

**Public Hearing on Water District #1
September 6, 2022
5:00 p.m. Keene Community Center Pavilion**

BOARD MEMBERS PRESENT: Joseph P. Wilson, Jr., Town Supervisor, Robert Biesemeyer, Deputy Supervisor, Teresa Cheetham-Palen, Council Member, David Deyo, Council Member, Jennifer Whitney, Council Member

TOWN OFFICIALS PRESENT: Kimberly Smith, Town Clerk

MEMBERS OF THE PUBLIC PRESENT: Kathleen Case, Jacques Catudal

Supervisor Wilson welcomed everyone at 5:00 p.m. and asked Ms. Smith, Town Clerk, to read the Public Hearing Notice.

Ms. Smith advised the Town Board that the notice had been published in the following locations:

- The Sun Community News
- Adirondack Daily Enterprise
- Town Clerk's sign board
- Town Website (www.townofkeeeny.com)

Ms. Smith read the following:

NOTICE OF PUBLIC HEARING

Water District No. 1 of the Town of Keene, Essex County, New York

NOTICE IS HEREBY GIVEN that the Town Board of the Town of Keene, Essex County, New York, will meet at the Keene Community Center Pavilion, in Keene, New York, in said Town, on September 6, 2022, at 5:00 o'clock P.M., Prevailing Time, for the purpose of conducting a public hearing upon a certain map, plan and report, including an estimate of cost, in relation to the proposed increase and improvement of the facilities of Water District No. 1, in the Town of Keene, (the "Water District"), consisting of replacement of water treatment plant control equipment, including pumps, meters, valves, controls, and including incidental improvements and expenses in connection therewith, at a maximum estimated cost of \$300,000.

The capital project described above has been determined to be an "Type II Action" pursuant to the regulations promulgated under the State Environmental Quality Review Act ("SEQRA") which as such it has been determined will not result in any significant adverse environmental impact. Copies of the map plan and report and SEQRA documentation are available in the office of the Town Clerk, where they may be

inspected during regular office hours. At said public hearing said Town Board will hear all persons interested in the subject matter thereof.

Dated: Keene, New York,
August 9, 2022.

BY ORDER OF THE TOWN BOARD OF THE TOWN OF
KEENE, ESSEX COUNTY, NEW YORK

/s/: Kimberly E. Smith, Town Clerk

Kathleen Case, resident, asked to speak. She explained that they did not attend the Water District #2 Public Hearing because they live on Spruce Hill and have their own well. As she read through the Bond Resolution for Water District #1, she found a section that was concerning to her. In section 4, it states (she read the following outloud):

“To the extent not paid from monies raised from said Water District in the manner provided by law, there shall annually be levied on all taxable real property of said Town, a tax sufficient to pay the principal of and interest on such bonds as the same become due and payable.” She stated that she read that to mean that if they cannot raise the money for the repayment of the bond that it would be the responsibility of the Keene tax base to pay it. In regards to the Water District #2 Bond for the five million dollars, she knows that there was a concern of the insufficient number of users to be able to pay that amount back. She was not as concerned about the \$300,000 bond for Water District #1, but wanted clarification. She had also reviewed the bond for Water District #2 and the same wording was in that resolution, which was passed in August. She asked the Town Board the question of: If either of the Water Districts were not able to pay the cost of the bond payment and interest, will the debt then be placed on all taxpayers in Keene regardless of whether they are in either district or not?

Mr. Biesemeyer stated that it was a great question and it sounds as if her interpretation may be right. He recommended getting legal counsel on it. He thought that they were prohibited from using other money to pay for the districts and that only the users were the ones to pay. He stated that he did not catch that.

Mr. Deyo stated that he did not catch it either and that he agreed that it needed to be legally answered.

Ms. Cheetham-Palen asked for a chance to speak. She stated that from her understanding, the way that bonds work, when they are going out to get bonds the collateral basically is the Town's tax base. It's the same for the County. It's the same for the State of New York. It's the tax base that is held out there as the collateral.

Jacques Catudal, resident, spoke and stated that is what the issue is.

Mr. Biesemeyer stated that they should seek legal counsel and not speculate.

Supervisor Wilson asked for a chance to speak. He stated that Ms. Cheetham-Palen was right. That is what secures the loan. They can't take money raised outside of the district and apply it there. This is only if the water district defaults. If they dissolved their water district. He asked if they have ever heard of that happening anywhere?

Everyone agreed that they had never heard of that happening.

Mr. Biesemeyer stated that it was still a good question and needed a legal answer.

Ms. Case stated that usually bonds are being raised for a municipality as a whole. In this case it is really for a small group of users within the municipality. But the guarantor of the loan is the whole district. But suppose the users in the district.....

Mr. Biesemeyer stated that they need to contact someone that is well versed in water law.

Ms. Cheetham-Palen stated that it is not water law it is bond law.

Kimberly Smith, Town Clerk, asked Ms. Case to please explain which paperwork she was reading from. Ms. Case explained that it was from the Bond Resolution, Section 4.

Ms. Case also explained that the same wording was on the already passed Bond Resolution for a substantial amount of money.

Mr. Biesemeyer gave a worse case scenario: if the residents of Water District #1 cannot pay for the bond, then every resident in the Town of Keene would have to pay it, which would end up with a tax levy on their tax bills. He stated that normally only the users of the district are responsible to pay for their debt but in this case it sounds like there is a possibility that it could happen that it falls upon the taxpayers.

Ms. Case agreed and stated that it is what it says.

Mr. Catudal stated that if it came to that it could end up with a lawsuit.

Supervisor Wilson stated that they already approved the Bond Resolution for Water District #2. He stated that he could try to call Liam (Town Attorney) right then, but that he believes it is standard.....

Mr. Biesemeyer stated that he did not want a knee jerk reaction but that he wants it to be crystal clear.

Ms. Whitney spoke and stated that they were supposed to be passing it that night so that they can move forward.

Mr. Biesemeyer asked if it had to be signed that night?

Supervisor Wilson stated that if not they would need to have another meeting.

Mr. Biesemeyer stated that they can sign it on a condition.

All Board Members questioned that stating that it was a roll call vote and a specific process. Ms. Smith stated that she did not believe that they could do it with conditions.

Ms. Cheetham-Palen stated that if they look at any bond that they have taken, it is going to have that language in there. That is what a bond is.

Ms. Whitney asked if they could try to call the Town Attorney.

Mr. Biesemeyer addressed Teresa and stated that the thing that is different is....

Ms. Cheetham-Palen interrupted and said that she understands that.

Mr. Biesemeyer stated that she didn't give him the chance to say anything.

Ms. Cheetham-Palen stated that she knew he was going to say that it is specific to the water district and the whole town doesn't want to be on the hook for this.

Mr. Deyo spoke and stated that they already put Keene Valley on the hook for it, let's not do it now too.

Ms. Cheetham-Palen stated that effectively then the town was already on the hook for Keene Valley.

Mr. Deyo agreed that they should reach out to Liam before moving forward.

Ms. Case stated that if it's something that is never going to happen, but...what if it does happen. She also stated that nobody else noticed it but them, then it was pretty silly that no one read it.

Mr. Deyo and Ms. Whitney stated that it will now be in the minutes, so people will be able to read it.

Mr. Deyo stated that it's not as much of a concern for the \$300,000 one, but the five million dollar one is the one that is of more concern.

Ms. Case agreed and stated that the Keene Valley one is the one that would be more likely for concern. The worst thing that could happen is that it ends up on the tax bills and then look at what would happen. Residents are already upset about the School Tax bills.

Mr. Biesemeyer stated that it is not an impossibility. With a \$300,000 bond it is less likely for a default than a five million dollar bond. He stated that if there was an irresponsible Board that took out a five million dollar debt in hopes of getting the infrastructure money and then nothing came through and all the users in the district could be financially unable to carry that amount of debt on an annual basis.

Ms. Cheetham-Palen asked Supervisor Wilson if the bond was negotiated with the County. Supervisor Wilson stated no, that it was strictly with the town. The County is their consultant basically.

Ms. Cheetham-Palen read aloud, "faith and credit of said Town of Keene, in Essex County". Oh, okay she stated, I see.

Supervisor Wilson explained to Town Board Members that they have to borrow the money. He asked what the question is that needs to be asked in order to move forward.

Mr. Deyo stated that they need clarification, for the general public,

Supervisor Wilson again asked what they wanted to know?

Mr. Biesemeyer stated that if what they found out tonight is accurate, that if they vote for the \$300,000 bond and something happens where taxpayers might be liable in the case of a default, he would still vote yes. But if what they found out tonight is true, then he would not vote yes for the five million dollar one. He wanted clarification.

Ms. Whitney stated that they already voted for the five million dollar one.

Supervisor Wilson explained that the document was prepared by the team of attorneys that the town hired. They hired them to write a bond and write a bond resolution for them.

Mr. Biesemeyer asked to just have it checked out first.

Mr. Deyo stated that he does not have a problem with approving a bond, the same as Mr. Biesemeyer, but he wants a legal explanation. He has already publicly stated that he would not borrow five million dollars for the Keene Valley residents. He wants to make sure that what they voted on is understood and what they will be voting on for Keene is clear.

Supervisor Wilson stated that they are not talking about borrowing five million.

Mr. Deyo stated that was correct, but if they decided to he wants to know.

Supervisor Wilson stated that the discussion was starting to spill over into the Special Town Board Meeting. He asked if anyone had any further questions in regards to the Public Hearing?

Ms. Case stated no, but as Mr. Deyo said, as someone looking at it she wants to know if she would be on the hook for it when she does not even use the water and is not in the district? That was their question because that is what it looked like to her.

Ms. Cheetham-Palen stated that she thinks the answer is yes. That if it goes into default. That is what a bond is. They are putting the Town's tax base in the balance.

Ms. Case stated that most municipal bonds cover the whole town and not just a segment of it. This is a unique case for Keene and other places that have small water districts.

Mr. Biesemeyer agreed that they should look into it further.

Supervisor Wilson stated that it was their legal....

Mr. Deyo stated that they have a valid question.

With no further questions and all persons desiring to be heard, having been heard, the Public Hearing was terminated at 5:15 p.m. by Supervisor Wilson.

(It should be noted that Supervisor Wilson attempted to call the Town Attorney, Bryan Liam Kennelly, Esq. during the meeting, but was unsuccessful.)

Respectfully submitted,

Kimberly Smith
Town Clerk
Town of Keene

September 13, 2022