

09 FEBRUARY 2011

**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 9th day of February 2011 at 7:05 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, Councilwoman McDonough, 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.

**PUBLIC HEARING HELD - 2011 CONTRACTS FOR FIRE PROTECTION AND
AMBULANCE SERVICES – ADJOURNED FROM JANUARY 26, 2011**

**PUBLIC HEARING
ADJOURNED TO FEBRUARY 9, 2011
DUE TO INCLEMENT WEATHER**

NOTICE IS HEREBY GIVEN, that the Town Board of the Town of Carmel will reconvene the Public Hearing on the Fire Protection Contracts and the Ambulance District Contracts for the year 2011 held on the 26th day of January 2011 on the 9th day of February 2011 at the Town Hall, 60 McAlpin Avenue, Mahopac, New York at 7:00 p.m. or soon thereafter that evening as possible; said contracts as follows:

<u>Contractor</u>	<u>Services</u>	<u>Not to Exceed</u>
Mahopac Falls Volunteer Fire Department, Inc.	Fire Protection-Fire Protection Dist. #1	\$ 675,000.00
Mahopac Volunteer Fire Department, Inc.	Fire Protection-Fire Protection Dist. #2	\$1,572,405.00
Carmel Fire District & Carmel Fire Department, Inc.	Fire Protection-Fire Protection Dist. #3	\$ 475,000.00
Carmel Volunteer Ambulance Corps	Ambulance Services- Carmel Ambulance District #1	\$ 210,000.00
North Salem Volunteer Ambulance Corps	Ambulance Services- Carmel Ambulance District #1	\$ 12,200.00

At said Public Hearing, all interested residents shall be heard on the subject thereof.

By Order of the Town Board
of the Town of Carmel
Ann Garriss, Town Clerk

Supervisor Schmitt opened the Public Hearing for public comment at 7:10 p.m. Approximately seventeen (17) people were in attendance.

With no one present wishing to be heard on the subject of the Public Hearing, on motion by Councilman Ravallo, seconded by Councilman Lombardi, with all members of the Town Board present and in agreement the Public Hearing was closed at 7:11 p.m.

**MINUTES OF TOWN BOARD MEETING HELD ON 12/29/10 and 1/5/11 - ACCEPT
AS SUBMITTED BY THE TOWN CLERK**

09 FEBRUARY 2011
TOWN BOARD MEETING

On motion by Councilman Lombardi, seconded by Councilman Ravallo, with all members of the Town Board present and voting “aye”, the minutes of the Town Board meetings held on December 29, 2010 and January 5, 2011 were accepted as submitted by the Town Clerk.

TOWN HISTORIAN- 2010 ANNUAL REPORT SUBMITTED BY BRIAN VANGOR

As Historian for the Town of Carmel, Brian Vangor, submitted his annual report in accordance with the Arts and Cultural Affairs Law, Article 57, Division of Historic and Public Records, Section 57.09. Supervisor Schmitt noted the great job being done by Mr. Vangor.

PUBLIC HEARING DATE SET FOR FEBRUARY 23, 2011 TO APPROPRIATE FUNDS FROM THE HIGHWAY SNOW AND ICE REMOVAL AND HIGHWAY ROAD REPAIR RESERVE FUND - AUTHORIZED

WHEREAS, the Town of Carmel has established a Snow and Ice Removal and Highway Repair Reserve Fund pursuant to NY General Municipal Law §6-f; and

WHEREAS, the Town of Carmel has experienced several severe snow and ice storms during the month of January 2011, resulting in high labor and material costs; and

WHEREAS, it is intended that the funds in the amount of \$97,592 presently within the aforesaid Repair Reserve Fund be utilized for these costs;

NOW THEREFORE BE IT RESOLVED that the Town Board of the Town of Carmel hereby authorizes the setting of a public hearing on the 23rd day of February, 2011 at the Town of Carmel Town Hall, 60 McAlpin Avenue, Mahopac, NY 10541 regarding the proposed appropriation of funds from the aforesaid Repair Reserve Fund; and

BE IT FURTHER RESOLVED that the Town Clerk is hereby authorized and instructed to publish and post the necessary notices in the official newspaper of the Town and on the Town bulletin board regarding this Public Hearing.

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>X</u>	<u> </u>
Kenneth Schmitt	<u>X</u>	<u> </u>

CARMEL WATER DISTRICTS #3 AND #12 - RESCINDING DECLARATION OF WATER EMERGENCY PURSUANT TO SECTION 151-22 OF THE TOWN CODE

WHEREAS, that the Town Board of the Town of Carmel, acting as the Commissioners of the Water Districts of the Town of Carmel, and pursuant to Section 151-22 of the Code of the Town of Carmel, had previously determined that a water emergency existed within the Town of Carmel, and

WHEREAS, pursuant to resolution of the Town Board duly enacted on July 7, 2010, the Town Board had declared such water emergency and promulgated restrictions on the use of water for nonessential purposes; and

WHEREAS, upon the advice of and consultation with the operators of the respective water districts within the Town of Carmel, it is apparent that rescission of such water emergency declaration for certain water districts within the Town of Carmel is now appropriate;

09 FEBRUARY 2011
TOWN BOARD MEETING

NOW THEREFORE BE IT RESOLVED that pursuant to Section 151-22 (A) of the Town Code of the Town of Carmel, the Town Board, acting as Commissioners of the Water Districts of the Town of Carmel, hereby rescinds the aforesaid declaration of water emergency with respect to Carmel Water Districts #3 and #12, and

BE IT FURTHER RESOLVED that the Town Clerk is directed to publish this resolution in the official newspapers of the Town and to post said resolution on the official bulletin Board of the Town.

Resolution

Offered by: Councilman Ravallo
Seconded by: Councilwoman McDonough

<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>X</u>	<u> </u>
Kenneth Schmitt	<u>X</u>	<u> </u>

ISSUANCE OF LICENSE TO TOMPKINS DISPOSAL SERVICES, INC. FOR THE COLLECTION OF REFUSE AND GARBAGE WITHIN THE TOWN OF CARMEL - AUTHORIZED

RESOLVED that the Town Board of the Town of Carmel, upon review of the application of Tompkins Disposal Services, Inc., received October 7, 2010, hereby authorizes the issuance of a license for the collection of refuse and garbage within the Town of Carmel pursuant to Chapter 95, Article III of the Town Code of the Town of Carmel to:

APPLICANT	ADDRESS	LICENSE PERIOD
Tompkins Disposal Services, Inc.	Office Address: 70 Old Route Six Carmel, NY 10512	8/15/10 through 8/14/11

Resolution

Offered by: Councilwoman McDonough
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>X</u>	<u> </u>
Kenneth Schmitt	<u>X</u>	<u> </u>

ISSUANCE OF LICENSE TO BRIA CARTING, INC. FOR THE COLLECTION OF REFUSE AND GARBAGE WITHIN THE TOWN OF CARMEL - AUTHORIZED

RESOLVED that the Town Board of the Town of Carmel, upon review of the application of Bria Carting, Inc, received December 3, 2009, hereby authorizes the issuance of a license for the collection of refuse and garbage within the Town of Carmel pursuant to Chapter 95, Article III of the Town Code of the Town of Carmel to:

APPLICANT	ADDRESS	LICENSE PERIOD
Bria Carting, Inc.	Office Address: P.O. Box 630 Somers, NY	12/19/09 through 12/18/10

Resolution
Offered by: Councilman Lombardi
Seconded by: Councilman Ravallo & Councilwoman McDonough

<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>X</u>	<u> </u>
Kenneth Schmitt	<u>X</u>	<u> </u>

ISSUANCE OF LICENSE TO AAA CARTING & RUBBISH REMOVAL, INC. D/B/A A&N CARTING FOR THE COLLECTION OF REFUSE AND GARBAGE WITHIN THE TOWN OF CARMEL - AUTHORIZED

RESOLVED that the Town Board of the Town of Carmel, upon review of the application of AAA Carting & Rubbish Removal, Inc. d/b/a A&N Carting, received October 12, 2010, hereby authorizes the issuance of a license for the collection of refuse and garbage within the Town of Carmel pursuant to Chapter 95, Article III of the Town Code of the Town of Carmel to:

APPLICANT	ADDRESS	LICENSE PERIOD
AAA Carting & Rubbish Services, Inc. d/b/a A &N Carting	Office Address: 701 North Division Street Peekskill, NY 10566	11/23/10 through 11/22/11

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>X</u>	<u> </u>
Kenneth Schmitt	<u>X</u>	<u> </u>

CARMEL WATER DISTRICT #4 - ACCEPTANCE OF PROPOSAL OF WILLIAM DROESE FOR OPERATION AND MAINTENANCE SERVICES

RESOLVED, that the Town Board of the Town of Carmel acting as Commissioners of Carmel Water District #4, hereby accepts the proposal of William Droese for the provision of operation and maintenance services for Carmel Water District #4 for the year 2011 at a contract price of \$17,269.00; and

BE IT FURTHER RESOLVED, that upon presentation of insurance certificates as required by the proposal and approved by the Town Counsel, the Supervisor is authorized to sign all necessary documents necessary to accept said proposal and execute the contract for said services in form as attached hereto and made part hereof.

Resolution
Offered by: Councilwoman McDonough
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>X</u>	<u> </u>
Kenneth Schmitt	<u>X</u>	<u> </u>

09 FEBRUARY 2011
TOWN BOARD MEETING

CONTRACT

✓

2/9/11

By and between William Droese and THE TOWN OF CARMEL, acting on behalf of Carmel Water District #4, 60 Mc Alpin Avenue, Mahopac, New York 10541, (Hereinafter referred to as "Carmel"):

WHEREAS, there is currently an agreement between the parties for the provision of services to Carmel Water District #4, and

WHEREAS, the parties wish to enter into a formal contract for the operation of Carmel Water District #4.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, the parties hereby agree as follows:

I. Services to be Provided by William Droese (W.D.)

- A. To maintain compliance with the permits and regulations of the Putnam County Department of Health and the New York State Department of Health, including all testing and periodic reports required by same,
- B. To provide duly licensed competent administrative, supervisory and technical personnel and sufficient labor force to optimize the capability of the water district, and the respective water treatment facility. W.D. will provide staffing at the facility as follows:

Operator – Seven (7) hours per week, Monday through Sunday
- C. To provide on-site repairs to existing equipment inside the treatment plant and remote pump station,
- D. To administer contractors at the water treatment plant and remote pump station on a dollar for dollar reimbursement from the companies,
- E. To provide services to include all daily operation and maintenance by laborers, operators and administrators,
- F. To administer all emergency repairs,
- G. To provide a twenty-four (24) hour, seven (7) day per week emergency call service. All emergency repairs will be billed as per item III.A. of this contract.
- H. To be available for meetings relating to the water districts,

I. To implement and direct all actions deemed appropriate to ascertain the goals and objectives of the districts and appropriate regulatory agencies.

J. To provide or arrange for the provision of all required testing, routine and periodic maintenance, data accumulation and associated reporting to the satisfaction of all involved regulatory agencies. Subcontractor's charges for the collection of samples shall be paid by W.D., except that as set forth in section II C, the laboratory charges shall be paid directly by the Town of Carmel.

K. To provide as needed evaluation and assessment reports to Carmel with the following information:

- 1) Summary of the effectiveness of water district with respect to current water regulations and standards,
- 2) Evaluation of the probable causes for any non-compliance with current water regulations and standards,
- 3) Summary of recommendation and/or conclusions relative to items 1) and 2) above, and a plan of action by W.D. to resolve and/or mitigate any compliance deficiencies including estimated costs to effect same,
- 4) Evaluation of the operation and condition of existing equipment, along with the initiation of problem resolving procedures,
- 5) General condition and comments relating to the referenced district,
- 6) Water Main Break Reports

L. To conduct its business at the referenced district in a clean and sanitary manner,

M. To provide services under this contract so that the safety of any Carmel representative and W.D. shall be of the utmost importance,

N. To provide the necessary data required for the preparation of the budget relating to the district,

O. To cooperate fully with other Carmel professionals and employees,

P. To be available for routine inspections and meetings with the New York State Department of Health and the Putnam County Department of Health,

Q. To comply with all applicable State, Federal and Local laws, rules and regulations,

R. To be responsible for complete operation and administration of the water district. W.D. shall perform all routine operation and maintenance tasks required for efficient operation and maintenance of all pumping, treatment and storage facilities,

S. To provide such periodic flushing of water mains as may be required to remove any significant accumulations of sediment and other solids deposited in said mains. Should equipment not owned or maintained by W.D. or Carmel be required to complete flushing as necessary, the cost for such flushing shall be incurred and paid by the district on a dollar for dollar basis,

T. To meet with Carmel or their representative as necessary to discuss invoices, purchases, repairs, vouchers, capital improvements, etc.

U. To be responsible for the management of all accounts payable,

V. To provide a monthly summary of all expenditures,

W. To perform routine preventive and corrective maintenance at each of the district facilities,

X. To work with the Town Engineer, Town Comptroller and the Town Board during the term of this contract to effect reductions in the overall budgets for the water district. These reductions will be realized through increased effectiveness at the facilities and will be based on W.D.'s recommendations to the Town of Carmel. Ultimate approval for these recommendations will rest with the Town of Carmel. W.D. agrees to work towards a goal of 3% per year overall reductions at the water facility. W.D. will only consider items that are in the overall best long-term interest of Carmel,

II. Services Not Provided by W.D.

- A. District's legal, accounting and engineering fees – to be billed directly to Carmel.
- B. Utility costs – to be billed directly to Carmel.
- C. Certified laboratory testing and analysis – to be billed directly to the Town of Carmel.
- D. Chemicals necessary for operation of the facilities – to be ordered by W.D. but to be billed directly to Carmel.

III. Additional Services

- A. Services Provided at Additional Cost:

3

-
- 1. Parts, materials and labor necessary for capital improvements and emergency repairs.
 - 2. Direct replacement of existing defective water meters and pressure reducing valves (supplied by Town of Carmel) at \$180.00 per meter or valve.

IV. Compensation

- A. Effective January 1, 2011, compensation for Carmel Water District #4 shall be \$17,269.00 per year. A \$500.00 allowance will be paid for the year to an assistant of W.D. as compensation for coverage in the absence of W.D.
- B. Carmel agrees to pay the above sums in equal monthly installments.
- C. Carmel agrees to reimburse W.D. promptly for all costs billed to Carmel for services beyond these basic amounts.

V. Insurance

- A. W.D. acknowledges that he currently maintains and will continue to maintain liability insurance of at least two million (\$2,000,000.00) combined single limit including broad form blanket contractual liability as well as statutory workers' compensation and disability coverage.
 - B. W.D. agrees to supply Carmel with a certificate indicating that such insurance is in full force and effect.
 - C. W.D. agrees to promptly notify Carmel of any changes, cancellations or renewals of such insurance and shall provide an updated certificate at the outset of each year under this Contract.
-

VI. Term of Agreement

This Agreement shall be effective for twelve (12) months commencing January 1, 2011 and terminating December 31, 2011.

VII. Termination of Agreement

Either party hereto may terminate this Agreement without cause on ninety (90) days prior notice in writing to the other party. Such notice shall be sent registered or certified mail, return receipt requested, to the address above noted or may be hand delivered. If hand delivered, the notice shall be effective as of the date of delivery, if mailed on the date of posting.

VIII. Representations from W.D.

4

A. W.D. represents that he has the expertise and experience to properly fulfill his duties under this contract.

B. W.D. represents that it was given a full and fair opportunity to inspect the equipment and improvements. If the scope of the work in this contract required varies due to facility changes, regulatory requirements or owner requirements the compensation paid to W.D. will be negotiated to the satisfaction of both parties.

IX. Disputes

A. In the event of a dispute, either W.D. or Carmel may litigate such dispute. The matter may also be submitted to arbitration before the American Arbitration Association in White Plains, New York, but only with the consent of both parties.

B. In the event of a dispute, the parties agree that the law of the State of New York shall apply.

X. Independent Contractor

It is understood and agreed by the Town and W.D. that the relationship between W.D. and the Town created under this contract is that of an independent contractor. W.D. agrees not to hold himself out as an officer or employee of the Town nor shall he make any claim against the Town as an officer or employee thereof for such benefit as Workers' Compensation coverage, Unemployment Insurance benefits, Social Security coverage or Retirement Membership or Credit or any other benefits accruing to said officers or employees of the Town. W.D. agrees not to represent himself in any way as an agent of the town to any of W.D.'s employees, subcontractors or materialmen.

XI. Contractor to Comply With Law

W.D. agrees to comply with the provisions of Section 103-a and 103-b of the General Municipal Law and Section 139-b of the State Finance Law, regarding waiver of immunity when called before a Grand Jury. All other provisions of Law required to be made a part of this Agreement are hereby deemed incorporated herein. Performance under the terms and conditions of this Agreement shall be subject to and in conformance with all applicable laws, rules, and regulations in effect as of the date of this Agreement.

XII. Entire Agreement

This contract represents the entire agreement between the parties and may not be altered unless done so in writing and signed by the parties. All prior written or oral representations are merged herein.

5

ATTEST:

(Contractor)

BY _____

TITLE _____
(Affix Corporate Seal Here)

TOWN OF CARMEL

(Owner)

BY: KENNETH SCHMITT,
TOWN SUPERVISOR

6

STATE OF NEW YORK) ss:
COUNTY OF PUTNAM)

On the _____ day of _____, 20____, before me personally came Kenneth Schmitt, to me known, who, being by me duly sworn, did depose and say that he resides at Mahopac, New York; that he is the Supervisor of the Town of Carmel, the municipal corporation described in the foregoing instrument and that his signature was affixed pursuant to a resolution of the Town Board of the Town of Carmel enacted on _____.

NOTARY PUBLIC

STATE OF NEW YORK) ss:
COUNTY OF PUTNAM)

On the _____ day of _____, 20____, before me personally came _____, to me know, who, being by me duly sworn, did depose and say that he resides at _____, That he is the _____ of _____, the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of the said corporation; and that he signed his name thereto by like order.

NOTARY PUBLIC

RECOGNITION OF PUBLIC

Joyce Lambert of Mahopac questioned if the new garbage licenses that were just approved were affected by the new law or if they were under the old law since the applications were received prior to the new law being enacted. She further questioned whether Bria carting was working in the area without their vehicles being inspected or without a license.

Supervisor Schmitt explained that yes they were but the new provision regarding the inspection of the vehicles was not implemented until later in 2009.

Councilwoman McDonough explained that the new law will effect each company at a different time when their licenses come up for renewal.

Councilman Lombardi spoke regarding the time line of the license application procedure and suggested that it might be a good idea for the carters to submit their license applications at least 45 days prior to the expiration of their current license. He also mentioned the possibility of changing the license period from one year to two years to accommodate the inspections the police department has to do on the vehicles.

Councilman Ravallo pointed out that there is currently a time gap between receiving the applications and issuing the licenses due to the need to inspect the vehicles.

Anita Olivier spoke at length regarding problems she has with Article 95. She mentioned the carter's charging different amounts depending on the number of pickup days. She suggested that the Town Board review the December 15, 2010 Town Board Meeting and expressed her feelings that the carters might sue the Town of Carmel.

Councilman Lombardi noted that the Town Board would be looking at procedural aspects of the application process such as the time line.

Ms. Oliver indicated that the carters that are not renewing their licenses are not being summonsed.

Supervisor Schmitt responded that they are being given summonses.

Ms. Olivier asked how much money was coming in from the fines being collected.

09 FEBRUARY 2011
TOWN BOARD MEETING

Supervisor Schmitt explained that it is up to the judge to set the fines. He acknowledged that there are some issues with enforcement in the statute.

Councilman Ravallo spoke about the possibility of lawsuits. He stated that while there was no way to know for sure if there would or would not be any lawsuits, their job was to make sure the language in the law was tight and that there were no loopholes.

Ms. Olivier complained that there was a Town Board meeting held in the bad weather when people couldn't get there. She also stated that when the next meeting was canceled due to bad weather she was unable to find out if it was on or off.

Fred Lambert inquired about the snow emergency budget. He asked if there was enough money to carry us through the year or if we would fall short.

Supervisor Schmitt stated that he was hopeful that there would be enough money in the budget but that it would depend on the weather. He further stated that if more was needed they would transfer from the fund balance which would have to be replenished next year.

Councilman Ravallo pointed out the importance of making sure the roads were safe.

Walter Brady reported that although he is paying Tompkins Disposal Services, Inc. to pick up his garbage it is being picked up by Royal Carting Services, Inc.

Mr. Constantino, the attorney for Royal Carting Services, Inc., explained that Tompkins Disposal Services, Inc. borrowed a truck from them due to one of their vehicles breaking down.

Councilman Lombardi acknowledged that the statute allows for that.

Thomas Zimmer questioned the inspection procedure in regards to the carting licenses. He pointed out that if the Town of Carmel would accept New York State DOT inspections it would take the responsibility off the town and the police department would not have to inspect the vehicles.

RECOGNITION OF TOWN BOARD MEMBERS

No Town Board Members wished to be heard at this time.

All agenda items having been addressed, on motion by Councilman Ravallo, seconded by Councilwoman McDonough, with all members present and in agreement, the meeting was adjourned at 8:05 p.m. to the scheduled Work Session.

Respectfully submitted,

Phyllis Bourges, Deputy Town Clerk