

21 JULY 2010

TOWN BOARD MEETING
TOWN HALL, MAHOPAC, N.Y.

A Regular Meeting of the Town Board of the Town of Carmel was called to order by Supervisor Kenneth Schmitt on the 21st day of July 2010 at 7:19 p.m. at Town Hall, 60 McAlpin Avenue, Mahopac, New York. Members of the Town Board present by roll call were: Councilman Ravallo, Councilman Lombardi and Supervisor Schmitt. Councilwoman McDonough and Councilman DiCarlo were absent.

The Pledge of Allegiance to the Flag was observed prior to the start of official business and a moment of silence was observed to honor those serving in the United States Armed Forces.

MINUTES OF TOWN BOARD MEETING HELD ON 6/16/10 - ACCEPT AS SUBMITTED BY THE TOWN CLERK

On motion by Councilman Lombardi, seconded by Councilman Ravallo, with all members of the Town Board present voting “aye”, the minutes of the Town Board meeting held on June 16, 2010 were accepted as submitted by the Town Clerk.

BUDGET MODIFICATIONS - #2010-06 - AUTHORIZED

WHEREAS the Deputy Comptroller has reviewed the June 2010 Budget Modifications with the Town Board which are detailed and explained on the attached Budget Revisions Schedule identified as #2010-06;

NOW, THEREFORE, BE IT RESOLVED that the Town Board of the Town of Carmel hereby authorizes and ratifies the June 2010 Budget Modifications/Revisions itemized on Schedule #2010-06 which are attached to this resolution, incorporated herein and made a part hereof.

Resolution

Offered by: Councilman Lombardi
Seconded by: Councilman Ravallo

<u>Roll Call Vote</u>	<u>YES</u>	<u>NO</u>	
Robert Ravallo	X		
Frank Lombardi	X		
Suzanne McDonough			Absent
Anthony DiCarlo			Absent
Kenneth Schmitt	X		

TOWN OF CARMEL
BUDGET REVISIONS FOR JUNE 2010
#2010-06

	ACCOUNT	ACCOUNT TITLE & TRANSFER DESCRIPTION	INCREASE USES & SOURCES OF FUNDS	DECREASE USES & SOURCES OF FUNDS
<u>GENERAL FUND</u>				
2010-06-01	100-1220-0047	SUPERVISOR CONFERENCE EXPENSES	77.00	
	100-1220-0080	SUPERVISOR STAFF EMPLOYEE BENEFITS		77.00
		- TRANSFER FOR TRAINING EXPENSE		
2010-06-02	100-1420-0044	LABOR LEGAL SERVICES	1,000.00	
	100-1420-0043	SPECIAL COUNSEL FOR TOWN BOARD		1,000.00
		- TRANSFER FOR LEGAL SERVICES		
2010-06-03	100-1620-0012	BUILDING STAFF OVERTIME	200.00	
	100-1620-0010	BUILDING SEASONAL STAFF		200.00
		- TRANSFER FOR STAFF OVERTIME		
2010-06-04	100-1640-0049	CENTRAL GARAGE MISCELLANEOUS EXPENSE	25.00	
	100-1640-0084	CENTRAL GARAGE HEALTH INSURANCE EXPENSE		25.00
		- TRANSFER FOR MISCELLANEOUS EXPENSE		
2010-06-05	100-3310-0020	SIGN CENTRAL EQUIPMENT	500.00	
	100-3310-0040	SIGN CENTRAL EXPENSE	450.00	
	100-3310-0084	SIGN CENTRAL HEALTH INSURANCE EXPENSE		950.00
		- TRANSFER FOR SIGN EXPENSES		

21 JULY 2010
TOWN BOARD MEETING

(Cont.)

2010-06-06	100-5132-0020	HIGHWAY GARAGE EQUIPMENT EXPENSE		14,240.00	
	100-1990-0040	CONTINGENCY ACCOUNT			9,280.00
	100-8090-0045	RECYCLE TRASH DISPOSAL			4,980.00
		- TRANSFER FOR HIGHWAY BOILER INSTALLATION			
		ELECTRICAL EXPENSE			
2010-06-07	100-7112-0040	CRANE FIELD CONTRACTUAL EXPENSE		500.00	
	100-7113-0040	CHAMBER PARK CONTRACTUAL EXPENSE		500.00	
	100-7310-0013	YOUTH PROGRAM LABOR			1,000.00
		- TRANSFER FOR EXPENSES			
2010-06-08	100-7270-0040	CONCERT SERIES EXPENSE		4,890.00	
	100-7020-0080	RECREATION EMPLOYEE BENEFITS			4,890.00
		- TRANSFER FOR CONCERT SERIES EXPENSE			
2010-06-09	100-8020-0044	PLANNING SPECIAL SERVICES		6,375.00	
	100-1989-2117	PLANNING ESCROW FEES	*	6,375.00	
		- PROVIDE FOR SPECIAL SERVICES			
HIGHWAY FUND					
2010-06-10	500-5112-0020	CHIPS EXPENSE		202,786.94	
	500-5010-3502	CHIPS STATE AID	*	202,786.94	
		- REVISE BUDGET FOR AID			
CARMEL WATER DISTRICT #2					
2010-06-11	602-8310-0020	EQUIPMENT/METER EXPENSE		984.00	
	602-8310-0049	EMERGENCY REPAIRS		2,016.00	
	602-8310-0099	REPAIR RESERVE FUND			3,000.00

BudgetRevisions2010-06.xls

1

TOWN OF CARMEL
BUDGET REVISIONS FOR JUNE 2010
#2010-06

	ACCOUNT	ACCOUNT TITLE & TRANSFER DESCRIPTION	INCREASE USES & SOURCES OF FUNDS	DECREASE USES & SOURCES OF FUNDS
		- TRANSFER FOR VARIOUS EXPENSES		
CARMEL WATER DISTRICT #3				
2010-06-12	603-8310-0047	EMERGENCY REPAIRS	3,000.00	
	603-8310-0040	CONTRACTUAL REPAIRS		3,000.00
		- TRANSFER FOR EMERGENCY REPAIRS		
CARMEL WATER DISTRICT #4				
2010-06-13	604-8310-0040	CONTRACTUAL REPAIRS	10,000.00	
	604-8310-9909	APPROPRIATED FUND BALANCE	*	10,000.00
		- PROVIDE FOR SYSTEM REPAIRS		
CARMEL WATER DISTRICT #7				
2010-06-14	607-8310-0049	EMERGENCY REPAIRS	21,537.00	
	607-8310-9982	APPROPRIATED RESERVES	*	21,537.00
		- PROVIDE FOR SPECIAL REPAIRS		
CARMEL WATER DISTRICT #8				
2010-06-15	608-8310-0020	EQUIPMENT METERS	1,000.00	
	608-8310-0040	CONTRACTUAL REPAIRS	2,000.00	
	608-8310-0047	EMERGENCY REPAIRS	4,000.00	
	608-8310-0099	REPAIR RESERVE FUND		6,000.00
	608-8310-0090	CONTINGENCY ACCOUNT		1,000.00
		- TRANSFER FOR EXPENSES		
CARMEL WATER DISTRICT #9				
2010-06-16	609-8310-0020	EQUIPMENT METERS	642.00	
	609-8310-0048	OTHER EXPENSES		642.00
		- TRANSFER FOR METERS EXPENSE		
CARMEL WATER DISTRICT #10				
2010-06-17	610-8310-0047	EMERGENCY REPAIRS	1,500.00	
	610-8310-0099	REPAIR RESERVE FUND		1,500.00
		- TRANSFER FOR EMERGENCY REPAIRS		

(Cont.)

CARMEL WATER DISTRICT #14				
2010-06-18	814-8310-0047	EMERGENCY REPAIRS	57.00	
	814-8310-0048	OTHER EXPENSES		57.00
		- TRANSFER FOR EMERGENCY REPAIR		
CARMEL SEWER DISTRICT #4				
2010-06-19	704-8130-0040	CONTRACTUAL REPAIRS	5,000.00	
	704-8130-0099	REPAIR RESERVE FUND		5,000.00
		- TRANSFER FOR REPAIRS		

MAHOPAC VOLUNTEER FIRE DEPARTMENT - ADDITIONS TO THE ACTIVE LIST - AUTHORIZED

RESOLVED that the Town Board of the Town of Carmel hereby authorizes the addition of the following name to the active list of the Mahopac Volunteer Fire Department:

Stephen Gilbreth
Brandon Timmins
Matthew MacElhinney
Andrew Scopino

Resolution

Offered by: Councilman Ravallo
Seconded by: Councilman Lombardi

<u>Roll Call Vote</u>	<u>YES</u>	<u>NO</u>	
Robert Ravallo	X		
Frank Lombardi	X		
Suzanne McDonough			Absent
Anthony DiCarlo			Absent
Kenneth Schmitt	X		

CARMEL SEWER DISTRICT #3 - EMERGENCY EXPENDITURE OF MONIES FROM THE REPAIR RESERVE FUND - AUTHORIZED

WHEREAS, the Town of Carmel has a Repair Reserve Fund for Carmel Sewer District #3 established pursuant to §6-d of the New York General Municipal Law, and

WHEREAS, in cases of emergency, monies in such fund may be expended by resolution approved by not less than less than two-thirds of the members of the governing body, and

WHEREAS, it is the recommendation of the Town Comptroller's Office that monies in the aforesaid repair reserve fund be used to pay for the cost of emergency repairs;

NOW THEREFORE BE IT RESOLVED, that the Town Board of the Town of Carmel, acting as Commissioners of Carmel Sewer District #3, hereby authorizes the appropriation of monies from the Repair Reserve Fund not to exceed \$9,428 for emergency repair expenditures in 2010; and

BE IT FURTHER RESOLVED, that not less than one-half of the monies so expended be repaid in fiscal year 2011 and the total amount shall be repaid in full not later than the last day of fiscal year 2012.

Resolution

Offered by: Councilman Lombardi
Seconded by: Councilman Ravallo

(Cont.)

<u>Roll Call Vote</u>	<u>YES</u>	<u>NO</u>	
Robert Ravallo	<u>X</u>	<u> </u>	
Frank Lombardi	<u>X</u>	<u> </u>	
Suzanne McDonough	<u> </u>	<u> </u>	Absent
Anthony DiCarlo	<u> </u>	<u> </u>	Absent
Kenneth Schmitt	<u>X</u>	<u> </u>	

POLICE DEPARTMENT - APPLICATION FOR TUITION REIMBURSEMENT OF POLICE OFFICER JAMES TERRAZAS II - APPROVED

RESOLVED that the Town Board of the Town of Carmel hereby approves the application for tuition reimbursement of Police Officer James Terrazas II, dated June 29, 2010, for the Spring 2010 academic terms at Dutchess Community College and authorizes payment of \$604.45 to Officer Terrazas.

Resolution
Offered by: Councilman Ravallo
Seconded by: Councilman Lombardi

<u>Roll Call Vote</u>	<u>YES</u>	<u>NO</u>	
Robert Ravallo	<u>X</u>	<u> </u>	
Frank Lombardi	<u>X</u>	<u> </u>	
Suzanne McDonough	<u> </u>	<u> </u>	Absent
Anthony DiCarlo	<u> </u>	<u> </u>	Absent
Kenneth Schmitt	<u>X</u>	<u> </u>	

STANDARD WORKDAY AND REPORTING RESOLUTION - ADOPTED

RESOLVED, that the Town Board of the Town of Carmel hereby establishes the following as standard workdays for elected and appointed officials and will report the following to the New York State and Local Employees' Retirement System based on the record of activities maintained and submitted by these officials:

<u>TITLE</u>	<u>NAME</u>	<u>STANDARD WORKDAY</u>	<u>TERM</u>	<u>WORKDAYS PER MONTH</u>
Town Councilperson	Frank Lombardi	6 hours	1/1/10 -12/31/2013	20
Town Councilperson	Suzanne McDonough	6 hours	1/1/10 -12/31/2013	20
Planning Bd. Chairman	Harold Gary	6 hours	1/1/10 -12/31/2013	1.5

Resolution
Offered by: Councilman Lombardi
Seconded by: Councilman Ravallo

<u>Roll Call Vote</u>	<u>YES</u>	<u>NO</u>	
Robert Ravallo	<u>X</u>	<u> </u>	
Frank Lombardi	<u>X</u>	<u> </u>	
Suzanne McDonough	<u> </u>	<u> </u>	Absent
Anthony DiCarlo	<u> </u>	<u> </u>	Absent
Kenneth Schmitt	<u>X</u>	<u> </u>	

21 JULY 2010
TOWN BOARD MEETING

**CARMEL SEWER DISTRICT #2 - ENTRY INTO ORDER ON CONSENT
AUTHORIZED - NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL
CONSERVATION**

WHEREAS the New York State Department of Environmental Conservation has proposed an Order on Consent addressing and remediating certain conditions present within the Town of Carmel Sewer District #2 Collection System, and

WHEREAS, the Town Engineering Department and Engineering Consultant has had advised that the Town of Carmel can meet the proposed milestone dates for Compliance Activity scheduled in the proposed Order on Consent;

NOW, THEREFORE, BE IT RESOLVED that the Town Board of the Town of Carmel hereby authorizes entry into the Order on Consent in form as attached hereto and made part hereof, and

BE IT FURTHER RESOLVED that the Town Supervisor Kenneth Schmitt is hereby authorized to execute said Order on Consent and any necessary documentation related thereto.

Resolution

Offered by: Councilman Ravallo

Seconded by: Councilman Lombardi

Roll Call Vote	YES	NO	
Robert Ravallo	X		
Frank Lombardi	X		
Suzanne McDonough			Absent
Anthony DiCarlo			Absent
Kenneth Schmitt	X		

**STATE OF NEW YORK
DEPARTMENT OF ENVIRONMENTAL CONSERVATION**

☒ Executive Work Session 7/14/10
☒ Agenda 7/21/10

In the Matter of the Violations of Article 17 of the
Environmental Conservation Law of the State of New
York and Title 6 of the Official Compilation of Codes, Rules
and Regulations of the State of New York, by

ORDER ON CONSENT
Case No. D007-0002-09

TOWN OF CARMEL,

Respondent.

(Westchester County)

WHEREAS:

1. The New York State Department of Environmental Conservation ("DEC" or "Department") is responsible for the administration and enforcement of law and regulation pursuant to Article 17, of the New York State Environmental Conservation Law ("ECL").

2. On July 13, 2009, Respondent reported a 6000 gallon raw sewage spill from a manhole behind 8 Garrett Place in Carmel. The manhole overflow resulted in a spill onto ground with an unknown amount discharged to waters of the State of New York in violation of Respondent's State Pollutant Discharge Elimination System ("SPDES") permit and ECL Article 17, section 17-0807. Based upon verified observation of beer cans, paper and other debris including sticks, along with location of manhole in back of and nearby a high school, DEC suspects that vandals opened manhole and deposited the debris that caused the blockage.

3. Respondent was in compliance with the requirements of an approved Operation and Maintenance Plan that mandated bi-monthly inspections of manholes V-1 and V-3 at the time of the violation that gave rise to this Order on Consent.

(Cont.)

4. ECL § 71-1929 provides that a person who fails to perform any duty imposed by Titles 1 through 11 inclusive and title 19 of Article 17, the rules and regulations promulgated thereunder, or orders or determinations of the commissioner promulgated thereto, shall be liable for a penalty of not to exceed thirty-seven thousand, five hundred dollars (\$37,500) per day for each violation, and may be enjoined from any continuing violation.

5. In settlement of Respondent's civil liability for the aforesaid violations, Respondent admits the violations set forth herein, affirmatively waives the right to a public hearing in this matter in the manner provided by law, consents to the entering and issuing of this Order, and agrees to be bound

1

by the terms and conditions of this Order.

NOW, having considered this matter and being duly advised, IT IS ORDERED THAT:

I. **CIVIL PENALTY:** Respondent shall be liable to pay a civil penalty in the amount of CIVIL PENALTY (\$10,000.00) Dollars, of which PAYABLE PENALTY (\$2,000.00) Dollars is payable to the Department upon Respondent's return of an executed copy of this Order to the Department. The DEC case number appearing on the first page of this Order shall be endorsed on the face of the check. The civil penalty shall be paid by check, bearing the signature of Respondent, made payable to the "Department of Environmental Conservation" and forwarded to:

Office of General Counsel
New York State Department of Environmental Conservation,
625 Broadway, Floor 14th Floor
Albany, NY 12233-1500,
Attn: Elissa Armater

II. The remaining amount, SUSPENDED PENALTY (\$8,000.00) Dollars is suspended provided Respondent strictly adheres to the terms and conditions of this Order, including the Schedule of Compliance, attached hereto as "Schedule A". If Respondent violates any term of this Order, including the Schedule of Compliance, the whole amount of the suspended penalty, or any portion thereof, shall be due from Respondent within 30 days of receiving written notice from the Department that penalties are due. The determination of the suspended penalty amount due shall be in the Department's sole discretion. Any suspended penalties owed shall be submitted in accordance with the terms of paragraph I above.

III. **SCHEDULE OF COMPLIANCE:** In addition to the requirements set forth in paragraph I above, Respondent shall perform and strictly adhere to the milestones set forth in the Schedule of Compliance. The Schedule of Compliance is hereby incorporated into, and made an enforceable part of, this Order. Any violation of the terms Schedule of Compliance shall be a violation of the terms of this Order. Respondent shall certify, in writing, when it has complied with each milestone date, as set forth in the Schedule of Compliance.

IV. **EFFECTIVE DATE and DURATION:** The effective date of this Order shall be the date it is signed by the Commissioner or by the Regional Director on behalf of the Commissioner. This Order shall expire when Respondent has fully complied with the requirements of the Order.

V. Respondent shall strictly adhere to the terms and conditions of this Order.

VI. **RESERVATION OF RIGHTS.** Nothing contained in this Order shall be construed as barring, diminishing, adjudicating or in any way affecting (1) any legal, administrative or equitable rights or claims, actions, suits, causes of action or demands whatsoever that the Department may have against anyone other than Respondent; (2) any right of the Department to enforce administratively or at law or in equity, the terms, provisions and conditions of this Order; (3) any

2

21 JULY 2010
TOWN BOARD MEETING

(Cont.)

right of the Department to bring any future action, either administrative or judicial, for any other violations of the ECL, the rules and regulations promulgated thereunder, or conditions contained in orders or permits, if any, issued by the Department to Respondent; (4) the summary abatement powers of the Department, either at common law or as granted pursuant to statute or regulation

VII. **MODIFICATION:** No change in this Order shall be made or become effective except as specifically set forth by written order of the Commissioner or the Commissioner's designee: (a) upon written application of Respondent and with specific justification for the relief sought, or (b) upon the Commissioner's own findings after an opportunity to be heard has been given to Respondent, or (c) pursuant to the summary abatement provisions of the ECL. In those instances in which the Respondent desires that any of the provisions, terms or conditions of this Order be change, it shall make written application, setting forth the grounds for the relief sought to the Regional Water Engineer, Thomas Rudolph, and such changes shall not become effective except as specifically set forth by written order of the Commissioner or his delegee.

VIII. **BINDING EFFECT:** This Order shall be deemed binding on Respondent, any successors and assigns and all persons, firms and corporations acting under or for Respondent, including, but not limited to those who may carry on any or all of the operations now being conducted by Respondent, whether at the present location or at any other in this State.

IX. **INDEMNIFICATION:** Respondent shall indemnify and hold the Department, the State of New York, their representatives, employees, agents and contractors harmless for all claims, suits, actions, damages and costs of every name and description arising out of or resulting from the fulfillment or attempted fulfillment of this Order by the Respondent, its directors, officers, trustees, employees, servants, agents, successors (including successors in title) and assigns.

X. **ENTIRE AGREEMENT:** This Order shall constitute the entire agreement of the Department and Respondent with respect to settlement of those violations specifically referenced herein and any claims for civil and administrative penalties concerning such violations.

Dated: Albany, New York
_____, 2010

ALEXANDER B. GRANNIS
Commissioner
Department of Environmental Conservation

By: _____

James M. Tierney
Assistant Commissioner for Water Resources
Department of Environmental Conservation

CONSENT BY RESPONDENT

Respondent hereby consents to the issuance and entry to this Order without further notice, waives its right to a hearing in this matter, and agrees to be bound by the terms, conditions and provisions of this Order. The undersigned represents and affirms that they have the legal authority to bind Respondent to the terms and conditions of this Order.

By: _____
Name: _____
Title: _____

STATE OF NEW YORK)
) ss:
COUNTY OF _____)

NOTARY PUBLIC

4

21 JULY 2010
TOWN BOARD MEETING

(Cont.)

3. **Remedial Activities and Milestones:** Respondent(s) shall timely perform the activities set forth below in a good and workmanlike manner and supply all required labor, equipment and materials at Respondent's own cost and expense.

Schedule of Compliance for Order on Consent Continued

Respondent(s): Town of Carmel
Site or Facility: #2
DEC Case No.: D007-0002-09

Schedule A

REMEDATION / RESTORATION REQUIREMENTS:

Carmel Sewer District #2 WWTP

Immediately upon Execution of this Order	The Town of Carmel shall increase the inspection frequency of manholes V-1 and V-3 (located behind the Carmel Firehouse) from bi-monthly to monthly.
Immediately upon Execution of this Order	The Town of Carmel shall increase from bi-annually to quarterly jetting of sewer lines between manholes V-1 and V-3.
Within 90 days from the date of the Execution of this Order	Locking covers shall be installed on manholes V-1 and V-3.

Gregory Folchetti, Legal Counsel explained the violations, remediation/restoration requirements and penalties relating to the Town of Carmel Sewer District #2 Collection System as detailed in the foregoing Order on Consent.

SOUND AMPLIFICATION PERMIT APPLICATION FEE WAIVED - COMMUNITY CARES, INC. - 7/24/10

RESOLVED that the Town Board of the Town of Carmel hereby waives the permit fee regarding the application of Community Cares, Inc. seeking a sound amplification permit for their for their annual event at Baldwin Meadows Park on July 24, 2010.

Resolution

Offered by: Councilman Lombardi

Seconded by: Councilman Ravallo

(Cont.)

<u>Roll Call Vote</u>	<u>YES</u>	<u>NO</u>	
Robert Ravallo	<u>X</u>	<u> </u>	
Frank Lombardi	<u>X</u>	<u> </u>	
Suzanne McDonough	<u> </u>	<u> </u>	Absent
Anthony DiCarlo	<u> </u>	<u> </u>	Absent
Kenneth Schmitt	<u>X</u>	<u> </u>	

Supervisor Schmitt, Councilman Lombardi and Councilman Ravallo applauded the efforts of Community Cares for their volunteer services to families afflicted with cancer and invited the public to attend their event at Baldwin Meadows Park on July 24th.

PUBLIC COMMENTS

John Butler asked if the cause of the blockage was known with regard to the New York State Department of Environmental Conservation (NYSDEC) Order on Consent and if the sewer district’s operator should be held responsible for paying the penalties.

Mr. Folchetti stated that passing the penalties on to the operator could be considered.

Supervisor Schmitt stated that the NYSDEC suspected that vandals opened a manhole and deposited debris.

Mr. Butler inquired about the purpose for adopting the Standard Workday and Reporting Resolution.

Mr. Folchetti explained the New York State and Local Employees’ Retirement System reporting requirement for certain elected and appointed officials. Discussion ensued.

TOWN BOARD MEMBER COMMENTS

Councilman Lombardi inquired about the status of the recently declared water consumption emergency.

Supervisor Schmitt stated that the operators of the water districts have reported that residents appear to be heeding the warnings with regard to consumption. Discussion regarding the possibility of repealing certain restrictions followed.

Supervisor Schmitt announced that the 2010 4H Fair will be held at the Putnam County Veterans Memorial Park on July 23rd, 24th and 25th.

Supervisor Schmitt announced that the “The Mojo Myles Band” will be performing on July 25th at 6:00 p.m. as part of the 2010 Town of Carmel Sunset Concert Series at the Mahopac Chamber Park.

Supervisor Schmitt explained the Mahopac Public Library’s program which provides free passes to its resident members for use at various area museums.

ADJOURNMENT

All agenda items having been addressed, on motion by Councilman Lombardi, seconded by Councilman Ravallo, with all Town Board members present in agreement, the meeting was adjourned at 7:46 p.m.

Respectfully submitted,

Ann Garriss, Town Clerk

