates.

- Motion to table Local Law No. 2 of 2019 (reducing the membership from 7 to 5) made by Councilman Sullivan, seconded by Councilwoman DuFresne, with all in favor and none opposed.
- Resolution to authorize Supervisor to enter agreement with NYS DOT regarding maintaining the Empire State Rail Trail.

RESOLUTION BY TOWN OF GERMANTOWN COLUMBIA COUNTY AUTHORIZATION TO ENTER INTO AGREEMENT WITH NYSDOT FOR MAINTENANCE OF EMPIRE RAIL TRAIL

WHEREAS, THE NYSDOT is progressing the construction of the Empire State Trail in portions of the Town of Germantown, Columbia County; and

WHEREAS, once the trail is completed by the NYSDOT or its contractors, the NYSDOT has requested that the Town of Germantown, Columbia County own and maintain the alterations performed by the NYSDOT; and

NOW THEREFORE BE IT RESOLVED, that the Town of Germantown, Columbia County agrees to own and maintain the renovated portions of the Empire State Trail as described in the agreement; and be it

FURTHER RESOLVED, that the Town Supervisor of the Town of Germantown, Columbia County is authorized to sign agreement documents, subject to the review and approval of the Town Attorney; and be it

FURTHER RESOLOVED that the Town Supervisor of the Town of Germantown, Columbia County is hereby directed to transmit five (5) certified copies of the forgoing resolution to the New York State Department of Transportation.

**STATE OF NEW YORK
TOWN OF GERMANTOWN
COUNTY OF COLUMBIA**

This is to certify that I, the undersigned, Clerk of the Town Board, Town of Germantown, Columbia County, have compared the foregoing copy of resolution #32 with the original now on file in this office and which was passed by the Town Board, Town of Germantown, Columbia County on the 12th day of March 2019, a majority of all the members elected to the Town Board, Town of Germantown, Columbia County voting in favor thereof, and that the same is a correct and true transcript of such original resolution and of the whole thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and the official seal of the Town Board, Town of Germantown, Columbia County this 12th day of March 2019.

Motion to adopt the foregoing Resolution authorizing the Supervisor to enter agreement with NYS DOT regarding maintaining the Empire State Rail Trail made by Councilman Moore, seconded by Councilman Kukon, with all in favor and none opposed.

- WWTP Upgrade- Accept Final Engineering Report, dated February 20, 2019. Motion to accept final engineering report dated February 20, 2019 made Councilman Sullivan, seconded by Councilman Kukon, with all in favor and none opposed.
- SEQRA and Bond Resolution.

Supervisor Beaury read the following resolution:

**TOWN OF GERMANTOWN
RESOLUTION
March 12, 2019
WASTEWATER TREATMENT PLANT AND PUMP STATION IMPROVEMENTS**

SEQR TYPE II CLASSIFICATION

WHEREAS, the Town Board of the Town of Germantown (the "Town") caused an Engineering Report for Wastewater Treatment Plant Improvements (the "Engineering Report") to be prepared by Delaware Engineering, D.P.C., dated May 19, 2016, which described proposed improvements to the facilities of the Town's Wastewater Treatment Plant, including updating the Wastewater Treatment Plant; and

WHEREAS, the project scope of the proposed project was expanded to include improvements to Pump Station No. 1 and Pump Station No. 2 to the existing wastewater system, as described in Amendment No. 1 to the Engineering Report, dated February 20, 2019; and

WHEREAS, pursuant to 6 NYCRR Part 617.5(c)(2) actions for "replacement, rehabilitation or reconstruction of a structure or facility, in kind, on the same site, including upgrades to buildings to meet building or fire codes, unless such action meets or exceeds any of the thresholds in Section 617.4 of this Part" have been determined not to have significant impact on the environment and are precluded from environmental review under Article 8 of the Environmental Conservation Law; and

WHEREAS, the proposed project does not meet or exceed any of the thresholds in Section 617.4.

NOW, THEREOF, BE IT RESOLVED, by the Town Board of the Town of Germantown as follows:

1. The Town Board declares itself lead agency for purposes of State Environmental Quality Review ("SEQR") for the proposed project and hereby finds that the proposed project is a Type II action and is not subject to any further review under SEQR; and
2. This resolution shall take effect immediately.

By roll call by the Town Clerk:

| | |
|------------------------|-----|
| Supervisor Beaury: | Aye |
| Councilman Moore: | Aye |
| Councilwoman DuFresne: | Aye |
| Councilman Kukon: | Aye |
| Councilman Sullivan: | Aye |

Councilman Sullivan read the following resolution:

RESOLUTION DATED MARCH 12, 2019

RESOLUTION AND ORDER AFTER PUBLIC HEARING, APPROVING A SEWER IMPROVEMENT PROJECT FOR GERMANTOWN SEWER DISTRICT IN THE TOWN OF GERMANTOWN, COUNTY OF COLUMBIA, STATE OF NEW YORK, PURSUANT TO SECTION 202-b OF THE TOWN LAW

WHEREAS, the Town Board of the Town of Germantown (herein called "Town Board" and "Town", respectively), in the County of Columbia, New York, on behalf of its Sewer District in the Town, requested Delaware Engineering, P.C., engineers duly licensed by the State of New York (herein called "Engineers") to prepare a map, plan and report for the increase and improvement of facilities of the Sewer District, consisting of upgrade of the Town Wastewater Treatment Plant located off Main Street and reconstruction of two existing pump stations and related improvements, and including land or rights in land, original furnishings, equipment, machinery and apparatus required therefor; and pursuant to the direction of the Town Board, the increase and improvement of facilities of the Germantown Sewer District, entitled "Wastewater Treatment Improvements Preliminary Engineering Report", dated September 4, 2015, as amended May 19, 2016, and further amended by Amendment No. 1 dated February 20, 2019, and the Engineers have estimated the total cost thereof not to exceed \$2,500,000.

WHEREAS, the Engineers completed such report and filed the same with the Town Board, and the Town Board thereafter adopted an order describing in general terms the proposed improvement of facilities, specifying the estimated total cost thereof and stating that the Town Board would meet to hear all persons interested in said improvement of facilities on March 12, 2019 at 6:45 o'clock p.m. (Prevailing Time) at the Town Hall in the Town; and

WHEREAS, notice of such order was published and posted pursuant to the provisions of Article 12 of the Town Law; and

WHEREAS, such public hearing was duly held by the Town Board on this 12th day of March, 2019 at 6:45 o'clock p.m. (Prevailing Time) at the Town Hall in the Town, and considerable discussion on the matter having been had and all persons desiring to be heard having been heard, including those in favor of and those in opposition to said improvement of the facilities; and

WHEREAS, it has been determined that the aforesaid purpose constitutes a Type II Action as defined under the State Environmental Quality Review Regulations, 6 NYCRR Part 617, which has been determined under SEQR not to have significant impact on the environment.

WHEREAS, the Town Board and the Town have complied in every respect with all applicable federal, state and local laws and regulations regarding environmental matters including compliance with the New York State Environmental Quality Review Act, comprising Article 8 of the Environmental Conservation Law;

NOW, THEREFORE BE IT RESOLVED, by the Town Board of the Town of Germantown as follows:

1. On the basis of the information given at such hearing, it is hereby determined that it is in the public interest to improve the facilities of the District as hereinabove described and referred to at the estimated total cost of \$2,500,000;
2. It is hereby ordered that the facilities of the District shall be so improved;

3. Definite plans, specifications, and a careful estimate of the expense of the improvement are hereby directed to be prepared and the Attorneys for the Town are hereby directed to assist in the preparation of a proposed contract and to submit the same to this Town Board for examination and approval;

4. This Resolution shall take effect immediately.

Adoption of the resolution by roll call by the Town Clerk:

| | |
|------------------------|-----|
| Supervisor Beaury: | Aye |
| Councilman Moore: | Aye |
| Councilwoman DuFresne: | Aye |
| Councilman Kukon: | Aye |
| Councilman Sullivan: | Aye |

Resolution duly adopted.

Town Attorney Corinne Smith read the following resolution:

AMENDMENT TO BOND RESOLUTION DATED MARCH 12, 2019

A RESOLUTION AMENDING BOND RESOLUTION DATED JUNE 20, 2017, AUTHORIZING AN INCREASE AND IMPROVEMENT OF FACILITIES OF THE SEWER DISTRICT IN THE TOWN OF GERMANTOWN, AUTHORIZING THE ISSUANCE OF SERIAL BONDS OF THE TOWN OF GERMANTOWN, COLUMBIA COUNTY, NEW YORK IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$2,500,000 PURSUANT TO THE LOCAL FINANCE LAW TO FINANCE THE COSTS THEREOF, AND DELEGATING CERTAIN POWERS IN CONNECTION THEREWITH TO THE SUPERVISOR

WHEREAS, the Town of Germantown, Columbia County, New York (the "Town") has previously adopted its Bond Resolution dated June 20, 2017 (the "2017 Bond Resolution"), authorizing the issuance of serial bonds in an aggregate principal amount not to exceed \$2,500,000, and pursuant to such authorization the Town has issued its bond anticipation notes including renewals thereof in the principal amount of \$195,000; and

WHEREAS, the Town has determined that it is necessary to modify the project scope and plan of financing as provided herein, and the 2017 Bond Resolution is hereby amended as follows:

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

SECTION 1. Section of the 2017 Bond Resolution is hereby amended by modifying the project scope, said section to read as follows:

SECTION 1. The improvement of the Germantown Sewer District wastewater treatment plant located off Main Street, including new concrete grit chambers, flow equalization tank and sludge holding (aeration) tank and other process improvements and the replacement of primary and secondary clarifiers with concrete tanks, and reconstruction of two existing pump stations and related improvements, and including original furnishings, equipment, machinery and apparatus required therefor, is hereby authorized at an estimated maximum cost of \$2,500,000, and said amount is hereby appropriated therefor. It is hereby determined that said purpose is an object or purpose described in subdivision 4 of paragraph a of Section 11 of the Local Finance Law, and that the period of probable usefulness of said purpose is thirty years.

SECTION 2. Section 4 of the 2017 Bond Resolution is hereby amended by modifying the plan of financing, said section to read as follows;

SECTION 4. The Town has previously issued its bond anticipation notes pursuant to the 2017 Bond Resolution, and nothing in this resolution shall be deemed to impair the obligations so issued or the authorization to issue serial bonds to redeem such obligations. The Town Board plans to finance a portion of the cost of the purpose described in Section 1 hereof by the

issuance of serial bonds of the Town in an aggregate amount not to exceed \$2,500,000, hereby authorized to be issued therefor pursuant to the Local Finance Law. A portion of the cost of said purpose is expected to be paid or redeemed from the proceeds of a WIAA grant in the amount of \$625,000.

SECTION 3. 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) Such obligations are authorized for an object or purpose for which the Town is not authorized to expend money; or
- (2) The provisions of law which should be complied with at the date of the publication of this resolution are not substantially complied with; And an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publication; or
- (3) Such obligations are authorized in violation of the provisions of the Constitution of New York.

SECTION 4. 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 the Local Finance Law, in the Register Star, being a newspaper having a general circulation in the Town and hereby designated as the official newspaper having a general circulation in the Town and hereby designated as the official newspaper of the Town for such publication.

SECTION 5. This resolution shall take effect immediately.

Adoption of the foregoing resolution was put to vote on a roll call by the Town Clerk:

| | |
|------------------------|-----|
| Supervisor Beaury: | Aye |
| Councilman Moore: | Aye |
| Councilwoman DuFresne: | Aye |
| Councilman Kukon: | Aye |
| Councilman Sullivan: | Aye |

Newspaper reporter Carmen asked if the \$625,000 was grant money and where was the balance coming from? Supervisor Beaury said the \$1,900,000 was coming from financing until the project was complete, then a bond would be issued.

Supervisor Beaury read the following resolution:

**TOWN BOARD
TOWN OF GERMANTOWN
COLUMBIA COUNTY, NEW YORK**

MARCH 12, 2019

**RESOLUTION AUTHORIZING THE AWARDING OF BID FOR THE WWTP
AND PUMP STATION UPGRADES PROJECT IN THE TOWN OF
GERMANTOWN, COLUMBIA COUNTY, NEW YORK**

WHEREAS, the Town of Germantown caused a notice of public bid for the acceptance of sealed bids for the Wastewater Treatment Plan and Pump Station upgrades (the "Project"), as more specifically shown on the documents on file with the Town Clerk, to be opened on February 19, 2019 at the Germantown Town Hall; and

WHEREAS, sealed bids for the Project were publicly opened and read on February 19, 2019, after due notice pursuant to Section 103 of the General Municipal Law, with bids being received from seven parties for Contract G and four parties for Contract E listed on the attached bid tabulation, on file with the Town Clerk; and

WHEREAS, the Town Board has reviewed the bid tabulation, apparent low bidders' qualifications for each contract, and the recommendation of Delaware Engineering D.P.C. ("Delaware"); and

WHEREAS, the Town Board has determined that the following bids are the lowest responsible and responsive bids for the construction of the work as called for by the bid documents:

Contract G: J Squared Construction Corp. for \$1,634,000.00 base bid and bid alternates 1, 2, 3;

Contract E: AMAHA Electrical, Inc. for \$264,000.00 base bid and bid alternates 1, 2, 3; and

WHEREAS, the Project is exempt from further SEQRA action, being a Type II action consisting of replacement in kind on the same site which does not exceed the thresholds of 6 NYCRR §617.4, and no further environmental proceedings are necessary; and

WHEREAS, the Project is to be funded from the issuance of serial bonds pursuant to Town Board Bond Resolution dated March 12, 2019, with a portion of the cost expected to be paid or redeemed from the proceeds of a WIAA grant in the amount of \$625,000.

NOW, THEREFORE, BE IT RESOLVED, by the Town Board of the Town of Germantown:

1. That the Supervisor be, and he hereby is, authorized to accept J Squared Construction Corp's. bid for the amount of \$1,634,000.00 for the Project and AMAHA Electrical, Inc's. bid for the amount of \$264,000.00 for the Project, to sign the Notice of Award, and to execute the contracts for such Project in substantially the form provided by the specifications therefore, subject to the provision of a certificate of insurance and such other documentation as required by the bid specifications; and

2. That Delaware be, and it hereby is, authorized and directed to oversee and inspect the construction for compliance with the contract documents.

Motion to award the bid in the amount of \$1,634,000 to J Squared Construction Corp and the bid in the amount of \$625,000 to AMAHA Electrical Inc made by Councilman Moore, seconded by Councilwoman DuFresne.

The foregoing Resolution was taken by roll call by the Town Clerk:

| | |
|------------------------|-----|
| Supervisor Beaury: | Aye |
| Councilman Moore: | Aye |
| Councilwoman DuFresne: | Aye |
| Councilman Kukon: | Aye |
| Councilman Sullivan: | Aye |

This Resolution having been approved by a majority of the Board, the same was declared duly adopted.

Supervisor Beaury read the following resolution:

**TOWN BOARD
TOWN OF GERMANTOWN
COLUMBIA COUNTY, NEW YORK**

MARCH 12, 2019

**RESOLUTION AUTHORIZING AMENDMENT TO PROFESSIONAL
SERVICES AGREEMENT**

WHEREAS, the Town of Germantown signed a Professional Services Agreement (the "Agreement"), dated May 2018, with Delaware Engineering, D.P.C. ("Delaware") for design, permitting and bidding services for the Wastewater Treatment Plan and Pump Station upgrades (the "Project"); and

WHEREAS, Delaware has submitted to the Town Board Amendment No. 1 to the Agreement for construction phase services for the Project on a time and materials basis not to exceed

\$150,000.00. A copy of Amendment No. 1 is attached hereto and made a part hereof.

NOW, THEREFORE, BE IT RESOLVED, by the Town Board of the Town of Germantown that the Supervisor be, and he hereby is, authorized to sign Amendment No. 1 to the Agreement provided Delaware submits a Statement on Sexual Harassment to the Town.

Vote by roll call by the Town Clerk:

| | |
|------------------------|-----|
| Supervisor Beaury: | Aye |
| Councilman Moore: | Aye |
| Councilwoman DuFresne: | Aye |
| Councilman Kukon: | Aye |
| Councilman Sullivan: | Aye |

This Resolution having been approved by a majority of the Board, the same was declared duly adopted.

New Business

- Audit of Agricultural Exemptions. Councilman Sullivan asked when that last time this was done and who does it? Supervisor Beaury said he did not know when it was last done, and that the Assessor would work with auditors.

Motion to audit Agricultural Exemptions made by Councilman Sullivan, seconded by Councilman Kukon, with all in favor and none opposed.

- Audit of open Building Permits and open Building permit applications.

Motion to audit open Building Permits and open Building permit applications made by Councilwoman DuFresne, seconded by Councilman Sullivan, with all in favor and none opposed.

- Assignments to the Planning Board in February 2018. Supervisor Beaury asked the Town Board to rescind the assignments to the Planning Board in February 2018 to research and provide advice to the Town Board regarding commercial events, solar farms, and more recently a farming law and table same.

Motion to no assignment to the Planning Board made by Councilwoman DuFresne, seconded by Councilman Kukon, with all in favor and none opposed.

Discussion regarding the Planning Board not addressing any zoning related issue. The Board agreed that the Planning Board should not undertake any such research unless requested by the Town Board.

Newspaper reporter Carmen asked why the assignments were given to them? Supervisor Beaury answered that the Planning Board can accept assignments from the Town Board and that the Board will be called upon from time to time to research topics and provide advice to the Town Board they will be involved in.

- Farming Law. Councilwoman DuFresne and Supervisor Beaury are not for it. A petition to pass a law amending zoning and the current zoning law.
- Vacancy tax and three-way stop sign on Main Street at Church Avenue. Supervisor Beaury received communication on vacancy tax on buildings and the Board discussed same. The Town Board agreed that they are not interested in creating a vacancy tax or a putting a three-way stop sign on Main Street.
- Motion to authorize Supervisor to act regarding NYS DOT Civil Rights Compliance Review made by Councilman Sullivan, seconded by Councilman Kukon, with all in favor and none opposed.

Supervisor's Report

- Grounds maintenance. Cat tails have been removed and we are dealing with the phragmites.
- Part of the JCAP grant for approximately \$2,000 is for lighting in the Town Hall parking lot and we are working on that with a lighting expert.
- Councilman Kukon and Councilwoman DuFresne reported that the ballfields are almost ready to be worked on for the new season. Councilman Sullivan reported that player registration numbers are the lowest than it has been in years.
- Salt shed. The salt shed is need of a new roof. The cost is roughly \$40,000. Supervisor Beaury is going to talk to Columbia County about the agreement we have regarding maintenance costs.
- Next meeting is April 9, 2019 at 7:00pm.

Councilman Sullivan said that he reached out to webmaster Matthew about possibly setting up routing emails to make the Town Board more accessible to residents. There was some discussion on creating a Town Board email.

Corinne Smith did some research on the Ice Dock parcel. The original letter dates back to 1882 and there is a little over 18 acres. The maps are hard to read and is difficult without a full survey of the parcel. Corinne said the Underwater grant lets you use the water so there could be a dock built.

Public

Steve Savoris former member of the Zoning Board of Appeals is in opposition to the representation of the ZBA by the firm Whitbeck, Benedict & Smith LLP and Corinne Smith on any matter brought before the ZBA by Primax Properties that is related to the Decision/Order of the Supreme Court in the Article 78 proceeding. Steve Savoris and Preserve Rural Germantown is asking that the Town Board will ask Ms. Smith and her firm to voluntarily recuse themselves to ensure the integrity of the process and support the ZBA's retention of independent counsel. Mr. Savoris' letter is on file in the Town Clerk's office.

Motion to adjourn the meeting made by Councilman Moore, seconded by Councilman Sullivan, with all in favor and none opposed.

Meeting was closed at 8:38pm.

Respectfully submitted,