

**REGULAR MEETING-BOARD OF TRUSTEES-MAY 18, 2010-7:00 P.M.**

**PRESENT: ERNEST W. MARTIN, MAYOR; TRUSTEES - JOHN BASILE, KEN BAKER, KEITH COLLINS, ELLEN VOMACKA**

**ALSO PRESENT: ATTORNEY, JAMES PELUSO; BUILDING CODE OFFICER LYNN GOMAN; FIRE CHIEF TONY CONTI; ED HERNANDEZ**

Mayor Martin called the meeting to order at 7:00pm and led the pledge to the flag.

**Resolution 11-1**

**REORGANIZATIONAL RESOLUTIONS**

**BE IT RESOLVED** that Patricia Ryan be reappointed as Village Clerk/Treasurer and Village Registrar and Margo Partak Deputy Clerk/Registrar for the fiscal year 2010/2011.

**BE IT RESOLVED** that Mr. Lynn Goman be reappointed as Code Enforcement Officer for the Village of Stillwater for the 2010/2011 year.

**BE IT RESOLVED** that Paul O’Kosky II be appointed as Fire Marshal for the Village of Stillwater for the 2010/2011 fiscal year.

**BE IT RESOLVED** that Linda Sanders be reappointed as Village Historian and Linda Palmieri Deputy Historian for the fiscal year 2010/2011.

**BE IT RESOLVED** that Timothy Campbell be reappointed to a three year term as member of the Zoning Board of Appeals, said term to expire April, 2013.

**BE IT RESOLVED** that Dreyer Boyajian LLP, represented by Mr. James R. Peluso, be appointed the Village of Stillwater’s Law Firm.

**BE IT RESOLVED** that the Ballston Spa National Bank be designated as the official depository for all village funds for the 2010/2011 year.

**BE IT RESOLVED** that The Express and The Daily Gazette shall be the official newspapers for the Village of Stillwater for 2010/2011.

**BE IT RESOLVED** that Mayor Ernest W. Martin and Clerk/Treasurer Patricia Ryan shall be authorized at the bank for signatures for all Village checks and withdrawals and in the absence of the Mayor or Clerk/Treasurer, Deputy Mayor John Basile be authorized to sign.

**BE IT RESOLVED** that regular Village of Stillwater Board of Trustees meetings will be held the third Tuesday of each month, as per the attached schedule, beginning at 7:00 P.M. in the Village Board Room. If changes are needed, the press will be notified.

**BE IT RESOLVED** that the Board of Trustees authorizes the Clerk-Treasurer to make payments in advance for utility services, postage, Federal Express & United Parcel fees, with all bills presented at the next regularly scheduled board meeting for audit.

**BE IT RESOLVED** that the Board of Trustees does authorize reimbursement to employees and officers of the Village who use their own personal vehicle while performing their official duties on behalf of the Village of Stillwater at a rate of \$.40 per mile.

**BE IT RESOLVED** that the Board of Trustees authorizes the Mayor payment in advance for the use of his contractual fund for fiscal year 2010/2011 as occasions come up.

**BE IT RESOLVED** that the Mayor will have the sole authority for calling special meetings and will notify the public and press at least 72 hours in advance of the meeting if possible, further each Trustee shall be notified via the telephone by the Mayor or the Clerk and a notice of such meeting shall be displayed in the Office of the Village Clerk.

Motion to approve Resolution 11-1, Reorganizational Resolutions, made by Trustee Basile, seconded by Trustee Baker  
Motion carried 4-0

Susan Kussius in attendance to express her concerns about the structure being built at 10 Champlain Avenue with specific complaints about the square footage, foundation height, and size of overhangs. Mrs. Kussius believes the structure has taken away her privacy, devalued her property, and violates Code. Mayor Martin advised the Board would discuss the situation and consult with their attorney and he would be in touch.

Robert Kruczowy in attendance to dispute the penalty assessed for his October 2009 Water/Sewer Bill which he never received. The Mayor thanked Mr. Kruczowy for all his hard work in improving his property and said the Board would discuss his complaint and respond shortly.

## **CORRESPONDENCE**

The Mechanicville Elks will hold a Flag Day Ceremony at 7pm on June 14, 2010; Post 490 will hold a Memorial Service on May 28, 2010 at 4:30pm at the Legion with the parade to follow at 6pm. The Stillwater Central School requested support for their after prom party with the Mayor sending a donation of \$100; Opening ceremonies for the Blockhouse will take place at noon on May 29, 2010.

**BUILDING CODE OFFICER** – Lynn Goman – reviewed his written report (copy on file)

**FIRE CHIEF** – Tony Conti – reviewed his report (copy on file), thanked the Board for attending the annual banquet, and confirmed the Village will buy a second Maltese Cross for Memorial Day.

**DEPT. OF PUBLIC WORKS** – Ed Hernandez  
Mr. Hernandez reviewed his written report (copy on file)

## **COMMITTEE REPORTS**

Trustee John Basile – reviewed his written report (copy on file)

Trustee Keith Collins – Basketball courts have been sealed and striped; nets will be purchased for the DPW to install

Trustee Ellen Vomacka – Crews are on site for the sidewalk project and the ground survey was done today. Fire Marshal O’Kosky is temporarily unavailable and Lynn Goman should be contacted for any problems. The Mayor requested Chazen distribute a copy of their reports to NYS DOT upon completion.

Trustee Ken Baker – DPW working smoothly, one man is on vacation this week, Paul O’Kosky is doing a great job.

**ATTORNEY** - James Peluso – No report

**CLERK-TREASURER** – Patti Ryan

Transfers are needed as follows:

General Fund:

Transfer \$100.00 from Bldg Electricity 1620403A to Public Works Contractual 14904A  
Transfer \$500.00 from Bldg Electricity 1620403A to Bldgs Equip Repair 1620404A

Transfer \$500.00 from FD Health 3410403A to FD Equipment 3410200A  
Transfer \$50.00 from FD Health 3410403A to FD Contractual 3410400A

Transfer \$13,250.00 to Garage Equip Repair 5132404A from:  
\$4418.28 Snow Rem Per Svc 5142100A  
\$1223.00 Snow Removal Contractual 5142400A  
\$7608.72 Street Maint Contractual 5110400A

Water Fund:

Transfer \$2500.00 from Misc 8320409F to Water Admin Contractual 8310400F  
Transfer \$500.00 from Misc. 8320409F to Source Prof Service 8320420F

Sewer Fund:

Transfer \$7000.00 to Sewer Admin Prof Service 8110420G from:  
\$4000.00 S & S Equip repair 8120404G  
\$3000.00 S & S Electricity 8130403G

Motion to approve the proposed transfers made by Trustee Basile, seconded by Trustee Collins  
Motion carried 4-0

Additional transfers may be needed in order to close the books; the Mayor would prefer to hold a special meeting to approve rather than give permission ahead of time. In addition, the Mayor would like the books closed and sent to the Comptroller as soon as possible.

An error was made on W/S account #410297; instead of using the final reading from the meter when it was pulled, the usage was estimated. After discussing with the Clerk and Trustee Basile, the homeowner agreed to pay the existing bill and request a refund but has not paid and now the bill is scheduled for relevy to tax.

**MOTION** authorizing the Clerk to void the current bill and generate a corrected bill with no penalty giving the homeowner 30 days to pay made by Trustee Basile, seconded by Trustee Baker

Roll Call Vote:

Trustee Collins – Nay  
Trustee Vomacka – Nay  
Trustee Basile – Aye  
Trustee Baker – Aye  
Mayor Martin – Aye

Motion carried 3-2

Property transfers for 299 C & D Hudson Avenue were received in October 2009 with new W/S accounts being set up for each. 299C paid their April bill; 299D did not and is scheduled for relevy in the amount of \$265.26. However the tax roll from the county shows the property as a single unit under the prior owner. The Mayor requested discussion on this be held during executive session.

The owner of property on Russell Drive reduced one of his water bills by \$300 claiming he had been billed twice for a new meter which is not correct. The same owner declined to pay a second bill claiming there was no way he used 222,000 gals and asked to have his meter re-read. The DPW determined he had used 52,000 gals in 48 days which is consistent with the usage on the unpaid bill. The Clerk advised she was returning the partial check and relevying both bills to Village tax.

The outside user at 45 Colonial Road was making monthly payments for installation of a meter pit but hasn't paid since November 2009; the current outstanding balance is \$1134.02. The Mayor agreed to contact the homeowner and/or his mother to request payment.

The Board instructed the Clerk all water/sewer bills are to be issued to the homeowner; the owner shall no longer be allowed to request an account be set up in the name of their tenant.

The Clerk provided a summary of the April 1, 2010 Water Sewer Billing as follows:

595 bills issued	\$192,160
Past due 10/1/09	\$37,676
Penalties charged	\$9,430.00
Grand Total Billed	\$239,146

Of the \$239,148, \$104,222 was unpaid on May 1 with penalties assessed in the amount of \$3,123 making the total outstanding \$107,345. Remaining unpaid on May 10, 2010 for relevy is \$98,428.32 (to be adjusted by A/C 410297)

Tax warrant amount is \$370,371.83; base tax is 272,150.00, relevies \$98,221.83

**MOTION** authorizing the Clerk-Treasurer to issue tax bills for the 2010/2011 fiscal year commencing June 1, 2010 made by Trustee Basile, seconded by Trustee Collins  
Motion carried 4-0

**MOTION** authorizing the Clerk to increase the fee for issuing a second notice for unpaid Village tax bills to \$2.00 made by Trustee Collins, seconded by Trustee Basile  
Motion carried 4-0

The Clerk expressed appreciation to Wayne, Terry, and Kevin Simmons for their landscaping work at the entrance to the Village offices and advised flowers and plants would be added before Memorial Day.

**MOTION** to open the floor to the public and press made by Trustee Basile, seconded by Trustee Baker  
Motion carried 4-0

Lynn Goman asked if the Village planter at the south end could be cleaned up as the weeds were higher than the shrubs and Trustee Vomacka suggested asking the Boy Scouts if they would like to help. Discussion was held on clearing the brush by the creek but it is not owned by the Village.

**MOTION** to close the floor to the public and press made by Trustee Basile, seconded by Trustee Baker  
Motion carried 4-0

## **NEW BUSINESS**

**MOTION** to increase the contract with Hiscock and Barclay to an amount not to exceed \$7,000.00 made by Trustee Collins, seconded by Trustee Basile Discussion: The original estimate was \$3,000 but 4-1/2 months into negotiations, the SCWA changed counsel  
Motion carried 4-0

**MOTION** legal counsel be authorized to initiate court action against the following property owners: Jennifer Barrett of 9 Champlain Road, PO Box 174, Stillwater NY 12170 for that property; Peter & Gina Higgins of 4 Independence Row, Stillwater NY 12170 for that property ; and Jordan Finkin of 42 Hyde Street, Saratoga Springs NY 12866 for the property at former 47 S Hudson Ave and now 613 Hudson Ave., Stillwater, NY 12170 to enforce compliance with Law No. 2 of 1994 prohibiting discharge to the sanitary sewer of ground water via sump pumps made by Trustee Basile, seconded by Trustee Vomacka Discussion: We're wrapping up sump pump removal as required by the Consent Decree. Mr. Peluso suggested the Mayor personally attempt to reach each of the homeowners to advise legal action is the next step.  
Motion carried 4-0

**MOTION** to approve drive shaft purchase from Infilco not to exceed \$3700.00 made by Trustee Basile, seconded by Trustee Baker  
Motion carried 4-0

## **OLD BUSINESS**

None

**MOTION** to approve the Treasurer Report made by Trustee Basile, seconded by Trustee Baker  
Motion carried 4-0

**MOTION** to approve the minutes of April 18, 2010 made by Trustee Basile, seconded by Trustee Baker  
Motion carried 4-0

**MOTION** to approve the audited claims:  
A- \$ 13,988.44  
F - \$ 12,474.85  
G – \$ 10,330.57

H - \$ 549.00

made by Trustee Baker, seconded by Trustee Basile  
Motion carried 4-0

**MOTION** to adjourn to executive session at 8:25pm to discuss matters related to the 10 Champlain Avenue complaint, unpaid W/S 299 Hudson, SEQR on Sewer project, and contracts made by Trustee Basile, seconded by Trustee Vomacka  
Motion carried 4-0

Return to regular session

**MOTION** the Board authorize the Mayor to have prepared and sign applications for funding from the NYS EFC from CWSRF for the Waste Water System Improvement Project made by Trustee Basile, seconded by Trustee Collins Discussion: \$4.9 Million total includes \$393K for sidewalks as well as the four projects required by the consent order. Trustee Vomacka asked why Ten Broeck was part of the sidewalk project and Mr. Peluso advised if it was to be included then a new proposal was necessary and requested TCC be instructed to refer to it by the proper name of Safe Routes to Schools.  
Motion carried 4-0

#### RESOLUTION NO. 11-2

#### VILLAGE OF STILLWATER STATE ENVIRONMENTAL QUALITY REVIEW ACT WASTEWATER SYSTEM IMPROVEMENT PROJECT

**Dated: May 18, 2010**

**WHEREAS**, the Village of Stillwater has been engaged in improvements to the Village's wastewater system, including upgrades to the Village Wastewater Treatment Plant and the sewage collection system for several years; and,

**WHEREAS**, the Village anticipates execution of a Consent Decree executed by the Attorney General of the State of New York and the Village which includes a Schedule of Compliance incorporating improvements to the wastewater system; and,

**WHEREAS**, review of 6 NYCRR Part 617.5(c)(2) provides that "replacement, rehabilitation or reconstruction of a structure or facility, in kind, on the same site..." and 6 NYCRR Part 617.5(c)(5) provides that "street opening and right-of-way openings for the purpose of repair or maintenance of existing utility facilities" are not subject to review under SEQRA; and,

**WHEREAS**, review of 6 NYCRR Part 617.5(c)(29) provides that actions are not subject to review under SEQRA that involve "civil or criminal enforcement proceedings, whether administrative or judicial, including a particular course of action specifically required to be undertaken pursuant to a judgment or order, or the exercise of prosecutorial discretion" and an enforcement instrument has been drafted and the terms of which are not in dispute and execution by the parties is anticipated;

**NOW, THEREFORE, BE IT RESOLVED** that the Village of Stillwater wastewater system improvement project is a Type II Action under SEQRA and is not subject to review under 6 NYCRR Part 617 per 6 NYCRR Part 617.5(c)(2) and (5).

**MOTION** to approve Resolution 11-2 for the purposes of the funding application to NYS EFC for CWSRF made by Trustee Basile, seconded by Trustee Collins  
Motion carried 4-0

**Resolution 11-3**  
**Bond Resolution Dated May 18, 2010**

**A Resolution Authorizing the Reconstruction of Significant Components of the Village of Stillwater's Sanitary Sewer Collection System and Various Improvements Related or Incidental Thereto, and Authorizing the Issuance of Serial Bonds of the Village of Stillwater in an Aggregate Principal Amount Not to Exceed \$4,900,000 Pursuant to the Local Finance Law to Finance Said Purpose and Delegating the power to Issue Bond Anticipation Notes in Anticipation of the Sale of Such Bonds to the Village Treasurer.**

BE IT RESOLVED, by the Board of Trustees of the Village of Stillwater, Saratoga County, New York (the "Village") (by favorable vote of not less than two-thirds [four of the five] of all the members of the Board) as follows:

**Section 1.** The specific object or purpose (herein referred to as "purpose") to be financed pursuant to this Resolution is the reconstruction of the Village's sanitary sewer collection system pursuant to a consent decree entered into, or to be entered into, between the Village and the New York State Department of Environmental Conservation, and various other improvements related or incidental thereto, including reconstruction work in the Castle Cliffs, South Colonial, Clinton Court, Lake Street/Routes 4&32, Route 4/Ten Broeck Street, and Route 4 between Ten Broeck Street and Russell Road areas, sewer plant and pump station upgrades, storm water drainage improvements, water main replacement at Clinton Court, and sidewalk and roadway restoration. The estimated maximum cost of said purpose is \$4,900,000.

**Section 2.** The Board of Trustees plans to finance the total cost of said purpose by the issuance of serial bonds of the Village in an amount not to exceed \$4,900,000, hereby authorized to be issued therefore pursuant to the Local Finance Law.

**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.** It is hereby determined that the proposed maturity of the obligations authorized by this Resolution will be in excess of five years.

**Section 5.** 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 such bonds by virtue of paragraph 9 of subsection d. of Section 107.00 of the Local Finance Law, with respect to the purpose financed hereby.

**Section 6.** The faith and credit of said Village are hereby irrevocably pledged for the payment of the principal of and interest on 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 becoming due and payable in such year. There shall annually be levied on all the taxable real property of said Village a tax sufficient to pay the principal of and interest on such bonds as the same become due and payable.

**Section 7.** Subject to the terms and contents of this Resolution and the Local Finance Law, and pursuant to the provisions of Sections 30.00, 50.00, and 56.00, of said Law, the power to authorize bond anticipation notes in anticipation of the issuance of the serial bonds authorized by this Resolution and the renewals of said notes and the power to prescribe the terms, form and content, and the manner of execution of the same, of said serial bonds, and said bond anticipation notes, including the consolidation with other issues, and also the availability to issue bonds with substantially level or declining annual debt service, and the power to sell and deliver said serial bonds and any bond anticipation notes issued in anticipation of the issuance of such bonds, is hereby delegated to the Village Treasurer, the Chief Fiscal Officer of the Village.

Such bonds and bond anticipation notes shall contain substantially the recital of validity clause provided for in Section 52.00 of the Local Finance Law, and shall otherwise be in such form and contain such recitals, in addition to those required by Section 51.00 of the Local Finance Law, as the Village Treasurer shall determine consistent with the provisions of the Local Finance Law.

**Section 8.** 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 obligations" in accordance with Section 265(b)(3) of the Code.

**Section 9.** Pending the sale of bonds herein authorized, the temporary use of funds from the Village's general fund, pursuant to the provisions of Section 165.10 of the New York Local Finance Law, is hereby authorized. The Village reasonably expects to reimburse itself from the proceeds of bonds or notes herein authorized for expenditures made for the purpose to be financed by this Resolution prior to the issuance of such bonds or notes, and this Resolution is intended to constitute a declaration of official intent to reimburse for the purposes of U.S. Treasury § 1.150-2.

**Section 10.** The Village has determined that the purpose described in Section 1 of this Resolution is a Type II action (under 6 NYCRR 617.5(c)(2)&(5)) which will not have a significant effect on the environment and, therefore, no other determination or procedures under the State Environmental Quality Review Act ("SEQR") is required.

**Section 11.** 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) Such obligations are authorized for an object or purpose for which said Village is not authorized to expend money, or
- (2) The provisions of law which should be complied with at the date of the publication of this Resolution are not substantially complied with, and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publication, or
- (3) Such obligations are authorized in violation of the provisions of the Constitution of New York.

**Section 12.** 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 the Local Finance Law, in The Gazette, a newspaper having a general circulation in said Village and hereby designated as the official newspaper of said Village for such publication, after the earlier of (a) the period of time shall have elapsed for the submission and filing of a petition for a permissive referendum and a valid petition shall not have been submitted and filed or (b) the entry in New York State Supreme Court of the consent decree referred to in Section 1 of this Resolution.

**Section 13.** The firm Hiscock and Barclay, LLP is hereby appointed Bond Counsel of the Village in connection with the bonds and notes herein authorized.

**Section 14.** Except as provided in the following sentence, this Resolution is adopted subject to a permissive referendum pursuant to Section 36.00 of the Local Finance Law and Article 9 of the Village Law, and the Village Clerk is hereby authorized and directed within ten (10) days after the adoption of this Resolution, to post and publish a notice which sets forth the date of the Resolution's adoption and contains an abstract of this Resolution concisely stating its purpose and effect and indicating that this Resolution is subject to a permissive referendum. Notwithstanding the foregoing, if this Resolution has not theretofore taken effect by virtue of operation of Article 9 of the Village Law, this Resolution shall take effect immediately upon the entry in New York State Supreme Court of the consent decree referred to in Section 1 of

this Resolution by virtue the permissive referendum exemption set forth in paragraph 5 of subdivision a. of Section 36.00 of the Local Finance Law (as interpreted in Opinion of the State Comptroller 82-354).

Motion to approve Resolution 11-3 made by Trustee Basile, seconded by Trustee Baker

Motion carried 4-0

**MOTION** to return to executive session at 9:05pm for the previously stated reasons made by Trustee Basile, seconded by Trustee Baker

Motion carried 4-0

Meeting adjourned 10:10pm

Respectfully submitted,

Patricia A. Ryan  
Clerk-Treasurer