

REGULAR MEETING
November 3, 2021
TOWN OF PAVILION
7:00 P.M.

The Town Board of the Town of Pavilion held the Regular Board meeting on November 3, 2021 at the Town Hall, One Woodrow Drive, Pavilion, New York 14525 at 7:00 pm Present were:

Supervisor Robert LaPoint	
Councilperson John Rudgers	
Councilperson Donald Oberlin	Absent
Councilperson James Thater	
Councilperson Mark Heineman	Absent

Others: Cindy Starr & James Cleveland

Following pledge to the Flag, Supervisor LaPoint opened the meeting at 7:00 PM

At 7:01 PM Supervisor LaPoint opened the public hearing in relation to the proposed increase and improvement of the facilities of Sewer District No1.

Supervisor LaPoint made a motion at 7:26PM to adjourn Public Hearing seconded by Councilperson Thater.

Approved by vote (3-0 abstain). Voting was as follows:

Supervisor Robert LaPoint	Aye
Councilperson John Rudgers	Aye
Councilperson Donald Oberlin	Absent
Councilperson Mark Heineman	Absent
Councilperson James Thater	Aye

Following the sewer public hearing at 7:26PM Supervisor LaPoint opened the Public Hearing for the 2022 budget.

Councilperson Thater made a motion at 8:00PM to adjourn Public Hearing seconded by Councilperson Rudgers.

Approved by vote (3-0). Voting was as follows:

Supervisor Robert LaPoint	Aye
Councilperson John Rudgers	Aye
Councilperson Donald Oberlin	Absent
Councilperson Mark Heineman	Absent
Councilperson James Thater	Aye

Supervisor LaPoint made a motion at 8:01PM to open the regular Town Board meeting seconded by Councilperson Rudgers.

Report –Highway-James Cleveland

*Sanders are in trucks

*National Grid will not pick up the brush after they remove trees, will become a problem.

Highway-John Rudgers-no report

Sewer- Donald Oberlin-no report

Code Enforcement-James Thater-no report

Water – Mark Heineman-Robert LaPoint-no report

Supervisor LaPoint offered a motion, seconded by Councilperson Rudgers

RESOLUTION 100, 2021: New York State Water Infrastructure Improvement Act Resolution of Support & Authorization for Clean Water Grant Application.

WHEREAS, the Town of Pavilion (Town) supports the submission of a New York State Water Infrastructure Improvement Act (WIIA) application, on behalf of the Town, for upgrades to the WWTP Disinfection, hereinafter referred to as the “Project”; and

WHEREAS, the New York State Environmental Facilities Corporation (EFC) administers grants to assist municipalities in funding water quality infrastructure projects that protect public health and improve water quality; and

WHEREAS, an Engineering Report, entitled “*Preliminary Engineering Report for the Town of Pavilion WWTP Disinfection Improvements*” recommends implementing the Project to help improve water quality and protect public health; and

WHEREAS, the Pavilion Town Board passed a bond resolution (the “Bond Resolution”) on November 3, 2021 authorizing the borrowing of up to \$741,000 for implementation of the Project.

NOW, THEREFORE BE IT RESOLVED, that the Pavilion Town Board identifies the Town Supervisor as the authorized representative of the Town to submit the WIIA

application on behalf of the Town and execute all associated documents relative to and as required for the WIIA application, including the funding agreement and *financial application, as applicable*; and

BE IT FURTHER RESOLVED, that the Town Board authorizes the undertaking of this WWTP Improvement project with a maximum total project cost of up to \$741,000, including expenditures necessary to meet any required local match, including any cash and/or in-kind services; and

BE IT FURTHER RESOLVED, that the Town shall provide local matching funds totaling at least 75% of the Project Costs in the form of in-kind services or cash contributions appropriated and obligated through State Revolving Fund (SRF) or other approved financing or funds, in accordance with the Bond Resolution; and

BE IT FURTHER RESOLVED that the Pavilion Town Board supports the Project and submission of the 2021 WIIA grant application on behalf of the Town to improve water quality and protect public health.

Approved by vote (3-0). Voting was as follows:

Supervisor Robert LaPoint	Aye
Councilperson John Rudgers	Aye
Councilperson Donald Oberlin	Absent
Councilperson Mark Heineman	Absent
Councilperson James Thater	Aye

Councilperson Thater offered a motion, seconded by Councilperson Rudgers

RESOLUTION 101, 2021: Orrick, Herrington & Sutcliffe Bond Council Agreement.

RESOLVED: Retain Orrick, Herrington & Sutcliffe as bond counsel for sewer improvement project not to \$14,750.00.

Approved by vote (3-0). Voting was as follows:

Supervisor Robert LaPoint	Aye
Councilperson John Rudgers	Aye
Councilperson Donald Oberlin	Absent
Councilperson Mark Heineman	Absent
Councilperson James Thater	Aye

Supervisor LaPoint offered a motion, seconded by Councilperson Rudgers

RESOLUTION 102, 2021: Mark Boylan Sewer Legal Agreement

RESOLVED: Retain Mark Boylan for legal services for the sewer improvement project not to exceed \$14,700.00.

Approved by vote (3-0). Voting was as follows:

Supervisor Robert LaPoint	Aye
Councilperson John Rudgers	Aye
Councilperson Donald Oberlin	Absent
Councilperson Mark Heineman	Absent
Councilperson James Thater	Aye

Supervisor LaPoint offered a motion, seconded by Councilperson Rudgers

RESOLUTION 103, 2021: Municipal Solution Agreement Sewer

RESOLVED: Retain as financial advisor for sewer improvement project.

Approved by vote (3-0). Voting was as follows:

Supervisor Robert LaPoint	Aye
Councilperson John Rudgers	Aye
Councilperson Donald Oberlin	Absent
Councilperson Mark Heineman	Absent
Councilperson James Thater	Aye

Supervisor LaPoint offered a motion, seconded by Councilperson Thater

Supervisor LaPoint offered a motion, seconded by Councilperson Rudgers

RESOLUTION 104, 2021: Proposed Improvement of the Facilities of Sewer District No. 1 in the Town of Pavilion, Genesee County, New York PUBLIC INTEREST ORDER

WHEREAS, the Town Board of the Town of Pavilion, Genesee County, New York, has duly caused to be prepared a map, plan and report including an estimate of cost, pursuant to Section 202-b of the Town Law, relating to the proposed improvement of the facilities of Sewer District No. 1 (“Sewer District No. 1”), in the Town of Pavilion, Genesee County, New York, consisting of the construction of a disinfection system at the wastewater treatment plant, including pump station, filter system, ultra-violet disinfection system and original furnishings, 4153-5038-1617 V.1 equipment, machinery, apparatus, appurtenances and incidental improvements and expenses in connection therewith at a maximum estimated cost of \$741,000; and WHEREAS, at a meeting of said Town Board duly called and held on October 13, 2021, an order was duly adopted by it and entered in the minutes specifying the said Town Board would meet to consider the increase and improvement of the facilities of Sewer District No. 1 in said Town at a maximum

estimated cost of \$741,000 and to hear all persons interested in the subject thereof concerning the same at the Town Hall, in Pavilion, New York, in said Town, on November 3, 2021, at 7:00 o'clock P.M., Prevailing Time; and WHEREAS, said order duly certified by the Town Clerk was duly published and posted as required by law; and WHEREAS, a public hearing was duly held at the time and place set forth in said notice, at which all persons desiring to be heard were duly heard; NOW, THEREFORE, BE IT ORDERED, by the Town Board of the Town of Pavilion, Genesee County, New York, as follows: Section 1. Upon the evidence given at the aforesaid public hearing, it is hereby found and determined that it is in the public interest to make the improvement, to increase and improve the facilities of Sewer District No. 1 in the Town of Pavilion, Genesee County, New York, consisting of the construction of a disinfection system at the wastewater treatment plant, including pump station, filter system, ultra-violet disinfection system and original furnishings, equipment, machinery, apparatus, appurtenances and incidental improvements and expenses in connection therewith, at a maximum estimated cost to the District of \$741,000. Section 2. This order shall take effect immediately. 4153-5038-1617 V.1 The question of the adoption of the foregoing order was duly put to a vote on roll.

Approved by vote (3-0). Voting was as follows:

Supervisor Robert LaPoint	Aye
Councilperson John Rudgers	Aye
Councilperson Donald Oberlin	Absent
Councilperson Mark Heineman	Absent
Councilperson James Thater	Aye

Supervisor LaPoint offered a motion, seconded by Councilperson Rudgers

RESOLUTION 105, 2021: A RESOLUTION AUTHORIZING THE ISSUANCE OF \$741,000 SERIAL BONDS OF THE TOWN OF PAVILION, GENESEE COUNTY, NEW YORK, TO PAY COSTS IN CONNECTION WITH THE INCREASE AND IMPROVEMENT OF THE FACILITIES OF SEWER DISTRICT NO. 1 IN THE TOWN OF PAVILION, GENESEE COUNTY, NEW YORK.

WHEREAS, pursuant to the provisions heretofore duly had and taken in accordance with the provisions of Section 202-b of the Town Law, and more particularly an order dated November 3, 2021, said Town Board has determined it to be in the public interest to increase the facilities of Sewer District No. 1 in the Town of Pavilion, Genesee County, New York, at a maximum estimated cost to the District of \$741,000; and WHEREAS, it is now desired to provide funding for such capital project; NOW, THEREFORE, BE IT RESOLVED, by the Town Board of the Town of Pavilion, Genesee County, New York, as follows: Section 1. For the specific object or purpose of paying the cost of the increase and improvement of the facilities of Sewer District No. 1 in the Town of Pavilion, Genesee County, New York, consisting of the construction of a disinfection system at the wastewater treatment plant, including pump station, filter system, ultra-violet disinfection system and original furnishings, equipment, machinery, apparatus,

appurtenances and incidental improvements and expenses in connection therewith, there are hereby authorized to be issued \$741,000 serial bonds of said Town pursuant to the provisions of the Local Finance Law. Section 2. It is hereby determined that the maximum estimated cost of the aforesaid specific object or purpose is \$741,000, which specific object or purpose is hereby authorized to 4153-5038-1617 V.1 said maximum estimated cost and that the plan for the financing thereof is by the issuance of the \$741,000 serial bonds of said Town authorized to be issued pursuant to this bond resolution. Section 3. It is hereby determined that the period of probable usefulness of the aforesaid specific object or purpose is forty years, pursuant to subdivision 4 of paragraph a of Section 11.00 of the Local Finance Law. It is hereby further determined that the maximum maturity of the serial bonds herein authorized will exceed five years. Section 4. The faith and credit of said Town of Pavilion, Genesee County, New York, are hereby irrevocably pledged to the payment of the principal of and interest on such obligations 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 obligations becoming due and payable in such year. To the extent not paid from other sources, there shall be annually assessed upon all the taxable real property within said Sewer District No. 1 in the manner provided by law an amount sufficient to pay the principal and interest on said bonds as the same become due, but if not paid from such source, all the taxable real property in said Town shall be subject to the levy of ad valorem taxes sufficient to pay the principal of and interest on said bonds as the same shall become due. Section 5. Subject to the provisions of the Local Finance Law, the power to authorize the issuance of and to sell bond anticipation notes in anticipation of the issuance and sale of the serial bonds herein authorized, including renewals of such notes, is hereby delegated to the Supervisor, the chief fiscal officer. Such notes shall be of such terms, form and contents, and shall be sold in such manner, as may be prescribed by said Supervisor, consistent with the provisions of the Local Finance Law. 4153-5038-1617 V.1 Section 6. The powers and duties of advertising such bonds for sale, conducting the sale and awarding the bonds, are hereby delegated to the Supervisor, who shall advertise such bonds for sale, conduct the sale, and award the bonds in such manner as he shall deem best for the interests of said Town, including, but not limited to, the power to sell said bonds to the New York State Environmental Facilities Corporation; provided, however, that in the exercise of these delegated powers, the Supervisor shall comply fully with the provisions of the Local Finance Law and any order or rule of the State Comptroller applicable to the sale of municipal bonds. The receipt of the Supervisor shall be a full acquittance to the purchaser of such bonds, who shall not be obliged to see to the application of the purchase money. Section 7. All other matters except as provided herein relating to the bonds herein authorized including the date, denominations, maturities and interest payment dates, within the limitations prescribed herein and the manner of execution of the same, including the consolidation with other issues, and also the ability to issue bonds with substantially level or declining annual debt service, shall be determined by the Supervisor, the chief fiscal officer of such Town. Such bonds shall contain substantially the recital of validity clause provided for in Section 52.00 of the Local Finance Law, and shall otherwise be in such form and contain such recitals, in addition to those required by Section 51.00 of the Local Finance Law, as the Supervisor shall determine consistent with the provisions of the Local Finance Law. Section 8. The Supervisor is hereby further authorized, at his sole discretion, to execute a project finance and/or loan agreement, and any other agreements with the New York State Department of Environmental Conservation and/or the New York State Environmental Facilities Corporation, including amendments thereto, and including any instruments (or

amendments thereto) in the effectuation thereof, in order to effect the financing or refinancing of 4153-5038-1617 V.1 the specific object or purpose described in Section 1 hereof, or a portion thereof, by a bond, and/or note issue of said Town in the event of the sale of same to the New York State Environmental Facilities Corporation. Section 9. The power to issue and sell notes to the New York State Environmental Facilities Corporation pursuant to Section 169.00 of the Local Finance Law is hereby delegated to the Supervisor. Such notes shall be of such terms, form and contents as may be prescribed by said Supervisor consistent with the provisions of the Local Finance Law. Section 10. The validity of such bonds and bond anticipation notes may be contested only if: 1) Such obligations are authorized for an object or purpose for which said Town is not authorized to expend money, or 2) 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 twenty days after the date of such publication, or 3) Such obligations are authorized in violation of the provisions of the Constitution. Section 11. This resolution shall constitute a statement of official intent for purposes of Treasury Regulations Section 1.150-2. Other than as specified in this resolution, no monies are, or are reasonably expected to be, reserved, allocated on a long-term basis, or otherwise set aside with respect to the permanent funding of the object or purpose described herein. 4153-5038-1617 V.1 Section 12. This resolution which takes effect immediately shall be published in summary in the official newspaper of said Town, together with a notice of the Town Clerk in substantially the form provided in Section 81 of the Local Finance Law.

Approved by vote (3-0). Voting was as follows:

Supervisor Robert LaPoint	Aye
Councilperson John Rudgers	Aye
Councilperson Donald Oberlin	Absent
Councilperson Mark Heineman	Absent
Councilperson James Thater	Aye

Supervisor LaPoint offered a motion, seconded by Councilperson Thater

RESOLUTION 106, 2021: This agreement made this 1 st day of NOVEMBER, 2021, Between THE TOWN OF PAVILION hereinafter referred to as "Owners," and MARK S. BOYLAN, ESQ., attorney at law, of BOYLAN LAW OFFICE, LLP, hereinafter referred to as "Attorney"

WHEREAS, Owners have formed WATER DISTRICT #7 ("public water supply district," in GENESEE County under the provisions of TOWN LAW SECTION 190; and WHEREAS, the Attorney agrees to perform all legal services necessary to organize and incorporate said WATER DISTRICT #7 under the provisions of RUS Bulletin 1780-7 said statutes and to perform all other customary legal services necessary to the organization, financing, construction, and initial operation of A WATER system; WITNESSETH: That for and in consideration of the mutual covenants and promises between the parties hereto, it is hereby agreed: SECTION A - LEGAL SERVICES That the Attorney will perform such services as are necessary to accomplish the above recited objectives including, but not limited to, the following: 1. Preparation and filing of

petition for incorporation and supervision and assistance in the taking of such other actions as may be necessary or incidental to cause the Owners to become duly organized and incorporated and to be authorized to undertake the proposed system. 2. Furnish advice and assistance to the governing body of the duly incorporated association in connection with (a) the notice for and conduct of meetings; (b) the preparation of minutes of meetings; (c) the preparation and enactment of such resolutions as may be necessary in connection with the authorization, financing, construction, and initial operation of the system; (d) the preparation of such affidavits, publication notices, ballots, reports, certifications, and other instruments and advice as may be needed in the conduct of such bond elections as may be necessary; (e) the preparation and completion of such bonds or other obligations as may be necessary to finance the system; (f) the completion and execution of documents for obtaining a loan made or insured or a grant made by the United States of America, acting through the Rural Utilities Service, U. S. Department of Agriculture; (g) entering into construction contracts; (h) preparation and adoption of By-Laws, Rules and Regulations, and rate schedules; (i) such other corporate action as may be necessary in connection with the financing, construction, and initial operation of the system. 3. Review of construction contracts, bid-letting procedure, and surety and contractual bonds in connection therewith. 4. Preparation, negotiation, or review of contract with a city or other source of water supply when necessary. 5. Preparation, where necessary, and review of deeds, easements and other rights-of-way documents, and other instruments for sites for source of water supply, pumping stations, treatment plants, and other facilities necessary to the system and to provide continuous rights-of-way therefor; rendering title opinions with reference thereto; and providing for the recordation thereof. 6. Obtain necessary permits and certificates from county and municipal bodies, from State regulatory agencies, and from other public or private sources with respect to the approval of the system, the construction and operation thereof, pipeline crossings, and the like. 7. Cooperate with the engineer employed by Owners in connection with preparation of tract sheets, easements, and other necessary title documents, construction contracts, water supply contracts, health permits, crossing permits, and other instruments. 8. When applicable, secure assistance of and cooperate with recognized bond counsel in the preparation of the documents necessary for the financing aspects of the system. The attorney shall pay all bond counsel in perfecting the financing aspects, e.g., assessment procedures and completion of documents. Where bond counsel is retained, the Attorney will not be responsible for the preparation and approval of those documents pertaining to the issuance of the Owner's obligations. SECTION B - COMPENSATION 1. Owners will pay to the Attorney for professional services rendered in accordance herewith, fees as follows:

_____ \$25,000.00 _____ Said fees to be
 payable in the following manner and at the following times: _____ IN
 INCREMENTS OF \$5,000 THROUGHOUT THE DISTRICT FORMATION AND
 CONSTRUCTION PROCESS

Approved by vote (3-0). Voting was as follows:

Supervisor Robert LaPoint	Aye
Councilperson John Rudgers	Aye
Councilperson Donald Oberlin	Absent
Councilperson Mark Heineman	Absent
Councilperson James Thater	Aye

Supervisor LaPoint offered a motion, seconded by Councilperson Rudgers

RESOLUTION 107, 2021: Williamson Law Credit Card software

RESOLVED: Approve purchase of credit card software for Town Clerk & sewer programs.

Approved by vote (3-0). Voting was as follows:

Supervisor Robert LaPoint	Aye
Councilperson John Rudgers	Aye
Councilperson Donald Oberlin	Absent
Councilperson Mark Heineman	Absent
Councilperson James Thater	Aye

Supervisor LaPoint offered a motion, seconded by Councilperson Rudgers

Resolution No 108 ,2021: Adopt preliminary budget as final budget for 2022

WHEREAS, the Pavilion Town Board has held a Public Hearing on November 3, 2021 on the Preliminary budget for the fiscal year beginning January 01, 2022 to hear all persons present for or against any item contained in the Preliminary Budget. Be it hereby.

RESOLVED that the Town Board hereby adopt the Preliminary budget as the Final budget for the fiscal year beginning January 01, 2022.

Total budget \$2,011,812.00

Approved by vote (3-0). Voting was as follows:

Supervisor Robert LaPoint	Aye
Councilperson John Rudgers	Aye
Councilperson Donald Oberlin	Absent
Councilperson Mark Heineman	Absent
Councilperson James Thater	Aye

Councilperson Thater offered a motion, seconded by Councilperson Rudgers to approve the Oct 13, 2021 regular board meeting and Oct. 20, 2021 public hearing minutes.

Approved by vote (3-0). Voting was as follows:

Supervisor Robert LaPoint	Aye
Councilperson John Rudgers	Aye
Councilperson Donald Oberlin	Absent

Councilperson Mark Heineman	Absent
Councilperson James Thater	Aye

Councilperson Thater offered a motion, seconded by Councilperson Rudgers to authorize the clerk to draw a warrant on the supervisor to pay bills. General \$15,317.22; T&A \$56,639.41; Sewer; \$7,745.22, Highway; \$12,435.29 , Capital \$8,000.00.

TOTAL \$100,137.14

Approved by vote (3-0). Voting was as follows:

Supervisor Robert LaPoint	Aye
Councilperson John Rudgers	Aye
Councilperson Donald Oberlin	Absent
Councilperson Mark Heineman	Absent
Councilperson James Thater	Aye

Councilperson Thater offered a motion, seconded by Councilperson Rudgers to Approve Oct, 2021 operating statement, bank reconciliation & clerk report.

Approved by vote (3-0). Voting was as follows:

Supervisor Robert LaPoint	Aye
Councilperson John Rudgers	Aye
Councilperson Donald Oberlin	Absent
Councilperson Mark Heineman	Absent
Councilperson James Thater	Aye

At 8:49PM Supervisor LaPoint offered a motion, seconded by Councilperson Rudgers called executive session purpose Teamsters Union Contract.

At 9:04PM Supervisor LaPoint offered a motion, seconded by Councilperson Thater closed executive session.

Supervisor LaPoint made a motion at 9:04PM to adjourn meeting seconded by Councilperson Thater. Voting all ayes.

Respectfully submitted,

Lucinda Starr

Pavilion Town Clerk