

**MINUTES** of a Special Meeting of the Village Board of Trustees held Wednesday, April 29, 2015 at 8:00AM Village Hall, 111 Elm Street, Room 202, Penn Yan, NY 14527

**PRESENT:** Mayor L MacKerchar; Trustees; C. Benedict; C. Christensen; B. Church; D. Reeve; R. Stewart; Attorney Ed Brockman; Clerk/Treasurer G. Meeks; Assistant Director of Public Works B. Jensen

**ABSENT:** Trustee W. Allison; Police Chief M. Hulse; Director of Public Works B. Bodine; CEO B. Lyon; Fire Chief M. Clancy

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

**PUBLIC:** Chris Iversen, Atty. Kevin McAuliffe

Mayor MacKerchar called the Special Village Board meeting to order at 8:00 AM

Mayor MacKerchar explained this meeting is regarding special legislation dealing with a small piece of property by the Penn Yan Boat site. This area has been off the tax roll for 10 years and the past 3 years an effort has been made to get a development over there and back on the tax roll. Chris Iversen has entered into an agreement with the County and the Village. Everything is working towards the benefit of the community. There is a small piece of property adjacent to the Penn Yan Marine site which is part of land conveyed to the Village by the Seneca Grape Juice Company prior to 1972. The land was part of the New York Central Railroad right of way which ran out to the end of Outlet. The piece in question is about 200 feet long and 20 feet wide and is northerly of Firemen's Field. The land in question was not part of the conveyance in 1972 to Penn Yan Boat pursuant to the special Legislation for conveyance of park land to Penn Yan Boat. The land in question is located where the anticipated Waterfront Pathway will be located.

A land survey has resulted in a description of the land in question as well as the land included in the 1972 transfer. The total acreage for the land, including the Seneca Grape Juice parcel, is 1.329 acres. The land transferred in 1972, without the Seneca Grape Juice parcel, was thought to be 1.4 acres, which was incorrect. The recent survey also established that the original description of the land transferred in 1972 was defective.

Accordingly, the Village should seek to have the 1972 legislation amended to include the ability to transfer the portion of the Seneca Grape Juice Parcel northerly of a straight line extension to the west of the southerly line of Hicks Street.

Atty. Kevin McAuliffe from Hiscock & Barclay, LLC has been working with Mr. Iversen regarding this small parcel of land. Atty. McAuliffe explained we now have it identified and need to correct the 1972 Legislation; he has new legal legislation and needs to submit it to the NYS Legislation along with a request to correct the 1972 legislation.

Trustee Stewart questioned what if the State does not approve this. Trustee Reeve mentioned the amount of land and it's a benefit to the public it's hard to image that it won't be approved.

**MOTION** by Trustee Reeve, seconded by Trustee Benedict to authorize Resolution No 41-2015 Authorizing the submission of a home rule request to the New York State Legislature correcting the 1972 Legislation and authorizing the Village to transfer certain property to Keuka Outlet Development LLC in connection with Waterfront Revitalization/Redevelopment project.

**WHEREAS**, pursuant to prior Village of Penn Yan resolutions, the Village of Penn Yan (the "Village"), together with the County of Yates (the "County") and Keuka Outlet Development LLC ("Keuka"), entered into that certain Development Agreement dated as of February 26, 2014 (the "Development Agreement") governing the terms and conditions of the redevelopment of the former Penn Yan Marine site on the east bank of the Keuka Outlet (the "Property"), which Development Agreement has since been amended by the parties thereto, but which such amendment is not relevant for purposes of this resolution; and

**WHEREAS**, in furtherance of their obligations under the Development Agreement, the County and Keuka have entered into a Brownfield Clean-up Agreement with the New York State Department of Environmental Conservation ("DEC") and the Property has been accepted into the DEC's Brownfield Clean-Up Program, and

**WHEREAS**, the other conditions precedent contained in the Development Agreement which were to be completed prior to the conveyance of title to the Property from the County to the Village have been fulfilled or waived, the County has resolved to convey the Property to the Village and the Village is prepared to accept title to the Property from the County; and

**WHEREAS**, in 1972, the NYS Legislature authorized the transfer of certain lands at Chapter 353 page 783 to the former owner of the Property, Penn Yan Boats, Inc. and their discontinuance as parkland, in exchange for other parcels of land; and

**WHEREAS**, it has been determined in the course of the examination of title, that the legal description of the lands included in the 1972 legislation erroneously left out a portion of the lands to be

conveyed to the Penn Yan Boats, Inc. (the "Boat Company"), and that such lands are still titled in the Village even though the lands were used and occupied by the Boat Company and its successors in title, at all times after the 1972 land transfers; and

**WHEREAS**, the Village has not occupied, claimed title to, improved, or exercised control over the lands which are the subject hereof since at least 1972; and

**WHEREAS**, the Village is prepared to convey by deed to Keuka the entire Property, including the lands which were inadvertently omitted from the 1972 transfers, upon the receipt of approval of the NYS Legislature and pursuant to the terms of the Development Agreement and Keuka has informed the Village that it is prepared to close on the transfer of title, undertake its obligations under the Brownfield Clean-up Agreement and move forward with the balance of its obligations under the Development Agreement, but the property conveyed must include the missing lands; and

**WHEREAS**, the land inadvertently omitted from the 1972 transfer consists of less than one-half (1/2) acre and the lands received by the Village of Penn Yan from the Boat Company in 1972 more than compensate for the subject parcel of less than one-half (1/2) acre.

**NOW THEREFORE BE IT RESOLVED:**

That the Village shall file with the New York State Legislature a Home Rule Request pursuant to Article IX of the New York State Constitution, in a form satisfactory to the Village Attorney, which request is to correct the legal description of the lands included in the 1972 legislation (Chapter 353) utilizing the legal description of the two parcels attached hereto and authorizing the Village to convey title utilizing the corrected legal descriptions, to Keuka Outlet Development LLC; and be it further resolved

That, upon the receipt of approval from the NYS Legislature, the Village shall convey the property by deed to Keuka, subject to the terms of the Development Agreement, the Property including the lands inadvertently omitted in the 1972 transfer, that the form of the transfer instruments shall be approved by the Village Attorney, and that the Mayor is authorized to execute the deed and the ancillary documentation necessary for the recordation of the deed in the Yates County Clerk's Office.

Mayor MacKerchar asked for a roll call vote

Mayor MacKerchar	Aye	Trustee Church	Aye	
Trustee Allison	Absent	Trustee Christensen	Aye	
Trustee Stewart	Aye	Trustee Reeve	Aye	<b>Adopted</b>
Trustee Benedict	Aye			

Trustee Church explained considering further delays in the expected closing date on the former Penn Yan Marine site with Yates County, Keuka Outlet Development, and the Village, and the desire to continue with necessary investments in the Waterfront revitalization project;

**MOTION** by Trustee Church, seconded by Trustee Benedict to authorizing Clerk/Treasurer Meeks to proceed with previously, authorized borrowing for water/trail (\$703,825.00) and sewer (\$1,260,000.00)

**ADOPTED** Ayes 6 MacKerchar, Benedict, Christensen, Church, Reeve, Stewart  
Nays 0 Abstain 0 Absent Allison

Mayor MacKerchar excused Atty. Brockman at 8:10AM from the meeting.

Mayor MacKerchar reminded everyone that next month it has been a year since the flood that hit Penn Yan and the surrounded areas. We have a Proclamation for May 14 declaring it PY STRONG DAY. Mayor read the Proclamation in full to the Board members.

**MOTION** by Trustee Benedict, seconded by Trustee Reeve, to authorize the Mayor signs the Proclamation for PY STRONG for May 14, 2015.

**WHEREAS**, May 14, 2015 marks the first anniversary of the devastating flood that hit parts of Penn Yan and surrounding Yates County on May 14, 2014; and

**Whereas**, The Village and surrounding areas of Yates County including many residents and local business were affected during the overnight flooding of creeks and streams thereby causing residents and businesses to suffer millions of dollars in damage, some even being forced to close and to move; and

**Whereas**, The Penn Yan Village Board of Trustees of the Village of Penn Yan wishes to acknowledge and appreciate the hard work and support from so many members of our local community, including church groups, local and college students, outside municipalities and many agencies, and individuals that gave countless hours to help clean up and rebuild the Community.

**Now, therefore be it resolved**, That, I Leigh MacKerchar, Mayor of the Village of Penn Yan do hereby designate Thursday, May 14, 2015 as

**“PY Strong Day”**

In the Village of Penn Yan. Dated and signed by the Mayor of the Village of Penn Yan on this 22nd day of April, 2015

**ADOPTED** Ayes 6 MacKerchar, Benedict, Christensen, Church, Reeve, Stewart  
Nays 0 Abstain 0 Absent Allison

Trustee Stewart mentioned the Parks & Rec. Committee have two new play grounds they will be installing in the Village. We are asking for volunteers to help out on May 8 & 9. One will be located at the boat launch and the second one at the Elm Street sport complex, near the little league fields. Trustee Reeve mentioned this is from a grant from the Outlet Trail.

Trustee Reeve mentioned, Cliff Orr Chairman of Planning Board with Brent and himself reviewed the Comp. Plan about public grounds on parking areas. We have questions about the Historic Arch way that was uncovered by the flood near Basin Street. We are getting a quote to do an illustration of what the parking lot would look like with some of the guide lines from the Comp. Plan and will share both illustrations, one with the arch way and one without the archway.

**ADJOURNMENT:**

At 8:15 AM, MOTION by Trustee Church, seconded by Trustee Reeve to adjourn the Special Village Board meeting

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Mary Ann Martin, Deputy Clerk