**TOWN OF PLATTSBURGH**

**TOWN BOARD MONTLHY MEETING**

**DECEMBER 2, 2021**

**Resolution No.021-213 FINDINGS, RESOLUTIONS AND ORDER OF THE TOWN OF PLATTSBURGH PURSUANT TO ARTICLE 17 OF THE NEW YORK GENERAL MUNICIPAL LAW REGARDING THE PROPOSED ANNEXATION TO THE TOWN OF PLATTSBURGH OF CERTAIN TERRITORY LOCATED ON LEMAY AVENUE IN THE CITY OF PLATTSBURGH.**

**WHEREAS**, pursuant to “The Plattsburgh Compact Between the City and the Town” dated as of April 16, 2021 (the “Compact”), the City of Plattsburgh Common Council, and the Town of Plattsburgh Town Board, made a commitment to resolve the conflicts of past administrations, and to focus on mutually beneficial solutions, shared goals, and regional successes to establish a strong foundational bedrock to last far into the future, by adopting a specific framework to accomplish numerous goals, including: the resolution of all pending litigation between the municipalities; a binding path to resourcefully and efficiently adjusting the boundaries of the City of Plattsburgh (“the City”) and the Town of Plattsburgh (the “Town”) so that both municipalities mutually benefit; a joint planning initiative for areas where the communities intersect; and a joint infrastructure initiative, which includes the water and waste-water systems and the Plattsburgh Organics Recycling Plant; and

**WHEREAS**, pursuant to that certain Settlement Agreement dated as of April 16, 2021 between the City and Town (the “Settlement Agreement”); the parties agreed to a binding Settlement Agreement in which the City and Town agreed, in consideration of each component of the Settlement Agreement, to mutually discontinue certain litigation between the parties, and the City and Town agreed to commit to, among other things, facilitate the legal process allowing the Town to expeditiously adjust its boundaries to include a certain parcel located at 15/27 LeMay Drive in the City, owned by the County of Clinton (the “County”), as further described below, in an effort to forge a more positive relationship between the neighboring communicates and encourage and pursue a more cooperative and mutually beneficial resolution to outstanding controversies, including certain litigation matters referred to in the Settlement Agreement as the “Falcon Seabord Litigation” and the “Reeves Lane Annexation Litigation” between the City and the Town; and

**WHEREAS**, a Petition for Annexation pursuant to Article 17 of the New York General Municipal Law (the “Municipal Annexation Law”), together with exhibits thereto, having been filed with the Town September 13, 2021 by the County (the “LeMay Drive Annexation Petition” or “Petition”), as owner of certain real property in the City consisting of an approximately 18.05+/-acre parcel of uninhabited land located at 15/27 LeMay Drive in City, identified as Clinton County Tax Map Parcel Nos. 220.-4-31.2 and 220.-4-32 (the “Property”), for the annexation of the Property to the City (the “LeMay Drive Annexation”); and

**WHEREAS**, on September 21, 2021, a Notice of Joint Hearing On Petition to Annex Territory From the City of Plattsburgh, New York to the Town of Plattsburgh, New York (the “Notice”) was made to members of the public, with a copy of such Notice sent: to Peru Central School District, the City of Plattsburgh School District and the South Plattsburgh Fire Department on October 4, 2021; and

**WHEREAS**, a joint hearing of the governing Boards of the City Town having been held on October 21, 2021, in accordance with Section 704 of the Municipal Annexation Law, the Town Board of the Town hereby makes the following findings and thereupon adopts the following resolutions and order based upon such findings, all in accordance with Section 704 of the General Municipal Law of the State of New York:

**FINDINGS**

1. The LeMay Drive Annexation Petition was filed in the office of the Town Clerk and, upon information and belief, in the office of the City Clerk, September 13, 2021. A copy of the letter from Michael E. Zurlo, dated September 9, 2021 together with the LeMay Drive Annexation Petition, together with exhibits thereto, is attached hereto as **Exhibit A**.
2. Pursuant to the provisions of Section 704 of the General Municipal Law of the State of New York (hereinafter the "General Municipal Law" or "GML"), the Town and the City together jointly caused notice of the required joint public hearing on the Petition to be published in the *Press-Republican*, the official newspaper of the City and Town, on September 21, 2021.
3. The joint public hearing of the City Council and the Town Board, as the two governing boards of the involved municipalities, was held at the 41 City Hall Place, Plattsburgh, New York 12901, in accordance with the notices as published, posted and mailed.
4. In attendance at the joint hearing were, among others, (i) the City Mayor and members of the City Council, (ii) the Attorney for the City; (iii) the Town Supervisor and the members of the Town Board and (iv) Attorneys for the Town.
5. The Mayor of the City presided as the Chair at the hearing by agreement of the members of the participating Boards.
6. Comments were received from certain members of the public in attendance at the joint public hearing, including Mr. Wallace Day, Chairman of the Board of Fire Commissioners for the South Plattsburgh Fire Department, who submitted a letter of concern regarding the proposed annexation’s impact on bonding ability for the Fire District. Officials of both the City and Town offered comment as well. All of the persons who spoke and raised questions, comments, concerns or issues are documented as set forth in the stenographic record of the proceedings attached hereto as **Exhibit B**.
7. The Special Counsel for the Town has advised the Town Board of Trustees as to her review of the Petition and her determination that the Petition appears to be compliant with the spirit and substance of Section 703 of the General Municipal Law. Accordingly, the Town hereby determines that the Petition substantially complies in form and content with the provisions of Article 17 of the General Municipal Law, and specifically finds that (i) the Petition appears to have been properly signed by the owner of a majority in assessed valuation of the Property, as provided by Section 703 of the General Municipal Law of the State of New York; (ii) the Petition has attached thereto the required certificate of the assessor of the City of Plattsburgh, County of Clinton, New York, certifying the foregoing; and (iii) the signatures on the Petition appear to have been properly authenticated as required.
8. The Town, conducting an uncoordinated environmental review of this action, and in accordance with Article 8 of the New York State Environmental Conservation Law - the State Environmental Quality Review Act ("SEQR"), reviewed (i) the potential adverse environmental effects, if any, related to the proposed annexation and (ii) the Town Board's review of the proposed annexation under SEQR. A copy of the full Environmental Assessment form, Parts 1, 2 and 3, along with Resolution dated November 18, 2021, classifying the action as “Unlisted” is attached hereto as **Exhibit C**.
9. To the extent applicable to the Town, as the municipal entity to which the Property is proposed to be annexed, the Town acknowledges that it will be bound by (1) the provisions of subdivision 1 of Section 707 of the General Municipal Law as to the disposition of real and personal property, if any, owned by the City, and (ii) the provisions of subdivision 1 of Section 708 of the General Municipal Law as to the assumption by the Town of its apportioned share of indebtedness and/or contract or other liabilities, if any, for which the City is liable. To the best of the Town’s knowledge, other than the Compact and related agreements thereto, no agreements have been entered into by and between the City and the Town related to the foregoing matters.
10. During the Joint Public Hearing, the Town Senior Planner, Trevor Cole, submitted a memo into the record in support of the proposed annexation, a copy of which is annexed hereto and made a part hereof as **Exhibit D**.
11. The Clinton County Administrator submitted a letter dated October 13, 2021, in support of the proposed annexation, a copy of which is annexed hereto and made a part hereof as **Exhibit E**. Such correspondence has been deemed part of the record of proceedings of the Joint Public Hearing.
12. In considering the proposed annexation of the Property, the City and Town must determine whether the proposed annexation is in the over-all public interest of the Property, the City, the Town and certain statutorily referenced districts. GML § 705(1)(e). In light of the foregoing, and all of the information duly provided and considered, the Town hereby makes the following specific findings and determination in accordance with Section 711 of the General Municipal Law of the State of New York that the proposed annexation of the Property is in the overall public interest:
13. The Property is uninhabited and contiguous to the municipal boundaries of the Town and isolated from the adjoining City by the Delaware-Hudson Railroad.
14. The Multi-modal Transport Facility, an auxiliary use of the Plattsburgh International Airport (wholly located in the Town), operates a facility on the Property. The proposed annexation will place the Multi-Modal Facility within the same municipal jurisdiction as the adjacent and related Plattsburgh International Airport.
15. The Property is served with public water and sewer services by the Town through an agreement with the City. The proposed annexation will allow the Property to receive municipal water, and sewer service from the Town, without the need for separate agreements.
16. The Property is served with electricity from New York State Electric & Gas (“NYSEG”), and not by the Plattsburgh Municipal Lighting District.
17. The Property is owned by Clinton County, and as such, there will be no adverse tax impact to either the City or Town directly resulting from the LeMay Drive Annexation.
18. The County is in full support of the LeMay Drive Annexation and deems it to be in the overall public interest to approve of same.
19. The City and Town have entered into a Memorandum of Understanding to coordinate review of projects that are substantially contiguous to the Town/City boundary or could in some way be impactful.
20. If annexed, the Town would be able to readily provide emergency services, including professional police, fire and EMS services, to the Property.
21. In response to Mr. Wallace’s concerns regarding the impact on bonding ability of the South Plattsburgh Fire District (“SPFD”), it is noted that the Property is currently not within the SPFD service area; rather, it is serviced by City fire protection. The SPFD has one outstanding bond for fire station construction and another shorter term bond for a ladder truck. The SPFD will receive an increase in assessed valuation as a result of the Property being annexed into the Town, due to the fact the Property will add $1,000,000 of assessed value subject to SPFD jurisdiction. As a result, we find the LeMay Drive Annexation will not have a detrimental impact on the SPFD.
22. The LeMay Drive Annexation will not result in baroque or unnatural boundaries, and will make use of the Delaware-Hudson Railroad as a natural and practical municipal boundary between the Town and the City.
23. The overarching directive of the Municipal Annexation Law (GML, Article 17) is that the competing municipalities enter into agreements that are both mutually beneficial to them, and fair and reasonable for the area to be annexed. The Town has calculated that the provision of all of services, which are currently available will in all likelihood continue to be available from the Town if the Property was to be annexed as proposed. Additionally, the provision of such services to the Property, if annexed, will improve upon the current unity of purpose, facilities and community that exists in the area. Annexation will (i) enhance the provision of services to the Property; (ii) better coordinate the delivery of municipal services; (iii) promote new intermunicipal cooperative efforts between the City and the Town (including long-term planning with respect to municipal services).
24. Services to be undertaken by the Town for the benefit of the Property will be provided directly by the Town, by the use of Town employees and will be more efficient both as to service and by direct responsibility of departments and personnel.

Based upon the foregoing and upon careful review and evaluation, it is hereby determined that the potential benefits of the LeMay Drive Annexation as provided herein are likely to outweigh any potential detriments to the City and the Town. The Town also finds the approval of the LeMay Drive Annexation, can and very likely will achieve the benefits of annexation while at the same time accomplishing the requisite unity of purpose and facilities to constitute a community and maintaining the core nature of-the City and Town.

**RESOLUTIONS**

**NOW, THEREFORE**, based upon all of the foregoing findings, upon motion of Councilor \_\_\_\_\_\_\_\_\_\_as seconded by Councilor\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, it is hereby:

**RESOLVED,** that the LeMay Drive Annexation Petition substantially complies in form and content with Article 17 of the GML; and it is further

**RESOLVED**, that the LeMay Drive Annexation is hereby deemed to be in the overall public interest; and it is further

**RESOLVED**, that the LeMay Drive Annexation is hereby approved by the Town.

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

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|  | **Yea** | **Nay** | **Absent** | **Abstain** |
| Michael S. Cashman | [ ] | [ ] | [ ] | [ ] |
| Barbara E. Hebert | [ ] | [ ] | [ ] | [ ] |
| Charles A. Kostyk | [ ] | [ ] | [ ] | [ ] |
| Meg Bobbin | [ ] | [ ] | [ ] | [ ] |
| Tom Wood | [ ] | [ ] | [ ] | [ ] |

The Resolutions were thereupon duly adopted this \_\_\_\_\_ day of December, 2021.

**IT IS HEREBY ORDERED**, that copies of the foregoing findings, resolutions and determinations set forth therein, all of which are hereby incorporated by reference into this Order, together with the LeMay Drive Annexation Petition, Meeting Notice, written objections, if any, and testimony and minutes of proceedings taken and kept on the matter of the LeMay Drive Annexation, be filed in the offices of the clerks of the City and Town as the affected local governments.

Dated: December \_\_\_\_\_, 2021

**Exhibit A**

(Zurlo Letter and the LeMay Drive Annexation Petition with Exhibits)

**Exhibit B**

(The Stenographic Record of the Proceedings)

**Exhibit C**

(A copy of the full Environmental Assessment form and Resolution)

**Exhibit D**

(Memo of the Town Senior Planner, Trevor Cole In Support of the Proposed Annexation)

**Exhibit E**

(Letter From the Clinton County Administrator In Support of the Proposed Annexation)