

Minutes

Wednesday, November 17, 2021

Special meeting of the Village Board of Trustees on Albany Ave Williams Street Water Infrastructure Project

Present: Mayor Leiser

Trustees: David Flaherty  
Dorene Weir  
Michael Abrams  
James Mark Browne

Also present: Code Enforcement Officer Peter Bujanow; Tighe & Bond Engineer Daniel Valentine; David Smith and several resident are via zoom videoconference.

Mayor Leiser opened the Special meeting at 6:00 pm to discuss the Albany Ave Williams Street Water Infrastructure Project. He introduced Daniel Valentine from Tighe & Bond.

Mr. Valentine explained the project consists of replacing the water line on Albany Ave and Williams Street. Tighe & Bond is preparing an engineer report that is required to be submitted with the NYS Water Infrastructure Improvement Act (WIIA Grant). The grant will cover 60% of the project with a 40% match from the village. They would also like the village to apply for low interest loan through the NYS Drinking Water State Revolving Fund. He stated there are three resolutions before the board that will need to be adopted to submit the application for the WIIA Grant. With the village adopting the resolutions it shows the village is committed to the project and borrowing funds needed for the project. The three resolutions are 1. SEQR Determination Resolution, 2. Authorizing Resolution to submit NYS Water Infrastructure Improvements Act and 3. Bonding Resolution. He is working on the Engineer Report and with village Clerk Heeder on the Financing Application to submit the WIIA Grant Application on Monday, November 22, 2021

Trustee Abrams thanked Mr. Valentine for all of his help and stated there are two letters of support to be submitted with the grant one from Congressman Delgado and one from Senator Jordon.

Mr. Valentine reviewed the Total Project Budget with the Village Board that will be submitted with the WIIA Grant. The Total Project Budget shows Contract 1 is William Street for \$382,600; Contract 2 is Albany Ave for \$599,000; Engineering Costs of \$6,500; Design cost of \$185,900; Construction Cost of \$173,000; Local Council of \$5,000; Bond Counsel of \$10,000; SRF Issuance Cost of \$45,100; Contingencies of \$172,500 with a Total project cost of \$1,579,700.

Trustee Abrams read the following resolutions:

**RESOLUTION OF SEQRA TYPE II DETERMINATION FOR WATER DISTRIBUTION SYSTEM IMPROVEMENT PROJECT.**

Resolution by: Trustee James Mark Browne;

Seconded by: Trustee David Flaherty.

**WHEREAS**, 6 NYCRR 617.5 (Title 6 of the New York Code of Rules and Regulations) under the State Environmental Quality Review Act (SEQRA) provides that certain actions identified in subdivision (c) of that section

are not subject to environmental review under the New York Environmental Conservation Law, and

**WHEREAS**, the Village of Kinderhook needs to repair and replace water mains and lines servicing the Village on William Street and Albany Avenue to continue to provide water services to Village properties.

**NOW THEREFORE BE IT HEREBY RESOLVED** that the Board of Trustees of the Village of Kinderhook hereby determines that the proposed water distribution improvement project identified in the Albany Ave. and Williams St. Watermain Engineering Report of T&B Engineering & Landscape Architecture, P.C. for William Street and Albany Avenue dated November 2021 is a Type II action in accordance with 6 NYCRR Section 617.5(c) (1) the maintenance or repair involving no substantial changes in an existing structure or facility; (2) the replacement, rehabilitation or reconstruction of a structure or facility, in kind, on the same site, including upgrading buildings to meet building, energy, or fire codes unless such action meets or exceeds any of the thresholds in section 617.4 of this Part; and (6) street openings and right-of-way openings for the purpose of repair or maintenance of existing utility facilities;

Upon question of the foregoing Resolution, the following Board members voted "Aye" in favor of the Resolution:

Mayor Dale Leiser;  
Trustee David Flaherty;  
Trustee Dorene Weir;  
Trustee Michael Abrams; and  
Trustee James Mark Browne.

The following Board members voted "No" in opposition thereto:  
\_\_\_\_\_; and  
\_\_\_\_\_.

The Resolution having been approved by a majority of the Village Board, the same was declared duly adopted by the Mayor of the Village of Kinderhook.

**RESOLUTION AUTHORIZING SUBMISSION OF FUNDING APPLICATIONS FOR WATER DISTRIBUTION SYSTEM IMPROVEMENT PROJECT.**

Resolution by: Trustee James Mark Browne;  
Seconded by: Trustee Dorene Weir.

**WHEREAS**, T&B Engineering and Landscape Architecture, P.C. ("T&B") prepared an Albany Ave. and Williams St. Watermain Engineering Report dated November 2021 ("Engineering Study") to evaluate the Village of Kinderhook's ("Village") existing water distribution system for William Street and Albany Avenue and consider options for meeting requirements for a safe and reliable water system in the Village; and

**WHEREAS**, upon review of the Engineering Study, the Board of Trustees of the Village has determined that it is necessary and in the best interests of the Village to undertake certain water system improvements including rehabilitation and replacement of the water distribution lines on William Street and Albany Avenue and related water system improvements with an estimated maximum cost of **\$1,600,000.00** ("Water System Improvements"); and

**WHEREAS**, the Board of Trustees of the Village now desires to seek available grant funding to assist in offsetting the costs of such Water System Improvements; and

**WHEREAS**, the aforesaid project constitutes a Type II action as defined under the State Environmental Quality Review Regulations, 6 NYCRR Section 617 (Title 6 of the New York Code of Rules and Regulations) and therefore is not subject to environmental review.

**NOW, THEREFORE BE IT RESOLVED** by the Board of Trustees of the Village of Kinderhook, as follows:

1. The Board of Trustees of the Village hereby authorizes the Mayor or, in his absence or unavailability, the Deputy Mayor, to execute and submit one or more applications for financial assistance in the form of grants or loans or both for the Water System Improvements, including without limitation applications to State of New York and its agencies and to the New York State Environmental Facilities Corporation, and including without limitation an application for grant funding under the NYS Water Infrastructure Improvement Act (WIIA); NYS Drinking Water State Revolving Fund; and
2. This resolution shall take effect immediately.

Upon question of the foregoing Resolution, the following Board members voted "Aye" in favor of the Resolution:

Mayor Dale Leiser;  
Trustee David Flaherty;  
Trustee Dorene Weir;  
Trustee Michael Abrams; and  
Trustee James Mark Browne.

The following Board members voted "No" in opposition  
thereto:  
\_\_\_\_\_; and  
\_\_\_\_\_.

The Resolution having been approved by a majority of the Village Board, the same was  
declared duly adopted by the Mayor of the Village of Kinderhook.

**Legal Notice of Estoppel**

**BOND RESOLUTION OF THE VILLAGE OF KINDERHOOK,  
NEW YORK (THE "VILLAGE"), DATED NOVEMBER 17, 2021,  
AUTHORIZING IMPROVEMENTS TO THE WATER SYSTEM  
IN THE VILLAGE; ESTIMATING THE AGGREGATE COST  
THEREOF TO BE \$1,600,000.00; APPROPRIATING SAID  
AMOUNT THEREFOR AND AUTHORIZING THE ISSUANCE  
OF \$1,600,000.00 BONDS OF THE VILLAGE TO FINANCE  
SAID COST**

Resolution by Trustee David Flaherty      Seconded by Trustee Dorene Weir

**WHEREAS**, the Village of Kinderhook (the "Village") owns and operates a municipal  
water system within the boundaries of the Village which serves approximately 1,100 residents  
including various businesses and numerous residences; and

**WHEREAS**, the Village has determined that it is necessary to replace approximately 2,700  
lineal feet of water main pipes, water service lines and related water system improvements on  
Williams Street and Albany Avenue within the Village (collectively, the "Project");

**WHEREAS**, T&B Engineering and Landscape Architecture, PC, a reputed engineering  
firm retained by the Village (the "Engineer") has prepared an Albany Avenue and Williams Street  
Watermain Engineering Report (the "Engineer's Report"), dated November 2021, which cites a  
HVEA Engineers Estimate, and advised the Village Board of Trustees that the cost of the Project  
will be approximately One Million Six Hundred thousand Dollars (\$1,600,000.00); and

**WHEREAS**, the Village plans to apply to the New York State Environmental Facilities Corporation (“EFC”) for a grant to pay a portion of the cost of the Project; and

**WHEREAS**, the Village desires to issue bonds in an amount up to One Million Six Hundred thousand Dollars (\$1,600,000.00) to finance the initial cost of the Project as determined by the Engineer; and

**NOW, THEREFORE, IT IS HEREBY RESOLVED**, by the Board of Trustees of the Village of Kinderhook, New York, (by a favorable vote of not less than two-thirds of all of its members), as follows:

**SECTION 1**

Pursuant to Sections 31.00 and 32.00 of the Local Finance Law, constituting Chapter 33-A of the Consolidated Laws of the State of New York (the “Law”), the Village hereby authorizes financing of the Project. The maximum aggregate cost of the above Project, based upon the Engineer’s report, dated November 2021, is hereby estimated to be \$1,600,000.00, which shall initially be paid from the issuance of \$1,600,000.00 bonds to finance such costs.

**SECTION 2**

It is determined that the period of probable usefulness of the aforesaid Project is forty (40) years pursuant to Section 11.00(a)(1) of the Law;

**SECTION 3**

The plan of financing includes the issuance of \$1,600,000.00 serial bonds or a statutory installment bond, the potential reimbursement of up to sixty percent (60%) of said amount through a grant from EFC, payment by Village users of water charges (the “Charges”) and, to the extent of any shortfall from the Charges, the levy of a tax upon all of the real property in the Village to pay the principal of an interest on said bonds as the same shall become due and owing.

**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 to be expended pursuant to Section 165.10 of the Local Finance Law for the Project described in Section 1 of this resolution. If such temporary funds are used for any expenditure authorized in this resolution, the Village intends to reimburse such funds with the proceeds of the tax-exempt borrowing authorized and identified pursuant to Section 1 above.

**SECTION 5**

The proposed average maturity date of the bonds authorized pursuant to this resolution is expected to exceed five (5) years.

**SECTION 6**

The bonds issued to finance the cost of the Project described in Section 1 above shall

mature no later than the date of the expiration of the period of probable usefulness for each such object or purpose.

## **SECTION 7**

The Village hereby covenants and agrees with the holders from time to time of the Village issued pursuant to this resolution, and any bond anticipation notes of the Village issued in anticipation of the sale of said bonds, that the Village will duly and faithfully observe and comply with all provisions of the United States Internal Revenue Code of 1986, as amended (the “Code”), and any proposed or final regulations of the Internal Revenue Service issued pursuant thereto (the “Regulations”) unless, in the opinion of Bond Counsel to the Village, such compliance is not required by the Code and Regulations to maintain the exemption of interest on said obligations from Federal income taxation.

## **SECTION 8**

Pursuant to the regulations of the New York State Department of Environmental Conservation, the Village has identified the Project as a “Type 2” action under the State Environmental Quality Review Act (“SEQRA”), and no further “action” as the same is referred to in Article 9 of SEQRA and SEQRA regulations, needs to be taken prior to issuance of the Bonds. Additionally, the Project the Environmental Protection Agency has assigned “Categorical Exclusion Status” under the National Environmental Policy Act to the Project requiring no further action thereunder.

## **SECTION 9**

Each of the 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 bonds and any 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 without legal or constitutional limitation as to rate or amount. The faith and credit of the Village are hereby irrevocably pledged to the punctual payment of the principal of and interest on said bonds and any bond anticipation notes issued in anticipation of said bonds and provision shall be made annually in the budget of the Village by appropriation for (a) the amortization and redemption of the bonds and notes to mature in such year, and (b) the payment of interest to be due and payable in such year.

## **SECTION 10**

Subject to the provisions of this Bond Resolution and 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 Section 50.00 and Section 60.00 of the Law, the powers and duties of the Board of Trustees relative to authorizing bonds and bond anticipation notes and prescribing the terms, form and content as to 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 Treasurer of the Village, the chief fiscal officer of the Village. Pursuant to the provisions of paragraph a of Section 56.00 of the Local Finance Law, the power to determine whether to issue bonds and bond anticipation notes having substantially level or declining annual debt service, as provided in paragraph d of Section 21.00 of the Local Finance Law, is hereby delegated to the Treasurer of the Village, as the chief fiscal officer of said Village.

In addition to the delegation of powers described above, the powers and duties of advertising such bonds for sale, conducting the sale and awarding the bonds, are hereby delegated to the Village Treasurer, who shall advertise such bonds for sale, conduct the sale and award the bonds in such manner as she shall deem best for the interests of the Village; provided, however, that in the exercise of these delegated powers, she shall comply fully with the provisions of the Local Finance Law and any other order or rule of the State Comptroller applicable to the sale of municipal bonds.

#### **SECTION 11**

All costs and expenses in connection with the acquisition and development of the objects and purposes set forth in Section 1 above, and the financing thereof by the sale of bonds, including but not limited to, the fees and expenses of bond counsel, financial advisors, counsel for the Village and other professionals, shall be paid to the extent permitted by law from the proceeds of the sale of such bonds.

#### **SECTION 12**

The validity of the bonds authorized by this bond resolution and of any notes issued in anticipation of said bonds may be contested only if:

- (a) Such obligations are authorized for any 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 13**

This resolution shall be published in full in the designated official newspapers of the Village for such purpose, together with a notice of the Clerk of the Board of Trustees in substantially the form provided in Section 81.00 of the Law.

#### **SECTION 14**

This Resolution shall constitute the declaration of the Village's "official intent" to reimburse expenditures related to the additional costs of the Project authorized by Section 1 with proceeds of the bonds and notes, as required by the United States Treasury Regulation Section 1.150-2.

#### **SECTION 15**

The Project constitutes a capital improvement or equipment, part of the cost of which is chargeable primarily to benefited real property and, therefore, pursuant to paragraph b(2) of Section 36 of the Local Finance Law and Article 9 of the Village Law, this Resolution is not subject to a permissive referendum.

## **SECTION 16**

This resolution shall take effect immediately.

### **Continued discussion on alternates for Zoning Board of Appeals, Planning Board, Historic Preservation Commission and Recreation Commission**

Trustee Browne tabled the alternate discussion at the November 10<sup>th</sup> Village Board meeting as he thought it was important to have the entire board present. He stated at the last meeting it was determined to change the text from the code changing the shells to may to appoint alternates as needed. The Zoning Board of Appeals does not want an alternate at this time. If there is a vacancy you do not have to appoint the alternate. The alternate will need to be silent as an alternate and as a resident and will need to be ready to be elevated if the board so chooses at the time. Trustee Weir requested he change the word Committee to Commission for the Recreation Commission. A motion made by Trustee Browne to hold a public hearing on December 8, 2021 at 6:30pm; seconded by Trustee Weir. All voted "aye".

### **Discussion on a proposed gifted piano**

Village resident David Smith informed the Village Board he is in contact with a benefactor who would like to remain anonymous and who would like to gift the village a concert-quality Steinway grand piano. He stated the piano is an exceptional instrument, both in terms of its financial value and its musical benefit to the village.

He has projected immediate and ongoing expenses relating to the proposed Steinway piano. Immediate expenses are: Attorney fees for drafting an agreement, Insurance coverage, moving of the instrument; two initial stabilizing tunings; quilted, lockable cover and caster cups. The annual recurring expenses are: Seasonal tunings and insurance. He stated rental of the piano to those qualified and approved to use the instrument will offset the expenses. Mr. Smith was asked who determines who is allowed to use the piano. Mr. Smith responded he would have a committee that he would lead to determine who would qualify to rent the piano. He also has suggestions regarding establishment of the Village's policies regarding maintenance and use of the instrument.

The Village Board discussed if the village legally can accept the donation. There is an Article 51 publication on Charitable Contributions that outlines what the village is allowed to accept. In order for the village to accept a donation it is to be used for public purposes. The board questions how do they accept a donation of the piano but not allow the residents to use it. Several other comments from the Village Board were: all residents should be allowed to use the piano with proper supervision; what if a music teacher wanted to give lessons, or a family wanting to get together to play and sing; the piano would take a large physical footprint of the Van Buren Hall. It was determined the Village Board would discuss the donation with the Village Attorney before and decisions were made.

### **Executive Session**

A motion made by Mayor Leiser to end the Special meeting and enter into executive session at 7:09 pm concerning personnel and inviting Code Enforcement Officer Peter Bujanow to attend; seconded by Trustee Flaherty. All voted "aye".

Mr. Bujanow departed the meeting at 7:34pm. No motions were made.

A motion made by Mayor Leiser to adjourn executive session at 7:54 pm; seconded by Trustee

Abrams. All voted "aye".

Respectfully submitted,

Nicole H. Heeder  
Village Clerk