

Perrysburg Town Board

Minutes of the Regular Monthly Meeting of the Town Board, Town of Perrysburg, Cattaraugus County, NY, August 9, 2021 at the Town Hall

PRESENT: Dennis Parker, Town Supervisor • Richard Gabel, Councilman • Michael Sternisha, Councilman 7:08 pm • Lisa Towne, Councilwoman

ABSENT: Andy Lord, Councilman

ALSO PRESENT: Tamara A Utley, Town Clerk
Dave Heckman, Code Enforcement Officer
Jim Musacchio, Town Attorney 7:44 pm
Dan Stang Highway Superintendent 7:57 pm
Sam Lauer, Gowanda Sewer Dept.
Kirk Trumpore, Gowanda Water Dept.
Harry and Joan Deeley

Supervisor called the meeting to order at 7:04 p.m. with the Pledge of Allegiance and a moment of silence in memory of David Smith, former Perrysburg Police Officer and Justice

GOOD OF THE COMMUNITY:

- United Heritage Fiddlers Association Jam Session at the Dayton Fire Hall, August 15th from 2-5pm. Bring your instrument and join along or sit back and enjoy. Refreshments are served; a dish to pass would be greatly appreciated but not necessary. The Jam Sessions are held the 3rd Sunday of each month except for December, January and February. This event is free to the public
- The new Perrysburg Vol. Fire Dept. fire truck might be here by the end of this month
- Mrs. Deeley expressed concern about traffic traveling too fast on Jolls and passing farm equipment – inquired about more speed limit signs and farm equipment signs

MINUTES OF THE PREVIOUS MEETING: Motion by Councilman Gabel, second by Supervisor Parker to approve the minutes of the July meeting as submitted

ALL AYE

MOTION CARRIED

REPORTS:

Building & Code Enforcement Officer: Completed 34 inspections for the month

Assessor's Report: 2021 roll year has been finalized as of July 1, 2021; Carrie Tomczak has been promoted to Senior Data Collector, looking to hire a new Data Collector to fill her old position; corresponded with several property owners about their assessments, tax bills and exemptions; added nine (9) property transfers for the month of June

Water Dept. Report:

- Perrysburg processed 1,133,000 gallons for a daily average of 36,551 gallons; 52 UFPO and two (2) work orders; started lead and copper sampling
- Versailles used 186,067 over the month of June for a daily average of 6,002 gallons per day; started lead and copper sampling
- Tree stump in the ditch next to Treatment Plant driveway needs to be cleaned out

Sewer Report:

- Dan Stang got the Railroad Avenue line fixed from the residential pump can;
- flow meter was installed and is working good but the check valve is not working properly, Sam will get quotes for repair as Gowanda does not have the manpower to address at this time
- there is a residential pump can that was found to have rags in the pump, addressed this with the property owner
- Electrical problems at flow box on Route 39, Roger Burzak called to look at it

Highway Supt. Report: None

Justice Report: Justice Dankert closed the following cases: ten (10) V/T Law and one (1) Animal Control; Total reported to State Comptroller \$1213

Dog Control Officer's Report: None

Town Clerk Report: Town Clerk collected \$2,626.75 for the month of July; \$1,515.89 was the town portion paid to the Supervisor; very regretfully accepted the resignation of Deputy Clerk Holly Taylor who is seeking full time employment with benefits. I wish her the very best in her future endeavors; she will be missed serving our community. 2022 budget requests are due to my office by September 20th; hunting licenses went on sale August 2nd. DMP deadline is October 1st. The Federal Duck Stamp is now on sale and can be purchased from my office for \$26

Supervisor's Report: was in the office to sign checks; financial report prepared by Bahgat & Laurito-Bahgat is on file in the Town Clerk's office

CORRESPONDENCE

- NYMIR Insurance proposal for \$33,173.79 for 9/1/21 thru 9/1/22, the premium increase is 1% over last year; motion by Councilwoman Towne, second by Councilman Sternisha to accept the insurance proposal

ALL AYE MOTION CARRIED

OLD BUSINESS

Marijuana Regulation & Taxation Act Local Opt-Out provision, following discussion, motion by Supervisor Parker to table until next month, second by Councilwoman Towne.

ALL AYE MOTION CARRIED

Motion by Councilman Gabel to introduce Resolution #20 of 2021, seconded by Supervisor Parker

RESOLUTION #20 OF 2021 – AMENDED AND RESTATED BOND RESOLUTION OF THE TOWN BOARD OF THE TOWN OF PERRYSBURG, CATTARAUGUS COUNTY, NY (THE “TOWN”), AMENDING AND RESTATING IN ITS ENTIRETY A BOND RESOLUTION OF THE TOWN DATED JULY 8, 2019, AUTHORIZING CERTAIN IMPROVEMENTS TO PROSPECT STREET; ESTIMATING THAT THE TOTAL COST THEREFOR; AND AUTHORIZING THE ISSUANCE OF \$800,000 IN SERIAL BONDS OF THE TOWN TO FINANCE A PORTION OF SAID APPROPRIATION

WHEREAS, the Town Board (“the Board”) of the Town of Perrysburg, Cattaraugus County, NY (the “Town”), by a bond resolution adopted on July 8, 2019 (the “Original Bond Resolution”) authorized the issuance of serial bonds and bond anticipation notes of the Town in the principal amount of \$800,000 to finance a portion of the reconstruction and replacement of the shoulder and embankment along approximately 500’ of Prospect Street within the Town (collectively, the “Project”);

WHEREAS, by resolution adopted by the Town Board of the Town on July 8, 2019, immediately prior to the adoption of this Bond Resolution, the Town Board, acting as lead agency under the State Environmental Quality Review Act and the regulations of the New York State Department of Environmental Conservation adopted thereunder (collectively, “SEQRA”), (i) determined that the actions included in the Project constitute an “Unlisted” action within the meaning of SEQRA, and (ii) that the Project will not have a significant adverse impact on the environment and adopted a negative declaration under SEQRA to such affect; and

WHEREAS, the Board now intends to amend and restate the Original Bond Resolution in its entirety pursuant to the terms of this resolution for the purpose of extending the period of probable usefulness of the aforementioned specific object or purpose from five (5) years to thirty (30) years, pursuant to subdivision 3. of paragraph a. of Section 11.00 of the Law and thereby making this amended and restated bond resolution subject to a permissive referendum in the manner prescribed by Article Seven of the Town Law of the State of New York.

THE TOWN BOARD OF THE TOWN OF PERRYSBURG, CATTARAUGUS COUNTY, NEW YORK (the “Town”) HEREBY RESOLVES (by the affirmative vote of not less than two-thirds of all the members of such body) TO AMEND AND RESTATE ORIGINAL RESOLUTION IN ITS ENTIRETY, AS FOLLOWS:

SECTION 1. The Town is hereby authorized to undertake the reconstruction and replacement of the shoulder and embankment along approximately 500’ of Prospect Street within the Town, and to issue \$800,000 principal amount of serial bonds pursuant to the provisions of the 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 estimated cost of the aforementioned specific object or purpose. It is hereby determined that the maximum estimated cost of such specific object or purpose is \$1,354,785, said amount is hereby appropriated therefor and the plan for the financing thereof shall consist of (i) the issuance of up to \$800,000 in serial bonds of the Town authorized to be issued pursuant to this section, or bond anticipation notes issued in anticipation of

such serial bonds, (ii) the application of a Federal Emergency Management Agency ("FEMA") grant in the estimated amount of up to \$1,354,785 expected to be received by the Town to either directly pay or reimburse a portion of the cost of the Project and/or to repay a portion of any such bond anticipation notes issued under the authority of this resolution, and (iii) unless paid from other sources, 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 2. It is hereby determined that the period of probable usefulness for the aforementioned specific object or purpose is thirty (30) years, pursuant to subdivision 3. of paragraph a. of Section 11.00 of the Law.

SECTION 3. The final maturity of the bonds herein authorized to be issued shall 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 Section 1 of this resolution.

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 Section 1 of this resolution. This resolution shall constitute a declaration of "official intent" to reimburse the expenditures authorized by Section 1 hereof 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. 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 without legal or constitutional limitation as to rate or amount. 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 6. 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 bond anticipation notes or the renewals of said obligations and of Section 21.00, Section 50.00, Section 54.90, Sections 56.00 through 60.00 and Sections 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 relating 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 Supervisor of the Town, 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 one or more of the 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 Town Supervisor, as the chief fiscal officer of the Town.

SECTION 7. 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 8. The Town Supervisor is further authorized to enter into 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 9. 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 this Board.

SECTION 10. 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 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 11. 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 12. 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 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 13. Upon this resolution becoming effective, the Town Clerk is hereby authorized and directed to cause a copy of this resolution, or a summary thereof, to be published, together with a notice attached in substantially the form as prescribed in Section 81.00 of the Law, in the official newspaper(s) of the Town for such purpose, together with a notice of the Town Clerk substantially the form provided in Section 81.00 of the Law.

The question of adoption of the foregoing resolution was duly put to vote on a roll call which resulted as follows:

GABEL – AYE PARKER – AYE STERNISHA – AYE TOWNE – AYE

The resolution was thereupon declared duly adopted by a vote of 4 ayes and 0 nays on August 9, 2021

NEW BUSINESS

- Motion by Councilman Gabel, second by Councilwoman Towne to reappoint Ed Christopher to the Board of Assessment Review
ALL AYE MOTION CARRIED
- 2022 budget requests are due to the Office of the Town Clerk by September 20th
- USDA – Vulnerability Assessment and Emergency Response Plan – table until next month
- Town Attorney Jim Musacchio stated he has been in contact with Omni Navitas who have submitted an application to the Town Planning Board for a Special Use Permit for a solar project on West Perrysburg Road

BOARD MEMBER COMMENTS

- Councilman Gabel reported that DFT was approved for the Town Hall video surveillance, however, due to their response that they have no cameras to install and a backlog, the second company, Allied Alarm Services Inc. was contacted and will install the system at a cost of \$5,295 with optional 19" monitor at a cost of \$195 per their proposal
- Councilwoman Towne reported that she will contact Planning/Zoning Board member Rich Pecnik to assist in completing the SEQR for the Comprehensive Plan

ABSTRACT #8 of 2021, Vouchers #279 – 313, Audit of Claims

General Fund Townwide	A	\$ 6,110.97		
Highway Fund Townwide	DA	\$ 14,742.21		
Gowanda Prospect St. Water	GW	\$ 116.75		
Capital Projects Fund	H	\$ 2,812.50		
Central Water	PW	\$ 4,443.06		
Street Lighting	SL	\$ 268.30		
Special Residential	SR	\$ 898.82		
Special Sewer	SS	\$ 4,666.17		
Versailles Water	VW	\$ 1,921.96		
Total:		\$ 35,980.74		

Totals from each fund were read by the Town Clerk. Motion by Councilwoman Towne, second by Councilman Sternisha to pay all audited vouchers #279 – 313 in the amount of \$35,980.74

STERNISHA - AYE GABEL - AYE PARKER – AYE TOWNE - AYE

8:00 p.m. Motion by Supervisor Parker, second by Councilwoman Towne to enter Executive Session including Jim Musacchio, Town Attorney; Tamara Utley, Town Clerk and Dan Stang, Highway Superintendent to discuss sewer and water agreements
ALL AYE MOTION CARRIED

9:00 p.m. Motion by Councilwoman Towne, second by Councilman Sternisha to return to regular session
ALL AYE MOTION CARRIED

Councilwoman Towne stated she received a letter from Tom Howard for the Secretary position of the Planning/Zoning Board, will bring to the next Town Board meeting

Councilman Gabel reported that he contacted Wayne Hall about the tree at the West Perrysburg Road Cemetery, Mr. Hall is not interested in the job; Highway Department will look at it

PERRYSBURG SEWER AGREEMENT WITH VILLAGE OF GOWANDA

Motion by Councilman Sternisha, second by Councilwoman Towne authorizing the Town Supervisor to sign a Sewer Agreement with the Village of Gowanda
STERNISHA – AYE TOWNE – AYE GABEL – AYE PARKER – AYE

9:03 p.m. Motion by Councilwoman Town to adjourn

Respectfully Submitted,

Tamara A. Utley, Town Clerk