

Present: Supervisor Donald Emhardt, Councilmen Dave Ward, Thomas Carlson, Scott Cummings, Town Clerk, Rebecca Luba, Town Attorney, Joel Seachrist and Engineer, Mike Manning

Absent: Councilman Kenneth Burnett

A special meeting was held at 10:00 a.m. to hold Public Hearings for financing of the Water Source Supply project for Water District 2 and the Increase and Improvements to Sewer District 1 Extension 1 North. Notice of hearings were published in the Jamestown Post-Journal on October 9, 2021 and posted on the Town Clerk’s sign board and Town Website.

Agenda:

Water District 2- Public Hearing

Motion made by Councilman Scott Cummings to open the public hearing at 10:00 a.m.

Second: Councilman Thomas Carlson

Vote: Supervisor Donald Emhardt – Aye
Councilman Scott Cummings – Aye
Councilman Dave Ward – Aye
Councilman Kenneth Burnett – Absent
Councilman, Thomas Carlson- Aye

Carried

The Board reviewed the plans and projected costs for the improvement and extension of Water District 2.

The floor was opened for comment.

No public was present and there were no comments or concerns previously submitted.

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

Second: Councilman Kenneth Burnett

Vote: Supervisor Donald Emhardt – Aye
Councilman Scott Cummings – Aye
Councilman Dave Ward – Aye
Councilman Kenneth Burnett – Absent
Councilman, Thomas Carlson- Aye

Carried

Water District No. 2- Extension and Improvements

RESOLUTION RE APPLICATION TO THE NEW YORK STATE ENVIRONMENTAL FACILITIES CORP. (NYSEFC) FOR GRANT FUNDING UNDER THE WATER INFRASTRUCTURE IMPROVEMENT ACT (WIIA) PROGRAM FOR WATER DISTRICT NO. 2 EXTENSION AND IMPROVEMENTS

WHEREAS, the Town of Chautauqua has undertaken a project in Town of Chautauqua Water District No. 2 to replace its current source of supply from Chautauqua Lake with a groundwater source; and

WHEREAS, the improvements required to complete the new source of supply include installation of two (2) groundwater wells with appurtenant facilities and approximately 14,200 linear feet of 8-inch diameter pipeline; and

WHEREAS, the Town has completed the State Environmental Quality Review Act process for the project, issuing a Negative Declaration and has received the required NY State Historic Parks, Recreation and Historic Preservation Office (SHPO) No Effect letter; and

WHEREAS, the Town intends to finance the project through a combination of financing through NYSEFC Drinking Water State Revolving Fund (DWSRF), grants through the Water Infrastructure Improvement Act (WIIA), and other District capital improvement funds; it is hereby

RESOLVED, that upon receipt of sufficient funding, the Town Board hereby authorizes the installation of two (2) groundwater wells in the hamlet of Dewittville; construction of a support building of approximately 900 square feet to house pressure filters, water softening equipment, chlorination equipment, exterior clear wells, and electrical/instrumentation systems; demolition of existing water treatment plant; 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, at a total project cost of \$3,953,000; and it is further

RESOLVED, that the Town Supervisor is hereby authorized to take the necessary steps to execute and submit the WIIA Application to the NYSEFC and to sign the funding agreement with EFC and any associated documents.

Motion to adopt made by Councilman Scott Cummings

Second: Councilman Dave Ward

Vote: Supervisor Donald Emhardt – Aye
Councilman Scott Cummings – Aye
Councilman Dave Ward – Aye
Councilman Kenneth Burnett – Absent
Councilman, Thomas Carlson- Aye

Carried

Sewer District 1 Extension 1 North – Public Hearing

Motion made by Councilman Thomas Carlson to open the public hearing at 10:15 a.m.

Second: Councilman Scott Cummings

Vote: Supervisor Donald Emhardt – Aye
Councilman Scott Cummings – Aye
Councilman Dave Ward – Aye
Councilman Kenneth Burnett – Absent
Councilman, Thomas Carlson- Aye

Carried

The Board reviewed the plans and projected costs and benefits for the extension of Sewer District 1. The floor was opened for comment.

No public was present and there were no comments or concerns previously submitted.

Motion made by Councilman Thomas Carlson to Close the public hearing at 10:21 a.m.

Second: Councilman Scott Cummings

Vote: Supervisor Donald Emhardt – Aye
Councilman Scott Cummings – Aye
Councilman Dave Ward – Aye
Councilman Kenneth Burnett – Absent
Councilman, Thomas Carlson- Aye

Carried

Resolution and Order – Sewer Dist. 1 Extension 1 North Increase and Improvements

Increase and Improvements of Facilities in Sewer District No. 1 in the Town of Chautauqua, Chautauqua County, New York, pursuant to Section 202-b of the Town Law.

WHEREAS, the Town Board of the Town of Chautauqua (the “Town Board” and “Town,” respectively), in the County of Chautauqua, New York, on behalf of Sewer District No. 1, in the Town (the “District”), has determined to increase and improve the facilities of the District by the formation of a service area to be commonly referred to as “Extension No. 1 North”, with the construction of approximately 8,000 linear feet of low-pressure sewer mains, 53 grinder pumping stations, and 5 connections to an existing force main and including land or rights in land, furnishings, equipment and apparatus required therefor (herein sometimes called the “Project”) at the estimated maximum cost of \$2,898,000, which will be provided by a combination of low-interest loans and grants from the Clean Water State Revolving Fund, the Water Infrastructure Improvement Act, and the Water Quality Improvement Program, and the issuance of serial bonds for any balance.

WHEREAS, pursuant to the Order Calling Public Hearing adopted on November 8, 2021, a public hearing was duly called and held by the Town Board on November 19, 2021 at 10:00 o’clock A.M. (Prevailing Time) in the Chautauqua Community Building, 2 Academy Street, Mayville, New York, in the Town, and considerable discussion on the matter having been had and all persons desiring to be heard have been heard, including those in favor of and those in opposition to said increase and improvement of facilities of Sewer District No. 1; and

WHEREAS, the Town Board, acting as Lead Agency pursuant to the New York State Environmental Quality Review Act, comprising Article 8 of the Environmental Conservation Law (SEQRA), has duly considered and reviewed all applicable federal, state and local laws and regulations regarding environmental matters, including compliance with SEQRA, as related to the impact that the Project may have upon the environment and, on the basis of such consideration and review, the Town Board has heretofore determined that the Project is an Unlisted Action having no substantial adverse environmental impact and a duly processed Negative Declaration has been issued and filed in the office of the Town Clerk;

NOW, THEREFORE, on the basis of the information given at such hearing, it is hereby

DETERMINED, that it is in the public interest to increase and improve the facilities of the District by undertaking the Project, at the estimated maximum cost of \$2,898,000; and it is hereby

ORDERED, that the “Extension No. 1 North” benefit district shall be so established and the facilities of the District shall be so increased and improved and that the Project shall be constructed and, further, that the Engineer heretofore retained by the Town Board shall prepare specifications and make careful estimates of the expense of the Project and, with the assistance of the Town Attorney, prepare a proposed contract or contracts for the Project, which specifications, estimate, and proposed contract(s) shall be presented to the Town Board as soon as possible; and it is hereby

FURTHER ORDERED, that the expense of the Project shall be financed by the issuance of serial bonds of the Town in an aggregate principal amount not to exceed \$2,898,000, said amount to be offset by any federal, state, county and/or local funds received, including, but not limited to, any funds from the Clean Water State Revolving Fund, the Water Infrastructure Improvement Act, and the Water Quality Improvement Program, and the costs thereof, including payment of principal of and interest on said bonds, shall be assessed, levied, and collected on a benefit basis from the benefited properties within the Extension No. 1 North benefit district; and it is hereby

FURTHER ORDERED, that the Town Clerk record a certified copy of this Resolution and Order After Public Hearing in the office of the Clerk of Chautauqua County within ten (10) days after adoption hereof.

Motion to adopt made by Councilman Scott Cummings

Second: Councilman Thomas Carlson

Vote: Supervisor Donald Emhardt – Aye
Councilman Scott Cummings – Aye
Councilman Dave Ward – Aye
Councilman Kenneth Burnett – Absent
Councilman, Thomas Carlson- Aye

Carried

Bond Resolution-Sewer District 1 Extension 1 North

A BOND RESOLUTION, DATED November 19, 2021, OF THE TOWN BOARD of the town of Chautauqua, Chautauqua County, New York (the “town”),

AUTHORIZING A CAPITAL IMPROVEMENTS PROJECT (2021) WITHIN The Town of Chautauqua Sewer District No. 1, AT AN ESTIMATED MAXIMUM COST OF \$2,898,000 AND AUTHORIZING THE ISSUANCE OF SERIAL BONDS IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$2,898,000 PURSUANT TO THE LOCAL FINANCE LAW TO FINANCE SUCH PURPOSE, SUCH 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 (herein called “Town Board” and “Town”, respectively), in the County of Chautauqua, New York, has, pursuant to Town Law, created The Town of Chautauqua Sewer District No. 1 (the “District”); and

WHEREAS, the Town Board of the Town has determined to proceed with a certain capital improvements project (a service area commonly referred to as Extension No. 1 North) within the District; 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 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 certain sewer system capital improvements project, such work to generally consist of (but not be limited to) the installation of approximately 8,000 linear feet of small diameter low-pressure sewer main, installation of approximately 53 grinder pumping stations, installation of connections to existing force main, as well as other such improvements as more fully identified in (or contemplated by) such map, plan and report prepared in connection with the project, all of the foregoing to include all necessary site work, equipment, apparatus and other improvements and costs incidental thereto and in connection with the financing thereof (collectively, the “Purpose”). The estimated maximum cost of the Purpose is \$2,898,000.

SECTION 2. The Town plans to finance the estimated maximum cost of the Purpose by the issuance of serial bonds in an aggregate principal amount not to exceed \$2,898,000 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, and unless paid from other sources or charges, the costs of said increase and improvement of facilities 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.

SECTION 3. It is hereby determined that the Purpose is an object or purpose described in subdivision 4 of paragraph (a) of Section 11.00 of the Local Finance Law, and that the period of probable usefulness of such 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 such 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 will 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 said increase and improvement of facilities shall be paid by the assessment, levy and collection of special assessments from the several lots and parcels of land within the District for such purpose in the same manner and at the same time as other Town charges to pay the principal of and interest on said bonds as the same shall become due and payable, except as otherwise 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 the 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, duly issued a negative declaration and/or 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 such serial bonds or of any bond anticipation notes issued in anticipation of the sale of such 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) such 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 hereby designated as the official newspaper of the Town for such publication.

SECTION 18. This Resolution is effective immediately

Motion to adopt made by Councilman Scott Cummings

Second: Councilman Dave Ward

Vote: Supervisor Donald Emhardt – Aye
Councilman Scott Cummings – Aye
Councilman Dave Ward – Aye
Councilman Kenneth Burnett – Absent
Councilman, Thomas Carlson- Aye

Carried

Edward Kalfas was voted in to a 4-year term as Town Justice in the November 2021 elections. Mr. Kalfas is required to complete the New York State Justice Training prior to taking office on January 1, 2021. This year's training will be offered virtually in December.

Motion made by Councilman Scott Cummings to approve the training and associated fees.

Second: Councilman Thomas Carlson

Vote: Supervisor Donald Emhardt – Aye
Councilman Scott Cummings – Aye
Councilman Dave Ward – Aye
Councilman Kenneth Burnett – Absent
Councilman, Thomas Carlson- Aye

Carried

Bond Counsel Services- Agreement

WHEREAS, the Town Board of the Town of Chautauqua, a bond counsel is required for the improvement and extension of Water District 2 and the North Extension of Sewer District 1, and

WHEREAS, a proposal submitted by Hodgson and Russ outlining their responsibilities, terms and fees was reviewed by the Board, and

RESOLVED, that Hodgson Russ LLP is hereby appointed Bond Counsel for the Town pursuant to the terms set forth in the engagement letter as presented and authorizes the Town Supervisor to sign said agreement.

Motion made by Councilman Scott Cummings

Second: Councilman Thomas Carlson

Vote: Supervisor Donald Emhardt – Aye
Councilman Scott Cummings – Aye
Councilman Dave Ward – Aye
Councilman Kenneth Burnett – Absent
Councilman, Thomas Carlson- Aye

Carried

Non-Agenda Items:

The Board briefly discussed the proposed solar project on Hartfield-Stockton Rd. and the thorough report by the engineer from Wendel. The Town is waiting on more information from Omni-Navitas to be submitted as a result of the last Board meeting. Attorney Seachrist will start drafting the Special Use Permit for the Board's review once this information is received.

Motion made by Councilman Thomas Carlson to adjourn the special meeting at 11:04 a.m.

Second: Councilman Scott Cummings

Vote: Supervisor Donald Emhardt – Aye
Councilman Scott Cummings – Aye
Councilman Dave Ward – Aye
Councilman Kenneth Burnett – Absent
Councilman, Thomas Carlson- Aye

Carried

Rebecca Luba, RMC
Town Clerk
Town of Chautauqua