

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 11<sup>th</sup> day of August 2021 at 7:03 p.m. at Town Hall, 60 McAlpin Avenue, Mahopac, New York. Members of the Town Board present by roll call were: Councilman Schanil, Councilman Barile, Councilman Lombardi, Councilwoman McDonough and Supervisor Schmitt.

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

**PUBLIC HEARING HELD - INCREASE AND IMPROVEMENT OF THE FACILITIES OF CARMEL WATER DISTRICTS NOS. 1, 2, 3, 8, 9, 10, 13 AND 14 (WATER TANKS AND RELATED EQUIPMENT ADDITIONAL COSTS)**

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

LEGAL NOTICE

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the Town Board of the Town of Carmel, Putnam County, New York, will meet at the Town Hall, 60 McAlpin Avenue, in Mahopac, New York, on August 11, 2021, at 7:00 o'clock P.M., Prevailing Time, for the purpose of conducting a respective public hearing upon a certain map, plan and report, including a revised estimate of cost, in relation to the proposed increase and improvement of the facilities of Carmel Water Districts Nos. 1, 2, 3, 8, 9, 10, 13 and 14 in said Town, consisting in each district of the construction of improvements to the district water tank or shared water tank and related equipment and site improvements, including original furnishings, equipment, machinery, apparatus, appurtenances, and

incidental improvements and expenses in connection therewith, at a revised maximum estimated cost of \$52,915 to Carmel Water District No. 1 (an increase of \$27,600), \$3,062,615 to Carmel Water District No. 2 (an increase of \$300,000), \$362,538 to Carmel Water District No. 3 (an increase of \$80,000), \$535,796 to Carmel Water District No. 8 (an increase of \$175,500), \$165,184 to Carmel Water District No. 9 (an increase of \$125,000), \$112,158 to Carmel Water District No. 10 (an increase of \$58,500), \$73,621 to Carmel Water District No. 13 (an increase of \$38,400), and \$569,063 to Carmel Water District No. 14 (an increase of \$138,000).

Said capital projects have been determined to be a Type II Action pursuant to the regulations of the New York State Department of Environmental Conservation promulgated pursuant to the State Environmental Quality

Review Act ("SEQRA"), the implementation of which as proposed, said regulations provide will not result in any significant adverse environmental impacts.

At said public hearing said Town Board will hear all persons interested in the subject matter 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.

Dated: Mahopac, New York, July 22, 2021.

BY ORDER OF THE TOWN BOARD OF THE TOWN OF CARMEL, PUTNAM COUNTY, NEW YORK  
Ann Spofford  
Town Clerk

With no one objecting to the public notice as read, Supervisor Schmitt opened the Public Hearing for public comment at 7:07 p.m. Seven (7) people were in attendance.

Carmel Water District #2 resident John Butler reiterated his concerns with the aging water storage tank on Everett Road which he stated, he has been voicing to the Town Board for at least ten years. Mr. Butler commented that the 300,000-gallon water storage tank provides drinking water to over 150 residences throughout Everett Road, Kelly Ridge Road, St. Michael’s Terrace and Hillside Place, and that it has degenerated over the decades due to deferred or lack of maintenance.

Mr. Butler referred to a March 2019 inspection report commissioned by the Town which indicated that the water storage tank should be replaced and he went on to detail specific conditions that were recommended to be performed on the existing tank on an emergency basis which included pressure washing and resurfacing the exterior and support structure, installing a mixing system in the tank, cleaning of sediment in the tank, and replacing the fourteen inch roof vent. He emphasized that to his knowledge, none of the work has since been performed. Mr. Butler then spoke about the potential for serious damage to property and human life which could result if the rusty water storage tank collapses.

Mr. Butler pointed out that in May of this year it was announced that replacement of the water storage tank was scheduled to commence sometime in July. He commented that the huge project will impact the neighborhood greatly, however having clean water and avoiding a catastrophic event would be worth it.

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Mr. Butler went on to state that several weeks ago at a presentation to the Town Board, the Town Engineer said that although the funding is available to replace the water storage tank on Everett Road, it would not be done at this time because the contract for this tank replacement includes other projects. Mr. Butler acknowledged that the Town Board was in a non-enviable position because if they do not vote in favor of authorizing the additional bonding at this time, the funding for the other projects will be adversely affected. He commented that the contract was being restructured for economic purposes and further commented that by voting to authorize additional borrowing, the Town Board will be creating a situation in which the residents in his neighborhood will have to live with dirty water and dangerous conditions for another six months to a year, or more.

Supervisor Schmitt stated that he was disappointed with the delay in the construction of the water storage tank, however explained that the Town Board's decision was made based upon the recommendations of the Town's consultants and professionals.

Mr. Butler reiterated that the funding is in place for the replacement of the Everett Road water tank and that the Town has conflated funding for other projects in the same contract which he said, does not make sense. He commented that the health and safety of the citizens of his community are being put at risk, not because there is no money available to perform the necessary work, but due to contractual matters that have nothing to do with the replacement of the water storage tank on Everett Road.

With no one else present wishing to be heard on the subject of the Public Hearing, Councilman Lombardi offered a motion to close the Public Hearing. It was seconded by Councilman Schanil. Supervisor Schmitt called for a roll call vote which resulted in Councilman Schanil, Councilman Barile, Councilman Lombardi, Councilwoman McDonough, and Supervisor Schmitt voting in favor of closing the Public Hearing at 7:28 p.m.

Town Engineer Richard Franzetti, P.E. addressed the comments made by Mr. Butler. He clarified that the Everett Road water storage tank is one of three water storage tanks that work together to service all of Carmel Water District #2, not just the 150 homes. He explained with regard to the contract that it was bid out as a single contract for all of the water districts because it would result in achieving greater economies of scale and a cost savings afforded to the taxpayers in all of the water districts. Failure to do so could have resulted in multiple consulting engineers and multiple contractors.

Town Engineer Franzetti further explained that in this case, one contractor submitted the lowest bid for each of the water districts. No contract restructuring occurred, and no negotiations were conducted in connection with the price. Discussion followed regarding the matter.

**PUBLIC INTEREST ORDER ADOPTED IN THE MATTER OF THE INCREASE AND IMPROVEMENT OF FACILITIES OF CARMEL WATER DISTRICTS NOS. 1, 2, 3, 8, 9, 10, 13 AND 14 - (WATER TANKS AND RELATED EQUIPMENT ADDITIONAL COSTS) - OFFERED AS PRE-FILED**

WHEREAS, by proceedings heretofore had and taken, the Town Board of the Town of Carmel, Putnam County, New York, authorized an increase and improvement of the facilities of the Carmel Water Districts Nos. 1, 2, 3, 8, 9, 10, 13 and 14, being in each such district, the construction of improvements to the district water tank or shared water tank and related equipment and site improvements, including original furnishings, equipment, machinery, apparatus, appurtenances, and incidental improvements and expenses in connection therewith, at a maximum estimated cost of \$25,315 to Carmel Water District No. 1, \$2,762,615 to Carmel Water District No. 2, \$282,538 to Carmel Water District No. 3, \$360,296 to Carmel Water District No. 8, \$40,184 to Carmel Water District No. 9, \$53,658 to Carmel Water District No. 10, \$35,221 to Carmel Water District No. 13, and \$431,063 to Carmel Water District No. 14; and

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WHEREAS, by Order dated July 21, 2021, said Town Board called a joint public hearing on the question of the increase in the aggregate maximum estimated cost of said project of \$943,000 allocated to said water districts as hereinafter provided, at a new aggregate maximum estimated cost of \$4,933,890; and

WHEREAS, notice of said public hearing was duly published and posted in the manner and within the time provided by law and such public hearing was duly held at the time and place specified in said notice at which all persons interested in the subject matter thereof were duly heard; and

WHEREAS, said Town Board has duly considered the evidence given at said public hearing; NOW, THEREFORE, BE IT

ORDERED, by the Town Board of the Town of Carmel, Putnam County, New York, as follows:

Section 1. Upon the evidence given at the aforesaid public hearing, it is hereby found and determined that it is necessary and in the public interest to increase and improve the facilities of the Carmel Water Districts Nos. 1, 2, 3, 8, 9, 10, 13 and 14, in the Town of Carmel, Putnam County, New York, in the manner described in the preambles hereof, at a new maximum estimated cost of \$52,915 to Carmel Water District No. 1 (an increase of \$27,600), \$3,062,615 to Carmel Water District No. 2 (an increase of \$300,000), \$362,538 to Carmel Water District No. 3 (an increase of \$80,000), \$535,796 to Carmel Water District No. 8 (an increase of \$175,500), \$165,184 to Carmel Water District No. 9 (an increase of \$125,000), \$112,158 to Carmel Water District No. 10 (an increase of \$58,500), \$73,621 to Carmel Water District No. 13 (an increase of \$38,400), and \$569,063 to Carmel Water District No. 14 (an increase of \$138,000), and said increases and improvements is hereby authorized and approved.

Section 2. This Order shall take effect immediately.

Resolution

Offered by: Councilman Schanil  
Seconded by: Councilman Lombardi

<u>Roll Call Vote</u>	<u>YES</u>	<u>NO</u>
Robert Schanil	<u>X</u>	<u>      </u>
Michael Barile	<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 NOS. 1, 2, 3, 8, 9, 10, 13 AND 14 - ISSUANCE OF BONDS OF THE TOWN OF CARMEL, PUTNAM COUNTY, NEW YORK AUTHORIZED TO PAY FOR THE INCREASE AND IMPROVEMENT OF THE FACILITIES - (WATER TANKS AND RELATED EQUIPMENT ADDITIONAL COSTS) - OFFERED AS PRE-FILED**

WHEREAS, the Town Board of the Town of Carmel, Putnam County, New York, on August 21, 2019 and July 1, 2020, duly adopted bond resolutions authorizing the issuance of an aggregate \$3,990,890 serial bonds of said Town to pay the cost of the increase and improvement of the Carmel Water Districts Nos. 1, 2, 3, 8, 9, 10, 13 and 14, in and for the Town of Carmel, Putnam County, New York (the "Water Districts"), being in each such district, the construction of improvements to the district water tank or shared water tank and related equipment and site improvements, including original furnishings, equipment, machinery, apparatus, appurtenances, and incidental improvements and expenses in connection therewith, and

WHEREAS, said capital project has been determined to be a Type II Action, with a Negative Declaration pursuant to the regulations of the New York State Department of Environmental Conservation promulgated pursuant to the State Environmental Quality Review Act ("SEQRA"), the implementation of which as proposed, as such it has been determined will not result in any significant environmental adverse effect; and

WHEREAS, it has now been determined that the maximum estimated cost of such class of objects or purposes is \$4,933,890, an increase of \$943,000 over that previously authorized; and

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WHEREAS, it is now desired to authorize the issuance of an additional \$943,000 bonds of said Town for such class of objects or purposes to pay a portion of the cost thereof; 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. For the class of objects or purposes of paying additional costs of the increase and improvement of the Carmel Water Districts Nos. 1, 2, 3, 8, 9, 10, 13 and 14, in and for said Town of Carmel, Putnam County, New York, being in each such district, the construction of improvements to the district water tank or shared water tank and related equipment and site improvements, including original furnishings, equipment, machinery, apparatus, appurtenances, and incidental improvements and expenses in connection therewith, there are hereby authorized to be issued an additional \$943,000 bonds of the Town of Carmel, Putnam County, New York, pursuant to the provisions of the Local Finance Law.

Section 2. It is hereby determined that the maximum estimated cost of such class of objects or purposes is now determined to be \$4,933,890, which class of objects or purposes is hereby authorized at said maximum estimated cost, and that the plan for the financing thereof is as follows:

- a) by the issuance of the \$2,728,390 bonds of said Town authorized to be issued pursuant to bond resolution dated and duly adopted May 13, 2019;
- b) by the issuance of the \$1,262,500 bonds of said Town authorized to be issued pursuant to bond resolution dated and duly adopted July 1, 2020; and
- c) by the issuance of the additional \$943,000 bonds of said Town authorized to be issued pursuant to this bond resolution.

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 1 of paragraph a of Section 11.00 of the Local Finance Law, calculated from the date of issuance of the first obligations for said class of objects or purposes.

Section 4. The faith and credit of said Town of Carmel, Putnam County, New York, are hereby irrevocably pledged to the payment of the principal of and interest on such obligations 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 obligations becoming due and payable in such year. To the extent not paid from monies raised in said Water Districts in the manner provided by law, there shall annually be levied on all the taxable real property in said Town a tax sufficient to pay the principal of and interest on such obligations as the same become due and payable.

Section 5. 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 serial bonds herein authorized, including renewals of such notes, is hereby delegated to the Supervisor. 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 6. The powers and duties of advertising such bonds for sale, conducting the sale and awarding the bonds, are hereby delegated to the Supervisor, who shall advertise such bonds for sale, conduct the sale, and award the bonds in such manner as said officer shall deem best for the interests of said Town; including, but not limited to, the power to sell said bonds to the New York State Environmental Facilities Corporation; provided, however, that in the exercise of these delegated powers, said officer shall comply fully with the provisions of the Local Finance Law and any order or rule of the State Comptroller applicable to the sale of municipal bonds. The receipt of the Supervisor shall be a full acquittance to the purchaser of such bonds, who shall not be obliged to see to the application of the purchase money.

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Section 7. All other matters except as provided herein relating to the serial 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 serial 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 8. The Supervisor is hereby further authorized, in such officer’s discretion, to execute a project finance and/or loan agreement, and any other agreements with the New York State Department of Health and/or the New York State Environmental Facilities Corporation, including amendments thereto, and including any instruments (or amendments thereto) in the effectuation thereof, in order to effect the financing or refinancing of the object or purpose described in Section 1 hereof, or a portion thereof, by a bond, and/or note issue of said Town in the event of the sale of same to the New York State Environmental Facilities Corporation.

Section 9. The power to issue and sell notes to the New York State Environmental Facilities Corporation pursuant to Section 169.00 of the Local Finance Law is hereby delegated to the Supervisor. Such notes shall be of such terms, form and contents as may be prescribed by said Supervisor consistent with the provisions of the Local Finance Law.

Section 10. 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 11. 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 12. This resolution, which takes effect immediately, or a summary thereof, shall be published in summary form in the official newspaper, together with a notice of the Town Clerk in substantially the form provided in Section 81.00 of the Local Finance Law.

Resolution

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

<u>Roll Call Vote</u>	<u>YES</u>	<u>NO</u>
Robert Schanil	<u>X</u>	<u>          </u>
Michael Barile	<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>

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**ADJOURNMENT**

All agenda items having been addressed, on motion by Councilman Schanil, seconded by Councilwoman McDonough, with all Town Board members present and in agreement, the Special Meeting was adjourned at 7:49 p.m. to the scheduled Work Session.

Respectfully submitted,

Ann Spofford, Town Clerk