

Village of Webster
Village Board Meeting
November 22, 2016

Webster Community Meeting Hall
29 South Ave.
Webster, NY 14580

Present: Mayor Cahill, Trustee Byerts, Trustee Lancy, Trustee Ippolito Jr., and Attorney Don White
Absent: Trustee Balcaen

Laura Landers from Freed Maxick presented the Final Auditor's report for the fiscal year ended on May 31, 2016. At the conclusion of the presentation Ms. Landers offered the field questions in regards to the report. Trustee Byerts asked if there were any significant changes between this report and the Draft Report given in September. Ms. Landers offered that there were not any significant changes, only updates to final figures, and clarifications to narratives.

Public Comments

Richard Walter – 20 Elm Street – Commented to the Board and said he noticed that Rubino's has been working in the old Smith and Lotze Furniture Store on East Main Street (37 East Main Street) in preparation to move the business to that location. Mr. Walter asked if there was any requirement for the business owner to go before the Planning or Zoning Boards for approval. Code Enforcement Officer, Will Barham was absent from the meeting, and Mayor Cahill suggested that Mr. Walter should contact Mr. Barham, as he would be able to provide the most accurate details in regards to the requirements. Mr. Walter questioned Superintendent Swingly regarding his knowledge of the requirements. Superintendent Swingly offered that an Administrative Change of Use, is a tool available to the Code Enforcement Officer, but could not confirm that it was applicable in this instance. Mr. Swingly reiterated the suggestion that Mr. Walter confer with Mr. Barham.

Peter Elder – 59 Dunning Avenue – Made comment to the Board and expressed concern about a proposed amendment to Personnel File Policy. Mr. Elder also expressed concern about the appearance of the interaction between Board members during meetings. Mr. Elder specifically noted the Mayor's comments towards Trustee Ippolito at the last Board meeting in regards to the selection and ordering of Christmas Decorations. Mr. Elder stated that the interaction gave the appearance that Mayor Cahill was admonishing, or trying to embarrass Trustee Ippolito. Mayor Cahill explained that the Board sometimes attempt to interject levity into a discussion. Mayor Cahill and Trustee Ippolito appear to remain on friendly terms.

Village Board Business

Motion Trustee Byerts and Seconded by Trustee Ippolito Jr., to approve the Village Board Workshop Meeting Minutes of November 1, 2016, all were in favor and carried.

Motion Trustee Ippolito Jr. and Seconded by Trustee Byerts to approve the claims totaling: General – \$50,661.90, Sewer – \$36,025.79, and Trust & Agency - \$2,026.26, all were in favor and carried.

The following resolution was offered by Trustee Lancy, who moved its adoption, seconded by Trustee Ippolito, to-wit:

BOND RESOLUTION OF THE BOARD OF TRUSTEES OF THE VILLAGE OF WEBSTER, MONROE COUNTY, NEW YORK (THE "VILLAGE"), AUTHORIZING THE VILLAGE TO UNDERTAKE THE NORTH AVENUE CONNECTOR PROJECT; STATING THE MAXIMUM ESTIMATED COST THEREOF IS \$1,054,000; APPROPRIATING SAID AMOUNT THEREFOR; AND AUTHORIZING THE ISSUANCE OF UP TO \$850,000 IN SERIAL BONDS OF THE VILLAGE TO FINANCE SAID APPROPRIATION

WHEREAS, the Board of Trustees (the "Board") of the Village of Webster, Monroe County (the "Village") proposes to authorize the issuance of \$850,000 in serial bonds of the Village to finance the cost of undertaking the North Avenue Connector Project within the Village consisting of the reconstruction, reconfiguration, repaving and improvement of roads, walkways, bike lanes, cross walks, parking areas, related infrastructure and other ancillary, related and incidental improvements along portions of North Avenue (State Route 250) from Orchard Street to Ridge Road (State Route 404) including, without limitation, (i) from Orchard Street to Kittleberger Park, new street trees, street lawn areas, street lights, landscaping, signage, crosswalks, the striping for bike lanes, pedestrian and bicyclist's safety improvements and off-street parking areas, (ii) at the State Route 104 interchange, the installation of bike lanes, related lane reduction and reconfiguration, pedestrian crossing signals, removal of slip ramps, an expansion of the central median, restriping and widening of crosswalks, and signage, (iii) from the Route 104 interchange to Ridge Road, restriping of travel lanes and bike lanes, expanded sidewalks, expanded tree lawns, additional street trees, replacement of street lighting, the installation of crosswalks, and the installation of a gazebo (collectively, the "Project"); and

WHEREAS, pursuant to a resolution duly adopted by the Board on November 10, 2016, the Board determined pursuant to the State Environmental Quality Review Act and the regulations of the Department of Environmental Conservation promulgated thereunder (collectively, "SEQRA"), that the Project constitutes a "Type II" action within the meaning of the SEQRA and therefore no further action under SEQRA with respect to the Project need be taken by the Board; and

WHEREAS, the Board now wishes to appropriate funds for the Project and to authorize the issuance of the Village's serial bonds and bond anticipation notes to be issued to finance said appropriation.

NOW, THEREFORE, BE IT RESOLVED, by the Board of Trustees (the "Board of Trustees") of the Village of Webster, Monroe County, New York (the "Issuer" or the "Village") (by the favorable vote of not less than two-thirds of all the members of such body), as follows:

SECTION 1. The Village is hereby authorized to finance the cost of undertaking the North Avenue Connector Project within the Village consisting of the reconstruction, reconfiguration, repaving and improvement of roads, walkways, bike lanes, cross walks, parking areas, related infrastructure and other ancillary, related and incidental improvements along portions of North Avenue (State Route 250) from Orchard Street to Ridge Road (State Route 404) including, without limitation, (i) from Orchard Street to Kittelberger Park, new street trees, street lawn areas, street lights, landscaping, signage, crosswalks, the striping for bike lanes, pedestrian and bicyclist's safety improvements and off-street parking areas, (ii) at the State Route 104 interchange, the installation of

bike lanes, related lane reduction and reconfiguration, pedestrian crossing signals, removal of slip ramps, an expansion of the central median, restriping and widening of crosswalks and signage, and (iii) from the Route 104 interchange to Ridge Road, restriping of travel lanes and bike lanes, expanded sidewalks, expanded tree lawns, additional street trees, replacement of street lighting, the installation of crosswalks, signage, and the installation of a gazebo. The estimated maximum cost of the aforementioned specific object or purpose, including all costs incidental thereto or in connection with the financing thereof, is \$1,054,000 and said amount is hereby appropriated therefore. The plan for the financing thereof shall consist of (i) the issuance of \$850,000 in serial bonds of the Village, or bond anticipation notes issued in anticipation thereof as authorized by Section 2 of this resolution, to finance said appropriation, (ii) the expected partial repayment of such bonds or bond anticipation notes with \$811,580 in grant moneys expected to be received from New York State Department of Transportation's Transportation Alternatives Program, (iii) the application of \$204,000 in available funds of the Village, and (iv) to the extent necessary, the levy and collection of taxes on all the taxable real property in the Village to pay the principal of said bonds or notes and the interest thereon as the same shall become due and payable.

SECTION 2. Serial bonds of the Village in the principal amount of \$850,000 are hereby authorized to be issued 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 the aforementioned specific object or purpose.

SECTION 3. It is hereby determined that the period of probable usefulness of the aforementioned specific object or purpose is five (5) years, pursuant to subdivision 89. of paragraph a. of Section 11.00 of the Law.

SECTION 4. The temporary use of available funds of the Village, 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 Village shall reimburse such expenditures with the proceeds of the bonds or bond anticipation notes authorized by this resolution. This resolution shall constitute a declaration of "official intent" to reimburse the expenditures authorized herein 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. 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 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 Village, payable as to both principal and interest by a general tax upon all the real property within the Village subject to applicable statutory limits, if any. The faith and credit of the Village 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 Village 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 serial bonds and bond anticipation notes or the renewals of said obligations and of Sections 21.00, 50.00, 54.90, 56.00 through 60.00, 62.10 and 63.00 of the Law, the powers and duties of the Village 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 related 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 Village Treasurer, as the chief fiscal officer of the Village (the "Village Treasurer"). Further, pursuant to paragraph b. of Section 11.00 of the Law, in the event that bonds 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 any of the other 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 Village Treasurer, as the chief fiscal officer of the Village.

SECTION 8. The Village Treasurer 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 9. The Village Treasurer is further authorized to enter into a continuing disclosure undertaking 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 10. The intent of this resolution is to give the Village Treasurer 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 the Board.

SECTION 11. 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 Village 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 12. This resolution shall take effect immediately and the Village Clerk is hereby authorized and directed to cause a copy of this resolution, or a summary thereof, to be published in full, 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 Village for such purpose.

The following vote was taken and recorded in the public or open session of said meeting: Trustee Lancy – Aye, Trustee Ippolito Jr. – Aye, Trustee Byerts – Aye, Mayor Cahill – Aye, Trustee Balcaen – Absent, Motion carried.

Motion Trustee Ippolito Jr. and Seconded by Mayor Cahill to adopt the following Policy 6-28 entitled Personnel File, as amended; all were in favor and carried.

Policy Statement – It is the policy of the Village to balance its need to obtain, use and retain employment information with a concern for each employee’s privacy. To this end, the Village will endeavor to maintain only that personnel information necessary for the conduct of the Village’s business or required by federal, state, or local law. Personnel records will be maintained for current and past employees in order to document employment related decisions and comply with government record keeping and reporting requirements.

Content – The personnel records maintained by the Village include, but are not limited to, Employment Application, Report of Personnel Change Forms; Copies of Job-Required Licenses and Certificates, Federal and State Withholding Tax Forms, Retirement Enrollment/Waiver Forms, Health Insurance Enrollment/Waiver Forms, Disciplinary and Grievance or Dispute Notices, Letters of Acclamation, and Probationary Reports, Vehicle Accident Reports, and Equipment Accident Reports.

Location of Files – All original personnel records for current employees will be kept in the Village Clerk’s office and will be maintained and controlled by the Village Clerk or, in the event that immediate access to the record is required, or in the extended absence of the Village Clerk, the Deputy Clerk.

Medical Records – All employee medical records will be kept in a separate file apart from the employee’s personnel file in the Village Clerk’s office and will be maintained and controlled by the Village Clerk or in the event that immediate access to the record is required, or in the extended absence of the Village Clerk, the Deputy Clerk. For security purposes, these files will be locked at all times.

Substance Testing Records – All employee substance-testing records will be kept in a separate file apart from the employee’s personnel file in the Village Clerks office and will be maintained and controlled by the Village Clerk, or in the event that immediate access to the record is required, or in the extended absence of the Village Clerk, the Deputy Clerk.

Change In Status – An employee must immediately notify the Village Clerk, Treasurer or Payroll Clerk of a change of name, address, telephone number, marital status, number and age of dependents, beneficiary designations, and individuals to notify in case of emergency.

Employee Access – An employee may inspect and copy the contents of the employee’s own personnel file. Inspections by employees must be recorded in a log book maintained by the Village Clerk or, in the event that immediate access to the record is required, or in the extended absence of the Village Clerk, the Deputy Clerk, and will be scheduled at a mutually convenient time. An authorized official must be present when the employee inspects the file. The employee may not remove or place any

material in the file without the approval of the Village Clerk or, in the absence of the Village Clerk, the Deputy Clerk. Copies of records contained in an employee's personnel file may not be released to a third party without the written consent of the employee, unless federal, state or local laws require otherwise.

Public Officer or Elected Official Access to Personnel Records

A Public Officer or Elected Official may inspect and copy the contents of their own personnel file. Inspections by Public Officers or Elected Officials must be requested to the Village Clerk or, in the event that immediate access to the record is required, or in the extended absence of the Village Clerk, the, Deputy Clerk (or the Mayor if the Village Clerk is requesting access to their own file) and will be scheduled at a mutually convenient time. Inspections must be done at the Village Hall in the conference room. The Mayor and/or Village Clerk, or in the absence of the Village Clerk, the Deputy Clerk must be present when the Public Officer or Elected Official inspects the file. The Public Officer or Elected Official may not remove or place any material in the file without the approval of the Village Clerk unless the material is to be placed in the Village Clerk's personnel file in which case it must be approved by the Deputy Clerk. Copies of records contained in an employee's personnel file may not be released to a third party without the written consent of the employee, unless federal, state or local laws require otherwise.

A Public Officer or Elected Official may inspect the contents of any Public Officer, Elected Official, or Village of Webster Employee's personnel file provided that such file has first been examined by the Records Management Officer and the applicable sections of such file redacted as per State Law. Inspections by Public Officers or Elected Officials must be requested to the Village Clerk or, in the event that immediate access to the record is required, or in the extended absence of the Village Clerk, the Deputy Clerk (or the Mayor if the Village Clerk is requesting access to their own file) and will be scheduled at a mutually convenient time. Inspections must be done at the Village Hall in the Conference Room. The Mayor, and/or Village Clerk, or, in the absence of the Village Clerk, the Deputy Clerk must be present when the Public Officer or Elected Official inspects the file. The Public Officer or Elected Official may not remove or place any material in any file without the approval of the Village Clerk, unless the material is to be placed in the Village Clerk's personnel file in which case it must be approved by the Deputy Clerk. Copies of records contained in an employee's personnel file may not be released to a third party without the written consent of the employee, unless federal, state or local laws require otherwise.

A log indicating the time, date, and those Officers, Officials, or Individuals present, shall be kept for all instances of access to personnel files.

Attorney

No Report.

Office

Krystina Lizak, Village Treasurer presented the Financial Statements for October 2016. Mayor Cahill inquired about the Lab Chemical and Supplies line in the Sewer budget (04-08-8130-425), as it was

already showing 100% of the allocation expended. Superintendent Swingly offered that the line may have been created to more accurately reflect an expense that was not included in the detailed budget proposal. Ms. Lizak will confirm the expenses and report back.

Village Treasurer Krystina Lizak presented information to the Board related to the U.S. Department of Labor's new overtime rule for salaried, exempt employees slated to become effective December 1, 2016. Ms. Lizak explained that the Village does have one employee who, because of the new rule, will be eligible for overtime pay after December 1st. The Board directed that any overtime for this employee, the Deputy Clerk, would have to be approved by the Village Clerk. The Village Attorney, Don White added that a Federal Judge in Texas, had earlier today, issued a preliminary injunction, temporarily suspending the implementation of the new rule. Mr. White added that he felt that it was unlikely that the rule, in its current state, would ever come into effect.

Code Enforcement

The October 2016 Building Report was presented and summarized by Superintendent Swingly in the absence of Will Barham, Code Enforcement Officer.

Department of Public Works

Superintendent Swingly clarified that in spite of the recent snowfall, the Department of Public Works would continue to pick up leaves in the Village next week if they were not once again covered by snow. The normal Village policy is to cease leaf pick up upon the first plowable snowfall. The snow is not expected to stay, and there are a lot of leaves remaining on the curb.

Mr. Swingly updated the Board on the progress of the emergency digester work. A project kick-off meeting is being coordinated.

Mr. Swingly also reviewed with the Board the ownership of the north entrance of Country Manor Way. A dispute as to the public or private ownership of the north section of Country Manor Way arose during a NYS DOT statewide effort to update the Local Highway Inventory in the summer of 2016. The Village has been plowing and maintaining that portion of Country Manor for decades. When the dispute came to light, Mr. Swingly researched the history of the ownership. It was discovered that the parcel containing the north portion of Country Manor Way, was still a taxable parcel held by the owners of County Manor Apartments. It was also discovered that in the mid 1960's the north entrance to Country Manor Way was offered to the Village for dedication as a public street. The Village accepted with conditions, namely that the curb-cut onto Phillips Road, a County Road, receive the written approval from the county for its design and construction. Monroe County Highway Department approval was forwarded in the late 1960's. It was not found where the Village, or the owners of the parcel, ever transferred ownership of the parcel by deed. Consequently it remained a taxable parcel. Mr. Swingly met with the apartment complex management in July, and again last week. The apartment complex and the Village agree that there is not a bona fide public purpose for the roadway as it serves only the Country Manor apartment complex. The desire by all parties is to have it remain a private roadway. The Village has notified the apartment complex management, in writing and in person, to alert them to the fact that the Village would no longer be maintaining the roadway to include paving,

plowing or salting. The apartment complex paved the roadway in the spring of 2016, and was already operating under the understanding that they owned the roadway since they took ownership in 2013. Mr. Swingly will work with Attorney White and the apartment complex management to secure the appropriate easement for sewer mains located within the private roadway.

Executive Session – Cancelled.

Adjournment

Motion Trustee Ippolito, Jr. and Seconded by Trustee Lancy to adjourn the meeting at 8:54 p.m. all were in favor and carried.

Josette Amalfi, Village Clerk

John J. Cahill, Mayor