

An Emergency Meeting of the Peru Town Board was held on July 30, 2021 at the Peru Town Hall. Those present were Mr. Brandy McDonald, Supervisor; Excused, Mr. James Douglass, Deputy Supervisor; Mr. Richard Barber, Councilman; Mr. Kregg Bruno, Councilman;-Excused, Mr. Mel Irwin, Councilman; Mrs. Dianne Miller, Town Clerk and Ms. Pamela Barber, Secretary to the Board

The Emergency Meeting was called to order at 11:00 AM by Mr.McDonald, with the Pledge of Allegiance.

Motion by Mr. Barber second by Mr. Douglass to rescind #21.07.26-1 Bond Resolution dated July 26, 2021

4 Ayes 0 Nays

Adopt 202b Proceedings/Public Interest Order Resolution

An emergency meeting of the Town Board of the Town of Peru, in the County of Clinton, New York was held in the Meeting Room at the Town Hall Building, 3036 Main St., Town of Peru, New York, on July 30, 2021.

There were present: (Board Members)

Brandy McDonald, Supervisor
James Douglass, Councilman
Melvin Irwin, Councilman
Richard Barber, Councilman

There were Absent: (Board Members)

Kregg Bruno

Also Present:

Dianne Miller, Town Clerk

The following resolution was offered by Mr. Barber, who moved its adoption, and second by Mr. Douglass to wit:

RESOLUTION #21.07.30-1OF 2021 OF THE TOWN BOARD FOR THE TOWN OF PERU IN ACCORDANCE WITH TOWN LAW SECTION 202-b, DETERMINING THAT IT IS IN THE PUBLIC INTEREST TO UNDERTAKE IMPROVEMENTS TO THE TOWN OF PERU SEWER DISTRICT NO. 1 AND FURTHER AUTHORIZING THE TOWN TO SUBMIT APPLICATIONS TO THE NEW YORK STATE ENVIRONMENTAL FACILITIES

CORPORATION AND OTHERS FOR GRANT FUNDING AND FINANCIAL ASSISTANCE
IN CONNECTION THEREWITH.

WHEREAS, Section 64(3) of the Town Law of the State of New York empowers the Town Board of the Town of Peru, Clinton County, New York (the “Town”) to manage maintain and control Town properties as the purposes of the Town may require; and

WHEREAS, the Town has, pursuant to the Town Law, created the Town of Peru Sewer District No. 1 (the “District”); and

WHEREAS, the Town Board of the Town has determined that it is necessary and desirable for the Town to undertake a project consisting of the increase and improvement, acquisition and construction of sewer improvements for the District, and the acquisition of land or rights in land necessary therefore, if any, and the acquisition of original furnishings, equipment, machinery or apparatus, including related site work, paving, restoration, and repairs (the “Project”); and

WHEREAS, the Town, as a local agency pursuant to the New York State Environmental Quality Review Act (“SEQRA”), ECL Section 8-0101, *et seq.*, and implementing regulations, 6 NYCRR Part 617 (the “Regulations”), having reviewed the impact of the acquisition, construction and reconstruction of the sewer system improvements comprising the Project upon the environment determined by resolution adopted February 27, 2017 that the Project is an “Unlisted Action” that will not result in any significant adverse impacts to the environment; and

WHEREAS, AES Northeast, competent engineers licensed in New York, prepared a map and plan for the Project, as amended; and

WHEREAS, the cost (but not the scope) of the Project has increased from \$5,404,024 to \$6,433,926 ; and the Town Board, in accordance with Town Law section 202-b, and by order dated July 12, 2021 called for a public hearing to consider the increase and improvement of facilities of the District at a maximum estimated cost of \$6,433,926 to be held on July 26, 2021 at 5:45 P.M. in the Town of Peru at the Town of Peru Town Hall Building located at 3036 Main St., Town of Peru, New York, for the purpose of hearing public comments thereon; and

WHEREAS, said order was published and posted as prescribed and required by the Town Law, which order contained a description of the Project and specified that estimated maximum cost thereof to be \$6,433,926; and

WHEREAS, the Town Board conducted said public hearing on July 26, 2021 to hear comments from all persons interested in the subject matter thereof and discuss if the Project is in the best interests of the Town; and

WHEREAS, the Town Board has become aware of grant and funding opportunities through the New York State Environmental Facilities Corporation and others, including the Clean Water State Revolving Fund program (the “CWSRF Program”), New York State Water Infrastructure Improvement Act program (the “WIIA Program”) and other State and Federal financing programs (including clean water); and

WHEREAS, the Town desires to apply for and participate in funding opportunities to the maximum extent possible; and

WHEREAS, the Town Board has determined that the increase and improvement of the facilities of the District is in the public interest and now desires to authorize the acquisition, construction and equipping of the Project and the financing of the cost thereof; and

NOW, THEREFORE, BE IT RESOLVED ON JULY 30, 2021 BY THE TOWN BOARD OF THE TOWN OF PERU, CLINTON COUNTY, NEW YORK, AS FOLLOWS:

Section 1. The Town Board hereby determines that, after such public hearing and upon the evidence given thereat, it is in the public interest to increase and improve the facilities of the District and to undertake the Project.

Section 2. The acquisition, construction and equipping of the Project, at a maximum estimated cost of Six Million Four Hundred Thirty Three Thousand Nine Hundred Twenty Six (\$6,433,926.), inclusive of all professional costs, and all other necessary costs incidental to such work is hereby approved.

Section 3. The Town Supervisor is hereby authorized to submit an application on behalf of the Town for grant funding under the New York State Environmental Facilities Corporation's applicable grant programs relative to the Project, or any other grant or funding provider, including but not limited to the CWSRF Program and WIIA Program, and to execute any agreements, instruments or other documents in connection with the Town's acceptance of any such grants and/or the funding thereof.

Section 4. The Town Supervisor may authorize any required local match required with respect to financing or grants awarded to the Town for the Project through the use of in-kind services, without further approval of this Town Board; and

Section 5. The Town Supervisor is hereby designated as the Authorized Representative of the Town for all aspects of the Project including all application and District financing purposes.

Section 6. This resolution shall take effect immediately.

WHEREFORE, the foregoing Resolution was put to a vote of the members of the Town Board of the Town this July 30, 2021, the result of which vote was as follows:

<u>BOARD MEMBER</u>	<u>VOTE</u>
Brandy McDonald, Supervisor	YES
James Douglass, Councilman	YES
Melvin Irwin, Councilman	YES
Richard Barber, Councilman	YES

DATED: July 30, 2021

CERTIFICATE

I, the undersigned Town Clerk of the Town of Peru, Clinton County, State of New York, **HEREBY CERTIFY:**

That I have compared the annexed extract of the minutes of a special meeting of the Town Board of said Town including the resolution contained therein, held on November 23, 2020 with the original thereof on file in my office, and that the same is a true, complete and correct copy thereof and of the whole of said original minutes so far as the same relates to the subject matters therein referred to.

I FURTHER CERTIFY that all members of the Town Board had due notice of said meeting.

I FURTHER CERTIFY that, pursuant to Section 103 of the Public Officers Law (Open Meetings Law) proper notice was given relative to said meeting and said meeting was open to the general public.

I FURTHER CERTIFY, that, **PRIOR** to the time of said meeting I duly caused a public notice of the time and place of said meeting to be given to the following newspapers and/or other news media as follows:

<u>Newspaper and/or other news media</u>	<u>Date given</u>
Press-Republican	July 28, 2021

I FURTHER CERTIFY that **PRIOR** to the time of said meeting, I duly caused public notice of the time and place of said meeting to be conspicuously posted in the following designated public location(s) on the following dates:

Designated Location(s) of Posted Notice

Bulletin Board – Town Hall
Town Web-site
Town LED Community Sign Board-Town Park
Peru Gazette

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of the Town of Peru, Clinton County, New York, this 30th day of July 2021

Dianne Miller, Town Clerk

[SEAL]

An Emergency meeting of the Town Board of the Town of Peru, in the County of Clinton, New York was held in the Meeting Room at the Town Hall Building, 3036 Main St., Town of Peru, New York, on July 30, 2021.

There were present: (Board Members)

Brandy McDonald, Supervisor
James Douglass, Councilman
Melvin Irwin, Councilman
Richard Barber, Councilman

There were Absent: (Board Members)
Kregg Bruno, Councilman

Also Present:

Dianne Miller, Town Clerk

The following resolution was offered by Mr. Irwin, who moved its adoption, and second by Mr. Douglass to wit:

BOND RESOLUTION OF THE TOWN OF PERU, CLINTON COUNTY, NEW YORK, ADOPTED ON JULY 30, 2021 AMENDING AND RESTATING BOND RESOLUTIONS ADOPTED FEBRUARY 27, 2017, DECEMBER 10, 2018, JANUARY 14, 2019 AND NOVEMBER 23, 2020, AUTHORIZING THE ACQUISITION, CONSTRUCTION AND RECONSTRUCTION OF SEWER FACILITIES FOR THE PERU SEWER DISTRICT NO. 1 AND AUTHORIZING THE ISSUANCE OF BOND ANTICIPATION NOTES AND SERIAL BONDS OF THE TOWN TO PAY THE COST OF THE PROJECT

WHEREAS, Section 64(3) of the Town Law of the State of New York empowers the Town Board of the Town of Peru, Clinton County, New York (the “Town”) to manage maintain and control Town properties as the purposes of the Town may require; and

WHEREAS, the Town has, pursuant to the Town Law, created the Town of Peru Sewer District No. 1 (the “District”); and

WHEREAS, the Town Board of the Town has determined that it is necessary and desirable for the Town to undertake a project consisting of the increase and improvement, acquisition and construction of sewer improvements for the District, and the acquisition of land or rights in land necessary therefore, if any, and the acquisition of original furnishings, equipment, machinery or apparatus, including related site work, paving, restoration, and repairs (the “Project”); and

WHEREAS, the Town, as a local agency pursuant to the New York State Environmental Quality Review Act (“SEQRA”), ECL Section 8-0101, *et seq.*, and implementing regulations, 6 NYCRR Part 617 (the “Regulations”), having reviewed the impact of the acquisition, construction and reconstruction of the sewer system improvements comprising the Project upon the environment determined by resolution adopted February 27, 2017 that the Project is an “Unlisted Action” that will not result in any significant adverse impacts to the environment; and

WHEREAS, AES Northeast, competent engineers licensed in New York, prepared a map and plan for the Project, as amended; and

WHEREAS, the cost (but not the scope) of the Project has increased from \$5,404,024 to \$6,433,926; and the Town Board, in accordance with Town Law section 202-b, and by order dated July 12, 2021 called for a public hearing to consider the increase and improvement of facilities of the District at a maximum estimated cost of \$6,433,926 to be held on July 26, 2021 at 5:45 P.M. in the Town of Peru at the Town of Peru Town Hall Building located at 3036 Main Street, Town of Peru, New York, for the purpose of hearing public comments thereon; and

WHEREAS, said order was published and posted as prescribed and required by the Town Law, which order contained a description of the Project and specified that estimated maximum cost thereof to be \$6,433,926; and

WHEREAS, the Town Board conducted said public hearing on July 26, 2021 to hear comments from all persons interested in the subject matter thereof and discuss if the Project is in the best interests of the Town; and

WHEREAS, the Town Board has become aware of grant and funding opportunities through the New York State Environmental Facilities Corporation and others, including the Clean Water State Revolving Fund program (the “CWSRF Program”), New York State Water Infrastructure

Improvement Act program (the “WIIA Program”) and other State and Federal financing programs; and

WHEREAS, the Town desires to apply for and participate in funding opportunities to the maximum extent possible; and

WHEREAS, the Town Board has determined by resolution adopted July 30, 2021 that the increase and improvement of the facilities of the District is in the public interest and now desires to authorize the acquisition, construction and equipping of the Project and the financing of the cost thereof; and

NOW, THEREFORE BE IT RESOLVED ON JULY 30, 2021 BY THE TOWN BOARD OF THE TOWN OF PERU, CLINTON COUNTY, NEW YORK (by favorable vote of not less than two thirds of said Board), AS FOLLOWS:

Section 1. The undertaking of the Project at a maximum estimated cost of \$6,433,926, including all professional costs, equipment, machinery and other necessary appurtenances and all other necessary costs incidental to such work, which is estimated to be the total cost thereof, is hereby approved.

Section 2. The plan for the financing of the aforesaid specific object or purpose includes the issuance of up to \$6,433,926 of serial bonds, or any bond anticipation notes in anticipation of the issuance and sale of the bonds, which are hereby authorized to be issued pursuant to the Local Finance Law, the levy of a tax to pay the bonds and the interest thereon and the application, if and when available, of state and/or federal assistance available or to any revenues available for such purpose from any other source. Undertaking the Project is hereby approved. The bonds and notes authorized hereby may be issued to the United States Department of Agriculture, Office of Rural Development, or any of its related offices or agencies, the New York State Environmental Facilities Corporation under any of its revolving fund programs or any purchaser in accordance with the provisions of the Local Finance Law.

Section 3. The full faith and credit of the Town is hereby irrevocably pledged for the payment of the principal of and interest on the Bonds as the same respectively become due and payable. There shall be annually apportioned and assessed upon the several lots and parcels of land within the District, which the Town Board shall determine and specify to be especially benefited by the improvements, an amount sufficient to pay the principal and interest on such obligations as the same become due, but if not paid from such source, all of the taxable real property in the Town shall be subject to the levy of ad valorem taxes without limitation as to rate or amounts sufficient to pay the principal of and interest on the Bonds as the same shall become due. Such debt service payments may be made in substantially level or declining amounts as may be authorized by law.

Section 4. Pursuant to Sections 30.00, 50.00 and 56.00 to 60.00, inclusive, of the Local Finance Law, the power to authorize the issuance of and to sell the serial bonds and any bond anticipation notes in anticipation of the issuance and sale of the bonds herein authorized, including renewals of such notes, is hereby delegated to the Town Supervisor, the chief fiscal officer. Such bonds or notes shall be of such form and contents, and shall be sold in such manner, as may be prescribed by said Town Supervisor, consistent with the provisions of the Local Finance Law. The notes authorized herein are issued in anticipation of bonds for an assessable improvement.

Section 5. The Town Supervisor is hereby further authorized, at his sole discretion, to execute all agreements, certificates and instruments in order to effect the financing or refinancing of the specific object or purpose described in Section 1 hereof, or a portion thereof, by a bond, and/or note issue of said Town and such authorization is intended to include authority to enter into and execute on behalf of the Town all agreements, certificates and instruments required in connection with financing the Project costs.

Section 6. The intent of this resolution is to give the Town Supervisor sufficient authority to execute those applications, agreements, instruments or to do any similar acts necessary to effect the issuance of the aforesaid bonds and/or notes without resorting to further action of this Town Board.

Section 7. The following additional matters are hereby determined and declared:

- (a) Pursuant to paragraph 4 of Section 11.00 of the Local Finance Law (i) the period of probable usefulness of the Project is forty (40) years; and
- (b) Current funds are not required by the Local Finance Law to be provided prior to the issuance of the bonds and any notes issued in anticipation thereof authorized by this resolution; and
- (c) The proposed maturity of the bonds authorized by this resolution will exceed five (5) years.

Section 8. The temporary use of available funds of the Town, not immediately required for the purpose or purposes for which the same were raised or otherwise created, is hereby authorized pursuant to Section 165.10 of the Local Finance Law, for the capital purposes described in Section 1 of this resolution. The reasonably expected source of funds to be used to initially pay for the expenditures authorized by Section 1 of this resolution shall be from the Town's General Fund. It is intended that the Town shall then reimburse expenditures from the General Fund with the proceeds of the bonds and bond anticipation notes authorized by this resolution and that the interest payable on the bonds and any bond anticipation notes issued in anticipation of such bonds shall be excludable from gross income for federal income tax purposes. This resolution is intended to constitute the declaration of the District's "official intent" within the meaning of Treasury Regulation Section 1.150-2 to reimburse the expenditures authorized by this resolution with the proceeds of the bonds and bond anticipation notes authorized herein. Other than as specified in this resolution, no monies are reasonably expected to be, received, allocated on a long-term basis, or otherwise set aside with respect to the permanent funding of the objects or purposes described herein.

Section 9. Such bonds shall be in fully registered form and shall be signed in the name of the Town of Peru, Clinton County, New York, by the manual or facsimile signature of the Town Supervisor and a facsimile of its corporate seal shall be imprinted or impressed thereon and maybe attested to by the manual or facsimile signature of the Town Clerk.

Section 10. The Town hereby covenants and agrees with the holders from time to time of the Bonds and any bond anticipation notes issued in anticipation of the sale of the Bonds, that the Town will faithfully observe and comply with all provisions of the Internal Revenue Code of 1986, as amended (the "Code"), and any proposed or final regulations issued pursuant thereto unless, in the opinion of bond counsel, such compliance is not required by the Code and

regulations to maintain the exclusion from gross income of interest on said obligations for federal income tax purposes.

Section 11. All other matters, except as provided herein relating to such bonds, including determining whether to issue such bonds with a schedule of substantially level or declining annual debt service and all matters related thereto, prescribing whether manual or facsimile signatures shall appear on said bonds, prescribing the method for the recording of ownership of said bonds, appointing the fiscal agent or agents for said bonds, providing for the printing and delivery of said bonds (and if said bonds are to be executed in the name of the Town by the facsimile signature of its Town Supervisor, providing for the manual countersignature of a fiscal agent or of a designated Official of the Town), the date, denominations, maturities and interest payment dates, place or places of payment, and also including the consolidation with other issues, shall be determined by the Town Supervisor. It is hereby determined that it is to the financial advantage of the Town not to impose and collect from registered owners of such bonds any charges for mailing, shipping and insuring bonds transferred or exchanged by the fiscal agent, and, accordingly, pursuant to paragraph c of Section 70.00 of the Local Finance Law, no such charges shall be so collected by the fiscal agent. Such bonds shall contain substantially the recital of validity clause provided for in Section 52.00 of the Local Finance Law and shall otherwise be in such form and contain such recitals in addition to those required by Section 52.00 of the Local Finance Law, as the Town Supervisor shall determine.

Section 12. The law firm of Trespasz & Marquardt, LLP is hereby appointed bond counsel to the Town in relation to the issuance of the obligations authorized herein.

Section 13. The validity of such bonds and bond anticipation notes may be contested only if:

- (1) Such obligations are authorized for an object or purpose for which said Town is not authorized to expend money, or
- (2) The provisions of law which should be complied with at the date of publication of this resolution are not substantially complied with, and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of publication, or
- (3) Such obligations are authorized in violation of the provisions of the Constitution.

Section 14. The Bond Resolutions adopted by the Town Board on January 23, 2017, December 10, 2018 and January 14, 2019 and November 23, 2020 authorizing the acquisition, construction and reconstruction of sewer facilities for the Town of Peru Sewer District N0. 1 are hereby amended and restated to reflect to provisions set forth herein. The Project is a capital improvement or equipment, of which a part of the cost is chargeable primarily to benefitted real property within the District and, as such, the bond resolution is not subject to a permissive referendum per Local Finance Law Section 35.00(b)(2).

WHEREFORE, the foregoing Resolution was put to a vote of the members of the Town Board of the Town this July 30, 2021, the result of which vote was as follows:

Brandy McDonald, Supervisor
James Douglass, Councilman

Melvin Irwin, Councilman
Richard Barber, Councilman

DATED: July 30, 2021

CERTIFICATE

I, the undersigned Town Clerk of the Town of Peru, Clinton County, State of New York, **HEREBY CERTIFY:**

That I have compared the annexed extract of the minutes of a meeting of the Town Board of said Town including the resolution contained therein, held on July 30, 2021 with the original thereof on file in my office, and that the same is a true, complete and correct copy thereof and of the whole of said original minutes so far as the same relates to the subject matters therein referred to.

I FURTHER CERTIFY that all members of the Town Board had due notice of said meeting.

I FURTHER CERTIFY that, pursuant to Section 103 of the Public Officers Law (Open Meetings Law) proper notice was given relative to said meeting and said meeting was open to the general public.

I FURTHER CERTIFY, that, **PRIOR** to the time of said meeting I duly caused a public notice of the time and place of said meeting to be given to the following newspapers and/or other news media as follows:

<u>Newspaper and/or other news media</u>	<u>Date given</u>
Press Republican	July 28, 2021

I FURTHER CERTIFY that **PRIOR** to the time of said meeting, I duly caused public notice of the time and place of said meeting to be conspicuously posted in the following designated public location(s) on the following dates:

Designated Location(s) of Posted Notice

- Bulletin Board – Town Hall
- Town Website
- LED Signage – Town Park
- Peru Gazette

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of the Town of Peru, Clinton County, New York, this ____ day of July, 2021.

Dianne Miller, Town Clerk

[SEAL]

Motion by Mr.Douglass; seconded by Mr. Irwin to adjourn the Emergency meeting at 11:12 AM
Ayes 4 Nays 0

Motion Carried

_____ ***Supervisor*** _____ ***Councilman***

_____ ***Councilman*** _____ ***Councilman***

_____ ***Councilwoman***

