

February 16, 2016

The emergency meeting of the Varick Town Board was called to order by Deputy Supervisor Richard Peterson at 7:00 p.m. Present at this meeting were Council Members Kathy Russo, Todd Horton and Tom Fox, and Town Clerk, Donna Karlsen. Also present were Seneca White Deer President, Dennis Money, Attorney at Law, Jay Dutcher, and John Saeli. Absent: Supervisor Robert Hayssen

Mr. Peterson reviewed the actions of this board pertaining to the former depot property within the town of Varick and County Road 135 currently owned by Seneca County IDA. He indicated the purpose of this emergency meeting was to consider submitting a bid proposal for this property after Seneca County IDA declined this board's request to meet with them to review options to purchase the land for a \$1 which was offered to the Towns of Romulus and Varick at a public hearing held in August 2015. The IDA is now requesting that a bid be submitted by the town by February 29th for the IDA to consider. Supervisor Hayssen has been in contact with Dennis Money, president of Seneca White Deer Inc. who expressed interest in partnering with the town in the submittal of this bid. Mr. Hayssen and Kathy Russo also contacted the town's attorney, Stephen Ricci for legal advise pertaining to the submittal of this bid and was informed that Mr. Ricci could not represent that town as it would be a conflict of interest has his firm has been retained by another entity to complete and submit a bid to the IDA on their behalf. Mr. Hayssen then contacted Jay Dutcher, Attorney at Law, for consultation regarding this matter.

The question was raised as to whether this board had already motioned in their December 2015 meeting to approve the purchase of the property for the \$1 as offered by the IDA. Mrs. Russo read the motion as approved from the December 1, 2015 minutes as follows:

A motion by Robert Hayssen, seconded by Todd Horton and so carried unanimously to open discussion with the intent of pursuing the purchase of land located on the former depot property within the Town of Varick from the IDA for the sum of \$1.

Mr. Fox expressed his displeasure with the IDA for their actions. He is not comfortable with submitting a bid in haste and questioned if the board would be acting in the best interest of the town's residents without due consideration of what liability and costs could be involved. Mr. Horton stated that the interest in this property by the previous and current members of the Varick town boards is not new and has been under discussion and consideration for at least the past two years. Mr. Horton reminded this board that the Varick Planning Board requested approximately two years ago, after much research on this property had been completed, that the current town board pass a resolution to send a letter to Seneca County IDA requesting the IDA return ownership of this property back to the town of Varick. Mr. Horton reported that he was in attendance at that town board meeting as a representative of the Planning Board when this request was made. Said resolution was passed and a letter was sent to the IDA notifying them of the town's interest in this property. He also reported that the Varick Planning Board has been working diligently and have completed proposed revisions to the current zoning regulations to promote development of this property which would be in the best interest

of the town. He indicated that he would like to see these revisions approved through the adoption of a local law for their implantation.

Liability: Mr. Fox expressed his concern regarding the liability issue for this property. . Attorney Dutcher spoke to a clause in the comprehensive bid package regarding the “Superfund” which states that the Army, for the life of the property, would be responsible for any environmental issues that may arise. At no time will the town of Varick or Seneca White Deer Inc take title of this property and will not be listed on the deed. Seneca County IDA currently owns the property under a LDC . The bid will specify that this proposal is being submitted on the behalf of an LDC, not the town of Varick and if any liability issues should arise, the LDC would as owner be responsible.

Bid Withdrawal: Mr. Horton questioned if in the event that the LDC is awarded the bid and subsequently information becomes available to the board where they feel that obtaining possession of this property is not in the best interest of the town and its taxpayers, can the bid offer be withdrawn. Mr. Dutcher spoke to an escape clause that can be written into the bid. He also referenced a “default clause” which already exists in the comprehensive bid package that states that once the “Selection Document” is received that entity has five days to respond. If no response is received within that time period, the “Selection Document” is nullified and the IDA will choose another recipient.

Tax Base: John Saeli reminded the board that Stephen Ricci, as town attorney, advised the town to approach the purchase of this property with caution. It was the original concern of the board that large farmers would take over control of this property, minimizing the potential tax base. He also stated he is not interested in subsidizing the Seneca White Deer Inc. as they are a not for profit organization and would not maximize the tax base.

Dennis Money confirmed that that the Seneca White Deer Corporation is a tax exempt entity, but that they want to be a good neighbor and supportive of the Town of Varick. Mr. Money stated that the corporation is willing to pay in lieu of taxes an equivalent amount to what the taxes would be on the land, based on assessed value. He referenced an increased revenue stream as the result of their organization’s efforts pertaining to the white deer and will provide the board with a copy of their business plan. It was noted that if the Seneca White Deer Corporation should fail, the land designated to them would be returned to the LDC, just as any land designated to the Town of Varick would be returned to the LDC in the same circumstance. These details of the partnership would be clarified if the LDC is awarded the bid. Mr. Money also assured the town board the Seneca White Deer Inc’s board consists of a competent group of people who would continue the work of this organization with or without his personal presence and foresight.

County Road 135: Mr. Saeli indicated that this road is split in half between the towns of Romulus and Varick and if the town wishes to open this road, an agreement between the two towns should have been considered. It was noted that the Town of Varick did question if the Town of Romulus would be interested in seeking ownership of their

town's portion of the depot property and was told they were not interested, but felt their zoning code would provide a source of guidance for acceptable uses in their township. Todd Horton stated that the reopening of this road was important to this board and residents. He was unsure of the legal steps that would be required to open this road, but did express that if the board didn't take steps to take control of at least the town's portion of the road, the town would have no say at all as to what would happen with it.

Formation of LDC: Attorney Dutcher reported that a formation of a LDC is relatively easy and shouldn't take much more than a week to file for. He was unable to offer a definitive price to complete this application, but stated it would be less than the \$4,500 he was charging to complete the bid application. He stated that the filing for the LDC should not be started until the bid is awarded and accepted. He also reported that the IDA does not have a deadline to respond to the submitted bids and he anticipates a lengthy waiting period prior to the bid being awarded. This will give both the town and Seneca White Deer time to seek answers to any questions and concerns they may have regarding this property and partnership.

Division of Land: Mr. Horton referred to the map of this property and outlined the area designated as conservation and indicated that this currently is the only land he feels would be available to the White Deer organization at this time as the primary goal of this board is to develop the remaining land to increase tax base revenue. He questioned Mr. Money if it is felt this acreage would sustain the approximately 65 to 80 remaining white deer located on depot property as of this date. Mr. Money reviewed what acreage would be required to sustain the existing white deer herd with added food plots and ponds. He felt the land currently zoned conservation would be sufficient at this time. He did state that hopefully with proper care the herd would increase and possibly an increase in acreage could be negotiated. He also stated that eventually with increased population of the white deer herd, different controls of said population would need to be taken under consideration.

Attorney retention: Mr. Dutcher indicated that he has been speaking with Supervisor Hayssen, providing information and advice pertaining to this property and the bid process pro bono to date. He indicated that his fee is \$150 per hour and has agreed to only charge the town \$150 for his services at this night's meeting. Mr. Dutcher was also working with Seneca White Deer Inc regarding the submittal of a bid. Mr. Hayssen researched the possibility of becoming partnered with the Seneca White Deer Inc for submittal of one bid to the IDA under an LDC to include both the Town of Varick and Seneca White Deer Inc. It was felt in doing so it would solidify the cooperation of two major players interested in this property and promote good will. If retained, Mr. Dutcher would represent both the town of Varick and Seneca White Deer Inc in this bid process under a proposed LDC. He would be retained by the town and the \$500 application fee and \$4,500 attorney fee to complete the application would be divided 50/50 by the town and Seneca White Deer Inc.

No further questions were brought forward, so Mr. Peterson asked for a resolution to approve submittal of a bid in partnership with the Seneca White Deer Inc. It was agreed

that a bid offer of \$1 be made as the IDA offered the town ownership for this amount at their public hearing held in August and then subsequently asked for a bid submittal.

A motion by Todd Horton, seconded by Kathy Russo to have the Town of Varick partner with Seneca White Deer Inc to enter into a joint bid to the Seneca County IDA for the former Seneca Army Depot property in the town of Varick for one dollar (\$1.00).

Discussion: It was suggested that the Seneca White Deer Corporation may consider contributing a sum of money on their behalf to make the offer more attractive, and perhaps turn the tide with the IDA. It was noted that donated funds have been obtained for this purpose. The board also discussed that no contributed funds may be necessary as the IDA should take into consideration the voice of those who have spoke in support of the white deer, potential job growth, ecotourism, and the potential of increase in the tax base and recognized that in the spirit of good will it would be in their best interest to support the town's bid. Since it is still unclear as to where the funds received for the sale of this land will be designated by the IDA, the white deer board will have to make a decision as to what will be the most beneficial to them in expending any funds they have received.

Mr. Peterson called the vote:

A motion by Todd Horton, seconded by Kathy Russo to have the Town of Varick partner with Seneca White Deer Inc to enter into a joint bid to the Seneca County IDA for the former Seneca Army Depot property in the town of Varick for one dollar (\$1.00).

Roll Call:

Richard Peterson	Yes
Todd Horton	Yes
Kathy Russo	Yes
Tom Fox	No
Robert Hayssen:	Absent

So Carried 3 Yes 1 No 1 Absent

A motion by Kathy Russo, seconded by Todd Horton and so carried to approve to retain the legal services of Jay Dutcher at a cost of \$4,500 to represent the Town of Varick in the submittal of the bid to the IDA for the property located on the former depot in the town of Varick and to approve payment of the bid application fee of \$500. The total amount of said service and fee or \$5,000 will be split 50/50 with Seneca White Deer Inc.

Roll Call:

Richard Peterson:	Yes
Todd Horton	Yes
Kathy Russo	Yes
Tom Fox	No
Robert Hayssen	Absent

So Carried 3 Yes 1 No 1 Absent

Jay Dutcher stated he will begin completing the bid on behalf of the town and Seneca White Deer Inc. Dennis Money presented a news release that he would like to have published now that the partnership to complete the bid together has been approved.

It was explained that another public hearing would need to be held in order to approve the proposed zoning regulations, as the previous public hearings were held to pass a local law for 2015 and as we are in a new year a new public hearing needs to be held.

A motion by Todd Horton, seconded by Kathy Russo and so carried unanimously to hold a public hearing on Local Law No.2 of 2016 to Amend the Zoning Ordinance for the Town of Varick. Seneca County, New York.

A motion by Todd Horton, seconded by Kathy Russo and so carried unanimously to adjourn the meeting at 8:25 p.m.

Respectfully submitted

Donna Karlsen
Varick Town Clerk