

Mayville, NY

Special Meeting

August 23, 2022

Present: Supervisor Donald Emhardt, Councilmen Kenneth Burnett, Thomas Carlson and Scott Cummings. Town Attorney, Joel Seachrist and Town Clerk, Rebecca Luba

Absent: Councilman, Al Akin

A meeting of the Town Board of the Town of Chautauqua, in the County of Chautauqua, New York, was held at the Chautauqua Municipal Building located at 2 Academy Street, Mayville, New York, on August 23, 2022.

Notice was submitted and ran in the Post-Journal on August 12, 2023 and advertised on the Clerk's sign board and website for the Town of Chautauqua.

Special meeting was called to order by Supervisor Emhardt.

Motion made by Councilman Scott Cummings to open the public hearing at 10:01a.m.

Second: Councilman Kenneth Burnett

Vote: Supervisor Donald Emhardt – Aye
Councilman Scott Cummings – Aye
Councilman Al Akin – Absent
Councilman Thomas Carlson – Aye
Councilman Kenneth Burnett – Aye

Carried

Councilman Cummings requested the Town Attorney to review and summarize the bond information. Supervisor Emhardt stated with the Town receiving 4.2million in grants for this project, it would be in the Town's best interest to consider the full buildout of infrastructure to include Point Chautauqua. Councilman Cummings agreed stating costs are only going to go up but inquired whether the current tower is big enough to accommodate this expansion. Supervisor Emhardt stated the current tower was originally built to serve the Villas, Chautauqua Lake Estates and Point Chautauqua but another tower may be needed closer to the KOA camp to balance the system down the road.

There was no public present for comment.

Motion made by Councilman Thomas Carlson to close the public hearing at 10:07a.m.

Second: Councilman Scott Cummings

Vote: Supervisor Donald Emhardt – Aye
Councilman Scott Cummings – Aye
Councilman Al Akin – Absent
Councilman Thomas Carlson – Aye
Councilman Kenneth Burnett – Aye

Carried

Public Interest Order

IN THE MATTER OF THE INCREASE AND IMPROVEMENT OF THE FACILITIES OF THE TOWN OF CHAUTAUQUA WATER DISTRICT NO. 2 IN THE TOWN OF CHAUTAUQUA, CHAUTAUQUA COUNTY, NEW YORK

WHEREAS, the Town Board of the Town of Chautauqua, Chautauqua County, New York, has duly caused to be prepared a map, plan and report including an estimate of cost, pursuant to Section 202-b of the Town

Law, relating to the increase and improvement of the facilities of the Town of Chautauqua Water District No. 2 in the Town of Chautauqua, Chautauqua County, New York, consisting of the installation of two (2) groundwater wells in the hamlet of Dewittville, the construction of a support building of approximately 1,000 square feet to house water softening equipment and chlorination equipment, exterior 15,000-gal above ground clear well tank, standby natural gas driven generator and electrical/instrumentation systems, a flow distribution structure (below grade) and an absorption field for handling of process wastewaters; the construction of a support building of approximately 120 square feet at the Existing Standpipe site to house chlorination equipment and electrical/instrumentation systems, a new altitude valve and vault for connection to existing standpipe inlet/outlet piping; demolition/decommissioning of the existing water treatment plant building and equipment; approximately 14,200 linear feet of 8-inch diameter pipeline; tee connections and valving for future extensions; and fire hydrants, including original furnishings, equipment, machinery, apparatus, valves, hydrants, appurtenances, and incidental improvements as further described in said map, plan and report, for an area to be known as the Dewittville Benefit District No. 1; and

WHEREAS, at a meeting of said Town Board duly called and held on August 8, 2022, an order was duly adopted by it and entered in the minutes specifying the said Town Board would meet to consider the increase and improvement of the facilities of Water District No. 2 in said Town at a maximum estimated cost of \$6,700,000 and to hear all persons interested in the subject thereof concerning the same at the Chautauqua Community Building in Mayville, New York, in said Town, on August 23, 2022, at 10:00 o'clock A.M., Prevailing Time; and

WHEREAS, said order duly certified by the Town Clerk was duly published and posted as required by law; and

WHEREAS, a public hearing was duly held at the time and place set forth in said notice, at which all persons desiring to be heard were duly heard;

NOW, THEREFORE, BE IT ORDERED, by the Town Board of the Town of Chautauqua, Chautauqua County, New York, as follows:

Section 1. Upon the evidence given at the aforesaid public hearing, it is hereby found and determined that it is in the public interest to increase and improve the facilities of the Town of Chautauqua Water District No. 2 in the Town of Chautauqua, Chautauqua County, New York, consisting of the installation of two (2) groundwater wells, the construction of support buildings, approximately 14,200 linear feet of 8-inch diameter pipeline, and appurtenant facilities and equipment as further described in the map, plan and report prepared in connection therewith, at a maximum estimated cost of \$6,700,000, which benefited area shall hereafter be known as the Dewittville Benefit District No. 1.

Section 2. This order shall take effect immediately.

Motion made by Councilman Thomas Carlson to adopt the bond resolution as presented.

Second: Councilman Kenneth Burnett

Vote: Supervisor Donald Emhardt – Aye
Councilman Scott Cummings – Aye
Councilman Al Akin – Absent
Councilman Thomas Carlson – Aye
Councilman Kenneth Burnett – Aye

Carried

Bond Resolution

A BOND RESOLUTION, DATED AUGUST 23, 2022, OF THE TOWN BOARD OF THE TOWN OF CHAUTAUQUA, CHAUTAUQUA COUNTY, NEW YORK (THE “TOWN”), AUTHORIZING A CAPITAL IMPROVEMENTS PROJECT WITHIN THE TOWN OF CHAUTAUQUA WATER DISTRICT NO. 2 (AS EXTENDED) AT AN ESTIMATED MAXIMUM COST OF \$6,700,000 AND

AUTHORIZING THE ISSUANCE OF SERIAL BONDS IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$6,700,000 OF THE TOWN, 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 TOWN SUPERVISOR.

WHEREAS, the Town Board of the Town of Chautauqua, Chautauqua County, New York (the "Town"), has established the Town of Chautauqua Water District No. 2 and has on one or more occasions extended such District (as so extended, the "District"); and

WHEREAS, the Town Board has determined, by resolution, to undertake a certain water system capital improvements project within the District; and

WHEREAS, the Town Board has determined to proceed with such project; and

WHEREAS, the Town Board took the following actions with respect to such project: (a) received maps and plans for such project, (b) held a public hearing with respect to such project, (c) determined that such project would not have a significant adverse effect on the environment under Article 8 of the Environmental Conservation Law, (d) determined that the requirements of Article 12 of the Town Law had been satisfied with respect to such project and (e) determined to undertake such project; and

WHEREAS, the Town Board desires to issue obligations of the Town to finance all or a portion of the costs of such project.

NOW THEREFORE, BE IT RESOLVED, by the Town Board (by the favorable vote of not less than two-thirds of all the members of the Board) as follows:

SECTION 1. The Town is hereby authorized to undertake a water system capital improvements project (commonly referred to as the Dewittville Benefit District #1 Project) that will generally consist of (but not be limited to), the installation of two (2) groundwater wells in the hamlet of Dewittville; the construction of a support building of approximately 1,000 square feet to house water softening equipment and chlorination equipment, exterior 15,000-gal above ground clearwell tank, standby natural gas driven generator and electrical/instrumentation systems, a flow distribution structure (below grade) and an absorption field for handling of process wastewaters; the construction of a support building of approximately 120 square feet at the Existing Standpipe site to house chlorination equipment and electrical/instrumentation systems, a new altitude valve and vault for connection to existing standpipe inlet/outlet piping; demolition/decommissioning of the existing water treatment plant building and equipment; the installation of approximately 14,200 linear feet of 8-inch diameter pipeline, tee connections and valving for future extensions and fire hydrants, including original furnishings, equipment, machinery, apparatus, valves, hydrants, appurtenances, and incidental improvements and expenses in connection therewith, all as more fully described (or contemplated by) in the map, plan and report prepared in connection with such project and hereinbefore described, all of the forgoing to include all necessary site work, equipment, apparatus and other preliminary work (including design and survey) as well as other improvements and costs incidental thereto and in connection with the financing thereof (the "Project"). The estimated maximum cost of the Project is \$6,700,000.

SECTION 2. The Town Board plans to finance the estimated maximum cost of the Project by the issuance of serial bonds in an aggregate principal amount not to exceed \$6,700,000 of the Town, hereby authorized to be issued therefore 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 will be paid by the issuance of serial bonds and the assessment, levy and collection of special assessments from the several lots and parcels of land within the District which the Town Board shall determine and specify to be especially benefited thereby, so much upon and from each as shall be in just proportion to the amount of the benefit conferred upon the same, to pay the principal of and interest on said bonds as the same shall become due and payable, except as provided by law.

SECTION 3. It is hereby determined that said purpose is an object or purpose described in subdivision 1 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 Town 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, the cost of the Project will be paid by the assessment, levy and collection of special assessments from the several lots and parcels of land within the District which the Town Board shall determine and specify to be especially benefited thereby, so much upon and from each as shall be in just proportion to the amount of the benefit conferred upon the same, to pay the principal of and interest on said bonds as the same shall become due and payable, except as provided by law. Should the assessments upon benefited real property be insufficient to pay the principal of and interest on such bonds, there shall annually be levied on all taxable real property of the Town 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 Town Board 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 Town Supervisor, the chief fiscal officer of the Town. Without in any way limiting the scope of the foregoing delegation of powers, the Town Supervisor, 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 Town.

SECTION 8. 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 Local Finance Law, for the purpose or purposes described in this resolution.

SECTION 9. This resolution shall constitute the declaration (or reaffirmation) of the Town's "official intent" to reimburse the expenditures authorized in this resolution with the proceeds of the bonds, notes or other obligations authorized herein, as required by United States Treasury Regulations Section 1.150-2.

SECTION 10. The Town Supervisor 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 11. The Town Supervisor 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 12. The Town Supervisor is further authorized to call in and redeem any outstanding obligations that were authorized hereunder (at such times and in such amounts and maturities as may be deemed appropriate after consultation with Town officials and the Town’s municipal advisor), to approve any related notice of redemption, and to take such actions and execute such documents as may be necessary to effectuate any such calls for redemption pursuant to Section 53.00 of the Local Finance Law, with the understanding that no such call for redemption will be made unless such notice of redemption shall have first been filed with the Town Clerk.

SECTION 13. To the extent applicable, the Town Supervisor is hereby authorized to execute and deliver in the name and on behalf of the Town a project financing agreement prepared by the New York State Environmental Facilities Corporation (“EFC”) (the “Project Financing Agreement”). To the extent applicable, the Town Supervisor and the Town Clerk and all other officers, employees and agents of the Town are hereby authorized and directed for and on behalf of the Town 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 Project Financing Agreement.

SECTION 14. The Town has complied with 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, determined that the Project is an “unlisted action”, undertook the requisite review and duly issued a negative declaration and other applicable documentation, and therefore, no further action under SEQRA is necessary.

SECTION 15. In the absence or unavailability of the Town Supervisor, the Deputy Town Supervisor is hereby specifically authorized to exercise the powers delegated to the Town Supervisor in this resolution.

SECTION 16. 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 Town is not authorized to expend money, or

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

and an action, suit or proceeding contesting such validity is commenced within 20 days after the date of

such publication; or

(2) Said obligations are authorized in violation of the provisions of the Constitution of New York.

SECTION 17. The Town 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 Town and designated as the official newspaper of the Town for such publication.

SECTION 18. This Resolution is effective immediately.

Motion made by Councilman Scott Cummings to adopt the bond resolution as presented.

Second: Councilman Kenneth Burnett

Vote: Supervisor Donald Emhardt – Aye
Councilman Scott Cummings – Aye
Councilman Al Akin – Absent
Councilman Thomas Carlson – Aye
Councilman Kenneth Burnett – Aye

Carried -The foregoing resolution was thereupon declared duly adopted.

Non-Agenda Items and Discussion:

Water District 4 Extension

Supervisor Emhardt asked if the Board would be okay with him requesting a proposal from Barton & Loguidice to conduct a Map, Plan and Report for the extension of Water District 4. The Board was in agreeance with the request. No formal action is required until the proposal is received.

Town Constabulary

In light of the recent events at Chautauqua Institution involving the assault on a speaker, the Board discussed legislation that is being pushed through the State to enable new policing agencies and how this would affect the current office of Town Constabulary. Attorney Seachrist stated the office could be rescinded by local law if no longer needed.

Millings pile on W. Lake Road is in the process of being removed and projected to be gone by the September 30, 2022 deadline.

The County is interested in renting space at the Community Municipal Building. Supervisor Emhardt stated that CHRIC has looked at giving up some of their space so a price per square foot was given for consideration.

HR Consult

Councilman Cummings inquired about hiring an HR consultant for the Town or if this could be a service shared between other towns looking for the same thing. Supervisor Emhardt was in favor and stated he would bring this up at the next Supervisor/Mayors meeting to see if there is any interest.

The Board discussed various other items including new developments being proposed in the Town and status of the Town's water and Sewer extension projects.

Motion made by Councilman Scott Cummings to adjourn at 10:40a.m.

Second: Councilman Thomas Carlson

Vote: Supervisor Donald Emhardt – Aye
Councilman Scott Cummings – Aye
Councilman Al Akin – Absent
Councilman Thomas Carlson – Aye
Councilman Kenneth Burnett – Aye

Carried

Rebecca Luba, RMC
Town Clerk
Town of Chautauqua