Meeting
Regular ____ Special __X__

Tuesday, August 8th, 2023

AGENDA

Evans Town Board, Evans Town Hall, 8787 Erie Road, Angola, New York
www.townofevans.org

Item	Description	Disp.
I	Call the Meeting to Order	
II	Pledge of Allegiance	
III	Roll Call	
IV	Approval of the Minutes:	
V	Communications:	
VI	Public Hearing & Bid Opening:	
VII	Committee & Department Head Reports: XXXXXXXXXXXX	
VIII	Town Clerk's Reports:	
IX	Old Business:	
X	Privilege of the Floor: XXXXXXXXXXXX	
XI	Resolutions: 1.) Phase 1 Water System Improvement as a type II Action SEQRA 2.) Improvements to Evans Water District(s) 1-5 (202-b) 3.) Authorizing Serial Bonds 4.) NYS Water Infrastructure Improvement Act - Grant Match	
XII	Licenses:	
XIII	Audit of Bills: XXXXXXXXXXXXXXX	
XIV	Adjournment to: Wednesday, August 16th , 2023 at 6:00pm for the Work Session and Regular Meeting immediately to follow.	

Open Meetings Law, Public Officers Law, Article 7, §106. Minutes.
Minutes shall be taken at all open meetings of a public body which shall consist of a record or summary of all motions, proposals, resolutions and any other matter formally voted upon and the vote thereon. Get the Agenda and Meeting Packet sent to your email! Subscribe to the Town of Evans Legal Paper:www.Townofevans.org http://www.observertoday.com/store/ (716)366-3000 click Newsletter Signup under the Quick Links

CLASSIFYING THE PHASE 1 WATER SYSTEM IMPROVEMENTS AS A TYPE II ACTION. Res 1 pg 1

BE IT RESOLVED BY THE BOARD OF THE TOWN OF EVANS AS FOLLOWS:

WHEREAS, the Town of Evans Board ("Town") has determined that it is appropriate to apply for grant funding to assist in the financing of the various capital improvement projects; and

WHEREAS, the capital improvements, known as the ("Project"), being considered includes Phase 1 improvements to the existing Water System; and

WHEREAS, pursuant to the requirements of the State Environmental Quality Review Act ("SEQRA"), the Town must consider pursuant to criteria set forth in SEQRA the environmental implications of the Project; and

WHEREAS, certain actions are classified under SEQRA as Type II actions; and

WHEREAS, Type II actions are those actions, or classes of actions, which have been found categorically to not have significant adverse impacts on the environment, or actions that have been statutorily exempted from SEQRA review, and Type II actions do not require preparation of an Environmental Assessment Form, a negative or positive declaration, or an Environmental Impact Statement; and

WHEREAS, Type II actions do not require any further SEQRA review; and

WHEREAS, the Town has considered under SEQRA the environmental impact of which will be separately considered, and finds that each of the actions meets the requirement for a Type II action; and

WHEREAS, pursuant to 6 NYCRR Section 617.5 (c), the Project is determined to be Type II actions because they involve the following requiring no further review by the Town:

617.5 (c) (1) maintenance or repair involving no substantial changes in an existing structure or facility;

617.5 (c) (2) replacement, rehabilitation or reconstruction of a structure or facility, in kind, on the same site, including upgrading buildings to meet building or fire codes, unless such action meets or exceeds any of the thresholds in section 617.4;

617.5 (c) (6) street openings and right-of-way openings for the purpose of repair or maintenance of existing utility facilities;

NOW THEREFORE, BE IT RESOLVED BY THE TOWN BOARD OF EVANS, NEW YORK AS FOLLOWS:

1. The Project discussed above hereby is determined to constitute SEQRA Type II Action as defined under said regulation and do not require an environmental impact statement or any other determination or procedure.

This resolution shall take effect immediately.

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

Deputy Supervisor George	VOTING ____
Councilman Macko	VOTING ____
Councilman Schraft	VOTING ____
Council Reitz	VOTING ____

The resolution was thereupon declared duly adopted by a vote of ____ ayes and ____ nays.

Dated: August 8, 2023

Res 2 P51

RESOLUTION OF THE TOWN BOARD OF THE TOWN OF EVANS, ERIE COUNTY, NEW YORK (THE "TOWN") PURSUANT TO SECTION 202-b OF THE TOWN LAW DETERMINING THAT IT IS IN THE PUBLIC INTEREST TO UNDERTAKE CERTAIN IMPROVEMENTS TO BE MADE TO THE TOWN OF EVANS WATER DISTRICT NOS. 1, 1X, 1XX, 2, 2X, 3, 4 AND 5

WHEREAS, the Town Board (the "Town Board") of the Town of Evans, Erie County, New York (the "Town") is considering authorizing certain improvements to the facilities serving the Town of Evan's Water District Nos. 1, 1X, 1XX, 2, 2X, 3, 4 and 5 (collectively, the "Districts"), consisting of the replacement and installation of water mains throughout the Districts (collectively, the "Project"), all as more particularly described in an engineering report dated July 2023 prepared by CPL Engineers, engineers duly licensed by the State of New York (the "Engineers"), prepared at the direction of the Town Board and on file for inspection with the office of the Town Clerk, at an estimated maximum cost of $13,525,000, including the issuance of serial bonds and/or bond anticipation notes issued in anticipation of such serial bonds in an amount not to exceed $13,525,000; and

WHEREAS, by resolution adopted on July 17, 2023 at a regular meeting of the Town Board held on such date, the Town Board directed that a public hearing be held on whether to authorize the Project, and to hear all persons interested in the subject matter thereof concerning the same on July 27, 2023 at 9:00 a.m. at the Town of Evans Town Hall, 8787 Erie Road, Evans, Angola, New York 14006; and

WHEREAS, notice of said public hearing certified by the Town Clerk was duly published and posted as required by law, to wit: a copy thereof was published in *The Observer*, an official newspaper of the Town, on July 18, 2023 and a copy of such notice was posted on the signboard maintained by the Town Clerk on July 18, 2023, and on the Town's website, pursuant to Town Law Section 193; and

WHEREAS, by resolution adopted on August 8, 2023, immediately prior to the adoption of this resolution, the Town Board determined that the Project constitutes a "Type II" action under the New York State Environmental Quality Review Act and the regulations promulgated thereunder (6 NYCRR Part 617.5(c)(1)) (collectively, "SEQRA") and therefore no further action need be taken by the Town Board under SEQRA as a pre-condition to the adoption of this resolution; and

WHEREAS, said 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, THE TOWN BOARD OF THE TOWN OF EVANS, ERIE COUNTY, NEW YORK HEREBY RESOLVES, AS FOLLOWS:

SECTION 1. Based in part upon the evidence given at the aforesaid public hearing, it is hereby found and determined that it is in the public interest to undertake the Project as hereinabove described at the estimated maximum cost of $13,525,000, including the issuance of serial bonds and/or bond anticipation notes issued in anticipation of such serial bonds in an amount not to exceed $13,525,000. The Town is hereby authorized to undertake the Project at such estimated maximum cost.

SECTION 2. The Town Clerk is hereby authorized and directed to cause a certified copy of this resolution to be duly recorded in the office of the County Clerk, County of Erie, New York within ten (10) days after the adoption hereof, in accordance with Section 195 of the Town Law.

SECTION 3. This resolution shall take effect immediately.

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

Deputy Supervisor George	VOTING ____
Councilman Macko	VOTING ____
Councilman Schraft	VOTING ____
Council Reitz	VOTING ____

The resolution was thereupon declared duly adopted by a vote of ____ ayes and ____ nays.

Dated: August 8, 2023

BOND RESOLUTION OF THE TOWN BOARD OF THE TOWN OF EVANS, ERIE COUNTY, NEW YORK (THE "TOWN"), (I) AUTHORIZING THE ISSUANCE OF UP TO $13,525,000 IN SERIAL BONDS OF THE TOWN TO UNDERTAKE CERTAIN IMPROVEMENTS TO BE MADE TO THE TOWN OF EVANS WATER DISTRICT NOS. 1, 1X, 1XX, 2, 2X, 3, 4 AND 5

WHEREAS, the Town Board of the Town of Evans, Erie County, New York (the "Issuer" or the "Town") is considering authorizing certain improvements to the facilities serving the Town of Evan's Water District Nos. 1, 1X, 1XX, 2, 2X, 3, 4 and 5 (collectively, the "Districts"), consisting of the replacement and installation of water mains throughout the Districts (collectively, the "Project"), all as more particularly described in an engineering report dated July 2023 prepared by CPL Engineers, engineers duly licensed by the State of New York (the "Engineers"), prepared at the direction of the Town Board and on file for inspection with the office of the Town Clerk; and

WHEREAS, by resolution adopted on August 8, 2023, the Town Board determined that the Project constitutes a "Type II" action under the New York State Environmental Quality Review Act and the regulations promulgated thereunder (6 NYCRR Part 617.5(c)(1)) (collectively, "SEQRA") and therefore no further action need be taken by the Town Board under SEQRA as a pre-condition to the adoption of this resolution; and

WHEREAS, by resolution adopted on August 8, 2023 immediately prior to the adoption of this resolution, and in accordance with Section 202-b of the Town Law of the State of New York, the Town Board determined it to be in the public interest to undertake the Project at an estimated maximum cost of $13,525,000; and

WHEREAS, the Town Board now wishes to appropriate funds for the Project and to authorize the issuance of the Town's serial bonds or bond anticipation notes to finance said appropriation.

NOW, THEREFORE, THE TOWN BOARD OF THE TOWN OF EVANS, ERIE COUNTY, NEW YORK HEREBY RESOLVES (by the affirmative vote of not less than two-thirds of all the members of such body), AS FOLLOWS:

SECTION 1. The Town is hereby authorized to undertake the Project as hereinabove described and issue up to $13,525,000 principal amount of serial bonds (including, without limitation, statutory installment bonds), or bond anticipation notes in anticipation of such bonds pursuant to the provisions of the Local Finance Law of the State of New York, constituting Chapter 33-a of the Consolidated Laws of the State of New York (the "Law") to finance the estimated cost of the Project.

SECTION 2. It is hereby determined that the maximum estimated cost of the aforementioned specific object or purpose is $13,525,000, said amount is hereby appropriated therefor and the plan for the financing thereof shall consist of (i) the issuance of the $13,525,000 in serial bonds of the Town authorized to be issued pursuant to Section 1 of this resolution, or bond anticipation notes issued in anticipation thereof, (ii) the application of monies from a Water Infrastructure Improvement Act grant expected to be received by the Town from the State of New York Environmental Facilities Corporation with respect to the Project, (iii) the assessment, levy and collection of assessments or surcharges

upon the benefited properties within the District, and (iv) to the extent necessary, the levy and collection of taxes on all the taxable real property in the Town to pay the principal of said bonds and the interest thereon as the same shall become due and payable.

SECTION 3. It is hereby determined that the period of probable usefulness for the aforementioned specific object or purpose is forty (40) years, pursuant to subdivision 1. of paragraph a. of Section 11.00 of the Law.

SECTION 4. The final maturity of the bonds herein authorized to be issued pursuant to Section 1 of this resolution shall be in excess of five (5) years measured from the date of issuance of the first serial bond or bond anticipation note issued.

SECTION 5. 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 Law, for the capital purposes described in this resolution. The Town shall reimburse such expenditures with the proceeds of the bonds or bond anticipation notes authorized by Section 1 of this resolution. This resolution shall constitute a declaration of "official intent" to reimburse the expenditures authorized by Section 1 hereof with the proceeds of the bonds and bond anticipation notes authorized herein, as required by United States Treasury Regulations Section 1.150-2.

SECTION 6. Each of the serial bonds authorized by this resolution and any bond anticipation notes issued in anticipation of said bonds shall contain the recital of validity prescribed by Section 52.00 of the Law and said serial bonds and any bond anticipation notes issued in anticipation of said bonds shall be general obligations of the Town, payable as to both principal and interest by a general tax upon all the real property within the Town without legal or constitutional limitation as to rate or amount. The faith and credit of the Town are hereby irrevocably pledged to the punctual payment of the principal and interest on said serial bonds and bond anticipation notes and provisions shall be made annually in the budget of the Town by appropriation for (a) the amortization and redemption of the bonds and bond anticipation notes to mature in such year and (b) the payment of interest to be due and payable in such year.

SECTION 7. Subject to the provisions of this resolution and of the Law, pursuant to the provisions of Section 30.00 relative to the authorization of the issuance of bond anticipation notes or the renewals of said obligations and of Section 21.00, Section 50.00, Section 54.90, Sections 56.00 through 60.00 and Sections 62.10 and 63.00 of the Law, the powers and duties of the Town Board relative to authorizing serial bonds and bond anticipation notes and prescribing terms, form and contents as to the sale and issuance of bonds herein authorized, including without limitation the determination of whether to issue bonds having substantially level or declining debt service and all matters relating thereto, and of any bond anticipation notes issued in anticipation of said bonds, and the renewals of said bond anticipation notes, are hereby delegated to the Supervisor of the Town, the chief fiscal officer of the Town (the "Supervisor"). Further, in connection with bonds and bond anticipation notes issued under the authority of Section 1 hereof, the power to contract with and issue bonds and bond anticipation notes to the New York State Environmental Facilities Corporation pursuant to Section 169.00 of the Law and to approve the terms, form and content of such bonds and bond anticipation notes, consistent with the provisions of the Law, is hereby delegated to the Supervisor. Further, pursuant to subdivision b. of Section 11.00 of the Law, in the event that bonds to be issued for the object or purpose authorized by this resolution are combined for sale, pursuant to subdivision c. of

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Section 57.00 of the Law, with bonds to be issued for one or more objects or purposes authorized by other resolutions of this Town Board, then the power of the Town Board to determine the "weighted average period of probable usefulness" (within the meaning of subdivision a. of Section 11.00 of the Law) for such combined objects or purposes is hereby delegated to the Supervisor, as the chief fiscal officer of the Town.

SECTION 8. The Supervisor is hereby further authorized, at his sole discretion, to execute a project financing and loan agreement, and any other agreements with the New York State Department of Environmental Conservation 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 or purpose described in Section 1 hereof, or a portion thereof, by a serial bond, and, or a bond anticipation note issue in the event of the sale of same to the New York State Environmental Facilities Corporation.

SECTION 9. The Supervisor of the Town is hereby 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 to designate the bonds authorized by this resolution and any notes issued in anticipating thereof, if applicable, as "qualified tax-exempt obligations" in accordance with Section 265(b)(3)(B)(i) of the Code.

SECTION 10. The Supervisor is further authorized to enter into continuing disclosure undertakings with or for the benefit of the initial purchaser of the bonds or notes 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 intent of this resolution is to give the Supervisor sufficient authority to execute those applications, agreements and instruments, or to do any similar acts necessary to effect the issuance of the aforesaid serial bonds or bond anticipation notes without resorting to further action of this Town Board.

SECTION 12. The validity of the bonds authorized by this resolution and of any bond anticipation notes issued in anticipation of said bonds may be contested only if:

(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 the publication of such resolution are not substantially complied with,

and an action, suit or proceeding contesting such validity is commenced within twenty (20) days after the date of such publication; or

(c) such obligations are authorized in violation of the provisions of the Constitution.

SECTION 13. This resolution shall take effect immediately and the Town Clerk is hereby authorized and directed to cause a copy of this resolution, or a summary thereof, to be published in

full, together with a notice attached in substantially the form as prescribed in Section 81.00 of the Law, in the official newspaper(s) of the Town for such purpose.

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

Deputy Supervisor George	VOTING ____
Councilman Macko	VOTING ____
Councilman Schraft	VOTING ____
Council Reitz	VOTING ____

The resolution was thereupon declared duly adopted by a vote of ____ ayes and ____ nays.

Dated:August 8, 2023

Remove item #7 from Old Business Water Infrastructure Improvement Act NYS Water Grant Match

Res 4

Municipal Resolution for NYS Water Infrastructure Improvement Act - 2023 NYS Water Grant Authorizing and Match Resolution

WHEREAS, the Town of Evans, after thorough consideration of the various aspects of the problem and review of available data, has hereby determined that certain work, as described in its NYS Drinking Water Infrastructure Grant Program application and attachments, to address the repair and maintenance of the Water System Improvements - Phase 1, herein called the "Project", is desirable, is in the public interest, and is required in order to implement the Project and address said compliance requirements; and

WHEREAS, the NYS Environmental Facilities Corporation (EFC) authorizes State assistance to municipalities for drinking water quality improvement projects by means of a contract, and the Town of Evans deems it to be in the public interest and benefit under this law to enter into a contract therewith.

NOW, THEREFORE, BE IT RESOLVED BY the Evans Town Board, that:

1. Thomas George, Deputy Supervisor, or his representative or successor in office, is the representative authorized to act on behalf of the Evans Town Board in all matters related to State assistance under the New York State Environmental Facilities Corporation (EFC) and/or any applicable State grant provisions.

2. Deputy Supervisor, or his representative, is also authorized to make an application in the amount of $8,300,000.00 which the Town is requesting the maximum of $5,000,000 of the total project cost in grant funding;

3. The Town of Evans Town Board agrees to fund its portion of the cost of the Project, of $3,320,000 by way of a General Obligation Bond or a series of Bond Anticipation Notes, and that funds will be made available to initiate the Project efforts within 12 months of written approval of its application by the NYS Department of Health and the New York State Environmental Facilities Corporation authority;

4. The one certified copy of this Resolution be prepared and sent to the Albany office of the NYS Environmental Facilities Corporation; and

5. This Resolution takes effect immediately.

CERTIFICATION OF RECORDING OFFICER

That the attached Resolution is a true and correct copy of the Resolution, as regularly adopted at a legally convened meeting of the Evans Town Board duly held on the ___ day of August, 2023; and further, that such Resolution has been fully recorded in the _____ in my office.

In Witness thereof, I have hereunto set my hand this _____ day of _____, 2023

Signature of Recording Officer_____

Title of Recording Officer_____