

TOWN OF PHELPS EMERGENCY BOARD MEETING REGARDING  
MELVIN HILL ROAD WATER DISTRICT EXTENSION AND EXISTING DISTRICT  
TUESDAY, MARCH 5, 2013

- MEMBERS PRESENT: Supervisor Norman Teed  
Councilman Carl Beechler  
Councilman Dennis King  
Councilman Kent Ridley  
Councilman Arthur Ruthven  
Town Clerk Linda Nieskes
- OTHERS PRESENT: Attorney Jeff Graff
- PUBLIC ATTENDANCE: See listing in Minutes Book.
- CALL TO ORDER: Supervisor Teed called the Emergency Board Meeting to order at 7:00 PM.
- PLEDGE OF ALLEGIANCE: Supervisor Teed led the meeting with the Pledge of Allegiance.
- DISCUSSION: Attorney Graff said the time for removing your name from the petition has left and case law states that to remove your name from the petition it has to be duly noted by a Notary and filed with the Town Clerk. He said nothing has been filed with Clerk Nieskes as of today. He said we did have the Assessor go forward, run the numbers again and even with the people that asked to have their names removed, we were still over the 50% threshold for each calculation for the total and for the residential.
- Supervisor Teed said since then Tom, Kathy and Betty Bankert have notified us that they did not want their names withdrawn. He said whether this can still happen he does not know. He said Thursday was cutting it very close but everyone is working diligently to get this filed on time. He said our Grantsman, Stu Brown and Attorney Graff said we have spent 7 years on this; we should not drop it now. He said the general consensus of the district is that they still want it. He said the interest rate has gone down and if you do not use as much water as was estimated that will lower the cost also. He said we are also trying to find out on the Operation and Maintenance part of it, the \$150 per year, if it can be worked out a different way. Supervisor Teed said some towns do not charge the O & M if you do not hook up to the water. He said we have to check on the legality of this. He said everything would be brand new so we should not have any maintenance issues. He said we have not had any issues on the Orleans, Spafford or Rt. 96 districts. He said our Engineering firm has done the numbers and they are very confident with what we have. He

PAGE 2 – TOWN OF PHELPS EMERGENCY BOARD MEETING REGARDING MELVIN HILL ROAD WATER DISTRICT EXTENSION AND EXISTING DISTRICT, TUESDAY, MARCH 5, 2013

said we have a number of Resolutions to do and the Town Board is unanimous on doing this. He said the only reason we are having this special meeting is because we did not want to act on this Thursday night not knowing 100% if the petition was still legal. He said the petition is legal. He said if we did not call this as an Emergency Meeting we would have had to wait the 10 days for the notice in the paper and then there would have been absolutely no chance of getting this through. Supervisor Teed said he had asked Councilman King, the Chairman of the Water Committee, to read the Resolutions.

RESOLUTION: Resolution Approving the Creation of the Melvin Hill Water District Extension #1 (see attached).

RESOLUTION: Resolution and Order Approving an Increase in the Maximum Amount to be Expended for Improvements in the Melvin Hill Water District (see attached).

ATTORNEY'S DISCUSSION: Attorney Graff said the Newark Water Supply Agreement is not required by the Comptroller for the formation; but it is required by Rural Development for obtaining the financing. He said they require that your water service agreement be for a term at least as long as your financing would be. He said the amendment he has prepared needs to be approved by this Board and the Village of Newark's Village Board and this would extend the term through May 11, 2052. He said that Rural Development requires that there be a specific provision in the Agreement that says in case of water shortages all users will proportionately share the shortage. He said that particular term was not in the original agreement so that had to be added. He said then there is a provision in there that the original agreement did not apply to the extension district; so that provision makes it clear that this also applies to the extension district as well.

RESOLUTION: Resolution Approving the Amendment to the Newark Water Supply Agreement (see attached).

ATTORNEY'S DISCUSSION: Attorney Graff said both the approval of the extension district and the increase in the maximum amount to be expended for the existing district both have to go before the Comptroller for approval. He said as part of that we have the application that is going to them and an opinion from him, as the Attorney for the Town, regarding certain elements of this. He said both are required by State law and by State regulations. He said all the Board has a copy of the opinion letter because that has to be turned into them as part of this. He said it simply says that in his capacity as legal counsel for the Town of Phelps, he reviewed the State law, all the documents that are related herein, that the

PAGE 3 – TOWN OF PHELPS EMERGENCY BOARD MEETING REGARDING MELVIN HILL ROAD WATER DISTRICT EXTENSION AND EXISTING DISTRICT, TUESDAY, MARCH 5, 2013

application contains all the information required by law, that the Town has taken all action and proceedings required by law in relation to increasing the amount to be expended for the Melvin Hill District by \$402,507 the Town has undertaken all actions and proceedings that are required by provision of law, his provisions for the Melvin Hill Water District Extension #1 duly authorize the permission of the State Comptroller and adopting the final order, his legal opinion in the approval of the maximum increase to be expended for the existing district has been duly authorized by the Town except for taking care of the permissive referendum elements and obtaining the permission of the Comptroller and adopting the final order, that the Town officials are not aware of any material pending lawsuits or claims relating to either project. He went on to say that he addressed the individuals that wanted their names removed from the petition because if he did not, the Comptroller would question it and ask for his legal opinion on it.

RESOLUTION: Adopt Resolution Approving the Comptroller's Application (see attached).

Supervisor Teed said hopefully this can all get done. He thanked everyone. Councilman Ruthven said he would like to thank Councilman King because he knows he has put a lot of work into this. Councilman Beechler thanked everyone as well.

ADJOURMENT: Councilman King moved to adjourn the meeting. Councilman Ridley seconded the motion. 5 AYES. Motion carried.

TIME: 7:40 PM.

Respectfully submitted,

Linda Nieskes  
Town Clerk