

MEETINGS TO DATE 4
NO. OF REGULARS: 3

**VILLAGE BOARD OF TRUSTEES OF THE VILLAGE OF DEPEW
MAY 14, 2012**

ROLL CALL: Trustee Nolder
Trustee Nolder
Trustee Pecora
Trustee Nikonowicz
Mayor Hoffman

ON A MOTION BY, Trustee Nikonowicz, and seconded by Trustee Hammer, the April 23, 2012 Village Board Minutes were approved.

ON A MOTION BY, Trustee Pecora, and seconded by Trustee Nolder, the May 3, 2012 Planning Board Minutes were approved.

Mayor read Proclamation proclaiming May 19-25, 2012 National Safe Boating Week

PUBLIC COMMENT – AGENDA ITEMS ONLY

Joan Priebe 15 Howard - #3 is that a new position? Was a resume submitted? Mayor – yes it was.

PUBLIC HEARING LOCAL LAW 3 OF 2012 – NOISE ORDINANCE

Village Administrator read the legal notice regarding the public hearing for Local Law 3 of 2012 – Noise Ordinance and Mayor Hoffman opened the hearing.

Village Attorney Aquino state there were revisions to the decibel levels and the quiet time was changed from 10 pm to 11 pm for a start time.

ON A MOTION BY, Trustee Hammer, seconded by Trustee Nolder the public hearing was closed at 7:08 pm.

PUBLIC HEARING LOCAL LAW 4 OF 2012 – NOISE ORDINANCE

Village Administrator read the legal notice regarding the public hearing for Local Law 4 of 2012 – Zoning Code and Mayor Hoffman opened the hearing.

Village Attorney Aquino state there were clarifications of the definitions. Dan Ulatowski spoke on the substantial change for the better, that the current code lacked structural conformity and did not address non conforming uses, grandfather uses. Sign regulations have been improved along with significant changes in the landscaping that will be required this making the community more presentable.

ON A MOTION BY, Trustee Nikonowicz, seconded by Trustee Pecora the public hearing was closed at 7:10 pm.

APPOINT RECREATION DIRECTOR PT

Pursuant to Section 4-400 of Village Law, I Mayor Steven Hoffman, do hereby appoint James C. Cox, 19 Albert Ct, Depew, New York, for the position of Recreation Director II PT for the term of one year to expire at noon on the first Monday in April 2013, at a salary of \$16,000 per year.

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

Trustee Hammer – Yes
Trustee Nolder – Yes
Trustee Pecora – Yes
Trustee Nikonowicz – Yes
Mayor Hoffman – Yes

APPOINT RECREATION LABORERS PT

Pursuant to Section 4-400 of Village Law, I Mayor Steven Hoffman, hereby appoint the following: Mark Lubera, 14 Wayne St Depew, NY 14043 and David Balus 74 North Crest Ave, Cheektowaga NY 14225 to the positions of Laborer PT to the Summer Recreation Program effective immediately, at salaries as stipulated in the current budget.

The appointments were acted upon in the following manner by the Board of Trustees:

Trustee Hammer – Yes
Trustee Nolder – Yes
Trustee Pecora – Yes

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Trustee Nikonowicz – Yes
Mayor Hoffman – Yes

ACCEPT FIRE DEPARTMENT ELECTION RESULTS

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

WHEREAS, on Thursday May 3, 2012, the Depew Fire Department held a special Fire Department Chiefs Election with the following results

5th Assistant Chief Todd Rzeszutek Aetna Hose Company

BE IT RESOLVED, that the Village Board approves the above election results and congratulates the elected Assistant Chief.

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

AUTHORIZE MAYOR TO SIGN TAX WARRANT

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

BE IT RESOLVED, pursuant to Section 1426 of the Real Property Tax Law, the Village Administrator Elizabeth C. Melock is hereby directed to collect the taxes levied in the Warrant, annexed thereto, signed by Mayor Hoffman.

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

Trustee Hammer – Yes
Trustee Nolder – Yes
Trustee Pecora – Yes
Trustee Nikonowicz – Yes
Mayor Hoffman – Yes

AUTHORIZE ADMINISTRATOR TO ADVERTISE PUBLIC HEARING – LOCAL LAW 5 OF 2012 – CHAPTER 164 PAWN SHOP

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

BE IT RESOLVED, the Village Administrator is hereby authorized to advertise for a Public Hearing for the purpose of amending the Village Code Chapter 164 Pawn Shop Local Law #5 of the Year 2012 to be held on Tuesday May 29, 2012 at 7:00 PM.

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

Trustee Hammer – Yes
Trustee Nolder – Yes
Trustee Pecora – Yes
Trustee Nikonowicz – Yes
Mayor Hoffman – Yes

AUTHORIZE ADMINISTRATOR TO ADVERTISE FOR BIDS – SEWER RELINING – LEE ST

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

BE IT RESOLVED, the Village Administrator is hereby authorized to advertise for bids for sewer relining in the Lee St area. Bid date will be set once the bid package is completed.

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

Trustee Hammer - Yes
Trustee Nolder – Yes
Trustee Pecora – Yes

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Trustee Nikonowicz – Yes
Mayor Hoffman – Yes

AUTHORIZE ADMINISTRATOR TO ADVERTISE FOR BIDS – SEWER RELINING – GOULD & MERIDIAN

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

BE IT RESOLVED, the Village Administrator is hereby authorized to advertise for bids for the Community Development sewer relining project in the Gould & Meridian area. Bid date will be set once the bid package is completed.

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

Trustee Hammer – Yes
Trustee Nolder – Yes
Trustee Pecora – Yes
Trustee Nikonowicz – Yes
Mayor Hoffman – Yes

AUTHORIZE MAYOR TO SIGN MUNICIPAL SOLUTIONS, INC AGREEMENT

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

WHEREAS, the Village of Depew utilizes Municipal Solutions, Inc. 86 Myrtle S, LeRoy, NY 14482 for financial advisory services such as bond anticipation notes and long term borrowing.

NOW THEREFORE BE IT RESOLVED, that Mayor Steven Hoffman is authorized to sign the agreement dated May 1, 2012 with Municipal Solutions, Inc for a two year period. The fee schedule varies based on the type of borrowing.

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

Trustee Hammer – Yes
Trustee Nolder – Yes
Trustee Pecora – Yes
Trustee Nikonowicz – Yes
Mayor Hoffman – Yes

AUTHORIZE MAYOR TO SIGN DFT SECURITY AGREEMENT

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

WHEREAS, the Village of Depew Justice Court utilizes DFT Security, 2950 Seneca St, Buffalo NY 14224 for their courtroom and offices and the current agreement needs to be renewed,

NOW THEREFORE BE IT RESOLVED, that Mayor Steven Hoffman is authorized to sign DFT Security Agreement for a monthly charge of \$24.95.

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

Trustee Hammer – Yes
Trustee Nolder – Yes
Trustee Pecora – Yes
Trustee Nikonowicz – Yes
Mayor Hoffman – Yes

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AUTHORIZE MAYOR TO SIGN MS4 ANNUAL REPORT

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

WHEREAS, the Village of Depew completes an annual report on our municipal storm sewer system.

NOW THEREFORE BE IT RESOLVED, that Mayor Steven Hoffman is authorized to sign the MS4 Annual Report for the period March 9, 2011 through March 8, 2012.

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

Trustee Hammer – Yes
Trustee Nolder – Yes
Trustee Pecora – Yes
Trustee Nikonowicz – Yes
Mayor Hoffman – Yes

AUTHORIZE MAYOR TO SIGN LEE ST ENGINEERING SERVICES

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

WHEREAS, the Village of Depew is under DEC Consent Order to reline and repair sewers in the Lee St area and Nussbaumer and Clarke, 3556 Lake Shore Rd, Suite 500, Buffalo, NY 14219-1494 has completed their engineering report and will perform the engineering services on the Lee Street Mini-System for the Village of Depew;

NOW THEREFORE BE IT RESOLVED, that Mayor Steven Hoffman is authorized to sign the agreement dated April 26, 2012 with Nussbaumer and Clarke in the amount not to exceed \$221,100.00.

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

Trustee Hammer – Yes
Trustee Nolder – Yes
Trustee Pecora – Yes
Trustee Nikonowicz – Yes
Mayor Hoffman – Yes

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

A BOND RESOLUTION, DATED MAY 14, 2012, OF THE VILLAGE BOARD OF TRUSTEES OF THE VILLAGE OF DEPEW, ERIE COUNTY, NEW YORK (THE "VILLAGE"), AUTHORIZING THE RECONSTRUCTION OF AND CONSTRUCTION OF IMPROVEMENTS TO THE VILLAGE SEWER SYSTEM PURSUANT TO NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION ORDER ON CONSENT #03-55, AT AN ESTIMATED MAXIMUM COST OF \$3,500,000, AND AUTHORIZING THE ISSUANCE OF SERIAL BONDS IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$3,500,000, 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.

Section 1. The purpose to be financed pursuant to this resolution is the reconstruction of and construction of improvements to the Village sewer system pursuant to New York State Department of Environmental Conservation Order on Consent No. 03-55, substantially as described in (but not limited by) a report prepared by Nussbaumer & Clarke, Inc. (the

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“Report), such project to generally include the installation of approximately 11,000 linear feet of sanitary sewer and approximately 8,600 linear feet of storm sewer on various roads in the Village including, but not limited to, Lee Street, Howard Lane, Albert Court, Albert Street and Patsy Lane, the installation of CIPP lining to various sanitary sewers and manhole replacement to various sanitary and storm sewers, and all ancillary or related work or equipment required in connection therewith, including preliminary costs and costs incidental thereto and to the financing thereof (collectively, the “Purpose”). The estimated maximum cost of the Purpose is \$3,500,000.

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 amount not to exceed \$3,500,000 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 improvement 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 said 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 said 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 said 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, pursuant to the provisions of Section 30.00 relative to the authorization of the issuance of bond anticipation notes or the renewals of said 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 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.

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 date hereof) 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 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 to 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)(B)(i) 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 in every respect with all 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. 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) if 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 twenty 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 14. This Resolution is effective immediately pursuant to Section 36.00(a)(5) of the Local Finance Law.

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.

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

Trustee Hammer - Yes
Trustee Nolder – Yes
Trustee Pecora – Yes
Trustee Nikonowicz – Yes
Mayor Hoffman – Yes

AUTHORIZE MAYOR TO SIGN PENFLEX AUTHORIZATION FORM FOR 2011 SERVICE AWARD PROGRAM

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

BE IT RESOLVED, that Mayor Steven Hoffman, is authorized to sign the 2011 Service Award Program Administration Form and forward to Penflex, Inc for the purpose of administering the 2011 Service Award Program for Depew Firefighters.

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

Trustee Hammer – Yes
Trustee Nolder – Yes
Trustee Pecora – Yes

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Trustee Nikonowicz – Yes
Mayor Hoffman – Yes

PERMISSION SEMINAR

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

BE IT RESOLVED, Permission is hereby granted to Liz Melock, Village Administrator to attend the Hodgson Russ Seminar on Thursday May 17, 2012 from 12:30 pm until 4:15 pm at the Millennium Hotel, 2040 Walden Ave, Cheektowaga, NY. There is no fee for the seminar.

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

PERMISSION OUTDOOR MUSIC

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

WHEREAS, Southeast Works 181 Lincoln St, Depew NY 14043 has filed a registration statement as required by Village Code §148-11 Article III – Amplified Sound with the Village Administrator on May 7, 2012 for a performance by Terry Buckwald on Saturday July 21, 2012 from 12 pm until 4pm; and

WHEREAS, there will be Mackie speakers used on the portable stage for the amplification of his performance;

BE IT RESOLVED, the Village Board agrees to waive the \$25 per day fee as required by the Village Code §148-13 and approves the registration statement.

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

Trustee Hammer – Yes
Trustee Nolder – Yes
Trustee Pecora – Yes
Trustee Nikonowicz – Yes
Mayor Hoffman – Yes

AUTHORIZE LAWN FETE ST. MARTHA PARISH

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

BE IT RESOLVED, permission is hereby granted to St. Martha Parish 10 French Road, Depew, NY for a Lawn Fete to be held on the Parish Grounds on July 27, 2012 (5:00 PM – 1:00 AM), July 28, 2012 (1:00 PM – 1:00 AM), and July 29, 2012 (1:00 PM – 12:00 AM)

MUSIC – will only be allowed until 11:00 PM. There will be no amplification other than what is required by the individual instruments. There will be no extension speakers. The volume of music shall be kept at a low setting so as not to annoy the peace and tranquility of the residential neighborhood.

SECURITY – on site private security will be provided by the applicant who will supply specification sheet detailing expected crowds. Past attendance records and other factors that would determine the amount of security required. A minimum of four (4) uniformed, armed officers will be posted in the enclosed beer tent area to check identification for under age patrons and to provide law and order.

A minimum of six (6) uniformed, armed officers with a maximum to be determined by the Chief of Police will be required to provide money escorts and maintain law and order on the grounds. Applicant will provide to the Chief of Police the name of the security company, the name of the supervisor in charge of the entire detail, the individual name of each guard and a schedule of the hours each supervisor and guard on duty. Said list to be supplied seven (7) days prior to said Lawn Fete.

PERMITS - the applicant shall obtain an amusement license pursuant to Chapter 64, Article I of the Depew Municipal Code.

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

Trustee Hammer – Yes
Trustee Nolder – Yes
Trustee Pecora – Yes
Trustee Nikonowicz – Yes
Mayor Hoffman – Yes

TREE/TRIMMING REMOVAL:

EMPLOYMENT APPLICATIONS: Recreation – Megan Lucarelli, Janelle Ganje

DEPARTMENT HEAD REPORTS: Fire Report May 1, 2010-April 23, 2012; Building Dept Report April 2012, Clerk/Treasurer's Office April 2012

ON A MOTION BY, Trustee Nikonowicz, seconded by Trustee Pecora, the department head reports were accepted as presented.

REPORT OF THE VILLAGE ATTORNEY

All properties are closed, asked the County to confirm payment to the Village for the demolition of 84 Main St before the bids will be awarded.

REPORT OF THE VILLAGE ENGINEER

Lee St – DEC Order of Consent, relining some of the sewers, lateral reconstruction to right of way.

COMMITTEE REPORTS:

None

UNFINISHED AND OTHER BUSINESS –

None

PUBLIC CONCERNS AND COMMENTS –

Joan Priebe – 15 Howard – is the local law on pawn shops ready. Village Administrator explained it will be on the web page in a few days.

CLAIMS AND ACCOUNTS

ON A MOTION BY Trustee Nolder, seconded by Trustee Pecora, the following claims are to be paid: General \$163,164.96 Sewer \$9,859.67, the motion was **CARRIED**.

ADJOURNMENT-

ON A MOTION BY Trustee Nikonowicz, seconded by Trustee Pecora, the meeting was adjourned at 7:32 pm with the Mayor wanting everyone to keep Lieutenant Frank Fusani in their thoughts for a rapid recovery. The motion was **CARRIED**.

Respectfully submitted,

Elizabeth C. Melock
Village Administrator