

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

2nd 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

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 24th, December 26th, and January 2nd
The 2023 Town Board Organizational meeting is scheduled for January 4, 2023 at 7:30PM.
The October payment from the County for 3rd 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 2nd 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 12th; 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 2nd 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
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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 2nd 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 2nd 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 7th 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

NOVEMBER 2, 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