

TOWN OF CONSTANTIA  
**MINUTES PUBLIC HEARING – TOWN BOARD –JANUARY 4, 2011**  
7:00PM – Constantia Town Hall

Present: Charles Gilkey – Supervisor  
Richard Colesante, John Metzger, Thomas Moran and Frank Tomaino – Council Members  
Clare Haynes – Town Clerk  
Warren Bader – Town Attorney

Others Present: Eugene Kadlubowski – Property owner  
Eugene Kadlubowski – Son of property owner  
Marsha Kadlubowski – Daughter of property owner

**CALL TO ORDER:**

At 7:00 pm Supervisor Gilkey called the meeting to order with the pledge of allegiance.

**PURPOSE:**

The purpose of this public hearing is to hear questions on regards to the Eminent Domain/Condemnation proceedings for the property located at 200 Doris Park Drive. Mr. Gilkey started the meeting by reading the following legal notice that appeared in the Citizen Outlet:

**TOWN OF CONSTANTIA NOTICE OF PUBLIC HEARING  
CONCERNING THE TOAD HARBOR/NORTH SHORE WATER DISTRICT  
EMINENT DOMAIN PROCEEDINGS**

**TAKE NOTICE** that a public hearing will be held by the Town of Constantia on January 4, 2011, at 7:00 p.m. at the Constantia Town Hall, 14 Frederick Street, Constantia, New York, regarding the construction of a water distribution system for the Toad Harbor/North Shore Water District, situated in the area of the Town located to the south of County Route 49.

The Toad Harbor/North Shore Water District was created in 2007, after the Town Board, acting as lead agency pursuant to the New York State Environmental Quality Review Act, determined that said improvement would not result in any significant adverse environmental impact.

Costich Engineering has prepared plans for the construction of such improvements consisting of approximately 160 Thousand feet of water main and a water distribution system to be installed in the Constantia and Toad Harbor Water District.

In order to construct these improvements, the Town has attempted to acquire easements for water lines over certain properties. Negotiations with the following landowners have been unsuccessful. The properties affected by this proceeding are as follows:

<u>Tax Map Number</u>	<u>Reputed Owner</u>	<u>Location</u>
310.05-04-32.2	Eugene Kadlubowski	200 Doris Park Drive

**THEREFORE**, pursuant to its right to exercise Eminent Domain pursuant to General Municipal Law section 120-u(3)(a), the Town of Constantia hereby gives notice of a public hearing for the acquisition of easements over each of the above-referenced properties.

Due to topography of the area and the location of the above properties which lie between neighboring properties to be served within the District, there are no other possible alternative locations for any of said properties.

**NOTICE IS HEREBY GIVEN** that the environmental significance, if any, of the proposed Local Law will be reviewed by the Town Board incident to said public hearing.

Any person may submit written views thereon in advance of said meeting in care of the Town Clerk, or may be heard in person at said meeting. Copies of the map, plan and report concerning the District, and the engineering report for the project, are available for review at the Town Clerk's Office. Persons with disabilities who require assistance in attending said public hearing, or in furnishing comments and suggestions, should contact the undersigned to request such assistance.

By Order of the Town Board of the Town of Constantia.

Dated: December 7, 2010

Clare Haynes - Town Clerk

**PUBLIC COMMENT:**

One written comment was received from Mr. Eugene Kadlubowski owner of 200 Doris Park Drive, Mr. Gilkey read the following:

Mr. Kadlubowski asked why they were putting in such big water lines down his road, Mr. Gilkey responded that the engineers were responsible for that, and the board is only entertaining questions in regards to the Eminent Domain Proceedings. Mr. Kadlubowski stated that he is willing to settle on his terms because it is his property. Mr. Kadlubowski also complained that no map was available, many have been given to him, Mr. Bader made a copy of the map and handed it to him.

The Board did not understand some of Mr. Kadlubowski's concerns from his letter so his son explained that the major concern is the trees that are part of the seawall, will be destroyed. The water line will be about 15 to 20 feet away from the trees and if a majority of the roots get cut then the trees will be damaged or they could topple over which will ruin the seawall. Mr. Colesante asked if they do die or topple can he sue the water district, Mr. Bader answered that he could. Mr. Kadlubowski's daughter agreed that the trees and the shoreline are the most important.

Mr. Bader thinks the Board should move forward, there have been offers before and in the end there is no agreement.

There were no more questions or comments at this time, public comment is closed.

**CLOSE:**

At 7:30pm Mr. Colesante made the motion to close the public hearing on the Eminent Domain Proceedings for tax map 210.05-04-32-2 Eugene Kadlubowski, seconded by Mr. Metzger.  
Carried: Moran – Yes Tomaino – Yes Colesante – Yes Metzger – Yes Gilkey – Yes

**LEGAL NOTICE:**

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The Toad Harbor/North Shore Water District was created in 2007, after the Town Board, acting as lead agency pursuant to the New York State Environmental Quality Review Act, determined that said improvement would not result in any significant adverse environmental impact.

Costich Engineering has prepared plans for the construction of such improvements consisting of approximately 160 Thousand feet of water main and a water distribution system to be installed in the Constantia and Toad Harbor Water District.

In order to construct these improvements, the Town has attempted to acquire easements for water lines over certain properties. Negotiations with the following landowners have been unsuccessful. The properties affected by this proceeding are as follows:

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310.05-04-32.2	Eugene Kadlubowski	200 Doris Park Drive

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By Order of the Town Board of the Town of Constantia.

Dated: December 7, 2010

Clare Haynes - Town Clerk

**LEGAL NOTICE:**

The following legal notice was again read into the minutes:

**TOWN OF CONSTANTIA NOTICE OF PUBLIC HEARING  
CONCERNING THE TOAD HARBOR/NORTH SHORE WATER DISTRICT  
EMINENT DOMAIN PROCEEDINGS**

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By Order of the Town Board of the Town of Constantia.

Dated: December 7, 2010

Clare Haynes - Town Clerk

**DETERMINATION AND FINDINGS:**

Mr. Gilkey read the following into the minutes:

**SYNOPSIS OF DETERMINATION AND FINDINGS  
TOWN OF CONSTANTIA NORTH SHORE WATER DISTRICT  
EMINENT DOMAIN PROCEEDINGS**

On September 11, 2007, the Town of Constantia established the North Shore Water District and approved the construction of water system facilities which shall consist of approximately 3 miles of new 16 inch ductile iron water main, 7 miles of new 12 inch ductile iron water main, 11 miles of new 8 inch ductile water main and a new 500,000 gallon Water Storage Tank ("Project").

The Town must obtain permanent easements over certain properties to construct the aforementioned water facilities. The Town has not been able to obtain an easement for:

<u>Property Owners</u>	<u>Address</u>	<u>Tax Map Number</u>
Eugene Kadlubowski	200 Doris Park Drive	310.05-04-32.20

The Kadlubowski property easement will be used to run a water main connecting two portions of the water system. Due to the topography of the area and the location of the water main pipes existing on neighboring properties, there are no other possible alternative locations.

A public hearing was held pursuant to Eminent Domain Procedure Law section 202 on January 4, 2011. Publication and notice to the property owners was duly performed. A record of the

public hearing is available for review at the Town Clerk's office and the Oswego County Clerk's office.

The Town Board of the Town Constantia determined that the construction of the aforementioned water system facilities, which will provide municipal water service to the various residential and commercial properties situated within the District which heretofore have been using contaminated and deteriorating private water well systems, will result in a public benefit. By replacing the contaminated and deteriorating water well systems with updated facilities meeting standards acceptable to the Department of Health, the health and safety of the residents will be assured for future years.

The easement sought on the Kadlubowski property is a permanent easement, twenty (20) feet wide and approximately 85 to 90 feet long. The Town has examined the possibility of re-engineering the design in that area to avoid the necessity for an easement over the Kadlubowski property, but the alignment of the water mains on neighboring properties is such that there is no accommodation which can be made, and the easement is required for the Project to proceed.

The Town Board of the Town of Constantia hereby determines that the Project, and this eminent domain proceeding, is necessary and appropriate for the improvement of the water system in the Town.

Copies of the determination and findings will be forwarded, without charge, upon request.

Mr. Moran made the motion to approve the Synopsis of Determination and Findings and proceed with the Eminent Domain, seconded by Mr. Colesante.

Carried: Moran – Yes Tomaino – Yes Colesante – Yes Metzger – Yes Gilkey – Yes