

MAY 3, 2010 TOWN OF PHELPS SPECIAL TOWN BOARD INFORMATIONAL MEETING

MEMBERS PRESENT: Norman Teed Supervisor
 Carl Beechler Councilman
 Doris Day Councilwoman
 Dennis King Councilman
 Linda Nieskes Town Clerk

ALSO PRESENT: Pat Nicoletta MRB Engineering
 Jeffrey Graff Town Attorney

ABSENT: John Dole Councilman

PUBLIC ATTENDANCE: See listing in book.

CALL TO ORDER: Supervisor Teed called the meeting to order at 7:01 PM.

PLEDGE OF ALLEGIANCE: Supervisor Teed led the meeting with the Pledge of Allegiance.

MELVIN HILL WATER DISTRICT: Supervisor Teed said this is an informational meeting for the Melvin Hill Water District repair and extension. Supervisor Teed said we have been working on this situation for 4 plus years and hopefully will have some answers or remedies tonight. He said he just does not know where to go after tonight. He said he asked Pat Nicoletta, MRB to come and talk with us tonight. He said MRB has been working on this every since he took office in 2006. Supervisor Teed said they have come up with a number of plans and each time we get shut down because we could not get funding or not be able to meet the requirements for the grant. He said we have come up with a plan that will re-do everything. He said he would turn the Informational Meeting over to Pat Nicoletta from MRB; and when he gets done with his presentation, we will open it up for questions and answers. He asked that anyone addressing the Board or Mr. Nicoletta come to the railing so the microphone will pick up there questions. He said if we do not have the answers for you tonight; we will get them for you.

Mr. Nicoletta said he was here to talk about their proposal of how to replace and improve the Melvin Hill Water District; as well as extend the water to other areas in the Town. He said we know the issues on Melvin Hill Road and we sympathize with the residents. He said the hydrants were installed but unfortunately cannot be used. Mr. Nicoletta did a power point presentation. He said the Melvin Hill Water District extends from the Village Line approximately 9,000 feet to the south. He said the concerns are inadequate flow to operate the fire hydrants and red water. Mr. Nicoletta reviewed the map of the water district as it now is and what the extension would be. He said the hydrants will remain and can be used again. He said the way this district is paid for now is by a lineal footage basis: first 150 feet of lineal frontage is \$1.00 per foot per year, the next

ranges anywhere from \$100.00 to \$447.00 depending on the amount of frontage you have. He said what they have done is look at options of how we can redistribute that debt and make the proposal we have affordable with improvements and existing debt. He said it is all based on EDUs, which is Equivalent Dwelling Unit. He said 1 EDU = a single family home, 2 EDU = 2 family home and so on. He stated that with the number of single family homes, 2 family homes and apartments within that district, there are about 43.5 EDUs in that district. He said we take the \$7,800 due this year and divide it by the 43.5 EDUs and we come up with \$180 annually for each EDU. He said some will be paying a little more, some a little less and some much less. Mr. Nicoletta said it is an even distribution of one water service serving one house is the same benefit as someone with 5,000 feet of road frontage with one water service to that house; it evens that debt out accordingly. Councilman Beechler said it is more typical to do a water district this way. Mr. Nicoletta said most districts are set up on this type of benefit basis. He said the lineal footage basis is a benefit basis; but this would be more common. He said the improvements on Melvin Hill would improve the water source and extend the 12" line from the intersection of Griffith Road and Rt. 488 at the pump station to Melvin Hill; replace Melvin Hill line with 8" line that extends all the way down Melvin Hill to the south and north so that all the residents now on this water district would receive new line. He said we would have enough flow to operate the hydrants; as well as take care of the red water issue. He said in addition to correcting the problems on Melvin Hill, we would also provide the Town a benefit to extend water to other users. He said this line would take in the rest of Melvin Hill Road, expand east onto Co. Rd. 23 and go down Co. Rd. 23. He said a summary of the infrastructure would be a new 12" main would run down Griffith Road and new 8" main would be on Melvin Hill and Co. Rd. 23. He said the estimated cost would be divided 45% of the debt to Melvin Hill to improve their situation and 55% of the debt to the new district. The new district does not have water now, so they are paying a little more of the premium than the Melvin Hill Road residents. Mr. Nicoletta said the total cost of the project is just under \$1.3 million, potential grant for Melvin Hill would be \$584,000, net capital cost \$714,000, capital contribution is considered at \$200,000, leaving the cost to be financed at \$514,000. He said these numbers are dependent on USDA Grant coming through and the Commercial Operation or Contribution coming through. He said nothing can move forward unless those things happen. He said the maximum grant the Town of Phelps can get is 45% and the reason for that is because the median household income is high. The estimated annual charge for the existing district is \$966, which includes debt service and water usage up to 60,000 gallons per year. He said if more water is used, that number would be higher; or if less is used it would be

lower. He said the proposed district cost would be \$968 annually, which is 55% of the debt.

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Supervisor Teed said we will now open this up for discussion. He asked that everyone be considerate of each other.

CAROL WICKUM, MELVIN HILL ROAD: Mrs. Wickum asked how much more per person this is going to cost us on Melvin Hill. She said we are already paying big amounts for water we cannot use. Supervisor Teed said the total would be \$966 for everything; a brand new line, meter charge, and water usage. Mr. Nicoletta said if you use 40,000 gallons of water a year as opposed to 60,000 gallons; the amount you will pay would be even less.

Mr. Nicoletta passed out summary sheets to everyone (copy attached).

JOHN DUCHESNEAU, MELVIN HILL ROAD: Mr. Duchesneau said he wanted to clarify that \$966 is the annual charge. He said if this is approved, and we are using 60,000 gallons of water per year per EDU; we will be charged \$966 per year, per EDU tax levy, water bill, meter charge everything included. Mr. Nicoletta said yes.

It was asked if there would be a hook-up charge for new users. Mr. Nicoletta said the Town says that if you hook-in within the first year, there is no charge. Supervisor Teed said if 5 new houses or EDUs come into any one of these new districts, that brings the average down a little.

RON COLTON: Mr. Colton said he now owns vacant property on Melvin Hill Road. He said he intends to build a new home in the future. He asked if the \$966 was his cost now. Mr. Nicoletta said the \$966 would include his line under the road to the right-of-way. He said once he builds his home, he would be responsible for taking the line from the right-of-way to the house. He told him he would have to pay the \$246 annual debt and the \$180 for the existing debt. Mr. Colton asked how that would be paid. Supervisor Teed said that would be on his tax bill. He said he would not have any commodities charge.

DONALD TIFFANY, MELVIN HILL ROAD: Mr. Tiffany said the crowd behind him does not have a lot of respect for engineers at this point and this is no reflection of you (Mr. Nicoletta). Mr. Tiffany wanted to know if the \$966 included the water they use or is that in addition to the \$966. Supervisor Teed and Mr. Nicoletta told Mr. Tiffany that the \$966 charge includes water usage up to 60,000 gallons per year.

MARIAN DONNELLY, 1609 MELVIN HILL ROAD: Ms. Donnelly wanted to know if she was still the end of the line. Supervisor Teed told her she was. She said we are not going to reconnect with the Village. Supervisor Teed said we were not. He said they have issues also. He told her she will have pressure and no red water. He said it will be all brand new plastic line. Mr. Nicoletta said it will be all new PVC pipe.

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GLENN WATTS, MELVIN HILL ROAD: Mr. Watts wanted to know if the line would be run right to the house. Mr. Nicoletta said no, it would be run to the regulator, which is in the right-of-way. Supervisor Teed said he did not think anyone would want to use their old service to their homes because it is going to be contaminated from the red water, especially if it is an old line.

LEE JOHNSON, FORT HILL ROAD: Mr. Johnson said he owns property on Melvin Hill Road. He wanted to know if there was a map showing how far down Co. Rd. 23 the waterline was going. Mr. Nicoletta showed Mr. Johnson on the power point map. He said there is approximately 5,000 feet on Co. Rd. 23, just short of Fort Hill Road. Mr. Johnson said it would have been nice if they had included Fort Hill and Griffith Road into this water extension. He said there would have been more people instead of just making these small districts. Supervisor Teed said there had to be a start and stop on these projects. He said that is why we are putting a 12" line in so we can later come down and take in the Fort Hill/Lester Roads area. He said he had asked Supervisor Teed about Stimulus Money and apparently nothing was done about that. Supervisor Teed said there was Stimulus Money available for road work. Mr. Johnson said Schumer and Gillibrand are running for re-election so now would be a good time to ask them for help with the water districts. Supervisor Teed said he has talked with Nozzolio's and Kolb's offices.

LARRY SELICK, MELVIN HILL ROAD: Mr. Sellick asked what the Board could say to him to make him want to do this. He said it sounds like he is going to have to pay for the existing debt of the first part of this and he is no part of it. He said he does not have water or a fire hydrant. Supervisor Teed told him he would have a clean source of water. Mr. Sellick said he has that now. Supervisor Teed told him he was lucky because he is one of very few there. He asked him when was the last time his well water quality was checked. Mr. Sellick said probably 8 years ago. He said it is a driven well 80 feet in the ground. He said if this goes through he will inherit the debt that you have already established. Attorney Jeff Graff asked Mr. Sellick if he was in the existing district or the proposed district. Mr. Sellick said he is in the proposed district. Attorney Graff said the figures worked out to be the people in the new district would only pay for the amount of the

proposed new district. He said that because the new district will use 55% of the water; as opposed to the existing district using 45% of the water that is why the proposed district is a little higher. Mr. Sellick said so if he owns land on both sides of the road, he pays double. Supervisor Teed said you will not pay by lineal footage any longer; it will be by EDU. Mr. Nicoletta said if Mr. Sellick does not hook into the water, the only thing he will pay for is the debt payment, which is \$428. Mr. Sellick said \$428 per year for 38 years, on top of his taxes and that is if I do not use any water at all. He was told yes. Mr. Sellick again said what can you do to make me feel good about doing this. Supervisor Teed said there is always someone that gets

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caught in the middle. Mr. Sellick said there are a lot of people beyond the existing water district who would help pay for the whole deal. He wanted to know if that is why the Town is adding them onto the district. He said he feels the Town of Phelps is responsible for correcting this and they should step up to the plate a fix the mess that they have made. Supervisor Teed said he understands but there are so many legal issues in this, we cannot take money out of the general fund to fix this, legally we cannot do it. Mr. Sellick said why don't you make one district for the whole Town. Supervisor Teed said he would love to do that; however, there is going to be someone that is going to have to wait years and years before the water gets to his home.

DAVE DONNELLY, GERT DONNELLY'S SON: Mr. Donnelly asked if there was any reason we would not get funding for this project. Supervisor Teed said if we do not get the funding, it is a dead issue, we cannot move forward. Mr. Donnelly asked if there was any funding for filtration systems.

Attorney Graff said the Town would be prohibited from using Town funds for an individuals benefit. Mr. Donnelly asked if there was any other kind of funding or low cost loans for filtration systems. Supervisor Teed asked him if he means something like grant money. Mr. Donnelly said something along those lines. He said if for some reason this expansion does not happen, where are we then. Supervisor Teed said it has been a frustrating situation and we have been on top of it for the last 4 years. He said every time we think we have a solution, we are not able to move forward with it. He said we have pursued legal action against the former Engineer as far as we can go. He said Paul Russell has declared bankruptcy and we can go no further. He said hopefully we can get the grant money.

Supervisor Teed said he had asked Mike Nozzolio to attend the meeting tonight; but he is in session and could not be here. He introduced Doug Finch, who is representing Brian Kolb.

DOUG FINCH, CHIEF OF STAFF FOR BRIAN KOLB: Mr. Finch said there are not funds or money that can be set up and given to private

individuals. He said there are opportunities for funds to be given to the municipalities. He said he talked with the Environmental Service Corporation this afternoon and they would like to speak with you or someone from the Board. He said they have a program called Rural Utilities Service Water Disposal and Loan Program. He said they will provide a loan or grant money for water facilities to service low income or rural communities with a population of 10,000 or less, with residents that face significant health risks. He said he believes we fall into the criteria. He said they would like to have a conversation with someone that has more knowledge of the situation. Mr. Finch asked if the Board had considered the State Revolving Loans Water Fund Loans. Mr. Nicoletta said they had looked at that. Mr. Finch said unfortunately we do not have a Congressman

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right now that can help push this along. He said we do need to be in touch with our 2 Senators and asking for their help on this. He said there is also the State level, with the State Revolving Loans Water Fund; as well as the Co-Funding Coordinator at the Environmental Service Corporation. He said they would really like to speak with someone because they were unaware of your situation until I talked with them today. Supervisor Teed said he had contacted Randy Kuhl, who was the Congressman at the time, Senator Mike Nozzolio, Assemblyman Brian Kolb, Senator Charles Schumer's office and have gotten no results. He said Brian Kolb has called him back every time and he has talked to Mike Nozzolio a couple of times. Mr. Finch asked if a application had been sent for the State Revolving Water Fund Loan. Mr. Nicoletta said not on this. Mr. Finch said there are some opportunities that can be explored. He said they would be more than happy to work with the Town on that. He said letters and phone calls of support can be done from Assemblyman Kolb's office and they work very closely with Senator Nozzolio's office.

TIM MILES, MELVIN HILL ROAD: Mr. Miles wanted to know how he had to hook up to the water. He was told that he would just have to hook in from the right-of-way; and if he wanted to put all new line into the house, that would be his expense.

KATHY DUCHESNEAU, MELVIN HILL ROAD: Mrs. Duchesneau said she thought her question had been answered regarding JR Engineering paying for part of this repair. Supervisor Teed said we will get nothing from him. Mrs. Duchesneau said they did not receive any information when the Town was suing JR Engineering, so she assumes the Town did not get anything from him even though it was his mistake. Supervisor Teed said that was correct. Mrs. Duchesneau addressed Pat Nicoletta, MRB and asked what if MRB does the same thing, do you have insurance too and do we get to sue you too if you screw it up? Mr. Nicoletta said they will not screw it up. Mrs. Duchesneau said she was just asking; it is better to know

in advance. She said we all want to know is if this comes up to a vote, do we have a say in this? Attorney Graff said there are two ways to proceed with a district. He said he believed Supervisor Teed was going to go with a petition. Supervisor Teed said yes. Attorney Graff said when you form a water district by means of a petition, the people have a say at the front end as opposed to holding an election at the back end when the Board brings up the formation of a district on its own motion. He said your vote is your signature on the petition and the Board has to get at least 50% of the owners representing the assessed valuation in the particular district. He said in this district, because there are 2 components to this, one being those in the new district, they are going to have to create their own district, so we would only look at the ownership in that new district for their portion. He said for those within the Melvin Hill District there will be a separate proposal because the Town will be increasing the maximum amount to be expended that was

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originally set forth. Mrs. Duchesneau said that does not make sense; you cannot create a new district unless you get the old one was fixed. She said the new district would not happen unless the old district was new. Attorney Graff said the new district does not exist so you have to create it and the way the law reads is that you are only allowed to look at the owners within that proposed new district. He said in terms of computing whether or not more than 50% of the owners signed the petition, you cannot include the people that own property in the existing district. Mrs. Duchesneau said JR Engineering should have paid for some of this. Supervisor Teed said he agreed. Mrs. Duchesneau said everyone on Melvin Hill Road was fine. She said they all had water until the Town took over. Supervisor Teed said they were not fine. Mrs. Duchesneau said they had water. Supervisor Teed reminded her they were not going to have water (because the Village was abandoning the district) and that is why the Town stepped up and took the district over so the residents would still have water. He said he was not here at the time this was all done; but JR Engineering is the one that developed this whole thing and he agrees with you 100% that he should be liable. He said we tried to sue; but you cannot get blood out of a stone. Supervisor Teed said in all honesty this is probably what it should have cost you in the first place and it would have been done right.

RAY DEBAERE, MELVIN HILL ROAD: Mr. DeBaere said he got home from Florida and there is a lot of pipe that has been dropped off up at the top of the hill. He said we do not need it up there; we need our line fixed here.

James DeBoover spoke up and said it is his pipe. He said because of the dry summer last year, very dry fall and no snow this winter, our springs have gotten dangerously low. He said he went to Supervisor Teed in February and asked about hooking into the Melvin Hill line and was told it could not be done. Mr. DeBoover said he then went to the Village of Phelps

and they said he could use the water out of the water works for the cows. He said they have approved it and so has the NYS Health Department. He said he has bought all of his own pipe and has to upgrade the pump down at the water works to pump the water to the farm. He said he is paying for everything that is being done.

DON ROMEISER, MELVIN HILL ROAD: Mr. Romeiser said he assumes that the water is going to be a capped line on the north end. Supervisor Teed said yes. He asked if there was going to be enough usage on that 12" line. Supervisor Teed said absolutely. He said it will be 8" line in front of Mr. Romeiser's place; but 12" coming from the pump station up to Melvin Hill Road. Mr. Romeiser asked if there was any way to "t" into the Village. Supervisor Teed said no.

JOHN DUCHESNEAU, MELVIN HILL ROAD: Mr. Duchesneau said he had a couple more questions. He said Kathy (Duchesneau) asked about it,

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maybe a little sarcastically, but none the less, he was asking the same thing. He asked what is the guarantee. He said if this goes through, what is the guarantee that we will have active hydrants and that the water that is coming to at least the point of connection, where we connect onto the line, is going to be good quality water. He said what is the guarantee, because when we met with JR Engineering and the Town Board the last time, we were guaranteed that we would have good water, adequate flow and hydrants. He said when we looked at our financial benefits of this, our insurance was going to go down because of the hydrants, we looked at removing our pumps that we had on the previous system because we did not have adequate static pressure, we looked at removing our filtration of our houses; we looked at the total cost of ownership. He said now what we are looking at, for me, it is about \$35.00 a month additional cost. He said for \$35.00 a month, what is the guarantee that we are not going to be here again having the same debate about this that we have had over the last 7 years? Mr. Nicoletta said we do our homework. He said JR Engineering did something wrong here; but I am not going to stand here and bash them. He said basically we have done our homework; we have already looked at this and guarantee, based on our hydraulic calculations that you are going to have the flow you need to operate those hydrants and you will no longer have red water. He said we have been in business for over 85 years; we have done this and know how to do water. He said you will not be disappointed. Mr. Duchesneau said some would say JR Engineering was in business longer than you. Supervisor Teed said Paul Russell was part of MRB. Mr. Duchesneau said he knew that. He said his background is dealing with engineers and contractors, so I asked this question when we

had the problem with JR Engineering, is there professional error and omissions insurance on this between the Town and whoever is contracting MRB to do this. He said this would be in the event there is an issue that we can go back and there is clearly professional error and omissions engineer's insurance. Mr. Nicoletta said the corporation has liability insurance. Mr. Duchesneau said professional error and omissions insurance is different than liability insurance. Mr. Nicoletta said if MRB did something that was incorrect and the district does not work or the hydrants remain dead, the Town would go after them for damages. Mr. Duchesneau said he did not expect a clear cut answer on that; but as residents of Melvin Hill District, we have to ask that because we asked it the last time and we were told no, somebody dropped the ball. He said we want to make sure the ball is not dropped this time. He said we want to make sure that if this goes through, with reasonable assurances, we are going to have water at the end of the day. He stated the only thing you cannot guarantee us is the pipe that is being put into our homes. Mr. Duchesneau said the next thing is the debt on the current system. He said that does not seem right. Mr. Nicoletta said there was a typographical error on that, instead of the year 2015, it should be 2025 that the old debt will be paid.

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CHRIS SABIN, MELVIN HILL ROAD: Mrs. Sabin asked if there would be another meeting regarding this. Supervisor Teed told her there would be.

LARRY SELICK, MELVIN HILL ROAD: Mr. Sellick asked if there would be hydrants installed on Griffith Road. He was told yes.

STEVE MCCARRICK, GRIFFITH ROAD: Mr. McCarrick asked if the 12" line was going down Griffith Road. He was told yes.

TIM MILES, MELVIN HILL ROAD: Mr. Miles asked if the Town would keep the residents advised of what is being done. He was told yes.

WILLIAM OAKS, MELVIN HILL ROAD: Mr. Oaks said he thought the reservoir was shut down because of high nitrates. Councilman Beechler said after 911 there were to be no open reservoirs.

CLARENCE GUARD, FLINT ST.: Mr. Guard, Deputy Highway Superintendent asked why they were not going up the east side of the road. Supervisor Teed said because the hydrants are on the west side.

Pat Nicoletta said the next step is the map, plan and report. He said grants applications will be done. He said it would be at least 6 months before we know how much money we will receive.

JOHN MULFORD, MELVIN HILL ROAD: Mr. Mulford asked what other municipalities MRB represents. Mr. Nicoletta said Town of Heron, Town of Wolcott, Town of Seneca, Town of Geneva, Town of Waterloo, Town of Arcadia, 80 municipalites in all.

CAROL WICKUM, MELVIN HILL ROAD: Mrs. Wickum asked if the people on the east side of the road would be hooked up. Supervisor Teed said they would.

Supervisor Teed asked if anyone else wished to address the Board. There were no more comments.

ADJOURNMENT:

Councilwoman Day moved that the Town Board Special Informational Meeting be adjourned at 9:15PM. Councilman King seconded motion. 5 AYES. Carried.

Respectfully submitted,

Linda Nieskes
Town Clerk