

COUNTY OF GREENE  
TOWN OF NEW BALTIMORE  
SPECIAL MEETING  
SEPTEMBER 22, 2012 – page 1

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**OPENING OF SPECIAL MEETING**

Supervisor O'Rorke called the meeting to order at 10:34 am and the Pledge of Allegiance was said. Also attending: Councilwomen Benway and Finke, Councilman Norris, and Town Clerk Brooks, and 5 members of the public who signed the attendance sheet. Absent: Councilmen Meredith, Highway Superintendent Jordan.

WATER DISTRICT NO. 2

The agenda item for this Special Meeting is to discuss Water District No. 2, possible expansion, and a possible contract with the O'Connor family.

The O'Connor family approached the Town a few months ago looking to become part of Water District 2; they currently reside outside the legal boundaries of Water District 2. Town Board has researched what is needed, retained the services of Delaware Engineering and, in researching an expansion for the O'Connor's, learned there are a few other items to 'clean up' in the water district. The Rebusmen family had subdivided, were told their three additional lots were in the district, and they are not in the district.

With Supervisor's map, a red line defines the properties in the legal description of the water district; 100' from Scheller Park Road is an indicator of the northern boundary. At one time, Rebusmen was all one parcel; once subdivided, those properties are not 100' from Scheller Park, so technically are outside the legal description of the district; vacant land, no one is getting water there.

Water district's boundary will probably become the boundaries of all those lots, so that, if any further subdivisions occur, all the resulting lots will remain within the district. Also there are the Flachs 2 lots that are not in the district; prior to the NYS Thruway, those lots were probably part of something larger and got subdivided off; as far as Real Property is concerned they've stayed inside the District. These lots are more likely, if they and other parts of US Route 9W get water in the future, to get it from Water District 3 (Serta and Empire Merchants). These are items to 'clean up'.

Supervisor reminds, too, that to change the water district, there are certain processes: file maps, notice and hold public hearing, and pass a local law; each requires time. Regarding the local law, only one local law can be 'out' at a time; Supervisor is seeking how best to do this with a single local law; the Town Board cannot have 3 options 'sitting out on the table'. She continued that about 10 homes north of O'Connor's may want water; they need to be included from the beginning; how does the Town Board take care of O'Connor family and everyone else who is part of the district or may want to become part.

Red outline is the legal description; blue is Greene County Real Property's description of the district. Supervisor reminded that not everyone who resides in district gets water; some are on wells (perhaps 5). Right now there are no water district taxes because there is no debt; the district pays for water usage only. If the Board makes an expansion and there were expenses in the district, like a broken pipe that must be dug up and replaced, the people in the district would pay for that in the form of a levied tax. A town has special improvement districts within it and only those people inside the improved district pay for the use and debt service of the district; the town cannot pay those costs. There are about 40 lots in this water district.

Member of the public asked whether the town pays the employees at the water treatment plant; answer: there are no water treatment employees in New Baltimore as its water district is served by Village of Coxsackie. In Sewer District No. 1, the payroll and benefits of the three individuals employed there are paid by that district's residents, not by the Town. The Town has 3 water districts, 2 sewer districts and 2 lighting districts; each district's costs are paid only by the residents of that district.

The Water District is not being charged for lights and heat at Town Hall this day. The \$1300 to retain Delaware Engineering will come from Water District No 2's \$2,200 Fund Balance.

Ellie Alfeld asked if Village of Coxsackie has imposed any limitation on the extension of the Water District 2; no, although Supervisor has not had an official conversation, she believes that with their new capacity that that will not be a problem. If the Board expands the Water District,

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the Town has a water permit filed with the state which is a contract between Village of Cocksackie and Town of New Baltimore that they will sell us 'x' amount of water. If the Board expands the district to include say, 10 more homes, the Town would have to get a new water permit since it is taking on a significant increase in water. This is yet another task for the Town. The Village of Cocksackie Village Board will need to vote on it, Supervisor warned; it may need to go to their town board, may need public hearing and local law. Supervisor reminded that there are a lot of processes for the Town to go consider and complete.

Member of the public asked, regarding the proposed water park, is that in Water District 2? Supervisor answered that the proposed park would probably become its own water district or, being so close, it may become part of Water District 3 (only Serta now). Supervisor added that Empire Merchants is located in Cocksackie and a couple of its parking spots are in New Baltimore, Serta is in New Baltimore; Water District 1 to the north is serviced by Village of Ravena.

Daily Mail's Bill Eckert asked where Mr. O'Connor is; Supervisor said he is at work and is represented by his family; correction: Mr. O'Connor's first name is Greg, not Frank.

Supervisor reviewed that the extension is not a simple matter. The Town Board knows the O'Connors need to expedite and the Town Board empathizes, and is trying to take care of all matters at same time. The options are: Town Board could extend water district to include O'Connors and Mrs. Smith, not 'Mrs. Waters' as spoken earlier. The Board could expand the district and put in necessary piping, Delaware has been gracious to work that up for the Town separate from original contract, an 8" pipe is ideal to 'feed' other houses and fire hydrants. Putting in 8" up to O'Connor house is \$100,000+, including 1 hydrant, Supervisor was unsure of type of pipe. Councilwoman Finke asked for copies. Mr. O'Connor said the size of the pipe keeps increasing and has heard differently in other municipalities. Supervisor said there is 8" pipe in the district for firefighting capability and hydrant use. Delaware Engineering indicates that they cannot get enough pressure to fight fires, need a backflush. Option One could go to 3" pipe but then have no firefighting capability; there are pressure problems within the district and there are hydrant problems, and to repair would be \$50,000, and the district would pay for that based on property tax assessment. Option Two would be for O'Connor's to not come into district, the district would put in place a contract with the O'Connor's, O'Connor's could put in ¾" lateral to serve their home and would, or whoever owns that property, in perpetuity be responsible for pipe. When O'Connor's go to sell their home, they would inform their buyer of their responsibility for the 1200 feet in front of the house. If (Jones) family buys the house, and the pipe breaks (5, 10 and 20 years down the road) and must be fixed, if (Jones) family doesn't have the money to fix it, the water district would have to step in and fix pipe and probably take legal action against the owners.

Supervisor reviewed: if the O'Connor's sell to the (Jones) family, a pipe break could occur for any reason and an immediate fix be necessary. If (Jones) family doesn't have the ability to pay, the Town would have to step in to fix; the pipe ownership stays with the homeowner. Mrs. O'Connor believed she'd seen in last month's Town Board minutes that 5 years down the line the pipe becomes the property of the Town; Supervisor said that was typo or was missed, it is untrue. If Town has a contract with the O'Connor's outside the district, that pipe is their responsibility. If in the future, the next neighbor up the line wants water, the Town Board may be different individuals, that neighbor could come to the Town Board, run a lateral on his lateral, the water district at that time could say it was time to expand, what was previously the O'Connor's pipe might be vacated. It could also become part of district, then be taxed to pay for the new pipe that goes in, and that could be 2-25-100 years from now. Then the O'Connor's would have a contract for the pipe and a contract with the Town to supply them with water, the water coming from Water District 2 and Village of Cocksackie. The contract would be with the district, although the Town Board would sign, and any litigation would be paid for from the water district's fund balance.

Councilwoman Benway asked if O'Connor had a price for ¾" pipe; Supervisor's last conversation with him he needed an approval from the Town. Mr. O'Connor said the diameters have changed in recent conversations; would ¾" provide enough pressure by the time it reaches the hydrants? Supervisor explained this was another problem within the district: pressure; Mrs. O'Connor responded they were aware and they could have holding tanks in basement. Delaware

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Engineering mentioned this and Village of Cossackie told Greg O'Connor that it was likely he would need a pump. It is not the diameter that's the problem; it is the old cast iron pipe from 1930's that may have blockage and may be the problem, with possible cost of \$500,000.

Councilman Norris understood from Mary Beth/Delaware that the problem is gravity; Supervisor responded that Brock (Delaware Engineering) didn't see it as gravity issue in Scheller Park, and most are above the gravity point. Councilman Norris remembers one gentleman's issue; Supervisor hears that several Scheller Park folk have pumps.

Mrs. O'Connor talked with Don Meyer, chief of police for Cossackie and resident of Scheller Park, who has a system in his basement that includes a pump and, until New Baltimore did something recently, they needed the holding tank. But they no longer need it, due to the replaced section of pipe.

Supervisor said Village of Cossackie may have done the work. Councilman Norris asked approximately when; answer: unsure. He asked if they'd spoken to engineer.

Mrs. O'Connor responded to previous question: they have a \$1,200 estimate for 1.5" pipe but the pipe size changes in conversation and they need Town Board to decide; Village of Cossackie's Louis Betke said 1.5" is what is needed.

Supervisor asked what the pipe will service; Mrs. O'Connor answered a private service line.

Supervisor asked would the pipe service one home or the district; a lateral to service your home is between homeowner and the Village, you could put in 8". If the Town Board is going to have other homes, fire hydrants, and firefighting capability, those reasons cause pipe differences.

Mrs. O'Connor said Greg has been willing to cooperate, to dig trench, lay pipe, and says to the Town if the Town Board wishes to put larger pipe in to prepare for future and help with that cost, he will pay for excavation and common sense to provide for that. She continued that some of the conversation about different size pipe came from his willingness, he's not selfish, he is a guy raised to value public service, has served as volunteer since age of 15, and wants clean water for his family. She is amazed by Town Board; Village's Louis Betke came, went to the mayor, mayor called his board, and in two weeks had approval for a hardship. She believes there is a family with a hardship, and the Town has looked at how they can use the circumstance to look at the very broad picture that everything doesn't need to be resolved right now, and that there is no hope for a family to have an exception for a hardship. This is an atrocity, NYS Department of Health would not approve, and cannot believe that this is what she is seeing, where government is by the people and for the people, is there no hope for family with a hardship, willing to amend their deed, do all that is required of them, and for three months go around; it seems unjust and heartless.

Supervisor explained this is why the Town Board is holding Saturday Special Meeting, not only to represent O'Connor's but also the Board must represent the other people in the district and lay all this out, and the people in the water district will pay the price for it if it doesn't go well in the future. Supervisor describes, if Town contracts for private line for O'Connor's and pipe breaks in 3 years, it will be the people in the water district who pay and are put 'on the hook' for repairs if subsequent owners cannot pay. Mayor Mark Evans had a similar situation in the Village of Cossackie and it took them a year to work it out.

Councilman Norris asked the O'Connor's if they want, as quick as possible, to go with private service line, contract, move forward, even the attorney had said that would be the quickest and, if they are willing to do that, he will help by being in-between, because government works slow to protect everyone in the district. He sees their frustration and, as a Town Board, they must protect everyone in Town and in water district, but if they are willing to do service line, say that they want to do it on their own and cover everyone in the future who may buy the house, with permission from the Village they just need approval from the Town to dig the trench along the road.

Supervisor said Highway Superintendent must be involved. However, she's had several conversations about the problems of going the contract route. Another option, to expedite resolution without that contract hanging over the head of possible buyer of house, is a letter Supervisor prepared for this morning's Town Board approval, approving whatever size line O'Connor's want to put in for lateral, the Town Board moves to expand the district, checks O'Connor's line to Town standards, O'Connor's work on that, Board keeps working on the district and should finish in 30-60 days and expand the district and put O'Connor's in the district, and then take over the pipe. Supervisor will deal with the Village, Town has public works staffer

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at Sewer District 1 who is licensed in water, Highway Superintendent will work together, but it is how we're going to do the mechanics behind laying the pipe. Supervisor continued that all parties believe long-term the best way to get O'Connor's in the district and no need for separate contracts.

Mrs. Greg O'Connor asked, if they put in service line, if something happens over a holiday weekend, for something in their deed so a permit is not needed to fix, just can fix on next business day, because it is their concern if something bursts involving Town property that they will be responsible. Supervisor said, if a contract is done, those are the things that make it 'muddy'; Supervisor thinks they should start the line, the Board extends the district, Mrs. Smith must agree to 'come with', she doesn't have to have water but she'll come to the public hearing; there are others in the district who are not being served with water, and who are only affected if there is debt service. There is currently no debt in this water district; there could there be in future. In the Sewer District 1, where there is debt, if you own a vacant lot, you pay toward debt service and the fact you are in the district appears on your tax bill. A future buyer of Mrs. Smith's home may want water and it would be there, but whatever size pipe the O'Connor's put in, Mrs. Smith may or may not be able to hook into. A family of four may want to purchase her home and her well would not accommodate that usage.

Councilman Norris reminded that to not have to worry about a well becomes a value added to the property.

When Delaware Engineering met with the Town Board, Mrs. O'Connor understood that Delaware said there would be increasing problems in this area and recommended that the Town Board address the issue. This family happens to be the first.

Supervisor responded that if Batza's up the road need fresh water next, they may have same problem; the Board can be forward thinking but cannot prepare for everything.

Ellie Alfeld said if these people put in private line, and the Town Board works to resolve big problem and solve in 6 months, you will be safe on your property line until the Town Board has expanded to what they want. The Board is thinking of problems 5 to 10 years down the road problem and O'Connor's will have that water until that time.

Mrs. O'Connor believed that's where it made sense to cooperate with Greg, who will do the excavating. She asked wouldn't it make sense for the Town to pay the difference between the 1.5" and the 8" pipe, if that's what the Town would want.

Supervisor asked was it \$1,200 for 1.5" pipe; yes. Supervisor answered that the Town has figures for \$100,000 for the 8" pipe installation. Mrs. O'Connor asked if the Board would wait.

Supervisor answered, to be spread among the 40 people of the district, that a public hearing must be held because it is not the Town of New Baltimore paying for it; it is the water district.

Mrs. O'Connor confirmed they'll go ahead with their 1.5" and whatever happens after that with the Town, will happen.

Councilman Norris confirmed it was not the Town, but the water district.

Supervisor believes the family understands that the Board empathizes, wants to move forward, figure out what is good for today, and figure out what is good for tomorrow, because you cannot go back and undo things. The Town Board doesn't want to see the O'Connor's put a pipe in ground and then dig it up. Mrs. O'Connor [inaudible] due to the exclusion of a hardship, been a little slow.

Raina O'Connor asked how fast to go ahead with the service line because it is getting cold out. Supervisor spoke to attorney and to engineer yesterday; copy machine is acting up. She recommends, if Town Board is agreeable, to give the following letter to the family,

*The Town of New Baltimore intends to expand Water District No. 2 to include your property. We estimate that this process to expand the district may take 60-90 days. In the interim, we suggest that you begin the excavation and construction process needed to hook into the Town water line. You will be responsible for all costs associated with the hook-in and the installation of the piping. Once the district is created, the Town will then supply you water and bill you at appropriate rates.*

Raina O'Connor asked when to meet to discuss the contract where if something happens to that pipe over a holiday weekend..

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Supervisor said she hopes not to have a contract; that you're going to come into the district with no contract.

Raina asked what happens if the pipe bursts: Supervisor answered it is the District's responsibility and if the pipe bursts, just like any of these other pipes, everyone in the district pays to fix them. With no contract it is better for homeowner than having that contract hanging out there, and also for the Town having to keep track of a contract 10 years from now. Supervisor has been trying to learn what happened in the 1970's, there are lots of different stories and the records only show so much.

Mrs. O'Connor added that leadership changes.

Supervisor figures there will be a different Town Board in 20 years, you'll sell your home one day, and the buyer will perceive what they are responsible for; you can make a contract 'in perpetuity' but it is tough for that to hold up in court. The next buyer was not part of the contract, they 'assume it', and it makes things very complicated.

Supervisor asked what the Town Board thought of this plan: let them start, have Lou Betke involved that line is hooked up correctly, Highway Superintendent Jordan watches to see road put back in place. Supervisor said it is similar to the scenario of developer puts in a couple of houses, puts in a road, then wants to dedicate road back in the Town's hands; Town says to the developer that the road must be certain width and composition, and the road goes in and is taken over by the Town. This time it is pipe, to be put in at O'Connor's expense, the Town will watch that it meets Town's needs, there will be no contract, and if anything happens then, the District will have to pay just like any other pipe in the District, and you'll have to pay your fair share. The O'Connors felt that was reasonable.

Councilwoman Finke asked, we put in this 1.5" pipe whatever, a lateral to service the home, what happens in year or so and other wells fail and we have to put in an 8" pipe to add hydrants? Supervisor answered it was her understanding that the District would expand to include those people; it would be up to decision at the time whether those people pay the cost of the 8" pipe or the District takes out a bond and it pays for cost, like what was done in the 1970's, adding that we do not know all those answers.

Councilwoman Finke is worried to have to pay twice, to get water now.

Supervisor spoke to Greg; he asked could their line be pulled up; Supervisor said it could happen in future but once you are in the district you cannot be left without water especially if you're in the district. If you're in the district, you're in the district, with all the pluses and minuses.

Councilman Norris asked to take away hypothetical situations and get the water, wishing the Board had begun with this solution.

Supervisor said it was formed yesterday in conversation.

Councilman Norris asked if the family wanted to be in the water district and did they think Mrs. Smith wanted to be in the water district.

Raina answered that she and her husband believed they would become part of the district, do not believe Mrs. Smith will have a problem with it but will prefer not to have the water.

Supervisor added that she is not required to have the water.

Raina believed if she were approached to be part of the district, she would be agreeable.

Councilman Norris is in favor of this, and to get Highway Superintendent Jordan involved.

Supervisor offers the following resolution.

**RESOLUTION  
SEPTEMBER 22, 2012**

**RESOLUTION AUTHORIZING TOWN SUPERVISOR TO SIGN ATTACHED LETTER**

RESOLVED, that the Town Supervisor is hereby authorized to sign the attached letter to the O'Connor's.

**Supervisor moved and was seconded by Councilman Benway.** Councilman Norris said they can start work now, within 60-90 days have the Water District expansion complete and change the wording of the contract. Supervisor added there is no contract. Councilman Norris asked what something was; Supervisor answered he had a copy of local law establishing Water District and the contract with the Village of Cocksackie; a local law would expand the district, no contract

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with O'Connor's. Councilman Norris asked was there a contract with the Water District; Supervisor said there is a contract with the Village of Coxsackie for the water district, but what establishes the district is a local law. Supervisor continued, going back to the District, the Town Board must file new maps to change all the boundaries because each little change would incur another \$1300 by Delaware Engineering, and the District doesn't have much left in its fund balance. Ellie interjected that Supervisor is not overcharging residents of the district because it is being done all at this time. Supervisor said she's wanted to take this up all at one time, include all the lots, come north and pick up Smith and O'Connor, leave Flach, and that is a local law that must be done, with required public hearing and maps drawn, and go back to the Village of Coxsackie to let them know we're changing the District, these all must be done in certain timeline that is not determined by the Town. Supervisor added that special meetings may be required and we will do them again to get this done: expand the District by local law, O'Connor's put their pipe in the ground, hopefully we will all finish at same time and then hook in the O'Connor's. Councilwoman Benway asked if there was a problem if O'Connor's finished first. Supervisor included the number of days in the letter, will not be done tomorrow. Raina asked if it takes 60 days? Supervisor reminded that their pipe would be lying in the ground. Mrs. O'Connor asked pipe but no water? Supervisor answered that maybe the Board would have to come back and contract, maybe for one month, but Councilman Norris and Councilwoman Finke have already said to them that the Board will work with you, and hopefully the district will be done. Supervisor is hopeful this will be done inside of 60 days.

Mrs. O'Connor clarified they can excavate, lay pipe, the Town Board will work on legalities of District and all that has to happen working with other municipalities, and if the Town Board does not finish that work at the same time their pipe is ready to go, they would have to contract with Town until Town finishes the process, short-term. Councilwoman Finke added that if there are any special meetings we will make sure they are notified.

Mr. O'Connor clarified for their son, no contract, but there would have to be something between his son and Town of New Baltimore before any excavation is started because he's going to have to put something on his deed.

Supervisor said no, getting rid of that, he will come into District like everyone else and, once he comes into the District, the District will own that pipe.

Mr. O'Connor clarified he didn't need to go to a lawyer then; Supervisor said no, trying to avoid that. Mr. O'Connor asked whether he would need any special permits; Supervisor said to go to the Village of Coxsackie but he believes that's been done, and to see Highway Superintendent Jordan and believes he has begun that.

Raina confirmed they have a letter from the Village.

Supervisor reminded that the Village will be out to inspect.

Clerk Brooks reminded regarding the Highway Superintendent there may be a Highway Excavation Permit; Supervisor said that is appropriate for anyone who digs alongside the road. Councilman Norris suggests adding wording that the O'Connor's will work with the Highway Superintendent; Supervisor reminded that anyone who digs up part of the road, the right-of-way of the road, must do that and there is a permit process in place for that already. Supervisor asked if this looked like the best route to take?

Raina felt it was and has Supervisor's cell and is free to call with questions. Councilwoman Benway suggests telling neighbors of the approval gotten, to avoid calls to authorities.

Councilman Norris asked whether they'd phoned Dig Safely; Mr. O'Connor said they have yet to call for the lines; Town is not involved in those calls.

The adoption of the foregoing Resolution was duly put to a vote, and upon roll call, the vote was as follows:

<b>BENWAY-AYE</b>	<b>FINKE-AYE</b>	<b>MEREDITH-Absent</b>
	<b>NORRIS-AYE</b>	<b>O'RORKE-AYE</b>

**ADOPTED**

With no further discussion, **Councilman Benway moved to adjourn, and was seconded by Councilwoman Finke seconded.** No discussion. The adoption of the foregoing Motion was duly put to a vote, and upon roll call, the vote was as follows:

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**BENWAY-AYE      FINKE-AYE      MEREDITH-Absent  
                         NORRIS-AYE      O'RORKE-AYE  
MOTION CARRIED**

The meeting was adjourned at 11:27am.

Respectfully submitted,

Janet A. Brooks  
Town Clerk