

Village of Phoenix  
**Regular Board Meeting**  
Tuesday, July 18, 2017 at 7:00 PM  
Sweet Memorial Building  
455 Main Street, Phoenix, NY 13135

Present: Mayor Ryan Wood  
Trustee Jennifer Burgess  
Trustee John Musumeci  
Trustee David Pendergast  
Trustee Caleb Sweet  
Sergeant Jim McKenna  
Village Clerk Roxanne Demo  
Attorney Steve Primo  
Administrator James Lynch

9 Public in Attendance

Mayor Ryan Wood began the Board Meeting with a salute to the flag at 7:03 PM.

**Richard Kersey – Oswego River Road Sewer Hookup**

Richard asked the board about possibly hooking up to the sewer treatment plant. The board advised him to speak with an engineer and also to ask other residents near him to see if they'd be interested also to hook up.

**Maxim & Horst**

Terry Horst and Emily Garavuso present three different plans for a marina. They asked to board to review the plans and change them up as they see fit.

**KL Consulting**

Kristy LaManche spoke about NYS EFC Green Innovation Grant Program and has funding available up to \$15 million.

Green infrastructure practices aid in the collection, filtration and infiltration of rain water to recharge aquifers, rivers and streams. The plants included in green infrastructure practices help to cool the air and improve air quality through the process of evapotranspiration. Green infrastructure projects have many benefits including restoring habitat, protecting against flooding, providing cleaner air, and improving landscape aesthetics.

Eligible Activities:

1. Bioretention – shallow, vegetated depressions that are effective at removing pollutants and reducing stormwater runoff
2. Downspout disconnection – removal of roof runoff from a direct connection to a combined or storm sewer. Roof runoff would be redirected to a designated vegetated area where plants and soil can filter and infiltrate the water.

3. Establishment/restoration of floodplains, riparian buffers, streams or wetlands
4. Green roofs – vegetation, growing media, and a drainage layer installed on top of a conventional flat or sloped roof to soak up rainwater to reduce stormwater runoff volumes.
5. Green walls – vertical systems which consist of a modular container to hold growing media and vegetation to improve air quality, provide stormwater benefits, and help reduce energy usage.
6. Permeable pavements – porous asphalt, porous concrete, and pervious pavers such as reinforced turf, interlocking modules and pavers to convey rainfall through the pavement surface into an underlying reservoir where it can infiltrate, thereby reducing stormwater runoff.
7. Stormwater harvesting and reuse - rain barrels and cistern projects to capture and store stormwater runoff to be used later to water landscaping and non-potable activities (car washing, filling swimming pools, etc).
8. Stormwater street trees/urban forestry – engineered tree pits, tree boxes and trenches designed to capture stormwater runoff from adjacent roadways and manage the stormwater through evapotranspiration and infiltration.

Grant funding: 40 to 90% of total project cost

Match requirement: 10 to 60% of total project cost

Cost incurred grant rather than reimbursement program

## **RESOLUTION**

The **VILLAGE OF PHOENIX BOARD OF TRUSTEES**, in the County of Oswego, State of New York, met in a regular working session at the Municipal Building, located at 455 Main Street, in the Village of Phoenix, County of Oswego, State of New York, on the 18<sup>th</sup> day of July 2017 at 7:00 P.M.

Ryan Wood, Mayor, and the following Trustees were present, namely:

Caleb Sweet  
David Pendergast  
Jennifer Burgess  
John Musumeci

Also present: Roxanne Demo, Village Clerk-Treasurer  
Steve Primo, Village Attorney  
Doug Miller, Village Engineer  
Kristy La Manche, KL Consulting

The following resolution was moved, seconded and adopted:

**WHEREAS**, the Village Board of Trustees of the Village of Phoenix (“**Village Board**”) having on this date discussed the 2017 New York State Environmental Facilities Corporation Green Innovation Grant Program (“**Grant Program**”), and the Villages intent to submit an application for funding in relation to same, and the research, development, and proposed implementation and operation of a proposed project described generally as follows: over the past two years the Village had conducted studies of their sanitary sewer collection system to assess existing physical conditions, identify sources of excessive flows and develop a remedy for problems affecting the system and WWTP which problems have and remain in violation of the Villages SPDES permit and the Consent Decree the Village has been subject to since 2011 with the NYSDEC. The assessment represents a continuation of the Villages efforts to address these issues, now narrowing to the most difficult systemic issues and is presented in a report entitled “Report – Sewer System Hydraulic Analysis” dated December 1, 2016, and which report confirms that the majority of excess flows received at the WWTP originate from residential downspouts, footing drains and sump pumps. The Report identifies a series of capital improvements to the collection system that would provide adequate conveyance and storage to avoid SSOs under design criteria set by NYSDEC. Since regulatory policy encourages removal of excessive flows at the source, and since these source flows are in direct violation of Village Code requirements mandated by Federal and State law, the Village is charged with efforting to investigate and discover all violative conditions and then to enforce their removal at the property owners expense; and that failure to do so carries both civil penalties and criminal sanctions; and

**WHEREAS**, as a practical matter, the Village has tried on several occasions to initiate voluntary compliance- via smoke testing by first educating neighbors and then dropping smoke generating agents into Village mains and lines to detect where within dwellings smoke would come up through drains and toilets. Wherever this was reported, in the very few cases, there were illegal connections usually requiring a \$1700-2000 fix. As one can imagine, voluntary reporting was not widespread and it was not thought to be popular nor cost efficient to seek administrative warrants through the courts for wholesale inspections throughout the Village. It is estimated that over one half of our Village residences are illegally connected- some 440 units. The cost of attempted inspections, then court enforced action, followed by seeking to enforce having the work done and connecting up to newly constructed village facilities is both cost prohibitive and impractical. As an alternative, pursuant to the Villages local law authority and its “police powers” that is to protect the health safety and welfare of the Village and its residents, and drawing some parallels to its authority respecting water service, property maintenance, unsafe buildings, and work within premises over which it maintains an easement, the Village intends in connection with the Project hereunder to perform within easements to be granted upon the private residential owned premises of each owner of the illegally connected improvements a dismantling of the illegal connection and new connection to the new Village Project infrastructure thus curing the owners violation of Village Code which the Village is entitled and obligated to enforce the removal of, and assessing the cost of cure against the owners property; rather than via a judgment or fine we

will do so over a reasonable term of years as financed through a bond issuance amortized under the local finance law (probably at 10-15 years). This will finance the cost of all work, our in house expenses can be managed and financed, the choice and number of contractors can be limited, and we believe the work can be orderly and coordinated with the more public Project work subject of this resolution. Of some significance is that the Village has done this before with a sanitary sewer project with some degree of success. Although not on as grand a scale, in one sense that project was more difficult in that the lines replaced were different in many respects and presented differing challenges, and

**WHEREAS**, the Grant Application, related/supporting documentation, and a short environmental assessment form part one (1) pursuant to SEQRA having been prepared for submission in connection with the subject action (the "**Action**") consisting of the application for funding, development, implementation and operation of the Project) as required by 6 NYCRR §617 et. Seq.; and

**WHEREAS**, the Village Board having determined that the Action for purposes of SEQRA relates to the installation of new and replacement facilities intended to address numerous and varied drainage issues resulting in excessive flows and retentions from natural source surface water precipitation driven, and predominantly non-point in nature except to the extent channeled piecemeal by illegal residential connections of floor drains, gutters and the like into the public sanitary sewer system; the Project as proposed offers the construction/installation and improvement of existing and new facilities intended to disconnect and thereby correct illegally connected drainage and sanitary facilities, cause existing sanitary sewer facilities to once again work effectively and not loaded with the combined flow from additional precipitation, snow and ice melt, storm and surface drainage, and the like, including where necessary, to enhance sanitary facilities capacity to accommodate their own existing loads; the combined components of this multi phased project includes the following features:

A fully coordinated "owner paid" Project component i.e. removing source flows from the residential sanitary sewer system, enhancements to the public storm sewers to facilitate conveyance of source removed flows away from the public sanitary sewers, and the construction of enhanced wetlands, bio-retention basins and bio-swales to accept and convey source removed flows from the Village, in particular improvements to residential properties to remove source flows from the sanitary sewer system. It is estimated that approximately 50% of the 880 residential properties within the Village would be candidates for source separation and connection to an enhanced Village storm drainage system. This system would consist of :(1) the construction and/or enhancement of 8 acres total natural and constructed wetlands and 9000 +/- LF of bio-retention structures (bio- basins and bio-swales) to accept and convey source removed flows from the residential areas of the Village; (2) extensions and/or additions to existing Village storm sewers to facilitate the conveyance of source removed flows away from sanitary sewers. It is projected that this work would require the construction of approximately 800 LF of new storm drain and catch basins to connect bio-swales to existing storm drainage structures and wetlands; (3) individual residence disconnection of illegal source flows and connection to the public system as an ordered remedy for violation of the Village Code prohibition on such illegal connections or flows (collectively, the "**Project**"), and,

**WHEREAS**, the Project is located entirely within the Village of Phoenix and requires the submission of a Grant Application for the Grant Program (“**Grant Application**”) to the New York State Environmental Facilities Corporation; and

**WHEREAS**, the Village Board having first, respecting its obligation for environmental review as agency with the greatest interest in the action and its potential environmental effects, reviewed the Project Description prepared within the short form SEQRA EAF Part 1 partially prepared in relation to the Project; and having determined that: 6 NYCRR Section 617.5 (Title 6 of the New York Code of Rules and Regulations) under the State Environmental Quality Review Act (**SEQRA**) provides that certain actions identified and described in the enumerated subparagraphs of subdivision (c) of that section are not subject to environmental review under the Environmental Conservation Law; and

**WHEREAS**, for one, under 6NYCRR 617.5(c)( 29), “Civil or Criminal Enforcement Proceedings, whether administrative or judicial, including a particular course of action specifically required to be undertaken pursuant to a judgment or order, or the exercise of prosecutorial discretion;” are an action which is classified as Type II under SEQRA and therefore exempts the action from review; the action contemplated is the direct result of the Village of Phoenix compliance efforts with the Consent Decree above mentioned. Furthermore, the actions contemplated versus residential property owners is an enforcement action pursuant to Village Code Chapter 163 which specifically provides for such actions to be taken by the Village; and

**WHEREAS**, secondly, 6 NYCRR 617.5(c)(11) provides that “the extension of utility distribution facilities, including gas, electric, telephone, cable, water and sewer connections to render service in approved subdivisions or in connection with any action on this list” likewise exempts the action from SEQRA review. The purpose of the action proposed is to provide enhanced public utility service in a built out environment simply because the existing infrastructure has failed or been compromised by illegal actions. The purpose is to provide Village wide drainage and sanitary sewer service to an existing populace already served by the existing utility infrastructure and wholly consisting of a Type II action itself in its as is condition. Actions “on this list” include the types of repair, replacement and similar activities that do not occasion new impacts necessitating environmental review, or to their supporting infrastructure.

**NOW, THEREFORE BE IT RESOLVED** the Village Board hereby determines for the reasons set forth, the proposed Project is a Type II action in accordance with 6 NYCRR Section 617.5(c)(11) and (29) and is therefore not subject to further SEQRA review under 6 NYCRR Part 617: and it is,

**RESOLVED**, that the Village of Phoenix Mayor or Village Administrator are hereby authorized to execute and submit an Application for Grant Funding under the NYS Environmental Facilities Corporation’s 2017 Green Innovation Grant Program on behalf of the Village of Phoenix, and is otherwise authorized to perform such acts and to execute and deliver such documents, instruments and certificates as are necessary to effect this resolution; and it is further;

**RESOLVED**, that the Village of Phoenix Mayor is hereby authorized to execute a Grant Agreement with the NYS Environmental Facilities Corporation with such provisions as provided for under the Grant Program and such modifications to same as may be further agreed to by the parties, and any and all other contracts, documents and instruments necessary to bring about the Project and to fulfill the Village of Phoenix' obligations under the GIGP Grant Agreement; and it is further;

**RESOLVED**, that the Village Board authorizes and appropriates a minimum of 10% local match as required by the Green Innovation Grant Program for the said GIGP project, the intended source of such local match being capital reserve and other expected agency funding plus in kind services. Under the GIGP program, this local match must be at least 10% of the total actual project costs. The maximum local share appropriated subject to any changes agreed to by the Mayor shall not exceed \$ \$99,000 based upon a total estimated maximum project cost of \$992,000. This local match may be established or increased through the use of in-kind services without further approval from the Village Board, and it is further,

**RESOLVED**, that on behalf of the Village of Phoenix, in connection with the foregoing Grant Application and the Project, the Village Attorney, Steven J. Primo, is authorized to conduct the required SERP review and to prepare and submit in connection with the GIGP Grant Program requirements for environmental review: (1) pursuant to Section 14.09 of the New York State Office of Parks, Recreation and Historic Preservation (NYSHPO) such information and documentation (including a Project Review Cover Form) as required by such statute, NYSHPO, and the Grant Program, and including (without limitation) to advise that a diligent inquiry has been completed by the Lead Agency and that: (1) there are no previously identified cultural resources within or adjacent to the Project area, (2) that the Project site does not include nor is it substantially contiguous to a property listed or recommended for listing on the NYS or National Registries of Historic Places; and it is further;

**RESOLVED**, that the Village of Phoenix Mayor, Village Clerk Treasurer or Administrator are duly authorized to take such actions as are required by law in relation to this Resolution, to perform and discharge the Village of Phoenix's responsibility as the Agency having made these determinations, and to execute and deliver such instruments, documents, certificates and/or resolutions as to effect the same and any other resolutions adopted herein or otherwise respecting the within transactions;

**RESOLVED**, that a true and complete certified copy of this resolution shall be included in the Grant Application submission and as necessary, any further actions relating to the Project.

Upon motion made by Trustee Musumeci, and seconded by Trustee Sweet, the question of adoption of the foregoing Resolution was put to a roll call, which resulted as follows:

Ryan Wood, Mayor	Aye
Caleb Sweet, Trustee	Aye
David Pendergast, Trustee	Aye
Jennifer Burgess, Trustee	Abstained
John Musumeci, Trustee	Aye

Resolution was adopted on July 17, 2017

## CERTIFICATION

I, the undersigned, Clerk- Treasurer of the Village of Phoenix, Oswego County, New York, do hereby certify: that the above is a true copy of the original resolution passed at a meeting of the Phoenix Village Board on July 17, 2017.

IN WITNESS WHEREOF, I have set my hand and affixed the seal of said Village this 17th day of July, 2017.

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Roxanne Demo, Village Clerk and Treasurer  
of the Village of Phoenix

### **Miller Engineering**

Doug said the pump station will be here Thursday morning. Mayor asked if once it's on site it will be around 30 days before hookup to OCWA. Doug replied yes. Mayor said before we're hooked up we're going to do major flushing, post cards will be send out to the residents. Lynch said we're going to try to flush around our normal flushing time, before school starts. Trustee Pendergast asked about cleaning the inside of the water tower. Lynch said we really can't drain it. Kerfien said they actually go inside the tank and suck out the sediment. We had it done two years ago and we'll look to do it again soon.

### **Attorney Comments**

Attorney Primo said there was a phone poll done on Friday, July 7, 2017 to discuss the creation of a new position – part-time Waste Water Treatment Plant Operator, 20 hours per week. Hire Greg Shaffer for the position starting on July 17, 2017 and ratify the termination of Camden Group. Crew Leader John Kerfien and Assistant Crew Leader Justin Hart will be involved with the plant as employees of the DPW, Justin will take course work to reactivate his license and John has three courses to complete to receive his 2A certification and will work under a licensed operator. They both will have their certifications, between the three of them we will have full time coverage at the plant. Attorney Primo will be discussing this with the DEC. Primo will write something up and copy Greg Shaffer and send it to Jennifer Powell ahead of the meeting to let her know what we're doing at the plant for coverage. Effective July 17, 2017 they will received \$1.30 added to their wage. Motion to ratify the phone poll that was made by Trustee Musumeci, seconded by Trustee Burgess. All ayes.

Primo has a modification for the consent order with the stipulation that has to go before the administrative law judge, he asked the board approve substantially as shown. Motion to approve was made by Trustee Musumeci, seconded by Trustee Burgess. All ayes.

## Water Workshop

Attorney Steve Primo handed out to the board a water analysis that he prepared.

### Village of Phoenix- Water Rates Analysis

The following is an itemization of the components of Village water charges prospectively once the OCWA connection is made. One assumption is made: that Village water consumption is at 6.5 M gallons per month, 78 M/year. To the extent that is not the case an increased rate would apply that is calculable. The numbers below are explained in the corresponding footnotes. The fee reduction suggestions are to be completed once numbers have been gathered as to the residential non-metered units and number of non residential units both in and outside the village.

\$58,000- O/M after reduction of operational expenses due to OCWA connection -FN1

\$32,000- annual debt service on \$950,000+/- non-interest bearing EFC debt-FN2

\$25,000- Capital replacement fund- 250 LF yr. replacement of main-FN3

\$45,000- Approx. reamortized EFC bond for water tower based on 30 to 40 yr. term extension-FN4

\$36,000- Contingency/General Conditions-FN5

\$83,460- Estimated Cost of Annual Water Supply Payable to OCWA-FN6

\$279,460- Total Needed to Pay For Annual Water Supply Service

\$320.48- Annual Per Unit Charge for Service Based Upon Simple Average Assuming 872 Users both In/Outside Village-FN7

#### Fee Modification Scenarios To Make Water Service Fees More Fair And Equitable

**Suggestion 1-** All non-residential (commercial, industrial, mixed use) use rates be set at 125% of residential rate both in and outside village. This is basically a subsidy for residential owners. If this were to take place residential charges would necessarily lower. **See Suggestion 1 Analysis following:**

**Suggestion 2-** Multifamily residential uses are to be charged for each unit at the basic residential minimum unit charge (and not just per meter) and then at the metered (measured) charge only above and beyond the total of per rental unit minimum charges. It is my understanding apartment houses of all sizes are not multi metered. I was not aware of this and charging a minimum per unit charge, ie as if they were metered will increase our residential unit numbers, help ferret out illegal units and I'll bet increase water revenues simply because of the change in billing method. If this were to take place it is more than likely residential rates would lower -especially for owner occupied units??? **See Suggestion 2 Analysis following:**

**Suggestion 3-** All outside village user (79 units or so) rates should be standardized at 125% of the in village rate. **Consider** will the outside village rate for commercial/industrial be exponentially increased because they will be based upon 125% of a rate that has already been increased 125% in village? Is this intended? **See Suggestion 3 Analysis following:**

**Suggestion 4-** In the Town Districts the same billing practices as with #2 above should apply with respect to minimums. If there are a number of units in a district, each unit should pay the minimum and the master meter total should be utilized to assess whether any charges above and beyond the minimums are due. Billings should not fluctuate based on whether a space is occupied or not. If there is a building there it should pay a minimum charge (although this may be difficult to enforce if there were resistance) even if not occupied.

**Suggestion 5-** Regardless of the OCWA fee schedule, I assume the Village fee schedule charge of \$7.00/\$1,000 is intended to remain in place for balances in excess of the minimum charges. This is well in excess of the OCWA to

Village charge.

FOOTNOTES:

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1. This was based on actual numbers received from Jim/Roxanne in an email and from which was subtracted what was suggested ie re: chemicals, energy, and in addition I also subtracted all but \$5,000 of the operator salary.
  2. This represents the water project as was increased to capture retroactively those GWUDI related costs and is approximate.
  3. This is entirely arbitrary and is likely on the high side (\$100 LF) if representing debt service on a much bigger project; in order to address the Villages distribution system wide concerns an incremental project of a short term or up to say ten years may make sense as the issues to be addressed affect only certain pockets within the system. A combination of bond financing and additional agency grants to finance a comprehensive phase two water project addressing all of these distribution system issues may make the most sense with the capital reserve shown being available to service the financed public debt.
  4. The existing water storage tank debt was financed on a thirty year amortization rather than a forty year amortization although non-interest bearing. The current annual principal payments of \$70,869 would as reamortized to 40 year debt to be paid through 2043 become \$43,612. This is shown as higher above due to potential closing costs and to reflect the within numbers conservatively.
  5. This number is totally arbitrary again, as with 4, shown to represent things conservatively.
  6. Annual OCWA Water Supply Cost- 78,000,000 gallons/yr. charged at \$1.07 per 1000 gallons plus a base system fee of \$15,000 (for twelve monthly 10” tap fees) for a Grand Total of \$83,460. This is based upon Year 2017-18 Fee Schedule Rate just given to the Village from OCWA. From my review its \$1.07 for the first 6.5M gallons/month and above and beyond that up to 23M gallons at \$2.10. **There is also reference to a “computed peak GPD \$3.85/1000”. I have no idea how this fits in and did not use this or even the \$2.10 rate in my computations so let’s be sure as to what these rates all mean.**
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There was further discussion on billing from the meter pits, by size of pipes, number of units in apartments, etc.

**Abstract**

Mayor Ryan Wood asked if anyone has any questions or concerns regarding Abstract #10 dated July 18, 2017 in the amount of \$73,310.98. Trustee Musumeci made the motion to approve, general fund vouchers 287-320; water fund vouchers 295-319; sewer fund vouchers 290-320; capital water/sewer vouchers 306,320; library fund vouchers 57-63 and trust and agency fund vouchers 63-72, seconded by Trustee Sweet. All ayes.

Mayor asked ratify the board poll taken July 5, 2017 to approve Abstract #9 dated July 4, 2017 in the amount of \$52,477.19. Trustee Burgess made the motion to approve, seconded by Trustee Sweet. All ayes.

### **Old Business**

Mayor Wood asked if anyone had any questions or concerns with the meeting minutes of June 20, 2017. Motion was made by Trustee Sweet, seconded by Trustee Musumeci. All ayes.

### **New Business**

Facility Use Request from Cindy & Jeff Koegel for use of Pavilion on July 23, 2017 from 1:00pm - 1:20pm for a baptism. Motion was made by Trustee Pendergast, seconded by Trustee Sweet. All ayes.

Mayor Wood asked to move into executive session pursuant to open meeting laws. Matters leading to the employment history of a particular person or persons and also matters leading to the appointment, employment or promotion of a particular person or persons at 9:55pm, seconded by Trustee Burgess. All ayes. Motion to close executive session was made by Trustee Sweet at 10:02pm, seconded by Trustee Musumeci. All ayes. Motion to open regular meeting was made by Trustee Sweet at 10:02pm, seconded by Trustee Musumeci. All ayes.

Motion was made by Trustee Sweet to adjourn the regular meeting at 10:02pm, seconded by Trustee Pendergast. All ayes.

### **Public Comments**

There were no public comments.

Respectfully submitted,

Roxanne Demo  
Village of Phoenix  
Clerk/Treasurer