

MEETINGS: 18
NO. OF REGULAR: 18

VILLAGE BOARD OF TRUSTEES OF THE VILLAGE OF DEPEW
December 14, 2020 7:00PM

ROLL CALL: Trustee Jakubowski – Pr
Trustee Voll – Pr
Trustee Hamernik - Pr
Trustee Stempniak - LOA
Mayor Peterson– Pr

ON A MOTION BY, Trustee Hamernik and seconded by Trustee Jakubowski the November 23, 2020 Village Board Minutes were approved.

ON A MOTION BY, Trustee Voll and seconded by Trustee Jakubowski the November 12, 2020 Zoning Board Minutes were accepted.

1. Michael Krywcun, of 331 Meadowlawn Rd for a variance to permit him to widen driveway encroach upon the required 3ft setback as required by the Village Ordinance. – Withdrew by applicant
2. Tim Schaedel of Binford Renovate Remodel Inc for 5460 Transit Rd, Unit 3 to permit him to operate a contractor yard in a C-2 zone as required by the Village Ordinance – Variance Granted
3. Joseph Dorobiala of Carmina, Wood, Morris DPC on behalf of Dr. Kristen Robillard of 571 Terrace Blvd to amend the existing special use permit granted on 12/17/81 to change the intensity of the use(adding a residential occupancy). Variance Granted
4. Joseph Dorobiala of Carmina, Wood, Morris DPC on behalf of Dr. Kristen Robillard of 571 Terrace Blvd to reduce the number of parking spaces from 38 to 28 as required by Village Ordinance. – Variance Granted.

APPROVE LEAVE OF ABSENCE REQUEST

Trustee Voll, offered the following resolution and moved for its adoption:

WHEREAS, Erica Stempniak, Village of Depew Trustee has requested a leave of absence for a period of 12 weeks without pay effective December 10, 2020.

WHEREAS, Terry Wachowiak, recommends the approval of this request;

NOW THEREFORE BE IT RESOLVED, the Village Board approves the period of unpaid leave stated above.

The following resolution was seconded by Trustee Jakubowski, and duly put to a roll call vote which resulted in the following:

Trustee Jakubowski - Y
Trustee Voll - Y
Trustee Hamernik- Y
Trustee Stempniak - LOA
Mayor Peterson -Y

ACCEPT RESIGNATION –PLANNING BOARD MEMBER

Trustee Jakubowski, offered the following resolution and moved for its adoption:

BE IT RESOLVED, the resignation of Steven Socha, Planning Board Member effective December 1, 2020 is accepted.

The foregoing resolution was seconded by Trustee Voll and duly put to a roll call vote which resulted in the following:

Trustee Jakubowski - Y
Trustee Voll - Y
Trustee Hamernik - Y
Trustee Stempniak - LOA
Mayor Peterson -Y

APPOINT PLANNING BOARD MEMBER

Pursuant to Section 4-400 of Village Law, I, Mayor Kevin Peterson do hereby appoint Andrew Adolf to the Village Planning Board, said term to expire at noon on the first Monday of April 2024, at a salary of \$50 per meeting.

The foregoing nomination was acted upon in the following manner by the Village Board of Trustees:

Trustee Jakubowski - Y
Trustee Voll - Y
Trustee Hamernik -Y
Trustee Stempniak - LOA
Mayor Peterson -Y

AUTHORIZE MAYOR TO SIGN MUNICIPAL SOLUTIONS CONTRACT

Trustee Voll, offered the following resolution and moved for its adoption:

WHEREAS, the Village of Depew has utilized Municipal Solutions Inc, 62 Main St, Leroy, NY 14482 for their advisory services related to capital borrowing on an as needed basis;

NOW THEREFORE BE IT RESOLVED, that Mayor Kevin Peterson is authorized to sign the contract in connection with the proposed refunding of the Public Improvement Serial Bonds.

The foregoing resolution was seconded by Trustee Jakubowski and duly put to a roll call vote which resulted in the following:

Trustee Jakubowski - Y
Trustee Voll - Y
Trustee Hamernik - Y
Trustee Stempniak - LOA
Mayor Peterson – Y

A REFUNDING BOND RESOLUTION, DATED DECEMBER 14, 2020, AUTHORIZING THE ISSUANCE OF REFUNDING BONDS IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$1,215,000 OF THE VILLAGE OF DEPEW, ERIE COUNTY, NEW YORK, PURSUANT TO THE LOCAL FINANCE LAW AND PROVIDING FOR OTHER MATTERS IN RELATION THERETO.

WHEREAS, the Village of Depew, Erie County, New York (the “Village”) heretofore issued its Public Improvement Serial Bonds, 2010, dated November 15, 2010, in the original aggregate principal amount of \$3,637,000, with \$1,180,000 of such bonds being scheduled to mature in the years 2021 through 2029, inclusive (collectively, the “Refunded Bonds”); and

WHEREAS, in order for the Village to realize the potential for certain long-term debt service savings with respect to the Refunded Bonds, the Village Board of Trustees of the Village (the “Board”) has determined, after consultation with the Village Treasurer and the municipal advisory and bond counsel firms retained by the Village, that it would be in the public interest for the Village to refinance the Refunded Bonds by the issuance of refunding bonds of the Village pursuant to Section 90.00 and/or Section 90.10 of the Local Finance Law (the “Refunding Law”); and

WHEREAS, the Refunded Bonds are, by their terms, either scheduled for payment or subject to the possibility of the call for redemption prior to their stated maturity dates, and the Village has determined to conduct such a call for redemption, to achieve future debt service savings; and

WHEREAS, the Refunded Bonds were originally issued for various purposes; however, only a portion of the original bonds will be refunded pursuant to this refunding bond resolution (bonds that were issued pursuant to bond resolutions that were duly adopted by the Village Board of Trustees on: (A) October 24, 2005, authorizing the issuance of bonds for various sanitary sewer improvement projects to fulfill New York State Department of Conservation Consent Order No. 03-55 and (B) June 23, 2008, authorizing the issuance of bonds for the reconstruction of and construction of improvements to the Village’s sewer system (collectively, the “Refunded Bond Resolutions”); and

WHEREAS, the Village has the power and authority to issue refunding bonds of the Village for the purpose of refunding (and thereby refinancing) the Refunded Bonds at more favorable rates of interest, including provision for the payment of incidental costs of issuance in connection therewith, pursuant to the provisions of the Refunding Law; and

WHEREAS, the Village has received a draft refunding summary/refunding financial plan, dated as of December 10, 2020, (the “Refunding Financial Plan”) from Municipal Solutions, Inc., the municipal advisory firm retained by the Village in connection with the proposed refunding of the Refunded Bonds, and such Refunding Financial Plan is attached hereto as Exhibit A; and

WHEREAS, the Board has reviewed and considered the Refunding Financial Plan in consultation with the Treasurer of the Village and the municipal advisory firm retained by the Village; and

WHEREAS, the Village desires to refund all or a portion of the Refunded Bonds by issuing certain new refunding bonds and selling such bonds pursuant to a private sale to Greene County Commercial Bank (the “Underwriter”) in general accordance with the Refunding Financial Plan; and

WHEREAS, the Refunding Law requires that the Village adopt a refunding bond resolution which includes a refunding financial plan setting forth all of the pertinent details in connection with the proposed refunding transaction;

NOW, THEREFORE, BE IT RESOLVED, by the Village Board of Trustees (by the favorable vote of not less than two-thirds of the total voting strength of the Village Board of Trustees) as follows:

SECTION 1. Based on the recommendation of Municipal Solutions, Inc. (“Municipal Solutions”), the municipal advisor retained by the Village, the Board hereby determines to undertake a current refunding of the Refunded Bonds, through the issuance of refunding bonds of the Village, such refunding bonds to be offered and sold at private sale to the Underwriter under arrangements that are to be in general accordance with the Refunding Financial Plan.

SECTION 2. For the object or purpose of refunding the Refunded Bonds (scheduled to mature in the years 2021 through and including 2029), including providing moneys which, together with any interest earned from the investment of certain of the proceeds of the refunding bonds herein authorized, shall be sufficient to pay (A) the applicable outstanding principal amount of the Refunded Bonds, (B) the aggregate amount of unmatured interest payable on the Refunded Bonds to and including the date(s) on which the Refunded Bonds mature or are to be redeemed in accordance with the Refunding Financial Plan, (C) redemption premiums, if any, payable on the Refunded Bonds as of such redemption date(s), and (D) the costs and expenses incidental to the issuance of the refunding bonds herein authorized, including, but not limited to, the development of the Refunding Financial Plan, the fees and costs of the municipal advisor to the Village, the fees and costs of the bond counsel to the Village, that are hereby authorized to be issued the Refunding Serial Bonds, 2021 of the Village in an aggregate principal amount not to exceed \$1,215,000 (the “Refunding Bonds”) pursuant to the provisions of the Refunding Law, it being anticipated that the principal amount of the Refunding Bonds actually to be issued will be approximately \$1,205,000 as described in the Refunding Financial Plan and in Section 6 hereof. The Refunding Bonds shall be dated such date as shall hereafter be determined by the Village Treasurer pursuant to Section 6 hereof, shall be in the denominations of \$5,000 or any integral multiple thereof not exceeding the principal amount of each respective maturity (unless a bond of an odd denomination is required), shall mature annually and shall bear interest semi-annually thereafter on such dates as shall be determined by the Village Treasurer pursuant to Section 6 hereof, at the rate or rates of interest per annum as may be necessary to sell the same, all as shall be determined by the Village Treasurer.

SECTION 3. The Village Treasurer is hereby delegated all of the powers of this Board with respect to agreements for credit enhancement, derived from and pursuant to Section 168.00

of the Local Finance Law, for the Refunding Bonds including, but not limited to, the determination of the provider of such credit enhancement facility or facilities and the terms and contents of any agreement or agreements related thereto.

SECTION 4. The Refunding Bonds shall be executed in the name of the Village by the manual or facsimile signature of the Village Treasurer and the Village's corporate seal (or a facsimile thereof) shall be imprinted thereon and attested by the Village Clerk. The Refunding Bonds shall contain the recital(s) required by the Refunding Law and 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 as the Village Treasurer shall determine.

SECTION 5. It is hereby determined that:

(A) The maximum amount of the Refunding Bonds authorized to be issued pursuant to this resolution does not exceed the limitation imposed by the Local Finance Law; and

(B) The maximum period of probable usefulness permitted by law at the time of the issuance of the Refunded Bonds for each of the objects or purposes for which the Refunded Bonds were issued is as shown in Exhibit B; and

(C) The last installment of the Refunding Bonds will mature not later than the expiration of the maximum period of probable usefulness of each of the objects or purposes for which the Refunded Bonds were issued, or in the alternative, the weighted average remaining period of probable usefulness of the objects or purposes (or classes of objects or purposes) financed with the Refunded Bonds or the weighted average remaining period of probable usefulness of all objects or purposes (or classes of objects or purposes) financed with the Refunded Bonds, in accordance with the provisions of the Refunding Law; and

(D) The estimated present value of the total debt service savings anticipated as a result of the issuance of the Refunding Bonds, computed in accordance with the provisions of the Refunding Law, is as shown in the Refunding Financial Plan described in Section 6 hereof.

SECTION 6. The Refunding Financial Plan showing the sources and amounts of all moneys required to accomplish such refunding, the estimated present value of the total debt service savings and the basis for the computation of the aforesaid estimated present value of total debt service savings, is set forth in Exhibit A attached hereto and hereby made a part of this resolution. The Refunding Financial Plan has been prepared based upon the assumption that the Refunding Bonds will be issued in the aggregate principal amount of \$1,205,000 and that the Refunding Bonds will mature, be of such terms, and bear interest as set forth in Exhibit A. This Village Board of Trustees recognizes that the amount and/or structure of the Refunding Bonds, and the maturities, terms, and interest rate or rates borne by the Refunding Bonds to be issued by the Village will most probably be different from such assumptions and that the final details of the sale will also most probably be different from that attached hereto as Exhibit A. The Village Treasurer is hereby authorized and directed to determine the amount and particular maturities of the Refunded Bonds to be refunded, the details as to the redemption of the Refunded Bonds,

including the date and amount of such redemption or redemptions, to cause notice of such redemption, the amount and particular maturities of the Refunding Bonds to be issued, the date of such bonds and the date of issue, maturities and terms thereof, the provisions relating to any redemption of the Refunding Bonds prior to maturity (including the presence or absence of an early call feature, as referred to above), the terms of the private sale of the Refunding Bonds to the Underwriter, the amount of the annual installments of the Refunding Bonds to be paid pursuant to the Refunding Law, whether the Refunding Bonds shall be sold at a discount in the manner authorized by Section 57.00(e) of the Local Finance Law, and the rate or rates of interest to be borne thereby, and to prepare, or cause to be prepared a final Refunding Financial Plan for the Refunding Bonds, whether the Refunding Bonds are sold in conjunction with or consolidated with the issuance of certain other refunding bonds to be issued by the Village to refund any other general obligation bonds issued by the Village (including, but not limited to, the structuring of the annual installments of a consolidated issue), and all powers in connection therewith are hereby delegated to the Village Treasurer; provided, that the terms of the Refunding Bonds to be issued, including the rate or rates of interest borne thereby, shall comply with the requirements of the Refunding Law.

SECTION 7. The Village Treasurer shall file a copy of a certificate determining the details of the Refunding Bonds and the final Refunding Financial Plan with the Village Clerk not later than ten (10) days after the delivery of the Refunding Bonds, as herein provided.

SECTION 8. The faith and credit of the Village are hereby irrevocably pledged for the payment of the principal of and interest on the Refunding 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 Refunding Bonds becoming due and payable in such year. There shall annually be levied on all the taxable real property of the Village a tax sufficient to pay the principal of and interest on such Refunding Bonds as the same become due and payable.

SECTION 9. In accordance with the provisions of Section 53.00 of the Local Finance Law, subject to the determination by the Village Treasurer regarding the redemption of the Refunded Bonds described in Section 6 above, the Village hereby elects to redeem the Refunded Bonds with the proceeds of the Refunding Bonds prior to their stated maturity dates on the date or dates provided in the Refunding Financial Plan. The sums to be paid therefor on such redemption date or dates shall be the par value thereof plus the redemption premium, if any, and the accrued interest to such redemption date or dates. Upon the issuance of the Refunding Bonds, the election to call in and redeem the Refunded Bonds and the direction to cause notice thereof to be given as provided in this section shall become irrevocable, provided that this section may be amended from time to time as may be necessary in order to comply with the publication requirements of Section 53.00(a) of the Local Finance Law, or any successor law thereto.

SECTION 10. 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 Refunding Bonds 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, if applicable, to designate the Refunding Bonds authorized by this resolution as "qualified tax-exempt obligations" in accordance with Section 265 of the Code.

SECTION 11. The Village Treasurer is further authorized to enter into a continuing disclosure agreement with the initial purchaser of the Refunding Bonds authorized by this resolution, if required, containing provisions which are satisfactory to such purchaser 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 Village Treasurer is further authorized to call in and redeem any outstanding obligations that were authorized hereunder (at such times and in such amounts and maturities as may be deemed appropriate after consultation with Village officials and the Village's municipal advisor), to approve any related notice of redemption, and to take such actions and execute such documents as may be necessary to effectuate any such calls for redemption pursuant to Section 53.00 of the Local Finance Law, with the understanding that no such call for redemption will be made unless such notice of redemption shall have first been filed with the Village Clerk.

SECTION 13. The Village hereby determines that the issuance of the Refunding Bonds is a Type II action that will not have a significant effect on the environment and, therefore, no other determination or procedures under the State Environmental Quality Review Act ("SEQRA") is required.

SECTION 14. Subject to compliance with the provisions of the Refunding Law, the Refunding Bonds shall be sold at private sale to the Underwriter and the Village Treasurer is hereby authorized to negotiate on behalf of the Village for such private sale and determine the terms and conditions for the sale and delivery of the Refunding Bonds to the Underwriter. After the Refunding Bonds have been duly executed, they shall be delivered by the Village Treasurer in accordance with the terms of such sale upon the receipt by the Village of such purchase price, including any premium or accrued interest.

SECTION 15. The Village Treasurer and Village Clerk, the Village Attorney and all other officers, employees and agents of the Village are hereby authorized and directed for and on behalf of the Village to execute and deliver all certificates and other documents, perform all acts and do all things required or contemplated to be executed, performed or done by this resolution or any document or agreement approved hereby, including, but not limited to, the term sheet issued in conjunction with such sale.

SECTION 16. All other matters pertaining to the terms and manner and details of issuance of the Refunding Bonds shall be determined by the Village Treasurer and all powers in connection therewith are hereby delegated to the Village Treasurer.

SECTION 17. In the event of the absence or unavailability of the Village Treasurer, the Deputy Treasurer is hereby specifically authorized to exercise the powers delegated to the Village Treasurer in this resolution.

SECTION 18. 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 such Local Finance Law, in the official newspaper(s) of the Village for such publications.

SECTION 19. The validity of the Refunding Bonds may be thereafter contested only if:

(1) (a) Such obligations are authorized for an object or purpose for which such Village is not authorized to expend money, or

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

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

(2) Such obligations are authorized in violation of the provisions of the Constitution of New York.

SECTION 20. 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:

AYES:

Trustee Jakubowski - Y
Trustee Voll - Y
Trustee Hamernik - Y
Mayor Peterson – Y

NOES:

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ABSENT:

Trustee Stempniak - LOA

The foregoing resolution was thereupon declared duly adopted.

EXHIBIT A

REFUNDING FINANCIAL PLAN

PREPARED BY MUNICIPAL SOLUTIONS, INC.
DECEMBER 10, 2020

[PLEASE INSERT THE DECEMBER 10, 2020 REFUNDING ANALYSIS FROM
MUNICIPAL SOLUTIONS, INC. FOLLOWING THIS PAGE]

EXHIBIT B

DESCRIPTION OF CAPITAL IMPROVEMENTS FINANCED WITH THE PROCEEDS OF THE REFUNDED BONDS

<u>Dated Date</u>	<u>Original Amount Financed</u>	<u>Outstanding Amount</u>	<u>Object or Purpose</u>	<u>Period of Probable Usefulness</u>
November 15, 2010	\$3,637,000	\$1,180,000 (for the 2021-2029 maturities that are to be refunded)	Various sanitary sewer improvement projects to fulfill New York State Department of Conservation Consent Order No. 03-55.	40 years
			The reconstruction of and construction of improvements to the Village's sewer system.	40 years

AUTHORIZE MAYOR TO SIGN AMENDED AGREEMENT – MUNICIPAL SOLUTIONS

Trustee Jakubowski, offered the following resolution and moved for its adoption:

WHEREAS, the Village of Depew is currently utilizing Municipal Solutions, 62 Main St, Leroy, NY 14482 for services in the village of Depew;

NOW THEREFORE BE IT RESOLVED, that Mayor Kevin Peterson is authorized to sign the amendment to the original contract dated June 26, 2018 in connection with the Village of Depew's SSES Phase V Project. This amendment adds additional services and extends the contract for an additional 24 months.

The foregoing resolution was seconded by Trustee Hamernik and duly put to a roll call vote which resulted in the following:

Trustee Jakubowski - Y
Trustee Voll - Y
Trustee Hamernik - Y
Trustee Stempniak - LOA
Mayor Peterson - Y

EMPLOYMENT APPLICATIONS - Police – Jacob Smith, Matthew Kondziela,
DPW – Shawn Marshall

DEPARTMENT HEAD REPORTS – Building - October 2020

UNFINISHED AND OTHER BUSINESS – N/A

PUBLIC CONCERNS AND COMMENTS

Bob Brandon joined the meeting to report that the Senator is working on making it easier to pay for tolls when residents do not have EZ Pass. There will be certain places where people will be able to go and pay cash, in person. When you do not have an EZ PASS, there is an additional 30% fee plus a \$2.00 processing fee added to the bill. He is also working on how the COVID vaccine will be distributed to make sure it gets to those people who are in lower income areas.

Liz joined us to let us know that Assemblywoman Wallace worked on getting the gyms opened back up, currently at a 25% capacity, and salons at 50%. Anyone needing help with NYS issues, DMV, unemployment issues, can contact them at 518-455-5921 in Albany.

Captain Norek read the PD monthly report (see attached). The Police Reform. I stated that we have a 13 member Depew Police Reform and Reinvention Collaborative committee established and have had 2 zoom meetings to date. Our next zoom meeting is scheduled for 01/04/2021 at 6:30pm. We also received an email from a Graduate student from Hilbert College who is going to help the committee with the Governors requirements. Capt. Curr has a Survey that will be posted on the Department's Facebook page and Village's website for the community to take and the data we collect will also help us with the Governor's Executive Order 203. Captain Norek said: I'd like to thank the men and women of the Police Department as they continue to work the front line of this pandemic. Please keep them and all of our front line workers in your prayers.

Fire - the Chief cannot stress enough the need to get CO detectors and make sure they are of good quality. This could be a matter of life and death. Also, do not bring generators close to your building. Keep at least 25' away from any structure. Make sure you all have smoke detectors as well!!! Very, very important. The fire department will be picking up Santa this Saturday, the 19th at the airport at 10am and will make an attempt to drive through every Village street so that Santa can wave hello to all of the children. Every effort will be made to go down every street in the Village.

Code – Tony cannot agree more with the Chief. Get your detector and make sure they are the best quality! Code has been very busy and looking to bring in more staff to help alleviate some of the workload. Regina has been a tremendous help to his department!!!! Can't say enough about her!!

OEM – RJ is monitoring the number of cases and keeping an eye on supplies. We will be getting a large order of sanitizing wipes in the next week or so as well. He is here every Monday, Wednesday and Friday for everyone if you need anything.

DPW – Ken wanted to thank the Rec department and Kevin Ferguson for getting him the fogger to clean and sterilize at the DPW, the machine is amazing!!!! Thank you to George and his crew for taking care of all the lights at the DPW. It looks great! Thank you as well. New plow trucks are in and hoping to get them on the road this week!!!

Rec – Kevin said the kids are still skating and he’s just waiting on January 4th for the Governor to make his decision on high school hockey in the hopes it can still go on.

Trustee Hamernik let everyone know the Operation Holiday was a huge success for the soldiers, where they collected 22 cases of food, etc and 20 dozen of cookies each from two ladies in the community to send out to the soldiers! So thank you everyone.

Trustee Jakubowski let everyone know that as soon as N.E.S.T gets back up and running he will have a report for everyone.

Trustee Voll wished everyone a Merry Christmas and stay safe throughout the holidays!

There was no public comment.

CLAIMS AND ACCOUNTS

ON A MOTION BY Trustee Jakubowski and seconded by Trustee Hamernik, the following claims are to be paid: \$217,430.18 General, \$6,930.43 Capital Projects, \$224,360.91 Capital was **CARRIED**.

ADJOURNMENT

ON A MOTION BY Trustee Voll, seconded by Trustee Jakubowski, the meeting was adjourned with a moment of silence for Paul Anthon from the Electrical Department, Diana Konkle – Dave Konkle’s mom and Mazarosky, Maryann – Tommy’s mom, both from West End Fire Hall at 7:51 **PM**. The motion was **CARRIED**.

Respectfully submitted,

Teresa Wachowiak
Village Administrator