

**Special Village Board Meeting
Monday, April 27, 2015 - 7:00 p.m.**

A special Village Board meeting was held on the above date at 7:00 p.m. with the following members present:

PRESENT: Mayor Patricia Abato
Trustee Frank Hagen, Trustee Robert Morris
Trustee Edward Markunas, Trustee Matthew Byrne

ALSO PRESENT: Virginia Menschner, Village Clerk
Attorney Terry Rice

ABSENT: None

The Mayor said this is the Village Board meeting on April 27, 2015. It is a special meeting. She said we are going to continue the public hearing amending the zoning law and zoning map to rezone properties along the east side of Orange Avenue and north side of Chestnut Street. The Mayor said this is the first item on the agenda. She said the applicant is here and he would like to say a few words to the Board to update them on where they are with regards to the project.

7:00 P.M. - PUBLIC HEARING - AMENDING ZONING LAW AND ZONING MAP TO REZONE PROPERTIES ALONG EAST SIDE OF ORANGE AVENUE AND NORTH SIDE OF CHESTNUT STREET:

Mr. Ira Emmanuel thanked the Mayor and Board and said he was the attorney for the applicant. He said as you know they had had some difficulties with respect to one of the property owners on the affected properties. They have since been in negotiations with that gentleman and those negotiations look like they are going to bear fruit. They believe that they can come to an agreement with him very, very shortly and that will bring that property back into their control. He said in addition they have been having discussions with Mr. Magrino with respect to some of the other issues involving the PILOT agreement and special assessments and also the acquisition of the property, working out the remaining issues with respect to that and they believe that those can be ironed out very, very quickly and so in order to give everybody time and in order to make sure they do this right they ask the Board's indulgence once again and ask that you continue the public hearing until the next regularly scheduled meeting. A motion to adjourn the meeting until May 4, 2015 at 7:30 p.m. was made by Trustee Markunas, seconded by Trustee Hagen. Upon vote, the motion was carried, with Trustee Byrne abstaining.

LOCAL LAW - PROPERTY TAX LEVY:

The Mayor said the next item on the agenda will be the local law for the property tax levy. She asked Mr. Mike Genito, the Village

Treasurer, to speak. Mr. Genito said that New York State law requires that if the Village is going to exceed the property tax levy cap of 1.68% that they must adopt a local law to override the tax levy cap prior to adopting the 2015-2016 budget. The Mayor thanked him. A motion to exceed the tax cap of 1.68% was made by Trustee Morris, seconded by Trustee Hagen.

AYES: Mayor Patricia Abato
Trustee Robert Morris, Trustee Frank Hagen
Trustee Edward Markunas, Trustee Matthew Byrne

NOES: None

ABSENT: None

LOCAL LAW - WATER RATES:

The Mayor asked Treasurer Genito to speak. Mr. Genito said the tentative budget has a recommended set of water rate increases. The water rate itself is 12.2% and the sewer rate is 14.4%. That is what is recommended in the tentative budget. He said he knows that the Board has discussed modifications or changes to those budgets, which would affect the rates. Mr. Genito said once again the tentative 2015-2016 budgets for the water fund and the sewer fund are recommending rates of 12.2% for the water and 14.4% for the sewer. He said we know that the Board has been working diligently on the tentative budget and amendments there too and although nothing has been adopted as of yet there are several suggestions on the table. But for the moment those are the rates that we have before us that the Board could vote on or if they choose to wait until another day - Wednesday - or whatever sometime prior to the adoption of the budget they can vote a different set of rates. The Mayor said to Mr. Genito that she would like, in order for the Board to fully understand, and she knows that he has expressed to her his recommendation of why even though some cuts may have been identified why he feels as though that these rates should remain. She said she would like him to be able to explain that to the public so they have a better understanding.

Mr. Genito said certainly. He said as you probably are all well aware the water fund and the sewer fund are in severe deficits and those two funds, in order to work our way out of those deficits and into appropriate cash flow positions, these rates would help along that way including the deficit financing that we are looking for to getting sometime in the forthcoming year. He said we have had discussions - the state audit - the State Comptroller's office has been in here doing a budget review and although they are not complete with that review in discussions with him on a given day he had noted his concern for the rates that had to be increased in

order to meet these requirements and eliminate the deficits over a period of time, over a period of three to five years. Some of the things that are in that budget are the result of just the use of water and how it has perhaps gone down over a bit or that the rates themselves didn't bring in - that were previously adopted - didn't bring in the revenues that were anticipated. At any rate the funds have been doing revenue anticipation notes, that is cash flow borrowing, since 2010 and once again the rates were established in this tentative budget to start working our way out of that situation.

The Mayor thanked him. Trustee Markunas said he had a question for Mr. Genito. He said regarding the water rate and the proposed rate increase of 12.2%, the reductions that we, the Board, submitted to him, decreased the increase by 7.2% down to 5%. Is that correct? Mr. Genito said yes. Trustee Markunas said he knows he didn't receive the follow-up if there was any other changes in regards - Mr. Genito said as you are probably well aware, Trustee Markunas yourself and Trustee Morris had sent over a series of suggested changes - some of them which had already been discussed and presented before but as well as some additional changes as of, he thinks, 7:00 p.m. last night and he recalculated the budgets for the water and the sewer and the general fund and the solid waste curbside district and he believes you all received an e-mail somewhere around 11:35 p.m. last night indicating all of the changes and responses to the changes that could be made to some items that were suggested as a change but due to contractual obligations were not able to be put in. And the net result of those changes in the set of documents that he sent to the Board. Trustee Markunas said okay, and that is complete. That is the final revision - Mr. Genito said that is the last revision that he has heard other than today at 3:00 p.m. or so that you had e-mailed a change that probably the net result is zero because it is simply moving money from one end of the water fund to the other. Trustee Markunas said okay, he just wanted to make sure that he received that change. Mr. Genito said yes. Trustee Markunas said okay, thank you.

The Mayor asked if there were any other questions from the Board. Trustee Morris said to Mr. Genito that we sent you some changes - a package of changes and it appeared that the changes were good but you had a difference of opinion as to the bonding and some of the other issues but they looked at that budget at their proposals and it is basically a different philosophy of where we want to go and he thinks, speaking for himself, they are looking to cap this water rate at 5% raise. Mr. Genito said the difference of philosophy he thinks one of the main ones that he had just referred to was in the sewer fund and in the sewer fund there was a payment of a \$162,500 bond anticipation note. The final payment on that note of that amount to be made in 2015-2016 and the recommendation, or the suggestion from the Board, was to take that amount along with a 1.1 million dollar bond anticipation note that we have outstanding in

the sewer fund and to bond the two of those notes and thereby stretch out the payment of those notes over some period of time, probably twenty years or more. Mr. Genito said his concern with that, and here is where the difference is, is that when we are talking about the sewer fund in particular we know that according to our engineer, our Village engineer, that the sewer fund will need probably another 1 ½ to 2 million dollars over the next couple of years for additional improvements mandated by the Department of Environmental Conservation consent order and in looking at long-term financing it is probably good for a couple of reasons to renew the note for 1.1 million dollars along with whatever other bonding they are going to borrow for and turn it into a long-term bond after perhaps a three or four year period. The other thing that does is that gives us time to look at opportunities that may avail themselves to us from New York State financing through its environmental facilities corps. The environmental facilities corps, if they accept our projects, and our financing would give us the ability to borrow short-term at zero percent interest rates and long term at one half the rate of a triple A rated community. Both of those are very advantageous over the long term so once again that philosophy managing a budget for a single year versus managing the projects and financing over a long period is where the difference is. Trustee Morris said again he thinks Mr. Genito is talking about a 1.2 million dollar bond for the wastewater treatment plant and a number of months ago they asked the director - keep in mind that we have already spent in excess of 4 million dollars on the plan - of what the total cost is going to be to bring this plant up to specifications and where we would have a period where we wouldn't be putting money into it. He said we are being asked to take a 1.2 million dollar bond for repairs to comply with the DEC consent order but in fact this could only be the tip of the iceberg and without having some kind of a solvent plan in front of us do we intend to spend 2 million, 5 million, 10 million, 20 million dollars. To rehab a sewer plant can cost upwards of 20 million dollars. What are our plans for this plant. As of yet, we haven't gotten a comprehensive plan from the Director of Public Works. So he is not inclined to agree with that and as he said he thinks we can do this budget as they submitted it to him for the changes at 5%.

Mr. Genito said as he advised the Board in the past he, of course, was hired by the Village to provide his knowledge and expertise to the Board, his recommendations, his best recommendations based on his experience and knowledge but it is of course the Board's prerogative and duty to make the proper decisions by themselves for the Village of Suffern.

Trustee Markunas said he also believes the consent orders from the DEC have been pushed back a year or two. Is that correct, Mayor?

Attorney Rice said we have been negotiating - he said for quite some time we were negotiating with DEC because of the financial issues about pushing back the deadlines for approximately one year. They have agreed to it but we haven't gotten a final document as yet. He said he doesn't have any question that it will go through though. A push back of approximately a year. Trustee Markunas said and the approximate cost on that consent order to the Village? Attorney Rice said you would have to talk to Mike and Charles about cost. Trustee Markunas said 1.2 million. The Mayor said yes, that is correct. Trustee Markunas said adversely we would be pushing off out of this water budget and reducing the increase to the Village residents by pushing off this consent order at a cost of 1.2 million dollars and then banning or bonding our long-term deficit, reducing it and spreading it out across a length of time so the impact would not be felt on the residents rates as greatly as they were proposed. Is that correct to say? The Mayor said we are working on it. There has not been a definitive answer on it but we are really trying very hard to work on that. But again the Treasurer has cautioned us to stop pushing off and bonding. This has been a vicious cycle that has been going on in this Village for a very long time and he is strongly recommending that we do not continue the borrowing - one of the proposals that you made was to bond a long-term bond for \$168,000 which reflects the last four payments of money that we borrowed. To put that over another ten year period or five year period - the interest that will incur on that is absolutely absurd. To be able to pay that off next year would be the financially sound thing to do and that is what the Treasurer has been explaining to us all along - is that you can't keep pushing off your debt. When you keep pushing off your debt and you keep borrowing you keep borrowing into a bigger hole. Trustee Markunas said correct. And we also need to look at the taxpayer and what the taxpayer can bear. So that is their concern and the taxpayers concern that somehow we need to come to a balance and not increase the water rate as drastically - granted that we do recognize that we do need to increase it some but not at the drastic rate. Trustee Morris said he believes the bond we proposed was to take in \$362,000 - Trustee Morris said the proposal they sent him did propose them taking a long-term bond but it paid off several short term bonds, it took \$162,000 and paid that off. There were several issues which this bond paid off which helped the financial crush that we are in. Mr. Genito said actually yes it pays off, as he mentioned, two bond anticipation notes. One is the final payment on an original bond anticipation note that was borrowed for what he believes was \$650,000. But it is \$162,500 and the other bond anticipation note outstanding was just borrowed this year for 1.1 million dollars. That was part of the work that was needed to improve the sewer plant. The additional bonding that the Director of Public Works has advised us under sewer abatement projects one and two, or phases one and two, are totaling somewhere between 1 ½ to 2 million. His original estimate was about a million dollars apiece. As you know the bids came in for the first phase somewhat under that million dollars but then again only one of the

contractors is willing to continue their bid price beyond a period of time that we have asked him to start it on. Mr. Genito said just to give them a quick background on that to explain that - the Village has been, as Mr. Rice has stated, has been in negotiations with the DEC in order not to have incurred upon us an immediate requirement that would make repairs that would cost over a million dollars to the sewer plant and ask that it be delayed somewhat if we did other work that would meet their needs until that period of time. So yes, those sewer abatement projects one and two were pushed off into another fiscal year. Not next year - well, into next year, so to speak. But when those two projects have to be done they are going to be between 1 ½ and 2 million dollars and the only way to pay for them is to borrow money. And that is what he was speaking of - is that the 1.1 million dollars plus another 1 ½ to 2 million could be combined into a single bond issue and may be eligible for EFC beneficial financing. Trustee Morris said we also - you were proposing, he thinks, it was a 5 million long term bond on the deficit financing. Mr. Genito said that is for the entire - the three funds of the Village - the water fund, sewer fund and general fund. To help get them out of the deficits that they are in. Trustee Morris said will it help get them out or will it get them out. Mr. Genito said it is going to help get them out along with the rate increases. It is part of the plan. He said you have to pay that bond. It is not free money. The money comes in and it has to be paid off. Trustee Morris said he understands that. Mr. Genito said and we have a number of issues that have built up over the years - some of them are the borrowed money that we were paying off - we were paying off our bills with borrowed money - our current bills with borrowed money. They are called revenue anticipation notes. Borrowing against the money that we expect to get in this year. And that has been happening since 2010. So to break that cycle to begin with. And then to get into responsible budgets and to react to budgetary changes as they occur during the year - to address shortfalls in revenues that weren't anticipated or increases in expenditures. But they have to be addressed as we go along during the year as opposed to waiting until the end of the year and finding we are in trouble. The Mayor asked if there were any other questions from the Board.

Attorney Rice he didn't know what they wanted to talk about first but depending on what you want to do you have a local law in front of you - he said you have a draft local law in front of you. It is premised upon a particular budget so if you are in agreement with that particular budget then you can act on that. If you need to change something - a different budgetary idea then you are going to have to have Mike figure the rates out in the local law that you want to adopt.

Trustee Markunas said this local law in front of us is not the

local law that pertains to the proposed changes that they asked for. Is that correct? The Mayor said correct. Trustee Markunas said so we need a revised local law reflecting the revisions that they requested. The Mayor said right. And you stated that to be a 5% increase - she said sorry, a rate of 5% is what you are proposing. Is that correct? A 5% increase. Trustee Morris said yes. Trustee Markunas said in the proposal it would actually be the monetary amount - is that correct? Is that what we vote on into the local law - not the specific percentage increase. Attorney Rice said the local law itself has rates - sets the rates. Trustee Markunas said sets the rates - correct. Attorney Rice said so if you have a particular budget the finance department is going to have to compute the rates so that you can put them into the local law. Trustee Markunas said correct. Attorney Rice said if they know what the budget is they can give him the numbers and he can have that for them for the meeting Wednesday night. Trustee Markunas said okay. So we do not have that prepared tonight. Attorney Rice said no.

Trustee Morris said can he ask why we don't have it prepared. He said they were under the assumption that if they sent in the proposals that they would have tentative budgets. Mr. Genito said he believes what Mr. Rice is referring to is that the local law has not been prepared. The budget adjustments that Mr. Genito sent them late last night show rates for the water at 3.18 up to 71 units, up to 70 units, and above that 3.64. And a rate for outside Village customers 4.64 and the only other change that he would say that is not listed here that he would continue to recommend is that he believes is the outside minimum from 55 to 60. He said he believes that is in the local law for water? The Mayor said yes. Mr. Genito said and then on the sewer end of things, the rates as adjusted per your suggestions, was 6.9 for the sewer, which is a 4 ½% increase altogether. Trustee Markunas said correct. Mr. Genito said so it is \$6.90. Attorney Rice said so those numbers reflect the 5%. Mr. Genito said 5% for water and 4 ½ for sewer. Attorney Rice said alright. Then you are good to go. Amend the propose local law to reflect that and then you can act on it if those numbers - Mr. Genito said he apologizes to Mr. Rice for not forwarding to him an amended local law simply because he wasn't sure if the Board had finished all of their recommended changes. Attorney Rice said just so everybody is clear. If these numbers reflect exactly what the Board wants you can amend the proposed local law before you and you can adopt it. The Mayor asked if there was a motion.

Attorney Rice said the first thing you want to do is amend the proposed local law. Trustee Markunas said before we make the motion and all and he believes the majority of the people are out here to understand the rate increase in the water and the sewer. So what is taking place in regards to the sewer - the proposed tentative rate - we were at 14.4%. Upon a closer look and some evaluation, they were able to bring it down to 4.5% for the sewer. Now going back to the water fund, the proposed tentative rate was 12.2%. He said we

were able to bring it down to 5%. So that is what they were diligently working on and trying not to put this on the back of the people in one year. That was their main point and he hopes that they understand that we were in a severe deficit and that we do need to increase the water rates but not at that high percentage. He thanked them.

Attorney Rice said procedurally let's just make sure that everybody is on the same page and we do it properly. He said this is his understanding of what the Board wants to do. He said you amend the proposed local law pending before you - and let him just read the rates on the water local law that he has so he makes sure that everybody is in agreement. For consumers within the Village for water it stays the same - the first 10 units is \$35 minimum. Ten units and less than 71 is 3.60 per unit. Portion over 70 units - the Mayor said no. Attorney Rice said that is the one he has. He said 3.4 then? Is that what we are dealing with? He said so again, let's make sure we are all on the same page. He said it is the same \$35 minimum. Portion over 10 unites and less than 71 units is 3.40 per unit and the portion over 70 units - Trustee Markunas said no, that is not the amended rate. The Mayor said what he is saying is what you are amending. Attorney Rice said no, this is the latest version that we have. If you have different rates that reflect that, we need to see them. Trustee Markunas said it is \$3.18, \$3.64 and \$4.64. Attorney Rice said he is glad we went through this otherwise we would be confused. He said ten units and less than 71 you are proposing \$3.18. Is that accurate? Trustee Markunas said maybe Mike should confirm it. Mr. Genito said yes, he will confirm 3.18 for zero to 70 units. Attorney Rice said and portion over 70 units \$3.64. Is that correct? Mr. Genito said that is correct. Attorney Rice said and the first out of Village use - the first ten units you are increasing to \$60 and portion over ten units is \$4.64. That is exactly the rates you are proposing. Mr. Genito said yes. Attorney Rice said you need to make a motion to amend the proposed local law to reflect those rates and then you can act on the local law on the second motion.

Trustee Morris said he makes a motion to amend the rates to reflect the changes, which was seconded by Trustee Hagen.

AYES: Trustee Robert Morris, Trustee Frank Hagen
Trustee Edward Markunas, Trustee Matthew Byrne

NOES: Mayor Patricia Abato who said she votes no because she has not received any explanation as to how the water and sewer fund are going to operate under this budget, nor has Mr. Genito. She said that Mr. Genito came on board as an expert with a very, very solid financial background and he has made recommendations to this Village that he

is trying to bring forward and unfortunately they have gone unheard. She said she is also very concerned with the statements of the Trustees that they have gone to outside accountants for advice as we have asked, the Treasurer, many times to please let us know who these are so that he can speak with them and give an accurate picture of the entire Village. Those names have not been disclosed to him therefore he has not had the benefit of speaking with these individuals to which the members of the Board have taken advice from. She said that not that she doesn't want to see a decrease in this but she certainly does not want to do something that is fiscally irresponsible for this Village so therefore she votes no. But the motion is carried.

ABSENT: None

VILLAGE OF SUFFERN
LOCAL LAW NO. 3 OF 2015
A LOCAL LAW AMENDING
CHAPTER 261 OF THE CODE OF THE
VILLAGE OF SUFFERN
REGARDING WATER RATES

BE IT ENACTED by the Board of Trustees of the Village of Suffern, as follows:

Section 1. Section 261-15 of the Code of the Village of Suffern is hereby amended to provide as follows:

A. Water Rates. Water rates will be charged as follows:

I. For consumers within the Village:

- a. For the first 10 units or fraction thereof: \$35.00 minimum charge;
- b. For that portion over 10 units and less than 71 units: \$3.18 per unit;
- c. For that portion over 70 units: \$3.64 per unit.

II. For consumers outside the Village limits:

- a. For the first 10 units or fraction thereof: \$60.00
- b. For that portion over 10 units: \$4.64 per unit.

Section 2. This local law shall take effect immediately upon filing with the Secretary of State.

Attorney Rice said you have to vote on the local law itself. A motion to adopt the local law with the new rates that were made by Mr. Genito was made by Trustee Hagen, seconded by Trustee Morris.

AYES: Trustee Robert Morris, Trustee Frank Hagen
Trustee Edward Markunas, Trustee Matthew Byrne

NOES: Mayor Patricia Abato who said she votes no for the same reason.

ABSENT: None

Attorney Rice said again let's make sure we are talking about the same rates. With the budget they are proposing the rate for the sewer which would be \$7.55 per 100 cubic feet of water? Is that accurate. Mr. Genito said that was the original. It is now \$6.90. Attorney Rice said the minimum sewer rent - this is showing \$25. Is that going to stay the same? Mr. Genito said yes. Attorney Rice said that should do it. He said he is sorry. The minimum for an outside user is \$25. Yes? Mr. Genito said whatever was in the original proposal. Attorney Rice said the two numbers in paragraph C - the outside users are charged 7.55 per 100 cubic and then a \$25 minimum. So if that is the case again you need a motion to amend the proposed local law before you and then the second vote on the local law itself.

Trustee Morris said he would make the proposal to amend the local law with the figures we just talked about, seconded by Trustee Hagen.

AYES: Trustee Robert Morris, Trustee Frank Hagen
Trustee Edward Markunas, Trustee Matthew Byrne

NOES: Mayor Patricia Abato said she votes no and the reasons that she is voting no is because again outside counsel, outside accountants worked with the Trustees on this. There are strict laws that unless you are a municipal adviser you are not to give advice. It is breaking laws of the SEC. She said she does not know if those laws have been broken as of this time because the Trustees will not disclose who the accountants are that have taken this advice from. Therefore in good conscience she cannot certainly vote on a change for a budget that may have broken some laws. So again none of the proposals that they have made have been shared with herself or the Treasurer as to how they are going to achieve this new rate and that is why she is voting no.

ABSENT: None

VILLAGE OF SUFFERN

LOCAL LAW NO. 4 OF 2015

A LOCAL LAW AMENDING
CHAPTER 220 OF THE CODE OF THE
VILLAGE OF SUFFERN
REGARDING SEWER RENTS

BE IT ENACTED by the Board of Trustees of the Village of Suffern, as follows:

Section 1. Section 220-44 of the Code of the Village of Suffern is hereby amended to provide as follows:

- A. The sewer rent shall be established and may be changed by Local Law following a public hearing thereon. The sewer rate shall be \$6.95 per 100 cubic feet of water consumed for properties located in the Village of Suffern.
- B. The minimum sewer rent shall be \$25.00 per billing period. [Amended 4-2- 2012 by L.L. No. 6-2012]
- C. The Board of Trustees may allow properties located outside the corporate limits of the Village of Suffern to access and utilize the Village sewage system if it is determined that all aspects of the system possess sufficient excess capacity. If it is subsequently determined that any aspect of the system is insufficient, the Village may terminate such outside the Village access upon such notice as the Board of Trustees deems to be reasonable. Such outside users shall be charged at the rate of \$7.55 per 100 cubic feet of water used as reflected on the bill provided by their water supplier. Such user shall provide copies of such water bills to the Village Clerk within five days of receipt of the same in order for the Village to calculate the applicable sewer rent. If the outside user fails to do so, the Village will render an estimated sewer rent. If such outside user fails to provide such water bill upon demand, the Village may terminate service upon 30 days written notice. In any event, the minimum bill chargeable to an outside user shall be \$25.00 per billing period.

Section 2. This Local Law shall take effect immediately upon filing with the Secretary of State.

A motion to adopt the local law as proposed was made by Trustee Morris, seconded by Trustee Hagen.

AYES: Trustee Robert Morris, Trustee Frank Hagen
Trustee Edward Markunas, Trustee Matthew Byrne

NOES: Mayor Patricia Abato who voted no for the same reason

ABSENT: None

A motion to adjourn the meeting at 7:34 p.m. was made by Trustee Morris, seconded by Trustee Byrne. Upon vote, the motion was carried.