

**REGULAR MEETING -BOARD OF TRUSTEES-APRIL 21, 2009-7:00 P.M.**

**PRESENT: ERNEST W MARTIN, MAYOR; TRUSTEES, KENNETH BAKER, JOHN BASILE, KEITH COLLINS, ELLEN VOMACKA**

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

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

**PUBLIC HEARING  
PROPOSED BUDGET 2009/10**

Mayor Martin called the Public Hearing to order and read the notice that was published in the newspaper. He advised there would be an increase of \$.12 in the proposed tax rate.

**MOTION** to open the floor to the public and press made by Trustee Basile, seconded by Trustee Baker.

Motion carried 4-0

J. Champlin questioned what percent of tax increase; he was advised that it was approximately 3.8%

Mayor Martin explained the tax rate increase is the General Fund only; Water & Sewer operating increases are covered by fees assessed to users of the systems and noted the proposed budget does not include any wage increases.

**MOTION** to close the floor to the public and press made by Trustee Basile, seconded by Trustee Baker.

Motion carried 4-0

**MOTION** to approve the 2009-2010 proposed budget as presented made by Trustee Basile, seconded by Trustee Collins.

Roll call vote:           Trustee Baker – aye                           Trustee Basile – aye  
                                  Trustee Collins – aye                           Trustee Vomacka – aye

Motion carried 4-0

**CORRESPONDENCE**

The Clerk read correspondence from Earl J. Manning Post 490 inviting the Board to participate in the May 22<sup>nd</sup> Memorial Day Parade.

The Mayor read correspondence from the Community Center inviting the Village to participate in the planned Family Day activities to be held June 6, 2009.

**BUILDING CODE OFFICER – Lynn Goman**

Mr. Goman reviewed his report (copy on file)

7 permits were issued for the month: new electrical service, oil spill, addition Colonial Road, 4 above ground pools.

**FIRE CHIEF – Shane Mahar**

Chief Mahar reviewed his report (copy on file)

Garage for Steamer: Chief explained steamer currently at DPW garage, was to be a temporary measure; we have received \$5000 in grant money from Assemblyman McDonald, would request village make a similar commitment. After discussions with the Supt. of Public Works it is possible we could rehabilitate the garage at the sewer plant, need further investigation to see if this is a viable alternative. Chief will try to get an extension for the grant money. Mayor will form a committee to prepare a plan. Chief requested permission to retain the services of Amanda Walsh to apply for funding to replace the 1980 FMC and/or air packs. The Mayor requested the Chief have Amanda contact him directly.

**SUPT. OF PUBLIC WORKS – Robert Gerasia**

Supt. Gerasia reviewed his report for the month (copy on file)

Supt. advised Board the DPW will be working from 6-8 p.m. on Thursday inspecting for sump pumps in Castle Cliff. Supt. advised the GAC filter installation is progressing; a manual for operating procedures will be coming from Siemens as well as Earth Tech.

Trustee Basile expressed concern; he does not want filters on line without proper operating procedures and DOH approvals. A Pilot Study will be done; EPA will have full responsibility for operation and maintenance of the GAC filters. DOH received many calls from residents with concerns regarding the TTHM's

**COMMITTEE REPORTS**

Trustee Kenneth Baker – nothing to add

Trustee Keith Collins – nothing at this time, will allow Trustee Basile to report on water activities.

Trustee Ellen Vomacka – nothing at this time.

Trustee John Basile – Sewer Report

Order on Consent: 4/1/09 Attorney for DEC sent letter advising of a \$2,000 fine, on 4/9/09 Attorney for DEC sent letter advising of \$785,000 fine. Will be meeting with them to discuss these fines. Flow meters were purchased to determine where high flows exist throughout the village. There are 3 areas of concern: 1) Clinton Court – very high flows during rain events, proposed projects for that area are new sewer line, new water line, new road surface & drainage; 2) Hallum Trailer Court – very high flow, need to investigate further to determine cause; 3) Castle Cliff – very high flow, need to camera line to investigate cause. These 3 locations could be contributing 350,000 gallons of additional flow.

Water Report – Received request for information from EFC, we are gathering this information to be sent to them. Preliminary design for SCWA connection is being prepared.

**CLERK-TREASURER – Margo Partak**

C/T requested permission to make transfers as follows:

\$1,800.00 from A5132.404 (garage, equipment repair) to A5142.1 (snow removal personal service) \$1,070.00 & A5142.4 (snow removal contractual) \$730.00; \$300 from A 9010.8 (state retirement) to A9060.8 (Hospital & Medical insurance); \$4,500 from F8330.403 (purification, electricity) & \$4,500 from F8330.409 (purification, state testing) to F8330.412 (purification, chemicals); \$500 from F1990.4 (contingent) to F8340.403 (transmission & distribution, electricity); \$765.00 from F1990.4 (contingent) to F9710.7 (budget note, interest); \$971 from G8120.402 (sanitary sewers, I&I) to G8120.404 (sanitary sewers, equipment repair)

**MOTION** authorizing the Clerk-Treasurer to make the requested transfers to the 2008/09 budget made by Trustee Basile, seconded by Trustee Baker.

Motion carried 4-0

The meter at 62 S Hudson was pulled, it was running fast, the Clerk would like permission to adjust the bill to reflect average use. Trustee Basile recused himself from discussion as he requested the meter be tested on behalf of the homeowner

**MOTION** authorizing the Clerk-Treasurer to adjust the usage for 62 S Hudson Avenue made by Trustee Collins, seconded by Trustee Baker

Motion carried 3-0

The meter at 365 N Hudson Avenue was replaced and the Clerk requested permission to reduce that bill from 120,000 gallons to the homeowner's normal usage of 10,000

**MOTION** authorizing the Clerk to adjust the usage for 365 N Hudson Avenue made by Trustee Basile, seconded by Trustee Baker

Motion carried 4-0

The Clerk read a letter from the owner of 3 Lansing Road disputing the amount of the bill stating the home had been vacant since August 2008. The Clerk advised the account has been estimated twice, an actual reading is necessary. The Board instructed the Clerk to send a response requesting access to the home to obtain a reading.

The US Census will be collecting data from April through July; all representatives will carry ID's and handheld computers.

A fax was received indicating our CHPS funding will be \$19,725.00, which is an increase of \$20.00 over last year.

**ATTORNEY** – James Peluso

**MOTION** to open the floor to the public and press made by Trustee Basile, seconded by Trustee Vomacka.

Motion carried 4-0

Keith Willard, Champlain Road expressed concern with regards to youths at the community center, they are interfering with traffic, they appear to be using controlled substances and possibly distributing them. Many people expressed concern regarding the language that is being used and the trash that is being left around. Supt. Gerasia advised the Deputy Sheriff has requested permission to leave their car at the DPW garage as it is being vandalized when it is parked out in the rear of the village building.

Trustee Vomacka explained that in a prior situation the law enforcement people advised that a call should be made to the State Police and stay on the cell phone until they arrive. Take photos of the perpetrators to be used as evidence. Mr. Willard is asking the Board for help with this problem. Mayor Martin will speak to the Executive Director at the Community Center, the Town Police, the Deputy Sheriff and the State Police to see if they could offer assistance with this problem. Resident of south Hudson Avenue thanked Mayor for notification regarding no parking on sidewalks it has helped with their problem. They did continue to express concern regarding the parking of the school bus on the lawn next to their home.

A resident of Yorktown Lane expressed concern regarding an abandoned home on Yorktown, there was a significant water leak and he is concerned that there would be a mold problem with the summer coming. Mayor will discuss the situation with the Health Board and see what action they recommend.

**MOTION** to close the floor to the public and press made by Trustee Basile, seconded by Trustee Baker.

Motion carried 4-0

### **OLD BUSINESS**

**MOTION** that the residents of buildings that have not had a sump pump inspection by the end of day May 12, 2009 have their water turned off until the inspection is completed; that any of these same residences found to have sump pumps connected to the sanitary sewer be fined in accordance with Local Law #2 of the year 1994, if they have not completed removal within 30 days of the inspection; that any previously identified resident of buildings found to have sump pumps that are not removed from the sewer system shall be fined in accordance with Local Law #2 of 1994, if they have not removed said pump within 30 days moved by Trustee Basile, seconded by Trustee Collins.

Discussion: Trustee Basile explained that starting in 2007 Village Dept. of Public Works has completed a significant number of inspections, 28 homes in the Village have not been inspected, those 28 need to be inspected, there have been at least 3 previous attempts to inspect, we have left messages in our effort to inspect; concern is that we need to get their attention very quickly so that we can take action. They may or may not have sump pumps, we have no idea but the DPW needs to make an inspection; also in the Village currently there are 23 sump pumps that are installed

and we have not done a subsequent inspection to determine if they have been disconnected. Procedure is if we find a sump pump the homeowner is given 30 days to remove, contact DPW for a re-inspection. We have gone past the 30 days and we need to get people's attention.

Mayor Martin stated we are under order on consent to accomplish this and the more flow that goes to the sewer plant the more it costs taxpayers to run it. People that are not complying with the law are costing other taxpayers money.

Trustee Baker expressed concern for the residents that have no place to run the water.

Trustee Vomacka questioned if it was legal to turn off a resident's water. She was advised that as long as they are offered due process it is within our right. Trustee Collins questioned the residents that were already found to be in violation, he feels that if they are still connected they should be subject to a fine because they have remained connected 30 days after they were cited.

Supt. advised that they were given notice with the water bills; DPW went door to door worked 2 days overtime to do inspection, and they have been given at least 5 notices.

Trustee Collins feels the 20 that have never been inspected deserve time to resolve the matter, but the 23 that were found to be in violation have had ample time to remove the sump pump from the sanitary sewer.

**MOTION** to amend the original motion to read that those who were found in violation last year should be subject to a minimum fine, re-inspected in 30 days, fines to be increased if violation persists made by Trustee Collins, seconded by Trustee Basile.

Motion to read as follows:

**MOTION** that the residents of buildings within the Village of Stillwater that have not had a sump pump inspection by the end of day May 12, 2009 have their water turned off until an inspection is completed; that any of these same residences found to have sump pumps connected to the sanitary sewer be fined in accordance with Local Law #2 of the year 1994, if they have not completed removal within 30 days of the inspection; that any previously identified resident of buildings found to have sump pumps in violation of the law be fined the minimum in accordance with Local Law #2 of the year 1994; properties to be re-inspected in 30 days with fines to be increased if violation persists made by Trustee Basile and Trustee Collins.

Mayor questioned what would happen if a problem were found in Castle Cliff. Attorney advised that those residents are under contract to abide by the rules and regulations of the Village sewer system.

Roll call vote: Trustee Baker – aye Trustee Basile – aye  
Trustee Collins – aye Trustee Vomacka – aye

Motion carried 4-0

Trustee Vomacka questioned if the state has offered any way for us to remove this water. It could be put in storm sewers if one is available near their home.

Trustee Basile explained that at the last meeting the Board approved the SEQR Part I EAF, sent notices to various agencies advising Village would be lead agency, we received many responses, the time to respond has expired.

Part 2 of the Environmental Assessment Form (EAF) was reviewed.

**MOTION** to accept Part 2 of the EAF was made by Trustee Basile, seconded by Trustee Collins.

Motion carried 4-0

**RESOLUTION**  
**Accepting SEQR Lead Agency Status and**  
**Issuing a SEQRA Negative Declaration for the Planned**  
**Water System Connection to the Saratoga County Water Authority**

**WHEREAS**, The Village of Stillwater is proposing construction of an approximately 8.8-mile water main to connect the Village's water system to the Saratoga County Water Authority (SCWA) water system; and

**WHEREAS**, the proposed action has been determined to be an Unlisted action, pursuant to the New York State Environmental Quality Review Act (SEQRA) 6 NYCRR Part 617.4.; and

**WHEREAS**, the Village Board of the Village of Stillwater prepared or caused to prepare an Engineer's Report fully describing the project and pursuant to the applicable standards of SEQRA 6 NYCRR Part 617 prepared a Full Environmental Assessment Form (Full EAF) evaluating the projects impacts on the environment; and

**WHEREAS**, the Village Board of the Village of Stillwater declared its intent to be Lead Agency for the coordinated SEQRA evaluation; and provided proper circulation of the Lead Agency Notice to the other Involved and Interested Agencies, indicating the Village Board's intention to serve as Lead Agency; and

**WHEREAS**, the Village Board of the Village of Stillwater has not received any objections from the involved agencies regarding the Village Board's intention to serve as Lead Agency.

**WHEREAS**, the Village as compared the proposed action with the Criteria for Determining Significance in 6 NYCRR 617.7 and determined that no significant adverse impacts associated with the proposed action have been identified; and

**WHEREAS**, the Town Board has completed Part II of the EAF and has considered all reasonably related long-term, short-term, and cumulative environmental effects associated with the proposed action including other simultaneous or subsequent actions.

**NOW, THEREFORE BE IT RESOLVED** the Village Board of the Village of Stillwater hereby declares itself lead agency for the purpose of conducting the SEQRA review of the planned Water System Connection to the Saratoga County Water Authority System; and

**BE IT ALSO RESOLVED** that based on a review of the Full EAF, the Engineer's Report, and associated information, the Village Board has determined that the project will not have a significant adverse impact on the environment and hereby issues the attached Negative Declaration in accordance with the requirements of State Environmental Quality Review Act (SEQRA).

**MOTION** to declare a Negative Declaration with regard to SEQRA was moved by Trustee Basile, seconded by Trustee Vomacka.

Motion carried 4-0

**MOTION** to declare Village of Stillwater as lead agency made by Trustee Basile, seconded by Trustee Baker.

Motion carried 4-0

### **Bond Resolution**

**A Resolution Authorizing The Construction of New Water Facilities to Replace an Existing Water Treatment Plant, Including the Related Wells Located Near the Hudson River, Such New Water Facilities to Include the Acquisition and Installation of Approximately 46,000 Feet of Piping, Which Piping Will Be Connected to the Village Storage and Head Tanks Located in the Saratoga Hills Park and on Dick Lynch Road, and Related Equipment That Will Allow the Village to Obtain Water from the Saratoga County Water Authority Facility Located Along Cold Spring Road in the Town of Stillwater, New York and Authorizing the Issuance of Serial**

**Bonds of the Village of Stillwater, Saratoga County, New York in an Aggregate Principal Amount Not to Exceed \$6,000,000 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, New York (the "Village") (by favorable vote of not less than Two-Thirds 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 acquisition, construction or reconstruction of or addition to a water supply or distribution system. The estimated maximum cost of said purpose is \$6,000,000.

**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 \$6,000,000 (SIX MILLION DOLLARS), hereby authorized to be issued therefore pursuant to the Local Finance Law and other available grant funding sources that become available through the State or federal governments or other sources.

**Section 3.** It is hereby determined that said purpose is an object or purpose described in subdivision one of paragraph (a) of Section 11.00 of the Local Finance Law, and that the period of probable usefulness of said purpose is forty 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 pursuant to Section 107(d)(3)(a) of the Local Finance Law.

**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 benefiting from the Project 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 authorize bond anticipation notes in anticipation of the issuance of the serial bonds authorized by this resolution 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 Treasurer, 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 Treasurer shall determine consistent with the provisions of the Local Finance Law.

**Section 8.** The Village Treasurer 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 any notes issued in anticipation thereof, as "qualified tax-exempt obligations" in accordance with Section 265(b)(3) of the Code.

**Section 9.** The Village reasonably 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 Village has determined that the Project described herein is an Unlisted Action that will not have a significant effect on the environment and, therefore, no further action under the State Environmental Quality Review Act ("SEQR") is required.

**Section 11.** 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 12.** The Village Clerk is hereby authorized and directed to publish this resolution, or a summary thereof, together with a notice in substantially the form provided by Section 81.00 of the Local Finance law, in the Daily Gazette, a newspaper having a general circulation in said Village and hereby designated as the official newspaper of said Village for such publication.

**Section 13.** The firm Hiscock and Barclay, LLP is hereby appointed Bond Counsel of the Village in connection with the bonds and notes herein authorized.

**Section 14.**

This resolution shall take effect immediately upon its adoption.

\* \* \* \* \*

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

Ernest W. Martin, Mayor	voting	yea
Kenneth A. Baker, Trustee	voting	yea
John A. Basile, Trustee	voting	yea
Keith R. Collins, Trustee	voting	yea
Ellen R. Vomacka, Trustee	voting	yea

The foregoing resolution was thereupon declared duly adopted.

**MOTION** authorizing the Mayor to enter into a change order with The Chazen Companies for Proposal No. PM09-019 adding Tasks 20, 21, & 22 at a cost not to exceed \$8,500 made by Trustee Basile, seconded by Trustee Collins.

Discussion: approval has already been given for the aerial survey; this will delineate the wetlands for the entire route. Expect there would be additional costs to obtain permits across the wetlands.

Motion carried 4-0

Trustee Basile advised the water system point count for funding is very high.

**MOTION** authorizing the Mayor to sign Chazen proposal PM08-171, at a cost not to exceed \$6,000, to prepare a package through the American Reinvestment Act to request money for drainage relevant to installing sidewalks along Hudson Avenue to the Stillwater Central School made by Trustee Basile, seconded by Trustee Vomacka.

Discussion: the sidewalks cannot be installed without proper drainage being done; we would attempt to receive funding to complete this project. Mayor Martin received a letter from Paul Tonko regarding this funding. Eric Johnson of the Chazen Companies will complete the Tonko paperwork.

Motion carried 4-0

**MOTION** to approve the Treasurer Report was made by Trustee Basile, seconded by Trustee Baker.

Motion carried 4-0

**MOTION** to approve the minutes of March 17, 18, 24 and April 17, 2009 made by Trustee Baker, seconded by Trustee Basile.

Motion carried 4-0

**MOTION** to approve the audited claims:

A - \$15,586.04

F - \$21,258.49

G - \$10,909.34

made by Trustee Baker, seconded by Trustee Vomacka.

Motion carried 4-0

**MOTION** to adjourn to Executive Session at 9:40 P.M. made by Trustee Basile, seconded by Trustee Baker.

Motion carried 4-0

Discussion was held regarding EPA & General Electric litigation, Mayor to continue to represent the Village of Stillwater.

**MOTION** authorizing the Mayor to dispute the fines that have been assessed by NYSDEC, not pay those fines and enter into litigation as necessary to support that position with the firm of Dreyer, Boyajian LLP made by Trustee Basile, seconded by Trustee Collins.

Motion carried 4-0

**MOTION** to adjourn made by Trustee Basile, seconded by Trustee Baker.

Motion carried 4-0

Meeting adjourned at 10:15 P.M.

Respectfully submitted,

Margo L. Partak  
Clerk-Treasurer