

ORDINANCE NO. 118

AN ORDINANCE TO AMEND ORDINANCE NO. 116, ENTITLED;

AN ORDINANCE AUTHORIZING THE ISSUANCE OF WATER SUPPLY SYSTEM REVENUE BONDS BY THE VILLAGE OF CALUMET, COUNTY OF HOUGHTON, MICHIGAN, FOR THE PURPOSE OF CONSTRUCTING IMPROVEMENTS TO THE WATER SUPPLY SYSTEM OF SAID TOWNSHIP; PRESCRIBING THE FORM OF BONDS; PROVIDING FOR THE COLLECTION OF REVENUES FROM SAID SYSTEM SUFFICIENT FOR THE PURPOSE OF PAYING THE COSTS OF OPERATION AND MAINTENANCE THEREOF; PROVIDING AN ADEQUATE RESERVE FUND THEREFOR; PROVIDING FOR THE PAYMENT OF SAID BONDS AND FURTHER PROVIDING FOR THE SEGREGATION AND DISTRIBUTION OF SAID REVENUES; PROVIDING FOR THE RIGHTS OF THE HOLDERS OF SAID BONDS IN ENFORCEMENT THEREOF; AND PROVIDING FOR OTHER MATTERS RELATIVE TO SAID BONDS AND SAID SYSTEM.

THE VILLAGE OF CALUMET ORDAINS:

Section 1. Section 8 of Ordinance No. 116 is hereby amended to provide as follows:

Section 8. Custodian of Funds; Funds. Except as provided hereinafter in this Section, the Issuer's Treasurer shall be custodian of all funds belonging to or associated with the System and such funds shall be deposited in The Merchants and Miners Bank, Calumet, Michigan, which bank is a member of the Federal Deposit Insurance Corporation (the "Depository Bank"). The Issuer's Treasurer shall execute a fidelity bond in an amount not less than \$25,000 with a surety company approved by the FmHA, and the FmHA and the Issuer shall be named as co-obligees in such bond and the amount thereof shall not be reduced without the prior written consent of the FmHA. The Issuer's Treasurer is hereby directed to create the following funds and accounts into which the proceeds of the Bonds and the revenues and income from the System shall be deposited in the manner and at the times provided in this Ordinance, which funds and accounts shall be established and maintained, except as otherwise provided, so long as any of the Bonds hereby authorized remain unpaid.

A. CONSTRUCTION ACCOUNT. The proceeds of the Bonds hereby authorized shall be deposited in the VILLAGE OF CALUMET WATER SUPPLY SYSTEM CONSTRUCTION FUND ACCOUNT (the "Construction Account"), in the Depository Bank. In the event that the Government is a holder of any of the Bonds herein authorized, then at the direction of the FmHA the Construction Account shall be established as a supervised bank account and such proceeds shall be withdrawn on the orders of the Issuer only on checks signed by its Treasurer and the District Director of the FmHA. Moneys in the Construction Account shall be used solely for the purposes for which the Bonds were issued.

Any unexpended balance of the proceeds of sale of the Bonds remaining after completion of the Project herein authorized may in the discretion of the Issuer be used for further improvements, enlargements and extensions to the System, provided that at the time of such expenditure such use be approved by the Municipal Finance Commission. Any remaining balance after such expenditure shall be paid into the Bond and Interest Redemption Fund and shall be used for such purposes as allowed by law.

In the event that the Government is a holder of any or all of the Bonds, any unexpended balance of the proceeds of the sale of the Bonds

remaining after completion of the Project herein authorized shall be paid immediately into the Bond and Interest Redemption Fund as hereinafter specified and shall be used only for the redemption, or purchase at not more than the fair market value, of outstanding Bonds issued pursuant to the provisions of this Ordinance.

After completion of the Project and disposition of remaining Bond proceeds, if any, pursuant to the provisions of this Section, the Construction Account shall be closed.

B. WATER SUPPLY SYSTEM RECEIVING FUND. Upon the effective date of this Ordinance, the gross income and revenues of the System shall be set aside into a separate account to be designated the VILLAGE OF CALUMET WATER SUPPLY SYSTEM RECEIVING FUND (the "Receiving Fund"), and moneys so deposited therein shall be expended and used only in the manner and order as hereinafter set forth; provided, however, that pursuant to a certain Lease, Operating and Water Purchase Agreement between the Village of Calumet, Michigan, and Northern Michigan Water Company (the "Lease"), dated June 1, 1982, between the Issuer and Northern Michigan Water Company (the "Company") the System has been leased to the Company and the Company is required under the Lease to collect the gross income and revenues of the System on behalf of the Issuer, and that therefore so long as the Lease remains in effect there shall be deposited into the Receiving Fund the balance of the gross income and revenues of the System received from the Company pursuant to the Lease:

(1) Operation and Maintenance Fund. Prior to the beginning of each fiscal year the Issuer will prepare or cause to be prepared by the Company an annual budget of the System for the ensuing fiscal year itemized on the basis of monthly requirements. A copy of such budget shall be mailed without request to the FmHA for review prior to adoption as long as the Government is holder of any of the Bonds and upon written request to any other bondholders. Upon the effective date of this Ordinance, there shall be set aside from the Receiving Fund and deposited each quarter pursuant to the budget a sufficient portion of the income and revenues in the OPERATION AND MAINTENANCE FUND (the "Operation and Maintenance Fund") to pay the reasonable and necessary current expenses of administration, operating and maintaining the System for the ensuing quarter; provided, however, that during the term of the Lease, unless the Lease shall have been terminated prior to its expiration, the Operation and Maintenance Fund shall not be funded except upon determination by the Village Council of the Issuer that the Company has failed to make adequate provision for administration, operation and maintenance of the System as required by Act 94 and the Ordinance, in which event the Issuer shall take such steps as are necessary to provide for such administration, operation and maintenance including without limitation the transfer of income and revenues from the Receiving Fund to the Operation and Maintenance Fund as provided in this Ordinance.

(2) Water Supply System Revenue Bond--Bond and Interest Redemption Fund. After the transfer, if any, required in (1) above, there shall be transferred each quarter, commencing August 1, 1982, from the Receiving Fund, before any other expenditures or transfer therefrom, and deposited in the WATER SUPPLY SYSTEM REVENUE BOND -- BOND AND INTEREST REDEMPTION FUND (the "Bond and Interest Redemption Fund") for payment of principal of and interest on the Bonds, a sum equal to not less than 1/2 of the amount equal to the interest due on the Bonds on the next ensuing interest due date and not less than 1/4 of the principal of the Bonds maturing on the next ensuing principal payment date. If for any reason there is a failure to make such quarterly deposit, then an amount equal to the deficiency shall be set aside and deposited in the Bond and Interest Redemption Fund of the net revenues in the ensuing quarter or

quarters, which amount shall be in addition to the regular quarterly deposit required during such quarters or quarters.

There is hereby established in the Bond and Interest Redemption Fund a separate account to be known as the BOND RESERVE ACCOUNT (the "Bond Reserve Account"), into which there shall be paid in equal quarterly installments from the Receiving Fund, after provision has been made for the Operation and Maintenance Fund and the current requirements of the Bond and Interest Redemption Fund, the sum of at least \$182.50 per quarter until there is accumulated in such fund the sum of \$7,300. Except as hereinafter provided, no further deposits need be made into the Bond and Interest Redemption Fund for the purposes of the Bond Reserve Account once the sum of \$7,300 has been deposited therein. The moneys in the Bond Reserve Account shall be used solely for the payment of the principal of and interest on the Bonds as to which there would otherwise be default.

If at any time it shall be necessary to use moneys in the Bond Reserve Account for such payment, then the moneys so used shall be replaced from the net revenues first received thereafter which are not required by this Ordinance to be used for operation and maintenance or for current principal and interest requirements.

No further payments need be made into the Bond and Interest Redemption Fund after enough of the Bonds have been retired so that the amount then held in the Bond and Interest Redemption Fund (including the Bond Reserve Account), is equal to the entire amount of principal and interest which will be payable at the time of maturity of all the Bonds then remaining outstanding.

The funds in the Bond and Interest Redemption Fund and the Bond Reserve Account shall be invested in accordance with Section 9 of this Ordinance, and profit realized or income earned on such investment shall be used or transferred as provided in Section 9 of this Ordinance.

(3) General Purpose Account. The balance of income and revenue after the transfers required in (1) and (2) above have been made, shall be deposited to a GENERAL PURPOSE ACCOUNT (the "General Purpose Account") which account shall be used and disbursed only for the purpose of paying the cost of repairing or replacing any damage to the System which may be caused by any unforeseen catastrophe, for making extensions or improvements to the System, and when necessary for the purpose of making payments of principal of and interest on the Bonds hereby authorized. If the amount in the Bond and Interest Redemption Fund and Bond Reserve Account is not sufficient to meet such payments, then funds in the General Purpose Account shall be transferred to the Bond and Interest Redemption Fund. The total of such deposits to the General Purpose Account and balance therein need not exceed the sum of \$12,000. The funds in the General Purpose Account may be invested in accordance with Section 9 of this Ordinance. Any profit realized or interest income earned on such investment will be a part of the General Purpose Account until the balance of said account equals \$12,000; thereafter such profit or interest income shall be deposited in or credited to the Receiving Fund as provided in Section 9.

(4) Surplus Moneys. Whenever there shall accumulate in the Bond and Interest Redemption Fund amounts in excess of the requirements during the next eighteen months for paying the principal of Bonds falling due during such period and interest on outstanding Bonds, and in excess of the requirements of the Operation and Maintenance Fund and the Bond Reserve Account, such excess may be used by the Issuer in the manner set out below.

All moneys remaining in the Receiving Fund at the end of any operating year after satisfying the above requirements shall be transferred to the Bond and Interest Redemption Fund and used to call Bonds for redemption, or at the option of the Issuer, transferred to the General Purpose Account and used for the purpose for which said account was established; provided, however, that if there should be a deficit in the Operation and Maintenance Fund, Bond and Interest Redemption Fund, Bond Reserve Account or the General Purpose Account, on account of defaults in setting aside therein the amounts hereinbefore required, then transfers shall be made from such moneys remaining in the Receiving Fund to such funds in the priority and order named in this Section, to the extent of such deficits. Surplus moneys may be used for any lawful purpose of the Issuer.

Section 2. All ordinances, resolutions and orders or parts thereof in conflict with the provisions of this Ordinance are to the extent of such conflict hereby repealed, and each section of this Ordinance and each subdivision of each section thereof is hereby declared to be independent, and the finding or holding of any section or subdivision thereof to be invalid or void shall not be deemed or held to affect the validity of any other section or subdivision of this Ordinance.

Section 3. This Ordinance shall be published in full in the ~~Copper~~ ^{Daily Mining} ~~Island Sentinel~~ ^{Gazette}, a newspaper of general circulation in the Issuer, and the same shall be recorded in the Ordinance Book of the Isser and such recording authenticated by the signatures of the Village President and the Village Clerk.

Section 4. This Ordinance is hereby determined by the Village Council to be immediately necessary for the preservation of the peace, health and safety of the Issuer and shall be in full force and effect from and after its passage and publication as required by law.

Passed and adopted by the Village of Calumet, County of Houghton,
Michigan, on August 11, 1982, and approved by me on
August 11, 1982.

Village President
Village of Calumet

(SEAL)

Attest:

Jolene Marutz
Village Clerk

YEAS William Lake, Dennis Brewer,
Elizabeth Caron, Peggy Germain.

NAYS None.

ABSENT: Ray Ostermeyer,
Debra Anthony.

118

I hereby certify that the foregoing is a true and complete copy of an Ordinance adopted by the Village Council of the Village of Calumet, County of Houghton, Michigan, at a Special meeting held on August 11, 1982, and that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act 267, Public Acts of Michigan, 1976, and that the minutes of said meeting were kept and will be or have been made available as required by said Act.

I further certify that said Ordinance has been recorded in the Ordinance Book of the Village of Calumet and such recording has been authenticated by the signatures of the Village President and Village Clerk.


Village Clerk