

Town Board Meeting

August 10, 2009

8:15 p.m.

Present: Supervisor Newlin; Council Members Bax, Edwards, Johnson & Palmer; Town Atty. Leone; Deputy Tn. Atty. Koryl; Eng. Lannon; Adm./Op. Lockhart; Finance Officer DiRamio; Bldg. Insp. Masters; Deputy Sup. Elgin; Highway Supt. Reiter; Rec. Dir. Dashineau; Grant Writer Rotella & Town Clerk Brandon. 10 residents and 2 press reps.

The Supervisor called the meeting to order at 8:15 p.m.

AGENDA:

Newlin: Sidewalks discussion re: Sanborn.

Leone asked for an Executive Session to discuss the Verizon Tower issue with counsel and advise us.

Motion by Johnson, seconded by Bax to go into Executive Session. Carried 5-0.

ABSTRACT:

Johnson MOVED to approve the regular Abstract of Claims numbered 2239 to 2629 and recommend payment in the amount of \$330,971.51 plus a Post Audit of \$94,290.56. Seconded by Bax.

Johnson: I talked to Dir. Dashineau regarding an invoice for \$650.00 for a transmission for an old dump truck. I don't know if we should be putting money into repairs. Perhaps there are vehicles from other departments for possible transfer to the Recreation Dept. Then we need to set money aside for the future.

Motion carried 5-0.

Leone: There was an item that was pulled from the abstract for collision work done in Lockport that is signed by the Highway Supt. There was no accident report filed and as such it is not a proper subject to be voted on. It was in the abstract to begin with and then removed.

Newlin said it is your understanding that a town vehicle was involved?

Leone: Apparently, a town vehicle was involved but I am not aware of any of the instances. I do not have a copy of the accident report. This was sent to me by the Budget Officer and I believed it should be pulled. There should be an accident report and I will check with the clerk.

Newlin: We have developed a policy for accidents. A police report, an accident report and the insurance company are to be notified on any accident.

National Grid Tree Removal:

Newlin: They have been trimming and taking down trees along Ridge Road and other roads in the Town without notifying the residents. We are working with the NYS DOT and National Grid on this.

Zoning Board of Appeals Appointment:

Bax: There were 3 qualified candidates that were interviewed by Mr. Masters. I would like to commend the 3 applicants who were all qualified. There maybe some future vacancies.

Bax MOVED for the appointment of William Conrad to the Zoning Board of Appeals with the term to end on 12/31/11. Seconded by Newlin.

Palmer stated that Mr. Conrad is well qualified and a welcome addition to the Board.

Newlin stated that Mr. Conrad had served well in the past and will be a good fit.

Johnson: I think we should keep the applications as there maybe a vacancy on the Board in the future.

Motion carried 5-0.

Electric Inspector Local Law Chapter 8A:

Newlin said that we have an antiquated town law that specifically mentions by name two contractors that were supposed to serve as the electrical inspectors for the Town. We have to change that law. We asked Mr. Masters to look at localities that are similar in size to see how to write the new law through a public hearing.

Masters: I went through the e-code and towns such as Orchard Park, Wheatfield etc and what their code section states. Some towns have in their code that the electrical inspector be approved by the Town Board at the re-organizational meeting and other towns state it at their code. I gave copies of those to the attorney.

Koryl: I have spoken with the various towns regarding this. I contacted the Association of Towns and there is some new language that has been pushed by them with regard to this. I will work with Mr. Masters and perhaps by the next meeting we will have proposed changes for the Board.

Newlin said that then we can set up a public hearing on this.

EDWARDS;

Drainage Issue:

We have a drainage issue at 434 Tryon Drive with the new development nearby flooding the property. I would like the Town Engineer and the Drainage Dept. to look at this.

Reiter Compensation:

This has been due to him from 1/1/09 thru 5/14/09 for work performed. We asked for a list of his duties and work performed and I am satisfied.

Edwards MOVED that Supt. Reiter be compensated \$2423.07 for duties performed under Parks Personnel. Seconded by Palmer and carried 5-0.

Sanborn Wireless Grant:

Newlin said the County is pursuing an addition of wireless access points throughout the county. Lewiston successfully did this 3 years ago and Center Street is accessible wirelessly to internet connections free of charge. I thought Sanborn would be a good place for the next phase of that wireless and access availability. With the construction of the dormitory for N.C.C.C. there is a younger demographic neighborhood. This should also help the businesses in Sanborn. We will be hearing back from the County

Sanborn Sidewalks:

Newlin said that there are some further sidewalk areas that need work caused by up-heaving trees etc., so would the engineer look at the area and report back.

Joint Village/Town Meeting:

Johnson stated that there will be a joint meeting with the Village and Town on August 24, 2009 at 5:00 p.m. here at the Town Hall.

Newlin: We will come back after the Executive Session after discussion on the Verizon contract. We will also discuss the Legacy Drive matter

Bax MOVED to go into Executive Session. Seconded by Johnson and carried 5-0.

Time: 8:30 p.m.

Executive Session:

Present: Sup. Newlin; Council Members Bax, Edwards, Johnson & Palmer; Tn. Atty. Leone; Deputy Tn. Atty. Koryl*; Eng. Lannon; Bldg. Insp. Master; Deputy Sup. Elgin & Atty. Jared Lusk representing Verizon.

Issues Discussed:

1. Legacy Drive.
2. Verizon Tower Contract.

Motion by Edwards to exit Executive Session and reconvene. Seconded by Palmer and carried 5-0.

Time: 9:05 p.m.

Newlin called the Board Mgt. back in session at 9:08 p.m.

Leone: You have before you a proposed resolution of the Town Board and you have declared reasons that you are supporting a Neg Dec.

Newlin MOVED to accept the Neg Dec as presented. (Copy on File). Seconded by Edwards.

Leone said that I would assume that by removing the Neg Dec you are moving it pursuant to the resolution and encompassing in that motion all of the terms and provisions that are included there.

Newlin said we will submit that into the record to the Clerk's office.

Motion carried 4-0-1 (Palmer)

Palmer: I own property (my residence that is located directly adjacent to one of the other properties that was considered for the tower. Therefore, I don't feel comfortable voting on either site although my personal feeling is the Calkins Road site is much preferred by far and the more practical solution to the process.

Johnson said with the conversations that we have had with the attorneys for Verizon, the possible opposition did not consider how far back this would be on the parkway. I feel more comfortable now with everybody on the same page and everybody is happy. I am okay with this.

Leone: The second would be a resolution of the Town Board to permit the tower to be built on the Calkins Road site. Attached to that resolution is an Exhibit "A" which are the Finding of Fact in support of the Town's termination in doing so. Additionally, maybe this would have been properly part of the first, but it does not matter because in the EAF Part 2 of your environmental that has been filed by the applicant and found by the Town Board to be appropriate as the lead agency under SEQRA. Assuming that the Board is in favor, then you would adopt a resolution permitting the approval of the tower and you would also adopt by reference as fully set forth Exhibit "A" that being in support of that resolution.

Newlin MOVED for the approval of the Resolution as presented. Seconded by Bax.

RESOLUTION OF THE TOWN OF LEWISTON TOWN BOARD
AUGUST 10, 2009

TOWER PERMIT APPROVAL

WHEREAS, Upstate Cellular Network, d/b/a/ Verizon Wireless ("Verizon Wireless") proposes to construct and operate a wireless telecommunication facility (the "Project") on property to be leased from Anthony Presutti, having an address of 4160 Calkins Road in the Town of Lewiston, Tax Map No. 073.16.2.11 (the "Property") and

WHEREAS, Verizon Wireless submitted an application to the Town, dated January 8, 2008, for a Tower Permit for the Project (the "Application") in accordance with the Town of Lewiston Zoning Ordinance (Zoning Code"); and
WHEREAS, the Town Board is fully familiar with the proposed location, the surrounding parcels, and the larger neighborhood; and
WHEREAS, the Project is a Type 1 action under SEQRA and this Board issued a Negative Declaration of Environmental Significance; and
WHEREAS, Zoning Code Chapter 22B governs the issuance of Tower Permits and the Application complies with the submission requirements set forth in Section 22B-4(G) of the Zoning Code; and
WHEREAS, the Project was reviewed by the Niagara County Planning Department ("County Planning Board"), in accordance with General Municipal Law§ 239-m; and
WHEREAS, the County Planning Board, in a report dated February 13, 2008, recommended approval of the Project; and
WHEREAS, the Zoning Code requires the Application be referred to various committees and individuals in the Town for review and comment; and
WHEREAS, the Application has been referred to all applicable committees and individuals, each of which has provided a copy of its comments to the Town Board; and
WHEREAS, Verizon Wireless also considered locating the tower on the Waste Water Treatment Plant Property on Pletcher Road; and
WHEREAS, for the reasons set forth below, the Town Board determines that a tower on the Property on Calkins Road is preferred over the Waste Water Treatment Plant.
NOW THEREFORE, be it resolved that the Town Board for the Town of Lewiston hereby approves a Tower Permit for Verizon Wireless to construct, operate and maintain a wireless telecommunications facility on the Property, as set forth on the site plans submitted with the Application and as presented to the Town Board; and be it further
RESOLVED, that the Town Board has made certain findings of fact supporting its determination to issue a Town Permit, and that such findings are attached hereto as Exhibit A and are incorporated with this Resolution, and be it further
RESOLVED, that the Town Clerk shall immediately file a copy of this Resolution in the Town records.
IN WITNESS WHEREOF, this Resolution was properly adopted by the Town Board at its regularly scheduled meeting, the date of which is listed below.

TOWN OF LEWISTON TOWN BOARD

August 10, 2009

Newlin: For the records, those findings are outlined in detail in the submission and will be available for the public.

On the Motion to Adopt, 4-0-1 (Palmer).

Newlin said he clearly thinks that this is the better site for this project concerning the community impacts. This site is much preferable for the number of residents that it does not impact than it would at the other site. This becomes the best solution for the cell tower location.

Edwards MOVED to Adjourn. Seconded by Bax and carried 5-0.

Time: 9:12 p.m.

Respectfully Submitted and Transcribed by:

Carol J. Brandon
Town Clerk

*Executive Minutes taken by Atty. Koryl.