

**MINUTES FOR THE TAX ASSESSOR HEARING, HELD AT THE WANTAGE
TOWNSHIP MUNICIPAL BUILDING, 888 STATE HIGHWAY ROUTE 23,
WANTAGE, N.J., ON MAY 01, 2014**

Township Administrator Jim Doherty introduced Wantage Tax Assessor Kristy Lockburner and Wantage Township Attorney Michael Garofalo. Mr. Doherty stated that Ms. Lockburner had requested his assistance by taking notes of this hearing, and to assist in facilitating the hearing with the public.

Mr. Doherty stated that for questions that go outside the purview of the Assessor's jurisdiction, he or Mr. Garofalo would endeavor to provide a response.

Mr. Doherty explained that at this hearing, the Assessor shall give all parties interested or affected by the Improvement of the Lake Neepaulin Dam Rehabilitation ample opportunity to be heard upon the subject of the special assessment for this improvement.

Mr. Doherty explained that the Wantage Township governing body defines "ample opportunity" for public input as being up to four (4) minutes. Mr. Doherty requested members of the public to please limit input at this hearing to this time allowance. Mr. Doherty stated that if input will exceed four minutes, the member of the public was welcome to reduce the remaining input to writing and submit it to the Office of the Tax Assessor, 888 Route 23, Wantage, NJ no later than 4:00 p.m. on Friday, May 2, 2014. Mr. Doherty stated that all verbal input given at this Hearing, and any written follow up input provided by the May 2, 2014 deadline, shall be given due consideration by the Tax Assessor in compliance with law.

Mr. Doherty explained that tonight's Hearing shall be conducted in the following Order:

- 1) Any property owner in the R2 Zone of Wantage may address the Tax Assessor with comments or input regarding the proposed special assessment for their individual property.
- 2) After all property owners of the R2 Zone have had an opportunity to speak regarding their individual proposed assessments, the Assessor will hear from any party interested in the Improvement of the Lake Neepaulin Dam Rehabilitation upon the subject of the special assessment for this improvement.

Mr. Doherty stated the Tax Assessor will take into account any and all input received, and shall thereupon make a just and equitable assessment of the benefits conferred upon any real estate by reason of such improvement having due regard to the rights and interests of all persons concerned, as well as to the value of the real estate benefited.

Mr. Doherty stated, on behalf of the Assessor, the following clarifications regarding this evening's Hearing:

- 1) The Assessor shall not engage any member of the public in a debate. Opinions are welcome and desirable, but no debate shall be entertained, as that is not the purpose of this hearing.
- 2) The issues of whether or not a special assessment should have been authorized, whether or not Tiers should have been utilized, and whether or not the project should have been undertaken, have already been heard and given consideration by appropriate parties previously. The Assessor shall allow four minutes to express said input, but will offer no comment or response regarding these topics.
- 3) The Assessor believes the details of her Report on this topic provide the appropriate explanation required by law, regarding the actions and decisions she has taken. Input and comments on the Report are welcome and will be given all appropriate consideration, but with respect to any requests for additional explanation, the Assessor believes the Report is self-explanatory and speaks for itself.

Mr. Doherty reviewed the contents of the Information Packet provided to the public for this hearing.

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Mr. Doherty invited any property owner in the R2 Zone of Wantage who wished to address the Tax Assessor with comments or input regarding the proposed special assessment for their individual property, to come forward and offer their input and comments.

Darren and Corie Marquart, 30 South Shore Drive, expressed a desire for additional information regarding how the Tier system was developed; took issue with his property being designated as a "Lakeview" property, and offered reasons to support his position; took issue with the amount of payment being requested from Tier 2 properties; requested justification for the dollar amount being assessed; offered examples of differences in amounts being requested from Tier 2 and Tier 3; asked when special assessment bills would be mailed; asked why the special assessment bills could not be included in the regular tax bill; submitted a written position statement together with photographs of surrounding properties where Mr. and Mrs. Marquart had concerns with property maintenance, and to illustrate the ability of viewing the lake versus not viewing the lake.

Mr. Doherty offered the definition of the phrase "Lakeview Property" as used in the special assessment, being improved property which is across the street from a Tier 1 property. Mr. Doherty stated that the term "Lakeview" was a Term of Art, and was not meant to address whether or not any particular property in a given Tier could, or could not, see the lake from their property. Mr. Doherty acknowledged that a different phrase could have been utilized, and understood the potential for misunderstanding the title of the Tier.

Mr. Marquart requested a clarification of the Tier 2 designation as it applied to particular property locations on the map displayed for this hearing. The Assessor reviewed the map with Mr. Marquart and offered an explanation in response to this inquiry.

Kathleen Gorman, 53 Fernwood Road, offered comments from material cited as Judge Stanton's Ruling of 1983; offered comments on the Safe Dam Act; requested information regarding the criteria used to determine assessments in Tiers, and why certain properties are included in the special assessment versus those that are not; expressed belief her property's distance from the lake means it has no value from the Dam Improvement; cited a certification from a 2010 trial brief from Melissa Rockwell, and offered an interpretation of that certification as it applies to her special assessment; requested additional information on how the assessment was determined based on benefit to the real estate involved.

Mr. Doherty expressed the belief that Mrs. Gorman's observations and questions involved matters that were not directly addressed to the Assessor; that the Assessor has already explained the criteria used is that explained in her Report, which she believes is self-explanatory; that no further explanation was deemed necessary by the Assessor. Mr. Doherty stated that Mrs. Gorman is certainly allowed to disagree with this position, and the Township thanks her for her input. Mr. Doherty stated that with respect to the citations of Judge Stanton's ruling and Ms. Rockwell's certification, the Assessor will give Mrs. Gorman's input all due consideration, but this is not the first time these observations have been made, and the Township has already given such input consideration and offered responses to them.

Mrs. Gorman expressed the position that no explanation has been offered regarding the details of how the special assessment was created. Mr. Doherty stated that he understood Mrs. Gorman's point the first time it was made, and the fact that she is repeating it does not change the response already offered by the Township.

Cindy Findlay, 56 South Shore Drive, expressed a question regarding Tier 3 amount in the Revised Report versus the original Report of the Assessor, expressing observations the cost based on a monthly basis for Tier 3.

Mr. Doherty stated the revised report was presented to the Assessor for implementation, and the Assessor saw fit to accept that input from the governing body as a valid representation of the special assessment obligations by Tier. Ms. Findlay asked how is it fair that the amount of payment for Tier 3 was at one level to begin with, and then it went down. Mr. Doherty stated the outcome was a mathematical calculation based on the percentages presented by the governing body for implementation in the revised Tier payment determination. Mr. Doherty stated that the Township acknowledges the concerns regarding fairness, which is ultimately a subjective determination.

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Karen Merritt, Alpine Road, expressed belief that this situation is inherently unfair to all parties; offered historical perspective and comments regarding ownership and maintenance obligations of the Lake; stated no deed restrictions exist regarding obligations to the lake maintenance costs; offered conclusion that the Lake should be owned by the Township.

Rocco Russo, South Shore Drive, inquired what the Township would do to address the loan repayment obligation if the Township obtained title to the Lake.

Mr. Doherty stated the Township's position is not to speculate on hypothetical matters which have not yet been presented for consideration of action. Mr. Doherty expressed his belief that the members of the governing body understood the options for action should such a situation present itself, but since the matter has not been presented to the Township for action, they have not discussed the matter as a public body, believing to do so would be premature.

Richard Aaron, 80 South Shore Drive, spoke of his proximity to lake compared to a neighbor's, which are in different tiers; Ms. Lockburner addressed this observation by illustrating the lot location on the map displayed. Ms. Lockburner stated she would be happy to follow up with further explanation to Mr. Aaron with the tax maps tomorrow if he wished. Mr. Aaron made further comment regarding the fact that only 3 tiers were utilized in the payment plan, and expressed his view that this improvement should be viewed from the standpoint of a general improvement for the common good, regardless of whether the facilities are used by him or not.

Mr. Doherty stated a common observation being made this evening is that if the Tier system had been devised differently, it would have been more "fair." Mr. Doherty clarified that Ms. Lockburner did indeed review numerous options and possibilities for alternative tier systems and payment obligations, and presented these options to the governing body for their attention and review, and the tier system decided upon is the one which has been implemented.

Mr. Marquart and Mrs. Gorman stated their position that this response does not satisfy their desires or address their concerns.

Judy Fiore, 102 South Shore Drive, wanted to know why all residents of Lake Neepaulin were not being required to pay the same amount; expressed position that she has no benefit from being able to use the lake; expressed unhappiness with being required to pay for the dam repair.

Mondell Fisher, 111 South Shore Drive, stated she thought the Assessor would be addressing questions at this hearing; expressed the belief that the tier system as it exists is not fair.

Mr. Doherty responded to the observation regarding the Assessor answering questions, observing that a lot of the questions coming forward at this hearing involve issues that go beyond the topic of the special assessment, and instead involve questions regarding actions taken by the governing body, and that falls under his responsibility to address. Mr. Doherty stated that where appropriate, he offered reminders to members of the public that Ms. Lockburner has already responded to questions regarding details of her tier determination and special assessment figures in her Report, which she deems self-explanatory.

Mrs. Marquart reminded Mr. Doherty that her question regarding when bills would be due has not been answered. Mr. Doherty stated that the next payment to the NJDEP on the loan obligation was due in September, and the plan was to mail special assessment bills by the third week of June.

Mrs. Marquart asked why the special assessment bill could not be included with her regular tax bill. Mr. Doherty explained that the special assessment bills could not be made a part of the regular tax bill based on state law. Mr. Doherty explained the Tax Collector did look at the possibility of implementing a four quarter payment billing, but this option would not allow an opportunity to collect sufficient funds to meet the first payment obligation to the State each year. Mr. Doherty stated the Tax Collector is willing to accept requests on an individual basis from property owners with a special assessment to implement a payment plan if paying the bill in one payment would represent a hardship.

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Mr. Doherty invited any member of the public, whether resident of the R2 Zone or not, who wished to have an opportunity to speak on the subject of the special assessment for the Lake Neepaulin Dam Rehabilitation, to come forward and offer their input and comments.

Kathy Gorman, Fernwood Road, reiterated her concerns previously expressed; asked for details on whether other special assessments reviewed by the Assessor for comparison purposes involved private lake associations or public lakes. Ms. Lockburner responded that they involved various situations. Mrs. Gorman requested details on the lakes that were reviewed for comparison. Ms. Lockburner declined to comment on which specific Assessors she contacted to review other special assessment situations as a part of her deliberations. Mrs. Gorman reiterated her dissatisfaction with the responses offered.

William Gettler, Gemmer Road, expressed belief the hearing was Mr. Doherty's hearing, not the Assessor's; addressed matter of tax deductibility status of special assessments; offered observations regarding how a special assessment is supposed to be derived; reviewed tax records of Wantage Township as it relates to property values; expressed belief based on data presented that the lake creates an increasing negative tax value impact based on proximity to the lake. Mr. Gettler offered various excerpts from documentation he termed to be case law; expressed belief that the entire process as implemented by the Township is illegal and should be declared so by a judge.

Karen Merritt, Alpine Road, offered further comment regarding belief the Township should take title to the lake; observed the possibility that further state/federal requirements of Dams could change in the future; offered comments on concept of dam safety; repeated her belief the Township should take over ownership of the lake.

Ann Smulewicz, Route 23, disagreed with the concept of the Township taking title to the lake, disagreeing with the suggestion that she be held responsible to pay for repairs to someone else's private property; expressed concern with possibility of bureaucracy being created if Township takes over lake; stated she does not want to pay anything for this lake.

Judy Fiore, South Shore Drive, asked how the Township can consider telling her what has benefited her; asked how the Township determined there was any benefit to her from the lake. Mr. Doherty stated the Township governing body has addressed this question several times over the past several years, offering factors including property value and fire protection; and while residents have expressed positions which contradict those factors, and are certainly permitted to disagree with these explanations, they remain as the explanations which have been offered in response to the question posed.

Ms. Fiore asked if Mr. Doherty was telling her that this matter was a done deal, with absolutely no recourse. Mr. Doherty stated that no, he was not saying residents had no recourse; rather, he was offering responses to the questions which had been posed. Mr. Doherty stated that when individuals get their special assessment bill, there still exists recourse for an appeal, which will not follow the normal tax appeal process at the county, but rather would be filed at the State level of government. Ms. Fiore asked if the payment plan was finalized. Mr. Doherty responded that the Assessor's Report had been accepted by the governing body. Ms. Fiore stated the report had not been accepted by the people affected. Ms. Fiore and Mr. Doherty engaged in a discussion regarding the meaning of the word "representation" as it relates to this issue.

Mr. Doherty clarified that the purpose of this evening's hearing was for the Assessor to hear your input and give it consideration in her deliberations. This hearing was the public's opportunity to present views to the Assessor, and lobby for the Assessor to revise her determinations based on the data presented. As such, she was under no obligation to answer any questions from the public at this hearing. For this reason, Mr. Gettler's observation that the hearing was Mr. Doherty's hearing is not true. The Assessor has heard all input offered, and will give it due consideration.

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Mr. Marquart asked why access to the Assessor waited until after the governing body had made their decision. Mr. Garofalo responded that the statute on special assessments required the Assessor's hearing to follow the governing body's determinations. Mr. Garofalo agreed that the law seemed odd to him, when he read it, but this is indeed the requirement of law, which has been followed.

Ms. Findlay inquired regarding consequences of Non-payment of the special assessment bills, as it relates to a decision to challenge the validity of a special assessment in state court. Mr. Garofalo and Mr. Doherty addressed these questions. Mr. Garofalo explained that the right to challenge the special assessment bill would be preserved without penalty. Mr. Doherty explained that the Township governing body has the ability to waive the requirement of having to pay off an entire special assessment upon a delinquency occurring.

Mr. Doherty thanked all members of the public for coming to this evening's hearing.

James R. Doherty, Administrator Clerk