

**TOWN OF PLATTSBURGH
TOWN BOARD WORK SESSION
MARCH 9, 2009**

During the regularly scheduled work session resolutions 09-102 - 09-103 and 09-104 were brought to the table for further discussing and action as noted by the minutes.

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	

RESOLUTION NO. 09-102

AMENDING RESOLUTION 09-63 TO
AUTHORIZE THE ISSUANCE OF \$50,000
ADDITIONAL 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 CADYVILLE
MORRISONVILLE WATERLINE
CONNECTION, IN THE TOWN OF
PLATTSBURGH.

Motion by:	Gerard A. Renadette	Seconded by:	Sheila A. Brockway
Carried by:	Ayes 5	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 \$750,000 of improvements to the Cadyville-Morrisonville Waterline Extension in and for the Town of Plattsburgh Consolidated Water 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 **\$750,000** including preliminary costs, all in accordance with the Local Finance Law; and

WHEREAS, the Town Board called a public hearing on January 5, 2009 pursuant to the provisions of Section 202-b of the Town Law to consider financing \$50,000 additional costs of the Project (defined herein below), and such hearing was duly noticed and duly held; and

WHEREAS, on January 5, 2009, the Town Board held such public hearing as required law;

WHEREAS, on the date hereof the Town Board made findings and determinations to increase the costs of the Project from \$750,000 to \$800,000 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 \$50,000 pursuant to the Local Finance Law, in order to finance the cost of the acquisition, construction and reconstruction of improvements to the *Cadyville-Morrisonville Water Line Extension* of the District in said Town, including the acquisition of equipment, machinery, apparatus, land and rights-in-land necessary therefore, including preliminary costs (the "Project").

Section 2. The Town Board has ascertained and hereby states that (a) the estimated maximum cost of the Project is \$800,000; (b) costs in the amount of \$750,000 has been heretofore authorized by the Town Board in the Resolution; (c) the Town Board plans to finance the costs of the Project from \$50,000 of proceeds from the serial bonds or bond anticipation notes authorized herein and \$750,000 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 1 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 therefore 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 hereunder 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: Councilor Renadette asked supervisor Bassett to point out to Bond Counsel that this type of an error is an embarrassment.

RESOLUTION NO. 09-103

**AMENDING RESOLUTION 09-64
AUTHORIZING THE ISSUANCE OF
ADDITIONAL \$100,000 AGGREGATE
PRINCIPAL AMOUNT SERIAL BONDS
OF THE TOWN OF PLATTSBURGH,
NEW YORK, PURSUANT TO THE
LOCAL FINANCE LAW, TO FINANCE
ADDITIONAL COSTS OF THE
MOFFITT ROAD**

Motion by: Sheila A. Brockway
Carried by: Ayes 5

Seconded by: Martin D. Mannix
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 \$1,000,000 of improvements to the Moffitt Road Waterline Extension in and for the Town of Plattsburgh Consolidated Water 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

\$1,000,000 including preliminary costs, all in accordance with the Local Finance Law; and

WHEREAS, the Town Board called a public hearing on January 12, 2009 pursuant to the provisions of Section 202-b of the Town Law to consider financing \$100,000 additional costs of the Project (defined herein below), and such hearing was duly noticed and duly held; and

WHEREAS, on January 12, 2009 the Town Board held such public hearing as required law; and

WHEREAS, on the date hereof the Town Board made findings and determinations to increase the costs of the Project from \$1,000,000 to \$1,100,000 based upon the evidence presented at said public hearing; and 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 \$100,000 pursuant to the Local Finance Law, in order to finance the cost of the acquisition, construction and reconstruction of improvements to ***the Moffitt Road Waterline Extension*** of the District in said Town, including the acquisition of equipment, machinery, apparatus, land and rights-in-land necessary therefore, including preliminary costs (the "Project").

Section 2. The Town Board has ascertained and hereby states that (a) the estimated maximum cost of the Project is \$1,100,000; (b) costs in the amount of \$1,000,000 has been heretofore authorized by the Town Board in the Resolution; (c) the Town Board plans to finance the costs of the Project from \$100,000 of proceeds from the serial bonds or bond anticipation notes authorized herein and \$1,000,000 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 1 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 therefore 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

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 thereunder. 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: Councilor Renadette asked Attorney Coffey to read section two, he wants to be sure it reads right. Attorney Coffey believes it is fine.

RESOLUTION NO. 09-104

Further Authorization for the Supervisor to Enter Into an Amended PILOT Agreement and Article 7 Settlement with Saranac Power Partners

Motion by: Gerard A. Renadette
Carried by: Ayes 5

Seconded by: Sheila A. Brockway
Nays 0

WHEREAS, Saranac Power Partners (“Project Company”) has requested the existing 1992 PILOT Agreement be renegotiated as their current power purchase agreement is to expire and the Company has entered into negotiations with a new 3rd party marketer; and

WHEREAS, for a period of several weeks negotiations have occurred between the Project Company, the IDA and the taxing jurisdictions, being the Town of Plattsburgh, The Beekmantown Central School District and Clinton County; and

WHEREAS, Resolution 08-371, passed by the Town Board on December 8, 2008, identified certain conditions and expectations for a settlement that were of importance at that time and the continuation of negotiations have surfaced other issues of interest for the Town of Plattsburgh such as the impact new Agreements will have on Special Districts; now therefore be it

RESOLVED, that the Town Supervisor is hereby authorized to sign all necessary documents to enter into an amendment of the PILOT Agreement with the Project Company amending the current Agreement, made in 1992, and a Stipulation of Settlement and Consent Order; and be it further

RESOLVED, that the Town Attorney will review said Agreements as to terms and conditions and make recommendation to the Supervisor prior entering into the new Agreements.

Discussion: Councilor Wood is having difficulty understanding what the stipulations are and questioned the 30 year. The considerations were discussed prior with CJ Madonna.

Respectfully Submitted,

Amy Duquette, Town Clerk