

**VILLAGE OF EAST AURORA  
VILLAGE BOARD MEETING  
September 4, 2018 - 7 PM**

**Present:**

Trustee Lazickas  
Trustee Porter  
Trustee McCabe  
Trustee Schoeneman  
Trustee Cameron  
Trustee Scheer  
Mayor Peter Mercurio

**Absent:**

**Also Present:**

Cathie Thomas, Village Administrator  
Shane Krieger, Chief of Police  
Matthew Hoeh, Superintendent of Public Works  
Robert Pierce, Village Attorney  
Bill Kramer, Building Inspector  
Maureen Jerackas, Clerk-Treasurer  
East Aurora Advertiser, East Aurora Bee  
10 Members of the public

A Motion by Trustee Porter to approve the village board minutes of August 20, 2018 as presented.  
Seconded by Trustee Cameron and carried with unanimous approval with Trustee Scheer abstaining.

Trustee Cameron moved to approve the Payment of Abstract for:  
September 4, 2018: # 57355 - #57397, \$118,317.89

Seconded by Trustee McCabe and unanimously carried.

- Trustee Lazickas asked the Superintendent about the Evaporated Cooler that was purchased in the packet, Matt explained that it cools the air for the garage.

**PUBLIC HEARING**

None

**SPEAKERS & COMUNICATIONS (I)**

- Shawn pierce, Shawn?, and Kristen March representing Little Loop Football and concerns about the conditions at Hamlin Park. They felt that they use the park often and that the bathrooms were deplorable, garbage was not taken out, there was graffiti and the lawn was so long the kids had a hard time running. He said Matt was great; the Graffiti had been addressed as well as the rest room. Matt even plans to repair the roof. They want to know who is responsible for the issues because the town says us and the village says the town. Matt said the Town is supposed to mow, take care of the garbage and cleaning the bathrooms. The Mayor suggested the group also reach out to the Town. Dave Gunner is the superintendent. The Mayor spoke about the master plan for

the park. He could not recall at the moment where the shed they wanted was in the plan but the board would be having a public hearing this fall, unfortunately the emergency projects have taken priority. Trustee Scheer was not happy with the Town for the care of the park and wanted to let them know the displeasure. He plans to talk to Dave Gunner about the bathrooms. Shawn also wanted to know about a mowing schedule because they had an issue where they stripped the field and they mowed it the next morning. Trustee Porter wants to address the he said she said issue on who is responsible and have that worked out. Mayor asked Matt to speak with Chuck. Matt said they spoke about it but it was a loose agreement at the time but there is an agreement. It was also noted that it could be worth mentioning it to the Town supervisor because he may not know because he may not use the park.

- Daniel Scheff, 30 Hamlin Ave: Said that is what he was talking about when he said to make sure the building agreement is specific down to who changes the light bulbs.

## **OFFICIAL CONSIDERATIONS**

- Motion by Trustee Lazickas to approve a Temporary Use permit for Dan Horn for the Caroler 5K Run, affiliated with the Irishman Bar & Grill, scheduled to begin at 10 a.m. on Saturday, December 15<sup>th</sup>, seconded by Trustee Scheer, with unanimous approval.
  - The Mayor Asked about the route and the Police Chief said they are going back to the original route.
- Motion by Trustee Schoeneman to Schedule a Public Hearing to consider a Special Permit Application for Julie Ciolek for the Aurora Cider House at 198 Main Street, requesting permission to establish a tasting room, selling hard cider, beer and wine for both on- and off-premises consumption on October 1, 2018, seconded by Trustee Scheer with unanimous approval.
  - The Mayor Voiced his concern about what type of items they would be selling for off of the premises consumption. Lenny Ciolek of 4475 Transit Road Orchard Park responded that this is to have a tasting room for advertising purposes and they would sell only sealed or closed containers for offsite consumption.
- Motion by Trustee McCabe to schedule a Public Hearing to consider a Special Permit Application for Benderson Development Company for the Aurora Village Shopping Center at 123 Grey Street, requesting permission to install 10 banners on newly-installed pedestrian-scale light poles on October 1, 2018 seconded by Trustee Lazickas with unanimous approval.
- Motion by Trustee Schoeneman to Schedule a Public Hearing to consider a Local Law, amending the income eligibility limits for the Senior Citizen Tax Exemption October 1, 2018, seconded by Trustee Cameron with unanimous approval.
- Motion by Trustee Porter to approve in engaging attorney John Alessi of the Hodgson, Russ law firm, with offices in Buffalo, to serve as the Village's Bond Counsel, as detailed in an engagement letter dated August, 2018, seconded by Trustee Scheer with unanimous approval.
- RESOLUTION: 2018 -100 September 4, 2018

## **RECOGNIZING SEQRA TYPE 2 ACTION FOR THE VILLAGE OF EAST AURORA OAKWOOD AVENUE WATERLINE REPLACEMENT**

On motion of Trustee Schoeneman, seconded by Scheer, the following resolution was adopted unanimously by the Board of Trustees of the Village of Aurora, New York:

**Whereas**, the Village of Aurora Board of Trustees (“Village Board”) has experienced an increase in waterline breaks throughout the Village that have impacted service to residents and businesses as well as increased operations and maintenance costs; and

**Whereas**, the Village Board has proposed strategic improvements to their water distribution system (the “Proposed Action”) along Oakwood Avenue between Hamburg and Olean Street, including valves, hydrants, transferring services, and abandoning the existing water main; and

**Whereas**, the Proposed Action is in conjunction with the August 2018 Engineering Report for Oakwood Avenue Waterline Replacement prepared by the consulting firm of CPL (Clark Patterson Lee) of Rochester, New York; and

**Whereas**, in accordance with the provisions of 6 NYCRR Part 617 (SEQRA), specifically Part 617.5(c)(2), the Proposed Action is a Type 2 action as it involves “replacement, rehabilitation, or reconstruction of a structure or facility, in kind, on the same site....”

**Therefore, Be It Resolved** that this project has been determined not to have a significant impact on the environment and is not subject to further review under SEQRA.

- RESOLUTION: 2018 -102

September 4, 2018

### **BOND RESOLUTION - OAKWOOD AVE WATERLINE REPLACEMENT**

On motion of Trustee Porter, seconded by Schoeneman, the following resolution was adopted unanimously by the Board of Trustees of the Village of Aurora, New York:

**A BOND RESOLUTION, DATED SEPTEMBER 4, 2018, OF THE VILLAGE BOARD OF TRUSTEES OF THE VILLAGE OF EAST AURORA, ERIE COUNTY, NEW YORK (THE “VILLAGE”), AUTHORIZING A WATER SYSTEM CAPITAL IMPROVEMENTS PROJECT, AT AN ESTIMATED MAXIMUM COST OF \$1,295,000 AND AUTHORIZING THE ISSUANCE OF SERIAL BONDS IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$1,295,000 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 Board of Trustees of the Village of East Aurora, in the County of Erie, New York (the “Village”) desires to undertake a capital improvements project for the reconstruction of and construction of improvements to the Village Water System; and

WHEREAS, the Village intends to apply for a grant 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 of Trustees) as follows:

The Village is hereby authorized to undertake a certain water system capital improvements project, such work to generally consist of (but not be limited to) the installation of approximately 6,200 linear feet of 8-inch water main along various roads in the Village including, but not limited to, Oakwood Avenue, the installation of valves and hydrants, and the transfer of service to the new water main, as well as other improvements as more fully identified in (or contemplated by) a preliminary engineering report prepared by Clark Patterson Lee, and including all preliminary work and necessary equipment, materials, and related site work and any preliminary costs 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 \$1,295,000.

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 \$1,295,000, hereby authorized to be issued therefor pursuant to the Local Finance Law, such amount to be offset by any federal, state, county and/or local funds received. Unless paid from other sources or charges, the cost of such 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 1 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, and 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 said bonds, and the renewals of said 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 hereby confirms 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") are 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 Administrator, 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 such serial bonds or of any bond anticipation notes issued in anticipation of the sale of such 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. This Resolution is subject to permissive referendum pursuant to Section 36.00 of the Local Finance Law. The Village Clerk is hereby authorized and directed to publish (one time) and post (in at least six conspicuous public places within the Village and at each polling place), this resolution, or a summary thereof, together with a notice of adoption of this resolution subject to permissive referendum, within ten days after the date of adoption of this resolution.

SECTION 16. If no petitions are filed in the permissive referendum period, 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.

- Trustee McCabe asked if the bonds could be grouped. The clerk-treasurer said yes you can have a number of BANs roll into one BOND and each can be made up of multiple items.

- RESOLUTION: 2018 -101

September 4, 2018

**Resolution of the Village Board of the Village of East Aurora to Make a Grant Application Under the New York State Water Infrastructure Improvement Act (WIIA) to Help Fund Replacement of the Oakwood Avenue Waterline**

On motion of Trustee Cameron, seconded by Porter, the following resolution was adopted unanimously by the Board of Trustees of the Village of Aurora, New York:

WHEREAS, the Village of East Aurora has listed on its Capital Improvement Plan a project to replace the waterline on Oakwood Avenue; and

WHEREAS, the estimated cost of the waterline replacement is \$1,295,000; and

WHEREAS, grant funding for the aforementioned project is available through New York State under the Water Infrastructure Improvement Act.

NOW, THEREFORE, BE IT RESOLVED, that the East Aurora Village Board makes the following declarations:

- (1) that undertaking of the Oakwood Avenue Waterline Replacement Project is hereby approved, at a maximum total estimated cost of \$1,295,000; and
- (2) that funding for the project shall be derived from a Bond Anticipation Note, as duly authorized by the East Aurora Village Board; and

(3) that the East Aurora Village Board hereby approves making a grant application under the New York State Water Infrastructure Improvement Act, requesting the maximum allowable amount of 25% or \$323,750 be awarded, to help fund costs associated with the Oakwood Avenue Waterline Replacement Project, and that the Village Board supports this grant application and requests that such application be approved by the New York State Environmental Facilities Corporation (EFC); and

(4) that the East Aurora Village Board hereby commits that the Village of East Aurora shall obligate the necessary funds to meet any required local match under the aforementioned grant program, including any cash and/or in-kind services; and

(5) that the East Aurora Village Board hereby designates the Mayor as the representative of the Village who is authorized to sign the funding agreement with the EFC and any associated documents.

AND, BE IT FURTHER RESOLVED, that this Resolution shall take effect immediately.

- NOTE: number 5 from the resolution in the Agenda packet was removed and the removal discussed and agreed to by the board. (the resolution in these notes are what was agreed to after the removal at the meeting)

#### **DEPARTMENT HEAD AND TRUSTEE REPORTS**

- Police – The Chief said he met about the Borderland festival, they are thinking about 6,000 people a day depending on the weather. The event is on State Park Property. He is told they plan to handle it the same way Art Park is handled. They planned to change parking and have it all in the grass on the property The Chief plans to post for no parking on streets outside the park including Buffalo Rd, Girard Ave, and Gypsy Lane. Park Dale Parking will be used for non-public parking for the vendors. It seems well organized. Extra officers will be out. The mayor asked about how Lewiston PD felt about these events at Art Park. The chief said that the traffic is the biggest thing at the beginning and end and the type of bands depends on the rowdiness, so she is not expecting it to be bad. Trustee Scheer asked about the cost to the village. The Chief said 2 officers and maybe a crossing guard, but he is not sure about the crossing guard with the parking changes so \$3,200. The Chief doesn't know if that could be recovered or not. The chief also made sure that the board received the Swatting Notice, and they had.
- DPW – Removing the tennis courts at Hamlin Park they have up a safety fence and are working from the outside in on the side.
- Administrator – The Administrator and Trustee Lazickas met with the town about the joint office. She noted they are happy about us doing the water project. They are looking to have an open house on October 16 from 6-8 but will let us know when the event was definite.
- Clerk – Treasurer – In closing out the year I need the board to decide on if they wish to bond the remainder of the sycamore water main project and the Fillmore Ave project or just properly record it using fund balance which has already been used to pay for these items as of today. The auditor needs this information quickly so we can close these and our year out before September 28<sup>th</sup>. Trustee Schoeneman said they should make a decision right away. Both the Clerk-treasurer and The Village administrator supported using fund balance opposed to bonding because they were already paid for with fund balance.
  - Motion by Trustee Porter to use fund balance to close out the Sycamore water main capital project in the amount of \$482,820.75 and the Fillmore Ave capital project for \$333,101.00 instead of bonding the remainder seconded by Trustee Schoeneman with unanimous approval.

- Trustee Scheer – Said the Chief answered the questions he had.
- Trustee Cameron – Spoke about the tree board meeting with NYSEG. Said there was a lot of talk about communication, appropriate types of trees and locations of trees and about the work completed by our DPW.
- Trustee McCabe - said we should be getting something from Churchville to see if we can save some more cash by prepaying.
- Trustee Lazickas – said that at the Joint meeting for the new building with the town they are looking for a name for the building. There was no progress on the sculpture going inside the building but it was noted that it was really something more meant to be outside. It was noted by the mayor that we needed close up pictures of the art from each side so we know what we are getting. It was agreed to wait a couple more weeks and then have a public hearing.
- Mayor Mercurio – spoke about the General Riley House and how the permit originally said it was for things like showers and now it is like a speak easy. Trustee McCabe will connect with them. Also asked to see if the clerks can contact the peddle beer bikes and see if they could follow the same route that was given to the horse drawn Carriage.

## UNFINISHED BUSINESS

- RESOLUTION: 2018 -103

September 4, 2018

On motion of Trustee Porter, seconded by Cameron, the following resolution was adopted unanimously by the Board of Trustees of the Village of Aurora, New York:

**Resolution of the Village Board of the Village of East Aurora Authorizing the Expenditure of Monies from the Fire Apparatus Reserve Fund to Pay a Portion of the Cost for a New Ladder Truck for the East Aurora Fire Department and also Specifying How the Remainder of the Costs for the Ladder Truck Shall Be Funded**

WHEREAS, the East Aurora Village Board approved the purchase of a new ladder truck for the East Aurora Fire Department, with an original total cost of \$1,098,168, of which it has been agreed that the Village shall pay 53% and the Town shall pay 47%; and

**WHEREAS**, the East Aurora Village Board intends to utilize funds that have been accumulated in a reserve fund, the purpose of which is to support the purchase of fire apparatus, which fund is designated A237 Fire Apparatus Fund, under General Municipal Law 6-c; and

**WHEREAS**, New York State Village Law requires a permissive referendum in the event of taking such action to expend monies from a dedicated reserve fund.

**NOW, THEREFORE BE IT RESOLVED**, that the Clerk-Treasurer of the Village of East Aurora is hereby directed to take appropriate steps with respect to a permissive referendum on the issue of whether to utilize funds in the amount

of \$100,908.33, proposed to be expended from Account Number A237 – Fire Apparatus Reserve Fund, for the purpose of paying a portion of the cost of a new Ladder Truck; and

**BE IT FURTHER RESOLVED**, that in the event that a sufficient number of valid petitions by registered voters is not received within 30 days of passage of this resolution, the resolution will take full force and effect; and

**BE IT FURTHER RESOLVED**, that the details of how the costs for the purchase of the ladder truck shall be paid are as follows:

Ladder Truck Original Cost	\$1,098,168.00
Extras Approved by the Village Board	\$ 23,632.00
Discount for paying for chassis early	(\$ 17,907.00)
Discount for paying for ladder early	(\$ 6,873.00)
Reserve Fund to be applied	(\$ 100,908.33)
Remaining Due	\$ 996,111.67
Bond Counsel fees projected	\$ 4,000.00
Municipal Solutions fees projected	\$ 4,000.00
Total remaining expense	\$1,004,111.67
Bond Amount	\$ 999,900.00
Pay from Legal Professional Services Fund	\$ 4,211.67

AND, BE IT FURTHER RESOLVED, that this Resolution shall take effect immediately.

- The Administrator noted that the board could replenish this account in the future if they wished and also through the board should think about putting the money from the sale of the old ladder truck into this reserve.
- Motion by trustee Schoeneman to declare the needed repair of Tannery Brooks prior to the full project replacement a further Emergency repair of cement reinforcement is approved for an amount not to exceed \$50,000 and the contractors are to take every reasonable precaution to reduce the sound of the pumps, seconded by trustee Lazickas, with unanimous approval
  - Matt, Cathie, and the mayor walked the site and water is going under the big metal lip. They want to do something to correct at this time. Trustee Schoeneman wanted to know how long the concrete fix would work. Trustee Porter would like to see this done sooner than later. Trustee Schoeneman is concerned about public safety. The Superintendent thinks this is a good idea and the Administrator feels this is the best option. Concern about the noise from the pumps was discussed as a concern as they could run up to 2 weeks; the resolution was amended to include reasonable precautions to reduce the sounds of the pump.

**NEW BUSINESS**

None

**SPEAKERS & COMMUNICATIONS (II)**

- Tony Rosati, 350 Oakwood Ave: Asked if there will be a public hearing about the project because he wants to see about the conduit being put underground. The Administrator is working on getting

September 4, 2018

that price for the Mayor. Tony also wants to talk about the 5G mini tower on Kone King, and wants to see about doing that on the street.

- Daniel Scheff, 30 Hamlin Ave: Submitted an update from the Hamlin/Fillmore Neighborhood Association and the bus garage demolition and soil remediation.

A Motion by Trustee McCabe to adjourn the meeting at 8:18 pm. Seconded by Trustee Lazickas and unanimously carried.

Respectfully submitted,

Maureen Jerackas  
Clerk-Treasurer