

August 13, 2015

The Mina Town Board met on the above date for the regular meeting. Supervisor Brumagin called the meeting to order at 7:00 p.m. by leading with the Pledge of Allegiance to the flag. The following members and guests were in attendance:

Present: Rebecca Brumagin.....Supervisor  
Scott Bensink.....Councilman  
Dennis Luce.....Councilman  
Dave Wilcox.....Councilman

Absent: Dick Watrous.....Councilman

Attended by: Bill Himelein, David Himelein (Chautauqua County Legislator)(7:10), MaryLou Keith (FLVFD), Ray Keith (FLVFD Board), Shirlee Pound, Paul Scarem (Highway Superintendent)

**Comments/Concerns from those present:** none

**Comments/Concerns from those not present:** none

**Minutes:** Motion was made by Councilman Bensink and seconded by Councilman Wilcox to accept the minutes of the July 9, 2015 regular meeting and the July 23, 2015 special meeting as presented. Motion carried unanimously.

**Old Business:**

- Supervisor Brumagin reported that four consultants responded to the request for proposal for fiscal/administrative services for the sewer project. Supervisor Brumagin and Councilman Wilcox will review the applications and call the candidates with questions and will report back at the next meeting with their recommendation.
- Supervisor Brumagin reported that the Findley Lake Area Chamber of Commerce had requested that the Town lift the open container law for the harvest festival this year. Shirlee Pound from Pine Junction was in attendance and after considering the potential liability to Pine Junction informed the board that she was withdrawing the request from the chamber to lift the open container law. Attorney Wright was consulted and after discussion regarding liability concerns as they apply to the town, Councilman Luce made a motion seconded by Councilman Wilcox to not lift the open container law for the event. Motion carried.  
Ayes – 4 Brumagin, Bensink, Luce, Wilcox  
Nays – 0
- Supervisor Brumagin reported Heather Young-Deyell, Assessor, submitted the cyclical reassessment plan that she will be submitting to NYS ORPTS (Office of Real Property Tax Services) for the upcoming reassessment project.
- Supervisor Brumagin received the documents for the lease agreement on the new excavator. Councilman Bensink made a motion to adopt Resolution #9-15, Declaration of Official Intent on the three (3) year lease with First Niagara Leasing, Inc. seconded by Councilman Wilco

RESOLUTION 9-15 AND  
DECLARATION OF OFFICIAL INTENT

Lessee: Town of Mina

Principal Amount Expected To Be Financed: \$161,878.00

WHEREAS, the above Lessee is a political subdivision of the state in which Lessee is located (the "State") and is duly organized and existing pursuant to the Constitution and laws of the State.

WHEREAS, pursuant to applicable law, the governing body of the Lessee ("Governing Body") is authorized to acquire, dispose of and encumber real and personal property, including, without limitation, rights and interests in property, leases and easements necessary to the functions or operations of the Lessee.

WHEREAS, the Governing Body hereby finds and determines the execution of one or more lease-purchase agreements ("Equipment Leases") in the principal amount not exceeding the amount stated above ("Principal Amount") for the purpose of acquiring the property generally described below ("Property") and to be described more specifically in the Equipment Leases is appropriate and necessary to the functions and operations of the Lessee.

Brief Description of Property:

Hyundai Model R180W-9A Excavator, c/w Woods 60" Ditching Bucket w/BOE,  
Woods 30" Digging Bucket, 3/4 Swing XLS Coupler for Hyundai R170W7.

WHEREAS, First Niagara Leasing, Inc. ("Lessor") is expected to act as the Lessor under the Equipment Leases.

WHEREAS, the Lessee may pay certain capital expenditures in connection with the property prior to its receipt of proceeds of the Equipment Leases ("Lease Purchase Proceeds") for such expenditures and such expenditures are not expected to exceed the Principal Amount.

WHEREAS, the U.S. Treasury Department regulations do not allow the proceeds of a tax-exempt borrowing to be spent on working capital and the Lessee shall hereby declare its official intent to be reimbursed for any capital expenditures for Property from the Lease Purchase Proceeds.

NOW, THEREFORE, Be It Resolved by the Governing Body of the Lessee:

Section 1. The Lessee hereby determines that it has critically evaluated the financing alternatives available to it pursuant to 2 NYCRR Section 39.2 and that entering into the Equipment Leases and financing the acquisition of the Property thereby is in the best interests of the Lessee. Such evaluation shall be available as a public record.

The specific reason for such determination is that entering into such Equipment Leases results in a lower overall cost to the Lessee. Execution of the Equipment Leases will not cause the Lessee to be in violation of the limits contained in paragraph c of subdivision 6 of Section 109-b of the General Municipal Law.

Section 2. The Lessee is hereby authorized to acquire and install the Property (the "Project") and is hereby authorized to finance the Project by entering into the Equipment Leases. Any action taken by the Lessee in connection therewith is hereby ratified and confirmed.

Section 3. Either one of the Town Supervisor OR the Deputy Town Supervisor (each an “Authorized Representative”) acting on behalf of the Lessee is hereby authorized to negotiate, enter into, execute, and deliver one or more Equipment Leases in substantially the form set forth in the document presently before the Governing Body, which document is available for public inspection at the office of the Lessee. Each Authorized Representative acting on behalf of the Lessee is hereby authorized to negotiate, enter into, execute, and deliver such other documents relating to the Equipment Lease (including, but not limited to, escrow agreements) as the Authorized Representative deems necessary and appropriate. All other related contracts and agreements necessary and incidental to the Equipment Leases are hereby authorized.

Section 4. By a written instrument signed by any Authorized Representative, said Authorized Representative may designate specifically identified officers or employees of the Lessee to execute and deliver agreements and documents relating to the Equipment Leases on behalf of the Lessee.

Section 5. The aggregate original principal amount of the Equipment Leases shall not exceed the Principal Amount and shall bear interest as set forth in the Equipment Leases and the Equipment Leases shall contain such options to purchase by the Lessee as set forth therein.

Section 6. The Lessee’s obligations under the Equipment Leases shall be subject to annual appropriation or renewal by the Governing Body as set forth in each Equipment Lease and the Lessee’s obligations under the Equipment Leases shall not constitute general obligations of the lessee or indebtedness under the Constitution or laws of the State.

Section 7. It is hereby determined that the purpose of the Project is an object or purpose described in subdivision 32 of paragraph (a) of Section 11.00 of the Local Finance Law, and that the period of probable usefulness of said purpose is (10) years.

Section 8. It is hereby determined the term of the Equipment Leases authorized by this resolution will not be in excess of (3) years.

Section 9. The Governmental Body has determined that the Project is a Type II action that will not have a significant effect on the environment and, therefore, no other determination or procedures under the State Environmental Quality Review Act (“SEQR”) is required.

Section 10. The Governing Body of Lessee anticipates that the Lessee may pay certain capital expenditures in connection with the Property prior to the receipt of the Lease Purchase Proceeds for the Property. The Governing Body of Lessee hereby declares the Lessee’s official intent to use the Lease Purchase Proceeds to reimburse itself for Property expenditures. This section of the Resolution is adopted by the Governing Body of Lessee for the purpose of establishing compliance with the requirements of Section 1.150-2 of Treasury Regulations. This section of the Resolution does not bind the Lessee to make any expenditure, incur any indebtedness, or proceed with the purchase of the Property.

Section 11. BANK QUALIFIED; LESSEE CERTIFIES THAT IT HAS DESIGNATED THIS LEASE AS A QUALIFIED TAX-EXEMPT OBLIGATION IN ACCORDANCE WITH SECTION 265(b)(3) OF THE CODE, THAT IT HAS NOT DESIGNATED MORE THAN \$10,000,000 OF ITS OBLIGATIONS AS QUALIFIED TAX-EXEMPT OBLIGATIONS IN

ACCORDANCE WITH SUCH SECTION FOR THE CURRENT CALENDAR YEAR AND THAT IT REASONABLY ANTICIPATES THAT THE TOTAL AMOUNT OF TAX-EXEMPT OBLIGATIONS TO BE ISSUED BY LESSEE DURING THE CURRENT CALENDAR YEAR WILL NOT EXCEED \$10,000,000.

Section 12. The Authorized Representative 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 Equipment Leases authorized by this resolution as excludable from gross income for federal income tax purposes pursuant to Section 103 of the Code.

Section 13. This resolution is not subject to any mandatory or permissive referendum pursuant to the Local Finance Law or Section 109-b of the General Municipal Law.

Section 14. This Resolution shall take effect immediately upon its adoption and approval.

Motion unanimously passed.

Ayes – 4 Brumagin, Bensink, Luce, Wilcox

Nays – 0

#### **Reports:**

- Highway Superintendent – Paul Scarem reported that the County posted Mann Road for 6 tons per axle and that is keeping large trucks off Mann Road so they have to travel on Route 426, Sunnyside Road and through the downtown. Superintendent Scarem spoke to George Spanos from the County Department of Public Facilities as did County Legislator Dave Himelein and George was to get back with Dave on Monday after the engineers looked into it.  
Superintendent Scarem reported he will apply for the 2015 CHIPS money. He also reported that they will begin ditching next week.

**Executive Session:** At 7:20 pm Councilman Bensink made a motion, seconded by Councilman Wilcox to adjourn to Executive Session for contracts and personnel. Motion carried. At 7:35 pm Councilman Luce moved seconded by Councilman Wilcox to return to regular session. Motion carried unanimously.

#### **New Business:**

- Supervisor Brumagin stated that the town bookkeeper reported that the County notified her that the Town is required to formally create the position of court security officer for the Town of Mina as this had not been done previously. Councilman Luce made a motion seconded by Councilman Bensink for the Town of Mina to create this position. Motion carried unanimously.  
Ayes – 4 Brumagin, Bensink, Luce, Wilcox  
Nays - 0

#### **Reports:**

- CEO/Building Inspector – Melanie Eddy’s report for July 2015 was handed out.
- Assessor – Heather Young-Deyell’s report for July 2015 was handed out.
- Town Clerk – The Town Clerk’s report was distributed reporting the collection of fees and sales of \$2,918.00 for the month of July 2015. She has paid the Supervisor

\$2,528.98 NYS Ag and Markets for dogs, \$28.00, NYS Health Dept. \$112.50 and NYS DEC \$248.52. Hunting licenses went on sale August 10, 2015.

- Supervisor - Rebecca Brumagin distributed the financial statements through July 31, 2015.

**Correspondence:**

Time Warner Cable – Newsletters, keeping us apprised of developments.

R.A. Koerner & Company – Organization Assessment & Planning for Town of Mina & Findley Lake Volunteer Fire Department.

Chaut. County Municipal Clerk’s Assoc. – Requesting donations for Town of North Harmony Deputy Clerk who was in a bicycle accident.

Catt. County Municipal Clerks Assoc. – Bob Freeman, executive director for committee on open government speaking Sept. 16, 2015.

Williamson – Regarding software for our municipal software.

Chaut. County Dept of Public Facilities – Designation of restricted highway.

Chaut. County Humane Society – Dog seizure and disposition report.

NYS Dept. of Taxation & Finance – Notice of final State equalization rate.

**New Business:**

- Supervisor Brumagin reported that she and Clay Falls from Hill Engineering plan to submit a NYS Environmental Facilities Co. Clean Water grant request for the sewer project by September 4, 2015. Councilman Wilcox made a motion seconded by Councilman Bensink for this grant to be submitted. Motion carried.  
Ayes – 4 Brumagin, Bensink, Luce, Wilcox  
Nays – 0
- Supervisor Brumagin went over the budget schedule for the 2016 budget.

**Payment of Monthly Claims/Transfers:**

- Payment of Monthly Claims/Transfers – The monthly claims were examined. Councilman Bensink moved, seconded by Councilman Luce, to pay the monthly claims. In the General Fund claim #174 through #208 in the amount of \$9,960.15 and in the Highway Fund, claim #92H through #101H in the amount of \$62,191.27 were approved to pay. Motion carried unanimously.  
Approved: Ayes – 4 Brumagin, Bensink, Luce, Wilcox  
Nays – 0

**Other Business/Actions:**

- Ray Keith from the FLVFD board reported they had four or five more interviews of fire personnel to conduct and they then would be able to report to the Town Board at the next meeting.
- Councilman Wilcox reported he had spoken with James Parnell (2 J’s Garbage Disposal Company) and the contract renewal for garbage services needs to be looked into.

As there was no further business to come before the Board, Supervisor Brumagin moved to adjourn the meeting at 7:48 p.m.

Respectfully submitted,

Sherrie R. Tanner  
Town Clerk