

Agenda

Special Meeting of the Town Board
Town of Westfield
July 29, 2019

4:30pm Public Hearing relating to the increase and the improvement of the North Town Water District designated as the East Route 5 Water District No. 1 estimated cost of 880,000.00

Special Meeting of the Town Board New Business:

1. Resolution No. 48 of 2019

Resolution #48 of 2019
Town of Westfield

AN AMENDING AND RESTATING BOND RESOLUTION, DATED JULY 29, 2019, OF THE TOWN BOARD OF THE TOWN OF WESTFIELD, CHAUTAUQUA COUNTY, NEW YORK (THE "TOWN"), AMENDING THE BOND RESOLUTION THAT WAS ADOPTED ON JUNE 6, 2018, AND AUTHORIZING A CAPITAL IMPROVEMENTS PROJECT WITHIN THE TOWN OF WESTFIELD NORTH TOWN WATER DISTRICT AT AN ESTIMATED MAXIMUM COST OF \$880,000 AND AUTHORIZING THE ISSUANCE OF SERIAL BONDS IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$880,000 PURSUANT TO THE LOCAL FINANCE LAW TO FINANCE SAID PURPOSE, SAID AMOUNT TO BE OFFSET BY ANY FEDERAL, STATE, COUNTY AND/OR LOCAL FUNDS RECEIVED, AND DELEGATING THE POWER TO ISSUE BOND ANTICIPATION NOTES IN ANTICIPATION OF THE SALE OF SUCH BONDS TO THE TOWN SUPERVISOR.

WHEREAS, on June 6, 2018, the Town Board of the Town of Westfield, Chautauqua County, New York (the "Town") adopted a certain bond resolution (the "Original Bond Resolution") entitled:

A BOND RESOLUTION, DATED JUNE 6, 2018, OF THE TOWN BOARD OF THE TOWN OF WESTFIELD, CHAUTAUQUA COUNTY, NEW YORK (THE "TOWN"), AUTHORIZING A CAPITAL IMPROVEMENTS PROJECT WITHIN THE TOWN OF WESTFIELD NORTH TOWN WATER DISTRICT AT AN ESTIMATED MAXIMUM COST OF \$657,000 AND AUTHORIZING THE ISSUANCE OF SERIAL BONDS IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$657,000 OF THE TOWN, PURSUANT TO THE LOCAL FINANCE LAW TO FINANCE SAID PURPOSE, SAID AMOUNT TO BE OFFSET BY ANY FEDERAL, STATE, COUNTY AND/OR LOCAL FUNDS RECEIVED, AND DELEGATING THE POWER TO ISSUE BOND ANTICIPATION NOTES IN ANTICIPATION OF THE SALE OF SUCH BONDS TO THE TOWN SUPERVISOR.

and

WHEREAS, the Town has not previously issued bond anticipation notes pursuant to the Original Bond Resolution and has not yet entered into permanent financing arrangements thereunder (i.e., the issuance of long-term serial bonds); and

WHEREAS, the Town Board has been advised that the cost of the proposed capital improvements project has increased due to construction bids coming in higher than expected for such project; and

WHEREAS, the Town Board now wishes to modify the Original Bond Resolution for the purposes of: (a) increasing the estimated maximum cost of the project from \$657,000 to \$880,000 and (b) increasing the aggregate principal amount of serial bonds authorized to be issued from \$657,000 to \$880,000 and to make other modifications in the Original Bond Resolution as may be consistent with law; and

WHEREAS, the Town Board now wishes to amend and restate the Original Bond Resolution for the purposes identified above, and to make other modifications in the Original Bond Resolution as may be consistent with law; and

WHEREAS, the Original Bond Resolution is being modified to increase the estimated maximum cost as previously described, and is otherwise being reaffirmed and ratified in all respects; and

WHEREAS, the Town Board of the Town has determined to proceed with the capital improvements project;

NOW, THEREFORE,

BE IT RESOLVED, by the Town Board of the Town of Westfield, in the County of Chautauqua, New York (the "Town") (by the favorable vote of not less than two-thirds of all the members of the Town Board) as follows:

SECTION 1. The Town is hereby authorized to undertake a water system capital improvements project within the District generally consisting of (but not limited to), the installation of approximately 6,000 linear feet of 8-inch and 12-inch water main along various streets in the Town, installation of water services, meters and fire hydrants, as well as other such improvements as more fully identified in (or contemplated by) such revised map, plan and report prepared in connection with such project, all of the forgoing to include all necessary site work, equipment, apparatus and other improvements and costs incidental thereto and in connection with the financing thereof (collectively, the "Project"). The estimated maximum cost of the Project is \$880,000.

SECTION 2. The Town Board plans to finance the estimated maximum cost of the Project by the issuance of serial bonds in an aggregate principal amount not to exceed \$880,000 of the Town, hereby authorized to be issued therefore pursuant to the Local Finance Law, said amount to be offset by any federal, state, county and/or local funds received, including, but not limited to, an expected grant from USDA Rural Development in the approximate amount of \$601,000. Unless paid from other sources or charges, the cost of such improvement is to be paid by the issuance of serial bonds, and by the assessment, levy and collection of assessments from the several lots and parcels of land within the District which the Town Board shall determine and specify to be especially benefited thereby, so much upon and from each as shall be in just proportion to the amount of benefit conferred upon the same, to pay the principal of and interest on such bonds as the same become due and payable, except as provided by law.

SECTION 3. It is hereby determined that said purpose is an object or purpose described in subdivision 1 of paragraph (a) of Section 11.00 of the Local Finance Law, and that the period of probable usefulness of said purpose is 40 years.

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 said bonds.

SECTION 5. It is hereby determined the proposed maturity of the obligations authorized by this resolution will 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 or charges, there shall be the assessment, levy and collection of special assessments from the several lots and parcels of land within the District which the Town Board shall determine and specify to be especially benefited thereby, so much upon and from each as shall be in just proportion to the amount of benefit conferred upon the same, to pay the principal of and interest on such bonds or notes as the same become due and payable, except as provided by law. Should the assessments upon benefited real property be insufficient to pay the principal of and interest on such bonds, there shall annually be levied on all the taxable real property of said Town a tax sufficient to pay the principal of and interest on such bonds or notes as the same become due and payable.

SECTION 7. Subject to the provisions of this resolution and of the Local Finance Law, and pursuant to the provisions of Section 21.00 relative to the authorization of the issuance of bonds with substantially level or declining annual debt service, Section 30.00 relative to the authorization of the issuance of bond anticipation notes and of Section 50.00, Sections 56.00 to 60.00, Section 62.00, Section 62.10, Section 63.00, and Section 164.00 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 said bonds, and the renewals of said notes, are hereby delegated to the Town Supervisor, the chief fiscal officer of the Town. Without in any way limiting the scope of the foregoing delegation of powers, the Town Supervisor,

to the extent permitted by Section 58.00(f) of the Local Finance Law, is specifically authorized to accept bids submitted in electronic format for any bonds or notes 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 June 6, 2018 or within 60 days prior to the earlier of (a) June 6, 2018 or (b) the date of any earlier expression by the Town of its intent to reimburse such expenditures) 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 (or reaffirmation) of the Town's original declaration of its "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 may 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) 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 with 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 SEQRA is necessary.

SECTION 12. In the absence or unavailability of the Town Supervisor, the Deputy Town Supervisor is hereby specifically authorized to exercise the powers delegated to the Town Supervisor in this resolution.

SECTION 13. 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 are authorized for an object or purpose for which said Town is not authorized to expend money, or

(b) the provisions of law which should be complied with at the date of publication of this resolution are not substantially complied with

and an action, suit or proceeding contesting such validity is commenced within 20 days after the date of such publication;
or

(2) Said obligations are authorized in violation of the provisions of the Constitution of New York.

SECTION 14. 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 newspaper having a general circulation in said Town and designated as the official newspaper of said Town for such publication.

SECTION 15. Nothing in this amendment shall affect the validity of the original June 6, 2018 bond resolution or any action taken thereunder, and any such actions are hereby ratified.

SECTION 16. This Resolution is effective immediately.

2. Any other business that may come before the Board