

MINUTES OF THE OCTOBER 7, 2010 MEETING OF THE TOWN BOARD OF THE TOWN OF POUND RIDGE AND PUBLIC HEARING HELD AT THE TOWN HOUSE, 179 WESTCHESTER AVENUE, POUND RIDGE, N.Y., COMMENCING AT 8:00 P.M.

PRESENT: SUPERVISOR GARY WARSHAUER; COUNCIL MEMBERS:
DANIEL PASCHKES, RICHARD LYMAN AND PETER FALCO

ALSO PRESENT: TOWN ATTORNEY, JAMES J. SULLIVAN, ESQ.
TOWN CLERK, JOANNE PACE
DEPUTY SUPERVISOR, JONATHAN POWERS

ABSENT: PAUL McCONVILLE

CALL TO ORDER: Supervisor Warshauer called the meeting to order at 8:00 p.m.

CALL FOR EXECUTIVE SESSION:

Board Action: Motion by Councilman Lyman, seconded by Councilman Paschkes, all voting aye to hold an Executive Session immediately following the Town Board meeting for a personnel matter.

ANNOUNCEMENTS:

- Supervisor's Forum to discuss Senior Issues-Saturday, October 9th, 10:00 a.m. at the Town House
- On Wednesday, October 13, 2010, Fox Lane High School is hosting a program titled Healthy Communities, Healthy Kids. Supervisor Warshauer will be attending on behalf of Pound Ridge and speak in support of the program.

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MINUTES: Acknowledge/Correct/Accept Minutes of Work Session of September 29, 2010.

Board Action: Motion by Councilman Lyman, seconded by Councilman Falco, all voting aye to acknowledge/correct/accept minutes of Work Session Meeting of September 29, 2010. The Town Board accepted the minutes of the September 21, 2010 Town Board meeting at the Work Session meeting.

PUBLIC HEARING: To consider the Special Use Permit Application for Mariella's Wine and Espresso Bar at 71 Westchester Avenue, Pound Ridge, N.Y.

Alex Rubeo, the project manager for the Wine and Espresso Bar was present to present the proposal and answer any questions that came up. He said that the building is actually divided into two separate entities, the wine bar and the wine store. The Health Department gave approval to serve alcohol and food May 10, 2010. It will be a casual Wine Bar serving limited foods in addition to offering wine, coffee, soft drinks and baked

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goods. Counsel Sullivan asked if they have been approved for a liquor license and Alex said they were approved but have not received the actual license yet. Counsel Sullivan said that he has reached out to the property owners and they agreed to send a letter which will confirm the understanding that there will not be any parking restrictions or barriers. This will also include the signatures of the two tenants. Upon confirmation, the property owners will be extended an indemnity agreement. Supervisor Warshauer mentioned that the Town Board received a recommendation from the Planning Board to allow the applicant to operate a wine bar subject to the parking area in the rear of the building becoming part of the Parking District.

The other side of the building will be a wine store. This does not need a Special Use Permit because it is an extension of the previous business.

Rachel Weismann, Rolling Meadow Lane, asked if the applicant intends to have any outdoor seating in front of the shop. Alex said that he hadn't thought about it, but it would be a nice idea. If he decided to go ahead with that, he would have to come before the Town Board again with a separate Special Use Permit annually. Alex said that the proposed hours of operation would be 12:00 p.m. to 8:00 p.m. and possibly later on Fridays and Saturdays.

Board Action: Motion by Councilman Paschkes, seconded by Councilman Falco, all voting aye to close the Public Hearing to consider the Special Use Permit Application for Mariella's Wine and Espresso Bar at 71 Westchester Avenue, Pound Ridge, N.Y.

RESOLUTION #: 172 -10

Board Action: Motion by Councilman Lyman, seconded by Councilman Paschkes, all voting aye on the following:

RESOLVED, that the Town Board hereby approve the Special Use Permit application for Mariella's Wine and Espresso Bar at 71 Westchester Avenue, Pound Ridge, N.Y. as requested conditioned upon the continued affirmation of available parking, subject to acceptance of the specific language of the letter by the Town Attorney.

NEW BUSINESS:

T-Mobile wireless communication application for cell tower to serve Scotts Corners- confirm dates for balloon test of the Oceanus Navigation property and schedule Public Hearing for November 18, 2010

Councilman Paschkes recused himself from the discussion on this matter. In the last discussions on this particular application, the Town Board and the Planning Board have been interested in a certain study of a property that had not been included in the past in their application. They have asked the applicant to complete the application with inclusion of a study on the Oceanus Navigation property (aka Hsu property) and the 29

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acre CH State Holdings property. T-Mobile has agreed to perform a balloon test at the two locations.

Cara Bonomolo, with Snyder & Snyder LLP, representing the applicant T-Mobile Northeast LLC, gave a brief background. In September 2007, T-Mobile originally filed an application for a Special Use Permit with the Town Board to locate a wireless telecommunication facility at the Ambulance Corps property at 89 Westchester Avenue. The proposal is for a 130' tree pole with antennas thereon to accommodate T-Mobile, AT& T and emergency services. The Town has requested that T-Mobile analyze the feasibility of locating the facility at an alternative location on a property owned by Oceanus Navigation Corporation LTD or Oceanus/Hsu property. T-Mobile is still in the process of trying to obtain a lease agreement with the owner of the property however, in the spirit of cooperation; they did meet with the Town last month and agreed to conduct a balloon test on October 18, 2010. They did a site visit at the property today to mark the location for the proposed facility. There were two locations that were discussed today at the site. One was the site originally selected at the Hsu property with the Planning Board back in June 2009 and then at the meeting last month there was another location discussed. It was agreed that one of them would not work because it was on a cliff. The preferred location will be suggested to Mr. Hsu and has told them that they will get an answer next week to proceed with this location or not. Supervisor Warshauer said that they have selected this property as a possibility to evaluate the extent of coverage that the tower will provide. The property at the Ambulance Corps site is a lower elevation. The hill on the Hsu property blocks the coverage from the Ambulance Corps site to the other side of Town. The Town's goal is to minimize the number of towers in Town and provide the maximum coverage. Ms. Bonomolo said that they have reviewed 23 alternative locations. She also said that there has been a propagation study of the Oceanus/Hsu property already and they have submitted the studies to the Planning Board and the Town Board showing the coverage that would be provided from the tower on the Oceanus/Hsu property and it would remedy T-Mobile's gap in coverage. The purpose of the balloon test is to assess the potential visual impact from the proposed facility.

Santo Borsellino, Rolling Meadow Lane, spoke on behalf of the 29 Acres Preservation Association and wanted to go on record with the Town Board and with Counsel for the applicant that they are being represented by Oxman Tulis Kirkpatrick Whyatt & Geiger LLP. They are requesting to have the balloon test done at a later date to allow the leaves to come down. They understand that the applicant has Federal Law on their side and have Federal mandates on their side; however, they have the public well being to consider.

Peter Avellino, Pine Drive, asked if the crane for the balloon testing would be erected at the exact spot for the cell tower. Cara Bonomolo said that it would not be possible to bring a crane to the site without substantial tree removal and disturbance to the area. There will be balloon test that is attached to a string. There may be need to remove about

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3 trees at both sites. Wind and weather is a factor. They would try to do the test and if the weather was against them, they will perform the test the next day or the next day. Peter Avellino asked again to have the test postponed until most of the leaves have fallen. John Owen, Rolling Meadow Lane, requested changing the day of the week of the balloon test to a Saturday or Sunday. The Town Board and the counsel for the applicant agreed to move the date to Saturday, October 30 to allow more residents to be there if they wish. The Town Board agreed to schedule a Public Hearing for November 18, 2010 in connection with the Special Use Permit application by T-Mobile Northeast LLC to install a public utility wireless telecommunication services facility at 89 Westchester Avenue as well as considering an alternative location on property owned by Oceanus Navigation Corporation LTD located at Lower Trinity Pass. This meeting will be a joint meeting with the Planning Board.

Peter Avellino asked why there is a need to accelerate this application and scheduling of the Public Hearing. Supervisor Warshauer said that this is not an accelerated pace because this application has been pending in Town since 2007. The issue that the Town Board has been wrestling with is the completion of the analysis of this particular site in that application. It is the same application for a cell tower at the Ambulance Corps building. The Town Board wants them to evaluate other potential sites and look at the pluses and minuses of those other potential sites.

Cara Bonomolo said that the application has been pending since 2007 and they have spent a lot of time at the Planning Board reviewing different alternatives and has been asking the Town Board for quite some time to schedule a Public Hearing on the Ambulance Corps application. In addition, last year in November 2009, the FCC passed an order which set forth time limitations within which a municipality must make a determination on wireless telecommunications facilities at a location. It is 150 days for a new tower. Once they put the Town on notice, there is a 50 day shot clock that begins to run. Given that this application has been pending since 2007, they have put the Town on notice of the FCC order that does require a determination within a certain amount of time. They have been mutually agreeing to extend that deadline until November 18, 2010 and they ask that the Town Board moves forward with the Public Hearing to comply with that FCC order.

Peter Avellino finds it extremely disturbing to hear that the Town Board shed their responsibility as a Board by not understanding the seriousness behind this. He said that he has spoken with the Town Board numerous times over the past three years asking that a cell tower comprehensive plan be put together. We still don't know if this location will reduce the number of cell towers needed in Town and he finds it very disturbing that this is being rushed at this time. He is asking that the Town Board take into consideration all that the 29 Acre group is asking.

Supervisor Warshauer said that it is the obligation of the Town Board to look at cell service for the whole Town and locate the site to have the most coverage with the least impact. All the Town Board is doing right now is asking that this site be included in the

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application. The Public Hearing that we hold on this is going to be a Public Hearing that includes all the locations.

Peter Avellino said that there are 23 different locations and only 2 have balloon tests. He would like a balloon test done on all of the locations before the Public Hearing. The public will not be able to give any information on the other sites if all the tests are not done.

Cara Bonomolo said that the Planning Board considered all of the locations in making their recommendation of an alternative site at the Hsu property to the Town Board. Based on the Planning Board recommendation and the Town Board direction, T-Mobile spent over a year trying to obtain a lease agreement with the owners of the Oceanus/Hsu property. They are continuing to work in a hope that they will be able to obtain an agreement there. In the mean time, they will perform the balloon test at that site.

The residents would prefer to have the cell tower go up in Scotts Corners. Elyse Arnow, Fancher Road, said that she questions the thoroughness of the Town Board when they considered Scotts Corners as a site for the cell tower. Elyse said that they studied a lower tower in the lower elevation and maybe they should have considered a taller tower in such a lower elevation. Supervisor Warshauer explained that this is line of sight technology and the higher the property is by its nature, the more coverage you would get and the issue with Scotts Corners is that it has the lowest elevation in Pound Ridge and the coverage is limited. Cara Bonomolo said that there were propagation studies submitted to the Planning Board that included both lower and higher cell towers and the coverage was still not adequate for the rest of the Town. The Planning Board referred a proposal to the Town Board to put one tower in the Town Park and a shorter cell tower in Scotts Corners. This was rejected because the Town Board did not want a cell tower in the Town Park.

Peter Avellino is requesting an extension of time to perform balloon tests on all 23 properties before the Public Hearing. They cannot present all the sites at the Public Hearing if the proper tests were not done at every possible location in Town. Cara Bonomolo said that it would be an unreasonable burden on the applicant to ask them to conduct a visual analysis at every possible commercial location in Town especially in light of the fact that they have spent so much time with the Planning Board and they did site walks in Scotts Corners. They really did their due diligence and a lot of time was spent with the Planning Board. There was a lot of discussion on the proposed sites. The Public Hearing will be a joint meeting of the Town Board and the Planning Board and they can speak to why, in considering all the locations, they preferred to proceed with the Hsu property. The Ambulance Corps building is a recommended site that is also on the facilities inventory list, however, the coverage is significantly less than that on the Hsu property.

It was decided to conduct the balloon test on the Hsu property on Saturday, October 30th. The Public Hearing with the Town Board and the Planning Board will be held on

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November 18th and the purpose of the Public Hearing is to get public input and look at potential other alternatives and not necessarily make a decision that night.

RESOLUTION #: 173 -10

Board Action: Motion by Councilman Falco, seconded by Councilman Lyman, the Town Board polled and the motion passing 3-0 with Councilman Paschkes abstaining on the following:

RESOLVED, that the Town Board hereby schedules a Public Hearing with the Planning Board in attendance at 8:00 p.m. on November 18, 2010 at the Town House to consider the T-Mobile wireless telecommunication application for a cell tower to serve Scotts Corners, subject to the applicant conducting the balloon test on the Hsu property and including the results of said test in the application.

Westchester Land Trust- request for creation of new walking trails at the Eastwoods Preserve

Tom Anderson, Westchester Land Trust, is requesting permission to create new walking trails at the Eastwoods Preserve. Tom Anderson indicated that they would also prepare a maintenance agreement or management plan for the preserve. They have a volunteer group that wants to start to create the trail on October 19, 2010 from 9:00 a.m. to 3:00 p.m. Chief Ryan has made them aware that October 16th is the start of the Deer Hunting season and he advised the Town Board that there will not be any hunting allowed October 18, 19 or 20th so that the trails can be completed without interruption. Counsel Sullivan asked that the Town receive a certificate of liability from the Westchester Land Trust due to the fact that third parties will be working on Town property.

RESOLUTION #: 174 -10

Board Action: Motion by Councilman Paschkes, seconded by Councilman Lyman, all voting aye on the following:

RESOLVED, that the Town Board hereby approves the request from the Westchester Land Trust to create walking trails at the Eastwoods Preserve on October 19, 2010 from 9:00 a.m. – 3:00 p.m. using volunteer labor subject to the Town Attorney receiving and accepting a Certificate of Liability naming the Town as an additional insured covering all the workers on the property.

Oceanus Navigation Property – request by Planning Board to consider cluster subdivision

The Planning Board is in the process of reviewing the proposed subdivision of a 102-acre property owned by Oceanus Navigation. The applicant has proposed both a conventional subdivision of 11 lots and a conservation subdivision of 13 lots that includes two open

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space parcels. The Planning Board members agreed that the advantage of the conservation subdivision include:

- Decreased disturbance to the land.
- Reduction of impact to wetlands.
- Less disturbance of buffer area.
- Decreased impervious surface.
- Creation of two large open space parcels, one of which is contiguous to the Bye Preserve and the other contiguous with an open space parcel that had been proposed by CH State Holdings which is adjacent to Aquarion water company land, resulting in a biotic corridor.
- House placement density that is both consistent with the neighborhood (Rolling Meadow Road) and isolated enough as to not impact the neighborhood.

The Planning Board voted unanimously at its meeting on September 23, 2010 to recommend that the Town Board permit review of the proposed conservation/cluster subdivision. This comes under Section 281 of the Real Estate Law and can only be granted by the Town Board. If this is the way they want to go, the Town Board would conduct a Public Hearing process in order to approve that decision. Elyse Arnow, Fancher Road, mentioned that much of the proposed subdivision crosses into the whole green corridor and she wants them to consider maintaining the corridor throughout the development. Out of the 100 acres proposed for the subdivision, approximately 60 acres are to be Open Space. It is in the interest of the Town to maintain the corridor. Supervisor Warshauer is asking the Town Board in conjunction with the consideration of the cluster subdivision they ask the Planning Board to maintain the biotic corridor as part of their analysis.

RESOLUTION # 175-10

Board Action: Motion by Councilman Paschkes, seconded by Councilman Lyman, all voting aye on the following:

RESOLVED, that the Town Board hereby authorizes the Planning Board to consider a conservation/cluster subdivision on the Oceanus Navigation Property with the further advice and request that they seek to preserve continuity of Open Space and to avoid fragmenting the Open Space to the greatest extent possible.

Community Center- consider rejection of bids, since the project is over budget and possibility of new referendum

The Community Center bids all came in over budget. There were bid bonds provided by the bidders and they need to be returned to them.

RESOLUTION #: 176- 10

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Board Action: Motion by Councilman Lyman, seconded by Councilman Falco, all voting aye on the following

RESOLVED, that the Town Board hereby officially reject the Community Center bids and return the bid bonds to the bidders. The refund for the bid specification package is also to go back to the bidders who return the bid specifications in good condition.

Town resident Jim O'Donohue voiced his opinion about the Community Center and feels that it is not sensible to move forward with this project at this time. He also feels that the Town Park is the wrong place to construct this building. Supervisor Warshauer said that he would ask the Recreation Commission to take his suggestion into consideration as they re-evaluate the project.

Town Clerk-recommendation to accept bids for 2010-2011 Fuel Oil and Service Contract

RESOLUTION #: 177-10

Board Action: Motion by Councilman Lyman, seconded by Councilman Paschkes, all voting aye on the following:

WHEREAS, the Town Clerk's office received two bid packages for #2 heating oil and/or diesel fuel and service which was opened on Thursday, September 23, 2010 by Town Clerk Joanne Pace and Deputy Town Clerk Carole Wollenweber, And

WHEREAS, the lower bidder was Marshall Oil Company who will deliver product for all facilities at twelve (+12) cents per gallon above the low New York Harbor Barge Reseller's price, And,

WHEREAS, Marshall Oil Company was also the low bidder on the service contract, the bid for which is one hundred twenty (\$120) dollars per unit and seventy (\$70.00) dollars per oil fired water heater as well as they enclosed a bidder's non-collusion statement as requested, Now, Therefore, Be It

RESOLVED, that the Town Board hereby awards the bid to Marshall Oil Company to supply the Town with No.2 Fuel Oil and the service contract.

Landmarks Commission – consider accepting Vince Manna's resignation as Town Historian and from the Landmarks and Historical Commission

RESOLUTION #: 178-10

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Board Action: Motion by Councilman Paschkes, seconded by Councilman Falco, all voting aye on the following:

RESOLVED, that the Town Board hereby accepts the resignation of Vince Manna as Town Historian and Landmarks and Historic District Commission Vice-Chair effective September 30, 2010, and expresses its gratitude for his service to the Town.

Planning Board – requesting release of a performance bond for Twin Lakes and Pine Brook Road

At the September 23, 2010 Planning Board meeting, members voted unanimously to recommend to the Town Board the release of the \$35,000 performance bond currently held by the Town for roadway improvements for a 100' section of roadway at the intersection of Twin Lakes Drive and Pine Brook Road. The subdivision was in the Town of Bedford with a 100' section in the Town of Pound Ridge. Woodard & Curran, Town Engineers, inspected the construction of the roadway improvements and confirmed the work was completed. They recommend the release of the \$35,000 performance bond held by the Town of Pound Ridge.

RESOLUTION #: 179-10

Board Action: Motion by Councilman Lyman, seconded by Councilman Paschkes, all voting aye on the following:

RESOLVED, that the Town Board hereby authorizes the release of a performance bond for Twin Lakes and Pine Brook Road in the amount of \$35,000.

Court Clerk- requesting permission for Cindy Burchetta-Smith to attend a Court Clerk's Annual Conference

Court Clerk, Sonia Mercado-Jimenez is requesting permission to send Cindy Burchetta-Smith to the Association of Magistrates Court Clerks 30th annual conference on February 20-23, 2011 at the Sheraton NY Hotel & Towers in New York. The approximate cost is \$950.00 which includes hotel, pre-registration, meals and mileage.

RESOLUTION #: 180 -10

Board Action: Motion by Councilman Lyman, seconded by Councilman Falco, all voting aye on the following:

RESOLVED, that the Town Board hereby authorizes Cindy Burchetta-Smith to attend the Association of Magistrates Court Clerks 30th annual conference on February 20-23, 2011 at the Sheraton NY Hotel & Towers in New York. The

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approximate cost is \$950.00 which includes hotel, pre-registration, meals and mileage.

Pound Ridge Fire District – requests permission to use the highway garage for training

The Board of Commissioners of the Pound Ridge Fire District hereby requests permission to use the Highway Garage property for the purpose of training on October 18th and October 25th. The Fire Department will notify the neighbors.

RESOLUTION #: 181 -10

Board Action: Motion by Councilman Lyman, seconded by Councilman Falco, all voting aye on the following:

RESOLVED, that the Town Board hereby authorizes the Pound Ridge Fire District to use the Highway Garage property for the purpose of training on October 18th and October 25th. The Fire Department will notify the neighbors.

Garden Club-use of 40 folding chairs from Conant Hall

Jill Posner, Properties Chair for the Pound Ridge Garden Club is requesting to borrow 40 folding chairs from Conant Hall on November 9, 2010 for their annual Thanksgiving Tray Decoration Workshop and Luncheon. They would also ask Ray Andretta, Maintenance Department, to deliver and pick up the chairs from the Thom residence.

Board Action: Motion by Councilman Lyman, seconded by Councilman Falco, all voting aye to allow the Garden Club to borrow 40 folding chairs from Conant Hall on November 9, 2010 for their annual Thanksgiving Tray Decoration Workshop and Luncheon. They would also ask Ray Andretta, Maintenance Department, to deliver and pick up the chairs from the Thom residence subject to their providing a Certificate of Liability.

FINANCIAL MATTERS

Recreation Department-requesting authorization to refund program overpayments

RESOLUTION #: 182 -10

Board Action: Motion by Councilman Falco, seconded by Councilman Lyman, all voting aye on the following:

RESOLVED, that the Town Board hereby authorizes the following refunds:

Eileen Kelly	\$65.00 from A2001	Flag football schedule conflict
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234 Salem Rd.
Pound Ridge, N.Y. 10576

Tracey Arena \$65.00 from A2001 Flag football schedule conflict
33 Upland Road
Bedford, N.Y. 10506

Jamie Cutaia \$95.00 from A2001 Flag football schedule conflict
10 Cartway Lane W.
Bedford, N.Y. 10506

- requesting authorization to purchase lounge chairs to be used at the pool

The Recreation Commission is requesting authorization to purchase 24 chaise lounge chairs, 5 club chairs and 14 stacking high back sand chairs to use at the pool. The cost will be approximately \$4,999.69.

RESOLUTION #: 183 -10

Board Action: Motion by Councilman Paschkes, seconded by Councilman Lyman, all voting aye on the following:

RESOLVED, that the Town Board hereby authorizes the Recreation Commission to purchase 24 chaise lounge chairs, 5 club chairs and 14 stacking high back sand chairs to use at the pool. This will be subject to David Goldberg receiving three (3) quotes meeting the guidelines in our procurement policy. The cost will not exceed \$5,000. It will come out of line A7180.400.

ADJOURNMENT: There being no further business to come before the Board, the meeting was adjourned at 10:55 p.m.

Joanne Pace
Dated at Pound Ridge, New York
October 12, 2010