

August 12, 2019
Alexander Town Board Regular Meeting
Alexander Town Hall 7:00 p.m.

Present: Supervisor Joseph Higley
H'way Supt: Tom Lowe
Town Board: David Miller, Carol Wolfley, Eric Wagner
Town Clerk: Shannon Tiede
Deputy Clerk: Laura Schmieder
Absent: Roy Haller, III
Guests: Brandon Snyder, John Volpe

Supervisor Higley called the meeting to order at 7:00 p.m. with the Pledge of Allegiance and a moment of silence for our military serving around the world.

On motion by Councilperson Miller, seconded by Councilperson Wagner, and carried, the minutes of the July 8, 2019 Regular Meeting; July 10, 2019 Special Meeting; July 22, 2019 Public Hearing were adopted as presented.
4 – Yes Higley, Miller, Wolfley, Wagner 0 – No Carried

COMMUNICATIONS: Mercy EMS for May 2019; 2019 Hazardous Waste Collection Day- Sept. 21 in Batavia; ACS newsletter; decision makers Ag forum Sept 18; Genesee Sno Packer; Teresa Thorley letter about WD#6.

REPORTS:

CEO/ZEO: Written report read and filed.
Building: Looking to get quotes on new blinds for the museum and approx. 6 windows needing repair.
Clerk: A) Office closed August 14 for grant meeting in Batavia
B) Questioned how to record transfer station tickets. Board approved recorded by ticket.
Dog Control: Carolyn has finished enumeration.
Financial: Verizon looking at request to remove fax from court room. 2nd quarter sales tax was received. Bond payments from WD#2 and WD#4 were processed.
H'way. Supt: ¾ done on 2nd pass mowing. Filed for chips reimbursement. County snow and ice rates could be increasing. Tom to fix minor damage at transfer station. Tentative budget request submitted.

The Town Clerk and Town Justices' financial reports were read and filed.

OLD BUSINESS:

1. Water District #5: Meeting with Mark Wright August 13 to discuss bids.
2. Water District #6: With the proposed out of district user agreement the Smiths would become a part of WD#2 until WD#6 is formed then they will become part of that district.

NEW BUSINESS:

RES. NO.52 : INTERMUNICIPAL AGREEMENT WITH COUNTY WD #5

WHEREAS, the Town Board of the Town of Alexander met at a regular meeting at the Town Offices of the Town of Alexander, New York on the 12 day of August, 2019, commencing at 7:00 p.m.

WHEREAS, all Board Members, having due notice of said meeting, and that pursuant to Article 7, §104 of the Public Officers Law, said meeting was open to the general public and due and proper notice of the time and place whereof was given as required by law; and

WHEREAS, the County of Genesee has begun the process to provide additional water capacity for the county-wide water system in the amount of approximately 2.4 million gallons per day to be supplied from the Monroe County Water Authority, as set forth in a document entitled "Engineering Report for the Genesee County Phase 2 Water Supply Project"; and

WHEREAS, the Town of Alexander has already established a water project as Town of Alexander Water District No. 5 and is in the beginning stages of establishing a Water District No. 6; and

WHEREAS, the Town of Alexander Water District No. 5 and 6 are to include construction of portions of the Genesee County Phase 2 improvements that are eligible for grants and low interest financing through USDA Rural Development and other programs; and

WHEREAS, the County of Genesee has provided the Town Board of the Town of Alexander a proposed "Agreement by County of Genesee and Town of Alexander for Phase 2 Water Construction Payments", attached hereto as Exhibit A; and

WHEREAS, the proposed Agreement states the County will provide annual debt service contributions to help the Town of Alexander construct larger local water facilities on a more affordable basis; and

WHEREAS, the Town of Alexander finds it in the best interest of the Town to pursue these funding sources for their projects as part of the County's Project, by directing the Town Supervisor of the Town of Alexander to execute said Agreement.

NOW ON MOTION OF David Miller which has been duly seconded by Eric Wagner, now, therefore be it

RESOLVED, that the Town Board of the Town of Alexander shall direct the Town Supervisor to execute the "Agreement by County of Genesee and Town of Alexander for Phase 2 Water Construction Payments".

4- Yes 0- No 1- Absent motion carried

RES. NO.53 : BOND RESOLUTION

A BOND RESOLUTION, DATED AUGUST 12, 2019, OF THE TOWN BOARD OF THE TOWN OF ALEXANDER, GENESEE COUNTY, NEW YORK (THE "TOWN"), AUTHORIZING A

CAPITAL IMPROVEMENTS PROJECT WITHIN WATER DISTRICT NO. 5 IN THE TOWN, AT AN ESTIMATED MAXIMUM COST OF \$2,700,000 AND AUTHORIZING THE ISSUANCE OF SERIAL BONDS IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$2,700,000 PURSUANT TO THE LOCAL FINANCE LAW TO FINANCE SUCH PURPOSE, SUCH AMOUNT TO BE OFFSET BY ANY FEDERAL, STATE, COUNTY AND/OR LOCAL FUNDS RECEIVED, AND DELEGATING THE POWER TO ISSUE BOND ANTICIPATION NOTES IN ANTICIPATION OF THE SALE OF SUCH BONDS TO THE TOWN SUPERVISOR.

WHEREAS, the Town Board of the Town of Alexander (herein called "Town Board" and "Town", respectively), in the County of Genesee, New York, has, pursuant to Town Law, created Water District No. 5 in the Town (the "District"); and

WHEREAS, the Town Board of the Town has determined to proceed with a certain capital improvements project for the District; and

WHEREAS, the Town Board took the following actions with respect to such project: (a) received maps and plans for such project, (b) held a public hearing with respect to such project, (c) determined that such project would not have a significant adverse effect on the environment under Article 8 of the Environmental Conservation Law, (d) determined that the requirements of Article 12 of the Town Law had been satisfied with respect to such project and (e) determined to undertake such project; and

WHEREAS, the Town Board desires to issue obligations of the Town to finance the costs of such project;

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

SECTION 1. The Town is hereby authorized to undertake a certain water system capital improvements project, such work to generally consist of (but not be limited to) the installation of approximately 17,170 linear feet of transmission water main from NYS Route 98 along various roads in the Town, the installation of an approximate 500,000 gallon water storage tank and booster pump station along NYS Route 20, as well as other such improvements as more fully identified in (or contemplated by) such map, plan and report prepared in connection with the project, all of the foregoing to include all necessary site work, equipment, apparatus and other improvements and costs incidental thereto and in connection with the financing thereof (collectively, the "Purpose"). The estimated maximum cost of the Purpose is \$2,700,000.

SECTION 2. The Town plans to finance the estimated maximum cost of the Purpose by the issuance of serial bonds in an aggregate principal amount not to exceed \$2,700,000 of the Town, hereby authorized to be issued therefore pursuant to the Local Finance Law, said amount to be offset by any federal, state, county and/or local funds received, and unless paid from other sources or charges, the costs of said increase and improvement of facilities will be paid by the assessment, levy and collection of special assessments from the several lots and parcels of land within the District which the Town Board shall determine and specify to be especially benefited thereby, so much upon and from each as shall be in just proportion to the amount of the benefit conferred upon the same, to pay the principal of and interest on said bonds as the same shall become due and payable, except as provided by law.

SECTION 3. It is hereby determined that the Purpose is an object or purpose described in subdivision 1 of paragraph (a) of Section 11.00 of the Local Finance Law, and that the period of probable usefulness of such purpose is 40 years.

SECTION 4. Current funds are not required to be provided prior to the issuance of the bonds authorized by this resolution or any notes issued in anticipation of the sale of such bonds.

SECTION 5. It is hereby determined the proposed maturity of the obligations authorized by this resolution will be in excess of five years.

SECTION 6. The faith and credit of the Town are hereby irrevocably pledged for the payment of the principal of and interest on such bonds (and any bond anticipation notes issued in anticipation of the sale of such bonds) as the same respectively become due and payable. An annual appropriation will be made in each year sufficient to pay the principal of and interest on such bonds or notes becoming due and payable in such year. Unless paid from other sources or charges, the costs of said increase and improvement of facilities shall be paid by the assessment, levy and collection from the several lots and parcels of land within the District for such purpose in the same manner and at the same time as other Town charges to pay the principal of and interest on said bonds as the same shall become due and payable, except as otherwise provided by law. Should the assessments upon benefited real property be insufficient to pay the principal of and interest on such bonds, there shall annually be levied on all the taxable real property of the Town a tax sufficient to pay the principal of and interest on such bonds or notes as the same become due and payable.

SECTION 7. Subject to the provisions of this resolution and of the Local Finance Law, and pursuant to the provisions of Section 21.00 relative to the authorization of the issuance of bonds with substantially level or declining annual debt service, Section 30.00 relative to the authorization of the issuance of bond anticipation notes and of Section 50.00, Sections 56.00 to 60.00, Section 62.00, Section 62.10, Section 63.00, and Section 164.00 of the Local Finance Law, the powers and duties of the Town Board pertaining or incidental to the sale and issuance of the obligations herein authorized, including but not limited to authorizing bond anticipation notes and prescribing the terms, form and contents and details as to the sale and issuance of the bonds herein authorized and of any bond

anticipation notes issued in anticipation of said bonds, and the renewals of said notes, are hereby delegated to the Town Supervisor, the chief fiscal officer of the Town. Without in any way limiting the scope of the foregoing delegation of powers, the Town Supervisor, to the extent permitted by Section 58.00(f) of the Local Finance Law, is specifically authorized to accept bids submitted in electronic format for any bonds or notes of the Town.

SECTION 8. The temporary use of available funds of the Town, not immediately required for the purpose or purposes for which the same were borrowed, raised or otherwise created, is hereby authorized pursuant to Section 165.10 of the Local Finance Law, for the purpose or purposes described in Section 1 of this resolution. The Town then reasonably expects to reimburse any such expenditures (to the extent made after the date hereof or within 60 days prior to the earlier of (a) the date hereof or (b) the date of any earlier expression by the Town of its intent to reimburse such expenditures) with the proceeds of the bonds authorized by Section 2 of this resolution (or with the proceeds of any bond anticipation notes issued in anticipation of the sale of such bonds). This resolution shall constitute the declaration (or reaffirmation) of the Town's "official intent" to reimburse the expenditures authorized by Section 2 hereof with such bond or note proceeds, as required by United States Treasury Regulations Section 1.150-2.

SECTION 9. The Town Supervisor is further authorized to take such actions and execute such documents as may be necessary to ensure the continued status of the interest on the bonds authorized by this resolution, and any notes issued in anticipation thereof, as excludable from gross income for federal income tax purposes pursuant to Section 103 of the Internal Revenue Code of 1986, as amended (the "Code") and may designate the bonds authorized by this resolution, and any notes issued in anticipation thereof, as "qualified tax-exempt bonds" in accordance with Section 265(b)(3) of the Code.

SECTION 10. The Town Supervisor is further authorized to enter into a continuing disclosure agreement with the initial purchaser of the bonds or notes authorized by this resolution, containing provisions which are satisfactory to such purchaser in compliance with the provisions of Rule 15c2-12, promulgated by the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934.

SECTION 11. The Town has complied with applicable federal, state and local laws and regulations regarding environmental matters, including compliance with the New York State Environmental Quality Review Act ("SEQRA"), comprising Article 8 of the Environmental Conservation Law and, in connection therewith, duly issued a negative declaration and/or other applicable documentation, and therefore, no further action under SEQRA is necessary.

SECTION 12. In the absence or unavailability of the Town Supervisor, the Deputy Town Supervisor is hereby specifically authorized to exercise the powers delegated to the Town Supervisor in this resolution.

SECTION 13. The validity of such serial bonds or of any bond anticipation notes issued in anticipation of the sale of such serial bonds may be contested only if:

(1) (a) such obligations are authorized for an object or purpose for which the Town is not authorized to expend money, or

(b) the provisions of law which should be complied with at the date of publication of this resolution are not substantially complied with,

and an action, suit or proceeding contesting such validity is commenced within 20 days after the date of such publication; or

(2) such obligations are authorized in violation of the provisions of the Constitution of New York.

SECTION 14. The Town Clerk is hereby authorized and directed to publish this resolution, or a summary thereof, together with a notice in substantially the form provided by Section 81.00 of said Local Finance Law, in a newspaper having a general circulation in the Town and hereby designated as the official newspaper of the Town for such publication.

SECTION 15. This Resolution is effective immediately.

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

AYES: Higley, Miller, Wolfley, Wagner NOES:

ABSENT: Roy Haller III

The foregoing resolution was thereupon declared duly adopted.

RES. NO. 54 OUT OF DISTRICT USER AGREEMENT

WHEREAS, the Town Board of the Town of Alexander met at a regular meeting at the Town Offices of the Town of Alexander, New York on the 12th day of August, 2019, commencing at 7:00 p.m.

WHEREAS, all Board Members, having due notice of said meeting, and that pursuant to Article 7, §104 of the Public Officers Law, said meeting was open to the general public and due and proper notice of the time and place whereof was given as required by law; and

WHEREAS, the Town of Alexander is the owner of Route 98 Water District No. 2 in the Town of Alexander, New York, which Water District provides water service to residents in a portion of the Town of Alexander; and

WHEREAS, Robert and Heidi Smith, owners of property at 9720 Route 98 in the Town of Alexander, New York, identified as tax map parcel 14.-1-25, have requested to become customers of and purchase water from Water District No. 2; and

WHEREAS, the Town of Alexander has an Out-Of-District User Agreement (“Agreement”), attached hereto as **EXHIBIT A**; and

WHEREAS, Robert and Heidi Smith wish to enter into the Agreement with the Town of Alexander for purposes for purchasing water from the Water District No. 2 in the Town of Alexander.

NOW ON MOTION OF Councilperson Wolfley which has been duly seconded by Councilperson Wagner, be it

RESOLVED, the Town Board of the Town of Alexander hereby directs Joseph Higley, Town Supervisor, to enter into the Out-Of-District User Agreement with Robert and Heidi Smith.

Ayes: 4
Nays: 0
Abstain: 0
Quorum Present: yes

Shannon Tiede, Clerk
Town of Alexander

Dated: August 12, 2019
[SEAL]

RES. NO.55 : LATERAL RESTRICTIONS RESOLUTION WD #6

WHEREAS, the Town is proposing establishment of Water District No. 6, and

WHEREAS, the Town Board of the Town of Alexander has proposed the Town of Alexander Water District No. 6 pursuant to Town Law for the express purpose of providing public water supply to residents along portions of Halstead Rd., Upton Rd., Richley Rd., Pike Rd., Beaver Rd., Wortendyke Rd., Dodgeson Rd., Hickox Rd., Seward Rd., Day Rd., Walker Rd., Stannard Rd., Sprague Rd., Goodman Rd., Gillate Rd., Broadway Rd. (Route 20) in the Town of Alexander; and

WHEREAS, part of the land area within Water District No. 6 is also within Genesee County Agricultural District No. 1; and

WHEREAS, the Town Board has filed a Notice of Intent to Undertake an Action Within an Agricultural District to evaluate the impact of providing a source of public water supply within this area on lands within Agricultural District No. 1; and

WHEREAS, the New York State Department of Agriculture and Markets (“Department”) has expressed concern about the potential adverse impact that said public water supply is likely to have on agriculture within the Agricultural District,

NOW THEREFORE BE IT RESOLVED, that the Town Board, in recognition of the concerns that have been raised, hereby resolves to adopt the “Lateral Restriction - Conditions on Future Service” specified by the New York State Department of Agriculture and Markets as follows:

Lateral Restriction - Conditions on Future Service

The Town of Alexander imposes the following conditions, as warranted or recommended on the management of water/sewer lines located along the portions of Halstead Rd., Upton Rd., Richley Rd., Pike Rd., Beaver Rd., Wortendyke Rd., Dodgeson Rd., Hickox Rd., Seward Rd., Day Rd., Walker Rd., Stannard Rd., Sprague Rd., Goodman Rd., Gillate Rd., Broadway Rd. (Route 20), included in Water District No. 6, within an agricultural district:

- (1) The only land and/or structures which will be allowed to connect to the proposed waterline or sewer within an agricultural district will be existing structures at the time of construction, further agricultural structures, and land and structures that have already been approved for development by the local governing body prior to the filing of the Final Notice of Intent by the municipality.

Land and structures that have been approved for development refer to those properties/structures that have been brought before a local governing body where approval (e.g., subdivision, site plan, and special permit) is needed to move forward with project plans and the governing body has approved the action. If no local approval is required for the subdivision of land and/or the construction of structures, the municipality accepts the limitation under Public Health Law §1115 that defines a “subdivision,” in part, as “any tract of land which is divided into five or more parcels.” Water and/or sewer service will not be extended to the fifth and subsequent parcels where no local approval is required and the land is located within a county adopted, State certified agricultural district.

- (2) If a significant hardship can be shown by an existing resident, the lateral restriction to the resident’s property may be removed by the municipality upon approval by the Department. It is the responsibility of the resident landowner to demonstrate that a hardship exists relative to his or her existing water supply or septic system and clearly demonstrate the need for public water or sewer service. The municipality shall develop a hardship application to be filed with the municipality, approved by the County Department of Health, and agreed to by the Department of Agriculture and Markets.
- (3) If it can be demonstrated to the Department’s satisfaction that the landowner requested the county to remove his or her land from an agricultural district at the time of district review and the county legislative body refused to do so, lateral restrictions may be removed by the municipality if the Department determines that the removal of the restriction for the subject parcel(s) would not have an unreasonably adverse effect on the agricultural district.
- (4) If land is removed from a county adopted, State certified agricultural district and the district has been reviewed by the county legislative body and certified by the Commissioner for modification, lateral restrictions imposed by the municipality are no longer in effect for the parcels of land that have been removed from the agricultural district.

Offered by: Councilperson Miller
Second by: Councilperson Wolfley
Ayes: 4
APPROVED by unanimous vote

RES. NO.56 : BUDGET TRANSFER

WHERE AS, the account HSB5132.2 has insufficient funds, and

WHERE AS, HSB5132.2 is a sub category of the H, Capital Projects, with more than sufficient amounts appropriated and underused, and therefore be it

RESOLVED, the HSB5132.2 is increased by \$16,230.00 to \$16,230.00 and H8340.2 be decreased by \$16,230 to \$407,341.05.

Motion was made by Supervisor Higley; Seconded by Councilperson Wolfley.

4- Yes 0- No Absent- Roy Haller III

RES. NO.57 : REAPPOINTMENT OF ASSESSOR

WHERE AS, the term of Assessor Rhonda Saulsbury expires on September 30, 2019, and

WHERE AS, Assessor Saulsbury has requested to be appointed to another term from October 1, 2019 until September 30, 2025, and therefore be it

RESOLVED, the Alexander Town Board Appoints Rhonda Saulsbury to another term from October 1, 2019 until September 30, 2025

Motion was made by Councilperson Miller; Seconded by Councilperson Wolfley.

4- Yes 0- No Absent- Roy Haller III

RES. NO. 58 : APPOINTMENT OF ZONING BOARD OF APPEALS MEMBER

Motion to appoint Scott Wessel by Councilperson Miller; Seconded by Councilperson Wagner.

Effective immediately. 4- Yes 0- No

RES. NO. 59 : Amend August 13, 2018 Town Board Minutes

After Assessor Saulsbury's presentation the board decided to take no action regarding opting out of certain energy systems real property tax exemptions.

Motion to carry made by Supervisor Higley; Seconded by Councilperson Wolfley.
4- Yes 0- No

RES. NO. 60 : APPOINT TOWN CLERK SHANNON TIEDE TO EXTRA DUTY TITLES

Appointment of Town Clerk Shannon Tiede to the following positions: Registrar; Election Custodian; Tax Collector; Planning Clerk; Zoning Clerk effective immediately. Also to make adjustment to pay in these 5 categories.

Motion to carry made by Supervisor Higley; Seconded by Councilperson Miller
4- Yes 0-No

DISCUSSION:

1. Renew ban for storage building.
2. Discussed changes to zoning law. Referred to planning board.
3. Supervisor Higley checking on sexual harassment training.

On motion by Councilperson Miller, seconded by Councilperson Wagner, and carried, to pay the bills on Abstract 8 as follows:

General Fund A	Vouchers	193-227	\$30,831.84
General Fund B	Vouchers	17-19	\$1,710.27
Highway Fund A	Voucher	10-12	\$3,051.86
Highway Fund B	Vouchers	101-117	\$81,489.63
Highway SB	Vouchers	1	\$16,230.00

On motion by Councilperson Miller, seconded by Supervisor Higley, and carried, the meeting adjourned at 10:05 pm.

Respectfully submitted.

Shannon Tiede
Town Clerk