



Supervisor Langley stated that while we were on the topic of the Waste Water Treatment Plant that he would like Jim Conners from Chazen to give an explanation as to where we are with the emergency situation and where we stand on the cost of the process.

Jim Conners explained that there was a state of emergency declared due to an overflow that created erosion underneath and alongside of one of the tanks. The footings of that tank was undermined and in jeopardy. The work has been completed and we have monitored the contractor's hours and labor and materials. We are putting the numbers together now and do not know the final dollar amount yet.

Councilperson Matters questioned why it took 6 days after the storm to call this situation an emergency?

Jim explained that it took that amount of time for the water to subside and stop overflowing, and to assess and identify how much was undermined. We had identified the overflowing the day of the storm. The contractors, the Town and Chazen tried to divert this, but the tanks kept overflowing. It took about 6 days but the emergency meeting with all the appropriate parties was called as soon as possible once we determined that there was indeed an emergency. It wasn't just the overflow; it was the footing of the tank that was the real emergency. It is now fixed.

Councilperson Matters asked if this was reported to the insurance company, and Supervisor Langley stated that it was.

Supervisor Langley asked if there were any reports?

Councilperson DiMartino stated that Saturday October 24<sup>th</sup> at 5pm the Times Union Center is the Home Opener for the Albany Devils. It is also East Greenbush Community Night. Discounted tickets will be available for \$13.00 from Meg Emery at 433-8475. She would love to see a huge turn out from our community to show support for one of our local teams as they support us in our events. The Town will be having our annual Halloween Party Friday, October 30<sup>th</sup> from 10am until 12:00 pm.

Councilperson DiMartino went on to announce that the Town will be honoring the Town Veterans by unveiling our new Veteran's plaque on Tuesday November 10<sup>th</sup> at 10:00 am. Light refreshments will be served. Please respond by November 1<sup>st</sup> to Jessica Lansing at 477-4194. The seniors will be having a pot luck luncheon on November 18<sup>th</sup> at noon, please bring a dish and a recipe to share. Council Person DiMartino also shared that the Library is having a book sale October 22<sup>nd</sup> to the 25<sup>th</sup>. You can get more information at [eastgreenbushlibrary.org](http://eastgreenbushlibrary.org).

Councilperson Matters stated that we are presently undergoing an audit from the NYS Comptroller's Office. The auditor stated that the field work stage was almost complete on October 5<sup>th</sup>, the report phase can take anywhere from 2 to 4 months. She stated that it did not look like we were going to have it anytime soon.

**Open Public Privilege:** NOTE ó Each speaker may choose to state name and address prior to addressing the Board and shall be granted the floor for up to five minutes. The Board thanks everyone in attendance for their understanding and also for their desire to actively participate in the decision making process locally

Resident: She stated that she did think the answer that the Engineer gave was acceptable. She does not feel the Waste Water Treatment Plant was engineered correctly. She had submitted questions about cost to the Board Members and has not heard back. She questioned what the claims will do to our premiums. She also had questions regarding the Tax certioraris and how those figures are made up.

Floyd Hunt: He sated feels people should understand construction before they make comments regarding projects.

Doug Tucker: Wanted to discuss the problem he is having around his house. The building next to his house he believes is a nuisance. The building is still not secure. The windows were barded, but his concern is the building itself. He is waiting to hear from Joe Cherabino? The other concern is the hotel next to him. He is concerned with drainage and privacy. He questioned if this was taken into consideration when they gave him a building permit.

Hal Betters: Was appreciative of a tree removal from DPW. He did not feel the Sludge Removal should be brought to the Board now, he feels it should have been in the original bid package.

Jack Conway: Jack wanted to congratulate Matt Breig and Mark Mann on their retirement. He stated that he supported the Resolution on outside Council, and the fee rate structure study. He feels that the waste water treatment plant was a disaster. He feels we have to get a handle on the fee and rate schedule. Jack state that he feels the Supervisor owes the residents a report on the waste water treatment plant.

Pete Stenson: He stated that he is still waiting for the Budget in excel format. So he can do his analysis on the budget.

Tom Grant: Stated that he also would like to congratulate Matt Breig and Mark Mann on their retirement. He also wanted to congratulate Matt and Eric for their new positions. Tom wanted to know when they will know the final total and is there a running total?

Eileen Grant: wanted to bring up a couple of things related to the waste water treatment plant. One was that the contractors are leaving the job on the 25<sup>th</sup>. They will be paid for the work that has been done. The other one was that Mary Beth mentioned going back to the money markets in the spring for another two million. She stated that all these costs are adding up and this has been going on for more than a year. She believes that we need an engineer that will protect the Town.

Mary Beth Early: Questioned if the Supervisor will give the Town a full evaluation of what the Waste Water Treatment Plant will cost the Town. She also question what the effect of this project will have on the residents with Septic systems.

Ed Gilbert: thanked Officer Mann and Breig for their service. He stated that he is against all of the last three resolutions. Ed discussed the problems at the Waste Water Treatment Plant and felt that the emergency condition was unforeseen.

### **Resolutions and Proposals by Town Board Members:**

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#### **165-2015 A Resolution to Approve Meeting Minutes**

**WHEREAS**, the minutes of Town Board meetings, as provided in § 106 of Article 7 of the New York Public Officers Law, shall be approved by the Board prior to them being finalized, deemed official and disseminated to the public by the Town Clerk; and

**WHEREAS**, that the minutes of the regular Town Board Meeting held on September 16, 2015; and

**WHEREAS**, the Town Board has reviewed these minutes and any necessary corrections have been made; and

**WHEREAS**, the Town Comptroller has confirmed that the provisions of this proposed Board action will have no impact on the Town's finances; now, therefore, be it

**RESOLVED**, that the minutes of the regular Town Board Meeting held on September 16 2015, are hereby approved as submitted.

The foregoing Resolution was duly moved by Supervisor Langley seconded by Councilperson Matters and brought to a vote resulting as follows:

Supervisor Langley	VOTED	YES
Councilperson Matters	VOTED	YES
Councilperson Malone	VOTED	YES
Councilperson DiMartino	VOTED	YES

#### **166-2015 A Resolution for SEQRA Determination for Regeneron Pharmaceuticals, Inc.**

**WHEREAS**, the Town of East Greenbush received an application for the site plan review known as the Regeneron Pharmaceuticals, Inc. 70,000 square foot office building site plan, located at 81 Columbia Turnpike, Tax parcel number 155.-1-4.122, prepared by Hart Engineering; and

**WHEREAS**, the application was accompanied by a proposed site plan, Part 1 of a Short Environmental Assessment Form (SEAF) and other supporting information; and

**WHEREAS**, upon the recommendation of the Town Planning Board the Town Board determined the proposed project was an Unlisted Action; and

**WHEREAS**, the Town Planning Board, after considering the comments and opinions of the Project Review Team and Planning Board's Designated Engineer, and after reviewing the proposed site plan, took a "hard look" at the potential environmental impacts of this project by carefully considering and reviewing the Short Environmental Assessment Form, considering all the Applicant's proposed mitigation measures as they relate to environmental issues and more

particularly to traffic, fire, rescue and MS-4 storm water management and recommended the Town Board issue a Negative Declaration under SEQRA; and

**WHEREAS**, the Town Board has determined that the action will not result in any large or important impacts and, any potential impacts can be mitigated;

**WHEREAS**, as the Town Comptroller has heretofore confirmed that none of the provisions of this proposed Board action shall pose an adverse impact to the Town's finances; now, therefore, be it

**RESOLVED**, that the Town Board hereby finds that the Project will not have a significant impact on the environment and issues a Negative Declaration for the Project.

The foregoing Resolution was duly moved by Supervisor Langley and seconded by Councilperson Malone and brought to a vote resulting as follows:

Supervisor Langley	VOTED	YES
Councilperson Malone	VOTED	YES
Councilperson DiMartino	VOTED	YES
Councilperson Matters	VOTED	YES

**167-2015 Site Plan Approval – Regeneron Pharmaceuticals, Inc.**

**WHEREAS**, the Town has received an application for a project known Regeneron Pharmaceuticals, Inc. located at 81 Columbia Turnpike, identified on the Town's Tax Roll as Tax Parcel No. 155.-1-4.122; and

**WHEREAS**, the application was accompanied by a site plan, Part 1 of a short Environmental Assessment Form (eEAFö) and other supporting information; and

**WHEREAS**, the Town Board as Lead Agency issued a Negative Declaration for the project on October 21, 2015; Resolution # 166-2015; and

**WHEREAS**, the Town Planning Board has reviewed the application materials and submitted the application materials to the Project Review Team for technical review, and the site plan has been revised in response to various concerns raised by the Town Planning Board and the Project Review Team; and

**WHEREAS**, based on its review, the recommendations of the Project Review Team and the revisions made to the site plan, the Town Planning Board has recommended approval of the site plan with certain conditions; and

**WHEREAS**, as the Town Comptroller has heretofore confirmed that none of the provisions of this proposed Board action shall pose an adverse impact to the Town's finances; and

**WHEREAS**, the Town Board has reviewed the site plan application materials and the recommendation of the Town Planning Board; now, therefore, be it

**RESOLVED**, that the Town Board hereby approves the final Site Plan of the Project subject to the following conditions:

1. Satisfying outstanding technical details as determined by the Planning Board's Designated Engineer and Town Planning Department; and
2. All remaining fees and escrow are paid to the Town; and
3. The design professional will be required to inspect and certify that all work has been completed in accordance with the approved plans prior to issuance of a Certificate of Occupancy or Certificate of Compliance and all certifications are to be submitted to the Building Department prior to the issuance of the C of O or C of C.

The foregoing Resolution was duly moved by Councilperson Malone and seconded by Supervisor Langley and brought to a vote resulting as follows:

Councilperson Malone	VOTED	YES
Supervisor Langley	VOTED	YES
Councilperson DiMartino	VOTED	YES
Councilperson Matters	VOTED	YES

**168-2015 A Resolution authorizing the settlement of tax certiorari proceeding entitled Trustco Bank Corp. v. Town of East Greenbush for the year 2015**

**WHEREAS**, Trustco Bank Corp. has commenced tax certiorari proceedings against the Town of East Greenbush for 2015 in Rensselaer County Supreme Court, Index No. 250639, regarding property located at 501 Columbia Turnpike, Town of East Greenbush, New York, Tax Map ID 166.-3-3.112; and

**WHEREAS**, after considerable discovery, inspection, site evaluation of the premises, current lease, income and expense review, Court conferences and negotiation with the Petitioner’s counsel, the Town’s certiorari counsel and the assessor’s office have recommended a settlement agreement to the values set forth for 2015 as set forth on the attached summary:

<b>Assessment Year</b>	<b>Original Assessment</b>	<b>Amended Assessment</b>	<b>Amount of Reduction</b>
<b>2015</b>	<b>\$1,053,900</b>	<b>\$850,500</b>	<b>\$203,400.00</b>

**WHEREAS**, the settlement will have no financial impact on the finances of the Town as the only proceeding pending above is for the 2015 tax roll for which the first tax levy of the Town is January 2016; and

**WHEREAS**, the Comptroller has confirmed there is no 2015 budgetary impact; now, therefore, be it

**RESOLVED**, that the above captioned tax certiorari proceedings be settled in the amounts set forth above for the year 2015, and that tax certiorari counsel be and hereby is authorized to execute all documents necessary to effectuate said settlement.

The foregoing resolution was duly moved by Supervisor Langley, seconded by Councilperson Malone and brought to a vote as follows:

Councilperson Matters stated that she wanted to let people know that with the certiorari resolutions there is not a budgetary impact; it is more of an assessment impact.

Supervisor Langley	VOTED	YES
Councilperson Malone	VOTED	YES
Councilperson DiMartino	VOTED	YES
Councilperson Matters	VOTED	YES

**169-2015 A Resolution Authorizing the Settlement of Tax Certiorari Proceeding Entitled National Gypsum Company V. Town of East Greenbush for the Years 2014 and 2015**

**WHEREAS**, National Gypsum Company has commenced tax certiorari proceedings against the Town of East Greenbush for the tax years 2014 and 2015 in Rensselaer County Supreme Court, Index Nos. 2014-247406 and 2015-250738, regarding property located at 301 American Oil Road, Town of East Greenbush, New York, Tax Map ID 165.-1-34; and

**WHEREAS**, after considerable discovery, inspection, site evaluation of the premises, current lease, income and expense review, Court conferences and negotiation with the Petitioner's counsel, the Town's certiorari counsel and the assessor's office have recommended a settlement agreement to the values set forth for 2014 and 2015 as set forth on the attached summary:

<b>Assessment Year</b>	<b>Original Assessment</b>	<b>Amended Assessment</b>	<b>Amount of Reduction</b>
2014	\$3,500,000	\$2,520,000	\$980,000
2015	\$3,500,000	\$2,520,000	\$980,000

**WHEREAS**, the settlement will have no financial impact on the finances of the Town, as Petitioner is waiving all refunds and the proceeding pending for 2015 tax roll is not levied until January 2016; and

**WHEREAS**, the Comptroller has confirmed there is no 2015 budgetary impact; now, therefore, be it

**RESOLVED**, that the above captioned tax certiorari proceedings be settled in the amounts set forth above for the years 2014 and 2015, and that tax certiorari counsel be and hereby is authorized to execute all documents necessary to effectuate said settlement.

The foregoing resolution was duly moved by Councilperson Malone, seconded by Supervisor Langley and brought to a vote as follows:

Councilperson Malone	VOTED	YES
Supervisor Langley	VOTED	YES
Councilperson DiMartino	VOTED	YES
Councilperson Matters	VOTED	YES

**170-2015 A Resolution Authorizing the Settlement of Tax Certiorari Proceeding Entitled WP/CP Columbia Associates, L.P. V. Town of East Greenbush for the Year 2015**

**WHEREAS**, WP/CP Columbia Associates, L.P. has commenced tax certiorari proceedings against the Town of East Greenbush for the tax year 2015 in Rensselaer County Supreme Court, Index No. 250574, regarding property located at 501 Columbia Turnpike, Town of East Greenbush, New York, Tax Map ID 166.-3-3.111 and 425 Columbia Turnpike, Town of East Greenbush, New York, Tax Map ID 166.-3-3.113; and

**WHEREAS**, after considerable discovery, inspection, site evaluation of the premises, current lease, income and expense review, Court conferences and negotiation with the Petitioner's counsel, the Town's certiorari counsel and the assessor's office have recommended a settlement agreement to the values set forth for 2015 as set forth on the attached summary:

<b>Assessment Year</b>	<b>Original Assessment</b>	<b>Amended Assessment</b>	<b>Amount of Reduction</b>
2015 501 Columbia Turnpike	\$11,250,000	\$10,650,000	\$600,000

2015	\$800,000	No change ó discontinued without prejudice	\$0
425 Columbia Turnpike			

**WHEREAS**, the settlement will have no financial impact on the finances of the Town as the only proceeding pending above is for the 2015 tax roll for which the first tax levy of the Town is January 2016; and

**WHEREAS**, the Comptroller has confirmed there is no 2015 budgetary impact; now, therefore, be it

**RESOLVED**, that the above captioned tax certiorari proceedings be settled in the amounts set forth above for the year 2015, and that tax certiorari counsel be and hereby is authorized to execute all documents necessary to effectuate said settlement.

The foregoing resolution was duly moved by Supervisor Langley, seconded by Councilperson Malone and brought to a vote as follows:

Supervisor Langley	VOTED	YES
Councilperson Malone	VOTED	YES
Councilperson DiMartino	VOTED	YES
Councilperson Matters	VOTED	YES

**171-2015 Scheduling of Public Hearing on the Preliminary Budget for 2016**

**WHEREAS**, the Town Board of the Town of East Greenbush, County of Rensselaer, State of New York, has been presented with a copy of the proposed Tentative Town Budget for the fiscal year 2016; and

**WHEREAS**, the Town Board is required to review the Tentative Budget and make any changes, alterations and revisions it considers advisable; and

**WHEREAS**, upon completion of the review, the Tentative Budget as modified by the Town Board becomes the Preliminary Budget and must be filed in the Town Clerk's Office, and

**WHEREAS**, said review and filing should be completed prior to conducting a Public Hearing; and

**WHEREAS**, the Town Board is required to conduct a Public Hearing on the Preliminary Budget, including all Special Districts and the Water and Sewer rates contained therein, and said Hearing must be conducted on or before the Thursday following the November general election; and

**WHEREAS**, passage of this Resolution by the Town Board is not a statement of agreeing or disagreeing with any of the numbers nor tax rates contained therein, and binds no Board Member to vote for or against it, that changes affecting any rates can occur after said Public Hearing is held; and

**WHEREAS**, the Town Comptroller hereby confirms that none of the provisions of the foregoing resolution shall pose an adverse impact to the Town's finances; now therefore, be it

**RESOLVED**, that the Town Board shall conduct a Public Hearing at 6:00 PM on November 5<sup>th</sup>, 2015 at the East Greenbush Town Hall, located at 225 Columbia Turnpike, Rensselaer, New York 12144, for the purpose of receiving public input on the proposed Preliminary Budget for the fiscal year 2016, including all Special Districts contained therein and, be it further

**RESOLVED**, that if the Town Board does not meet and approve modifications by October 29, 2014, the 2016 Tentative Budget shall be accepted as the 2016 Preliminary Budget for the Public Hearing at 6:00 PM on November 5<sup>th</sup>, 2015.

The foregoing Resolution was duly moved by Supervisor Langley and seconded by Councilperson DiMartino and brought to a vote resulting as follows:

Supervisor Langley	VOTED	YES
Councilperson DiMartino	VOTED	YES
Councilperson Malone	VOTED	YES
Councilperson Matters	VOTED	YES

**172-2015 A Resolution Accepting the Resignation of Melissa Nusbaum**

**WHEREAS**, the Town Board has received a letter of resignation from Melissa Nusbaum who served as Secretary to the Commissioner of Public Works; and

**WHEREAS**, Melissa Nusbaum has served as the Secretary to the Commissioner of Public Works since January 2014 and is a valued member of the Public Works Administration; and

**WHEREAS**, the Town Comptroller has confirmed that there is adequate funding in the 2015 Town Budget to support this resolution; now, therefore, be it

**RESOLVED**, that the resignation of Melissa Nusbaum, effective COB October 9, 2015, is hereby accepted.

The foregoing resolution was duly moved by Councilperson DiMartino and seconded by Councilperson Matters and brought to a vote resulting as follows:

Councilperson DiMartino	VOTED	YES
Councilperson Matters	VOTED	YES
Supervisor Langley	VOTED	YES
Councilperson Malone	VOTED	YES

**173-2015 A Resolution Accepting the Resignation for Retirement of Matthew L. Breig**

**WHEREAS**, the Town Board has received a letter of resignation from Matthew L. Breig of the East Greenbush Police Department; and

**WHEREAS**, Matthew L. Breig has served as a Police Officer, most recently as Detective/Sergeant with the Town of East Greenbush since February 1993 and is a valued member of the Police Department; and

**WHEREAS**, the Town Comptroller has confirmed that there is adequate funding in the 2015 Town Budget to support this resolution; now, therefore, be it

**RESOLVED**, that the resignation of Detective/Sergeant Matthew L. Breig, effective COB October 29, 2015, is hereby accepted.

The foregoing resolution was duly moved by Supervisor Langley and seconded by Councilperson Malone and brought to a vote resulting as follows:

Supervisor Langley stated that Matt was an asset to the Police Department and wanted to thank him for his years of service.

Supervisor Langley	VOTED	YES
Councilperson Malone	VOTED	YES
Councilperson DiMartino	VOTED	YES
Councilperson Matters	VOTED	YES

**174-2015 A Resolution Approving the Appointment of Matthew DeFrias to MEOL**

**WHEREAS**, the Commissioner of Public Works posted the position of Machine Equipment Operator Light to gain qualified Truck Drivers within the Highway Department; and

**WHEREAS**, Matthew DeFrias, who currently works as a Laborer, bid for one of the two posted MEOL positions and Commissioner Corellis notified the Finance Office; and

**WHEREAS**, the Director of Finance, following Civil Service protocol submitted an application and nomination form to Rensselaer County Civil Service; and

**WHEREAS**, Rensselaer County Civil Service has approved the promotion of Matthew DeFrias for the position of MEOL as determined eligibility for appointment under the provisions of Rensselaer County Civil Service Rule V- Labor Class Appointment; and

**WHEREAS**, Matthew DeFrias will be paid at a rate of \$24.3177/hour, which includes calculations for longevity based on the CSEA Union Contract; and

**WHEREAS**, the Town Comptroller has confirmed that there is adequate funding in the 2015 Town Budget to support this resolution; now, therefore, be it

**RESOLVED**, that the appointment of Matthew DeFrias to MEOL effective immediately is hereby approved by the Town Board

The foregoing resolution was duly moved by Councilperson DiMartino and seconded by Supervisor Langley and brought to a vote resulting as follows:

Councilperson DiMartino	VOTED	YES
Supervisor Langley	VOTED	YES
Councilperson Malone	VOTED	YES
Councilperson Matters	VOTED	YES

**175-2015 A Resolution Approving the Appointment of Eric Albert to MEOL**

**WHEREAS**, the Commissioner of Public Works posted the position of Machine Equipment Operator Light to gain qualified Truck Drivers within the Highway Department; and

**WHEREAS**, Eric Albert, who currently works as Senior Mechanic, bid for one of the two posted MEOL positions and Commissioner Corellis notified the Finance Office; and

**WHEREAS**, the Director of Finance, following Civil Service protocol submitted an application and nomination form to Rensselaer County Civil Service; and

**WHEREAS**, Rensselaer County Civil Service has approved the promotion of Eric Albert for the position of MEOL as determined eligibility for appointment under the provisions of Rensselaer County Civil Service Rule V- Labor Class Appointment; and

**WHEREAS**, Eric Albert will be paid at a rate of \$25.1277/hour, which includes calculations for longevity based on the CSEA Union Contract; and

**WHEREAS**, the Town Comptroller has confirmed that there is adequate funding in the 2015 Town Budget to support this resolution; now, therefore, be it

**RESOLVED**, that the appointment of Eric Albert to MEOL effective immediately is hereby approved by the Town Board

The foregoing resolution was duly moved by Councilperson DiMartino and seconded by Supervisor Langley and brought to a vote resulting as follows:

Councilperson DiMartino	VOTED	YES
Supervisor Langley	VOTED	YES
Councilperson Malone	VOTED	YES
Councilperson Matters	VOTED	YES

**176-2015 Appointment of Part-time Police Dispatchers**

**WHEREAS**, this Town Board seeks to maintain an adequate reserve of part-time police dispatchers to support operations in the Town's Emergency Communications Center and

**WHEREAS**, the Chief of Police has reported a shortage of part-time personnel to the Town Board and has determined that the following individuals are qualified and meet the presumptive, non-competitive qualifications for this title as established by the Rensselaer County Civil Service Commission; Mr. Nathaniel E. Bray, Ms. Janet M. Gamble and Mr. Andrew P. Bruce, and

**WHEREAS**, the Town Comptroller has confirmed that the provisions of this resolution are in the 2015 Town Budget and will have no adverse impacts on the 2015 Town Finances; now therefore be it

**RESOLVED**, that Mr. Nathaniel E. Bray, Ms. Janet M. Gamble and Mr. Andrew P. Bruce be, and hereby are appointed to the position of part-time police dispatcher, consistent with all terms and conditions of this position as previously set forth by the Town Board, for a term to expire at the Town's next organizational meeting, or otherwise at the pleasure of the Town Board, and be it further

**RESOLVED**, that said part-time position be compensated at the rate set forth in the appropriate labor agreement.

The foregoing Resolution was duly moved by Supervisor Langley and seconded by Councilperson Malone and brought to a vote resulting as follows:

Supervisor Langley stated that he hopes that this resolution passes and would like to congratulate Mr. Bray, Ms. Gamble, and Mr. Bruce aboard.

Supervisor Langley	VOTED	YES
Councilperson Malone	VOTED	YES
Councilperson DiMartino	VOTED	YES
Councilperson Matters	VOTED	YES

**177-2015 A Resolution Accepting the Resignation for Retirement of Mark J. Mann**

**WHEREAS**, the Town Board has received a letter of resignation from Mark J. Mann of the East Greenbush Police Department; and

**WHEREAS**, Mark J. Mann has served as a valued member of the Police Department since September 1994 as Police Officer, DARE Officer and Evidence Technician, and

**WHEREAS**, the Town Comptroller has confirmed that the provisions of this resolution will have no adverse impacts on the Town Finances; now therefore be it

**RESOLVED**, that the resignation of Mark J. Mann, effective September 26, 2015, is hereby accepted.

The foregoing Resolution was duly moved by Supervisor Langley and seconded by Councilperson Malone and brought to a vote resulting as follows:

Supervisor Langley	VOTED	YES
Councilperson Malone	VOTED	YES
Councilperson DiMartino	VOTED	YES
Councilperson Matters	VOTED	YES

**178-2015      Modification of Requirement for Inclusion of a Financial-Impact Provision Relative to Town Board Action**

**WHEREAS**, the Town Board (hereinafter, "Board") of the Town of East Greenbush (hereinafter, "Town"), having heretofore recognized the need to be cognizant, on a consistent basis, of the financial implications of every action undertaken by the Board, duly adopted Resolution 42-2010 whereby all Board resolutions, excepting the approval of the minutes of Board meetings, are required to contain a provision in which the comptroller attests, in relevant detail, as to the nature and extent of impact that such resolutions may have on the Town's finances, including, but not limited to, planned budget allocation, budget transfers, cash management, and/or debt-service (hereinafter, "Financial-Impact Provision"); and

**WHEREAS**, the Supervisor, as the Town's Chief Fiscal Officer pursuant to New York Local Finance Law Section 2.00, subd. 5 (c), (1) exercises day-to-day transactional discretion over the Town's fiscal affairs as authorized and constrained by law, (2) is directly responsible for ensuring that the integrity of the Town's finances is maintained, and (3) is required, pursuant to New York Town Law section 125, subd. 2, to render to the Board at the end of each month a detailed statement of all monies received and disbursed for such month; and

**WHEREAS**, given the totality of the Supervisor's fiscal-related obligations to the Town and accountability for the same, the Board deems it to be just and proper for the Supervisor, as opposed to the Comptroller, to attest to the substance of a Financial-Impact Provision; now, therefore, be it

**RESOLVED**, that Resolution 42-2010 be, and the same hereby is, modified to provide for, and require that, the Supervisor attest to the substance of a Financial-Impact Provision for all resolutions deliberated upon by the Board at all of its meetings held hereafter, excepting the approval of the minutes of Board meetings; and be it further

**RESOLVED**, that such modification further provide for, and require that, a Financial-Impact Provision be of sufficient substance so as to reasonably enable the Board to understand the fiscal implications of a proposed resolution.

The foregoing resolution was duly moved by Councilperson Matters, seconded by Councilperson DiMartino, and resulted in the following vote:

Councilperson Matters stated Supervisor Langley has practiced common sense budgeting, kept taxes under the tax cap, and has reduced the debt from \$2.4 million to \$344k, and has questioned how he has accomplished these things. She has asked for a special meeting to obtain information about the Town's Finances, and when a meeting was set you had a case at the Pre-Board

meeting to have the meeting in executive session. Councilperson Matters also stated "As Chief Financial Officer of the town, (the OSC says) you have 17 different fiscal responsibilities and requirements, five of which you can give to the town comptroller but only if, by resolution of the town board, he was designated as accounting officer. These duties make it fitting for you to attest to the financial impact of every decision you make. (Note: stipends/conveying town property). You have sole custody of all moneys received from taxes and other public sources and you are responsible for depositing, investing, paying, disbursing, accounting, encumbering, preparing, keeping and issuing all such monies. This is an accountability issue. If I were supervisor, I would insist on attesting to the financial impact of every cost incurred by the town. Since you have by no means made the financial aspect of our job easy for us, including *inviting us in* to participate in the crafting of the 2016 budget, at least resolve to take full responsibility for all the decisions you are making without us by voting yes to this resolution tonight.

Councilperson Matters	VOTED	YES
Councilperson DiMartino	VOTED	YES
Councilperson Malone	VOTED	NO
Supervisor Langley	VOTED	NO

**179-2015 Authorization to Retain Special Outside Legal Counsel for Advisory Services Relative to the Management of Existing Contracts for the Upgrade of the Town's Wastewater Treatment Facility**

**WHEREAS**, the Town of East Greenbush (referred to hereinafter as "Town") has heretofore entered into design, construction, and inspection contracts (collectively referred to hereinafter as "Contracts") with Delaware Engineering, D.P.C., U.W. Marx, Inc., and Chazen Engineering, Land Surveying & Landscape Architecture Co., D.P.C., respectively, for the upgrading of the Town's Waste Water Treatment Plant; and

**WHEREAS**, since the date on which the Town entered into the Contracts, a number of complex issues have arisen, all of which have significant legal, financial, and/or engineering implications relative to the management of such Contracts, thereby exposing the Town to considerable risk, particularly with regard to the Town's finances, but also with regard to other liabilities associated with the Town's responsibilities for the Waste Water Treatment Plant; and

**WHEREAS**, inasmuch as the Town is not currently equipped to efficiently, effectively, and properly manage such risk either by an in-house professional or by a professional-services provider capable of zealous advocacy on behalf of the Town, such deficiency places the Town at a distinct disadvantage that may be harmful thereto; and

**WHEREAS**, in order to overcome such disadvantage, to mitigate, to the maximum extent possible, such risk, and, toward that end, advise the Town board soundly concerning its future business actions (referred to hereinafter as "Services"), the Town Board deems the retention of special outside legal counsel, together with subcontracted consultant(s), if any, that

such counsel may deem to be appropriate, for the purpose of providing the Services, to be in the Town's best interest; and

**RESOLVED**, that the Town's Purchasing Agent be, and the same hereby is, authorized, in collaboration with, and on the advice of, the Attorney for the Town, to undertake a solicitation of the Services from qualified professional legal-services providers with the proviso to include any necessary subcontracting thereby, and, thereafter, to recommend a single, professional legal-services provider to the Town Board for its consideration and selection as special outside legal counsel.

The forgoing resolution was duly moved by Councilperson Matters, seconded by Councilperson DiMartino, and brought to a vote resulting as follows:

Councilperson DiMartino thinks this resolution is a good idea and believes it's in the Town's best interest.

Councilperson Matters explained that she believed that outside legal counsel specializing in a project of this size and cost should have been hired in the beginning of this project. She believes that there are now, as the resolution states, a number of complex issues that have arisen, all of which have significant legal, financial, and/or engineering implications relative to the management of the contracts, that are exposing the town to considerable risk, particularly with regard to the town's finances, but also with regard to other liabilities associated with the TOWN'S responsibilities for this facility. We also have the rain storm incident on September 29th and 30th that overwhelmed the plant, with waters overflowing holding tanks and carving away at a *brand new concrete foundation* on the plant's western edge. The torrent scoured away about 20 feet of *foundation footings* below massive holding tanks. Councilperson Matters questioned how the design and engineering consultants, who had been on the site since it started did not know about the vulnerability of the plant's foundation until the rainstorm happened. She also questioned why the state of emergency was not declared until six days after the storm ended. She stated that it is her understanding that the emergency order had been lifted, and for all the reasons that she mentioned she does not believe they can rely solely on the companies that we hired to protect the interests of the town because they may have to protect their own interests where future subrogation actions by the insurance company are concerned. She asked Supervisor Langley and Councilperson Malone to support this resolution because she believes we are going to need specialized outside legal counsel to take over this project and handle potential litigation.

Councilperson Matters asked Dave Gruenberg, Town Attorney if he agreed with this resolution.

Mr. Gruenberg stated that he did not agree with this resolution at this time. In terms of the spill, all of the hard costs have been reimbursed by the insurance company. The problem now is with the soft costs, which is basically for Delaware and Chazen to supervise the re-work. Those soft costs have come up to a lot of money. He stated that we do not have a written denial of coverage from the insurance company as of yet. Dave wants to know if the soft costs and the delays are going to be covered by insurance. If these claims are denied that is when Dave stated that we will go to law and hire an outside legal consultant who has this

expertise to sue the insurance company. He believes that it is premature to pass this resolution at this time.

***Councilperson Matters motioned to Table the above Resolution, seconded by Councilperson DiMartino and brought to a vote resulting as follows:***

Councilperson Matters	VOTED	YES
Councilperson DiMartino	VOTED	YES
Councilperson Malone	VOTED	NO
Supervisor Langley	VOTED	YES

**180-2015 Authorization to Contract with Delaware Engineering, D.P.C. to Analyze and Evaluate the Town’s Sewer Districts and Fee-Rate Structures and to Recommend Changes Thereto**

**WHEREAS**, in response to resolution 144-2014 which was defeated during the regular board meeting of the Town of East Greenbush (referred to hereinafter as “Town”) held on December 17, 2014, and in which the rates of user fees for Town sewer service were proposed to be increased, concerns were raised regarding the basis for such proposed increases; and

**WHEREAS**, the Supervisor, in his memorandum dated February 17, 2015 (a copy of which is attached hereto), requested that the Town’s Citizens’ Fiscal Advisory Committee (referred to hereinafter as “CFAC”) research and provide an opinion on possible solutions to financial questions regarding the Town’s fee structure for sewer service; and

**WHEREAS**, the CFAC, at its meeting held on April 8, 2015, deliberated upon the Supervisor’s request and determined that its members do not possess the requisite knowledge to fulfill such request, and so advised the supervisor and the rest of the town board in its memorandum dated April 13, 2015 (a copy of which is attached hereto); and

**WHEREAS**, the Town’s engineering consultant for sewer-related issues, Delaware Engineering, D.P.C. (referred to hereinafter as “Delaware”), was requested to prepare a proposal (referred to hereinafter as “Proposal”) to analyze and evaluate the Town’s existing five sewer districts and attendant fee-rate structures and to recommend appropriate changes thereto (referred to hereinafter as “Services”); and

**WHEREAS**, in order to properly and competently objectify adjustments to fee-rates for sewer service in advance of the necessary servicing of debt which is associated with the financing of the ongoing upgrades to the Town’s Waste Water Treatment Plant and which is required to commence prior to the beginning of the third quarter of the year 2015, it is imperative that the performance of the Services commence at this time in order to meet such deadline; and

**WHEREAS**, in order to capitalize on Delaware’s specialized expertise and experience in providing the Services to other clients, and on the Town’s prior and ongoing investment in sewer-related services performed by Delaware vis-à-vis its technical knowledge of, and acclimation with, the Town’s sewer assets, it is clearly in the Town’s best interest that the Services be performed by Delaware; and

**WHEREAS**, the Proposal dated April 6, 2015, a copy of which is attached hereto, is proffered by Delaware at a cost not to exceed \$30,000, with the understanding that should additional factors be discovered that would materially affect the work-product integrity of the Services and

therefore require additional cost, that Delaware will promptly advise the Town Board so that such factors and cost can be considered; and

**WHEREAS**, Delaware has indicated that the cost of the Services can be wrapped into the financing of the wastewater treatment plant upgrades; and

**WHEREAS**, inasmuch as the reliability of the Town's Annual Budgets for 2016 and beyond are dependent upon the information yielded from the Services, it is vital that the Services be performed; now, therefore, be it

**RESOLVED**, that the performance of the Services by Delaware, as outlined in the terms of its Proposal, be, and the same hereby is, approved; and be it further

**RESOLVED**, that the Supervisor is authorized to enter into an agreement with Delaware for the approved Services, and shall do so forthwith following review and approval of such agreement by the Attorney to the Town; and be it further

**RESOLVED**, that the cost of the Services are to be included in the financing of the Waste Water Treatment plant in the manner prescribed by Delaware.

The foregoing resolution was duly moved by Councilperson Matters, seconded by Councilperson DiMartino, and resulted in the following vote:

Councilperson Matters stated that she thought this resolution speaks for itself, as do the others, but she is bringing it back one more time to stress the importance of it and to address a primary concern that was raised by three board members, the \$30,000 cost. The cost by Delaware Engineering *to analyze and evaluate the town's sewer districts and fee rate structure and recommend appropriate changes* comes in the wake of an annual \$700,000 bill to be paid by the residents for 25-30 years for the newly upgraded WWTP. The \$30,000 cost is only 0.21428% (way less than 1%) of the cost of the \$14 million project and it can be wrapped into the financing. The benefit is that when the residents appear in the office to ask why their sewer and water bills were raised substantially, you will be able to explain to them that a professional firm did a study and advised us on the best way to charge residents over 30 years to pay off the debt. Again, the cost can be wrapped into the financing. Paying for an upgraded plant is an unusual circumstance, it has never been done before in your term as supervisor, and it is a huge responsibility. Delaware can help us to quantify all of the costs that need to be taken into consideration as part of the 2016 budget and beyond; otherwise, there could be budget shortfalls if it's not done correctly. She believes it is in the best interest of the town and the residents, who will have to pay off this massive debt for decades to come.

Supervisor Langley stated that this was addressed a year ago and we relied on Hank Labarba and Associates to work with us on what those rates should be and it was denied at that point. Secondly Keith feels that we could be in litigation with these people at some point so he does not support this resolution.

Councilperson Matters	VOTED	YES
Councilperson DiMartino	VOTED	YES
Councilperson Malone	VOTED	NO
Supervisor Langley	VOTED	NO

**181-2015 Resolution to Approve the Addition of New Resolutions**

**WHEREAS**, Resolution 13-2015 Resolution for Timely Submission of Resolutions called for *any items on Board meeting agendas that were not presented at pre-board, be required a majority vote to be considered for a vote*; and

**WHEREAS**, additional resolutions have been presented to the board for consideration at this month's Town Board meeting, and

**WHEREAS**, the Town Comptroller has confirmed that the Board adding additional Resolutions to the agenda will not impact the budget; and

**WHEREAS**, that the following resolutions:

*182-2015 – A Resolution Endorsing Plan of Action to Address Concerns of NYS DEC Relating to Violations of the Town's SPDES Permit*

*183-2015 – Authorizing the Purchasing Agent to Issue a Request for Bids from Qualified Haulers for the Hauling and Disposal of Waste Water Treatment Plant Cake Sludge*

*184-2015 - A Resolution Authorizing the 2016 CDPHP Medicare Advantage PPO Plan*

were added to the agenda following the pre-board meeting; now, therefore, be it

**RESOLVED**, that the addition of the above resolutions requires majority Town Board vote; now, therefore be it further

**RESOLVED**, that following majority vote, the Town Board will vote on the stated resolutions.

The foregoing resolution was duly moved by Councilperson Matters and seconded by Councilperson DiMartino and brought to a vote resulting as follows:

Councilperson Matters	VOTED	YES
Councilperson DiMartino	VOTED	YES
Supervisor Langley	VOTED	YES
Councilperson Malone	VOTED	YES

**182-2015 A Resolution Endorsing Plan of Completion to Address Concerns of NYS DEC Relating to Violations of the Town's SPDES Permit**

**WHEREAS**, the Town has been advised that certain violations of the Town's SPDES permit have occurred; and

**WHEREAS**, the Town is eager to address these concerns, and to bring the Town into compliance with the permit as promptly as possible; and

**WHEREAS**, the firm providing services to the Town on these matters has drafted a proposed plan of completion to action to address the concerns, as a follow up to the Plan of Action approved in Resolution 152-2015, and to insure future compliance; now, therefore, be it

**RESOLVED**, that the Town endorses the proposed response, as set forth in a draft letter from Delaware Engineering (Mary Beth Bianconi, Senior Project Manager) to the Department of Environment Conservation; it is further

**RESOLVED**, that the Town Comptroller hereby confirms that this will not impact the 2015 Town Budget; it is further

**RESOLVED**, that Delaware Engineering is authorized and directed to provide that letter/plan to the NYS Department of Environmental Conservation

The foregoing Resolution was duly moved by Councilperson Malone and seconded by Supervisor Langley and brought to a vote resulting as follows:

Councilperson Malone	VOTED	YES
Supervisor Langley	VOTED	YES
Councilperson DiMartino	VOTED	YES
Councilperson Matters	VOTED	YES

**183-2015 Authorizing the Purchasing Agent to Issue a Request for Bids from Qualified Haulers for the Hauling and Disposal of Waste Water Treatment Plant Cake Sludge**

**WHEREAS**, the Town of East Greenbush is nearing completion of the upgrades to the Waste Water Treatment Plant and has identified the need to solicit bids for qualified haulers for the Hauling and Disposal of Waste Water Treatment Plant Cake Sludge; and

**WHEREAS**, this Request for Bids is necessary to provide the Town of East Greenbush with a means to meet its SPDES permit, to satisfy the Order of Consent, and effectively dispose of sludge cake at the Waste Water Treatment Plant; and

**WHEREAS**, the Purchasing Agent, with the assistance of Delaware Engineering will present the bids to the Town Board for final selection of the lowest responsible bidder; and

**WHEREAS**, the Town Comptroller hereby confirms that none of the provisions of the soliciting bids shall pose an adverse impact to the Town's finances, and that the anticipated cost of hauling WWTP Sludge Cakes will cost approximately the same as the current sludge hauling expense that the Town has presently, and that the cost of preparing bid documents will be approximately \$5,000, an additional cost that will be subject to Town Board approval in the form of a Change Order by Delaware Engineering, however, the cost should be funded under the EFC funding; now, therefore, be it

**RESOLVED**, the Town Board authorizes the Purchasing Agent to solicit sealed bids for qualified haulers for the Hauling and Disposal of Waste Water Treatment Plant Cake Sludge

The foregoing Resolution was duly moved by Supervisor Langley and seconded by Councilperson Malone and brought to a vote resulting as follows:

Supervisor Langley	VOTED	YES
Councilperson Malone	VOTED	YES
Councilperson DiMartino	VOTED	YES
Councilperson Matters	VOTED	YES

**184-2015 A Resolution Authorizing the 2016 CDPHP Medicare Advantage PPO Plan**

**WHEREAS**, the Director of Finance, along with representatives from Amsure, our Capital District PhysiciansøHealth Plan, Inc. (CDPHP) brokers, have been working to find a Medicare Advantage plan the is cost effective for the Town and provides retirees with comparable benefits to those offered with Empire/NYSHIPø Mediprime; and

**WHEREAS**, the current plan, a HMO, restricts retirees to Capital District usage, and offering a PPO, would allow retirees to see Doctors on a National Network; and

**WHEREAS**, the PPO plan would cost the Town \$255.80 per month, compared to the HMO which would cost the Town \$263.50 per month, an increase of \$28.20 per month over the 2015 rates; and

**WHEREAS**, the Town Comptroller confirms that the PPO is beneficial to the retirees as well as the Town of East Greenbush and was more appropriately budgeted into the 2016 Budget; now, therefore, be it

**RESOLVED, that the Town Board does hereby approve the 2016 CDPHP Medicare Advantage PPO Plan provided that the choice of such plan does not jeopardize the choice by the retirees of existing HMO Plan**

~~**RESOLVED, that the Town Board does hereby approve the 2016 CDPHP Medicare Advantage PPO Plan**~~

Supervisor Langley made a motion to amend the last recital of the foregoing resolution to read:

**RESOLVED, that the Town Board does hereby approve the 2016 CDPHP Medicare Advantage PPO Plan provided that the choice of such plan does not jeopardize the choice by the retirees of existing HMO Plan**

The foregoing motion to amend the Resolution was duly moved by Supervisor Langley and seconded by Councilperson DiMartino and brought to a vote resulting as follows:

Supervisor Langley	VOTED	YES
Councilperson DiMartino	VOTED	YES
Councilperson Malone	VOTED	YES
Councilperson Matters	VOTED	YES

The foregoing Amended Resolution was moved by Supervisor Langley and seconded by Councilperson Malone and brought to a vote resulting as follows:

Supervisor Langley	VOTED	YES
Councilperson Malone	VOTED	YES
Councilperson DiMartino	VOTED	YES
Councilperson Matters	VOTED	YES

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## **ADJOURNMENT**

Motion to adjourn by Supervisor Langley at 8:50 and seconded by Councilperson Matters and brought to a vote as follows:

Supervisor Langley	VOTED	YES
Councilperson Matters	VOTED	YES
Councilperson Malone	VOTED	YES
Councilperson DiMartino	VOTED	YES

