Evans Town Board

At the regular meeting of the Town Board of the Town of Evans, held at the Evans Town Hall, 8787 Erie Road, Angola, New York on Wednesday, October 17, 2012 at 7:00pm there were:

PRESENT:  Dennis M. Feldmann  Councilman  
           Paul T. Cooper  Councilman  
           Keith E. Dash  Supervisor  

ALSO PRESENT:  Jonica B. DiMartino  Town Clerk  
               J. Grant Zajas  Town Attorney  
               Jeanne C. Ebersole  Assessor  
               Charles LaBarbera  Building Dept. Head  
               Lori Szewczyk  Dir. of Community Development  
               Scott Dill  Finance Dept.  
               Russ Manguso  Parks Commissioner  
               Sandra Brant  Dir. of Planning  
               Ernie Masullo  Police Chief  
               Julie Roach  Seniors Dept. Head  
               Patrick Conrad  St. Pt. Marina Dept. Head  
               Diana Cafferty  Supervisor’s Dept.  
               James Guarino  Water Dept.  

EXCUSED:  Rob Klavoon  Wendel Duchscherer  

ABSENT:  Edward Michalski  Highway Superintendent  

**RESOLUTION 2012- 337 Approve Minutes**

Councilman Feldmann moved and Councilman Cooper seconded that the reading of the minutes of the meeting of the regular meeting of October 3, 2012 and work session of October 10, 2012 be dispensed with and approved as submitted by the Town Clerk.

VOTE RESULT:  ADOPTED  
               AYES - Feldmann, Cooper, Dash  
               NAYS - none  

**Privilege of the Floor on Meeting Agenda Items and Other Issues**

1. Cheryl Grassia, 843 Thomas Lane, Angola, NY spoke, at length, in favor of keeping the Town of Evans Police Dept.
2. Frank Rademacher, 6732 Wayne, Derby, NY spoke, at length, in favor of keeping the Town of Evans Police Dept.
4. Geordie S. Sinclair, 6913 Schuyler Dr, Derby, NY spoke, at length, in favor of keeping the Town of Evans Police Dept.

    Supervisor Dash stated that there are no present or future plans to dissolve the Town of Evans Police Dept, at this time.

**RESOLUTION 2012-338  Open 7:10 pm Public Hearing for Proposed Local Law #5 of the year 2012 (amend Speed Limit)**

Councilman Cooper moved and Councilman Feldmann seconded to open the 7:10pm Public Hearing.

VOTE RESULT: ADOPTED
    AYES - Feldmann, Cooper, Dash
    NAYS - none

Supervisor Dash asked the Town Clerk read the legal notice as follows:

**LEGAL NOTICE**
**TOWN OF EVANS**

Please take notice that the Town Board of the Town of Evans, Erie County, New York will hold a public hearing on October 17, 2012 at 7:10pm at the Evans Town Hall, 8787 Erie Road, Angola, New York 14006 to consider the adoption of Proposed Local Law #5 of the year 2012 which will amend Local Law #1 of the year 1993 commonly known as the Vehicles and Traffic Law and any amendments thereto, Town Code, Chapter 193, Vehicles and Traffic, Article VII Section 193-35 Schedule II: Speed Limits to add:

<table>
<thead>
<tr>
<th>Name of Street</th>
<th>Speed Limit (mph)</th>
<th>Location</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lake Shore Road</td>
<td>15</td>
<td>Between a point 100 +/- feet east of the east entrance to the AJ Schmidt school to a point 1320 feet west on Lake Shore Road.</td>
</tr>
</tbody>
</table>

And further amend the Code of the Town of Evans, Chapter 193, Vehicle and Traffic, Article VII Section 193-6 School Speed Limits, 193-36 Schedule II Speed Limits and 193-37 Schedule III School Speed Limits, per the MUTCD (Manual of Uniform Traffic Control Devices), for establishing school speed limits Section NYCRR 17B. Fixed message school speed limit signs - Traditional 7AM to 6PM hours on school days.

All parties in interest and citizens shall have an opportunity to be heard by the Town Board at the public hearing to be held aforesaid.
By Order of the Town Board
Of the Town of Evans
Jonica B. DiMartino, RMC
Town Clerk

1. Lori Szewczyk, 1568 Overhead Rd, Derby, NY spoke in favor of the proposed local law and detailed a survey that was conducted in relation to this traffic concern and the response received.

RESOLUTION 2012-339 Close 7:10pm Public Hearing

Councilman Feldmann moved and Councilman Cooper seconded to close the Public Hearing due to no further input from the public.

VOTE RESULT: ADOPTED
AYES- Feldmann, Cooper, Dash
NAYS- None

RESOLUTION 2012-340 Adopt Proposed Local Law #5 of the year 2012 as Local Law #5 of the year 2012

Supervisor Dash moved and Councilman Feldmann seconded,

Be It Resolved that a public hearing scheduled on October 17th, 2012 at 7:10pm to consider Proposed Local Law #5 of the year 2012 which would amend the Code of Evans, Chapter 193 Vehicles and Traffic, Article VII Section 193-35, Schedule II: Speed Limits to add:

Name of Street - Lake Shore Road
Speed Limit- 15 mph
Location- Between a point 100+/- feet east of the east entrance to the AJ Schmidt school to a point 1320 west on Lake Shore Road.

And further amend the Code of the Town of Evans, Chapter 193, Vehicles and Traffic, Article VII Section 193-6 School Speed Limits, 193-36 Schedule II Speed Limits and 193-37, for establishing speed limits Section NYCRR 17B. Fixed message school limit signs- traditional 7am - 6pm on school days.

Now Be It Resolved, that Proposed Local Law #5 of the year 2012 be and hereby is adopted as Local Law #5 of the year 2012 to become effective immediately.

VOTE RESULT: ADOPTED BY ROLL CALL
Councilman Feldmann    Aye
Councilman Cooper      Aye
Supervisor Dash        Aye
Committee and Department Head reports

Councilman Feldmann had no report.

Councilman Cooper wished everyone a Happy, Healthy, and Safe Halloween.

Supervisor Dash reported that the stop sign at Sturgeon Point and Lake Shore Road was placed there today. This is just a reminder to all to be aware that there is a new stop sign in place. There will be an officer down there for the first few days to assist with the residents stopping at the new stop sign.

Also reported that the Tentative Budget for 2013 was completed and was submitted to the councilmen three days prior to deadline and will be taken into account today.

Also reported that the Highway Superintendent has met with the departments affected by the creation of the new Department of Public Works and is getting things smoothed out so that the transition for the end of this year, as well as the beginning of next year is successful.

Would also like to remind residents that this Saturday afternoon at 2pm on North Main Street is the formal dedication of the Pioneer Cemetery as a federal and state landmark and unveiling of the official plaque will be held. Federal, State, County, and Local Officials will be present as well as members of the Evans Historical Society. All are welcome.

Also would like to wish everyone a Happy and Safe Halloween.

RESOLUTION 2012-341 Keep Proposed Local Law #4 (amend Chapter 200 Zoning) on Old Business

Supervisor Dash moved and Councilman Feldmann seconded to keep Proposed Local Law #4 on Old Business for further review.

VOTE RESULT: ADOPTED
AYES- Feldmann, Cooper, Dash
NAYS- None

RESOLUTION 2012-342 Issuing a RAN (Revenue Anticipation Note)

Supervisor Dash moved and Councilman Cooper seconded, to-wit:

REVENUE ANTICIPATION NOTE RESOLUTION AUTHORIZING THE ISSUANCE OF NOTES OF THE TOWN OF EVANS (THE “TOWN”) IN AN AMOUNT NOT TO EXCEED $1,100,000 IN ANTICIPATION OF REVENUES OTHER THAN REAL PROPERTY TAXES OR ASSESSMENTS DUE AND PAYABLE IN THE FISCAL YEAR ENDING DECEMBER 31, 2012, SUCH REVENUES BEING IN THE
FORM OF (i) WATER RATES AND CHARGES AND (ii) DISTRIBUTIONS OF THE COUNTY SALES AND COMPENSATING USE TAXES.

BE IT RESOLVED, by the Town Board (the “Board”) of the Town of Evans, Erie County, New York (the “Town”) AS FOLLOWS:

Section 1. In anticipation of the collection of revenues other than real estate taxes and assessments, in the form of water rates and charges due and payable in the current fiscal year ending on December 31, 2012, and pursuant to the Local Finance Law of the State of New York (the “Law”), the Town is hereby authorized to issue and sell one or more revenue anticipation notes in an aggregate principal amount not to exceed $700,000. The amount of the such revenues collected by the Town in the Fiscal Year ended December 31, 2011 was $1,759,082, the amount of such revenues set forth in the Town’s budget for the fiscal year ending December 31, 2012 is $1,898,208, and the amount of such revenues which remain uncollected as the date of this resolution (as measured against the lesser of the amount of such revenues collected in the prior fiscal year and the amount of such revenues budgeted for the current fiscal year) is $736,905.

Section 2. In anticipation of the collection or receipt of revenues other than real estate taxes and assessments in the form of distributions by Erie County (the “County”) of County sales and compensating use taxes due and payable in the current fiscal year ending on December 31, 2012, and pursuant to the Law, the Town is hereby authorized to issue and sell one or more revenue anticipation notes in an aggregate principal amount not to exceed $400,000. The amount of the such revenues collected by the Town in the Fiscal Year ended December 31, 2011 was $1,749,558, the amount of such revenues set forth in the budget for the fiscal year ending December 31, 2012 is $1,721,500, and the amount of such revenues which remain uncollected as the date of this resolution (as measured against the lesser of the amount of such revenues collected in the prior fiscal year and the amount of such revenues budgeted for the current fiscal year) is $406,853.

Section 3. Subject to and in accordance with subdivision of Section 25.00 of the Law, the revenue anticipation notes authorized by Sections 1 and 2 of this Resolution may be issued as single issue of revenue anticipation notes (the “Notes”). The date of maturity of the Notes shall not extend beyond the applicable period approved by Section 25.00 of the Law for the maturity of the Notes, within one year from the date of issuance.

Section 4. Subject to the provisions of this Resolution and the Law, pursuant to the provisions of Sections 30.00, 50.00 and 56.00 of the Law, the powers and duties of the Board to issue and to sell the Notes, including any renewals thereof, and the authorization of the terms, form and content thereof, are hereby delegated to the Supervisor of the Town as the chief fiscal officer of the Town (the “Supervisor”). The Supervisor is authorized and directed to execute and deliver the Notes to the purchaser thereof and the Clerk of the Town is authorized and directed to attest the Notes.
Section 5. The full faith and credit of the Town are and shall be pledged to the punctual payment of principal of and interest on the revenue anticipation notes authorized herein.

Section 6. The Supervisor 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 Notes as excludable from gross income from federal income tax purposes pursuant to Section 103 of the Internal Revenue Code of 1986, as amended (the “Code”) and to designate the Notes, if applicable, as qualified tax-exempt obligations in accordance with Section 265(b)(3)(B)(I) of the Code.

Section 7. This resolution shall take effect immediately.

The following vote was taken and recorded in the public or open session of said meeting:

AYES: Feldmann, Cooper, Dash

NAYS: none

RESOLUTION 2012-343 Set Public Hearing for a BAN (Bond Anticipation Note)

Councilman Cooper moved and Supervisor Dash seconded,

RESOLUTION OF THE TOWN BOARD OF THE TOWN OF EVANS (THE “TOWN”) SETTING A PUBLIC HEARING WITH RESPECT TO PROPOSED IMPROVEMENTS TO THE FACILITIES OF THE TOWN OF EVANS WATER DISTRICTS NOS. 1X and 5 CONSISTING OF THE INSTALLATION OF BACKFLOW PREVENTION FACILITIES AND EQUIPMENT

Dated: October 17, 2012

WHEREAS, the Erie County Water Authority and Erie County Health Department are requiring the Town of Evans to be compliant with the NYSDOH backflow prevention regulations, and

WHEREAS, the Town of Evans currently has a backflow prevention ordinance as a local law and that there are approximately five (5) individual property owners are who are non-compliant, and

WHEREAS, the Town of Evans has made provisions within its local law to complete the backflow prevention improvements and assess the cost of the improvements back on to the property owners, and

WHEREAS, the Town Board of the Town of Evans (the “Town Board”) has caused Audubon Architecture, Engineering, Land Surveying & Landscape Architecture, P.C.,
engineers duly licensed by the State of New York to prepare a Map, Plan and Report for the improvements to Town of Evans Water Districts Nos. 1x and 5 consisting of the construction and installation of backflow prevention equipment, enclosures, electrical service and any ancillary or related work required in connection therewith (the "Improvements"), which Map, Plan and Report are on file in the Office of the Town Clerk, and

WHEREAS, the estimated maximum cost of the Improvements in Water District No. 1x shall be not in excess of $245,000 and the estimated maximum cost of the Improvements in Water District No. 5 shall be not in excess of $110,000; and

WHEREAS, the Improvements constitute a "Type II" action under the New York State Environmental Quality Review Act and the regulations promulgated thereunder (6 NYCRR Part 617.5(c)) (collectively, "SEQRA") and therefore no further action need be taken by the the Town Board under SEQRA as a pre-condition to such the adoption of this resolution or the approval or undertaking of the Improvements; and

WHEREAS, the Town Board now intends to call for a public hearing with respect to said proposed Improvements to the Town of Evans Water Districts Nos. 1X and 5, in accordance with Section 202-b of the Town Law.

NOW THEREFORE BE IT RESOLVED, that the Town Board calls a public hearing to be held on November 7, 2012 at 7:15 p.m. at the Evans Town Hall to consider whether the Town Board should approve the Improvements to the Town of Evans Water Districts Nos. 1X and 5, consisting of the construction and installation of backflow prevention equipment, enclosures, electrical service and any ancillary or related work required in connection therewith at certain properties with each such water district at an estimated maximum cost of $245,000 with respect to Water District No. 1X, and an estimated maximum cost of $110,000 with respect to Water District No. 5, and to hear all persons interested in the subject thereof concerning the same and for such other action on the part of the Town Board with relation thereto as may be required by law; and it is

FURTHER RESOLVED, that the Town Clark is hereby directed to publish in the Town’s official newspaper(s) for legal publication purposes and to post on the Town’s signboard a notice of such public hearing in accordance with the requirements of applicable State law.

VOTE RESULT: ADOPTED  AYES- Feldmann, Cooper, Dash  NAYS- None

RESOLUTION 2012-344 Declare celebration of Halloween

Councilman Feldmann moved and Councilman Cooper seconded,
WHEREAS, the Evans Town Board declares the celebration of Halloween in the Town of Evans for Wednesday, October 31, 2012; and

WHEREAS, the citizens of the Town of Evans are hereby requested to leave an outside light on during the hours of 6:00 pm to 8:00 pm to insure the safety of the children in their Trick or Treat travels and show willingness to participate in the celebration of Halloween with the children of our community; and

BE IT FURTHER RESOLVED, that a copy of this resolution be published by the Town Clerk in the Angola Pennysaver.

VOTE RESULT: ADOPTED
AYES- Feldmann, Cooper, Dash
NAYS- None

RESOLUTION 2012-345 Adopt Preliminary Budget from Tentative Budget

Supervisor Dash moved and Councilman Feldmann seconded,

WHEREAS, on September 27, 2012 the Supervisor of the Town of Evans duly filed the tentative budget for the fiscal year beginning January 1, 2013 and ending December 31, 2013 with the Town Clerk; and

WHEREAS, the Town Clerk of the Town of Evans duly presented said tentative budget to the Town Board on or before October 5, 2012;

NOW THEREFORE BE IT RESOLVED that in accordance with Section 106 of Town Law, the tentative budget as revised, amended or modified by the Town Board shall constitute the Preliminary Budget of the Town of Evans for the fiscal year beginning January 1, 2013 and ending December 31, 2013; and

BE IT FURTHER RESOLVED that the Preliminary Budget shall be filed in the Office of the Town Clerk of the Town of Evans and said Town Clerk is hereby authorized and directed, on or after October 22, 2012, to reproduce copies for public distribution at a cost of $15.00 per copy and to also place the budget on the Town of Evans Website where there will be no cost to the public.

VOTE RESULT: ADOPTED BY ROLL CALL
Councilman Feldmann Aye
Councilman Cooper Aye
Supervisor Dash Aye

RESOLUTION 2012-346 Set Public Hearing for Angola Fire Protection District
Councilman Cooper moved and Councilman Feldmann seconded,

WHEREAS, the Angola Protective Fire District has been duly established as a Fire Protection District within the Town of Evans; and

WHEREAS, Town Law requires the Town of Evans to provide fire protection within said Fire District;

NOW THEREFORE BE IT RESOLVED, that pursuant to Section 184 of Town Law that a public hearing be held with reference to the furnishing of such fire protection for the Angola Fire Protective District which shall be held on the 7th day of November, 2012 at 7:10 pm and that notice of such hearing shall be published in the official newspaper of the Town of Evans.

VOTE RESULT: ADOPTED
AYES- Feldmann, Cooper, Dash
NAYS- None

RESOLUTION 2012-347 Set Public Hearing to discuss Preliminary Budget

Councilman Feldmann moved and Supervisor Dash seconded,

RESOLVED, that in accordance with Article 8, Section 108 of Town Law, that a public hearing be held to hear those people wanting to discuss the Preliminary Budget on November 7, 2012 at 7:20 pm at the Evans Town Hall; and

BE IT FURTHER RESOLVED, THAT THE Town Clerk advertise said Public Hearing in accordance with Town Law.

VOTE RESULT: ADOPTED
AYES- Feldmann, Cooper, Dash
NAYS- None

RESOLUTION 2012-348 Authorize Supervisor to sign, submit, and execute contract with Erie Co. Community Development Block Program

Councilman Cooper moved and Councilman Feldmann seconded,

WHEREAS: The Town of Evans is or may be eligible for Community Development Block Grants, and,

WHEREAS: The Town advertised and conducted a public hearing on Wednesday, October 3, 2012 at 7:20 p.m. to receive input for the grant for the 2013-2014 year as to the community development needs and as to projects for which such grant or grants may be sought;
NOW THEREFORE BE IT RESOLVED That the Town Board authorizes Supervisor Dash and/or appropriate Town Officials to sign, submit and execute a contract with Erie County Community Development Block Grant (ECCDBG) program for the following projects upon approval of ECCDBG:

1. Kennedy Avenue Greenway Streetscape Project (Phase II)
2. South Creek/John K. Thompson Pool ADA Improvements
3. Rural Transit Services, Inc.

VOTE RESULT: ADOPTED BY ROLL CALL
Councilman Feldmann Aye
Councilman Cooper Aye
Supervisor Dash Aye

RESOLUTION 2012-349 Declare Surplus Equipment

Supervisor Dash moved and Councilman Feldmann seconded,

WHEREAS, a 2006 Saturn Vue, VIN 5GZCZ5346S818316 was seized under section 1224(6)A of the NYS V&T law by the Evans Police Department; therefore be it

RESOLVED, that the 2006 Saturn Vue, VIN 5GZCZ5346S818316 is declared surplus equipment and will be sold at auction with proceeds to be deposited in the Police Department’s Asset Forfeiture account.

VOTE RESULT: ADOPTED BY ROLL CALL
Councilman Feldmann Aye
Councilman Cooper Aye
Supervisor Dash Aye

RESOLUTION 2012-350 Audit of Bills

Councilman Cooper moved and Councilman Feldmann seconded,

BE IT RESOLVED, that all properly audited bills be paid out of their respective accounts per abstract brought forth:

Date: October 17, 2012
Abstract No. 19
Voucher No. 1834-1911
Prepaid:

<table>
<thead>
<tr>
<th>Category</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>GENERAL</td>
<td>$10,638.89</td>
</tr>
<tr>
<td>PART TOWN</td>
<td>$173.50</td>
</tr>
<tr>
<td>HIGHWAY DA</td>
<td>0</td>
</tr>
<tr>
<td>HIGHWAY</td>
<td>$9,179.01</td>
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</table>

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>WATER</td>
<td>$998.79</td>
</tr>
<tr>
<td>CAPITAL PROJECTS</td>
<td>$300.00</td>
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<tr>
<td>SPECIAL DISTRICTS</td>
<td>$80,335.21</td>
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<tr>
<td>DEBT SERVICE</td>
<td>0.00</td>
</tr>
<tr>
<td>COMMUNITY DEVELOPMENT</td>
<td>0.00</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>$101,625.40</strong></td>
</tr>
</tbody>
</table>

VOTE RESULT: ADOPTED BY ROLL CALL
Councilman Feldmann  Aye
Councilman Cooper    Aye
Supervisor Dash      Aye

Supervisor Dash asked the Town Clerk to set aside a page in the official record of tonight’s meeting in memory of Brett Farrell, 2010 Graduate of Lake Shore Central School, who simply was taken from us way too soon. A moment of silence was requested after adjournment of tonight’s meeting.

**RESOLUTION 2012-351 Adjournment**

Supervisor Dash moved and Councilman Feldmann seconded, to adjourn to Wednesday, October 24, 2012 at 6:15pm for a Work Session and then to Wednesday, November 7, 2012 at 6:30pm for an Agenda Meeting and 7pm for the Town Board meeting. Moment of silence was done in honor of Brett Farrell.

VOTE RESULT: ADOPTED
AYES- Feldmann, Cooper, Dash
NAYS- none

These minutes are an unofficial copy unless the original signature of the Town Clerk is affixed below. The original official paper minutes are stored in the Town’s vault.

Respectfully Submitted,

Jonica B. DiMartino, RMC
Town Clerk
In Memoriam

This page has been dedicated to:

Brett Farrell

2010 Graduate of Lake School Central School

‘Who simply was taken from us way too soon’