

Village of Phoenix
Regular Board Meeting
Tuesday, October 16, 2018 at 7:00 PM
Sweet Memorial Building
455 Main Street, Phoenix, NY 13135

Present:	Mayor Ryan Wood	Absent Chief Marty Nerber
	Trustee Paul Griser	Village Clerk Roxanne Demo
	Trustee John Musumeci	Attorney Steve Primo
	Absent Trustee David Pendergast	Administrator James Lynch
	Trustee Caleb Sweet	

3 Public in Attendance

Mayor Ryan Wood began the Board Meeting with a salute to the flag at 7:00 PM.

Miller Engineering

Doug Miller said he's working on providing the invoices and cancelled checks written to the MBE/MWBE on the Marina project for grant reimbursement. They're also working on the scope budget and have some specialty work that they need to do to take it to the next step, preparation for permits and are working with GOT, surveying in the water, archeological, drilling in the water, a barge and they hope to have that shortly.

Miller said Lock Street we had a phone call Friday with DEC we received an email back from DEC requesting some information based on the phone call, they had six bullet points, the first one they wanted a letter tying the Sgromo report to the hydraulic analysis report and they have a draft of that, looking to review the amended consent order that they have discussed with them, bypass pumping plan was sent last week, they wanted to confirm cash flow, hydraulic analysis was not complete, it is complete what is not complete is the amended consent order, and lastly we should take in consideration where are funding package currently lies. We have \$6 million in funding and have used around \$3 million. The contractor is holding his price. Mayor said the contractor hasn't started yet, he was awarded but hasn't been given notice to proceed.

KL Consulting

Kristy LaManche has put together a \$3,000 budget for CNY Arts, at least five performances that the Village will support, that would be some comedians type events as well as performances at the Memorial Day celebration. There's some forms for the Mayor to sign for the CDBG grant and all the paperwork is done for the UTV grant and will be submitted. The marina feasibility study she'll need those costs and make sure they are allowable under the grant. Jim and Kristy met with the owner of 1 Bridge Street, the meeting was called by their lender, they haven't made any substantial progress in the last few months. Jim was very clear with them with what they need to do code wise going forward. The owner of 60 State Street has contacted Kristy asking about grant opportunities for new construction.

Mayor and Trustee Comments

Mayor Wood had nothing.
Trustee Griser had nothing.
Trustee Musumeci had nothing.
Trustee Sweet had nothing.

Department Comments

Administrator Lynch said he posted an unsafe building notice for 27 Homestead Ave and the board has a copy also. Attorney Primo said they can start proceedings, the county adopted as a policy to not reimburse the village for demolition costs. If the owner walks away we'd probably be better off getting a deed from him, and we have control of it and what we then do with the property. Code report needs to be written on some of these houses and give the owners their day in court and after the hearing the board can make a decision that the building is unsafe and therefore order it to be renovated, rehabilitated or demolished in a certain number of days. The board needs to make a decision on how to handle these situations in light of the fact that we can't count on reimbursement from the county anymore. Primo is going to look into something that the Mayor has suggested.

Lynch said the DPW is currently working on three residential sidewalks and one church sidewalk. Bartlett Tree service will be in next week, two trees that need to come down require a crane, the one on Chestnut Street and the tree on James Street. Lynch received a quote from Gary's Equipment for a trailer for the mini excavator in the amount of \$4,950 that's state bid. The school said they'd go in half with us for the excavator or we rent to them at fair market value. Attorney Primo said he doesn't know if co-ownership makes sense, it makes better sense to purchase it and rent it out so that it's on the Village books. Motion was made by Trustee Musumeci to purchase the trailer, seconded by Trustee Griser, all ayes. Lynch also said the DPW is preparing the equipment for the winter weather. Lynch said he'd like the board to consider hiring David Myers as a part-time laborer for \$14.94 an hour, Dave will also help in the clerk's office, also cleaning the building and additional hours may be needed for snow days. Motion was made by Trustee Griser to approve, seconded by Trustee Sweet. All ayes.

Attorney Comments

Attorney Primo provided the board with a revised FOIL form with detailed denial responses. Motion to adopt the revised form was made by Trustee Musumeci, seconded by Trustee Sweet. All ayes. Primo asked the board to adopt the policy on sexual harassment and employees are required now to complete the training. Motion was made by Trustee Sweet, seconded by Trustee Griser. All ayes.

Attorney Primo said regarding the Slocum zone change, local law #5 the board hasn't adopted it yet and he'd like to amend it from business/commercial with limitations/restriction to new zoning district designation. Motion was made by Trustee Griser, seconded by Trustee Sweet. All ayes.

EXCERPT OF MINUTES OF VILLAGE BOARD OF TRUSTEES OF PHOENIX, NEW YORK CONTAINING
RESOLUTION RESPECTING MEMORIAL PARK SCHOOL DISTRICT SALE ADOPTED AT REGULAR
MEETING HELD ON JUNE 5, 2018 AND AS AMENDED/CORRECTED AT A REGULAR MEETING OF
THE VILLAGE BOARD HELD ON OCTOBER 16, 2018 AND OF RESOLUTION REQUESTING HOME
RULE DETERMINATION AS TO SALE OF LANDS HELD AS PARKLANDS OR OTHERWISE IN THE
PUBLIC TRUST

CERTIFICATION

The undersigned Roxanne Demo, Village Clerk-Treasurer hereby certifies that she was then present and the above resolution was duly adopted by the Village of Phoenix, New York Board of Trustees at its regular meeting held on June 5, 2018 and amended/corrected as is shown in the bolded print below at a regular meeting held on October 16, 2018 and is contained, but for the boldened language in the Village Board minutes of June 5, 2018 and is or is to be included exactly as shown below in the regular meeting minutes of October 16, 2018.

In addition to the foregoing and following same is a true and accurate copy of the resolution adopted at the June 5, 2018 meeting whereby a home rule determination was requested of the New York State legislature authorizing the transactions contemplated under the contract referenced therein.

Resolution 1

“Memorial Park- School District Status Attorney Primo said that both he and Jim Lynch had received word back from Senator Barclays office that the alienation request authorizing sale proceeds from the Memorial Park premises sale to the school district has to be utilized for park purposes; the NYS Senate and Assembly bills to be signed into law will require Village reinvestment of the sale proceeds for that purpose despite that we have independently invested sums substantially exceeding that amount toward park purposes including in several very recent situations; they asked us to document, we could and did within the space of a couple days, quite clearly in a detailed letter. Regardless of this news, which was not totally unexpected, Primo and Jim Lynch had been discussing our options and Jim also apprised Primo of some additional related projects and plans for the relatively near future including with some separately acquired funding and where there may very likely be required a village contribution, match requirement or simply an additional cash infusion to complete the project, also no one from the State could provide any particulars as to this reinvestment obligation (such as a time limit within which the contribution or reinvestment must be completed). As such one option is we may very well be able to utilize these sale proceeds funds for a short term internal loan such as to bridge the repayment of some other borrowings, including from our general

fund and including toward other park/recreation and/or similar small or larger scale projects falling under those permitted qualifying park/recreation projects. Primo also advised that in light of the conditional approvals of Bills in the Senate and Assembly authorizing the alienation, and notwithstanding that the Board had previously conceptually approved, by resolution, the intended transaction and execution and delivery of the contract of sale, the performance of those acts and duties required of Village thereunder in support of same, and making the appropriate findings respecting the Villages need for and use of such lands, and accordingly it appears, evidencing satisfaction of such conditions precedent to the authorization of sale as to Village property, a formal resolution is deemed advisable including a home rule request to the State Senate, Assembly and Governor, and accordingly Primo articulated background relating to and then the motion for consideration as follows: The Village of Phoenix Board of Trustees having determined the parcel commonly known as Memorial Park, having been for several decades, by most accounts, abandoned in substantial part due to its degrading and unsafe conditions, some including a large in ground municipal scale pool, demolished and filled in with its own and possibly other C&D debris, a hazardous substance by todays definition, a former paved and cement formed basketball court area long since crumbled and deteriorated, a playground area still in part encumbered by the latent dangers offered by the broken down former park improvements parts of which in some cases still exist: swings, teeter totters, slides all damaged years ago, no longer usable and in fact were still existing presenting some danger as an attractive nuisance to children; finally, the relatively modest veterans memorial placed in the park has been many years ago relocated to the local VFW). The Village having expressed many years earlier, in fact when the recreational improvements may have still retained some utility, that it could no longer maintain same and that the School District with assistance from the Town Highway Department could likely manage it and with an incentive to do so since the District had in their students a captive audience for use of the park for baseball, basketball, tennis and the like. For a relatively short period of time ie from 2006- perhaps 2010 the village had formal agreements with the district, (and perhaps the Town as well) providing, in light of the Districts regular recreational uses that the Villages ownership rights as to the park were superior to any other party, that the premises are deemed held in public trust for the good of the public, and that any grant of usage would be subject to certain use policies intended to ensure fair and equitable usage by all parties, persons, groups and organizations and subject to only reasonable policies and regulations; including in cooperation with such other groups and individuals and ensuring the ballfield, which is generally maintained in reasonably good condition by those individuals and organizations involved in youth and older teen leagues; and in addition, it was felt that the District really is the logical choice for ownership and operation of the memorial park premises since immediately adjacent to the District, their respective School premises and are served by roads and sidewalks also serving the schools and their students; and has the capacity to properly care for the premises; it was also acknowledged the Village is aware that the Districts past uses of the lands have been largely as recreational premises for the benefit of elementary, middle and high school students attending classes in their respective schools situated adjacent and nearby the Memorial Park lands subject hereof; The Village therefore determined, and again determines and affirms such prior determination that the lands have been and are not needed for any proper Village purposes **and are therefore surplus lands of the Village**; the Village accordingly in early late 2016 continuing through early to mid-2017 entered into discussions with the District relating to the possible sale of such lands to the District; as the same regardless of being surplus was nonetheless required to be sold for fair market value, the Village first obtained a market value study from a local realtor; the value arrived at was thought to be exceedingly low and upon inquiry was based in part on the location of the parcel and restricted access except however relative to the District; pedestrian and vehicle traffic would be more easily accessed from

the Districts premises; accordingly a second appraisal was commissioned to be completed by an MAI Designated Firm and appraiser (Pomeroy) known to be reputable having completed thousands of appraisals over the years, providing quality testimony in State Supreme Court commercial and industrial property tax review proceedings and having participated in many large government sponsored appraisal projects such as throughout the Adirondack Park, on hundreds of environmental Brownfield (former large scale industrial sites); the valuation determined by this appraiser was thought to be fair; in addition it was felt that no other purchaser would be likely to consider that appraised value simply because of the parcel special and unique utility to the District; a contract contingent upon alienation approval by the NYS Assembly and Senate, and with the governors approval was entered into on June 6, 2017 at a purchase price of \$148,000, (the appraised value). In connection with same a separate condition precedent to perfecting the sale was written into the contract, namely that the School District electors (ie resident voters) must affirmatively approve same at a mandatory referendum. A final set of conditions related to responsibility for demolition of an old dugout stand type building now used for storage, and disposal of any asbestos; that issue was resolved by a sharing of duties timed such that there would be no responsibility for same unless and until the contract contingencies had been resolved and closing was pending; at several times throughout the contract pendency the Board had considered and on several occasions adopted resolutions affirming the contract of sale. **At this time attorney Primo asked again that same be approved /affirmed by resolution and authorizing the Mayor and/or Village Attorney, to perform such acts and to execute and deliver such instruments and documents as are required to effect the contract and transactions required thereunder,** and in conjunction with that approval a second resolution requesting a Home Rule determination approving the alienation of the Memorial Park premises as described by tax parcel number and acreage in such resolution following. Primo last reminded the Board of the determination made at the annual organizational meeting that unless otherwise provided, the Action for SEQRA purposes was a Type II. This would apply to the foregoing resolution and also apply as to the Home Rule request following. Motion to adopt the foregoing resolution was made by Trustee Pendergast, seconded by Trustee Musumeci; All Trustees and the Mayor voting Aye.”

Resolution 2

The VILLAGE BOARD OF THE VILLAGE OF PHOENIX, in the County of Oswego, State of New York, met in regular session at the Sweet Memorial Building in the Village of Phoenix, Oswego County located at the Sweet Memorial Building, Main St. Village of Phoenix, New York on the 5th day of June, 2018, at 7:00 p.m.

The meeting was called to order by Ryan Wood, Mayor and the following were present, namely:

Ryan Wood	Mayor
David Pendergast	Trustee
Paul Griser	Trustee
John Musumeci	Trustee

Absent:	Caleb Sweet	Trustee
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Also Present:	Roxanne Demo, Village Clerk-Treasurer
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Jim Lynch, Village Administrator
Steven J. Primo, Village Attorney

The following resolutions were moved, seconded and adopted:

WHEREAS, The Village of Phoenix Board of Trustees (“Village Board”) pursuant to a proposed conditional/contingent contract of sale between the Village of Phoenix (“Village”) and the Phoenix Central School District (“PCSD”) desires and proposes for PCSD to acquire in fee all right title and interest in and to such lands, as improved, consisting of 11.96+/- acres identified as tax parcel #303.16-02-05 located within the Village; the PCSD has conditionally agreed to and is desirous of accepting and acquiring such lands and appurtenances rights and interest from Village; the aforementioned premises subject hereof consisting of former parkland property utilized for limited public purposes as the “Memorial Park” however for several decades largely in substantial disrepair and non-use and during such period the memorial improvements having been relocated upon not for profit owned premises maintained by local VFW Post 5540; and

WHEREAS, this transfer requires a special act of the State Legislature to authorize such transfer; and therefore,

NOW, on recommendation of the Village of Phoenix Board, be it hereby:

RESOLVED, that pursuant to the Constitution of the State of New York, the Village of Phoenix Board of Trustees hereby requests the NYS Assembly and Senate and New York State Governor support A10030-B and S7166-C, relating to authorizing the Village of Phoenix to discontinue its use of certain parklands, specifically those aforementioned, and be it further;

RESOLVED, that the Village Clerk is directed to provide copies of this Resolution to State Senator Patty Ritchie and Assemblyman William Barclay.

Upon motion made by Mayor Ryan Wood and seconded by Trustee Griser, the foregoing resolution was put to a roll call vote, which resulted as follows:

Ryan Wood, Mayor	Aye/yes
Paul Griser, Trustee	Aye/yes
John Musumeci, Trustee	Aye/yes
David Pendergast, Trustee	Aye/yes
Caleb Sweet, Trustee	Absent

Resolution was duly adopted on the 5th day of June 2018.

CERTIFICATION

I, the undersigned, Clerk-Treasurer of the Village of Phoenix, Oswego County, New York, do hereby certify: that the above are both (except as to the first resolutions boldened language) ,true copies of the original resolutions proposed and adopted at a regularly scheduled meeting of the Village Board held on June 5 2018 and as to the first resolution above, the boldened language amending /correcting such June 5, resolution having been adopted this date at a regular meeting of the Village Board.

School closing on the memorial park land will be at the end of next week. Approve a resolution to amend the minutes on June 5, 2018. Motion was made by Trustee Musumeci, seconded by Trustee Griser. All ayes.

Abstract

Mayor Ryan Wood asked if anyone had any questions or concerns with Abstract #16 dated October 16, 2018 in the amount of \$67,035.44. Trustee Musumeci made the motion to approve, general fund vouchers 543-579; water fund vouchers 545-579; sewer fund vouchers 542-579; capital water/sewer fund 558-577; library fund vouchers 129-135; and trust and agency fund vouchers 145-171, seconded by Trustee Sweet. All ayes.

Motion to approve the meeting minutes from October 2, 2018 was made by Trustee Sweet, seconded by Trustee Musumeci. All aye.

New Business

Motion was made by Trustee Musumeci to approve Facility Use Request for the Auditorium for Jordan Carfagno, November 4 from 12:00pm to 6:00pm for a birthday party, seconded by Trustee Griser. All ayes.

Mayor Wood discussed the bond proposal for the \$1.1 million Lock Street water project. Motion was made by Trustee Griser to approve, seconded by Trustee Musumeci. All ayes.

Public Comments

Danny Dunn 523 Main Street asked about replacing the block in his driveway. Lynch said he'd meet him at his house with DPW to discuss.

Motion was made by Trustee Musumeci to adjourn the meeting at 8:23pm seconded by Trustee Sweet. All ayes.

Respectfully submitted,

Roxanne Demo
Village of Phoenix
Clerk/Treasurer