

July 25, 2011

A meeting of the Town Board of the Town of Aurora took place on Monday, July 25, 2011, at 7:00 p.m. in the Town Hall Auditorium, 300 Gleed Avenue, East Aurora, New York.

Members Present:	Jolene M. Jeffe Susan A. Friess James F. Collins Jeffrey T. Harris	Supervisor Councilwoman Councilman Councilman
Absent/Excused:	James J. Bach	Councilman
Others Present:	Edward Snyder Bryan Smith William Kramer Ron Krowka William Adams David Gunner	Deputy Town Attorney Town Engineer Code Enforcement Officer Chief of Police Planning Board member Highway Superintendent

Supervisor Jeffe opened the meeting at 7:00 p.m. with the Pledge of Allegiance to the Flag.

Councilman Harris moved to approve the minutes of the July 11, 2011 Town Board meeting; seconded by Councilwoman Friess. Upon a vote being taken: ayes – four noes – none	Motion carried.	Action #201 7/11/11 minutes aprvd.
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AUDIENCE I: none

UNFINISHED BUSINESS: none

NEW BUSINESS:

Councilman Collins moved to add item 6G – East Aurora Driving Society application for carriage drive permit – to the agenda; seconded by Councilwoman Friess. Upon a vote being taken: ayes – four noes – none	Motion carried.	Action #202 Item 6G – Knox use permit added to agenda.
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Councilwoman Friess moved to adopt the following resolution; seconded by Councilman Collins:

RESOLUTION AUTHORIZING APPLICATION FOR GRANT

WHEREAS, the Town has an opportunity to protect sixty (60) acres of land located along the west side of Mill Road with distinctive scenic beauty and wildlife habitat; and

WHEREAS, this property was identified as one of the priority properties for protection in the Open Space Plan unanimously adopted by the Town Board in February of 2010; and

WHEREAS, the 2003 Final Report Regional Comprehensive Plan for the Towns of Aurora, Elma, Holland and Wales and the Village of East Aurora states in its Finds and Recommendations that, “A part of the passive recreational resources in the Town includes the scenic nature of many of the areas and roads throughout the area.” The first one specifically listed is Mill Road; and

WHEREAS, this property has approximately 1,612 feet of frontage along Mill Road; and

WHEREAS, this property is located along the recently established WNY Southtowns Scenic Byway and the creation of a preserved property at this location will add a destination of note to the Scenic Byway.

NOW, THEREFORE, BE IT

RESOLVED, Jolene M. Jeffe, as Supervisor of the Town of Aurora, is hereby authorized and directed to file an application for funds from the New York State Office of Parks, Recreation and Historic Preservation in accordance with the provisions of Title 9 of the Environmental Protection Act of 1993, in an amount not to exceed \$279,260.00; and

BE IT FURTHER RESOLVED, upon approval of said request, Jolene M. Jeffe, as Supervisor, is authorized to enter into and execute a Project Agreement with the State for such financial assistance to the Town of Aurora for the Mill Road Scenic Overlook project and, if appropriate, a Conservation Easement/Preservation Covenant to the Deed of the assisted property.

Upon a vote being taken: ayes – four noes – none
Duly adopted this 25th day of July, 2011.

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Councilman Harris moved to authorize Highway Superintendent David Gunner to attend the 82nd Annual Town Highway Conference sponsored by the NYS Association of Town Superintendents of Highways, Inc. on September 27-29, 2011 in Buffalo, NY. The registration fee of \$99 and one (1) dinner at \$55 will be disbursed from A5010.404 Highway Administration – Expense and Travel. Councilman Collins seconded the motion. Upon a vote being taken: ayes – four
noes – none Motion carried.

Councilman Collins moved to approve the emergency replacement of a transformer in the Castle Hill pump station by Warning Electrical Services, Inc., 431 Olean Road, E. Aurora, in the amount of \$1087.65. Payment is being disbursed from the four (4) water districts that are serviced by the pump station – 1 South, 7, 11 and WIA 7. Councilwoman Friess seconded the motion. Upon a vote being taken: ayes – four noes – none Motion carried.

Councilwoman Friess moved to establish a Capital Project Fund - IA – for the Luther Road Culvert restoration project. Councilman Collins seconded the motion. Upon a vote being taken: ayes – four
noes – none Motion carried.

Councilman Collins moved to authorize the Supervisor to sign a financial services contract with Municipal Solutions, Inc., 83 Myrtle Street, LeRoy, NY, whereby Municipal Solutions will provide professional services pertaining to Bond Anticipation Note and Serial Bond Borrowing, Secondary Market Disclosure and other financial services. Councilman Harris seconded the motion. Upon a vote being taken: ayes – four noes – none Motion carried.

Councilwoman Friess moved to adopt the following resolution; seconded by Councilman Collins:

**RESOLUTION REGARDING SEQRA REVIEW
FOR LUTHER ROAD CULVERT IMPROVEMENT**

WHEREAS, a Bond Resolution prepared by Hodgson Russ LLP has been submitted for consideration by the Town Board which involves reconstruction of the Luther Road culvert and associated roadwork; and

Action #203
Supervisor authorized to submit Mill Rd. Scenic Overlook grant.

Action #204
Hwy. Supt. authorized to attend highway conference in Buffalo.

Action #205
Castle Hill pump station repair authorized.

Action #206
Capital fund set for Luther Rd. Culvert restoration.

Action #207
Supv. auth. to sign contract with Municipal Solutions re: financial svcs/bonds

WHEREAS, the New York State Environmental Quality Review Act sets forth the requirements for environmental review as defined by 6 New York Codes Rules and Regulations Part 617 (6 NYCRR); and

WHEREAS, 6 NYCRR Section 617.5 identifies Type II actions which are not subject to review under the State Environmental Quality Review Act; and

WHEREAS, 6 NYCRR Section 617.5 (c)(2) specifically exempts replacement, rehabilitation or construction of a structure or facility in kind on the same site upgrading from review under the State Environmental Quality Review Act; and

NOW, THEREFORE, BE IT

RESOLVED, based upon the foregoing and the referenced documents, the Town Board of the Town of Aurora hereby finds that reconstruction of a culvert and the associated roadwork on Luther Road near the intersection of Luther and Grover Roads in the Town of Aurora is not subject to the State Environmental Quality Review Act.

Action #208
Luther Road
culvert
SEQRA
resolution
adopted.

Upon a vote being taken: ayes – four noes – none Motion carried.

* * * * *

The following resolution was offered by Councilwoman Friess, and seconded by Councilman Harris to wit:

A REIMBURSEMENT RESOLUTION, DATED JULY 25, 2011, OF THE TOWN BOARD OF THE TOWN OF AURORA, ERIE COUNTY, NEW YORK (THE “TOWN”) AUTHORIZING THE REIMBURSEMENT OF COSTS ASSOCIATED WITH THE RECONSTRUCTION OF A CULVERT AND THE ASSOCIATED ROADWORK ON LUTHER ROAD NEAR THE INTERSECTION OF LUTHER AND GROVER ROADS IN THE TOWN OF AURORA, ERIE COUNTY, NEW YORK, SO THAT THE TOWN’S GENERAL FUND MAY BE MADE WHOLE TO THE EXTENT THAT FUNDS FROM OTHER SOURCES ARE RECEIVED IN CONNECTION WITH SUCH SITUATION IN THE FUTURE.

WHEREAS, during the Spring of 2011, the Western New York region, including the Town, experienced extraordinary rainfall during an extremely short time period which caused substantial flooding and flood related-problems in such area; and

WHEREAS, the Town Board of the Town of Aurora, in the County of Erie, New York (the “Town Board”) determined, for the health and safety of its residents, that a section of Luther Road must be closed to reconstruct a certain culvert and address associated road issues that resulted from such extraordinary rainfall; and

WHEREAS, the Town Board now desires to authorize the reimbursement of Town funds for any amounts advanced therefrom to cover costs associated with such necessary reconstruction;

NOW, THEREFORE,

BE IT RESOLVED, by the Town Board, as follows:

Section 1. The purpose of this resolution is to authorize and direct the reimbursement of any and all costs associated with the condition referred to above, so that Town funds may be made whole to the extent that funds from other sources are received in connection with such situation in the future.

Action #209
Reimbursement
resolution for
Luther Road
culvert project
adopted.

Section 2. The Town may initially use up to \$185,000 from its General Fund or such other funds that may be available to pay the costs associated with or arising out of the situation referred to above. The Town then reasonably expects to reimburse such expenditures with the proceeds of the bonds or bond anticipation notes that the Town may authorize, from insurance proceeds, or from other sources of funds that may become available. This resolution shall constitute the declaration of the Town's "official intent" to reimburse the referenced expenditures with the proceeds of bonds and notes to be authorized (or from other sources), as required by United States Treasury Regulation Section 1.150-2.

Section 3. The Town estimates that the maximum principal amount of bonds expected to be issued for such project is in an approximate amount of \$185,000.

Section 4. This resolution shall take effect immediately and shall be placed in the official minutes of the meetings of the Town Board as an official action of the Town Board.

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

AYES: Four

Councilman Harris AYE
Councilwoman Friess AYE
Councilman Collins AYE
Supervisor Jeffe AYE

NOES: None

ABSENT: One (Councilman Bach)

The foregoing resolution was thereupon declared duly adopted.

* * * * *

The following resolution was offered by Councilman Collins and seconded by Councilwoman Friess, to wit;

A BOND RESOLUTION, DATED JULY 25, 2011, OF THE TOWN BOARD OF THE TOWN OF AURORA, ERIE COUNTY, NEW YORK (THE "TOWN") AUTHORIZING THE RECONSTRUCTION OF AND CONSTRUCTION OF IMPROVEMENTS TO A CULVERT ON LUTHER ROAD AND OTHER IMPROVEMENTS IN CONNECTION THEREWITH, AT AN ESTIMATED MAXIMUM COST OF \$185,000 AND AUTHORIZING THE ISSUANCE OF SERIAL BONDS IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$185,000, PURSUANT TO THE LOCAL FINANCE LAW TO FINANCE SAID PURPOSE, SAID 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, during the Spring of 2011, the Western New York region, including the Town, experienced extraordinary rainfall during an extremely short time period which caused substantial flooding and flood related-problems in such area; and

WHEREAS, the Town Board of the Town of Aurora, in the County of Erie, New York (the "Town Board") determined, for the health and safety of its residents, that a section of Luther Road must be closed to reconstruct a certain culvert and address associated road issues that resulted from such extraordinary rainfall; and

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 the reconstruction of a culvert and the associated roadwork on Luther Road near the intersection of Luther and Grover Roads in the Town, including all preliminary work and necessary equipment, materials and related site work and any preliminary costs and other improvements and costs incidental thereto (collectively, the "Purpose"). The estimated maximum cost of the Purpose is \$185,000.

SECTION 2. The Town Board plans to finance the estimated maximum cost of the Purpose by the issuance of serial bonds in an amount not to exceed \$185,000 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. Unless paid from other sources, 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 3. It is hereby determined that the Purpose is an object or purpose described in subdivision 35 of paragraph (a) of Section 11.00 of the Local Finance Law, and that the period of probable usefulness of the Purpose is 15 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 shall 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, 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, pursuant to the provisions of Section 30.00 relative to the authorization of the issuance of bond anticipation notes or the renewals of such notes and of Section 21.00, Section 50.00, Sections 56.00 to 60.00, Section 62.00 and Section 63.00 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 such bonds, and the renewals of such notes, are hereby delegated to the Town Supervisor, the chief fiscal officer 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 Section 1 of this resolution. The Town then reasonably expects to reimburse any such expenditures (to the extent made after the date hereof or within 60 days prior to the date hereof) with the proceeds of the bonds authorized by Section 2 of this resolution (or with the proceeds of any bond anticipation notes issued in anticipation of the sale of such bonds). This resolution shall constitute the declaration of the Town's "official intent" to reimburse the expenditures authorized by Section 2 hereof with such bond or note proceeds, as required by United States Treasury Regulations Section 1.150-2.

SECTION 9. 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 to 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)(B)(i) of the Code.

SECTION 10. 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 11. The Town has complied in every respect with all 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 the State Environmental Quality Review Act is necessary.

SECTION 12. The validity of said serial bonds or of any bond anticipation notes issued in anticipation of the sale of said serial bonds may be contested only if:

1. (a) such obligations were authorized for an object or purpose for which the Town is not authorized to expend money, or

(b) if the provisions of the law which should be complied with as of the date of publication of this notice were not substantially complied with

and an action, suit or proceeding contesting such validity is commenced within twenty (20) days after the date of such publication of this notice, or

2. such obligations were authorized in violation of the provisions of the Constitution of New York.

SECTION 13. This resolution is subject to permissive referendum pursuant to Section 35.00 of the Local Finance Law. The Town Clerk is hereby authorized and directed to publish (one time) and post on the sign-board of the Town, this resolution, or a summary thereof, together with a notice of adoption of this resolution subject to permissive referendum, within ten (10) days after the date of adoption of this resolution.

SECTION 14. If no petitions are filed in the referendum period, the Town Clerk is hereby authorized to publish this resolution, or a summary thereof, together with a notice in substantially the form provided by Section 81.00 of the Local Finance Law, in the official newspaper(s) of the Town, or if no newspaper(s) have been so designated, then in a newspaper having general circulation in the Town, which newspaper shall be designated by the Town Board in a separate resolution.

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

AYES: Four

Councilman Harris AYE
Councilwoman Friess AYE
Councilman Collins AYE
Supervisor Jeffe AYE

Action #210
\$185,000
Luther Road
culvert bond
resolution
adopted.

NOES: None

ABSENT: One (Councilman Bach)

The foregoing resolution was thereupon declared duly adopted.

* * * * *

Councilwoman Friess moved to approve the advance of \$185,000 from the General Fund (A) to the Luther Road Culvert Restoration Capital Fund (IA) to be utilized until the proceeds from the \$185,000 Luther Road Bond are disbursed to the Town. Councilman Harris seconded the motion. Upon a vote being taken: ayes – four noes – none

Motion carried.

Action #211
Luther Rd.
culvert fund
advance aprvd.

Councilman Collins moved to approve the issuance of a Temporary Use Permit to the East Aurora Driving Society for use of Knox Farm State Park Equestrian Park for its Pleasure Driving competition on July 30-31, 2011. The fee for this event for 2011 is \$300. Councilwoman Friess seconded the motion. Upon a vote being taken: ayes – four noes – none

Motion carried.

Action #212
Knox permit
for EA Driving
Society aprvd.

COMMUNICATIONS – The following communications were received by the Board and filed:

- East Aurora Police Department – June 2011 report
- Dog Control – May and June 2011 reports
- Assessor – July 2011 report
- Work Requisitions – June 2011 report
- Hwy. Supt. letter re: thanking Town of Cheektowaga for paving assistance
- Supervisor's Report – June 2011

BUSINESS FROM BOARD MEMBERS/LIAISONS:

Supervisor Jeffe stated she and Supervisors from other towns attended a meeting with County Exec. Chris Collins regarding his proposal to shift library costs from the county to the towns.

BUSINESS FROM AUDIENCE II:

Joan Herrold, Prospect Ave., asked the Board to support the Town of Wales on the Reiter Road compressor station issue.

STAFF REPORTS:

Bill Kramer stated he is working on a property maintenance code and noted that the current abandoned vehicle code needs tweaking.

Ron Krowka reminded everyone that a portion of Main Street will be closed on 7/30/11 for the annual sidewalk sale.

The July 25, 2011 Abstract of Claims, consisting of vouchers numbered 1318 to 1461, was presented to the Board for audit and authorization of payment from the following funds:

General	\$ 60,162.13
Part Town	1,856.19
Highway	46,374.81
Enterprise/Gleed	12,655.12
Capital - Majors	65.00
Capital – Luther Rd.	178,216.67
Trust & Agency	23,066.13
Special Districts	<u>4,677.01</u>
Grand Total Abstract	\$327,073.06

Councilwoman Friess moved to approve the July 25, 2011 Abstract of Claims as presented and to authorize payment of same. Councilman Collins seconded the motion. Upon a vote being taken: ayes – four
noes – none
Motion carried.

Action #213
7/25/11
Abstract of
Claims aprvd

Councilman Collins moved to adjourn; seconded by Councilman Harris. Upon a vote being taken: ayes – four
noes – none
Motion carried.

Action #214
Meeting
adjourned.

Martha L. Librock
Town Clerk