

MEETINGS: 21  
NO. OF REGULAR: 20

**VILLAGE BOARD OF TRUSTEES OF THE VILLAGE OF DEPEW**  
**February 26, 2018 7:00PM**

ROLL CALL: Trustee Jakubowski - Y  
Trustee Bukowiecki - Y  
Trustee Hamernik - Y  
Trustee Peterson - Y  
Mayor Nikonowicz – Y

**ON A MOTION BY**, Trustee Jakubowski, and seconded by Trustee Hamernik, the February 12, 2018 Village Board Minutes were approved.

**ON A MOTION BY**, Trustee Peterson, and seconded by Trustee Bukowiecki, the February 22, 2018 Zoning Board Minutes were Accepted.

1. Licata's Auto Service & Sales - 3160 Walden Avenue – 10-foot relief for the 50-foot setback requirement - Accept with stipulations

IN ATTENDANCE:  
David Gnevviski From Brusso's Office  
Courtney Ball – Monica Wallace's Office

**PUBLIC COMMENT**  
NONE

**AUTHORIZE ADMINISTRATOR TO ADVERTISE FOR PUBLIC HEARING**  
**TAX CAP OVERRIDE – LOCAL LAW 2 OF 2018**

Trustee Hamernik, offered the following resolution and moved for its adoption:  
**Be It Resolved**, the Village Administrator is authorized to advertise for a public hearing. The public hearing will be held on Monday March 26, 2018 at 7:00 pm in the Council Chambers. The purpose of this hearing is to consider Local Law 2 of 2018 authorizing a property tax levy in excess of the limit established in General Municipal Law Section 3-c. If adopted, the proposed local law shall read as follows:

Section 1. Legislative Intent

It is the intent of this local law to allow the Village of Depew to adopt a budget for the fiscal year commencing June 1, 2018 that requires a real property tax levy in excess of the "tax levy limit" as defined by General Municipal Law Section 3-c.

Section 2. Authority

This local law is adopted pursuant to subdivision 5 of General Municipal Law Section 3-c, which expressly authorizes a local government's governing body to override the property tax cap for the coming fiscal year by the adoption of a local law approved by a vote of sixty percent (60%) of said governing body.

Section 3: Tax Levy Limit Override

The Board of Trustees of the Village of Depew, County of Erie, is hereby authorized to adopt a budget for the fiscal year commencing June 1, 2018 that requires a real property tax levy in excess of the amount otherwise prescribed in General Municipal Law Section 3-c.

Section 4: Severability

If a court determines that any clause, sentence, paragraph, subdivision, or part of this local law or the application thereof to any person, firm or corporation, or circumstance is invalid or unconstitutional, the court's order or judgment shall not affect, impair, or invalidate the remainder of this local law, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, or part of this local law or in its application to the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

Section 5: Effective date

This local law shall take effect immediately upon filing with the Secretary of State.

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 Bukowiecki - Y  
Trustee Hamernik- Y  
Trustee Peterson – Y  
Mayor Nikonowicz - Y

**ADJUST 2017/2018 BUDGET**

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

**BE IT RESOLVED**, the Administrator is hereby authorized to adjust the 2017/2018 Budget in the following manner:

See attached spreadsheet with budget transfers.

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

- Trustee Jakubowski - Y
- Trustee Bukowiecki -Y
- Trustee Hamernik - Y
- Trustee Peterson – Y
- Mayor Nikonowicz - Y

**PERMISSION – DEPEW FIRE DEPT**

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

Permission is hereby granted to Cayuga Hose Co to use the Southside Fire Station for the Company Installation of Officers on Saturday April 7, 2018 from 5:00PM– 1:00AM.

and

Permission is hereby granted to Central Hose #4. to use the Northside Fire Station for their Adult Christmas Party on Saturday December 8, 2018 from 5:00PM – 12:00AM.

and

Permission is hereby granted to Central Hose #4 to use the Northside Fire Station for their Children’s Holiday Party on Sunday December 16, 2018 from 12:00PM – 5:00PM.

and

Permission is hereby granted to Central Hose #4 to use the Northside Fire Hall for their Yearly Company Meeting and Dinner on Sunday March 25, 2018 from 12:00PM – 5:00PM.

and

Permission is hereby granted to Engine #1 to use the Northside Fire Hall for their Yearly Exempt Meeting on Sunday February 25, 2018 from 1:00PM – 5:00PM.

The foregoing resolution was seconded by Trustee Hamernik, and **CARRIED**.

**BOND RESOLUTION – SEWER PROJECT**

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

AN AMENDING AND RESTATING BOND RESOLUTION, DATED **FEBRUARY 26, 2018**, OF THE VILLAGE BOARD OF TRUSTEES OF THE VILLAGE OF DEPEW, ERIE COUNTY, NEW YORK (THE “VILLAGE”), AMENDING THE BOND RESOLUTION THAT WAS ADOPTED ON FEBRUARY 27, 2017, AND AUTHORIZING A SEWER SYSTEM CAPITAL IMPROVEMENTS PROJECT IN RESPONSE TO NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL

CONSERVATION ORDER ON CONSENT, AT AN ESTIMATED MAXIMUM COST OF \$1,700,000 AND AUTHORIZING THE ISSUANCE OF SERIAL BONDS IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$1,700,000 OF THE VILLAGE, PURSUANT TO THE LOCAL FINANCE LAW TO FINANCE SAID PURPOSE, SAID AMOUNT TO BE OFFSET BY ANY FEDERAL, STATE, COUNTY AND/OR LOCAL FUNDS RECEIVED, AND DELEGATING THE POWER TO ISSUE BOND ANTICIPATION NOTES IN ANTICIPATION OF THE SALE OF SUCH BONDS TO THE VILLAGE TREASURER.

WHEREAS, on February 27, 2017, the Village Board of Trustees of the Village of Depew, Erie County, New York (the "Village") adopted a certain bond resolution (the "Original Bond Resolution") entitled:

A BOND RESOLUTION, DATED FEBRUARY 27, 2017, OF THE VILLAGE BOARD OF TRUSTEES OF THE VILLAGE OF DEPEW, ERIE COUNTY, NEW YORK (THE "VILLAGE"), AUTHORIZING A SEWER SYSTEM CAPITAL IMPROVEMENTS PROJECT (2017) IN RESPONSE TO NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION ORDER ON CONSENT #03-55, AT AN ESTIMATED MAXIMUM COST OF \$1,700,000, AND AUTHORIZING THE ISSUANCE OF SERIAL BONDS IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$1,700,000, PURSUANT TO THE LOCAL FINANCE LAW TO FINANCE SAID PURPOSE, SAID AMOUNT TO BE OFFSET BY ANY FEDERAL, STATE, COUNTY AND/OR LOCAL FUNDS RECEIVED, AND DELEGATING THE POWER TO ISSUE BOND ANTICIPATION NOTES IN ANTICIPATION OF THE SALE OF SUCH BONDS TO THE VILLAGE TREASURER.

and

WHEREAS, the Village has previously issued a grid note through N.Y.S. Environmental Facilities Corporation pursuant to the Original Bond Resolution, but has not yet entered into permanent financing arrangements thereunder (i.e., the issuance of long-term serial bonds); and WHEREAS, the Village received two grants from New York State for the sewer system improvements project allowing the Village to include additional improvements; and

WHEREAS, construction bids came in under budget, which provided the Village with an opportunity to expand the scope of work to include additional sewer system improvements under the Phase 2 CAP project; and

WHEREAS, the Village Board of Trustees directed GHD to prepare an engineering project plan amendment to include such additional improvements; and

WHEREAS, the Village Board of Trustees wishes to modify the Original Bond Resolution for the primary purpose of modifying the scope of the project to include additional improvements and to make other modifications to the Original Bond Resolution as may be consistent with law; and

WHEREAS, the estimated maximum cost of the project and the amount of serial bonds authorized for such project remains the same; and

WHEREAS, the Original Bond Resolution is being modified to include additional improvements as previously described, and is otherwise being reaffirmed and ratified in all other material respects; and

WHEREAS, the Village Board of Trustees now wishes to amend and restate (in its entirety) the Original February 27, 2017 Bond Resolution for the reasons

identified above, and to make other modifications to the Original Bond Resolution as may be consistent with law; and

NOW THEREFORE,

BE IT RESOLVED, by the Village Board of Trustees of the Village (by the favorable vote of not less than two-thirds of all the members of the Board) as follows:

SECTION 1. The Village is hereby authorized to undertake a sewer system capital improvements project being undertaken in response to a New York State Department of Environmental Conservation Order on Consent, such project to generally include, but not be limited to, the installation of a cured-in-place pipe ("CIPP") lining system for approximately 17,649 linear feet of sanitary sewer pipe, point repairs to sanitary and storm sewer pipes, manhole rehabilitations, and various restoration work, as well as other improvements more fully identified in (or contemplated by) such engineering project plans prepared by GHD, and including all preliminary work and necessary equipment, materials, and site work and all preliminary costs and costs incidental thereto and in connection with the financing thereof (collectively, the "Purpose"). The estimated maximum cost of the Purpose is \$1,700,000.

SECTION 2. The Village Board of Trustees plans to finance the estimated maximum cost of the Purpose by the issuance of serial bonds in an aggregate amount not to exceed \$1,700,000 of the Village, hereby authorized to be issued therefor pursuant to the Local Finance Law, said amount to be offset by any federal, state, county and/or local funds received. Unless paid from other sources or charges, the cost of such improvements is to be paid by the levy and collection of taxes on all real property in the Village to pay the principal of said bonds and the interest thereon as the same shall become due and payable.

SECTION 3. It is hereby determined that the Purpose is an object or purpose described in subdivision 4 of paragraph (a) of Section 11.00 of the Local Finance Law, and that the period of probable usefulness of the Purpose is 40 years.

SECTION 4. 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 the sale of such bonds.

SECTION 5. It is hereby determined the proposed maturity of the obligations authorized by this resolution will be in excess of five years.

SECTION 6. The faith and credit of the Village are hereby irrevocably pledged for the payment of the principal of and interest on such bonds (and any bond anticipation notes issued in anticipation of the sale of 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 or notes becoming due and payable in such year. Unless paid from other sources or charges, 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 bonds or notes as the same become due and payable.

SECTION 7. Subject to the provisions of this resolution and of the Local Finance Law, and pursuant to the provisions of Section 21.00 relative to the authorization of the issuance of bonds with substantially level or declining annual debt service, Section 30.00 relative to the authorization of the issuance of bond anticipation notes and of Section 50.00, Sections 56.00 to 60.00, Section 62.00, Section 62.10, Section 63.00, and Section 164.00 of the Local Finance Law, the powers and duties of the Village Board of Trustees pertaining or incidental to the sale and issuance of the obligations herein authorized, including but not limited to authorizing bond anticipation notes and prescribing the terms, form and contents and details as to the sale and issuance of the bonds herein authorized and of any bond anticipation notes issued in anticipation of said bonds, and the renewals of said notes, are hereby delegated to the Village Treasurer, the chief fiscal officer of the Village. Without in any way limiting the scope of the foregoing delegation of powers, the Village Treasurer, to the extent permitted by Section 58.00(f) of the Local Finance Law, is specifically authorized to accept bids submitted in electronic format for any bonds or notes of the Village.

SECTION 8. 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 Local Finance Law, for the purpose or purposes described in Section 1 of this resolution. The Village then reasonably expects to reimburse any such expenditures (to the extent made after February 27, 2017 or within 60 days prior to the earlier of (a) February 27, 2017 or (b) the date of any earlier expression by the Village of its intent to reimburse such expenditures) with the proceeds of the bonds authorized by Section 2 of this resolution (or with the proceeds of any bond anticipation notes issued in anticipation of the sale of such bonds). This resolution shall constitute the declaration (or reaffirmation) of the

Village's original declaration of its "official intent" to reimburse the expenditures authorized by Section 2 hereof with such bond or note proceeds, as required by United States Treasury Regulations Section 1.150-2.

SECTION 9. 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 may designate the bonds authorized by this resolution, and any notes issued in anticipation thereof, as "qualified tax-exempt bonds" in accordance with Section 265(b)(3) of the Code.

SECTION 10. The Village Treasurer is further authorized to enter into a continuing disclosure agreement with the initial purchaser of the bonds or notes authorized by this resolution, 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 11. The Village hereby determines that the Purpose 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") are required.

SECTION 12. To the extent applicable, the Village Treasurer is hereby authorized to execute and deliver in the name and on behalf of the Village a project financing agreement prepared by the New York State Environmental Facilities Corporation ("EFC") (the "SRF Project Financing Agreement"). To the extent applicable, the Village Treasurer and the Village Clerk 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 SRF Project Financing Agreement.

SECTION 13. In 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 14. The validity of such serial bonds or of any bond anticipation notes issued in anticipation of the sale of such serial bonds may be contested only if:

1. (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 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 were authorized in violation of the provisions of the Constitution of New York.

SECTION 15. 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 said Local Finance Law, in a newspaper having a general circulation in the Village and hereby designated as the official newspaper of the Village for such publication..

SECTION 16. This Resolution is effective immediately pursuant to Section 36.00(a)(5) of the Local Finance Law.

SECTION 17. Nothing in this amendment shall affect the validity of the Original Bond Resolution, or any actions taken thereunder, and any such actions are hereby ratified.

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

Trustee Jakubowski - Y  
Trustee Bukowiecki - Y  
Trustee Hamernik - Y  
Trustee Peterson - Y  
Mayor Nikonowicz - Y

**EMPLOYMENT APPLICATIONS** – Rec – Jessica Leach, Haley Leach, Jacob Maciejewski

**DEPARTMENT HEAD REPORTS**

**ON A MOTION BY**, Trustee Hamernik, and seconded by Trustee Jakubowski, Fire – 2017 Year End, January 2018

Fire – Read Jan Report

POLICE – Read Jan report

DPW – Ahead on snow removal

REC – 24<sup>th</sup> March 1-2:30 – Easter Egg Hunt - 2-10 Years Old

TONY – NONE

ADMIN –

ENGINEER – GHD – Review sewers – Give boiled down resolutions – Bid out phase 2 Pamela Sherwood Area. Really good bid numbers, plus able to secure 2 grants – water quality improvement. Grants can be over a million so Phase 3 can now be added, money staying the same. A lot of credit to Board to secure the grants. Cleaning now, March 5 lining will start, updates on Village Website. Man holes & servers to be replaced, looking Aug finish. Main / Manitou / Calumet study next.

**UNFINISHED AND OTHER BUSINESS**

**PUBLIC CONCERNS AND COMMENTS**

Kathy McDonald – 417 North Creek Dr. – Asked by residents to lift the parking ban Mayor we will not be lifting the ban, but officers to use discretion, however snow events are in the future. It's in the best interest of the village and not a money grab.

**CLAIMS AND ACCOUNTS**

**ON A MOTION BY** Trustee Bukowiecki, seconded by Trustee Peterson, the following claims are to be paid: \$209,666.81 General, \$800.00 Sewer, \$210,466.81 Capital was **CARRIED**.

**ADJOURNMENT**

**ON A MOTION BY** Trustee Jakubowski, seconded by Trustee Hamernik, the meeting was adjourned with a moment of silence for Robert Flick, a long time resident & close friend to Trustee Hamernik, Florence Robak, 99 years & 11 Months, a longtime member of the Senior Center, Lenard Satola, Exempt member of Engine #4, VFW and Polish Falcons, Norb Slovinski, Exempt member of Hook & Ladder at **7:37: PM**. The motion was **CARRIED**.

Respectfully submitted,

Maureen Jerackas  
Village Administrator