

TOWN OF UNION  
UNION, NEW YORK

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In the Matter of:

Town Board  
Special Board Meeting

-----x  
September 28, 2020  
3111 East Main Street  
Endwell, New York 13760

APPEARANCES:

FOR THE TOWN OF UNION

RICHARD A. MATERESE  
Town Supervisor

THOMAS R. AUGOSTINI  
FRANK J. BERTONI  
SANDRA C. BAUMAN  
HEATHER R. STALEY  
Board Members

SARA ZUBALSKY-PEER  
Planning Director

ALAN POPE  
Town Attorney

ROSEMARIE POPE  
Deputy Town Attorney

LEONARD PERFETTI  
Town Clerk

Digitally recorded proceeding,  
Transcribed by: Ria Jara  
Czerenda Court Reporting  
71 State St.  
Binghamton, NY 13901

1 (On the record)

2 MR. RICHARD MATERESE: And then?

3 MR. FRANK BERTONI: -- meeting after.

4 MR. MATERESE: And meet at 11:00 here.

5 MR. BERTONI: That's October 1st.

6 MR. MATERESE: It is.

7 FEMALE VOICE: Correct.

8 MR. BERTONI: Payday.

9 MR. MATERESE: Payday.

10 FEMALE VOICE: And that Fairmont Park is at  
11 10:00?

12 MR. MATERESE: Fairmont Park is at 10:00.

13 FEMALE VOICE: And then come right here  
14 afterwards.

15 MALE VOICE: We got one person online (sounds  
16 like).

17 MR. MATERESE: (Interposing) do you get the --

18 MR. BERTONI: It's the last day of the month,  
19 right?

20 MR. MATERESE: For payday. Yes, for retirement  
21 system, it's the last day. But if you're collecting  
22 Social Security then it goes by your birthday.

23 MR. BERTONI: On the third Wednesday.

24 MR. MATERESE: That's what I have too.

25 MR. BERTONI: In honor of having our meetings  
26 the same day. So I go, "Yay, I'm having a meeting *and* I

1 get paid today."

2 MR. MATERESE: Although this month, September, I  
3 got docked pay.

4 MR. BERTONI: You did?

5 MR. MATERESE: Because I made \$1,600 over the  
6 limit last year.

7 MR. BERTONI: So, two for one.

8 MR. MATERESE: Yes. With this job, I can only  
9 make up to 1,740 or 1,760.

10 MR. BERTONI: Can't you defer some of it or  
11 anything?

12 MR. MATERESE: I don't think so.

13 MR. BERTONI: No?

14 MR. MATERESE: I don't know. I just -- there's  
15 nothing to it. I don't know.

16 MR. BERTONI: It's stiff, one for one.

17 MR. MATERESE: Yeah. It's one for two, I think.

18 MR. BERTONI: For every \$100 you make, you got  
19 to pay \$100. No, you're right. Yes, you're right. You  
20 make \$200, you got to give them half.

21 FEMALE VOICE: Give them half of it.

22 MR. BERTONI: Got to give them half. What's the  
23 limit? Is the limit still \$14,000?

24 MR. MATERESE: No, it's like I think it was  
25 17,600 or 17 -- (interposing)

26 MR. BERTONI: Oh, man. You got a big bump

1           there.

2                       MR. MATERESE: Yes. Are you ready? Okay.  
3           Let's call the meeting to order. Please rise for the  
4           Pledge of Allegiance.

5                       ALL: I pledge allegiance to the Flag of the  
6           United States of America and to the Republic for which it  
7           stands, one Nation under God, indivisible, with liberty  
8           and justice for all.

9                       MR. MATERESE: I'd like to welcome everybody to  
10          the special meeting of the Town of Union on September  
11          28th. This is a special meeting dealing with our public  
12          hearing. Mr. Perfetti, would you read the announcement?

13                      MR. LEONARD PERFETTI: First off, I'll read the  
14          -- please take notice that in accordance with the  
15          Emergency Order of the Governor of the State of New York,  
16          notice is hereby given that a public hearing is scheduled  
17          for Monday, September 28, 2020 at 7:01 or thereafter in  
18          the evening. In person attendance shall not exceed 50  
19          percent capacity of the Town Hall Board Room, less the  
20          Town Board Members and the Town Employees. It is  
21          anticipated that the maximum number of the public who can  
22          be in attendance at the Town Hall for this Town Board  
23          Meeting and the public hearing would be 17 persons. All  
24          persons in attendance must wear face coverings to include  
25          their mouth and nose region. They must hand sanitize upon  
26          entering the meeting in the hand sanitize stations

1 provided by the Town. They must adhere to the social  
2 distancing guidelines and remain six feet apart at all  
3 times. Alternatively, or in the event that in person  
4 public attendance has met the maximum capacity, the public  
5 hearing would be accessible to the public via Zoom virtual  
6 meeting software. Any members of the public wishing to  
7 observe the meeting remotely are advised to access the  
8 meeting via Zoom Video Conference.

9 And this is a continuation of the eminent domain  
10 public hearing to address any written comments to the  
11 property owners or the public regarding subject property  
12 owned by Richard and Laurie Jones located at 5 and 7  
13 Woodland Avenue, Johnson City, New York. At the close of  
14 the public hearing, hear the findings of the fact and  
15 determination and vote on the proceedings within eminent  
16 domain.

17 MR. MATERESE: So, do we have any written  
18 comments to be entered into the record?

19 MS. ROSE POPE: Yes. We received a letter from  
20 Al Panicha (phonetic) who's the attorney for Richard and  
21 Laurie Jones that was received today. I would like to add  
22 this letter and Mr. Panicha's comments into the record.

23 MR. MATERESE: Please do.

24 MS. POPE: Were there any other received? Is  
25 that it?

26 MALE VOICE: No.

1 MR. MATERESE: That was it.

2 MS. POPE: Okay.

3 MR. MATERESE: So then do I close this -- call  
4 this to a close?

5 MS. POPE: Yes. If these are all the written  
6 comments that we've received then we can now close the  
7 public hearing.

8 MR. MATERESE: All right. Seeing that there are  
9 no --

10 MR. BERTONI: Sorry. Do we do that through a  
11 motion?

12 MR. MATERESE: No. Seeing that there are no  
13 other comments to read, I will call this public hearing to  
14 a close. And now, I'll defer to our attorney.

15 MR. BERTONI: Do we need a second or anything  
16 like that?

17 MR. MATERESE: No. No, just like --

18 MR. BERTONI: Okay. I just want to make sure  
19 we're doing it right.

20 MR. MATERESE: Yes. No, no, no. It's just like  
21 regular hearing of visitors and that thing.

22 MS. POPE: I just want to explain something.  
23 Now that we've closed the public hearing, I'm going to  
24 make more comments and what the Town is going to do is  
25 SEQRA for the eminent domain. And then we are going to do  
26 a motion on whether to declare or make a negative

1 declaration to accept the SEQRA, that there is no  
2 significant environmental impact. Then I will read the  
3 determination and findings into the record. And the Board  
4 will vote to accept and move forward with eminent domain.

5 MR. BERTONI: In all of that, will there be  
6 discussion of what this letter contains?

7 MS. POPE: Yes. We can discuss that. Actually,  
8 my comments are going to address Mr. Panicha's letter. So  
9 if I could just start with those.

10 MR. MATERESE: Sure.

11 MS. POPE: Okay.

12 MR. MATERESE: Take it over.

13 MS. POPE: Thank you. Mr. Panicha's comments,  
14 he said that the public hearing notice is defective and  
15 that is, that is not true. The public hearing notice was  
16 for the September 21, 2020 special meeting we had for the  
17 public hearing. Originally, on September 2nd, the board  
18 meeting of September 2nd, we set the date of September  
19 16th for the public hearing. But due to the holiday,  
20 Labor Day, we were not able to get the notice into the  
21 paper to allow us this special time to have the notice  
22 posted that we needed. So we called for a special meeting  
23 on September 4th that was properly noticed, to call for  
24 the September 21st hearing -- I'm sorry, meeting and  
25 public hearing.

26 The notices that were served on the Jones never

1 stated September 16th. It was always September 21st.  
2 Those were the notices they got. They were properly  
3 served on the Jones via certified mail return receipt by  
4 Coughlin & Gerhart, and also personally served by Oliver  
5 and Associates on Laurie Jones with substitute service on  
6 Richard Jones followed up by certified mail and later by  
7 email to Mr. Jones, to Richard Jones, as he was not  
8 personally served.

9 Those affidavits I previously put into the  
10 record that are (audio glitch) public hearing last week.  
11 So those affidavits are on there. So there was no  
12 defective service or public hearing notice (inaudible).

13 MR. BERTONI: I'm sorry.

14 MS. POPE: Yes, you may ask some questions.

15 MR. BERTONI: So he makes the point that it has  
16 to be at least 10 days prior to the public hearing.

17 MS. POPE: Correct. And it was.

18 MR. BERTONI: So give me the dates so that --

19 MR. MATERESE: That's why we did it on the --  
20 when we originally were going to do it, we couldn't get it  
21 in for 10 days prior. So we had a special meeting --

22 MR. BERTONI: So, it's not 10 days from then  
23 until now?

24 MS. POPE: It's 10 days prior to the 21st.

25 MR. BERTONI: Okay. (Interposing)

26 MR. MATERESE: Yes.



1 MR. BERTONI: All right. All right. Okay.  
2 Thank you. (Interposing) All right. Thank you. Yes.  
3 I'm sorry.

4 MS. POPE: Okay. No, that's fine.

5 MR. MATERESE: Let's get everything out and  
6 clear.

7 MR. BERTONI: Yeah. No, that's right. That's  
8 right.

9 MS. POPE: So those are already part of the  
10 record. We also received today an affidavit of service  
11 from the *Press and Sun-Bulletin* regarding their  
12 publication of it. And I would like to also add that into  
13 the record along with the other affidavits of service that  
14 it was posted for the proper number of days to be posted  
15 and also prior to the meeting.

16 As far as public need goes, the land that we  
17 need, the easements that we need, we need them in  
18 accordance with maps that were drawn by the engineer to do  
19 this project, correct, Sara?

20 MS. SARA ZUBALSKY-PEER: Correct.

21 MS. POPE: So there is no other way to do this.  
22 But this is the land that we need to properly do this  
23 project. Is that correct, Sara? Is there anything to  
24 add?

25 MS. ZUBALSKY-PEER: Yes. I would just like to  
26 add that the adjoining land that's adjacent to it is not

1 actually owned by the Town. It is actually the levee.  
2 And it is actually not Town property so we do not have  
3 sufficient public property adjacent to their property to  
4 address (inaudible).

5 MR. MATERESE: That's the Army Corps who owns  
6 that, correct?

7 MS. ZUBALSKY-PEER: The levee is maintained by  
8 the AC. But it's actually located on Mr. Olsen's  
9 (phonetic) property.

10 MS. POPE: And then the next subject was an  
11 offer stating that there was not a written offer made.  
12 There was an offer made via email between Sara Zubalsky-  
13 Peer and Laurie Jones where she shared the appraisal and  
14 also shared the appraisal value for the property, and then  
15 asked if the Jones were willing to proceed with the  
16 easement acquisition. Sara received an email back from  
17 Laurie Jones stating that they disagreed with the \$2,400.  
18 So the offer was made and rejected. These two emails I'd  
19 also would like to add to the record regarding the offer.

20 SEQRA, we generally do SEQRA after we close the  
21 public which is what we're going to do tonight. However,  
22 SEQRA was done by the Planning Board back in June and July  
23 for project approval.

24 MS. ZUBALSKY-PEER: Yes.

25 MS. POPE: So we do have the Planning Board  
26 SEQRA where they found a negative declaration and no

1 significant environmental impact. Tonight, the Town Board  
2 is going to do their own SEQRA with regard to the eminent  
3 domain which we will do after my comments.

4 MR. MATERESE: Excuse me, just to clarify.  
5 Sara, you acknowledged that the Planning Board did do a  
6 SEQRA back in whenever it was, correct?

7 MS. ZUBALSKY-PEER: Correct - June and July.

8 MR. MATERESE: I just want you to speak up.

9 MS. ZUBALSKY-PEER: Yes.

10 MR. MATERESE: Thank you.

11 MS. POPE: Yes. And I'm adding that SEQRA to  
12 the record as well, the Planning Board SEQRA.

13 MR. MATERESE: Thank you.

14 MS. POPE: And so we've got it on the line.  
15 Thank you. That's all I got, unless -- (inaudible).

16 FEMALE VOICE: Those are your comments to the  
17 letter that came from the attorney?

18 MS. POPE: Uh-hmm.

19 FEMALE VOICE: Okay.

20 MS. POPE: Are you ready to move on?

21 MR. MATERESE: Two.

22 FEMALE VOICE: Yes.

23 MS. POPE: Thank you.

24 FEMALE VOICE: I'm ready.

25 MR. MATERESE: Do you want to speak to the last  
26 paragraph on the second page there?

1 MS. POPE: No.

2 MR. MATERESE: No?

3 MS. POPE: That's probably the SEQRA.

4 MR. MATERESE: Well, what they're asking for.

5 Treat it as a Type 1 action.

6 MS. POPE: No. Because ours, we're not going to  
7 do that. (Inaudible) --

8 MR. MATERESE: Right. But I just want to read  
9 -- say that out loud or no?

10 MS. POPE: No.

11 MR. MATERESE: Okay.

12 MS. POPE: It's part of the record through Mr.  
13 Panicha's letter.

14 MR. MATERESE: Okay.

15 MS. POPE: Are we ready to move on, Frank, or  
16 (interposing)?

17 MR. BERTONI: I'm sorry?

18 MS. POPE: Are we ready to move on, Frank or do  
19 you have --

20 MR. BERTONI: I'm sorry?

21 MS. POPE: Are you ready to move on or do you  
22 have another --?

23 MR. BERTONI: No, I'm ready. I'm ready.

24 MS. POPE: All right. So, next, we'll be moving  
25 on to the Town's SEQRA review. I would just like to  
26 briefly review the Planning Board SEQRA. So the Town

1 Board met in June and July. This took place in June and  
2 July (inaudible). Okay. And they did the short  
3 environmental assessment form. This was done because a  
4 special permit was needed to proceed with the project.  
5 They found that this is a permitted use under zoning  
6 regulations consistent with the adopted comprehensive  
7 plan. It's consistent with the character of the natural  
8 landscape neighborhood. It will not result in a  
9 substantial increase in traffic. Public transportation  
10 services are available and are near and pedestrian  
11 accommodations are near the site as well. It does not  
12 exceed energy code requirements. It will connect to  
13 existing public and private water supply. It won't  
14 connect to existing waste water.

15 It's not contiguous to archaeological or  
16 historic places. It says it won't physically alter,  
17 encroach into any existing wetland or water body. It is  
18 located in a 100-year floodplain but (inaudible) on that.  
19 It won't create any storm water discharge. There won't be  
20 any impoundment of water or other liquids during  
21 construction. There are no solid waste issues.

22 So we found that when we went through their  
23 assessment of whether it would impact the neighborhood,  
24 change in traffic, changes in the land, and any other  
25 environmental impacts it would have, there was no or small  
26 impacts may occur.

1 MR. BERTONI: So do we have to -- is it like a  
2 thing? Or is it like one, two, three or something?

3 MS. POPE: This is just to check. When I asked  
4 the questions this is just to (inaudible), excuse me, what  
5 the Planning Board determined.

6 MR. BERTONI: And just to clarify, we're only  
7 talking about --

8 MS. POPE: The two lands.

9 MR. BERTONI: -- the land where -- we're trying  
10 to take?

11 MS. POPE: Correct. Not the whole project.

12 MR. BERTONI: This is not the whole project.

13 MR. MATERESE: Correct.

14 MR. BERTONI: This is just this piece of land.  
15 Right.

16 MS. POPE: This was the Planning Board for the  
17 whole Project. We are only, as the Town Board SEQRA,  
18 concentrating on the two parcels of land by the southern  
19 border (sounds like).

20 MR. BERTONI: Okay.

21 MS. POPE: And in the determination, I won't  
22 read the whole thing, but the proposed action will not  
23 result in any significant negative impacts to cultural,  
24 historic, natural, socioeconomic resources. It will not  
25 result in significant or long-term increases of traffic,  
26 noise, need for emergency services or strain on public

1 utilities. The utility improvements will not have  
2 significant negative impacts on the ground, flora, fauna,  
3 endangered or threatened species, water or air. And then  
4 we determined a negative declaration and no significant  
5 impact. And so that is just the Planning Board's  
6 determination.

7 MR. MATERESE: And you entered that into the  
8 record?

9 MS. POPE: Right. This has been entered into  
10 the record.

11 MR. MATERESE: Thank you.

12 MS. POPE: Okay. So now your turn, this is  
13 yours - okay - for the Town, and sorry but I don't have to  
14 read it.

15 MR. MATERESE: Excuse me, Rose. Do we need a  
16 roll call on all of these or just everybody (interposing)?

17 MS. POPE: It'll be you will call for a  
18 resolution.

19 MR. MATERESE: No, when we're going through  
20 this.

21 MS. POPE: No. Well, everybody needs to discuss  
22 and then we'll say, you know, we'll say --

23 MR. MATARESE: And so we don't need a roll call  
24 vote?

25 MS. POPE: No. No. Not on everything.

26 MR. MATERESE: Okay.

1 MS. POPE: So just saying do you think there's  
2 no or small impact may occur or moderate to large impact  
3 may occur, when I get to the questions.

4 MR. MATERESE: Okay. Thank you.

5 MS. POPE: Okay. So the name of the actual  
6 project is the Fairmont Park Water Main Improvement  
7 eminent domain easements on 5 Woodland Avenue, temporary  
8 and terminating easements on 7 Woodland Avenue. This is  
9 just a temporary easement. The project location is 5  
10 Woodland Avenue and 7 Woodland Avenue in Johnson City, New  
11 York.

12 A brief description of the proposed action. The  
13 proposed Town Project will bring the current public water  
14 distribution system up to current health department  
15 standards to supply the existing demand of the Fairmont  
16 Park Subdivision neighborhood and any new construction.  
17 The new system will have adequately sized water lines and  
18 will be looped for current health department standards.  
19 The water line is to be removed and replaced and located  
20 in the existing privately-owned private property. Eminent  
21 domain is required for the overall safety and benefit of  
22 the public on the two lots namely, 5 Woodland Avenue and 7  
23 Woodland Avenue in Johnson City, Town of Union, New York.  
24 Does that cover it, Sara?

25 MS. ZUBALSKY-PEER: Yes.

26 MS. POPE: Thank you. The name of the advocate



1 sponsors, the Town of Union, contacted Sara with their  
2 contact information. And does the proposed action only  
3 involve legislative adoption of the plan of the law,  
4 ordinance and resolution or regulation? No. Private  
5 space (sounds like). I'll let you know about it too.  
6 Does the proposed action require a permit, approval or  
7 support funding, from any other government agency? Yes,  
8 the funding came from the County and Community Development  
9 block grant funds from the U.S. Housing and Urban  
10 Development.

11 Next it talks about total acreage but here with  
12 the easements it would be a little different. So the land  
13 to be acquired by the easement 5 Woodland Avenue temporary  
14 easement is 1,687 square feet; 5 Woodland Avenue, the  
15 permanent easement is 3,620 square feet. At 7 Woodland  
16 Avenue, the temporary easement is 122 square feet. And  
17 this is occurring on residential property.

18 The proposed action is permitted under the  
19 zoning regulations and it is consistent with the adopted  
20 comprehensive plan. It's consistent with the predominant  
21 character of the existing natural landscape. The site  
22 does not adjoin a state critically listed environmental  
23 area. It will not result in a substantial increase in  
24 traffic above present levels. Public transportation is  
25 available. Pedestrian accommodations likewise are also  
26 available.

1           It won't exceed state energy code requirements.  
2           Will it connect to existing public, private water supply?  
3           Yes. Will it connect to existing waste water utilities?  
4           No. Does the project site contain or is it substantially  
5           contiguous to a building, archaeological site or district  
6           which is listed on the National or State Register of  
7           Historic Places or that has been determined by the  
8           Commissioner of the New York State Office of Parks,  
9           Recreation and Historic Preservation to be eligible for  
10          the listing? The answer is no.

11           Does any portion of this site of the proposed  
12          action lands adjoining proposed -- adjoining proposed  
13          action contain wetlands or other water bodies regulated by  
14          federal, state, or local agency? No. Will it physically  
15          alter or encroach into any existing wetland or water body?  
16          No.

17           The typical habitat is approved. Does the site  
18          of the proposed action contain any species of animal or  
19          associated habitats listed by the state or federal  
20          government as threatened or endangered? No.

21           Is the project site in a 100-year floodplain?  
22          Yes. Will the proposed action create storm water  
23          discharge in either point or nonpoint sources? No. Does  
24          the proposed action include construction or other  
25          activities that will result in the impoundment of water  
26          out of wetlands? No.

1           Is the site of the proposed action adjoining  
2 property in the location of an active or closed water  
3 waste management facility? No. Is the site of the  
4 proposed action or adjoining property been the subject of  
5 remediation for hazardous waste? No. Okay. That was  
6 Part 1.

7           MR. MATERESE: Yes.

8           MS. POPE: Okay. Now, Part 2, the questions  
9 I've asked, I'm going to ask the Board to please provide  
10 their input to each of these. Ultimately, you're going to  
11 determine whether there's no or small impact may occur or  
12 moderate to large impact may occur.

13           MR. BERTONI: No small impact or no --

14           MS. POPE: No or small impact or moderate to  
15 large impact may occur.

16           MR. BERTONI: Moderate to large. Okay.

17           MR. MATERESE: One of the two.

18           MS. POPE: Yes. Number one: Will the proposed  
19 action create a material conflict with the adopted land  
20 use plan or zoning regulations? So, the installation of  
21 that pipe on 5 Woodland conflict with the adopted land use  
22 plans zoning regulation.

23           MR. BERTONI: No.

24           MR. MATERESE: Not that I can see.

25           FEMALE VOICE: No.

26           FEMALE VOICE: No. It's underground.

1 MS. POPE: Number two: Will the proposed action  
2 result in change in the use or intensity of use of land?

3 MR. BERTONI: No.

4 MR. MATERESE: It can't. It's underground, so  
5 no.

6 FEMALE VOICE: No.

7 MS. POPE: Will the proposed action impair the  
8 character or quality of the existing community?

9 MR. MATERESE: Impair?

10 MS. POPE: Impair the character or quality of  
11 the existing community?

12 MR. BERTONI: No. No.

13 FEMALE VOICE: No.

14 FEMALE VOICE: No.

15 MR. MATERESE: No.

16 MS. POPE: Will the proposed action have an  
17 impact on the environmental characteristics that cause the  
18 establishment of a critical environmental area, which it  
19 didn't in this case. So the answer to that would be no.

20 FEMALE VOICE: No.

21 MR. MATERESE: I agree.

22 MS. POPE: Just so it's clear, we determined  
23 prior to that if there was one.

24 Will the proposed action result in adverse  
25 change in the existing level of traffic or affect existing  
26 infrastructure for mass transit, biking or walkway?

1 ALL: No.

2 MS. POPE: I will say when construction is  
3 happening there will be more traffic due to construction.  
4 But that is just temporary while the construction is being  
5 done or the pipe is being installed. Correct, Sara?

6 MS. ZUBALSY-PEER: Correct.

7 MS. POPE: Okay.

8 MR. MATERESE: And most of the work is already  
9 accomplished, just this one piece. So it shouldn't be  
10 that long of a disturbance in the neighborhood.

11 MS. ZUBALSY-PEER: Correct.

12 MR. BERTONI: So is there a difference between  
13 the work that's being done and the overall impact after  
14 the project's done?

15 MS. POPE: It's saying would it impact -- after  
16 the project's done, will there be an impact? Will there  
17 be more traffic?

18 MR. BERTONI: No.

19 MR. MATERESE: No.

20 FEMALE VOICE: No.

21 MR. BERTONI: No. But during the project there  
22 will be.

23 MS. POPE: Temporarily there will be during  
24 construction, right.

25 MR. BERTONI: Okay.

26 MS. POPE: So the consensus is no or small

1 impact?

2 MR. MATERESE: Correct.

3 MR. BERTONI: Yes

4 FEMALE VOICE: Yes.

5 MS. POPE: Number six: Will the proposed action  
6 cause an increase in the use of energy and it fails to  
7 incorporate using available energy conservation, renewable  
8 energy opportunities?

9 ALL: No.

10 MS. POPE: No. It wouldn't impact energy at  
11 all.

12 Number seven: Will the proposed action impact  
13 existing, (a) public, private water supplies?

14 MR. MATERESE: Yes.

15 MR. BERTONI: It'll improve the public water  
16 supply.

17 MR. MATERESE: It will improve it.

18 MS. POPE: Right. So it won't be a negative  
19 impact.

20 MR. MATERESE: It won't be a negative, correct.

21 FEMALE VOICE: No, it's a positive.

22 MR. MATERESE: Right, it will be a positive  
23 impact.

24 MS. POPE: And (b) public, private waste water  
25 treatment utilities.

26 MR. BERTONI: It's not --

1 MR. MATERESE: No.

2 MR. BERTONI: -- not applicable, right?

3 FEMALE VOICE: No.

4 MS. POPE: Number eight: Will the proposed  
5 action impair the character or quality of important  
6 historic archaeological, architectural or aesthetic  
7 resources?

8 ALL: No.

9 MR. BERTONI: We already looked at that, right?  
10 So, no.

11 MS. POPE: Nine: Will the proposed action  
12 result in the adverse change to natural resources? The  
13 wetlands, water body, groundwater, air quality, flora and  
14 fauna?

15 MR. MATERESE: No.

16 FEMALE VOICE: No.

17 FEMALE VOICE: No.

18 MR. BERTONI: No.

19 MR. MATERESE: Again, there might be some  
20 temporary change of habitat for something until we get out  
21 of there and then things go back.

22 MS. POPE: If there's anything there.

23 MR. MATERESE: Right.

24 MS. POPE: it's just, you know, excavating the  
25 ground and then replacing --

26 MR. MATERESE: Maybe a little rabbit running

1 around.

2 MR. BERTONI: But it's not like going through a  
3 wetland sort of or anything like that.

4 MR. MATERESE: No. Yes, we're not disturbing  
5 anything like that.

6 MR. BERTONI: Right.

7 MS. POPE: Okay. Ten: Will the proposed action  
8 result in an increase in the potential for erosion,  
9 flooding or drainage problems?

10 MR. BERTONI: No.

11 MR. MATERESE: No.

12 FEMALE VOICE: No.

13 FEMALE VOICE: No.

14 MS. POPE: Number 11: Will the proposed action  
15 create a hazard to environmental resources to human  
16 health?

17 ALL: No.

18 MS. POPE: Okay. So I'm going to read Part 3.  
19 That finishes Part 2. Thank you.

20 I'm going to read Part 3: Determination of  
21 Significance. The Town of Union received federal funding  
22 for the construction of water infrastructure improvements  
23 in the Fairmont Park Subdivision. The proposed project  
24 will upgrade the water mains to eight-inch lines and will  
25 loop the system for current health department standards.  
26 The proposed action will not result in any significant



1 negative impacts to cultural or historical or natural or  
2 socioeconomic resources. It will not result in  
3 significant or long-term increases in traffic, noise, need  
4 emergency services or strain on public utilities.

5 The water line improvements will not have  
6 significant negative impacts on the ground, flora, fauna,  
7 endangered or threatened species, water or the air.  
8 Excuse me. The installation of new water mains would be  
9 underground and therefore the proposed action will not  
10 raise base ground elevation.

11 Upon review of the information submitted, the  
12 proposed action will not have a significant adverse impact  
13 to the environment. It will in fact have a significant  
14 positive impact on the public water supply system in the  
15 Fairmont Park Subdivision.

16 MR. MATERESE: Do you want us to agree with that  
17 or just that you're kind of --

18 MS. POPE: You can vote to agree to accept it.

19 MR. MATERESE: Right. Okay.

20 MS. POPE: So now that we have read this and  
21 gone through it and answered the questions a little bit, I  
22 may need you to sign it.

23 MR. MATERESE: Right now?

24 MS. POPE: By the end of the meeting.

25 MR. MATERESE: Okay.

26 MS. POPE: I'll leave it for your signature,

1           okay? Now, I need you as the board to offer a resolution  
2           to declare, based on your review, to declare -- no, it's  
3           not that resolution. It's just a resolution you're going  
4           to offer to declare or maybe a declaration of finding no  
5           significant environmental impact.

6                       MR. BERTONI: I make a motion that we make a  
7           negative declaration concerning this taking or the  
8           project.

9                       MS. POPE: And that there's no significant  
10          finding of impact.

11                      MR. BERTONI: And no significant finding of  
12          impact.

13                      MS. BAUMAN: I second.

14                      MR. MATERESE: Okay. You've heard the  
15          resolution as proposed by Mr. Bertoni, seconded by Ms.  
16          Bauman. Are there any questions about what we're voting  
17          on? Hearing none, Mr. Perfetti, roll call, please.

18                      MR. PERFETTI: Staley.

19                      MS. STALEY: Aye.

20                      MR. PERFETTI: Bauman.

21                      MS. BAUMAN: Aye.

22                      MR. PERFETTI: Bertoni.

23                      MR. BERTONI: Aye.

24                      MR. PERFETTI: Materese.

25                      MR. MATERESE: Aye. The resolution is adapted.

26                      MS. POPE: Okay. Thank you. I will leave it

1 for your signature.

2 MR. MATERESE: I can do it right now. So now,  
3 do we go to Frank's resolution?

4 MS. POPE: I have to read the findings and the  
5 resolution. Okay, now that we have the SEQRA portion,  
6 we'll be moving to the determination and findings that I  
7 will read. And then the Town Board will vote on to  
8 determine if the Board would agree, moving forward with  
9 the eminent domain question. It just comes out.

10 MR. MATERESE: It's this plan or something?

11 MS. POPE: No, it's just the update (sounds  
12 like).

13 MR. MATERESE: So right there at the bottom,  
14 write my name or print my name. Sign it and change the  
15 title.

16 MS. POPE: Let me know when you're ready. I'm  
17 going to start reading.

18 MR. MATERESE: Did you say there were two of  
19 these?

20 MS. POPE: There should be two of them. And  
21 there's a separate piece attached there.

22 MR. MATERESE: Got it.

23 MR. BERTONI: There you go.

24 MR. MATERESE: Thank you.

25 MS. POPE: Okay. I am going to read the  
26 determination and findings. It is four pages long. I

1 will try to do this as quickly as I can.

2 Okay. This is the determination and findings  
3 pursuant to Section 204 of Eminent Domain Procedure Law.  
4 The Town of Union Project sponsored Fairmont Park Water  
5 Main Project, Town of Union, Broome County, New York,  
6 dated September 28, 2020. A public hearing was held on  
7 September 21, 2020 at the Town of Union Board Room,  
8 Endwell, New York in accordance with the provisions of  
9 Article 2 of the New York State, Eminent Domain Procedure  
10 Law in connection with the proposed implementation of the  
11 Fairmont Park Water Main Project, also known as the  
12 Project.

13 Implementation of the proposed project would  
14 require easements on two parcels, namely 5 Woodland Avenue  
15 and 7 Woodland Avenue in the Town of Union. This will be  
16 the proposed easement acquisitions. As provided by  
17 Section 202 of the Eminent Domain Procedure Law, a notice  
18 of the public hearing was personally served and sent via  
19 certified mail to the affected property owners. The  
20 hearing notice was also published in the *Press and Sun-*  
21 *Bulletin* as well as on Town of Union website, advising the  
22 public that a hearing will be held on September 21, 2020.  
23 And that comments would be received concerning the public  
24 use, benefits, and purposes to be served by the proposed  
25 project and proposed easement acquisitions.

26 The September 21, 2020 hearing provided an

1 opportunity for the public to comment on the project. At  
2 the hearing, the Deputy Town Attorney and the Director of  
3 Planning for the Town presented information concerning the  
4 public use, benefits, and purposes to be served by the  
5 proposed project and the proposed easement acquisitions,  
6 the proposed project location and the reasons for the  
7 selection of those locations and the general effect of the  
8 proposed project on the environment and residents. The  
9 record of hearing remained open for written comments until  
10 September 28, 2020.

11 Now, verbal comments from the property owners  
12 Richard Jones and Laurie Jones at the hearing, objected to  
13 the easements on both 5 Woodland Avenue and 7 Woodland  
14 Avenue. A letter from Richard and Laurie Jones' attorney,  
15 Al Panicha, stating his objection to the proceeding was  
16 received by the Town Clerk on September 28th.

17 The Town made available copies of the hearing  
18 transcript for public inspection, the notice of public  
19 hearing, the authority upon which the proposed easement  
20 acquisitions are based, and maps of the proposed easement  
21 acquisitions. Pursuant to Section 204, Section (B)(1) of  
22 the Eminent Domain Procedure Law and having given due  
23 consideration to the complete hearing record which  
24 includes all documents submitted, the Town of Union makes  
25 the following determination and findings with respect to  
26 the proposed project and proposed easement acquisitions

1 for the proposed project.

2 The project description. The proposed project  
3 will bring the current public water distribution system up  
4 to current health department standards. The existing  
5 water distribution system is not adequately sized for the  
6 supply demand of the neighborhood and is unable to allow  
7 for new construction as currently configured due to health  
8 department regulations that are more stringent than when  
9 the subdivision was originally built.

10 The existing water mains are three-quarter inch  
11 and one-inch lines. Additionally, the lines are not  
12 looped and the current system requires periodic hydrant  
13 flushing. This project will upsize the water lines to  
14 eight-inch lines and will loop the system, thus, providing  
15 increased public safety and increased public health by  
16 ensuring adequate water supply, volume, and pressure.

17 The project is located in the Fairmont Park  
18 neighborhood in the Town of Union, New York and requires  
19 temporary and permanent easements on portions of privately  
20 owned property located at 5 and 7 Woodland Avenue, Johnson  
21 City, New York. The project requires 1,687 square feet  
22 and 122 square feet for temporary easements to allow for  
23 excavation and construction of the water mains on 5  
24 Woodland Avenue and 7 Woodland Avenue respectively. The  
25 project requires 3,620 square feet at 5 Woodland Avenue  
26 for a permanent easement to allow for future maintenance

1 of the water mains as needed. These easements are  
2 required in order to loop the system for health department  
3 standards.

4 The property at 5 Woodland Avenue is adjacent to  
5 the existing earthen levee that provides flood protection  
6 to the neighborhood. The water mains must be located as  
7 designed due to limits of excavation placed on the design  
8 due to the proximity of the toe of the levee. Because of  
9 the health department requirements, the location of the  
10 existing levee, and the stated goal of addressing public  
11 safety concerns related to deficiencies in the existing  
12 water distribution system, the project cannot be located  
13 anywhere other than the proposed location.

14 Preferred alternatives. During the preliminary  
15 design concept, the Town of Union considered alternatives  
16 that would protect the health and property of residents  
17 and property owners within the Fairmont Park neighborhood.  
18 These alternatives included: (1) no action alternative;  
19 (2) no looping alternative; (3) construction on Town-owned  
20 property only alternative; and, (4) the proposed action.  
21 The Town determined the only practical alternative is to  
22 address the inadequate water distribution system by  
23 upsizing the water distribution lines and looping the  
24 system to provide adequate water supply to residents of  
25 the neighborhood.

26 This determination is based on: (1) the project

1 purpose of providing improved public health and safety  
2 benefits through adequate water supply to residents in the  
3 Fairmont Park neighborhood and meeting current health  
4 department standards; (2) the need to provide increased  
5 fire suppression capabilities to the Fairmont Park  
6 neighborhood; (3) to prevent the need for periodic hydrant  
7 flushing to ensure adequate water distribution in Fairmont  
8 Park; (4) to allow for reinvestment in the neighborhood  
9 and opportunity for new construction; (5) the ability to  
10 mitigate risk and minimize impacts on public health for  
11 the Town citizens; and (6) to prevent encroachment on and  
12 the potential compromising of the integrity of the  
13 existing earthen levee that provides flood protection to  
14 Fairmont Park.

15 Public benefits of the project. The improved  
16 water distribution system provided by the project will  
17 benefit the public by increasing daily quality of life  
18 with increased water volume and pressure for residents in  
19 Fairmont Park; providing updated public infrastructure  
20 assets that meet current health department standards; and  
21 most importantly, providing increased health and safety  
22 for citizens.

23 Temporary and permanent easements. The project  
24 is located in the Fairmont Park neighborhood in the Town  
25 of Union, New York and requires temporary and permanent  
26 easements on portions of privately-owned property located



1 at 5 and 7 Woodland Avenue, Johnson City, New York. The  
2 project requires 1,687 square feet and 122 square feet for  
3 temporary easements to allow for excavation and  
4 construction of the water mains at 5 Woodland Avenue and 7  
5 Woodland Avenue respectively. The project requires 3,620  
6 square feet at 5 Woodland Avenue for a permanent easement  
7 to allow for future maintenance of the water mains as  
8 needed. These easements are required in order to loop the  
9 system for health department standards. The property at 5  
10 Woodland Avenue is adjacent to an existing earthen levee.  
11 It provides flood protection to the neighborhood.

12 The water mains must be located as designed due  
13 to the limits of excavation based on the design due to the  
14 proximity of the toe of the levee. Because of the health  
15 department requirements, the location of the existing  
16 levee, and the stated goal of addressing public safety  
17 concerns related to deficiencies in the existing water  
18 distribution system, this project cannot be located  
19 anywhere other than the proposed location. Easement maps  
20 will be attached to this determination as (indiscernible).

21 Effects of the project on the environment. The  
22 proposed project underwent a thorough and proper review  
23 under the State Environmental Quality Review Act and the  
24 National Environmental Protection Act through the Town  
25 Planning Board that was the lead agency due to the funding  
26 of the project. The environmental assessment forms

1 required by SEQRA were reviewed and a negative declaration  
2 was declared that the proposed project will have no or  
3 small impacts on the environment and no significant  
4 impacts were found.

5 Additionally, the Town Board did its own SEQRA  
6 review as part of the eminent domain proceeding. The Town  
7 Board reviewed the Planning Board SEQRA forms in  
8 determination and based on this, along with its own  
9 environmental review including impacts on traffic, noise,  
10 any changes to natural resources, any changes to the  
11 character of the neighborhood, and user intensity land  
12 through its own SEQRAS, the Town Board made a negative  
13 declaration and the proposed the project would have no or  
14 small impacts on the (audio glitch) and no significant  
15 (audio glitch) relevant project considerations. The  
16 implementation of the proposed project started in July of  
17 2020 and will be completed upon the acquisition of the  
18 temporary and permanent easements. The implementation of  
19 the proposed project has little to no impact on the  
20 public.

21 Additional information and context. This  
22 determination and findings have been made in consideration  
23 of statements submitted by the public both during and  
24 after the public hearing held for this project. Copies of  
25 this determination and findings will be forwarded upon  
26 written request at no cost. All documents provided at the

1 September 21, 2020 public hearing and this continuation of  
2 the public hearing on September 28, 2020, and the complete  
3 determination and findings are available for review at the  
4 Town Clerk's Office, 3111 East Main Street, Endwell, New  
5 York 13760.

6 Those property owners who may wish to challenge  
7 condemnation of their property via judicial review may do  
8 so only on the basis of issues, facts, and objections  
9 raised at the hearing pursuant to Section 202, Section  
10 (c)(2) of Article 2 of the Eminent Domain Procedure Law.  
11 Each individual assessment record billing owner or the  
12 property owner or his or her attorney-of-record whose  
13 property may be acquired shall note that under Section  
14 207(a) of the Eminent Domain Procedure Law, a petition to  
15 seek judicial review of the condemnor's determination and  
16 findings must be filed within 30 days after the  
17 condemnor's completion of its publication of its  
18 determination and findings.

19 Further, the exclusive venue for judicial review  
20 of the determination and findings is the Appellate  
21 Division of the Supreme Court in the judicial department  
22 where any part of the property to be condemned is located.

23 Further information on this project is available  
24 on request during normal working hours and direct  
25 inquiries to Sara Zubalsky-Peer at her contact  
26 information.

1 MR. MATERESE: Thank you. Good job. Could you  
2 please repeat from like the second paragraph?

3 MS. POPE: Sure. And I do want to say that one  
4 other item that I wanted to put into the record which I  
5 forgot was the NEPA determination that was part of --

6 MS. ZUBALSKY-PEER: No. That was actually  
7 something I had to do for HUD before we got the release of  
8 funds.

9 MS. POPE: Right. And it addresses  
10 environmental issues as well, correct?

11 MS. ZUBALSKY-PEER: Yes.

12 MS. POPE: And what is it then?

13 MS. ZUBALSKY-PEER: NEPA review.

14 MS. POPE: The NEPA review. So I want to also  
15 add that into the record because that addresses  
16 environmental issues along with Town Board SEQRA.

17 MR. MATERESE: Thank you.

18 MS. POPE: I'm done now. Thank you.

19 MR. MATERESE: Okay. So now is it Frank's turn?

20 MS. POPE: Yes. Thank you (inaudible).

21 MR. MATERESE: Okay. So we have a resolution  
22 from -- which committee is this - Environmental Committee?

23 MS. POPE: No, Planning and Zoning Committee.

24 MR. MATERESE: Planning and Zoning Committee.

25 Mr. Bertoni will you the lead this day?

26 MR. BERTONI: Yes. Whereas the Town Board held

1 a public hearing on September 21, 2020 pursuant to Article  
2 of the New York State Eminent Domain Procedure Law to  
3 hear comments from the public with respect to taking of an  
4 easement interest in property owned by Richard Jones and  
5 Laurie Jones located at 5 Woodland Avenue and 7 Woodland  
6 Avenue, Johnson City, New York, 13790, Tax Map numbers  
7 142.11-1-52 and 142.11-1-28 respectively in connection  
8 with the Town of Union public safety and improvement  
9 project known as the Town of Union Fairmont Park Water  
10 Main Project.

11 And whereas the Town concluded the public  
12 hearing on September 28, 2020 and it has been recommended  
13 that the Town Board approve the eminent domain  
14 determination pursuant to Article 2 of the New York State  
15 Eminent Domain Procedure Law with respect to the taking of  
16 an easement interest in property owned by Richard Jones  
17 and Laurie Jones located at 5 Woodland Avenue and 7  
18 Woodland Avenue, Johnson City, New York, 13790, Tax Map  
19 numbers 142.11-1-52 and 142.11-1-28 respectively in  
20 connection with the Town of Union public safety and  
21 improvement project known as the Town of Union Fairmont  
22 Park Water Main Project.

23 Now therefore it is resolved that the Town Board  
24 hereby approves the eminent domain determination pursuant  
25 to Article 2 of the New York State Eminent Domain  
26 Procedure Law with respect to the taking of an easement

1 interest in property owned by Richard Jones and Laurie  
2 Jones located at 5 Woodland Avenue and 7 Woodland Avenue,  
3 Johnson City, New York, 13790, Tax Map numbers 142.11-1-52  
4 and 142.11-1-28 respectively in connection with the Town  
5 of Union Public Safety and Improvement Project known as  
6 the Town of Union Fairmont Park Water Main Project.

7 It is further resolved that the Supervisor, Town  
8 Clerk, Town Attorney, Deputy Town Attorney or other Town  
9 official or employee so designated by the Town Board shall  
10 be authorized to file, post, publish, and serve the  
11 abovementioned determination as may be required to  
12 implement this resolution.

13 And it is further resolved that the Town  
14 Attorney and Deputy Town Attorney are authorized to  
15 proceed with the filing of the petition and related  
16 documents with the Broome County Supreme Court to obtain  
17 an order granting the Town permission to file the easement  
18 maps and take ownership of the easement interest in the  
19 properties.

20 MS. BAUMAN: I second.

21 MR. MATERESE: You've heard the proposed  
22 resolution well-read by Mr. Bertoni, seconded by Ms.  
23 Bauman. Are there any questions? Hearing none, Mr.  
24 Perfetti, roll call vote, please.

25 MR. PERFETTI: Staley.

26 MS. STALEY: Aye.

1 MR. PERFETTI: Bauman.

2 MS. BAUMAN: Aye.

3 MR. PERFETTI: Bertoni.

4 MR. BERTONI: Aye.

5 MR. PERFETTI: Materese.

6 MR. MATERESE: Aye. The resolution is adapted.

7 MR. BERTONI: And then Lenny will fill out this,  
8 right?

9 MR. MATERESE: Yes.

10 FEMALE VOICE: Yes, I'm going to start probably  
11 (indiscernible) to him.

12 MR. BERTONI: Do you need that back?

13 FEMALE VOICE: No, I don't.

14 MR. BERTONI: Okay. That's showing the --

15 MR. MATERESE: The resolution.

16 MR. BERTONI: All right. Thank you.

17 MR. MATERESE: So are we done with that now?

18 FEMALE VOICE: Yes.

19 MR. MATERESE: So having no other business  
20 before the Board this evening, Mr. Bertoni?

21 MR. BERTONI: I make a motion we adjourn.

22 MR. MATERESE: You've heard the motion. Wait,  
23 we need a second.

24 MS. STALEY: I second.

25 MR. MATERESE: We have a motion by Mr. Bertoni,  
26 seconded by Ms. Staley to adjourn at 7:55. Is there any

1 discussion? All those in favor say aye.

2 ALL: Aye.

3 MR. MATERESE: Opposed say nay. We are  
4 adjourned.

5 FEMALE VOICE: Thank you.

6 MR. MATERESE: Thank you.

7 MR. BERTONI: Thank you, Rose.

8 (Off the record)

9

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C E R T I F I C A T E

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Signature\_\_\_\_\_

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Date: October 2, 2020