

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

A Special Meeting of the Town Board of the Town of Carmel was called to order by Supervisor Kenneth Schmitt on the 11th day of April 2012 at 7:18 p.m. at Town Hall, 60 McAlpin Avenue, Mahopac, New York. Members of the Town Board present by roll call were: Councilman Schneider, Councilman Lupinacci, Councilwoman McDonough, Councilman Lombardi and Supervisor Schmitt.

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.

PRESENTATION OF CERTIFICATES RECOGNIZING CARMEL POLICE OFFICER LOUIS LOPREATO, EMT CARLOS GONCALVES, EMT JASON VICARIO AND PARAMEDIC CHRISTY KROLL

Carmel Police Officer Louis Lopreato, EMT Carlos Goncalves, EMT Jason Vicario and Paramedic Christy Kroll were acknowledged with Certificates of Achievement by the Town Board for their efforts responding to Christopher O'Toole who sustained injuries from a fall at his Mahopac residence. Supervisor Schmitt and Mr. O'Toole spoke regarding the dedication and commitment of these individuals as well as the Mahopac Falls Volunteer Fire Department, Carmel Police Department and local emergency medical technicians.

PUBLIC HEARING HELD - PROPOSED LOCAL LAW AMENDING CHAPTER 156, ENTITLED "ZONING" AND CHAPTER 89, ENTITLED "FRESHWATER WETLANDS" OF THE TOWN CODE OF THE TOWN OF CARMEL (CHAIRMAN / VICE-CHAIRMAN)

Supervisor Schmitt asked the Town Clerk to read the following Notice of Public Hearing as published in the Town's official newspaper:

LEGAL NOTICE
NOTICE OF PUBLIC HEARING
NOTICE IS HEREBY GIVEN, that the Town Board of the Town of Carmel will conduct a Public Hearing at the Town Hall, 60 McAlpin Avenue, Mahopac, New York 10541 on Wednesday, April 11, 2012 at 7:00 p.m. or as soon thereafter that evening as possible on a Local Law enacting Chapter 156, entitled "ZONING" and Chapter 89, entitled "Freshwater Wetlands" of the Town Code of the Town of Carmel as follows:
PROPOSED LOCAL LAW # OF THE YEAR 2012
A Local Law to Amend the Code of the Town of Carmel, Chapter 156, thereof, entitled "Zoning" and Chapter 89 Entitled "Freshwater Wetlands"
BE IT ENACTED by the Town Board of the Town of Carmel, County of Putnam, State of New York as follows:
SECTION 1.
The following sections of Chapter 156 of the Code of the Town of Carmel are hereby amended to read as follows:
ARTICLE VI
Board of Appeals
§156-53 C. The Town Board shall designate a member of the Zoning Board to act as Chairman thereof as well as Vice-Chairman thereof. Upon failure to do

so, the Zoning Board shall elect a Chairman from its own members, who shall serve until such appointment by the Town Board.
ARTICLE VII
Planning Board
§156-59 F. The Town Board shall designate a member of the Planning Board to act as Chairman thereof as well as Vice-Chairman thereof. Upon failure to do so, the Planning Board shall elect a Chairman from its own members, who shall serve until such appointment by the Town Board.
ARTICLE VIII
Board of Architectural Review
§156-63 F. The Town Board shall designate a member of the Board of Architectural Review to act as Chairman thereof as well as Vice-Chairman thereof. Upon failure to do so, the Board of Architectural Review shall elect a Chairman from its own members, who shall serve until such appointment by the Town Board.
SECTION 2: Chapter 89 of the Town Code of the Town of Carmel is hereby amended by the addition of the following section:
§89-16 D. The Town Board shall designate a member of the Environmental Conservation Board to act as Chairman thereof as well as Vice-Chairman thereof. Upon failure to do so, the Environmental Conservation Board shall elect a Chairman from its own members, who shall serve until such appointment by the Town Board.

SECTION 3. This Local Law shall take effect immediately in accordance with the law.
At said Public Hearing, all interested persons shall be heard on the subject thereof. The Town Board will make every effort to assure that the Public Hearing is accessible to persons with disabilities. Anyone requiring special assistance and/or reasonable accommodations should contact the Town Clerk.
By Order of the
Town Board
of the Town of Carmel
Ann Garriss, Town Clerk

With no one objecting to the public notice as read, Supervisor Schmitt opened the Public Hearing for public comment at 7:38 p.m. Seven (7) people were in attendance.

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With no one present wishing to be heard on the subject of the Public Hearing, on motion by Councilman Lombardi, seconded by Councilman Lupinacci, with all members of the Town Board present and in agreement the Public Hearing was closed at 7:39 p.m.

SEQR REVIEW - PROPOSED LOCAL LAW AMENDING CHAPTER 156, ENTITLED “ZONING” AND CHAPTER 89, ENTITLED “FRESHWATER WETLANDS” OF THE TOWN CODE OF THE TOWN OF CARMEL (CHAIRMAN / VICE-CHAIRMAN) - TYPE II ACTION

RESOLVED that the Town Board of the Town of Carmel hereby determines that, proposed Local Law #4 of 2012 concerning amendments to Town of Carmel Town Code, Chapter 89 entitled “Freshwater Wetlands” and Chapter 156 entitled “ZONING” is a Type II action under SEQR and no further review is necessary.

Resolution

Offered by: Councilman Schneider
Seconded by: Councilman Lombardi

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

LOCAL LAW #4 OF THE YEAR 2012 - A LOCAL LAW AMENDING CHAPTER 156, ENTITLED “ZONING” AND CHAPTER 89, ENTITLED “FRESHWATER WETLANDS” OF THE TOWN CODE OF THE TOWN OF CARMEL (CHAIRMAN / VICE-CHAIRMAN) - ADOPTED AS NOTICED, PUBLISHED AND PRE-FILED

Local Law #4 of the Year 2012
A Local Law to Amend the Code of the Town of Carmel,
Chapter 156, thereof, entitled “Zoning” and Chapter 89 Entitled “Freshwater Wetlands”

BE IT ENACTED by the Town Board of the Town of Carmel, County of Putnam, State of New York as follows:

SECTION 1. The following sections of Chapter 156 of the Code of the Town of Carmel are hereby amended to read as follows:

ARTICLE VI
Board of Appeals

§156-53 C. The Town Board shall designate a member of the Zoning Board to act as Chairman thereof as well as Vice-Chairman thereof. Upon failure to do so, the Zoning Board shall elect a Chairman from its own members, who shall serve until such appointment by the Town Board.

ARTICLE VII
Planning Board

§156-59 F. The Town Board shall designate a member of the Planning Board to act as Chairman thereof as well as Vice-Chairman thereof. Upon failure to do so, the Planning Board shall elect a Chairman from its

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own members, who shall serve until such appointment by the Town Board.

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ARTICLE VIII
Board of Architectural Review

§156-63 F. The Town Board shall designate a member of the Board of Architectural Review to act as Chairman thereof as well as Vice-Chairman thereof. Upon failure to do so, the Board of Architectural Review shall elect a Chairman from its own members, who shall serve until such appointment by the Town Board.

SECTION 2: Chapter 89 of the Town Code of the Town of Carmel is hereby amended by the addition of the following section:

§89-16 D. The Town Board shall designate a member of the Environmental Conservation Board to act as Chairman thereof as well as Vice-Chairman thereof. Upon failure to do so, the Environmental Conservation Board shall elect a Chairman from its own members, who shall serve until such appointment by the Town Board.

SECTION 3. This Local Law shall take effect immediately in accordance with the law.

Offered by: Councilman Schneider
Seconded by: Councilman Lombardi

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

ISSUANCE OF \$940,000 BONDS OF THE TOWN OF CARMEL TO PAY PART OF THE COST OF THE RECONSTRUCTION AND RESURFACING OF ROADS THROUGHOUT AND IN AND FOR SAID TOWN - OFFERED AS PARAPHRASED AND PRE-FILED - AUTHORIZED SUBJECT TO PERMISSIVE REFERENDUM

WHEREAS, all conditions precedent to the financing of the capital project hereinafter described, including compliance with the provisions of the State Environmental Quality Review Act, have been performed, NOW, THEREFORE,

BE IT RESOLVED, by the affirmative vote of not less than two-thirds of the total voting strength of the Town Board of the Town of Carmel, Putnam County, New York, as follows:

Section 1. The cost of the reconstruction and resurfacing of roads throughout and in and for the Town of Carmel, Putnam County, New York, including incidental improvements and expenses in connection therewith is hereby authorized at a maximum estimated cost of \$1,140,000, subject to permissive referendum.

Section 2. The plan for the financing of the aforesaid maximum estimated cost is as follows:

- a) by the issuance of not exceeding \$940,000 serial bonds of said Town, hereby authorized to be issued therefor pursuant to the provisions of the Local Finance Law; and
- b) by the expenditure of a \$200,000 grant from the State of New York, which is hereby authorized to be expended therefor.

Section 3. It is hereby determined that the period of probable usefulness of the aforesaid class of objects or purposes is fifteen years, pursuant to subdivision 20(c) of paragraph a of Section 11.00 of the Local Finance Law. It is hereby further

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determined that the maximum maturity of the bonds herein authorized will exceed five years.

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Section 4. Subject to the provisions of the Local Finance Law, the power to authorize the issuance of and to sell bond anticipation notes in anticipation of the issuance and sale of the bonds herein authorized, including renewals of such notes, is hereby delegated to the Supervisor, the chief fiscal officer. Such notes shall be of such terms, form and contents, and shall be sold in such manner, as may be prescribed by said Supervisor, consistent with the provisions of the Local Finance Law.

Section 5. The faith and credit of said Town of Carmel, Putnam County, New York, are hereby irrevocably pledged for the payment of the principal of and interest on 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 becoming due and payable in such year. 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 as the same become due and payable.

Section 6. All other matters, except as provided herein relating to such bonds, including determining whether to issue such bonds having substantially level or declining annual debt service and all matters related thereto, prescribing whether manual or facsimile signatures shall appear on said bonds, prescribing the method for the recording of ownership of said bonds, appointing the fiscal agent or agents for said bonds, providing for the printing and delivery of said bonds (and if said bonds are to be executed in the name of the Town by the facsimile signature of the Supervisor, providing for the manual countersignature of a fiscal agent or of a designated official of the Town), the date, denominations, maturities and interest payment dates, place or places of payment, and also including the consolidation with other issues, shall be determined by the Supervisor. Such bonds shall contain substantially the recital of validity clause provided for in Section 52.00 of the Local Finance Law, and shall otherwise be in such form and contain such recitals, in addition to those required by Section 51.00 of the Local Finance Law, as the Supervisor shall determine.

Section 7. This resolution shall constitute a statement of official intent for purposes of Treasury Regulations Section 1.150-2. Other than as specified in this resolution, no monies are, or are reasonably expected to be, reserved, allocated on a long-term basis, or otherwise set aside with respect to the permanent funding of the object or purpose described herein.

Section 8. The validity of such bonds and bond anticipation notes may be contested only if:

- 1) Such obligations are authorized for an object or purpose for which said Town is not authorized to expend money, or
- 2) 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
- 3) Such obligations are authorized in violation of the provisions of the Constitution.

Section 9. Upon this resolution taking effect, the same shall be published in summary form in the official newspaper of said Town for such purpose, together with a notice of the Town Clerk in substantially the form provided in Section 81.00 of the Local Finance Law.

Section 10. **THIS RESOLUTION IS ADOPTED SUBJECT TO PERMISSIVE REFERENDUM.**

Resolution

Offered by: Councilman Lombardi
Seconded by: Councilman Lupinacci

<u>Roll Call Vote</u>	<u>YES</u>	<u>NO</u>
Jonathan Schneider	<u>X</u>	<u> </u>
John Lupinacci	<u>X</u>	<u> </u>
Suzanne McDonough	<u>X</u>	<u> </u>

Frank Lombardi	<u> X </u>	<u> </u>
Kenneth Schmitt	<u> X </u>	<u> </u>

CONSTRUCTION OF DRAINAGE IMPROVEMENTS THROUGHOUT AND IN THE TOWN OF CARMEL AT A MAXIMUM ESTIMATED COST OF \$200,000 - AUTHORIZED AND THE ISSUANCE OF \$200,000 BONDS OF SAID TOWN TO PAY THE COST THEREOF - OFFERED AS PARAPHRASED AND PRE-FILED - AUTHORIZED SUBJECT TO PERMISSIVE REFERENDUM

WHEREAS, all conditions precedent to the financing of the capital project hereinafter described, including compliance with the provisions of the State Environmental Quality Review Act, have been performed; and

WHEREAS, it is now desired to authorize such capital project and its financing; NOW, THEREFORE,

BE IT RESOLVED, by the Town Board of the Town of Carmel, Putnam County, New York, as follows:

Section 1. The construction of drainage improvements throughout and in and for the Town of Carmel, Putnam County, New York, together with incidental improvements and expenses in connection therewith, is hereby authorized at a maximum estimated cost of \$200,000, subject to permissive referendum.

Section 2. It is hereby determined that the plan for the financing thereof is by the issuance of \$200,000 bonds of said Town is hereby authorized to be issued therefor pursuant to the provisions of the Local Finance Law.

Section 3. It is hereby determined that the period of probable usefulness of the aforesaid class of objects or purposes is forty years, pursuant to subdivision 4 of paragraph a of Section 11.00 of the Local Finance Law. It is hereby further determined that the maximum maturity of the bonds herein authorized will exceed five years.

Section 4. Subject to the provisions of the Local Finance Law, the power to authorize the issuance of and to sell bond anticipation notes in anticipation of the issuance and sale of the bonds herein authorized, including renewals of such notes, is hereby delegated to the Supervisor of said Town, the chief fiscal officer. Such notes shall be of such terms, form and contents, and shall be sold in such manner, as may be prescribed by said Supervisor, consistent with the provisions of the Local Finance Law.

Section 5. The faith and credit of said Town of Carmel, Putnam County, New York, are hereby irrevocably pledged for the payment of the principal of and interest on 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 becoming due and payable in such year. 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 as the same become due and payable.

Section 6. All other matters except as provided herein relating to the bonds herein authorized including the date, denominations, maturities and interest payment dates, within the limitations prescribed herein and the manner of execution of the same, including the consolidation with other issues, and also the ability to issue bonds with substantially level or declining annual debt service, shall be determined by the Supervisor, the chief fiscal officer of such Town. Such bonds shall contain substantially the recital of validity clause provided for in Section 52.00 of the Local Finance Law, and shall otherwise be in such form and contain such recitals, in addition to those required by Section 51.00 of the Local Finance Law, as the Supervisor shall determine consistent with the provisions of the Local Finance Law.

Section 7. This resolution shall constitute a statement of official intent for purposes of Treasury Regulations Section 1.150-2. Other than as specified in this resolution, no monies are, or are reasonably expected to be, reserved, allocated on a long-term basis, or otherwise set aside with respect to the permanent funding of the object or purpose described herein.

Section 8. The validity of such bonds and bond anticipation notes may be contested only if:

- 1) Such obligations are authorized for an object or purpose for which said Town is not authorized to expend money, or
- 2) The provisions of law which should be complied with at the date of publication of this resolution are not substantially complied with,

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

3) Such obligations are authorized in violation of the provisions of the Constitution.
(Cont.)

Section 9. Upon this resolution taking effect, the same shall be published in summary form in the official newspaper of said Town for such purpose, together with a notice of the Town Clerk in substantially the form provided in Section 81.00 of the Local Finance Law.

Section 10. **THIS RESOLUTION IS ADOPTED SUBJECT TO PERMISSIVE REFERENDUM.**

Resolution

Offered by: Councilman Lupinacci
Seconded by: Councilman Lombardi and Councilwoman McDonough

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

ISSUANCE OF \$1,405,000 BONDS OF THE TOWN OF CARMEL TO PAY THE COST OF THE PURCHASE OF EQUIPMENT FOR CONSTRUCTION AND MAINTENANCE PURPOSES IN AND FOR SAID TOWN - OFFERED AS PARAPHRASED AND PRE-FILED - AUTHORIZED SUBJECT TO PERMISSIVE REFERENDUM

BE IT RESOLVED, by the affirmative vote of not less than two-thirds of the total voting strength of the Town Board of the Town of Carmel, Putnam County, New York, as follows:

Section 1. The cost of the purchase of equipment for construction and maintenance purposes, each item of which is \$30,000 or more, including incidental equipment and expenses, in and for the Town of Carmel, Putnam County, New York, is hereby authorized at a maximum estimate cost of \$1,405,000, subject to permissive referendum.

Section 2. It is hereby determined that the plan for the financing thereof is by the issuance of \$1,405,000 bonds of said Town is hereby authorized to be issued therefor pursuant to the provisions of the Local Finance Law.

Section 3. It is hereby determined that the period of probable usefulness of the aforesaid class of objects or purposes is fifteen years, pursuant to subdivision 28 of paragraph a of Section 11.00 of the Local Finance Law. It is hereby further determined that the maximum maturity of the bonds herein authorized will exceed five years.

Section 4. Subject to the provisions of the Local Finance Law, the power to authorize the issuance of and to sell bond anticipation notes in anticipation of the issuance and sale of the bonds herein authorized, including renewals of such notes, is hereby delegated to the Supervisor, the chief fiscal officer. Such notes shall be of such terms, form and contents, and shall be sold in such manner, as may be prescribed by said Supervisor, consistent with the provisions of the Local Finance Law.

Section 5. The faith and credit of said Town of Carmel, Putnam County, New York, are hereby irrevocably pledged for the payment of the principal of and interest on 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 becoming due and payable in such year. 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 as the same become due and payable.

Section 6. All other matters, except as provided herein relating to such bonds, including determining whether to issue such bonds having substantially level or declining annual debt service and all matters related thereto, prescribing whether

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manual or facsimile signatures shall appear on said bonds, prescribing the method for the recording of ownership of said bonds, appointing the fiscal agent or agents for said bonds, providing for the printing and delivery of said bonds (and if said bonds are to be executed in the name of the Town by the facsimile signature of the Supervisor,
(Cont.)

providing for the manual countersignature of a fiscal agent or of a designated official of the Town), the date, denominations, maturities and interest payment dates, place or places of payment, and also including the consolidation with other issues, shall be determined by the Supervisor. Such bonds shall contain substantially the recital of validity clause provided for in Section 52.00 of the Local Finance Law, and shall otherwise be in such form and contain such recitals, in addition to those required by Section 51.00 of the Local Finance Law, as the Supervisor shall determine.

Section 7. This resolution shall constitute a statement of official intent for purposes of Treasury Regulations Section 1.150-2. Other than as specified in this resolution, no monies are, or are reasonably expected to be, reserved, allocated on a long-term basis, or otherwise set aside with respect to the permanent funding of the object or purpose described herein.

Section 8. The validity of such bonds and bond anticipation notes may be contested only if:

- 1) Such obligations are authorized for an object or purpose for which said Town is not authorized to expend money, or
- 2) 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
- 3) Such obligations are authorized in violation of the provisions of the Constitution.

Section 9. Upon this resolution taking effect, the same shall be published in summary form in the official newspaper of said Town for such purpose, together with a notice of the Town Clerk in substantially the form provided in Section 81.00 of the Local Finance Law.

Section 10. **THIS RESOLUTION IS ADOPTED SUBJECT TO PERMISSIVE REFERENDUM.**

Resolution

Offered by: Councilwoman McDonough
Seconded by: Councilman Lupinacci

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

RESOLUTION AUTHORIZING SETTLEMENT OF LITIGATION - “LEE SHULTZ VS. THE TOWN OF CARMEL PLANNING BOARD” - TABLED

WHEREAS there is currently pending in the Supreme Court, County of Putnam State of New York under Index No. 111/2012, an action entitled “Lee Shultz vs. The Town of Carmel Planning Board”; and

WHEREAS a proposed settlement of the litigation has been negotiated by Special Counsel Joseph A. Charbonneau, Esq. who has recommended approval of the proposed settlement;

NOW, THEREFORE, BE IT RESOLVED that the Town Board of the Town of Carmel hereby authorizes the settlement of the aforementioned litigation as detailed in Stipulation and Order of Settlement attached hereto and made a part hereof; and

BE IT FURTHER RESOLVED that Special Counsel Joseph A. Charbonneau, is hereby authorized to sign, on behalf of the Town of Carmel, the aforesaid Stipulation and Order of Settlement reflecting the terms as agreed to herein.

(Cont.)

MOTION TO TABLE

Offered by: Councilman Lombardi
Seconded by: Councilman Lupinacci

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

Councilman Lombardi offered the motion to table pending Planning Board action with regard to the matter.

PUBLIC COMMENTS

Jerry Ravnitzky inquired about the subject of the aforementioned litigation settlement.

Gregory Folchetti, Legal Counsel explained that the matter, entitled “Lee Shultz vs. The Town of Carmel Planning Board” involves an application currently before the Planning Board for approval of a grading permit. It is on the Planning Board agenda for consideration tonight. The Town Board decided that it would not take action on settling the matter until action was taken by the Planning Board.

ADJOURNMENT

All agenda items having been addressed, on motion by Councilman Schneider, seconded by Councilwoman McDonough, with all Town Board members present and in agreement, the Special Meeting was adjourned at 7:45 p.m. to the scheduled Work Session.

Respectfully submitted,

Ann Garris, Town Clerk