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IN THE MATTER OF THE  
PETITION OF NEWARK VALLEY  
APARTMENTS, LP FOR  
ANNEXATION BY THE VILLAGE OF  
NEWARK VALLEY OF LANDS IN THE  
TOWN OF NEWARK VALLEY BEING  
TAX PARCEL NO. 53.00-1.43.122

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FINDINGS, RESOLUTIONS AND ORDER  
OF THE TOWN OF NEWARK VALLEY PURSUANT TO  
ARTICLE 17 OF THE NEW YORK STATE  
GENERAL AND MUNICIPAL LAW

A Petition ("Petition") having been filed by Newark Valley Apartments, LP ("Petitioner") for the annexation of certain property in the Town of Newark Valley ("Town") into the Village of Newark Valley ("Village"), and a joint public hearing of the governing Boards of the Town and the Village having been held on February 9, 2011, in accordance with Section 705 of the General Municipal Law of the State of New York, the Village Board of the Village of Newark Valley hereby makes the following Findings and adopts the following Resolutions and Order based upon such Findings, all in accordance with Section 711 of the General Municipal Law:

**FINDINGS**

1. The Petition of Newark Valley Apartments, LP dated March 12, 2010, for the annexation of Town of Newark Valley Tax Parcel Number 53.00-1.43.122 ("Property") was duly filed in the Offices of the Town Clerk of the Town of Newark Valley and the Village Clerk of the Village of Newark Valley. A copy of the Petition is attached hereto as Exhibit "A".
2. Pursuant to Section 704 of the General Municipal Law, the Town caused notice of the required joint public hearing on the Petition to be timely published and sent to the (i) the Petitioner (the Petitioner being the sole owner of property within the territory proposed to be annexed), (ii) all persons residing within the territory proposed to be annexed qualified to vote for officers of the Town as their names appear upon the register of voters for the last preceding general election, (iii) the Newark Valley Central School District and (iv) the Newark Valley Fire District.
3. The joint public hearing of the Village and Town of Newark Valley was held at the Newark Valley Town Hall on February 9, 2011, in accordance with the notices as published and mailed.

4. In attendance at the joint public hearing were (i) the Mayor, the four Trustees of the Village, the Attorney for the Village and the Village Clerk; and (ii) the Town Supervisor, the four Councilmen of the Town Board, the Attorney for the Town and the Town Clerk.
5. Stuart Yetter, Jr., Supervisor of the Town of Newark Valley, presided at the hearing by agreement of the members of the participating Boards.
6. Comments were received from various members of the public in attendance at the joint public hearing, including the Attorney for the Petitioner, including Charles Franeze of Hunt Engineering, and William Foster the Village of Newark Valley Public Works Superintendent. Elected officials of both the Village and Town offered comment as well. A transcript of the proceedings is attached hereto as Exhibit "B". No representative from the Newark Valley Central School District, and the Newark Valley Fire District appeared at the hearing.
7. The Supervisor of the Town confirmed at the outset of the joint public hearing that to the best of his knowledge the required notices of the public hearing for the Town and Village had been published in a timely fashion as indicated above and the Town Clerk had complied with the mailing of notices as required by Article 17 of the General Municipal Law.
8. The Village Attorney had reviewed the Petition and had advised the Village that the Petition has been in substantial compliance with Section 703 of the General Municipal Law.
9. The Village Board of the Village of Newark Valley makes the following findings in accordance with the Section 711 of the General Municipal Law as to whether the proposed annexation is or is not in the overall public interest:
  - A. The Petitioner owns property in the Town, on Golden Lane. The parcel of land is contiguous with the Village in the rear. It fronts on a Town road called Golden Lane, which was dedicated to the Town by the Petitioner or by a related company to the Town, that accesses its development.
  - B. Petitioner's property is the only property for which Golden Lane is currently used actively.
  - C. The Property is approximately 2.55 acres and contains total of 18 apartments which are all dedicated for low-income housing and is State and federally funded.
  - D. The rents are subsidized under HUD Section VIII.

- E. The development of this low-income housing project, which is the Petitioner, commenced in approximately 1991. At that time, the Supervisor of the Town submitted a letter in support of the project (Exhibit Number 1). Even the current Supervisor of the Town acknowledged that the project is an "asset to the community".
- F. The Town Board was the lead agency. In 1998 the Town passed a resolution stating that there was "... a need... within the Town for decent and affordable housing for individual and families of modest means..." and that the Board expressed "its full cooperation in support for the project". The need for this project was recognized by both the State and Federal governments. Thus, the Petitioner was granted funding for the project.
- G. Also in 1998, the Village had agreed that it had public water available.
- H. The availability of public water is a large factor in deciding to locate the project in the Town.
- I. Based upon the foregoing, the manager then obtained State and Federal approval to build and run the low-income housing development.
- J. That low-income housing development consists of 18 units which is 10 one bedroom units, and 8 two bedroom units for a total of 26 bedrooms.
- K. It has and is essentially been fully occupied primarily, if not exclusively by low-income people.
- L. As a governmentally funded low-income housing project, the costs are required to be reviewed and rates of reimbursement are controlled by the government.
- M. The record reveals that the Petitioner or related company not only dedicated Golden Road to the Town but also paid approximately \$90,000.00 to have the road improved and an 8 inch water main run down the road to its Property from Whig Street.
- N. This water main not only provides water service to the 18 low-income units on the property but also has 2 fire hydrants, one which was put in by a neighbor for improved fire protection. The nearest hydrant on the system is approximately 600- 800 feet away from the corner of Golden Road and Whig Street.

- O. The Village of Newark Valley currently supplies public water to the Property and other properties outside of the Village. However, due to issues of water safety and improvements needed, the Village has plans to improve its system. The Village has given time to the Town residents currently on water, including the Petitioner, to form their own district or improvement area. They have declined to do the same.
- P. At some point in the future, the Village will need to cut off the water supply outside of the Village. Thus the Petitioner is facing the prospect of having to obtain water for its low-income residents.
- Q. The manager of the Petitioner believes that it may cost approximately \$125,000.00 to install a private system.
- R. Such system may require the Petitioner to install a sprinkler system, pressure pumps, emergency generators, together with providing much more administrative detail and testing than what is needed with a public system.
- S. Such expenses may require additional funding from the governments and higher expenses to the project. Those expenses will be born indirectly by the residents of both the Village and the Town as tax payers.
- T. As a governmentally funded low-income residence, the manager just gets a set fee. All other costs are monitored by the governmental agencies.
- U. Annexation of this property would be revenue neutral to all entities involved.
- V. The principle of the Petitioner stated that he was invited to come to Newark Valley, to establish this low-income housing development on the promise that he would have public water and a PILOT agreement, in approximately 2001.
- W. Petitioner is obligated to maintain the development as low-income housing for a period of approximately 30 years or more.
- X. The continued existence of the fire hydrants of Golden Lane would be insured by annexation, and would be benefit not only to the residents of the Petitioner, but also the Town residents in and near

Golden Lane, to which the fire hydrants could be assessable in emergency situations.

13. There would be no change in services by allowing annexation for police.
14. There would be no change in services or expenses to the School District.
15. While the Town may still have the obligation to maintain the portion of Golden Road, it is noted that there is no part Town highway tax excluding Village residents from paying the Town Highway tax. Thus there would be no loss of revenue to the Town to maintain the road in front of the property.
16. Annexation would ensure the current level, if not improve water supply for fire protection; whereas, if the property is not annexed there will be no fire hydrants for fire protection, for not only the Petitioner's property but also the neighboring properties.
17. The Village is not part of the current PILOT agreement. Petitioner acknowledges that it will either be taxed separately or enter into a separate agreement with the Village. Thus, annexation would not affect the income from taxation by the other entities involved.
18. The Village finds that the Petitioner is providing a public service to the community in providing low-income housing on the subject Property.
19. Given that this project is for low-income housing for the approximately 26 low-income residents, annexation cannot be considered solely as a benefit to one person.
20. If the Property was annexed public water could be delivered to it by the portion of Whig Street, which is in the Town and Golden Lane which is also a Town road.
21. If the property is annexed, the Town residents contiguous to the pipeline going to the Petitioner would be able to contract with the Village to continue, resume, or establish water service with the Village.
22. The Petitioner, or its associated companies provided the main on Golden Road. Since the Petitioner located this low-income housing development under the understanding that it would obtain and continue to receive public water, and that it spent substantial amounts of monies improving and dedicating the road to the Town, and installing the water main on Golden Road, that it would be unjust to have it create a new private water system together with all the other commensurate improvements necessitated thereby.

23. The Village finds that the Petition is in the public interest and it will allow the low-income residents living on the property to continue to have safe water, and that there will be adequate fire protection for such residents and the neighboring properties, and also that for the other reasons stated above that annexation is in the public interest.

VILLAGE BOARD MEETING  
APRIL 12, 2011

**RESOLUTION #17-11  
ANNEXATION**

**NOW THEREFORE**, based on all of the foregoing findings, it is hereby

**RESOLVED**, that the Petitioner's Petition substantially complies with in form and content with Article 17 of the General Municipal Laws; and it is further

**RESOLVED**, that the proposed annexation described in said Petition is deemed to be in the overall public interest; and it is further

**RESOLVED**, that the proposed annexation as described in the Petition is hereby approved by the Village Board of the Village of Newark Valley.

MOTION Trustee Blee SECOND Trustee Carlin

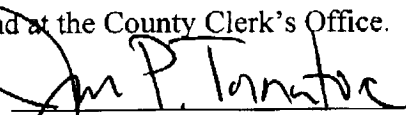
ROLL CALL:

Blee \_\_\_Y\_\_\_ Carlin \_\_\_Y\_\_\_ Inderwies \_\_\_Y\_\_\_ Tornatore \_\_\_Y\_\_\_

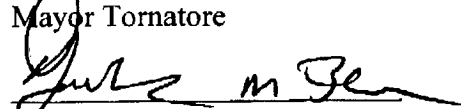
**ORDER**

**HEREBY ORDERED**, that copies of the foregoing Findings, Resolutions and Determinations as set forth therein, all of which are hereby incorporated by reference into this Order, together with the Petition, notice of public hearing, written objections and testimony and minutes of the proceedings taken and kept on the hearing, be filed in the Offices of the Clerks of the Village and Town as the affected local governments, and at the County Clerk's Office.


Dated: April 12<sup>th</sup>, 2011

  
Mayor Tornatore

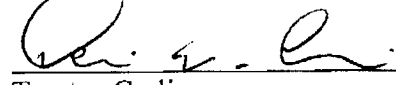
Dated: 4/12/11

  
Trustee Blee

Dated: 4/12/2011

  
Trustee Inderwies

Dated: 4/12/11

  
Trustee Carlin

VILLAGE BOARD MEETING  
APRIL 12, 2011

RESOLUTION # 18-11  
CARRY OVER PUBLIC WORKS SUPERVISOR VACATION TIME

WHEREAS: The Supervisor of Public Works has been unable, due to the unusual number of hours on the water project and snow removal, to take all of his vacation time before the end of the fiscal year and has 28 hours of vacation time remaining; therefore be it:

RESOLVED: That on a one-time only special situation, the Board of Trustees agrees to allow the Supervisor of Public Works to carry over the remaining 28 hours of vacation time into the 2011-2012 fiscal year.

MOTION Carlin

SECOND Blee

ROLL CALL:

Blee y Carlin y Inderwies y Tornatore y

RESOLUTION # 17-11  
AUDIT OF CLAIMS

RESOLVED: That the Board of Trustees by authority of Section 5-524 (6) of the Village Law hereby authorizes payment in advance of audit of claims for recurring charges such as payment for utilities and all other such claims as previously authorized for payment by the Board of Trustees.

MOTION Blee

SECOND Carlin

ROLL CALL:

Blee y Carlin y Inderwies y Tornatore y

VILLAGE BOARD MEETING  
APRIL 12, 2011

RESOLUTION # 20-11  
DESIGNATION OF DEPOSITORY

RESOLVED: That pursuant to Section 4-412, Subdivision 3 of Village Law, National Bank & Trust Co. of Norwich, Newark Valley bank, be and hereby is designated as depository of all monies received by the Village Clerk-Treasurer for the fiscal year 2011-2012.

MOTION Carlin SECOND Inderwies

ROLL CALL:

Blee y Carlin y Inderwies y Tornatore y

RESOLUTION # 21-11  
SCHOOLS AND CONFERENCE APPROVAL

RESOLVED: That the following officers and employees are hereby authorized to attend the following schools and conferences for the fiscal year 2011-2012.  
Mayor Annual Meeting – Mayor, Deputy Mayor and/or Trustees;  
Training school for Fiscal Officers & Municipal Clerks – Clerk-Treasurer & Deputy Clerk  
Public Works Conference – Supervisor of Public Works  
Training Schools for Water Operations – Public Works Employees  
American Water Works Association – Supervisor of Public Works  
Mayor Superintendents Conference – Supervisor of Public Works  
Dept. of State – Bldg. & Fire Code Conference – CEO

MOTION Blee SECOND Carlin

ROLL CALL:

Blee y Carlin y Inderwies y Tornatore y

VILLAGE BOARD MEETING  
APRIL 12, 2011

RESOLUTION # 22-11  
OFFICIAL NEWSPAPERS

WHEREAS: The Tioga County Courier is the only subscription newspaper in Tioga County, therefore be it;

RESOLVED: That the Village of Newark Valley will use the Tioga County Courier as its official newspaper, further be it;

RESOLVED: That the Village of Newark Valley will use the Press & Sun Bulletin as the official back-up newspaper.

MOTION Inderwies SECOND Carlin

ROLL CALL:

Blee 2j Carlin 2j Inderwies 2j Tornatore 2j

RESOLUTION # 23-11  
SALARIES OF ELECTED POSITIONS & CODE ENFORCEMENT OFFICER

WHEREAS: Elected officials and Code Enforcement Officer are paid on a monthly basis, therefore be it;

RESOLVED: That annual salaries of the following Village Officials be paid from Trust and Agency Fund, which serves as a payroll account, with monies transferred to such funds from appropriations of general, water and solid waste funds are the rates stated below, while such persons are employed by the Village of Newark Valley.

Mayor	\$3750.00
Deputy Mayor	\$1488.00
Trustees: Fred Blee	\$988.00
Dennis Carlin	
C. Morgan Inderwies	
Code Enforcement Officer	\$8732.00

MOTION Carlin SECOND Inderwies

ROLL CALL:

Blee 2j Carlin 2j Inderwies 2j Tornatore 2j

VILLAGE BOARD MEETING  
APRIL 12, 2011

RESOLUTION # 34-11  
STIPEND FOR VILLAGE ATTORNEY

WHEREAS: The current stipend for the Village Attorney for the fiscal year 2010-11 was \$6887.00, and

WHEREAS: A recommended increase adjustment, based upon salary adjustments of the same year is being sought, now therefore be it

RESOLVED: That the annual stipend for the Village Attorney for the fiscal year 2011-12 be \$7024.00.

MOTION: Blee SECOND: Carlin

ROLL CALL:

Blee 3j Carlin 3j Inderwies 3j Tornatore 3j

RESOLUTION # 35-11  
DESIGNATING UNRESERVED FUND BALANCE  
FOR POSTRETIREMENT BENEFITS

WHEREAS: The Village of Newark Valley has received a grant from United States Department of Agriculture, Rural Development (USDA RD) for our current water project. A borrower that expends over \$500,000 or more in Federal financial assistance per fiscal year shall submit an audit in accordance with Generally Accepted Government Accounting Standards, (GAGAS), and

WHEREAS: During the fiscal year 2010-11 the Village of Newark Valley did expend more than \$500,000, and requires an audit. The Village also hired a firm to prepare the GASB 45 report, postretirement benefits liability, and has prepared and submitted the report that shows a liability for postretirement benefits as of February 10, 2011 of \$35,422, now therefore be it

RESOLVED: That the Village of Newark Valley would like to provide for future liabilities by setting apart a separate designated unreserved fund balance, account number 0907A, in the amount of \$35,422.

MOTION: Carlin SECOND: Blee

ROLL CALL:

Blee 3j Carlin 3j Inderwies 3j Tornatore 3j

VILLAGE BOARD MEETING  
APRIL 12, 2011

DISCARD OF EQUIPMENT  
RESOLUTION # 26-11

WHEREAS: The following used equipment is no longer in condition for village use:  
Karaoke Machine; Computer with Keyboard, Mouse and Monitor; Back-  
up; Sharp Calculator; Old Black Copier; Motorola Cell Phone & Charger;  
Ricoh Copier, Workcenter Copier, Okidata Printer; Fax Machine, RCA  
VCR, and

WHEREAS: The Village Clean-Up Days are April 29<sup>th</sup> and 30<sup>th</sup>; now therefore be it;

RESOLVED: That the Board of Trustees of the Village of Newark Valley hereby grants  
permission to the Supervisor of Public Works to discard of the above  
listed equipment at the Village Clean-Up Days.

MOTION: Blee SECOND: Carlin

ROLL CALL:

Blee y Carlin y Inderwies y Tornatore y

TO HOLD A PUBLIC HEARING  
RESOLUTION # 27-11

RESOLVED: That a public hearing be held on May 9, 2011 at 7:00 PM for the purpose  
of solid waste changes, immediately followed by a public hearing for State  
Environmental Quality Review for designation of Village Wellhead  
Protection Area; now therefore be it:

RESOLVED: That the Village Clerk is hereby directed to publish a notice of said  
hearing.

MOTION Blee SECOND Carlin

ROLL CALL:

Blee y Carlin y Inderwies y Tornatore y