

VILLAGE OF BREWSTER
BOARD OF TRUSTEES
PUBLIC HEARING
MINUTES
MAY 26, 2010
7:30 PM

Attendees:

Mayor: James Schoenig
Deputy Mayor and Trustee: Christine Piccini
Trustees: William Banks, Yoshihiko Ito, Terri Stockburger
Village Counsel: Anthony Molé,
Clerk & Treasurer: Peter Hansen

Absent:

PUBLIC HEARING – CONTINUED

The Board of Trustees of the Village of Brewster continued a Public Hearing ON MAY 26, 2010 50 MAIN STREET BREWSTER, NY 10509, at 7:30 PM. for the purpose of obtaining public input for WATER RENT considerations.

Mayor Schoenig motions to open the Public Hearing, Trustee Stockburger 2nd all in favor.

Mayor Schoenig tells the assembly the board will hear additional comments and then the Board will present their proposal to the assembly.

Rick Stockburger provides written comments and reads them into the record – written comments can be found following these minutes.

Tyler Murello – why wasn't this dealt with until the budget was adopted? I would also like to know what it costs to produce a gallon of water.

Angelo Mule – What is the definition of a unit? How does the rate sheet multiply out? What has changed between the old flat rates when it was \$180 per quarter to now when it is 450 per quarter? Mayor Schoenig says the Village is carrying \$650,000 in fund deficit which we should not be carrying at all. These rates are intended to pay off the deficit in 8-10 years without bonding. Bonding would have harmed our credit rating. There is a per unit charge in these rates designated for deficit reduction to be applied to all units inside and outside the village. Conservation efforts have an effect on revenue results. When people conserve revenues are not realized and shortfalls occur. These shortfalls create the deficit. The deficits have to be made up. The only way to make up the deficits is through rate increases.

Trustee Stockburger says not all the money paid by Peaceable Hill residents for water comes to the Village. A portion goes to the Town.

Michael Liguori asks if we have considered a minimum charge for vacant usage properties. Mayor Schoenig says we are considering that model as well. Mr. Liguori asks if there is a way to treat the deficit more aggressively. Mayor Schoenig says we are treating this more aggressively.

Liz Hudak – on behalf of the town and the Peaceable Hill Water District in opposition of the water rate increase. It seems clear there appear to be costs not associated with the delivery of water, personnel costs, contract costs, employee benefits, etc., these costs can not be used to set water rates. The costs must be reasonably related to providing the costs of providing the service. The Town of Southeast requests a review of the costs in the water fund be conducted and the costs of the Peaceable Hill Water District are too high and are not supportable. I would respectfully request to submit my written comments into the record.

Mayor Schoenig says the Board of Trustees lives in the Village and pays these rates along with everyone else.

Liz Hudak adds that the Town Board was here to establish the other water districts and is very much interested in continuing this process and understands there are others who have a desire to investigate other avenues and solutions but it is her desire to cooperate.

Jack Gress asks if the rates handed out tonight will be different than what was handed out. Deputy Mayor Piccini says there may be some slight changes to in village rates. Mr. Gress says he still advocates a rate of \$10 per month minimum for deficit reduction to pay off the deficit as quickly as possible. After the deficit is reduced the minimum payment should continue and be used for capital reserve. Jack believes we should keep the rate as reasonable as we can.

Tyler asks if the rate schedule is still a work in progress. Deputy Mayor Piccini says that it is still being fine tuned.

Mayor Schoenig says that any changes will be discussed and reasons given for changes.

Jack Gress says he has learned a lot at these public hearings and believes the Board has learned a lot as well. Jack thanks the Board for their patience and involvement in the process.

Mayor Schoenig motions to close the Public Hearing, Trustee Stockburger 2nd all in favor.

Mayor Schoenig motions to adjourn, Deputy Mayor Piccini 2nd all in favor.

Written Comments submitted:

TO: Peter B. Hansen, Clerk of the Village of Brewster

FR: Michael Santos, 12 Main Street, Brewster Village

RE: Public Hearing on Water Rates scheduled 19 May 10

Please accept this written comment on the above-captioned subject and add it to the record of the Public Hearing for Water Rates.

IN-VILLAGE RATES

1. I suggest that we lower the threshold between Tier 2 and Tier 3 to 200,000 gallons per annum, as suggested during the Board's worksession of 12 May. However, I suggest we do not change the threshold between Tiers 1 & 2.

2. To compensate for the added revenue not produced by adjusting the threshold in the two lower tiers, I suggest the rates by tier be adjusted upward

Tier 1: 1.8 cents per gallon

Tier 2: 3.0 cents per gallon

Tier 3: 3.8 cents per gallon

I believe this will produce more revenue than a straight 20% increase, and will anticipate the effects of vacancies and conservation on volume.

It also has the effect of minimizing the impact on senior citizens, and continues to encourage conservation of water in-Village, and thus hold down flows to the WWTP.

OUT-OF-VILLAGE

I applaud the Board's on-going attempts to get the Town of Southeast to form water districts for the unincorporated areas outside the Village. Remarks made by Councilwoman Hudak at the 6 May Town Board work session suggest that the formation of the new Town water districts will be contingent on the Village lowering its rates to the new districts.

I suggest that water sales to any Town water district be granted a "Most Favored Nation" rate, equal to the in-Village Tier One rate, but without any volume step-ups.

To demonstrate "good faith" to Ms. Hudak and her cohorts on the Town Board, I suggest that this Most Favored Nation status be granted, effective at the start of the next billing cycle, to the existing Peaceable Hill Water District, and that the rate to Peaceable Hill be 1.8 cents per gallon in this year's budget, and be adjusted from time-to-time only if and when the in-Village Tier One rate may rise or fall.

For out-of-Village, non-district users, I suggest that metered customers be raised by twenty-five percent, with the understanding that should the Town Board actually form the new water districts in our lifetimes, the Board will grant those new districts the same Most Favored Nation status, effective the next billing period after the Town districts are actually operational.

For out-of-Village, non-district users without meters, I suggest that the flat rate is already high enough to encourage metering, and that no increase be imposed.

If there is any excess revenue beyond current expenses of the district, because we cannot predict Town Board action or inaction, or changes in volume due to conservation and/or vacancy numbers, that excess can be used to retire fund balances, and/or added to a Capital Fund in anticipation of future replacement costs for the system.

Thank you.

MIKE SANTOS

Richard Stockburger
50 Oak Street
Brewster, NY 10509

24 May 2010

Comments on Water Rates

The sale of excess Village water to outside users, should in no way be linked to how the Village creates the water rents for inside the Village users.

The New York Council of Mayors (NYCOM) and New York State code allows for the sale of excess water outside the Village to be at a profit, but not at an excessive rate. NYCOM recommends the sale price of the excess water outside of the Village, should be 1.5 to 2.0 times the rate of in Village water rents.

I would like the Village Board to take into consideration several comments made at the Public Hearing on 19 May 2010, (1) that the village should make efforts to increase the Village tax base and (2) attempt to reduce water rents for the Village businesses to encourage a highest and best use of Main Street storefronts.

I would recommend, that to reduce water rents and increase the tax base that the Village follow the NYCOM recommendations.

This would encourage those users and businesses currently outside of the Village boundaries to petition to be annexed to the Village there by getting the same water rents and services as Village residents and businesses.

I made a scientific wild a__ guess (SWAG) that the average Village user will be paying 1.8 cents per gallon. The Village should calculate the correct rate.

I recommend that the Village Board use the NYCOM recommendation and set the outside the Village water rents at 1.5 to 2.0 times the mean Village rate i.e. 2.7 to 3.6 cents per gallon.

Richard Stockburger
Private Citizen
Village of Brewster

STATEMENT IN OPPOSITION TO PROPOSED WATER RATE INCREASE

Good evening, most of you know me, but for the record, my name is Liz Hudak and I am a Town of Southeast Board Member.

On behalf of the Town , the Peaceable Hill Water District and the Water Customers of the Brewster Village Water Department located in the Town, I want to state my opposition to the proposed water rate increase of approximately 20%.

In reviewing the approved budget for 2011 for the water department, it is clear that there are many non-water system related expenses that are included in the water department budget. In addition, the total payroll allocated to the water department appears excessive. For example, there are the following items that do not appear to have anything to do with the provision of water service:

Police Contract Expense	\$25,528.00
Street Lights	\$ 9,100.00
Trans/Dist Personal Services	\$67,117.00
Code Enforcement Personal Service	\$21,852.00
Police Pers Serv.	\$69,717.00
Trans/Dist Contract Exp	\$20,000.00

There may be other expenses that are not related to the water system, but that will require a more extensive view of the numbers behind the budget.

The personnel costs charged or allocated to the water department appears excessive.

Water Administration Contract Exp	\$20,136.00
Supply, Personal Services	\$40,182.00
Clk/Treas Pers Sery	\$17,784.00
Deputy Clk/Treas Pers Sery	\$13,406.00
Account Clerk/Bookkeeper	\$ 9,641.00

And then there are the state retirement benefits, social security, medicare, workman's compensation, and other employee benefits and taxes on top of the over-allocated payroll.

More to the point, not only are these charges not related to the supply, treatment and distribution of water, these costs cannot be used to set water rates, I have been advised by

counsel, according to the Opinions of the New York Comptroller. Here is a relevant excerpt from a 2005 Opinion of the NYS Comptroller:

It is a well settled general principle that a municipal fee for service must be reasonably related to the municipality's cost of providing the particular service [citations omitted]

.....General Municipal Law §94 provides affirmative authority to municipal corporations operating gas, electric or water utilities to earn from and out of such

operation an amount equivalent to -taxes that the service, if privately owned, would have paid to the municipal corporation, and a "fair return" on the value of property used and useful in such service, over and above costs of operation and necessary and proper reserves. Section 94 further provides that "profits" resulting from the operation of the -water, gas or electric service may be used for refunds to consumers, or "for the payment or expenses and obligations inclined by [the] municipal corporation for municipal purposes." We have interpreted this provision as authorizing a village to use "profits" from village water rents to fund general village purposes (1991 Opns St Comp No. 91-28, p 84).

Thus, at most, the Brewster Village Water Department can charge is their cost of operation (exclusive of the non-water supply related charges and the excessive personnel allocations) is the equivalent municipal real property tax on utilities (typically 1 to 2% of assessed value) plus a fair rate of return to be used for customer refunds or the expenses of the village. The fair rate of return is arguably the weighted cost of money used to support the water department. Using the 2011 budget for the water department with costs not directly related to the water system and over-allocated personnel expenses appears to go well beyond what is permissible under the General Municipal Law § 94. Therefore, the Town of Southeast requests that a realistic assessment of the direct and reasonably allocated costs to the water department be developed, along with the permissible tax and return components before any water rate increase is imposed.

Finally, not only are the rate levels too high, but the rates charged to Peaceable Hill Water district and Town customers of the Village Water Department are inequitable and much higher than the Village charges customers within the Village. This violates the well established principle that rates should not be unduly discriminatory. Why should wholesale rates to Peaceable Hill be higher than rates to retail customers within the Village? That makes no sense and there is no cost justification, since the Town maintains the water district. For that reason alone, the rates should be demonstrably lower.

I respectfully request that my written comments be received as part of the record of these proceedings. Thank you for your attention. This concludes my remarks.