

Town of Malone
Regular Board Meeting
10/09/2013

A regular meeting of the Malone Town Board was held Wednesday, October 9th 2013, at the Malone Town Offices, 27 Airport Rd., Malone, NY, commencing at 6:00pm.

PRESENT: Supervisor Howard Maneely
Deputy Supervisor Paul Walbridge
Councilor John Sullivan
Councilor Mary Scharf

ABSENT: Councilor Louise Taylor

ALSO PRESENT: Susan Hafter, Town Clerk
Andrea Stewart, Budget Officer
Lillian-Anderson Duffy, Town Attorney

Kevin Hickey, C2AE Tim Burley, C2AE Arianna MacNeill, Malone Telegram

CALL TO ORDER: Supervisor Maneely called the meeting to order at 6:00pm, with a pledge to the flag.

PRESENTATION: Kevin Hickey, of C2AE addressed the Board in regard to the West Side Sewer Upgrade project. He presented an amended Bond Resolution, Notice of Award, Change Order and Notice to Proceed for Board consideration and approval. Tim Burley said a Bond Anticipation Note (BAN) will be necessary to ensure the contractor is paid on time, prior to the release of grant monies.

Bond Amendment -

Motion – Deputy Supervisor Walbridge

Second – Councilor Sullivan

Resolution # 196-2013

AMENDED BOND RESOLUTION DATED OCTOBER 10/09/2013 AUTHORIZING THE ISSUANCE OF SERIAL BONDS AND NOTES IN ANTICIPATION OF THE ISSUANCE THEREOF AND/OR STATUTORY INSTALLMENT BONDS AND NOTES IN ANTICIPATION OF THE ISSUANCE THEREOF, OF THE TOWN OF MALONE, NEW YORK, IN THE COUNTY OF FRANKLIN, PURSUANT TO THE PROVISIONS OF THE LOCAL FINANCE LAW OF THE STATE OF NEW YORK AND PURSUANT TO APPLICABLE PROVISIONS OF THE TOWN LAW OF THE STATE OF NEW YORK IN AN AMOUNT NOT TO EXCEED \$396,000.00 FOR THE PURPOSE OF PAYING THE COSTS OF IMPROVEMENTS TO THE TOWN OF MALONE'S ROUTE 11 WEST SEWER DISTRICT 2, THE TOTAL COST OF WHICH IS NOT TO EXCEED THE SUM OF \$396,000.00.

WHEREAS, the Town Board of the Town of Malone, County of Franklin,

New York, has heretofore at this meeting adopted a resolution authorizing the issuance of obligations of the Town of Malone, New York, in the County of Franklin, in the amended sum of \$396,000.00 for the purpose of paying the costs associated with improvements to the Route 11 West Sewer District 2 (the "District") in the Town of Malone, the total cost of which is not to exceed the sum of \$396,000.00.

WHEREAS, no other outstanding obligations of the Town of Malone, New York have been previously issued by the Township for or with respect to such purpose; and

WHEREAS, the Town Board of the Town of Malone, New York, now desires to provide for the issuance of obligations of the Town of Malone, New York, and it now desires to provide for other matters with respect to such District;

BE IT, THIS __ day of October, 2013

RESOLVED, by the Town Board of the Town of Malone, County of Franklin, New York, as follows:

Section 1. The Town of Malone, in the County of Franklin, New York, shall issue its serial bonds or statutory installment bonds of the aggregate principal amount not to exceed the sum of \$396,000.00, and notes in the anticipation of the issuance thereof, pursuant to the Local Finance Law of the State of New York including but

Town of Malone
Regular Board Meeting
10/09/2013

not limited to Section 169.00 of such Local Finance Law, in order to finance the specific purpose hereinafter described.

Section 2. The specific purpose to be financed pursuant to this resolution is to pay the construction costs of improvements to the District in the Town of Malone the total cost of which is not to exceed the sum of \$396,000.00, pursuant to the Plans prepared by Capital Consultants Architecture and Engineering, Timothy Burley, P.E., dated January 2013, and as amended in August 2013.

Section 3. The maximum estimated cost of such purpose as estimated by the Town Board is \$396,00.00 and the plan of financing thereof is by the issuance of a maximum of \$396,000.00 in serial bonds, statutory installments bonds, and/or bond anticipation notes issued in anticipation of such serial bonds and statutory installments bonds, a \$70,200.00 grant from the North Country Regional Economic Development Council, and from any other grants or financial assistance obtained from the New York State Environmental Facilities Corporation and/or from any municipal contributions from the Town of Malone. Pursuant to Section 107.00(d)(3) of the Local Finance Law of the State of New York, current funds are not required to be provided prior to the issuance of any serial bonds, statutory installment bonds or bond anticipation notes issued in anticipation of such bonds.

Section 4. It is hereby determined that said purpose is an object or purpose described in Section 11.00 of the Local Finance Law of the State of New York and that the probable useful life of said purpose is thirty (30) years. The final redemption date of said bond to be issued will not extend beyond thirty (30) years from the date of their initial issuance. It is hereby further determined that the maximum maturity of the bonds herein authorized will exceed five years.

Section 5. Subject to the terms and conditions of this resolution, and the Local Finance Law of the State of New York, the power to authorize Bond Anticipation Notes in anticipation of the issuance of the Serial Bonds or Statutory Installment Bonds authorized by this resolution and the renewal of said notes and the power to prescribe the terms, form and contents of such Serial Bonds or Statutory Installment Bonds and of such Bond Anticipation Notes and the power to sell and to deliver such Serial Bonds or Statutory Installment Bonds and Bond Anticipation Notes issued in anticipation of the issuance of such Serial bonds or Statutory Installment Bonds and the power to sell and deliver bonds providing for substantially level or declining annual debt service is hereby delegated to the Town Supervisor as the Chief Fiscal Officer of the Town of Malone, County of Franklin and State of New York. The Chief Fiscal officer of the Town of Malone is hereby authorized to sign any Serial Bonds or Statutory Installment Bonds issued pursuant to this resolution and any Bond Anticipation Notes and renewals' thereof including but not limited to those set forth in Section 169.00 of the Local Finance Law issued in anticipation of the issuance of said Serial Bonds or Statutory Installment Bonds, and the Town Clerk is hereby authorized to affix the corporate seal of the Town of Malone, New York, to any Serial Bonds or Statutory Installment Bonds and any Bond Anticipation Note and to attest such seal.

Section 6. The Town Supervisor is hereby further authorized, at his sole discretion, to execute a project finance agreement and any other agreements with the New York State Environmental Facilities Corporation, including amendments thereto and including any instruments (or amendments thereto) in the effectuation thereof, in

Town of Malone
Regular Board Meeting
10/09/2013

order to effect the financing or refinancing of the specific purpose described in Section 2 hereof, or a portion thereof, by a serial bond, a statutory installment bond and/or a bond anticipation note issue in the event of the sale of same to the New York State Environmental Facilities Corporation.

Section 7. The faith and credit of the Town of Malone, New York, is hereby irrevocably pledged for the payment of the principal of and interest on such Serial Bonds or Statutory Installment Bonds and any Bond Anticipation Notes and renewals thereof issued in anticipation of the issuance of such bonds as the same shall respectively become due and payable. There shall be annually apportioned and assessed upon real property located within the District in the Town of Malone an amount sufficient to pay the principal and interest on such obligations as the same may be due but, if not paid from such source, all of the taxable real property in said Town of Malone shall be subject to the levy of ad valorem taxes without limitation as to rate or amounts sufficient to pay the principal and interest on such obligations as the same shall become due.

Section 8. This resolution or a summary hereof shall be published by the Town Clerk of the Town of Malone, County of Franklin, together with a notice in substantially the form prescribed in Section 81.00 of the Local Finance Law of the State of New York. The validity of the Serial Bonds or Statutory Installment Bonds and of any Bond Anticipation Notes and renewals thereof issued in anticipation of the issuance of such Serial Bonds or such Statutory Installment Bonds issued hereunder may be contested only if:

- A. Such obligation is authorized for an object or purpose for which said Town is not authorized to expend money, or
- B. If the provisions of law which should have been complied with as of the date of publication of such resolution 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
- C. Such obligation is authorized in violation of the provisions of the Constitution.

Section 9. This resolution is not subject to referendum pursuant to Section 35.00 of the Local Finance Law of the State of New York and Article 7 of the Town Law of the State of New York.

**CARRIED (4 - 0) – Supervisor Maneely - Aye Deputy Supervisor Walbridge –Aye
Councilor Sullivan - Aye Councilor Taylor - Absent Councilor Scharf - Aye**

**Notice to Proceed-
Motion – Deputy Supervisor Walbridge
Second – Councilor Sullivan**

Resolution # 197-2013

Resolved: that the Malone Town Board does hereby issue a Notice to Proceed, to T.J. Fiacco Construction, Inc. for the Town of Malone Sewer District #2, Contract no.1; providing proof of adequate insurance and bonding are provided; and

Further Resolved: that the Town Board authorizes Supervisor Maneely to sign the agreement and Notice to Proceed with T.J. Fiacco Construction, Inc., upon receipt of the required documents.

**CARRIED (4 - 0) – Supervisor Maneely - Aye Deputy Supervisor Walbridge – Aye
Councilor Sullivan - Aye Councilor Taylor - Absent Councilor Scharf - Aye**

MINUTES & REPORTS:

Motion – Councilor Scharf

Second – Councilor Sullivan

Resolved (#198- 2013): to accept the minutes of the regular meeting of 9.25.2013 as presented and place on file.

CARRIED (4 - 0) – Supervisor Maneely - Aye Deputy Supervisor Walbridge – Aye Councilor Sullivan - Aye Councilor Taylor - Absent Councilor Scharf - Aye

Motion – Deputy Supervisor Walbridge

Second – Councilor Scharf

Resolved (# 199-2013): to accept the following reports as presented and place on file:
Supervisor – 9.2013 Town Clerk/Registrar – 9.2013

CARRIED (4 - 0) – Supervisor Maneely - Aye Deputy Supervisor Walbridge – Aye Councilor Sullivan - Aye Councilor Taylor - Absent Councilor Scharf - Aye

SUPERVISOR REPORTS:

Local Law #3-2013 –

Motion – Deputy Supervisor Walbridge

Second – Councilor Scharf

Resolved (# 200-2013): that the Malone Town Board will conduct a Public Hearing, At 5:30pm, Wednesday, October 23rd 2013 for the purpose of gathering public comment on proposed Local Law #3-2013, which would provide for override of the NYS mandated Tax Levy Increase Limit of 1.66%

CARRIED (4 - 0) – Supervisor Maneely - Aye Deputy Supervisor Walbridge – Aye Councilor Sullivan - Aye Councilor Taylor - Absent Councilor Scharf - Aye

MCF/EMS –

Motion – Deputy Supervisor Walbridge

Second – Councilor Sullivan

Resolved (# 201-2013): that the Town Board authorizes Supervisor Maneely to sign the medical evaluations for Callfiremen Thomas Sawyer, Barry Stickle and Alan Durant.

CARRIED (4 - 0) – Supervisor Maneely - Aye Deputy Supervisor Walbridge – Aye Councilor Sullivan - Aye Councilor Taylor - Absent Councilor Scharf - Aye

Salmon River Inspection – Supervisor Maneely reported on the annual inspection of the Salmon River in Malone as conducted by the United State Army Corp of Engineers on 9/26/2013. They said there were no major changes from last year. The Supervisor noted that the written report from last year has just arrived. Consulting firm, Friends of the North Country will be assisting with the buy-out and mitigation process on Lower Park Street.

Justice Court Audit – the Town Board will be conducting an annual in-house audit of Justice Court operations.

YMCA Invitation – the YMCA has invited Board members and other community leaders to a luncheon to be held at noon, Wednesday, 10/23/2013 at the Malone Golf Club, for the purpose of discussing community vision.

SUPERINTENDENT OF HIGHWAYS REPORT:

Superintendent of Highways Shanty was not present to report. One of the dump trucks has broken down and need hydraulic repair.

BOARD MEMBER/COMMITTEE REPORTS:

Councilor Scharf – reported about solar initiatives, clarifying the difference between the two approaches: the smaller proposal is limited to under 2 gigs production and is at no cost to the Town; the other proposal is a comprehensive study of alternative energy and would require a grant application to cover the costs.

Deputy Supervisor Walbridge – commented on a Habitat for Humanity project being done on Willow Street in the Village of Malone, which entails rehabilitating a long abandoned home. He suggested that the Town should look into the possibility of having a similar project or projects.

EXECUTIVE SESSION:

At 6:25pm - Motion – Supervisor Maneely

Second – Deputy Supervisor Walbridge

Resolved (#202 - 2013): that the Town Board enter into Executive Session pertaining ongoing litigation, with all Board Members, Town Attorney, Budget Officer and Clerk to be in attendance.

**CARRIED (4 - 0) – Supervisor Maneely - Aye Deputy Supervisor Walbridge – Aye
Councilor Sullivan - Aye Councilor Taylor - Absent Councilor Scharf - Aye**

At 7:20 pm, the executive session ended and the regular meeting resumed with no action taken.

Malone Town Houses, Inc. vs. the Town of Malone -

Motion – Deputy Supervisor Walbridge

Second – Councilor Scharf

Resolution # 203-2013

*Relating to the legal defense of
Malone Town Houses, Inc. vs. the Town of Malone*

Resolved: that the Town Board authorizes Town Attorney Anderson-Duffy to initiate a partnership with the legal representatives for Malone Central School District, the Village of Malone and Franklin County to prepare a collaborative defense against Malone Townhouses, Inc. in this action, and

Further Resolved: that the Town Board will seek outside counsel to lead the Town's defense in the action, Malone Town Houses, Inc. vs. the Town of Malone; and

Further Resolved: that the Town Board authorizes Supervisor Maneely to sign the Verified Answer as drafted and presented by Attorney Anderson-Duffy.

**CARRIED (4 - 0) – Supervisor Maneely - Aye Deputy Supervisor Walbridge – Aye
Councilor Sullivan - Aye Councilor Taylor - Absent Councilor Scharf - Aye**

BILLS FOR AUDIT & PAYMENT:

Motion – Deputy Supervisor Walbridge

Second – Councilor Scharf

Resolved (#204 - 2013): that the following bills, having been audited, vouchers # 843 -847 , be paid:

General Fund – Abstract # 19	\$13,592.83
Part Town General- #17	71.27
Highway Outside (DB) Fund - #18	13,403.59
East Side Water #11	106.29
Trust & Agency Fund - #39	<u>592.25</u>
Grand Total -	\$27,766.23

**CARRIED (4 - 0) – Supervisor Maneely - Aye Deputy Supervisor Walbridge – Aye
Councilor Sullivan - Aye Councilor Taylor - Absent Councilor Scharf - Aye**

ADJOURN:

At 7:21 pm Motion – Councilor Scharf

Second – Councilor Sullivan

Resolved (#205-2013): there being no further business to come before the Board that it adjourn, with the next regular meeting to be October 23rd 2013, at 6:00pm

**CARRIED (4 - 0) – Supervisor Maneely - Aye Deputy Supervisor Walbridge – Aye
Councilor Sullivan - Aye Councilor Taylor - Absent Councilor Scharf - Aye**

RESPECTFULLY SUBMITTED,

SUSAN M. HAFTER, TOWN CLERK

October 23, 2013

Resolution #191- 2013

Opposing the closure of the Chateaugay Correctional Facility

Whereas, the New York State Department of Corrections and Community Supervision plans to close the Chateaugay Correctional Facility in 2014; and

Whereas, the Town of Malone strongly opposes the closing of Chateaugay Correctional Facility as it will have a detrimental effect to the economy of Franklin County and the North Country, especially the Town of Chateaugay, its residents and employees; and

Whereas, the North Country has already witnessed devastating effects of a correctional facility closures at Camp Gabriel and Lyon Mountain; and

Whereas, the Town of Chateaugay cannot afford to lose the one hundred eleven (111) jobs provided by the Franklin County Correctional Facility in that community; and

Whereas, Franklin County has always welcomed correctional facilities when other counties in New York State have rejected them; and

Whereas, the Chateaugay Town Board and the Malone Town Board have strongly supported the St. Lawrence Gas pipeline project to aid in economic growth to our area, with one of its goals being to provide affordable natural gas to the prison in Chateaugay; and

Whereas, the North Country has built its economy around New York State correctional facilities, making our economy now dependent upon open and functional facilities;

Now, therefore, be it

Resolved: that the Town of Malone, in solidarity with the Town of Chateaugay, strongly opposes the closure of the Chateaugay Correctional Facility and urges the New York State Department of Corrections and Community Supervision to reverse their decision on the closure of this facility; and be it

Further Resolved: that the Clerk of the Town of Malone shall transmit official copies of this Resolution to Governor Andrew Cuomo, Acting Commissioner Anthony J. Annucci, Senator Skelos, Senator Elizabeth O’C. Little, Senator Jeff Klein, Senator Andrea Stewart Cousins, Senator Jack M. Martins, Senator Terry Gipson, Assembly Speaker Sheldon Silver, Assembly Majority Leader Joseph Morelle, Assembly Minority Leader Brian Kilb, Assemblywoman Janet Duprey, Assemblyman William B. Magnarelli, Assemblyman Tony Jordan and Assemblyman Herman D. Farrell, Jr.