

MINUTES of a Special Meeting of the Village Board of Trustees held Monday, June 12, 2017 at 3:00PM, Village Hall, 111 Elm Street, Room 202, Penn Yan, NY 14527

PRESENT: Mayor L MacKerchar; Trustees; C. Benedict; D. Condella; K. McLoud; D. Reeve; R. Stewart; Attorney Ed Brockman; Clerk/Treasurer G. Meeks; Assistant Director of Public Works B. Jensen

ABSENT: Trustee W. Allison; Director of Public Works B. Bodine; Police Chief M. Hulse CEO B. Lyon; Fire Chief B. LaRock

News Media present: Gwen Chamberlain, Chronicle Express

PUBLIC: None

Mayor MacKerchar called the Special Village Board meeting to order at 3:00 PM

MOTION by Trustee Reeve, seconded by Trustee Benedict to authorize Resolution No 74-2017 Regarding Easement for Water Department Infrastructure Adjacent to New York State Route 14A.

WHEREAS, the Water Department of the Village of Penn Yan has infrastructure located off the west side of NYS Rte. 14A including a reservoir, water main and buried electric line; and

WHEREAS, the water main, buried electric line and access to the site are by means of easements across private property; and

WHEREAS, the easements have been redefined and a proposed easement agreement has been proposed, a copy of which has been previously provided to the Board of Trustees; and

WHEREAS, that easement agreement has been reviewed by the Village Attorney and the DPW Director; and

WHEREAS, DPW Director Bodine recommends approval and execution of that easement agreement; and

WHEREAS, no relocation of infrastructure or driveways is provided for by such easement agreement and accordingly it appears that there will be no environmental impact as a result of this proposed action.

NOW THEREFORE BE IT RESOLVED, THAT

1. The Board of Trustees of the Village of Penn Yan designates itself as “Lead Agency” with respect to his action, determines that there will be no environmental impact as a result of this action, and therefore declares this to be a “Type II” action and accordingly no environmental review will be undertaken.
2. The Board of Trustees approves the Easement Agreement and authorizes and directs the Mayor to execute same, together with any other documents required in conjunction therewith, subject to the approval thereof by the DPW Director and the Village Attorney as to form and content.

Discussion: Mayor MacKerchar explained we were approached by the current homeowners on RT 14A, they are selling and asked to have an updated easement regarding the driveway up to the Benton reservoir. The Village has a water main and underground electric cable that services that area. Benton also has an infrastructure up there. Atty. Brockman mentioned this will be recorded at the Yates County Clerk Office after all parties have signed the easement. Trustee Reeve wanted to clarify there is no sufficient change – no land transfer and no land given away. This is just clarifying easements already in place

ADOPTED Ayes 6 MacKerchar, Benedict, Condella, McLoud, Reeve, Stewart
Nays 0 Abstain 0 Absent Allison

MOTION by Trustee Reeve, seconded by Trustee McLoud to authorize Resolution No 75-2017 Regarding Public Hearing for Potential Annexation Concerning 4.464 Acres Located on NY State Route 14A.

WHEREAS, the Village Clerk, on or about May 30, 2017, received a copy of a Petition seeking annexation by the Village of premises consisting of 4.464 acres on the easterly side of New York State Route 14A in the Town of Milo contiguous to the Village of Penn Yan, being part of Tax Map No. 61.02-1-6, owned by The McFetridge Irrevocable Family Trust; and

WHEREAS, the General Municipal Law (GML) of the State of New York requires the Petition to also be served upon the municipalities in which the property to be annexed is located, ie: the Town Milo, which reportedly has been served ; and

WHEREAS, the GML requires that within twenty (20) days of the completion of such service a public hearing be scheduled for a joint meeting of the boards of the municipalities involved, to wit: the Board of Trustees of the Village of Penn Yan and the Town Board of the Town of Milo; and

WHEREAS, it appears that the scheduling of such public hearing may be necessitated at a special next meeting of the Board of Trustees.

NOW THEREFORE BE IT RESOLVED, THAT

1. For purposes of SEQR issues, the Board of Trustees of the Village of Penn Yan designates itself as “Lead Agency”, declares this potential annexation to be an “unlisted” action and therefore a Short Environmental Assessment Form (SEAF) will be reviewed.

2. The Village Clerk is authorized and directed to schedule a timely joint public hearing with the Town Board of the Town of Milo and provide for the requisite notice thereof upon the availability of the municipal boards at a mutually agreed location and time.

Discussion: Atty. Brockman mentioned on NYS RT 14A adjacent to Horizon Park, the Town of Milo is in the process of going through a subdivision for a Tractor Supply Store. The Village will need a joint meeting between the Village and Milo and looking to have the Village as Lead Agency. Atty. asked the Clerk’s Office to schedule a joint meeting with the 2 Boards.

ADOPTED Ayes 6 MacKerchar, Benedict, Condella, McLoud, Reeve, Stewart
Nays 0 Abstain 0 Absent Allison

MOTION by Trustee Benedict, seconded by Trustee Condella to authorize Resolution No 76-2017 Approval of Revised Amended and Restated Development Agreement and Approval of Transfer of Title of Certain Real Property for Keuka Outlet Development as Provided by Said Agreement.

WHEREAS, previously a proposed Amended and Restated Development Agreement (ARDA) between the County of Yates (County), Keuka Outlet Development LLC (KOD) and the Village of Penn Yan (Village) was reviewed and approved by adoption of Resolution No. 71-2017; and

WHEREAS, a revised proposed ARDA has been presented to the Village; and

WHEREAS, a copy of said revised proposed ARDA has been received and reviewed in full by each Trustee and the Mayor; and

WHEREAS, the revised proposed ARDA proposes a modified deed transfer sequence which would include a quit claim of certain lands to Penn Yan from Yates County and a subsequent quit claim thereof by the Village to KOD; and

WHEREAS, a portion of those lands to be quit claimed were subject to an issue of ownership; and

WHEREAS, those lands subject to the issue of ownership were occupied and used by Penn Yan Marine and its predecessor, Penn Yan Boat Co. under a claim of right and ownership for many years; and

WHEREAS, although the Village of Penn Yan may have held fee title to those certain lands, the Village at no time claimed ownership, nor used, improved or occupied such lands; and

WHEREAS, all the lands subject to the ARDA including those subject to the issue of ownership, have been held and controlled by the County of Yates since having taken title thereto by virtue of tax foreclosure deed on May 27, 1998; and

WHEREAS, any claim of ownership by the Village of Penn Yan to the lands subject to the issue of ownership, would be opposed by claims of ownership by the County of Yates, as successor in interest to Penn Yan Marine and Penn Yan Boat Co.; and

WHEREAS, certain Home Rule legislation was passed and became law on September 25, 2015 at L 2015, ch 335 correcting 1972 legislation and authorizing the conveyance of said lands by the Village of Penn Yan; and

WHEREAS, DPW Director Bodine has reported that there is no need for such lands to be retained by the Village for any municipal purpose; and

WHEREAS, the Village is paying no direct consideration for the transfer of the entire premises to the Village from the County;

WHEREAS, KOD, as part of the 2014 development agreement, undertook the Brownfield remediation of the entire site, which benefited the Village;

WHEREAS, said premises will be a part of the Keuka Outlet Development, not only subject to the Brownfield remediation thereof, which included the subject lands, but also will be included in a housing/recreational development subsequent to such remediation, there being “follow on” monitoring thereof, which will benefit the Village of Penn Yan; and

WHEREAS, the transfer of the entire parcel of land, which will become the KOD project site, from Yates County to the Village of Penn Yan, is upon the legal stipulation that the Village simultaneously transfer said lands to Keuka Outlet Development, LLC pursuant to the Amended and Restated Development Agreement; and

WHEREAS, the purpose of said title “pass through” from the County to the Village to KOD is to gain financial contribution from KOD to the Village for municipal infrastructure improvements in the vicinity of the KOD project, as set forth in the 2014 KOD Agreement, subsequent amendments thereto and the ARDA.

Now Therefore, Be It Resolved That

1. It is determined that the subject premises which were held and occupied by Penn Yan Marine, its predecessor in interest and the County of Yates would serve no municipal purpose and that the anticipated acquisition by KOD of the lands made said premises part of the Brownfield remediation as well as subsequent monitoring thereof and will include same in the KOD housing/recreation development.
2. With respect to the area of questioned ownership, it is determined that any claim of ownership to the premises by the Village is marginal, at best; that asserting any claim of right to said premises would involve expenditures of large sums for legal fees as well as other costs which would exceed any value to the Village, intrinsic or otherwise and therefore no such claim of ownership shall be made. The Village has no municipal use for any of the property to be deeded to KOD.
3. Based upon the totality of the circumstances of this matter, it is determined that the title “pass through” pursuant to the ARDA is not for the acquisition of lands by the Village and the transfer thereof to KOD by the Village is not a sale of real estate.
4. To the extent not modified or amended by subsequent Resolutions, Resolution 20-2015 and Resolution 71-2017, as well as any other relevant resolutions, are hereby ratified and affirmed.
5. The proposed Amended and Restated Development Agreement pertaining to the Keuka Outlet Development is approved and the Mayor is authorized and directed to execute same, subject to approval of the final draft thereof by the Mayor, the Village Attorney, the Village Clerk/Treasurer and the Village DPW Director as to form and content.
6. The Mayor is further authorized and directed to execute such other legal documents including, but not limited to, deeds in the furtherance of the implementation of the Amended and Restated Development Agreement, subject to the approval thereof by the Village Attorney, the Village Clerk/Treasurer and the Village DPW Director as to form and content.
7. The Mayor and the Clerk/Treasurer are authorized and directed to accept delivery of the promissory note(s) and mortgage(s) specified in the Amended and Restated Development Agreement and provide for the recording of same, as appropriate, in the Yates County Clerk’s Office.

Discussion: Mayor MacKerchar mentioned he received a call from Tim Dennis he explained the Yates County Legislators have agreed to sign the agreement and have the closing of the property regarding the Amended and Restated Development Agreement. Mayor MacKerchar asked if any concerns or questions for the Amended and Restated Development Agreement. Mayor thanked everyone on honoring the discussion and not sharing the information of the Executive Sessions. Trustee Benedict questioned the changes. Mayor stated we removed the clause “the Village right to terminate”, we are not making a lot of money nor losing a lot of money, this will benefit everyone. Mayor stated the closing shall be on or before June 15, 2017.

ADOPTED Ayes 6 MacKerchar, Benedict, Condella, McLoud, Reeve, Stewart
Nays 0 Abstain 0 Absent Allison

MOTION by Trustee McLoud, seconded by Trustee Benedict to authorize Resolution No 77-2017 The Submission of an Application to the Empire State Development Corporation for the “Downtown Revitalization Initiative” for the Village of Penn Yan Downtown Restoration Project.

WHEREAS, the Empire State Development Corporation has issued a “Request for Proposals” for the “Downtown Revitalization Initiative” a program designed to encourage economic development and neighborhood growth by providing \$10 million to one community in each region for transformative housing, economic development, transportation and community projects that will attract and retain residents, visitors and businesses; and

WHEREAS, the Village of Penn Yan, through a partnership with the Finger Lakes Economic Development Center, has identified more than \$80 million in potential private development opportunities through public outreach and its draft comprehensive planning procedures as well as that of the community lead Vision 2020 plan, that need local and state financial resources to help push them forward.

NOW, THEREFORE, BE IT RESOLVED, by the Village of Penn Yan Board of Trustees:

1. The Board of Trustees designates itself as “Lead Agency” for SEQRA purposes, it is hereby determined that there will be no adverse environmental impact as a result of this action, the action is thereby declared to be “Type II” and accordingly no environmental review will be undertaken.
2. The Village Mayor is hereby authorized and directed to execute and file an application to the Empire State Development Corporation for the “Downtown Revitalization Initiative” to support the ongoing redevelopment of the Village of Penn Yan.
3. Any acts previously taken by the Mayor with respect hereto are hereby ratified and affirmed.

Discussion: Mayor MacKerchar mentioned last month’s meeting the Board authorized to sign the (DRI) Downtown Revitalization Initiative. He was informed the Board needs to do a Resolution documenting our grant. Mayor explained we went for this grant last year but Geneva was awarded it. We are on the short list this year. IDA will be doing the application for us.

ADOPTED Ayes 6 MacKerchar, Benedict, Condella, McLoud, Reeve, Stewart
Nays 0 Abstain 0 Absent Allison

ADJOURNMENT:

At 3:20 PM, **MOTION** by Trustee Benedict, seconded by Trustee McLoud to adjourn the Special Village Board meeting

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Mary Ann Martin, Deputy Clerk