

REGULAR MEETING/PUBLIC HEARING  
OCTOBER 20, 2021

Board Members Present: Mayor Art Miller

Trustee Mark Belcher  
Trustee Bryan Woleben  
Trustee Craig Miller  
Trustee Greg Borst

Board Member Absent:

Present: Scott Jagoda, Village Clerk/Treasurer  
Rich Lewis, WWTP (left at 7:24)  
Peter Clark, Attorney  
Ken Becker, Streets (left at 7:24)  
Anthony Dolce, Observer (left at 7:24)  
Jim Rizzo Jr. (left at 7:22)  
Dave Hazelton (left at 6:36)  
Dan Schrantz, Town Supervisor 6:36

Mayor Miller opened the public hearing with the pledge to the flag at 6:00 p.m.

With no public comments regarding Local Law no. 1 of 2021 Opting Out of Retail Cannabis Dispensaries and/or on-site Cannabis Consumption Establishments.

A motion was made by Trustee Bryan Woleben with a second by Trustee Craig Miller to close the public hearing at 6:06, voting was unanimous, motion carried.

A motion was made by Trustee Greg Borst with a second by Trustee Craig Miller to open regular session at 6:07, voting was unanimous, motion carried.

A motion was made by Trustee Bryan Woleben to approve Local Law no.1 of 2021, voting was unanimous, motion carried.

**Local Law No. 1 of the year 2021**  
**Village of Brocton, County of Chautauqua**

A local law adopted pursuant to Cannabis Law § 131 opting out of licensing and establishing retail cannabis dispensaries and/or on-site cannabis consumption establishments within the Village of Brocton.

**Section 1. Legislative Intent**

It is the intent of this local law to opt the Village of Brocton out of hosting retail cannabis dispensaries and/or on-site cannabis consumption establishments within its boundaries.

## **Section 2. Authority**

This local law is adopted pursuant to Cannabis Law § 131, which expressly authorizes cities and villages to opt-out of allowing retail cannabis dispensaries and/or on-site cannabis consumption establishments to locate and operate within their boundaries.

## **Section 3. Local Cannabis Retail Dispensary and/or On-Site Consumption Opt-Out**

The Board of Trustees of the Village of Brocton, County of Chautauqua, hereby opts-out of allowing retail cannabis dispensaries and/or on-site cannabis consumption establishments from locating and operating within the boundaries of the Village of Brocton.

## **Section 4. Severability**

If a court determines that any clause, sentence, paragraph, subdivision, or part of this local law or the application thereof to any person, firm or corporation, or circumstance is invalid or unconstitutional, the court's order or judgment shall not affect, impair, or invalidate the remainder of this local law, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, or part of this local law or in its application to the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

## **Section 5. Effective date**

This local law shall take effect immediately upon filing with the Secretary of State. Pursuant to Cannabis Law § 131, this local law is subject to a permissive referendum and thus may not be filed with the Secretary of State until the applicable time period has elapsed to file a petition, or a referendum has been conducted approving this local law.

**Public Comments:** Dave Hazelton inquired about the status of the Bear Lake property and potential sale, Peter Clark said he is still working on it.

Dave Hazelton discussed with the board the possible solutions to the Fire Hall regarding roof repairs, tear down and/or renovations. This will continue to be looked at to make a final decision.

Dave Hazelton noted the Brocton Portland Development Corporation has reimbursed the Village for the Electrical work done at Haywood Heights for \$9817.00.

## **Department Reports:**

**Scott Jagoda, Village Clerk/Treasurer** – The clerk introduced a letter from Amy and Patrick McCloskey regarding their son Taylor who has been diagnosed with Phelan-McDermid Syndrome (PMS) who have requested the support of the Village on October 22 to raise awareness on this disease and light the arches green. The board agreed to support in any way possible and the clerk will make sure the arches are green.

The clerk introduced a letter from NYSDEC requesting permission to conduct a survey of Slippery Rock Creek to study river otter presence. A motion was made by Trustee Craig Miller to approve this with a second by Trustee Mark Belcher, voting was unanimous, motion carried.

**Fire Department – Jim Rizzo, Jr. Fire Chief** – The chief presented his monthly report and there were 27 calls.

A motion was made by Trustee Bryan Woleben seconded by Trustee Mark Belcher to approve the purchase of 15 new pagers from Motorola Communications Services of WNY & PA, Inc. for the cost of \$5,385.25, voting was unanimous, motion carried.

**Village Attorney Peter D. Clark** – No report.

**Ken Becker, Streets Dept.** – The clerk introduced a thank you letter from James and Kim Muscato for the work the Village and Town employees have done on their sidewalk

**Wendy Spinuzza, Code Enforcement Officer** – The mayor introduced the code officers report for September. There were 5 permits issued and 3 violations. Dan Schrantz noted Wendy has passed her Civil Service Exam and an accredited full-time Code Enforcement Officer.

**Rich Lewis - Wastewater Treatment Plant** – A motion was made by Trustee Greg Borst seconded by Trustee Bryan Woleben to accept the proposal from Clark Patterson Lee for engineering services regarding the West Avenue Sewer Main at the cost of \$4200.00, this is eligible to be paid through ARPA funding, voting was unanimous, motion carried.

A motion was made by Trustee Craig Miller seconded by Trustee Mark Belcher to purchase a new Trojan UV sensor at the cost of \$4033.50, voting was unanimous, motion carried.

**Electric Department – Joe Majkowski, Electric Lineman** – The clerk noted Joe has started to phase in Commercial Demand Radio Read Meters.

**Committee Reports:**

**Trustee Bryan Woleben** – No report.

**Trustee Greg Borst** – No report.

**Trustee Craig Miller** – No report.

**Trustee Mark Belcher** – No report.

**Mayor Report:** - No report.

**New Business:**

**RESOLUTION 30-2021  
WITH REFERENCE TO THE PROPOSED  
VILLAGE OF BROCTON, CHAUTAUQUA COUNTY, NY  
CENTRAL AVE WATER MAIN PROJECT**

**WHEREAS**, the Village of Brocton engaged Clark Patterson Lee to complete a map, plan and report for the Central Ave. Water Main identifying the current watermain, the system shortcomings, the

proposed infrastructure improvements necessary to improve performance, and the projected costs for residents of the district: and

**WHEREAS**, affordability for Village residents and property owners is a significant concern in advancement of the proposed project: and

**WHEREAS**, the Village is eligible for Water Infrastructure Improvement Act (WIIA) funding based on the Draft 2022 State Revolving Fund Intended Use Plan (IUP) and must now submit a competitive application to obtain WIIA funding.

**NOW, THEREFORE, be it RESOLVED as follows:**

1. The Village Board authorizes Municipal Solutions, Inc. to prepare an application for Water Infrastructure Improvement Act grant funds from the NYS Environmental Facilities Corporation (EFC).
2. The Village Board authorizes Scott Jagoda in his role as Village Clerk Treasurer to execute the application for Water Infrastructure Improvement Act grant funds from the NYS Environmental Facilities Corporation (EFC).
2. This resolution shall take effect immediately.

Resolution introduced by Trustee Bryan Woleben and second by Trustee Craig Miller, with vote as follows:

\_\_4\_\_ ayes                      \_\_0\_\_ nays                      \_\_0\_\_ absent

**RESOLUTION 31-2021  
AMENDING BOND RESOLUTION**

**AN AMENDING AND RESTATING BOND RESOLUTION, DATED **OCTOBER 20, 2021**, OF THE VILLAGE BOARD OF TRUSTEES OF THE VILLAGE OF BROCTON, CHAUTAUQUA COUNTY, NEW YORK (THE "VILLAGE"), AMENDING THE BOND RESOLUTION THAT WAS ADOPTED ON SEPTEMBER 9, 2019, AND AUTHORIZING A WATER SYSTEM CAPITAL IMPROVEMENTS PROJECT, AT AN ESTIMATED MAXIMUM COST OF \$1,008,800 AND AUTHORIZING THE ISSUANCE OF SERIAL BONDS IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$1,008,800 OF THE VILLAGE, PURSUANT TO THE LOCAL FINANCE LAW TO FINANCE SAID PURPOSE, SAID AMOUNT TO BE OFFSET BY ANY FEDERAL, STATE, COUNTY AND/OR LOCAL FUNDS RECEIVED, AND DELEGATING THE POWER TO ISSUE BOND ANTICIPATION NOTES IN**

**ANTICIPATION OF THE SALE OF SUCH BONDS TO THE VILLAGE TREASURER.**

WHEREAS, on September 9, 2019, the Village Board of Trustees of the Village of Brocton, Chautauqua County, New York (the "Village") adopted a certain bond resolution (the "Original Bond Resolution") entitled:

A BOND RESOLUTION, DATED SEPTEMBER 9, 2019, OF THE VILLAGE BOARD OF TRUSTEES OF THE VILLAGE OF BROCTON, CHAUTAUQUA COUNTY, NEW YORK (THE "VILLAGE"), AUTHORIZING A WATER SYSTEM CAPITAL IMPROVEMENTS PROJECT, AT AN ESTIMATED MAXIMUM COST OF \$866,000 AND AUTHORIZING THE ISSUANCE OF SERIAL BONDS IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$866,000 PURSUANT TO THE LOCAL FINANCE LAW TO FINANCE SUCH PURPOSE, SUCH AMOUNT TO BE OFFSET BY ANY FEDERAL, STATE, COUNTY AND/OR LOCAL FUNDS RECEIVED, AND DELEGATING THE POWER TO ISSUE BOND ANTICIPATION NOTES IN ANTICIPATION OF THE SALE OF SUCH BONDS TO THE VILLAGE TREASURER.

and

WHEREAS, the Village Board of Trustees has recently been advised that it would be best to amend the Original Bond Resolution to better reflect the total project cost; and

WHEREAS, due to the increased estimated maximum cost of the project, the Village Board of Trustees wishes to modify the Original Bond Resolution for the primary purposes of increasing: a) the estimated maximum cost of the project from \$866,000 to \$1,008,800 and b) the amount of serial bonds authorized to be issued from \$866,000 to \$1,008,800, and to make other modifications to the Original Bond Resolution as may be consistent with law; and

WHEREAS, the Village Board of Trustees now wishes to amend and restate (in its entirety) the Original Bond Resolution for the reasons identified above, and to make other modifications to the Original Bond Resolution as may be consistent with law and the Original Bond Resolution is otherwise being reaffirmed and ratified in all other material respects;

WHEREAS, the Village has not previously issued bond anticipation notes pursuant to the Original Bond Resolution, and has not yet entered into permanent financing arrangements thereunder (i.e., the issuance of long-term serial bonds); and

NOW THEREFORE,

BE IT RESOLVED, by the Village Board of Trustees of the Village (by the favorable vote of not less than two-thirds of all the members of the Board) as follows:

SECTION 1. The Village is hereby authorized to undertake a certain water system capital improvements project, such work to generally consist of (but not be limited to) the replacement of approximately 3,400 linear feet of watermain along various roads in the Village including, but not limited to, Central Avenue, along with the installation of water services, road

and sidewalk restoration and tree installation, as well as other improvements as more fully identified in (or contemplated by) a revised engineering report prepared by Clark Patterson Lee, and including all preliminary work and necessary equipment, materials, and related site work and any preliminary costs and other improvements and costs incidental thereto and in connection with the financing thereof (collectively, the "Purpose"). The amended estimated maximum cost of the Purpose is \$1,008,800.

SECTION 2. The Village Board of Trustees plans to finance the estimated maximum cost of the Purpose by the issuance of serial bonds in an aggregate principal amount not to exceed \$1,008,800 of the Village, hereby authorized to be issued therefor pursuant to the Local Finance Law, said amount to be offset by any federal, state, county and/or local funds received. Unless paid from other sources or charges, the cost of such improvements is to be paid by the levy and collection of taxes on all the taxable real property in the Village to pay the principal of said bonds and the interest thereon as the same shall become due and payable.

SECTION 3. It is hereby determined that the Purpose is an 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 Purpose is 40 years.

SECTION 4. Current funds are not required to be provided prior to the issuance of the bonds authorized by this resolution or any notes issued in anticipation of the sale of such bonds.

SECTION 5. It is hereby determined the proposed maturity of the obligations authorized by this resolution will be in excess of five years.

SECTION 6. The faith and credit of the Village are hereby irrevocably pledged for the payment of the principal of and interest on such bonds (and any bond anticipation notes issued in anticipation of the sale of such bonds) as the same respectively become due and payable. An annual appropriation shall be made in each year sufficient to pay the principal of and interest on such bonds or notes becoming due and payable in such year. Unless paid from other sources or charges, there shall annually be levied on all the taxable real property of the Village a tax sufficient to pay the principal of and interest on such bonds or notes as the same become due and payable.

SECTION 7. Subject to the provisions of this resolution and of the Local Finance Law, and pursuant to the provisions of Section 21.00 relative to the authorization of the issuance of bonds with substantially level or declining annual debt service, Section 30.00 relative to the authorization of the issuance of bond anticipation notes and of Section 50.00, Sections 56.00 to 60.00, Section 62.00, Section 62.10, Section 63.00, and Section 164.00 of the Local Finance Law, the powers and duties of the Village Board of Trustees pertaining or incidental to the sale and issuance of the obligations herein authorized, including but not limited to authorizing bond anticipation notes and prescribing the terms, form and contents and details as to the sale and issuance of the bonds herein authorized and of any bond anticipation notes issued in anticipation of said bonds, and the renewals of said notes, are hereby delegated to the Village Treasurer, the chief fiscal officer of the Village. Without in any way limiting the scope of the foregoing delegation of powers, the Village Treasurer, to the extent permitted by Section

58.00(f) of the Local Finance Law, is specifically authorized to accept bids submitted in electronic format for any bonds or notes of the Village.

SECTION 8. To the extent not previously authorized, the temporary use of available funds of the Village, not immediately required for the purpose or purposes for which the same were borrowed, raised or otherwise created, is hereby authorized pursuant to Section 165.10 of the Local Finance Law, for the purpose or purposes described in this resolution.

SECTION 9. This resolution shall constitute the declaration (or reaffirmation) of the Village's "official intent" to reimburse the expenditures authorized in this resolution with the proceeds of the bonds, notes or other obligations authorized herein, as required by United States Treasury Regulations Section 1.150-2.

SECTION 10. The Village Treasurer is further authorized to take such actions and execute such documents as may be necessary to ensure the continued status of the interest on the bonds authorized by this resolution, and any notes issued in anticipation thereof, as excludable from gross income for federal income tax purposes pursuant to Section 103 of the Internal Revenue Code of 1986, as amended (the "Code") and may designate the bonds authorized by this resolution, and any notes issued in anticipation thereof, as "qualified tax-exempt bonds" in accordance with Section 265(b)(3) of the Code.

SECTION 11. The Village Treasurer is further authorized to enter into a continuing disclosure agreement with the initial purchaser of the bonds or notes authorized by this resolution, containing provisions which are satisfactory to such purchaser in compliance with the provisions of Rule 15c2-12, promulgated by the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934.

SECTION 12. The Village has complied with applicable federal, state and local laws and regulations regarding environmental matters, including compliance with the New York State Environmental Quality Review Act ("SEQRA"), comprising Article 8 of the Environmental Conservation Law and, in connection therewith, duly issued a negative declaration and/or other applicable documentation, and therefore, no further action under SEQRA is necessary.

SECTION 13. To the extent applicable, the Village Treasurer is hereby authorized to execute and deliver in the name and on behalf of the Village a project financing agreement prepared by the New York State Environmental Facilities Corporation ("EFC") (the "SRF Project Financing Agreement"). To the extent applicable, the Village Treasurer and the Village Clerk and all other officers, employees and agents of the Village are hereby authorized and directed for and on behalf of the Village to execute and deliver all certificates and other documents, perform all acts and do all things required or contemplated to be executed, performed or done by this resolution or any document or agreement approved hereby, including, but not limited to, the SRF Project Financing Agreement.

SECTION 14. In the absence or unavailability of the Village Treasurer, the Deputy Treasurer is hereby specifically authorized to exercise the powers delegated to the Village Treasurer in this resolution.

SECTION 15. The validity of such serial bonds or of any bond anticipation notes issued in anticipation of the sale of such serial bonds may be contested only if:

1. (a) such obligations were authorized for an object or purpose for which the Village is not authorized to expend money, or

(b) the provisions of the law which should have been complied with as of the date of publication of this notice were not substantially complied with

and an action, suit or proceeding contesting such validity is commenced within 20 days after the date of such publication of this notice, or

2. such obligations were authorized in violation of the provisions of the Constitution of New York.

SECTION 16. This Resolution is subject to permissive referendum pursuant to Section 36.00 of the Local Finance Law. The Village Clerk is hereby authorized and directed to publish (one time) and post (in at least six conspicuous public places within the Village and at each polling place), this resolution, or a summary thereof, together with a notice of adoption of this resolution subject to permissive referendum, within ten days after the date of adoption of this resolution.

SECTION 17. If no petitions are filed in the referendum period, the Village Clerk is hereby authorized and directed to publish this resolution, or a summary thereof, together with a notice in substantially the form provided by Section 81.00 of the Local Finance Law, in the official newspaper(s) of the Village, or if no newspaper(s) have been so designated, then in a newspaper having a general circulation in the Village, and hereby designated as the official newspaper of the Village for such publication.

SECTION 18. Nothing in this amendment shall affect the validity of the Original Bond Resolution, or any actions taken thereunder, and any such actions are hereby ratified.

\* \* \*

The question of the adoption of the foregoing resolution was duly put to vote on a roll call, which resulted as follows:

AYES: Mayor Art Miller, Trustees Craig Miller, Bryan Woleben, Greg Borst, Mark Belcher

NOES:

ABSENT:

The foregoing resolution was thereupon declared duly adopted.



Resolution introduced by Trustee Mark Belcher, second by Trustee Craig Miller with vote as follows:

\_\_5\_\_ ayes                      \_\_0\_\_ nays                      \_\_0\_\_ absent

Dated: October 20, 2021

Scott Jagoda  
Village Clerk/Treasurer

A motion was made to approve the short form of agreement between owner and engineer for professional services with Clark Patterson Lee by Trustee Bryan Woleben seconded by Trustee Craig Miller at the cost of 88,600.00 which is included in the aforementioned Bond Resolution, voting was unanimous, motion carried.

**RESOLUTION 32-2021**

**BUDGET TRANSFERS**

WHEREAS, the Village Board of Trustees has reviewed the recommendations from its auditors/accountants, Bahgat/Laurito-Bahgat, regarding budget transfers which are set forth in their letter dated October 18, 2021 and find said recommendations to be in order,

NOW BE IT RESOLVED; the following budget transfers as set forth in said letter are hereby approved;

**GENERAL FUND**

\$4,000                      From A1990.4 Contingent Expenses to 1360.4 Tax Overpayments & Refunds  
\$1                              From A9030.8 Social Security to A9040.8 Workers Compensation Insurance

**ELECTRIC FUND**

\$5,000                      From 781.8 Engineer to 358 Poles, towers, fixtures

Resolution was introduced by Trustee Craig Miller second by Trustee Bryan Woleben with vote as follows:

\_\_4\_\_ ayes                      \_\_0\_\_ nays                      \_\_0\_\_ absent

Date: October 20, 2021

Scott Jagoda  
Village Clerk/Treasurer

**Old Business:**

A motion was made by Trustee Craig Miller, seconded by Trustee Greg Borst to authorize payment of signed and approved vouchers. Vote was unanimous, motion carried.

A motion was made by Trustee Bryan Woleben, seconded by Trustee Craig Miller to approve September 29<sup>th</sup> workshop meeting minutes as presented in written form. Vote was unanimous, motion carried.

A motion was made by Trustee Craig Miller, seconded by Trustee Greg Borst to approve the written reports as presented. Vote was unanimous, motion carried.

A motion was made by Trustee Bryan Woleben, seconded by Trustee Mark Belcher to enter executive session at 7:24pm to discuss potential litigation, voting was unanimous, motion carried.

A motion was made by Trustee Bryan Woleben, seconded by Trustee Mark Belcher to enter back into regular session at 7:52pm, voting was unanimous, motion carried.

With no further business brought before the Board, a motion was made to adjourn the meeting at 7:53p.m. by Trustee Bryan Woleben seconded by Craig Miller. Vote was unanimous, motion carried.

Respectfully submitted by,

Scott Jagoda  
Village Clerk/Treasurer