

TOWN OF CONCORD TOWN BOARD MEETING July 29, 2024
9:06 a.m.

MEETING CALLED TO ORDER BY PHILIP DROZD, SUPERVISOR,
at 9:06 a.m.

ROLL CALL: PHILIP DROZD, SUPERVISOR
KENNETH D. ZITTEL, COUNCIL MEMBER
KIMBERLY S. KRZEMIEN, COUNCIL MEMBER
KENNETH KASSEL, COUNCIL MEMBER

EXCUSED: CLYDE M. DRAKE, COUNCIL MEMBER

ALSO PRESENT: DARLENE G. SCHWEIKERT, Town Clerk

Supervisor Drozd opened the Special Town Board meeting at 9:06 a.m.

ITEM #1 JOINT INCREASE AND IMPROVEMENT OF FACILITIES OF
SEWER DISTRICT NO. 1 and SEWER DISTRICT NO. 2 (2024)

Council Member Zittel moved the adoption of Resolution 15, seconded by
Council Member Krzemien:

**RESOLUTION AND ORDER
AFTER PUBLIC HEARING APPROVING
THE JOINT INCREASE AND IMPROVEMENT OF
FACILITIES OF THE TOWN OF CONCORD
SEWER DISTRICT NO. 1 AND SEWER DISTRICT NO. 2**

WHEREAS, the Town Board of the Town of Concord (herein called
"Town Board" and "Town," respectively), in the County of Erie, New York, has,
pursuant to Town Law, created the Town of Concord Sewer District No. 1 and Sewer
District No. 2 (collectively, the "Districts"); and

WHEREAS, the Town Board has directed MDA Consulting Engineers,
PLLC, competent engineers licensed in New York, to prepare a preliminary map, plan
and report (dated March 8, 2017 and updated August 3, 2017 and June 17, 2022) for the
Districts' sewer system improvements project; and

WHEREAS, in July and August of 2022, the Town approved the original
capital improvements project, through Town Law Section 202-b proceedings and other
resolutions and adopted a bond resolution on August 18, 2022; and

WHEREAS, the cost of the such project has increased due to an increase
in the cost of construction materials and labor for the project; and

WHEREAS, the Town has directed MDA Consulting Engineers, PLLC,
competent engineers licensed in New York, to prepare an amendment to the map, plan
and report (dated June, 2024) to reflect the revised cost of the project; and

WHEREAS, such amendment to the map, plan and report amends a
certain prior map, plan and report (dated March 8, 2017 and updated August 3, 2017 and
June 17, 2022) for the purposes of (a) increasing the estimated maximum cost of such
project and (b) increasing the amount of bonds (and notes) for such project; and

WHEREAS, such amendment to the map, plan and report (hereinafter
referred to as map, plan and report) has not been modified in any material respect other
than as described above; and

WHEREAS, the scope of the improvements has not materially changed
from the project identified in such original map, plan and report; and

WHEREAS, such sewer system capital improvements project will generally consist of improvements to Sewer District No. 1 and Sewer District No. 2, such work to include, but not be limited to, the construction of a new combined wastewater treatment plant ("WWTP"), decommissioning of the existing WWTPs, construction of a sanitary sewer pump station and force main from Kissing Bridge to the new WWTP, and various improvements to the existing sanitary sewer system within the Craneridge subdivision, as well as other such improvements as more fully identified in (or contemplated by) such map, plan and report referred to above, all of the forgoing to include all necessary site work, equipment, apparatus and other improvements and costs incidental thereto and in connection with the financing thereof (collectively, the "Project"); and

WHEREAS, the June 2024 amendment to the map, plan and report: (a) increases the estimated maximum cost of the project from \$6,700,000 to \$8,200,000 and (b) increases the aggregate principal amount of bonds from \$6,700,000 to \$8,200,000; and

WHEREAS, pursuant to the direction of the Town, the Engineer has completed and filed with the Town Board such amendment to the map, plan and report for such joint increase and improvement of facilities of the District and has estimated the total cost thereof to be an increased estimated maximum amount of \$8,200,000; said cost to be financed by the issuance of serial bonds of the Town in an increased aggregate principal amount not to exceed \$8,200,000, such amount to be offset by any federal, state, county and/or local funds received; and

WHEREAS, The Town has complied with applicable federal, state and local laws and regulations regarding environmental matters, including compliance with the New York State Environmental Quality Review Act ("SEQRA"), comprising Article 8 of the Environmental Conservation Law and, in connection therewith, duly issued a negative declaration and/or other applicable documentation, and therefore, no further action under SEQRA is necessary; and

WHEREAS, the Town Board issued an Order at its July 11, 2024 meeting calling for a public hearing to be held on July 29, 2024 at 9:00 o'clock a.m. (prevailing time) or shortly thereafter to consider said joint increase and improvement of facilities of the Districts and to hear all persons interested in the subject thereof concerning the same and for such other action on the part of the Town Board with relation thereto as may be required by law, and further ordered the Town Clerk to publish at least once in a newspaper designated as an official newspaper of the Town for such publication, and post on the sign board of the Town maintained pursuant to subdivision 6 of Section 30 of the Town Law, a copy of this Order, certified by said Town Clerk, the first publication thereof and said posting to be not less than ten nor more than 20 days before the date of such public hearing; and

WHEREAS, said notices of the public hearing were properly published and posted and the public hearing duly held at the time and place stated in the notices.

NOW, THEREFORE, BE IT RESOLVED AND DETERMINED BY THE TOWN BOARD OF THE TOWN OF CONCORD, based on the information provided at the public hearing, as follows:

DETERMINED, that it is in the public interest to increase and improve the facilities of the Districts as hereinabove described and referred to at the estimated maximum cost of \$8,200,000; and it is hereby

DETERMINED, that the parcels and lots of the Districts shall be benefited by said joint increase and improvement of the facilities of the Districts; and it is hereby

DETERMINED, that all parcels and lots benefited by said increase and improvement of the facilities are included in the Districts; and it is hereby

ORDERED, that the facilities of the Districts shall be so increased and improved and that the Engineer shall prepare plans and specifications and make a careful estimate of the expense for said joint increase and improvement of the facilities, and with the assistance of the Town Attorney, prepare a proposed contract for the execution of the work, which plans and specifications, estimate and proposed contract shall be presented to the Town Board as soon as possible; and it is hereby

FURTHER ORDERED, that the expense of the Project shall be annually apportioned among the Districts by the Town Board, financed by the issuance of serial bonds of the Town in an aggregate principal amount not to exceed \$8,200,000 said amount to be offset by any federal, state, county and/or local funds received, and unless paid from other sources or charges, the costs of said increase and improvement of facilities, shall be paid by the assessment, levy and collection of special assessments from the several lots and parcels of land within the Districts, which the Town Board shall determine and specify to be especially benefited thereby, so much upon and from each as shall be in just proportion to the amount of benefit conferred upon the same, to pay the principal of and interest on said bonds as the same shall become due and payable, except as provided by law; and it is hereby

FURTHER ORDERED, that the Town Board may establish sewer rents as provided in paragraph (I) of subdivision one of Town Law Section 198; and it is hereby

FURTHER ORDERED, that within ten days after adoption of this Resolution and Order, the Town Clerk will record with the Clerk of the County of Erie a copy of this Resolution and Order, certified by said Town Clerk.

Voting as follows:

Council Member Drake	Excused
Council Member Kassel	Aye
Council Member Krzemien	Aye
Council Member Zittel	Aye
Supervisor Drozd	Aye

The foregoing Resolution was thereupon declared duly adopted.

ITEM #2 JOINT INCREASE AND IMPROVEMENT OF FACILITIES OF SEWER DISTRICT NO. 1 and SEWER DISTRICT NO. 2 (2024): AN AMENDING AND RESTATING BOND RESOLUTION

Council Member Zittel, moved the adoption of Resolution 16, seconded by Council Member Krzemien:

AN AMENDING AND RESTATING BOND RESOLUTION, DATED JULY 29, 2024, OF THE TOWN BOARD OF THE TOWN OF CONCORD, ERIE COUNTY, NEW YORK (THE "TOWN"), AMENDING THE BOND RESOLUTION THAT WAS ADOPTED ON AUGUST 18, 2022, AND AUTHORIZING A CAPITAL IMPROVEMENTS PROJECT WITHIN SEWER DISTRICT NO. 1 AND SEWER DISTRICT NO. 2 AT AN ESTIMATED MAXIMUM COST OF \$8,200,000 AND AUTHORIZING THE ISSUANCE OF SERIAL BONDS IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$8,200,000 OF THE TOWN, PURSUANT TO THE LOCAL FINANCE LAW TO FINANCE SAID PURPOSE, SAID AMOUNT TO BE OFFSET BY ANY FEDERAL, STATE, COUNTY

**AND/OR LOCAL FUNDS RECEIVED, AND
DELEGATING THE POWER TO ISSUE BOND
ANTICIPATION NOTES IN ANTICIPATION OF
THE SALE OF SUCH BONDS TO THE TOWN
SUPERVISOR.**

WHEREAS, on August 18, 2022, the Town Board of the Town of Concord, Erie County, New York (the "Town") adopted a certain bond resolution (the "Original Bond Resolution") entitled:

A BOND RESOLUTION, DATED AUGUST 18, 2022, OF THE TOWN BOARD OF THE TOWN OF CONCORD, ERIE COUNTY, NEW YORK (THE "TOWN"), AUTHORIZING A CAPITAL IMPROVEMENTS PROJECT WITHIN SEWER DISTRICT NO. 1 AND SEWER DISTRICT NO. 2 AT AN ESTIMATED MAXIMUM COST OF \$6,700,000 AND AUTHORIZING THE ISSUANCE OF SERIAL BONDS IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$6,700,000 OF THE TOWN, PURSUANT TO THE LOCAL FINANCE LAW TO FINANCE SAID PURPOSE, SAID AMOUNT TO BE OFFSET BY ANY FEDERAL, STATE, COUNTY AND/OR LOCAL FUNDS RECEIVED, AND DELEGATING THE POWER TO ISSUE BOND ANTICIPATION NOTES IN ANTICIPATION OF THE SALE OF SUCH BONDS TO THE TOWN SUPERVISOR.

WHEREAS, the cost of the such project has increased due to an increase in the cost of construction materials and labor for the project; and

WHEREAS, the Town Board now wishes to modify the Original Bond Resolution for the purposes of: (a) increasing the estimated maximum cost of the project from \$6,700,000 to \$8,200,000 and (b) increasing the aggregate principal amount of serial bonds authorized to be issued from \$6,700,000 to \$8,200,000 and to make other modifications in the Original Bond Resolution as may be consistent with law; and

WHEREAS, the Town Board now wishes to amend and restate the Original Bond Resolution for the purposes identified above, and to make other modifications in the Original Bond Resolution as may be consistent with law; and

WHEREAS, the Original Bond Resolution is being modified to increase the estimated maximum cost as previously described, and is otherwise being reaffirmed and ratified in all respects; and

WHEREAS, the scope of the improvements has not materially changed from the project identified in the Original Bond Resolution; and

WHEREAS, the Town Board has determined to proceed with the project;
and

WHEREAS, the Town Board desires to issue obligations of the Town to finance the costs of the project.

WHEREAS, the Town has not previously issued bond anticipation notes pursuant to the Original Bond Resolution and has not yet entered into permanent financing arrangements thereunder (i.e., the issuance of long-term serial bonds); and

NOW THEREFORE,

BE IT RESOLVED, by the Town Board (by the favorable vote of not less than two-thirds of all the members of the Board) as follows:

SECTION 1. The Town is hereby authorized to undertake a sewer system capital improvements project that will generally consist of improvements to Sewer District No. 1 and Sewer District No. 2, such work to include, but not be limited to, the construction of a new combined wastewater treatment plant ("WWTP"), decommissioning of the existing WWTPs, construction of a sanitary sewer pump station and force main from Kissing Bridge to the new WWTP, and various improvements to the existing sanitary sewer system within the Craneridge subdivision, as well as other such improvements as more fully identified in (or contemplated by) such map, plan and report prepared in connection with such project, all of the forgoing to include all necessary site work, equipment, apparatus and other improvements and costs incidental thereto and in connection with the financing thereof (collectively, the "Project"). The estimated maximum cost of the Project is \$8,200,000.

SECTION 2. The Town Board plans to finance the estimated maximum cost of the Project by the issuance of serial bonds in an aggregate principal amount not to exceed \$8,200,000 of the Town, hereby authorized to be issued therefore pursuant to the Local Finance Law, said amount to be offset by any federal, state, county and/or local funds received. Unless paid from other sources or charges, the cost of such improvement is to be paid by the issuance of serial bonds and by the assessment, levy and collection of special assessments from the several lots and parcels of land within the Districts which the Town Board shall determine and specify to be especially benefited thereby, so much upon and from each as shall be in just proportion to the amount of benefit conferred upon the same, to pay the principal of and interest on such bonds as the same become due and payable, except as provided by law.

SECTION 3. It is hereby determined that the Project is an object or purpose described in subdivision 4 of paragraph (a) of Section 11.00 of the Local Finance Law, and that the period of probable usefulness of said purpose is 40 years.

SECTION 4. Current funds are not required to be provided prior to the issuance of the bonds authorized by this resolution or any notes issued in anticipation of the sale of said bonds.

SECTION 5. It is hereby determined the proposed maturity of the obligations authorized by this resolution will be in excess of five years.

SECTION 6. The faith and credit of said Town are hereby irrevocably pledged for the payment of the principal of and interest on such bonds (and any bond anticipation notes issued in anticipation of the sale of such bonds) as the same respectively become due and payable. An annual appropriation shall be made in each year sufficient to pay the principal of and interest on such bonds or notes becoming due and payable in such year. Such costs will be annually apportioned among the Districts by the Town Board and unless paid from other sources or charges, the cost of the Project shall be paid by the assessment, levy and collection of special assessments from the several lots and parcels of land within the Districts which the Town Board shall determine and specify to be especially benefited thereby, so much upon and from each as shall be in just proportion to the amount of benefit conferred upon the same, to pay the principal of and interest on such bonds or notes as the same become due and payable, except as provided by law. Should the assessments upon benefited real property be insufficient to pay the principal of and interest on such bonds, there shall annually be levied on all the taxable real property of the Town a tax sufficient to pay the principal of and interest on such bonds or notes as the same become due and payable.

SECTION 7. Subject to the provisions of this resolution and of the Local Finance Law, and pursuant to the provisions of Section 21.00 relative to the authorization of the issuance of bonds with substantially level or declining annual debt service, Section 30.00 relative to the authorization of the issuance of bond anticipation notes and of Section 50.00, Sections 56.00 to 60.00, Section 62.00, Section 62.10, Section 63.00, and Section 164.00 of the Local Finance Law, the powers and duties of the Town Board

pertaining or incidental to the sale and issuance of the obligations herein authorized, including but not limited to authorizing bond anticipation notes and prescribing the terms, form and contents and details as to the sale and issuance of the bonds herein authorized and of any bond anticipation notes issued in anticipation of said bonds, and the renewals of said notes, are hereby delegated to the Town Supervisor, the chief fiscal officer of the Town. Without in any way limiting the scope of the foregoing delegation of powers, the Town Supervisor, to the extent permitted by Section 58.00(f) of the Local Finance Law, is specifically authorized to accept bids submitted in electronic format for any bonds or notes of the Town.

SECTION 8. To the extent not previously authorized, the temporary use of available funds of the Town, not immediately required for the purpose or purposes for which the same were borrowed, raised or otherwise created, is hereby authorized pursuant to Section 165.10 of the Local Finance Law, for the purpose or purposes described in this resolution.

SECTION 9. This resolution shall constitute the declaration (or reaffirmation) of the Town's "official intent" to reimburse the expenditures authorized in this resolution with the proceeds of the bonds, notes or other obligations authorized herein, as required by United States Treasury Regulations Section 1.150-2.

SECTION 10. The Town Supervisor is further authorized to take such actions and execute such documents as may be necessary to ensure the continued status of the interest on the bonds authorized by this resolution, and any notes issued in anticipation thereof, as excludable from gross income for federal income tax purposes pursuant to Section 103 of the Internal Revenue Code of 1986, as amended (the "Code") and may designate the bonds authorized by this resolution, and any notes issued in anticipation thereof, as "qualified tax-exempt bonds" in accordance with Section 265(b)(3) of the Code.

SECTION 11. The Town Supervisor is further authorized to enter into a continuing disclosure agreement with the initial purchaser of the bonds or notes authorized by this resolution, containing provisions which are satisfactory to such purchaser in compliance with the provisions of Rule 15c2-12, promulgated by the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934.

SECTION 12. The Town Supervisor is further authorized to call in and redeem any outstanding obligations that were authorized hereunder (at such times and in such amounts and maturities as may be deemed appropriate after consultation with Town officials and the Town's municipal advisor), to approve any related notice of redemption, and to take such actions and execute such documents as may be necessary to effectuate any such calls for redemption pursuant to Section 53.00 of the Local Finance Law, with the understanding that no such call for redemption will be made unless such notice of redemption shall have first been filed with the Town Clerk.

SECTION 13. The Town has complied with applicable federal, state and local laws and regulations regarding environmental matters, including compliance with the New York State Environmental Quality Review Act ("SEQRA"), comprising Article 8 of the Environmental Conservation Law and, in connection therewith, duly issued a negative declaration and/or other applicable documentation, and therefore, no further action under SEQRA is necessary.

SECTION 14. To the extent applicable, the Town Supervisor is hereby authorized to execute and deliver in the name and on behalf of the Town a project financing agreement prepared by the New York State Environmental Facilities Corporation ("EFC") (the "SRF Project Financing Agreement"). To the extent applicable, the Town Supervisor and the Town Clerk and all other officers, employees and agents of the Town are hereby authorized and directed for and on behalf of the Town to execute and deliver all certificates and other documents, perform all acts and do all things required or contemplated to be executed, performed or done by this resolution or any document or agreement approved hereby, including, but not limited to, the SRF Project Financing Agreement.

SECTION 15. In the absence or unavailability of the Town Supervisor, the Deputy Town Supervisor is hereby specifically authorized to exercise the powers delegated to the Town Supervisor in this resolution.

SECTION 16. The validity of said serial bonds or of any bond anticipation notes issued in anticipation of the sale of said serial bonds may be contested only if:

(1) (a) Such obligations are authorized for an object or purpose for which the Town is not authorized to expend money, or

(b) 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 20 days after the date of such publication; or

(2) Said obligations are authorized in violation of the provisions of the Constitution of New York.

SECTION 17. The Town Clerk is hereby authorized and directed to publish this resolution, or a summary thereof, together with a notice in substantially the form provided by Section 81.00 of said Local Finance Law, in a newspaper having a general circulation in the Town and designated as the official newspaper of the Town for such publication.

SECTION 18. Nothing in this amendment shall affect the validity of the original August 18, 2022 bond resolution or any action taken thereunder, and any such actions are hereby ratified.

SECTION 19. This Resolution is effective immediately.

The question of the adoption of the foregoing resolution was duly put to vote on a roll call, which resulted as follows:

Voting as follows:

Council Member Drake	Excused
Council Member Kassel	Aye
Council Member Krzemien	Aye
Council Member Zittel	Aye
Supervisor Drozd	Aye

The foregoing Resolution was thereupon declared duly adopted.

ITEM #3 GUTTERS-SENIOR CENTER & COMMUNITY PARK PAVILION

Supervisor Drozd received a quote from Guardian Seamless Gutters & Carpentry, LLC, for leaf protection at the Community Park Pavilion and seamless gutters and downspout drop at the Senior Center to correct the water problem by the back door of the Senior Center. The quote in the amount of \$2,568.00 covers both of these projects; this cost would come out of ARPA funds. Motion by Council Member Kassel, seconded by Council Member Krzemien, to approve Guardian Seamless Gutters & Carpentry Quote in the amount of \$2,568.00. Council Members Zittel, Krzemien & Kassel; Supervisor Drozd, voting aye; Council Member Drake, excused. Carried.

ITEM #4 HULBERT LIBRARY COMMUNITY SPACE BID UPDATE

Supervisor Drozd informed the Board that the bids for the Community Space at Hulbert Library were opened on July 17th. There was an error with one of the bids and the Town is waiting for Town Atty Attea to review the bids. A Special Town Board Meeting will be held once Town receives Town Atty Attea's direction.

Motion by Council Member Zittel, seconded by Council Member Krzemien, to adjourn the meeting at 9:10 a.m. Council Members Zittel, Krzemien & Kassel; Supervisor Drozd, voting aye; Council Member Drake, excused. Carried.



Darlene G. Schweikert
Town Clerk

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