

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 15th day of May 2013 at 7:24 p.m. at Town Hall, 60 McAlpin Avenue, Mahopac, New York. Members of the Town Board present by roll call were: Councilwoman McDonough, Councilman Lombardi and Supervisor Schmitt. Councilman Schneider and Councilman Lupinacci 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.

CARMEL FIRE PROTECTION DISTRICT #2 - MAHOPAC VOLUNTEER FIRE DEPARTMENT - INCLUSION OF ADDITIONAL POSITIONS IN LOSAP AWARD PROGRAM AUTHORIZED

WHEREAS, the Town Board of the Town of Carmel, by resolution enacted December 31, 1990 and thereafter amended January 18, 1991 and March 6, 1991, established Service Award Programs for the volunteers serving in the various Carmel Fire Protection Districts; and

WHEREAS, the Mahopac Volunteer Fire Department, which provides fire protection services within Town of Carmel Fire Protection District #2 in the Town of Carmel has requested that the positions of Secretary to Board of Commissioners and Service Award Secretary be included in the Service Award program for Carmel Fire Protection District #2;

NOW THEREFORE BE IT RESOLVED that the Town Board hereby authorizes the inclusion and addition of the position of Secretary to Board of Commissioners in the Carmel Fire Protection District #2 Service Awards Program, with the maximum number of 10 (ten) service award points to be earned for performance of duties per year for this position; and

AND BE IT FURTHER RESOLVED NOW that the Town Board further hereby authorizes the inclusion and addition of the position of Service Award Secretary in the Carmel Fire Protection District #2 Service Awards Program, with the maximum number of 10 (ten) service award points to be earned for performance of duties per year for this position.

Resolution

Offered by: Councilman Lombardi
Seconded by: Councilwoman McDonough

<u>Roll Call Vote</u>	<u>YES</u>	<u>NO</u>	
Jonathan Schneider	<u> </u>	<u> </u>	Absent
John Lupinacci	<u> </u>	<u> </u>	Absent
Suzanne McDonough	<u> X </u>	<u> </u>	
Frank Lombardi	<u> X </u>	<u> </u>	
Kenneth Schmitt	<u> X </u>	<u> </u>	

REDUCTION OF SITE PLAN BOND AUTHORIZED - NEJAME & SONS - TM #44.9-1-16 - FROM \$526,381 TO \$114,000

WHEREAS application has been made by NeJame & Sons bond posted in accordance with the Land Subdivision and/or Zoning Regulations for the NeJame & Sons Site Plan Tax Map #44.9-1-16; and

WHEREAS said application had been previously reviewed by the Town Engineer and a reduction of the bond has been previously recommended and approved by the Planning Board;

NOW therefore be it resolved that the Town Board of the Town of Carmel hereby authorizes the reduction of the aforementioned bond posted for the aforesaid NeJame & Sons Site Plan, from its original amount of \$526,381 to a reduced amount of \$114,000.

(Cont.)

Resolution

Offered by: Supervisor Schmitt
Seconded by: Councilwoman McDonough

<u>Roll Call Vote</u>	<u>YES</u>	<u>NO</u>	
Jonathan Schneider	<u> </u>	<u> </u>	Absent
John Lupinacci	<u> </u>	<u> </u>	Absent
Suzanne McDonough	<u> X </u>	<u> </u>	
Frank Lombardi	<u> X </u>	<u> </u>	
Kenneth Schmitt	<u> X </u>	<u> </u>	

LAKE SECOR PARK DISTRICT - RATES SET FOR 2013 SEASONAL EMPLOYEES

RESOLVED that the Town Board of the Town of Carmel, acting as the Commissioners of the Lake Secor Park District, hereby sets the following rates for Lifeguards in 2013.

<u>POSITION</u>	<u>RATE</u>
Head Lifeguard – Caitlyn Perrotta	\$15.75/hr
Lifeguard – Nicholas Lopilato	\$12.50/hr
Lifeguard – Clarice Laura Chastang	\$11.50/hr
Lifeguard – Kaitlyn Nolan	\$11.50/hr
Junior Lifeguard – Brendan Vreeland	\$ 9.00/hr
Junior Lifeguard – Alex Faba	\$ 9.00/hr
Junior Lifeguard – Charlotte Boesch	\$ 9.00/hr
Junior Lifeguard – Allison Jackson	\$ 9.00/hr
Junior Lifeguard – Kimberly Hickey	\$ 9.00/hr

Resolution

Offered by: Councilwoman McDonough
Seconded by: Councilman Lombardi

<u>Roll Call Vote</u>	<u>YES</u>	<u>NO</u>	
Jonathan Schneider	<u> </u>	<u> </u>	Absent
John Lupinacci	<u> </u>	<u> </u>	Absent
Suzanne McDonough	<u> X </u>	<u> </u>	
Frank Lombardi	<u> X </u>	<u> </u>	
Kenneth Schmitt	<u> X </u>	<u> </u>	

LAKE CASSE PARK DISTRICT - RATES SET FOR 2013 SEASONAL EMPLOYEES

RESOLVED that the Town Board of the Town of Carmel, acting as the Commissioners of the Lake Casse Park District, hereby sets the following rates for Lifeguards in 2013.

<u>POSITION/NAME</u>	<u>RATE</u>
Lifeguard – Lisa Jennings	\$16.00/hr
Lifeguard – Mark Holst	\$14.00/hr
Lifeguard – Ryan Simone	\$13.00/hr
Lifeguard – Michael Simone	\$13.00/hr
Lifeguard – Sean Reilly	\$13.00/hr
Lifeguard – Lauren Rutledge	\$13.00/hr

Resolution

Offered by: Councilman Lombardi
Seconded by: Councilwoman McDonough

(Cont.)

<u>Roll Call Vote</u>	<u>YES</u>	<u>NO</u>	
Jonathan Schneider	<u> </u>	<u> </u>	Absent
John Lupinacci	<u> </u>	<u> </u>	Absent
Suzanne McDonough	<u> X </u>	<u> </u>	
Frank Lombardi	<u> X </u>	<u> </u>	
Kenneth Schmitt	<u> X </u>	<u> </u>	

Supervisor Schmitt explained that the cost for the lifeguards will be borne by the residents of the park districts where the beaches are located.

SOUND AMPLIFICATION PERMIT FEE WAIVED - THE APPLICATION OF THE POLISH-AMERICAN HERITAGE CLUB OF MAHOPAC - 6/16/13

RESOLVED that the Town Board of the Town of Carmel hereby waives the sound amplification permit fee regarding the application of the Polish-American Heritage Club of Mahopac and annual picnic scheduled for June 16, 2013 at Sycamore Park.

Resolution
Offered by: Supervisor Schmitt
Seconded by: Councilman Lombardi

<u>Roll Call Vote</u>	<u>YES</u>	<u>NO</u>	
Jonathan Schneider	<u> </u>	<u> </u>	Absent
John Lupinacci	<u> </u>	<u> </u>	Absent
Suzanne McDonough	<u> X </u>	<u> </u>	
Frank Lombardi	<u> X </u>	<u> </u>	
Kenneth Schmitt	<u> X </u>	<u> </u>	

Councilwoman McDonough inquired if the ending time of event has been clarified.

Supervisor Schmitt stated that the event will end at 9:00 p.m.

Councilwoman McDonough expressed her concern that amplifying music until 9:00 p.m. on a Sunday may be too late.

SOUND AMPLIFICATION PERMIT FEE WAIVED - THE APPLICATION OF THE AMERICAN CANCER SOCIETY RELAY FOR LIFE EVENT - 6/1/13 AND 6/2/13

RESOLVED that the Town Board of the Town of Carmel hereby waives the sound amplification permit fee regarding the application of the American Cancer Society – Relay for Life event scheduled for June 1st and 2nd, 2013, at the Mahopac High School, Baldwin Place Road, Mahopac, NY.

Resolution
Offered by: Councilwoman McDonough
Seconded by: Councilman Lombardi

<u>Roll Call Vote</u>	<u>YES</u>	<u>NO</u>	
Jonathan Schneider	<u> </u>	<u> </u>	Absent
John Lupinacci	<u> </u>	<u> </u>	Absent
Suzanne McDonough	<u> X </u>	<u> </u>	
Frank Lombardi	<u> X </u>	<u> </u>	
Kenneth Schmitt	<u> X </u>	<u> </u>	

HIGHWAY DEPARTMENT AND ENGINEERING DEPARTMENT - DISPOSAL OF VEHICLES AND EQUIPMENT AUTHORIZED

RESOLVED that, upon the recommendation of Town of Carmel Highway Superintendent Michael Simone, the Town Board of the Town of Carmel hereby authorizes the disposal of the following Highway Department vehicles and equipment in accordance with Town Law, including but not limited to Town Law §64(2-a):

- TRUCK #3 – 1989 DODGE PICKUP, VIN #1B7FE16X9KS023676
- TRUCK #14 1988 DODGE 250 UTILITY, VIN #1B7HE26YXKS033155
- TRUCK #16 – 1989 DODGE 250 UTILITY, VIN #1B7HE26Y6KS033153

BE IT FURTHER RESOLVED that the Town Board of the Town of Carmel hereby authorizes the disposal of the following vehicle in accordance with Town Law, including but not limited to Town Law §64(2-a):

- ENGINEERING DEPT. 2000 FORD EXPLORER, VIN#1FMZU72E4YZB68448

Resolution

Offered by: Councilman Lombardi
Seconded by: Councilwoman McDonough

<u>Roll Call Vote</u>	<u>YES</u>	<u>NO</u>	
Jonathan Schneider	<u> </u>	<u> </u>	Absent
John Lupinacci	<u> </u>	<u> </u>	Absent
Suzanne McDonough	<u> X </u>	<u> </u>	
Frank Lombardi	<u> X </u>	<u> </u>	
Kenneth Schmitt	<u> X </u>	<u> </u>	

Supervisor Schmitt stated that the vehicles will be sold to a salvage yard.

HIGHWAY SUPERINTENDENT AND DEPUTY HIGHWAY SUPERINTENDENT - ATTENDANCE AT SEMINAR AUTHORIZED - 6/2/13 THROUGH 6/4/12

RESOLVED that the Town Board of the Town of Carmel hereby authorizes Highway Superintendent Michael Simone and Deputy Highway Superintendent Robert Erickson to attend the Highway School seminar offered by the New York Association of Towns in Ithaca, NY, on June 2nd through June 4th, 2013; and

BE IT FURTHER RESOLVED that the Town Board of the Town of Carmel authorizes payment of reasonable and necessary expenses incurred in connection therewith upon audit.

Resolution

Offered by: Supervisor Schmitt
Seconded by: Councilwoman McDonough

<u>Roll Call Vote</u>	<u>YES</u>	<u>NO</u>	
Jonathan Schneider	<u> </u>	<u> </u>	Absent
John Lupinacci	<u> </u>	<u> </u>	Absent
Suzanne McDonough	<u> X </u>	<u> </u>	
Frank Lombardi	<u> X </u>	<u> </u>	
Kenneth Schmitt	<u> X </u>	<u> </u>	

Supervisor Schmitt stated that the cost of the seminar is included in the Highway Department's annual operating budget.

**TRAFFIC ACCESS AND IMPACT STUDY MOUNT HOPE ROAD, MAHOPAC, NY -
ACCEPTED AND ADOPTED**

RESOLVED that the Town Board of the Town of Carmel hereby accepts and adopts the findings contained within the report entitled “Traffic Access & Impact Study Mount Hope Road Mahopac, NY” as prepared and submitted by Frederick P. Clark Associates, Inc., dated July 2010.

Resolution
Offered by: Councilwoman McDonough
Seconded by: Councilman Lombardi

<u>Roll Call Vote</u>	<u>YES</u>	<u>NO</u>	
Jonathan Schneider	<u> </u>	<u> </u>	Absent
John Lupinacci	<u> </u>	<u> </u>	Absent
Suzanne McDonough	<u> X </u>	<u> </u>	
Frank Lombardi	<u> X </u>	<u> </u>	
Kenneth Schmitt	<u> X </u>	<u> </u>	

**NOTICE REQUIREMENT WAIVED - LIQUOR LICENSE FOR COUNTY OF PUTNAM
AND HOMESTYLE II AT PUTNAM NATIONAL, INC. D/B/A PUTNAM COUNTY GOLF
COURSE - INDOOR FACILITIES**

WHEREAS, The County of Putnam and Homestyle II at Putnam National, Inc. d/b/a Putnam County Golf Course, 187 Hill Street, Mahopac, NY 10541, has advised that it intends to apply for an on-premises liquor license for which thirty days advance notice of such application must be sent to the municipality, and

WHEREAS, the notice required by Section 64-2(a) ABC Law may be waived by the Town Board, and

WHEREAS, the Town of Carmel Town Board does not intend to comment upon the application referred to herein;

NOW, THEREFORE BE IT RESOLVED, that the Town Board of the Town of Carmel hereby waives the thirty day notice requirement contained in Section 64 of the Alcoholic and Beverage Control Law, and states that it does not intend to offer any comments regarding the applications of The County of Putnam and Homestyle II at Putnam National, Inc. d/b/a Putnam County Golf Course, for a liquor license at the premises referred to herein; and

BE IT FURTHER RESOLVED that the Town Clerk is authorized to sign Waiver of Said Notice on behalf of the Town of Carmel.

Resolution
Offered by: Councilman Lombardi
Seconded by: Councilwoman McDonough

<u>Roll Call Vote</u>	<u>YES</u>	<u>NO</u>	
Jonathan Schneider	<u> </u>	<u> </u>	Absent
John Lupinacci	<u> </u>	<u> </u>	Absent
Suzanne McDonough	<u> X </u>	<u> </u>	
Frank Lombardi	<u> X </u>	<u> </u>	
Kenneth Schmitt	<u> X </u>	<u> </u>	

**NOTICE REQUIREMENT WAIVED - LIQUOR LICENSE FOR COUNTY OF PUTNAM
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(Cont.)

WHEREAS, the notice required by Section 64-2(a) ABC Law may be waived by the Town Board, and

WHEREAS, the Town of Carmel Town Board does not intend to comment upon the application referred to herein;

NOW, THEREFORE BE IT RESOLVED, that the Town Board of the Town of Carmel hereby waives the thirty day notice requirement contained in Section 64 of the Alcoholic and Beverage Control Law, and states that it does not intend to offer any comments regarding the application of The County of Putnam and Homestyle II at Putnam National, Inc. d/b/a Putnam County Golf Course, for a liquor license at the premises referred to herein; and

BE IT FURTHER RESOLVED that the Town Clerk is authorized to sign Waiver of Said Notice on behalf of the Town of Carmel.

Resolution

Offered by: Supervisor Schmitt
Seconded by: Councilwoman McDonough

<u>Roll Call Vote</u>	<u>YES</u>	<u>NO</u>	
Jonathan Schneider	<u> </u>	<u> </u>	Absent
John Lupinacci	<u> </u>	<u> </u>	Absent
Suzanne McDonough	<u> X </u>	<u> </u>	
Frank Lombardi	<u> X </u>	<u> </u>	
Kenneth Schmitt	<u> X </u>	<u> </u>	

SETTLEMENT OF LITIGATION AUTHORIZED - INDEX NO. 1373/2012 - “ELLNER VS. THE TOWN OF CARMEL”

WHEREAS there is currently pending in the Supreme Court, County of Putnam, State of New York under Index No. 1373/2012 a certain lawsuit entitled “Ellner vs. The Town of Carmel”; and

WHEREAS a proposed settlement of the litigation has been negotiated by Town Counsel Gregory L. Folchetti and the Town of Carmel Town Board;

NOW THEREFORE, BE IT RESOLVED that the Town Board of the Town of Carmel hereby authorizes the settlement of the aforementioned litigation in accordance with the terms of stipulation and order of settlement attached hereto and made part hereof;

BE IT FURTHER RESOLVED that Town Supervisor Kenneth Schmitt and Town Counsel Gregory L. Folchetti are hereby authorized to sign, on behalf of the Town of Carmel, the stipulation and order of settlement reflecting the terms of the settlement.

Resolution

Offered by: Councilwoman McDonough
Seconded by: Councilman Lombardi

<u>Roll Call Vote</u>	<u>YES</u>	<u>NO</u>	
Jonathan Schneider	<u> </u>	<u> </u>	Absent
John Lupinacci	<u> </u>	<u> </u>	Absent
Suzanne McDonough	<u> X </u>	<u> </u>	
Frank Lombardi	<u> X </u>	<u> </u>	
Kenneth Schmitt	<u> X </u>	<u> </u>	

(Cont.)

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF PUTNAM

_____X	
GREG ELLNER and STEPHANIE ELLNER,	: Index No. 1373/2012
Plaintiffs,	:
-against-	: STIPULATION AND
	: ORDER OF SETTLEMENT
THE TOWN OF CARMEL,	:
Defendant.	:
_____X	

IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned, the attorneys and all parties to the above-entitled action, that whereas no party hereto is an infant or incompetent person for whom a guardian has been appointed and no person not a party has an interest in the subject matter of the action, that this action is hereby disposed of as follows:

1. The plaintiffs hereby withdraw and discontinue with prejudice the pending action herein, including its right or entitlement to all forms and/or branches of relief sought therein.
2. That Plaintiffs shall be permitted to connect their property at 33 Sunset Ridge Road, Town of Carmel, Tax Map No. 44.9-1-19 ("subject parcel") to the Town of Carmel Sewer District #2 Collection System immediately upon otherwise properly completing and submitting an Application for Connection to Sanitary Sewer to the Town of Carmel Engineering Department.
3. In connection with said Application for Connection to Sanitary Sewer, the plaintiff shall pay to defendant the sum of \$18,367.95 (eighteen thousand three hundred sixty seven and 95/100) for capital charges incurred in connection with the subject parcel to the Town of Carmel. Such amount shall be deemed full satisfaction of all capital charges due and payable for the subject parcel through and including the date of this Stipulation and Order.
4. That the Town of Carmel and its Town Assessor shall hereby be authorized and directed to immediately reduce the Capital Unit Valuation pursuant to Town of Carmel Town Code § 119-10 as assigned to the subject parcel to a total of 2.0 (Two and zero tenths) units.
5. That the Use Unit Valuation for the subject parcel as calculated pursuant tot Town of Carmel Town Code § 119-3 and assigned to the subject parcel shall remain unchanged and not be affected by any portion of this Stipulation and Order.
6. That the terms of this Stipulation and Order shall become null and void in the event that the subject parcel, wither owned by plaintiffs or their heirs, successor, and/or assigns is hereby utilized for any purpose other than single-family residential use. The foregoing shall apply to any change of use permitted by virtue of planning board approval, and/or a use variance or Zoning Board of Appeals interpretation which allows the subject property to be used for anything other than single-family residential purposes.
7. That the number of capital units assigned to the subject parcel shall not change in the event the parcel is legally subdivided, unless (i) the subdivision results in the creation of an additional lot or lots; and (ii) a residence(s) is building on the newly-created lot(s); and (iii) application(s) are made to connect any such residences to the Carmel Sewer District #2 facilities. In such event, the capital units assigned to the

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subject parcel shall be the lesser of the amount determined by applying the formula in existence at the time of subdivision or the amount provided in paragraph #4 of the stipulation. Any new lots created which are improved and seek connection to Carmel Sewer District #2 facilities shall

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be assessed capital units on the formula in existence at the time of application.

8. That upon execution by the parties and the court, this stipulation and order may be filed without further notice with the Clerk of the Court.

Plaintiffs:	Defendant:
 _____ Greg Ellner	_____ Town of Carmel, NY By: Kenneth Schmitt Town Supervisor
 _____ Stephanie Ellner	
WILSON, ELSER, MOSKOWITZ EDELMAN & DICKER LLP Attorneys for Plaintiffs	COSTELLO & FOLCHETTI, LLP Attorneys for Defendant
 _____ Robert A. Spatzino 3 Gannett Drive White Plains, NY 10604 (914) 323-7000 Our File No. 08167.00009	_____ Gregory L. Folchetti, Esq. 1875 U.S. Route Six Carmel, NY 10512 (845) 225-1900

SO ORDERED on _____, 2013

Hon.
Justice of the Supreme Court

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PUBLIC COMMENTS - AGENDA ITEMS

No member of the public wished to comment at this time.

TOWN BOARD MEMBER COMMENTS

No member of the Town Board wished to comment at this time.

OPEN FORUM - PUBLIC COMMENTS

No member of the public wished to comment at this time.

OPEN FORUM - TOWN BOARD MEMBER COMMENTS

Councilwoman McDonough announced the dates, times and locations of the 2013 Town of Carmel Sunset Concerts which commence with the band *Back to the Garden 1969* playing at the Mahopac Chamber Park on June 20th at 7:00 p.m.

Councilman Lombardi announced that the time of the Town Board Work Session to be held on May 22, 2013 has been changed from 7:00 p.m. to 8:00 p.m.

Supervisor Schmitt announced that a recycling container is available to Town of Carmel residents for the disposal of electronic equipment (e-waste) every Saturday from 10:00 a.m. to 2:00 p.m. at the Putnam County Highway Facility salt storage shed located on Route 6N in Mahopac Falls.

ADJOURNMENT

All agenda items having been addressed, on motion by Councilman Lombardi, seconded by Councilwoman McDonough, with all Town Board members present in agreement, the meeting was adjourned at 7:48 p.m.

Respectfully submitted,

Ann Spofford, Town Clerk