

NYAW UPDATE

As we are all aware, in May 2017, NYAW was awarded a water rate increase by the NYS Public Service Commission, that has impacted all Village residents. After the Board and I discussed our options, we decided to commence litigation challenging the Order.

Under the Order, and as we claim in the litigation, the Village and ratepayers in the Village have been required to pay charges for water that are unjust, unreasonable, unlawful, unconstitutional and discriminatory. The Order provided that a service area, identified as the Sea Cliff District, and including the Village and areas of Glen Head serviced by NYAW, was to be classified differently than the Merrick District service area. As a result of this disparate classification, Sea Cliff residents have been required to pay water rates that are higher than the water rates in the Merrick District for the very same water service.

The primary purported justification for the rate differential relates to property taxes, and in particular (as stated in the Order):

- The disparity in property taxes between the Sea Cliff and Merrick districts was too high to integrate their rates;

- Sea Cliff property tax expenses incremental to those of Merrick should be collected by NYAW through a rate applicable only to customers in the Sea Cliff District through a Rate Adjustment Mechanism

- Sharing the Sea Cliff District's property tax burden with customers of the Merrick District is not reasonable;

- The decommissioning of the LIPA plant (located in the North Shore School District, Town of Oyster Bay and Nassau County taxing jurisdiction, but not the Village) results in the allocation by the taxing districts to other customers in the utility class (including NYAW) to make up for lost tax revenue;

- The Sea Cliff District is a relatively high-valued property area with higher than average assessments compared to other parts of NYAW's system;

- NYAW has experienced a significant increase in property taxes over the last 10 years. Since 2013, property taxes have more than doubled;

- The PSC is concerned that by allowing some sharing of the Sea Cliff District's property tax with the Merrick district, they may encourage taxing jurisdictions to continue to disproportionately target the utility and special franchise class to make up revenue shortfalls, which is an untenable outcome;

- As a result of these considerations, rate socialization providing for one rate class would not be in the best interests of the taxpayers;

- Instead, the PSC directed NYAW to surcharge Sea Cliff customers for the incremental per customer property tax burden above that of the per customer property tax responsibility of Merrick customers

The Village's litigation challenges these determinations as arbitrary, and as we have learned recently our position has been vindicated.

Our persistence paid off, and as a result of the litigation, in December, NYAW, backed into a corner, had a mea culpa moment. In reviewing their internal processes and documentation, NYAW determined that a number of utility properties in the Sea Cliff District were over-assessed due to a company error resulting in an overassessment in taxes since 2013. As a consequence, NYAW immediately agreed that, effective January 1st of this year, the RAC charge (Reconciliation Adjustment Clause and Property Tax Clause), which was approximately \$27 per customer, would be terminated, the incremental property tax surcharge (IPTs) would be reduced, and \$1.7 million in deferred property taxes would be written down.

Also, as a consequence of NYAW's admission, the PSC commenced an investigation of NYAW. The PSC concluded that NYAW "intentionally withheld material facts that would have resulted in substantially lower water rates for customers in the Sea Cliff district". As a result of their intentional disinformation and misinformation, PSC found that there was an overpayment of \$2.3 million, of which \$292,000 was overcollected from Sea Cliff district ratepayers. This overcollection was ordered to be refunded to ratepayers in the form of a \$68 credit for each ratepayer. Moreover, PSC also reset real property tax benchmarks to reflect accurate property values, which will lower ratepayers bills by \$1.7 million over the next 2 years. PSC has estimated this change to result in a savings of \$170 per ratepayer in 2019 and \$176 per ratepayer in 2020.

Thus, as a direct result of actions taken by the Village, Sea Cliff District ratepayers will be paying less than originally anticipated based on the May 2017 Order.

As an additional attempt to mitigate the harm it imposed upon Village residents, NYAW has proposed a resolution of the litigation that would provide an offset to the purchase price of its property on Shore Road, which offset amount will then also be credited to Sea Cliff District ratepayers and will thus result in an additional reduction in monies paid to NYAW by Sea Cliff residents.

The Village was approached with this proposed resolution, and presently is conducting appropriate and responsible due diligence. While I will not disclose the specifics of the discussions unless and until a resolution is reached, I am here to tell you that any resolution will not preclude the Village from continuing its efforts to undue the impacts of the rate classification or taking or supporting other steps that would result in the reduction of water rates for our residents.

In fact, in furtherance of this effort, and thanks to the efforts of our Administrator and Senator Marcellino, the Village has authorized the acceptance of grant funds to be used to conduct a feasibility study for the provision of water service by a public entity.