

MEETINGS: 26
NO. OF REGULAR: 25

VILLAGE BOARD OF TRUSTEES OF THE VILLAGE OF DEPEW
March 23, 2020 7:00PM

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

ON A MOTION BY, Trustee Stempniak, and seconded by Trustee Jakubowski the March 9, 2020 Village Board Minutes were approved.

PUBLIC COMMENT – N/A

Village of Depew
Notice of Public Hearing

Please take notice that the Village of Depew Board of Trustees passed a resolution at their February 24, 2020 Village Board meeting to conduct a public hearing in the Council Chambers of the Depew Municipal Building, 85 Manitou St, Depew NY on Monday March 23, 2020 at 7:00 pm.

The purpose of this hearing is to consider Local Law 2 of 2020 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, 2020 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, 2020 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.

At said hearing all persons so desiring shall have the opportunity to be heard.

Teresa Wachowiak
Village Administrator

ACCEPT RESIGNATION – VILLAGE TRUSTEE

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

BE IT RESOLVED, the resignation of Judith A. Michaels from the Village of Depew Trustee position effective March 17, 2020 is accepted.

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

Trustee Jakubowski - Y
Trustee Stempniak -Y
Trustee Hamernik -ABS
Mayor Peterson – Y

APPOINT TRUSTEE TO FILL VACANCIES IN STATE OF DISASTER EMERGENCY

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

WHEREAS, on March 7, 2020, the Governor of the State of New York issued Executive Order Number 202 declaring a State of disaster emergency in the entire State of New York due to the novel coronavirus, COVID-19, outbreak; and

WHEREAS, the Village of Depew is a municipality located in the State of New York and as such Executive Order Number 202 applies to the Village of Depew; and

WHEREAS, on March 17, 2020, the Mayor of the Village of Depew declared a State of disaster emergency in the Village of Depew due to the novel coronavirus, COVID-19, outbreak; and

WHEREAS, on March 18, 2020, the Governor of the State of New York issued Executive Order Number 202.6 which, in relevant part, suspended the residency requirement of Section three of the Public Officer's Law of the State of New York to temporarily permit any individual who is deemed necessary to be hired to provide for an effective and efficient emergency response, for the duration of the State of disaster emergency; and

WHEREAS, the statutory language of Section 3 of the Public Officer's Law of the State of New York is similar to the statutory language of Section 3-300 of the Village Law of the State of New York with respect to residency requirements for individuals holding public office; and

WHEREAS, it is determined that Executive Order Number 202.6 as applicable to Article 3 of the Public Officer's Law of the State of New York is equally applicable to Section 3-300 of the Village Law of the State of New York; and

WHEREAS, EDWIN VOLL, III, is a former trustee of the Village of Depew with emergency response experience and an individual who is deemed necessary to

hire to provide for effective and efficient emergency response in the Village of Depew for the duration of such emergency;

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

Pursuant to Section 4-400 of Village Law and Executive Order 202.6 of the Governor of the State of New York which temporarily suspends the residence requirements of Section three of the Public Officer's Law of the State of New York and by extension temporarily suspends the residence requirements of Section 3-300 of the Village Law of the State of New York for an individual who is deemed necessary to hire to provide for an effective and efficient emergency response for the duration of such emergency, I, Mayor, Kevin Peterson, do hereby appoint Edwin Voll, III, to the position of Village Trustee to fill the vacancy on the Village Board, said term is to begin effective March 23, 2020 and for the term to expire when the State of disaster emergency in the State of New York and the Village of Depew ceases.

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 Hamernik - ABS
Trustee Stempniak – Y
Mayor Peterson - Y

ADOPT LOCAL LAW #2 OF 2020 – TAX CAP OVERRIDE

Trustee Stempniak, 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 March 23, 2020, at 7:00 pm in the Council Chambers of the Municipal Building, 85 Manitou St, Depew, NY to consider the adoption of a local law authorizing a property tax levy in excess of the limit established in General Municipal Law Section 3-c.

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

NOW THEREFORE, BE IT RESOLVED, this local law is hereby adopted.
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, 2020 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, 2020 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 following 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 - ABS
Trustee Stempniak - Y
Mayor Peterson -Y

RESOLUTION ISSUING NEGATIVE DECLARATION LOCAL LAW TO THE VILLAGE OF DEPEW CODE TO REGULATE SMALL WIRELESS FACILITIES.

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

WHEREAS, the Village of Depew (Village) has a local law regulating telecommunication facilities which establishes general guidelines for the siting of communication towers and antennas for the purposes of protecting the community from potential adverse impacts; and

WHEREAS, the Village recognizes that wireless facilities are critical to delivering wireless access to advanced technology, broadband, and 911 services to homes, businesses, and schools within the Village, and new technology has increased the need for towers and antennas to serve the Village; and

WHEREAS, the Village desires to encourage small wireless telecommunication facilities infrastructure investment by providing a fair and predicable process for the deployment, while enabling the Village to promote the management of its public right of way in the overall interests of public health, safety and welfare; and

WHEREAS, the Village is proposing to amend §220 of the Village Code to clarify the application and review process for small wireless telecommunication facilities within the current standards established for the siting of telecommunication facilities; and

WHEREAS, pursuant to sections 617.5(c)(33) and 617.5(c)(26), the adoption of the proposed amendment is a Type 2 Action as it involves the amendment of a local law that constitutes continuing administration and management of telecommunication facilities by the Village and does not include new programs or major reordering of priorities that may affect the environment.

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

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 - ABS
Trustee Stempniak - Y
Mayor Peterson -Y

RESOLUTION SETTING APPLICATION AND LICENSE FEES FOR SMALL WIRELESS FACILITIES IN THE VILLAGE OF DEPEW

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

WHEREAS, the Village adopted Local Law No. 1 of 2020 (the “Local Law”), which amended the Village Code relating to the placement and erection of small wireless facilities; and

WHEREAS, the Local Law provides zoning and licensing fees to be charged to applicants and licensees, which shall be set by the Village Board by resolution which may be amended from time to time; and

WHEREAS, the Village Board has evaluated the Local Law, the staffing demands of the Village, and the likely costs of administering approvals and regulation of small wireless facilities, particularly those facilities located in the Village right-of-way and/or Village-owned infrastructure and considered what similar contiguous municipalities have likewise determined for costs of administering approvals and regulation of small cell wireless facilities, and has determined the reasonable fees for such administrative and regulatory programs,

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

1. Pursuant to Section 220-13(B)(3), the Small Wireless Facility (“SWF”) Special Use Permit Application Fee is hereby set as follows: \$500.00 for an application with up to 5 SWF and \$100 for each additional SWF that is part of the same SWF request for approval. An additional charge of \$1,000.00 shall be charged for any new Support Structure that is proposed to be constructed or replaced.

2. Pursuant to Section 220-13 (B)(3), the License Fees shall be set as follows:
i) License Review Fee: \$0.00.
ii) Annual License Fee. \$270.00 for each Small Wireless Facility located in the Village ROW, plus an additional \$270.00 for each Licensee-constructed Support Structure located in the Village ROW.

3. Pursuant to Section 255-33 (A)(5), the fee for review for approval by the Code Enforcement Officer of SWFs that are exempt from the Special Use Permit process shall be set as follows: \$500.00 for an application with up to 5 SWF and \$100.00 for each additional SWF that is part of the same SWF request for approval. An additional charge of \$1,000.00 shall be charged for any new Support Structure that is proposed to be constructed or replaced.

4. The Village's fee schedule shall be updated with the above information.
5. This resolution shall take effect immediately

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 - ABS
Trustee Stempniak – Y
Mayor Peterson - Y

ACCEPT GRANT

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

WHEREAS, the New York State Urban Forestry Council is offering the Village of Depew a \$1,000 grant award.

BE IT RESOLVED, Mayor Kevin Peterson is authorized to accept the \$1,000 grant offered to the Village of Depew from New York State Urban Forestry Council.

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 - ABS
Trustee Stempniak - Y
Mayor Peterson - Y

PERMISSION REMOVAL OF SIGNS

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

WHEREAS, The Depew Police Department has requested the removal of the No Parking Signs on the following streets:

Gould between Bellevue and Canton
Bellevue between Gould and Terrace
Ellington between Gould and Terrace

BE IT RESOLVED, the signs will be removed from the above-named streets.

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

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

AUTHORIZE MAYOR TO SIGN PENFLEX AUTHORIZATION FORM FOR 2019 SERVICE AWARD PROGRAM

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

BE IT RESOLVED, that Mayor Kevin Peterson and Board of Trustees are authorized to sign the 2019 Service Award Program Administration Form and after the 30 day period forward to Penflex, Inc for the purpose of administering the 2019 Service Award Program for Depew Firefighters.

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 - ABS
Trustee Stempniak - Y
Mayor Peterson - Y

PERMISSION – DEPEW FIRE DEPT

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

Permission is hereby granted to the Depew Fire Department AETNA Hose to use the Southside Fire Station on Saturday June 6, 2020 for their company chicken bbq fundraiser from 8:00 AM – 10:00 PM.

And

Permission is hereby granted to the Depew Fire Department AETNA Hose to use the Southside Fire Station on Saturday December 7, 2020 for their children’s Christmas Party from 10:00 AM – 1:00 PM and their Adult Party on the same day from 5:00 PM – Midnight.

And

Permission is hereby granted to the Depew Fire Department AETNA Hose to have an offsite fundraiser meat raffle at Eagles Hall on Broadway St, November 4, 2020.

The foregoing resolution was seconded by Trustee Stempniak and **CARRIED**

EMPLOYMENT APPLICATIONS – DPW – Michael Pittman, Jeffrey Rogacki

DEPARTMENT HEAD REPORTS – Electrical – Annual 2019

UNFINISHED AND OTHER BUSINESS - N/A

PUBLIC CONCERNS AND COMMENTS

A resident asked about the assessments – Mayor Peterson explained that we are not an assessing body, she would have to contact the Town of either Lancaster or Cheektowaga.

A question was posed as to when stump grinding would resume. The Mayor said that our DPW employees are home, however, on call, for emergencies only. When we get back to a normal crew and schedule, we will begin this process and also brush pick up, etc. In the meantime, he asked residents to refrain from putting those items out at the curb.

One Facebook viewer thanked the Chief and OEM department for all of their hard work during this crisis.

Gaby Miller said thank you for setting up the Facebook live feed.

Another gave a big shout out to the Fire department as well.

Mayor Peterson took a moment to thank everyone who has been coming in to keep the Village operational, it is very much appreciated during these trying, unprecedented times.

AUTHORIZE ADMINISTRATOR TO ADVERTISE FOR PUBLIC HEARING FOR TENTATIVE 2020-2021 BUDGET

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

BE IT RESOLVED, the Village Administrator is hereby authorized to advertise for public hearing for the tentative 2020 - 2021 budget to take place on Monday April 13, 2020 at 7:01 PM in the council chambers.

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

CLAIMS AND ACCOUNTS

ON A MOTION BY Trustee Stempniak and seconded by Trustee Jakubowski, the following claims are to be paid: \$272,165.36 General, \$1,347.90 Sewer, \$10,097.50 Capital Projects Building Renovation and \$283,610.76 Capital was **CARRIED**.

ADJOURNMENT

ON A MOTION BY Trustee Jakubowski, seconded by Trustee Voll, the meeting was adjourned with a moment of silence for Kevin Cefaly, Long Term Member of Cayuga Hose Co. #3 at 7:44 **PM**. The motion was **CARRIED**.

Respectfully submitted,

Teresa Wachowiak
Village Administrator

