

**REGULAR MEETING OF THE TOWN OF DARIEN**

**SEPTEMBER 7, 2022**

MINUTES OF THE DARIEN TOWN BOARD: Supervisor Stephen Ferry, Council Members Timothy Benten, Michael Fix, Michael Grant, David Krzemien, and Town Clerk Alice Calmes.

A regular meeting of the Darien Town Board, County of Genesee, and State of New York was held at the Town Hall, 10569 Allegany Road, Darien Center, NY on September 7, 2022

PRESENT:	Stephen Ferry	Supervisor
	Timothy Benten	Councilman
	Michael Grant	Councilman
	Alice Calmes	Town Clerk
ABSENT:	Michael Fix	Councilman
	David Krzemien	Councilman

OTHERS PRESENT: Sue Galbraith – Alden Advertiser; Neil Marzolf and members of the public

At 7:32 PM the Supervisor called the meeting to order and recited the Pledge to the Flag.

**RESOLUTION #104  
MEETING MINUTES**

Councilman Grant offered a resolution to accept the minutes as read from the August 3, 2022, meeting; second by Councilman Benten.

AYES 3 Grant, Benten, and Ferry NAYS 0

**RESOLUTION #105**

Supervisor Ferry offered a resolution to authorize the Supervisor to sign the Maintenance Contract with Arctic Refrigeration for 2022-2023; second by Councilman Benten.

AYES 3 Ferry, Benten, and Grant NAYS 0

At 7:45 PM, the public hearing for the Sanitary Sewer Upgrades bonding was open with a reading of the notice as it appeared in the official papers. Supervisor Ferry explained that this is for funding purposes and will also allow us to apply for grants. No questions from the public in attendance at this time; Supervisor Ferry continued with regular business.

Zoning Enforcement Officer, Jerry Yoder, read his report submitted to the board members.

At 7:56 PM, Councilman Michael Fix arrived.

**Notifications**

The Town Sales Tax distribution for 2023 is \$908,616.00. That is approximately \$1,000 less than last year and approximately half a million less than 4 years ago. The sales tax to the County has been increasing, but they capped the amount to the towns at a total of \$10 million.

The 2023 Tentative Budget will be ready the week of September 28, 2022, for distribution to board members.

Court discussion - We would need to still do a resolution, certify it, then set up a bank account, purchase checks and receipts before we could even have Tom Burns act on behalf of the Town. Cases are way down, we are around \$6000 so far for the year but had budgeted \$40,000. Supervisor Ferry recommended it is probably a better idea to limp through the rest of the year instead of incurring additional costs to put Tom Burns on. No motion made to appoint Tom Burns; a letter thanking him for his willingness to assist will be sent out.

Supervisor Ferry announced the public hearing is still open and asked if anyone had any questions or would like to speak during the hearing to please raise their hand. No hands were raised.

RESOLUTION # 106

**CLOSE PUBLIC HEARING**

At 8:05 PM, Supervisor Ferry offered a resolution to close the public hearing on the Sanitary Sewer Upgrades bonding; second by Councilman Benten.

AYES 4      Ferry, Benten, Fix, and Grant

NAYS 0

RESOLUTION # 107

**TOWN OF DARIEN  
RESOLUTION AND ORDER AFTER A PUBLIC HEARING  
-SANITARY SEWER UPGRADES-**

The Town Board of the Town of Darien met at a regular board meeting at the Town Offices of the Town of Darien, located at 10569 Alleghany Road, Darien, New York on the 7<sup>h</sup> day of September 2022 commencing at 7:30 p.m., and thereafter a public hearing was held at 7:45 p.m. at which time and place the following members were:

- |          |            |                |
|----------|------------|----------------|
| Present: | Supervisor | Stephen Ferry  |
|          | Councilman | Timothy Benten |
|          | Councilman | Michael Fix    |
|          | Councilman | Michael Grant  |
| Absent:  | Councilman | David Krzemien |

**WHEREAS**, all Board Members, having due notice of said meeting, and that pursuant to Article 7, §104 of the Public Officers Law, said meeting was open to the general public and due and proper notice of the time and place whereof was given as required by law; and

**WHEREAS**, the Town of Darien wishes to implement sanitary sewer upgrades to benefit the overall health and safety of the Town by making necessary improvements to reduce carbonaceous biochemical oxygen demand (CBOD) and NH<sub>3</sub> (nitrogen) levels to acceptable DEC thresholds; and

**WHEREAS**, the Town of Darien owns and maintains a wastewater treatment facility (hereinafter referred to as “WWTF”) located at 1460 Broadway Road, Darien Center, New York as part of Town of Darien Sewer District No. 1; and

**WHEREAS**, The Town received an Order of Consent in December 2019 from New York State Department of Environmental Conservation (NYSDEC); and

**WHEREAS**, said Order of Consent required that the Town provide an engineering report to the NYSDEC by August 1, 2020, establish design plans to make the necessary capital improvements, and establish a schedule for implementing the necessary capital improvements and upgrades to the Darien WWTF; and

**WHEREAS**, the Town of Darien WWTF does not currently have any existing intermunicipal agreements in place of industrial/hailed waste discharges; and

**WHEREAS**, the Village of Corfu owns and operates the Village of Corfu WWTF located on Fieldcrest Road, which serves the needs of the Village and surrounding areas; and

**WHEREAS**, the Town of Darien requires significant improvements to their aging infrastructure and quality compliance violations and wishes to construct a force main to connect to the Village of Corfu’s WWTF; and

**WHEREAS**, the proposed project would consist of the installation of approximately 27,700 linear feet of new sanitary force main and related appurtenances from the existing Darien WWTF on Broadway Road to the Corfu WWTF; and

**WHEREAS**, the proposed connection to the Corfu WWTF would allow for the decommissioning of the Darien WWTF, which would eliminate the environmental impacts of the Town of Darien WWTF; and

**WHEREAS**, the proposed force main to Corfu would allow the Town of Darien to decrease costs related to operation and maintenance; and

**WHEREAS**, the estimated maximum amount for the force main to Corfu WWTF is \$4,781,000.00 which amount is to be financed by the issuance of serial bonds in an aggregate amount not to exceed \$4,781,000.00, such amount to be offset by any federal, state, county and/or local funds received including, but not limited to, a grant in the approximate amount of \$1,500,000.00;

**WHEREAS**, according to the Engineering Report dated June 2022 from CPL, the annual debt service will be \$114,491 at a rate of 1.375% for 38 years;

**WHEREAS**, the estimated annual cost per unit is \$1,349.00; and

**WHEREAS**, the costs associated with the sanitary sewer upgrades will be assessed on a benefit basis; and

**WHEREAS**, the Town Board of the Town of Darien has reviewed the Engineering Report, and held on public hearing at 7:45 p.m. on the 7<sup>th</sup> day of September, 2022, at which time and place all interested parties were heard;

**WHEREAS**, the Town Board of the Town of Darien believes installing the proposed force main to Corfu WWTF is the best option for the Town due to public health and the Order of Consent from the NYSDEC.

**ON MOTION OF** Supervisor Stephen Ferry, which was duly seconded by Councilman Timothy Benten,

**NOW THEREFORE, BE IT RESOLVED**, upon the evidence given at the public hearing described herein, it is hereby determined as follows:

1. The Notice of the Public Hearing described in the preambles hereof was posted and published in accordance with Town Law Section 193;
2. The construction of the proposed sanitary sewer upgrades hereinabove described is in the public interest, in such that it will:
  - a. Eliminate the environmental impacts of the current Town of Darien wastewater treatment facility;
  - b. Consolidation of wastewater systems benefits the Town from having shared services through agreements with Corfu and constitutes a regionalized system;
  - c. Decommissioning of the Darien wastewater treatment facility would reduce operation and maintenance costs;
  - d. Reduction of negative impacts and public health concerns relative the waterways within the Town of Darien.
3. Preparatory to solicitation of competitive bids relative to such construction, the Town's engineer is hereby directed to prepare definite plans and specifications and to make a careful estimate of the expense of the aforesaid sanitary sewer upgrades and, with the assistance of the Town Attorney, to prepare a proposed contract for the execution the work; and

- 4. The Town Clerk shall record a copy of this Resolution in the Office of the County Clerk of the County of Genesee as required under Section 195 of the Town Law of the State of New York.
- 5. This Order shall take effect immediately.

Ayes: 4

Nays:   

Absent/Abstain: 1

Quorum Present: x Yes    No

Dated: September 7, 2022

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Alice Calmes, Clerk  
Town of Darien

[SEAL]

At 8:15 PM, the public hearing for the Establishment of Water District #11 was open with a reading of the notice as it appeared in the official newspapers. Supervisor Ferry announced that the Engineer is unsure if there will be pipes in the ground by the end of next year. Mr. Jeff Luker asked if this was in the right time frame to be a continuation of the Alexander district. Supervisor Ferry stated this is the right timing and the contractors for Alexander expressed interest in bidding for our project as well. Mr. Luker also asked if this could end up being like the one from a few years ago that had to go to a vote and got turned down. Supervisor Ferry stated there will be no vote due to the amount of signatures received on the legal petition.

With no other questions, Supervisor Ferry continued with the meeting by reading through Part 1 of the Full Environmental Assessment Review Form for the Sanitary Sewer Upgrades. After finishing Part 1, Supervisor Ferry announced the public hearing on the establishment of Water District #11 was still open and if anyone else had questions to raise their hands. Mrs. Rose Schunk asked if there was a map showing how far the line was going to go. Supervisor Ferry explained it will likely only go as far as it needs to in order to get to their property and that it would not be turning the corner.

RESOLUTION #108

**CLOSE PUBLIC HEARING**

At 8:38 PM, Supervisor Ferry offered a resolution to close the public hearing on the establishment of Water District #11 – Walker Road; second by Councilman Fix.

AYES 4      Ferry, Fix, Benten, and Grant

NAYS 0

RESOLUTION # 109

**RESOLUTION AND ORDER FOR THE ESTABLISHMENT OF  
WATER DISTRICT NO. 11  
FOR A PORTION OF THE TOWN OF DARIEN**

Dated: September 7, 2022

**WHEREAS**, the Town Board of the Town of Darien, New York, has duly adopted a Resolution directing the Supervisor of the Town of Darien to file a map, plan and report as prepared by the Town’s engineer for providing the facilities, improvements or services in a portion of the Town of Darien wherein a water district is proposed to be established; and said map, plan, and report dated May 26, 2022 has been filed in the office of the Town Clerk of the Town of Darien on May 27, 2022, 2022; and

**WHEREAS**, said Supervisor adopted an “Order for a Public Hearing on the Petition for Establishment of the Town of Darien Water District No. 11” reciting a description of the boundaries of the proposed district, the maximum amount proposed to be expended for the improvement, the proposed method of financing to be employed, the fact that a map, plan and report describing the same is on file in the Town Clerk’s Office for public inspection

and specifying that said Town Board shall meet at the Town of Darien Town Office on the 7<sup>th</sup> day of September, 2022 at 8:15 p.m. for the purpose of conducting a public hearing on such proposal to establish the water district with the specified improvements and to hear all persons interested in the subject thereof concerning the same; and

**WHEREAS**, a “Petition to Request Water District” was filed in the Darien Town Clerk’s Office on the 6<sup>th</sup> day of June, 2022, signed by the required number of property owners within the proposed district, namely, pursuant to the latest completed assessment roll of the Town of Darien, the owners of taxable real property located in the proposed Town of Darien Water District No. 11 (also referred to herein as “Water District”) owning in the aggregate at least one-half (½) of the assessed valuation of all of the taxable real property of the proposed Water District; and also constituting the signatures of resident owners who own taxable real property aggregating at least one-half (½) of the assessed valuation of all of the taxable real property of the proposed Water District owned by residents; and

**WHEREAS**, the project area has been identified through public interest and the proposed Water District will obtain its water supply from the Town of Darien Water District No. 11 supply point. The Town of Darien Water District No. 11 receives its water from the City of Batavia and the Monroe County Water Authority. Both the City of Batavia and the Monroe County Water Authority have ample capacity available to provide water for this project; and

**WHEREAS**, copies of the aforesaid said “Order for a Public Hearing on the Petition for the Establishment of the Town of Darien Water District No. 11” was duly published and posted according to law, and said Town Board did, at the time and place specified in said Order, duly meet and consider such proposal and heard all persons interested in the subject thereof, who appeared at such time and place, concerning the same; and

**WHEREAS**, the boundary of the proposed Town of Darien Water District No. 11 shall have an exterior boundary described in **Appendix A**, attached hereto and incorporated herein by reference; and

**WHEREAS**, the expected average annual cost to the Typical Property (as defined by Town Law) in the proposed District (which is a single family home) per year will be approximately \$1,572.00 including debt service and water bill expenses; and each unit will also have to provide for additional one-time costs, including costs to hookup and connect to the right-of-way interior plumbing, (approximately \$8.00-\$20.00 per linear foot) and well separations costs (approximately \$200.00 - \$600.00 per unit); and

**WHEREAS**, the evidence offered at such hearing requires that the Town Board make the determinations hereinafter made.

**ON MOTION OF** Supervisor Stephen Ferry, which was duly seconded by Councilman Timothy Benten,

**NOW, THEREFORE, BE IT RESOLVED**, by the Town Board of the Town of Darien, in the County of Genesee, duly convened, that it be and hereby is determined as follows:

- (1) The aforesaid “Petition to Request Water District” was signed and acknowledged or proved or authenticated, as required by law and is otherwise sufficient;
- (2) The Notice of Hearing was published and posted as required by law and is otherwise sufficient;
- (3) That all the property and property owners, within the proposed water district are benefited thereby;
- (4) That all of the property and property owners benefited are included within the proposed water district; and
- (5) It is in the public interest to establish the proposed water district as hereinafter described; and be it

**FURTHER RESOLVED**, that the Town Board does hereby approve the establishment of a water district as hereinafter described to be known as the Town of Darien Water District No. 11 and shall have an exterior boundary described in **Appendix A**, attached hereto and incorporated herein by reference; and be it

**FURTHER RESOLVED**, the project will generally consist of installing approximately 8,400 linear feet

of 8” diameter PVC water main within existing right-of-ways along Walker Road. The water main will serve approximately 20 units; and be it

**FURTHER RESOLVED**, the proposed District will be connected to the existing booster pump station on US Route 20 (Broadway Road) in Town of Alexander Water District No. 5; and be it

**FURTHER RESOLVED**, the Town of Alexander’s 500,000 gallon water storage tank will provide the water storage need for this proposed District along the US Route 20 (Broadway Road); and be it

**FURTHER RESOLVED**, the water system will be designed to provide 164 gallons of water per household per day for domestic and commercial use and to provide fire protection meeting Insurance Services Office (ISO) Standards and will serve approximately 20 units, which may include single family houses, mobile homes, vacant land, manufactured homes, or non-residential properties; and be it

**FURTHER RESOLVED**, the debt service for the initial project costs are based on equivalent dwelling units and the Town of Darien anticipates securing grants from the USDA Rural Development to partially fund the project through grant, while the remaining share will be paid for by a USDA Rural Development Loan in addition to all other local, state or federal funding; and be it

**FURTHER RESOLVED**, a typical average household uses 60,000 gallons of water per year and water rates for that usage shall be as follows:

1. The Town of Batavia bills their customer quarterly. 2022 Rates include an effective rate of \$6.32 per 1,000 gallons ( $6.32/1000 \times 60,000 = 379.20$ ); and the total cost to homeowners for water would be \$1,572 per year; and be it

**FURTHER RESOLVED**, the total capital cost (estimated maximum amount) for the Town of Darien Water District No. 11 is \$1,000,000.00 which amount is to be financed by the issuance of serial bonds in an aggregate amount not to exceed \$1,000,000.00 such amount to be offset by any federal, state, county and/or local funds received including, but not limited to, a USDA Rural Development grant in the approximate amount of \$395,000.00; and be it

**FURTHER RESOLVED**, Net local project costs are anticipated to be approximately \$605,000.00 with an annual debt service including (38 years at 2.25 % interest) of \$23,854.00 and the estimated Debt Service per Unit of 1,193.00; and be it

**FURTHER RESOLVED**, the payment of debt service will be made by levy and collection of special assessments from the several lots and proceeds of lands within the District which for the Town Board shall determine and specify to be specifically benefitted thereby, so much upon and from each as such shall be in just proportion of the amounts of benefit conferred upon the same, to pay the principal of and interest on said bonds, as same shall become due and payable; and be it

**FURTHER RESOLVED**, the total annual cost for an average homeowner including debt service and water bill would be estimated to be \$1,572.00 per year, per household; and be it

**FURTHER RESOLVED**, in addition each unit shall be responsible for several one-time costs, including cost to hookup and connect to the right-of-way to interior plumbing, (approximately \$8.00 – \$20.00 per linear foot) and well separation costs (approximately \$200.00 - \$600.00 per unit); and be it

**FURTHER RESOLVED**, that this Resolution and Order is subject to the approval of the Office of the State Comptroller, Department of Audit and Control and the Town Supervisor, assisted by the Town Attorney, will prepare an application to the Office of the State Comptroller, Department of Audit and Control for approval of the formation of this water district; and be it

FURTHER RESOLVED, that the Town Clerk be and she hereby is authorized and directed, within ten (10) days hereof, to record a certified copy of this Resolution and Order with the Genesee County Clerk’s Office and submit duplicate certified copies of this Resolution and Order with the Office of the State Department of Audit and Control, together with an application, in duplicate, executed and verified by the Supervisor of the Town of Darien for permission to create such district.

DATED: September 7, 2022

[SEAL]

\_\_\_\_\_  
Alice Calmes, Clerk  
Town of Darien

Approved on Roll Call as follows:

Supervisor	Stephen Ferry, Jr	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Abstain	<input type="checkbox"/> Absent
Councilmember	Timothy Benten	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Abstain	<input type="checkbox"/> Absent
Councilmember	Michael Fix	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Abstain	<input type="checkbox"/> Absent
Councilmember	Michael Grant	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Abstain	<input type="checkbox"/> Absent
Councilmember	David Krzemien	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Abstain	<input checked="" type="checkbox"/> Absent

## APPENDIX A

### TOWN OF DARIEN PROPOSED WATER DISTRICT NO. 11-WALKER ROAD

The boundary of the Town of Darien Proposed Water District No. 11 Walker Road includes all that tract or parcel of land situated in the Town of Darien, County of Genesee, State of New York, being described as follows:

Beginning at a point which is on the southeast corner of Tax Parcel number 8-1-29 and intersection of the boundary line of Town of Darien and Town of Alexander, more or less; thence,

1. Westerly, along the southerly boundary lines of Tax Parcel numbers 8-1-29,8-1-30.1,8-1- 35.1,8-1-35.2, 8-1-37, 8-1-36,8-1-40.212, to the southwesterly corner of Tax Parcel number 8-1-40.212, a distance of 6,464 feet, more or less; thence,
2. Northerly, along the westerly property lines of Tax Parcel number 8-1-40.212 and Tax Parcel number 8-1-40.211 to the southeasterly corner of Tax Parcel number 8-1-40.1, 1,491 feet, more or less; thence,
3. Westerly along the southerly property line of Tax Parcel number 8.-1-40.1, across Smithley Road 49.5 feet wide right of way and the southerly property line of Tax Parcel number 8.-1-43.11, a distance 772 feet more or less; thence,
4. Northerly, along the westerly property line of Tax Parcel number, 8-1-43.11 to southeast corner of Tax Parcel number 8-1-43.12, a distance of 86 feet, more or less; thence,
5. Westerly, along the southerly boundary line of Tax Parcel number 8-1-43.12, to the intersection of property line of Tax Parcel number 8-1-43.2 a distance of 350 feet, more or less; thence,
6. Southerly, along the easterly boundary of Tax Parcel number 8-1-43.2 boundary, to the southeasterly property corner a distance of 387 feet, more or less; thence,
7. Westerly, along the southerly property line of Tax Parcel number, 8-1-43.2 to a point on the easterly

property line of Tax Parcel number 8-1-42.117, a distance of 348 feet, more or less; thence,

8. Southerly, along the easterly property line of Tax Parcel number 8-1-42.117, a distance of 1,183 feet, more or less, to southeast property corner; thence,

9. Westerly, along the southerly property line of said Tax Parcel, a distance of 805 feet, more or less, to property corner; thence,

10. Northerly, along said Tax Parcel, a distance of 1,327 feet, more or less, to property corner; thence,

11. Westerly, along said Tax Parcel, a distance of 254 feet, more or less, to property corner; thence,

12. Northerly, along the westerly property line of said Tax Parcel, a distance of 1,275 feet, more or less, to property corner; thence,

13. Easterly, along the northerly property line of said Tax Parcel to the centerline of Walker Road 49.5 feet wide right of way a distance of 1,037 feet, more or less; thence,

14. Easterly, from said point on the centerline of Walker Road 49.5 feet wide right of way a distance of 623 feet perpendicular and across the property of Tax Parcel number 8-1-58 to the intersection point on Tax Parcel number 8-1-57 more or less; thence,

15. Northerly along the westerly property line of Tax Parcel number 8-1-57 to the northwest property corner of said parcel a distance of 494 feet more or less; thence,

16. Easterly across the northerly property lines of Tax Parcel numbers 8-1-57, 8-1-59, 8-1- 39.215, 8-1-39.212, 8-1-39.22 and northeast property corner of Tax Parcel number 8-1- 39.22 a distance of 1,640 feet more or less; thence,

17. Northerly perpendicular and across Tax Parcel number 8-1-39.1 to a point along the northerly property line of Tax Parcel number 8-1-39.1 a distance of 622 feet more or less; thence,

18. Easterly along the northerly property lines of Tax Parcel numbers 8-1-39.1, 8-1-38, 6- 1-31.11, 8-1-31.21,8-1-31.22 and 8-1-28.1, to the northeast property corner of Tax Parcel number 8-1-28.1 further described as point on the intersection of the boundary line of Town of Darien and Town of Alexander a distance of 5,560 feet more or less; thence,

19. Southerly along the boundary line of Town of Darien and Town of Alexander and easterly property lines of Tax Parcel numbers 8-1-28.1, 8-1-28.2, across Walker Road 49.5 feet wide right of way, 6-1-29 a distance of 3,739 feet more or less, to the point of beginning.

All as shown on the maps prepared by the Mountain Engineering entitled, “Town of Darien Water District No. 11-Walker Road” dated August, 2021. The Town of Darien, Water District No. 11-Walker Road, as described above, contains approximately 652.7 acres of land, more or less.

RESOLUTION # 110

**WD #11 ENGINEER**

Supervisor Ferry offered a resolution to sign a contract with Mountain Engineering for the Building Phase of Water District #11; second by Councilman Grant.

AYES 4      Ferry, Grant, Benten, and Fix

NAYS 0

Read through Parts 2 & 3 of the Full Environmental Assessment Forms

RESOLUTION #111

**CLASSIFYING THE TOWN OF DARIEN, DARIEN CENTER FORCE MAIN IN THE TOWN OF DARIEN AS A TYPE I ACTION, ESTABLISHING LEAD AGENCY AND DETERMINING THE SIGNIFICANCE OF SUCH ACTION, AND DIRECTING THAT THE NEGATIVE DECLARATION BE PUBLISHED IN ACCORDANCE WITH SEQRA.**

Supervisor Stephen Ferry presented the following resolution and moved that it be adopted and it was seconded by Councilman Michael Fix.

BE IT RESOLVED BY THE BOARD OF THE TOWN OF DARIEN AS FOLLOWS:

WHEREAS, the Town Board of Darien, New York is considering the financing and construction of improvements for the Darien Center Force Main, which involves the installation of a new pump station and force main that will connect the Town of Darien sanitary sewer system to the Corfu WWTF/Sanitary Sewer System. The existing Darien Center WWTF will be decommissioned after installation of the new force main and pump station, together with improvements incidental thereto (the "project"); and

WHEREAS, to aid the Board in determining whether such Project and financing and other actions of the Board in connection therewith (the "action") might have a significant effect on the environment, the Board caused to be prepared an environmental assessment form or similar information ("EAF"), a copy of which it attached hereto; and

WHEREAS, the Board duly reviewed the EAF and related documents with respect to the above-referenced project and duly considered the impacts which may be expected to result from the proposed action with the criteria set forth in the State Environmental Quality Review Act and the applicable regulations promulgated thereunder ("SEQRA"); and

WHEREAS, the Board determined that the project was an "Type I Action" pursuant to SEQRA; and

WHEREAS, the Board determined that the project involved one or more involved agencies, mandating a coordinated review; and

WHEREAS, the Board duly notified the other involved agencies pursuant to 6 NYCRR 617.6(3)(i) and indicated its willingness to be designated Lead Agency status; and

WHEREAS, all of the involved agencies have consented to the Board's request to be designated Lead Agency status;

NOW THEREFORE, BE IT RESOLVED BY THE TOWN BOARD OF DARIEN DECLARES TO BE LEAD AGENCY FOR THE PROJECT FOR THE PROPOSED ACTION AND THEREFORE RESPONSIBLE FOR DETERMINING WHETHER AN ENVIRONMENTAL IMPACT STATEMENT IS REQUIRED IN CONNECTION THEREWITH AND OTHERWISE COMPLYING WITH THE PROCEDURAL AND SUBSTANTIVE REQUIREMENTS OF SEQRA; NOW THEREFORE, BE IT RESOLVED BY THE TOWN BOARD OF DARIEN, NEW YORK AS FOLLOWS:

1. Based upon the review by the Board of the EAF and other necessary criteria, the Board hereby finds and determines that the proposed action is an "Type I Action" under SEQRA and will result in no significant impacts and therefore, such action is not one which "may include the potential for at least one significant

adverse environmental impact," (b) "there will be no significant adverse environmental impacts," and (c) no "environmental impact statement" need be prepared, as such quoted terms are defined in SEQRA. Reasons supporting this determination are attached hereto and hereby made a part of this resolution for the purposes of SEQRA. This determination constitutes a negative declaration for purposes of SEQRA and it has been prepared in accordance with Article 8 of the Environmental Conservation Law.

2. A copy of this resolution shall be placed on file in the office of the Town Clerk, where the same shall be available for public inspection during business hours and such notice of negative declaration shall be filed in such offices, posted in such places and published in such manner as shall be necessary to conform to the requirements of SEQRA.

This resolution shall take effect immediately. Duly put to a vote as follows:

AYES 4      Ferry, Fix, Benten, and Grant      NAYS 0

RESOLUTION #112

**SEWER BOND**

A meeting of the Town Board of the Town of Darien, in the County of Genesee, New York, was held at the Darien Town Hall located at 10569 Alleghany Road, Darien Center, New York, on September 7, 2022.

Present:	Supervisor	Stephen Ferry, Jr.
	Councilmen	Timothy Benten, Michael Fix, and Michael Grant
Absent:	Councilman	David Krzemien
Also present:	Town Clerk	Alice Calmes

The following resolution was offered by Supervisor Stephen Ferry, Jr. and seconded by Councilman Michael Fix to-wit;

**A BOND RESOLUTION, DATED SEPTEMBER 7, 2022, OF THE TOWN BOARD OF THE TOWN OF DARIEN, GENESEE COUNTY, NEW YORK (THE "TOWN"), AUTHORIZING A CAPITAL IMPROVEMENTS PROJECT (2022) WITHIN THE TOWN OF DARIEN SEWER DISTRICT NO. 1, AT AN ESTIMATED MAXIMUM COST OF \$4,781,000 AND AUTHORIZING THE ISSUANCE OF SERIAL BONDS IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$4,781,000 PURSUANT TO THE LOCAL FINANCE LAW TO FINANCE SUCH PURPOSE, SUCH AMOUNT TO BE OFFSET BY ANY FEDERAL, STATE, COUNTY AND/OR LOCAL FUNDS RECEIVED, AND DELEGATING THE POWER TO ISSUE BOND ANTICIPATION NOTES IN ANTICIPATION OF THE SALE OF SUCH BONDS TO THE TOWN SUPERVISOR.**

WHEREAS, the Town Board of the Town of Darien (herein called "Town Board" and "Town", respectively), in the County of Genesee, New York, has, pursuant to Town Law, created The Town of Darien Sewer District No. 1 (the "District"); and

WHEREAS, the Town Board of the Town has determined to proceed with a certain capital improvements project within the District; and

WHEREAS, the Town Board took the following actions with respect to such project: (a) received maps and plans for such project, (b) held a public hearing with respect to such project, (c) determined that such project would not have a significant adverse effect on the environment under Article 8 of the Environmental Conservation Law, (d) determined that the requirements of Article 12 of the Town Law had been satisfied with respect to such project and (e) determined to undertake such project; and

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

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

SECTION 1. The Town is hereby authorized to undertake a certain sewer system capital improvements project, such work to generally consist of (but not be limited to) the installation of approximately 27,700 linear feet of new sanitary force main and related appurtenances from the existing Darien Wastewater Treatment Facility on Broadway Road to the Corfu Wastewater Treatment Facility, as well as other such improvements as more fully identified in (or contemplated by) such map, plan and report prepared in connection with the project, all of the foregoing to include all necessary site work, equipment, apparatus and other improvements and costs incidental thereto and in connection with the financing thereof (collectively, the "Purpose"). The estimated maximum cost of the Purpose is \$4,781,000.

SECTION 2. The Town plans to finance the estimated maximum cost of the Purpose by the issuance of serial bonds in an aggregate principal amount not to exceed \$4,781,000 of the Town, hereby authorized to be issued therefore pursuant to the Local Finance Law, said amount to be offset by any federal, state, county and/or local funds received including, but not limited to, grant funds expected to be received in the amount of \$1,500,000 from USDA Rural Development, and unless paid from other sources or charges, the costs of said increase and improvement of facilities will be paid by the assessment, levy and collection of special assessments from the several lots and parcels of land within the District which the Town Board shall determine and specify to be especially benefited thereby, so much upon and from each as shall be in just proportion to the amount of the benefit conferred upon the same, to pay the principal of and interest on said bonds as the same shall become due and payable, except as provided by law.

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

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

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

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

SECTION 7. Subject to the provisions of this resolution and of the Local Finance Law, and pursuant to the provisions of Section 21.00 relative to the authorization of the issuance of bonds with

substantially level or declining annual debt service, Section 30.00 relative to the authorization of the issuance of bond anticipation notes and of Section 50.00, Sections 56.00 to 60.00, Section 62.00, Section 62.10, Section 63.00, and Section 164.00 of the Local Finance Law, the powers and duties of the Town Board pertaining or incidental to the sale and issuance of the obligations herein authorized, including but not limited to authorizing bond anticipation notes and prescribing the terms, form and contents and details as to the sale and issuance of the bonds herein authorized and of any bond anticipation notes issued in anticipation of said bonds, and the renewals of said notes, are hereby delegated to the Town Supervisor, the chief fiscal officer of the Town. Without in any way limiting the scope of the foregoing delegation of powers, the Town Supervisor, to the extent permitted by Section 58.00(f) of the Local Finance Law, is specifically authorized to accept bids submitted in electronic format for any bonds or notes of the Town.

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

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

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

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

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

SECTION 13. To the extent applicable, the Town Supervisor is hereby authorized to execute and deliver in the name and on behalf of the Town a project financing agreement prepared by the New York State Environmental Facilities Corporation ("EFC") (the "Project Financing Agreement"). To the extent applicable, the Town Supervisor and the Town Clerk and all other officers, employees and agents of the Town are hereby authorized and directed for and on behalf of the Town to execute and deliver all certificates and other documents, perform all acts and do all things required or contemplated to be executed, performed or done by this resolution or any document or agreement approved hereby, including, but not limited to, the Project Financing Agreement.

SECTION 14. The Town has complied with applicable federal, state and local laws and regulations regarding environmental matters, including compliance with the New York State Environmental

Quality Review Act (“SEQRA”), comprising Article 8 of the Environmental Conservation Law and, in connection therewith, duly issued a negative declaration and/or other applicable documentation, and therefore, no further action under SEQRA is necessary.

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

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

- (1) (a) such obligations are authorized for an object or purpose for which the Town is not authorized to expend money, or
- (b) the provisions of law which should be complied with at the date of publication of this resolution are not substantially complied with, and an action, suit or proceeding contesting such validity is commenced within 20 days after the date of such publication; or
- (2) such obligations are authorized in violation of the provisions of the Constitution of New York.

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

SECTION 18. This Resolution is effective immediately.

\* \* \* \*

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

AYES: Stephen Ferry, Michael Fix, Timothy Benten, and Michael Grant

NOES:

ABSENT: David Krzemien

The foregoing resolution was thereupon declared duly adopted.

HIGHWAY – everything is in good working order. Sealed Richley from Snipery to Colby and then from Colby to Harper, the dead end of Warner Road, and did Ganson with Corfu. Fibermat done on Mammoth Road. Salt is put up; the price increased \$7 a ton and filled it. Worked on ditching and fixing driveway pipes. Have the second pass of mowing almost done. The State has changed around how they want us to invoice them, it’s a PO system now. Worked with other towns & the County. CHIPs money now have to wait to get the proof the bills were paid prior to submitting; probably won’t get that money until November. Striping will get done. Snow & Ice from the County went up a little from last year and the mowing went up slightly also. This is just a proposal, they are trying to move it to a 5 year contract instead of yearly. The wells dug at the dump are being tested; one of the guys up there said that it is just for tracking at this point. The generator for this building is having some issues, the fuel pump is leaking internally and leaking more now. Could try to find a mechanic who is familiar with those types of engines to look at or could nurse along and see how we do. Talked to the DOT about the issue at 10620 Alleghany, the curb cut is too low, every DI along there is dammed up every time it rains because of mowing and leaves.

ATTORNEY – has been busy

ENGINEER – contract with Mountain Engineering to finish with WD #11, CPL has been working on the Sewer

TOWN CLERK – offices closed in October for Columbus Day.

TREATMENT PLANT – the plant has been pretty good. Missed TSS once, but cleaned the tanks and it went away. The ammonia has been good, but still wouldn’t meet new specs good.

**RESOLUTION #113**

**CASH REPORT**

Councilman Fix offered a resolution to accept the Supervisor's Cash report for July 2022; second by Councilmen Grant.

AYES 4      Fix, Grant, Benten, and Ferry

NAYS 0

**RESOLUTION #114**

**ABSTRACT**

Councilman Fix offered a resolution to pay the bills in accordance with the abstract; second by Councilman Benten. General Fund 209 – 239 for \$98,550.74; Highway 103 - 119 for \$259,468.89; Sewer District #1 78 – 87 for \$4,794.73; and Capital Fund – Sewer 1 – 4 for \$10,519.26.

AYES 4      Fix, Benten, Grant and Ferry

NAYS 0

**RESOLUTION #115**

**ADJOURN**

At 9:19 PM, Councilman Grant offered a resolution to adjourn; second by Councilman Benten.

AYES 4      Grant, Benten, Fix, and Ferry

NAYS 0

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Alice E. Calmes, Town Clerk