

Texas Brine Project

PUBLIC HEARING MINUTES

WCIDA Public Hearing for the Texas Brine request for a Deviated PILOT Agreement with IDA was held on January 3, 2019 at 10 a.m. at the Middlebury Town Highway Office, 51 Sherman Avenue, Wyoming, N.Y.

Attendees: Joelle Stroud, Treasurer, Wyoming Central School; Kathleen Schuessler, Superintendent, Wyoming Central School; Earl Wells, C3 Communications; Craig Harkins, Gordy Ewell and Tom Jaroszek, Town Board Members; Dan Leuer, Supervisor, Town of Middlebury; Henry Zomesfeid, Attorney, Hodgson Russ LLP; Robin Marschilok, Director of Operations and James Pierce Executive Director for Wyoming County Industrial Development Agency.

1. James Pierce opened the hearing at 10:00 a.m. and had available the published hearing notice and summary of the project.

Pierce informed the attendees that this public hearing was being held for two reasons. First, because the proposed project incentives will be more than \$100,000 the IDA is required by law to hold a public hearing and second, the project owners have asked for a deviation from the IDA's standard PILOT schedule.

Pierce then read from the project summary provided stating that Texas Brine has been in business since 1946 and is a brine extracting operation. Texas Brine currently employees 10 people who will be at risk of losing their jobs if the project were to cease. The project will include \$21,005,275 in capital investment over the next 10 years with plans to build 3 new wells this year, 3 new wells next year and a total of 39 over the 10 years. Pierce noted that the schedule for the proposed PILOT is attached to the packet provided showing the PILOT base amount at \$7 million and incremental increases over the 10 years.

Pierce stated that the IDA Board will be considering this project this afternoon at it's Board of Directors Meeting and minutes form this public hearing will be presented to the Board for their information and use.

Pierce then opened the floor to comments

2. The school Treasurer, Joelle Stroud, presented a copy of a letter from the school superintendent objecting the PILOT schedule as proposed.
J. Pierce read the letter and made it a part of the minutes, (Schedule "A", attached).

3. Supervisor Dan Leuer then directed his comments toward the School Superintendent, Kathleen Schuessler, asking if the President of the School Board is aware of the letter. Schuessler indicated that the Board was fully aware of the letter presented to the IDA and they are not trying to make waves.
4. Discussion then ensued between Dan Leuer and the School representatives:

Dan Leuer: The School tax issue was a subject of the Town Board meeting in regards to the notice included in the 2018 School Tax Levy's indicating that taxes will be going up and there are assessment changes.

Joelle Stroud: Yes, Texas Brine is not the only reason for the increases.

DL: We have made a settlement with Occidental at another figure as well. Texas Brine was previously assessed in 2015 at \$3.5M and in 2017 the assessment had jumped to \$21M. Understanding that this was being disputed, the Town held funds in reserve to utilize for relief, did the school do the same?

JS: The School has put funds in reserve and has used some of those funds to keep the tax increase within the 2% tax cap.

DL: The School's budget is 2x the Towns Budget so I questioned where did all that money go.

JS: We have been very careful, some has been allocated for capital relief and can not be touched, some used for tax relief in 2018.

DL: Texas Brine's assessment jumped from \$3.5M to \$21M over two years, with agreement of \$7M as a base for the PILOT it is still 2 times the assessment of 3 years ago and Texas Brine has agreed to 2.5% increases each year so at the end of 10 years the amount being taxed will be over \$8M.

DL: Wyoming School is one of 5 districts in Middlebury and on the State website for school tax rates, Wyoming is low in comparison at \$17.25/\$1,000 of assessment. If the concerns from the residents were because the taxes went up it was because of assessment changes. People in the Pavilion School District pay more than Wyoming residents.

JS: The brochure sent out from the school explains that and I had residents calling and screaming at me, some said they just cannot afford to pay more taxes.

Dan Leuer provided a handout showing the average tax rate per school in the Town and would like it presented to the IDA Board. Please see Schedule "B" attached.

DL: The school was invited to participate in discussions about the PILOT Agreement over the past 6 months and has not.

JS: I was not aware of that.

DL: I will check with Town Attorney, David DiMatteo to confirm that the school was invited to the discussions through Phil Spalline.

JS: This was brand new to us and I went to our attorney to help me understand how this works.

DL: We forwarded the numbers on to the attorneys preparing the PILOT Agreement. I understand and appreciate where the School is on this, the School vote on going above the 2% tax cap goes to all the residents, the Town goes to the Town Board for vote.

JS: With the tax cap issue, we can only raise taxes about \$45,000 in a year which may cover raises. We have to be careful, we just recently learned of a high cost student moving into the district which will increase our expenses by \$100,000.

DL: The State-aid the becomes a question. At the \$12.5M assessed value it was unlikely that we would have an agreement with Texas Brine. Judge Mohan had ordered that we have a PILOT in place by the end of the year and we are almost there.

JS: My understanding is that in 2015 the Texas Brine assessment went to \$3.5 but it hadn't been raised since the '70's.

DL: Olin pays the expenses and this is the number that they can afford. It's more than they pay for their Niagara Falls Facility. At risk besides the 10 local jobs are the 200 jobs up there and approximately 60,000 ancillary jobs involved.

DL: With the Host Agreement the Town residents should see a stabilization in their Town taxes and that will help to alleviate the School tax amount.

Pierce asked for any other comments.

No other questions or comments were made. Pierce closed the hearing at 10:32 a.m.

Minutes prepared by R. Marschilok



**PUBLIC HEARING
SIGN-IN SHEET**

Public hearing held to review request for IDA assistance by Texas Brine New York LLC, held on January 3, 2019 at 9:00 a.m., Middlebury Town Highway Department, 51 Sherman Avenue Wyoming, N.Y.

Please sign your name below.

1. Juelle Stroud - WCS District 19. _____
2. EARL Wells, es Communications Treasurer 20. _____
3. Kathleen Schuessler - WCS - Supt. 21. _____
4. CRAIG T. HARKINS Boardmember 22. _____
5. Dordy Ewell Boardmember 23. _____
6. Tom Jaroszek Boardmember 24. _____
7. Dan Leuer, Town Supervisor. 25. _____
8. Henry Tomeskeid - Attorney 26. _____
9. Robert Manschreck WCEDA 27. _____
10. Jim Pierce WCEDA 28. _____
11. _____ 29. _____
12. _____ 30. _____
13. _____ 31. _____
14. _____ 32. _____
15. _____ 33. _____
16. _____ 34. _____
17. _____ 35. _____
18. _____ 36. _____

Attachment "A"

WYOMING CENTRAL SCHOOL DISTRICT

instilling...Wisdom, Commitment, Success

1225 Route 19 • Post Office Box 244
Wyoming, New York 14591-0244
www.wyomingcsd.org
(585) 495-6222 Phone
(585) 495-6341 Fax



January 2, 2019

Via Email jpierce@wycoida.org, US Mail and Hand Delivery

Ms. Robin L. Marschilok
Director of Operations
Wyoming County Industrial Development Agency
36 Center Street
Warsaw, New York 14569

Re: Texas Brine New York, LLC: Notice of Public Hearing
January 3, 2019 Re: Notice of Deviation

Dear Ms. Marschilok:

I write in response to your letter of December 20, 2018 that enclosed the Notice of Deviation and Notice of Public Hearing regarding Texas Brine New York LLC.

I write to advise that the School District objects to the proposed Deviation by the Wyoming County Industrial Development Agency ("WCIDA") from its Uniform Tax Exemption Policy ("UTEP"). As you know, the parties' settlement agreement as memorialized in the Consent Order of Settlement signed by Wyoming County Court Judge Michael M. Mohun on June 27, 2018 sets the assessment for the subject property at \$12,500,000 for the taxable status date for year 2018.

The Order also states that the parties intend to be bound by a PILOT Agreement for tax year 2019. However, your letter of December 20 was the first time the School District learned of the terms of this proposal. The PILOT Agreement as outlined there is simply not workable for the School District. In addition, the WCIDA proposal does not comply with requirements of General Municipal Law Article 18-A on multiple grounds, including but not limited to: the lack of any evidence supporting the conclusion that the benefits of the proposed PILOT outweigh the costs of the tax relief; the absence of any explanation about how the loss of tax revenue would be made up. In addition, I understand there has been no appraisal report prepared regarding the valuation of the subject property.

Notwithstanding the foregoing, for tax year 2019 the School District is willing to abide by the settlement assessment of \$12,500,000.

I respectfully request that this letter be included in the WCIDA record of this matter.

Please contact me should there be any questions.

Very truly yours,

Kathleen E. Schuessler

Kathleen E. Schuessler
Superintendent

Attachment "B"

Dan Leuer

From: "Dan Leuer" <dleuer@rochester.rr.com>
Date: Friday, December 07, 2018 7:44 AM
To: "Craig Harkins" <harkfarm@rochester.rr.com>; "Ewell" <doraewell@gmail.com>; "Greg Chamberlain" <cjbj@frontiernet.net>; "Tom Jaroszek" <superm54@yahoo.com>
Cc: "David DiMatteo" <ddimatteo@ddimatteolaw.com>
Subject: School District tax rates

Middlebury Board Members,

After the Thursday discussion with Texas Brine and Attorneys I thought that I would do a bit more research regarding the various tax rates for the school districts within the Town of Middlebury. This will provide you with a comparison of the Wyoming Central School and the other districts in the Town and what the residents of those districts are paying on a rate per assessed thousand. This data is provided by the Wyoming County Office of Real Property for 2018. All are at the Towns 100% equalization rate.

1. Alexander Central School District: \$20.796040 per assessed thousand
2. Attica Central School District: \$15.786759 per assessed thousand
3. Pavilion Central School District: \$20.164002 per assessed thousand
4. Warsaw Central School District: \$20.529837 per assessed thousand
5. **Wyoming Central School District: \$17.250898 per assessed thousand**

As you can see from the chart above, while Wyoming isn't the lowest taxing district in the Town of Middlebury, it is by no means the highest. In fact, within the County only Letchworth Central school has the lowest tax rate for the 7 Towns covered by that district at \$13.579 per assessed thousand. So, the next time someone complains about Wyoming school taxes, tell them there is a good chance that their neighbors down the road are paying quite a bit more.

Dan Leuer