

DATE: SEPTEMBER 26, 2017

KIND OF MEETING: INFORMATIONAL

WHERE HELD: SCHODACK TOWN HALL

CLERK: DEBRA L. CURTIS

PRESIDING OFFICER: DENNIS E. DOWDS

MEMBERS PRESENT: SCOTT SWARTZ
MICHAEL KENNEY
TRACEY REX

MEMBERS ABSENT: JAMES E. BULT

ATTORNEY: DAVID GRUENBERG, ESQ.

COMPTROLLER: RICHARD LABERGE, LABERGE ENGINEERING &
CONSULTING GROUP

Supervisor Dowds called the September 26, 2017 Special Town Board Meeting to order at 6:00 p.m. with the Pledge of Allegiance and dispensed with roll call. C. Bult was absent.

S. Dowds stated the purpose of the meeting was to address the problem with the Battisti Water System (BWS) regarding Mr. Keller's wish to abandon the system, the options for residents in the system and to answer any questions. In response to Mr. Keller's letter regarding BWS, the town sent a letter outlining the situation and informing residents of their options. In return the Town sent out a letter to outline the situation and inform residents of their options. A representative from the Rensselaer County Health Dept. and Public Service Commission (PSC) were unable to attend the meeting.

Alternatives: The Supervisor explained that there are four options for the residents of the water district which were suggested by the PSC. The first would be to transfer the system to an individual or entity; however they must have a certified operator. The second option would be to petition the Town to create a water district or an extension to an existing water district. This would be the most costly option. The third would be to create a Homeowner's Association (HOA) or Not-for-Profit to maintain the system as a community. Finally, the residents could petition the County Health Dept. for assistance creating individual wells. Unfortunately, space is very limited and there is not enough room between septic systems and wells to meet Health Dept. standards.

Legal: Atty. Gruenberg explained that if the Town were petitioned to extend or create a new water system, it would require a minimum of fifty-one (51) percent of the assessed value for residents to agree to the change. It would then go through Permissive Referendum and be voted upon by residents in a special election. Along with the petition, a map, plan and report would be created by the town engineer and paid upfront by the Town but then would be borne by the residents. The major cost associated with the project would be prevailing wage (union wage set by the Department of Labor) that the Town is required to pay engineers and workers. The cost would be borne by the homeowners in the form of annual

capital charges to pay for the project. They would also pay operation & maintenance rates (O&M) according to Town Law for all water/sewer districts. He suggested that if the residents choose to pursue one of the other three options, they should seek advice from an attorney.

Engineer: Richard Laberge (Laberge Engineering & Consulting Group) introduced himself as the town engineer, having worked for the town for more than nine years. He stated that Battisti is a deteriorating system with under sized pipes, okay wells, and no fire protection in the form of hydrants. If the Town were to take over the system, it would require upgrading the infrastructure by increasing the water main to an eight (8) inch pipe, installing new services to property lines, and connecting the system to a water reserve to ensure that at least one day of water storage (10,000-15,000 gallons) is available in case of power loss. Such a connection could be obtained by connecting to the Clearview tank located approximately 1,000 feet away on the west side of I-90; however the cost to connect as well as capacity would need to be analyzed. A map of the Battisti System from 1960 shows that most water connections run from the back of some homes and through the yards of other homeowners. The connections would need to be re-routed to run from the front of all homes at a cost to the homeowner. If a water district were to be formed, with 5,600-5,700 feet of water main, it would cost roughly \$800,000.00 to one million dollars. The Town would borrow the money, similar to a mortgage, for a period of thirty (30) years, known as the "debt service". If any repairs are required, the Town would act as the fiduciary and the additional cost would be added to the debt service. Mr. Laberge explained he sent a letter to Mr. Keller suggesting the system be improved by forming an HOA. It would be at least twenty-five (25) percent cheaper to residents and after a year of the system being operational, the Town could be petitioned to take over. Since the current system is still functioning, the HOA and improvements could be planned over a 2-3 year period; however Mr. Keller did not seem interested in pursuing that option. He mentioned that residents are currently paying \$180.00 per year for their water. If the Town took over, they would be paying upwards of \$900.00 to \$1,000.00 per year. An option for bringing the cost down would be to seek interest from residents on Van Hoesen Road. He reiterated that it would be costly for the Town to upgrade the system to municipal standards so residents need to think carefully regarding the finance aspect before making a decision.

Atty. Gruenberg stated the Town has been in the practice of extending into current water and sewer systems based on a municipal model. By doing so, a larger industrial user pays the capital costs and then the Town incorporates them into the water system under Town Law section 212. To date, the Town has never obtained a system that had already been upgraded. He asked Mr. Laberge if he had any experience with other municipalities in that situation who were able to obtain a legal entity to finance the project. Mr. Laberge said he had been involved in taking over existing systems but financing has always been an issue. It would be possible for the BWS or an HOA to borrow the money, save on the costs for upgrading and eventually have the Town take over the water district with the financing to be paid in capital charges by the users.

Board Discussion

S. Dowds stated if the Town took over the system, a separate district not an extension would be needed. It would be possible to connect into the Clearview (Water District No.1) which currently feeds the Maple Crest (Water District No.3). There would be three components for the rates charged to residents. They include the capital costs that cover the debt service of the district (billed annually), the O&M rates (billed quarterly) and the non-recurring cost for the connection from the curb stop to the house by a private contractor. To give residents an idea of cost, he explained Clearview users pay \$142.88 in capital charges and \$200.00 in O&M rates totaling \$342.88 per year and Maple Crest users pay \$565.34 in capital charges and \$340.00 in O&M rates totaling \$905.34 per year. He noted if users of either district go over the rate for 18,000 gallons, they pay additional. Maple Crest has a total of forty-four (44) users; therefore, users of the Battisti System could be looking at similar rates. The system is currently regulated by the PSC and according to recent water samples, seems to be running fine. If the Town were asked to form a district to take over the system, it would need to be upgraded not only to State but to Town Code Section 175. It would be costly but also beneficial because it would increase water pressure and add fire protection. In the event Mr. Keller abandons the system, the PSC would then petition the Town for assistance. During recent meetings with the County, an option was presented for the Town and County working together to find short and long term solutions for the system. In regards to financing, the County could possibly manage the financing and have the Town conduct the billing of residents. At the present time, residents need to band together and request the Town to prepare a map, plan and report to estimate the costs involved (including capital charges and O&M rates) to make the best decision. The Town would front the money for the engineering which would be transferred into the capital rate for the district once a petition is signed by fifty-one percent of the property owners of the assessed value. C. Swartz asked the cost of preparing the map, plan and report. R. Laberge estimated the engineering cost to be \$10,000 to \$13,000. C. Swartz then asked if residents choose not to form a district, who would pay for the report. S. Dowds stated the residents would still be responsible for the cost of the report. He then asked for names and addresses of residents interested in moving forward with the report and they could meet again later to discuss further options. C. Kenney asked, in regards to the overall cost of a district, is there debt service for either Clearview or Maple Crest for the cost of the wells, pumps and water tower. S. Dowds stated that Maple Crest has debt service and Clearview does not. He continued that all those factors would be entered into a formula to figure out the capital charges for this potential district.

R. Laberge reiterated that the map, plan and report would expose all costs including pump stations, wells and pipes. The costs do fluctuate over the years; therefore, an average of three to five years would be factored in to calculate rates.

Greg Migirditch's Email: S. Dowds read questions emailed to him from Greg Migirditch who had concerns about the system but was unable to attend the meeting. He wanted to know the area and total number of households/businesses was being served by the Battisti Water Supply (BSW). S. Dowds reiterated there were fifty-one (51) households and two (2) businesses. A homeowner asked if the size of the businesses was taken into account for water usage. R. Laberge explained each home is counted as one Equivalent Dwelling Unit (EDU) and depending on the business size; they may or may not count as one. The homeowner stated that homes in the BWS do not have water meters and wondered if the

businesses were metered to determine use. Atty. Gruenberg explained if the Town took over, an estimate of the O&M rate would be done and S. Dowds continued that all would be metered. Mr. Migirditch asked where the closest public/town water line was. S. Dowds stated Van Hoesen Road is the closest. A "T" was installed years ago in foresight of the need for a connection. Mr. Migirditch then asked what would happen if Mr. Keller was no longer able to manage the BWS. S. Dowds reiterated the PSC would then petition the Town for help. Joe Hughes asked if Mr. Keller could legally abandon the system. A homeowner stated that Battisti is regulated by the PSC and except for Mr. Keller passing away, he could not legally abandon the system. Another homeowner asked if a company could be set up to run the system or would a not-for-profit need to be created. Atty. Gruenberg stated the residents theoretically could buy the company and run the system at cost. Mr. Migirditch also asked what upgrades the system needed to comply with NYS standards. R. Laberge stated that the system would need an increase in pressure from 35 to 50 psi and volume would need to be increased to accommodate one day storage in the event of a power outage. Mr. Migirditch stated he felt the home and business owners serviced by the BWS do not have the financial resources to operate and manage the water supply on their own. This is where the town/municipal services, which each of us pay taxes for, come into play. Our town, property and school taxes increase, generally each year, to cover improvements, maintenance costs, salary increases, etc. which is shared by all tax payers. I feel that providing water quality to the NYS standards to town residences and businesses should fall under the town's responsibility and therefore be burdened by all tax payers". S. Dowds explained that in all water districts of the town, the cost is borne by the users only by State Law. The email then asked "has Mr. Keller put a time limit on when he discontinues maintaining the BWS". S. Dowds said not at this time. The email asked "what are the options available to those impacted by this". S. Dowds had explained the four options earlier and stated some are better than others. The last question in the email was in regard to whether there was a chance of the residents of the BWS being left without water. S. Dowds assured everyone attending that situation would never happen.

Public Comment

A resident of 4 Loretta Lane stated she has had water in her basement and standing water in her yard for over a year. During the winter, it freezes and fears for her children's safety. She has contacted Mr. Keller with no resolution. S. Dowds said he would have the highway superintendent take a look and see if the Town could redirect the water to alleviate the problem. Atty. Gruenberg suggested that the residents should organize and open the lines of communication about dealing with the situation as a group. A resident suggested getting names, phone number and/or email addresses of the all individuals involved and asked about using the Town Hall for meetings. S. Dowds said it was a great idea to get contact information from all residents but suggested, as they are a private group, Castleton Library, Peter Andrews Castleton Memorial VFW or Schodack Valley Fire House instead. Another resident asked why the Town would not simply pay for the system upgrade with tax money collected. S. Dowds said the Town could not under town law. S. Dowds explained that a percentage of taxes collected cover services such as police, highway maintenance, assessment and planning and zoning. Water and sewer rates are collected only from users and only borne by them. Atty. Gruenberg explained under Town Law, only users of such districts are allowed to be charged and they have no authority to tax non-users. He

continued that every year a public hearing is held for both the water and sewer district rates and only residents of those districts attend as users. A resident of the town stated he had only heard a commitment to not leave the residents stranded without water from the Supervisor and asked for the same commitment from the entire Board. Atty. Gruenberg explained the Board is limited in what they can do to assist if the system is abandoned. The Town Board fronting the money to have the map, plan and report done, that showed the Town's commitment to the residents. All Board members agreed that they would not allow the residents to go without water. Al Morris, 3 Northern Blvd., stated a trench exists along Northern Blvd. to Van Hoesen Rd. that has never been completely filled in and gas lines located are almost exposed. S. Dowds asked if National Grid had created it when they installed the gas lines. Mr. Morris stated it could have been but it seems to be dug up more each year by the snow plows and he has contacted the County many times with no resolution. The Supervisor said he would have the highway superintendent look into the situation. Mr. Morris asked why Mr. Keller would seek to abandon the system to which the Supervisor said he did not know. Jerry Redding asked why the current two inch main needed to be upgraded to an eight inch pipe. R. Laberge explained that Town Law § 175 dictates the standards for municipal water, adding that the cost of the pipe is miniscule compared to the labor to install it. The Town uses PVC pipe, which is more economical and has a life span of twenty (20) years. S. Dowds added that the pipe size will allow the installation of hydrants that would change the ISO rating for residents' homeowners insurance. Mr. Redding asked if all other water districts in the Town have eight inch pipe. R. Laberge said yes. A resident asked if there were any state grants that could be obtained to offset the cost of upgrading the system. S. Dowds stated Mr. Laberge's group does an excellent job seeking out grants; however, they may not be eligible for some due to the income of residents. A resident of the Town asked if the Town would seek legislation from the state for appropriation grants to change requirements. S. Dowds said the Town would do their best. A resident stated she had resided in Schodack for more than 48 years and had contacted Mr. Keller in regards to a water main break on her road with no resolution. The Town came in and dug two large holes near 6 Loretta Lane but put no fences around them to prevent accidents. The Supervisor stated he would check into it. Finally, a resident of 17 Orchard Ln. addressed the group. She stated that Battisti is regulated by the PSC and encouraged all residents to file complaints against Mr. Keller. She said since he had never raised their rates, it should have been a big red flag that something was not right.

S. Dowds thanked everyone for attending and asked them to contact the Town when they have reached a decision.

ADJOURNMENT

As there was no further business before the Board, C. Swartz made a motion to adjourn the 09/26/17 Town Board meeting at 7:24 p.m., seconded by C. Rex. Meeting adjourned.

Respectfully Submitted,

Debra L. Curtis
Schodack Town Clerk

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