

Town of New Albion
14 Main Street
Cattaraugus, NY 14719
Regular Board Meeting
September 17, 2018 7:00 p.m.

PRESIDING: Loyd Chilson, Supervisor

PRESENT: Councilmen: Cynthia Eaton, Norman Kazmark, Patrick Murphy, Dan Goss; David Rupp, Highway Supt.; Eugene Doucette, Treasurer; Frank Watson, Code Enforcer; and Sherry Rupp, Town Clerk.

VISITORS: Mark Burr, County Engineer; Kimberly Meuill, Secretary; and Paul Macakanja, Town Resident.

CALL TO ORDER: Supervisor Chilson called the meeting to order at 7:00pm. Regular Meeting Minutes for August 20, 2018, The Assessor report, Town of New Albion Justice court report, Town Clerk Monthly Report, and the Register's Report were all approved as presented by the clerk.

CORRESPONDENCE:

1. Email from Planning and Zoning Training for this fall.
2. Numerous emails from Mike Bogardus – Re: Complaints.
3. Email from MDA Consulting Engineers- Re: Proposed Water District Engineering Services
4. Email from Mary Bailey / NYS Real Property-2018- for the budget.
5. Association of Town's/Survey/Completed and Faxed back.
6. Health Insurance Increase.

VISITORS: Patrick Murphy had asked Paul Macakanja and Mark Burr to attend our Town meeting to discuss what's happening to the homes on Lovers Lane. Mark Burr stated that the Town can apply for a Hazard Mitigation Grant. Once the property is declared a natural disaster then certain funding and rules apply. Mark Burr explained the steps and procedures that must be taken to put things into motion. First step, the Town needs to request the counties help. Also, the code enforcer needs to go to the homes to check the safety of the homes and to see if any of the homes need to be condemned. Paul Macakanja relayed the questions and concerns of the Lovers Lane residents regarding appraisals and taxes. Mark Burr stressed that safety comes first and foremost. The homes will be appraised by Certified Appraisers on the home not the damage. Once the Hazard Mitigation Grant Project is put into action, property owners have the right to back out at the last minute. The Town will be held harmless.

Resolution #59 - 2018 – Town Requests Mark Burr's Assistance in Drawing up a Letter of Intent..

On a motion by Councilman Murphy, second by Councilman Eaton, the following resolution was

ADOPTED Aye 5 Chilson, Eaton, Goss, Kazmark, Murphy
 Nay 0

RESOLVED, Mark Burr is authorized to draw up a Letter of Intent for the Hazard Mitigation Grant Project.

A phone conference took place between Gene Doucette, Patrick Murphy, and Charles Schachter with Harris Beach and Ryan Frykhorn from Municipal Disaster Consultants regarding a (BAN) Bond Anticipation Note in the amount of \$425,000.00 and the necessary steps that need to be taken.

Resolution #60 - 2018 – Obtain a (BAN) Bond Anticipation Note.

On a motion by Councilman Murphy, second by Councilman Kazmark, the following resolution was

ADOPTED Aye 5 Chilson, Eaton, Goss, Kazmark, Murphy
 Nay 0

BOND RESOLUTION OF THE TOWN BOARD OF THE TOWN OF NEW ALBION, CATTARAUGUS COUNTY, NEW YORK (THE "TOWN"), AUTHORIZING THE ISSUANCE OF UP TO \$425,000 IN SERIAL BONDS OF THE TOWN AND BOND ANTICIPATION NOTES IN ANTICIPATION THEREOF TO FINANCE THE DEMOLITION, RECONSTRUCTION AND REPLACEMENT OF THE WAVERLY STREET BRIDGE CULVERT AND MAKING CERTAIN DETERMINATIONS IN CONNECTION THEREWITH; STATING THE MAXIMUM ESTIMATED COST THEREOF IS \$803,205; APPROPRIATING SAID AMOUNT THEREFOR; AND MAKING CERTAIN DETERMINATIONS IN CONNECTION THEREWITH

WHEREAS, as a result of severe storms within the Town of New Albion, Cattaraugus County, New York (the "Town") in May, 2014, which overwhelmed the Town's storm water drainage system, the Waverly Street Culvert located near the intersection of Waverly and Ellicott Streets within the Town was substantially

damaged, necessitating the demolition and removal of the existing structure and the replacement with a new properly designed culvert and outlet structure; and

WHEREAS, as authorized by prior action of the Town Board of the Town (the "Town Board"), the Town has commenced work on the demolition and replacement of the Waverly Street Culvert including the replacement and installation of new culvert piping, related site work improvements and other costs incidental to the foregoing (collectively, the "Project") at an estimated maximum cost of \$803,205; and

WHEREAS, the Town has received commitments from the federal government through the Federal Emergency Management Agency ("FEMA") and the New York State government, through the New York State Division of Homeland Security (the "State") for grant funds to reimburse the Town of 75% and 25%, respectively, of the cost of the Project; and

WHEREAS, in anticipation of receiving the aforementioned grants to reimburse the cost of the Project, the Town has previously issued its revenue anticipation notes to fund a portion of the Project costs; and

WHEREAS, the Town Board now intends to authorize the issuance of \$425,000 in serial bonds of the Town and bond anticipation notes in anticipation thereof to finance an additional portion of the Project costs which has not been paid to date, with the intent that such costs will also be reimbursed by the grant funds expected to be received from FEMA and the State.

THE TOWN BOARD OF THE TOWN OF NEW ALBION, 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), AS FOLLOWS:

SECTION 1. The Town is hereby authorized to issue serial bonds of the Town in the principal amount of \$425,000 and bond anticipation notes in anticipation thereof, pursuant to provisions of 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 cost of the Project. It is hereby determined that the maximum estimated cost of the Project is \$803,205, said amount, to the extent no previously appropriated, is hereby appropriated therefor, and the plan for the financing thereof shall consist of (i) the issuance of up to \$425,000 in serial bonds of the Town authorized to be issued pursuant to this resolution or bond anticipation notes issued in anticipation of such bonds, (ii) the application of up to \$803,205 in grant monies expected to be received by the Town from FEMA (75% share) and the State (25% share) with respect to the Project to reimburse the costs thereof, including the repayment of the obligations authorized herein; and (iii) unless paid from other sources, the levy and collection of taxes on all taxable real property of the Town to pay the principal of such bonds or notes and the interest thereon as the same become due and payable.

SECTION 2. It is hereby determined that the period of probable usefulness of the aforementioned specific object or purpose is five (5) years, pursuant to subdivisions 30. and 94. of paragraph a. of Section 11.00 of the Law.

SECTION 3. The final maturity of the bonds herein authorized to be issued shall not 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 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 Section 1 of 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 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 Town Supervisor of the Town, the chief fiscal officer of the Town (the "Town Supervisor"). Further, pursuant to subdivision b. of Section 11.00 of the Law, in the event that bonds to be issued for the object or purpose 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 the Town, 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 Town Supervisor, as the chief fiscal officer of the Town.

SECTION 7. The Town 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 anticipation thereof, if applicable, as "qualified tax-exempt obligations" in accordance with Section 265(b)(3)(B)(i) of the Code.

SECTION 8. 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 Town Board.

SECTION 9. The Town Board hereby determines that the undertaking of the Project, and the actions authorized by this resolution and the adoption hereof collectively constitute a "Type II" action within the meaning of the State Environmental Quality Review Act and the regulations of the New York State Department of Environmental Conservation thereunder

(Including, in particular, 6 N.Y.C.R.R. 617.5(2) and (33) (collectively, "SEQRA") and that no further action under SEQRA need be taken by the Town Board as a condition precedent to the adoption of this resolution.

SECTION 10. 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 11. 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.

SECTION 12. This resolution shall take effect immediately

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

RESOLVED, Resolution was adopted by the Town Board of the Town of New Albion on September 17, 2018 as presented by Harris Beach.

Resolution #61 - 2018 – Publish the ESTOPPEL NOTICE.

On a motion by Councilman Goss, second by Councilman Murphy, the following resolution was

ADOPTED Aye 5 Chilson, Eaton, Goss, Kazmark, Murphy
 Nay 0

RESOLVED, The resolution, a summary of which is published herewith, has been adopted on September 17, 2018 by the Town Board of the Town of New Albion, Cattaraugus County, New York, and the validity of the obligations authorized by such resolution may be hereafter contested only if such obligations were authorized for an object or purpose for which the Town of New Albion, Cattaraugus County, New York is not authorized to expend money or if the provisions of law which should have been complied with as of the date of publication of this notice were not substantially complied with, and an action, suit or proceeding contesting such

validity is commenced within twenty (20) days after the date of publication of this notice, or such obligations were authorized in violation of the provisions of the constitution.

David Rupp explained how they came up with the amount of \$425,000.00. Gene Doucette explained that the (BAN) Bond Anticipation Note is written for 1 year but can be re-written up to 5 different times. In addition, a separate checking account is needed to be opened for the BAN.

Resolution #62 - 2018 – Open Checking Account for Bond Anticipation Note.

On a motion by Councilman Goss, second by Councilman Murphy, the following resolution was

ADOPTED Aye 5 Chilson, Eaton, Goss, Kazmark, Murphy
 Nay 0

RESOLVED, Town of New Albion Board has agreed to open a separate checking account for the Bond Anticipation Note. The primary signers on the account are Loyd Chilson, Patrick Murphy, and Dan Goss.

Gene Doucette presented spreadsheets with estimated ending balances in 4 accounts. In addition, Gene suggested, if feasible the Town should set up a contingent account for the Highway. Also, R.A. Mercer sent over their reported findings. The Board Members reviewed those findings and had no questions for the CPA.

Resolution #63 - 2018 –Motion to Accept R.A. Mercers Agreement Report.

On a motion by Councilman Murphy, second by Councilman Goss, the following resolution was

ADOPTED Aye 5 Chilson, Eaton, Goss, Kazmark, Murphy
 Nay 0

RESOLVED, The Town Board accepts R.A. Mercers Agreement Report and findings.

Resolution #64 - 2018 –Transfer of Funds.

On a motion by Councilman Eaton, second by Councilman Murphy, the following resolution was

ADOPTED Aye 5 Chilson, Eaton, Goss, Kazmark, Murphy
 Nay 0

RESOLVED, it is authorized to transfer \$60,000.00 from General Townwide to General Townwide Checking.

Resolution #65 - 2018 –Transfer of funds

On a motion by Councilman Murphy, second by Councilman Eaton, the following resolution was

ADOPTED Aye 5 Chilson, Eaton, Goss, Kazmark, Murphy
 Nay 0

RESOLVED, it is authorized to transfer \$32,622.56 from General A to Capital Bridge to pay off RAN.

Resolution #66 - 2018 –Transfer of Funds.

On a motion by Councilman Eaton, second by Councilman Murphy, the following resolution was

ADOPTED Aye 5 Chilson, Eaton, Goss, Kazmark, Murphy
 Nay 0

RESOLVED, it is authorized to transfer \$21.64 from General B to General A.

REPORTS:

Justice: Shannon Goode’s Monthly Report.

Highway Dept.: David Rupp reported that the Highway Dept. has been quite busy over the past month; with Bob Sawyer off recovering from surgery, the work load has been heavy on the remaining crew. The Dept. has continued to patch numerous potholes throughout the Town, totaling over 50 ton of hot top so far this summer. The warm weather has been beneficial aid in the progress. The grader has been kept busy grading and adding gravel to numerous roads as time permitted. Some roads done so far are Smith Hill, Peperdine, Fuss, Lower Chautauqua and Ingersoll Hill. Also, just recently the goose neck section of Snyder Hill. There are other roads that still need work on as weather permits. On inclement weather days the Dept. has been hauling sand to the stock pile in preparation for this winter season. So far 2200 ton has been hauled in, with 500 more to be needed. Maintenance on equipment has also been done as needed; the small sander needed bearings and chain adjustments. The 6 wheeler plow truck was serviced in preparation of winter. The Waverly Street Culvert replacement is progressing right along. The crane from Benchley arrived today and will begin to set the culvert box sections tomorrow 9/18/2018. Nova Site Contractors hope with good weather they will be finished by 10/31/2018. There has been no word as of yet as to the progress of the Jefferson Street Bridge from NYS or FEMA. David went on to say that he would like to thank the Village Highway Dept. for their help during the summer while the Town Highway Dept. has been shorthanded. In addition, David Rupp also stated that Gene Doucette has been working hard on the RAN and the BAN and thanked Patrick Murphy for his help also.

Code Enforcer: Frank Watson stated that we have numerous permits waiting to hear back from DEC on David Rupp’s Special Use Permit. Mr. Watson went on to say last year there were 19 permits, this year we are up to 21 and 2 are Special Use Permits. We have passed our count from last year. Mr. Watson discussed the two properties on Blending Road. First property-Mr. Kaczmarek will oblige, Frank Watson released with conditions. Second property- Patricia Jaskier, there is many issues that need to be addressed and the Health

Department must go to the property and make compliant. Mr. Luce on Scott Hollow is found to be in full violation and has an appearance ticket for next month. Mr. Bragg on Scott Hollow is in the process of correcting the boundaries on his deed. Mr. Bogardus is almost done but not done yet. Fines are still being assessed. Mr. Watson has had conversations with both Mr. Bogardus and his attorney and has sent a copy to the Town Judge with further instructions. Mr. Watson stated that he has enforced to the fullest and it is up to the Town. The Town agreed with Mr. Watson that the Town will keep fining Mr. Bogardus until he becomes compliant. Mr. Alwood will be addressed this fall regarding his gravel washing plant machinery-junk. Mr. Watson has finished his training for the year.

Assessor: Mary Bailey, Assessor reports on FYI: Sales. Vacant land Tug Hill-23acres-Greenfield sold to Notaro 8/24/18-\$48,000 (assessed value \$15,600). 9940 Leon Rd. - house on 5.47 acres - Ortner sold to Pascarella - \$76,450 (assessed value: \$40,500). The first sale is an excellent example of why the Town needs an update. With our Equalization rate at 62%, an assessed value of \$15,600 equates to a full market value of \$25,161 - far below the selling price of \$48,000. Vacant land continues to sell for much more than its full market value. Next year when the county takes over assessing, they will be planning an update.

Board:

Councilman Loyd Chilson – Discussed the necessity of overriding the 2 % tax cap. Plus Mr. Chilson met with Randy from Evans Agency regarding our Insurance and our premiums have gone up a bit.

Councilman Daniel Goss – None

Councilman Norman Kazmark – None

Councilman Cynthia Eaton – None

Councilman Patrick Murphy - None

Town Clerk: Presented her 3 month calendar for Retirement.

Resolution #67 - 2018 –Appointments & Salaries.

On a motion by Councilman Eaton, second by Councilman Goss, the following resolution was

ADOPTED Aye 5 Chilson, Eaton, Goss, Kazmark, Murphy
 Nay 0

RESOLVED, approve the following Appointment and Salary as made by Supervisor Chilson for the Town Clerk-Sherry Spina/Rupp-\$20,000/year.

I have received numerous complaints from Mr. Bogardus. I have forwarded the complaints to the appropriate departments and I have informed Mr. Bogardus that I will notify him once I have received the information he requested. Here are the answers to the following complaints:

Complaint: Sign been tabled for years why who is the stopper and why is it tabled is are board sold out or just to old to show up no I think there crony let address this.

Answer: Frank Watson replied: See Planning Board.

Complaint: Board member Loyd Chilson used child labor moving piano ECT. Then hired Frank Bogardus knowing he used child labor to work for the town for cheap labor and village. Why is Loyd still in gov.?

Answer: Frank Watson replied: Because Loyd has been elected by its citizens.

Complaint: Dawn Smith on Leon Road drying lumber outside is not to code along with the dumping of roofing from his business on his land Town must look into it or is it Gov.?

Answer: Frank Watson replied: Inspected property; Interviewed owner; NO VIOLATIONS.

Complaint: Do they have hand washing stations ECT. At the veg stands?

Answer: Frank Watson replied: See Health Dept.

Complaint: Article 7, Section 7.1 of what? Send me the law that said that they can sell fruit can good homemade article that is not grown there and canning without graded water and co. inspections by health dept.

Answer: Frank Watson replied: Article 7 – Exemptions.

Complaint: Max Gross foils and the years you give are not what you have given before like I asked where in minutes is Max Gross repair and junkyard request for business.

Answer: Frank Watson replied: You have been given all the information I have.

Complaint: Signage been tabled for 7 to 8 years, how about answering the question in minutes.

Answer: Frank Watson replied: See the Planning Board.

Complaint: Tug Hill Bridge is a walk bridge to state codes because the sign at the bridge are closed and not to code missing parts on the sign.

Answer: Frank Watson replied: See the County.

Complaint: Dave Rupp gravel pit not to state code where is that complaint?

Answer: Frank Watson replied: Currently working on Special Use Permit.

Complaint: Village dump do they get charge for not to compliance where is that complaint?

Answer: Frank Watson replied: ?

Complaint: How about the dog kennel on 42 that was in the complaints is it because they are on the joint planning board?

Answer: Frank Watson replied: See Dog Control.

Frank Watson replied: As for the rest of your complaints, this code department handles 1-2 cases at a time until completed. There are numerous properties that need help. Each one will be handled as time allows. Code enforcement is not a quick and easy job to accomplish when property owners do not want to comply.

Clerk Report: August 2018, Amount Collected \$ 2517.00

Animal Population Control: Check # 2523 \$ 43.00

Cattaraugus County Check # 2525 \$ 164.50

NYS Environmental Conservation Check# EFT \$1807.84

NYS Dept. of Health Check# 2524 \$112.50

Town of New Albion Check # 2526 \$ 389.16

Amount Paid Out \$ 2517.00

OLD BUSINESS:

- a) Constable Reclassification – Waiting on Reclassification from NYS
- b) Joint Planning Board – Proposed Signage Law Tabled for JPB Response
- c) Tannery Street Bridge
- d) Waverly Street Project – Nova anticipating start date 8/20/2018

NEW BUSINESS:

- a) Village Request for Water District/ Ashley is drafting up the agreement for the Town
- b) Property Tax Cap
- c) Bond Anticipation Note Maturity date is 9/21/2018
- d) Proposed Water District Engineering Services Contract/Signed and e-mailed back.
- e) Letter to Southern Tier Development Foundation/Grant. Signed and mailed back.
- f) Mike Bogardus-Complaints/Answered.
- g) Mike Bogardus requested a meeting with the county regarding drainage/Waiting on a date.

APPROVAL OF ABSTRACT:

Resolution # 68 - 2018 – Abstract # 9-2018 – September 17, 2018

On a motion by Councilman Eaton, seconded by Councilman Kazmark, the following resolution was

ADOPTED Aye 5 Chilson, Goss, Eaton, Kazmark, Murphy
Nay 0

RESOLVED, that Abstract # 9 -2018 in the following amounts is to be paid.

ACCOUNT	VOUCHER #	TOTAL EXPENDITURES
General A	11472-11489	\$ 108,393.46
General B	808-811	\$ 41.64
Highway DA	9069-9074	\$ 7,127.15
Highway DB	3059-3065	\$ 23,232.41
Highway Capital Bridge	133	\$ 300,000.00

With no further business to discuss, the meeting was adjourned at 9:30 PM.

Respectfully submitted,
Sherry Rupp
Recording Secretary
Town of New Albion Town Council

Next Meeting: Regular Board Meeting October 15, 2018 7:00p.m.