Public Hearing April 9, 2015 7:00 P.M. McVean and Telephone Roads

Present: Gerald L. Deming, Council Members: Lynn Parnell, Norman Gates, David Deuel

and Frank Rose Jr.

Absent: None

Others: James Campbell (Town Attorney), George Worden Jr. (Highway Superintendent),

Dustin Geiger, Richard Blum, Cathy Clark, Sharon O'Neil, Tom McGinnis, Henry Fuller, Patricia Parker, Kirk Richenberg, Carl Peter (Zoning and Code Officer) and

Chris Wall

Supervisor Deming opened the Public Hearing at 7:00 p.m. and asked Attorney Campbell to read aloud the legal notice for such hearing:

TOWN OF YORK

2668 Main Street, York NY 14592

Legal Notice for Public Hearing to Receive Comment on the District Formation of the McVean and Telephone Road Water District

WHEREAS, the Town Board of the Town of York has been petitioned under Article 12 of the New York State Town Law to create the McVean and Telephone Road Water District, which would include certain real property located wholly in the Town of York, County of Livingston and State of New York; and

WHEREAS, the Town Board accepted said petition by resolution on February 26, 2015, pursuant to Town Law, section 193; and

WHEREAS, the petition has been filed in the office of the York Town Clerk; and

WHEREAS, the real property that will be located in the district is more particularly described in the map, plan and report attached to said petition and filed in the York Town Clerk's Office; and

NOW THEREFORE BE IT RESOLVED, that pursuant to New York State Town Law, a public hearing be held on the 9th day of April, 2015 at 7:00 p.m. at the York Town Hall located at 2668 Main Street, York, New York, with respect to the formation of the McVean and Telephone Road Water District to include the property noted in the map, plan and report filed in the York Town Clerk's Office and as more particularly described in the map, plan and report on file the York Town Clerk's; and be it further

RESOLVED, that the maximum amount proposed to be expended for the improvements is \$170,880.00; and be it further

RESOLVED, that the anticipated cost to the typical property located within the district is estimated to be \$610.00; and be it further

RESOLVED, that a copy of the map, plan and report describing the proposed district formation and the improvements to be constructed therein shall be available for the public inspection at the York Town Clerk's Office; and be it further

RESOLVED, that at the time and date aforementioned, all interested parties may be heard concerning the proposed McVean and Telephone Road Water District formation.

Dated: March 12, 2015 By order of the Town Board Christine M. Harris, Town Clerk

Supervisor Deming then opened the hearing for comment and questions.

1) Patricia Parker: When will this project actually happen?

*Supervisor Deming: Once the formation has been approved tonight at the regular meeting, the Clerk must file in duplicate certified copies of such resolution, in the State Office of Audit and Control, together with the application, for permission to create such district.

*Mr. Worden stated after the approval and filings, it may take up to 30 days to order the necessary material for the project.

*Attorney Campbell added, such application shall be executed and verified by the Supervisor and shall include: (1) A certified copy of the petition (2) An itemized statement of the then outstanding indebtedness of the town for all purposes (3) A statement of the aggregate assessed valuation of the real property in the proposed district (4) A statement of the average full valuation of the taxable real property of the town (5) A statement as to the manner in which the Town proposes to finance the cost of the improvement.

2) Patricia Parker:

So, we are looking at give or take 90 days before starting?

*Mr. Campbell: That is the hopeful time table as long as no delays occur from the State Comptroller, which we do not anticipate.

3) Sharon O'Neil:

Am I at the end of the district?

*Supervisor Deming: The district ends with your neighbor, Joshua Morris' property.

*Mr. Worden added the line proposed is 3 inch, which will solely be for potable water purposes, it is not large enough for fire protection. Anything larger than 3 inch would have increased the yearly figures.

Mrs. O'Neil:

Which side of the driveway will the line end?

*Supervisor Deming: It would be on the East side, past Mr. Morris' property.

4) Tom McGinnis:

What is the rate per thousand?

Supervisor Deming and Attorney Campbell reviewed and read aloud the water rate chart based on consumption. After the minimum of 6,000 gallons, the average rate starts at \$4.87 per thousand and then decreases a few cents per thousand based on larger consumptions.

5) Tom McGinnis:

Are you putting the meter inside or out?

*Mr. Worden: If the property has a full basement the meter will be inside, with the reader outside. If there is no basement, a meter pit will be necessary.

6) Sharon O'Neil:

If I do not connect now, will it cost more at a later date?

*Mr. Worden: If a dwelling is already existing, we place the meter at no cost, but if it is a vacant parcel or years after the project installation, a \$1,500.00 tap fee will be required.

7) Patricia Parker:

Is the Town able to give us a list of contractor's?

*Mr. Worden: We can certainly assist with a list of local contractors.

8) Sharon O'Neil:

I am the only person at my residence, \$610.00 is a lot of money per year.

*Supervisor Deming: The town estimated an average of the yearly water cost to be \$316.51. It may be much lower for you because the quarterly bills will be based on actually consumption, which will more than likely be much less for one person.

*Attorney Campbell added the quarterly charges will vary for each residence, but the debt service will be the same for all district customers and must be included on the tax bill whether you physically connect or not.

9) Tom McGinnis:

What would be out of pocket expenses?

*Supervisor Deming: An out of pocket expense incurred by the homeowner would be the connection from the curb box to the house.

10) Patricia Parker:

What would the cost be to connect?

*Supervisor Deming: Estimation to connect from the right of way to interior plumbing is approximately \$10.00 - \$15.00 per linear foot.

11) Kirk Richenberg:

Will this project change the existing debt service?

*Supervisor Deming: No, this will not change the current debt service for Consolidated Water.

Kirk Richenberg: Will it ever merge with the other district?

*Supervisor Deming/Attorney Campbell: The districts may merge at a later date. We tried to merge the two initially, but could not get the figures down enough to make it work.

Mr. Richenberg: Their debt service won't go down at some point to what the current district is?

*Supervisor Deming: It will not go down unless a number of homes are built to spread it out over the additional residences added.

Mr. Richenberg: Do you have any idea the cost for engineering?

*Supervisor Deming: The cost for engineering is \$13,000.00.

NOTE: After reviewing the information prepared, Clerk Harris verified that \$13,330.00 was spent on Legal, Fiscal Advisor, Engineering and Administration as a combined figure.

Mr. Richenberg: Wasn't there a grant for this project?

*Supervisor Deming: Yes, a State Grant for \$75,000.00, which was able to be obtained by the assistance of Senator Gallivan.

12) Tom McGinnis: What is the PSI?

*Mr. Worden: The PSI is a bit above 100, which means the homeowners will want to purchase a pressure reducing valve (PRV).

Attorney Campbell stated now that the Public Hearing requirement has been met, before any action can take place on the proposed project creation, SEQR must be done, and the Engineers prepared the Short Form necessary. Part I consists of the biographical data of the project, a brief description of the Action. Part II is the Impact Assessment, to determine whether the proposed action will have no or small impact or moderate to large impact. Mr. Campbell asked the Board to answer the necessary questions in Part II of the Short EAF. Mr. Campbell then read aloud eleven (11) questions, with the Board's response to all as "no or small impact may occur" with this proposed project. Mr. Campbell added at the Board's regular meeting they will be required to adopt the findings in Part II and adopt a Negative Declaration based on the findings and authorize the Supervisor to sign the EAF. After those requirements are met, it will then be open for further deliberation to accept any last minute comment or questions. A resolution will then be made stating that all requirements have been met and this District Formation is in the public interest. After approval, a roll call vote of the Board will be taken, and Clerk Harris must file such documentation at the County Clerk's Office and New York State Comptroller's Office. Bidding and bond resolution must be done then in order to borrow the necessary funds.

13) Chris Wall:
I heard bidding, I thought the Town was doing the work?

*Attorney Campbell: The Town is still conducting the work, bidding was in regards to bidding of material. With the Town doing the work it will be much cheaper and we won't have to contend with prevailing wage.

14) Kirk Richenberg: How many total units?

*Supervisor Deming: There are a total of 14 units.

With no further questions or comments....

RESOLUTION offered by Mrs. Parnell and seconded by Mr. Rose to adjourn the Public Hearing at 7:26 p.m. Voted on and approved, Yes-5, No-o.

Respectfully Submitted,

Christine M. Harris, Clerk

Regular Town Board Meeting 7:30 p.m.

Present: Supervisor Gerald L. Deming, Council Members: Lynn Parnell, Norman Gates,

David Deuel and Frank Rose Jr.

Absent: None

Others: James Campbell (Town Attorney), George Worden Jr. (Highway Superintendent),

Dustin Geiger, John Miller, Kirk Richenberg, Henry Fuller, Patricia Gardner and Carl

Peter (Zoning & Code Officer)

Supervisor Deming opened the Regular Town Board Meeting at 7:30 p.m. and invited Councilman Rose to lead in the Pledge of Allegiance.

MINUTES

RESOLUTION offered by Mr. Gates and seconded by Mr. Deuel to approve the minutes of the March 26th Town Board Meeting. Voted on and approved, Yes-5, No-0.

Supervisor Deming stated before Privileges of the Floor this evening, we will proceed with the necessary resolutions for the District Formation for McVean and Telephone Roads, while Attorney Campbell is still present.

RESOLUTIONS:

RESOLUTION offered by Mr. Deuel and seconded by Mr. Rose to adopt the findings that were made in the review of Part II of the Short EAF as set forth therein. Voted on and approved, Yes-5, No-0.

RESOLUTION offered by Mr. Rose and seconded by Mr. Gates to adopt a Negative Declaration based on the findings made in the review of the Short EAF and specifically in Part II, and to have the Supervisor sign the EAF, signifying the Negative Declaration being made. Voted on and approved, Yes-5, No-o.

Attorney Campbell asked for any further deliberation or questions for him, which the Board replied were none.

RESOLUTION offered by Mrs. Parnell and seconded by Mr. Gates to approve the following:

In the Matter of the Petition for the Establishment of a Water District in the Town of York, Livingston County, New York, to be known as the "McVean & Telephone Road Water District".

RESOLUTION AND ORDER TO ESTABLISH DISTRICT

WHEREAS, it is the intent of the Town of York to create a McVean and Telephone Road Water District to include all of the real property indicated in the map plan and report filed herein, said real property located in the Town of York, County of Livingston and State of New York; and

WHEREAS, the real property that will be included in the district is more particularly described in the said map, plan and report filed in the York Town Clerk's Office; and

WHEREAS, the Town of York Town Board, acting on behalf of the McVean and Telephone Road Water District having directed that the Town Engineer prepare a map, plan and report with respect to the proposed extension; and

WHEREAS, the Town of York Town Board thereafter directed that the charges incurred for the preliminary map, plan and report shall be a Town charge until such time as the district formation shall take place at which time they shall become a district charge; and

WHEREAS, the map, plan and report have been filed in the office of the York Town Clerk; and WHEREAS,

the Board having previously complied with the relevant provisions of SEQR; and

WHEREAS, a public hearing having been held on the 9th day of April, 2015 at 7:00 P.M. at the York Town Hall located at 2668 Main Street, York, New York, with respect to the creation of the McVean and Telephone Road Water District to include the property noted in the map, plan and report filed in the York Town Clerk's Office and as more particularly described in the map, plan and report on file the York Town Clerk's Office, in the Town of York, County of Livingston and State of New York; and

WHEREAS, the notice of public hearing was properly published and posted pursuant to New York State Town Law; and

WHEREAS, the notice of public hearing contained all necessary information to comply with New York State Town Law; and

WHEREAS, the Board having given due consideration to the testimony and evidence given thereat; and

WHEREAS, a copy of the map, plan and report describing the proposed district boundaries and the improvements to be constructed therein as well as the boundaries of the entire McVean and Telephone Road Water District was available for the public inspection at the York Town Clerk's Office and at the public hearing and is attached hereto and made a part hereof; and

WHEREAS, the maximum amount proposed to be expended for the McVean and Telephone Road Water District improvements is \$170,880.00with an estimated average cost for each taxable property of \$610.00 per year, all as set forth on the map, plan and report;

NOW THEREFORE, be it

ORDERED by the Town Board of the Town of York as follows:

- 1. That the notice of hearing was published and posted as required by law;
- 2. That the petition was signed, and acknowledged or proved, or authenticated, as required by law and is otherwise sufficient;

- 3. That all of the property and property owners within the proposed district are benefited thereby;
- 4. That all of the property and property owners benefited by the district are included within the limits of the proposed district; and
- 5. That it is in the public interest to form the district as set forth; and it is further

ORDERED, that the Town Clerk is directed to file a certified copy of this Order in the Livingston County Clerk's Office and provide certified copies of this Order for filing in the Office of the New York State Comptroller.

The question of the adoption of the foregoing Order was duly submitted for approval by vote of the York Town Board on Thursday, April 9, 2015 recorded as follows:

Voted on and approved, Yes-5, No-0. (Roll Call Vote)

Supervisor Deming	Aye
Council Member Parnell	Aye
Council Member Rose	Aye
Council Member Gates	Aye
Council Member Deuel	Aye

7:40 p.m.- Attorney Campbell excused himself at this time and left for another meeting.

Privileges of the Floor

1) Henry Fuller:

Mr. Fuller stated his privileges will be a continuation from the March 12th meeting, when he was cut off. Mr. Fuller questioned the calendar of meetings leading up to the budget vote on Sunday, November 23rd, 2014. It states that the Clerk must inform the legal paper of the meetings, and questioned how this was able to be done for a Sunday meeting when this paper is only printed in the middle of the week, and stated he has a problem with this.

Supervisor Deming replied as discussed previously, the Sunday meeting was held to approve the budget, bills and transfers after the regularly scheduled Thursday night meeting was canceled due to weather. The Clerk did post the notice on the official signboard and emailed a copy to the official paper as required.

Mr. Fuller stated, the Town does not feel this meeting was behind closed doors, but he does. Supervisor Deming replied the Town does not feel this was a closed door meeting, but a way to complete the necessary approval of the budget in order for the County to proceed on time. Mr. Deming added, as far as comments pertaining to the budget itself, we had a budget hearing for that purpose prior to the vote, which Mr. Fuller attended. Mr. Fuller commented he took it as a personal slam that he did not receive a call to let him know about the Sunday meeting, because he received a call informing him of the cancelled Thursday night meeting.

Mr. Fuller thanked Mr. Deuel for last night's meeting, stating many people showed up, but primarily were the farming community, very few non-farmers. Councilman Deuel stated the meeting was actually coordinated by Donna Walker of Farm Bureau. Supervisor Deming added it was very well attended, but thought more questions would have been asked.

Mr. Fuller discussed with the Board a possible suggestion/change for the first meeting of the month. The current procedure is approval of minutes, privileges of the floor and then other business and suggests having the privileges at the end of the meeting. Mr. Fuller stated he feels when people come to meetings to ask questions the Board is in a rush to get the questions answered, conduct business and leave. Mr. Fuller submitted documentation to be added to the minutes as a suggestion, in hopes to get everyone on the same page:

a call to action

Few things more critical to well-informed citizenry than open meetings, records

This week is a celebration of sorts. It also should serve as a clarion call for resiliency and action for anyone who thirsts for open, responsible, accountable government.

It's Sunshine Week, when a healthy dose of attention and media coverage will be paid to promoting open government and pushing for the public to have access to both documents and their elected officials.

Of course, for journalists, these notions are typically top of mind, something that we deal with literally every day. And the efforts have paid dividends, by prying meetings open that otherwise would have been closed, by being able to report on government salaries and benefits funded by the taxpayers, by forcing the release of information.

The state's Freedom of Information Law gives the public the right to gain access to many government records, and few things are more important for the well-being and knowledge of an informed citizenry.

The state's Open Meetings Law says the public not only has the right to attend government meetings, but also to hear debates and "watch the decision-making process in action."

Far too often, government boards hold their discussions in the back room somewhere and then come out to vote as a mere formality.

The public must be empowered in the fights against such tactics. No one should pass up an opportunity to tell government officials that, in this country, the onus is on them to make the case why something should be closed to the public, not for the public to make the argument why something should be open.

And, especially in the digital age, governments **hardly have any excuse** to delay the release of documents. Records should be **made available in a** much more timely manner.

In the coming days, state lawmakers are likely to offer all sorts of "good government" and "open meetings" bills in light of Sunshine Week. They surely will want the cameras on them when they do so. But what they should focus on is greatly increasing the penalties for those who violate the existing Freedom of Information and Open Meetings laws.

Talking about "Sunshine Week" doesn't get the job done. Practicing the principles of Sunshine Week should be the only acceptable standard for anyone who truly believes in an **open**, **engaged society**.

This editorial is adapted from one first published in the Poughkeepsie Journal.



Conducting Public Meetings Public Hearings

JAMES A. COON LOCAL GOVERNMENT TECHNICAL SERIES

NEW YORK STATE Andrew M. Cuomo Governor

DEPARTMENT OF STATE Cesar A. Perales Secretary of State

INTRODUCTION

Nearly all of a municipal board's work is performed in meetings or hearings that are open to the public. Such meetings are subject to several state and local procedural requirements, as well as the political climate of the locality. Taken together, these requirements can confuse, intimidate and stymie even the most experienced of boards. For this reason, it is the intent of this publication to educate and refresh municipal officials on several of the procedures governing public meetings and hearings. Only with a working knowledge of state procedural requirements will municipal officials be free to focus on the current issues and political needs of their communities.

The Division of Local Government Services wishes to express its gratitude to the New York State Committee on Open Government and its Executive Director, Robert Freeman, Esq., for their assistance in the preparation of this publication.

PART ONE: MEETINGS

THE OPEN MEETINGS LAW

It is essential to the maintenance of a democratic society that the public business be performed in an open and public manner and that the citizens of this state be fully aware of and able to observe the performance of public officials and attend and listen to the deliberations and decisions that go into the making of public policy. The people must be able to remain informed if they are to retain control over those who are their public servants. It is the only climate under which the commonweal will prosper and enable the governmental process to operate for the benefit of those who created it.²

This legislative declaration clearly sets forth the intent of the Open Meetings Law (OML) and the State's idealistic goals for local government. The Open Meetings Law was designed to facilitate public observance of the workings of government and to prevent the deliberate exclusion of the public from being able to observe the governmental process. To local governments, the OML requires that they examine their processes in order to determine whether the public is actually, or even perceptually, being unduly excluded.

What is a Meeting? — The Open Meetings Law defines a "meeting" as "the official convening of a public body for the purpose of conducting public business." A "public body" is "any entity, for which a quorum is required in order to conduct public business and which consists of two or more members, performing a governmental function for the state or for an agency or department thereof, or for a public corporation....or committee or subcommittee or other similar body of such public body." The following organizations, among others, are thus subject to the requirements of the OML: city councils, town boards, village boards of trustees, planning boards, zoning boards of appeals, volunteer fire companies, boards of fire commissioners, boards of trustees of volunteer fire companies, municipal water boards, school boards, as well as their committees and subcommittees. The comprehensive definitions of the OML essentially mean that any group organized to perform a governmental function must make all of its meetings open to the public and must give proper notice of such meetings.

The statute defines a "meeting", not by the nomenclature attached to it, but by the facts: any time a public body gathers for the purpose of conducting public business (regardless of whether the body *intends* to take any action) the proceeding must be convened open to the public. Characterizing meetings as "work sessions", or using similar wording, does not relieve the body of the need to comply with the OML. On the other hand, the OML does not apply to social gatherings or chance meetings, even where some item of public business may be mentioned in passing. It also does not apply whenever less than a quorum of the members of a public body get together, since no substantive public business may be done under those circumstances.

Who May Attend? — The Open Meetings Law requires that meetings held by public bodies must be "open to the general public"⁵, i.e., that the body must accord access (including media access) to every meeting. Where a public body uses videoconferencing to conduct a meeting, it must also provide for public access at any location from which any member of the body participates.⁶ It does not require the public body to offer the public an opportunity to be heard. The right to participate (that is, to speak) at a meeting may be limited to the members of the public body itself. A public body may, however, permit public participation and may provide rules for speakers to follow at meetings.⁷ Also included among the OML's requirements is that "all reasonable efforts" be made to ensure that the meeting venue is accessible to the physically handicapped.⁸

<u>Executive Sessions</u> — An "executive session" is a portion of an open meeting during which the public may be excluded. The public body's authority to conduct an executive session is limited to those purposes enumerated in the Open Meetings Law. In summary, a public body may only go into executive session if the matters to be discussed:

will imperil public safety if disclosed;

- may disclose the identity of a law enforcement agent or informer; relate to a current or future investigation or prosecution of a criminal offense which would imperil effective law enforcement if disclosed;
- relate to proposed, pending, or current litigation;
- relate to public employee collective-bargaining negotiations;
 involve the medical, financial, credit, or employment history of a particular person or corporation,
 or matters leading to the appointment, employment, promotion, demotion, discipline, suspension,
 dismissal, or removal of a particular person or corporation;
 pertain to the preparation, grading, or administration of examinations; or
- relate to the proposed acquisition, sale, or lease of real property, or the proposed acquisition, sale, or exchange of securities, but only when publicity would substantially affect their value.

2) Kirk Richenberg:

Mr. Richenberg also commented on last night's meeting and suggested that it should have had better advertisement, if so, there might have had more people and questions. Councilman Deuel replied the meeting was sponsored by the Livingston County Farm Bureau and York Farmland Preservation Committee, but all advertisements were prepared by Farm Bureau. He viewed the notice in the Livingston County News and also put a message on the sign in front of the Town Hall, 10 days prior to the meeting.

Mr. Richenberg stated after the last board meeting he felt singled out that he had an agenda, and commented that he does not and has nothing to hide. Mr. Richenberg added he finds it hard to believe that the Town Board could approve a budget with a line item of \$181,000 to the Fire Department, without doing diligence as to where the funds will be spent.

Mr. Richenberg stated at the meeting last evening, New York State Department of Ag. & Markets representative reviewed farm practices. In this town a local farm continues to dump waste on a town roadway and we keep fixing this road (Cowan Road). Potholes have been there continuously, and the current one is now so large it takes almost half a lane of traffic.

HIGHWAY

Mr. Worden stated the department continues to patch potholes throughout the town. We have also painted the plow equipment before we store it until next winter season. Mr. Worden also reported that the department changed out a crossover pipe on Old State Road as well.

WATER/SEWER

Mr. Worden reported the bid opening for the Route 36 Water main Replacement Project took place today at 2:00 p.m. in the Clerk's office. We received a total of three (3) bids and they have now been referred to Town Engineer, Eric Wies for verification.

Supervisor Deming stated he along with Tom Baldwin and Mr. Worden will be meeting next week to discuss upcoming projects and the financing associated with them. Mr. Worden added when Route 36 is completed, it would mean all cast iron piping has been replaced within the town.

Mr. Worden informed the Board that the department corrected a water leak in front of Jim Vitale's property on Genesee Street, Tuesday morning. It was determined that another saddle joint issue had occurred, but has been replaced. Mr. Worden commented due to the ongoing problems with this type of saddle, we no longer install them in our system.

Mr. Worden reported the Sewer Treatment plant is running smoothly, with no issues at this time. Mr. Worden stated he would like to flush portions of the system at some point soon, but will need to obtain quotes.

NEW BUSINESS

1) Leadership Retreat invitation:

Supervisor Deming stated we received a request from Bonnie Kreutter on behalf of the Geneseo United Methodist Church, inviting us to attend a Leadership Retreat on Tuesday, April 21st from 7-8 p.m. The retreat's purpose is to discuss current needs of the surrounding communities around their church. Mr. Deming stated that government and school officials from York, Geneseo and Groveland have been asked to participate. If a representative is unable to attend, they asked that a letter or email be sent outlining our specific needs. Supervisor Deming replied he hopes his schedule will allow him to attend but if not, a letter will be prepared.

BILLS

RESOLUTION offered by Mr. Deuel and seconded by Mr. Gates to approve all claims brought before the Board. Voted on and approved, Yes-5, No-0.

General Fund Claim	# 104-120	\$ 6,102.43
Street Lights	# 4	\$ 1,815.72
Joint Water & Sewer	# 80-95	\$ 9,992.37
Highway Fund Claim	# 73-82	\$ 3,342.94

ADJOURNMENT

RESOLUTION offered by Mrs. Parnell and seconded by Mr. Rose to adjourn the Town Board Meeting until April 23rd. Voted on and approved, Yes-5, No-o.

Town Board Meeting closed at 8:00 p.m.

Respectfully Submitted,

Christine M. Harris, Clerk