

TOWN OF AMENIA

4988 Route 22, Amenia, NY 12501 (845) 373-8860 ameniany.gov

AMENIA WASTEWATER COMMITTEE

Public Meeting Thursday, June 1, 2023, 6:00PM – Amenia Town Hall

MINUTES **APPROVED**

Present: Charlie Miller, Jim Wright, Paul Winters, Bill Flood

Town Board Liaison: Brad Rebillard

Also attending - Leo Blackman

Absent: Shannon Roback

Call to order – Charlie

Approval of 5/4/23 Minutes – Bill moved, Paul seconded. Roll Call: Unanimous Aye

Wastewater Committee meeting's minutes format. NY State law requirements. Name the maker of motions and resolutions. General statement of discussion highlights. Motion that minutes are kept in a certain way. James moved, Paul seconded. Roll Call: Unanimous Aye

Map, Plan and Report engineer (Laberge) and attorney (TRK) funding and status of Town Board decision

- Final town budget line reduced from \$62,000 to \$20,000. We requested \$82,000 which was the amount detailed in the Feasibility Study. See Funding Document (attached) showing what other budget lines could possibly be used to fund this phase.
- Jim moved that we urge the Board (tonight) to find the funds to move ahead with the map and report plans. Bill seconded. Roll Call: Unanimous Aye
- Status update on Amenia Housing Board and purchase of 74 Lake Amenia Board. Brad and Charlie are meet with the owner next week to see the property, hopefully finalize terms and get an accepted offer.

Summer outreach program – residential and commercial parcel owners

- Have an open meeting when business owners and others will speak in favor. If we add any inhabited parcel it needs to change the plan.
- Discussed more door knocking initiatives – the last one rendered 75% positive response. Agreed that we will split up parcels on Railroad Avenue and Lake Amenia Road and door knock to see if there is substantial support for them to be included in the district.
- Develop list of potential evangelists for the project and activate them.

Discussion of Article 12 (Petition) vs. Article 12A (Town Board resolution subject to permissive referendum) for district formation.

- The committee had an in-depth and lengthy discussion about both approaches to forming the district in October and November last year. The unanimous agreement then was to recommend petition as it requires 50% of residential parcel owners to say yes and is the most representative approach.
- After another discussion tonight of the topic (see attached notes on forming special districts in NYS) the Wastewater Committee recommends Article 12 – Petition to form the district. Paul moved, Jim seconded. Roll Call: Unanimous Aye

Move to adjourn; Jim moved, Paul seconded. Roll Call: Unanimous Aye

Respectfully committed

John Stewart (secretary)

johnhargerstewart@gmail.com

Forming NYS Special Districts: Petition vs. Vote

NYS Villages

NYS empowers Villages to establish sewer systems (Village Law §14-1400) as local improvements at Village expense or to be assessed against benefited lands (Village Law §22-2200) with no owner say. A Village can undertake improvements for specific areas within a Village and assess the costs to those improvements against the benefited areas only. These areas are referred to as “assessment districts.” Millbrook is an example of a Village that has a sewer district. The Village of Millerton has established its sewer district this way. Amenia is a town.

NYS Towns

The process for establishing a sewer district in a NYS town is different. Once a town has made the decision to move forward with the construction of a wastewater treatment facility, has determined approximately what residents will be provided with this service and how the project will be funded, the Town begins the process of establishing a district. There are two alternatives to proceeding with the formation of a sewer district: (i) Town Board resolution subject to permissive referendum (vote) (Article 12-A) and (ii) property owner petition (Article 12).

The purpose of forming a district is to ensure that benefited property owners of the sewer system also pay for the system, and that parcels that are within the town but are not benefited by the system are not unfairly burdened with its cost. In all cases, the district cannot be formed nor can the commitment be made to construct the improvements without prior compliance with NYS's environmental review (SEQR).

Both formation options first require the preparation of a map, plan and report: a detailed engineering report that describes the collection system, service area boundaries, treatment technology, cost of construction, cost of operation and maintenance, funding alternatives, projected annual fees and management structure. Both options require a public hearing and public education. The goal is to identify the area that needs service, properties that will be benefited, ensure the services and capital improvements are in the best interest of the community and the impacted property owners have the opportunity to provide input to the process. As a result, the district formation process is often the step where the project either terminates or decision is made to complete the project.

Level of Property Owner Control

The critical difference between the formation options is the level of control exercised by and the level of cooperation required of the impacted property owners. The highest level of property owner control and cooperation is the traditional Article 12 property owner petition. In this process the petition itself demonstrates that the impacted property owners are in support of the project and has two tests to insure no one large parcel owner controls the process. All special district formation examples the Association of Towns gave us were done by petition.

Article 12 - Petition

It requires (i) a minimum of 50% of owners of the assessed residential property value of the district to sign a petition and (ii) 50% of owners (residential and commercial) of the total assessed property value of the district. The aggregate assessed value of all properties owned by the same person or corporation are included. As an example, if Jane Smith owns three properties and signs the petition, the value of all three properties counts toward reaching the 50% minimum.

This process requires going door-to-door to collect individual signatures on a petition that lists all properties in the proposed district. (NY Town Law §191).

Article 12-A - Board Resolution (vote)

In 1959, the Legislature enacted Article 12-A of the Town Law to permit improvement districts to be established by direct action of the Town Board, subject to a permissive referendum (vote). The Town Board passes a resolution establishing the district which is subject to permissive referendum (Town Law § 209-e). To call for a referendum (vote), a petition requesting a referendum must be signed by at least 5% of property owners (residential or commercial) in the proposed district (Town Law §209-e).

If a referendum (vote) is required, each tenant by the entirety, tenant in common and joint tenant (these are ways two or more people hold title to a property i.e. John, Jane and Henry Smith) owning property within the proposed district is entitled to vote. Partnerships and corporations owning property are only entitled to a single vote regardless of the number of parcels they own. Any person(s) owning more than one parcel in the same name within the proposed district only has a single vote. Owners are not required to be registered to vote in the Town of Amenia. Only owners not rental tenants are entitled to vote on the referendum.

The referendum is either conducted in a special election or as part of the normal annual election. In order for this process to work, an extensive public education procedure must be implemented. Such a procedure is subject to a potential misinformation campaign by those in opposition to the project, and the voting could be swayed due to a disproportionate turnout of highly motivated opponents taking the time to vote at the special election.

Below is a table of voting examples demonstrating how some properties have more than one vote when there are multiple owners. And how some properties will not get a vote if their owner has multiple properties in the district.

- VOTING EXAMPLES -

Owner(s) listed on Deed	Taxable Real Property Owned	Total Votes
John & Jane Smith	123 Broadway	2
Julie Minor	345 Main Street & 400 Back Street	1
ABC Corporation, Inc.	444 Street & 600 Main Street	1
XYX Bagel, LLC	757 Down Street	1

The Numbers

Our proposed district has 233 parcels. The two town-owned parcels have been removed for this analysis as they will have no say for either option. Below is a breakdown of parcels by category, total assessed value and number of votes. If a parcel is owned by more than one person, each person gets a vote. Although there are only 155 residential parcels they have a total of 212 votes because many are owned by more than one person - not exactly fair.

Category	Assessed \$	Parcels	Votes
Residential	\$31,009,300	155	212
Residential Vacant	\$1,091,600	12	10
Commercial	\$29,311,155	58	54
Commercial Vacant	\$295,000	6	2
Total	\$61,707,055	231	278

Total Residential	\$32,100,900	167	222
Total Commercial	\$29,606,155	64	56
Total	\$61,707,055	231	278

Furthermore, under the referendum (vote) approach, at least 67 parcels in the proposed district get two or more votes because two or more people own them and at least 22 parcels do not have voting rights at all because their owners own something else in the same name in the district. Clearly that is not equal representation if one parcel gets multiple votes while another gets none even though they are both subject to the sewer fees.

Parcels with 2 or more votes		Parcels with No votes	
Commercial	4	Commercial	9
Residential	62	Commercial Vacant	4
Residential Vacant	1	Residential	6
Total	67	Residential Vacant	3
		Total	22

Total unique parcels does not double count residential parcels included in the 50% of total value test.

It was mentioned during last week's meeting that assessed value was in some way synonymous with the rich. That's just not true. Most of the commercial properties in Amenia are owned by people with modest means. Just because there is a large lot doesn't mean the owner is in some way rich.

**TOWN OF AMENIA
WASTEWATER COMMITTEE
MAP, PLAN & REPORT**

Item	Vendor	Cost
Engineer	Laberge Group	\$ 27,500.00
Attorney	Tabner, Ryan & Keniry	\$ 18,000.00
Total		\$ 45,500.00

Potential Funding Sources

2023 Budget Expense Lines

GL No.	GL Name	2023 Adopted	Recommend Use
1.080024.01.103.00	8020.4 - Planning CE Wastewater Engineering	\$ 20,000.00	\$ 20,000.00
1.080204.01.158.00	8020.4 - Planning CE Planning - Housing	\$ 10,000.00	\$ 10,000.00
1.019004.01.049.00	1900.4 - Special Items CE Contingencies	\$ 50,000.00	\$ 15,500.00
1.014404.01.000.00	1440.4 - Engineering CE	\$ 50,000.00	
Total Potential Funding			\$ 45,500.00

2023 Revenue

Engineering Planning Grant	\$ 14,080.00	\$ 14,080.00
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