

**TOWN OF ESOPUS
TOWN BOARD MEETING
July 21, 2022
7:00 PM**

A regularly scheduled Town Board Meeting was held on July 21, 2022 in person at 1 Town Hall Way, Ulster Park. Meeting was also available on TV 23, available via zoom and Live Streamed on the Town of Esopus Facebook page. The following persons in attendance:

**Councilman Laura Robinson Absent
Councilman Evelyn Clarke
Councilman Kathie Quick
Councilman Jared Guess
Supervisor Danielle Freer**

Administrative Recorder: Holly A. Netter, Town Clerk, RMC

4 WAYS TO GIVE PUBLIC COMMENT:

- 1.) In-Person – Attend the Workshop
- 2.) Phone in: Leave voicemail on 845 331 0676 prior to the meeting
- 3.) EMAIL – lreynolds@esopus.com with the subject line “Public Comment”
- 4.) MAIL – mail written comments to:
*Town of Esopus, P.O. Box 700
Port Ewen, NY 12466*

Regularly scheduled meeting was called to order at 7:00 pm, immediately following the Public Hearing on LL #1 of 2022 held at 6:45 PM and LL # 2 of 2022 held at 6:50 PM.

Pledge of Allegiance

Public Comment - None

SUPERVISOR FREER MADE A MOTION TO CLOSE THE PUBLIC COMMENT. MOTION SECONDED BY COUNCILMAN JARED GEUSS. ALL MEMBERS WERE IN FAVOR. MOTION CARRIED.

RESOLUTION OF ADOPTION

SUPERVISOR DANIELLE FREER offered the following resolution which was seconded by **COUNCILMAN JARED GEUSS**, who moved its adoption:

WHEREAS, a local law was introduced to be known as **Local Law No. 1** of 2022, entitled A LOCAL LAW OF THE TOWN OF ESOPUS, ULSTER COUNTY, NEW YORK AMENDING CHAPTER 109,

“TAXATION”, OF THE ESOPUS TOWN CODE BY ADDING A NEW ARTICLE V, “ASSESSMENTS FOR COLLECTION OF FEES AND COSTS”.

WHEREAS, a public hearing in relation to said local law was held on July 21, 2022 at 6:45 p.m. prevailing time; and

WHEREAS, notice of said public hearing was given pursuant to the terms and provisions of the Municipal Home Rule Law of the State of New York; and

WHEREAS, said local law has been on the desks of the members of the Town Board of the Town of Esopus for at least seven (7) days, exclusive of Sunday;

NOW, THEREFORE, BE IT RESOLVED that the following local law is hereby enacted:

Section 1. Chapter 109 of the Esopus Town Code is amended to add a new Article V, “Assessments for Collection of Fees and Costs” reading as follows:

§109-21 Legislative findings.

- A. The Town Board finds that certain costs incurred by the Town, and fees and penalties owed to the Town, related to individual properties remain unpaid, unreimbursed or uncollected due to the difficulty and delay of collection, the legal costs of collection and the unavailability of the property owner to local or state court jurisdiction. The difficulty and inability to collect fees, costs, and expenses incurred on behalf of a specific property owner to bring the property into compliance with applicable laws or regulations, or penalties lawfully imposed by order of a court of competent jurisdiction in order to compel a property owner to do so, adversely affects the public fiscally and unnecessarily and unfairly burdens the taxpayers of the Town with costs and expenses incurred for the benefit of individual properties or because of the failure of the owner or responsible party of individual properties to comply with applicable laws and regulations.
- B. The Town Board further finds that:
 - (1) Village Law § 4-414 and § 5-518 provide a mechanism for assessment of such costs by villages, but that the Town Law does not contain the analogous authority and procedure.
 - (2) Municipal Home Rule Law § 10(1)(ii)(a)(9-a) provides that the Town may adopt a local law related to the fixing, levy, collection and administration of local government rentals, charges, rates or fees, penalties and rates of interest thereon, liens on local property in connection therewith and charges thereon.

- (3) The Town may, pursuant to Municipal Home Rule Law § 10(1)(ii)(d)(3), adopt a local law amending or superseding the Town Law, notwithstanding it is a general law, unless the Legislature has expressly prohibited the adoption of such a local law.
- (4) The Legislature has not expressly or implicitly prohibited a town from adopting a local law similar to Village Law § 4-414 and § 5-518, or this article.
- (5) It is the intent of the Town Board that this article be effective as to outstanding costs incurred by the Town to review any pending application that was made by the owner of real property, which costs are unpaid at the time of the adoption of this article, and to unpaid costs incurred in connection with all future applications, whether made by, or consented to, the owner of real property, but not to unpaid costs incurred by the Town prior to the adoption of this article to review any application where the owner only consented to the application.

§ 109-21. Assessments for required work performed by Town.

- A. Whenever an owner of real property or responsible party is required by general, special or local law, or by any agreement or stipulation with the Town, or by any court of competent jurisdiction, in the interest of public safety, health or general welfare, to make an improvement to the property or perform any work or act on the property, or to pay any fee, cost, expense or penalty related to the property, and such owner or responsible party shall fail to make the improvement or perform the work or act required, or to pay the fee, cost, expense or penalty, the Town Board may cause such improvement, work or act to be done on such property, by contract or otherwise, and thereafter furnish the property owner of record a statement of the audited costs paid by the Town and a demand for payment of such costs by a date certain, which shall be the demand date.
- B. When the owner of record of real property has made, or consented to the making of, any application for permits or approvals related to the use of real property, and the Town has thereafter duly incurred reasonable and necessary fees, costs and expenses, including but not limited to engineering, legal or other professional or consultant costs and expenses, for the review of such application, and escrowed funds are not available to reimburse the Town for its payment of such fees, costs and expenses, including but not limited to engineering, legal or other professional or consultant costs and expenses, then the Town shall provide to the owner of record and to any other or additional responsible party a statement of the audited costs paid by the Town together with a demand for payment of same by a date certain, which shall be the demand date.
- C. In the event the fees, costs, penalties or other expenses referred to in Subsections A and B remain unpaid after the demand date, the Town Board may determine that such fees,

costs, penalties or other expenses duly paid by the Town and for which the Town has not been reimbursed shall be assessed, levied and collected as provided herein.

§ 109-22. Procedure.

- A. Mailing of statement and demand for payment.
 - (1) Any amount which may be assessed against the property of an owner pursuant to the provisions of Subsection A of § 109-21 of this article shall, in the first instance, be billed to the property owner by first class United States mail addressed to the owner as identified by the assessment records of the Town;
 - (2) Any amount which may be assessed against the property of an owner pursuant to the provisions of Subsection B of § 109-21 of this article shall be billed to an applicant that is not the owner for payment, with a copy of the billing statement sent to the owner by first class United States mail together with a notice that the owner is ultimately responsible for any unpaid bill. The records of the Town shall be deemed sufficient to verify such mailing address.
- B. Fee dispute. The amount so billed shall be deemed presumptively valid, but may be challenged by the property owner. Any such challenge shall be made by submitting a written request that the Town Board audit and review the billed costs, which request shall be submitted to the Town Clerk no later than 65 days after the date of mailing of the bill. Such request shall specify in detail the basis of the challenge. Upon review of such challenge, the Town Board shall issue a written decision. The property owner may seek review of the decision of the Town Board by bringing a proceeding to review the decision of the Town Board in the manner provided by Article 78 of the Civil Practice Law and Rules in a court of record on the ground that such decision is illegal, in whole or in part. Such proceeding must be commenced within 30 days next following the filing of the decision in the office of the Town Clerk.
- C. Levy procedures. The Town Supervisor shall include, with the Supervisor's proposed budget, the total amount of such monies which may be assessed against individual properties in accordance with this article. The Town Clerk shall prepare a roll of such amounts specifying the individual properties against which the amount shall be assessed, together with the name and address of the property owner as shown on the most current Town assessment roll. The total amount shall be included with the final budget of the Town. The Town Board shall approve the roll of individual assessments, and the same shall be assessed and levied against the properties at the same time as Town taxes.
- D. As an alternative to the procedure set forth in Subsection A, above, if an assessment against a particular property is not yet final in accordance with the procedure set forth in Subsection A, above, the Town may mail notice of the preparation of the individual assessment roll to such particular property owner. Such notice shall be mailed not less

than 20 days prior to a hearing on the roll to be held at the time of the preliminary budget hearing, or such other date as the Town Board shall specify. The Town Board, following such hearing, shall approve, modify, or reject any assessment which was challenged at such hearing. The decision of the Town Board shall be final, but subject to review as set forth in Subsection B, above.

§ 109-23. Administrative fees and interest.

All amounts which are assessed in accordance with the procedure herein shall have added thereto, as an administrative fee, an amount equal to ten per centum (10%) of the original amount billed or noticed. Unpaid assessments shall accrue interest and penalties at the same rate and in the same manner as unpaid real property taxes.

Section 2. If any section of this local law shall be held unconstitutional, invalid, or ineffective, in whole or in part, such determination shall not be deemed to affect, impair, or invalidate the remainder of this local law.

Section 3. This local law shall take effect immediately upon filing with this state's Secretary of State.

RESOLVED that the Town Clerk shall file a certified original of this local law in the office of the Town Clerk and one (1) certified copy in the Office of the Secretary of State, State of New York, such certified copy to have attached thereto a certificate that it contains the correct text of the enactment of this local law.

The foregoing resolution was voted upon with all councilmen voting as follows:

COUNCILMAN LAURA ROBINSON	ABSENT
COUNCILMAN EVELYN CLARKE	AYE
COUNCILMAN KATHIE QUICK	AYE
COUNCILMAN JARED GEUSS	AYE
SUPERVISOR DANIELLE FREER	AYE

Resolution duly adopted.

DATED: Ulster Park, New York
July 21, 2022

HOLLY A. NETTER, TOWN CLERK

**RESOLUTION AUTHORIZING THE TOWN SUPERVISOR TO APPOINT PRIMARY
AND ALTERNATE REPRESENTATIVES FOR HUDSON RIVER DRINKING WATER
INTER-MUNICIPAL COUNCIL (HUDSON 7)**

WHEREAS, The Hudson River Drinking Water Intermunicipal Council (Hudson 7) is a coalition of seven municipalities that rely on drinking water from the Hudson River. The communities include the City and Town of Poughkeepsie, the Village and Town of Rhinebeck, and the Towns of Esopus, Hyde Park, and Lloyd. The five public water supplies serve 106,000 residents and major regional employers, providing safe water for human consumption, firefighting, industry, and more in Ulster and Dutchess County and three hospitals and three colleges in Dutchess County.

AND WHEREAS, Shannon Harris (Town Assessor and Hudson 7 Secretary) be designated as the “Primary Representative” and Nick Butler (Town Water and Sewer Superintendent) as the “Alternate Representative” to the Hudson River Drinking Water Intermunicipal Council for the Town of Esopus.

NOW, THEREFORE, BE IT RESOLVED, that the Esopus Town Board does hereby acknowledge the “Primary Representative” and the “Alternate Representative” for the Hudson River Drinking Water Intermunicipal Council for the Town of Esopus.

Offered by: SUPERVISOR DANIELLE FREER

Seconded by: COUNCILMAN KATHIE QUICK

COUNCILMAN LAURA ROBINSON	ABSENT
COUNCILMAN EVELYN CLARKE	AYE
COUNCILMAN KATHIE QUICK	AYE
COUNCILMAN JARED GEUSS	AYE
SUPERVISOR DANIELLE FREER	AYE

Resolution duly adopted.

TIGHE & BOND PROPOSAL PE WATER DISTRICT DRINKING WATER INFRASTRUCTURE IMPROVEMENTS

The Board discussed the proposal for Engineering Services for Bidding and Construction Assistance for the Water Treatment Plant which is an amendment to the original contract for design and is for \$142,400. The proposal covers funding for engineering services during bidding and construction for WTP improvements which are detailed in the proposal (ie. replacement of pumps, tubes, piping, analyzers; painting of tanks; architectural improvements and repairs; replacement of electricals; lighting improvements; HVAC improvements, etc.). The Board agreed to the design WTP improvements and pursued funding for design and construction in 2019. This fee is included in the 2019 WIIA Grant (60% Grant, 40% State Revolving Fund Loan) and no budget impacts will occur this year (when 40% loan is in repayment it will marginally affect water rates). The current Board discussed the need for this as an important step in overall upgrades that need to occur throughout the entire system and authorized Supervisor Freer to sign the proposal. Water Treatment Plant construction to be let for bidding in the coming weeks.

SUPERVISOR FREER MADE A MOTION TO AUTHORIZE THE SUPERVISOR TO SIGN PROPOSAL FROM TIGHE AND BOND AMENDMENT 3, FOR THE WATER DISTRICT DRINKING WATER INFRASTRUCTURE IMPROVEMENTS IN THE AMOUNT OF \$142,000. THE MOTION WAS SECONDED BY COUNCILMAN JARED GEUSS. ALL MEMBERS PRESENT WERE IN FAVOR; MOTION CARRIED.

GREENWAY GRANT – LAURA PETITE

Laura Petite gave an update on the Greenway Grant which was submitted November 8, 2021 and approved in January 2022 in the amount of \$10,000. The project cost is estimated at \$23,696.55. This grant was for funding under the Greenway Conservancy Trail/ Education and Interpretation Projects Program. The grant was to purchase materials and construct kiosks design and install interpretive panels and purchase picnic tables for Sleightsburgh, Freer and Lighthouse parks. She shared pictures and a detailed budget for the improvements. The Town needs to match at least \$10,000 and can be done partially through in-kind services. The EDC also had a budget line for 2022 for the Kiosk improvement/replacement. Some work has already been started and ARPA money may be used for tourism. The artwork is being done by timely signs for the interpretive panels. ADA compliant picnic tables are also part of the improvements.

A MOTION WAS MADE BY COUNCILMAN JARED GEUSS TO AUTHORIZE THE SUPERVISOR TO CONTINUE WITH THE GREENWAY GRANT. THE MOTION WAS SECONDED BY CONCILMAN EVELYN CLARKE. ALL MEMBERS PRESENT WERE IN FAVOR. MOTION CARRIED.

LIAISON UPDATE

Councilman Kathie Quick;

Waterfront Advisory Board

There was a review and discussion regarding the revision of Local Law 2 regarding marina accessory campgrounds. There was a lot of cross referencing of the rules that continued with the new revision

Zoning Board of Appeals

An application for a variance was withdrawn, so there was no need for a meeting since there was not any new business.

Assessor's Office

The Assessor is away this week for continued learning and training with the Assessor's Association of New York State.

The office made corrections, reconciled, and closed the final tax roll and posted it on July 1. There were no issues. They are now dealing with all the applications and work that came in from May 1- July 1. They are getting estimates for appraisals for SCAR hearings and new Tax certs.

Shannon and Patty were requested to help New Paltz because their Assessor retired and New Paltz does not have an assessor. Shannon and Patty will work two evenings a week for New Paltz. That will not impact their work hours in Esopus.

Seniors

The Town of Esopus Seniors have 50 people signed up for a trip on August 9.

We are also hosting a Defensive Driving class for seniors on August 15 which is full. There also will be another Defensive Driving class offered on October 24.

SUPERVISOR DANIELLE FREER:

A big thank you to our Highway and Buildings, Parks & Grounds Departments for storm management and clean-up.

Paving is ongoing – we've completed Burroughs Drive and Palaphene and will move on to Hudson Lane, Martin Sweedish, Plutarch, Swartekill and Hardenburgh.

The Stormwater Drainage Project on Horton Lane will begin in two weeks.

Central Hudson Gas Line repairs sound like they will take place in August; Supervisor Freer will keep everyone posted as details become available. They will also coordinate paving to avoid fresh pavement getting dug up.

Parks & Rec will be hosting Family Film Night at Ross Park Saturday, July 23rd from 6pm-10:30pm. There will be activities and snacks for attendees, and all are welcome to join.

Councilman Jared Geuss:

Planning Board had their first applicant since the new Sign Law went into effect. The Planning Board is working on a recommendation for the sign fee for Town Board approval. They hope that their recommendation is available by our next workshop meeting.

Resolution duly adopted.

RESOLUTION AUTHORIZING PAYMENT OF BILLS JULY 2022

BE IT RESOLVED, by the Town Board of the Town of Esopus, County of Ulster as follows:

WHEREAS the Town of Esopus has been presented with vouchers for payment and these vouchers have been examined and approved by the Town Board,

THEREFORE, BE IT RESOLVED, that the following vouchers be approved for payment:

GENERAL FUND	221304 - 221377	\$97,192.07
HIGHWAY FUND	222162 - 222191	\$140,408.58
STREETLIGHTS	226003	\$0
PORT EWEN SEWER FUND	223054 - 223080	\$15,951.88
PORT EWEN WATER	224162-224181	\$40,251.89
Capital Water		
ARPA		
Visa	228000	\$1,158.87
		\$294,963.29

Offered by: COUNCILMAN KATHIE QUICK

Seconded by: COUNCILMAN JARED GEUSS

COUNCILMAN LAURA ROBINSON	ABSENT
COUNCILMAN EVELYN CLARKE	AYE
COUNCILMAN KATHIE QUICK	AYE
COUNCILMAN JARED GEUSS	AYE
SUPERVISOR DANIELLE FREER	AYE

Resolution duly adopted.

EXECUTIVE SESSION

SUPERVISOR FREER MADE A MOTION TO ENTER INTO EXECUTIVE SESSION AT 7:45 PM FOR THE PURPOSE OF DISCUSSING AN ONGOING LITIGATION. THE MOTION WAS SECONDED BY COUNCILMAN JARED GEUSS. ALL MEMBERS PRESENT WERE IN FAVOR. MOTION CARRIED.

SUPERVISOR DANIELLE FREER MADE A MOTION TO COME OUT OF EXECUTIVE SESSION AT 8:02 PM. THE MOTION WAS SECONDED BY COUNCILMAN EVELYN CLARKE. ALL MEMBERS PRESENT WERE IN FAVOR. MOTION CARRIED.

ACTION:

SUPERVISOR DANIELLE FREER MADE A MOTION TO AUTHORIZE THE SUPERVISOR TO SIGN THE STIPULATION SETTLEMENT DOCUMENT REGARDING 160 FIRST STREET INC. THE MOTION WAS SECONDED BY COUNCILMAN KATHIE QUICK. ALL MEMBERS PRESENT WERE IN FAVOR. MOTION CARRIED.

ADJOURNMENT

A MOTION TO ADJOURN THE MEETING WAS MADE BY SUPERVISOR DANIELLE FREER AT 8:05 PM. THE MOTION WAS SECONDED BY COUNCILMAN KATHIE QUICK. ALL MEMBERS PRESENT WERE IN FAVOR. MOTION CARRIED.

*Respectively Submitted,
Holly A. Netter
Town Clerk, RMC*