

# Minutes Special Township Meeting

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STATE OF ILLINOIS

LAKE COUNTY

TOWN OF NEWPORT

THE ELECTORS OF NEWPORT TOWNSHIP met at the office of the Town Clerk at the Village Hall on December 18, 2013 for a Special Meeting in accordance with Section 35-5 of the Illinois Township Code, 60 ILCS 1/35-5 to conduct a referendum on the question:

Shall a tax for road purposes be levied by the Newport Township Road District in an amount not to exceed .167% of the value of the taxable property, as equalized or assessed by the Department of Revenue?

**Township Board Members Present:** Debbie Spurgeon, Township Clerk

**Call to Order:** Spurgeon called the Special Meeting of the Electors to order at 6:20 p.m.

**Pledge of Allegiance:** Spurgeon led the assembled electors in the Pledge of Allegiance.

**Nominations for Moderator:**

The clerk requested nominations for Moderator from the township voters present. A motion to nominate Mike Dolan was made by Beth Hartford; seconded by Christina Rush.

Spurgeon inquired if there were other nominations from the floor. A motion was made by Ken Harvey and seconded by Diane Crittenden to nominate Jim Zegar.

Hearing no further nominations, Spurgeon indicated she would entertain a motion to close nominations for Moderator. Motion by Sean Depke; second by Sue Geer to close nominations.

Voice vote: Ayes, all; Nays, none. Motion passed.

A show of hands was requested for the nomination of Mike Dolan (47). A show of hands was then requested for the nomination of Jim Zegar (37). Attorney Keri-Lyn Krafthefer asked if all of the electors presented voted. [No.]

Mike Dolan was elected Moderator and was asked to come forward where he was sworn in by the clerk.

Spurgeon announced that two electors, Mark Kirschhoffer and Christina Rush have agreed to serve as judges when it is time to count the ballots.

### **Moderator's Opening Remarks:**

Moderator Mike Dolan welcomed the electors present to the Special Township Meeting called pursuant to a petition of township voters. It is the petition of these township voters who set the time and date of this meeting. The moderator pledged to facilitate the meeting in an open and fair manner. The purpose of the meeting is for the assembled electors to consider a proposal to increase the tax of the Permanent Road Fund (Gravel Fund). All registered voters were given a ballot when they were checked in. In the event voters would like to cast their ballots; place them in the ballot box leave without listening to public debate, you may do so, however, if you choose this option you will not be re-admitted to the building. [The clerk showed the assembled that the transparent ballot box is empty.] Mr. Dolan requested that no one address the electors until they have been recognized by the moderator. The board members here tonight are here as electors. They will not necessarily respond to comments made by electors, although they can voluntarily do so. Moderator Dolan requested participants to be respectful and observe proper meeting decorum.

Voters who wished to vote and leave the meeting without listening to public debate were asked to do so at this time.

Moderator Dolan offered Highway Commissioner Rodger Edmunds an opportunity to address the assembled.

### **Highway Commissioner's Remarks:**

Rodger Edmunds indicated he needs help and is asking the electorate for re-instatement of the Permanent Road Tax. He indicated he currently has \$621,000 available in this fund. He explained how the township performs road maintenance and added he has made booklets available to everyone tonight supporting his request. He is concerned that once the money is gone, there will be no more coming into the fund since the tax was turned off by the electors two years ago.

Edmunds cited IGAs (intergovernmental agreements) as a way he is trying to create revenues for the township road district.

### **Assessor's Remarks on Assessed Valuation:**

Moderator Dolan invited Assessor Jerome Berens to speak to assessed valuation and what a tax rate of .167 per \$100,000 of assessed valuation would mean for the residents of Newport Township.

Berens noted the Lake County Clerk's office shows the equalized assessed value of Newport Township as \$ 214,173,895. He noted Edmunds is asking for ~\$375,000. Using a \$300,000

home as an example, assessed evaluation is about 1/3 of the value, taxpayers would be asked to pay an increase of about \$167.00. He noted this is an approximation, which depends on the state multiplier, not yet established for the year.

Moderator Dolan indicated that he spoke with Lake County Tax Extension Administrator Kipp Wilson at the Lake County Clerk's Office and asked him if this is passed tonight and was filed by the end of December [2013] when would the increase go into effect. Wilson indicated it would be on the 2014 tax bills, so residents would see it on the June 2014 installments. Wilson also indicated the road district would start receiving monies a couple of weeks after the county received their funds.

**Public Comment:**

Christina Rush—Christina commented that \$200,000 was just transferred from the Gravel Fund and in order to do this the Board must declare that a surplus exists in the Gravel Fund. She asks is a surplus was declared? Edmunds said a surplus was declared by resolution of the Highway Commissioner. Beth Hartford noted that the Board never saw this resolution. Attorney Keri-Lyn Krafthefer indicates the Board is not required to. Mrs. Rush says a surplus was just declared and money was transferred out, and now already taxpayers are being asked for more money. She suggests better management of Newport's tax money rather than asking residents for more.

Tom Hartford--- Tom asked if the Road District currently has more than 1.5 times the amount of the operating budget. Edmunds confirms this is the case. Hartford notes this is a cause of tax objections and his concern is there are no projects identified prior to asking for additional money.

Sue Geer--- Sue asks what the township road condition will look like in 5 years. Edmunds indicates they will do the best they can. He cites Edwards Road as a road he needs to pave and is planning to do.

Susan Frankenberger—Susan says the money isn't need now. We have the money for the next 2 years. She suggests perhaps voting on reinstating the tax a year from now.

Ben Dolan—Ben asks if it possible to consider a motion tonight to turn the tax back on one year from now, starting January 1, 2015. Attorney Keri-Lyn Krafthefer says the wording of the question does not specify the date. If the vote went through, and if the Township Board cancelled the Truth in Taxation Hearing (the second part of this process) which is scheduled to occur right after this meeting, they wouldn't have the legal ability to extend the tax for 2014. But because the electors have authorized it, the Board could then extend it in 2015 without the need for another meeting like this. She suggested if this is what residents want, they should talk to their township board members about cancelling the Truth in Taxation Hearing tonight, because that might mediate this issue.

Deb Graupman-- Noted confusion over the fact that money was declared as a surplus and moved to another fund, and now more money is being asked for. Deb wonders what prevents the Highway Commissioner from again declaring a surplus and moving money to another fund in the future. Edmunds says he needed money to operate and maybe shifting the money around wasn't the best way to accomplish this. She inquired as to the number of miles of road (15) and the number of employees employed by the Road District. (3 in addition to the highway commissioner). She suggests that outsourcing to local vendors might be a more economical way to run the road district. She is also concerned with the fact that 2 of Edmunds 3 employees are family members.

Sean Depke—Sean says this tax is not needed at the current time. He feels that declaring a surplus and moving money is a game that will be played again. He is against the tax increase and noted he is appalled at some of the things going on with the new administration.

Tom Wiggett—Tom says he has witnessed some of the road maintenance in his area with the previous highway commissioner and says there has been a significant amount of unnecessary repaving over beautiful roads. He noted this has created difficulty for residents in maintaining their ditches since the roads have become so high. He asked Edmunds about the urgency of the miles of township roads to be repaved at this time. Edmunds says Edwards Road and Crawford Roads are in good shape and estimates 12-15 years before they will need to be repaved. However, Edwards Road west of Hunt Club is in terrible shape and needs to be completely rebuilt. Edmunds estimates maintaining 1-2 miles a year is necessary.

Pat Palmeri—Pat confirms Edmunds expects to spend \$200,000 for the section of Edwards Road he mentioned. (Yes.) Palmeri says this portion of roadway is in Old Mill Creek, not Newport. According to Highway Commissioner Rodger Edmunds, Old Mill Creek intends to let the road go back to the country. Edmunds indicates, Lake County advised him this would not be allowed to happen. Edmunds says we must take care of it. The highway commissioner says Newport and Old Mill Creek have an IGA for maintenance on this road, indicating we can recoup some of the money spent for patching, ditch repair and culverts. Regarding paving, Edmunds says Old Mill Creek intends to let it go back to gravel and thus Newport must take care of it. He suggests Newport may be able to obtain some of Old Mill Creek's motor fuel tax monies.

Bob Maday-- Bob asks if Old Mill Creek legally has the right to abandon the road. Edmunds interjects if they don't have the money, what can be done. Resident Susan Frankenberger would like him to let legal counsel answer the question. Attorney Keri-Lyn Krafthefer responds the township doesn't necessarily have jurisdiction over the incorporated areas of the township. Newport cannot compel Old Mill Creek to repair their roads. If they wish to let it fall into disrepair, they can do so. Maday concludes that it is not our business if Old Mill Creek refuses to maintain their roadway, adding however it does impact area drivers in Newport. Maday inquires about an area of Crawford Road that Newport is maintaining in Antioch Township. Edmunds says there is an IGA and notes the agreement defines an exchange of maintenance area for snowplowing.

Kathleen V. Shay-- Kathleen questions legal council on whether Illinois municipalities who declare bankruptcy could have Federal monies attached. Ancel Glink attorneys' Keri-Lyn

Krafthefer and Adam Simon respond that the State of Illinois currently has no legal mechanism for municipalities to declare bankruptcy.

Joseph Wager—Joseph wants to know who is responsible for calling a meeting for a last minute referendum on the Wednesday before Christmas, noting that no absentee ballots are allowed. Attorney Keri-Lyn Krafthefer says the meeting was called by a petition of some electors who are registered township voters. She adds that township code does not allow for participation by absentee ballots.

Bill Rush—Bill comments on the importance of using the resources we fund efficiently. He describes a situation he witnessed in his area where roads were plowed when less than an inch of snow had fallen. Rush concludes that when you hear there are 2 full-time employees plowing snow and you see this, it really casts a shadow on whether our resources are being used efficiently, or whether there is waste involved. Edmunds responds that his direction to his employees is that he wants the roads clean no matter the amount of snow.

Mary Drimalla—Mary feels the portion of Edwards Road that is not being repaired is a safety issue noting drivers sometimes drive on the opposite side of the road to avoid potholes. Like other residents tonight, she believes Old Mill Creek needs to step up and maintain the road they willingly annexed, but is concerned about the issue of safety.

Mark Kirschhoffer—Mark comments that we were all paying this tax before the previous highway commissioner zeroed the levy. Kirschhoffer says we were satisfied with the dollars we were paying and the service we were receiving previously and believes we are sacrificing a program of refurbishing and replacing. He says the previous highway commissioner was not following a plan of refurbishing, which is why a surplus resulted but it cannot continue and dollars are needed to have a plan in place. Mark says that if we don't pass it now, we will have to go to the residents with a referendum to get it back. Moderator Dolan notes he spoke with Tax Extension Administrator Kipp Wilson on this subject and Kipp indicated the Gravel Fund has no sunset clause—no public referendum is needed after 3 years. Ancel Glink Attorney Adam Simon described a pie analogy. Simon says you can make the pie out of different ingredients (Gravel Fund, IMRF, other authorized taxes) and the Gravel Fund can be taken out of the pie one year, and put back in the next, but if the size of the pie shrinks the pie might not be able to grow large enough again without referendum. Dolan disagrees noting Kipp Wilson explained the Gravel Fund is unique and there is no sunset clause. Attorney Adam Simon agrees there is no sunset clause on the individual road and bridge funds. He restates the pie analogy.

Resident & Newport Trustee Beth Hartford comments the road district levy was never zeroed out. She explains that the previous highway commissioner [Dan Dziekan] mishandled the road district levies, levying the same dollar figure every year for 8 years using figures his predecessor [Kevin Zupec] had used before him. He never increased the levy and he never made accommodations for the fact that expenses are rising. She states the levy that should be increased is the Road & Bridge Fund levy not the Gravel levy, noting the Gravel Fund would not have a shortfall and would have been fine if it had been left alone. The immediate shortfall was created because money was transferred out. She suggests the Road & Bridge Fund could be over levied and a Truth in Taxation Hearing held, to increase the amount of money flowing into the fund it is

needed in rather than in the fund it is not. She notes the imbalance was created by 8 years of mishandling of the road district levies, stating the road commissioner was told year after year that he was mishandling the levy however he rebuffed any help or advice from the Board.

Ken Harvey-- Ken says he entrusted his vote with Rodger Edmunds and although he [Ken] lives in the Village of Wadsworth and this will not benefit him, he is willing to pay the extra tax (he says ~\$160 for his house) so that township residents can have their streets taken care of.

Larry Jones-- Larry has concerns over the transfer of monies from one fund to another with no intention to pay it back. He wonders what guarantees residents have that funds going into one account will not be transferred out to other funds. He thinks it makes sense to go to referendum to get the funds rather than trying to backdoor a tax increase to the wrong fund. He wants to make sure that the funds are used for the purpose for which they were levied.

Ron Miller—Ron commented on assessed valuations and the cost of the tax increase to individual taxpayers.

Rick Neal—Rick commented on the tax schedule and the cost of the special gravel tax when it was previously on his tax bill (~\$83 for his house).

Tom Hartford--- Tom commented on how the township has faced tax objections in the past due to excessive monies in certain funds. He believes tax monies should be levied in the funds they are needed, calling it a more straight-up way to operate as well as being less confusing to taxpayers.

Ben Dolan—Asked whether the township board would consider the option mentioned by legal council to delay the onset of the tax for one year. Township Assessor Jerome Berens stated that voters who cast their ballot tonight did not hear this discussion. Attorney Keri-Lyn Krafthefer of Ancel Glink, Diamond, Bush, DiCianni & Krafthefer, PC says what they voted on had no date specified. Resident Dan Dziekan says some of the people who already voted might change their mind if the tax was delayed. Moderator Dolan comments this option came up later in the discussion.

The audience urges the moderator to call the question.

### **The Referendum:**

Moderator Dolan invites voters to come forward and cast their ballots and urges everyone to stay around for the counting.

[Voters place their secret ballots into the ballot box.]

Moderator Mike Dolan invites the judges (Christina Rush & Mark Kirschhoffer) to come forward. The judges discuss and agree on the counting process with Attorney Ker-Lyn Krafthefer. The ballots are counted and recounted.

**Tally of Vote Results:**

For the question, “Shall a tax for road purposes be levied by the Newport Township Road District in an amount not to exceed .167% of the value of the taxable property, as equalized or assessed by the Department of Revenue?”

The vote is announced:

**YES 57**

**NO 64**

The question fails. [The referendum does not pass.]

**Adjournment:**

Mike Dolan requested a motion to adjourn the Special Township Meeting at 7:36 p.m. Motion to adjourn by Randy Whitmore; seconded by Laurie Dolan.

Voice vote: Ayes, all; Nays, none. Motion passed.

**Dated the 18<sup>th</sup> day of December, 2013.**

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s/Debbie Spurgeon

**Debbie Spurgeon, Township Clerk**