

RESOLUTION

NUMBER 348-23

**(APPROVE UPDATED RATE AND SLUDGE FEE FOR THE SEWER DISTRICT
OPERATED BY JONAS BASTYS, INC.)**

WHEREAS, Jonas Bastys, Inc. is a Sewage Works Corporation that operates a private treatment plant; and

WHEREAS, its area of operation has been referred to as Joint Sewer District Number 4; and

WHEREAS, under the Transportation Corporations Law, the Town Board has the power to set the rates for the District; and

WHEREAS, upon information and belief, Jonas Bastys, Inc. services approximately 850 dwelling units; and

WHEREAS, residents of the Amberlands and other nearby communities are connected to this Sewer Plant; and

WHEREAS, upon information and belief, the Amberlands also has the same beneficial owner as the owner of Jonas Bastys, Inc. and consists of approximately 144 residential apartments; and

WHEREAS, Resolution Number 225-89 states for the 1992 Rate, “[t]he rate to be charged shall be equal to that of the current 1992 water rate per 1,000 gallons of water consumption”; and

WHEREAS, there is an agreement dated September 22, 1989 executed by both the Town of Cortlandt on behalf of Joint Sewer District Number 4 and Jonas Bastys, Inc. agreeing to these rates and specifically stating that “during the fourth year of this Agreement, and ensuing years thereafter, JONAS BASTYS, INC. be and hereby is authorized to charge the current rate per thousand gallons of metered water consumption as the sewer rate”; and

WHEREAS, pursuant to Resolution Number 130-91, Jonas Bastys, Inc. was authorized to charge a sludge disposal fee of “\$14.00 per quarter per household..”; and

WHEREAS, the Sewer Plant in recent years had failing infrastructure, which required upgrades; and

WHEREAS, during the same period that Jonas Bastys, Inc. upgraded the infrastructure, it submitted documents to the Town Board for a sewer rate increase; and

WHEREAS, the Town had requested certain documentation that it did not receive, so it was unable to grant Jonas Bastys, Inc.’s requests; and

WHEREAS, the Town specifically denied Jonas Bastys, Inc.’s requests for rate increases pursuant to Resolutions 327-19, 327-20, 130-22; and

WHEREAS, despite these denying resolutions, Jonas Bastys, Inc. has continued to illegally charge residents increasing rates that were not approved by the Town Board; and

WHEREAS, Jonas Bastys, Inc. was directed to stop this behavior as evidenced by the Cease and Desist letter from Town Attorney, Thomas F. Wood, Esq., dated August 1, 2022; and

WHEREAS, Jonas Bastys, Inc. has continued arbitrarily and illegally increasing rates; and

WHEREAS, representatives of Jonas Bastys, Inc. subsequently submitted documents to the Town detailing its operational costs; and

WHEREAS, per the Town’s understanding, these were unaudited figures; and

WHEREAS, the documents provided included charges for things such as salaries, but residents have reported to the Town that whenever they call the Jonas Batys, Inc. office, they either are unable to speak with someone or are spoken to rudely; and

WHEREAS, there are large, reported interest costs on loans; and

WHEREAS, Jonas Bastys, Inc. requested to make a presentation to the Town Board and was scheduled to present at the Town Board’s Work Session on November 13, 2023; and

WHEREAS, representatives from Jonas Bastys, Inc. failed to appear at this Work Session, and did not provide prior notice or an explanation for their failure to appear; and

WHEREAS, the current situation is untenable; and

WHEREAS, the water rates per 1,000 gallons of consumption which should have been charged for the past five years are as follows:

2019: \$9.40
2020: \$9.57
2021: \$9.57
2022: \$9.74
2023: \$9.74

WHEREAS, upon information and belief, the last rate charged by Jonas Bastys, Inc. was \$18.59 per 1,000 gallons plus a sludge removal fee of \$18.00; and

WHEREAS, given Jonas Bastys, Inc’s failure to present at its scheduled meeting and the unending nature of their actions, the Supervisor and Town Board feel it is incumbent on them to act to clarify rates beginning January 1, 2024;

NOW, THEREFORE, BE IT RESOLVED, that the Town approves a sewer rate per 1,000 gallons used of \$14.17 beginning on January 1, 2024, which is the average of the current water rate of \$9.74 and Jonas Bastys' proposed rate of \$18.59.

BE IT FURTHER RESOLVED, that the Town Board is reviewing and setting the rates based upon its own Motion.

BE IT FURTHER RESOLVED that to charge this rate of \$14.17 per 1,000 gallons, Jonas Bastys Inc. must provide a credit to all customers who have previously paid more than the water rate per 1,000 gallons of consumption and Jonas Bastys, Inc. must clear out any remaining balances for residents who have not paid the unauthorized, previously charged rates.

BE IT FURTHER RESOLVED that the sludge fee shall be \$19.00 per household per quarter in 2024 and \$20.00 per household per quarter in 2025 and thereafter.

BE IT FURTHER RESOLVED that the rates and sludge fees set by this Resolution shall remain constant until Jonas Bastys, Inc. submits a future petition with audited financial information and new rates are approved by the Town Board.

BE IT FURTHER RESOLVED that the Town Attorney's Office is authorized to bring a legal proceeding should Jonas Bastys, Inc. violate any of the terms of this Resolution.

**BY ORDER OF THE TOWN BOARD
OF THE TOWN OF CORTLANDT
LAROUÉ ROSE SHATZKIN
TOWN CLERK**

**Adopted December 12, 2023
At a Regular Meeting
Held at Town Hall**