

June 3, 2024

A REGULAR MEETING of the Akron Village Board was held on this date at 7:10 pm. Present: Mayor Brian T. Perry; Trustees: E. Peter Forrestel, Michael R. Middaugh, Darin S. Schultz, and John W. Norton; Attorney Andrew Borden, Clerk Jayne DeTine, Treasurer Sarah Michel, Chief of Police Richard Lauricella, Public Works Manager Jon Cummings, and Asst. Code Enforcement Officer Kevin Paquin.

The Mayor led us in the pledge to the flag.

RESOLUTION duly moved by Middaugh and seconded by Schultz that the Minutes of the Regular Meeting of May 20, 2024 be and hereby are approved by the Village Board.

ADOPTED	BRIAN T. PERRY	- AYE
	E. PETER FORRESTEL	- AYE
	MICHAEL R. MIDDAUGH	- AYE
	DARIN S. SCHULTZ	- AYE
	JOHN W. NORTON	- AYE

RESOLUTION, duly moved by Forrestel seconded by Perry that the audit of the bills is approved, and the Treasurer authorized to pay same in accordance with the following abstract of audit vouchers:

General Fund	\$	17,910.82
Electric Fund	\$	48,720.67
Water Fund	\$	14,930.51
Sewer Fund	\$	14,268.46

ADOPTED	BRIAN T. PERRY	- AYE
	E. PETER FORRESTEL	- AYE
	MICHAEL R. MIDDAUGH	- AYE
	DARIN S. SCHULTZ	- AYE
	JOHN W. NORTON	- AYE

RESOLUTION duly moved by Schultz and seconded by Norton that the following building permits be and hereby are approved with the application and approval of the Code Enforcement Officer:

Strippit, Inc.	12975 Clar Ctr Rd	Sewer Repair	\$100.00
Kurt Ceisner	22 Flint Ave	Replace Driveway	\$50.00
Deborah Anderson	19 Shepard Ave	Fence	\$50.00
Phil O'Connor	54 Jackson St	Roof	\$50.00
Laura Mattioli	61 Parkview Dr	Roof	\$50.00

ADOPTED	BRIAN T. PERRY	- AYE
	E. PETER FORRESTEL	- AYE
	MICHAEL R. MIDDAUGH	- AYE
	DARIN S. SCHULTZ	- AYE
	JOHN W. NORTON	- AYE

RESOLUTION duly moved by Forrestel and seconded by Middaugh that the following application for a Peddler's Permits for the year June 2024 – June 2025 be and hereby is approved in accordance with the application filed and payment of the annual license fee of \$100.00:

Chuck Andrews	Rochester, NY	Yearly	\$100.00
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ADOPTED	BRIAN T. PERRY	- AYE
	E. PETER FORRESTEL	- AYE
	MICHAEL R. MIDDAUGH	- AYE
	DARIN S. SCHULTZ	- AYE
	JOHN W. NORTON	- AYE

PUBLIC HEARING – None

APPEARANCE – None

PUBLIC COMMENT – Several residents from Brodie’s Way and Jackson Street came before the Board to ask again for help with the odor coming from I Squared R. Since the higher stack was installed, the smell seems to be worse and now it is invading their neighborhood during the day and now at night. Asked the Board if they could visit, call, or write a letter to NYS DEC, I Squared R, and local Legislators to push the Company to really fix the issue.

Martin Schuman from Jackson Street came to ask the Board to write another letter to Legislator Chris Green requesting another traffic study on Hake Road to get the speed limit lowered and if sidewalks were going in on Jackson Street soon.

Kay Green from the Akron Mobile Home Park mentioned that she went with a group from the Park to Albany to protest the 6% increase in rent.

PROJECT REPORTS –

Wastewater Treatment Plant Upgrade – Nothing new.

Electric Substation Upgrade – Discussed during the earlier Work Session and will look into one more option for a price on the circuit switchers.

State Street Bridge – Mayor Perry sent a letter to Erie County asking for funding for the excess cost to build the bridge.

East Avenue Water/Sewer Line Replacement – The Board approved the following resolutions:

RESOLUTION duly moved by Perry and seconded by Norton authorizing and providing for the incurrence of indebtedness for the purpose of providing a portion of the cost of acquiring, constructing, enlarging, improving, and /or extending its PUBLIC WATER SERVICES Facility to serve an area lawfully within its jurisdiction to serve.

WHEREAS, it is necessary for the Village of Akron (herein after called Association) to raise a portion of the cost of such undertaking by issuance of it bonds in the principal amount of Two Million Nine Hundred Ninety-Four Thousand and 00 100 and,

WHEREAS, the Association intends to obtain assistance from the United States Department of Agriculture, (herein called the Government) acting under the provisions of the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) in the planning, financing, and supervision of such undertaking and the purchasing of bonds lawfully issued, in the event that no other acceptable purchaser for such bonds is found by the Association:

NOW THEREFORE, in consideration of the premises the Association hereby resolves:

1. To have prepared on its behalf and to adopt an ordinance or resolution for the issuance of its bonds containing such items and in such forms as are required by State statutes and as are agreeable and acceptable to the Government.
2. To refinance the unpaid balance, in whole or in part, of its bonds upon the request of the Government if at any time it shall appear to the Government that the Association is able to refinance its bonds by obtaining a loan for such purposes from responsible cooperative or private sources at reasonable rates and terms for loans for similar purposes and periods of time as required by section 333(c) of said Consolidated Farm and Rural Development Act (7 U.S.C. 1983(c)).
3. To provide for, execute, and comply with Form RD 400-4, "Assurance Agreement," and Form RD 400-1, "Equal Opportunity Agreement," including an "Equal Opportunity Clause," which clause is to be incorporated in, or attached as a rider to, each construction contract and subcontract involving in excess of \$10,000.
4. To indemnify the Government for any payments made or losses suffered by the Government on behalf of the Association. Such indemnification shall be payable from the same source of funds pledged to pay the bonds or any other legally permissible source.

5. That upon default in the payments of any principal and accrued interest on the bonds or in the performance of any covenant or agreement contained herein or in the instruments incident to making or insuring the loan, the Government at its option may (a) declare the entire principal amount then outstanding and accrued interest immediately due and payable, (b) for the account of the Association (payable from the source of funds pledged to pay the bonds or any other legally permissible source), incur and pay reasonable expenses for repair, maintenance, and operation of the facility and such other reasonable expenses as may be necessary to cure the cause of default, and/or (c) take possession of the facility, repair, maintain, and operate or rent it. Default under the provisions of this resolution or any instrument incident to the making or insuring of the loan may be construed by the Government to constitute default under any other instrument held by the Government and executed or assumed by the Association, and default under any such instrument may be construed by the Government to constitute default hereunder.
6. Not to sell, transfer, lease, or otherwise encumber the facility or any portion thereof, or interest therein, or permit others to do so, without the prior written consent of the Government.
7. Not to deface the bonds, or to borrow money, enter into any contractor agreement, or otherwise incur any liabilities for any purpose in connection with the facility (exclusive of normal maintenance) without the prior written consent of the Government if such undertaking would involve the source of funds pledged to pay the bonds.
8. To place the proceeds of the bonds on deposit in an account and in a manner approved by the Government. Funds may be deposited in institutions insured by the State or Federal Government or invested in readily marketable securities backed by the full faith and credit of the United States. Any income from these accounts will be considered as revenues of the system.
9. To comply with all applicable State and Federal laws and regulations and to continually operate and maintain the facility in good condition.
10. To provide for the receipt of adequate revenues to meet the requirements of debt service, operation and maintenance, and the establishment of adequate reserves. Revenue accumulated over and above that needed to pay operating and maintenance, debt service and reserves may only be retained or used to make prepayments on the loan. Revenue cannot be used to pay any expenses which are not directly incurred for the facility financed by USDA. No free service or use of the facility will be permitted.
According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0572-0121. The time required to complete this information collection is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering, and maintaining the data needed, and completing and reviewing the collection of information.
11. To acquire and maintain such insurance and fidelity bond coverage as may be required by the Government.
12. To establish and maintain such books and records relating to the operation of the facility and its financial affairs and to provide for required audit thereof as required by the Government, to provide the Government a copy of each such audit without its request, and to forward to the Government such additional information and reports as it may from time to time require.
13. To provide the Government at all reasonable times access to all books and records relating to the facility and access to the property of the system so that the Government may ascertain that the Association is complying with the provisions hereof and of the instruments incident to the making or insuring of the loan.
14. That if the Government requires that a reserve account be established, disbursements from that account(s) may be used when necessary for payments due on the bond if sufficient funds are not otherwise available and prior approval of the Government is obtained. Also, with prior written approval of the Government, funds may be withdrawn and used for such things as emergency maintenance, extensions to facilities and replacement of short-lived assets.
15. To provide adequate service to all persons within the service area who can feasibly and legally be served and to obtain USDA's concurrence prior to refusing new or adequate services to such persons. Upon failure to provide services which are feasible and legal, such person shall have a direct right of action against the Association or public body.
16. To comply with the measures identified in the Government's environmental impact analysis for this facility for the purpose of avoiding or reducing the adverse

environmental impacts of the facility's construction or operation.

17. To accept a grant in an amount not to exceed \$2,994,000 under the terms offered by the Government; that the Mayor and Clerk of the Association are hereby authorized and empowered to take all action necessary or appropriate in the execution of all written instruments as may be required in regard to or as evidence of such grant; and to operate the facility under the terms offered in said grant agreement(s).

The provisions hereof and the provisions of all instruments incident to the making or the insuring of the loan, unless otherwise specifically provided by the terms of such instrument, shall be binding upon the Association as long as the bonds are held or insured by the Government or assignee. The provisions of sections 6 through 17 hereof may be provided for in more specific detail in the bond resolution or ordinance; to the extent that the provisions contained in such bond resolution or ordinance should be found to be inconsistent with the provisions hereof, these provisions shall be construed as controlling between the Association and the Government or assignee and hereby is approved.

ADOPTED	BRIAN T. PERRY	- AYE
	PETER FORRESTEL	- AYE
	MICHAEL R. MIDDAUGH	- AYE
	DARIN S. SCHULTZ	- AYE
	JOHN W. NORTON	- AYE

RESOLUTION duly moved by Perry and seconded by Norton authorizing and providing for the incurrence of indebtedness for the purpose of providing a portion of the cost of acquiring, constructing, enlarging, improving, and /or extending its PUBLIC WASTEWATER SERVICES Facility to serve an area lawfully within its jurisdiction to serve.

WHEREAS, it is necessary for the Village of Akron (herein after called Association) to raise a portion of the cost of such undertaking by issuance of it bonds in the principal amount of Five Million Four hundred nine thousand dollars and,

WHEREAS, the Association intends to obtain assistance from the United States Department of Agriculture, (herein called the Government) acting under the provisions of the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) in the planning, financing, and supervision of such undertaking and the purchasing of bonds lawfully issued, in the event that no other acceptable purchaser for such bonds is found by the Association:

NOW THEREFORE, in consideration of the premises the Association hereby resolves:

1. To have prepared on its behalf and to adopt an ordinance or resolution for the issuance of its bonds containing such items and in such forms as are required by State statutes and as are agreeable and acceptable to the Government.
2. To refinance the unpaid balance, in whole or in part, of its bonds upon the request of the Government if at any time it shall appear to the Government that the Association is able to refinance its bonds by obtaining a loan for such purposes from responsible cooperative or private sources at reasonable rates and terms for loans for similar purposes and periods of time as required by section 333(c) of said Consolidated Farm and Rural Development Act (7 U.S.C. 1983(c)).
3. To provide for, execute, and comply with Form RD 400-4, "Assurance Agreement," and Form RD 400-1, "Equal Opportunity Agreement," including an "Equal Opportunity Clause," which clause is to be incorporated in, or attached as a rider to, each construction contract and subcontract involving in excess of \$10,000.
4. To indemnify the Government for any payments made or losses suffered by the Government on behalf of the Association. Such indemnification shall be payable from the same source of funds pledged to pay the bonds or any other legally permissible source.
5. That upon default in the payments of any principal and accrued interest on the bonds or in the performance of any covenant or agreement contained herein or in the instruments incident to making or insuring the loan, the Government at its option may (a) declare the entire principal amount then outstanding and accrued interest immediately due and payable, (b) for the account of the Association (payable from the source of funds pledged to pay the bonds or any other legally permissible source), incur and pay reasonable expenses for repair, maintenance, and operation of the facility and such other reasonable expenses as may be necessary to cure the cause of default, and/or (c) take

possession of the facility, repair, maintain, and operate or rent it. Default under the provisions of this resolution or any instrument incident to the making or insuring of the loan may be construed by the Government to constitute default under any other instrument held by the Government and executed or assumed by the Association, and default under any such instrument may be construed by the Government to constitute default hereunder.

6. Not to sell, transfer, lease, or otherwise encumber the facility or any portion thereof, or interest therein, or permit others to do so, without the prior written consent of the Government.
7. Not to deface the bonds, or to borrow money, enter into any contractor agreement, or otherwise incur any liabilities for any purpose in connection with the facility (exclusive of normal maintenance) without the prior written consent of the Government if such undertaking would involve the source of funds pledged to pay the bonds.
8. To place the proceeds of the bonds on deposit in an account and in a manner approved by the Government. Funds may be deposited in institutions insured by the State or Federal Government or invested in readily marketable securities backed by the full faith and credit of the United States. Any income from these accounts will be considered as revenues of the system.
9. To comply with all applicable State and Federal laws and regulations and to continually operate and maintain the facility in good condition.
10. To provide for the receipt of adequate revenues to meet the requirements of debt service, operation and maintenance, and the establishment of adequate reserves. Revenue accumulated over and above that needed to pay operating and maintenance, debt service and reserves may only be retained or used to make prepayments on the loan. Revenue cannot be used to pay any expenses which are not directly incurred for the facility financed by USDA. No free service or use of the facility will be permitted.
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11. To acquire and maintain such insurance and fidelity bond coverage as may be required by the Government.
12. To establish and maintain such books and records relating to the operation of the facility and its financial affairs and to provide for required audit thereof as required by the Government, to provide the Government a copy of each such audit without its request, and to forward to the Government such additional information and reports as it may from time to time require.
13. To provide the Government at all reasonable times access to all books and records relating to the facility and access to the property of the system so that the Government may ascertain that the Association is complying with the provisions hereof and of the instruments incident to the making or insuring of the loan.
14. That if the Government requires that a reserve account be established, disbursements from that account(s) may be used when necessary for payments due on the bond if sufficient funds are not otherwise available and prior approval of the Government is obtained. Also, with prior written approval of the Government, funds may be withdrawn and used for such things as emergency maintenance, extensions to facilities and replacement of short-lived assets.
15. To provide adequate service to all persons within the service area who can feasibly and legally be served and to obtain USDA's concurrence prior to refusing new or adequate services to such persons. Upon failure to provide services which are feasible and legal, such person shall have a direct right of action against the Association or public body.
16. To comply with the measures identified in the Government's environmental impact analysis for this facility for the purpose of avoiding or reducing the adverse environmental impacts of the facility's construction or operation.
17. To accept a grant in an amount not to exceed \$5,409,00 under the terms offered by the Government; that the Mayor and Clerk of the Association are hereby authorized and empowered to take all action necessary or appropriate in the execution of all written instruments as may be required in regard to or as evidence of such grant; and to operate the facility under the terms offered in said grant agreement(s).

The provisions hereof and the provisions of all instruments incident to the making or the insuring of the loan, unless otherwise specifically provided by the terms of such instrument, shall be binding upon the Association as long as the bonds are held or insured by the Government or assignee. The provisions of sections 6 through 17 hereof may be provided for in more specific detail in the bond resolution or ordinance; to the extent that the provisions contained in such bond resolution or ordinance should be found to be inconsistent with the provisions hereof, these provisions shall be construed as controlling between the Association and the Government or assignee.

ADOPTED	BRIAN T. PERRY	- AYE
	PETER FORRESTEL	- AYE
	MICHAEL R. MIDDAUGH	- AYE
	DARIN S. SCHULTZ	- AYE
	JOHN W. NORTON	- AYE

Planning Board Member Application – Tabled.

MONTHLY REPORTS –

Departments –

VILLAGE ATTORNEY – Nothing new.

CLERK – submitted report for May 2024. Reported: Attended: the MAOA meeting in Angola along with Treasurer Michel on May 8, 2024; Household Hazardous Waste/Electronic Recycling/Shred-it event went very well with 440 Village and Town residents attending; Village taxes mailed out May 31, 2024.

CHIEF OF POLICE – submitted report for May 2024 and schedule for June 2024. Reported: All special events have been scheduled; the new patrol car is in; recommend keeping the 2016 for Code Enforcement or extra car.

PUBLIC WORKS MANAGER – Jon reported that the divers were at the Water Plant inspecting the intake and repairs to the stainless-steel screen that sits on top of the intake. Worked on a water leak on Crescent Drive and will be working on two drainage structures on Eckerson Avenue in the next several weeks. Streets crew re-did the street striping and put out the large planters and added flowers. Trustee Forrestel stated the DPW did an excellent job on the striping and planters.

CODE ENFORCEMENT OFFICER –submitted report for May 2024.

AKRON FIRE COMPANY – discussed during Work Session held earlier.

Elected Officials –

TRUSTEES – COORDINATORS

Trustee Norton – reported: Will visit the Water Plant House along with Trustee Forrestel to take inventory of the necessary updates and repairs. Will attend the next Celebration Committee this Saturday.

Trustee Forrestel – reported: Still have not heard back from the Union Representative on the list of items they want to discuss. DPW Breakfast meeting is scheduled for June 14, 2024.

Mayor Perry – reported: attended along with Jon Cummings the MEUA Annual Meeting, learned a lot. Working with Verizon on the coverage of the Akron area.

Trustee Middaugh – reported: Recommended to approve the Akron AFC Member Applications of Andrew Lotz, Aiden Hammond, and Lawrence Geary.

RESOLUTION duly moved by Middaugh and seconded by Schultz to approve the Akron Fire Company Member Applications from Andrew Lotz, Aiden Hammond, and Lawrence Geary as per the recommendation of the Police, Fire and Emergency Services Committee be and hereby is approved.

ADOPTED	BRIAN T. PERRY	- AYE
	PETER FORRESTEL	- AYE
	MICHAEL R. MIDDAUGH	- AYE
	DARIN S. SCHULTZ	- AYE
	JOHN W. NORTON	- AYE

Trustee Schultz – Police, Fire & Emergency Services Committee will be meeting to discuss the upcoming events such as July 4th; Continuing to work on the cameras in the park which will be funded by the Police grant from the Division of Criminal Justice Services, Law Enforcement Technology (LETECH) Program; Requested an Executive Session for Personnel issues.

OLD BUSINESS –

Eckerson Avenue Property Development Project – A site plan designed by Alison Koopman was discussed during the earlier Work Session with recent grant funding from Erie County to establish an extension of the bike path into a park area complete with shelter as a project for next year.

American Legion/LL Tillman – Corner of Clinton Ave and Eckerson Ave – Nothing new.

Village Property Security/Oversight – Trustee Schultz discussed during his report.

Electric Rate Case – Mayor Perry spoke with PLM. The rate case is still developing, looking to present to PSC in September/October 2024.

NEW BUSINESS –

RESOLUTION duly moved by Schultz and seconded by Middaugh to approve the step increase for Deputy Clerk/Treasurer, Kimberly Holland, from Grade 1A Step 2 to Grade 1A Step 3 as per the recommendation of Treasurer Sarah Michel be and hereby is approved.

ADOPTED	BRIAN T. PERRY	- AYE
	E. PETER FORRESTEL	- AYE
	MICHAEL R. MIDDAUGH	- AYE
	DARIN S. SCHULTZ	- AYE
	JOHN W. NORTON	- AYE

RESOLUTION duly moved by Norton and seconded by Schultz to approve payment in the amount of \$5,040.00 to Bidco Marine Group for the Water Plant Reservoir Water Intake maintenance as per the recommendation of Public Works Manager Jon Cummings be and hereby is approved.

ADOPTED	BRIAN T. PERRY	- AYE
	PETER FORRESTEL	- AYE
	MICHAEL R. MIDDAUGH	- AYE
	DARIN S. SCHULTZ	- AYE
	JOHN W. NORTON	- AYE

RESOLUTION duly moved by Schultz and seconded by Norton to approve payment in the amount of \$15,378.90 to the Town of Newstead for the 300 KVA three phase pad mount transformer to be used at the Sewer Plant as per the recommendation of Public Works Manager Jon Cummings be and hereby is approved.

ADOPTED	BRIAN T. PERRY	- AYE
	PETER FORRESTEL	- AYE
	MICHAEL R. MIDDAUGH	- AYE
	DARIN S. SCHULTZ	- AYE
	JOHN W. NORTON	- AYE

Sewer Moratorium - As per Trustee Forrestel also Chairman of the Water Wastewater Committee: The Committee has recommended to extend the Sewer Moratorium for another three months until September 30, 2024 or until NYSDEC signs off on the sewer plant rehabilitation project with the same conditions as the last extension.

Background:

In December 2023, the Village Board extended the sewer moratorium until June 30, 2024. Based upon the monthly operation reports provided by Clark Patterson Lee, the Board finds that the Wastewater Treatment Plant is running well under its rated capacity. There is, however, significant infiltration in the collection system which requires a continuation of the moratorium at 50 equivalent household units. At this time, more than 95% of the Village has had camera and smoke test evaluations. The continuation of the moratorium will allow the Village to complete testing and correction work.

RESOLUTION duly moved by Perry and seconded by Norton that the present moratorium as described by local law 2005-1 as amended is extended until September 30, 2024 or until NYSDEC signs off on the sewer plant rehabilitation project be and hereby is approved.

ADOPTED	BRIAN T. PERRY	- AYE
	E. PETER FORRESTEL	- AYE
	MICHAEL R. MIDDAUGH	- AYE
	DARIN S. SCHULTZ	- AYE
	JOHN W. NORTON	- AYE

CORRESPONDENCE –

Letter from USDA informing the Board of the approved loan in the amount of 5,409,000 for the East Avenue Sewer Main Replacement project.

Letter from Charter Communications regarding broadcast changes.

Assessor's May Report.

Letter to Town of Newstead regarding Buell Street Sewer District.

Minutes from the phone conference call held May 29, 2024 with Ramboll for the Electric Substation Expansion.

Letter to Senator Patrick Gallivan regarding support of Gunnville Road thruway exit.

PUBLIC COMMENT – Stephen Seligman questioned the Board about cell towers.

EXECUTIVE SESSION –

RESOLUTION duly moved by Schultz and seconded by Perry to go into an executive session regarding the medical, financial, credit, or employment history of a particular person or corporation, or matters leading to the appointment, employment, promotion, demotion, discipline, suspension, dismissal, or removal of a particular person or corporation at 8:25 pm be and hereby is approved.

ADOPTED	BRIAN T. PERRY	- AYE
	E. PETER FORRESTEL	- AYE
	MICHAEL R. MIDDAUGH	- AYE
	DARIN S. SCHULTZ	- AYE
	JOHN W. NORTON	- AYE

RESOLUTION duly moved by Forrestel and seconded by Norton to come out of the executive session regarding the medical, financial, credit, or employment history of a particular person or corporation, or matters leading to the appointment, employment, promotion, demotion, discipline, suspension, dismissal, or removal of a particular person or corporation at 9:23 pm be and hereby is approved.

ADOPTED	BRIAN T. PERRY	- AYE
	E. PETER FORRESTEL	- AYE
	MICHAEL R. MIDDAUGH	- AYE
	DARIN S. SCHULTZ	- AYE
	JOHN W. NORTON	- AYE

RESOLUTION duly moved by Schultz and seconded by Norton to adopt the Village of Akron Planning and Zoning Chairmen Members and Non-Employee Committee Members Pay Scale Policy as per the recommendation of the Code Enforcement Committee be and hereby is approved.

ADOPTED	BRIAN T. PERRY	- AYE
	E. PETER FORRESTEL	- AYE
	MICHAEL R. MIDDAUGH	- AYE
	DARIN S. SCHULTZ	- AYE
	JOHN W. NORTON	- AYE

On motion of Forrestel and seconded by Middaugh at 9:24 pm this meeting was ADJOURNED.

MAYOR

CLERK