

MEETINGS: 12
NO. OF REGULAR: 11

VILLAGE BOARD OF TRUSTEES OF THE VILLAGE OF DEPEW
August 26, 2019 7:00PM

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

ON A MOTION BY, Trustee Jakubowski, and seconded by Trustee Hamernik the August 12, 2019 Village Board Minutes were approved.

PUBLIC COMMENT N/A

APPOINT – POLICE LIEUTENANT

Pursuant to section 4-400 of Village Law, I Mayor Kevin Peterson, hereby appoint:

Justin Refermat

To the position of Police Lieutenant, Civil Service exam number 77-910, eligible list established July 26, 2019 and is effective immediately. Starting Salary will as be stipulated by the current PBA collective bargaining agreement. The terms of the employment and probation period will be accordance with the current PBA collective bargaining agreement and current Erie County rules for classified service as amended.

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

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

AMEND PER DIEM COURT OFFICER POSITION

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

A motion to amend the Court Officer appointment of

Christine (Wolcott) Rumkowski – 225 Hillpine Rd, Cheektowaga, NY 14227

from a per diem court officer to a regular PT Court Officer. This resolution does not change the hourly rate of pay. This position will not work any more or less hours than so stated or so needed as per the court schedule.

The following 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 -Y
Trustee Voll -Y
Mayor Peterson –Y

AUTHORIZE ADMINISTRATOR TO ADVERTISE PUBLIC HEARING - CDBG

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

The Administrator is authorized to advertise a public hearing to discuss the Community Development Block Grant at the September 23, 2019 board meeting.

The foregoing resolution was seconded by Trustee Jakubowski and **CARRIED**.

VILLAGE OF DEPEW SSES PHASE IV TYPE 2 SEQR

Trustee Hamernik offered the following resolution and moved for its adoption:

WHEREAS, the Village of Depew (Village) is currently under an Order of Consent with the New York State Department of Environmental Conservation (NYSDEC) to address sanitary sewer overflows (SSOs) in the Village’s sanitary sewer collection system; and

WHEREAS, the Village completed a Sanitary Sewer Evaluation Survey (SSES) in Sewershed 8 and as more completely described in an Engineering Report dated May 30, 2019 to identify potential corrective actions; and

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

WHEREAS, the Board of Trustees is seeking funding assistance under the New York State Cleanwater State Revolving Fund, and is, therefore subject to environmental review obligations required to participate in the funding program; and

WHEREAS, pursuant to sections 617.5(c)(1) and 617.5(c)(2) under SEQR, this project is a Type 2 Action as it involves the maintenance, repair and replacement in kind 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 under 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 Stempniak -Y
- Trustee Hamernik - Y
- Trustee Voll - Y
- Mayor Peterson – Y

RESOLUTION

August 26, 2019

VILLAGE OF DEPEW
ERIE COUNTY, NEW YORK
EXTRACT OF MINUTES

A meeting of the Village Board of Trustees of the Village of Depew, Erie County, New York (the “Village”) was convened in public session at the Village Hall in the Village of Depew, New York on August 26, 2019 at 7 o’clock p.m., local time.

The meeting was called to order by Kevin Peterson and, upon roll being called, the following members were:

PRESENT:

- _____ Mayor
- _____ Trustee
- _____ Trustee
- _____ Trustee
- _____ Trustee

ABSENT:

ALSO PRESENT:

The following resolution was offered by Trustee Voll and seconded by Trustee Stempniak to wit,

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

A BOND RESOLUTION, DATED AUGUST 26, 2019, OF THE VILLAGE BOARD OF TRUSTEES OF THE VILLAGE OF DEPEW, ERIE COUNTY, NEW YORK (THE "VILLAGE"), AUTHORIZING A SEWER SYSTEM CAPITAL IMPROVEMENTS PROJECT (PHASE 4) IN RESPONSE TO NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION ORDER ON CONSENT NO. R9-20140128-1, AT AN ESTIMATED MAXIMUM COST OF \$1,930,000, AND AUTHORIZING THE ISSUANCE OF SERIAL BONDS IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$1,930,000, PURSUANT TO THE LOCAL FINANCE LAW TO FINANCE SUCH PURPOSE, SUCH 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, Erie County, New York (the "Village") 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; and

WHEREAS, such DEC agreement requires that the Village undertake sewer system monitoring, repair, remediation and reconstruction in order to avoid civil fines and penalties; and

WHEREAS, the Village Board of Trustees of the Village desires to undertake a capital improvements project (Phase 4) for the reconstruction of and construction of improvements to the Village Sewer System; and

WHEREAS, the Village intends to apply for grant funds from the New York State Environmental Facilities Corporation.

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 Village is hereby authorized to undertake a certain sewer system capital improvements project being undertaken in response to a New York State Department of Environmental Conservation Order on Consent No. R9-20140128-1, such work to generally consist of (but not be limited to) the installation of a cured-in-place pipe ("CIPP") lining system for approximately 9,670 linear feet of sanitary sewer pipe, manhole rehabilitations, replacement of approximately 1,190 of sanitary sewer pipe, point repairs to sanitary and storm sewer pipes, and various restoration work, as well as other improvements as more fully identified in (or contemplated by) a report dated May 30, 2019 that was prepared by engineers at GHD in connection with the project, all of the foregoing to include all preliminary work and necessary equipment, materials, apparatus and related site work and other improvements and costs incidental thereto and in connection with the financing thereof (collectively, the "Purpose"). The estimated maximum cost of the Purpose is \$1,930,000.

SECTION 2. The Village Board of Trustees plans to finance the estimated maximum cost of the Purpose by the issuance of serial bonds of the Village in an aggregate principal amount not to exceed \$1,930,000 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, including, but not limited to, any grant 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 the taxable 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 a class of objects or purposes described in subdivision 4 of paragraph (a) of Section 11.00 of the Local Finance Law, and that the period of probable usefulness of such 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 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 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 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 the date hereof or within 60 days prior to the 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 determined 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”) is 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 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 were 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 as of 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 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.

The following 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 -Y
Trustee Voll - Y
Mayor Peterson – Y

AUTHORIZE MAYOR TO SIGN JUSTICE COURT GRANT APPLICATION

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

WHEREAS, the State of New York Unified Court System is offering a Justice Court Assistance Program with grants available up to \$30,000 and Judge Willis would like to apply for this program,

BE IT RESOLVED, Mayor Kevin Peterson and the Board of Trustees hereby approve this application and Mayor Kevin Peterson is authorized to sign the Justice Court Assistance Program Grant Application.

The following 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 –Y
Trustee Voll - Y
Mayor Peterson – Y

CHANGE OF PAYROLL DATES

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

BE IT RESOLVED, due to the Thanksgiving Holiday our payroll pay date will be Wednesday November 27, 2019 instead of Thursday November 28, 2019.

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

CHANGE OF VILLAGE BOARD MEETING DATE

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

BE IT RESOLVED, the Village Board Meeting scheduled for Monday October 14, 2019 is hereby changed to Tuesday, October 15, 2019 due to the Columbus Day Holiday.

And

BE IT RESOLVED, the Village Board Meeting scheduled for Monday November 11, 2019 is hereby changed to Tuesday, November 12, 2019 due to the Veteran’s Day Holiday.

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

PERMISSION – DEPEW FIRE DEPT

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

Permission is hereby granted to Depew Fire Department. to use the South Side Fire Station for the Annual Fire Department Inspection on Saturday September 7, 2019 from 5:00 PM–11:00 PM.

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

PERMISSION – DEPEW FIRE DEPT

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

Permission is hereby granted to Depew Hook & Ladder Co. to use the North Side Fire Station for the Annual Tool Raffle Fundraiser on Saturday February 8, 2020 from 7:00 AM–7:00 PM.

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

PERMISSION – MEMBERSHIP – DEPEW FIRE DEPARTMENT

Trustee Voll, 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:

West End

Michael Muscarella

Jacob Smith

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

PERMISSION – FIRE DEPARTMENT

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

WHEREAS, Depew Hook & Ladder Company is requesting permission to take at least two trucks to the following training dates at the fire academy:

September 3 – 9 AM (Cheektowaga)
September 17 – 6:30 PM (Amherst)
October 8 – 9 AM – (Cheektowaga)
October 15 – 6:30 PM – (Cheektowaga)

THEREFORE, BE IT RESOLVED: The above foregoing resolution was seconded by Trustee Hamernik and duly put to a roll call vote which resulted in the following:

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

EMPLOYMENT APPLICATIONS – Village Hall – Ryan Paoella, Rec – Melissa Green

DEPARTMENT HEAD REPORTS

NONE

UNFINISHED AND OTHER BUSINESS

Mayor Peterson wants the residents to know that the board continues to work on the services that Modern supplies us with garbage and recycling pick up each week. He and board members are still seeing issues that need to be addressed and corrected which is not in accordance with the email received from John Hickman of Modern as of yesterday. The board will stay on top of this issue until they are satisfied with the results.

PUBLIC CONCERNS AND COMMENTS

Mathew Walker from the Town of Lancaster expressed his “I feel your pain” when dealing with Modern and changes of weekly pick up, as the Town has gone through very similar issues when they too, switched to Modern. He wishes the board good luck with their issues.

Liz Brinkworth from Legislator Monica Wallace’s office was present and offered that the Legislator is still working with the Senior’s to lower their expenses in many areas, such as prescription medications, etc.

Karen Howard from Senator Gallivan’s office was present at the meeting and offered that the Senator worked with the Town of Lancaster with their issue of semi trucks hitting viaducts on Pleasantview Drive. She will inform the Senator of the issues the Village is having and ask him to contact the DOT to request signage on Transit Rd, a State road, to be erected, alerting truck drivers not to head West on George Urban Blvd as the height restrictions do not accommodate semi’s. There have been too many accidents involving semi trucks hitting the viaduct and this needs to be addressed. Police Chief Miller added that he has contacted the DOT on several occasions, only to be re-routed to someone else

whom he never gets a return phone call. Ms. Howard assured the board that she would take this information back to Senator Gallivan.

Public Comment:

Joanna Blaske at 17 Autumnlea stated that she and 12 attendees at the meeting had concerns regarding two addresses on their street.

The first being 32 Autumnlea, the owner is an elderly and cannot maintain her property. The back yard is not cut and weeds in front are over a foot.

The second address is 47 Autumnlea, where they are concerned about the day and night activity, in all hours, goes on. They are fearful for their residents, who range from 2 years old to the elderly. Very high weeds around the property are highly visible, their Rotweiler growls and scares the neighbors, etc. Often time the neighbors find used condoms, garbage strewn about the lawn, driveway, etc. They are afraid that like last year, the rats will be moving in. Last year the DEC removed 20+ rats from the property. They are afraid of what could happen next, a shooting, an over-dose since they believe there is illegal drug trafficking going on there. The 12 people in attendance are willing to sign a complaint about the property, as CEO Fischione stated he has yet to get other than verbal complaints.

Dan Butler, 26 Tyler Street came to express his concern over the Village's Zoning board members training. There is a course that Buffalo State University runs that the members can attend which is an 8 hour course.

He also brought up Transit Road and the work being done there by NYSEG, they do not notify the residents of the plans to dig, the length of time it will take, etc. Mayor Peterson explained that they do not notify the Village either. He would like the board to contact NYSEG on the resident's behalf and request these notifications.

Ted Janicki, 20 Rossiter came before the board to express his concern over a vacant lot next to his home. The homeowner is absentee and there are Ash trees all over the property that are diseased, infected and dead that are threatening his property. His attorney has mailed a letter to the homeowner, with no response, and has now sent a certified letter to him as well asking for corrective action. He is coming before the board to ask if they will form something similar to the Town's Tree Committee, Trustee's Voll and Stempniak responded that the Village is in that very process as we speak. Mr. Janicki supplied us with the letter from the attorney and photos, that he requested he gets back. This information will be forwarded to Village Attorney, Sam Alba.

Steve and Jennifer Hoffmann, 31 Ridgeway Rd read a prepared statement to the board about trying to enjoy a family get together, or an evening on his patio with his wife at their home, only to have to listen to the next door neighbors ride their ATV's on dirt mounds while revving the engine so loudly you can't even talk. He sits on his patio with the windows closed and still can hear the ATV's. Mr. Hoffmann also played the board a sound clip that he recorded from his home, showing just how loud it is while this is going on. He is asking the board to adopt a policy to prevent these loud noises, maybe an ordinance of maximum decibels allowed, etc. There are now 4 dirt mounds at the neighbor's house that they ride. Karen will take this information back to Senator Gallivan's office as well.

Gabby Miller, 61 Olmstead approached the board to say that she is pleased to hear that Dawson field will again begin being used for recreation for children. Her concerns are about where people will be able to park and if there will be more trash receptacles, along with port-a-potties. As it is now, people are using trees and the outdoors as their restroom, however those trees about the property owner's back yards. Gabby asked what kind of turf would be on the fields? She is concerned that artificial turf will go down and that it is highly toxic and smells terrible. Trustee Voll countered that it is not toxic or else schools would not be allowed to use it.

Bruce Stutz, 19 Columbia, approached the board to say that he is running the Lancaster Baseball Booster Club and they are working with the Depew Union Free School District on a 10 year, lease to own agreement for Dawson Field. He has walked the neighborhood and spoke to many neighbors about their concerns and has begun the process of cleaning up the area. He assured the board they will be adding port-a-potties and having trash cans for people to use. He said actions speak louder than words and to please drive by and see for yourself what progress has been made. The long term goal is for the turf, but that is not for years to come. They are there to be good neighbors so please, if anyone has any concerns, contact him directly. The field is going to be a Miracle Field – which is a field for handicapped children to be able to use as well as all other children. There are

only two of these in the area right now and he plans to make this one the best of all of them. Mr. Sturz maintains Westwood Park and that is one of the cleanest, nicest around. Mayor Peterson told him he's happy that something is finally being done with the field and that he is looking forward to it. Trustee Stempniak said the a Miracle Field is something to be very happy about!

Ms. Miller asked about parking? Are you leaving green or paving a parking lot? Mr. Stutz replied that he is hoping a nearby business, who is closed on the weekends, will allow attendees to park in their lot, but yes, at some point a small parking lot may be put in.

Gabby just wanted to clarify her statement, so that she is not misquoted, she is very happy about Dawson Field being used again and for it to be cleaned up. Just wants to know if the Depew Police Department will respond to complaints on a more timely basis when it does begin being used. Bruce said to call his cell phone and Chief Miller reiterated that she needs to call dispatch.

CLAIMS AND ACCOUNTS

ON A MOTION BY Trustee Voll and seconded by Trustee Stempniak, the following claims are to be paid: \$262,297.49 General, \$3,466.86 Capital Projects, \$265,764.35 Capital was **CARRIED**.

ADJOURNMENT

ON A MOTION BY Trustee Jakubowski, seconded by Trustee Hamernik, the meeting was adjourned with a moment of silence for Theresa Walters at **8:30 PM**. The motion was **CARRIED**.

Respectfully submitted,

Teresa Wachowiak
Village Administrator