

## **Special Meeting, Town of Wellsville, Dyke Water District No SW-9**

A Special Meeting of the Town of Wellsville, County of Allegany and the State of New York was held at the Town Hall, 156 N Main St on the 14<sup>th</sup> day of July 2014.

**PRESENT:** Darwin Fanton, Supervisor  
Timothy McNulty, Council Member  
Shad Alsworth, Council Member  
Steve Havey, Council Member  
Donald LaForge, Council Member

Fanton opened the meeting at 5:00 pm with the pledge to the Flag.

Fanton explained that the purpose of this special meeting was to discuss Dyke Water District No SW-9.

**CERTIFICATE OF NO REFERENDUM:** A motion was made by Donald LaForge; Council Member for the Town Clerk sign and send to the County Clerk a Certificate of No Referendum, seconded by Timothy McNulty, Council Member, motion was carried by unanimous vote.

**AFFIDAVIT OF FILING:** A motion was made by Steve Havey, Council Member, for the Town Clerk to sign and send to the County Clerk an Affidavit of Filing of the Certificate of No Referendum in the Office of the County Clerk, seconded by Shad Alsworth, Council Member, motion was carried by unanimous vote.

### **FINAL ORDER ESTABLISHING DYKE WATER DISTRICT NO SW-9:**

**Resolution:** the following resolution was offered by Steve Havey, Council Member who moved its adoption and was seconded by Donald LaForge, Council Member:

#### **RESOLUTION NO 17**

#### **FINAL ORDER ESTABLISHING DYKE WATER DISTRICT NO. SW-9**

**WHEREAS**, the Town Board of the Town of Wellsville (herein called "Town Board" and "Town", respectively), in the County of Allegany, New York, has, pursuant to Town Law Article 12-A, caused Clark Patterson Lee, competent engineers duly licensed by the State of New York, to prepare a preliminary map, plan and report for the establishment of Dyke Water District No. SW-9 (the "District") previously known as the 417 East Water Project; and

**WHEREAS**, such map, plan and report is on file at the office of the Town Clerk, and available for public inspection at said location; and

**WHEREAS**, said map, plan and report proposes the installation of approximately 6,900 linear feet of water main along various roads in the Town including, but not limited to, New York State Route 417, and connecting to the Village water supply system, as well as other such improvements as more fully identified in such map, plan and report referred to above, including all related right-of-way costs, new service installation, site work and other ancillary

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work, including hydrants, valves, appurtenances, preliminary costs and other improvements and costs incidental thereto (collectively the "Water Improvement"); and

**WHEREAS**, the estimated maximum amount proposed to be expended for the construction of such District is estimated to be \$930,000; and

**WHEREAS**, pursuant to the Order duly adopted on May 14, 2014, the Town Board determined to proceed with the proposed establishment of the District and adopted an Order reciting a description of the boundaries of the District in a manner sufficient to identify the lands included therein as in a deed of conveyance, the improvements proposed, the maximum amount proposed to be expended for the construction of water improvements in connection with the establishment of the District, the proposed method of financing to be employed, the fact that a map, plan and report describing the same are on file in the Town Clerk's office for public inspection and specifying June 11, 2014, at 6:45 o'clock p.m. (Prevailing Time) as the time when, and the Wellsville Town Hall, located at 156 North Main Street, in the Town, as the place where, the Town Board would meet to consider the proposed establishment of the District and to hear all persons interested in the subject thereof concerning the same, and for such other action on the part of the Town Board in relation thereto, as may be required by law; and

**WHEREAS**, following publication and posting of certified copies of said Order pursuant to Article 12-A of the Town Law and after a public hearing duly held by the Town Board at the time and place herein referred to, the Town Board, by resolution duly adopted June 11, 2014, determined that the notice of public hearing was published and posted as required by law and was otherwise sufficient, that all the property and property owners included within the proposed District were benefited thereby, that all the property and property owners benefited were included within the limits of the proposed District, that it was in the public interest to establish the District and approved the establishment of the District and the construction of water improvements in connection with the District as hereinabove described at an estimated maximum cost of \$930,000; and that the plan of financing is the issuance of serial bonds in an aggregate amount not to exceed \$930,000, such amount to be offset by any federal, state, county and/or local funds received including, but not limited to, grants anticipated to be received totaling approximately \$801,000, and unless paid from other sources or charges, the cost of the project will be paid by the assessment, levy and collection from the several lots and parcels of land within the District for such purpose in the same manner and at the same time as other town charges to pay the principal of and interest on said bonds as the same shall become due and payable, except as otherwise provided by law; and

**WHEREAS**, said resolution adopted June 11, 2014, was subject to permissive referendum and the notice setting forth the date of adoption of said resolution, which concisely stated the purpose and effect thereof, was duly posted and published as required by law, and that no petition requesting a referendum thereon has been filed with the Town Clerk within 30 days after the date of adoption thereof, or at any other time since said adoption; and

**WHEREAS**, permission of the State Comptroller is not required with respect to the establishment of the District because the estimated cost of the District to the Typical Property (as defined by Town Law) is not above the Average Estimated Cost to the Typical Properties for the establishment of similar types of districts, as computed by the State Comptroller, and the

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Town has filed a certified copy of the Order with the State Comptroller as required by Town Law;

### **NOW, THEREFORE, BE IT**

**ORDERED**, that the establishment of the District is hereby approved, in the Town of Wellsville, to be known as Dyke Water District No. SW-9, situate wholly outside of any incorporated village or city and bounded and described as follows:

**TOWN OF WELLSVILLE  
DYKE WATER DISTRICT # SW-9  
PREVIOUSLY CALLED "417 EAST WATER PROJECT"**

Beginning at a point on the northerly boundary of the Village of Wellsville at the southwest corner of Tax Parcel 239.00-1-30.1; thence

1. Northeasterly and easterly along the northwest and north boundaries of Tax Parcel 239.00-1-30.1 a distance of approximately 1,740 feet to a point on the northwest boundary of Tax Parcel 239.00-1-25; thence
2. Northeasterly along the northwest boundary of Tax Parcel 239.00-1-25 a distance of approximately 500 feet to appoint on the southwest boundary of Tax Parcel 239.00-1-23.11; thence
3. Northwesterly and easterly along the southwest and north boundaries of Tax Parcel 239.00-1-23.11 a distance of approximately 1,250 feet to the southwest corner of Tax Parcel 239.00-1-16.21;thence
4. Northwesterly along the southwest boundary of Tax Account 239.00-1-16.21 a distance of approximately 55 feet to the southeast corner of Tax Parcel 239.00-1-16.22 ; thence
5. Northwesterly, northeasterly, southerly and easterly along the southwest, northwest west and north boundaries of Tax Parcel 239.00-1-16.22 a distance of approximately 1,400 feet to the southwest corner of Tax Parcel 226.00-1-35; thence
6. Northerly along the west boundary and the northerly extension of the west boundary of Tax Parcel 226.00-1-35 a distance of approximately 280 feet to the centerline of County Route 28; thence
7. Northeasterly along the centerline of county Route 28 a distance of approximately 275 feet to the southerly extension of the west boundary of Tax Parcel 226.00-1-34; thence
8. Northerly and northeasterly along said southerly extension and the west and northwest boundaries of Tax Parcel 226.00-1-34 a distance of approximately 1,215 feet to the north west corner of Tax Parcel 226.15-1-1; thence
9. Northeasterly along the northwest boundary and the northeasterly extension of the northwest

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boundary of Tax Parcel 226.15-1-1 a distance of approximately 260 feet to a point on the centerline of Smith Hollow Road, thence

10. Southeasterly along the centerline of Smith Hollow Road a distance of approximately 50 feet to the southwesterly extension of the northwest boundary of Tax Parcel 226.15-1-6; thence
11. Northeasterly along said southwesterly extension and the northwest boundary of Tax Parcel 226.15-1-6 a distance of approximately 340 feet to the northwest corner of Tax Parcel 226.15-1-11; thence
12. Northeasterly, northwesterly northeasterly and south easterly along the northwest, southwest, northwest and northeast boundaries of Tax Parcel 226.15-1-11 a distance of approximately 720 feet to the northwest corner of Tax Parcel 226.15-1-12; thence
13. Northeasterly along the northwest boundaries of Tax Parcels 226.15-1-12, 226.15-1-13, 226.15-1-14, 226.15-1-15 and 226.15-1-17 and along the northeasterly extension of the northwest boundary of Tax Parcel 226.15-1-17 a distance of approximately 450 feet to a point on the centerline of Wightman Road; thence
14. Southeasterly along the centerline of Wightman a distance of approximately 60 feet to the southwesterly extension of the northwest boundary of Tax Parcel 226.15-1-27; thence
15. Northeasterly along the said southwesterly extension and the northwest boundary of Tax Parcel 226.15-1-27 a distance of approximately 235 feet to a point on the west boundary of Tax Parcel 226.00-1-20; thence
16. Northerly and northeasterly along the west and northwest, and boundaries of Tax Parcel 226.00-1-20 a distance of approximately 660 feet to the northeast corner of Tax Parcel 226.00-1-20; thence
17. Southeasterly along the northeast boundary and the south easterly extension of the northeast boundary of Tax Parcel 226.00-1-20 a distance of approximately 275 feet to a point on the centerline of NYS Route 417, thence
18. Northeasterly along said centerline a distance of approximately 150 feet to the northwesterly extension of the north eastern boundary of Tax Parcel 226.00-1-25; thence
19. Southeasterly along said northwesterly extension and the northeast boundary of Tax Parcel 226.00-1-25 a distance of approximately 750 feet to a point on the north boundary of the Southern Tier Railway right-of-way ; thence
20. Southwesterly along said right-of-way boundary a distance of approximately 2,160 feet to the northeast corner of Tax Parcel 226.19-1-13 ; thence
21. Northwesterly along the northeast boundary of Tax Parcel 226.19-1-13 and the northwesterly extension of the northeast boundary of Tax Parcel 226.19-1-13 a distance of approximately 490 feet to a point on the centerline of Truax Road; thence
22. Northerly along the centerline of Truax Road a distance of approximately 825 feet to the easterly extension of the south boundary of Tax Parcel 226.19-1-1; thence

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23. Westerly along said easterly extension and the south boundary of Tax Parcel 226.19-1-1 a distance of approximately 260 feet to a point on the east boundary of Tax Parcel 226.00-1-33.1, thence
24. Southerly and westerly along the east and south boundaries of Tax Parcel 226.00-1-33.1 a distance of approximately 320 feet to the southeast corner of Tax Parcel 226.00-1-33.2; thence
25. Westerly, southwesterly and westerly along the south, southeast and south boundaries of Tax Parcel 226.00-1-33.2 a distance of approximately 530 feet to the southwest corner of Tax Parcel 226.00-1-33.2; thence
26. Westerly a distance of approximately 110 feet to a point on the east boundary of Tax Parcel 226.19-1-27, thence
27. Southerly along the easterly boundary of Tax Parcel 226.19-1-27 a distance of approximately 360 feet to a point on the north boundary of Tax Parcel 239.00-1- 16.3; thence
28. Easterly, southerly, southwesterly and northwesterly along the north, east, southeast and southwest boundaries of Tax Parcel 226.19-1-16.3 a distance of approximately 1,115 feet to the south east corner of Tax Parcel 239.00-1-21; thence
29. Southwesterly along the southeast boundary of Tax Parcel 239.00-1-21 a distance of approximately 830 feet to a point on the north boundary of Tax Parcel 239.07-3-10; thence
30. Easterly, southeasterly and southwesterly along the north, northeast and southeast boundaries of Tax Parcel 239.07-3-10 a distance of approximately 670 feet to a point on the northeast boundary of Tax Parcel 239.00-1-26.1; thence
31. Southeasterly, southwesterly, southeasterly, southwesterly and northwesterly along the northeast, southeast, northeast, southeast and southwest boundaries of Tax Parcel 239.00-1-26.1 a distance of approximately 1,305 feet to the southeast corner of Tax Parcel 239.00-1-27.2; thence
32. Southwesterly along the south east boundary of Tax Parcel 239.00-1-27.2 a distance of approximately 65 feet to the southeast corner of Tax Parcel 239.00-1-27.3; thence
33. Southwesterly, southeasterly, southwesterly and southeasterly along the southeast, northeast, southeast and northeast boundaries of Tax Parcel 239.00-1-27.3 a distance of approximately 750 feet to the southwest corner of Tax Parcel 239.07-3-1; thence
34. Southwesterly a distance of approximately 70 feet to the northeast corner of Tax Parcel 239.00-1-27.1;thence
35. Southwesterly along the southeast boundary of Tax Parcel 239.00-1-27.1 a distance of approximately 565 feet to a point on the north Boundary of the Village of Wellsville; thence
36. Westerly along said north Village boundary a distance of approximately 890 feet to the point of beginning;

and be it further:

## **Special Meeting, Town of Wellsville, Dyke Water District No SW-9**

**ORDERED**, that the Dyke Water District No. SW-9 in the Town of Wellsville hereinabove referred to shall be constructed as set forth in the said Order Calling the Public Hearing (dated May 14, 2014) and the resolution (adopted on June 11, 2014), at an estimated maximum cost of \$930,000; and that the plan of financing is the issuance of serial bonds in an aggregate amount not to exceed \$930,000, such amount to be offset by any federal, state, county and/or local funds received including, but not limited to, grants anticipated to be received totaling approximately \$801,000, and unless paid from other sources or charges, the cost of the project will be paid by the assessment, levy and collection from the several lots and parcels of land within the District for such purpose in the same manner and at the same time as other town charges to pay the principal of and interest on said bonds as the same shall become due and payable, except as otherwise provided by law; and be it further

**ORDERED**, that within ten days after adoption of this Order, the Town Clerk shall record with the Clerk of the County of Allegany and file with the Department of Audit and Control in Albany, New York copies of this Order, certified by the Town Clerk.

**Vote:** Darwin Fanton, Supervisor voting aye  
Timothy McNulty, Council Member voting aye  
Shad Alsworth, Council Member voting aye  
Steve Havey, Council Member voting aye  
Donald LaForge, Council Member voting aye

### **Bond Resolution:**

**Resolution:** the following resolution was offered by Shad Alsworth, Council Member who moved its adoption and was seconded by Steve Havey, Council Member:

### **RESOLUTION NO 18**

**A BOND RESOLUTION, DATED JULY 14, 2014, OF THE TOWN BOARD OF THE TOWN OF WELLSVILLE, ALLEGANY COUNTY, NEW YORK (THE "TOWN"), AUTHORIZING A CAPITAL IMPROVEMENTS PROJECT IN THE DYKE WATER DISTRICT NO. SW-9 IN THE TOWN AND THE CONSTRUCTION OF IMPROVEMENTS THEREIN, AT AN ESTIMATED MAXIMUM COST OF \$930,000, AND AUTHORIZING THE ISSUANCE OF SERIAL BONDS IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$930,000 PURSUANT TO THE LOCAL FINANCE LAW TO FINANCE SAID PURPOSE, SAID AMOUNT TO BE OFFSET BY ANY FEDERAL, STATE, COUNTY AND/OR LOCAL FUNDS RECEIVED, AND DELEGATING THE POWER TO ISSUE BOND ANTICIPATION NOTES IN ANTICIPATION OF THE SALE OF SUCH BONDS TO THE TOWN SUPERVISOR.**

**WHEREAS**, the Town Board of the Town of Wellsville, Allegany County, New York (the "Town"), pursuant to Article 12-A of the Town Law, created a water district designated and known as the Dyke Water District No. SW-9 in the Town (the "Water District"); and

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**WHEREAS**, the Town Board desires to undertake a water system capital improvements project generally consisting of the construction of the infrastructure for the Water District; and

**WHEREAS**, by Resolutions the Town Board took the following actions with respect to such Project: (a) prepared maps, plans and boundaries for the Water District and such Project, (b) held a public hearing with respect to such Project, (c) determined that the Project would not have a significant effect on the environment under Article 8 of the Environmental Conservation Law, and (d) determined that the requirements of Article 12-A of the Town Law had been satisfied with respect to such Project and further determined to undertake such Project; and

**WHEREAS**, the Town Board desires to issue obligations of the Town to finance a portion of the costs of such Project;

**NOW, THEREFORE**, be it

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

**SECTION 1:** The specific purpose (hereinafter referred to as ("purpose") to be financed pursuant to this resolution is a certain capital improvements project consisting of the installation of approximately 6,900 linear feet of water main along various roads in the Town including, but not limited to, New York State Route 417, and connecting to the Village water supply system, as well as other such improvements as more fully identified in such map, plan and report prepared in connection with the Project, including all related right-of-way costs, new service installation, site work and other ancillary work, including hydrants, valves, appurtenances, preliminary costs and other improvements and costs incidental thereto. The estimated maximum cost of said purpose is \$930,000.

**SECTION 2:** The Town Board plans to finance the estimated maximum cost of said purpose by the issuance of serial bonds in an aggregate amount not to exceed \$930,000 of said Town, said amount to be offset by any federal, state, county and/or local funds received including, but not limited to, grants anticipated to be received totaling approximately \$801,000, and unless paid from other sources or charges, the cost of the project will be paid by the assessment, levy and collection from the several lots and parcels of land within the District for such purpose in the same manner and at the same time as other town charges to pay the principal of and interest on said bonds as the same shall become due and payable, except as otherwise provided by law.

**SECTION 3:** It is hereby determined that said purpose is an object or purpose described in subdivision 1 of paragraph (a) of Section 11.00 of the Local Finance Law, and that the period of probable usefulness of said purpose is 40 years.

**SECTION 4:** Current funds are not required to be provided prior to the issuance of the bonds authorized by this resolution or any notes issued in anticipation of the sale of said bonds.

**SECTION 5:** It is hereby determined the proposed maturity of the obligations authorized by this resolution will be in excess of five years.

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**SECTION 6:** The faith and credit of the Town are hereby irrevocably pledged for the payment of the principal of and interest on such bonds (and any bond anticipation notes issued in anticipation of the sale of such bonds) as the same respectively become due and payable. An annual appropriation shall be made in each year sufficient to pay the principal of and interest on such bonds or notes becoming due and payable in such year. Unless paid from other sources or charges, the cost of the project will be paid by the assessment, levy and collection from the several lots and parcels of land within the District for such purpose in the same manner and at the same time as other town charges to pay the principal of and interest on said bonds as the same shall become due and payable, except as otherwise provided by law. Should the assessments upon benefited real property be insufficient to pay the principal of and interest on such bonds, 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 or notes as the same become due and payable.

**SECTION 7:** Subject to the provisions of this resolution and of the Local Finance 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 notes and of Section 21.00, Section 50.00, Sections 56.00 to 60.00, Section 62.00 and Section 63.00 of the Local Finance Law, the powers and duties of the Town Board pertaining or incidental to the sale and issuance of the obligations herein authorized, including but not limited to authorizing bond anticipation notes and prescribing the terms, form and contents and as to the sale and issuance of the bonds herein authorized and of any bond anticipation notes issued in anticipation of said bonds, and the renewals of said notes, are hereby delegated to the Town Supervisor, the chief fiscal officer of the Town. Without in any way limiting the scope of the foregoing delegation of powers, the Town Supervisor, to the extent permitted by Section 58.00(f) of the Local Finance Law, is specifically authorized to accept bids submitted in electronic format for any bonds or notes of the Town.

**SECTION 8:** The temporary use of available funds of the Town, not immediately required for the purpose or purposes for which the same were borrowed, raised or otherwise created, is hereby authorized pursuant to Section 165.10 of the Local Finance Law, for the purpose or purposes described in Section 1 of this resolution. The Town then reasonably expects to reimburse any such expenditures (to the extent made after the date hereof or within 60 days prior to the date hereof) with the proceeds of the bonds authorized by Section 2 of this resolution (or with the proceeds of any bond anticipation notes issued in anticipation of the sale of such bonds). This resolution shall constitute the declaration of the Town's "official intent" to reimburse the expenditures authorized by Section 2 hereof with such bond or note proceeds, as required by United States Treasury Regulations Section 1.150-2.

**SECTION 9:** The Town Supervisor is further authorized to take such actions and execute such documents as may be necessary to ensure the continued status of the interest on the bonds authorized by this resolution, and any notes issued in anticipation thereof, as excludable from gross income for federal income tax purposes pursuant to Section 103 of the Internal Revenue Code of 1986, as amended (the "Code") and to designate the bonds authorized by this resolution, and any notes issued in anticipation thereof as "qualified tax-exempt bonds" in accordance with Section 265(b)(3)(B)(i) of the Code.

**SECTION 10:** The Town Supervisor is further authorized to enter into a continuing disclosure agreement with the initial purchaser of the bonds or notes authorized by this



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resolution, containing provisions which are satisfactory to such purchaser in compliance with the provisions of Rule 15c2-12, promulgated by the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934.

**SECTION 11:** The Town has complied with applicable federal, state and local laws and regulations regarding environmental matters, including compliance with the New York State Environmental Quality Review Act ("SEQRA"), comprising Article 8 of the Environmental Conservation Law and, in connection therewith, duly issued a negative declaration and/or other applicable documentation, and therefore, no further action under the State Environmental Quality Review Act is necessary.

**SECTION 12:** In the absence or unavailability of the Town Supervisor, the Deputy Supervisor is hereby specifically authorized to exercise the powers delegated to the Town Supervisor in this resolution.

**SECTION 13:** The validity of said serial bonds or of any bond anticipation notes issued in anticipation of the sale of said serial bonds may be contested only if:

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

**SECTION 14:** This resolution is effective immediately

**SECTION 15:** The Town Clerk is hereby authorized and directed to publish this resolution, or a summary thereof, together with a notice in substantially the form provided by Section 81.00 of said Local Finance Law, in a newspaper having a general circulation in the Town and hereby designated as the official newspaper of the Town for such publication.

**Vote:** Darwin Fanton, Supervisor voting aye  
Timothy McNulty, Council Member voting aye  
Shad Alsworth, Council Member voting aye  
Steve Havey, Council Member voting aye  
Donald LaForge, Council Member voting aye

**Adjourn:** Shad Alsworth, Council Member made a motion at 5:10 pm to adjourn this special meeting, seconded by Steve Havey, Council Member, passed by unanimous vote.

Respectfully Submitted,

Sylvia LaChance, Town Clerk