

MEETINGS: 22
NO. OF REGULAR: 20

**VILLAGE BOARD OF TRUSTEES OF THE VILLAGE OF DEPEW
February 27, 2017 7:00PM**

ROLL CALL: Trustee Jakubowski - Y
Trustee Bukowiecki - Y
Trustee Peterson - Y
Trustee Kucewicz - ABSENT
Mayor Nikonowicz - Y

ON A MOTION BY, Trustee Jakubowski, and seconded by Trustee Peterson, the February 13, 2017 Village Board Minutes were approved.

ON A MOTION BY, Trustee Bukowiecki, and seconded by Jakubowski, the February 9, 2017 Zoning Board were accepted.

1. Kevin Nowak Sr. – 328 Olmstead Avenue – to permit him to increase the intensity of a non-conforming use adding one (1) residential unit to an existing mixed use building in an R-1 zone. Approved.

ON A MOTION BY, Trustee Peterson, and seconded by Trustee Bukowiecki, the February 2, 2017 Planning Board Minutes were approved as recommended separately.

1. Bob Bradford of Sutton Architecture PLLC, - Meghna Malik -5752 Transit Road- proposed Checkers Restaurant, which includes a complete exterior façade renovation of former Dunkin Donuts. Also include an interior renovation. Accept with stipulations.
2. Depew Retail LLC, -5175 Broadway (D&L Plaza) –to subdivide a portion of the D&L Plaza site to operate as an outparcel. The current zoning is C-2 Shopping Center District. Tabled

PUBLIC COMMENT – AGENDA ITEMS ONLY

None

PUBLIC HEARING – LOCAL LAW 1

None

ON A MOTION BY, Trustee Jakubowski, and seconded by Trustee Peterson, the Public Hearing was closed at 7:11PM.

ADOPT LOCAL LAW #1 OF 2017 – Amend Parking Restrictions

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

WHEREAS, the Board of Trustees of the Village of Depew, New York held a public hearing on February 27, 2017 at 7:00 pm in the Council Chambers of the Municipal Building, 85 Manitou St, Depew, NY to consider the amendment to local law Section 240, subdivision 9 of the Laws of the Village of Depew, and

WHEREAS, all persons were given an opportunity to speak for or against this local law;

WHEREAS, the proposed local law to be amended is as follows:

1. **Section 240 of the Laws of the Village of Depew, “Vehicle and Traffic”, subdivision 9, “Parking, Standing and Stopping Restrictions” shall be amended as follows:**

“**Hanwell Place.** No Standing anytime on the south side from the east curblineline of Transit Road to the west curblineline of Darwin Drive.” ,

Shall be rescinded and removed from the Village Code Section 240, subdivision 9, and all signs prohibiting standing therein shall be removed.

2. All other portions of Section 240, subdivision 9, not affected by this amendment, including those amended by Local Law #5 of 2016, passed by the Board of Trustees on October 24, 2016 shall remain in full force and effect.

3. Effective date: This amendment to local law shall take effect immediately upon filing with the Secretary of State, and shall be added to the text of the Local Laws thereafter

NOW THEREFORE, BE IT RESOLVED, this amendment to local law 240, subdivision 9 is hereby adopted.

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 Bukowiecki - Y
Trustee Peterson - Y
Trustee Kucewicz - ABS
Mayor Nikonowicz - Y

SEQR Type II Determination - Village of Depew Phase 2 Corrective Action Plan Implementation

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

WHEREAS, the Village of Depew Board of Trustees is considering various improvements to correct sewer system defects and reduce inflow and infiltration; and

WHEREAS, the Board of Trustees is seeking funding assistance under the New York State Environmental Facilities Corporation's Clean Water State Revolving Fund, and is, therefore subject to environmental review obligations required to participate in the funding program; and

WHEREAS, pursuant to 6 NYCRR 617.5(c)(1) under SEQR, this project is a Type 2 Action as it involves the maintenance and repair of existing sewer infrastructure with no substantial change to existing manholes and sanitary sewer pipe.

NOW THEREFORE BE IT RESOLVED, that as a Type 2 action under SEQR, the project has been found categorically to not have significant adverse impacts on the environment and no further review is required.

The foregoing 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 Peterson- Y
Trustee Kucewicz- ABS
Mayor Nikonowicz- Y

DECLARE SURPLUS PROPERTY

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

BE IT RESOLVED, the Police Department has a 2015 Ford Explorer, 2009 Ford Crown Vic and a 2013 Ford Taurus, and the Department of public works has a 1996 Elgin Whirlwind Sweeper and a 2004 Vermeer Chipper that are surplus and are due to be traded in, sold or auctioned off in the near future.

The foregoing 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 Peterson-Y
Trustee Kucewicz -ABS
Mayor Nikonowicz – Y

**AUTHORIZE ADMINISTRATOR TO ADVERTISE FOR PUBLIC HEARING
TAX CAP OVERRIDE – LOCAL LAW 2 OF 2017**

Trustee Bukowiecki, 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 27, 2017 at 7:00 pm in the Council Chambers. The purpose of this hearing is to consider Local Law 2 of 2017 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, 2017 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, 2017 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, form 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 Peterson - Y
Trustee Kucewicz - ABS
Mayor Nikonowicz - Y

**BOND RESOLUTION – PAMELA SHERWOOD SEWER
PROJECT**

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

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.

WHEREAS, the Village of Depew has entered into a Consent Agreement with the New York State Department of Environmental Conservation (DEC) to remediate issues related to the discharge of sewer system overflow into the public waterways, and

WHEREAS, that DEC agreement requires that the Village undertake sewer system monitoring, repair and remediation in order to avoid civil fines and penalties, both past and for the future, and

WHEREAS, the Village Board of Trustees have determined that the project to remediate the sewer system in the Pamela Drive/Sherwood Court area will meet the requirements of the consent agreement, and therefore avoid DEC penalties and fines, and

WHEREAS, in order to apply for and obtain grants to lower the cost of these projects to the Village, financing for the project must first be approved and in place, and

WHEREAS, the Village Board of Trustees of the Village of Depew, in the County of Erie, New York (the "Village") desires to undertake in 2017 a capital improvements project for the reconstruction of and construction of improvements to the Village Sewer System.

NOW THEREFORE,

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

SECTION 1. The purpose to be financed pursuant to this resolution is a sewer system capital improvements project being undertaken in response to a New York State Department of Environmental Conservation Order on Consent No. 03-55, such project to generally include, but not be limited to, the installation of a cured-in-place pipe ("CIPP") lining system for approximately 10,500 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) a report prepared by engineers at 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, such 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 Purpose 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 will 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 will 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 will 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, pursuant to the provisions of Section 30.00 relative to the authorization of the issuance of bond anticipation notes or the renewals of such notes and of Section 21.00, Section 50.00, Sections 56.00 to 60.00, Section 62.00 and Section 63.00 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 the sale of such bonds, and the renewals of such 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 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 the date hereof or within 60 days prior to earlier of (a) the date hereof 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 "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 has complied with applicable federal, state and local laws and regulations regarding environmental matters, including compliance with the New York State Environmental Quality Review Act ("SEQRA"), comprising Article 8 of the Environmental Conservation Law and, in connection therewith, duly issued a negative declaration and/or other applicable documentation, and therefore, no further action under the State Environmental Quality Review Act is necessary.

SECTION 12. 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"). 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 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) (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 the law which should be complied with at the date of publication of this notice were not substantially complied with,

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

(2) such obligations are 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.

The foregoing 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 Peterson - Y
Trustee Kucewicz - ABS
Mayor Nikonowicz - Y

NEGATIVE DECLARATION FOR SHELTER AT FIRESTATION

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

WHEREAS, the Village of Depew will be erecting an outdoor meeting shelter at the Northside Fire hall on Brewster Street in the village, and

WHEREAS the Board of Trustees and Mayor, along with their legal and engineering staff, have examined all relevant factors of the short form environmental impact statement to consider whether any negative environmental impact will occur from the installation of the shelter, now

BE IT RESOLVED, the Board of Trustees and Mayor hereby make a finding that there is NO substantial evidence that the project may have a significant effect on the environment, and

BE IT RESOLVED, that the Board of Trustees issues a negative declaration.

The forgoing resolution was seconded by Trustee Peterson, and **CARRIED**.

Trustee Jakubowski - Y
Trustee Bukowiecki - Y
Trustee Peterson - Y
Trustee Kucewicz - ABS
Mayor Nikonowicz - Y

PERMISSION – MEMBERSHIP – DEPEW FIRE DEPARTMENT

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

BE IT RESOLVED, membership is hereby granted to the following in the Depew Fire Department pending the passing of his physical:

Hook and Ladder Company

James Lepard 5086 Broadway Depew, NY 14043

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 Peterson- Y
Trustee Kucewicz - ABS
Mayor Nikonowicz - Y

Authorization for Mayor to Sign NYS Environmental Facilities Corporation

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

BE IT RESOLVED, that the Mayor is authorized to execute a Grant Agreement with the NYS Environmental Facilities Corporation and any and all other contracts, documents and instruments necessary to bring about the Project and to fulfill the Village Of Depew's obligation under the NYS Clean Water State Revolving Fund.

The foregoing 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 Peterson-Y
Trustee Kucewicz- ABS
Mayor Nikonowicz – Y

EMPLOYMENT APPLICATIONS

Recreation – Jacob Maciejewski, Henry Hansen, Riley Lucarelli, Kirstie Dlugosz, Haley Leach, Bridget Herod, Jacob Bichnell, John Mietus, James Stiegler, Nathan LeFever
DPW – James Stiegler, Village – Denise Clark - Voelker

DEPARTMENT HEAD REPORTS

ON A MOTION BY, Trustee Jakubowski, and seconded by Trustee Peterson, Fire Department December 2016, end of year report 2016 and January 2017.

COMMITTEE REPORTS

None.

UNFINISHED AND OTHER BUSINESS

None.

PUBLIC CONCERNS AND COMMENTS

Dave Burkhardt – 5 Autumn Lee – Asked if the village would be lifting the parking Ban early. The mayor replied that he and the Chief spoke, the Police officers were asked to use discretion in writing tickets, but because there is a possibility of snow events it is not lifted and people should not park on the street if it snows. He asked about selling the police cars, he felt they were relatively new. The chief explained the process used to

decide when the optimal time to get new cars and trade in the old cars weighing in the cost of repairs and 2 years is that time. Dave asked how much the village pays for the SUVs. The chief responded \$24,000 and Dave replied is that all.

CLAIMS AND ACCOUNTS

ON A MOTION BY Trustee Peterson, seconded by Trustee Bukowiecki, the following claims are to be paid: \$214,358.77 General, \$827.55 Sewer, \$5,030.00 Capital Project, \$220,216.32 Capital was **CARRIED**.

ADJOURNMENT

ON A MOTION BY Trustee Jakubowski, seconded by Trustee Bukowiecki, the meeting was adjourned in memory of Gary Stromanger, Brother of Past Fire Chief, Richard Rybec,, former Police Officer at **7:44 PM**. The motion was **CARRIED**.

Respectfully submitted,

.

Maureen Jerackas
Village Administrator