

**MINUTES OF THE TOWN BOARD
December 20, 2016**

Minutes of a Meeting of the Town Board of the Town of Eastchester held on December 20, 2016 at 7:00 p.m., at the Town Hall, 40 Mill Road, Eastchester, New York.

I. CALL TO ORDER

II. PLEDGE OF ALLEGIANCE – FLAG

III. ROLL CALL

Present: Supervisor Anthony Colavita
Councilman Glenn Bellitto
Councilman Joseph Dooley
Councilman Luigi Marcoccia
Councilwoman Theresa Nicholson

Town Clerk Linda Laird
Comptroller Dawn Donovan
Town Attorney Louis J. Reda

IV. APPOINTMENTS

Councilman Bellitto offered a motion that was seconded unanimously by the Town Board to approve a RESOLUTION approving the probationary appointment of Kyle Park of Eastchester, New York to the position of Police Officer in the Police Department at the annual salary of \$37,638.00. The appointment would be effective on January 9, 2017 to coincide with the start of the Police Academy.

<u>Annual Salary</u> \$37,638.00	<u>Holiday Pay</u> \$1,898.00
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Candidate Park appeared on the Police Officer eligible list #69-589 established in August, 2013 and shall serve a probationary term of not less than twelve weeks and not more than seventy eight weeks. The appointment is contingent on the successful completion of the background investigation, medical exam and completion of Westchester County Civil Service paperwork.

Funds have been provided in the 2017 budget.

On the roll call, all voted "AYE." Motion carried.

V. FIRST OPPORTUNITY TO ADDRESS THE BOARD

Note to the reader: During the First Opportunity to Address the Board, residents are asked to limit their comments to Agenda Items. Frequently, a clarification or general question concerning an Agenda Item is requested. To benefit the reader, the clarifications and additional information regarding a given Agenda Item will be included at the point when the Item is considered and discussed by the Town Board. All comments in favor or opposition to an Agenda Item will be included here.

David Levy spoke in opposition to the town hiring Brian Sokoloff, Esq. to handle the litigation of the matter of Fair Housing Justice Center Inc. vs Town of Eastchester.

VI. REPORTS OF DEPARTMENTS, BOARDS AND COMMISSIONS

A) POLICE DEPARTMENT REPORT

The following reports for November 2016 were received for filing; Report of Parking Summonses, Citation Activity Report, Patrol Activity Report, Statement of Accounts and the Traffic Accident Report.

Chief Bonci announced the retirement of Sergeant Richard Flood and acknowledged and thanked him for his 20 years of service to the Eastchester Police Department.

B) LAW DEPARTMENT REPORT

1. RESOLUTION AUTHORIZING THE SETTLEMENT OF A CERTIORARI PROCEEDING BY LUNAL REALTY, LLC.

Supervisor Colavita offered a motion that was seconded by Councilman Dooley to approve a RESOLUTION authorizing the settlement of a certiorari proceeding instituted by Lunal Realty, LLC, affecting premises known Section 60, Block 6, Lot 6, 180 Brook Street, Eastchester, as follows:

ASSESSMENT YEAR	TAX YEAR	ASSESSED VALUATION	PROPOSED SETTLEMENT A.V.	AMOUNT OF REDUCTION
2009	2010	\$24,000.00	\$18,250.00	\$5,750.00
2010	2011	\$24,000.00	\$18,850.00	\$5,150.00
2011	2012	\$24,000.00	\$18,150.00	\$5,850.00
2012	2013	\$24,000.00	\$18,150.00	\$5,850.00
2013	2014	\$24,000.00	\$18,650.00	\$5,350.00
2014	2015	\$24,000.00	\$17,650.00	\$6,350.00
2015	2016	\$24,000.00	\$15,900.00	\$8,100.00

Eastchester School Board Approved the Settlement
TOTAL TOWN TAX REFUND \$12,453.72

On the roll call, all voted "AYE." Motion carried.

2. INTRODUCTION OF A PROPOSED LOCAL LAW PROVIDING FOR THE AMENDMENT TO LOCAL LAW NO. 4-1979, AND ALL ITS AMENDMENTS THEREAFTER, KNOWN AS "THE STREET AND SIDEWALK EXCAVATION LAW" AND TO SET A DATE FOR A PUBLIC HEARING

Supervisor Colavita offered a motion that was seconded by Councilman Dooley to approve the INTRODUCTION of a proposed local law providing for the amendment to Local Law No. 4 – 1979, and all its amendments thereafter, known as "The Street and Sidewalk Excavation Law" within the Town of Eastchester and to set a date for a public hearing for January 3, 2017. The Supervisor explained the purpose of the law is to require 'curb to curb' restoration of the street surface after repairs to underground utilities.

**LOCAL LAW NO. 1 – 2017
A LOCAL LAW KNOWN AS " THE STREET AND SIDEWALK EXCAVATION LAW"
WHICH LOCAL LAW AMENDS LOCAL LAW NO. 4 – 1979 and ALL ITS AMENDMENTS THEREAFTER,**

Be it enacted by the TOWN BOARD of the TOWN OF EASTCHESTER as follows:

SECTION 1. DEFINITIONS. Unless otherwise expressly stated, the following terms shall, for the purposes of this local law, have the meanings herein indicated:

- (a) "Town" shall mean the Town of Eastchester, New York.
- (b) "Superintendent of Highways" shall mean the Superintendent of Highways of the Town of Eastchester or his duly authorized representative.
- (c) "Town Attorney" shall mean the Town Attorney of the Town of Eastchester or his duly authorized representative.
- (d) "Permit" shall refer to written permission issued with the approval and signature of the Superintendent of Highways and specifically authorizing a person, firm or corporation to perform certain work or in accordance with the provisions of the rules of the Highway Department.
- (e) "Permittee" shall mean the person, firm or corporation obtaining a permit, or his or its duly authorized representative, agent, employee or sub-contractor.
- (f) The words "directed," "required," "permitted," "ordered," "designated," "selected," "prescribed," "determined," "certified," "specified," or words of like import used in this local law, shall mean, respectively, the direction, requirement, permission, order, designation, selection, prescription, determination, certification or specification of the Superintendent of Highways.
- (g) The words "approved," "authorized," "adequate," "suitable," "acceptable," "satisfactory," "equal," "necessary," "competent," or words of like import used in this local law, shall mean respectively, approved by, authorized by, acceptable to, satisfactory to, equal to, or necessary, adequate, suitable or competent in the opinion of the

Superintendent of Highways.

- (h) "Sanitary Sewer" shall refer to the lateral or street sewer or manhole built thereon in a public street, highway, sidewalk area, easement or other public area, and under control of the Town.
- (i) "Sewer Service Line" shall mean the pipe or conduit laid between its connection point on a sanitary sewer and a building for the purpose of conducting domestic sewage and non-injurious water liquids from such building into such sanitary sewer.
- (j) "Storm-water drain" shall refer to the lateral or main stormwater drain in public street, highway, sidewalk area, easement, or other public area, and under the control of the Town.
- (k) "Drainage service line" shall refer to the pipe or conduit laid between its connection point on a storm-water drain and a building or property for the purpose of conducting waste other than domestic sewage and other than injurious water liquids from the said building or property into the said storm-water drain.
- (l) "Invert" shall mean the lowest point in the internal cross-section of a sanitary sewer, storm-water drain, house sewer or drain.
- (m) "Sidewalk drain" and "curb drain" shall refer to the pipe or other conduit laid under or across the sidewalk area between the curb or curb line and the property line for the purpose of conducting roof and surface water from buildings and ground into the gutter.
- (n) "Public service corporation" shall mean a public utility company as such term is defined in the Public Service Law.
- (o) *Driveway Apron – The front portion of driveway abutting public roadway used as an access to ones private property.*
- (p) *"Work" shall mean any activity related to the subject of the permit at the location that is the subject of the permit.*

SIDEWALKS AND CURBS AND DRIVEWAYS

SECTION 2. PERMIT REQUIRED. No person shall construct, remove, replace or repair a sidewalk, *driveway apron, or lower, install or raise or adjust curb stones* within the limits of any public street, highway or other public property, *or Town-Right-of-Way* without first obtaining therefor from the Superintendent of Highways a written permit as hereinafter provided.

Such permit shall be valid for an effective period, not to exceed thirty (30) consecutive calendar days, to be determined and specified therein by the Superintendent of Highways. Such effective period may be extended, if so requested in writing by the permittee prior to expiration thereof, for such additional period as the Superintendent of Highways, at the latter's discretion, may authorize.

SECTION 3. APPLICATION FOR PERMIT. Any person desiring a permit for such work shall make application therefor to the Superintendent of Highways upon forms provided for that purpose. The said application shall contain the names and addresses of the applicant and of the owner of the property in front of which or for whom the work is to be performed; the location of such property; the block and lot designation thereof; the extent and nature of the work to be done; the date or dates when the work is to be done, together with such necessary sketches and additional information as the Superintendent of Highways may require; a signed statement by the applicant that said applicant agrees to perform the work for which the permit is granted strictly in accordance with the conditions of the permit, the provisions of the ordinances of the Town and the applicable rules and regulations of the Highway Department, and that the Town is to be saved harmless from any loss, injury or damage arising out of the granting of the permit or from any negligence or fault of said applicant, his servants or agents, in connection with any of the work done under or in connection with said permit.

SECTION 4. WORK TO CONFORM WITH TOWN SPECIFICATION.

Sidewalks and curbs shall be constructed, removed, replaced or repaired in accordance with the following specifications:

- (a) Concrete sidewalk. Concrete sidewalk to consist of not less than five (5) inches of concrete compression strength of 3,500 pounds per square inch, air entrained and fiber reinforced. Expansion points shall be inserted where and as ordered by the Superintendent of Highways. Steel forms and cross strips of required depth shall be used throughout.

- (b) All concrete for curbs and sidewalks shall be air entrained (4% to 6% air in concrete).
- (c) Dropped curb. All granite or bluestone curb must be dropped when lowering. No cutting will be permitted. Concrete curb shall be taken out and new curb poured.
- (d) Bluestone Flagwalk. All flagstone walk to be a minimum of two (2") inches thick and laid on a bed of sand two (2") inches thick.
- (e) The permittee shall perform the work so as to meet the grade and alignment of the adjoining sidewalk, curb and driveway and/or such established line and grade may be determined by the Superintendent of Highways, and in accordance with his directions.
- (f) The current standard specifications of the Highway Department shall be followed subject to the prior approval of the Superintendent of Highways.

STREET, SIDEWALK OR TOWN RIGHT-OF-WAY OPENING

SECTION 5. PERMIT REQUIRED. No person shall open or cause to be opened, by cutting or excavating, the surface or soil of any street, highway, sidewalk area or public ground for any purpose whatsoever without first obtaining therefor from the Superintendent of Highways a written permit for a street, sidewalk or Town right-of-way opening except, however, that the construction, removal, replacement, or repair of a sidewalk or curb shall be done under a permit for sidewalk or curb as hereinbefore provided in this local law, in lieu of a permit for street, sidewalk or Town right-of-way opening.

Such permit shall be valid for an effective period, not to exceed thirty (30) consecutive calendar days, to be determined and specified therein by the Superintendent of Highways. Such effective period may be extended, if so requested in writing by the permittee five (5) days prior to expiration or such lesser period as is acceptable to the Superintendent of Highways, for such additional period as the Superintendent of Highways in his sole discretion may authorize.

SECTION 6. APPLICATION FOR PERMIT. Any person desiring a permit for a street, sidewalk or Town right-of-way opening shall make application therefor to the Superintendent of Highways for each such opening upon a form to be provided for that purpose.

- (a) The said application shall contain the names and addresses of the applicant and of the owner of the property in front of which or for whom the work is to be performed; the location of such property; the block and lot designation thereof; the size and purpose of the opening to be made and the maximum size of such opening; the date or dates when the work is to be performed; and the type of pavement or surface to be disturbed, together with such necessary sketches and additional information as the Superintendent of Highways may require and a signed statement by the applicant that the said applicant agrees to perform the work for which the permit is granted strictly in accordance with the conditions of the permit and of the ordinances of the Town and the applicable rules and regulations of the Highway Department. By applying for a permit for a street opening, the applicant is deemed to be in contract.

SECTION 7. RESTRICTIONS AS TO PERFORMANCE OF WORK.

The permittee shall not begin or carry on any part of the work provided to be done under any permit issued in accordance with the provisions of this local law, except in the event of emergencies as defined herein, without first obtaining a permit from the Superintendent of Highways.

The permittee shall not begin or carry on any part of the work provided to be done under any permit issued unless Permittee notifies the underground utilities call center (in compliance with Code 53) to mark street for utility pipe locations and provides written confirmation that said utilities have been marked to the Superintendent of Highways prior to conducting any work. *No work provided to be done under the said permit shall be performed on Saturdays, Sundays or Holidays, or prior to 8:30 a.m. nor after 4:00 p.m. Monday through Friday, except with prior written approval of the Superintendent of Highways.*

In case of an emergency when a permit cannot first be obtained because the office of the Superintendent of Highways is closed, proper excavations may be made, in which event the permit above specified shall be obtained within four (4) hours after the said office of the Superintendent of Highways is open, or the work shall cease thereon.

SECTION 8. EXPENSES INCURRED BY TOWN. Any expenses that may be incurred by the Town in connection with the work to be done under the provisions of the permit and/or in the enforcement of this local law shall be paid by the

permittee within ten (10) days after the Superintendent of Highways shall have sent the permittee a statement of such expenses as certified by the said Superintendent of Highways.

The said permittee shall be billed by the Town for any inspection and/or any other expenses incurred by the Town by reason of any failure or default on the part of said permittee, as determined and certified by the Superintendent of Highways, and any such bill shall be paid within thirty (30) days after the same shall have been rendered by the Town.

SECTION 9. MATERIALS. All materials used or incorporated in any work done under the provisions of this local law shall conform to such specifications as may be promulgated by the Superintendent of Highways.

In general, the current standard specifications of the Highway Department shall be followed, subject to the prior approval of the Superintendent of Highways before these materials are incorporated in the work.

Materials shall, at the discretion of the Superintendent of Highways, be submitted to such tests as may, in his opinion, be necessary to determine their quality and acceptability. Such tests may be made in any laboratory designated by the Superintendent of Highways and the Town shall be reimbursed by the permittee for any expense incurred on account of such tests.

SECTION 10. REQUIREMENTS. All work related to any permit issued pursuant to the provisions of this local law, unless otherwise provided in this local law, shall be performed by the permittee at said permittee's own expense and strictly in accordance with the provisions of the local law of the Town, the applicable rules and regulations of the Highway Department, and such specifications as may be promulgated by the Superintendent of Highways, and to the satisfaction of the Superintendent of Highways.

SECTION 11. PERMIT TO BE EXHIBITED. The permit must be in possession of the parties actually doing the work and must be exhibited to the Superintendent of Highways or to any authorized representative of the Town upon request.

SECTION 12. PERMIT REVOCABLE. The Superintendent of Highways shall have the right to revoke or cancel the permit at any time should the permittee fail to comply with any of the terms, agreements, covenants, and conditions thereof.

SECTION 13. PERMIT NOT TRANSFERABLE. The permit shall not be assigned or transferred except upon the prior written consent of the Superintendent of Highways.

SECTION 14. CLEANING UP; RESTORATION. The permittee shall clean up and remove promptly from the site of the work, upon completion thereof, all surplus excavated material and debris, and shall leave the site of the work in a neat and orderly condition.

Where top soil, seeded areas, sod or sidewalks are disturbed in the course of the work, the permittee shall restore the ground surfaces and sidewalk to their former condition.

SECTION 15. PEDESTRIAN AND VEHICULAR TRAFFIC. Pedestrian and vehicular traffic is to be adequately protected by the permittee by means of suitable protective barricades and red lanterns illuminated during the night time around the work and the work is to be so arranged as to cause a minimum of inconvenience and hazard to such pedestrian and vehicular traffic.

SECTION 16. INSURANCE REQUIRED.

- (a) For projects over ONE MILLION (\$1,000,000.00) DOLLARS, no permit for street, sidewalk or Town right-of-way opening shall be issued by the Superintendent of Highways until the applicant therefore shall have first placed on file with the said Superintendent of Highways, without cost to the Town, A *Certificate of Worker's Compensation* and satisfactory evidence of General Liability Insurance (Bodily Injury and Property Damage) and automobile in the amount of not less than TWO MILLION (\$2,000,000.00) DOLLARS any one occurrence, and satisfactory evidence that the said insurance has been approved as to form, correctness and adequacy by the Town Attorney to insure the Town against any loss, injury or damage arising out of the granting of the permit, or from any negligence or fault of said applicant, his agents, servants or employees, in connection with the said opening or with any work related thereto.
- (b) For projects less than ONE MILLION (\$1,000,000.00) DOLLARS, no permit for street, sidewalk or Town right-of-

way opening shall be issued by the Superintendent of Highways until the applicant therefore shall have first placed on file with the said Superintendent of Highways, without cost to the Town, *A Certificate of Worker's Compensation* and satisfactory evidence of General Liability Insurance (Bodily Injury and Property Damage) and automobile in the amount of not less than ONE MILLION (\$1,000,000.00) DOLLARS any one occurrence, and satisfactory evidence that the said insurance has been approved as to form, correctness and adequacy by the Town Attorney to insure the Town against any loss, injury or damage arising out of the granting of the permit, or from any negligence or fault of said applicant, his agents, servants or employees, in connection with the said opening or with any work related thereto

Such insurance must remain in force throughout the effective period of the permit as well as any authorized extensions thereof and shall carry an endorsement to the effect that the insurance company will give at least ten (10) days' written notice to the Town of any modification or cancellation of any such insurance.

Such insurance must also include with the Certificate of Liability Insurance naming the Town as an Additional Insured. For any permit where the amount of work exceeds Fifty Thousand (\$50,000.) Dollars, you must supply a Certificate of Liability and, an endorsement page stating and verifying that the Town of Eastchester is an Additional Insured, the described person or organization additional protected persons endorsement with a sublimit for their protection.

SECTION 17. FEES.

The fee for a permit for the construction of a sidewalk shall be one hundred dollars. The fee for a permit to lower a curb shall be dollars fifteen dollars per lineal foot, in *addition to the base fee of \$225.00.*

A permit for a street, sidewalk or Town right-of-way opening shall not be issued to an applicant therefor, except a public service corporation, until the applicant has paid the Town Clerk a fee of \$225.00 for each street, sidewalk or Town right-of-way opening permit requested. To the extent that a street, sidewalk or Town right-of-way opening will exceed 15 square feet there will be an additional permit fee of \$6.00 per square foot. A public service corporation shall be charged \$350.00 for a street, sidewalk or Town right-of-way opening permit for each street, sidewalk or Town right-of-way opening. To the extent a public service corporation seeks a street, sidewalk or Town right-of-way opening permit for an area in excess of 15 square feet, there will be an additional permit fee of \$8.00 per square foot. Said fee is to cover the cost of issuing and recording the permit and the supervision and inspection of the work done in connection therewith.

SECTION 18. BONDS. Every permittee, except a public service corporation shall file with the Town a bond or certified check in the sum of ONE THOUSAND, SEVEN HUNDRED FIFTY (\$1,750.00) DOLLARS, said bond or certified check to be approved as to form and sufficiency of surety by the Town Attorney, and the said bond or certified check to be retained as security for the faithful performance by the applicant of all terms, agreements, covenants and conditions of the permit on the applicant's part to be done and/or performed.

With the exception of utility companies, the amount of Performance Security collected by the Town for permits issued for projects in excess of \$25,000. shall be at the discretion of the Highway Superintendent.

SECTION 19. PUBLIC SERVICE CORPORATIONS.

BONDS AND INSURANCE. A public service corporation shall file and keep on file with the Town a bond of TWENTY-FIVE THOUSAND (\$25,000) DOLLARS, the said bond to be approved as to form, amount and sufficiency of surety by the Town Attorney, and the said bond to be retained as security for the faithful performance by the applicant of all terms, agreements, covenants and conditions of the permit on the applicant's part to be done or performed.

A public service corporation may, in lieu of the insurance hereinbefore specified for street, sidewalk or Town right-of-way opening, file and keep on file with the Superintendent of Highways an agreement, approved as to form by the

Town Attorney, to indemnify and save harmless the Town from claims, suits, actions, proceedings, losses, injuries, damages and costs of every kind and description arising out of or resulting from any act, or omission on the part of such public service corporation under any permit granted to it, or from any negligence or fault of such public service corporation, its contractors, agents, servants or employees in connection with sidewalk, curb or driveway work or repairs or street openings or any work related thereto and also to defend on behalf of the Town any actions or proceedings which may be instituted against the Town. Public service corporation shall be billed by the Superintendent of Highways on behalf of the Town for any expense incurred by the own as a result of failure or default on the part of such corporation in the performance or completion of the work as may be determined and certified by the Superintendent of Highways.

In the event of an emergency due to breakage of pipes, etc., street, sidewalk or Town right-of-way openings may be made

by a public service corporation prior to obtaining a permit for street, sidewalk or Town right-of-way opening, provided however, that the said public service corporation shall have filed the required bond and evidence of insurance or indemnity agreement as specified in this local law and provided further that the said public service corporation shall make application for the necessary permit for street, sidewalk or Town right-of-way opening not later than twenty-four (24) hours (Saturdays, Sundays and holidays not included) after said opening has been commenced.

Such work shall be carried on so that not over 500 lineal feet of trench shall remain open at any time unless otherwise specifically permitted by the Superintendent of Highways in writing.

SECTION 20. PROTECTION OF EXISTING STRUCTURES. It shall be the duty of the permittee to give written notice to the Town or to any company whose pipes, conduits or other structures are laid in the street in which any work is to be done by such permittee under the provisions of a street, sidewalk or Town right-of-way opening permit not less than 24 hours before commencing such opening or work; and such permittee doing such work shall, at its own expense, carefully support, maintain in operation and protect from injury such pipes, conduits or other structures and, in case of damage or injury, shall restore same, at its own expense, to its former condition.

SECTION 21. TRAFFIC SAFETY. The permittee shall erect and maintain suitable barricades and fences around all of his work while excavation or other work is in progress and shall arrange his work in such a manner as to cause a minimum of inconvenience and delay to vehicular and pedestrian traffic. The Superintendent of Highways may provide, in his written permit, that the work be so arranged as to make possible and complete removal of obstructions to traffic on Saturdays, Sundays and holidays. In the event that such requirement is not complied with by the permittee, the Superintendent of Highways may, in the latter's discretion, cause all or part of the work covered by the permit to be backfilled and temporarily resurfaced by the Town's own forces, or by contract, or otherwise, in which event the Town shall be reimbursed for any expense incurred thereby in accordance with the provisions of this local law, and the permittee shall have no claim against the Town for loss of anticipated profits or for any other losses by reason thereof.

Warning flags or signs and suitably lighted red lights shall be provided, and watchmen shall be provided, if so ordered by the Superintendent of Highways and in accordance with the latter's directions.

Where free flow of traffic is interfered with, the permittee shall designate competent persons to direct and expedite traffic by means of lights or flags.

Unless otherwise authorized by the Superintendent of Highways, vehicular traffic shall be maintained at all times during the progress of the work being performed under the permit.

SECTION 22. POLES AND WIRES. No person shall erect or cause to be erected any telephone, telegraph or electric light or electric transmission pole or poles, or install any conduits or change the location thereof, or string any wires in, over or upon any street, highway or public place without first obtaining a permit therefor from the Superintendent of Highways. No fee shall be charged for any such permit.

SECTION 23. WATER MAINS, GAS LINES AND SEWER LINES. The tapping of gas mains, sewer lines, watermains, or any other below grade utilities and the installation and repair of gas mains, sewer lines, watermains, or any other below grade utilities, shall conform with the rules and regulations of the New York State Building Code or any other municipal or regulatory code.

A sewer service line, between its connection point at the sanitary sewer and existing building shall be of heavy cast-iron pipe or schedule 35 PVC pipe with a minimum diameter of 4" as per the Plumbing Code of the State of New York.

Such service lines shall be laid on a straight alignment and uniform gradient of not less than one-fourth inch per foot unless otherwise specially authorized by the Superintendent of Highways. A Saddle must be used for the connection to the Town Sanitary Sewer Main. All work must be done by a licensed plumber.

A Highway Department Representative **MUST BE PRESENT** at the time of Connection through an appointment. Appointments must be scheduled 24 hours in advance, Monday – Friday between the hours of 8:00 a.m. and 12:30 p.m. (914) 961-8540. No appointments on Holidays or weekends.

SECTION 24. BACKFILLING. No backfilling shall be done until the work being done under the permit shall have first been inspected, and backfilling authorized, by the Superintendent of Highways. In the event of failure to comply with this requirement, the Superintendent of Highways shall have the right to require that the work be uncovered by the permittee at the latter's own expense so that proper inspection may be made.

Entire Trench shall be backfilled with K-Crete, unless otherwise approved by the Highway Superintendent.

Before proceeding with the pavement resurfacing, the existing pavement shall be neatly cut back at a distance of not less than eighteen inches beyond the edges of the excavation.

Where the existing pavement has been undermined by the excavation or by any work connected therewith, or where spalled or sealed surface areas of existing pavements adjoin the area to be resurfaced, the permittee shall remove additional pavement beyond the distance stated hereinabove as ordered by the Superintendent of Highways.

Six inches of concrete shall be proportioned, mixed, placed, finished and cured in trench area as ordered by the Superintendent of Highways.

Prior to the replacement of bituminous pavements, the subgrade shall be properly prepared. The existing pavement shall then be neatly cut back a distance of not less than eight inches from the edges of the new concrete foundation.

New bituminous pavement surface two inches compacted shall be placed thereon and rolled in an acceptable manner with the minimum of three to five ton roller. Trench must be sealed.

The resurfaced area shall not be opened to traffic until so ordered by the Superintendent of Highways.

The use of power equipment for backfilling will not be allowed except with prior authority of the Superintendent of Highways.

In addition to the above requirements, the contractor must pave the roadway curb-to-curb and at a length designated by the Superintendent of Highways.

SECTION 25. PENALTIES. Any person and/or permittee who shall violate a provision of this local law shall be guilty of a violation and shall be subject to a minimum fine of FIVE HUNDRED (\$500.00) DOLLARS or a maximum fine of not more than FIVE THOUSAND (\$5,000.00) DOLLARS or imprisonment for a period of up to 30 days, or both.

Every violation of any provision of this local law shall be a separate and distinct offense, and in case of continuing violation, every day's continuance thereof shall be and is deemed to be a separate and distinct offense.

SECTION 26. SEVERABILITY

If any word, clause, sentence, paragraph, subdivision or part of this local law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder hereof, but shall be limited in its application to the word, clause, sentence, paragraph, subdivision or part hereof directly involved in the controversy in which such judgment shall have been rendered.

SECTION 27. SUPERSEDING OTHER LAWS

All ordinances or parts of ordinances or local laws or parts of local laws, or State laws which conflict with the provisions of this local law are hereby superseded and rendered temporarily null and void to the extent necessary to give this local law full force and effect, pursuant to Article 2, Section 10 of the New York State Municipal Home Rule Law.

SECTION 28. EFFECTIVE DATE.

This Local Law shall take effect immediately upon filing in the Office of the Secretary of State in accordance with section twenty-seven of the Municipal Home Rule Law.

Changes are in Italic

On the roll call, all voted "AYE." Motion carried.

3. RESOLUTION AUTHORIZING THE SUPERVISOR TO RETAIN THE SERVICES OF ALDO V. VITAGLIANO TO HANDLE TAX CERTIORARI MATTERS EFFECTIVE FROM JANUARY 1, 2017

Councilman Marcoccia offered a motion that was seconded by Supervisor Colavita to approve a RESOLUTION authorizing the Supervisor to retain the services of Aldo V. Vitagliano, with offices located at 150 Purchase Street, Rye, NY, to handle tax certiorari matters effective from January 1, 2017 at a fee of \$2,500.00 per month.

Town Attorney Lou Reda explained that for the past 13 years the Town's Tax Certiorari matters have been litigated by John Burkhardt at the current rate of \$3,000 per month. With the announcement of his retirement, Mr. Burkhardt recommended the expertise and services of Aldo Vitagliano. Mr. Reda negotiated a reduction of the current fee to \$2,500 per month.

On the roll call, all voted "AYE." Motion carried.

4. RESOLUTION AUTHORIZING THE SUPERVISOR TO APPROVE THE AGREEMENT TO CONSOLIDATE THE VILLAGE OF TUCKAHOE WITH THE TOWN OF EASTCHESTER DISTRICT FOR VITAL STATISTICS INTO ONE PRIORITY DISTRICT IN THE TOWN OF EASTCHESTER

Supervisor Colavita explained since its incorporation, the Tuckahoe Village Clerk has acted as Registrar of Vital Statistics for the Village. The Tuckahoe Village Clerk has requested the consolidation of the Tuckahoe Vital Statistic Registration District into the Eastchester Vital Statistic Registration District under the provisions of Section 4120.2(a) of the Public Health Law, effectively transferring the duties of the Tuckahoe Registrar to the Eastchester Registrar and Deputy Registrar.

An average 18 Death Certificates are filed annually in Tuckahoe with an average of 40 filed in the Town Clerk's Office. Under the consolidation, all births and deaths that occur within the Village of Tuckahoe (District 5953) will be filed in the Eastchester Town Clerk's Office (District 5952); further, all vital records on file in the Village of Tuckahoe will be transferred to the Town of Eastchester.

It is requested to authorize the Town Clerk to enter into Agreement with the Tuckahoe Village Clerk to consolidate the Village of Tuckahoe District with the Town of Eastchester for vital statistics into one primary district in the Town of Eastchester.

Councilman Bellitto offered a motion that was seconded by Councilman Dooley to approve a RESOLUTION authorizing the Supervisor to approve the agreement to consolidate the Village of Tuckahoe with the Town of Eastchester district for vital statistics into one priority district in the Town of Eastchester.

WHEREAS, the Registrar of Vital Statistics of the Village of Tuckahoe and the Registrar of Vital Statistics of Town of Eastchester reporting district have entered into an agreement to consolidate the Village of Tuckahoe District with the Town of Eastchester for vital statistics into one primary district in the Town of Eastchester; and

WHEREAS, in accordance with Section 4120.2(a) of the Public Health law such action is subject to the approval of the Westchester County Board of Legislature; and

WHEREAS, based upon the approval by the Westchester County Board of Legislature, the New York State Commission of Health may issue an order combining the two districts;

NOW THEREFORE BE IT RESOLVED, that upon the request of the Town of Eastchester District and The Village of Tuckahoe District, the Westchester County Board of Legislature does hereby approve the consolidation and combination of the Village of Tuckahoe Registration District and the Town of Eastchester Registration District; and be it further

RESOLVED, that the Clerk of the Westchester County Board of Legislature be, and is hereby directed to send a certified copy of this resolution to the New York State Commissioner of Health, the Clerk of the Town of Eastchester, the Supervisor of the Town of Eastchester, the Clerk of the Village of Tuckahoe, the County attorney and the Westchester County Department of Health.

Further, it is authorized that Town Clerk Linda Laird, Registrar of the Town of Eastchester sign the following agreement:

The registrar for Vital Statistics Registration District 5923 and the Registrar for Vital Statistics Registration District 5952, hereby agree to the consolidation of their respective reporting districts. All vital records in District 5923 shall be transferred to District 5952. The purpose of this consolidation is to facilitate vital records registration and to better serve the public.

The Registrar of Vital records for the Town of Eastchester, Registration District 5952, Linda Laird, agrees to accept and maintain in accordance with the policies and procedures of the New York State Department of Vital Records, all the vital

records that are on file at the Village of Tuckahoe, Registration District 5923, Camille DiSalvo, Registrar of Vital Statistics for the Village of Tuckahoe shall effectuate the transfer of the certificates at the Village of Tuckahoe Village Hall to the Town of Eastchester, upon authorization of the State Health Commissioner and the approval of the Village of Tuckahoe Board of Trustees.

On the roll call, all voted "AYE." Motion carried.

5. RESOLUTION AUTHORIZING THE SUPERVISOR TO APPROVE THE SERVICES OF BRIAN SOKOLOFF , ESQ. TO HANDLE THE LITIGATION OF THE MATTER OF FAIR HOUSING JUSTICE CENTER INC. VS TOWN OF EASTCHESTER

Councilman Dooley offered a motion that was seconded by Supervisor Colavita to approve a RESOLUTION authorizing the Supervisor to approve the services of Brian Sokoloff, Esq. with offices located at 179 Westbury Avenue, Carle Place, NY, to handle the litigation of the matter of Fair Housing Justice Center Inc. vs Town of Eastchester.

Town Attorney Lou Reda explained the Town has no choice then to defend itself in this matter. The Supervisor added, with the support of \$35 million federally funded dollars, scores of similar matters have been filed with local municipalities throughout the region and the country.

On the roll call, all voted "AYE." Motion carried.

C) HIGHWAY DEPARTMENT REPORT for November 2016 was received for filing.

D) BUILDING DEPARTMENT REPORT for November 2016 was received for filing.

E) RECEIVER OF TAXES REPORT for November 2016 was received for filing.

F) TOWN CLERK'S REPORT for November 2016 was received for filing.

VII. CORRESPONDENCE

A) MEMORANDUM FROM COMPTROLLER RE: BUDGET TRANSFERS/REVISIONS

Supervisor Colavita offered a motion that was seconded by Councilman Bellitto to approve the following Budget Transfers and Revisions:

Transfers

From:	Police Holiday	B3120.104	\$ 17,000.00
To:	Police OT- Traffic	B3120.103P	13,887.00
To:	Overtime	B3120.103	3,113.00
From:	Lake Isle- Materials	E3600.401	\$ 1,885.00
To:	Lake Isle PT Salaries	E3600.102	1,885.00
From:	Rec. - Transportation	A7141.431	\$ 136.00
To:	Rec. - Contractual	A7141.450	78.00
To:	Rec. - Materials	A7141.401	58.00
From:	Rec. - Teen Scene- Materials	A7142.401	\$ 2,305.00
To:	Rec. - Teen Scene- Contractual	A7142.450	2,305.00
From:	Employee Benefits- Social Security	A9000.803	\$ 565.00
To:	Employee Benefits-Unemployment	A9000.805	565.00
From:	Gas & Diesel	D5110.408	\$ 47,000.00
To:	Winter Abrasives	D5110.438	17,000.00
To:	Maint. & Repairs	D5130.414	15,000.00
To:	Tree Purchase & Removal	D5140.433	10,000.00
To:	Materials & Supplies	D5110.401	5,000.00

Revisions

Increase:	Recreation Fees- General	A02001	\$139,744.00
Increase:	Overtime- Carnival	A7140.103C	7,602.00
Increase:	Misc. Events	A7140.491	132,142.00

On the roll call, all voted "AYE." Motion carried.

B) MEMORANDUM FROM COMPTROLLER RE: COMPUTER SERVICES AGREEMENT

Per a request from Comptroller Dawn Donovan, Supervisor Colavita offered a motion that was seconded by Councilman Dooley to approve a RESOLUTION to accept an Agreement with Sullivan Data for IT services for 2017 for the annual fee of \$52,800. The amount is a three year fixed price which began January 1, 2016. Funds are provided for in the 2017 Budget.

On the roll call, all voted "AYE." Motion carried.

C) MEMORANDUM FROM LIBRARY DIRECTOR RE: APPROVAL OF LED LIGHTING CONTRACT BIDDER

On November 22, 2016 bidding closed for the LED Lighting System Upgrade at the Eastchester Public Library. A total of four bids were received as follows:

A+ Technology and Security Solutions, Inc.	\$52,651.76
All Bright Electric	\$87,900
Nick's Electrical Services of New York	\$67,430
Talt Inc.	\$93,500

Per a request from the Board of Trustees of the Eastchester Public Library and Library Director Tracy Wright, Councilman Bellitto offered a motion that was seconded by Councilman Marcoccia to approve a RESOLUTION to award the LED Lighting System Upgrade project contract to A+ Techology and Security Solutions, Inc. in the amount of \$52,651.76.

On the roll call, all voted "AYE." Motion carried.

D) MEMORANDUM FROM SUPERVISOR RE: CHRISTMAS METER EXEMPTION

Supervisor Colavita offered a motion that was seconded by Councilman Marcoccia to approve a request from the Chamber of Commerce to provide free short term parking for holiday shoppers in the business districts of town by 'bagging' the meters from Friday, December 23th – Saturday, December 24th.

On the roll call, all voted "AYE." Motion carried.

VIII. **MISCELLANEOUS BUSINESS** - none

IX. COUNCIL MEMBER REPORTS

Supervisor Colavita and the Town Board Members extended holiday wishes and hopes for a happy and healthy 2017 to the community. Further, Councilman Marcoccia reminded residents to shop locally and Councilman Bellitto commended the befitting tribute of the Michael Frey Memorial holiday tree.

Councilman Dooley reminded residents that over the past four years the town has annually replaced a limited number of street lights with LED lights and suggested the 2017 Capital Budget include funds to complete the LED Street Light project.

Councilwoman Nicholson announced registration has begun for both the winter break and spring break camps and stated additional information regarding the camps is available on the Recreation Department page of the website.

X. SECOND OPPORTUNITY TO ADDRESS THE BOARD

David Levy spoke in support of proposed Local Law 1-2017, The Street and Sidewalk Excavation Law, stating the utility companies should be required to restore the roadway after they have made repairs. He also advocated for a policy that imposes parking fees on vehicles parked at the work site.

Peter DeFelice read the amendments to the License Agreement between the Town and Eastchester Events, Inc. that were approved by the Town Board on November 1, 2016 and questioned the reason for the action.

Councilman Marcoccia explained the previous caterer was paying a fixed rent of \$270,000 (no yearly rent increases), plus a percentage of gross above \$3.0MM in receipts and never achieved gross sales that would have trigger a % of gross payment to Lake Isle.

Under the current agreement with Eastchester Events, Inc., the rent start at \$324,000, which is \$54,000 more in year one than previous caterer, \$60,480 greater in year two and so on since the rent increases every year by 2%. Additionally, beginning 1/1/2018, 1% of the gross kicks-in and is forecasted to generate \$40,000 based on gross sales of \$4.0MM.

Mr. Marcoccia stated; "as gross sales increase, so does the payment to Lake Isle. So for example, if the caterer generates gross revenue of \$5.5MM then the payment to Lake Isle would be \$55,000. This is in addition to the base rent payment."

Mr. DeFelice requested information regarding the maintenance of Lake Isle, including the schedule and cost of painting the buildings and the pool. Supervisor Colavita responded that records regarding the maintenance of the facility are available under the Freedom of Information Law.

Councilman Marcoccia provided an overview of the following recent improvements and renovations to Lake Isle:

- Pool is scraped, patched and painted each year as needed.
- The Golf Course saw significant improvements this year, as we renovated several sand traps. We also added an outdoor bar and dining area, something the golfers have wanted for years. In addition, over the past few years, new landscaping equipment was purchased, and irrigation controls have been replaced.
- Tennis received \$5.5MM in renovations, which was paid for by SportTime.
- Catering invested \$3.5MM in the building, paid for by Mulino's, an additional \$1.5MM will be invested. Lake Isle owns all these improvements.

There being no further public business the meeting was adjourned with a moment of silence for Walter Lindstrom.

Minutes prepared by;

Linda Laird
Town Clerk