

May 13, 2013

A meeting of the Town Board of the Town of Aurora took place on Monday, May 13, 2013, at 7:00 p.m. in the Town Hall Auditorium, 300 Glead Avenue, East Aurora, New York.

Members Present:	James J. Bach	Councilman
	Susan A. Friess	Councilwoman
	Jeffrey T. Harris	Councilman
	Jolene M. Jeffe	Supervisor
Absent/Excused:	James F. Collins	Councilman
Others Present:	Ronald Bennett	Town Attorney
	Patrick Blizniak	Superintendent of Building
	Peggy Cooke	Recreation Director
	William Adams	Planning Board
	Charles Snyder	Planning Board
	William Kramer	Code Enforcement Officer
	David Gunner	Highway Superintendent
	Ron Krowka	Chief of Police
	Jeffrey Markello	Town Justice

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

Councilman Bach moved to approve the minutes of the April 16, 2013 Town Board work session; seconded by Councilwoman Friess. Upon a vote being taken: ayes –three (Mr. Harris was not present for this vote.) noes – none Motion carried. Action #173 4/16/13 wk. sess. min. approved.

Councilwoman Friess moved to approve the minutes of the April 22, 2013 Town Board meeting; seconded by Councilman Bach. (Mr. Harris was not present for this vote.) Upon a vote being taken: ayes – three noes – none Motion carried. Action #174 4/22/13 meeting min. approved.

AUDIENCE I: none

UNFINISHED BUSINESS: none

NEW BUSINESS:

Councilwoman Friess moved to receive and authorize the Supervisor to sign the 2012 Annual Stormwater (MS4) Report and submit said report to the New York State Department of Environmental Conservation permit coordinator. Councilman Bach seconded the motion. Upon a vote being taken: ayes – three (Mr. Harris was not present for this vote.) noes – none Motion carried. Action #175 Supv. auth to sign 2012 Annual MS4 Stormwater report

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

**A REFUNDING BOND RESOLUTION, DATED MAY 13, 2013, AUTHORIZING THE ISSUANCE OF REFUNDING BONDS IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$16,000,000 OF THE TOWN OF AURORA, ERIE COUNTY, NEW YORK, PURSUANT TO THE LOCAL FINANCE LAW AND PROVIDING FOR OTHER MATTERS IN RELATION THERETO.**

**WHEREAS**, the Town of Aurora, Erie County, New York (the “Town”) heretofore issued its Water District No. 10, Extension No. 4 Serial Bonds-1998 in the original aggregate principal amount of \$97,500, with \$62,700 of such bonds being scheduled to mature in the years 2014 through 2034, inclusive (the “1998 WD10 Ext.4 Bonds”); and

**WHEREAS**, the Town heretofore issued its Water District No. 16 Serial Bonds-1998 in the original aggregate principal amount of \$806,250, with \$589,750 of such bonds being scheduled to mature in the years 2014 through 2035, inclusive (the “1998 WD16 Bonds”); and

**WHEREAS**, the Town heretofore issued its Water District No. 1, Extension No. 1 Serial Bonds-1998 in the original aggregate principal amount of \$435,100, with \$344,400 of such bonds being scheduled to mature in the years 2014 through 2036, inclusive (the “1998 WD1 Ext.1 Bonds”); and

**WHEREAS**, the Town heretofore issued its Water District No. 6, Extension No. 1 Serial Bonds-1998 in the original aggregate principal amount of \$543,900, with \$330,700 of such bonds being scheduled to mature in the years 2014 through 2033, inclusive (the “1998 WD6 Ext.1 Bonds”); and

**WHEREAS**, the Town heretofore issued its Water District No. 16, Extension No. 1 Serial Bonds-1999 in the original aggregate principal amount of \$80,000, with \$52,000 of such bonds being scheduled to mature in the years 2014 through 2037, inclusive (the “1999 WD 16 Ext.1 Bonds”); and

**WHEREAS**, the Town heretofore issued its Water District No. 6, Extension No. 2 Serial Bonds-2000 in the original aggregate principal amount of \$330,000, with \$226,000 of such bonds being scheduled to mature in the years 2014 through 2038, inclusive (the “2000 WD6 Ext.2 Bonds”); and

**WHEREAS**, the Town heretofore issued its General Obligation Serial Bonds, 2004A in the original aggregate principal amount of \$118,600, with \$105,700 of such bonds being scheduled to mature in the years 2014 through 2042, inclusive (the “2004A Bonds”); and

**WHEREAS**, the Town heretofore issued its General Obligation Serial Bonds, 2004B in the original aggregate principal amount of \$600,300, with \$535,000 of such bonds being scheduled to mature in the years 2014 through 2042, inclusive (the “2004B Bonds”); and

**WHEREAS**, the Town heretofore issued its General Obligation Statutory Installment Bond, Series 2007A in the original aggregate principal amount of \$524,300, with \$458,100 of such bonds being scheduled to mature in the years 2014 through 2043, inclusive (the “2007A Statutory Installment Bond”); and

**WHEREAS**, the Town heretofore issued its General Obligation Statutory Installment Bond, Series 2007B in the original aggregate principal amount of \$71,000, with \$64,300 of such bonds being scheduled to mature in the years 2014 through 2043, inclusive (the “2007B Statutory Installment Bond”); and

**WHEREAS**, the Town heretofore issued its General Obligation Serial Bonds, Series 2007A in the original aggregate principal amount of \$2,723,100, with \$2,478,000 of such bonds being scheduled to mature in the years 2014 through 2042, inclusive (the “2007A Bonds”); and

**WHEREAS**, the Town heretofore issued its General Obligation Serial Bonds, Series 2007B in the original aggregate principal amount of \$3,606,398, with \$3,274,000 of such bonds being scheduled to mature in the years 2014 through 2042, inclusive (the “2007B Bonds”); and

**WHEREAS**, the Town heretofore issued its General Obligation Serial Bonds, Series 2007C in the original aggregate principal amount of \$5,034,300, with \$4,575,000 of such bonds being scheduled to mature in the years 2014 through 2042, inclusive (the “2007C Bonds”); and

**WHEREAS**, the Town heretofore issued its General Obligation Serial Bonds, Series 2007D in the original aggregate principal amount of \$2,096,000, with \$1,925,000 of such bonds being scheduled to mature in the years 2014 through 2045, inclusive (the “2007D Bonds”); and

**WHEREAS**, the 1998 WD10 Ext.4 Bonds, the 1998 WD16 Bonds, the 1998 WD1 Ext.1 Bonds, the 1998 WD6 Ext.1 Bonds, the 1999 WD 16 Ext.1 Bonds, the 2000 WD6 Ext.2 Bonds, the 2004A Bonds, the 2004B Bonds, the 2007A Statutory Installment Bonds, the 2007B Statutory Installment Bonds, the 2007A Bonds, the 2007B Bonds, the 2007C Bonds, and the 2007D Bonds are hereinafter sometimes referred to collectively as the “Refunded Bonds”; and

**WHEREAS**, in order for the Town to realize the potential for certain long-term debt service savings with respect to the Refunded Bonds, the Town Board has determined, after consultation with the Town’s Supervisor, the Town Attorney, the financial advisory and bond counsel firms retained by the Town, that it would be in the public interest for the Town to refund the 1998 WD10 Ext.4 Bonds, the 1998 WD16 Bonds, the 1998 WD1 Ext.1 Bonds, the 1998 WD6 Ext.1 Bonds, the 1999 WD 16 Ext.1 Bonds, the 2000 WD6 Ext.2 Bonds, the 2004A Bonds, the 2004B Bonds, the 2007A Statutory Installment Bonds, the 2007B Statutory Installment Bonds, the 2007A Bonds, the 2007B Bonds, the 2007C Bonds, and the 2007D Bonds by the issuance of refunding bonds of the Town pursuant to Section 90.00 and/or Section 90.10 of the Local Finance Law (collectively, the “Refunding Law”); and

**WHEREAS**, the Refunded Bonds are subject to the possibility of call for redemption prior to their stated maturity dates, and the Town has determined to conduct such a call; and

**WHEREAS**, the 1998 WD10 Ext.4 Bonds, were issued pursuant to a bond resolution that was adopted by the Town Board on January 22, 1996, authorizing the issuance of bonds to finance the construction of improvements to Water District No. 10, Extension No. 4, in the Town (the “1996 WD10 Ext.4 Bond Resolution”); and

**WHEREAS**, the 1998 WD16 Bonds, were issued pursuant to a bond resolution that was adopted by the Town Board on August 12, 1996, authorizing the issuance of bonds to finance the establishment of Water District No. 16, in the Town (the “1996 WD16 Bond Resolution”); and

**WHEREAS**, the 1998 WD1 Ext.1 Bonds, were issued pursuant to a bond resolution that was adopted by the Town Board on July 14, 1997, authorizing the issuance of bonds to finance the construction of improvements to Water District No. 1, Extension No. 1, in the Town (the “1997 WD1 Ext.1 Bond Resolution”); and

**WHEREAS**, the 1998 WD6 Ext.1 Bonds, were issued pursuant to a bond resolution that was adopted by the Town Board on July 14, 1997, authorizing the issuance of bonds to finance the construction of improvements to Water District No. 6, Extension No. 1 to, in the Town (the “1997 WD6 Ext.1 Bond Resolution”); and

**WHEREAS**, the 1999 WD 16 Ext.1 Bonds, were issued pursuant to a bond resolution that was adopted by the Town Board on May 11, 1998, authorizing the issuance of bonds to finance the construction of improvements to Water District No. 16, Extension No. 1, in the Town (the “1998 WD16 Ext. 1 Bond Resolution”); and

**WHEREAS**, the 2000 WD6 Ext.2 Bonds, were issued pursuant to a bond resolution that was adopted by the Town Board on April 12, 1999, authorizing the issuance of bonds to finance the construction of improvements to Water District No. 6, Extension No. 2, in the Town (the “1999 WD6 Ext.2 Bond Resolution”); and

**WHEREAS**, the 2004A Bonds, were issued pursuant to a bond resolution that was adopted by the Town Board on June 12, 2000, authorizing the issuance of bonds to finance the establishment of Water District No. 17 in the Town, and construction of the improvements therein (the “2000 WD17 Bond Resolution”); and

**WHEREAS**, the 2004B Bonds, were issued pursuant to a bond resolution that was adopted by the Town Board on August 12, 2002, authorizing the issuance of bonds to finance the construction of improvements to Water Improvement Area No. 5 (the “2002 WIA5 Bond Resolution”); and

**WHEREAS**, the 2007A Statutory Installment Bond, was issued pursuant to a bond resolution that was adopted by the Town Board on June 14, 2004, authorizing the issuance of bonds to finance the construction of improvements to Water District No. 10, Extension No. 5, in the Town (the “2004 WD10 Ext.5 Bond Resolution”); and

**WHEREAS**, the 2007B Statutory Installment Bond, was issued pursuant to the 2004 WD10 Ext.5 Bond Resolution for the construction of improvements to Water District No. 10, Extension No. 5, in the Town; and

**WHEREAS**, the 2007A Bonds, the 2007B Bonds, the 2007C and the 2007D Bonds, were all issued pursuant to: (1) a bond resolution that was adopted by the Town Board on August 12, 2002 (as amended on August 2, 2004) for the construction of WD18 (as so amended, the “August 2002 Bond Resolution”), (2) a bond resolution that was adopted by the Town Board on October 12, 2004 for construction of improvements to WD18 (the “October 2004 Bond Resolution”, and C) a bond resolution that was adopted by the Town Board on August 29, 2005 for improvements within WD6 Extensions 1 and 2 and Water District No. 18 (the “August 2005 Bond Resolution”); and

**WHEREAS**, the 1996 WD10 Ext.4 Bond Resolution, the 1996 WD16 Bond Resolution, the 1997 WD1 Ext.1 Bond Resolution, the 1997 WD6 Ext.1 Bond Resolution, the 1998 WD16 Ext. 1 Bond Resolution, the 1999 WD6 Ext.2 Bond Resolution, the 2000 WD17 Bond Resolution, the 2002 WIA5 Bond Resolution, 2004 WD10 Ext.5 Bond Resolution, the August 2002 Bond Resolution, the October 2004 Bond Resolution, and the August 2005 Bond Resolution are hereinafter sometimes referred to collectively as the “Refunded Bond Resolutions”); and

**WHEREAS**, the terms of the Refunded Bond Resolution are incorporated herein by this reference; and

**WHEREAS**, the Town has the power and authority to issue refunding bonds of the Town for the purpose of refunding and thereby refinancing the Refunded Bonds at more favorable rates of interest, including provision for incidental costs of issuance in connection therewith, pursuant to the provisions of the Refunding Law; and

**WHEREAS**, the Town has received a draft refunding financial plan, updated as of May 6, 2013 (the “Refunding Financial Plan”), from Roosevelt & Cross, Incorporated (the “Underwriter”) in connection with the proposed refunding of the Refunded Bonds and such Refunding Financial Plan is attached hereto as Exhibit A; and

**WHEREAS**, the Town Board has reviewed and considered the Refunding Financial Plan in consultation with the Town Supervisor and the financial advisory and bond counsel firms retained by the Town; and

**WHEREAS**, the Town now desires to refund (i.e., refinance) the Refunded Bonds by issuing certain new refunding bonds and selling such bonds at private sale to the Underwriter; and

**WHEREAS**, the Refunding Law requires that the Town adopt a refunding bond resolution which includes a refunding financial plan setting forth all of the pertinent details in connection with the proposed refunding transaction;

**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 Town Board) as follows:

SECTION 1. Based on the recommendation of the financial advisory firm retained by the Town, the Town Board hereby determines to undertake a refunding of the Refunded Bonds, through the issuance of refunding bonds of the Town, such refunding bonds to be offered and sold at private sale.

SECTION 2. For the object or purpose of refunding the Refunded Bonds, including providing moneys which, together with the interest earned from the investment of certain of the proceeds of the refunding bonds herein authorized, shall be sufficient to pay (A) the principal amount of the Refunded Bonds, (B) the aggregate amount of unmatured interest payable on the Refunded Bonds to and including the date(s) on which the Refunded Bonds mature or are to be redeemed in accordance with the Refunding Financial Plan, (C) redemption premiums, if any, payable on the Refunded Bonds as of such redemption date(s), (D) the costs and expenses incidental to the issuance of the refunding bonds herein authorized, including, but not limited to, the development of the Refunding Financial Plan, the fees and costs of the financial advisor to the Town, the fees and costs of the bond counsel to the Town, the fees and costs of the Underwriter, the costs and expenses of executing and performing the terms and conditions of the escrow contract, as hereinafter defined, and the fees and charges of the escrow holder, as hereinafter defined and (E) the premium or premiums for the policy or policies of municipal bond insurance or other form of credit enhancement facility or facilities for the refunding bonds herein authorized, or any portion thereof, there are hereby authorized to be issued the Refunding Serial Bonds, 2013 of the Town in an aggregate principal amount not to exceed \$16,000,000 (the "Refunding Bonds") pursuant to the provisions of the Refunding Law, it being anticipated that the principal amount of Refunding Bonds actually to be issued will be approximately \$14,960,000 as described in the Refunding Financial Plan and in Section 5 hereof. The Refunding Bonds shall be dated such date as shall hereafter be determined by the Town Supervisor pursuant to Section 5 hereof, shall be of the denominations of \$5,000 or any integral multiple thereof not exceeding the principal amount of each respective maturity, and shall mature annually and shall bear interest semi-annually thereafter on such dates as shall be determined by the Town Supervisor pursuant to Section 5 hereof, at the rate or rates of interest per annum as may be necessary to sell the same, all as shall be determined by the Town Supervisor.

SECTION 3. The Refunding Bonds shall be executed in the name of the Town by the manual or facsimile signature of the Town Supervisor, and its corporate seal (or a facsimile thereof) shall be imprinted thereon and attested by the Town Clerk. The Refunding Bonds shall contain the recital(s) required by the Refunding Law, as well as the recital of validity clause provided for in Section 52.00 of the Local Finance Law, and shall otherwise be in such form, and contain such recitals, as the Town Supervisor shall determine.

SECTION 4. It is hereby determined that:

(A) The maximum amount of the Refunding Bonds authorized to be issued pursuant to this resolution does not exceed the limitation imposed by the Local Finance Law;

(B) The maximum period of probable usefulness permitted by law at the time of the issuance of the Refunded Bonds for each of the objects or purposes for which the Refunded Bonds were issued is as shown upon Exhibit B;

(C) The last installment of the Refunding Bonds will mature not later than the expiration of the maximum period of probable usefulness of the objects or purposes for which the Refunded Bonds were issued, or in the alternative, the weighted average remaining period of probable usefulness of the objects or purposes (or classes of objects or purposes) financed with the Refunded Bonds or the weighted average remaining period of probable usefulness of the objects or purposes (or classes of objects or purposes) financed with the Refunded Bonds, in accordance with the provisions of the Refunding Law; and

(D) The estimated present value of the total debt service savings anticipated as a result of the issuance of the Refunding Bonds, computed in accordance with the

Refunding Law, is as shown in the Refunding Financial Plan described in Section 5 hereof.

SECTION 5. The Refunding Financial Plan, showing the sources and amounts of all moneys required to accomplish such refunding, the estimated present value of the total debt service savings and the basis for the computation of the aforesaid estimated present value of total debt service savings, are set forth in Exhibit A attached hereto and made a part of this resolution. The Refunding Financial Plan has been prepared based upon the assumption that the Refunding Bonds will be issued in the aggregate principal amount of \$14,960,000 and that the Refunding Bonds will mature, be of such terms, and bear interest as set forth in Exhibit A. This Town Board recognizes that the amount of the Refunding Bonds, and the maturities, terms, and interest rate or rates borne by the Refunding Bonds to be issued by the Town will most probably be different from such assumptions and that the final Refunding Financial Plan will also most probably be different from that attached hereto as Exhibit A. The Town Supervisor is hereby authorized and directed to determine the amount of the Refunded Bonds to be refunded, the details as to the redemption of the Refunded Bonds, including the date and amount of such redemption or redemptions and the terms of any directive to the Escrow Holder described in Section 6 to cause notice of such redemption to be given, the amount of the Refunding Bonds to be issued, the date of such bonds and the date of issue, maturities and terms thereof, the provisions relating to any redemption of the Refunding Bonds prior to maturity, whether the Refunding Bonds will be insured by a policy or policies of municipal bond insurance or otherwise enhanced by a credit enhancement facility or facilities, the terms of the private sale of the Refunding Bonds to the Underwriter, the amount of the annual installments of the Refunding Bonds to be paid pursuant to the Refunding Law, whether the Refunding Bonds shall be sold at a discount in the manner authorized by Section 57.00(e) of the Local Finance Law, and the rate or rates of interest to be borne thereby, and the terms of a final Refunding Financial Plan for the Refunding Bonds, whether the Refunding Bonds are sold in conjunction with or consolidated with the issuance of certain other refunding bonds to be issued by the Town to refund any other general obligation bonds issued by the Town (including, but not limited to, the structuring of the annual installments of a consolidated issue), and all powers in connection therewith are hereby delegated to the Town Supervisor; provided, that the terms of the Refunding Bonds to be issued, including the rate or rates of interest borne thereby, shall comply with the requirements of the Refunding Law. The Town Supervisor shall file a copy of his or her certificate determining the details of the Refunding Bonds and the final Refunding Financial Plan with the Town Clerk not later than ten (10) days after the delivery of the Refunding Bonds, as herein provided.

SECTION 6. The Town Supervisor is hereby authorized and directed to enter into an escrow contract (the "Escrow Contract") with a bank or trust company located and authorized to do business in this State as he or she shall designate (the "Escrow Holder") for the purpose of having the Escrow Holder act, in connection with some or all of the Refunded Bonds, as the escrow holder to perform the services described in the Refunding Law.

SECTION 7. The Town Supervisor is hereby delegated all powers of this Town Board with respect to agreements for credit enhancement, derived from and pursuant to Section 168.00 of the Local Finance Law, for such Refunding Bonds, including, but not limited to the determination of the provider of such credit enhancement facility or facilities and the terms and contents of any agreement or agreements related thereto.

SECTION 8. The faith and credit of the Town are hereby irrevocably pledged for the payment of the principal of and interest on the Refunding 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 Refunding Bonds becoming due and payable in such year. 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 Refunding Bonds as the same become due and payable.

SECTION 9. All of the proceeds from the sale of the Refunding Bonds, including the premium, if any, but excluding accrued interest thereon, shall immediately upon receipt thereof be placed in escrow with the Escrow Holder for the Refunded Bonds. Accrued interest, if any,

on the Refunding Bonds shall be paid to the Town to be expended to pay interest on the Refunding Bonds on the next bond payment date of such Refunding Bonds. Such proceeds as are deposited in the escrow deposit fund to be created and established pursuant to the Escrow Contract, whether in the form of cash or investments, or both, inclusive of any interest earned from the investment thereof, shall be irrevocably committed and pledged to the payment of the principal of and interest on the Refunded Bonds in accordance with the Refunding Law, and the holders, from time to time, of the Refunded Bonds shall have a lien upon such moneys held by the Escrow Holder. Such pledge and lien shall become valid and binding upon the issuance of the Refunding Bonds and the moneys and investments held by the Escrow Holder for the Refunded Bonds in the escrow deposit fund shall immediately be subject thereto without any further act. Such pledge and lien shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the Town irrespective of whether such parties have notice thereof.

SECTION 10. 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 Refunding Bonds 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, if applicable, to designate the Refunding Bonds authorized by this resolution as "qualified tax-exempt obligations" in accordance with Section 265 of the Code.

SECTION 11. The Town Supervisor is further authorized to enter into a continuing disclosure agreement with the initial purchaser of the Refunding Bonds authorized by this resolution, if required, 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 12. The Town hereby determines that the issuance of the Refunding Bonds is a Type II action that will not have a significant effect on the environment and, therefore, no other determination or procedures under the State Environmental Quality Review Act ("SEQRA") is required.

SECTION 13. In accordance with the provisions of Section 53.00 and the Refunding Law, subject to the determination by the Town Supervisor regarding the redemption of the Refunded Bonds described in Section 5 above, the Town hereby elects to redeem the Refunded Bonds with the proceeds of the Refunding Bonds prior to their stated maturity dates on the date or dates provided in the Refunding Financial Plan. The sum to be paid therefor on such redemption date or dates shall be the par value thereof plus the required redemption premium, if any, and the accrued interest to such redemption date or dates. To the extent applicable, the Escrow Holder is hereby authorized and directed to cause notice of such call for redemption to be given in the name of the Town in the manner and within the times provided in the Refunded Bonds and in the Refunding Financial Plan. Upon the issuance of the Refunding Bonds, the election to call in and redeem the Refunded Bonds and the direction to cause notice thereof to be given as provided in this section shall become irrevocable, provided that this section may be amended from time to time as may be necessary in order to comply with the publication requirements of Section 53.00(a) of the Local Finance Law, or any successor law thereto.

SECTION 14. Subject to compliance with the provisions of the Refunding Law, the Refunding Bonds shall be sold at private sale to the Underwriter and the Town Supervisor is hereby authorized to negotiate for such private sale. The Town Supervisor is hereby authorized to execute and deliver a bond purchase agreement with the Underwriter for the Refunding Bonds in the name and on behalf of the Town providing the terms and conditions for the sale and delivery of the Refunding Bonds to the Underwriter. After the Refunding Bonds have been duly executed, they shall be delivered by the Town Supervisor in accordance with such bond purchase agreement upon the receipt by the Town of such purchase price, including interest.

SECTION 15. The Town Supervisor and Town Clerk and all other officers, employees and agents of the Town are hereby authorized and directed for and on behalf of the Town to execute and deliver all certificates and other documents, perform all acts and do all things required or contemplated to be executed, performed or done by this resolution or any document or agreement approved hereby, including, but not limited to, the bond purchase agreement.

SECTION 16. All other matters pertaining to the terms and issuance of the Refunding Bonds shall be determined by the Town Supervisor and all powers in connection therewith are hereby delegated to the Town Supervisor.

SECTION 17. In the event of the absence or unavailability of the Town Supervisor, the Deputy Supervisor is hereby specifically authorized to exercise the powers delegated to the Town Supervisor in this resolution.

SECTION 18. The validity of the Refunding Bonds may be contested only if:

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

(b) The provisions of law which should be complied with at the date of publication of this resolution are not substantially complied with,

and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publication; or

(2) Such obligations are authorized in violation of the provisions of the Constitution of New York.

SECTION 19. The Town Clerk is hereby authorized and directed to publish this resolution, or a summary thereof, together with a notice in substantially the form provided by Section 81.00 of such Local Finance Law, in the official newspaper(s) of the Town for such publications.

SECTION 20. This resolution shall take effect immediately upon its adoption.

\* \* \* \* \*

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	Action #176 Refunding bond resolution adopted.
	Councilwoman Friess – aye	
	Councilman Bach – aye	
	Supervisor Jeffe - aye	
NOES: None		
ABSENT:	Councilman Collins	

The foregoing resolution was thereupon declared duly adopted.

\* \* \* \* \*

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

**WHEREAS**, the Erie County Water Authority (ECWA) operates and maintains the facilities of Town of Aurora Water District 6 under a Lease Management Agreement between the Town of Aurora (Town) and ECWA; and



**WHEREAS**, one (1) additional fire hydrant is being added to Town of Aurora Water District 6 as part of the Geneva Road water line replacement project; and

**WHEREAS**, it has been agreed between ECWA and the Town that this hydrant would benefit from routine maintenance to be performed by ECWA.

**NOW, THEREFORE, BE IT RESOLVED** that the Town of Aurora does hereby approve the addition of one (1) fire hydrant in Town of Aurora Water District 6 on Geneva Road; and

Action #177  
Additional  
Geneva Rd.  
hydrant  
approved.

**BE IT FURTHER RESOLVED** that the Town of Aurora does hereby request that one (1) fire hydrant be added to ECWA's hydrant maintenance program for Town of Aurora Water District 6 and agrees that this hydrant will be subject to payment of the annual hydrant maintenance fee per the Lease Management Agreement.

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

\* \* \* \* \*

Councilman Harris moved to approve a Temporary Use Permit for the Up and Over Dog Sports dog agility trials to be held at the polo field and equestrian park area at Knox Farm State Park on August 3-4, 2013.

Action #178  
Temp. use  
permit for dog  
agility trials at  
KFSP aprvd.

Councilman Bach seconded the motion. Upon a vote being taken:  
ayes – four      noes – none

Motion carried.

Action #179  
Board accepts  
\$2500 tennis  
grant.

Councilwoman Friess moved to accept the \$2500 grant awarded to the Town from the US Tennis Association. Councilman Bach seconded the motion.

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

Councilwoman Friess moved to amend the 2013 Operating Budget as follows for the Recreation Tennis Program:

Action #180  
Budget  
amendment  
approved for  
tennis program

Increase Revenue Line A2030.1 – Tennis Revenues      \$4,100  
Increase Expense Line A7181.0100 – Tennis (labor)      \$4,100

Councilman Harris seconded the motion. Upon a vote being taken:

ayes – four      noes – none

Motion carried.

Councilman Bach moved to approve the hiring of the following persons as part-time seasonal recreation attendants for the Recreation Dept. tennis program (orientation date will be considered first day worked):

Action #181  
Part time  
seasonal rec  
attendants  
hired for  
tennis  
program.

Evan Giacomini	5 Mary Jane Lane, EA	\$9.00/hr.
Elizabeth Mason	225 Geneva Road, EA	\$9.00/hr.
Connor Giacomini	5 Mary Jane Lane, EA	\$8.90/hr.
Anne Conron	69 Church Street, EA	\$7.35/hr

Councilwoman Friess seconded the motion. Upon a vote being taken:

ayes – four      noes – none

Motion carried.

Councilwoman Friess moved to authorize the Supervisor to sign the Second Amendment to the September 24, 2007 agreement between the Town of Aurora and the Aurora Arsenal Soccer Club, Inc.; seconded by Councilman Harris:

SECOND AMENDMENT TO AGREEMENT DATED SEPTEMBER 24, 2007

This agreement, made and entered into on the 13th day of May, 2013, by and between the **TOWN OF AURORA** ("Town"), a municipal corporation duly existing pursuant to the laws of the State of New York with an address at 300 Gleed Avenue, East Aurora, New York, 14052,

and **AURORA ARSENAL SOCCER CLUB, INC.**, (“Arsenal”), a domestic not-for-profit corporation duly existing pursuant to the laws of the State of New York with a mailing address at PO Box 132, East Aurora, New York, 14052, based upon the following recitals and terms more particularly described below and in the exhibit annexed thereto.

Recitals

WHEREAS, the Town and Arsenal entered into an agreement dated September 24, 2007 (“2007 Town-Arsenal Agreement”) which provided for, among other things, Arsenal use of certain land at Knox State Park for soccer fields, and an Amendment thereto dated September 26, 2011, (“2011 Amendment”), a copy of which is annexed hereto as Exhibit “A”; and

WHEREAS, the 2007 Town – Arsenal Agreement and 2011 Amendment are still in full force and effect; and

WHEREAS, the Town and Arsenal have herein agreed to certain revisions to the 2011 Amendment with respect to the paragraph numbered “2 “ and labeled “FACILITIES” and the paragraph numbered “3” and labeled “PAYMENT”; and

WHEREAS, the Town, Arsenal and other user groups of the area have met, are communicating and are working together to meet the needs of all who use the Knox Athletic and Equestrian Field areas; and

NOW THEREFORE, for lawful consideration, the receipt and sufficiency of which are hereby acknowledged, the Town and Arsenal agree as follows:

1. PRIOR AGREEMENTS: All terms of the 2007 Agreement and 2011 Amendment thereto between the Town and the Arsenal shall continue in full force and effect unless contrary to the terms contained in this Amendment which supersede the terms of the prior Agreement and Amendment.
2. FACILITIES: The Town grants to the Arsenal, as provided by the Agreement between the Town and the State, Polo Fields for soccer and soccer-related activities and use of the adjoining parking areas, subject to restriction to be determined by the Town now or hereafter, in its sole discretion.
3. PAYMENT: The Arsenal agrees to pay the Town \$8,000.00 annually as and for Arsenal’s contribution to costs including maintenance, upkeep, equipment purchases and improvements to the lands Arsenal utilizes as determined by the Town.

IN WITNESS WHEREOF, the Town and Arsenal have executed this Second Amendment on the date set forth herein.

Action #182  
Amendment to  
Arsenal Soccer  
agreement  
approved.

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

Councilman Bach moved to accept the \$8000 donation from the Aurora Arsenal Soccer Club, Inc. as the Arsenal 2013 contribution to costs associated with the maintenance, upkeep, and improvements per the Arsenal agreement with the Town. The funds will be credited to A2025.0002 SFR-Knox Field Donations. Councilwoman Friess seconded the motion. Upon a vote being taken: ayes – four      noes – none  
Motion carried.

Action #183  
\$8000 donation  
from Arsenal  
Soccer  
accepted.

Councilwoman Friess moved to approve the following summer hours for the Highway and Parks Department employees effective June 3, 2013 through August 23, 2013:

Highway – Monday through Thursday 6:00 a.m. to 4:30 p.m.  
Parks – Monday through Thursday 6:00 a.m. to 3:30 p.m.;  
Friday 7:00 a.m. to 11:00 a.m.

Action #184  
Highway &  
Parks summer  
hours approved.

Councilman Bach seconded the motion. Upon a vote being taken:  
ayes – four      noes – none      Motion carried.

Councilwoman Friess moved to approve the hiring of the following persons as part-time seasonal laborers in the highway and parks departments effective after May 13, 2013 at a rate of \$10.00 per hour:

Nathaniel West	134 Buffalo Rd., EA	
Jason Buranich	640 Quaker Rd., EA	Action #185
Mike Resetarits	706 Kelly Dr., EA	Hiring of
Jacob Swartout	59 Walnut St., EA	seasonal PT
Andrew Kurtzhaltz	352 Prospect Ave., EA	highway/parks
Brian Fentzke	801 Olden Rd., WF	employees
Connor Denz	1005 E. Main St., EA	approved.

Councilman Bach seconded the motion. Upon a vote being taken:  
ayes – four                      noes – none                      Motion carried.

Bids for a new 2012 or newer 33,000 GVW truck cab and chassis were received from:

Fleet Maintenance, Inc.	\$74,526.00
Kenworth Northeast Group, Inc.	\$77,102.00
Hunter Buffalo Peterbuilt	\$77,635.00
Regional International	\$79,696.00
Regional International	\$82,443.00

Councilwoman Friess moved to award the bid for a new 2014 33,000 GVW truck cab and chassis to Kenworth Northeast Group, Inc., (Kenworth of Buffalo), 100 Commerce Drive, Buffalo, NY, in the amount of \$77,102.00. Councilman Bach seconded the motion. Upon a vote being taken: ayes – three noes – none abstain – one (Harris – due to business affiliation) Motion carried.

Action #186  
Bid for 2014  
truck cab &  
chassis awarded.

NOTE: The low bid from Fleet Maintenance, Inc. was rejected due to failure to submit a complete bid (missing page four from bid specs).

One bid for a truck dump body, hitch, plow, wing plow, hook lift, material spreader and optional 12' flatbed was received from:

Henderson Truck Equipment – NY	\$75,658.00 (base bid) 2,917.00 (option no. 1)
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Councilman Bach moved to award the bid for new/unused equipment – truck dump body, hitch, plow, wing plow, hook lift, and material spreader to Henderson Truck Equipment-NY, 22686 Fisher Road, Watertown, NY, in the amount of \$78,575.00 (\$75,658 base bid plus \$2,917 option no. 1). Councilwoman Friess seconded the motion. Upon a vote being taken: ayes – three noes – none abstain – one (Harris due to business affiliation) Motion carried.

Action #187  
Bid for truck  
body, plow, etc  
awarded.

Supervisor Jeffe moved to amend the 2013 Operating Budget as follows to cover the cost of the recycle/plow truck bid awarded above:

Increase SR8189.0200 Rubbish Equipment	\$75,000.00
Increase A7110.0210 Parks Equipment	\$20,677.00

Councilwoman Friess seconded the motion. Upon a vote being taken:  
ayes – four                      noes – none                      Motion carried.

Action #188  
2013 budget  
amended to  
cover cost of  
truck cab/chassis  
and body, etc.  
purchase.

Supervisor Jeffe moved to approve the following budget transfers to cover the increase in the expenditure lines approved above:

From: SR915 – Assigned Unappropriated Fund Balance	\$75,000.00	Action #189 Budget transfers for truck cab/chassis, body, plow, etc. purchase approved.
To: SR960 – Appropriations	\$75,000.00	
From: A915 – Assigned Unappropriated for Equipment Balance		
	\$20,677.00	
To: A960 – Appropriations	\$20,677.00	

Councilwoman Friess 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 Harris:

**RESOLUTION FOR ELIMINATION OF BENEFITS FOR TOWN SUPERVISOR AND TOWN JUSTICES**

**WHEREAS**, the Town of Aurora does not provide benefits for any part-time, regular part-time or seasonal employees; and

**WHEREAS**, the elected positions of Town Supervisor and Town Justice have traditionally been treated as part-time positions and have been held by individuals who maintained full-time employment outside of their Town positions; and

**WHEREAS**, the elected position of Town Clerk and Highway Superintendent have traditionally been treated as full-time positions and have been held by individuals who maintain the position as their full-time employment; and

**WHEREAS**, the Town of Aurora Town Board, in an effort to provide consistent application of benefits to part-time positions, without prejudice to whether the position is hired or elected, desires to eliminate health insurance benefits for the positions of Town Supervisors and Town Justice and their dependents; and

**WHEREAS**, the compensation for Town Supervisor and Town Justice will be evaluated during the next budget cycle and will be adjusted as deemed appropriate; and

**NOW THEREFORE BE IT RESOLVED**, that the Town Board of the Town of Aurora eliminates the health, dental, and vision benefits for the elected positions of Town Supervisor and Town Justice; and

**BE IT FURTHER RESOLVED**, that the Town Board maintains the provision of health, dental, and vision benefits, as offered to other Town employees, for the elected positions of Town Clerk and Highway Superintendent; and

**BE IT FURTHER RESOLVED**, the elimination of benefits for the Town Supervisor and Town Justice positions is effective on the 1st of January, 2014.

Action #190  
Health insurance benefits for PT elected officials eliminated.

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

Councilman Bach moved to proclaim May 1 through May 31, 2013 as Building Safety Month in the Town of Aurora. Councilwoman Friess seconded the motion. Upon a vote being taken: ayes – four  
noes – none                      Motion carried.

Action #191  
May 2013 proclaimed Building Safety Month.

Councilman Bach moved to adopted the following resolution; seconded by Councilman Harris:

WHEREAS, Fiber optic cable located on private property has been part of the Outside Plant roll section 6 assessment under Section 102(i) of Real Property Tax since the 1980's. Which is consistent with the valuation of fiber optic cable located within the public right-of-way defined a Special Franchise property; and

WHEREAS, Amendments to Section 102(i) of Real Property Tax in 1985 and 1987 were never intended to exclude fiber optic cable or other emerging technology from Outside Plant roll section 6; and

WHEREAS, Until a recent decision by the Appellate Division, First Department removing fiber optic cable from Outside Plant roll section 6, fiber optic cable had been part of the Outside Plant assessment for over 25 years; and

WHEREAS, Across New York State hundreds of millions of dollars in tax base are in jeopardy of being lost, creating a significant impact on Town, County and School tax.

NOW THEREFORE, BE IT RESOLVED that the Town of Aurora hereby supports the Erie County Assessor's Association and respectfully requests the New York State Legislature to amend Section 102(i) of Real Property Tax Law to define, include and memorialize fiber optic cable as part of Outside Plant for tax assessment purposes consistent with the intend of a 1986 amendment to Section 102 and which is consistent with the valuation of fiber optic cable as Special Franchise property.

Action #192  
Board supports resolution re: include fiber optics for assessment purposes

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

Councilman Bach moved to accept the bids, totaling \$1996.50, from the seventeen (17) lots of miscellaneous surplus furniture and equipment auctioned by Auctions International for the Town. Funds to be deposited to ER2770. Councilman Harris seconded the motion. Upon a vote being taken: ayes – four noes – none Motion carried.

Action #193  
Bids for surplus furniture and equipment approved.

Councilwoman Friess moved to approve the following budget transfer necessary to cover a shortage in the part time Tax help budget line and for extra coverage for the 2013 school tax collection:

From: A1410.106 Town Clerk Deputy 2 \$1,500.  
To: A1330.101 Tax Receiver Part-time help \$1,500.

Councilman Bach seconded the motion. Upon a vote being taken: ayes – four noes – none Motion carried.

Action #194  
Town Clerk – Tax Recv. budget transfer approved.

Councilwoman Friess moved to authorize the Supervisor to sign the contract with Independent Health, 511 Farber Lakes Drive, Buffalo, NY, for group health coverage (FlexFit Select and Passport Plan Select) for eligible employees effective for one-year beginning June 1, 2013. Councilman Harris seconded the motion. Upon a vote being taken: ayes – four noes – none Motion carried.

Action #195  
Supv. auth to sign contract with Independent Health

Councilwoman Friess moved to accept the Amended Sidewalk Plan for the Reed Hill Subdivision that provides for a sidewalk on the east side of Reed Hill Drive from Jewett Holmwood Road to Creekview Court. Supervisor Jeffe seconded the motion. Upon a vote being taken: ayes – four noes – none Motion carried.

Action #196  
Amended Reed Hill sidewalk plan accepted.

Councilman Bach moved to approve submittal of a request to NYSEG to install five (5) street lights in Aurora Lighting District No. 4 on Reed Hill Drive and five (5) street lights in Aurora Lighting District No. 3 on Creekview Court. Councilman Harris seconded the motion. Upon a vote being taken: ayes – four noes – none Motion carried.

Action #197  
Request for NYSEG to install street lights in Reed Hill Subdiv. approved.

Supervisor Jeffe moved to submit a request to NYSEG to consider placing a street light on an existing pole on Reiter Road near the entrance to Lothlorien. Councilwoman Friess seconded the motion. Upon a vote being taken: ayes – four noes – none Motion carried.

Action #198  
 Request for NYSEG to consider street light on Reiter Road aprvd.

Councilman Bach moved to authorize the Supervisor to sign Addendum No. 4 to the Lease Agreement with Erie 2-Chautauqua-Cattaraugus BOCES effective July 1, 2013, whereby space used for Career and Technical Education Programming will have a two year extension and the space used for Special Education Programming will have a one year extension. Councilwoman Friess seconded the motion. Upon a vote being taken: ayes – four noes – none Motion carried.

Action #199  
 Supv. auth. to sign addendum no. 4 to BOCES lease

On May 3, 2013, the Town Clerk received notice from Nagel’s Tombstone Saloon, Inc. that they would be applying for a liquor license from New York State. On May 9, 2013, the attorney for Nagel’s requested a waiver of the 30-day waiting period citing hardship on behalf of his client.

Action #200  
 30-day notice for liquor lic. for 12 Old Glenwood waived.

Councilman Bach moved to waive the 30-day notice requirement for Nagel’s Tombstone Saloon, Inc. for an on premises tavern serving liquor, wine and beer, located at 12 Old Glenwood Road, PO West Falls, Town of Aurora, NY. Councilman Harris seconded the motion. Upon a vote being taken: ayes – four noes – none Motion carried.

Councilman Harris moved to accept the following donation to be used exclusively for the Glead baseball/softball diamond project, with funds to be deposited to TA1000.112:

Action #201  
 Donation for Glead baseball diamonds accepted.

<u>Donor Name</u>	<u>Amount</u>	<u>Date Received</u>
Aurora Audiology & Speech	\$50.00	4/25/13

Councilwoman Friess seconded the motion. Upon a vote being taken: ayes – four noes – none Motion carried.

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

- Supervisor’s – April 2013 Report
- Tax Receiver - April 2013 Report
- Town Clerk - April 2013 Report
- Senior Center - April 2013 Report
- Recreation Director - April 2013 Report
- Building Department - April 2013 Report
- Assessor - March 2013 Report
- Dog Control - April 2013 Report
- EAPD - April 2013 Report

BUSINESS FROM BOARD MEMBERS:

Supervisor Jeffe noted that she attended the ribbon cutting for the Decorator’s Show House at the Knox Farm State Park mansion.

AUDIENCE II:

James P. Collins, E. Main St., stated that the Aurora Community Gardens are not formally incorporated. He also addressed the trees and clearing along the Major Park path near the Aurora Community Gardens.

Tony Rosati, Center Street, asked if Center Street needs any additional hydrants for the new water line.

George and Patricia Roetzer, Kirkwood Drive, presented photos and police reports regarding the drainage ditch adjacent to their property and beer parties that are taking place there. They expressed their concern about the amount and depth of water in the ditch.

John Adams, Olean Road, stated he and his family want to place a marker at the foot of the grave stone for Joel Adams at the Pioneer Cemetery.

Jeffrey Markello, Glenridge Road, commented on the Board's action eliminating health benefits for part-time elected officials noting he disagreed with their findings and that part-time elected officials should receive these benefits.

**STAFF REPORTS:**

Patrick Blizniak, Supt. of Building, attended a "Call before you dig" seminar.

David Gunner, Highway Supt., stated that the highway department will be chipping several town roads.

William Adams, Planning Board, noted that the Planning Board had taken a tour of approved Open Development Areas in the Town.

Ron Krowka, Chief of Police, stated that the Next Generation 911 grant phase III was approved by the state and noted that County Legislator Joe Lorigo helped a lot.

The April 26, 2013 "pre-paid" Abstract of Claims, consisting of vouchers numbered 655 to 667, was presented to the Board for audit and authorization of payment from the following funds:

General	\$6,200.31
Enterprise/Gleed	189.88
Capital/Library roof	9,262.50
Trust & Agency	839.00
Special Districts	<u>46,186.62</u>
Grand Total Abstract	\$62,687.31

The May 13, 2013 Abstract of Claims, consisting of vouchers numbered 668 to 792, was presented to the Board for audit and authorization of payment from the following funds:

General	\$28,575.27
Part Town	810.00
Highway	10,658.99
Enterprise/Gleed	5,920.75
Capital (WD6)	19,270.50
Capital (Major Pk.)	65.00
Trust & Agency	9,353.22
Special Districts	<u>19,189.35</u>
Grand Total Abstract	\$93,843.08

Councilwoman Friess moved to approve the April 26, 2013 and May 13, 2013 Abstracts of Claims and to authorize payment of same. Councilman Bach seconded the motion. Upon a vote being taken: ayes – four noes – none Motion carried.

Action #202  
4/26/13 and  
5/13/13  
Abstracts of  
Claims aprvd.

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

Action #203  
Meeting  
adjourned.