

TOWN OF LLOYD TOWN BOARD

SPECIAL MEETING

SEPTEMBER 28, 2011

Present: Supervisor Raymond Costantino
Councilmember Kevin Brennie*
Councilmember Nancy Hammond
Councilmember Herbert Litts
Councilmember Jeffrey Paladino

Also present: Sean Murphy, Attorney
Rosaria Peplow, Town Clerk

4:20 PM – Supervisor opened the meeting and led the Pledge of Allegiance

1. OLD BUSINESS

- A. BAN – Highway Repair from Tropical Storm Irene, Bob Shepard Highland Landing Park, Tillson Avenue and Route 44/55 Intersection Project, Rail Trail West.

Litts questioned authorizing \$2,000,000 in BAN's. He asked if that or a portion of that reimbursable from FEMA.

Brennie asked what the taxpayer will pay of the \$2,000,000.

Supervisor that FEMA could be 12.5%; the Tillson/Toc project is 80% funded and 20% local but as Marchiselli funds become available they will pay 15%, so the project is going to cost 5%. The Town just received the new supplemental agreement for the Tillson/Toc project, increasing the funding in that first stage.

Brennie said that he just wanted to be able to answer the questions that people ask.

Supervisor added that the money for Highland Landing Park is all reimbursable; it is a 50/50 reimbursable grant but they have everything covered but the \$950,000, which is the grant from the Department of State. The Town has been waiting for months for the Department of State money and we need to finance this job as we go.

Paladino clarified that the \$950,000 hasn't come in yet.

Supervisor answered that the contract has come in but it is reimbursable and the money has to be spent first.

Litts said that the \$500,000 is money to get us to the point where we get money back from NYSDOS, because the Town has to pay up front.

Supervisor said that the other one is the Rail Trail West project, for which we are still waiting for preliminary approval; it was submitted in April.

Brennie commented that in adding up the figures the Town is looking at \$212,000 net; based on the Bob Shepard Park at 100% reimbursable and FEMA is 12.5% and the Rail Trail 20%.

Supervisor feels that the Town is going to be paid for the use of the Town trucks with the FEMA money.

Paladino would like the Supervisor to explain the Rail Trail portion again, how the funding is going to be used and how it is going to be reimbursed.

Supervisor explained that it is an 80/20 grant, 20% is going to come out of our funds. – right now we have authorization to do the preliminary and that is as far as we can go until we get more local share.

Paladino asked if we need the \$500,000; he knows that we are looking at a total of \$2,000,000, dedicating \$500,000 to each project; and he asked what amount was approved a few months ago.

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Peplow clarified that the question posed by Brennie was that \$212,000 has to be raised by taxes.

Paladino thought that some of the money needed for the Tillson/Toc project might be mitigated by contribution to the project by the Mountainside Woods developers.

Brennie asks why the authorization for bonding for all four projects is being done now.

Supervisor answered that he wanted to set this up for the person who is going to take over these projects in 2012; he felt that it needs to be simplified and split up into Capital projects.

Brennie asked if there would be money to remedy the Christopher Avenue drainage problem.

Supervisor replied that there were conversations about Christopher Avenue during the budget discussions.

Paladino interjected that the grant money approved in a resolution for the Rail Trail was \$386,000 from the General Fund. He felt that it would be proper to limit the Rail Trail project to \$386,000, versus opening it up to \$500,000.

Brennie feels that it is more important to get Christopher Avenue fixed.

Supervisor said that if we are going to do Town-wide drainage and spend taxpayers money, that comes out of the General fund, not Highway; it has to be determined what portion of Christopher Avenue is actually Highway work and what is General fund. He posed that someone living on a hill would question why they would have to pay for drainage on Christopher Avenue. The Twaafskill drainage district was discussed. The Town will have maps from Orchard Road to the Hudson River as to who contributes to the Twaafskill drainage that can be used to create the District. The Town was turned down a couple of years ago on a grant from FEMA and the Army Corps of Engineers to dredge Schantz' Pond and Pratt's Pond because the Town had no interest as we were not the property owners. The Town would have an interest if we had a Drainage District and could look for grants to clean up the Twaafskill or dredge Schantz' Pond.

Paladino noted that easements would be needed from the property owners.

Murphy said if you initiate drainage projects, you have to decide how you are going to fund them; one way is to create a Drainage district after determining who is in the district.

Paladino said that Dave Barton was talking about creating several Drainage districts.

Brennie said that he is favor of all of the projects but is concerned that taxpayers need help with drainage.

Supervisor said that these are contracts that the Town got with different state departments, except for the FEMA one for Highway. There is no reason why we cannot establish a drainage district on Christopher Avenue and the people on Christopher Avenue would pay for the drainage. He felt that the houses that have complained of deep water will always have deep water no matter how much drainage you put in there because the water is on their property and the property is low. He asked if it was our obligation to drain everyone's property.

Paladino feels that the storm drains that are already in place are not properly maintained.

Supervisor said that if the catch basins are on the road, there is no way that the water will go 4-feet up the hill and into the catch basin.

Paladino asked Brennie if he was saying that the drainage should have priority over the Rail Trail and Shepard's Park projects.

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Brennie concurred.

Supervisor said that this emergency meeting was for the Tower lease and then he decided to talk about the BAN's. These projects have already been approved by the Board except for the Highway FEMA; he is trying to provide a safe and easy way to manage the bookkeeping going forward and specify where the money will come from. He thinks districts are fine. The Board talked about the detention pond in Highland on the Hudson, and the question was who was going to maintain the detention pond that the contractor had to build. The project went on for ten years and during that time MS4 came into the picture and required these detention ponds. It had to be decided who was responsible to mow the grass, keep the gopher holes out and remove the brush from the dams.

Litts said that the developer posts a bond so that if he walks away and does not maintain it, the Town recovers the bond and has someone maintain it.

Supervisor said that is a good idea for new projects but this evolved in this development; he has asked the Town to subdivide three lots. He said that he dropped the issue because it was a hot potato and empty lots will not pay the bill. That whole property could come into that Twaafskill Drainage District; the maintenance cost would be shared by everyone that is impacted in that district.

Brennie said that he is being practical because it is going to be in the paper that the Board borrowed a million dollars for the parks and there are flood issues. He asked why it has to be done now since he felt it was hard to justify by telling these people that it is for good bookkeeping.

Supervisor contended that the park projects are paying back the Town; Christopher Avenue is a loss leader. Federal money requires that the money is kept segregated. Mary Kimball, CPA, said that they had to be converted into Capital projects.

Brennie noted that three people at this meeting may or may not be here on January 1, 2012.

Paladino asked if there was an immediate need for the bond for the Bob Shepard Highland Landing Park.

Supervisor said that there is a signed contract with the NYSDOS and the project could start now but we do not have a bid package.

Litts estimated that the earliest that could go would be December, for the bid package, review period and a minimum of four weeks to advertise before bids can be accepted and the work probably would not start until spring.

Murphy said if the resolution is adopted, the Board is authorizing to borrow the money; not borrowing the money.

Litts asked if it was interest free until the money is tapped. He asked if it is broken out in the groups of \$500,000 or does the Town start paying on the \$2,000,000.

Supervisor answered that the interest is paid on whatever is drawn down.

Paladino clarified that the bookkeeping has to be on the part of the Town and asked if the BAN needs to know on which project the money is used. It is a blanket \$2,000,000, one bond, but the accounting is down on the Town level by breaking up the money into \$500,000 for the four projects.

Supervisor gave the example that the Town submitted the reimbursable grant for the Walkable Hamlet three months ago and DOS said that it would be November; he asked if Matt Smith could wait four or five months to pay the contractor building the bulkhead.

Rivera asked if there was an outstanding bill on that project.

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Supervisor said that there was not. The contractor will want his payment once the job starts and if this BAN isn't done it will have to be taken from the General Fund. The money would be reimbursed to the General fund when it is received.

Litts posed that when the FEMA money or the grant money comes back, it will be put back in the account.

Supervisor feels that this is easier bookkeeping.

Peplow asked if one of the projects is completed and not all of the money used could the balance be assigned to another project.

Town Board feels that the money could be used for other projects; however the accounting has to be done internally, by resolution.

Litts asked if this money goes into the General fund and Supervisor answered that it does not go into the General fund, it remains in its own account.

Paladino felt that he did not believe the Highway BAN is the issue, that the issue was either Highland Landing Park and/or the Rail Trail that is the political hot topic. The proposals that were discussed: A, B, and C western extensions of the Rail Trail, of which C is the closest to Tony Williams Park. The funding for C is already established through the numbers that were in the account and can be done currently without issue.

Supervisor said that there is almost \$2,000,000, \$1,900,000, and he thinks that C is \$2.2-million, all are estimated numbers. The estimates for Rail Trail East were \$3.3-million and it came in at \$2.5-million.

Brennie said that he is in favor of all of the projects but feels it will be hard to justify to the people who comes to him who needs help.

Supervisor said that the Town has signed a contract with the Department of State and now the Town has to provide the money and do the project.

Litts added that realistically the Highland Landing Park job won't begin until next spring, so the money won't be needed until summer. The FEMA road project money is needed now; he does not see the Rail Trail happening for a few years and he feels that Tillson Avenue is at least a year or more away.

Supervisor said that the preliminary design and incidentals for the Tillson Avenue project are on the TIP for 2011, acquisition is 2012 and building is 2013.

Litts noted that the biggest amount of money would be needed in 2013; and by 2013 the Town would have back the money reimbursed by FEMA and the reimbursement with the grant for the Highland Landing Park. \$1-million would cover FEMA and Shepard's Park as those projects will be done by next year at this time. By the time the money is needed for Tillson Avenue and the Rail Trail, that money would already been recouped. Instead of borrowing \$2-million borrow \$1-million; the \$1-million would be back by the time that the second million is needed.

Claire Costantino said that the FEMA money does not go back into the General fund, it goes to the Highway funds.

Litts concluded that if the money has to go the Highway fund, then the money borrowed with this BAN would have to come back to pay off the bond.

C. Costantino agreed that the money will be used to pay down the debt; there isn't a million to use.

Litts explained that \$1-million is borrowed as seed money for these projects, when those projects reimburse, interest still has to be paid but the money can be reutilized to pay for Tillson Avenue and/or the Rail Trail.

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Murphy said if \$500,000 is borrowed and spent by Highway Department and FEMA gives the Town back 75%, that money will be used to repay the money that was borrowed from this bond for Highway purposes.

Litts agreed and then said the money can be utilized for one of these other projects.

Supervisor had the new Supplemental Contract for Tillson and it increases the amount to \$500,000; the local share is \$175,000 until we get Marchiselli; he is not sure how much has been spent on this project as the Town has been engaged in this for a whole year. Total project cost if this is a \$3.5-million project; \$175,000 will have to be spent by the Town and continue to pay for the project until the project is completed. When it is closed out the money will be reimbursed.

Litts clarified that the Highland Landing Park is 100% because the match for the Town is in labor; if \$500,000 is borrowed on the BAN to put up half of the \$900,000, when the contract is completed, DOS will cut a check for the Town's portion and that is where the \$175,000 will come from. He said that on his projects the reimbursement is two weeks. The Town could ask the Comptroller's office for the average reimbursement rate for the NYSDOS, as they audit all of the grants.

Supervisor said that the issue today is the contract for American Tower as it was promised that would be in this quarter; American Tower would have that contract in hand and know that they made a deal. The dialogue has to begin on getting money to front these projects and the supplemental agreement needs to be approved for more money for additional work. Money has been transferred from Right-of-Way Acquisition into the Preliminary Design phase; the phases have been moved around because they felt that there was too much money in Acquisition in our original estimate. This contract deserves Marchiselli funds because it is a NYSDOT project, on their land; they may ask for 20% for the sidewalk portion.

Litts said that \$4000.00 for the Right-of-Way Acquisition is light.

Paladino asked the need for Acquisition.

Hammond answered that it is narrow and it would be the properties along Tillson Avenue.

Brennie does not feel that there will be resistance by the property owners but Litts feels that the owners will want fair market value for the property, which the State has to pay.

Supervisor said that 30 years ago the Town was paid \$50 per year for the use of the Town road to get to the tower on Illinois Mountain; Tony Prizzia, who was Councilman at the time looked into this as it was time to renew the lease. Prizzia arranged an agreement which was accepted by the Town Board for \$6,000 per year for the first ten years; \$8,000 per year the next ten years and \$11,000 per year for ten years which will expire in 2015.

An application was received from American Tower that the lease will be up and they would like to renew for \$15,000 per year for ten years and if the Town signed right away, there would be a bonus of \$1,000.

A committee of Kevin Ronk, Tony Prizzia and the Supervisor discussed what the lease is worth; Ronk contacted Ken Schmidt, www.steeleintheair.com, who found all of the leases on the tower and the revenue that American Tower is realizing from the tower. The Town could ask for between \$20,000 and \$30,000 because of the revenue they are earning.

Supervisor continued that American Tower owns the property on which the tower is located but they need unrestricted access to the Tower using the Thomas Rizzo

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Boulevard. The committee concluded that the Town should ask for \$30,000; he said that the Town should ask for more because he knows that there is no other access and he said that he would ask for \$50,000. American Tower said that they cannot pay that and they would take down the tower; to which Supervisor replied that he would be a hero if that news went to the press. There was no more discussion and he could not get any contact for two years.

He now has an email from American Tower that they are sending a contract for \$50,000, now the Supervisor is concerned that he did not ask for enough money. He contacted Schmidt who said that he could not justify any more than the \$50,000 and further, he said that at \$50,000 the Town exceeds 98% of the leases in his database and that it is the best access lease with which he is familiar. Schmidt feels that American Tower has spent the last two years waiting for the Town to cave and looking for cheaper options, neither of which happened. Schmidt recommended the \$50,000 per year offer; however, he suspects that ATC would agree to more but he has nothing to support that.

Supervisor did not want to tie the Town up for ten years and asked for increases of 3% each year for the next 30 years, to which ATC agreed; if towers become passé, they have the right to cancel. This agreement also stipulates that no herbicide is can be used on the mountain, if herbicide is used, the contract is null and void, they are locked out. He is asking for approval of the lease agreement.

Litts noted that this agreement will become effective July 1, 2015 and will expire June 30, 2035.

Supervisor said that Carol Bozydaj, 22 Vineyard Avenue, requested a handicapped parking space in front of her house for ease of parking; he spoke with Mark Morano of NYSDOT who said that it is a Town Highway and the decision of the Town; further, the stripes do not have to be painted on the street but the handicapped sign could be erected.

The Board is in favor of the handicapped parking space.

Murphy will check to understand the procedure and said that general parking regulations have been done by local law.

2. NEW BUSINESS

A. Environmental Facilities BAN

Supervisor would like to do the Environmental Facilities BAN, there is \$25-million for the State of New York, at 0% interest for five years; He would like authorization to file an application to get the Town on that list and qualify. The numbers are being compiled and at this time it is not known how much it is going to be or how much the Town will ask. It is at 0% for five years and they will do permanent financing if it is needed. If the Town is short on the flood insurance or the contractors have to be paid while awaiting the insurance payment. This is a special district and notices of a public hearing on the BAN must be sent to every customer.

Murphy said that he has a proposed order and the application is based on the estimated costs of the repairs. Board members said that have not seen the application; Murphy made copies and distributed them. He read that estimated recovery cost is \$1.945-million for the Sewer Plant. The proposed order authorizes additional borrowing, a couple of months ago, \$8.4-million was authorized, adding \$1.95-million, it is over \$10-million. This is an order calling for a public hearing to authorize increased

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borrowing of \$1.945-million. The application will be made for \$1-million, which is the maximum that you can get from the EFC at 0%,

Murphy said that it is authorizing additional borrowing of the \$1.95-million anticipated recovery costs which would authorize borrowing the \$1-million from EFC, pursuant to the emergency program. Litts read that the Town is going to move from the \$8.285-million to the \$10.23-million and asked if the Town was only borrowing \$1-million, why would it not be \$9.285-million.

Murphy said that it could be \$9.285-million but based on the anticipated recovery costs if more is needed, more borrowing will be needed; if the money is not needed it does not need to be borrowed.

Litts reiterated that out of the \$1-million out of the \$1.9-million is interest-free and asked where the other \$1-million comes from

Murphy said that it is an application to EFC who has \$25-million available state-wide and Lloyd is applying for \$1-million of that. The Town would have to borrow the remainder from a RAN or a BAN if it is needed. The Town must have recouped some of \$8.4-million because we have been making progress payments. Litts's point is well taken as the \$1.9 won't be needed due to other recovery.

Supervisor said that the insurance is going to pay some, FEMA will pay some; the Town is into the second half and starting to pay interest. The first half was interest free.

C. Costantino said that there is no guarantee the Town will be awarded the million dollars.

Supervisor said that EFC is waiting for the application and feels that the Town will get the award.

Litts noted that they have already loaned the Town the \$8.4-million and they see that this would be a project that would qualify.

Litts then made RESOLUTION E, which was seconded by Brennie, for additional borrowing.

Hammond clarified that a resolution was made by Litts and seconded by Brennie for an order to call for a public hearing to authorize additional borrowing.

Murphy said that the date and time has to be determined; we could publish on the 6th, which is timely and the notices mailed out.

Peplow commented that she will arrange for Cornerstone to mail the notices in a timely manner. She will send them the notice to print on post cards and arrange to have UC Information Services send them the names and address of the property owners in the Sewer District.

Murphy stated it would be feasible to have the Public Hearing on October 19. The time and date can be changed.

Litts offered that on October 19 there is a wetlands training seminar at UCCC, 7:30 to 9:00 PM,

Murphy confirmed that the public hearing will be on October 26, Wednesday, 7 PM.

- B. Supervisor explained that Walter and Donna Finch would like to sell their house at 26 Phillips Avenue. He asked Patty Brooks of Brooks and Brooks (surveyors) to determine what happened years ago with the Planning Board regarding the garage is partially sited on Town property. At the time the Town Board and Planning Board decided that it did not affect Town property so it was left as it was.

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Murphy said that Mrs. Finch's attorney contacted him and the attorney is requesting that the Town Board considers an easement or license agreement which would state that if the garage was ever taken down, they would not replace it. The easement would be less expensive and is quicker than a lot line revision; he told the lawyer that within five feet around it, an appraisal would be needed, along with a legal description and that any resolution would be subject to permissive referendum and that all costs associated would be borne by the property owner.

Paladino asked if there were liability issues with an easement versus ownership. He feels that he would want a lot line revision, let them own it and give a set back variance.

Litts said that he would make it the back of the building.

Supervisor said that the Town has been looking for access to the Rail Trail from St. Augustine's School on Phillips Avenue. They tried to get the students from the school to the Rail Trail without walking all of the way down the street to Commercial Avenue. Claire Costantino wrote a connections grant to try to connect all the schools to different places and there was a search for property to connect the Rail Trail to St. Augustine's School. He asked Patty Brooks to look at the property to see if there could be a trade-off an easement off this property line and barter as a connection to the Rail Trail. He does not know if it is feasible.

Litts feels that the liability issues have to be checked as someone could sue the Town if they were hurt at the piece of the garage that is on Town property. If Mrs. Finch is granted an easement, she would have to enter into an insurance agreement to hold the Town harmless.

Murphy said that an indemnification agreement is the best that could be done.

Litts said that it would be a rider on the insurance and would be continuous cost; however, if it was a lot line revision and he owned the property, his homeowner's insurance would cover it and a rider would not be needed. The Town would not incur a lawsuit because it is public property. He does not feel that having a public easement across the property would be a good selling point; most people who buy property want privacy.

Supervisor said that most of the properties on the Rail Trail increased in sales value due to the access to the trail and Mrs. Finch is asking for something from the Town and he feels that the Town should ask for something from them.

Litts agreed that it does enhance the value of the property unless the public is crossing the property to get to the Rail Trail, which relinquishes privacy.

Paladino recommended waiting for an answer from Brooks and Brooks to see if the easement is feasible but he agrees with Litts that he would prefer to see a lot line revision with a variance for set back.

Murphy did not get the impression that there was an impending sale that might be lost but he will talk with the attorney about it.

Litts stressed that a lot line revision is the cleanest, neatest and least litigious way to do this, anything other than that is a gray area.

Hammond asked if the Board would like Murphy to go back to the Finch attorney and tell him that is the feeling of the Town Board.

Supervisor will furnish copies of the Planning Board minutes of 2003, when this was discussed.

Paladino and Litts clarified that the best resolution to this issue is a lot line revision.

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Murphy will report to Mrs. Finch's attorney that there is a consensus of the Board to pursue a lot line revision and there was some discussion about an easement through that property to the Rail Trail.

*Brennie left the meeting

C. Supervisor said that Carol Bozydaj, 22 Vineyard Avenue, requested a handicapped parking space in front of her house for ease of parking; he spoke with Mark Morano of NYSDOT who said that it is a Town Highway and the decision of the Town; further, the stripes do not have to be painted on the street but the handicapped sign could be erected.

The Board is in favor of the handicapped parking space.

Murphy will check to understand the procedure for a handicapped parking space and said that general parking regulations have been done by local law in the past.

3. RESOLUTIONS

A. Resolution TABLED

BOND RESOLUTION OF THE TOWN OF LLOYD, NEW YORK, ADOPTED SEPTEMBER 28, 2011, AUTHORIZING THE FINANCING OF VARIOUS CAPITAL PROJECTS IN AND FOR THE TOWN; STATING THE ESTIMATED TOTAL COST THEREOF IS \$2,000,000; APPROPRIATING SAID AMOUNT THEREFORE AUTHORIZING THE ISSUANCE OF \$2,000,000, SERIAL BONDS OF SAID TOWN TO FINANCE SAID APPROPRIATION AND FURTHER AUTHORIZING ANY FUNDS TO BE RECEIVED FROM THE UNITED STATES OF AMERICA, NEW YORK STATE OR ANY OTHER SOURCES TO BE EXPENDED TOWARDS THE COST OF SAID PROJECT OR REDEMPTION OF THE TOWN'S BONDS OR NOTES ISSUED THEREFORE OR TO BE BUDGETED AS AN OFFSET TO THE TAXES TO BE COLLECTED FOR THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON SAID BONDS OR NOTES.

THE TOWN BOARD OF THE TOWN OF LLOYD, IN THE COUNTY OF ULSTER, NEW YORK, HEREBY RESOLVES (*by the favorable vote of not less than two-thirds of all the members of said Town Board*), AS FOLLOWS:

Section 1. The Town of Lloyd, in the County of Ulster, New York (herein called the "Town"), is hereby authorized to finance various capital projects in and for the Town, including: (a) the reconstruction of various roads in the Town that were damaged as a result of Tropical Storm Irene, at the estimated maximum cost of \$500,000; (b) the construction of various park improvements at the Bob Shepard Highland Landing Park in the Town, at the estimated maximum cost of \$500,000 NYSDOS COO6938; (c) various improvements to the intersection of Tillson Avenue and Toc Drive in the Town PIN: 8757.81, at the estimated maximum cost of \$500,000; and (d) the construction of the Hudson Valley Rail Trail West project in the Town PIN: 8780.22, at the estimated maximum cost of \$500,000. The estimated total cost thereof, including preliminary costs and costs incidental thereto and the financing thereof, is \$2,000,000 and said amount is hereby appropriated therefore. The plan of financing includes the issuance of \$2,000,000 serial bonds of the Town to finance said appropriation, and the levy and collection of taxes on all the taxable real property in the Town to pay the principal of said bonds and the interest thereon

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as the same shall become due and payable. Any grant funds received from the United States of America, New York State or from any other source in connection with the Project are authorized to be applied towards the cost of said project or redemption of the Town's bonds or notes issued therefore, or to be budgeted as an offset to the amounts to be collected for the payment of the principal of and interest on said bonds or notes.

Section 2. Serial bonds of the Town in the principal amount of \$2,000,000 are hereby authorized to be issued pursuant to the provisions of the Local Finance Law, constituting Chapter 33-a of the Consolidated Laws of the State of New York (herein called the "Law"), to finance said appropriation.

Section 3. The following additional matters are hereby determined and declared:

- (a) The periods of probable usefulness applicable to the objects or purposes for which said bonds are authorized to be issued may be in excess of five years; however, the bonds authorized pursuant to this resolution and any bond anticipation notes issued in anticipation of the sale of said bonds, shall mature no later than five (5) years after the date of original issuance of said bonds or notes.
- (b) The proceeds of the bonds herein authorized and any bond anticipation notes issued in anticipation of said bonds may be applied to reimburse the Town for expenditures made after the effective date of this resolution for the purpose for which said bonds are authorized. The foregoing statement of intent with respect to reimbursement is made in conformity with Treasury Regulation Section 1.150-2 of the United States Treasury Department.
- (c) The proposed maturity of the bonds authorized by this resolution will not exceed five (5) years.

Section 4. Each of the bonds authorized by this resolution and any bond anticipation notes issued in anticipation of the sale of said bonds shall contain the recital of validity as prescribed by Section 52.00 of the Law and said bonds and any notes issued in anticipation of said bonds shall be general obligations of the Town, payable as to both principal and interest by general tax upon all the taxable real property within the Town. The faith and credit of the Town are hereby irrevocably pledged to the punctual payment of the principal of and interest on said bonds and any notes issued in anticipation of the sale of said bonds and provision shall be made annually in the budget of the Town by appropriation for (a) the amortization and redemption of the bonds and any notes in anticipation thereof to mature in such year and (b) the payment of interest to be due and payable in such year.

Section 5. Subject to the provisions of this resolution and of the Law and pursuant to the provisions of Section 21.00 relative to the authorization 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 Section 50.00 and Sections 56.00 to 60.00 and 168.00 of the Law, the powers and duties of the Town Board relative to authorizing bond anticipation notes and prescribing the terms, form and contents and 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 bond anticipation notes, and as to the execution of agreements for credit enhancements, are hereby delegated to the Supervisor, the chief fiscal officer of the Town.

Section 6. The validity of the bonds authorized by this resolution, and of any notes issued in anticipation of the sale of said bonds, may be contested only if:

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- (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 the publication of such resolution, or a summary thereof, are not substantially complied with, and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publication, or
- (c) such obligations are authorized in violation of the provisions of the constitution.

Section 7. This bond resolution shall take effect immediately, and the Town Clerk is hereby authorized and directed to publish the foregoing resolution, in summary, in substantially the form annexed hereto as Exhibit "A", together with a Notice in substantially the form prescribed by Section 81.00 of the Law in the "NEW PALTZ TIMES," a newspaper published in Kingston, New York, having a general circulation within the Town of Lloyd and hereby designated as the official newspapers of the Town for such publication.

* * *

**(NOTICE TO BE ATTACHED TO AND TO BE PUBLISHED WITH
RESOLUTION AFTER ADOPTION)**

NOTICE

The resolution, a summary of which is published herewith, has been adopted on September 28, 2011 and the validity of the obligations authorized by such resolution may be hereafter contested only if such obligations were authorized for an object or purpose for which the Town of Lloyd, in the County of Ulster, New York, is not authorized to expend money or if the provisions of law which should have been complied with as of the date of publication of this Notice were not substantially complied with, and an action, suit or proceeding contesting such validity is commenced within twenty days after the publication of this Notice, or such obligations were authorized in violation of the provisions of the constitution.

ROSARIA PELOW
Town Clerk

EXHIBIT A

BOND RESOLUTION OF THE TOWN OF LLOYD, NEW YORK, ADOPTED SEPTEMBER 28, 2011, AUTHORIZING THE FINANCING OF VARIOUS CAPITAL PROJECTS IN AND FOR THE TOWN; STATING THE ESTIMATED TOTAL COST THEREOF IS \$2,000,000; APPROPRIATING SAID AMOUNT THEREFORE, AUTHORIZING THE ISSUANCE OF \$2,000,000, SERIAL BONDS OF SAID TOWN TO FINANCE SAID APPROPRIATION AND FURTHER AUTHORIZING ANY FUNDS TO BE RECEIVED FROM THE UNITED STATES OF AMERICA, NEW YORK STATE OR ANY OTHER SOURCES TO BE EXPENDED TOWARDS THE COST OF SAID PROJECT OR REDEMPTION OF THE TOWN'S BONDS OR NOTES ISSUED THEREFOR, OR TO BE BUDGETED AS AN OFFSET TO THE TAXES TO BE COLLECTED FOR THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON SAID BONDS OR NOTES.

Objects or purposes: (a) the reconstruction of various roads in the Town that were damaged as a result of Tropical Storm Irene, at the estimated maximum cost of \$500,000; (b) the construction of various park improvements at the Bob

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Shepard Highland Landing Park in the Town, at the estimated maximum cost of \$500,000; (c) various improvements to the intersection of Tillson Avenue and Toc Drive in the Town, at the estimated maximum cost of \$500,000; and (d) the construction of the Hudson Valley Rail Trail West project in the Town, at the estimated maximum cost of \$500,000.

Amount of obligations
to be issued: \$2,000,000

Period of probable
usefulness: limited to five (5) years

A complete copy of the bond resolution summarized above shall be available for public inspection during normal business hours at the office of the Town Clerk, Town of Lloyd, Town Hall, 12 Church Street, Highland, New York.

Dated: September 28, 2011
Town of Lloyd, New York

B. Resolution TABLED

WHEREAS, the Town Board of the Town of Lloyd has authorized a Bond Anticipation Note for various purposes, including \$500,000 for repairs to the Town's roadways due to damages incurred as a result of Tropical Storm Irene and subsequent rains.

WHEREAS, the Town Board has determined that such repairs constitute a Type II action pursuant to the State Environmental Quality Review Act (SEQRA).

NOW, THEREFORE, IT IS RESOLVED AS FOLLOWS:

That the Town Board of the Town of Lloyd has determined that repairs to the Town's roadways due to damages incurred as a result of Tropical Storm Irene and subsequent rains are exempt from further proceedings under SEQRA.

C. Resolution TABLED

WHEREAS, the Town Board of the Town of Lloyd wishes to authorize the issuance of Bond Anticipation Notes in the aggregate principal amount of \$2,000,000 for the following purposes: (a) reconstruction of various roads in the Town that were damaged as a result of Tropical Storm Irene, at the estimated maximum cost of \$500,000; (b) construction of various improvements at The Bob Shepard Highland Landing Park, at the estimated maximum cost of \$500,000; (c) various improvements to the intersection of Tillson Avenue and Toc Drive, at the estimated maximum cost of \$500,000; and (d) construction of the Hudson Valley Rail Trail West project, at the estimated maximum cost of \$500,000; and,

WHEREAS, it is anticipated that any debt incurred as a result of this Bond Anticipation Note will be paid off within five (5) years; and,

WHEREAS, the Town Board of the Town of Lloyd has determined that this constitutes an unlisted action under the State Environmental Quality Review Act (SEQRA) and a short form EAF has been prepared on behalf of the Town Board, with the Board assuming lead agency to do all necessary reviews in the matter, and the Town Board has examined the short form EAF and considered the environmental effects of this action.

NOW, THEREFORE, IT IS RESOLVED AS FOLLOWS:

The Town Board of the Town of Lloyd finds, as lead agency, that there is no environmental impact in the Board's authorization of the issuance of Bond Anticipation Notes in the aggregate principal amount of \$2,000,000 for the purposes described in this resolution, and the Town hereby issues its declaration of non-significance.

D. RESOLUTION made by Hammond, seconded by Litts,

WHEREAS, American Tower Management, LLC, a Delaware limited liability company ("American Tower"), is the fee owner of a parcel of land located at 1030-1040 Thomas Rizzo Boulevard, Highland, New York (ID# 87.4-5-25) (the "Tower Parcel") and two telecommunication towers located thereon; and,

WHEREAS, the Highland Water District is the owner of land located off Reservoir Road in Highland, New York (ID# 87.4-5-3); and,

WHEREAS, in order to obtain ingress and egress and an easement for utilities from the tower parcel to the public right of way, American Tower and Five States Tower Co., Inc., the predecessor in interest to American Tower, entered into a certain lease agreement with the Town Board of the Town of Lloyd, as Commissioners of the Highland Water District, dated December 17, 1986, whereby American Tower leases a portion of the land from the Highland Water District for ingress and egress to the tower parcel to service and maintain same, along with an easement for utilities; and,

WHEREAS, the Town Board of the Town of Lloyd, as Commissioners of the Highland Water District, and American Tower desire to amend the terms of the lease and extend the term thereof and to make other changes as set forth in "The First Amendment to Lease Agreement", as set forth in Exhibit "A" attached to this resolution; and,

WHEREAS, the Town Board of the Town of Lloyd has determined that this is a Type II action pursuant to the State Environmental Quality Review Act (SEQRA) and is exempt from further proceedings under such act.

NOW, THEREFORE, IT IS RESOLVED AS FOLLOWS:

1. The Agreement annexed hereto as Exhibit "A" and all the terms and conditions therein be, and the same hereby is, approved upon the terms set forth therein.
2. This Resolution is subject to Permissive Referendum and the Town Clerk shall publish a notice in the official newspaper of the Town within ten (10) days after adoption of this Resolution containing the information required in Town Law Section 90, which notice shall set forth the date of adoption of the Resolution and contain an abstract of such Resolution concisely stating the purpose and effect thereof and that it was adopted subject to Permissive Referendum.
3. This Resolution is not final and shall not take effect until thirty (30) days after its passage provided not petition if filed with the Town Clerk pursuant to Town Law Section 91 requesting a special election. If an election is so requested the resolution shall not take effect until an affirmative vote is rendered by the voters entitled to vote pursuant to the Town Law.
4. Upon this resolution becoming final and taking effect, Raymond J. Costantino, Supervisor, is authorized on behalf of the Town Board of the Town of Lloyd, acting

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as Commissioners of the Highland Water District, to sign the said Agreement and any documents related thereto. (See Attached)

Roll call: Paladino, aye; Hammond, aye; Litts, aye; Costantino, aye.

Four ayes carried.

- E. RESOLUTION** made by Litts, seconded by Brennie, in the Matter of the Increase and Improvement of Facilities of Highland Sewer District, in the Town of Lloyd, in the County of Ulster, New York, pursuant to Section 202-b of the Town Law.

ORDER CALLING FOR A FURTHER PUBLIC

HEARING TO BE HELD ON

OCTOBER 26, 2011

WHEREAS, on April 12, 2006, the Town Board of the Town of the Town of Lloyd (herein called "Town Board" and "Town", respectively), in the County of Ulster, New York, acting on behalf of the Highland Sewer District (herein called "District"), in the Town, held a public hearing and thereafter adopted (i) the Resolution and Order After Public Hearing and (ii) the Bond Resolution, which authorized the issuance of serial bonds of the Town in an amount not to exceed \$7,000,000 to pay the estimated total cost of the increase and improvement of facilities of the District, consisting of improvements to the waste water treatment and collection system, including, but not limited to, expanding the capacity of the existing waste water treatment plant by approximately 0.5 million gallons per day in order to provide adequate capacity for at least twenty (20) years as well as allowance for potential growth and expansion of the District, upgrading the waste water collection system, prevention of flooding caused by roof drains and sump pumps, elimination of inflow and/or infiltration flows and providing any and all necessary furnishings, equipment, machinery, apparatus, installations, appurtenances, accessories and related engineering and other costs (the "Project"); and

WHEREAS, at the time that Project was authorized by the Town Board, the Town had expected that the Project would qualify for funding as part of the Clean Water State Revolving Loan Fund Program ("CWSRLFP") of the New York State Environmental Facilities Corporation ("NYS EFC"); and

WHEREAS, the Town subsequently learned that the NYS EFC was unable to fund the Project as part of its CWSRLFP unless additional funding became available to the NYS EFC and as a result the Town Board determined that it was not in the best interest of the Town and the District to proceed with the Project; and

WHEREAS, subsequently the Town Board was informed by NYS EFC that additional funding through its CWSRLFP was available to fund the Project and the Town Board determined that it was in the best interest of the Town and the District to reauthorize the Project and the issuance of serial bonds in connection therewith; and

WHEREAS, the firm of Morris Associates, P.S. L.L.C., Engineering Consultants duly licensed by the State of New York (herein called "Engineer"), prepared the original preliminary map, plan and report for the Project, dated May 2005 and the Engineer also prepared an addendum to such map, plan and report, dated July 2009, (the original preliminary map, plan and report and the addendum being collectively referred to herein as the "Report"), stating, inter alia, that due to an increase in construction costs, including associated labor and materials, the estimated total cost of the Project was estimated to be \$7,475,000; and

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WHEREAS, the Town Board determined that the bond anticipation note issued pursuant to the bond resolution adopted on April 12, 2006 and then outstanding in the amount of \$1,000,000, was to be used to pay a part of the cost of the Project and, as a result, the Town Board authorized not to exceed \$6,475,000 serial bonds to pay the balance of said \$7,475,000 cost; and

WHEREAS, on February 9, 2011, the Town Board determined that due to an increase in the cost of labor and materials, the maximum amount proposed to be expended for the Project was \$8,285,000 and the Town Board determined that it was in the best interests of the Town to further increase the estimated total cost of the Project and to increase the amount of serial bonds authorized to pay for such increased costs; and

WHEREAS, the Engineer prepared and filed with the Town Board a second addendum to the Report, dated February 2011, setting forth the increased cost of the Project; and

WHEREAS, following a public hearing held on March 9, 2011 to consider the increase in the estimated total cost of the Project from \$7,475,000 to \$8,285,000, the Town Board adopted an amending bond resolution which increased the total amount of serial bonds authorized to pay for the Project from \$7,475,000 serial bonds to \$8,285,000; and

WHEREAS, due to damage to the facilities of the District as a result of Tropical Storm Irene, the maximum amount proposed to be expended for the Project has now been determined by the Town Board to be \$10,230,000 and the Town Board has determined that it is in the best interests of the Town to increase the estimated total cost of the Project from \$8,285,000 to \$10,230,000 and to increase the amount of serial bonds authorized to be issued for the Project from \$8,285,000 to \$10,230,000 to pay for such increased costs, and

WHEREAS, the Town expects to receive proceeds from an insurance policy held by the Town relating to the facilities of the District and funding from the United States of America and other sources, which shall be applied towards the cost of Project or redemption of said bonds and/or bond anticipation notes issued therefore or shall be budgeted as an offset to the taxes for the payment of the principal and interest on said bonds and/or bond anticipation notes; and

WHEREAS, the Engineer has prepared and filed with the Town Board a third addendum to the Report, dated September 2011, setting forth the increased cost of the Project; and

WHEREAS, the Town Board and the Town have complied or will comply in every respect with all applicable federal, state and local laws and regulations, including environmental matters; and

WHEREAS, pursuant to the New York State Environmental Quality Review Act, constituting Article 8 of the Environmental Conservation Law ("SEQRA"); the Town Board, acting as Lead Agency, has given due consideration to the impact that the Project may have upon the environment and, on the basis of such consideration, the Town Board has heretofore determined that the Project is a Type II Action imposing no material adverse environmental impact and no further environmental review is required;

NOW, THEREFORE, BE IT ORDERED, that a meeting of the Town Board be held at the Town Hall, 12 Church Street, in the Town, on the 26th day of October, 2011, at 7:00 o'clock P.M. (Prevailing Time), to consider the Project and to hear all persons interested in the subject thereof concerning the same and for such other

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action on the part of the Town Board with relation thereto as may be required by law; and be it,

FURTHER ORDERED, that the Town Clerk (i) publish at least once in the “*New Paltz Times*” and the “*Poughkeepsie Journal*”, each of which is designated as the official newspaper of the Town for such publication, (ii) post on the sign board of the Town maintained pursuant to subdivision 6 of Section 30 of the Town Law, and (iii) mail or caused to be mailed, via first class mail, addressed to the last known address of each owner of taxable real property in the District, a notice of such public hearing in substantially the form attached hereto designated **Exhibit “A”** and hereby made a part hereof, certified by said Town Clerk, the first publication thereof, said posting and said mailing to be not less than ten (10) nor more than twenty (20) days before the date of such public hearing.

DATED: September 28, 2011

TOWN BOARD OF THE TOWN OF LLOYD

Hon. Raymond Costantino, Supervisor

Nancy E. Hammond, Councilperson

Herbert Litts, III, Councilperson

Kevin Brennie, Councilperson

Jeffrey Paladino, Councilperson

(SEAL)

* * * * *

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

Supervisor Raymond Costantino	voting_____
Councilperson Nancy E. Hammond	voting_____
Councilperson Herbert Litts, III	voting_____
Councilperson Kevin Brennie	voting_____
Councilperson Jeffrey Paladino	voting_____

The Order was declared adopted.

* * * * *

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the Town Board of the Town of Lloyd, in the County of Ulster, State of New York, will meet at the Town Hall, 12 Church Street, Highland, New York, on October 26, 2011, at 7:00 o'clock P.M. (Prevailing Time), for the purpose of conducting a public hearing in relation to the increase and improvement of facilities (the “Project”) of Highland Sewer District (the “District”). The Town Board has determinate that due to the damage caused by Tropical Storm Irene to the facilities of the Highland Sewer District, which were being improved at the time of such tropical storm, the maximum amount to be expended for the increase and improvement of facilities of the District shall be increased from \$8,285,000 to \$10,230,000 and that the amount of serial bonds authorized for the

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Project shall also be increased from \$8,285,000 to \$10,230,000. The Town expects to receive proceeds from an insurance policy and funding from the United States of America and other sources to reimburse the Town for expenditures made to the facilities of the District on account of the damage caused by Tropical Storm Irene. Any and all amounts so received shall be applied towards the cost of Project or redemption of said bonds and/or bond anticipation notes issued therefore or shall be budgeted as an offset to the taxes for the payment of the principal and interest on said bonds and/or bond anticipation notes.

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

Dated: September 27, 2011, Highland, New York

BY ORDER OF THE TOWN BOARD OF THE
TOWN OF LLOYD, COUNTY OF ULSTER,
STATE OF NEW YORK

By: _____
Rosaria Peplow, Town Clerk
Town of Lloyd

Roll call: Brennie, aye; Costantino, aye; Hammond, aye; Litts, aye; Paladino, aye.

Five ayes carried.

Supervisor referred to the request made by the Building Department to have a radio installed. It will be in next year's budget. Barton has enough in this year's budget to pay the monthly charges for the remainder of the year.

F. RESOLUTION made by Hammond, seconded by Paladino, to approve and authorize the Supervisor to sign the radio contract lease with NYCOMCO for one (1) P5450 Scan 800 MHZ EDACS portable radio for emergency communications for the Building Department. The contract is \$59.00 per month for 60 months, and it includes the radio, a desk charger, a spare battery, all service, including replacement of broken or defective parts and any reprogramming that may be needed in the future.

Roll call: Hammond, aye; Litts, aye; Paladino, aye; Costantino, aye.

Four ayes carried.

MOTION made by Litts, seconded by Paladino, to adjourn the meeting at 6:00 PM.

Four ayes carried.

Respectfully submitted,

Rosaria Schiavone Peplow
Town Clerk