



# The Town of East Greenbush

225 Columbia Turnpike, Rensselaer, New York 12144

## TOWN BOARD AGENDA PRE-BOARD MEETING October 15, 2015

**Call to Order**                      **4:00 PM**  
**Pledge to the Flag**  
**Town Board Meeting:**

### Members of Town Board

Present	Absent	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Supervisor Langley
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Councilperson Malone
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Councilperson DiMartino
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Councilperson Matters

### Schedule of Meeting:

**4:00 PM**  
**- Mary Beth Bianconi – Delaware Engineering – WWTP**

Mary Beth Bianconi from Delaware Engineering gave a presentation regarding the need to put a bid out for sludge Haulers for the Waste Water Treatment Plant update. The Haulers that won the bid would resume the responsibility of the waste once it is in their possession. They would be responsible to provide the receptacles, pick up and dispose of properly.

Mary Beth

**- Jim Connors – Chazen Engineering – Update on Rain Emergency**

Jim Connors from Chazen gave an update on the rain emergency that affected the Waste Water Treatment Plant. He explained that we had a rain storm that dropped between 4 and 7 inches of rain in 12 hours. The tanks overflowed and the ground under the tanks eroded.

Anthony Correllis stated that it was a scary situation. There was no ground under the Tank. The contractors worked extremely hard to bring it back into compliance.

Mary Beth explained that the erosion has been repaired 90 % of the way, the heaters have been replaced. The area will be graded so this will not happen again.

The Contractor maintains that they will be done by November 25<sup>th</sup>.

The consent order states that the work to make the plant operable be done by December, s we will have some time if there are issues.

Mary Beth stated that we have the funds to finish the contract work by the November 25<sup>th</sup> date. What we do not have the funds for is the Amtrak work that does need to get completed and some other work like the road and DOT compliance. The objective is to get the contract work with UW Marx done so we don't incur more costs.

She recommends that the rest of the work go back out to bid as a new contract in January.

Councilperson Matters explained that she is still looking to have a special meeting looking for itemized expenses from the spill and inventory of all cost and out of pocket expenses.

Supervisor Langley questioned whether a special meeting is appropriate since there may be litigation regarding this event. He stated that we don't know if this will be decided in a Board Room or a Court Room.

#### **- Executive Session – Litigation discussion**

Supervisor Langley made a motion to go into executive session at 5:40 to discuss pending litigation matters to affect the town.

#### **Councilperson Malone 2<sup>nd</sup> that motion**

<b>Supervisor Langley –</b>	<b>Yes</b>
<b>Councilperson Malone -</b>	<b>Yes</b>
<b>Councilperson Matters-</b>	<b>Yes</b>
<b>Councilperson DiMartino-</b>	<b>Yes</b>

Councilperson Malone and DiMartino left the session at 6:15

Supervisor Langley and Councilperson Malone stayed in session until 7:10

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### **Resolutions for Town Board Meeting**

#### **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
Councilperson Matters	VOTED
Councilperson Malone	VOTED
Councilperson DiMartino	VOTED

**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
Councilperson Malone	VOTED
Councilperson DiMartino	VOTED
Councilperson Matters	VOTED

**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 (øEAFö) 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
Supervisor Langley	VOTED
Councilperson DiMartino	VOTED
Councilperson Matters	VOTED

**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:

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

**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
Supervisor Langley	VOTED
Councilperson DiMartino	VOTED
Councilperson Matters	VOTED

**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:

Assessment Year	Original Assessment	Amended Assessment	Amount of Reduction
2015 501 Columbia Turnpike	\$11,250,000	\$10,650,000	\$600,000
2015 425 Columbia Turnpike	\$800,000	No change ó discontinued without prejudice	\$0

**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
Councilperson Malone	VOTED
Councilperson DiMartino	VOTED
Councilperson Matters	VOTED

**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
Councilperson DiMartino	VOTED
Councilperson Malone	VOTED
Councilperson Matters	VOTED

**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
Councilperson Matters	VOTED
Supervisor Langley	VOTED
Councilperson Malone	VOTED

**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	VOTED
Councilperson Malone	VOTED
Councilperson DiMartino	VOTED
Councilperson Matters	VOTED

**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
Supervisor Langley	VOTED
Councilperson Malone	VOTED
Councilperson Matters	VOTED

**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
Supervisor Langley	VOTED
Councilperson Malone	VOTED
Councilperson Matters	VOTED

**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	VOTED
Councilperson Malone	VOTED
Councilperson DiMartino	VOTED
Councilperson Matters	VOTED

**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
Councilperson Malone	VOTED
Councilperson DiMartino	VOTED
Councilperson Matters	VOTED

**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	VOTED
Councilperson DiMartino	VOTED
Councilperson Malone	VOTED
Supervisor Langley	VOTED

**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 Matters	VOTED
Councilperson DiMartino	VOTED
Councilperson Malone	VOTED
Supervisor Langley	VOTED

**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	VOTED
Councilperson DiMartino	VOTED
Councilperson Malone	VOTED
Supervisor Langley	VOTED

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## **ADJOURNMENT**

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

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