

REGULAR MEETING-BOARD OF TRUSTEES-SEPTEMBER 16, 2008-7:30 P.M.

PRESENT: ERNEST W. MARTIN, MAYOR; TRUSTEES – JOHN BASILE, KENNETH BAKER, RAYMOND WALKER ABSENT: JOHN MURPHY

ALSO PRESENT: ATTORNEY, JAMES PELUSO; FIRE CHIEF, SHANE MAHAR; ZBA CHAIRMAN WAYNE SIMMONS, SUPT. OF PUBLIC WORKS, ROBERT GERASIA; BUILDING CODE OFFICER, LYNN GOMAN

SPECIAL GUESTS: JAY VANVRANKEN AND DAVID RATHBUN

Mayor Martin called the meeting to order at 7:00 P.M. and led the pledge to the flag.

Mr. VanVranken and Mr. Rathbun present to discuss concerns about sump pump water discharging onto the street. They had considered pumping to the front of the building but the water table is too high so the only alternative is to run a line down the north side to the storm drain on Hudson Ave. Supt. Gerasia has not inspected the situation but the Mayor will send him on Monday to see if he can assist.

CORRESPONDENCE

Mayor advised he received correspondence from DOH regarding violation.

BUILDING CODE OFFICER – Lynn Goman

Mayor read written report submitted by Mr. Goman, copy on file

FIRE CHIEF – Shane Mahar

Chief Mahar distributed his monthly report (copy on file), explained the events surrounding the recent injury that was reported to Saratoga County Self Insurance, and advised the Board that Wayne Potter has resigned.

MOTION to accept the resignation of Wayne Potter made by Trustee Walker, seconded by Trustee Baker

Motion carried 3-0

Chief Mahar updated the Board on recent inspections, received a second opinion on 59-3 and there is no plan to fix it until next year. A meeting was held regarding preliminary plans for housing the steamer. A rough sketch is done and clearing will take place behind the DPW garage and footers and a slab will be poured by the end of October. The annual door to door fund drive will take place from October 5 through October 11. The School Superintendent would like to hold a full scale fire drill with the Dept. and Chief Mahar will be planning it.

Trustee Walker questioned the Village's liability for the recent injury and requested the Chief reinforce the need for volunteers to be responsible and cautious.

ZBA CHAIRMAN - Wayne Simmons

Mr. Simmons distributed a written report (copy on file) and reviewed what has taken place at the recent ZBA workshops. Trustee Walker commented on the outstanding support from Saratoga County.

Trustee Murphy arrived at 7:25 pm.

SUPT. OF PUBLIC WORKS – Robert Gerasia – absent

No report

COMMITTEE REPORTS

Trustee John Basile – distributed a written report and reviewed the latest consent order actions. Saratoga Co. was scheduled to review the Village's request but has not done so. Financing and bonding remains unresolved. The Backwash project has been suspended and all bidders were notified of rejection.

Trustee Raymond Walker – no report, has a couple of items from Frank Russell but hasn't taken action yet.

Trustee Ken Baker – Supt. is on vacation; Paul O'Kosky is reading meters this week.

Trustee John Murphy – a meeting took place with Alec Mackey regarding water

CLERK-TREASURER - Margo L. Partak

A decision needs to be made on the Collateral Source Bill. Trustee Basile stated he thought the attorney objected but Mr. Peluso advised the bill is in the best interest of the Village and gave a brief overview of what it would mean.

MOTION to adopt the Collateral Source Bill made by Trustee Murphy, seconded by Trustee Walker

RESOLUTION
VILLAGE OF STILLWATER
BOARD OF TRUSTEES

WHEREAS, a jury award to a winning plaintiff in a negligence action is generally reduced by any payments received by the plaintiff from other sources such as insurance, and

WHEREAS, NY State Law currently does not permit a municipal employer to avail itself of the statutory offset, and

WHEREAS, as a result of this statutory exception to the general rule, municipal employees can obtain jury awards that exceed damages because the award is not reduced by the money received by the plaintiff from collateral sources; and

WHEREAS, a bill denominated as S.4164/A.2989, pending in the New York State Legislature, would end the special exception that enables plaintiffs to obtain excessive awards, and

WHEREAS, the Village Board of the Village of Stillwater considers this legislation to be both necessary and appropriate; now therefore be it

RESOLVED, that the Village Board of the Village of Stillwater hereby urges the Legislature and Governor to take the action necessary to enact S.4164/A.2989; and be it further

RESOLVED, that the Village Clerk is hereby directed to transmit a certified copy of this resolution to the Governor; Honorable Dean G. Skelos; Honorable Sheldon Silver; Assemblyman Roy J. McDonald

Resolution moved by Trustee Murphy, seconded by Trustee Walker

Trustee Baker - Aye
Trustee Murphy - Aye
Mayor Martin – Aye

Trustee Basile – Aye
Trustee Walker – Aye

Motion carried 5-0

Documentation has been received regarding the Mueller property; it is actively being farmed and is therefore eligible for the Agricultural Exemption

MOTION authorizing the Clerk Treasurer to issue a refund in the amount of \$96.63 made by Trustee Basile, seconded by Trustee Murphy
Motion carried 4-0

The Force Main Ban is up for renewal, the rate is 3.25% and the balance is \$110,000. \$20,000. will be paid, \$90,000. will be renewed

BOND ANTICIPATION RENEWAL NOTE RESOLUTION

AUTHORIZING THE RENEWAL OF A BOND ANTICIPATION NOTE ISSUED ON THE 18th DAY OF SEPTEMBER 2007 IN THE AMOUNT OF \$110,000, IN ANTICIPATION OF THE SALE OF SERIAL BONDS AUTHORIZED TO FINANCE THE SPLITTING OF THE SANITARY FORCE MAIN ALONG HUDSON AVENUE,

**THE BOARD OF TRUSTEES
VILLAGE OF STILLWATER
COUNTY OF SARATOGA
STATE OF NEW YORK**

ADOPTED SEPTEMBER 16, 2008

BE IT RESOLVED, by the Village Board of the Village of Stillwater, in the County of Saratoga, as follows:

WHEREAS, this Board has on September 12, 2005, adopted a resolution authorizing the issuance and sale of bonds in the amount of One-Hundred Thousand Dollars (\$100,000) for the purpose of financing the splitting of the sanitary force main along Hudson Avenue, and

WHEREAS, said Board did on November 30, 2005 further adopt a Resolution authorizing the issuance of a Bond Anticipation Note in the amount of Fifty Thousand Dollars (\$50,000) for the purpose of financing the splitting of the sanitary force main along Hudson Avenue; and

WHEREAS, pursuant to said Resolutions a Bond Anticipation Note in the amount of \$100,000 was issued on September 13, 2005 to Ballston Spa National Bank, and a Bond Anticipation Note in the amount of \$50,000 was issued on December 5, 2005 to Ballston Spa National Bank, and

WHEREAS, pursuant to a Resolution dated September 19, 2006, said Bond Anticipation Notes were renewed in the consolidated sum of \$130,000 due and payable on September 16, 2007, and

WHEREAS, pursuant to a Resolution dated September 18, 2007, said Bond Anticipation Notes were renewed in the sum of \$110,000.00 due and payable on September 20, 2008;

NOW THEREFORE, BE IT RESOLVED, by the Village Board as follows:

1. The Village Board of the Village of Stillwater duly authorize the renewal of the September 18, 2007 Bond Anticipation Note in the principal sum of Ninety Thousand Dollars (\$90,000). Said Bond Anticipation Note as renewed, shall be due and payable on September 20, 2009 in said principal amount, together with accrued interest at a rate of % per annum. Said note shall be executed in the name of this Village by its Mayor, as Chief Fiscal Officer, his corporate seal shall be affixed thereto, and it shall be attested thereto by the Clerk.
2. The specific object or purpose to be financed pursuant to this Resolution is the aforementioned sanitary force main project along Hudson Avenue.
3. As required by the Local Finance Law of the State of New York, it is hereby stated that (a) there is now outstanding a Bond Anticipation Note issued on September 16, 2007 in the amount of One-Hundred Ten Thousand Dollars (\$110,000), which said Note is due and payable on September 20, 2008; (b) the Note authorized by this Resolution is a renewal note, and (c) the Note authorized by this Resolution shall mature within one (1) year from the date of its issue, and (d) such Note is issued in anticipation of bonds.
4. Said Note shall be in the same form and contain the same terms and conditions as the original Bond Anticipation Notes, except that the interest rate in this Bond anticipation Note shall be % per annum.
5. The Note hereby authorized is hereby designated a “qualified tax exempt obligation” pursuant to Section 265(b)(3)(B) of the Internal Revenue Code of 1986, as amended (the “Code”). The Village reasonably anticipates and hereby agrees that it will not issue tax-exempt obligations in excess of \$10 million during the calendar year 2008. The Village further certifies that the sum of the principal

amount of this Note and the principal amount of any other tax-exempt obligations heretofore issued by the Village during 2008 for the purpose of Section 265(b)(3)(C) of the Code does not exceed \$10 million.

6. Appropriate documents shall be executed to prevent application of the arbitrage provisions of the Internal Revenue code to said Note, and the Note shall contain provisions required by Ballston Spa National Bank to assure continued exemption of the interest on the Note from Federal and State income taxes, and in particular, said Village does hereby agree to comply with the requirements for continued tax exemption of such interest as are set forth in the Code.
7. In the event that for any reason, other than through fault of Ballston Spa National Bank, the interest on said note becomes taxable, then upon request of Ballston Spa National Bank, said Village shall redeem said Note.
8. Said Note is not issued in anticipation of bonds for an assessable improvement.
9. This Resolution shall take effect immediately.

Resolution passed 4-0

Five year BAN rate for the new truck is 3.75%, the truck cost \$57,177.62. borrowing \$50,000.

Bond Resolution Dated September 16, 2008

A Resolution Authorizing the purchase of a new 2008 Dodge one-ton dump truck authorizing the Issuance of Serial Bonds of the Village of Stillwater, Saratoga County, New York in an Aggregate Principal Amount Not to Exceed \$50,000 Pursuant to the Local Finance Law to Finance Said Purpose and Delegating the Power to Issue Bond Anticipation Notes in Anticipation of the Sale of Such Bonds to the Village Treasurer.

BE IT RESOLVED, by the Board of Trustees of the Village of Stillwater, Saratoga County, New York (the "Village") (by favorable vote of not less than two-thirds – in other words, not less than four – of all the members of the Board) as follows:

Section 1. The specific object or purpose (herein referred to as "purpose") to be financed pursuant to this resolution is the purchase of a new 2008 one-ton Dodge dump truck. The estimated maximum cost of said purpose is \$50,000.

Section 2. The Board of Trustees plans to finance the total cost of said purpose by the issuance of serial bonds of the Village in an amount not to exceed \$50,000, hereby authorized to be issued therefore pursuant to the Local Finance Law.

Section 3. It is hereby determined that said purpose is an object or purpose described in subdivision 1. of paragraph (a) of Section 11.00 of the Local Finance Law, and that the period of probable usefulness of said purpose is 10 years.

Section 4. It is hereby determined that the proposed maturity of the obligations authorized by this resolution will be in excess of five years.

Section 5. Current funds are not required to be provided prior to the issuance of the bonds authorized by this resolution or any notes issued in anticipation of such bonds by virtue of paragraph 9 of subsection d. of Section 107.00 of the Local Finance Law, with respect to all objects and purposes authorized to be financed hereby.

Section 6. The faith and credit of said Village are hereby irrevocably pledged for the payment of the principal of and interest on such bonds as the same respectively become due and payable. An annual appropriation shall be made in each year sufficient to pay the principal of and interest on such bonds becoming due and payable in such year. There shall annually be levied on all the taxable real property of said Village a tax sufficient to pay the principal of and interest on such bonds as the same become due and payable.

Section 7. Subject to the terms and contents of this resolution and the Local Finance Law, and pursuant to the provisions of Sections 30.00, 50.00, and 56.00, of said Law, the power to authorized bond anticipation notes in anticipation of the issuance of the serial bonds authorized by this resolutions and the renewals of said notes and the power to prescribe the terms, form and content, and the manner of execution of the same, of said serial bonds, and said bond anticipation notes, including the consolidation with other issues, and also the availability to issue bonds with substantially level or declining annual debt service, and the power to sell and deliver said serial bonds and any bond anticipation notes issued in anticipation of the issuance of such bonds, is hereby delegated to the Village Mayor, the Chief Fiscal Officer of the Village.

Such bonds and bond anticipation notes shall contain substantially the recital of validity clause provided for in Section 52.00 of the Local Finance Law, and shall otherwise be in such form and contain such recitals, in addition to those required by Section 51.00 of the Local Finance Law, as the Village Mayor shall determine consistent with the provisions of the Local Finance Law.

Section 8. The Village Mayor is 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 nay notes issued in anticipation thereof, as “qualified tax-exempt obligations” in accordance with Section 265(b)(3) of the Code.

Section 9. Pending the sale of bonds herein authorized, the temporary use of funds from the Village’s general fund, pursuant to the provisions of Section 165.10 of the New York Local Finance Law, is hereby authorized. The Village reasonable expects to reimburse itself from the proceeds of bonds or notes herein authorized for expenditures made for the purpose to be financed by this resolution prior to the issuance of such bonds or notes, and this resolution is intended to constitute a declaration of official intent to reimburse for the purposes of U.S. Treasury § 1.150-2.

Section 10. The validity of said serial bonds or of any bond anticipation notes issued in anticipation of the sale of said serial bonds may be contested only if:

- (1) Such obligations are authorized for an object or purpose for which said Village is not authorized to expend money, or
- (2) The Provisions of law which should be complied with at the date of the publication of this resolution are not substantially complied with, and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publication, or
- (3) Such obligations are authorized in violation of the provisions of the Constitution of New York.

Section 11. This resolution shall take effect immediately upon its adoption.

The adoption of the foregoing resolution was duly put to a vote on roll call, which resulted as follows:

Mayor Ernest Martin	Aye
Trustee Kenneth Baker	Aye
Trustee John Basile	Aye
Trustee John Murphy	Aye
Trustee Raymond Walker	Aye

The resolution was thereupon declared duly adopted.

Buhrmaster is the State contract supplier for fuel oil and is willing to accept us as a customer although they do not provide mixed fuel or kerosene. Permission granted by the Board to contact GA Bove to give them an opportunity to match the price available on State contract.

Bid Opening: One bid submitted for the bulldozer from Darren Tracy for \$14,142. Two bids received for the dump truck; 1 from Jay Spink for \$6,125., 1 from Rick Rathbun for \$6101.50

MOTION to accept Darren Tracy's bulldozer bid in the amount of \$14,142. made by Trustee Murphy, seconded by Trustee Walker
Motion carried 4-0

MOTION to reject the two under minimum bids made by Trustee Murphy, seconded by Trustee Basile Discussion: The minimum bid was set by Bob, should we accept less or do we want to carry a vehicle we aren't using. Trustee Murphy rescinded his motion and Trustee Basile suggested awarding to the highest bidder but try to negotiate a higher price.

MOTION to offer Jay Spink, as higher of the two under limit bidders, the dump truck for the amount of \$6,500.00 made by Trustee Basile, seconded by Trustee Murphy
Motion carried 4-0

The Clerk distributed a worksheet of possible budget reductions. Trustee Basile suggested changes based on his review of the water budget with Bob and stated the budget process authorized well cleaning but the funds were not available; we have a cash flow issue in addition to a budget issue. The Clerk spoke about the impact of delinquent water bills on our cash flow and advised 93 people from April remain unpaid.

MOTION authorizing the DPW to hang notices notifying delinquent residents their water will be shut off made by Trustee Basile. Discussion: we can't disconnect, Motion withdrawn. Mayor would like to print a list of delinquent water/sewer customers in the newspaper and Mr. Peluso suggested further discussion take place in Executive Session.

Reviewed suggested budget revisions

MOTION to approve budget revisions as follows:

General Fund: Amend budget \$20,000 increase Estimated Revenue A2665 (sale of equipment) decrease estimated revenue A5031 (Interfund Transfer)

Water Fund: Decrease appropriations: F1990.4 contingent \$1,000; F8310.4, water administration contractual \$5,000; F8320.2 source of supply, power & pumping equipment \$1,000; F8320.401 Source of supply, power & pumping, supplies \$9,000; F8330.401 Purification, supplies \$5,000; F8340.2, Transmission & distribution, equipment \$5,000 F9901.902, interfund transfer to General, \$20,000 and F9950.9, interfund transfer to Capital \$5,000.

Sewer Fund: Decrease appropriations: G8130.412, sewage treatment and disposal, chemicals \$2,000; G9950.903, transfer to Capital \$20,000

Capital Fund: Decrease Estimated Revenue H5031, Interfund transfer \$25,000. Decrease appropriation H8120.2, Capital repairs sewer, \$20,000; H8340.2, Capital water project \$5,000

made by Trustee Murphy, seconded by Trustee Basile

Motion carried 4-0

Trustee Murphy commented that Trustee Basile was very helpful; the Clerk Treasurer prepared a 6-year comparison of water which she distributed to the Board.

MOTION authorizing the Clerk to sign a new contract with Cornerstone made by Trustee Walker, seconded by Trustee Murphy
Motion carried 4-0

We have outstanding engineering bills that need to be paid. Two for Chazen, several for Kestner and there is no cash available. The Clerk was given permission to research a Revenue Anticipation Note and further discussion will be held at a special meeting.

Revised wording in our local law is necessary regarding the Fire Marshal position and a copy of the Town's law was distributed. The Board should review and be ready to discuss in October with action to be taken in November.

MOTION to open the floor to the public and press made by Trustee Basile, seconded by Trustee Baker
Motion carried 4-0

Stillwater Free Library President Joe Steele requested a refund for the \$250 building permit fee previously paid by Greco Construction and updated the Board on the work taking place at the Library. Discussion was held on what this and other permits were for.

MOTION to refund \$250.00 to the Stillwater Free Library contingent upon Building Code Officer Lynn Goman's approval made by Trustee Walker, seconded by Trustee Basile
Motion carried 4-0

Jim Champlin suggested the Board provide advance notice before changing the water/sewer delinquency process and questioned if there is a sunset clause to limit length of time a project can be pending prior to beginning. Mr. Champlin also asked how a demolition permit could be issued for property not owned by the applicant. Trustee Murphy stated he had received two deeds transferring the Westcott property to Ronda and D'Amico. He requested the Board implement a new process in the future. He also requested a fence around the construction site stating required or not, it's the right thing to do. Trustee Basile disagreed since hazards are everywhere.

MOTION to close the floor to the public and press made by Trustee Basile, seconded by Trustee Baker
Motion carried 4-0

OLD BUSINESS

The street law has been revised, discussion was held on the proposed changes, Mr. Peluso suggested a committee be formed with a workshop meeting on a Saturday.

Memo of understanding needed for the SMSI Grant

RESOLUTION

WHEREAS, the Village of Stillwater, City of Mechanicville and Town of Stillwater applied for funding of a project known as "Stillwater/Mechanicville Regional Water System Evaluation", and

WHEREAS, The Mayor of the City of Mechanicville, as lead agency, has been notified by the State of New York Department of State that the above project has been funded under the Shared Municipal Services Incentives Program (SMSI) in the amount of \$339,935.40, now therefore

BE IT RESOLVED, that the Village of Stillwater Board of Trustees does hereby accept the SMSI Grant awarded jointly to the Village of Stillwater, City of Mechanicville and Town of Stillwater to utilize these funds to evaluate each individual water supply, distribution systems and operations, further

RESOLVED, that the Village of Stillwater also agrees and accepts the Memorandum of Agreement/Understanding that outlines roles, responsibilities and expectations of the program work plan.

Resolution moved by Trustee Basile
Seconded by Trustee Murphy

Roll call vote:

Trustee Kenneth Baker - Aye

Trustee John Basile - Aye

Trustee John Murphy - Aye

Trustee Raymond Walker – Aye

Motion approved September 16, 2008

Mayor Martin spoke about sump pump responsibility and Trustee Basile agreed several residences seem to have no solution. Liability was questioned and Mr. Peluso stated he would not give opinion on legal liability in open session.

MOTION to approve Treasurer Report made by Trustee Murphy, seconded by Trustee Basile
Motion carried 4-0

MOTION to approve the minutes from August 19, 2008 made by Trustee Basile, seconded by Trustee Baker
Motion carried 4 -0

MOTION to approve the audited claims:

A - \$13,544.30

F - \$11,592.88

G - \$ 5,786.02

made by Trustee Murphy, seconded by Trustee Walker

Motion carried 4-0

MOTION to adjourn to executive session made by Trustee Murphy, seconded by Trustee Baker
Motion carried 4-0

Meeting adjourned at 10:00 P.M.

Respectfully submitted,

Margo L. Partak
Clerk-Treasurer