

Village of Depew, NEW YORK

"The Village of Unexcelled Opportunity"



MEETINGS TO DATE: 12

NO. OF REGULARS: 12

AGENDA

VILLAGE BOARD OF TRUSTEES OF THE VILLAGE OF DEPEW

September 13, 2021 7:00PM

PLEDGE OF ALLEGIANCE-

INVOCATION -

NOTIFICATION OF FIRE EXITS

ROLL CALL: Trustee Hamernik
Trustee Ziemba
Trustee Kucewicz
Deputy Mayor Stempniak
Mayor Peterson

APPROVE VILLAGE BOARD MEETING MINUTES – August 23, 2021

ACCEPT ZONING BOARD MINUTES – August 12, 2021

1. Thomas C. Agen Jr. for two variances on property located on 19 Barnabas Dr., of Chapter 260, §260-31L(1) All pool structures must be situated behind the principal dwelling in the required rear yard and Chapter 260, §260-31L(5) All pool pumps, filters and/or heating equipment shall also be a minimum of five feet from any rear or interior property line. Such equipment may encroach an exterior side yard if not housed within a building. Both variances granted.
2. Marvin Spates for a variance on property located on 285 Claudette Ct., of Chapter 260, §260-23B(2) Accessory uses and structures, minimum building separation from principal building, 10ft. Variance Granted.

APPROVE PLANNING BOARD MINUTES -September 2, 2021

1. Brian Zittel on behalf of Nickel City Brewz for property located at 5175 Broadway, Unit 1, Depew, New York. They are requesting the following: Seeking concept plan approval for an outdoor dining area. Recommendation to the Village Board to approve the concept plans with the following stipulations: Clarify vehicle impact, lighting for the area, setback clarification from sidewalk and road, barrier due to alcohol content being served as well as dining occupancy outside to be no great than 26% of indoor dining occupancy.
2. Dominic Corigliano, on behalf of Corigliano Holdings, for property located at 5230, 5238 and 5246 Transit Rd, Depew, New York. They are requesting the following: Rehearing from tabled November 5, 2020 Planning Board Meeting seeking Final Site plan approval for a proposed parking plan. Tabled pending submittal of architectural or engineered stamped drawings.

PUBLIC COMMENT – AGENDA ITEMS ONLY

1. Read Public Notice from Erie County
2. Permission – Advertise Sidewalk Bid
3. Permission – Advertise Public Hearing - Parking
4. Permission – Court Audit
5. Approve – SEQR
6. Permission – Advertise Broadway Reclamation Site Bid
7. Approve – Bid Award – Tree Inventory
8. Permission – Hat, Glove & Sock Drive – West End Fire Hall
9. Approve – Bond Resolution
10. Approve – Fall Festival
11. Permission – Village Justice Conference
12. Department Head Reports – Building August 2021
13. Employment Applications – DPW Brendan Bruce
14. Unfinished and Other Business
15. Public Concerns and Comments
16. Claims and Accounts
17. Adjournment

PUBLIC NOTICE

30-DAY PERIOD FOR INCLUSION OF PREDOMINANTLY VIABLE AGRICULTURAL LANDS INTO EXISTING AGRICULTURAL DISTRICTS

Per New York State Agriculture and Markets Law Section 303-b, the Erie County Legislature designated September 1 through September 30 as the annual thirty-day period during which landowners may submit requests to include predominantly viable agricultural land into an existing certified agricultural district.

Copies of the application form have been provided to Municipal Clerks, Assessors, and Chief Elected Officials for distribution to interested landowners. The application is also available on the DEP website at www.erie.gov/agenrollment.

The Erie County Department of Environment and Planning will accept applications from September 1 through September 30. Any questions on this process should be directed to the Erie County Department of Environment and Planning.

A public hearing will also be scheduled at a later date to consider all inclusion requests and the recommendations of the Erie County Agricultural and Farmland Protection Board.

CONTACT:

Sarah Gatti, Senior Planner
Erie County Environment & Planning
95 Franklin Street, 10th Floor
Buffalo, NY 14202
Phone: (716) 858-6014
Fax: (716) 858-7248
Email: agriculture@erie.gov

RESOLUTION

September 13, 2021

AUTHORIZE ADMINISTRATOR TO ADVERTISE FOR BIDS – SIDEWALKS

Trustee _____ offered the following resolution and moved for its adoption:

BE IT RESOLVED, the Village Administrator is hereby authorized to advertise for bids for the Sidewalk Improvement Project, there will be one street in this bid:

West Side of South Bellevue Ave

Date will be set once the bid package is completed.

The foregoing resolution was seconded by Trustee _____, and duly put to a roll call vote which resulted in the following:

Trustee Hamernik -
Trustee Ziemba -
Trustee Kucewicz -
Deputy Mayor Stempniak -
Mayor Peterson -

VILLAGE OF DEPEW
BOARD MEETING
September 13, 2021
Agenda Item # 2

__Approved __Denied

RESOLUTION

September 13, 2021

**AUTHORIZE ADMINISTRATOR TO ADVERTISE FOR PUBLIC HEARING
FOR NO PARKING HERE TO CORNER ON AIRVIEW TERRACE**

Trustee _____, offered the following resolution and moved for its adoption:

BE IT RESOLVED, the Village Administrator is hereby authorized to advertise for a public hearing for a no parking sign here to corner on the north side of Airview Terrace just west of Transit Rd. to take place on Monday September 27, 2021 at 7:00 PM in the council chambers.

The forgoing resolution was seconded by Trustee _____, and **CARRIED**.

VILLAGE OF DEPEW
BOARD MEETING
September 13, 2021

Agenda Item #3

__Approved __Denied

RESOLUTION

September 13, 2021

COURT FINANCES HAVE BEEN AUDITED

Trustee _____ offered the following resolution and moved for its adoption:

BE IT RESOLVED, the Village of Depew Court Finances have been audited for fiscal year end May 31, 2021.

The foregoing resolution was seconded by Trustee _____, and
CARRIED.

VILLAGE OF DEPEW
BOARD MEETING
September 13, 2021

Agenda Item # 4

___Approved ___Denied

RESOLUTION

September 13, 2021

SEQR Type II Determination

Trustee _____, offered the following resolution and moved for its adoption:

WHEREAS, the Village of Depew (Village) is currently under an Order of Consent with the New York State Department of Environmental Conservation (NYSDEC) to address sanitary sewer overflows (SSOs) in the Village's sanitary sewer collection system; and

WHEREAS, the Village completed a Sanitary Sewer Evaluation Survey (SSES) in Sewershed 4 and Sewershed 5 to identify potential corrective actions; and

WHEREAS, the Village of Depew Board of Trustees is considering various improvements to correct sewers system defects and reduce inflow and infiltration; and

WHEREAS, the Board of Trustees is seeking funding assistance under the New York State Cleanwater State Revolving Fund, and is, therefore subject to environmental review obligations required to participate in the funding program; and

WHEREAS, pursuant to sections 617.5(c)(1), 617.5(c)(2) and 617.5(c)(6) under SEQR, this project is a Type 2 Action as it involves the maintenance, repair and replacement in kind of existing sewer infrastructure with no substantial change to the existing sanitary sewer collection system.

NOW THEREFORE BE IT RESOLVED, that as a Type 2 action under SEQR, the project has been found categorically to not have significant adverse impacts on the environment and no further review under SEQR is required.

The foregoing resolution was seconded by Trustee _____, and duly put to a roll call vote which resulted in the following:

Trustee Hamernik -
Trustee Ziemba -
Trustee Kuciewicz -
Deputy Mayor Stempniak -
Mayor Peterson -

VILLAGE OF DEPEW
BOARD MEETING
September 13, 2021
Agenda Item # 5

___ Approved ___ Denied

RESOLUTION

September 13, 2021

ADVERTISING BID FOR BROADWAY RECLAMATION SITE

Trustee _____, offered the following resolution and moved for its adoption:

WHERE AS the Village of Depew is the Owner of property known as the Old Reclamation Landfill site located on Broadway Avenue. The landfill site is situated on the south side of Broadway Avenue and is generally bounded by Twin Village Recycling to the east and Cayuga Creek to the south. Sections of the creek embankment have experienced excessive erosion due to scour during high flow storm events and ice flows resulting in exposure of buried debris.

WHERE AS The Village is undertaking an embankment restoration project for the purpose of protecting and improving water quality in Cayuga Creek and providing other water resource benefits within the Cayuga Creek watershed.

WHERE AS the Village Engineering firm GHD prepared detailed design plans and Contract documents for completion of the Old Reclamation Landfill Embankment Restoration Project

NOW, THEREFORE, BE IT RESOLVED, that the Village Board authorizes GHD to advertise the Landfill Embankment Restoration Project for purposes of soliciting public bids for construction.

The foregoing resolution was seconded by Trustee _____, and duly put to a roll call vote which resulted in the following:

Trustee Hamernik -
Trustee Ziembra -
Trustee Kucewicz -
Deputy Mayor Stempniak -
Mayor Peterson -

VILLAGE OF DEPEW
BOARD MEETING
September 13, 2021
Agenda Item # 6

__ Approved __ Denied

RESOLUTION

September 13, 2021

AWARD BID- TREE INVENTORY

Trustee _____ offered the following resolution and moved for its adoption:

BE IT RESOLVED, that the bid for the Tree Inventory Program from the bid closing on July 30, 2021 be awarded to:

Davey Resource Group
10 Mitchell Street
Sinclairville, NY 14782

The Program cost is not to exceed \$36,000.

The following resolution was seconded by Trustee _____, and duly put to a roll call vote which resulted in the following:

Trustee Hamernik -
Trustee Ziembra -
Trustee Kucewicz -
Deputy Mayor Stempniak -
Mayor Peterson -

VILLAGE OF DEPEW
BOARD MEETING
September 13, 2021
Agenda Item # 7

_Approved ___Denied

RESOLUTION

September 13, 2021

PERMISSION – WEST END FIRE AUXILIARY

Trustee _____, offered the following resolution and moved for its adoption:

BE IT RESOLVED, Permission is hereby granted to The Depew West End Fire Dept Auxiliary to place a collection bin within village hall to collect new winter hats, gloves and warm socks from September 1st – November 1st for the less fortunate in our community. We will be happy to supply the bin to collect the donations.

The foregoing resolution was seconded by Trustee _____, and **CARRIED**.

VILLAGE OF DEPEW
BOARD MEETING
September 13, 2021
Agenda Item # 8

__Approved __Denied

AMENDING AND RESTATING BOND RESOLUTION

Trustee_____ offered the following resolution and moved for its adoption:

AN AMENDING AND RESTATING BOND RESOLUTION, DATED **SEPTEMBER 13, 2021**, OF THE VILLAGE BOARD OF TRUSTEES OF THE VILLAGE OF DEPEW, ERIE COUNTY, NEW YORK (THE "VILLAGE"), AMENDING THE BOND RESOLUTION THAT WAS ADOPTED ON MARCH 22, 2021, AND AUTHORIZING A SEWER SYSTEM CAPITAL IMPROVEMENTS PROJECT (PHASE 5, AS SUPPLEMENTED) IN RESPONSE TO NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION ORDER ON CONSENT NO. R9-20140128-1, AT AN ESTIMATED MAXIMUM COST OF \$2,913,000 AND AUTHORIZING THE ISSUANCE OF SERIAL BONDS IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$2,913,000 OF THE VILLAGE, PURSUANT TO THE LOCAL FINANCE LAW TO FINANCE SAID PURPOSE, SAID 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 VILLAGE TREASURER.

WHEREAS, on March 22, 2021, the Village Board of Trustees of the Village of Depew, Erie County, New York (the "Village") adopted a certain bond resolution (the "Original Bond Resolution") entitled:

A BOND RESOLUTION, DATED MARCH 22, 2021, OF THE VILLAGE BOARD OF TRUSTEES OF THE VILLAGE OF DEPEW, ERIE COUNTY, NEW YORK (THE "VILLAGE"), AUTHORIZING A SEWER SYSTEM CAPITAL IMPROVEMENTS PROJECT (PHASE 5) IN RESPONSE TO NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION ORDER ON CONSENT NO. R9-20140128-1, AT AN ESTIMATED MAXIMUM COST OF \$2,913,000, AND AUTHORIZING THE ISSUANCE OF SERIAL BONDS IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$2,913,000, 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 VILLAGE TREASURER.

and

WHEREAS, the Village Board of Trustees identified additional improvements that are time-sensitive and deemed a priority by the Village; and

WHEREAS, the Village Board of Trustees directed GHD to prepare a report dated July 9, 2021, a portion of the work described in such report are the time-sensitive improvements referenced above; and

WHEREAS, the Village Board of Trustees wishes to modify the Original Bond Resolution for the primary purpose of modifying the scope of the project to include additional improvements and to make other modifications to the Original Bond Resolution as may be consistent with law; and

WHEREAS, the estimated maximum cost of the project and the amount of serial bonds authorized for such project remains the same; and

WHEREAS, the Original Bond Resolution is being modified to include additional improvements as previously described, and is otherwise being reaffirmed and ratified in all other material respects; and

WHEREAS, the Village Board of Trustees now wishes to amend and restate (in its entirety) the Original March 22, 2021 Bond Resolution for the reasons identified above, and to make other modifications to the Original Bond Resolution as may be consistent with law; and

WHEREAS, the Village has not previously issued bond anticipation notes pursuant to the Original Bond Resolution, and has not yet entered into permanent financing arrangements thereunder (i.e., the issuance of long-term serial bonds); and

NOW THEREFORE,

BE IT RESOLVED, by the Village Board of Trustees of the Village (by the favorable vote of not less than two-thirds of all the members of the Board) as follows:

SECTION 1. The Village is hereby authorized to undertake a certain sewer system capital improvements project (generally referred to as Phase 5, as supplemented) being undertaken in response to a New York State Department of Environmental Conservation Order on Consent No. R9-20140128-1, such work to generally consist of (but not be limited to) the installation of a cured-in-place pipe ("CIPP") lining system for approximately 27,200 linear feet of sanitary sewer pipe, manhole rehabilitations, replacement of defective sanitary sewer pipe (and specifically to include approximately 700 feet of sanitary sewer located on Transit Road between Lee Street and 6100 Transit Road as described in a report prepared by GHD for a subsequent phase), point repairs to sanitary and storm sewer pipes, associated restoration work, as well as other improvements as more fully identified in (or contemplated by) a report dated January 10, 2020 and a report dated July 9, 2021 that were prepared by engineers at GHD in connection with the project (as supplemented), all of the foregoing to include all preliminary work and necessary equipment, materials, apparatus and related site work 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 \$2,913,000.

SECTION 2. The Village Board of Trustees plans to finance the estimated maximum cost of the Purpose by the issuance of serial bonds in an aggregate amount not to exceed \$2,913,000 of the Village, hereby authorized to be issued therefor pursuant to the Local Finance Law, said amount to be offset by any federal, state, county and/or local funds received. Unless paid from other sources or charges, the cost of such improvements is to be paid by the levy and collection of taxes on all real property in the Village 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 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 the 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 Village 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 shall 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, there shall annually be levied on all the taxable real property of the Village 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 Village Board of Trustees 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 Village Treasurer, the chief fiscal officer of the Village. Without in any way limiting the scope of the foregoing delegation of powers, the Village Treasurer, 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 Village.

SECTION 8. To the extent not previously authorized, 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 Local Finance Law, for the purpose or purposes described in this resolution.

SECTION 9. This resolution shall constitute the declaration (or reaffirmation) of the Village'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 Village Treasurer 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 10. The Village Treasurer 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 11. The Village Treasurer 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 Village officials and the Village'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 Village Clerk.

SECTION 12. The Village has determined that the Purpose is a Type II action that will not have a significant effect on the environment and, therefore, no other determination or procedures under the State Environmental Quality Review Act ("SEQRA") are required.

SECTION 13. To the extent applicable, the Village Treasurer is hereby authorized to execute and deliver in the name and on behalf of the Village a project financing agreement prepared by the New York State Environmental Facilities Corporation ("EFC") (the "SRF Project Financing Agreement"). To the extent applicable, the Village Treasurer and the Village Clerk and all other officers, employees and agents of the Village are hereby authorized and directed for and on behalf of the Village 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 SRF Project Financing Agreement.

SECTION 14. In the absence or unavailability of the Village Treasurer, the Deputy Treasurer is hereby specifically authorized to exercise the powers delegated to the Village Treasurer in this resolution.

SECTION 15. 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 Village 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 were authorized in violation of the provisions of the Constitution of New York.

SECTION 16. The Village 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 Village and hereby designated as the official newspaper of the Village for such publication..

SECTION 17. This Resolution is effective immediately pursuant to Section 36.00(a)(5) of the Local Finance Law.

SECTION 18. Nothing in this amendment shall affect the validity of the Original Bond Resolution, or any actions taken thereunder, and any such actions are hereby ratified.

* * *

The question of the adoption of the foregoing resolution was duly put to vote on a roll call, which resulted as follows:

AYES:

NOES:

ABSENT:

The foregoing resolution was thereupon declared duly adopted.

VILLAGE OF DEPEW
BOARD MEETING
September 13, 2021
Agenda Item # 9

__ Approved __ Denied

RESOLUTION

September 13, 2021

PERMISSION CONFERENCE

Trustee_____, offered the following resolution and moved for its adoption:

BE IT RESOLVED, permission is hereby granted to Hon. Kathleen M. McDonald, Depew Village Justice to attend the NYS Magistrates Association Conference, held at the Sheridan at the Falls, 300 Third St, Niagara Falls, NY 14303 from September 27th – 29th, 2021. The cost of the conference is \$100.00. The use of village vehicle is authorized.

The foregoing resolution was seconded by Trustee_____ and **CARRIED**.

VILLAGE OF DEPEW
BOARD MEETING
September 13, 2021
Agenda Item # 11

__Approved __Denied

AUTHORIZE FALL FEST

Trustee _____, offered the following resolution and moved for its adoption:

BE IT RESOLVED, permission is hereby granted to hold a Depew Fall Fest in the Village of Depew Veteran's Park on Saturday, October 16th from 10:00am until 8:00PM. With portions of Terrace Blvd blocked off for the event.

MUSIC – Various performers will play throughout the park throughout the day.

ACTIVITIES – Including contests, exercise activities and a family friendly movie, with additional details to follow at an upcoming meeting.

FOOD and VENDORS – There will be a variety of food trucks and local craft vendors on hand with additional details to follow at an upcoming meeting.

Permission is also granted for use electric power and of restrooms at the Southside Fire Station.

The following resolution was seconded by Trustee _____, duly put to a roll call vote which resulted in the following:

Trustee Hamernik -

Trustee Ziemba -

Trustee Kucewicz -

Deputy Mayor Stempniak -

Mayor Peterson -

VILLAGE OF DEPEW
BOARD MEETING
September 13, 2021
Agenda Item # 10

__Approved __ Denied

RESOLUTION

September 13, 2021

PERMISSION CONFERENCE

Trustee_____ offered the following resolution and moved for its adoption:

BE IT RESOLVED, permission is hereby granted to Hon. Kathleen M. McDonald, Depew Village Justice to attend the NYS Magistrates Association Conference, held at the Sheridan at the Falls, 300 Third St, Niagara Falls, NY 14303 from September 27th – 29th, 2021. The cost of the conference is \$100.00. The use of village vehicle is authorized.

The foregoing resolution was seconded by Trustee_____ and **CARRIED**.

VILLAGE OF DEPEW
BOARD MEETING
September 13, 2021
Agenda Item # 11

__Approved __Denied