

VILLAGE BOARD

VILLAGE OF WOODBURY, NEW YORK

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In the Matter of the Public Hearing
For the Acquisition of Real Property
Pursuant to Article 2 of the New York
Eminent Domain Procedure Law.

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Town Hall, Highland Mills
March 13th, 2014

B E F O R E:

MAYOR: MICHAEL QUEENAN

TRUSTEE: TIMOTHY EGAN

TRUSTEE: THOMAS FLOOD

TRUSTEE: NEIL CROUSE

TRUSTEE: DAVID SUTZ

ATTORNEY: DENNIS LYNCH, ESQ.

ENGINEER: DENNIS LINDSAY.

A L S O P R E S E N T:

DESIREE POTVIN, VILLAGE CLERK

WILLIAM MCCLENNAN

Michael DeCelestino

MAYOR QUEENAN: Okay. I'd like to welcome everybody to the March 13th Village Board Meeting.

At this time, I would like to ask everybody to please stand for the Pledge of Allegiance, and then remain standing for a moment of silence for our Armed Forces serving throughout the world.

(Whereupon, the Pledge of Allegiance is recited, and a moment of silence is taken.)

MAYOR QUEENAN: Thank you.

Okay. First up tonight is a public hearing. Again, as everybody was notified earlier, anybody who wants to speak at the public hearing, please sign in on the sign-in sheet. Thank you.

First up tonight is the public hearing. Desiree, could you please read the notice?

DESIREE POTVIN: "Said public hearing is being held for the purpose of considering (1) the proposed acquisition by condemnation (as such quoted term is defined under EDPL; hereinafter referred to as the acquisition) of all or portions of certain real property (as such quoted term is defined under EDPL) and

1 improvements consisting of the Woodbury Heights
2 Estates Water Company, Inc., located at 22
3 Country Hollow, Woodbury, New York, 10930, Tax
4 Map Numbers 247-5-2, 247-5-25 and 247-5-3
5 (herein the property) in the village of
6 Woodbury, Orange County, New York; and (ii) the
7 public purpose of the proposed acquisition,
8 location of the property, general effects of
9 the proposed acquisition on the -- general
10 effects of the proposed acquisition on the
11 environment and the residents of the locality
12 and other relevant information. No alternate
13 locations are being considered at this time.

14 The proposed acquisition of the property
15 is required for and is in connection with a
16 certain project consisting of, among other
17 things, the acquisition of certain property of
18 the company and improvements located at 22
19 Country Hollow, Woodbury, New York, 10930, Tax
20 Map Numbers 247-5-2, 247-5-25 and 247-5-3 for
21 the purposes of the village acquiring a viable
22 source and facility for water consumption by
23 village residents and other health, safety and
24 welfare needs of the village and its residents,
25 as well as others relying upon village water

1 resources. Pursuant to the New York State
2 Environmental Quality Review Act, Article 8 of
3 the Environmental Conservation Law, and its
4 implementing regulations at 6 N.Y.C.R.R Part
5 617 (collectively referred to as SEQRA), the
6 agency, by resolution adopted on February 13,
7 2014, issued its SEQRA determination concerning
8 the acquisition of the property."

9 The public notice was printed in the
10 Times-Herald Record for five consecutive days,
11 beginning February 16th, 2014, and ending
12 February 20th, 2014.

13 MAYOR QUEENAN: Thank you.

14 I'd like to introduce our consultants at
15 this time, Village Engineer Dennis Lindsay, and
16 Special Counsel Dennis Lynch.

17 Dennis.

18 DENNIS LYNCH: Good evening, Mayor. If it
19 pleases the board, the members of the audience,
20 and just for the record, he's Dennis one, I'm
21 Dennis two.

22 This is a public hearing with regard to a
23 project. The project is the acquisition of
24 real property for the extension and integration
25 of the village water supply, and this relates

1 -- I'm sorry, and this relates to obtaining a
2 viable -- a source of water for the village.
3 Present tonight is the village engineer, Dennis
4 Lindsay, who will set forth with regard to the
5 public record, the public purpose of this
6 particular project.

7 With regard to the project, as the village
8 clerk has indicated, notice has been duly
9 provided pursuant to the Eminent Domain
10 Proceeding Law, and this public hearing will
11 proceed pursuant to Section 203 of the Eminent
12 Domain Proceedings Law.

13 At this particular time I would like to
14 introduce Dennis Lindsay, who will provide
15 information to the board, and then, of course,
16 the public has the right to be heard subsequent
17 to this information.

18 I reserve our right, as the village, to be
19 able to respond appropriately after the public
20 hearing is concluded.

21 I thank you for your time tonight.

22 MAYOR QUEENAN: Thank you.

23 DENNIS LINDSAY: Yes, my name is Dennis
24 Lindsay. I'm the village engineer. I've been
25 asked to speak about the Woodbury Heights water

1 system and its importance to the village of
2 Woodbury's water supply. To do that and put it
3 in the right context, I would like to talk a
4 little bit in the background about the existing
5 water supply that we have here in the village.

6 The village has two water taxing areas.
7 One is the consolidated water area. That is,
8 it serves 10,700 persons, approximately. It
9 has 2,789 connections. It produced, in the
10 last consumer confidence report that we
11 tabulated, approximately 357,000,000 gallons of
12 water. Its highest production day was
13 approximately, 1.6 million gallons, and the
14 average annual cost to a customer to be in that
15 district is about \$190.

16 There's a small water taxing area also
17 over here in the western portion of the
18 village, which is called Amber Park. That
19 serves 180 persons, has 48 connections,
20 produces about 5,000,000 gallons a year. Its
21 highest production day is in the neighborhood
22 of 35,600 gallons a day.

23 This distribution map shows the village's
24 system. This is -- up here is Cornwall. This
25 is West Point over in this area. This is

1 woodbury Common over here. This is Route 32
2 running up to the municipality. The hamlets of
3 Central Valley are down in here, and Highland
4 Mills up in this area.

5 We have five wells in the consolidated
6 water area along this area here, that feed into
7 the consolidated water area, and we also have
8 three wells along Ridge Road that feed into
9 that district, although they're not being used
10 much at this particular juncture, and we have
11 three additional wells that are being put
12 on-line in this area up here by Trout Brook.
13 They've been developed. They've been -- the
14 well houses are there. The infrastructure is
15 there, and now it's a matter of testing and
16 putting them in line. In Amber, over in this
17 area, we have two wells that serve that area.

18 The distribution pipes range from six inch
19 to twelve inch in size, primarily. There are a
20 couple of small lines elsewhere, but they're
21 all interconnected in a fairly large
22 comprehensive system that is connected and
23 provides a strong reliable system, with
24 significant ability to bypass when we have
25 breaks and that sort of thing, because of the

1 extent of the system.

2 We have nine storage, water storage tanks
3 throughout the system. They contain
4 approximately 3.4 million gallons of water, and
5 they have elevations, and the tanks are set up
6 at different elevations, so that they can
7 provide water supply to the properties below
8 that elevation.

9 We have a significant change in grade here
10 in -- in Woodbury, from a low of approximately
11 350 feet above sea level, up to over 950 feet.
12 That's a significant range. You couldn't feed
13 it with one district. You have to have
14 multiple districts, so that you can backfeed
15 into that area, and I'll show you that. Let me
16 get the other slide up here.

17 DENNIS LYNCH: Just while he's doing it,
18 the record should reflect that there's a Court
19 Reporter taking this down. The village
20 engineer is highlighting some of his testimony,
21 using the laser pointer, and also making
22 reference to various maps and exhibits, which
23 we would -- I would like you to describe the
24 first one you took down, and now the other
25 ones. This way it's on the record, and those

1 exhibits will be part of the record for anyone
2 to review.

3 DENNIS LINDSAY: The reference that I was
4 first using is one that's titled, Town of
5 Woodbury, Orange County, New York, Water
6 Distribution System Pressure Districts 2013,
7 and it graphically displays the basic road
8 network in the municipality. It also has the
9 water lines depicted, and it has different
10 color coding for the different pressure
11 districts.

12 The second map I'm going to reference is
13 one that's called System Schematic. This is
14 not a two-scale drawing which shows
15 schematically how the system operates, and here
16 we have showing our wells down in the
17 consolidated water area. There's a number of
18 wells over here, on the right-hand side of the
19 drawing, which represent the new wells that are
20 being constructed and put on-line by Trout
21 Brook, and then there's a blue color in here
22 going up to these three tanks. That is our
23 low pressure district system. It operates at
24 hydraulic grade level 725, provides water to
25 the homes below that area, if you will, above

1 this elevation at the top of the tanks, and
2 that's our first level of our water supply
3 system. We pump into that system and provide
4 water to that district.

5 Then beyond that, we have some pump
6 stations that pump from this low, this lower
7 area, and they pump up to what's shown as green
8 on here, and we have two tanks. One is our
9 wagon Hill tank, and the other one is over in
10 w23. It's called the Southfield tank. Those
11 operate at hydraulic grade level 848, and they
12 provide water supply to the development below
13 these tanks, and in this particular range here,
14 if you will, in elevations.

15 And then we have an upper district, the
16 high level district, represented by this, I
17 guess it's a pinkish color, and there are three
18 tanks shown here. This tank on the right-hand
19 side here is the Earl Reservoir tank. The tank
20 on the left-hand side is the Adrian Hill tank
21 within the WP3 development, and the one in the
22 center here is the Country Crossing
23 development.

24 These three tanks are essentially in the
25 same elevation on their overflow, as are the

1 two green tanks, and as are the three blue
2 tanks. It's necessary to do that if we want to
3 share the water supply. We pump into those
4 tanks, and if one was too high, it would
5 overflow the lower tanks before it filled the
6 other tanks. So, they were coordinated. In
7 our 1996 comprehensive water supply report to,
8 at that time the town, who operated the system,
9 we described those systems and we talked about
10 the importance of having multiple tanks within
11 different pressure districts, and that way you
12 could take one tank out of service and still
13 provide the system with reliable water supply
14 from one tank. You could share the tanks for
15 fire protection. And so as the system
16 expanded, when new tanks came on-line, there
17 was every effort possible made to put those
18 tanks into one of our zones at an elevation
19 where it could support the rest of the zone.

20 Let me talk a little bit about Country
21 Crossing. Country Crossing is shown here in
22 the black square. There are two wells that
23 supply into Country Crossing. They're about 50
24 g.p.m. wells, at least they were originally.
25 There's a tank up there and that's a 300,000

1 gallon tank, yes, 300,000 gallon storage tank,
2 and then there are, in between, feeding the
3 dwellings in Country Crossing, there are a
4 couple of thousand feet of water supply piping
5 ranging from eight to twelve inch in size.
6 That system supplies water to approximately 217
7 residents, and in 67 single family home
8 connections.

9 This system, when it was originally put in
10 in 19 -- well, actually approved back in about
11 1997, '98, was right around the same time that
12 the comprehensive report was written for the
13 town water supply. We knew we were building an
14 Earl Reservoir tank at elevation 1020. This
15 tank is coordinated at foot of 1020, and more
16 recently, when -- that's hydraulic grade level
17 1020, when the WP3 tank was put in, it was also
18 put in elevation 1020. We have a red dotted
19 line shown along here for the interconnection.
20 That interconnection does not exist at this
21 particular juncture, but by putting these tanks
22 at the same elevation, it was the opportunity
23 to connect these, to serve this -- to share
24 this stored water, and to serve properly all of
25 the homes up in that elevation that would be

1 properly served by that hydraulic grade line.

2 We have reviewed the ability to make this
3 connection between Earl and -- the Earl
4 Reservoir tank and the Country Crossing tank,
5 and developed three possible scenarios where
6 that could be connected. They all have
7 different engineering principles and different
8 costs, but each and every one of them would
9 include the reliability, the fire protection,
10 and the inspection of maintenance capability of
11 both the area around Country Crossing for those
12 residents, as well as the other homes that are
13 served by Earl, and hopefully sometime in the
14 future, when we connect over here, the other
15 homes along the ridge that would connect over
16 to the WP3 area.

17 In terms of the specific benefits that
18 would be provided, and the unique aspects of
19 this property in Country Crossing, in
20 conjunction with an immigration to the water
21 system, the Village of Woodbury's water system,
22 this would be a value to the residents in
23 Country Crossing, and it would be a value to
24 the people that are -- are on Earl Reservoir,
25 by allowing them to share their water supply,

1 improve fire protection, improve reliability,
2 and it's long been recognized in the
3 comprehensive plan that this was part of the
4 overall system goals of the Town and Village of
5 Woodbury. As a matter of fact, when Country
6 Crossing was approved, there was an offer of
7 dedication for the water system, recognizing
8 that -- recognizing this.

9 In terms of the property location, this
10 property is well suited in need to combine with
11 the Earl and WP3 tanks. It is at an
12 appropriate elevation. It has been designed so
13 that it can be connected into them.

14 Amber, Amber Park, which is located over
15 here, it's this little box that's sort of
16 independent here, that's the Amber water area.
17 It has wells and it has a hydromatic system.
18 It does not have a stored water system. It has
19 no fire protection. The intent is, eventually,
20 to tie that into the regular -- to our system,
21 the village's system. If -- and it is situated
22 fairly close to Country Crossing. With the
23 extension from Earl Reservoir into Country
24 Crossing, and a further extension into the
25 Amber Park system, we would be able to provide

1 fire protection to Amber Park, and that would
2 be a great benefit to those residents in that
3 area. And as I mentioned, this is -- this
4 physically -- I'll refer to my other map. The
5 Earl Reservoir tank is located here, inside of
6 Earl Reservoir Park here, and this is -- you
7 see the red area up here. That's where it
8 feeds along this upper here of Brigadoon. It
9 also supplies water along here, to DePalma, and
10 other areas up in this general vicinity.

11 This is Country Crossing. This is the
12 tank for Country Crossing. Tying these two
13 together would allow us to link the system, and
14 then continuing on, this is Amber Park over
15 here, and the natural way to go along the ridge
16 here, in the northern to western part of the
17 village, would be to link these systems, and
18 maybe some day in the future, link it down over
19 here, which is where the Adrian Hill tank is
20 located in WP3, and that would provide water
21 supply in the red section, all the way through
22 this high ridge area in the village of
23 Woodbury, but independent of this connection,
24 which is a more difficult one to do, these
25 three areas here could be connected and provide

1 a much stronger system for all the residents in
2 the village of woodbury.

3 From an environmental standpoint, the
4 immigration of woodbury Heights into the
5 overall village water system would provide all
6 the benefits we discussed. It would have the
7 least environmental impacts, since it's already
8 built, and any temporary impacts that were the
9 result of a construction of this system have
10 long since past, and any of the permanent
11 impacts, such as visibility of the tank,
12 perhaps, the use of water withdrawal, already
13 exists in the system and there's no additional
14 change.

15 And unless there's any questions from the
16 board, that's basically what I have to say.

17 DENNIS LYNCH: Is this working?

18 Mr. Mayor, if I may, Dennis Lindsay is an
19 outstanding engineer and very modest about his
20 background. I would just ask that he briefly
21 indicate his background, his professional
22 degree that he has, and his knowledge,
23 generally, of this area.

24 DENNIS LINDSAY: Well, I have an
25 engineering degree from Villanova University.

1 I have a Master's degree from Manhattan
2 College. I've been a licensed professional
3 engineer for thirty some -- forty years, I
4 guess, and I'm licensed in New Jersey, New York
5 and Connecticut. I hold a waste water
6 treatment plant operator's license, and I've
7 been involved here in the Town and Village of
8 Woodbury since 1989, working on your water
9 system, your waste water system, your roads,
10 various facets, which have given me the
11 opportunity to review and know intimately your
12 water system and all of its functioning and all
13 of the approvals that have taken place since
14 1989, in terms of their integration into the
15 water system.

16 DENNIS LYNCH: Mr. Mayor and board, may I
17 ask one final question to Village Engineer
18 Lindsay?

19 This project is the acquisition of
20 property for the extension and integration of
21 the village water supply. Based upon what you
22 have just stated in the record, and your
23 knowledge of the village, are there any other
24 properties located in the village that would
25 serve all the purposes needed for this project

1 to be accomplished?

2 DENNIS LINDSAY: Well, there's no other
3 properties in the village, that I'm aware of,
4 that could be acquired to accomplish the
5 purposes of the village's water supply system
6 in the manner that this property can. The
7 property's location is uniquely situated, such
8 that its remission or exclusion from the
9 municipal water system would be a significant
10 setback in the overall system planning,
11 creating a void in the system.

12 DENNIS LYNCH: Mr. Mayor, board of
13 trustees, that concludes the engineering and
14 submission by the village. I would ask, if the
15 board is so inclined now, to open it up for
16 public comment.

17 NEIL CROUSE: Can I ask one question prior
18 to that?

19 Dennis, the --

20 DENNIS LYNCH: Dennis one.

21 NEIL CROUSE: Dennis one, the second
22 exhibit that you had, that shows, and I think
23 by your dates, this goes back to approximately
24 16 to 18 years of looking at this, this tank
25 and this water system being part of the overall

1 water system?

2 DENNIS LINDSAY: This would go back, at
3 least to 1998, probably earlier than that.
4 That's the only one that would date the
5 approval.

6 In terms of a number of things, it goes
7 well before my time, okay, before 1989. I did
8 not establish the relationship between the
9 overlook tank and the Summit Avenue tank. That
10 had been established before I came here. It
11 was good water works principle. They put those
12 two tanks pretty much the same elevation.

13 When we added the second Summit tank, we
14 put it at that elevation. The 848 tank in
15 weygant Hill, we added another tank at that
16 same elevation when WP3 came in. I was
17 involved with the setting of the Earl Reservoir
18 tank, and yes, that was coordinated with both
19 WP3 and with Country Crossing. Those I was
20 involved with, but I think there was some
21 thinking on a system sort of like this before
22 that.

23 NEIL CROUSE: Thank you.

24 MAYOR QUEENAN: Okay. I'd like to invite
25 anybody in the public who would like to get up

1 and speak on this subject.

2 well, I'm sorry, Jessica, do you want to
3 name the first person on the list?

4 JESSICA: Michael Sterthous.

5 MICHAEL STERTHOUS: Good evening,
6 Mr. Mayor, members of the village board. My
7 name is not Dennis. In fact, my name is
8 Michael Sterthous. I am an attorney with the
9 firm of Whiteman, Osterman & Hanna, based out
10 of Albany, New York. I'm appearing this
11 evening on behalf of the Woodbury Heights
12 Estates Water Company, the target of this
13 eminent domain proceeding, as well as the
14 Village of Kiryas Joel, current owner of the
15 water company.

16 We haven't had the opportunity to review
17 Dennis two's presentation, as this material was
18 not previously available on the record for us
19 to take a look at. So, I will present a few
20 brief remarks about this proceeding, and fully
21 intend to submit more formal set of written
22 comments to the board within the time period
23 provided for the public notice for this
24 hearing.

25 As I noted, the Village of Kiryas Joel is

1 the current record owner of the water company.
2 The water company is a fully certified and
3 permitted transportation corporation under New
4 York Law, operating pursuant to an approved --
5 to approved tariffs and the authority of the
6 Public Service Commission, and pursuant to a
7 valid water supply permit issued by the New
8 York State Department of Environmental
9 Conservation.

10 The water company is currently providing
11 water to Woodbury residents in the Country
12 Crossing subdivision, pursuant to its operating
13 agreement with JPK Environmental, Inc. and
14 intends to continue doing so. The water
15 company is also legally certified to extend its
16 services to the Town of Monroe and the Village
17 of Kiryas Joel, and fully intends to act upon
18 this authority.

19 Indeed, the water company and the Village
20 of Kiryas Joel are under contract to extend a
21 water supply to an approved subdivision in the
22 Town of Monroe. That extension has been
23 reviewed pursuant to the State Environmental
24 Quality Review Act and is the subject of a
25 water supply permit application to the New York

1 State DEC.

2 So, the water company is currently
3 providing an important existing public service
4 to residents of Woodbury, and intended for
5 residents of Monroe and Kiryas Joel, and this
6 is pursuant to a fully compliant legal
7 administrative permitting process.

8 In contrast, Woodbury has reported to
9 commence yet another ill advised campaign, with
10 no public purpose, other than to stop Kiryas
11 Joel at all costs, from realizing the benefit
12 of its ownership, and gaining legitimate access
13 to an additional water supply to meet the needs
14 of its residents, and those in the Town of
15 Monroe. This effort is now being launched,
16 despite the admonition by the Appellate
17 Division, that Woodbury lacks any authority to
18 control the state's water resources, and to
19 deny others legitimate access to this resource.

20 The irony of tonight's presentation in
21 that the village of Woodbury has been
22 considering for 16 or more years this -- this
23 plan of integration and connection is a bit
24 ironic in the reason why it took so long for it
25 to come to the floor, and I would present to

1 you that it is solely because of the interests
2 that has recently been acquired by the village
3 of Kiryas Joel, as well as the admonition of
4 the Second Department Appellate Division,
5 advising the village of Woodbury that it had no
6 authority to prevent water resources of the
7 state from leaving Woodbury and being provided
8 to other communities that might adjoin.

9 This hastily commenced proceeding is
10 fatally flawed for a number of procedural and
11 substantive reasons. For example, there is a
12 failure to follow the village laws, water works
13 acquisition procedures prior to the
14 commencement of this EDPL proceeding.

15 We heard tell that there was properly
16 published notices, yet we had difficulty trying
17 to locate the five consecutive days of notice
18 that were mandated by the EDPL. There's also
19 the failure to provide proper notice to the
20 record owners of the property that's being
21 sought, and sought to be taken. And frankly,
22 I'd argue that there's a failure to provide
23 proper notice to the residents of Country
24 Crossings, whose water supply this proceeding
25 intends to take.

1 These are all failed defects in the EDPL
2 process, and it's just started. More egregious
3 however, are the substantive failures. The
4 village of Woodbury lacks the fundamental legal
5 authority to even commence this EDPL
6 proceeding. As the Second Department has
7 already ruled, and as statutory and regulatory
8 law made clear, the State the New York
9 Department of Environmental Conservation has
10 the exclusive authority over the state's water
11 resources. Woodbury is clearly preempted from
12 attempting to overrule the will of the state
13 legislature.

14 New York State DEC regulations are
15 patently clear that no person can take,
16 condemn, or acquire lands, for a source, or for
17 the protection of such source of public water
18 supply, or even condemn an existing water
19 withdrawal system, without first obtaining a
20 water supply permit from the state. In fact,
21 the New York State DEC Commissioner, in a
22 declaratory ruling, has ruled that such a
23 permit is a necessary prerequisite, even to
24 initiation of an eminent domain proceeding such
25 as this. I'm unaware of any such water supply

1 permit having been sought or obtained by the
2 village of woodbury.

3 In addition, the existing water system is
4 also governed by the Public Service Commission,
5 which prohibits the transfer of title to water
6 works facilities, including this taking,
7 without notice, without the PSC's expressed
8 written consent. I'm also unaware of any
9 notice or other commission having been obtained
10 from the PSC by woodbury to commence a
11 proceeding that would effectively interfere
12 with the provision of an approved public water
13 supply, and/or an attempt to unilaterally take
14 or dissolve a private transportation
15 corporation.

16 with regard to the proposed public project
17 for use, many details which we have just seen
18 this evening, but prior to this, woodbury has
19 not presented any support for a public project
20 for use to warrant this eminent domain
21 proceeding. The speculation on some future
22 need for water is an inadequate public purpose
23 to support such an extreme action that's taking
24 private property, especially property already
25 dedicated to an existing public purpose by

1 another legal entity.

2 Moreover, our review of woodbury's
3 existing water supply permits, reveals that
4 woodbury is flushed with significantly more
5 water, on a per capita basis, than the village
6 of Kiryas Joel, making this effort appear even
7 more hollow.

8 Even if woodbury's purported public use is
9 taken at face value, woodbury still would have
10 no authority to condemn the water company,
11 because it seeks to take a property that is
12 already used for a prior public purpose.

13 With regard to the village's compliance
14 with the State Environmental Quality Review
15 Act, the environmental -- the Eminent Domain
16 Procedure Law requires woodbury to fully comply
17 with SEQRA prior to commencing this proceeding.
18 We've acquired a copy of woodbury's negative
19 declaration, despite the fact that such was not
20 available on the website, and was not readily
21 available upon a request at village hall.

22 In an ill fated attempt to acknowledge its
23 SEQRA obligations, woodbury produced a mere two
24 page negative declaration, that is literally
25 nothing more than a cut and paste of the

1 regulatory criteria to be considered, followed
2 by a bald unsupported conclusion that the
3 emanant domain will have no potential adverse
4 effect on the environment.

5 Nowhere in this document were any of the
6 information that was presented this evening
7 even considered. So, frankly, you completed
8 your environmental quality review before you
9 even had this information before you. Nowhere
10 in the negative declaration is there any
11 identification or consideration, the necessary
12 hard look under SEQRA, of potential impacts in
13 the acquisition of such a significant source of
14 water supply, including any consideration of
15 the potential impacts of growth and development
16 to result from this acquisition of such a
17 significant resource, nor any consideration of
18 how woodbury would propose to treat the waste
19 water generated from such an increased supply
20 of water, or the impacts on the generation of
21 such a significant new volume of waste water,
22 excuse me, or the impacts of the generation of
23 such a significant new volume of waste water,
24 nor was there any consideration of the impacts
25 of the development of an expanded water

1 distribution system, to name but a few.

2 Finally, there was no consideration
3 whatsoever of the significant environmental
4 impacts to result in Woodbury's taking of an
5 existing water supply away from the use of its
6 owner, including the preclusion of its use by
7 the residents of Monroe and Kiryas Joel.

8 Moreover, Woodbury failed to coordinate
9 its review with the New York State DEC or the
10 Public Service Commission, both of which
11 maintain prerequisite approval authority before
12 Woodbury can commence this proceeding. Actions
13 such as this appear a lot like infamous
14 insinuation (phonetic) under SEQRA.

15 In addition to the noted lack of
16 fundamental jurisdiction to continue this
17 eminent domain proceeding, and the failings
18 under SEQRA noted above, this exercise is also
19 fraught by striking constitutional violations.
20 For example, the New York Constitution
21 expressly provides that Kiryas Joel may not be
22 prohibited from making a fair return on the
23 value of the water company property that it
24 recently acquired. Yet, that's precisely what
25 Woodbury attempts to accomplish in this eminent

domain proceeding.

Further, the proposed condemnation would impermissibly deprive the water company of its vested rights in its already approved DEC water supply permit and certificate of extension of the transportation corp. to provide water to serve certain lands in the Town of Monroe and Kiryas Joel.

In conclusion, Woodbury's perfunctory efforts to commence this eminent domain proceeding is fatally flawed in numerous respects, and its continuation in these efforts is ill advised. This eminent domain exercise is nothing more than a pretext to Woodbury's continued campaign to deny one of its neighbors, the Village of Kiryas Joel, the fundamental right of access to a public resource necessary to serve the needs of its residents.

The Second Department has already admonished Woodbury that it lacks any authority to carry out such a plan. Should Woodbury continue to attempt to proceed in this facetious and ill fated crusade, it is near certain that the Second Department will once

again invalidate woodbury's actions, but only after significant litigation expenses to the village of woodbury taxpayers.

Thank you very much.

MAYOR QUEENAN: Thank you.

Jessica, next name on the list.

JESSICA: There is nobody.

MAYOR QUEENAN: Okay. If there's nobody else, going once, going twice, going three times. Okay.

Okay. I'm going to ask for a motion to close the public hearing.

DAVID SUTZ: I'll make that motion.

NEIL CROUSE: I'll second.

MAYOR QUEENAN: Any discussion?

All in favor.

ALL BOARD MEMBERS: Aye.

MAYOR QUEENAN: Okay. we will have ninety days to present our findings, and that completes --

DENNIS LYNCH: If I may, yes, you have ninety days from the date of closing to submit your findings, and otherwise proceed.

MAYOR QUEENAN: So, with that, that concludes our public hearing for this evening.

we'll have a two minute recess to let the
people who are here for the public hearing
leave the room before we continue with the rest
of our meeting this evening.

* * * * *

Certified to be true and accurate.
record of the within proceedings.

Michael DeCelestino

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