

**TOWN OF NORTH HARMONY
TOWN BOARD MEETING
SEQRA HEARING & BOND RESOLUTION FOR NEW HIGHWAY BUILDING
THURSDAY 9/15/2011 9:00 AM**

SALLY P. CARLSON, SUPERVISOR	PRESENT
RALPH WHITNEY, COUNCILMAN	PRESENT
FRANK STOW, COUNCILMAN	PRESENT
DICK SENA, COUNCILMAN	PRESENT
DUNCAN MCNEILL, COUNCILMAN	PRESENT

OTHERS PRESENT: Dave Stapleton, Attorney; Robert Yates, Nancy Thomas, Town Clerk

• **SEORA HEARING – NEW HIGHWAY BUILDING PROJECT**

Mrs. Carlson opened the meeting at 9:36 AM. She said the purpose of the meeting was to discuss the Short EAF for the new highway building.

Mr. Stapleton asked the Clerk if notice had been given to the Post Journal of the meeting.

Mrs. Thomas said yes.

Mr. Stapleton said the hearing is on the Short form EAF by the applicant for a new action at 3539 Rt. 394.

Part I – Project Information

Mr. Stapleton reviewed Part 1 of the Short EAF in its entirety. Corrections to be made:

- 6. Describe Project Briefly: *Dimensions of building changed from 60x40' to 60x120'*
- 6. Describe Project Briefly: *Schedule A. corrected spelling of heating*

Part II – Impact Assessment

Mr. Stapleton reviewed Part II of the Short EAF in its entirety. Addition to be made:

- C. C1. *Minor traffic changes during construction.*

Part III – Determination of Significance

MOTION #133 OF 2011

ON A MOTION MADE BY MR MCNEILL AND SECONDED BY MR. WHITNEY THE FOLLOWING NEGATIVE DECLARATION OF IMPACT RESOLUTION ON THE CONSTRUCTION OF A HIGHWAY BUILDING AT 3539 RT. 394, WAS ADOPTED UNANIMOUSLY.

TOWN OF NORTH HARMONY TOWN BOARD

Resolution Issuing Negative Declaration for Highway Building at 3539 Route 394, Stow,
NY

WHEREAS, the Town Board is considering construction of a new highway building at 3539 Route 394, Stow, New York; and

WHEREAS, the Town Board has duly considered the plans for the building, the Short Environmental Assessment Form, the criteria for determining significance set forth in 6 N.Y.C.R.R. § 617.7(c) of the State Environmental Quality Review Act ("SEQRA") regulations, and such other information deemed appropriate; and

TOWN BOARD

9/15/11 (Pg. 2)

WHEREAS, the Town Board has identified the relevant areas of environmental concern, has taken a hard look at these areas, and has made a reasoned elaboration of the basis for its determination; and

WHEREAS, the proposed action has been labeled an "Unlisted" action under SEQRA.

NOW, THEREFORE, BE IT RESOLVED by the Town Board of the Town of North Harmony that:

1. The proposed construction of a highway building will not result in any large and important impacts and, therefore, it is an action which will not have a significant adverse impact on the environment, and therefore the Board issues a negative declaration of environmental significance, issued and adopted for the reasons stated on the attached Short Environmental Assessment Form.

3. This resolution is effective immediately.

PASSED AND ADOPTED this 15th day of September, 2011 by the Town Board of the Town of North Harmony.

• **BOND RESOLUTION FOR NEW HIGHWAY BUILDING**

Mr. Stapleton said the second purpose of the meeting is to address the cost of construction for the building and the timing of payment of various bills that may come in during construction. He said with the winter weather coming soon there may be problems of constructing leach fields, etc. that may be timing sensitive and the town may need to have some flexibility during the project. He said there is a resolution before the board today designed to authorize the Supervisor to borrow any and all monies on a short term basis up to the amount of the contracts with Building Innovations Group, Inc. in the amount \$447,369.20, plus additional engineering and other soft costs (engineering, attorney fees, etc.) up to a maximum amount of \$510,000.00. Mr. Stapleton said in consulting with the bond attorneys, Hodgson Russ, they indicated it is a good idea to indicate that the funds will be borrowed short term, if in fact monies need to be borrowed, (less than 5 year BAN) and paid back in a shorter period than required by local finance law.

Mr. Stapleton indicated that Local Finance Law does require that the town identify the type of project involved (Class B Building whose probable usefulness is stated at 25 years). Mr. Stapleton read the Bond Resolution into the record.

MOTION #134 OF 2011

* * *

The following resolution was offered by RALPH WHITNEY and seconded by

DUNCAN MCNEILL, to wit;

A BOND RESOLUTION, DATED SEPTEMBER 15, 2011, OF THE TOWN BOARD OF THE TOWN OF NORTH HARMONY, CHAUTAUQUA COUNTY, NEW YORK (THE "TOWN"), AUTHORIZING THE CONSTRUCTION OF A TOWN HIGHWAY BUILDING LOCATED AT 3539 ROUTE 394, STOW, NEW YORK, AT AN ESTIMATED MAXIMUM COST OF \$510,000 AND AUTHORIZING THE ISSUANCE OF

TOWN BOARD

9/15/11 (Pg. 3)

SERIAL BONDS IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$510,000 OF THE TOWN, PURSUANT TO THE LOCAL FINANCE LAW TO FINANCE SAID PURPOSE, SAID AMOUNT TO BE OFFSET

AND REDUCED BY ANY FEDERAL, STATE OR COUNTY FUNDS RECEIVED AND APPLIED TOWARD SUCH PROJECT AND/OR AVAILABLE TOWN FUNDS SUBSEQUENTLY DIRECTED (BY TOWN BOARD ACTION) TO BE APPLIED TOWARD SUCH PROJECT, 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 North Harmony, in the County of Chautauqua, New York (the "Town") desires to undertake an improvements project consisting of the construction of a highway building for use by the Town, including all preliminary work and necessary equipment, materials and related site work and any preliminary costs and costs incidental thereto (the "Project").

NOW THEREFORE,

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

SECTION 1. The specific purpose (hereinafter referred to as "Purpose") to be financed pursuant to this resolution is the construction of a Town highway building located at 3539 Route 394, Stow, New York, and other improvements in connection therewith, including all preliminary work and necessary equipment, materials and related site work and any preliminary costs and costs incidental thereto (the "Purpose"). The estimated maximum cost of the Purpose is \$510,000.

SECTION 2. The Town Board plans to finance the estimated maximum cost of the Purpose by the issuance of serial bonds in an amount not to exceed \$510,000 of the Town, hereby authorized to be issued therefor pursuant to the Local Finance Law, offset and reduced by any federal, state or county funds received and applied toward such project and/or available Town funds subsequently directed (by Town Board action) to be applied toward such project. Unless paid from other sources, 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 3. It is hereby determined that the Purpose is an object or purpose described in subdivision 11 (b) of Section 11.00 of the Local Finance Law, and that the period of probable usefulness of the Purpose is 25 years; however, the bonds issued pursuant to this resolution, and any bond anticipation notes issued in anticipation of the sale of said bonds, shall mature no later than five years from the date of original issuance of such bonds or notes.

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 not 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 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, 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.

TOWN BOARD
9/15/11 (Pg. 4)

SECTION 7. Subject to the provisions of this resolution and of the Local Finance Law, pursuant to the provisions of Section 30.00 relative to the authorization of the issuance of bond anticipation notes or the renewals of such notes and of Section 21.00, Section 50.00, Sections 56.00 to 60.00, Section 62.00 and Section 63.00 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 such bonds, and the renewals of such notes, are hereby delegated to the Town Supervisor, the chief fiscal officer 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 date hereof) 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 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 to 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)(B)(i) 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 in every respect with all 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 the State Environmental Quality Review Act is necessary.

SECTION 12. The validity of said serial bonds or of any bond anticipation notes issued in anticipation of the sale of said serial bonds may be contested only if:

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

(b) if the provisions of the law which should be complied with at the date of publication of this notice were 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

2. such obligations were authorized in violation of the provisions of the Constitution of New York.

SECTION 13. 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 n

TOWN BOARD
9/15/11 (Pg. 5)

newspaper having a general circulation in the Town and designated as the official newspaper of the Town for such publication.

SECTION 14. 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: DUNCAN MCNEILL, COUNCILMAN
 RALPH WHITNEY, COUNCILMAN
 SALLY P. CARLSON, SUPERVISOR
 FRANK STOW, COUNCILMAN
 RICHARD SENA, COUNCILMAN

NOES: 0

ABSENT: 0

The foregoing resolution was thereupon declared duly adopted.

MOTION #135 OF 2011

**ON A MOTION MADE BY MR STOW AND SECONDED BY MR. WHITNEY, THE HEARING
WAS ADJOURNED AT 10:27 AM. THE MOTION WAS CARRIED UNANIMOUSLY.**

Nancy M. Thomas
Town Clerk