

MINUTES of a Special Meeting of the Village Board of Trustees held Tuesday, April 30, 2013 at 5:00PM Village Hall, 111 Elm Street, Room 202, Penn Yan, NY 14527

PRESENT: Trustees W. Allison; Trustees C. Christensen; M. Christensen; D. Reeve; R. Stewart; Trustee B. Winslow; Attorney Ed Brockman; Clerk/Treasurer G. Meeks

ABSENT: Mayor R. Church; Director of Public Works B. Bodine; Assistant Director of Public Works B. Jensen; Chief Hulse; CEO B. Lyon; Fire Chief J House

News Media present: Gwen Chamberlain, Chronicle Express

PUBLIC: None

Deputy Mayor Allison called the Special Village Board meeting to order at 5:03PM

At 5:03PM **MOTION** by Winslow, seconded by Trustee M. Christensen to open the Public Hearing for the 2013-2014 Municipal Budget.

ADOPTED Ayes 6 Allison, C. Christensen, M. Christensen, Reeve, Stewart, and Winslow

Nays Absent Mayor Church

Trustee M. Christensen stated we need a share of the sales and occupancy tax revenue the county receives. What is the benefit to live in the village and pay higher property taxes, water and sewer. He mentioned the waterfront project will benefit the local economy but no financial benefits for the Village taxpayers. Trustee M. Christensen stated he will no longer vote in favor of Village action that have anything to do with the progress on the waterfront project, until serious talks about sharing sales and occupancy tax revenue. He feels the county needs to give taxpayers and utility rate payers an incentive to support the project regarding improvements to expand the village infrastructure water, sewer, streets etc. Trustee Winslow feels this is one time that someone besides the village taxpayers step up and paid their share. Trustee Allison thinks the County should be pressured into some kind of commitment for a share of the occupancy and sales tax revenues. No decision was made after a lengthy discussion.

At 5:13 PM **MOTION** by Trustee Winslow, seconded by Trustee C. Christensen to close the Public Hearing.

ADOPTED Ayes 6 Allison, C. Christensen, M. Christensen, Reeve, Stewart, and Winslow

Nays Absent Mayor Church

MOTION by Trustee M. Christensen, seconded by Trustee C. Christensen to adopt and establish the Electric Budget for 2013-2014.

ADOPTED Ayes 6 Allison, C. Christensen, M. Christensen, Stewart, Reeve and Winslow

Nays 0 Absent Mayor Church

MOTION by Trustee Stewart, seconded by Trustee Winslow to adopt and establish the Water Budget for 2013-2014.

ADOPTED Ayes 6 Allison, C. Christensen, M. Christensen, Stewart, Reeve and Winslow

Nays 0 Absent Mayor Church

MOTION by Trustee Winslow, seconded by Trustee C. Christensen to adopt and establish the Sewer Budget for 2013-2014.

ADOPTED Ayes 6 Allison, C. Christensen, M. Christensen, Stewart, Reeve and Winslow

Nays 0 Absent Mayor Church

MOTION by Trustee M. Christensen, seconded by Trustee Reeve to authorize a Public Hearing for Tuesday May 21, 2013 at 6:00PM to discuss water and sewer rates.

ADOPTED Ayes 6 Allison, C. Christensen, M. Christensen, Stewart, Reeve and Winslow

Nays 0 Absent Mayor Church

MOTION by Trustee C. Christensen, seconded by Trustee M. Christensen to authorize Resolution No 35-2013 Budget Adoption for 2013-2014.

WHEREAS, the Board of Trustees of the Village of Penn Yan has met at the time and place specified in the Notice of Public Hearing (Tuesday, April 16, 2013 in the Village Hall at 6:00PM for Village and Tuesday, April 30, 2013 in the Village Hall at 5:00PM for Municipal Utilities) for the preliminary Budgets and heard all persons desiring to be heard thereon: now,

THEREFORE, BE IT RESOLVED, that the preliminary Budgets as amended and revised and as hereinafter set forth is hereby adopted and that several amounts stated in the column titled "Tentative or Adopted" is hereby appropriated for the objects and purposes specified and the salaries and wages stated in such budgets shall be and are hereby fixed at the amounts shown therein effective June 1, 2013.

ADOPTED Ayes 6 Allison, C. Christensen, M. Christensen, Stewart, Reeve and Winslow

Nays 0 Absent Mayor Church

MOTION by Trustee Reeve, seconded by Trustee Winslow to authorize Resolution No 36 - 2013 adopting amendment to Bond Resolution No 31-2012. Authorizing the Reconstruction of and Resurfacing of various roads throughout the Village.

SUPERSEDING BOND RESOLUTION OF THE BOARD OF TRUSTEES OF THE VILLAGE OF PENN YAN, YATES COUNTY, NEW YORK (THE "VILLAGE"), AUTHORIZING THE RECONSTRUCTION OF AND RESURFACING OF VARIOUS ROADS THROUGHOUT THE VILLAGE; STATING THE MAXIMUM ESTIMATED COST THEREOF; APPROPRIATING AMOUNTS THEREFOR; AND AUTHORIZING THE ISSUANCE OF UP TO \$359,000 IN SERIAL BONDS OF THE VILLAGE TO FINANCE SAID APPROPRIATION

WHEREAS, the Board of Trustees (the "Board") of the Village of Penn Yan (the "Village"), by bond resolution duly adopted by on June 19, 2012 (the "Original Bond Resolution"), previously authorized the issuance of serial bonds for various objects or purposes, including the undertaking of, among other things, the reconstruction and resurfacing of various roads throughout the Village, including the construction or reconstruction sidewalks, curbs, gutters, storm water collection facilities and other drainage improvements, landscaping, grading, and other related and incidental expenses (the "Project"), and determined that the period of probable usefulness for each said object or purpose would be limited to a period of five (5) years or less; and

WHEREAS, the Board, by action taken on June 19, 2012, determined that the Project will not have a significant impact on the environment and issued a negative declaration within the meaning of the New York State Environmental Quality Review Act and the regulations promulgated thereunder ("SEQRA"); and

WHEREAS, the Board now wishes to supersede the Original Bond Resolution to the extent that it applies to the Project, pursuant to the terms of this resolution so as to (i) revise the total estimated cost of the Project to \$558,000, (ii) decrease the maximum principal amount of serial bonds authorized thereunder from \$375,000 to \$359,000, (iii) restate the plan of financing for the Project, (iv) determine that the period of probable usefulness for the Project will be increased from five (5) years or less to fifteen (15) years, and (v) determine that the maximum term of the bonds authorized to be issued for the Project will be in excess of five (5) years and thereby subjecting this resolution to a permissive referendum; and

WHEREAS, the Board of Trustees of the Village now wishes to appropriate funds for such object or purpose and to authorize the issuance of the Village's serial bonds or bond anticipation notes 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), TO AMEND AND SUPERSEDE THE ORIGINAL BOND RESOLUTION BUT SOLELY WITH RESPECT TO THE SERIAL BONDS AUTHORIZED IN SECTION 3 THEREUNDER, AS FOLLOWS:

SECTION 1. The Village is hereby authorized to undertake the reconstruction and resurfacing of various roads throughout the Village, including the construction or reconstruction sidewalks, curbs, gutters, storm water collection facilities and other drainage improvements, landscaping, grading, and other related and incidental expenses and to issue up to \$359,000 principal amount of serial bonds (including, without limitation, statutory installment bonds) pursuant to the provisions of the Local Finance Law, constituting Chapter 33-a of the Consolidated Laws of the State of New York (the "Law") to finance the estimated cost thereof. It is hereby determined that the maximum estimated cost of the aforementioned specific object or purpose is \$558,000, said amount is hereby appropriated therefor and the plan for the financing thereof shall consist of (i) the issuance of the \$359,000 in serial bonds of the Village authorized to be issued pursuant to this resolution or bond anticipation notes issued in anticipation of such bonds, (ii) the expenditure of \$176,280.59 in grant monies to be received by the Village from the New York State CHIPS program, (iii) the application of \$22,719.41 in current funds of the Village, and (iv) unless paid from other sources, the levy and collection of taxes on all taxable real property of the Village to pay the principal of such bonds or notes and the interest thereon as the same become due and payable.

SECTION 2. It is hereby determined that the period of probable usefulness for the aforementioned specific objects or purposes is fifteen (15) years, pursuant to subdivision a.20(c) of Section 11.00 of the Law.

SECTION 3. 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. This resolution shall constitute a declaration of "official intent" to reimburse the expenditures as part of the projects described herein with the proceeds of the bonds and bond anticipation notes authorized herein, as required by United States Treasury Regulation Section 1.150-2.

SECTION 4. 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 5. 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 without legal or constitutional limitation as to rate or amount. The faith and credit of the Village are hereby irrevocably pledged to the punctual payment of the principal 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 6. 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 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 Board of Trustees relative to authorizing bond anticipation notes and prescribing the 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 Village Treasurer, the chief fiscal officer of the Village (the "Village Treasurer"). Further, pursuant to subdivision b. of Section 11.00 of the Law, in the event that bonds to be issued for one or more of the objects or purposes authorized by this resolution are combined for sale, pursuant to subdivision c. of Section 57.00 of the Law, with bonds to be issued for one or more objects or purposes authorized by other resolutions of the Board of Trustees, then the power of the Board of Trustees to determine the "weighted average period of probable usefulness" (within the meaning of subdivision a. of Section 11.00 of the Law) for such combined objects or purposes is hereby delegated to the Village Treasurer, as the chief fiscal officer of the Village.

SECTION 7. The Village 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 obligations" in accordance with Section 265(b)(3)(B)(i) of the Code.

SECTION 8. The Village Treasurer is further authorized to enter into continuing disclosure undertakings with or for the benefit of the initial purchaser 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 9. The intent of this resolution is to give the Village Treasurer sufficient authority to execute those applications, agreements, 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 this Board of Trustees.

SECTION 10. The Original Bond Resolution is hereby amended and superseded by this resolution but only to the extent that the Original Bond Resolution pertains to the serial bonds authorized in Section 3 thereof and any bond anticipation notes to be issued in anticipation thereof. Except as so superseded, all of the terms and provisions of the Original Bond Resolution shall remain in full force and effect and are hereby ratified and confirmed.

SECTION 11. 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 12. 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 13. 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 Allison, C. Christensen, M. Christensen, Stewart, Reeve and Winslow

Nays 0 Absent Mayor Church

ADJOURNMENT:

At 5:33PM, **MOTION** by M. Christensen, seconded by Trustee Stewart to adjourn the Special Village Board meeting

ADOPTED Ayes 6 Allison, C. Christensen, M. Christensen, Stewart, Reeve and Winslow

Nays 0 Absent Mayor Church

At 5:33PM **MOTION** by Trustee Winslow, seconded by Trustee C. Christensen to reopen the Special Village Board meeting

Deputy Mayor Allison explained we need a roll call vote for Resolution No 36-2013.

MOTION by M. Christensen, seconded by Trustee C. Christensen to authorize Resolution No 36 - 2013. Authorizing the Reconstruction of and Resurfacing of Various Roads throughout the Village.

Roll call vote:

Mayor Church	Absent	
Deputy Mayor Allison	Aye	
Trustee Stewart	Aye	
Trustee Winslow	Aye	
Trustee C. Christensen	Aye	
Trustee M. Christensen	Aye	
Trustee Reeve	Aye	Adopted

At 5:34PM **MOTION** by Trustee M. Christensen, seconded by Trustee Reeve to adjourn the Special Village Board meeting.

ADOPTED Ayes 6 Allison, C. Christensen, M. Christensen, Stewart, Reeve and Winslow

Nays 0 Absent Mayor Church

Mary Ann Martin, Deputy Clerk