

March 6, 2012

The regular meeting of the Varick Town Board was called to order by Supervisor Robert Hayssen at 7:00 p.m. Present were council members, Kathy Russo, Robert Bauman, and John Saeli, Town Clerk, Donna Karlsen, Highway Superintendent, Richard McCulloch, Bookkeeper, Cheryl Poormon , Zoning Board Chairman, Jeff Hogue, Planning Board members, Todd Horton and Barry Somerville, Verizon Representative, Kathy Pomponio, Nixon Peabody for Verizon, Robert Burgdorf, Airosmith Development for Verizon, Ken Cowley and Reporter, Aneta Glover. Absent: Councilman Peter McDonald, Town Attorney, John Sipos, Bookkeeper, Carol Sipos

Petitioners: Robert Burgdorf from Nixon Peabody reviewed the steps that have been taken by Verizon and the approval granted by the Varick Town Planning Board regarding the placement of a cellular tower on State Route 336 in the town of Varick. Although the Planning Board approved a special use permit for the construction of this tower, Robert Burgdorf's opinion is that this permit is defective and state law preempts local laws and regulations and approval for construction of the tower must go before the town's Zoning Board of Appeals as the set back of the proposed tower does not meet town code and requires a variance. He made reference to the Federal Telecommunication act 1996 and the Rosenberg case. He reported that they are unable to use the existing tower at this location and reported the height would be reduced from the original tower of 300' down to 197'. The new tower does have a break point, and if the tower should collapse, it is designed to come straight down.

Kathy Pompanio suggested that the town's Zoning Board of Appeals meet to review their application within the time frame of the established shot clock which is due to expire on March 21. It was explained that the shot clock was established by the FCC to set a time limit on which a municipality must act. If the shot clock were to expire with no action on the municipality's part, Verizon Wireless has 30 days to take the municipality to court if they choose.

Jeff Hogue, ZBA Chairman reported that the Zoning Board of Appeals is not trying to stop this process, but there have been questions as to what procedure needs to be followed. The town's code is not clear as to where the power lies to review this application and differing opinions between the Town Attorney, John Sipos and Robert Burgdorf exist. Chairman Hogue reported that the soonest he could get the Zoning Board together would be April 10 at which time they could hold a hearing on this area variance if recommended by the Town Board. It was reported by the Planning Board representatives at this meeting that after much research and discussion and in the best interest of the town their board approved the Special Use Permit making it conditional to its review by the Zoning Board of Appeals regarding the set back issue. This was understood, but never entered in to their meeting minutes.

It was determined in order to proceed with this and allow the Zoning Board of Appeals time to hold a public hearing, the shot clock would need to be extended which was agreeable to Verizon representatives.

A motion by John Saeli, seconded by Kathy Russo and so carried unanimously to extend the shot clock 45 days and direct Supervisor Hayssen to sign the required paperwork to be prepared by Verizon.

Mr. Hayssen is to notify John Sipos of the board's decision.

It was reported by Ken Conley that inspection of the construction of the tower is completed by a NY State Licensed PE.

The Verizon representatives, Jeff Hogue, Zoning Board Chairman, and Todd Horton and Barry Somerville, Planning Board Members excused themselves from the board meeting to continue discussion regarding this matter.

Highway: Mr. McCulloch reported that they will be doing some patch work on the roads as the weather permits.

He clarified that the board should consider looking at purchasing another 10 wheeler in the future, but it is not needed now. The back up truck sander isn't existent, it is used as a utility truck and he isn't confident if it was put in full service it would hold up. He reported that the sander in the newer truck is a Tenco brand and built right into the truck box. He reported that the town's people expect the highway department on the roads in an emergency and if their department is cut back to bare bones and their equipment goes down, it makes their department and the board look bad.

Mr. McCulloch indicated that he could attend an auction to see what kind of pricing the used 10 wheel trucks are going for versus purchasing a new one. If a new one is purchased, it can take approximately a year once it has been ordered to receive it.

He reiterated the fact that the town does not need another truck now, but the town will need one in the future and the board should start planning for it.

Seneca Lake Water: Two test hydrants approximately one mile apart were dug up to review the condition and replace the hydrant bolts. The bolts were in poor condition.

It was decided that the bolts do need to be replaced and Mr. Saeli and Mr. Hayssen will prepare the bid specs for replacement of the bolts.

The board is still considering the leak detection service.

It was reported that we do have a contract with the Village of Waterloo to repair and service the water line and Jim Bromka from the Village is our licensed Certified Water Systems Operator. It was also noted that the income from this district does exceed the expenses.

Water District No. 1: The county owes the town a credit of \$109.68 which they over charged us for parts to repair shut offs at Hinman and Spano residence. This dollar amount was paid to Team EJP Syracuse NY at the direction of the county and should have been the county's portion to be paid. The next county bill paid will reflect the credit the town is owed of \$109.68.

Water District No. 3: Mrs. Karlsen reminded the board that the town received a Verified Notice of Claim from Alario & Fischer, Attorneys at Law who are representing Syracuse Constructors, Inc vs. Town of Varick. for damages resulting from a breach of contract. The town just recently received a FOIL request from them as well.

We have received copies of water billing sent to the Town of Fayette from Seneca County, with notes attached per Jeff Trout not to pay as they are still negotiating the amount due for water used. The board reviewed the amount of money collected in water rents.

The closing with Rural Development for this district will be held March 21 in their Canandaigua office.

Varick Water District No. 4: Mr. Hayssen is asking for some grant funds along with loan money in order to get below the required threshold. He is hoping to receive the Letter of Conditions fore this district at the March 21 closing with Rural Development on Water District No. 3.

Town Clerk's Report: A motion by John Saeli, seconded by Kathy Russo and so carried unanimously to accept the Town Clerk's Report. Supervisor: \$100, New York State Ag. And Markets: \$4.00, Total Disbursements: \$104.

Mrs. Karlsen received a letter from Varick Volunteer Fire Department who is requesting the issuance of a DOH EMS Agency Code number for their district from the Department of Health. The fire department included a copy of a letter that DOH requests to be typed on the town's letter head and signed by the supervisor stating he fire department respond to EMS incidents in the town. The board approved Mr. Hayssen signing this letter contingent on town attorney approval.

A motion by John Saeli, seconded by Robert Bauman and so carried unanimously to approve the minutes of February 7, 2012.

Supervisor's Report: The board reviewed the balances submitted for Seneca Lake Water District.

A motion by John Saeli, seconded by Kathy Russo and so carried unanimously to accept the Supervisor's report.

Personnel: Nothing to report.

Code Enforcement: Mr. Colton prepared a written report.

Assessor: State aid requirements for revaluations were met and the town should receive a check for \$5,480. Mrs. Russo reported that she was glad she received information regarding STAR from Senator Nozzolio's office.

Mr. Hayssen received Notice of Tentative Franchise.

Abstract: A motion by John Saeli, seconded by Robert Bauman and so carried unanimously to approve Abstract No. 3, Highway Vouchers DAO12-14 to DAO12-21 in the amount of \$2,112.44, Seneca Lake Water, SWS12-14 to SW12-30 in the amount of \$30,330.77, General, A0012-41 to A0012-46 in the amount of \$1,093.49, Varick Water District No. 3, Voucher VW312-4 in the amount of \$25.00, Varick Sewer District No. 2, Voucher SSS12-6 in the amount of \$889.36, Varick Sewer District No. 1, Vouchers VS112-8 to VS112-10 in the amount of \$6,171.53, Varick Water District No. 1, Voucher VW112-4 in the amount of \$40.

A motion by Robert Bauman, seconded by John Saeli and so carried unanimously to approve payment to Municipal Solutions as follows:

Invoice 2358	General	\$ 95.00
Invoice 2359	Water District No., 3, Capital Project	\$2,299.08
Invoice 2360	Water District No., 3 Capital Project	\$ 638.96
Invoice 2361	Water District No., 4 Capital Project	\$ 356.25

Old Business:

Mr. Saeli spoke to Griffith Energy again and discovered they over charged us on the last billing and will issue a credit. He will check with Roy Gates to find out what company has the state bid for providing heating oil.

A motion by John Saeli, seconded by Robert Bauman and so carried unanimously to adjourn the meeting at 9:00 p.m.

Respectfully submitted

Donna Karlsen
Town Clerk