

A Special Meeting of the Board of Trustees of the Village of Oxford was held on August 9, 2022 at the Village Hall - 20 LaFayette Park, Oxford, NY 13830. Special meeting started at 7:00 P.M.

Present were Mayor Terry Stark, Trustee Dale Leach, Trustee Dustin Hendricks, Trustee Richard Marks, Trustee Rice

Mayor Terry Stark called the Special meeting to order at 7:30 p.m.

Pledge of Allegiance to the American Flag was given.

Public comments None

None

FIRE STATION ADDITION AND RENOVATION BIDS

Mayor reviewed summary of BIDS received on August 2nd. Following discussion, Trustee Marks proposed and Trustee Leach seconded the following resolution:

RESOLUTION 22-8-9

A RESOLUTION OF VILLAGE BOARD OF THE VILLAGE OF OXFORD REJECTING ALL BIDS TO CONTRACT FOR THE "OXFORD FIRE STATION ADDITION & RENOVATIONS"

WHEREAS, pursuant to authorization by the Mayor and Village Board of Trustees of the Village of Oxford (the "Village"), the Village received bid proposals on August 2, 2022 for the "Fire station Addition & Renovations Project" (hereinafter, the "Project"); and

WHEREAS, the Village received three (3) bids, for General Contracting, three (3) bids for Mechanical, four (4) bids for Plumbing, seven (7) bids for electrical which were publicly opened and read aloud; and

WHEREAS, the Local Public Contracts Law requires that competitive bidding contracts be awarded to the lowest responsive, responsible bidder; and

WHEREAS, it has been determined that the lowest responsive, responsible construction bids received were in a total amount of \$2,659,630, which was over the budgeted amount \$1,563,813; by \$1,095,817 (+70%), and

WHEREAS, upon review of the Village Consultant, the bids indicated that the pricing of the work varied greatly between bidders, evidenced a lack of competition as to pricing, and that the Village did not budget for such an amount for this particular project, See Bid Review, attached as "Exhibit A"; and

WHEREAS, as all bids substantially exceeded the Village Consultant's estimate for the Project, the Village consultant recommends rejecting all bids, and that the Village of Oxford plan to re-bid the projects after further evaluation; and

WHEREAS, pursuant to General Municipal Law 104-b, Rejection of bids; reasons, a contracting unit may reject all bids where the lowest bid substantially exceeds the cost estimates for the goods or services, and

WHEREAS, The competitive bidding law provides a municipality with the discretion to reject all of the bids that it receives and call for new ones, as this principle is an integral part of the public contract process so long as the municipality's actions were supported by a rational basis and are not arbitrary or capricious, observed in good faith and accorded to all bidders, just consideration, simply not to avoid the requirements of competitive bidding by rejecting all bids.

WHEREAS, The Mayor and Village Board have concluded that rejecting the bids as submitted is in the best interests of the Village and agree with the Village Consultant's recommendation.

NOW, THEREFORE, BE IT RESOLVED by the Village of Oxford Board of Trustees, in the County of Chenango, and State of New York, as follows:

1. That the bids proposals as opened August 2, 2022 as to the "Fire Station Addition & Renovations Project" all be rejected.
2. That the project be further evaluated, as may be recommended by the Village Engineer.
3. That this Resolution shall take effect immediately.

AND BE IT FURTHER RESOLVED that the Board of Trustees directs the Village Clerk to send a "Notice of Rejection of all Bids" (attached herein) to all bidders no later than August 12, 2022.

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

Dale B. Leach	Aye
Richard Rice	Aye
Dustin F. Hendricks	Aye
Richard A. Marks	Aye
Terry M. Stark	Aye

The resolution was hereupon declared adopted.

INFULL OF FIRE STATION EXCAVATION

Based upon rejection of all Fire Station bids, Mayor recommended hat the large crater left during the demolition of the Coe House represents a public safety hazard and should be filled as soon as possible. The Board reviewed the following options:

1. Utilize a change order for Gorick Construction who has the Demolition Contract to return and fill the excavated site at a cost of approximately \$20,000
2. Contract with Burrell's Construction of Norwich, NY who are already in the Village working on a Water Improvement Project to fill the excavated site at a cost of \$9,500 as outlined in attached proposal.
3. Direct DPW Department to fill the excavated site at a cost for time and materials estimated at about \$10,000.

Due to the uncertainty of it and when the Fire Station Coe Replacement building will be completed, no compaction testing is included in the above pricing.

During discussion, it was determined that the most economical solution was to have Burrell's or the DPW complete the project. It was then mentioned that the DPW is currently short staffed and also tied up with the Water Improvement Project. Following more discussion, Trustee Rice proposed and Trustee Hendricks seconded a motion to accept Burrell's proposal for \$9,500.00 not including compaction testing.

The Mayor called the vote and all voted aye and motion was approved.
Mayor will notify Burrell's Construction.

WASTEWATER COMMITTEE

Mayor reviewed letter to New York State Veteran's Home Administrator Kurt Apethorpe indicating the implementation of a Capital charge of approximately \$1,500 per month in addition to usage charges. A more detailed calculation model must be adopted by the Board by September 1st as well as whether the capital charge should be applied to other commercial/institutional multi-dwelling unit facilities. Additional discussions regarding differentiating between commercial and residential rates should also be reviewed. Mayor and Wastewater Committee should take the lead on this and report back to full Board at the August 30th Regular Board meeting.

DPW

Rick Paden confirmed via phone that the new backhoe has been received and he had forwarded the invoice to the village clerks for payment this month. Rick Paden and Bill Kelsey have met with Mayor Stark regarding the status of candidates for the positions of Working Supervisor and MEO Laborer.

There was no further discussion regarding the role of the Village Board in interviewing and hiring candidates for employment. Attached is a summary of the rolls of the Mayor and Board of Trustees that should help clarify the discussion. This is from the New York Conference of Mayors (NYCOM) and the full Handbook is online at NYCOM.com or hard copy available at Village Hall.

ADJOURNMENTADJOURNMENT:

Mayor Stark made a motion to adjourn the meeting at 8:44 p.m.

Next Regular meeting will be August 30th, 2022 at 7:00 p.m.

Respectfully Submitted,

Terry M. Stark
Recorder of Record

Chapter 2

Elected Officials

QUALIFICATIONS OF OFFICE HOLDERS

Pursuant to Village Law § 3-300(1) and Public Officers Law § 3(1), to be eligible to hold an elective or appointive village office, an individual must be:

- Eighteen years of age or older;
- A citizen of the United States; and
- A resident of the village.

MAYOR

The chief executive officer of most villages in New York State is the mayor. Exceptions to this arise in villages which (a) have adopted the manager/administrator form of government whereby the manager/administrator is the chief administrative and executive officer of the village, and (b) in villages which have retained their original charter under which the position of mayor may not even exist. Unless otherwise provided by local law or charter, the mayor is elected to a two-year term. The term of office for the mayor and trustees may be extended to four years (see Chapter 4, Changing the Term of Office From Two to Four Years on page 4.1).¹ Such a local law or resolution is subject to a permissive referendum.²

DUTIES OF THE MAYOR

Village Law § 4-400 empowers the mayor to:

- Preside at the meetings of the board of trustees within the parameters of the rules of procedure adopted by a majority vote of the board of trustees. The mayor may vote on any matter before the board. The mayor must vote in the case of a tie. While the mayor has the power to preside over these meetings, the mayor has only one vote, which is equal to the vote of each trustee. Village mayors do not have the power to veto any board action.
- **Appoint all non-elected officers and employees. Mayoral appointments are subject to approval by the board of trustees. The mayor is permitted to vote on all board approvals of mayoral appointments.³ The mayor may delegate the power to appoint certain employees to other village officers or employees, but these appointments are also subject to board approval.**
- Appoint one of the trustees to serve as deputy mayor, who serves in the mayor's absence or inability to serve. This appointment is not subject to board approval. The mayor should appoint the deputy mayor at the annual meeting. During the mayor's absence or inability to serve, the deputy mayor is vested with all the powers of the mayor. The mayor's appointment of the deputy mayor may be rescinded at any time.
- Appoint individuals to fill vacancies in both elected and appointed offices when the vacancy occurs before the expiration of the official's term of office. Mayoral appointments to fill vacancies that occur before the expiration of the term are not subject to board approval.⁴ For more information on the process of filling vacancies (see Chapter 4, Filling Vacancies on page 4.6).

- Enforce and prosecute all violations of the laws, rules, and regulations. This is largely done through the village police department and the various enforcement officers, such as the building inspectors, code enforcement officers, and parking enforcement officers.
- Supervise the police and other subordinate officers of the village board of trustees. Note that members of the village board of trustees do not have any authority to supervise or direct subordinate village officers or employees.
- Intervene in any and all actions, at the direction of the board, where deemed necessary to protect the rights of the village and its inhabitants.⁵
- Serve as an ex-officio member of each separate board of commissioners. As an ex-officio member, the mayor has all of the voting and participating rights which are vested in the other members of each separate commission.⁶ In addition, the mayor may serve as the chairperson of a board.⁷
- Serve as the village's licensing officer. The mayor may designate another village officer to act as licensing officer by filing the designation with the village clerk.
- Execute all contracts in the village name.
- When the clerk also serves as the treasurer or the deputy clerk serves as the deputy treasurer, the mayor may sign orders to pay the claims, but only when authorized by the board of trustees.
- If the treasurer and deputy treasurer are absent or are unable to sign checks, the mayor may sign checks when authorized by the board of trustees. The board's authorization must be by resolution or local law, a certified copy of which must be provided to the bank.
- Investigate all contract claims made against the village. To carry out the investigations, the mayor may issue subpoenas to compel persons, including the claimant, to appear and testify before the mayor, village clerk, or village counsel.

PERFORMING WEDDINGS

Domestic Relations Law § 11, authorizes mayors to perform marriages within the village's boundaries. **For more information on performing weddings, please refer to *A Local Official's Guide to Performing Marriages*, also available to download from the members only section of the NYCOM website at www.nycom.org.**

MAYOR AS BUDGET OFFICER

Pursuant to Village Law § 5-500, the mayor serves as the village budget officer, unless the village has adopted the village manager/administrator form of government.

ADDITIONAL RESPONSIBILITIES

Mayors have other statutory responsibilities including, but not limited to:

- Insuring that the local code of ethics is distributed to every village officer and employee.⁸ Failure of the mayor to distribute the code of ethics has no effect on the duty of village officers and employees to comply with its provisions.⁹
- Requesting the service of outside police;¹⁰ and
- Declaring a local state of emergency.¹¹

DEPUTY MAYOR

Pursuant to Village Law § 4-400, the mayor has the power to appoint one member of the board of trustees to be deputy mayor. This appointment is not subject to board approval, and the mayor may rescind the appointment and appoint a new deputy mayor at any time.¹² When the mayor is absent or unable to fulfill his or her duties as mayor, the deputy village mayor is vested with “all of the powers and may perform all the duties of the mayor.”

If the mayor’s office becomes vacant, the deputy mayor does not automatically become mayor. Rather, the deputy mayor performs the duties and functions of the mayor until the board of trustees fills the vacancy in the office of the mayor. The deputy mayor does not become the “acting” mayor or “temporary” mayor.¹³

Although Village Law § 4-400(1)(h) vests the deputy mayor with the powers and duties of the mayor in the event the mayor is unable to serve, there is constant confusion as to the extent of the deputy mayor’s power and for how long the deputy mayor can serve in the event that there is a vacancy in the office of mayor. The Office of the Attorney General has opined that, if a vacancy is created in the office of village mayor, the deputy mayor may only exercise the powers of the mayor until the next meeting of the board of trustees. The NYCOM staff respectfully disagrees with this opinion as there is nothing in State law that indicates such a restriction on the powers of the deputy mayor.

Pursuant to Village Law § 4-400(2), in the event that the mayor and deputy mayor are both absent or unable to serve, “the trustees shall appoint one of their number to act as deputy mayor during the absence or inability of the mayor and deputy mayor appointed by him [or her].”

BOARD OF TRUSTEES

The board of trustees is the legislative body of a village. The board of trustees is comprised of the mayor and four trustees.¹⁴ The board may increase or decrease the number of trustees, subject to a permissive referendum.¹⁵

The general powers of the board of trustees are set forth in Village Law § 4-412, which provides that:

In addition to any other powers conferred upon villages, the board of trustees of a village shall have management of village property and finances, may take all measures and do all acts, by local law, not inconsistent with the provisions of the constitution, and not inconsistent with a general law except as authorized by the municipal home rule law, which shall be deemed expedient or desirable for the good government of the village, its management and business, the protection of its property, the safety, health, comfort, and general welfare of its inhabitants, the protection of their property, the preservation of peace and good order, the suppression of vice, the benefit of trade, and the preservation and protection of public works. The board of trustees may create or abolish by resolution offices, boards, agencies and commissions and delegate to said offices, boards, agencies and commissions so much of its powers, duties and

functions as it shall deem necessary for effectuating or administering the board of trustees duties and functions.

This extremely broad grant of power enables the board of trustees to adopt a wide range of local laws to address village concerns as long as the action is not inconsistent with the constitution or certain State laws. Under section 10(i)(ii)(e)(3) of the Municipal Home Rule Law, it is possible for a board of trustees to adopt local laws which supersede provisions of the New York State Village Law, unless the State Legislature has expressly prohibited the adoption of such a local law.

Village Law § 4-412 grants additional, more specific powers to the board. Pursuant to this section, the board may:

- Authorize the construction of drains, culverts, dams and other means to regulate water.
- By written resolution, designate financial institutions in which village funds must be deposited.
- Pay or compromise claims against the village in cases when the village has been paid, through error or mistake, and when the village is not entitled to the funds.
- Obtain land, either inside or outside the village limits, for a waste disposal site or plant. The property may be obtained by purchase or through an eminent domain proceeding. In addition, when the board designates a specific site for disposing waste, it may also prohibit disposing waste at other sites within the village. Before the village acquires a site outside of the village for disposing waste, the legislative body of the municipality in which the land is located must consent to the use of the land for that purpose.
- Sell lost or abandoned property. The proceeds from sales of lost or abandoned property must be transferred into the general fund.
- Grant franchises and/or permission to use the streets, highways, public places or the space above or below them. Prior to granting a franchise, a public hearing must be held. Notice of the hearing must be published in the village's official newspaper at least 10 days prior to the hearing. Additionally, if the franchise will result in competition with a municipal lighting or water system, the franchise is subject to a permissive referendum.
- Accept the dedication of lands in the village for public streets.
- Acquire, construct, enlarge, extend or improve public docks both inside and outside the village and acquire land therefor, provided that one end of the dock is within the village. Before a public dock is acquired, constructed or extended beyond the village into a town, the consent of the town board must be obtained. The village board may impose fees for the use of public docks.
- Contract with the village fire department or any other city, village, fire district, or incorporated fire company for fire protection, emergency services, and ambulance services. If the entity furnishing fire protection does not maintain and operate an ambulance, then a separate contract may be made for emergency or general ambulance service in the village. The contract cannot exceed five years and must specify a definite sum to be paid each year for the service. The board must hold a public hearing on the proposed contract before it may be executed. A public hearing is also required in order to amend, terminate, or terminate and enter into a new contract during its term.

2.4

- Lease for commercial or private use, the air rights over or the subsurface area under any village property acquired for or to be acquired for street purposes, public parking garages, parking spaces or public off-street loading facilities. The lease may not be entered into if the air rights or subsurface areas are needed for village purposes. Additionally, the lease may not exceed 50 years, but the board may renew the lease for additional terms.
- Determine the rules of procedure for its meetings, as State law does not prescribe specific rules for conducting meetings.¹⁶
- Within 10 days of the treasurer filing the annual financial statement, a notice must be published in the village's official newspaper stating that the annual financial statement has been filed and is available for inspection in the clerk's office. The board of trustees, not the treasurer, is responsible for insuring that the notice is published. In addition, the statement must be audited by either the board of trustees, a village officer or employee who is designated by the board, or a public accountant hired by the board.¹⁷

Trustees **do not** possess any inherent authority to supervise or direct the work of subordinate village officers or employees. The responsibility and power to supervise all subordinate village officers and employees is vested in the village mayor.¹⁸ While village trustees may need to observe village officers and employees in the exercising of their official duties, trustees should do so in a manner that does not interfere with those officers and employees' ability to perform their duties.

In addition, trustees **do not** possess any power in their individual capacities to enter into contracts or other agreements or to approve payment of contracts on behalf of the municipality. Any officer or person who assumes to create a liability or appropriate money or property of the village without authority may become personally liable either for the debt or to the village for the money or property.¹⁹

Finally, in order to make informed decisions, trustees will invariably need access to village records. Trustees should not have to make Freedom of Information Law (FOIL) requests to gain access to village records that are necessary for them to carry out the duties of the office. At the same time however, trustees should be judicious in making requests for village records, as such requests can be time-consuming for the village's records management officers and employees, diverting them from other important village work.