

**REGULAR MEETING OF THE TOWN OF DARIEN**

**NOVEMBER 2, 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 November 2, 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; and members of the public

At 7:30 PM the Supervisor called the meeting to order and recited the Pledge to the Flag.

**RESOLUTION #134**

**MEETING MINUTES**

Supervisor Krzemien offered a resolution to waive the reading of the minutes and accept the minutes from the October 5, 2022, meeting; second by Councilman Grant.

AYES 3      Ferry, Grant, and Benten      NAYS 0

**RESOLUTION #135**

**INSURANCE**

Supervisor Ferry offered a resolution to continue with the Independent Health FlexFit and HAS account medical plan with pediatric dental coverage starting December 1, 2022 through November 30, 2023 and offer an “in lieu of medical insurance” payment to eligible employees declining the town’s offered medical plan in the amount of \$3,500 in accordance with the Highway Employee’s Contract and the Town Handbook, employee share amounts to remain the same level as 2022; second by Councilman Grant.

AYES 3      Ferry, Grant, and Benten      NAYS 0

**RESOLUTION # 136**

**2<sup>nd</sup> MAILING FEES**

Supervisor Ferry offered a resolution to authorize the Tax Collector to impose a \$2.00 postage and handling fee for outstanding and unpaid 2022 County Real Property Tax bills to cover the cost of a second mailing; second by Councilman Benten.

AYES 3      Ferry, Benten, and Grant      NAYS 0

**RESOLUTION # 137**

**SEWER RE-LEVY**

Supervisor Ferry offered a resolution to levy unpaid 2022 sewer rent bills on delinquent property owner’s 2023 tax bill; second by Councilman Benten.

AYES 3      Ferry, Benten, and Grant      NAYS 0

**RESOLUTION # 138**

**WATER RE-LEVY**

Supervisor Ferry offered a resolution to authorize the Supervisor to levy unpaid Water District #8 Water Improvement Area Darien-Alexander Townline and Broadway Roads debt service fees in the amount of \$911.00 onto the property owner’s 2023 tax bill for the property identified as Tax Map #16.-1-24 owned by Michelle Waldo at 10812 Alexander-Darien Townline Road; second by Councilman Benten.

AYES 3      Ferry, Benten, and Grant      ABSTAIN 1      Fix      NAYS 0

**TOWN BOARD MEETING**

**OCTOBER 5, 2022**

Councilman Fix arrived at 7:33pm in the middle of the discussion on Resolution #138.

At 7:40pm, the public hearing on the proposed Local Law to Over ride the Tax Cap was open with a reading of the notice as it appeared in the official paper. Supervisor Ferry read the proposed local law, explained the override, and asked if there were any questions or comments from the public in attendance.

**RESOLUTION # 139**

**2023 PRELIMINARY BUDGET**

Supervisor Ferry offered a resolution to accept the 2023 Preliminary Budget; second by Councilman Grant.

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

**RESOLUTION #140**

**HOLIDAY DECORATIONS**

Councilman Grant offered a resolution to purchase hardware & mounting brackets at a total cost of \$3,072.62 plus freight which will be used for the summer and winter banners to be purchased next year to replace the holiday lights and flags; second by Councilman Benten.

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

**Notifications**

The Alexander Cub Scout Pack 650 will take down the flags in the Town’s cemeteries this year.  
The Town Board Year-End meeting is scheduled for Wednesday, December 30, 2022 at 7:30pm at the town hall.  
Town offices will be closed for the holidays on November 24<sup>th</sup>, December 26<sup>th</sup>, and January 2<sup>nd</sup>  
The 2023 Town Board Organizational meeting is scheduled for January 4, 2023 at 7:30PM.  
The October payment from the County for 3<sup>rd</sup> quarter is \$227,307.95.

**RESOLUTION # 141**

**CLOSE HEARING**

Supervisor Ferry offered a resolution to close the public hearing on the local law to override the tax cap at 7:50PM; second by Councilman Benten.

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

**RESOLUTION # 142**

**TOWN OF DARIEN  
RESOLUTION**

Adopted: November 2, 2022

The Town Board of the Town of Darien met at a regular board meeting at the Town Hall of the Town of Darien located at 10569 Alleghany Road, Darien Center, New York 14040 on the 2<sup>nd</sup> day of November, 2022 commencing at 7:30 p.m., and thereafter a public hearing was held at 7:40 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**, Chapter 97 of the Laws of 2011 – “The Property Tax Cap” added a new section 3-c to the General Municipal Law that provides that the amount of real property taxes that may be levied by or on behalf of any local government shall not exceed two percent (2%); and

**WHEREAS**, in order to adopt a budget that requires a tax levy that is greater than the tax levy limit for the coming fiscal year, only if the Town Board first enacts, by a vote of sixty percent (60%) of the total voting power, a local law to override such limit for such coming fiscal year only; and

**WHEREAS**, notice of said public hearing was duly advertised in the Batavia Daily News, the official newspaper of said Town; and

**WHEREAS**, said public hearing was held on November 2, 2022 and all parties in attendance were permitted an opportunity to speak on behalf of or in opposition to said proposed local law, or any part thereof; and

**WHEREAS**, after due consideration and discussion the Town Board has decided to adopt said proposed local law.

**NOW ON MOTION OF** Stephen Ferry, which has been duly seconded by Timothy Benten, therefore, be it

**RESOLVED**, that the Town Board of the Town of Darien feels it is in the best interests of the Town of Darien to adopt Local Law No. 1 of 2022 entitled, “Override the Tax Levy Limit Established in General Municipal Law § 3-c.”; and be it

**FURTHER RESOLVED**, that the Town Clerk be and she hereby is directed to enter the adoption of said local law in the minutes of this meeting and give due notice of the adoption of said local law to the Secretary of the State of New York.

Ayes: 4

Nays: 0

Absent/Abstain: 1

Quorum Present: x Yes \_\_\_ No

Dated: November 2, 2022

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

[SEAL ]

HIGHWAY – report read – everything is in good working order and all trucks have been inspected. All mowing is finished for the year and the state has been invoiced. The hitches are on all the trucks and one is set up for winter. Have done some ditching and replaced driveway pipes in the last month. Also helped other towns with paving, shoulders, and milling.

TREATMENT PLANT – lab results are all good.

ENGINEER – final prints for Water District #11 and preliminary work on the sewer.

TOWN CLERK – Clerk’s office will be closed for Veteran’s Day on November 12<sup>th</sup>; the first come, first served DMPs are available; and received a letter from a resident asking for a credit on their sewer bill.

Supervisor Ferry read the letter from the Begiers asking for the credit on their sewer bill.

**RESOLUTION # 143**

**SEWER CREDIT**

Supervisor Ferry offered a resolution to approve the credit on the sewer bill for Jason & Amanda Begiers at 10517 Bonnie Brae Dr for 7,000 gallons due to filling a “pop-up” pool; second by Councilman Grant.

AYES 4

Ferry, Grant, Benten, and Fix

NAYS 0

At 8:00pm, the public hearing on the budget was open with a reading of the notice as it appeared in the paper. Supervisor Ferry read through the budget indicating changes that were needed. Mr. LeRoy asked what the tax rate for the fire district is; Supervisor Ferry said that is was about \$0.57 per \$1,000 for the Town, about \$1.21 per \$1,000

for the fire district, and if everything holds true for what the County is saying they will have a decrease of about \$0.74 per \$1,000.

**RESOLUTION #144**

**CLOSE HEARING**

At 8:18pm, Supervisor Ferry offered a resolution to close the public hearing on the Preliminary Budget; second by Councilman Benten.

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

**RESOLUTION #145**

**ADOPTED BUDGET**

Supervisor Ferry offered a resolution to adopt the 2023 Preliminary Budget as changed to be the 2023 Adopted Budget; second by Councilman Grant.

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

At 8:20pm, the public hearing for the proposed fire contract was open with a reading of the notice as it appeared in the paper. Supervisor Ferry thanked Councilman Grant & Councilman Fix for handling the negotiations of this contract and then read through the contract.

**RESOLUTION #146**

**FIRE CONTRACT**

At 8:30pm, Councilman Grant offered a resolution to close the public hearing on the Fire Contract and authorize the Supervisor to sign the Fire Protection Contract, second by Councilman Fix.

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

Supervisor Ferry explained the application to the State Comptroller for Water District #11.

**RESOLUTION # 147**

**TOWN OF DARIEN  
RESOLUTION OF FINDINGS FOR APPLICATION TO  
STATE COMPTROLLER FOR WATER DISTRICT NO. 11**

Adopted: November 2, 2022

**WHEREAS**, the Town Board of the Town of Darien met at a regular board meeting at the Town Offices of the Town of Darien in the Town of Darien, New York on the 2<sup>nd</sup> day of November, 2022, commencing at 7:30 p.m., at which time and place the following members were:

|                 |                |                |
|-----------------|----------------|----------------|
| <u>Present:</u> | Supervisor     | Stephen Ferry  |
|                 | Council Member | Timothy Benten |
|                 | Council Member | Michael Fix    |
|                 | Council Member | Michael Grant  |

|                |                |                |
|----------------|----------------|----------------|
| <u>Absent:</u> | Council Member | 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 Board of the Town of Darien on September 9, 2022 adopted a Resolution and Order for the Establishment of Water District No. 11 for a portion of the Town of Darien; and

**WHEREAS**, this Resolution and Order is subject to approval of the Office of the State Comptroller, Department of Audit and Control; and

**WHEREAS**, said Resolution authorized the Town Supervisor, assisted by the Town Attorney, to prepare an application to the Office of the State Comptroller, Department of Audit and Control for approval of the formation of this Water District.

**NOW ON MOTION OF** Stephen Ferry which has been duly seconded by Michael Fix, now, therefore,

**BE IT RESOLVED**, by the Town Board of the Town of Darien as follows:

1. That the annexed application was prepared at the direction of the Town Board.
2. That the Town Board has reviewed this application and believes the contents of the application to be accurate.
3. The Town Board has determined that Water District No. 11, for which permission is sought, is in the public interest and will not constitute an undue burden on the properties which will bear the cost thereof.
4. That that the cost of the proposed improvements is to be assessed in whole or in part against the benefited area and the Town Board has determined that all real property to be so assessed will be benefited by the proposed improvements and no benefited property has been excluded.

**AND BE IT FURTHER RESOLVED**, that the Town Board of the Town of Darien hereby authorizes and directs the Town Supervisor, as assisted by the Town Attorney, to submit the necessary application to the Office of the State Comptroller, Department of Audit and Control for approval of the Town of Darien Water District No. 11.

Ayes: 4  
 Nays: 0  
 Quorum Present:  Yes  No  
 Dated: November 2, 2022

**CERTIFICATION**

STATE OF NEW YORK     )  
 COUNTY OF GENESEE    )

I, Alice Calmes Town Clerk of the Town of Darien, County of Genesee, State of New York, DO HEREBY CERTIFY that I have compared the aforementioned resolution duly adopted by the Town Board of the Town of Darien on the 2<sup>nd</sup> day of November, 2022 with the original now on file in my office and the same is a correct and true copy of said resolution and of the whole thereof.

Dated: November 3, 2022

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

[SEAL]

**TOWN OF DARIEN  
RESOLUTION**  
Adopted: November 2, 2022

The Town Board of the Town of Darien met at a regular board meeting at the Town Hall located at 10569 Alleghany Road, Darien Center, New York, 14040, on the 2<sup>nd</sup> day of November, 2022, commencing at 7:30 p.m. and the following members were:

- |          |                |                |
|----------|----------------|----------------|
| Present: | Supervisor     | Stephen Ferry  |
|          | Council Member | Timothy Benten |
|          | Council Member | Michael Fix    |
|          | Council Member | Michael Grant  |
| Absent:  | Council Member | 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**, New York State has announced a new version of the Codes, Rules and Regulations of the State of New York, Title 19, Part 1203 Uniform Code: Minimum Standards for Administration and Enforcement; and

**WHEREAS**, The New York State Department of State recommends municipalities develop a Local Code Enforcement Program which complies with the new version of the Uniform Code; and

**WHEREAS**, a proposed local law entitled “Providing for the Administration and Enforcement of the New York State Uniform Fire Prevention and Building Code” has been created to comply with this recommendation by the New York State Department of State; and

**WHEREAS**, the Town Board of the Town of Darien finds it in the best interest of the Town to hold a public hearing to consider the adoption of said local law.

**NOW ON MOTION OF** Stephen Ferry which has been duly seconded by Timothy Benten, be it

**RESOLVED**, by the Town Board of the Town of Darien will hold a public hearing on the proposed adoption of said local law on the 7<sup>th</sup> day of December 2022 at 7:45 p.m., at which time all interested parties and citizens for or against the proposed law will be heard.

Ayes:   4    
Nays:   0    
Quorum Present:   x   Yes    No  
Dated: November 2, 2022

[SEAL]

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

Discussion on the condemnation of 815 Sumner Road and the paperwork from the Attorney. Councilman Grant stated that we already authorized the attorney to take legal action. No board member was interested in offering a motion to have the attorney stop, so they should continue with the legal action that has been started.

**TOWN BOARD MEETING**

**OCTOBER 5, 2022**

Councilman Benten announced him & Councilman Krzemien are still working on the Highway Contract and will hopefully have resolved very soon. Supervisor Ferry said if they need any other numbers to let him know.

**RESOLUTION # 149**

**CASH REPORTS**

Councilman Fix offered a resolution to accept the August 2022 and September 2022 Supervisor’s Cash reports; second by Councilman Grant.

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

**RESOLUTION # 150**

**ABSTRACT**

Councilman Fix offered a resolution to pay the bills in accordance with the November abstract; second by Councilman Benten. General Fund 271 – 303 for \$18,205.03; Highway 136 - 154 for \$46,055.31; Sewer District #1 98-104 for \$2,805.99; Capital Fund – Sewer 9 – 12 for \$11,531.25; and Special Zoning 4 for \$50.00.

AYES 4      Fix, Benten, Grant and Ferry      NAYS 0

**Comments from the Public:**

Mr. Bruce LeRoy asked about the letters from last month and about a traffic control light by Dollar General that is going to be going in on Broadway.

**RESOLUTION #151**

**ADJOURN**

At 9:00 PM, Councilman Benten offered a resolution to adjourn; second by Councilman Grant.

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

\_\_\_\_\_  
Alice E. Calmes, Town Clerk