

The Council of the Village of New Concord, Ohio, met in REGULAR session on the 10<sup>th</sup> day of May, 2004, with the following members present:

CHAFFEE, GATES, HENDERSON, KOKOVICH, KRUZAN

There was presented and read to Council Ordinance No. H-5-04-2 entitled:

AN ORDINANCE PROVIDING FOR THE ISSUANCE OF NOT TO EXCEED \$70,000 BONDS BY THE VILLAGE OF NEW CONCORD, OHIO, FOR THE PURPOSE OF REDEEMING BOND ANTICIPATION NOTES ORIGINALLY ISSUED FOR THE PURPOSE OF PAYING A PORTION OF THE COST OF CONSTRUCTING A MATERIALS STORAGE BUILDING, TOGETHER WITH CAPITALIZED INTEREST AND ALL NECESSARY APPURTENANCES, AND DECLARING AN EMERGENCY.

WHEREAS, the fiscal officer of this village has heretofore estimated that the life of the improvements hereinafter described is at least five (5) years, and certified that the maximum maturity of the bonds issued therefore is twenty-five (25) years, and of the Bonds to be issued in anticipation thereof is twenty (20) years; and

WHEREAS, bond anticipation notes previously issued by the Village are to mature on May 26, 2004; and

WHEREAS, the Village desires to issue bonds with a maximum maturity of fifteen (15) years to redeem the bond anticipation notes that are to mature on May 26, 2004;

NOW, THEREFORE, BE IT ORDAINED by the Council of the Village of New Concord (hereinafter called the "Village"), County of Muskingum, State of Ohio, two-thirds of the members elected thereto concurring:

SECTION 1. That it is necessary to issue bonds of the Village in the principal amount of not to exceed \$70,000 (the "Bonds") for the purpose of redeeming bond anticipation notes originally issued for the purpose of paying the cost of constructing a Materials Storage building, together with capitalized interest and all necessary appurtenances thereto under authority of the general laws of the State of Ohio, particularly Chapter 133 of the Ohio Revised Code. Said Bonds shall be dated approximately May 1, 2004, shall bear interest at the rate of not to exceed six per centum (6%) per annum, payable on the dates stated in the Bond Purchase Agreement and shall mature and be subject to optional and mandatory sinking fund redemption as provided in the Bond Purchase Agreement, which the Clerk-Treasurer is hereby authorized to sign.

The Bonds shall be designated "Materials Storage Building Construction Bonds", and shall express upon their faces the purpose for which they are issued and that they are issued in pursuance of this ordinance.

SECTION 3. The Bonds shall be in fully registered form without coupons. The final principal and interest amount of each Bond shall be payable at the office of The Huntington National Bank, Columbus, Ohio as the paying agent, registrar and transfer agent (the "Paying Agent and Registrar") for the Bonds, and all other principal and interest on the Bonds shall be made on each interest payment date to the person whose name appears on the fifteenth day preceding each interest payment date on the Bond registration records as the registered holder thereof, by check or draft mailed to such registered holder at his address as it appears on such registration records.

The Bonds shall be transferable by the registered holder thereof in person or by his attorney duly authorized in writing at the principal office of the Paying Agent and Registrar upon presentation and surrender thereof to the Paying Agent and Registrar. The Village and the Paying Agent and Registrar shall not be required to transfer any Bond during the fifteen-day period preceding any interest payment date or the mailing of a notice of redemption, or after such Bond has been selected for partial or complete redemption, and no such transfer shall be effective until entered upon the registration records maintained by the Paying Agent and Registrar. Upon such transfer, a new Bond or Bonds of authorized denominations of the same maturity and for the same aggregate principal amount will be issued to the transferee in exchange therefor.

The Village and the Paying Agent and Registrar may deem and treat the registered holders of the Bonds as the absolute owners thereof for all purposes, and neither the Village nor the Paying Agent and Registrar shall be affected by any notice to the contrary.

SECTION 4. That the Bonds shall be the full general obligations of the Village, and the full faith, credit and revenue of the Village are hereby pledged for the prompt payment of the same.

SECTION 5. That during the period while the Bonds run there shall be levied upon all of the taxable property in the Village within applicable limitations, in addition to all other taxes, a direct tax annually, not less than that which would have been levied if bonds had been issued without the prior issue of the Bonds; said tax shall be and is hereby ordered computed, certified, levied and extended upon the tax duplicate and collected by the same officers in the same manner and at the same time that taxes for general purposes for each of said years are certified, extended and collected; provided, however, that in each year to the extent that revenues are available from other sources for the payment of the Bonds or such bonds, such as general fund receipts (the anticipated revenue) and are appropriated for such purpose, the amount of such direct tax upon all of the taxable property in the Village shall be reduced by the amount of such revenues so available and appropriated.

The funds derived from said tax levy hereby required shall be placed in a separate and distinct fund and, together with interest collected on the same, shall be irrevocably pledged for the payment of the interest on and principal of the Bonds and the bonds in anticipation of which they are issued when and as the same fall due.

SECTION 6. That this Council, for and on behalf of the Village, hereby covenants that it will restrict the use of the proceeds of the Bonds hereby authorized in such manner and to such extent, if any, and take such other actions as are necessary, after taking into account reasonable expectations at the time the debt is incurred, so that they will not constitute obligations the interest on which is subject to federal income taxation or "arbitrage bonds" under Sections 103(b)(2) and 148 of the Internal Revenue Code of 1986, as amended (the "Code") and the regulations prescribed thereunder. The Village Clerk-Treasurer, or any other officer having responsibility with respect to the issuance of the Bonds is authorized and

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SECTION 6. That this Council, for and on behalf of the Village, hereby covenants that it will restrict the use of the proceeds of the Bonds hereby authorized in such manner and to such extent, if any, and take such other actions as are necessary, after taking into account reasonable expectations at the time the debt is incurred, so that they will not constitute obligations the interest on which is subject to federal income taxation or "arbitrage bonds" under Sections 103(b)(2) and 148 of the Internal Revenue Code of 1986, as amended (the "Code") and the regulations prescribed thereunder. The Village Clerk-Treasurer, or any other officer having responsibility with respect to the issuance of the Bonds is authorized and directed to give an appropriate certificate on behalf of the Village, on the date of delivery of the Bonds for inclusion in the transcript of proceedings, setting forth the facts, estimates and circumstances and reasonable expectations pertaining to the use of the proceeds thereof and the provisions of said Sections 103(b)(2) and 148 and regulations thereunder.

SECTION 7. That the Bonds are hereby deemed designated as "qualified tax-exempt obligations" to the extent permitted by Section 265(b)(3) of the Code. The Village Clerk-Treasurer and other appropriate officers, and any of them, are authorized to take such actions and give such certifications on behalf of the Village with respect to the reasonably anticipated amount of tax-exempt obligations to be issued by the Village during this calendar year and with respect to such other matters as appropriate under Section 265(b)(3).

SECTION 8. That the Village Clerk-Treasurer is hereby directed to forward a certified copy of this ordinance to the county auditor.

SECTION 9. That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

SECTION 10. That this ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and welfare for the

reason that the immediate issuance and sale of the Bonds is necessary to provide for the timely payment of bond anticipation notes that are about to mature, therefore, this ordinance shall take effect immediately upon its passage.

PASSED IN COUNCIL this 10<sup>th</sup> day of May, 2004.

Al Lopez  
Presiding Officer

ATTEST: Dee Wilson  
Clerk-Treasurer

48421v1

**CERTIFICATE**

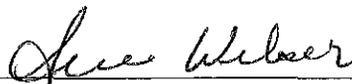
The undersigned hereby certifies that the foregoing is a true and correct copy of Ordinance No.  
H-5-04-2.



\_\_\_\_\_  
Village Clerk-Treasurer  
Village of New Concord

**CERTIFICATE**

The undersigned hereby certifies that a copy of the foregoing ordinance was certified this day to  
the county auditor.



\_\_\_\_\_  
Village Clerk-Treasurer  
Village of New Concord

Dated: May 10, 2004

**RECEIPT**

The undersigned hereby acknowledges receipt of a certified copy of the foregoing ordinance.



\_\_\_\_\_  
County Auditor  
Muskingum County, Ohio

Dated: May 11, 2004

**EXTRACT FROM MINUTES OF MEETING**

The Council of the Village of New Concord, Ohio, met in regular session on the 10<sup>th</sup> day of May, 2003, with the following members present:

CHAFFEE, GATES, HENDERSON, KOKOVICH, KRUZAN

There was presented and read to Council Ordinance No. H-5-04-2, entitled:

AN ORDINANCE PROVIDING FOR THE ISSUANCE OF NOT TO EXCEED \$70,000 BONDS BY THE VILLAGE OF NEW CONCORD, OHIO, FOR THE PURPOSE OF REDEEMING BOND ANTICIPATION NOTES ORIGINALLY ISSUED FOR THE PURPOSE OF REDEEMING BOND ANTICIPATION NOTES ORIGINALLY ISSUED FOR THE PURPOSE OF PAYING THE COST OF CONSTRUCTING A MATERIALS STORAGE BUILDING, TOGETHER WITH CAPITALIZED INTEREST AND ALL NECESSARY APPURTENANCES THERETO, AND DECLARING AN EMERGENCY.

KRUZAN moved to suspend the rule requiring an ordinance or resolution to be read on three different days. KOKOVICH seconded the motion and, the roll being called upon the question, the vote resulted as follows:

AYES: KRUZAN, KOKOVICH, CHAFFEE, GATES, HENDERSON

NAYS:

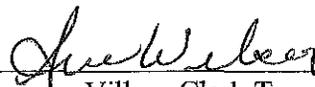
KOKOVICH moved that the above-captioned ordinance be passed as an emergency measure. KRUZAN seconded the motion, and the following was a result of a vote thereon:

AYES: KOKOVICH, KRUZAN, CHAFFEE, GATES, HENDERSON

NAYS:

**CERTIFICATE**

The undersigned hereby certifies that the foregoing extract from the minutes is a true and correct copy.



Village Clerk-Treasurer  
Village of New Concord, Ohio

May 10, 2004

