**SPECIAL TOWN BOARD MEETING**

**TOWN BOARD**

**MAY 24, 2022**

Supervisor Bowen opened the Special Town Board Meeting at 7:00 p.m**.** in the Ripley

Town Hall with the Pledge of Allegiance.

The Town Board continues to be available on Zoom for those who would rather participate from home.

The Following were present:

Supervisor: Douglas Bowen

Council: Michael Rowe (Zoom)

Phil Chimera

Donald Henry

Deputy Clerk: Ryleigh Enterline

**APPROVE BOND RESOLUTION FOR HIGHWAY WHEELED EXCAVATOR**

**RESOLUTION 82-2022**

**TOWN OF RIPLEY**

**BOND RESOLUTION HIGHWAY WHEELED EXCAVATOR**

The following resolution was offered by Councilman Chimera, who moved its adoption, seconded by Councilman Rowe, to-wit:

**BOND RESOLUTION OF THE TOWN BOARD OF THE TOWN OF RIPLEY, CHAUTAUQUA COUNTY, NEW YORK, AUTHORIZING THE ACQUISITION OF A WHEELED EXCAVATOR FOR USE BY THE TOWN; STATING THE MAXIMUM ESTIMATED COST THEREOF IS $335,000; APPROPRIATING SAID AMOUNT THEREFOR; AND AUTHORIZING THE ISSUANCE OF UP TO $280,000 IN SERIAL BONDS OF THE TOWN TO FINANCE A PORTION OF SAID APPROPRIATION.**

**WHEREAS**, the Town Board (the “Board”) of the Town of Ripley, Chautauqua County, New York (the “Town”) proposes to undertake the acquisition of a wheeled excavator for use by the Town, at an estimated maximum cost of $335,000 (the “Project”) and to finance a portion of the cost thereof through the issuance of up to $280,000 in serial bonds of the Town; and

**WHEREAS**, the Board now wishes to appropriate funds for the Project and to authorize the issuance of the Town’s serial bonds and bond anticipation notes to be issued to finance a portion of the cost of the aforementioned specific objects or purposes.

**NOW, THEREFORE, BE IT RESOLVED**, by the Town Board of the Town of Ripley, Chautauqua County, New York (by the favorable vote of not less than two-thirds of all the members of such body), as follows:

SECTION 1. The Town is hereby authorized to finance the acquisition of an excavator for use by the Town at a maximum cost of $335,000, and to issue serial bonds of the Town (including statutory installment bonds) in the principal amount of $280,000 or bond anticipation notes in anticipation of such bonds, pursuant to provisions of Local Finance Law, constituting Chapter 33-a of the Consolidated Laws of the State of New York (the “Law”) to finance a portion of the cost of the aforementioned specific object or purpose.

SECTION 2. It is hereby determined that the maximum estimated cost of the aforementioned specific object or purpose is $335,000, said amount is hereby appropriated therefor and the plan for the financing thereof shall consist of (i) the expenditure of $55,000 in current funds of the Town, (ii) the issuance of up to $280,000 in serial bonds of the Town to be purchased by the United States Department of Agriculture, Office of Rural Development (“Rural Development”), (iii) certain other grants from Rural Development, and (iv) the levy and collection of taxes on all the taxable real property in the Town 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 period of probable usefulness of the aforementioned specific object or purpose is fifteen (15) years, pursuant to subdivision 28. of paragraph a. of Section 11.00 of the Law.

SECTION 4. The temporary use of available funds of the Town, 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 Law, for the capital purposes described in this resolution. The Town shall reimburse such expenditures with the proceeds of the bonds or bond anticipation notes authorized by this resolution. This resolution shall constitute a declaration of official intent to reimburse the expenditures authorized herein with the proceeds of the bonds and bond anticipation notes authorized herein, as required by United States Treasury Regulations Section 1.150-2.

SECTION 5. The final maturity of the bonds herein authorized to be issued may be in excess of five (5) years measured from the date of issuance of the first serial bond or bond anticipation note issued pursuant to this resolution.

SECTION 6. Each of the serial bonds authorized by this resolution and any bond anticipation notes issued in anticipation of said bonds shall contain the recital of validity prescribed by Section 52.00 of the Law and said serial bonds and any bond anticipation notes issued in anticipation of said bonds shall be general obligations of the Town, payable as to both principal and interest by a general tax upon all the real property within the Town subject to applicable statutory limits, if any. The faith and credit of the Town are hereby irrevocably pledged to the punctual payment of the principal and interest on said serial bonds and bond anticipation notes and provisions shall be made annually in the budget of the Town by appropriation for (a) the amortization and redemption of the bonds and bond anticipation notes to mature in such year and (b) the payment of interest to be due and payable in such year.

SECTION 7. Subject to the provisions of this resolution and of the Law, pursuant to the provisions of Section 30.00 relative to the authorization of the issuance of serial bonds and bond anticipation notes or the renewals of said obligations and of Sections 21.00, 50.00, 54.90, 56.00 through 60.00, 62.10 and 63.00 of the Law, the powers and duties of the Board relative to authorizing serial bonds and bond anticipation notes and prescribing terms, form and contents as to the sale and issuance of bonds herein authorized, including without limitation the determination of whether to issue bonds having substantially level or declining debt service and all matters related thereto, and of any bond anticipation notes issued in anticipation of said bonds, and the renewals of said bond anticipation notes, are hereby delegated to the Town Supervisor, as the chief fiscal officer of the Town (the “Town Supervisor”). Further, pursuant to paragraph b. of Section 11.00 of the Law, in the event that bonds to be issued for any of the specific objects or purposes authorized by this resolution are combined for sale, pursuant to paragraph c. of Section 57.00 of the Law, with bonds to be issued for one or more objects or purposes authorized by other resolutions of the Board, then the power of the Board to determine the “weighted average period of probable usefulness” (within the meaning of paragraph a. of Section 11.00 of the Law) for such combined objects or purposes is hereby delegated to the Supervisor, as the chief fiscal officer of the Town.

SECTION 8. The Town Supervisor is hereby 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, if applicable, as “qualified tax-exempt bonds” in accordance with Section 265(b)(3)(B)(i) of the Code.

SECTION 9. The Town Supervisor is hereby further authorized to enter into a continuing disclosure undertaking with or for the benefit of the initial purchasers of the bonds or notes authorized by this resolution 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 10. The Town Supervisor is hereby further authorized, at his sole discretion, to execute a project financing and loan agreement, and any other agreements with Rural Development, including amendments thereto, and including any instruments (or amendments thereto) in the effectuation thereof, in order to effect the financing or refinancing of the specific objects or purposes described in Section 1 hereof, or a portion thereof, by a serial bond, a statutory installment bond and/or a bond anticipation note issue in the event of the sale of same to Rural Development.

SECTION 11. The Town Board hereby determines that the Project constitutes a “Type II” action within the meaning of the State Environmental Quality Review Act and the regulations of the New York State Department of Environmental Conservation thereunder (collectively, “SEQRA”) and that no further action under SEQRA with respect to the Project need be taken by the Town Board as a condition precedent to the adoption of this resolution.

SECTION 12. The intent of this resolution is to give the Town Supervisor sufficient authority to execute those applications, agreements and instruments, or to do any similar acts necessary to affect the issuance of the aforesaid serial bonds or bond anticipation notes without resorting to further action of the Board.

SECTION 13. Pursuant to subdivision b. of Section 35.00 of the Law, this resolution is subject to a permissive referendum in the manner prescribed by Article Seven of the Town Law of the State of New York (the “Town Law”). The Town Clerk is hereby authorized and directed, within ten (10) days after the date of adoption of this resolution, to publish and post a notice satisfying the requirements of Section 90 of the Town Law, which shall set forth the date of adoption of this resolution, shall contain an abstract hereof, and shall specify that this resolution was adopted subject to a permissive referendum. Such notice shall be published in the official newspaper of the Town for such purpose.

SECTION 14. This resolution shall take effect thirty (30) days after the date of its adoption or, if within such thirty (30) day period there is filed with the Town Clerk a petition subscribed and acknowledged by the number of qualified electors of the Town required by Section 91 of the Town Law and in the manner specified in such Section, until approved by the affirmative vote of a majority of such qualified electors voting on a proposition for its approval.

SECTION 15. The validity of the bonds authorized by this resolution and of any bond anticipation notes issued in anticipation of said bonds may be contested only if:

(a) such obligations are authorized for an object or purpose for which the Town is not authorized to expend money; or

(b) the provisions of law which should be complied with at the date of the publication of such resolution are not substantially complied with,

and an action, suit or proceeding contesting such validity is commenced within twenty (20) days after the date of such publication; or

(c) such obligations are authorized in violation of the provisions of the constitution.

SECTION 16. As soon as reasonably possible after the date that this resolution takes effect, the Town Clerk is hereby authorized and directed to cause a copy of this resolution, or a summary thereof, to be published in full in the official newspaper of the Town for such purposes, together with a notice of the Town Clerk in substantially the form provided in Section 81.00 of the Law.

The following vote was taken and recorded in the public or open session of said meeting:

AYE NAY

Mr. Bowen, Supervisor X

Mr. Rowe, Member X

Mr. Chimera, Member X

Mr. Henry, Member X

**APPROVAL OF FINAL PAY APPLICATION FOR SEWER DISTRICT 2**

Councilman Chimera made a motion to approve the final pay application for completion of Sewer District 2. This was seconded by Councilman Rowe. A Roll Call Vote is as follows: Councilman Henry YES, Councilman Chimera YES, Councilman Rowe YES, Supervisor Bowen YES. Carried.

Respectfully Submitted,

Ryleigh Enterline

Deputy Town Clerk