

PERINTON TOWN BOARD MEETING  
 1350 Turk Hill Road, Fairport, NY 14450  
 Wednesday, October 9, 2013

PRESENT:	James E. Smith	Supervisor
	Patricia S. Knapp	Councilperson
	Joseph H. LaFay	Councilperson
	Peg S. Havens	Councilperson
	Stephen C. Van Vreede	Councilperson

ALSO PRESENT: Robert Place, Esq., Town Attorney; Thomas C. Beck, Commissioner of Public Works; Jennifer A. West, Town Clerk; Debbie Brown, Deputy Town Clerk; Kevin Spacher, Director of Finance; Michael Doser, Director of Code Enforcement and Development; Jeffrey Myers, Commissioner of Recreation and Parks; Diane Riesenberger, Recreation Director; Stacey Estrich, Parks Director; Chris Fredette, Conservation Board.

Supervisor Smith called the meeting to order at 8:00 pm and introduced the Board and staff present.

Councilperson Knapp made a motion, seconded by Councilperson Van Vreede, that the minutes of the Town Board meeting of September 25, 2013 be approved as submitted by the Town Clerk.

Ayes: Smith, Knapp, LaFay, Havens, Van Vreede  
 Nays: None  
 Unanimously Approved

PUBLIC HEARING  
 PROPERTY ACQUISITION AND USE OF  
 CAPITAL RESERVE FUNDS

Supervisor Smith called the Public Hearing to order and asked the Clerk for proof of publication and affidavit of posting. Proof of publication was given in the Fairport ER Post on September 25, 2013; affidavit of posting was also September 25, 2013.

Supervisor Smith stated that the purpose of the Public Hearing was to discuss the use of up to \$575,000 from the Open Space Capital Reserve Fund for the acquisition of open space and any related expenses and to discuss the purchase itself. At the Order for Hearing, Supervisor Smith described what is known as the Hewes property. The Town has been interested in purchasing this property for over a decade and has now reached an agreement with the property owner to purchase 39 acres of land. Supervisor Smith pointed out the land on a map. It is adjacent to and forms a buffer area around the Town Hall/Community Center complex, Center Park and Center Park East.

The first section of land is across Turk Hill Road from the Town Hall complex, is 22.5 acres, and includes a house, barn and garage. The second section of land is north of St. Mary's Cemetery and is 6.5 acres of land, which wraps around the cemetery and adjoins the Town-owned land. The third section is 10 acres and is east of the RS&E trolley bed and adjoins the back of Center Park East. Supervisor Smith stated that the proposal is to purchase the 39 acres for \$546,000. The Town has an appraisal on the property for \$560,000.

Supervisor Smith discussed future uses for the property and stated that the Town has no current plans for the land. St. Mary's Cemetery has been interested in expansion in the past and may have future interest and the land directly across from

Town Hall is developable also. With the purchase of the land, the Town can control future potential development or leave the land as open space.

Supervisor Smith stated that the owner intends to reserve one acre of land at the end of Margo Drive (cul-de-sac) and build one or two houses on the property. Supervisor Smith has worked out the agreed upon purchase offer with the Hewes family and there is a signed purchase offer. The purchase is contingent upon Town Board approval of the purchase of the land and the use of the Open Space Acquisition Capital Reserve Fund for funding the purchase.

There being no questions, and all those wishing to be heard having been heard, the Public Hearings were closed.

Councilperson LaFay made a motion, seconded by Councilperson Van Vreede, that the proposal for the purchase of an improved lot with house, garage and barn and vacant land totaling 39 acres, owned by the Hewes Family be given a Negative Declaration under the New York State Environmental Quality Review Act (SEQR) because the purchase will in no way negatively affect the environment.

Ayes: Smith, Knapp, LaFay, Havens, Van Vreede  
Nays: None  
Unanimously approved

Councilperson Havens made a motion, seconded by Councilperson Knapp, to approve the purchase of an improved lot with house, garage, barn and vacant land totaling 39 acres, owned by the Hewes Family located on Turk Hill Road for \$546,000 and that the funds be appropriated from the Capital Reserve Fund for Open Space Acquisition in an amount not to exceed \$575,000 (cost of property plus any associated costs). This property is known as tax account number 166.06-3-60.

Ayes: Smith, Knapp, LaFay, Havens, Van Vreede  
Nays: None  
Unanimously approved

This use of Capital Reserve Fund monies is subject to Permissive Referendum. Supervisor Smith explained that there would be a legal notice published and a thirty-day waiting period, after which the action by the Town Board becomes final. If there were a petition filed by individuals saying they do not think this is a good idea, there would be a regular referendum held in the community regarding the matter.

**ORDER FOR HEARING  
AMENDMENT #3 TO THE CONTRACT BETWEEN THE  
BUSHNELL'S BASIN FIRE PROTECTION DISTRICT  
THE BUSHNELL'S FIRE ASSOCIATION AND  
THE TOWN OF PERINTON**

A motion was made by Councilperson Van Vreede, seconded by Councilperson Havens, that a Public Hearing be held on November 13, 2013, to approve an amendment to the contract with the Bushnell's Basin Fire Protection District as follows:

NOTICE IS HEREBY GIVEN that a Public Hearing will be held by the Town Board of the Town of Perinton, Monroe County, New York, at the Town Hall, 1350 Turk Hill Road, Fairport, New York on November 13, 2013 at 8:00 p.m. for the purpose of considering a amendment #3 to the contract with Bushnell's Basin Fire Protection District and Bushnell's Basin Fire Association, Inc. to provide for the payment of \$790,788.00 per year instead of \$775,549.00 per year as previously provided.

All persons interested in the matter will be heard at such time and place.

Ayes: Smith, Knapp, LaFay, Havens, Van Vreede  
Nays: None  
Unanimously approved

ORDER FOR HEARING  
AMENDMENT #2 TO THE CONTRACT BETWEEN THE  
EGYPT FIRE PROTECTION DISTRICT,  
THE EGYPT FIRE DEPARTMENT AND  
THE TOWN OF PERINTON

The following motion was made by Councilperson Van Vreede, seconded by Councilperson Havens, that a Public Hearing be held on November 13, 2013, to approve an amendment to the contract for the Egypt Fire Protection District as follows:

NOTICE IS HEREBY GIVEN that a Public Hearing will be held by the Town Board of the Town of Perinton, Monroe County, New York, at the Town Hall, 1350 Turk Hill Road, Fairport, New York on November 13, 2013 at 8:00 p.m. for the purpose of considering amendment #2 to the contract with Egypt Fire Protection District and the Egypt Fire Association, Inc. to provide for the payment of \$656,114.00 per year instead of \$643,470.00 per year as previously provided.

All persons interested in the matter will be heard at such time and place.

Ayes: Smith, Knapp, LaFay, Havens, Van Vreede  
Nays: None  
Unanimously approved

ORDER FOR HEARING  
AMENDMENT #2 TO THE CONTRACT BETWEEN  
THE PERINTON FIRE PROTECTION DISTRICT,  
THE VILLAGE OF FAIRPORT,  
THE FAIRPORT FIRE DEPARTMENT  
AND THE TOWN OF PERINTON

A motion was made by Councilperson Van Vreede, seconded by Councilperson Havens, that a Public Hearing be held on November 13, 2013, to approve Amendment #2 to the contract with the Perinton Fire Protection District as follows:

NOTICE IS HEREBY GIVEN that a Public Hearing will be held by the Town Board of the Town of Perinton, Monroe County, New York, at the Town Hall, 1350 Turk Hill Road, Fairport, New York on November 13, 2013 at 8:00 p.m. for the purpose of considering amendment #2 to the contract with Perinton Fire Protection District, the Village of Fairport and Fairport Fire Department to provide for the payment of \$880,096.00 instead of \$863,136.00 per year as previously provided.

All persons interested in the matter will be heard at such time and place.

Ayes: Smith, Knapp, LaFay, Havens, Van Vreede  
Nays: None  
Unanimously approved

ORDER FOR HEARING  
AMENDMENT #2 TO THE CONTRACT BETWEEN  
THE TOWN OF PERINTON, THE  
FOREST HILLS FIRE PROTECTION DISTRICT,  
THE TOWN/VILLAGE OF EAST ROCHESTER AND  
THE EAST ROCHESTER FIRE DEPARTMENT

A motion was made by Councilperson Van Vreede, seconded by Councilperson Havens, that a Public Hearing be held on November 13, 2013, to approve amendment #2 to the contract with the Forest Hills Fire Protection District as follows:

NOTICE IS HEREBY GIVEN that a Public Hearing will be held by the Town Board of the Town of Perinton, Monroe County, New York, at the Town Hall, 1350 Turk Hill Road, Fairport, New York on November 13, 2013 at 8:00 p.m. for the purpose of considering a new contract with FOREST HILLS FIRE PROTECTION DISTRICT AND THE TOWN/VILLAGE OF EAST ROCHESTER AND EAST ROCHESTER FIRE DEPARTMENT to provide for the payment of \$ 157,918.00 instead of \$165,514.00 per year. All persons interested in the matter will be heard at such time and place.

Ayes: Smith, Knapp, LaFay, Havens, Van Vreede  
Nays: None  
Unanimously approved

**ORDER FOR HEARING  
AMENDMENT #3 TO THE CONTRACT FOR THE PERINTON VOLUNTEER  
AMBULANCE CORP, INC.**

A motion was made by Councilperson Knapp, seconded by Councilperson Havens, that a Public Hearing be held on November 13, 2013, to approve amendment #3 to the contract with the Perinton Volunteer Ambulance Corp, Inc. as follows:

NOTICE IS HEREBY GIVEN that a Public Hearing will be held by the Town Board of the Town of Perinton, Monroe County, New York, at the Town Hall, 1350 Turk Hill Road, Fairport, New York on November 13, 2013 at 8:00 p.m. for the purpose of considering amendment #3 to the contract with THE PERINTON VOLUNTEER AMBULANCE CORP, INC. to provide for the payment of \$160,000.00 instead of \$185,000.00 per year. All persons interested in the matter will be heard at such time and place.

Ayes: Smith, Knapp, LaFay, Havens, Van Vreede  
Nays: None  
Unanimously approved

**ORDER FOR HEARING  
DEBT SERVICE APPORTIONMENTS AND  
ASSESSMENT FOR IMPROVEMENTS**

The following motion was made by Councilperson Van Vreede, seconded by Councilperson Havens, that a date of November 13, 2013, be set to hold a Public Hearing to hear objections to the 2014 Debt Service Apportionment and Assessment for Improvements. The Town Board has apportioned the amount due and to become due for principal and interest during the calendar year of 2014 upon sewer bonds and bond anticipation notes issued by the Town of Perinton for the construction of improvements and has further determined the amount to be charged during the calendar year 2014 for the operation and maintenance of said improvements and has completed its assessment rolls for and in connection with said debt service apportionment and assessment for maintenance and operation of said improvements as follows:

**SEWER DISTRICTS**  
Perinton Consolidated Sewer District No. 8 and extensions thereto.

The said expenses for such improvements will be apportioned and assessed upon such lots or parcels of land in said District and extensions thereto in proportion to the amount of benefit which the improvement shall confer upon the same,

and will be levied and collected at the same time and in the same manner as other town charges.

#### FIRE PROTECTION DISTRICTS

Bushnell's Basin Fire Protection District, Egypt Fire Protection District  
Forest Hills Fire Protection District,  
Perinton Fire Protection District

The fire protection districts provide services by contract with Bushnell's Basin Fire Association, Inc., Egypt Fire Association, Inc., not-for-profit corporations, the Village of Fairport and the Town/Village of East Rochester. The expenses for operation and maintenance of said districts are required to be assessed, levied and collected from the several lots and parcels of land therein on an ad valorem basis in the same manner and at the same time as other town charges.

#### LIGHTING DISTRICTS

Lake Lacoma Lighting District, Meadows Lighting District,  
Midlands Lighting District, Misty Meadows Lighting District  
Deer Run Lighting District

Lake Lacoma and Meadows Lighting Districts provide services by contract with Rochester Gas & Electric Corporation. Misty Meadows Lighting District and Midlands Lighting District provides service by contract with Fairport Municipal Commission. Deer Run Lighting District provides service by contract with Fairport Municipal Commission and Rochester Gas & Electric Corporation, for their respective franchise areas. The expenses for operation and maintenance of said districts are required to be assessed, levied and collected from the several lots and parcels of land therein on an ad valorem basis in the same manner and at the same time as other town charges.

#### PERINTON AMBULANCE DISTRICT

Perinton Ambulance District contracts with Perinton Volunteer Ambulance Corps, Inc., a not-for-profit corporation, to provide financial assistance including compensation insurance under the Volunteer Ambulance Workers' Benefit Law to enable it to provide an emergency medical service and a general ambulance service to sick or injured persons within the boundaries of the district which are the entire Town of Perinton including the Village of Fairport. The expense of such contributions are required to be assessed, levied and collected from the several lots and parcels of land therein on an ad valorem basis in the same manner and at the same time as other town charges.

#### PARK MAINTENANCE DISTRICTS

Fairmont Hills Park Maintenance District  
Wisteria Grove Park Maintenance District

Whereas no public monies are extended for the maintenance of the improvements in the park maintenance district, the expenses for such maintenance by the Town of lawns and plantings within the maintenance areas of the Fairmont Hills and Wisteria Grove Park Maintenance Districts will be assessed, levied and collected from the several lots and parcels of land therein on an ad valorem basis in the same manner and at the same time as other town charges.

The assessment rolls for each of the above improvement districts and areas have been filed in the office of the Town Clerk of the Town of Perinton.

Notice is hereby given that the Town Board of the Town of Perinton will meet on November 13, 2013 at 8:00 pm local time at the Town Hall, 1350 Turk Hill Road, Fairport, NY for the purpose of hearing objections to said debt service apportionment and charges for maintenance and operation and that such assessment rolls may be inspected prior to said hearing at the Town Clerk's office, Town Hall, 1350 Turk Hill Road, Fairport NY and that they will be available at said hearing for inspection.

Ayes: Smith, Knapp, LaFay, Havens, Van Vreede  
Nays: None  
Unanimously approved

ORDER FOR HEARING  
SEWER RENT ORDINANCE

Councilperson Knapp made a motion, seconded by Councilperson Havens, that pursuant to the provisions of Article 14F of the General Municipal Law and Articles 12 and 12-A of the Town Law, and pursuant to estimates of expenses and revenues prepared by the Town Board and to assessment rolls prepared by the Assessor of the Town of Perinton establishing sewer rent charges for each lot or parcel of land in Perinton Consolidated Sewer District #8, and all extensions thereto, for the calendar year 2014 that the Town Board hold a Public Hearing on such rent charges on November 13, 2013 at 8:00 pm at the Perinton Town Hall, 1350 Turk Hill Road, Fairport NY. and that notice be given as follows:

TOWN OF PERINTON, MONROE COUNTY, NEW YORK  
PROPOSED CHANGES IN SEWER RENT ORDINANCE

PLEASE TAKE NOTICE that pursuant to the provisions of Article 14F of the General Municipal Law and Articles 12 and 12-A of the Town Law and pursuant to estimates of expenses and revenues prepared by the Town Board and to assessment rolls prepared by the Assessor of the Town of Perinton, a certified copy of which has been filed with the Town Clerk establishing sewer rent charges for each lot or parcel of land in Perinton Consolidated Sewer District No., 8, and all extensions thereto, for the calendar year 2014 and a map and plan of said District and of any extensions thereto in said Town having been filed in said Clerk ' s office, that the Town Board of the Town of Perinton, Monroe County, New York will hold a public hearing on November 13, 2013§ at 8:00 pm, local time, at the Town Hall, 1350 Turk Hill Road, Fairport, NY to consider a proposal to revise the present §171-5 of the Sewer Rent Ordinance of said Town of Perinton and adopt the following:

**Add text**

*Delete text*

§171-5. Amount of rents:

Effective January 1, 2013 **2014** and until hereafter changed by ordinance or local law adopted by the Town Board, annual sewer rents are hereby established and imposed as follows:

A. Upon all property within the boundaries of Perinton Consolidated Sewer District No. 8 and extensions thereto, *Seventy-four dollars (\$74.00)* **Seventy-six (\$76.00)** per chargeable unit.

B. Upon property outside of said Perinton Consolidated Sewer District No. 8, and extensions thereto the rent shall be the sewer rent per chargeable unit duly established under §171-5A above plus a surcharge of ten percent (10%) of said annual sewer rent.

The sewer rent rolls proposed to be established and imposed for the calendar year 2014 and maps of Perinton Consolidated Sewer District No.8 and extensions thereto may be examined prior to said hearing at the Town Clerk ' s office in said Perinton Town Hall, 1350 Turk Hill Road, Fairport, NY where they are available for public inspection and they may also be examined at said hearing.

All persons wishing to be heard may appear in person or by agent.

Ayes: Smith, Knapp, LaFay, Havens, Van Vreede  
Nays: None  
Unanimously approved.

#### INFORMATIONAL MEETING ON THE 2014 BUDGET

The Supervisor filed the tentative 2014 Town of Perinton budget with the Town Clerk on October 4, 2013, and she in turn has filed this budget with the Town Board.

A summary of the 2014 proposed budget was distributed to those present. Supervisor Smith recapped by stating that Perinton has the third lowest full-value Town tax rate of the nineteen Towns in Monroe County. He stated that we have also been one of the three lowest in Monroe County for at least the last thirty-five years. Supervisor Smith explained that the budget is divided into five funds and within each of those funds he showed in the powerpoint presentation (and handout) the appropriations, estimated revenues, unexpended balances and amount to be raised by taxes. He also reviewed the three statutory categories for the budget, which are personal services, equipment and contractual expenses. Included in the personal services portion of the proposed budget is a 2% cost of living adjustment for the Town employees. Supervisor Smith stated that there would be minimal change in the Town's assessed valuation from 2013 to 2014, appropriations were up \$640,256, revenues and unexpended balances were up by \$438,993 and the net amount to be raised by taxes was a \$201,655 increase or a \$.05 increase in tax rate for residents in the Village of Fairport and for the Town outside the Village.

Supervisor Smith explained that in addition to having low taxes versus our sister communities in Monroe County, the Town Board also strives to have steady taxes with no peaks and valleys in the tax rate. Supervisor Smith pointed out a few items on the Fund Appropriations sheet. In the Employee Benefit category, the increase is due to the mandated cost increases in the NYS retirement system and health benefits for employees. Medical expenses are up \$140,000 with at least half due to the taxes associated with the Affordable Health Care Act. Supervisor Smith pointed out that health care costs are up between 15 and 20% in the marketplace and the Town's participation in the Health Care Consortium has been a great benefit in holding the Town's increase to 3% (7.5% with the taxes). The Highway Expense line increased due to the seven-year rotating cycle of slurry sealing all Town roads. This increase is significantly less than major road repair and repaving so is cost-effective over the long haul.

On the revenue and unexpended balances side of the budget, Supervisor Smith pointed out the receipts in lieu of taxes line. This reflects property that is receiving tax exemption and pays an "in lieu of taxes" payment (or PILOT). In some of the cases, the exemptions are decreasing and the property is becoming taxable. The State Aid line shows an increase which is due to CHIPS money, which the state gives to localities to maintain our highway system. The increase in the Sales Tax line is due to steady growth in sales tax revenue. The increase in the Interfund Transfer line for 2014 reflects monies coming out of Capital Reserve Funds to fund annual expenditures (like highway repair).

Supervisor Smith reviewed pie charts showing the breakout of 2014 projected appropriations and revenues in the five fund groupings. On the appropriation side, the Highway Repair and Improvement goes from 17.6% of the budget in 2013 to 19.3% in 2014. On the projected revenue pie chart, the local tax segment went from 42.5% of the budget revenues in 2013 down to 42.1% in 2014.

Supervisor Smith reviewed proposed equipment purchases for 2014 and explained that the budget is similar to 2013. He also explained that the Reserve Fund transfers were bumped up slightly relative to previous years with the intent to set aside more money in a savings account so that when unusual expenditures come along, the

money is available to put towards the expense rather than having a spike in the Town tax rate.

Supervisor Smith showed a graph of Taxes for the Median Perinton Homeowner, explaining that the Town taxes are a very small portion of the total (6%) with many hands-on services at the resident's doorstep for that expenditure. The average Town of Perinton taxpayer pays \$396 in Town taxes out of a total of \$6,244.

Supervisor Smith then reviewed the complex Tax Cap Levy Calculation. The bottom line is that the Town is allowed to raise \$12,154,508 and he anticipates levying \$12,139,558 and being \$14,950 under the tax cap.

The next report reviewed by Supervisor Smith was the exemption impact report which is a public disclosure regarding exempt property in the Town, including among others, COMIDA, aged and veteran exemptions. 11.72% of property in Perinton is exempt.

The public hearing on the 2014 budget will be held at the Town Hall at 8:00 pm on October 23, 2013.

#### LEVY OF DELINQUENT PAYMENTS 2014 TOWN TAXES

Supervisor Smith explained that the Board has a memo from Town Clerk West explaining that there are eight properties in the Town, which were delinquent in paying for maintenance services provided by the Town. She asked the Board to approve the levy of those delinquent amounts on the 2014 Town of Perinton tax bills.

A motion was made by Councilperson Van Vreede, seconded by Councilperson Havens, that, pursuant to Article 15 of Town Law of the State of New York, bills 90 days or more in arrears be levied and collected in a special ad valorem levy on Town tax bills, and that the following properties be assessed for the delinquent amounts owed the Town:

<u>Address</u>	<u>Tax map number</u>	<u>Services performed</u>	<u>Amount owed</u>
1504 Ayrault Road	166.12-3-39	Lawn mowing	\$104.50
48 Brooktree Drive	139.14-1-45	Lawn mowing	\$313.50
37 Harvest Drive	165.06-3-17	Lawn mowing	\$110.50
51 Selborne Chase	165.20-3-66	Lawn mowing	\$177.00
221 Ayrault Road	165.14-2-12	Lawn mowing	\$663.00
16 Tilegate Glen	153.56-1-18	Lawn mowing	\$376.50
201 Ridgeview Drive	152.10-1-26	Lawn mowing	\$192.50
10 Lonesome Road	152.08-1-20	Lawn mowing	<u>\$386.00</u>
			\$2,323.50

Ayes: Smith, Knapp, LaFay, Havens, Van Vreede  
Nays: None  
Unanimously approved

#### APPROVE CHANGE TO THE MEMBERSHIP OF THE EGYPT FIRE ASSOCIATION

A motion was made by Councilperson Knapp seconded by Councilperson LaFay, that the following change in the membership of the Egypt Fire Association be approved:

Removal from Rolls

Mr. Jonathan Dalton  
63 Willowick Drive  
Fairport, NY 14450

Ayes: Smith, Knapp, LaFay, Havens, Van Vreede  
Nays: None  
Unanimously approved

AWARD BID  
PARKS ATHLETIC FIELD GROOMER

Parks Director Estrich stated that bids were opened on October 4, 2013 for a Parks athletic field groomer. One bid was received from Grassland Equipment and Irrigation Corporation for a Toro athletic field groomer in the amount of \$30,834.48. Funds for this purchase would come from the 2013 Parks Equipment budget.

Councilperson Van Vreede made a motion, seconded by Councilperson LaFay to accept the bid from Grassland Equipment and Irrigation Corporation for a Toro athletic field groomer in the amount of \$30,834.48.

Ayes: Smith, Knapp, LaFay, Havens, Van Vreede  
Nays: None  
Unanimously approved

APPROVAL TO LIST FOR SALE  
TOWN-OWNED DEWITT RESIDENCE

Supervisor Smith explained that the Town acquired the DeWitt property in 2000 and it includes 58 acres of land and a house. At that time, the Town paid \$950,000 for the entirety of the house and land. He further explained that the DeWitts kept life-time use of the home and three acre lot that the home sits on. They are now both deceased and therefore the Town owns the entire property outright. He stated that the Town Staff has discussed potential uses for the home but all options require significant capital infusion and ongoing care expenses.

Supervisor Smith showed and described the property on a map and stated that it is south of the JDL Equine property (Jensen stables) on Turk Hill Road. The home and three acre lot is located at 2112 Turk Hill Road. The property behind the home includes a portion of the Crescent Trail and the Town's intent would be to keep the remaining acres as Open Space and possible park in the future. The home and three acres of land would be sold as is and monies would go back into the Capital Reserve for Open Space Acquisition.

Judy McNulty, 647 Thayer Road, asked if the Jensen Property was located adjacent to the DeWitt property and Supervisor Smith stated that it was and that the Town owns the development rights to that property (Jensen) and therefore nothing can occur on that property other than what occurs now (agricultural usage).

Supervisor Smith explained that he is seeking approval from the Town Board to list the DeWitt Property. When the Town receives a purchase offer, a purchase agreement would be worked out and brought back to the Board for an Order for Hearing on the divestiture of the home and lot.

Councilperson LaFay made a motion, seconded by Councilperson Havens to approve the listing of the DeWitt property located at 2112 Turk Hill Road for sale.

Ayes: Smith, Knapp, LaFay, Havens, Van Vreede  
Nays: None  
Unanimously approved

#### APPROVE NYS DOT UNDERTAKING RESOLUTION

Commissioner Beck explained that the Town has had an Undertaking with the New York State Department of Transportation (NYSDOT) for twenty years. If renewed for another 20 year term, the undertaking means that the Town agrees to take out permits on anything that it undertakes on a State Highway, that the Town abides by all the DOT rules and regulations, would restore any worksite to its original condition, be responsible for all costs and materials relating to permitted work in State right-of-ways, and indemnify the State for any damage or injury caused by the Town of Perinton. He asked the Board to approve the following resolution and authorize the Supervisor to sign such an Undertaking. Councilperson Knapp made a motion, seconded by Councilperson Havens to approve the following resolution:

WHEREAS, the undersigned Town of Perinton ( Municipality, County, Town, City or Village, or any agency of the federal government, hereinafter referred to as "Permittee") from time to time receives permits from the New York State Department of Transportation (hereinafter referred to as the "NYSDOT") and otherwise conducts activities and operations upon highways and/or within right-of-way controlled by the State of New York for such purposes as the obstruction, installation, construction, maintenance and/or operation of facilities; and

WHEREAS, Permittee's access and operation upon state right-of-way is conditioned upon compliance with Highway Law Sections 52, 103, 203 and/or 234, including the conditions that Permittee assume all responsibility for (a) the temporary control of all modes of traffic (including motorized and non-motorized travel) affected by Permittee's operations, (b) complete restoration of state facilities to their condition prior to permitted use or activity, and (c) all claims, damages, losses and expenses,

NOW, THEREFORE, in relation to all operations and/or actions undertaken within state right-of-way, Permittee hereby agrees to the following terms and conditions:

**1. Permit Applications.** Excepting only activities undertaken to protect public safety because of emergency conditions or incidents, Permittee shall provide timely written notice to NYSDOT of operations or activities affecting state right-of-way. Under normal circumstances, a minimum of five business days notice shall be provided. Notification of emergency activities shall be provided to NYSDOT as soon as practicable after the activity. The Permittee shall apply for project-specific permits for activities not allowed under any existing annual permit. Such application shall identify proposed project locations, desired dates/hours, proposed work/activities, traffic control, and site restoration

**2. Applicable Rules, Regulations & Conditions.** Permittee shall comply with all of the laws, rules and regulations applicable to construction, maintenance activities and operations and shall further comply with such terms and conditions that may be imposed by NYSDOT in connection with permitted activity or operations. Temporary Traffic Control, highway safety appurtenances, and restoration of state facilities shall be completed in accordance with NYSDOT regulations and standards.

**3. Site Restoration.** Permittee shall, at its own expense, promptly complete the work allowed under each permit and, within a reasonable time, restore State property damaged by its work/activities to substantially the same or equivalent condition as existed before such work was begun as determined by the Commissioner or his/her designee. In the event that the Permittee fails to so restore damaged State property within what the Commissioner deems to be a reasonable time, the Commissioner, after giving written notice to the Permittee, may restore the property to substantially the same or equivalent condition as existed before the

Permittee's work/activities, in which case, Permittee agrees to reimburse the reasonable expenses in connection therewith.

**4. Payment & Release of Liens.** Permittee shall be responsible for the payment of all costs and materials relating to its work in the public right-of-way, and agrees to defend and save harmless NYSDOT against any and all lien claims made by persons supplying services or materials to Permittee in connection with Permittee's work.

**5. Indemnity.** In addition to the protection afforded to NYSDOT under any available insurance, NYSDOT shall not be liable for any damage or injury to the Permittee, its agents, employees, or to any other person, or to any property, occurring on the site or in any way associated with Permittee's activities or operations, whether undertaken by Permittee's own forces or by contractors or other agents working on Permittee's behalf. To the fullest extent permitted by law, the Permittee agrees to defend, indemnify and hold harmless the State of New York, NYSDOT, and their agents from and against all claims, damages, losses and expenses, including but not limited to, claims for personal injuries, property damage, wrongful death, and/or environmental claims and attorney fees arising out of any such claim, that are in any way associated with the Permittee's, activities or operations under any and all permits issued using this Undertaking.

FURTHERMORE, Permittee hereby warrants that the obligations of this Undertaking are backed by the full faith and credit of Permittee. Permittee may insure or bond any of the obligations set forth herein, or may rely upon self-insurance, budgeted funds, or funds for general operations.

This Undertaking shall be applicable to all permitted activities and operations undertaken after the date of execution and work initiated while this Undertaking is in effect. This Undertaking may be revoked by the Permittee or rejected by NYSDOT upon thirty days written notice but will continue to apply to all permitted activities/operations that were permitted by virtue of this Undertaking. Unless terminated for the purpose of future activities/operations, this Undertaking shall have a term of twenty (20) years and shall be kept on file to facilitate the issuance of future permits to which it will apply.

Ayes: Smith, Knapp, LaFay, Havens, Van Vreede

Nays: None

Unanimously approved

APPROVE RG&E UTILITY EASEMENT  
FOR 1314 FAIRPORT ROAD

DPW Commissioner Beck stated that RG&E is upgrading their gas main along Fairport Road, between Baird Road and Perinton Park as part of the O'Connor Road Re-location project. In doing so, they developed a plan to install new gas mains and discovered that the sanitary sewer lines that run parallel to Fairport Road are not located exactly as depicted in the as-built plans indicated. Given the location conflict and the fact that RG&E cannot go out into Fairport Road any further with the gas main, RG&E is forced to go onto property owned by the Town of Perinton at 1314 Fairport Road (former Hess station). Commissioner Beck stated that relocating this gas main will require a 10-foot wide utility easement agreement between the Town of Perinton and RG&E. The proposed easement area will not further encumber this property, as the proposed easement is within a Town of Perinton Sanitary Sewer Easement.

Councilperson Van Vreede made a motion, seconded by Councilperson Havens, to approve the proposed Utility Easement Agreement with RG&E and to authorize the Supervisor to sign the easement agreement.

Ayes: Smith, Knapp, LaFay, Havens, Van Vreede  
Nays: None  
Unanimously approved

A motion was made by Councilperson LaFay, seconded by Councilperson Van Vreede, that the reports from the Finance Director, Town Clerk and the Code Enforcement and Development Department for the month of September 2013 be approved.

Ayes: Smith, Knapp, LaFay, Havens, Van Vreede  
Nays: None  
Unanimously approved

There being no further business before the Board and no further questions from the audience, the Board adjourned at 8:45 pm.

Respectfully submitted,

Jennifer A. West  
Town Clerk