

**MINUTES** of a Special Meeting of the Village Board of Trustees held Tuesday, January 29, 2013 at 8:30AM Village Hall, 111 Elm Street, Room 202, Penn Yan, NY 14527

**PRESENT:** Mayor R. Church; Trustees W. Allison; C. Christensen; M. Christensen; D. Reeve; R. Stewart; B. Winslow; Attorney Ed Brockman; Director of Public Works B. Bodine; Municipal Board members D. Banach; D. Payne

**ABSENT:** position open -Clerk/Treasurer; –Police Chief Hulse; Assistant Director of Public Works B. Jensen; CEO B. Lyon; Fire Chief R Simpson

**News Media present:** Gwen Chamberlain, Chronicle Express

**PUBLIC:** None

Mayor Church called the Special Village Board meeting to order at 8:30 AM

Mayor Church explained the Clerk/Treasurer position is an appointed position by the Mayor. He thanked both the interview committee and staff members in the offices for their time and input with the selection process for Clerk/Treasurer.

Mayor Church appointed Gary Meeks as the new Clerk/Treasurer; he will start Monday February 4<sup>th</sup> and fill out the remaining term till March 31, 2014.

Discussion: Trustee Allison and Winslow mentioned the committee interviewed several qualified candidates for the Clerk/Treasurer position and feel Mr. Meeks will be a good fit and do a wonderful job. We want to thank everyone including the input from the Village employees who were involved in the interview process.

**MOTION** by Trustee Winslow, seconded by Trustee Allison to authorize Resolution No. 5-2013 Engineering Services for Waterfront Sewer System improvements.

**WHEREAS**, The Village of Penn Yan plans to improve its sewer infrastructure in the area of the Waterfront Revitalization Project in the Village; and

**WHEREAS**, the New York State Environmental Facilities Corporation (NYSEFC) has determined that such sewer improvements for the Waterfront Revitalization Project may qualify for subsidized funding through the Clean Water State Revolving Fund (CWSRF); and

**WHEREAS**, in order to qualify for approval of funding for the project the NYSEFC requires that there be an executed engineering agreement with respect to the project; and

**WHEREAS**, Elliott Engineering has submitted a proposal for an engineering contract with respect to the project.

**NOW THEREFORE BE IT RESOLVED**, that Board of Trustees of the Village of Penn Yan approves the contract proposal by Elliott Engineers and authorizes the Mayor to execute the requisite documents to enter into that contract with Elliott Engineers.

DISCUSSION: Trustee M. Christensen has some concerns – we need to take affirmative action Trustee Christensen feels its unfair practice where all sales taxes and bed tax revenue goes to the County. When inflation goes up the sales tax and bed tax revenue goes up and that helps the County; that is something we should have the Village benefit from. Trustee M. Christensen reminded the Board back in October 2011 Mayor Church sent a letter Steve Griffin from IDA and Yates County about taxes. As of this date we have not received any correspondence from either of them. Trustee M. Christensen feels strongly should not be any commitment from the village until some discussion take place and a MOU (Memorandum of Understanding) with the County which designates a share of bed and or sales taxes to the Village. Mayor Church stated Trustee M. Christensen and Reeve along with himself will be discussing the MOU with the County. Mayor explained this is a commitment for us to apply for a low or no interest loan on behalf of everybody. Mayors understanding the cost of the Waterfront would be shared between the County and Village. Mayor feels we need to move forward with this – Feb. 1 is the deadline for low interest loan. We can always pull the plug later on. Trustee Reeve explained since the letter was sent out we have put in many hours for this project.

**ADOPTED** Ayes 6 Church, Allison, C. Christensen, Stewart, Reeve and Winslow  
Nays M. Christensen Absent

**MOTION** by Trustee Winslow, seconded by Trustee Allison to authorize the Negative Declaration for upgrade of sewer infrastructure between Lake Street and Keuka Outlet west side of Liberty Street.

**ADOPTED** Ayes 6 Church, Allison, C. Christensen, Stewart, Reeve and Winslow  
Nays M. Christensen Absent

**MOTION** by Trustee Allison, seconded by Trustee Reeve to authorize Resolution No. 6-2013 Bond Resolution authorizing Construction, Reconstruction and replacement of sewer lines and manholes along Monell Street and Hicks Street; stating the maximum estimated cost thereof is \$1,260,000; Appropriating said amount therefor; and authorizing the issuance of up to \$1,260,000 in serial bonds of the Village to Finance the cost of said appropriation.

**BOND RESOLUTION OF THE BOARD OF TRUSTEES OF THE VILLAGE OF PENN YAN, YATES COUNTY, NEW YORK (THE "VILLAGE"), AUTHORIZING THE CONSTRUCTION, RECONSTRUCTION AND REPLACEMENT OF SEWER LINES AND MANHOLES ALONG MONELL STREET AND HICKS STREET; STATING THE MAXIMUM ESTIMATED COST THEREOF IS \$1,260,000; APPROPRIATING SAID AMOUNT THEREFOR; AND AUTHORIZING THE ISSUANCE OF UP TO \$1,260,000 IN SERIAL BONDS OF THE VILLAGE TO FINANCE THE COST OF SAID APPROPRIATION**

WHEREAS, the Board of Trustees (the "Board") the Village of Penn Yan, Yates County, New York (the "Village") proposes to authorize the issuance of \$1,260,000 in serial bonds of the Village to finance the estimated cost of improvements to the existing sanitary sewer system to service residential and commercial parcels being developed as part of the Waterfront Revitalization Project consisting of the acquisition, construction and installation of certain improvements and upgrades to the Village's sewer system, consisting of (i) the reconstruction and replacement of approximately 600 linear feet of sewer mains from Lake Street to the end of Monell Street, the installation of approximately 700 linear feet of sewer mains from the end of Monell Street to the north property line of the former Penn Yan Boat Works and the installation of a pump station to be located at this juncture; and (ii) the installation and construction of approximately 1,400 linear feet of sewer main from Lake Street to the end of Hicks Street and the installation of a second pump station to be located at the end of Hicks Street, and manholes, including, as applicable, mains, hydrants, curb stops, equipment, machinery, apparatus, appurtenances and incidental costs and expenses (collectively, the "Project"); and

WHEREAS, by Resolution 55-2012, dated November 8, 2012, the Board (i) determined that the Project constituted a "Type I" action pursuant to the provisions of the New York State Environmental Quality Review Act and the regulations promulgated thereunder (6 NYCRR Part 617.5(c)) (collectively, "SEQRA") and (ii) assumed lead agency status with respect thereto; and by Resolution 6-2013, dated January 29, 2012, adopted immediately prior to the adoption of this Bond Resolution, the Board determined that the Project will not have a significant effect on the environment and adopted a negative declaration under SEQRA to such effect; and

WHEREAS, the Board now wishes to appropriate funds for the Project and to authorize the issuance of the Village's serial bonds and bond anticipation notes to be issued to finance said appropriation.

NOW, THEREFORE, THE BOARD OF TRUSTEES OF THE VILLAGE OF PENN YAN, YATES COUNTY, NEW YORK HEREBY RESOLVES (by the affirmative vote of not less than two-thirds of all the members of such body), AS FOLLOWS:

SECTION 1. The Village is hereby authorized to undertake the Project consisting of improvements to the existing sanitary sewer system to service residential and commercial parcels being developed as part of the Waterfront Revitalization Project consisting of the acquisition, construction and installation of certain improvements and upgrades to the Village's sewer system, consisting of (i) the reconstruction and replacement of approximately 600 linear feet of sewer mains from Lake Street to the end of Monell Street, the installation of approximately 700 linear feet of sewer mains from the end of Monell Street to the north property line of the former Penn Yan Boat Works and the installation of a pump station to be located at this juncture; and (ii) the installation and construction of approximately 1,400 linear feet of sewer main from Lake Street to the end of Hicks Street and the installation of a second pump station to be located at the end of Hicks Street, and manholes, including, as applicable, mains, hydrants, curb stops, equipment, machinery, apparatus, appurtenances and incidental costs and expenses. The estimated maximum cost incidental thereto and the financing thereof, is \$1,260,000 and said amount is hereby appropriated therefor. The plan of financing includes the issuance of \$1,260,000 in serial bonds of the Village to finance said appropriation, and the levy and collection of taxes on all the taxable real property in the Village to pay the principal of said bonds and the interest thereon as the same shall become due and payable.

SECTION 2. Serial bonds of the Village in the principal amount of \$1,260,000 are hereby authorized to be issued pursuant to provisions of Local Finance Law, constituting Chapter 33-a of the Consolidated Laws of the State of New York (the "Law") to finance said appropriation.

SECTION 3. It is hereby determined that the period of probable usefulness for the aforementioned specific objects or purposes is forty (40) years, pursuant to subdivision 4. of paragraph (a) of Section 11.00 of the Law.

SECTION 4. Current funds are not required to be provided prior to the issuance of the bonds authorized by this resolution or any bond anticipation notes issued in anticipation thereof, pursuant to subdivision d.3 (l). of Section 107.00 of the Law.

SECTION 5. The temporary use of available funds of the Village, not immediately required for the purpose or purposes for which the same were borrowed, raised or otherwise created, is hereby authorized pursuant to Section 165.10 of the Law, for the capital purposes described in this resolution. The Village shall reimburse such expenditures with the proceeds of the bonds or bond anticipation notes authorized by this resolution. This resolution shall constitute a declaration of official intent to reimburse the expenditures authorized herein with the proceeds of the bonds and bond anticipation notes authorized herein, as required by United States Treasury Regulations Section 1.150-2.

SECTION 6. The final maturity of the bonds herein authorized to be issued shall be in excess of five (5) years measured from the date of issuance of the first serial bond or bond anticipation note issued pursuant to this resolution.

SECTION 7. Each of the serial bonds authorized by this resolution and any bond anticipation notes issued in anticipation of said bonds shall contain the recital of validity prescribed by Section 52.00 of the Law and said serial bonds and any bond anticipation notes issued in anticipation of said bonds shall be general obligations of the Village, payable as to both principal and interest by a general tax upon all the real property within the Village subject to applicable statutory limits, if any. The faith and credit of the Village are hereby irrevocably pledged to the punctual payment of the principal of and interest on said serial bonds and bond anticipation notes and provisions shall be made annually in the budget of the Village by appropriation for (a) the amortization and redemption of the bonds and bond anticipation notes to mature in such year and (b) the payment of interest to be due and payable in such year.

SECTION 8. Subject to the provisions of this resolution and of the Law, pursuant to the provisions of Section 30.00 relative to the authorization of the issuance of serial bonds and bond anticipation notes or the renewals of said obligations and of Sections 21.00, 50.00, 54.90, 56.00 through 60.00, 62.10 and 63.00 of the Law, the powers and duties of the Village Board relative to authorizing serial bonds and bond anticipation notes and prescribing terms, form and contents as to the sale and issuance of bonds herein authorized, including without limitation the determination of whether to issue bonds having substantially level or declining debt service and all matters related thereto, and of any bond anticipation notes issued in anticipation of said bonds, and the renewals of said bond anticipation notes, are hereby delegated to the Treasurer, as the chief fiscal officer of the Village (the "Treasurer"). Further, in connection with bonds and bond anticipation notes issued under the authority of Section 1 hereof, the power to issue and sell bonds or bond anticipation notes to the New York State Environmental Facilities Corporation pursuant to Section 169.00 of the Law is hereby delegated to the Treasurer. Such bonds or notes shall be of such terms, form and contents as may be prescribed by said Treasurer consistent with the provisions of the Local Finance Law. Further, pursuant to paragraph b. of Section 11.00 of the Law, in the event that bonds to be issued for any of the objects or purposes authorized by this resolution are combined for sale, pursuant to paragraph c. of Section 57.00 of the Law, with bonds to be issued for any of the other objects or purposes authorized by this resolution and/or with bonds to be issued for one or more objects or purposes authorized by other resolutions of the Board, then the power of the Board to determine the "weighted average period of probable usefulness" (within the meaning of paragraph a. of Section 11.00 of the Law) for such combined objects or purposes is hereby delegated to the Treasurer, as the chief fiscal officer of the Village.

**SECTION 9. *The Treasurer is hereby further authorized, at his sole discretion, to execute a project financing and loan agreement, and any other agreements with the New York State Department of Environmental Conservation and/or the New York State Environmental Facilities Corporation, including amendments thereto, and including any instruments (or amendments thereto) in the effectuation thereof, in order to effect the financing or refinancing of the specific objects or purposes described in Section 1 hereof, or a portion thereof, by a serial bond, and, or a bond anticipation note issue in the event of the sale of same to the New York State Environmental Facilities Corporation.***

SECTION 10. The Treasurer is hereby further authorized to take such actions and execute such documents as may be necessary to ensure the continued status of the interest on the bonds authorized by this resolution and any notes issued in anticipation thereof, as excludable from gross income for federal income tax purposes pursuant to Section 103 of the Internal Revenue Code of 1986, as amended (the "Code") and to designate the bonds authorized by this resolution and any notes issued in anticipation thereof, if applicable, as "qualified tax-exempt bonds" in accordance with Section 265(b)(3)(B)(i) of the Code.

SECTION 11. The Treasurer is further authorized to enter into a continuing disclosure undertaking with or for the benefit of the initial purchasers of the bonds or notes 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 intent of this resolution is to give the Treasurer sufficient authority to execute those applications, agreements and instruments, or to do any similar acts necessary to effect the issuance of the aforesaid serial bonds or bond anticipation notes without resorting to further action of the Board.

SECTION 13. In accordance with Section 36.00 of the Law, this resolution is subject to a permissive referendum in the manner prescribed by Article Nine of the Village Law of the State of New York (the "Village Law"). The Village Clerk is authorized and directed, within ten (10) days after the date of adoption of this resolution by the Board of Trustees, to post and publish a notice with respect to this resolution satisfying the requirements of Section 9-900 of the Village Law, which shall set forth the date of adoption of this resolution, shall contain an abstract hereof, and shall specify that this resolution was adopted subject to a permissive referendum. Such notice shall be published in the official newspaper of the Village for such purposes.

SECTION 14. In accordance with the Village Law, this resolution will take effect thirty (30) days after the date of its adoption, unless prior to the close of such thirty-day period there is filed with the Village Clerk a petition, subscribed and acknowledged by at least twenty percent (20%) of the qualified electors of the Village, as shown on the Village's register of electors for the last general Village election, protesting against this resolution and requesting that it be submitted for approval or disapproval by the qualified electors of the Village. If such a qualifying petition is filed, a proposition for approval of this resolution shall be submitted at a special election held not less than ten (10) and not more than sixty (60) days after the filing of such petition. As soon as reasonably possible after the date that this resolution takes effect, the Village Clerk is hereby authorized and directed to cause a copy of this resolution, or a summary thereof, to be published in full in the official newspaper of the Village for such purposes, together with a notice of the Village Clerk in substantially the form provided in Section 81.00 of the Law.

SECTION 15. The validity of the bonds authorized by this resolution and of any bond anticipation notes issued in anticipation of said bonds may be contested only if:

(a) such obligations are authorized for an object or purpose for which the Village is not authorized to expend money; or

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

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

(c) such obligations are authorized in violation of the provisions of the constitution

**ADOPTED** Ayes 6 Church, Allison, C. Christensen, Stewart, Reeve and Winslow  
Nays M. Christensen Absent

**MOTION** by Trustee Reeve, seconded by Trustee Stewart to authorize Mayor Church signs the Exhibit F-2 documents for Penn Yan Restore III – Downtown Revitalization Project.

**ADOPTED** Ayes 7 Church, Allison, C. Christensen, M. Christensen, Stewart, Reeve and Winslow  
Nays 0 Absent

**MOTION** by Trustee Reeve, seconded by Trustee Winslow to accept the Village Tree Planting project bid from Mary Ellen Hamm at a cost of \$24,988.

**ADOPTED** Ayes 7 Church, Allison, C. Christensen, M. Christensen, Stewart, Reeve and Winslow  
Nays 0 Absent

**MOTION** by Trustee Winslow, seconded by Trustee Stewart to un-table the Motion and to authorize Mayor Church signs the MOU (Memorandum of Understanding) between the Yates County Legislature and Village of Penn Yan for Jan. 1, 2013 – Dec. 31, 2013 for the \$10,260.00.

**DISCUSSION:** Mayor Church explained in 1981 we received the first money from the County in the amount of \$10,800 for lifeguards and this is the first time it has dropped , the new amount is \$10, 260. 00 a difference of \$540.00.

**ADOPTED** Ayes 7 Church, Allison, C. Christensen, M. Christensen, Stewart, Reeve and Winslow  
Nays 0 Absent

**ADJOURNMENT:**

At 8:50 AM, **MOTION** by Trustee Allison, seconded by Trustee Reeve to adjourn the Special Village Board meeting

**ADOPTED** Ayes 7 Church, Allison, C. Christensen, M. Christensen, Reeve, Stewart and Winslow  
Nays 0 Absent:

