

York Town Board Meeting  
August 6, 2015

Present: Supervisor Gerald L. Deming, Council Members: Lynn Parnell, Norman Gates, David Deuel and Frank Rose Jr.

Absent: None

Others: David Russo and Kirk Richenberg

Supervisor Deming opened the Town Board Meeting at 7:30 p.m. and invited Clerk Harris to lead in the Pledge of Allegiance.

MINUTES

RESOLUTION offered by Mr. Gates and seconded by Mr. Rose to approve the minutes of the July 23, 2015 Town Board Meeting. Voted on and approved, Yes-5, No-0.

OLD BUSINESS- None

NEW BUSINESS

- 1) McVean Road:
  - a- Bond Resolution:

At a regular meeting of the Town Board of the Town of York, in the County of Livingston, New York, held at the Town Hall, 2668 Main Street, York, New York, 14592 at 7:00 p.m. on August 6, 2015

PRESENT: Gerald L. Deming, Supervisor  
Lynn Parnell  
David Deuel  
Norman Gates  
Frank Rose Jr.

ABSENT: None

The following resolution was offered by Council Member Parnell, who moved its adoption, seconded by Councilman Gates, to-wit:

**BOND RESOLUTION OF THE TOWN BOARD OF THE TOWN OF YORK, LIVINGSTON COUNTY, NEW YORK (THE "TOWN"), AUTHORIZING THE ISSUANCE OF UP TO \$170,880 IN SERIAL BONDS OF THE TOWN TO FINANCE THE COST OF ACQUIRING AND CONSTRUCTING THE WATER SYSTEM IMPROVEMENTS TO BE INCLUDED IN THE MCVEAN AND TELEPHONE ROAD WATER DISTRICT WITHIN THE TOWN**

WHEREAS, by resolution of the Town Board of the of the Town of York, Livingston County, New York (the "Town") dated April 9, 2015, said Town Board adopted its final order (the "Order") establishing the McVean and Telephone Road Water District (the "District") in accordance with Article 12 of the Town Law; and

WHEREAS, by resolution dated April 9, 2015, adopted immediately prior to the adoption of the Order, the Town Board determined that the Project constituted an "Unlisted" action under the New York State Environmental Quality Review Act and the regulations promulgated thereunder (6 NYCRR Part 617) (collectively, "SEQRA"), and determined that the Project will not result in any negative environmental impact, and issued a negative declaration to such effect; and

WHEREAS, the Town Board now wishes to appropriate funds and to authorize the issuance of obligations of the Town to finance said District and the improvements therein.

THE TOWN BOARD OF THE TOWN OF YORK, LIVINGSTON COUNTY, NEW YORK HEREBY RESOLVES (by the affirmative vote of not less than two-thirds of all the members of such body), AS FOLLOWS:

SECTION 1. The Town is hereby authorized to issue up to \$170,880 principal amount of serial bonds (including, without limitation, statutory installment 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 the cost of acquiring, constructing and equipping the improvements to be included in the McVean and Telephone Road Water District within the Town including, to the extent applicable, the acquisition of land and/or easements or other rights therein, the construction of improvements consisting of water mains, lateral lines, valves, hydrants, pump stations, meters, curb stops, original furnishings, equipment, machinery or apparatus, and all other appurtenant and incidental improvements necessary or appropriate to serve benefited properties within said water district, all engineering and other preliminary costs, legal expenses and other costs incidental to the financing thereof (collectively, the "Project").

SECTION 2. It is hereby determined that the maximum estimated cost of the aforementioned specific object or purpose is \$170,880, and said amount is hereby appropriated therefor. The plan for the financing thereof shall consist of (i) the issuance of \$170,880 in serial bonds of the Town authorized to be issued pursuant to Section 1 of this resolution, and bond anticipation notes issued in anticipation thereof, (ii) the assessment, levy and collection of assessments upon benefited properties within the District; and (iii) to the extent necessary, 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 for the aforementioned specific object or purpose is forty (40) years, pursuant to subdivision 1. of paragraph a. of Section 11.00 of the Law.

SECTION 4. The final maturity of the bonds herein authorized to be issued pursuant to Section 1 of this resolution shall be in excess of five (5) years measured from the date of issuance of the first serial bond or bond anticipation note issued.

SECTION 5. 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 mitoses 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 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 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 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 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 Town 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, the chief fiscal officer of the Town (the "Supervisor"). Further, in connection with bonds and bond anticipation notes issued under the

authority of Section 1 hereof, the power to contract with and issue bonds and bond anticipation notes to the New York State Environmental Facilities Corporation pursuant to Section 169.00 of the Law and to approve the terms, form and content of such bonds and bond anticipation notes, consistent with the provisions of the Law, is hereby delegated to the Supervisor. Further, pursuant to subdivision 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 subdivision 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 this Town Board, then the power of the Town Board to determine the "weighted average period of probable usefulness" (within the meaning of subdivision 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 Supervisor is hereby further authorized, at his sole discretion, to execute a project financing and loan agreement, and any other agreements with the New York State Department of Environmental Conservation and/or the New York State Environmental Facilities Corporation, 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 object or purpose described in Section 1 hereof, or a portion thereof, by a serial bond, and, or a bond anticipation note issue in the event of the sale of same to the New York State Environmental Facilities Corporation.

SECTION 9. The Supervisor of the Town 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 anticipating thereof, if applicable, as "qualified tax-exempt obligations" in accordance with Section 265(b)(3)(B)(i) of the Code.

SECTION 10. The Supervisor is further authorized to enter into continuing disclosure undertakings with or for the benefit of the initial purchaser of the bonds or notes 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 intent of this resolution is to give the Supervisor sufficient authority to execute those applications, agreements and instruments, or to do any similar acts necessary to effect the issuance of the aforesaid serial bonds or bond anticipation notes without resorting to further action of this Town Board.

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 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 13. This resolution shall take effect immediately and 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.

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

AYES:

Gerald L. Deming  
Lynn Parnell  
Norman Gates  
David Deuel  
Frank Rose Jr.

NAYS:

Voted on and approved, Yes-5, No-0.

## 2) Zoning Request:

Supervisor Deming stated at a previous Town Board Meeting, the Board had discussion pertaining to a possible change in zoning from Commercial to Hamlet Commercial in the Greigsville area, west side of Route 36 from Route 63 to Virginia Avenue. If the Board desires we can schedule a Public Hearing to discuss the matter further in order to proceed.

RESOLUTION offered by Mr. Gates and seconded by Mrs. Parnell to set a Public Hearing date for Thursday, August 27, 2015 at 7:00 p.m. for the purpose of discussing a

zoning change from Commercial to Hamlet Commercial at the corner of Route 36/63 to Virginia Avenue. Voted on and approved, Yes-5, No-0.

\*\*Supervisor Deming will contact Attorney Campbell to prepare the necessary information and hearing notice.

PRIVILEGES OF THE FLOOR

1) Kirk Richenberg:

Mr. Richenberg asked if the Board had a status report regarding the fire tax issue that Mr. Deuel discussed at a previous meeting. In that meeting he referenced that several towns in the County in the 80's went to that method, and wanted to document their information as a comparison.

Councilman Deuel stated he has more research to conduct, but did encounter with these towns that they did not have a record and/or resolution on file noting their fire tax format for agricultural properties. Some had just a note stating it was passed. Caledonia actually has a Fire Board of Commissioners that made such decision because they were the legislative body in charge of the fire tax. The tax rates from these towns were not and have not been computerized, making the search much more time consuming. Mr. Deuel commented one important aspect to decipher is how many acres these towns had in an agricultural district then and now.

Supervisor Deming added one thing the Board discussed was comparing the agricultural rate for a small farm, large farm, business owner and average homeowner, in order to verify how each would be affected. Mr. Deming also commented the Town and County have installed counters on the roads to calculate the number of larger vehicles traveling the roadways, as opposed to residential traffic.

Councilman Deuel reported the following information pertaining to acres in an Agricultural District for other towns:

Caledonia	in 1998	20,000 acres
	in 2012	18,584 acres
Lima	in 1999	13,800 acres
	in 2013	10,900 acres
Ossian	in 1999	12,700 acres
	in 2014	13,400 acres

Mr. Richenberg stated it would be interesting to see what the acreage numbers were back then when the change was made. Mr. Deuel replied once again the Town Clerk believes by way of the Fire Board of Commissioners, it was in place in the 80's but information is minimal.

Supervisor Deming commented how difficult it is to imagine that no records exist indicating how and when the change occurred for fire tax purposes, but is the case.

Mr. Richenberg questioned whether the decision in Caledonia was a simple resolution or by Public Hearing. Supervisor Deming stated probably approval by resolution. Mr. Richenberg commented he would like to know their logic behind changing the taxing method.

Mr. Richenberg stated “open ground” was discussed, why not other areas (swamp and wasteland). Councilman Deuel answered based on the New York State Agricultural Law, land that qualifies for ag value assessment is land used in agricultural production.

Mr. Richenberg also discussed with the Board a request he made at a previous meeting pertaining to cost for road repairs to Town and County roads. In the minutes it states that he would have to contact the County for that information, but it was his understanding that the Town would obtain that information. Supervisor Deming stated the Town will follow through with Don Higgins of Livingston County Highway Department. Clerk Harris commented at such meeting, Highway Superintendent, Mr. Worden indicated County information should be obtained directly through the County.

Mr. Richenberg also addressed, at the last meeting discussion was held about the current Omni system for pump station alarms and whether to switch over or repair existing. Through the discussion Mr. Deuel questioned the price for installation plus the electrical cost, roughly a difference of \$100.00. Supervisor Deming replied he will have to verify with Mr. Worden as to the breakdown of the quote. Councilman Rose stated the additional charge was more than likely Mr. Scondras’ fee.

Mr. Richenberg asked the Board if the last meeting started prior to the 7:30 p.m. scheduled time, due to the fact when he arrived, the meeting was already underway. Supervisor Deming stated that the Board noted that the clock in the main hall was not working properly so the Board used their cell phones to verify the 7:30 p.m. start time. A new battery has already been installed in that clock.

Supervisor Deming stated further on the ag value fire tax discussion, by commenting fire departments in the 80’s did not receive much money through the budgeting process at that time, the format change was probably much better financially for them and the reason they went that direction.

## BILLS

RESOLUTION offered by Mr. Gates and seconded by Mr. Rose to approve all claims brought before the Board. Voted on and approved, Yes-5, No-0.

• General Fund Claim	#237- 255	\$ 7,161.12
• Joint Water and Sewer	#182- 193	\$ 118,517.35
• Youth Fund Claim	#16	\$ 451.93
• Street Lights	# 8	\$ 1,336.63
• Highway Fund Claim	#144- 152	\$ 1,443.42

ADJOURNMENT

RESOLUTION offered by Mrs. Parnell and seconded by Mr. Rose to adjourn the Town Board Meeting until August 20<sup>th</sup>. Voted on and approved, Yes-5, No-0.

Town Board Meeting closed at 7:50 p.m.

Respectfully Submitted,

Christine M. Harris, Clerk