

November 22, 2016

The regular Meeting of the Newfield Town Board was held at the Town Hall Board Room November 22, 2016 at 6:30 p.m. The meeting was called to order by Supervisor Jeffrey Hart and opened with the Pledge of Allegiance to the flag.

Present were: Supervisor Jeffrey Hart, Councilperson Christine Laughlin, Councilperson Casey Powers, Councilperson Michael Allinger and Councilperson James (arriving at 6:40p.m.). Also present: Highway Superintendent Kevin Berggren, and 6 attendees.

New Business

*Discussion and action of **Resolution No. 21-2016** – regarding the Town’s tax exempt obligations*

The following resolution was offered by Councilperson Laughlin who moved its adoption, seconded by Councilperson Powers, to-wit:

RESOLUTION OF THE TOWN BOARD OF THE TOWN OF NEWFIELD, TOMPKINS COUNTY, NEW YORK (THE “TOWN”) AUTHORIZING AND ADOPTING POST ISSUANCE COMPLIANCE POLICIES AND PROCEDURES RELATED TO THE TOWN’S TAX-EXEMPT OBLIGATION, SUCH POLICIES AND PROCEDURES INTENDED TO ENSURE THAT THE REQUIREMENTS IMPOSED UPON THE TOWN PURSUANT TO THE INTERNAL REVENUE CODE OF 1986, AS AMENDED, WILL BE SATISFIED

WHEREAS, the Town of Newfield, Tompkins County, New York (the “Town”) previously has issued bond and notes (the “Tax-Exempt Obligations”), the interest on which is excluded from gross income of the owners thereof pursuant to Section 103 of the Internal Revenue Code of 1986, as amended (the “Code”); and

WHEREAS, the Town intends to issue additional series of Tax-Exempt Obligations in the “future; and

WHEREAS, in order to ensure that the interest on the Town Tax-Exempt Obligations will continue to be excluded from gross income of the owners thereof for purposes of federal income taxation, and that the Town complies with its tax certifications relating to the Tax-Exempt Obligations, the Town Board has determined, based on the advice of the Town’s Bond Counsel, to adopt certain written Post-Issuance Compliance Policies and Procedures in the form attached hereto as Exhibit A and made a part hereof (the “Post-Issuance Compliance Procedures”).

EXHIBIT A

TOWN OF NEWFIELD

POST-ISSUANCE COMPLIANCE POLICIES AND PROCEDURES

Related to Tax-Exempt Obligations

These Post-Issuance Compliance Policies and Procedures(the “Procedures”) are adopted by **TOWN OF NEWFIELD**, Tompkins County (the “Town”) to ensure that interest on tax-exempt obligations of the Town (the “Bonds”) remains excludable from gross income under Section 103 of the Internal Revenue Code of 1986 (the “Code”)

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In order to ensure continued compliance with requirements of the Code and the applicable regulations (the “Applicable Federal Tax Law”) associated with the issuance of Bonds, the Town will consult with the Town’s Bond Counsel, in advance, regarding deviations from the facts and expectations set forth in the closing certifications relating to any issue of Bonds.

If a result of changes to the Applicable federal Tax Law or the New York State Local Finance Law these Procedures are in conflict with such laws, the Town will consult with Bond Counsel regarding the proper course of action, including amending these Guidelines.

I. Procedures

The Town Supervisor of the Town (the “Designated Tax Compliance Official”) is the primary person to consult with the Town’s Bond Counsel (“Bond Counsel”), financial advisor and other advisors on a continual basis for the entire term of the Bonds. The Designated Tax Compliance Officer may delegate to his or her staff or other Town personnel contract with independent contractors (such as an arbitrage/rebate consultant) responsibility for different aspects of post-issuance tax compliance. However, the Designated Tax Compliance Official will be ultimately responsible for implementing the procedures described herein.

II. Securing Closing Documents

Following each issuance of Bonds, the Designated Tax Compliance Official or his or her designee will:

- a. Confirm the filing of the Form 8038 or Form 8038G (or applicable successor form) with Internal Revenue Service (“IRS”). Filing of the applicable Form 8038 is usually undertaken or overseen by Bond Counsel at or soon after the closing of a bond issue.
- b. Obtain and store the Transcript of Proceedings prepared by Bond Counsel (which typically includes the applicable form 8038 and the Arbitrage and Tax Certificate containing the Town’s expectations as of the date of issuance of the bond issue).

III. Recordkeeping

The Designated Tax Compliance Official or his or her designee will:

- a. Establish a plan for keeping relevant books and records as to the investment and the expenditure of bond proceeds.
- b. Keep accurate records including:
 - (i) Basic records relating to the bond transactions (including the bond resolutions, closing documents, and the Bond Counsel Opinion (see Securing Closing Documents, above);
 - (ii) Documentation evidencing the expenditure of bond proceeds);
 - (iii) Documentations evidencing use of bond-financed property by public and private sources(i.e., copies of leases, management contracts);
 - (iv) Documentation evidencing all sources of payment or security for the bonds; and
 - (v) Documentation pertaining to any investment of bond proceeds (including the purchase and sale of securities, subscriptions for United States Treasury Securities-State and Local Government Series (“SLGs”), yield calculations for each class of investments, actual

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investment income received from the investment of proceeds, guaranteed investment contracts and rebate calculations).

- c. Keep accurate records in a manner that ensures their complete access to the IRS so long as they are material.
- d. Keep the relevant records for each issue of bonds for as long as such issue of bonds is outstanding (including any bonds issued to refund such issue of bonds) plus three years after the final redemption date of the bonds.

IV. Arbitrage Rebate and Arbitrage Yield Restriction

The Designated Tax Compliance Official or his or her designee will:

- a. Engage the services of the Town's financial advisor or an arbitrage/rebate consultant for assistance in compliance with arbitrage related issues.
- b. Consult with the Town's bond counsel, and/or financial advisor to determine if an issue of Bonds is exempt from the rebate requirement under the exception for "small issuers" (Section 14(f)(4)(D) of the Code).
- c. Work with the Town's bond counsel, financial advisor and/or arbitrage/rebate consultant to monitor compliance with "temporary period exceptions" for expenditure of bond proceeds, typically three years for new money bonds and provide for yield restriction of investments or "yield reduction payments" if exceptions are not satisfied.
- d. Work with the Town's bond counsel and financial advisor to ensure investments acquired with bond proceeds are purchased at fair market value. This may include use of bidding procedures under the regulatory safe harbor (Section 1.148-5(d) of the Regulations).
- e. Consult with the Town's bond counsel or arbitrage rebate consultant prior to the creation of funds which would reasonably be expected to be used to pay debt service on tax-exempt bonds to determine in advance whether such funds must be invested at restricted yield (i.e., yield restricted).
- f. Consult with Town's bond counsel and financial advisor before engaging in post issuance credit enhancement transactions (e.g., bond insurance, letter of credit) or hedging transactions (e.g., interest rate swap, cap).
- g. Consult with the Town's bond counsel, financial advisor, and/or arbitrage rebate consultant to identify situations in which compliance with applicable yield restrictions depends upon subsequent investments (e.g., purchase of 0% SLGS from the U.S. Treasury) and monitor implementation.
- h. Work with an arbitrage rebate consultant to arrange for timely computation of any rebate/yield reduction payment liability and, if an amount is payable, for the timely filing of Form 8038-T, Arbitrage Rebate, Yield Reduction and Penalty in Lieu of Arbitrage Rebate (or applicable successor form), and payment of such liability. Rebate/Yield Reduction payments are ordinarily due at 5-year intervals.

V. Private Use of Bond-Financed Facilities

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The Designated Tax Compliance Official or his or her designee will:

- a. Create and maintain records regarding which bond or note issues were used to finance which facilities. These records shall incorporate the refunding or partial refunding of any bond issues.
- b. Record the allocation of bond proceeds to expenditures, including reimbursements. These records will be consistent with the expenditures used for arbitrage purposes.
- c. Record the allocation of bond proceeds and funds from other sources in connection with any bond funded project. Review expenditure of bond proceeds with bond counsel to ensure bond proceeds are used for qualifying costs.
- d. Review with bond counsel prior to the sale or lease of a bond-financed facility, or the granting of a license or management contract, or any other arrangement allowing private use of a bond financed facility, the terms of such arrangement.
- e. Keep records of private use, if any, of bond financed facilities to monitor the amount of private use of bond financed facilities. Private use of bond-financed facilities shall be reviewed no less frequently than once a year (in connection with the preparation of the annual financial statements). If a change in private use occurs, bond counsel will be consulted to determine if remedial action is necessary.

Section 1. The Board hereby approves and adopts the Post-Issuance Compliance Procedures.

Section 2. The Board hereby appoints the Town Supervisor of the Town to serve as the “Designated Tax Compliance Official” under the Post-Issuance Compliance procedures and hereby authorizes and directs the Town Supervisor, acting in such capacity, to take such actions after appropriate consultation with Bond Counsel to the Town, as the Town Supervisor deems necessary, appropriate or desirable to effect the implementation of the Post Issuance Compliance Procedures, and hereby further authorizes the Town Supervisor , as such Designated Tax Compliance Official, to delegate to such other Town officials or employees as the Town Supervisor shall determine is necessary or appropriate, the responsibility to take certain specific actions called for by the Post-Issuance Compliance Procedures.

Section 3. This Resolution shall take effect immediately.

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

Councilperson Powers	VOTING	AYE
Councilperson Laughlin	VOTING	AYE
Councilperson Allinger	VOTING	AYE
Supervisor Hart	VOTING	AYE
Councilperson James	VOTING	ABSENT

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The foregoing resolution was thereupon declared duly adopted.

*Discussion and approval of **Resolution No. 22-2016** for the Town to enter into a Federal aid Local project Agreement for the Main Street Bridge replacement project*

Resolution No. 22-2016

Authorization to Execute Design Funding Agreement with NYSDOT – PIN 375617 – Main Street over West Branch Cayuga Inlet Bridge Replacement (BIN 2257740), Town of Newfield

WHEREAS, a Project to replace the Bridge on Main Street over West Branch Cayuga Inlet, BIN 2257740, P.I.N. 375617, (the Project) in the Town of Newfield, is eligible for funding as a locally-administered project under Title 23 U.S. Code, as amended, that calls for the apportionment of the costs of such program to be borne at the ratio of 80% federal funds and 20% non-federal funds, and

WHEREAS, the Town of Newfield desires to advance the Project by making a commitment of 100% of the non-federal share of the costs of Scoping, Design (Phases I-VI) and ROW Incidentals, now therefore be it

RESOLVED, on recommendation of the Town of Newfield Highway Superintendent, that the Newfield Town Board hereby approves the above-subject Project,

RESOLVED, further, that the Newfield Town Board hereby authorizes the Town Supervisor to pay in the first instance one hundred (100%) percent of the federal and non-federal share of the costs of Scoping, Design (Phases I-VI) and ROW Incidental work for the subject Project or portions thereof,

RESOLVED, further, that the sum of \$72,500.00 is hereby made available, to cover the cost of participation in the design phase of the Project,

RESOLVED, further, that in the event the full federal and non-federal share costs of the project exceeds the amount appropriated above, the Newfield Town Board shall convene as soon as possible to appropriate said excess amount immediately upon the notification of the New York State Department of Transportation thereof,

RESOLVED, further, that the Town of Newfield Highway Superintendent be and is hereby authorized to execute all necessary Agreements, certifications and reimbursement requests for Federal Aid on behalf of the Town of Newfield with the New York State Department of Transportation in connection with the advancement or approval of the Project and providing for the administration of the Project and the municipality's first instance funding of Project costs and permanent funding the local share of federal-aid and state-aid eligible Project costs and all Project costs within appropriations therefor that are not so eligible,

RESOLVED, further, that a certified copy of this resolution be filed with the New York State Commissioner of Transportation by attaching it to any necessary Agreement in connection with the Project,

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RESOLVED, further, that this resolution shall take effect immediately.

Motion was made by Councilperson Laughlin to approve Resolution No. 22-2016, seconded by Councilperson Allinger.

Vote	AYES	4	Hart, Laughlin, Powers and Allinger
	NAY	0	
	ABSENT	1	James

Carried

Old Business

Discussion of Gas extraction issues

Special Counsel Guy Krough could not attend the meeting this evening due to a conflict. Mr. Krough did agree with Attorney Smith’s interpretation that the Town could regulate what type of extraction it would permit.

Councilperson Allinger commented this type of regulation had not been tested in the courts and felt the Town should pass a law similar to surrounding Towns that have been tested in the courts.

Councilperson Laughlin commented that she would not want the Town not to be able to harvest natural gas and would like to keep options open for regulation.

Councilperson James commented she is not convinced regulation would hold up in the courts and would prefer a total BAN.

Supervisor Hart stated he understands the issues and concerns but does not want Newfield setting a policy if there could be a safe way to extract the natural gas by fracking. Supervisor Hart also stated he did not want the Town to incur legal fees if challenged in court. Supervisor Hart asked if a BAN could be put in place for a certain number of years. Councilperson Allinger reminded the Board that the residents were requesting a BAN. Councilperson Powers stated she would like a full BAN because rulings that have been made are on land use. By deviating, it would no longer be regulating a land use but rather a specific land use. Councilperson Powers is also concerned about legal actions if a partial BAN were enacted. Councilperson Laughlin would like to have the Town Board meeting with Special Council Krough. Supervisor Hart asked if the Board agreed to adopt a full BAN should Special Counsel Krough use the Caroline BAN Law as a template or craft a new law for the Town of Newfield. Councilperson Powers suggested the Town of Newfield use Caroline template but craft it to fit into Newfield’s needs.

It was agreed to meet with Special Council Krough to discuss crafting a local law for a full BAN for the Town of Newfield. Supervisor Hart will contact Special Council Krough to schedule a meeting in January 2017

Discussion of Wind Energy issues

After much discussion regarding setbacks and noise regarding residential wind mills, it was decided to leave the Wind Energy Law as it is.

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Discussion regarding solar projects and PILOT

Delaware River Solar has requested a 20 year PILOT in order to secure investors. Discussion ensued of possibly opting out of a PILOT program. Supervisor Hart will contact Jay Franklin, Director of Tompkins County Assessment, to compare a PILOT program or opting out of the exemption and how that would affect the property assessment.

Next meeting will be December 8, 2016

At 8:07 p.m., a motion was made by Councilperson James to adjourn seconded by Councilperson Powers.

Respectfully Submitted,

December 1, 2016

Karen Miller Kenerson
Newfield Town Clerk