

Special Town Board Meeting
February 20, 2020
5:00 p.m.

Present: Supervisor Gerald L. Deming, Council Members: Lynn Parnell, Amos Smith, Norman Gates and Frank Rose Jr.

Absent: None

Others: James Campbell (Town Attorney), George Worden Jr. (Highway Supt.) and Kirk Richenberg

Supervisor Deming opened the Special Town Board Meeting at 5:00 p.m. and asked Attorney Campbell to proceed with the Anderson Road documents.

Attorney Campbell stated that the Board called this Special meeting to discuss two specific items. The first is to review the Engagement Agreement from Harris Beach to serve as bond counsel for the Anderson Road water project. Their fee is based upon preparation of the Bond Resolution and review of Water District proceedings, original and renewal bond anticipation notes and the statutory installment bond issued to Rural Development. The amount is not to exceed \$ 11,307.00.

RESOLUTION offered by Mr. Smith and seconded by Mrs. Parnell to approve the Engagement Agreement with Harris Beach, PLLC to serve as Bond Counsel to the Town of York for Consolidated Water District- Anderson Road Extension, in the amount not to exceed \$11,307.00. Voted on and approved, Yes-5, No-0.

Councilman Norman Gates	Aye
Councilman Amos Smith	Aye
Councilman Frank Rose Jr.	Aye
Councilwoman Lynn Parnell	Aye
Supervisor Gerald L. Deming	Aye

Attorney Campbell stated that the second item of business pertains to the actual borrowing for Anderson Road, authorizing the maximum amount up to \$ 1,847,000. Mr. Campbell explained that short term borrowing will take place initially to pay contractors and such but once dedicated, long term financing will be outlined.

RESOLUTION offered by Mrs. Parnell and seconded by Mr. Smith to approve the following:

At a special meeting of the Town Board of the Town of York, Livingston County, New York, duly held at the Town Hall, 2668 Main Street, York, New York 14592, at 5:00 p.m. o'clock (prevailing time) on February 20, 2020.

The meeting was called to order by Supervisor Deming, and upon roll being called, the following were:

PRESENT: Councilwoman Lynn Parnell
Councilman Frank Rose Jr.
Councilman Amos Smith
Councilman Norman Gates
Supervisor Gerald L. Deming

ABSENT: None

The following resolution was offered by Councilwoman Parnell, who moved its adoption, seconded by Councilman Smith, to-wit:

BOND RESOLUTION OF THE TOWN BOARD OF THE TOWN OF YORK, LIVINGSTON COUNTY, NEW YORK (THE "TOWN"), AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF IMPROVEMENTS CONSTITUTING THE TOWN OF YORK CONSOLIDATED WATER DISTRICT - ANDERSON ROAD EXTENSION, STATING THE MAXIMUM ESTIMATED COST THEREOF IS \$1,847,000 APPROPRIATING SAID AMOUNT THEREFOR; AND AUTHORIZING THE ISSUANCE OF UP TO \$1,847,000 IN SERIAL BONDS OF THE TOWN TO FINANCE SAID APPROPRIATION

WHEREAS, by resolution dated January 21, 2020, the Town of York Town Board (the "Town Board") adopted a final order (the "Final Order"), in accordance with Section 209-e of the Town Law, establishing the Town of York Consolidated Water District - Anderson Road Extension and authorizing the construction of the improvements constituting said extension (the "Extension"), as described the Final Map, Plan and Report, dated July 2018 as revised November 2018, prepared by Clark Patterson Lee, and on file in the office of the Town Clerk, at a maximum cost not to exceed \$1,847,000, which Final Order was duly recorded on January 22, 2020 in the Office of the Livingston County Clerk; and

WHEREAS, by resolution dated June 13, 2019, the Town Board (i) determined that the actions to be undertaken in connection with the establishment and construction of the Extension (collectively, the "Action") constitute a "Type I" action pursuant to the provisions of the New York State Environmental Quality Review Act and the regulations promulgated thereunder (6 NYCRR Part 617) (collectively, "SEQRA"), (ii) the Town Board assumed lead agency status for purposes of conducting a coordinated review of the Action in accordance with SEQRA, and (iii) the Town Board determined that the Action will not result in any significant adverse environmental impacts, adopted a "Negative Declaration" pursuant to SEQRA with respect thereto, and directed that a notice of Negative Declaration be filed, posted and published, to the extent required under SEQRA; and

WHEREAS, the Town Board of the Town now wishes to appropriate funds for the Project (as defined below) and to authorize the issuance of the Town's serial bonds or bond anticipation notes to finance said appropriation.

THE TOWN BOARD OF THE TOWN OF YORK, LIVINGSTON 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 \$1,847,000 principal amount of serial bonds (including, without limitation, statutory installment bonds) pursuant to the provisions of the Local Finance Law, constituting Chapter 33-a of the Consolidated Laws of the State of New York (the "Law") to finance the estimated cost of acquiring, constructing and equipping the improvements to be included in the Consolidated Water District - Anderson Road Extension, including the acquisition of land and/or easements or other rights therein, and the construction of improvements consisting of water mains, interconnection appurtenances, road borings, manholes, force mains, valves, pumps, curb stops, original furnishings, equipment, machinery or apparatus, fill, services, and all other appurtenant and incidental improvements necessary or appropriate to serve benefited properties within the Extension, all engineering and other preliminary costs, legal expenses and other costs incidental to the financing thereof (the "Project").

SECTION 2. It is hereby determined that the maximum estimated cost of the aforementioned specific object or purpose is \$1,847,000, said amount is hereby appropriated therefore and the plan for the financing thereof shall consist of (i) the issuance of up to \$1,847,000 in serial bonds of the Town authorized to be issued pursuant to Section 1 of this resolution, or bond anticipation notes issued in anticipation of such serial bonds, (ii) the partial repayment of such serial bonds or bond anticipation notes, or the direct expenditure on Project costs, with grant monies expected to be received by the Town from the United States Department of Agriculture, Office of Rural Development, and (iii) the levy and collection of assessments, charges and/or fees on properties within the Extension and, to the extent necessary, the levy and collection of taxes on all the taxable real property in the Town, 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 period of probable usefulness of the aforementioned specific objects or purposes is forty (40) years, pursuant to subdivision 1. of paragraph a. of Section 1 1.00 of the Law.

SECTION 4. The final maturity of the bonds herein authorized to be issued shall 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 5. 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 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 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 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 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 8. 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 anticipating thereof, if applicable, as "qualified tax-exempt obligations" in accordance with Section 265(b)(3)(B)(i) of the Code.

SECTION 9. The Town Supervisor is hereby further authorized to enter into a continuing disclosure undertaking with or for the benefit of the initial purchasers of the bonds or notes authorized by this resolution 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 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 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 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 12. 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 13. This resolution shall take effect immediately

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

	AYES:	NAYS:
Councilperson Smith	Aye	
Councilperson Gates	Aye	
Councilperson Rose	Aye	
Deputy Supervisor Parnell	Aye	
Supervisor Deming	Aye	

Voted on and approved, Yes-5, No-0.

Dated: February 20, 2020

OTHER

Mr. Campbell discussed with the Board once again the appointment made at their February 11th meeting pertaining to a Solar Coordinator. Mr. Campbell clarified that the approval to appoint Shawn Grasby in this position was for part-time purposes until Mr. Peter has been fully brought up to speed on solar procedures.

Attorney Campbell added that this position was created to assist the Town of York for solar purposes and is a part-time position, with an hourly rate of \$30 per hour.

Councilwoman Parnell inquired if we have a time frame for Mr. Grasby. Supervisor Deming answered that we have a few solar companies we are speaking with currently, so until we (Town) and Zoning Officer, Mr. Peter feel comfortable with the steps and procedures involved, we will utilize Mr. Grasby's knowledge he has acquired over the past two years. Mr. Campbell added that Mr. Grasby will be here to assist Mr. Peter through the very detailed process. Once Carl is comfortable, then we can scale back on Mr. Grasby's hours.

Mrs. Parnell asked when Carl is up to speed on regulations, will he still be able to contact Mr. Grasby for assistance. Attorney Campbell replied he believes Shawn would certainly assist us if needed. Mr. Campbell stated there will be an intense amount of work ahead of us, specifically for Mr. Peter.

Councilman Smith asked as a part-time employee what exactly will his term be with the Town. Mr. Campbell replied that the Board has options. Mr. Grasby can be an employee at will or he can be approved on a yearly basis, perhaps at the Organizational Meeting. It is completely up to the Town on how you wish to proceed.

Supervisor Deming reported that in discussions with the solar companies we have already requested funds to be paid upfront in anticipation of costs to come. In conversations with Solar Park Energy (Tom Trathen's project) we will be receiving \$10,000 shortly to place in an escrow account, and will do the same for all solar projects. Mr. Campbell added any monies left over for each project will be returned.

Councilman Rose asked if hours are specific to the projects. Attorney Campbell responded that all projects will be separated. Any hours expended by the Engineers, Attorneys or Solar Coordinator will be broken out in order to keep projects divided from one another.

Mr. Campbell explained that Article 10 law allows municipalities to apply for Intervenor Funds to at least partially offset the cost of participating in the Article 10 process. Article 10 applicants are required to provide funds to be used to defray certain expenses incurred by municipalities as they participate in the pre-application scoping process. The intervenor funds are provided by the assessment of fees on the applicant. Not all are eligible for intervenor funds only municipal and local parties.

Councilwoman Parnell questioned who is providing the \$10,000 for the Trathen project. Attorney Campbell replied Solar Park Energy.

RESOLUTION offered by Mr. Smith and seconded by Mrs. Parnell to confirm the appointment of Shawn Grasby as a part-time employee in the position of Solar Coordinator at a rate of \$30.00 per hour. Voted on and approved, Yes-5, No-0.

ADJOURNMENT

RESOLUTION offered by Mrs. Parnell and seconded by Mr. Rose to adjourn the Special Town Board Meeting at 5:13 p.m. Voted on and approved, Yes-5, No-0.

Respectfully Submitted,
Christine M. Harris
Christine M. Harris, Clerk