

Minutes of the Village Board Meeting held at Village Hall on February 12, 2014 at 7PM

Present: Michael Queenan, Mayor  
Neil Crouse, Timothy Egan and Thomas Flood, Trustees  
Absent: David Sutz, Trustees  
Also Present: Dennis Lynch, Attorney for the Village; Dennis Lindsay, Engineer for the Village; Jessica McClennan, Deputy Village Clerk/Treasurer

**I. Administrative Business:**

a. Acceptance of Minutes:

Motion was offered by Trustee Flood, seconded by Trustee Egan, to accept the minutes of the regular meeting held January 23, 2014.

**ADOPTED** AYES 4 Queenan, Crouse, Egan, Flood  
NOES 0

b. Approval of Abstract:

Motion was offered by Trustee Egan, seconded by Trustee Flood, to approve Abstract 17 containing vouchers 131039 – 131110 and totaling \$97,666.52.

**ADOPTED** AYES 4 Queenan, Crouse, Egan, Flood  
NOES 0

c. Budget Modifications:

Motion was offered by Trustee Crouse, seconded by Trustee Flood, to approve a modification to the budget of the General Fund by decreasing A9010.800 (NYS Retirement) by \$1876 and increasing A1410.463 (VC – Computer Maintenance) by \$188, A1440.421 (Communications – Planning Board) by \$70, A1610.404 (Real Estate Taxes) by \$1318 and A1670.401 (Central Printing) by \$300; and to approve a modification to the budget of the Consolidated Water Fund by decreasing FC8310.200 (Equipment) by \$15,865, FC9010.800 (NYS Retirement) by \$10,000 and increasing FC8310.415 (Engineer) by \$10,000, FC8310.469 (Skyline Telemetry) by \$15,865.

**ADOPTED** AYES 4 Queenan, Crouse, Egan, Flood  
NOES 0

d. Fire Department Equipment Requisition:

Motion was offered by Trustee Egan, seconded by Trustee Flood, to approve Fire Department Equipment Requisition 2014-03 totaling \$380.50 for the purchase of decals for equipment identification, 2014-04 totaling \$33,190 for upgrading the SCBA packs from the 2002 edition to the 2007 edition, and 2014-05 totaling \$4675 for the purchase of 17 Motorola two-way radios.

**ADOPTED** AYES 4 Queenan, Crouse, Egan, Flood  
NOES 0

**II. Old Business** *There was no old business.*

**III. New Business:**

a. Closing of Escrows:

Motion was offered by Trustee Crouse, seconded by Trustee Egan, to close escrow account D441 (Falkirk Golf Club), P209 (Provident Bank) and P501 (Payless Shoes) as recommended by Building Inspector Thomasberger. All work has been completed and invoices have been paid.

**ADOPTED** AYES 4 Queenan, Crouse, Egan, Flood

NOES 0

b. Removing Members from Active Roll – Fire Department:

Motion was offered by Trustee Flood, seconded by Trustee Egan, to remove the following member from the active rolls with the Fire Department effectively immediately, as requested by the Captains: Phil White, Scott Danielson and MacKenzie Ryan.

**ADOPTED** AYES 4 Queenan, Crouse, Egan, Flood  
NOES 0

c. Declare Vehicles as Surplus Equipment/Advertise for Auction:

Motion was offered by Trustee Crouse, seconded by Trustee Egan, to declare the following vehicles as surplus and authorize their sale: 2007 Dodge Durango (VIN#1D8HB48NX7F578264), 2008 Chevy Trailblazer (VIN#1GNET13MX82235613), 2001 Dodge Durango (VIN#1B4HS28Z71F580113) and 2004 Chevy Blazer (VIN#1GNDDT13X44K151870). It was noted that the 2007 and 2008 vehicles will be sold to the Town and the other two will be put out to auction.

**ADOPTED** AYES 4 Queenan, Crouse, Egan, Flood  
NOES 0

d. Advertise for Bids – Vehicles for Building Department:

Motion was offered by Trustee Flood, seconded by Trustee Egan, to authorize the Village Clerk to advertise for bids for the purchase of three (3) 2014 Dodge Durango SXT AWD Special Service vehicles for the Building Department.

**ADOPTED** AYES 4 Queenan, Crouse, Egan, Flood  
NOES 0

e. Authorize Mayor to Sign – WP3 Sewer Easements:

Motion was offered by Trustee Egan, seconded by Trustee Flood, to authorize the Mayor to sign an easement with the Town of Woodbury for a 20' wide sewer easement over "Open Space J" within the Woodbury Junction (WP3) development.

**ADOPTED** AYES 4 Queenan, Crouse, Egan, Flood  
NOES 0

f. Schedule Public Hearing – Tax Cap Override Local Law:

Motion was offered by Trustee Crouse, seconded by Trustee Egan, to schedule a public hearing to be held on February 27, 2014 at 7PM to entertain public comments on the adoption of Introductory Local Law #1 of 2014 entitled "Tax Cap Override" to authorize the Village Board of Trustees to override the property tax cap, as defined in Section 3-c of General Municipal Law, for FY2014/2015, if deemed necessary.

**ADOPTED** AYES 4 Queenan, Crouse, Egan, Flood  
NOES 0

g. Discussion – Eminent Domain – Country Crossings Water:

Engineer Lindsay explained the Village's current water distribution system, the location of various tank and their levels. He explained the overflow regulations and the direct elevation zones that provide to different areas of the Village. Water distribution systems are complex and he cautioned that a government should always be looking to the future for the ability to be able to supply water should part of the system fail. He noted that the Village's design is such that should a tank fail, others will temporarily help it until the failure could be addressed. When the system that supplies water to

Country Crossings was created an irrevocable offer of dedication was made. It was always intended to have it connect to the existing water infrastructure and he feels to lose this system would hurt the infrastructure. It will also aide in improving fire protection in this area as well. One of the public purposes that will be met by acquiring this system would be to link it into our existing system and to provide supply to any future growth that may occur in this higher elevation. Trustee Crouse asked if it was documented that this system was to connect to our existing system and Engineer Lindsay stated he has documentation going back to approximately 1995. Attorney Lynch stated the Board had passed legislation that showed its desire to protect the public by prohibiting the routing of water outside the municipal boundaries what they legislation was struck down. Other alternatives were looked into and exhausted. He recommends this route be taken and that by accepting dedication, the Village can protect its residents.

Motion was then offered by Trustee Crouse, seconded by Trustee Flood, to adopt the following resolution authorizing the Village to notice a public hearing pursuant to Article 2 of the Eminent Domain Proceeding Law and to adopt a negative declaration under SEQRA concerning the condemnation of real property and improvements of the Woodbury Heights Estates Water Company, Inc.:

**WHEREAS**, the Board of Trustees ("Board") of the Village of Woodbury, New York ("Village") is empowered and otherwise responsible for the public health, safety and welfare of its residents at all times; and

**WHEREAS**, it is clear that a critical resource to protect the public, health and safety of all Village residents and those relying upon Village services or entering upon the Village need to have a continuous and viable source of water and facility to distribute that water; and

**WHEREAS**, the history of the Village and surrounding areas demonstrates a critical and continuous need for sources of water and a requirement for the Board to safeguard both the present and future needs of the Village concerning a reliable source of water; and

**WHEREAS**, the Board previously by Local Law sought to regulate the utilization of water resources within the Village so as to protect the present and future needs of Village residents and others that depend upon the Village, but that Local Law was declared to be invalid and preempted by New York State Law regarding the regulation of water; and

**WHEREAS**, based upon the foregoing the only responsible alternative for the Village is to secure for present and future water needs ownership of the resources and facility that exist in the Village so as to maintain and continue to have a source and supply of water which is critical to protect the health, safety and welfare of Village residents and others depending upon the Village; and

**WHEREAS**, that public purpose to protect the present and future needs of the Village for a viable source of water requires that any private property be identified that can serve as a source to satisfy such present and future water needs for the Village and the Village has identified the Woodbury Heights Estates Water Company, Inc. (the "Company") as a resource for such present and future water sources within the Village; and

**WHEREAS**, the Company previously through a representative indicated that if the Village needed to secure any water resources from the Company that the Village should do so by exercise of eminent domain powers; and

**WHEREAS**, the Village previously inquired if the Company would be interested in a voluntary sale to the Village without the need for condemnation; and

**WHEREAS**, the Village came to learn that the Company was not interested in any sale to the Village and that the Company instead may be acquired by another municipality that already had obtained access to a substantial source of water for its residents through a connection to the New York City Aqueduct; and

**WHEREAS**, the Village desires to advance a public purpose and comply with all requirements of law concerning any condemnation of the Company; and

**WHEREAS**, the Village wishes to follow applicable law at all times concerning any potential condemnation and otherwise be certain that all environmental laws, rules and regulations are complied with within the process; and

**WHEREAS**, the Village was created with the authority and power to own property for the purpose of, among other things having control over improvements such as the Company; and

**WHEREAS**, the Village desires to undertake the process for acquisition of property by condemnation of the Company located at 22 Country Hollow, Woodbury, New York 10930 being Tax Map Numbers 247-5-2, 247-5-25 and 247-5-3 (herein the "Property"); and

**WHEREAS**, the Village has undertaken a hard look at all environmental issues with regard to the Project.

**NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE BOARD OF TRUSTEES FOR THE VILLAGE OF WOODBURY AS FOLLOWS:**

Section 1. All "WHEREAS" paragraphs are incorporated herein by reference as though set forth in full herein.

Section 2. The SEQRA Statement setting forth a Negative Declaration pursuant to SEQRA that is annexed hereto is hereby adopted by the Board.

Section 3. The Mayor is directed to authorize Special Counsel, Feerick Lynch MacCartney, ("Special Counsel") for the Board to cause to be circulated the Negative Declaration and otherwise comply with all provisions of SEQRA and the EDPL concerning the action herein.

Section 4. The Village authorizes its Special Counsel to undertake legal services to the Village for purposes of advising the Village and the Board with regard to all lawful compliance with the applicable New York State laws concerning exercise of eminent domain regarding the Company.

Section 5. The Board directs that said Special Counsel in cooperation with the Village Clerk have prepared an appropriate Notice for the Acquisition of certain real property and improvements of the Company located in the Village of Woodbury, New York at said Property and arrange for the publication of said Notice pursuant to applicable law.

Section 6. Special Counsel and the Village Clerk are directed to follow all requirements and undertake all lawful actions to effectuate the purpose of this Resolution.

Section 7. This Resolution shall take effect immediately.

**ADOPTED BY ROLL CALL AS FOLLOWS:**

Mayor Queenan	AYES
Trustee Crouse	AYES
Trustee Egan	AYES
Trustee Flood	AYES
Trustee Sutz	ABSENT

Motion was then offered by Trustee Egan, seconded by Trustee Flood, to accept the offer of dedication dated November 21, 1997 by Sepco Ventures, LTD for the Woodbury Heights subdivision. The offer in full is printed at the end of these minutes.

**ADOPTED BY ROLL CALL AS FOLLOWS:**

Mayor Queenan	AYES
Trustee Crouse	AYES
Trustee Egan	AYES
Trustee Flood	AYES
Trustee Sutz	ABSENT

EXTRA ITEM – Resolution of Support – M-W Central School District:

Motion was offered by Trustee Crouse, seconded by Trustee Flood, to adopt the following resolution showing support of the Monroe-Woodbury Central School District regarding the annexation petition served by the Village of Kiryas Joel unto the Town of Monroe:

**WHEREAS**, the Village of Woodbury Board of Trustees understands that the Monroe-Woodbury Central School District has requested to be Lead Agency in review of the 500+ acre Annexation Petition effort from the Town of Monroe into the Village of Kiryas Joel; and

**WHEREAS**, a majority of the residents of the Village of Woodbury reside within the boundaries of the Monroe-Woodbury Central School District.

**NOW, THEREFORE, BE IT**

**RESOLVED** that the Village of Woodbury Board of Trustees supports all lawful efforts to conduct a fair and independent environmental review of this Annexation Petition and all issues, including but not limited to the fiscal impacts of the proposed Annexation, and be it

**FURTHER RESOLVED** that the Mayor is authorized to transmit a letter reflecting this resolution to the New York State Department of Environmental Conservation.

**ADOPTED**      AYES    4      Queenan, Crouse, Egan, Flood  
                     NOES    0

**IV. Board Member/Department Comment:**

Trustee Crouse stated he attended the meeting of the Southeast Orange County Transportation Task Force this month and they have received promises from various agencies to assist us to get the Exit 131 reconstruction moved faster.

**V. Public Comment:**

Cliff Ader stated he is thrilled at the prospect of the issue of the Country Crossings water system being addressed by the Village. However, he believes the owner of the water system will litigate causing the rates charged to the homeowners to increase. He asked if any consideration was made to tap into the existing water and then bond the cost. Attorney Lynch stated that all other resources have been looked at and noted the condemnation process is very specific. Once a public purpose is determined it will move forward and an entity has thirty days afterwards to litigate. In the last 30 years only one case has been won by someone challenging public purpose. After the hearing the next step is for the Village making an offer of purchase. If the offer is not accepted then the Village goes through the process to vest title. Then a case of experts testify what they feel the worth of the property is. The Village did approach the owners to purchase the property and their attorney suggested the Village condemn the property if they want it. He also received communication from an attorney representing the Village of Kiryas Joel stating the Village will be buying the property. The process being taken by the Village of Woodbury is the last resort.

**VI. Adjournment:**

With no further comments received or business to discuss, a motion was offered by Trustee Egan, seconded by Trustee Flood, to adjourn the meeting at 7:35PM.

**ADOPTED**      AYES    4      Queenan, Crouse, Egan, Flood  
                     NOES    0

Desiree Potvin, Village Clerk

OFFER OF DEDICATION

THIS AGREEMENT made and dated the 21<sup>st</sup> of November, 1997, between SEPCO VENTURES, LTD., a New York corporation with its principal address at 5 East 37th Street, New York, New York 10016, hereinafter "SUBDIVIDER"; and TOWN OF WOODBURY, a municipal corporation having its offices at Route 32, Highland Mills, New York 10930, hereinafter referred to as "TOWN";

W I T N E S S E T H :

That in consideration of the sum of TEN (\$10.00) DOLLARS, lawful money of the United States, and other good and valuable consideration to it in hand paid by the TOWN and as a condition of the approval by the Planning Board of said TOWN of the following subdivision map to be filed in the Orange County Clerk's Office:

SUBDIVISION FOR WOODSBURY HEIGHTS, TOWN OF WOODSBURY, NEW YORK

1. The SUBDIVIDER hereby irrevocably offers to said TOWN, or any successor municipality, the grant of easement or easements for the purpose of maintaining, repairing, and replacing all water pipes, plants, wells, pump stations, etc., as shown on said maps, or as actually built.
2. The SUBDIVIDER, its successors and assigns, will at any time and from time to time, upon ten days notice, given by the TOWN or its successor municipality, execute a proper Easement.
3. The SUBDIVIDER covenants that it is seized of said premises in fee simple and has good right to convey the same.

4. This offer shall be a continuing offer which shall survive transfer of title to individual lot owners.

IN WITNESS WHEREOF, the SUBDIVIDER has signed this offer by a duly authorized officer the day and year first above written.

SEPCO VENTURES, LTD.

*Daniel A. Sierchio*  
BY: DANIEL A. SIERCHIO

STATE OF NEW YORK )  
                              )  
COUNTY OF ORANGE )       S.S.:

On the 21<sup>st</sup> day of November, 1997, before me personally came DANIEL A. SIERCHIO, to me known, who being by me duly sworn, did depose and say that he resides at 337 ESSER AVE. BLOOMFIELD, N.Y. 07003 that he is the VICE PRESIDENT of SEPCO VENTURES, LTD., the corporation described in and which executed the foregoing instrument; he signed his name thereto by order of the Board of Directors of said Corporation.

*Hannah Pesach*  
NOTARY PUBLIC

HANNAH PESACH  
Notary Public, State of New York  
No. 24-8337100  
Qualified in Kings County  
Commission Expires March 30, 1998  
*Jmie*