

MINUTES
TOWN OF EAST FISHKILL
TOWN BOARD MEETING
FEBRUARY 8, 2024
6:00 p.m.

REGULAR BOARD MEETING

The Town of East Fishkill's Town Board Meeting on February 8, 2024, was called to order at 6:00 p.m. by Supervisor D'Alessandro with the Pledge of Allegiance to the Flag.

Supervisor's Announcements

Supervisor D'Alessandro stated he had a meeting with the new Dutchess County Executive, Sue Serino and Assistant Ron Hicks to do an overview of each town's needs and wants and how the County could be of assistance. They did a tour of the new logistics center.

There was a housing round table discussion at Pace University with Congressman Lawler. There is a NYS Housing Compact as part of the NYS Budget from the Governor to build 800,000 homes over the next decade. Local level government have to deal with it, and this seems very aggressive.

The East Fishkill Police Department Annual meeting and awards were held. The Police Department is doing very well and working well together. He congratulated all the officers that received awards.

There was a meeting hosted in East Fishkill with the NYS DOT, DC Planning, and the Town's engineers, attorney, and outside traffic engineer to discuss the removal of the Route 82 bridge. This was slated for this year, but now appears to be postponed. There is now funding in place and should help with re-aligning Route 376 at the same time. The MTA will be abandoning the rail lines but may still have some concerns.

The Master Plan surveys are due back because they are progressing with moving forward with updating the plan. It is a very large endeavor. The Committee is made up of many people from different backgrounds and he thanked them all for their time and help. He asked everyone to please fill out the survey. In Board Member Flores' absence, he gave her update for this. There will be a meeting in the Town Hall at our worksession in April for this as well. They have received 1,559 responses. At the last committee they discussed economic development and tourism, and the next meeting will focus on housing. The Public Outreach meeting is scheduled for March 21 at 6:30 PM at the Community Center and they will share the results of the survey at that point. All the dates and locations will be posted on the website.

The Supervisors and Mayors Association meeting was held in Wappingers this month and held their elections for the executive board. Supervisor D'Alessandro is continuing as the local government chair for the Economic Development Advisory

Council.

The Supervisor and Police Department had a meeting with Amazon about some ongoing issues. There are many emergency service calls happening from that location. Amazon has been responsive.

The Town has been applying for new grants and has received a grant from NYS EFC for interconnections for many water districts. There is \$7 million in place for a \$12 million dollar project. At the next workshop there will be an overview of this project for everyone to understand it.

Roll Call: Supervisor D'Alessandro asked Town Clerk Cassidy to call the rolls.

Board Members in attendance were:

Craig	Emanuele	Nicholas
Arco	Marinero	D'Alessandro

Also in attendance were:

George Cronk, Engineer; Ken Williams, Highway Superintendent; Derrick Cuccia, Police Chief; and Mark Pozniak, Comptroller.

Public Hearings:

1. Open Public Hearing to Consider Issuing a Bond to Finance Improvements to Route 52 Commercial Water District

Motion to open the Public Hearing to consider issuing a bond to finance improvements to Route 52 Commercial Water District: Board Member Marinero. Seconded: Board Member Arco. All voted in favor. Motion carried.

Supervisor D'Alessandro stated this is the water line that services the Route 52 businesses, mainly the East Campus and West Campus.

Engineer Cronk stated that as part of Article 12A Section 202 of State Law, any time the Town raises bond funds for a project, they have to go through a Public Hearing. The project has had its SEQRA finished in December 2023. They are seeking a bond amount of \$7,713,599.00, which will be for the entire project. It is broken up into three phases. He will go through the phases and impact to the users. This water district was formed in 2017 in response to the subdivision of the IBM facilities. The district was originally described in the Map, Plan & Report prepared by Scott Bryant, PE. It encompasses the parcels commonly known as "iPark". At the time of the district formation there were no proposed improvements or costs to the district and therefore, no Benefit Unit assignments. There were no funds raised for forming the district at that time. The proposed water district improvements are a water main loop around the campus, which will serve properties in the district, with a focus on the new buildings. They are looking to

construct a 400,000 gallon storage tank for fire flow and 1 day's worth of storage, as required by the Board of Health. They will construct a pump house, or booster pump station, to increase the water supply during emergency events, such as a fire. The main water source will remain from the DCWWA Water main that runs along Palen Road. They plan to construct a meter building and back flow prevention requirements and create a redundant water source via the Patriot Way water main. It will connect to the Shenandoah Water District, which is water from the Village of Fishkill. It will be for emergency use only. It falls in line with the Town's plan for redundant water sources for all systems. He provided a visual map showing the water loop, the storage tank near the Frito Lay building, and the new proposed buildings. The water lines extending to the West Campus are not included as that is a separate district. Phase 1 of this project will be constructing a meter building and backflow prevention. They will connect through the On Semi water main. They will be constructing a 12-inch water main to Frito Lay, which will be known as the "First Leg" and that will establish temporary water storage for Frito Lay. They have made a temporary agreement with the Town of Poughkeepsie and the Joint Water Board to purchase water for this. It is not a long-term solution. Phase 2 will be constructing the 400,000 gallon water storage tank, the booster pumps and building to serve the water main loop, the interconnection on Patriot Way to secure the backup water source, and a 12-inch water main along West Drive, which will be known as the "Second Leg". It will extend to the large parking lot on the southwest corner. The third phase will be construction of the remaining 12-inch water main along South Drive and East Drive, completing the loop.

The estimated construction cost is around \$7.7 million dollars. According to NYS, they must bond for the entire project, even if there are additional funding sources available.

One thing they needed to do is define the Benefit Unit counts. To do this, they are using the exact same formula they used at the West Campus. It is based upon the size of the structure, the amount of water that will be used, and the potential size of the land. That is a way to capture some of the initial capital costs from some of the properties that are built upon. A benefit unit in a commercial district is 500 gallons per day, which is different than the benefit units in residential areas. That is approximately 300 gallons a day. In this particular district they ended up with approximately 318 benefit units. These can change over time if the user comes in that requires more water usage. The amount being borrowed would not change if the benefit units change. Engineer Cronk presented a map of the benefit unit assignments to all of the different parcels and properties. Each benefit unit is assigned a certain amount of money that is to be paid back.

Engineer Cronk stated they have been working hard with different grant applications to try to get funds towards this. To date they have received \$2 million from Senator Schumer and \$2 million from FASTNY – Track C. Both of these two grants are 100% with no match required. They are seeking an EDA Grant for \$3,713,599, which is a matching grant, and they plan to borrow an estimated \$1.8 million.

Supervisor D'Alessandro stated that the only people paying for any of this would be the people with benefit units assigned to them at the East Campus and iPark facility. There are rumors going around social media that everybody has to pay for that, but it is incorrect and the cost is only borne by those in the district.

Engineer Cronk showed the cost of a single benefit unit. Based upon the borrowing over 30 years with a 5% interest, it would work out to about \$1,577.93 per benefit unit per year. That would be divided into four quarters for annual billing. There are additional costs associated with running a district. One is standard operational costs and then the water usage amounts. When those costs are added together the annual cost per benefit unit would be approximately \$2,421.08. The Town believes that they could possibly be borrowing as little as \$1.8 million and then the cost would be approximately \$1,222.98 per benefit unit. This district was established back in 2017 and there have been no changes to the district since then. This cost would only be paid for by those people in this district. He does believe this project benefits the commercial industrial area and has no impact on any other neighborhoods.

Supervisor D'Alessandro asked if there were any questions or comments from Board members.

Board Member Marinaro asked about the temporary water agreement with Poughkeepsie. Engineer Cronk stated that part of the approval from the Department of Health is that you have enough water supply for one day's worth of storage as well as fire demand. Right now, that is being paid for through Poughkeepsie. The Department of Health has allowed that for several districts in this area. East Fishkill essentially leases or rents storage from the City of Poughkeepsie. They have several large tanks that they are releasing to East Fishkill. They have stated that at some point they may need more storage back so this will be a temporary agreement. There is no specific date set for this, but they do not want to wait for 10 years and then not have a plan for storage.

Supervisor D'Alessandro stated that the Town of Poughkeepsie has a 10,000,000 gallon storage tank. Some of the towns along that line from Poughkeepsie to East Fishkill buy storage in the tank. Now the Board of Health is looking to see how many people have storage in that 10,000,000 gallon tank. Theoretically they can oversell that storage because not every building will be on fire at the same time but there does have to be a threshold as to how much they can sell, and the Board of Health is doing that analysis. If he comes back saying there is not enough, East Fishkill has to be prepared for that. Part of the approval for these projects is to make sure that they have fire storage no matter what. Board member Marinaro stated there were some agreements from years ago as far as the new water district. Are all those agreements null and void. Supervisor D'Alessandro asked what agreement specifically. Board Member Marinaro stated that IBM was the prime purchaser of that water originally. Supervisor D'Alessandro stated every time there is a new owner on that site, they have

assumed that contract with a few changes. Now On Semi has assumed that. Every time there is a new owner, Poughkeepsie Joint Water Board gets to change what they want. On Semi is on the hook for 2,000,000 gallons of water every day, which is separate from the water storage. Board Member Marinaro asked if the Town of East Fishkill has no contract obligation for the water. Supervisor D'Alessandro said no, because the Town has an agreement with iPark who has an allocation for 500,000 gallons of On Semi's 2,000,000 gallons. Currently iPark is only using approximately 100,000 gallons a day so there's plenty capacity left. It is in the Town agreement to take that and then iPark has to show that is off of their amount of 500,000 gallons.

Engineer Cronk stated that each incoming application has to go for site approval and that is the time for the Town Board to make adjustments to the additional water from the allocations. There are balances in place to make sure that everyone is getting adequate water.

Board Member Marinaro stated that as more users come on and the benefit units increase the cost will probably go down. Engineer Cronk stated it could if the users are using more water than they had originally anticipated.

Supervisor D'Alessandro asked if there was anyone from the public to speak for or against this application. There was no one.

a. Close Public Hearing

Motion to close the Public Hearing to consider issuing a bond to finance improvements to Route 52 Commercial Water District: Board Member Arco. Seconded: Board Member Marinaro. All voted in favor. Motion carried.

b. Adopt Public Interest and Bond Resolution

RESOLUTION

4136-4124-4493.01

42459-2-706

At a regular meeting of the Town Board of the Town of East Fishkill, Dutchess County, New York, held at the Town Hall, in Hopewell Junction, New York in said Town, on February 8, 2024, at 6:00 o'clock P.M., Prevailing Time.

PRESENT:

Nicholas D’Alessandro
Supervisor

Emanuele Marinaro
Councilperson

Craig Arco
Councilperson

ABSENT:

Tom Franco
Councilperson

Marianne Flores
Councilperson

<p style="text-align: center;">In the Matter of The Increase and Improvement of Facilities of Route 52 Commercial Water District in the Town of East Fishkill, Dutchess County, New York</p>	<p style="text-align: center;">PUBLIC INTEREST ORDER</p>
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WHEREAS, the Town Board of the Town of East Fishkill, Dutchess County, New York, has duly caused to be prepared a map, plan and report including an estimate of cost, pursuant to Section 202-b of the Town Law, relating to the proposed increase and improvement of the facilities of Route 52 Commercial Water District, in the Town of East Fishkill, Dutchess County, New York, consisting of purchase and installation of a new water storage tank on a parcel of land adjacent to the site of Building #350 at the ONSEMI/iPark Campus, together with metering building, meter vaults, water mains and original furnishings, equipment, machinery, apparatus, appurtenances, and incidental improvements and expenses in connection therewith, at a maximum estimated cost of \$7,713,597.75; and

WHEREAS, at a meeting of said Town Board duly called and held on December 14, 2023, an Order was duly adopted by it and entered in the minutes specifying the said Town Board would meet to consider the increase and improvement of facilities of Route 52 Commercial Water District in said Town at a maximum estimated cost of \$7,713,597.75, and to hear all persons interested in the subject thereof concerning the same at the Town Hall, in Hopewell Junction, New York, in said Town, on February 8, 2024, at 6:00 o'clock P.M., Prevailing Time; and

WHEREAS, said Order duly certified by the Town Clerk was duly published and posted as required by law; and

WHEREAS, a public hearing was duly held at the time and place set forth in said notice, at which all persons desiring to be heard were duly heard; NOW, THEREFORE, BE IT

ORDERED, by the Town Board of the Town of East Fishkill, Dutchess County, New York, as follows:

Section 1. Upon the evidence given at the aforesaid public hearing, it is hereby found and determined that it is in the public interest to make the increase and improvement of the facilities of Route 52 Commercial Water District, in the Town of East Fishkill, Dutchess County, New York, consisting of purchase and installation of a new water storage tank on a parcel of land adjacent to the site of Building #350 at the ONSEMI/iPark Campus, together with metering building, meter vaults, water mains and original furnishings, equipment, machinery, apparatus, appurtenances, and incidental improvements and expenses in connection therewith, at a maximum estimated cost of \$7,713,597.75.

Section 2. This Order shall take effect immediately.

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

COUNCILPERSON TOM FRANCO	VOTING ABSENT
COUNCILPERSON EMANUELE MARINARO	VOTING AYE
COUNCILPERSON CRAIG ARCO	VOTING AYE
COUNCILPERSON MARIANNE FLORES	VOTING ABSENT
SUPERVISOR NICHOLAS D’ALESSANDRO	VOTING AYE

The Order was thereupon declared duly adopted.

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RESOLUTION – 024/2024

BOND RESOLUTION DATED FEBRUARY 8, 2024.

A RESOLUTION AUTHORIZING THE ISSUANCE OF \$7,713,597.75 BONDS OF THE TOWN OF EAST FISHKILL, DUTCHESS COUNTY, NEW YORK, TO PAY THE COST OF THE INCREASE AND IMPROVEMENT OF THE FACILITIES OF THE ROUTE 52 COMMERCIAL WATER DISTRICT, IN THE TOWN OF EAST FISHKILL, DUTCHESS COUNTY, NEW YORK.

WHEREAS, pursuant to the provisions heretofore duly had and taken in accordance with the provisions of Section 202-b of the Town Law, and more particularly an Order dated the date hereof, said Town Board has determined it to be in the public interest to improve the facilities of Route 52 Commercial Water District, in the Town of

East Fishkill, Dutchess County, New York, at a maximum estimated cost of \$7,713,597.75; and

WHEREAS, the capital project hereinafter described, as proposed, has been determined to be an Unlisted Action pursuant to the regulations of the New York State Department of Environmental Conservation promulgated pursuant to the State Environmental Quality Review Act, which it has been determined with a conditional negative declaration will not have any significant adverse impact on the environment; and

RESOLVED, by the Town Board of the Town of East Fishkill, Dutchess County, New York, as follows:

Section 1. For the specific object of purpose of paying the cost of the increase and improvement of the facilities of the Route 52 Commercial Water District, in the Town of East Fishkill, Dutchess County, New York, consisting of the purchase and installation of a new water storage tank on a parcel of land adjacent to the site of Building #350 at the ONSEMI/iPark Campus, together with metering building, meter vaults, water mains and original furnishings, equipment, machinery, apparatus, appurtenances, and incidental improvements and expenses in connection therewith, there are hereby authorized to be issued \$7,713,597.75 bonds of said Town pursuant to the provisions of the Local Finance Law.

Section 2. It is hereby determined that the maximum estimated cost of the aforesaid specific object of purpose is \$7,713,597.75, which specific object of purpose is hereby authorized at said maximum estimated cost, and that the plan for the financing thereof is by the issuance of the \$7,713,597.75 bonds of said Town authorized to be issued pursuant to this bond resolution.

Section 3. It is hereby determined that the period of probable usefulness of the aforesaid specific object of purpose is forty years pursuant to subdivision 1 of paragraph a of Section 11.00 of the Local Finance Law. It is hereby further determined that the maximum maturity of the serial bonds herein authorized will exceed five years.

Section 4. The faith and credit of said Town of East Fishkill, Dutchess 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 be made in each year sufficient to pay the principal of and interest on such bonds becoming due and payable in such year. To the extent not paid from monies raised from said Route 52 Commercial Water District as applicable in the manner provided by law, there shall annually be levied on all the taxable real property of said Town, a tax sufficient to pay the principal of and interest on such bonds as the same become due and payable.

Section 5. Subject to the provisions of the Local Finance Law, the power to authorize the issuance of and to sell bond anticipation notes in anticipation of the issuance and sale of the serial bonds herein authorized, including renewals of such notes, is hereby delegated to the Supervisor, the chief fiscal officer. Such notes shall be of such terms, form and contents, and shall be sold in such manner, as may be prescribed by said Supervisor, consistent with the provisions of the Local Finance Law.

Section 6. The powers and duties of advertising such bonds for sale, conducting the sale and awarding the bonds, are hereby delegated to the Supervisor, who shall advertise such bonds for sale, conduct the sale, and award the bonds in such manner as he shall deem best for the interests of said Town, including, but not limited to, the power to sell said bonds to the New York State Environmental Facilities Corporation;

provided, however, that in the exercise of these delegated powers, the Supervisor shall comply fully with the provisions of the Local Finance Law and any order or rule of the State Comptroller applicable to the sale of municipal bonds. The receipt of the Supervisor shall be a full acquittance to the purchaser of such bonds, who shall not be obliged to see to the application of the purchase money.

Section 7. All other matters except as provided herein relating to the serial bonds herein authorized including the date, denominations, maturities and interest payment dates, within the limitations prescribed herein and the manner of execution of the same, including the consolidation with other issues, and also the ability to issue serial bonds with substantially level or declining annual debt service, shall be determined by the Supervisor, the chief fiscal officer of such Town. 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 51.00 of the Local Finance Law, as the Supervisor shall determine consistent with the provisions of the Local Finance Law.

Section 8. The Supervisor is hereby further authorized, at the Supervisor's sole discretion, to execute a project finance and/or loan agreement, and any other agreements with the New York State Department of Health and/or the New York State Environmental Facilities Corporation, including amendments thereto, and including any instruments (or amendments thereto) in the effectuation thereof, in order to effect the financing or refinancing of the specific object of purpose described in Section 1 hereof, or a portion thereof, by a bond, and/or note issue of said Town in the event of the sale of same to the New York State Environmental Facilities Corporation.

Section 9. The power to issue and sell notes to the New York State Environmental Facilities Corporation pursuant to Section 169.00 of the Local Finance Law is hereby delegated to the Supervisor. Such notes shall be of such terms, form and contents as may be prescribed by said Supervisor consistent with the provisions of the Local Finance Law.

Section 10. 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 days after the date of such publication, or
- 3) Such obligations are authorized in violation of the provisions of the Constitution.

Section 11. This resolution shall constitute a statement of official intent for 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.

Section 12. This resolution, which takes effect immediately, shall be published in summary form in the official newspaper, together with a notice of the Town Clerk in substantially the form provided in Section 81.00 of the Local Finance Law.

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

COUNCILPERSON TOM FRANCO	VOTING ABSENT
COUNCILPERSON EMANUELE MARINARO	VOTING AYE
COUNCILPERSON CRAIG ARCO	VOTING AYE
COUNCILPERSON MARIANNE FLORES	VOTING ABSENT
SUPERVISOR NICHOLAS D’ALESSANDRO	VOTING AYE

The resolution was thereupon declared duly adopted.

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Motion to adopt the Public Interest and Bond Resolution: Board Member Marinaro. Seconded: Board Member Arco. All voted in favor. Motion carried.

2. Open Public Hearing to Update Town Code Regarding Defense and Indemnification

Motion to open the Public Hearing to update the town code regarding Defense and Indemnification: Board Member Arco. Seconded: Board Member Marinaro. All vote in favor. Motion carried.

Supervisor D'Alessandro stated there is already a law on the books indemnifying and defending Town employees, but it is mostly tailored to the Police Department. The idea here is to cover all employees and volunteers that are acting in good faith. It will never cover criminal proceedings if someone is doing something illegal. This is to ensure that the volunteers, elected officials, and anyone working for the Town, in good faith, has adequate coverage if there is a lawsuit. This is the intent of the law. They did review the neighboring towns and they all have similar laws. This was discussed a few years ago but then got forgotten about.

Supervisor D'Alessandro asked if there were any comments or questions from Board members. There were none.

Supervisor D'Alessandro asked if there was anyone in the public to speak for or against this update. There was no one.

a. Close Public Hearing

Motion to close the Public Hearing to update the Town Code regarding Defense and Indemnification: Board Member Marinaro. Seconded: Board Member Arco. All voted in favor. Motion carried.

b. Adopt Local Law

Local Law No. 1 of 2024

(A LOCAL LAW ADDING A CHAPTER TO THE TOWN CODE TITLED "DEFENSE AND INDEMNIFICATION OF PUBLIC OFFICIALS AND EMPLOYEES")

Section 1. Legislative intent.

The Town Board of the Town of East Fishkill has determined that in order to ensure the continued and future service of responsible and capable individuals as officials, employees, and appointees of the Town of East Fishkill, it is necessary and proper to ensure that they are afforded protection against individual liability for actions taken in good faith within the scope of their duties and employment.

Section 2. Addition to the Town Code

The following provisions shall be added as a new chapter to the Town Code:

1. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

EMPLOYEE

Unless the context otherwise requires, any person holding a position by election, appointment or employment in either a full-time or part-time capacity in the service of the Town of East Fishkill, whether or not compensated, but shall not include an independent contractor. The term "employee" shall include a former employee, his estate or judicially appointed personal representative. The benefits of this chapter shall inure only to "employees" as defined herein and shall not enlarge or diminish the rights of any other party.

TOWN

The Town of East Fishkill.

2. Defense of Employees by the Town; exception.

- A. The Town shall provide for the defense of an employee in any civil action or proceeding in any state or federal court or administrative action arising out of any alleged act or omission which occurred or is alleged in the complaint to have occurred while the employee was acting in good faith within the scope of his or her public employment or duties or which is brought to enforce a provision of §§ 1981 through 1988 of Title 42 of the United States Code. Provided, however, that the duty of the Town to defend, indemnify or save harmless shall be conditioned upon actual notice of the lawsuit by the Town Supervisor and Town Board or the Town Attorney, and the full cooperation of the employee in the defense of such action or proceeding and in the defense of any action or proceeding against the Town based upon the same act or omission and in the prosecution of any appeal.
- B. This duty to provide for a defense shall not arise where such civil action or proceeding is brought by or on behalf of the Town of East Fishkill against an Employee.

3. Representation by Town Attorney or private counsel.

Subject to the conditions set forth in the preceding section of this chapter, the employee shall be entitled to be represented by the Town Attorney, his or her designee, or such attorney as provided by the Town's insurance carrier if insurance coverage exists for the allegations complained of; provided, however, that the employee shall be entitled to representation by private counsel of his choice in any civil judicial proceeding whenever the Town Board determines, based upon its investigation and review of the facts and circumstances of the case and upon the recommendations of the Town Attorney, that representation by the Town Attorney would be inappropriate, or whenever the court of competent jurisdiction, upon appropriate motion or by a special proceeding, determines that a conflict of interest exists and that the employee is entitled to be represented by private counsel of his choice. The Town Attorney shall notify the employee, in writing, of such determination that the employee is entitled to be represented by private counsel.

4. Fees and expenses.

The Town Attorney may require, as a condition to payment of the fees and expenses of such representation by private counsel, that appropriate groups of such employees be represented by the same counsel. If the employee or group of employees is entitled to representation by private counsel under the provisions of this chapter, the Town Attorney shall so certify to the Comptroller of the Town of East Fishkill. Reasonable attorneys' fees and litigation expenses shall be paid by the Town to such private counsel from time to time during the pendency of the civil action or proceeding, subject to certification that the employee is entitled to representation under the terms and conditions of this chapter by the head of the department, commission, division, office or agency in which such employee is employed and upon the audit and warrant of the Town Board. Any dispute with respect to representation of multiple employees by a single counsel or the amount of litigation

expenses or the reasonableness of attorneys' fees shall be resolved by the court upon motion or by way of a special proceeding.

5. Town Attorney to avoid entry of default judgment.

Where the Supervisor and Town Board or Town Attorney has actual knowledge of the lawsuit, the Town Attorney shall take the necessary steps, including the retention of private counsel, under the terms and conditions therein provided, on behalf of the employee to avoid entry of a default judgment pending resolution of any question pertaining to the obligation to provide for a defense.

6. Judgments and settlements.

- A. The Town shall indemnify and save harmless an employee in the amount of any judgment obtained against such employee in any state or federal court or in any administrative action, or in the amount of any settlement of any claim brought against such employee, provided that the act or omission from which such judgment or settlement arose incurred while the employee was acting in good faith within the scope of his public employment or duties. The duty to indemnify and save harmless prescribed by this subsection shall be conditioned upon the employee's compliance with the requirements set forth in this chapter, as well as any other applicable provisions of this section; provided, however, that the duty to indemnify and save harmless prescribed by this subsection shall not arise where the injury or damage resulted from intentional wrongdoing or recklessness on the part of the employee.
- B. An employee represented by private counsel shall cause to be submitted to the head of the department, commission, division, office or agency in which he is employed any proposed settlement which may be subject to indemnification by the Town and, if not inconsistent with the provisions of this section, such head of the department, commission, division, office or agency in which he is employed shall certify such settlement and shall submit such settlement and certification to the Town Attorney. The Town Attorney shall review such proposed settlement as to form and amount and shall give his recommendation to the Town Board. If the Town Board believes it is in the best interest of the Town to accept such settlement, it shall give its approval thereto. Nothing in this section shall be construed to authorize the Town to indemnify or save harmless an employee with respect to a settlement not so reviewed and approved by the Town Board.
- C. When an employee is represented by the Town Attorney and the Town Attorney has before him any proposed settlement which may be subject to indemnification by the Town, the Town Attorney shall, after reviewing such proposal as to form and content, and after consultation with and certification of such proposed settlement by the head of the department, commission, division, office or agency wherein the employee is employed, give his recommendation to the Town Board. If the Town Board believes it is in the best interest of the Town to accept such settlement, it shall give its approval thereto. Nothing in this section shall be construed to authorize the

Town to indemnify or save harmless an employee with respect to a settlement not so reviewed and approved by the Town Board.

7. Exceptions.

Nothing in this chapter shall require the Town to indemnify or save harmless an employee with respect to punitive or exemplary damages, fines or penalties or money recovered from an employee, unless approved by an affirmative vote of the Town Board.

8. Construal of provisions.

- A. The provisions of this chapter shall inure only to employees as defined herein and shall not enlarge or diminish the rights of any other party, nor shall any provision of this chapter be construed to affect, alter or repeal any provision of the Workers' Compensation Law.
- B. This chapter shall not in any way affect the obligation of any claimant to give notice to the Town under any provision of law.
- C. The provisions of this chapter shall not be construed to impair, alter, limit or modify the rights and obligations of any insurer under any policy of insurance.
- D. Except as otherwise specifically provided in this chapter, the provisions of this chapter shall not be construed in any way to impair, alter, limit, modify, abrogate or restrict any immunity available to or conferred upon any unit, entity, officer or employee of the Town or any right to defense and/or indemnification provided for any governmental officer or employee by, in accordance with or by reason of any other provision of state or federal statutory or common law.

9. Applicability to pending and ongoing actions.

The provisions of this chapter shall apply to all actions and proceedings pending and ongoing upon the effective date thereof or thereafter instituted.

Section 3. Severability

If any clause, sentence, paragraph, subdivision, or part of this Local Law or the application thereof to any person, firm or corporation, or circumstance, shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, or part of this Local Law or in its application to the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

Section 4. Effective date

This local law shall take effect immediately upon filing with the Secretary of State.

**BY ORDER OF THE TOWN BOARD
OF THE TOWN OF EAST FISHKILL
PETER CASSIDY, TOWN CLERK**

**Adopted February 8, 2024
At a Regular Meeting
Held at Town Hall**

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

COUNCILPERSON TOM FRANCO	VOTING ABSENT
COUNCILPERSON EMANUELE MARINARO	VOTING AYE
COUNCILPERSON CRAIG ARCO	VOTING AYE
COUNCILPERSON MARIANNE FLORES	VOTING ABSENT
SUPERVISOR NICHOLAS D’ALESSANDRO	VOTING AYE

The Order was thereupon declared duly adopted.

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Motion to adopt the Local Law: Board Member Marinaro. Seconded: Board Member Arco. All voted in favor. Motion carried.

3. Reopen Adjourned Public Hearing to Consider Battery Storage Local Law

Supervisor D'Alessandro stated they are trying to get as many different opinions as possible and other local laws together to expand this. He really does want the full board to take part in this. He requested this be adjourned until the March 28, 2024, Town Board meeting.

Motion to adjourn the Public Hearing to consider the Battery Storage Local Law to Tuesday, March 28, 2024, Board Meeting: Board Member Arco. Seconded: Board Member Marinaro. All voted in favor. Motion carried.

Approve Minutes:

January 18, 2024, Town Board Minutes

Motion to approve the minutes for the January 18, 2024, Town Board meeting

minutes: Board Member Arco. Seconded: Board Member Marinaro. All voted in favor. Motion carried.

Announcement of Additions to the Agenda:

Supervisor D'Alessandro said there were no additions to the agenda.

Courtesy of the Floor:

Supervisor D'Alessandro asked if there was anyone who wanted to speak about any general town issues. There was no one.

Receive and File:

Supervisor D'Alessandro stated there is a letter offering to dedicate property from Frito Lay to the Route 52 Commercial Water District. This has to do with the water tank placement. Engineer Cronk stated Frito-Lay has been collaborating very well with them on this.

Resolutions:

- 1. Request NYSDOT to Study Segment of Route 376 from Route 82 to Route 52 to Consider Lowering Speed Limit Beyond the Existing 35 MPH Speed Zone**

RESOLUTION

(REQUEST NEW YORK STATE DEPARTMENT OF TRANSPORTATION TO LOWER THE SPEED LIMIT FOR SECTION OF ROUTE 376)

WHEREAS, in recent weeks a local resident has advised the Town Supervisor of his concerns with respect to the speed limit within the area of Route 376 from Route 82 to Route 52; and

WHEREAS, the request is to lower the speed limit to 35 mph; and

WHEREAS, these roads are under the control and jurisdiction of the New York State Department of Transportation; and

NOW THEREFORE BE IT RESOLVED, that the Town Board does hereby request the New York State DOT to review the speed limits established by them throughout the area on Route 376 from Route 82 to Route 52; and

BE IT FURTHER RESOLVED, that the Supervisor is authorized to forward said request to the New York State Department of Transportation.

Motion to request NYSDOT to study segment of Route 376 from Route 82 to Route 52 to consider lowering speed limit beyond the existing 35 MPH Speed Zone: Board Member Marinaro. Seconded: Board Member Arco. All voted in favor. Motion carried.

2. Authorize Hiring Red Wing Directors and Assistants

RESOLUTION
(AUTHORIZING HIRING OF RED WING DIRECTORS AND ASSISTANT RED WING DIRECTORS)

WHEREAS, the Town of East Fishkill conducts extensive summertime programs for the Town; and

WHEREAS, the Recreation Director has submitted a letter to the Town Board with the names of a Red Wing Director and Red Wing Assistant Camp Director, and the hourly salaries attached hereto; and

WHEREAS, the Recreation Director recommends that the Town Board rehires Erik Pugliese as Red Wing Director; and

WHEREAS, the Recreation Director recommends that the Town Board rehires Daniel Schmidt as Assistant Camp Director; and

WHEREAS, it is the desire of the Town Board to authorize the hiring of a Red Wing Director and Red Wing Assistant Director for the 2024 summer season; and

NOW, THEREFORE, BE IT RESOLVED, the Town Board hereby appoints Erik Pugliese as Red Wing Director at an hourly salary of \$21.00, and Daniel Schmidt as Assistant Camp Director at an hourly salary of \$19.00; and

BE IT FURTHER RESOLVED, that employment shall be for the period of time from which they are hired until the conclusion of their summertime program; and

BE IT FURTHER RESOLVED, that upon completion of their task they shall be removed from the payroll unless further ordered by the Town Board.

Motion to authorize the hiring of Red Wing Directors and Assistants: Board Member Arco. Seconded: Board Member Marinaro. All voted in favor. Motion carried.

3. Authorize to Advertise for Worley Homes Community Drainage Project

RESOLUTION
(AUTHORIZE BID FOR CDBG GRANT PROJECT)

WHEREAS, the Town sought a Community Development Block Grant (CDBG) in 2022 for assistance with drainage improvements at the Worley Subdivision; and

WHEREAS, the Community Block Development Grant (CDBG) program, administered through Dutchess County awarded the Town \$150,000 towards the cost of the project.; and

WHEREAS, the Town prepared engineering plans that received approval in December 2024 by Dutchess County; and

WHEREAS, the Town will need to perform a public bid for the supply of materials needed for the project, to be self-performed by the Town of East Fishkill Highway Department; and

NOW, THEREFORE, BE IT RESOLVED, that the Supervisor and Town Clerk be and hereby are authorized to advertise for BID responses for materials for the Worley Drainage Project; and

BE IT FURTHER RESOLVED, that said responses shall be received and evaluated by the Supervisor and Water and Sewer Department so that a recommendation can be provided to the Town Board for selection and authorization.

Motion to authorize to advertise for Worley Homes Community Drainage Project: Board Member Marinaro. Seconded: Board Member Arco. All voted in favor. Motion carried.

4. Authorize Acting Recreation Director to Attend 2024 Training Program

RESOLUTION
(AUTHORIZING ATTENDANCE TO A CONFERENCE)

WHEREAS, the Recreation Director, Christine Selback, has indicated her desire to attend the 2024 New York State Recreation and Park Society Conference being held in Monticello, New York from April 14, 2024 through April 16, 2024; and

WHEREAS, additional expenses to the Town will be for tolls and meals; and

WHEREAS, it is the desire of the Town Board to authorize the Supervisor to approve said travel;

NOW, THEREFORE, BE IT RESOLVED, that the Town Board does hereby authorize Christine Selback to attend the 2024 New York State Recreation and

Park Society Conference held in Monticello, New York to include the overnight stay and expenses for tolls and meals from April 14, 2024 through April 16, 2024; and

BE IT FURTHER RESOLVED, that in addition to the cost of tolls and meals they shall be paid their normal salary during said period.

Motion to authorize the acting Recreation Director to attend a 2024 training program: Board Member Arco. Seconded: Board Member Marinaro. All voted in favor. Motion carried.

5. Award Sagamor Sewer Chlorine Limit Bid

RESOLUTION

(TOWN OF EAST FISHKILL WATER AND SEWER DEPARTMENT AWARD BID FOR SAGAMOR SEWER MODIFICATIONS)

WHEREAS, the NYSDEC modified the operating permit for the Sagamor Wastewater Treatment Plant by reducing chlorine discharge limits, starting at the end of 2024; and

WHEREAS, the Water and Sewer Department utilized Consulting Engineering Services to complete an engineering design and obtain NYSDEC approval for the modifications; and

WHEREAS, the Town advertised, via Poughkeepsie Journal, for bid construction services to complete the NYSDEC approved modifications; and

WHEREAS, the Town received bids on February 1st, 2024; and

WHEREAS, the lowest, qualified bid was received by VRI Environmental; and

NOW, THEREFORE, BE IT RESOLVED, that the Town Board hereby declares and Authorizes Nicholas D’Alessandro, Town Supervisor, be provided the authority to authorize a contract with VRI Environmental for the services described in WS2024.01 SAGAMOR WWTP CHLORINE REDUCTION in the amount not to exceed \$20,947.50.

Motion to award the Sagamor Sewer Chlorine Limit Bid: Board Member Marinaro. Seconded: Board Member Arco. All voted in favor. Motion carried.

6. Authorize Application for Greenway Compact Grant

RESOLUTION

(AUTHORIZE STAFF TO SUBMIT A HUDSON RIVER VALLEY GREENWAY GRANT APPLICATION IN THE AMOUNT OF \$25,000 TO PARTIALLY FUND AN UPDATE TO THE TOWN’S COMPREHENSIVE PLAN UNDER THE HUDSON RIVER VALLEY GREENWAY PLANNING GRANT PROGRAM)

WHEREAS, the Town of East Fishkill is applying to the Hudson River Valley Greenway for a grant under the Hudson River Valley Greenway Planning Grant Program for a project entitled Town of East Fishkill 2024 Comprehensive Plan to be located in the Town of East Fishkill; and

NOW, THEREFORE, BE IT RESOLVED, that the East Fishkill Town Board hereby does approve and endorse the application for a grant under the Hudson River Valley Greenway Planning Grant Program, for a project known as Town of East Fishkill 2024 Comprehensive Plan and located within the Town of East Fishkill.

Motion to authorize the application for Greenway Compact Grant: Board Member Arco. Seconded: Board Member Marinaro. All voted in favor. Motion carried.

7. Authorize Purchase of Vacant Land Adjoining Town Recreation Field

RESOLUTION (Subject to Permissive Referendum)

(AUTHORIZING THE PURCHASE OF A LOT CONTAINING APPROXIMATELY 1.01 +/- ACRES ON ROUTE 376 ADJACENT TO TOWN’S EXISTING RECREATION AREA)

WHEREAS, Kenneth Formicola is the owner of approximately 1.01 +/- Acres on Route 376 adjoining the town recreation field which is part of Grid #6457-03-392487; and

WHEREAS, the purchase price is \$130,000. and is in line with an independent appraisal received by the parties; and

WHEREAS, the above parcel is shown on a proposed Subdivision Map dated 5-15-22, updated October 20, 2023 filed with the Planning Board; and

WHEREAS, this parcel would be added to the Town’s current recreation field holding;

NOW, THEREFORE, BE IT RESOLVED, that the Supervisor is authorized to purchase the above parcel for \$130,000.; and

BE IT FURTHER RESOLVED, this resolution is subject to permissive referendum.

**BY ORDER OF THE TOWN BOARD
PETER CASSIDY, TOWN CLERK**

**Dated: FEBRUARY 8, 2024
EAST FISHKILL, NY**

Motion to authorize the purchase of vacant land adjoining the Town Recreation Field: Board Member Marinaro. Seconded: Board Member Arco. All voted in favor. Motion carried.

8. Authorize Engineer Services for Water System Interconnection Evaluation

**RESOLUTION
(AWARD ENGINEERING SERVICES FOR
WATER SYSTEM EVALUATION)**

WHEREAS, The Town recently received and confirmed acceptance of a grant award that includes project scope to interconnect several water districts for source redundancy; and

WHEREAS, the Town previously qualified multiple professional engineering firms to perform professional services of this nature; and

WHEREAS, the Town Water and Sewer Department solicited and reviewed proposals, and determined that the WSP USA, Inc. proposal of services best meets the project objectives; and

WHEREAS, the selected consulting firm will need to meet the requirements of the funding source, including, but not limited to MWBE thresholds; and

NOW THEREFORE, IT IS RESOLVED, that the Town Board hereby declares and Authorizes Nicholas D'Alessandro, Town Supervisor, be provided the authority to authorize a contract WSP USA, INC in the initial amount of \$32,000.00 and not too exceed \$50,000.00 (in total sum) for additional services.

Motion to authorize Engineer Services for Water System Interconnection Evaluation: Board Member Arco. Seconded: Board Member Marinaro. All voted in favor. Motion carried.

9. Accept South Drive and Rename Arcadia Farms Boulevard

RESOLUTION (A RESOLUTION ACCEPTING SOUTH DRIVE AS A TOWN ROAD AND RENAMING IT TO ARCADIA FARMS BOULEVARD)

WHEREAS, it is the desire of the Town Board to accept South Drive as a Town Road; and

WHEREAS, it is the desire of the Town Board to rename said Drive to Arcadia Farms Blvd. as approved by Dutchess County E911; and

NOW, THEREFORE, BE IT RESOLVED, that the Town of East Fishkill hereby accepts South Drive nunc pro tunc as a Town Road as of May 2022 and authorizes renaming South Drive to Arcadia Farms Boulevard; and

BE IT FURTHER RESOLVED, that the Town Clerk shall notify the appropriate School, postal and emergency officials of the acceptance and dedication and name change of said road.

Motion to accept South Drive and rename it Arcadia Farms Boulevard: Board Member Marinaro. Seconded: Board Member Arco. All voted in favor. Motion carried.

Additions to the Agenda by Majority Vote:

None.

Budget Transfer:

Supervisor D'Alessandro stated there are budget transfers as per the information provided by the Comptroller. It is to clean up the fiscal year end 2023. Most of them are changing appropriations with the same lines of the departments. This is something that is done at the end of every fiscal year. Probably by next month they should have an idea of what the final 2023 budget looks like. Comptroller Pozniak stated they are still looking for some large revenue numbers such as sales tax, but they should have it next month.

Motion to approve the budget transfers as prepared by Comptroller Pozniak: Board Member. Seconded: Board Member. All voted in favor. Motion carried.

Comments from Town Board Members:

Highway Superintendent Williams stated they have started pipework on Willmont Court. They are also doing pipe work on Patti Place where there was a collapse. They have been doing grade all work on West Hook Mountain, East Hook Road, West Taconic, and Quackenbush. They have done tree work on Leetown Road and some trim work over on Hillside Lake, and Lomala. A large tree came down on Mountain Road that they have been cleaning up. The Jet VAC is out all around town. They have taken down all of the Christmas wreaths. They had the hot patch out during the sun for the past three days working on potholes. They will be out again tomorrow.

Chief Cuccia thanked the Board and Supervisor for all their support. He thanked all of the community for their support over the past few months. They could not have gotten through without that support. He thanked Mr. Grasso for his positive reinforcement. They had their State of the Department meeting, and it went very well. During that meeting they go over the past year's incidents and how any areas could be approved upon, if necessary, as well as what they have set as goals for the upcoming year. He thanked the Board for attending their award ceremony. It is their opportunity to recognize the many officers who have risked their lives during the year and acknowledge what they have done. Sergeant Daniel Didato received the Metal of Honor for his ultimate sacrifice in the line of duty. Combat Crosses were awarded to Sergeant Knapp and Officer Bertoldi for risking their lives in a situation with a subject and a shotgun. It was a courageous and brave act. The Award of Merit went to several officers for dealing with an armed person. Brandon Frowd received the Officer of the Year Award for outstanding work during the course of the year. Next month's training is Article 35, which they do annually. That is for the justification for the use of physical force. Both of the two new officers are doing very well at the academy.

Board Member Arco stated he continues to work on the labor with the Highway Superintendent. They are now discussing efficiencies and where they can save money with the Comptroller. They are hoping they can allocate any funds saved towards the trucks. As the new liaison for the Police Department, he is still learning how he can help them. He was at the State of the Department meeting, and it was eye-opening to see what everyone's role in the department is. He was also present at the award ceremony, and he congratulated all the officers. Everyone did an outstanding job last year. He is working with a few officers on various projects that they have where his expertise might be helpful.

Board Member Marinaro stated he has not had any meetings with the Fire District. The first meeting will be this coming Monday. He still stopped by the Highway Department and on January 29 he stopped by to say hello and had a conversation with the Superintendent. They discussed the plans for paving and drainage for the year and discussed the importance of a good paving program. They also discussed allocating manpower. On January 30, he met with the Supervisor to

discuss senior housing needs in the community. There is a big demand for that. He also discussed manpower at the Highway Department with the Supervisor as well as some sewer information for the Hillside Lake and Sylvan Lake communities. On February 1 he had a conversation with Fire District Commissioner Zboinski, and they discussed meeting dates and some concerns and issues the fire district has. There is an above average amount of calls happening at the Amazon facility. The Supervisor will continue to have an ongoing discussion with Amazon regarding this. He also spoke with the Comptroller about the status of the budget and what is available for paving this year. Yesterday he and the Supervisor attended a Groundbreaking Ceremony at Joe's Mothers Road. It was a nice meeting. The owners will keep the community and Town Hall informed of what is going on at that location. It will be an over 55 development. It is not classified as senior housing. It is a nice project and will look nice when it is finished. It is a rental property and East Fishkill residents will have first choice. It is not low-income housing. He does feel that senior housing is a priority right now, and this is not housing that taxpayers are responsible for. He will continue to make this a priority to create these units within the town.

Supervisor D'Alessandro stated if anyone is interested in living in the senior housing to contact any board member and they will supply information. There are two board members out, but he did mention Board Member Flore's comments regarding the Master Plan. He did ask that everyone complete the survey. Councilman Franco is under the weather. He was planning on discussing all of the activities that the Recreation Department will be doing.

Town Clerk Cassidy stated that March 6 is Town Cleanup Day. He presented statistics for 2023. There were 43 marriages, 78 deaths, four people were born at home last year, they did approximately 800 handicap permits, 152 new dogs were licensed and 744 were renewed. 10 of those were picked up by the police. There were 323 F.O.I.L.s processed last year. There were approximately 139 dumpster tickets issued and 11 Food Truck Permits. There are already 10 Food Truck Permits for this year. They issued 24 Peddler Permits last year and only seven so far this year. They also handle all the DEC hunting and fishing permits, the agendas and resolutions as well as the certified copies. They do the reconciliation statements for the banking accounts. They do all the advertising and filing for the bonds. This is just a part of what they do. He thanked his office staff for helping to make this all happen. Supervisor D'Alessandro also thanked the clerk's staff.

Motion for Adjournment: Time: Motion to adjourn the regular meeting at 7:28 PM: Board Member Arco. Seconded: Board Member Marinaro. All voted in favor. Motion carried.

Town Board Meetings: Meeting/Workshop Meeting: March 14, 2024
Regular Meeting: March 28, 2024

Respectfully submitted by Julie J. Beyer on behalf of Town Clerk Peter Cassidy –

February 22, 2023