

Town of Aurelius  
November 22, 2016  
Approved December 8, 2016

Board members present: Supervisor Edward J. Ide Jr., Councilors Alex Patterson, Stanley Hoskins, and Sharon Hayden. Excused: Deputy Supervisor Stephanie Church

Staff present: Clerk Debbie Pinckney

Public: none

1. Supervisor Ide opened the meeting at 7:00pm with the Pledge to the Flag.
2. Public Forum - none
3. New Business
  - Bond resolution – Beech Tree Road Water District 4 - **Resolution #142-2016**

At a special meeting of the Town Board of the Town of Aurelius, in the County of Cayuga, New York was held at Aurelius Town Hall, 1241 West Genesee Street Road, Aurelius, New York on November 22, 2016, at 7:00 o'clock P.M. (Prevailing Time).

**There were present:** (Board Members)

Supervisor Edward Ide Jr, Councilor Stanley Hoskins, Councilor Sharon Hayden, and Councilor Alexander Patterson.

**There were absent:** Deputy Supervisor Stephanie Church

**Also present:** Clerk Deborah A Pinckney

The following resolution was offered by Town Board member Sharon Hayden who moved its adoption, and second by Town Board member Stanley Hoskins to wit:

**BOND RESOLUTION OF THE TOWN OF AURELIUS, CAYUGA COUNTY, NEW YORK, ADOPTED ON THE 22ND DAY OF NOVEMBER, 2016, AUTHORIZING THE ACQUISITION, CONSTRUCTION AND EQUIPPING OF CERTAIN WATER IMPROVEMENTS IN WATER DISTRICT 4 AT AN ESTIMATED MAXIMUM COST OF \$175,000, APPROPRIATING SAID AMOUNT THEREFOR, AND AUTHORIZING THE ISSUANCE OF UP TO \$175,000 BOND ANTICIPATION NOTES AND SERIAL BONDS OF THE TOWN TO PAY THE COST OF THE PROJECT**

**WHEREAS**, Article 12-A of the Town Law of the State of New York empowers the Town Board of the Town of Aurelius, Cayuga County, New York (the "Town") to establish an improvement district; and

**WHEREAS**, the Town previously determined by resolution dated July 9, 2015 to establish Water District 4, including the installation of a new water line to service properties on Beech Road within Water

District 4, all in accordance with the maps and plans prepared for such construction, reconstruction and improvement pursuant to Section 202-b of the Town Law (the "Project"); and

**WHEREAS**, pursuant to Article 8 of the Environmental Conservation Law of the State of New York, as amended, and the regulations of the Department of Environmental Conservation of the State of New York promulgated thereunder (collectively referred to hereinafter as "SEQRA"), the Town is required to make a determination with respect to the environmental impact of any "action" (as defined by SEQRA) to be taken by the Town and the approval of this Bond Resolution constitutes such an action; and

**WHEREAS**, the Town Board by resolution dated June 12, 2014 declared and established the Town as the Lead Agency for purposes of considering the significance of the potential environmental impacts of the Project under SEQRA, and further resolved and determined that the Project constituted an "Unlisted Action" (as the quoted term is defined in SEQRA), that no significant adverse environmental impacts were noted in the EAF for the Project, and therefore determined that the Project would not have a significant adverse environmental impact and would not require the preparation of a Draft Environmental Impact Statement with respect to the Project; and

**WHEREAS**, the Town Board now desires to authorize the acquisition, construction and equipping of the Project and the financing of the cost thereof.

**NOW, THEREFORE BE IT RESOLVED THIS 22ND DAY OF NOVEMBER, 2016 BY THE TOWN BOARD OF THE TOWN OF AURELIUS, CAYUGA, NEW YORK (by favorable vote of not less than two thirds of said Board), AS FOLLOWS:**

**Section 1.** The acquisition, construction and equipping of a new water line to service properties on Beech Road within Water District 4 in the Town, together with appurtenant facilities, including site improvements, original furnishings, equipment, machinery apparatus and other improvements incidental thereto, all as required for the purpose for which such facilities are to be used, at a maximum estimated cost of \$175,000, including all professional costs, equipment, machinery and other necessary appurtenances and all other necessary costs incidental to such work which is estimated to be the total cost thereof, is hereby approved. Bonds and bond anticipation notes of the Town are hereby authorized to be issued pursuant to the provisions of the Local Finance Law of the State of New York, in a principal amount not to exceed \$175,000 to finance said appropriation for the acquisition, purchase and equipping of the Project. It is hereby further determined that the period of probable usefulness of the aforesaid object or purpose is forty (40) years pursuant to subsection 1 of paragraph (a) of Section 11.00 of the Local Finance Law; the maximum maturity of the bonds authorized is limited to forty years, and that the foregoing is an assessable improvement.

**Section 2.** The plan for the financing for the Project is the application of state and/or federal grants and any other revenues available for such purpose from any other source and the issuance of up \$175,000 or such lesser amount as may be necessary, of serial bonds or any bond anticipation notes, including renewals, in anticipation of the issuance and sale of the bonds of said Town, which are hereby authorized to be issued pursuant to the Local Finance Law and the levy of a tax to pay principal and interest on said obligations.

**Section 3.** The full faith and credit of the Town is hereby irrevocably pledged for the payment of the principal of and interest on the 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 obligations

becoming due and payable in such years and such debt service payments may be made in substantially level or declining amounts as may be authorized by law.

**Section 4.** Pursuant to Sections 30.00, 50.00 and 56.00 to 60.00, inclusive, of the Local Finance Law, the power to authorize the issuance of and to sell the serial bonds and any bond anticipation notes in anticipation of the issuance and sale of the bonds herein authorized, including renewals of such notes, is hereby delegated to the Town Supervisor, the chief fiscal officer. Such bonds or notes shall be of such form and contents, and shall be sold in such manner, as may be prescribed by said Town Supervisor, consistent with the provisions of the Local Finance Law.

**Section 5.** The Town Supervisor is hereby further authorized, at his sole discretion, to execute all agreements and instruments 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 bond, and/or note issue of said Town.

**Section 6.** The intent of this resolution is to give the Town Supervisor sufficient authority to execute those applications, agreements, instruments or to do any similar acts necessary to effect the issuance of the aforesaid bonds and/or notes without resorting to further action of this Town Board.

**Section 7.** The following additional matters are hereby determined and declared:

- (a) Current funds are not required by the Local Finance Law to be provided prior to the issuance of the bonds and any notes issued in anticipation thereof authorized by this resolution; and
- (b) The proposed maturity of the bonds authorized by this resolution will exceed five (5) years.
- (c) The Town reasonably expects to reimburse itself for expenditures made for the Project out of the Town's General Fund from the proceeds of the bonds or notes herein authorized.
- (d) This resolution is a declaration of official intent to reimburse for purposes of Treasury Regulation Section 1.150-2.

**Section 8.** Such bonds shall be in fully registered form and shall be signed in the name of the Town of Aurelius, Cayuga County, New York, by the manual or facsimile signature of the Town Supervisor and a facsimile of its corporate seal shall be imprinted or impressed thereon and maybe attested to by the manual or facsimile signature of the Town Clerk.

**Section 9.** The Town hereby covenants and agrees with the holders from time to time of the Bonds and any bond anticipation notes issued in anticipation of the sale of the Bonds, that the Town will faithfully observe and comply with all provisions of the Internal Revenue Code of 1986, as amended (the "Code"), and any proposed or final regulations issued pursuant thereto unless, in the opinion of bond counsel, such compliance is not required by the Code and regulations to maintain the exclusion from gross income of interest on said obligations for federal income tax purposes.

**Section 10.** All other matters, except as provided herein relating to such bonds, including determining whether to issue such bonds with a schedule of substantially level or declining annual debt service and all matters related thereto, prescribing whether manual or facsimile signatures shall appear on said bonds, prescribing the method for the recording of ownership of said bonds, appointing the fiscal agent or agents for said bonds, providing for the printing and delivery of said bonds (and if said bonds are to be executed in the name of the Town by the facsimile signature of its Town Supervisor, providing for the manual countersignature of a fiscal agent or of a designated Official of the Town), the date, denominations, maturities and interest payment dates, place or places of payment, and also including the consolidation with other issues, shall be determined by the Town Supervisor. It is hereby determined that it is to the financial advantage of the Town not to impose and collect from registered owners of such bonds any charges for mailing, shipping and insuring bonds transferred or exchanged by the fiscal agent, and, accordingly, pursuant to paragraph c of Section 70.00 of the Local Finance Law, no such charges shall be so collected by the fiscal agent. Such bonds shall contain substantially the recital of validity clause provided for in Section 52.00 of the Local Finance Law and shall otherwise be in such form and contain such recitals in addition to those required by Section 52.00 of the Local Finance Law, as the Town Supervisor shall determine.

**Section 11.** The validity of such bonds and bond anticipation notes may be contested only if:

- (1) Such obligations are authorized for an object or purpose for which said Town is not authorized to expend money, or
- (2) 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 twenty days after the date of publication, or
- (3) Such obligations are authorized in violation of the provisions of the Constitution.

**Section 12.** The law firm of Trespasz & Marquardt, LLP is hereby appointed bond counsel to the Town in relation to the issuance of the Bonds.

**Section 13.** Pursuant to paragraph (2) of subsection 2 of paragraph b of Section 35.00 of the Local Finance Law, the cost of the improvements financed by this bond resolution is to be assessed upon benefitted real property and therefore this bond resolution is not subject to permissive referendum and shall become effective immediately. The Town Clerk shall cause the publishing and posting of a notice in substantially the form provided in Section 81.00 of the Local Finance Law together with a summary of this Bond Resolution.

**WHEREFORE**, the foregoing Resolution was put to a vote of the members of the Town Board of the Town this 22nd day of November 22, 2016, the result of which vote was as follows:

- **Board Member Vote for resolution #142: Supervisor Edward Ide Jr. - Aye, Councilor Stanley Hoskins –Aye, Councilor Sharon Hayden –Aye, Councilor Alexander Patterson –Aye, Deputy Supervisor Stephanie Church – Absent.**

- Resolution – Water & Sewer Districts 1, 2 & 3 relevy to 2017 taxes **Resolution #143-2016, Motion by Councilor Hayden to approve the relevy of delinquent water and sewer bills for Aurelius Water and Sewer Districts 1, 2, & 3, (see attached) Second by Councilor Patterson. 4/0 approved.**
- Resolution – State Health Department has informed the Clerk her appointment as Vital Registrar has expired and must be renewed. Appointment of Clerk Deborah Pinckney as Vital registrar. **Resolution #144-2016, Motion by Councilor Hoskins to appoint Town Clerk Deborah Pinckney as Vital registrar for the Town of Aurelius, Second by Councilor Hayden. 4/0 approved. Clerk stated her Deputy, Kim Sincerbeax would be appointed Deputy Vital Registrar.**
- Resolution request to place the GC Enterprise bill for the pumping of the Ellis Drive pump station onto Cayuga Milk Ingredients, LLC. Councilor Hoskins asked if there is a way to have the Ellis Drive Pump Station treat the waste coming from CMI? We as a Board rely on experts to design and implement our infrastructure and buildings and now we have a glitch which has resulted in a he said/she said scenario with no reasonable solution in site. It is obvious that this is a huge problem. Supervisor Ide explained that the Town Highway staff has researched the issues, paid for scoping the line and cleaning the line. The next step was to have B & L send one of their chemical engineers for an opinion, then the Town hired an outside firm to research and give the town an opinion. There have been documented pictures of the foamy residue in that first manhole next to the CMI plant, the Town staff used a net to collect samples of that residue and it was noted, if that net were to stay on that pipe, CMI would have a major problem. All the research points back to CMI and that it wasn't until CMI started to treat their waste in-house (January of 2016) that Ellis Drive Pump Station experienced problems. It all began February 14<sup>th</sup>, 2016. As a Board the town is required to ensure every fund is solvent and with the added expenses of pumping out Ellis Drive Pump Station, Sewer District II is no longer solvent. Continued discussion by the Board to research if there is a way to make improvements to the pump station so it can handle CMI's waste. Or if it will be necessary to refuse to accept any additional waste until the problem can be corrected. Since there has been no common ground found by the town or CMI and Town Sewer District II cannot continue to pay for the pumping out of the Ellis Drive Pump Station along with the City sewer bills and any regular O & M expenses that are associated with that district there is a need to collect the "to date" charges of \$50,772.59. The Clerk explained that after November 4<sup>th</sup> the town clerk creates a report of all unpaid water and sewer bills to give to the County Real Property Services so it can be relevied unto that taxpayers Town and County taxes. There is a short window for this process as the County Legislature has to approve all relevies and tax bills at their December meeting and these bills must be approved, printed and in the mail by January 1<sup>st</sup>. Supervisor Ide requests the Board approve a resolution to relevy \$50,772.59 onto CMI's 2017 Town and County Tax bill. In the meantime, Supervisor Ide has requested the clerk and Kent Walter provide some "as built drawings" of the Ellis Drive Pump Station upgrade for review. Supervisor Ide will report back to the Board in December with ideas and suggestions. **Resolution #145-2016, Motion by Councilor Hayden to approve the relevy of \$50,772.59 for services provided by GC Enterprise for the pumping of the Ellis Drive Pump Station to tax map #114.00-3-2.1 owner Cayuga**

**Milk Ingredients, LLC. Second by Councilor Patterson. 3/0 approved. Councilor Hoskins abstained.**

5. Adjourn –

**Resolution #146-2016, Motion by Councilor Hayden to adjourn at 7:25pm. Second by Councilor Hoskins. 4/0 approved.**

Next regular meeting is December 8, 2016 at 7:00pm.

Respectfully submitted by Clerk Pinckney.