

**TOWN OF PLATTSBURGH
TOWN BOARD SPECIAL MEETING
JULY 24, 2008**

The meeting was called to order at 8:00 a.m. by the presiding officer at the Town Hall on the Banker Road.

MEMBERS:		<u>Present</u>	<u>Absent</u>
Bernard C. Bassett, Supervisor		X	
Martin D. Mannix, Councilperson		X	
Thomas E. Wood, Councilperson		X	
Sheila A. Brockway, Councilperson			X
Gerard A. Renadette, Councilperson		X	
Amy L. Duquette, Town Clerk		X	
James J. Coffey, Town Attorney		X	

PUBLIC RECOGNITION

Present: **No one**

Comments: **None**

RESOLUTION NO.08-253

IN THE MATTER OF THE COSTS OF
IMPROVEMENTS TO THE TOWN OF
PLATTSBURGH CONSOLIDATED SEWER
DISTRICT IN RE THE CHAMPLAIN PARK PUMP
STATION, IN THE TOWN OF PLATTSBURGH,
CLINTON COUNTY, NEW YORK.

Motion by: **Gerard A. Renadette**
Carried by: **Ayes 4**

Seconded by: **Martin D. Mannix**
Nays 0

WHEREAS, Laberge Engineering and Consulting Group, a competent engineer (the “Engineer”), has prepared a map, plan and report for the construction and acquisition of the Champlain Park Pump Station in and for the Town of Plattsburgh Consolidated Sewer District (the “District”), including all necessary materials, equipment, machinery, apparatus, land and rights-in-land required in connection therewith, and pursuant to the direction of the Town Board, the Engineer completed and filed with the Town Board such map, plan and report and a detailed explanation of how the estimated

cost to the District of the improvements of the District was computed, and the Engineer estimated the additional costs thereof to be financed by the Town on a permanent basis to be \$500,000, and the total maximum costs of the project to be financed by the Town to be \$2,500,000, whereupon on June 23, 2008 the Town Board of said Town adopted an Order calling a public hearing and caused a notice of such hearing to be published, posted and mailed (by publishing, posting and mailing said order by United States Certified Mail Return Receipt Requested as specified in said Order), and stating July 21, 2008 at 6:30 o'clock P.M. (Prevailing Time) as the time when and the Town Hall, in Plattsburgh, New York, in the Town of Plattsburgh, as the place where the Town Board would meet to hear all persons interested in the subject matter thereof; and

WHEREAS, a public hearing was held at the time and place as aforesaid in the manner described at which all persons interested in the subject matter were given an opportunity to be heard

NOW, THEREFORE, upon the evidence given at the public hearing described herein, it is determined by the Town Board of the Town of Plattsburgh, New York, as follows:

1. The notice of the public hearing described in the preambles hereof was posted and published as required by law, and mailed by United States Certified Mail Return Receipt Requested as specified in said Order and is in all respects satisfactory and all parties with an interest in the proposed improvements in and for the District were provided actual or constructive notice;

2. The Engineer is hereby directed and authorized, with the assistance of the Town attorney, to prepare a proposed contract for the execution of the work to acquire and construct said facilities; and

3. Upon its adoption, the Town Clerk shall record a true copy of this Order in the office of the Clinton County Clerk as required by section 195 of the Town Law; and

4. The Town Board of the Town shall conduct environmental compliance proceedings required under Article 8 of the New York Environmental Conservation Law and the applicable regulations promulgated thereunder from time to time by the Department of Environmental Conservation to determine whether the acquisition, construction and financing of said improvements will have a significant adverse impact on the environment, providing that the Town Board shall conduct no further proceedings on this matter until a negative declaration as to environment impact has been determined; and
5. The costs of the improvements in the District may include any costs heretofore made by the Town and charged to the District for which the Town or the District may seek reimbursement, and the Town Board hereby determines that the proceedings of the Town Board evidence that "official action" was taken with respect to any such cost for which reimbursement may be sought; and.
6. The acquisition, construction and financing of the Champlain Park Pump Station and ancillary facilities is approved. This Order shall not be subject to a permissive referendum or approval by the Office of the New York State Comptroller.
7. This Order shall take effect immediately.

RESOLUTION NO.08-254

**ENVIRONMENTAL COMPLIANCE
RESOLUTION CHAMPLAIN PARK
PUMP STATION**

Motion by: Thomas E. Wood
Carried by: Ayes 4

Seconded by: Martin D. Mannix
Nays 0

WHEREAS, Part 617 "State Environmental Quality Review", section 8-0113 of the Environmental Conservation Law provides for the review of projects which constitute an "action" with respect to the effect of such projects on the environment; and

WHEREAS, the Town Board of the Town of Plattsburgh (the "Town Board" and the "Town", respectively) has adopted the provisions of Part 617 "State Environmental Quality Review"; and

WHEREAS, a determination of the effect of said project or action on the environment is necessary to determine whether a draft "Environmental Impact Statement" is required; and

WHEREAS, the effects of the project or action on the environment are to be examined by all "involved agencies" for "unlisted actions" to make such determination; and

WHEREAS, the Town Board has before it the project or action known as the improvement to the Champlain Park pump station (the "Project"); and

WHEREAS, the Project is expected to be permanently financed in part with the Town's serial bonds in the total estimated amount of \$2,500,000 together with moneys which may be received from federal and State of New York agencies or other third party sources; and

WHEREAS, the Project has been determined and is hereby determined to be an "unlisted action" requiring the assessment as to its effect upon the environment; and

WHEREAS, the Town Board is hereby determined to be an "involved agency" and, if no objection is made from any other "involved agency", the "lead agency" in accordance with Part 617 "State Environmental Quality Review" for purposes of assessing the effect of the Project on the environment and determining whether said effect is sufficiently significant to require the preparation of a draft "Environmental Impact Statement";

NOW, THEREFORE, BE IT RESOLVED by the Town Board of the Town of Plattsburgh, New York, as follows:

1. The Town Board acting as an "involved agency" and as the "lead agency" has received a completed Short Environmental Assessment Form (Parts 1 and 2) [a true copy of which is attached hereto], map, plan and estimate of expense prepared by a licensed engineer and related materials giving information about the Project and its potential effects on the environment (collectively, the "environmental compliance file").

2. The Town Board does hereby determine, after careful review and consideration of the environmental compliance file as prepared by said licensed engineer and after taking a hard look at all the relevant facts, that the Project supported by the issuance of obligations of the Town will not have a significant effect on the environment pursuant to the information presented in Part 1 - PROJECT INFORMATION and Part 2 - PROJECT IMPACTS AND THEIR MAGNITUDE, and that, therefore, a further public hearing, segmentation and scoping of the Project for environmental review, and the preparation of a draft "Environmental Impact

Statement" is not required.

3. The Town Board does hereby authorize and direct the Supervisor of the Town to have prepared a "notice of no significant environmental impact" (NEGATIVE DECLARATION) for the Project.

4. The "notice of no significant environmental impact" (NEGATIVE DECLARATION) shall be disseminated to those "involved agencies" and governmental units as required by the Environmental Conservation Law and any local law of the Town, and the environmental compliance file as aforesaid shall be maintained on file at the Town Hall Offices of the Town Board and made available for public inspection at regular business hours of the Town.

5. Any prior no significant environmental impact determination made by the Town Board with respect to prior authorization of financing of a portion of the cost of the Project is hereby approved, ratified and confirmed.

6. This resolution shall become effective immediately upon its adoption by the Town Board of the Town.

RESOLUTION NO.08-255

**AUTHORIZING THE ISSUANCE OF \$500,000
AGGREGATE PRINCIPAL AMOUNT SERIAL
BONDS OF THE TOWN OF PLATTSBURGH, NEW
YORK, PURSUANT TO THE LOCAL FINANCE
LAW, TO FINANCE THE ADDITIONAL COSTS
OF THE CHAMPLAIN PARK PUMP STATION, IN
THE TOWN OF PLATTSBURGH, CLINTON
COUNTY, NEW YORK.**

Motion by: Martin D. Mannix
Carried by: Ayes 4

Seconded by: Gerard A. Renadette
Nays 0

WHEREAS, on October 1, 2007 the Town Board of the Town of Plattsburgh (the "Town") adopted a serial bond resolution (the "Resolution") authorizing the financing of the costs in the amount of \$2,000,000 of improvements to the Champlain Park pump station in and for the Town of Plattsburgh Consolidated Sewer District (the "District") through the issuance of obligations of the Town to provide funds for such improvement at a total cost of no more than \$2,000,000 including

preliminary costs, all in accordance with the Local Finance Law; and

WHEREAS, Town Board the called a public hearing on June 23, 2008 pursuant to the provisions of Section 202-b of the Town Law to consider financing \$500,000 additional costs of the Project (defined herein below), and such hearing was duly noticed and duly held; and

WHEREAS, on July 21, 2008, the Town Board held such public hearing as required by law; and

WHEREAS, on the date hereof the Town Board made findings and determinations to increase the costs of the Project from \$2,000,000 to \$2,500,000 based upon the evidence presented at said public hearing; and

NOW, THEREFORE, BE IT RESOLVED by the Town Board of the Town of Plattsburgh, as follows:

Section 1. There is hereby authorized to be issued serial bonds of the Town of Plattsburgh, New York, in an aggregate principal amount not to exceed \$ 500,000 pursuant to the Local Finance Law, in order to finance the cost of the acquisition, construction and reconstruction of improvements to the wastewater collection and treatment system of the District in said Town,

Section 2. The Town Board has ascertained and hereby states that (a) the estimated maximum cost of the Project is \$2,500,000; (b) costs in the amount of \$2,000,000 has been heretofore authorized by the Town Board in the Resolution; (c) the Town Board plans to finance the costs of the Project from \$500,000 of proceeds from the serial bonds or bond anticipation notes authorized herein and \$2,000,000 of proceeds from serial bonds or bond anticipation notes previously authorized in the Resolution; and (d) the amount of serial bonds authorized herein shall be reduced *pro tanto* to the extent of moneys received or to be received from federal or State of New York agencies or other third party sources.

Section 3. It is hereby determined that the Project is a specific object or purpose described in subdivision 4 of paragraph a of Section 11.00 of the Local Finance Law and that the period of probable usefulness of the Project is forty (40) years. The serial bonds authorized herein shall have a maximum maturity of forty (40) years computed from the earlier of (a) the date of the first issue of such serial bonds, or (b) the date of the first bond anticipation notes issued in anticipation of the issuance of such serial bonds.

Section 4. The faith and credit of the Town are hereby and shall be irrevocably pledged for the punctual payment of the principal of and interest on all obligations authorized and issued pursuant to this bond resolution and an annual appropriation shall be made for the payment of such principal and interest as the same shall be due, and an amount sufficient therefor shall be levied, assessed and collected from the several lots and parcels of land within the District at the same time and in the same manner as other Town charges.

Section 5. Subject to the terms and conditions of this bond resolution and the Local Finance Law, and pursuant to the provisions of Sections 21.00, 30.00, 50.00, 56.00 and 60.00, inclusive, of the Local Finance Law, the power to authorize bond anticipation notes in anticipation of the issuance of the serial bonds authorized by this bond resolution and the renewal of such bond anticipation notes and the power to prescribe the terms, form and contents of such serial bonds and such bond anticipation notes authorized by this bond resolution, and the power to issue, sell and deliver such serial bonds and such bond anticipation notes, including renewal notes, is hereby delegated to the Town Supervisor, as the chief fiscal officer of the Town. The Town Supervisor is hereby authorized to execute on behalf of the Town all serial bonds issued pursuant to this bond resolution and all bond anticipation notes, including renewal notes, issued in anticipation of the issuance of such serial bonds, and the Town Clerk of the

Town is hereby authorized to affix the seal of the Town to all such serial bonds and all such bond anticipation notes, including renewal notes issued in anticipation of the issuance of such serial bonds, and the Town Clerk is hereby authorized to affix the seal of the Town to all such serial bonds, and all such bond anticipation notes including renewal notes, and to attest such seal. Each interest coupon, if any, representing interest payable on such serial bonds shall be authenticated by the facsimile signature of the Town Supervisor. Such serial bonds, if, as and when issued may be authenticated by the countersignature of a fiscal agent of the Town or by the appropriate designated officer of the Town pursuant to Section 70.00 of the Local Finance Law, as amended.

Section 6. When this bond resolution takes effect, the Town Clerk shall cause the same to be published together with a notice in substantially the form prescribed by Section 81.00 of the Local Finance Law in the Press Republican a newspaper having a general circulation in the Town. The validity of the serial bonds authorized by this bond resolution and of bond anticipation notes issued in anticipation of the sale of such serial bonds may be contested only if such obligations are authorized for an object or purpose for which the Town is not authorized to expend money, or the provisions of law which should be complied with as of the date of the publication of this bond resolution are not substantially complied with, and an action, suit or proceeding contesting such validity is commenced within twenty (20) days after the date of such publication, or if such obligations are authorized in violation of the provisions of the Constitution of the State.

Section 7. Prior to the issuance of obligations authorized by this bond resolution, the Town Board of the Town shall comply with all applicable provisions prescribed in Article 8 of the Environmental Conservation Law, all regulations promulgated thereunder by the New York State Department of Environmental Conservation, and all applicable Federal laws and regulations in

connection with environmental quality review relating to the Project (collectively, the “environmental compliance proceedings”). In the event that any of the environmental compliance proceedings are not completed, or require amendment or modification subsequent to the date of adoption of this bond resolution, the Town Board of the Town will re-adopt, amend or modify this bond resolution prior to the issuance of obligations authorized to be issued herein upon the advice of bond counsel. It is hereby determined by the Town Board of the Town that the Project will not have a significant effect on the environment.

Section 8. The Town intends to issue the obligations authorized by this bond resolution to finance the costs of the Project. The Town covenants for the benefit of the holders of the obligations authorized herein that it will not make any use of the proceeds of such obligations, any funds reasonably expected to be used to pay the principal of or interest on such obligations or any other funds of the Town, and will not make any use of the facilities financed with the proceeds of such obligations which would cause the interest on such obligations to become subject to federal income taxation under the Internal Revenue Code of 1986, as amended (the “Code”) (except for the alternative minimum tax imposed on corporations by section 55 of the Code) or subject the Town to any penalties under section 148 of the Code, and that it will not take any action or omit to take any action with respect to such obligations, the proceeds thereof or any facilities financed thereby if such action or omission would cause the interest on such obligations to become subject to federal income taxation under the Code (except for the alternative minimum tax imposed on corporations by Section 55 of the Code) or subject the Town to any penalties under section 148 of the Code. The foregoing covenants shall remain in full force and effect notwithstanding the defeasance of the bonds or any other provisions hereof until the date which is 60 days after the final maturity date or earlier prior redemption date thereof. The

proceeds of any obligations authorized to herein may be applied to reimburse expenditures or commitments of the Town made for such purpose on or after a date which is not more than 60 days prior to the date of adoption of this bond resolution by the Town. The Town expects to expend general funds or other available moneys for the purposes which should be reimbursed from the proceeds of such obligations.

Section 9. For the benefit of the holders and beneficial owners from time to time of the bonds and bond anticipation notes authorized pursuant to this bond resolution (the “obligations”), the Town agrees, in accordance with and as an obligated person with respect to the obligations, under Rule 15c2-12 promulgated by the Securities Exchange Commission pursuant to the Securities Exchange Act of 1934 (the “Rule”), to provide or cause to be provided such financial information and operating data, financial statements and notices, in such manner, as may be required for purposes of the Rule. In order to describe and specify certain terms of the Town’s continuing disclosure agreement for that purpose, and thereby to implement that agreement, including provisions for enforcement, amendment and termination, the Town Supervisor is authorized and directed to sign and deliver, in the name and on behalf of the Town, the commitment authorized by subsection 6(c) of the Rule (the “Commitment”) to be placed on file with the Town Clerk, which shall constitute the continuing disclosure agreement made by the Town for the benefit of holders and beneficial owners of the obligations in accordance with the Rule, with any changes or amendments that are not inconsistent with this resolution and not substantially adverse to the Town and that are approved by the Town Supervisor on behalf of the Town, all of which shall be conclusively evidenced by the signing of the Commitment or amendments thereto. The agreement formed, collectively, by this paragraph and the Commitment, shall be the Town’s continuing disclosure agreement for purposes of the Rule, and its performance shall be subject to the

availability of funds and their annual appropriation to meet costs the Town would be required to incur to perform hereunder. The Town Supervisor is further authorized and directed to establish procedures in order to ensure compliance by the Town with its continuing disclosure agreement, including the timely provision of information and notices. Prior to making any filing in accordance with the agreement or providing notice of the occurrence of any material event, the Town Supervisor shall consult with, as appropriate, the Town Attorney and bond counsel or other qualified independent special counsel to the Town. The Town Supervisor acting in the name and on behalf of the Town, shall be entitled to rely upon any legal advice provided by the Town Attorney or such bond counsel or other special counsel in determining whether a filing should be made.

Section 10. This bond resolution shall take effect immediately upon its adoption by the Town Board of the Town.

Discussion: Supervisor Bassett indicated that Mr. Bond wrote the resolution.

ADJOURNMENT

Motion by:	Gerard A. Renadette	Seconded by:	Thomas E. Wood
Carried by:	Ayes 4	Nays 0	

RESOLVED, that this Town Board Meeting be adjourned 8:19am.

Respectfully Submitted,

Amy Duquette, Town Clerk

ADJOURNMENT

Motion by: Gerard A. Renadette **Seconded by:** Thomas E. Wood
Carried by: Ayes 4 **Nays** 0

RESOLVED, that this Town Board Meeting be adjourned 8:19am.

Respectfully Submitted,

Amy Duquette, Town Clerk