

TOWN OF POMPEY BOARD MINUTES

A Special Meeting of the Town Board of the Town of Pompey was held on May 18, 2016. In attendance: Supervisor Carole Marsh; Councilors Carl Dennis, Gregory Herlihy, Giovanni LaFace and Victor Lafrenz; Town Attorney Jeffrey Brown and Town Clerk Ann Christmas. There were also 24 residents in attendance.

Supervisor Marsh called the meeting to order at 5:30 p.m. followed by the Pledge of Allegiance and a moment of silence for our service men and women, our firemen, police officers and all of those serve to protect us.

Supervisor Marsh read the following Notice: In accordance with the requirements of the NYSDEC SPDES General Permit for Stormwater Discharges from Small Municipal Separate Storm Sewer Systems (MS4's) a draft copy of the Stormwater Management Program Annual Report is available in the Town Clerk's office for review and comment. Written comments on the Report can be submitted to the Town Clerk.

Supervisor Marsh read a statement concerning the lease that was adopted last month between the Town of Pompey and OCWA to operate our Pompey Pines Water Supply District Extension No. 1 and the North Pompey Water Storage and Distribution District. The action was necessary because the Town only recently learned that OCWA was operating a portion of the water system without any existing agreement between the parties. That means that OCWA is not legally bound to properly maintain the water tower, to provide indemnification to the Town and its residents if there is a problem with the tower or even to maintain insurance on the tower. The reason that the Town Board agreed to even consider allowing the water tower to be used for the Verizon cell array vs. the stand-alone tower was at the suggestion of the judge in our pending litigation with Verizon. Our counsel was concerned that the court could overturn at least a portion of the ZBA's decision to approve the 100 foot stand alone cell tower, which would result in judicial imposition of a 120 foot or higher tower on the site. They were also concerned with Verizon's repeated pronouncements that a 100 foot tower does not provide the required coverage in the area, and the company's stated intent to construct a second tower in the area if the ZBA's decision is upheld. The Town Board felt based on those concerns that it was in the best interests of the Town to approve the lease as negotiated with OCWA. They continue to believe that those

were legitimate concerns which warranted the actions they took. But given the recent filing of petitions by residents to force a town-wide referendum on the OCWA lease, and the resulting uncertainty that caused as to when the lease will become legally enforceable, I have now come to the conclusion that we must take immediate action to address the legal limbo that currently exists with regard to OCWA. There are simply too many potential legal liabilities associated with further delay in executing an enforceable lease for the water system. Therefore, I support rescinding the lease we adopted last month and adopting a new lease which addresses residents' concerns by eliminating the right of OCWA to sublease the Pompey Pines water system for such non-water related uses as cell arrays. In exchange for that revision, the Town would agree to forego any revenue share from subleasing. Approving such a revised lease tonight will allow us to turn our attention squarely to defending the decision of the ZBA to allow a 100 foot stand-alone tower.

Informal Comment Period

Richard Moseson, 8202 Indian Hill Road---opposed to rescinding lease; no restrictions to sublease it to carrier; the FCC encourages co-locations; the Town's Master Plan and Zoning Laws encourage co-location; it is a slap in the Judge's face for not trying to work with Verizon; we could end up with a 120' tower and other towers on it; the tower would stand above the tree heights; it is setting a terrible precedent as there will be other stand alone towers in the future; we should use existing structures; we should not allow OCWA to decide what goes on the tower; this is a town-wide issue and should be decided by all.

David Peckham, 4110 Gibbs Road---questioned if Verizon will put up a second tower; has anyone checked with the Manlius Fire Department about putting the antenna on the property of their new fire house

Nadine Bell, attorney for some of the residents---feels that rescission of the lease is a good proposal; if a special referendum was to have been held you are looking 60-75 days out; if we are under a crunch with Verizon and the Court a referendum wouldn't be a good idea; asked if the Town had submitted an answer to Verizon's Article 78 proceeding; feels getting the lease agreement in place with OCWA for water service is appropriate.

Todd Caputo, 7966 Indian Hill Road---asked if the Falcone site is still on the table; stated that no one wants a cell tower in Pompey Pines or on Indian Hill Road; questioned how can anyone be able to put up a cell tower in a residential neighborhood. He had a wild fire at his house several weeks ago. Three acres

where immediately burnt in 1 ½ hours. The fire departments weren't equipped to handle it. What is a fire happened by the cell tower?

Jessica Fetterman, 4282 Trout Lily Lane—feels that property values will decrease; should use existing structures but the water tower is built near homes; appalled by Richard Moseson's comments.

Chris Moseson, 8202 Indian Hill Road—pitting neighbor v. neighbor; tower will be sited in the community and the question is where; questioned Jessica Fetterman's comment about property values decreasing what about the properties on Indian Hill Road; she has spoken to a local realtor and was informed that the water tower hasn't impacted the sale of home values. Informed those in attendance that she had been reading on radio frequency and according to the FCC the headsets children are using with their phones have more radiation than the tower.

Ken Freer, 4111 Pompey Center Road—if Verizon gets approval for a 120' tower it will go up to 140' and other carriers will want to co-locate; the main issue is the precedent that is being set; if the Town wishes to grant the right to co-locate it should be on existing structures; he doesn't feel that there is a lack of coverage.

Nikkie Martinez, 4048 Killarney Lane—the water tower is right behind her house; has lived there two years; says lots aren't being sold because of the water tower.

Evelyn Koura, 4043 Killarney Lane—doesn't feel that there will only be one tower there; where she came from they added tower after tower; feels it is setting a precedent; has health concerns about cell towers being placed on water towers.

Matt Krukin, 4273 Trout Lily Lane—doesn't support towers; stated that there are 34 children within 1200 feet of the water tower; has health concerns about a cell tower being placed on a water tower; stated that fifty percent of the households will move and tax revenue will go down; doesn't want cell towers put up; the town board should listen to the citizens.

Attorney Jeff Brown stated that potential health affects have been addressed by FCC and a municipality can't consider health affects when making a decision on cell towers.

Jeff Carmen, Henneberry Road—said that in connection with health affects the FCC only looked at burns it did not look at blood-brain barrier; has there been any talk about another tower farm in the town?

The Town Board completed the Short Environmental Assessment Form. They answered all of the eleven questions as it pertained to approving the lease with OCWA.

R-75-16 Made by Dennis, seconded by Herlihy to adopt the following Resolution:

**RESOLUTION UNDER THE STATE
ENVIRONMENTAL QUALITY REVIEW ACT RELATIVE TO THE
ADOPTION OF A RESOLUTION AUTHORIZING THE TOWN TO
ENTER INTO A LEASE AGREEMENT WITH OCWA.**

WHEREAS, pursuant to Article 8 of the New York State Environmental Conservation Law, as amended, and the regulations of the New York State Department of Environmental Conservation promulgate thereunder (collectively “SEQR”), the Town Board of the Town of Pompey, Onondaga County, New York (the “Board”), is required to make a determination with respect to the environmental impact of any “action” (as defined by SEQR) to be taken by the Board (the “Action”); and

WHEREAS, the Action contemplated is the adoption of a resolution authorizing the approval and execution of a Lease Agreement with the Onondaga County Water Authority; and

WHEREAS, pursuant to SEQR, the Board desires to determine whether the Action may have a significant adverse impact on the environment (as defined by SEQR); and

WHEREAS, to aid the Board in determining whether the Action may have a significant adverse impact upon the environment, the Board has been supplied with a Short Environmental Assessment Form (the “EAF”), a copy of which is on file at the office of the Clerk of the Board; and

WHEREAS, the Board desires to declare itself Lead Agency for this Unlisted Action under SEQR with an uncoordinated review; and

WHEREAS, the Board and its representatives have consulted with various interested parties, viewed the site and otherwise undertaken the requisite “hard look” with respect to the Action;

NOW, THEREFORE,

BE IT RESOLVED by the Board as follows:

1. Based upon the foregoing, an examination of the EAF and the criteria contained in 6 NYCRR §617.7, the Board makes the following determination with respect to the Action:

A. The Board hereby declares itself as Lead Agency for this Unlisted Action with an uncoordinated review;

B. The Action will not have significant adverse impact on the environment;

C. As a consequence of the foregoing, the Board hereby directs that a Negative Declaration be issued with respect to the Action; and

D. The requirements of SEQR have been met.

2. The Clerk of the Board is hereby directed to file a Negative Declaration with respect to the Action in the Office of the Clerk in a file that will be readily accessible to the public.

3. This Resolution shall take effect immediately.

4 yes (Dennis, Herlihy, LaFace, Marsh) 1 no (Lafrenz). Motion carried.

R-76-16 Made by Herlihy, seconded by Dennis to rescind the previous lease with OCWA and to approve the following lease agreement. 4 yes (Dennis, Herlihy, LaFace, Marsh) 1 no (Lafrenz).

IN THE MATTER
OF
THE AUTHORIZATION OF AN AGREEMENT
RESOLUTION AUTHORIZING
BETWEEN THE ONONDAGA COUNTY WATER
LEASE AGREEMENT
AUTHORITY AND THE TOWN OF POMPEY, NEW YORK

At a special meeting of the Town Board of the TOWN of POMPEY, County of Onondaga, State of New York, held at 8354 Route 20, Manlius, New York, 13104 on the 18th day of May, 2016, at 5:30 p.m.

PRESENT: CAROLE S. MARSH, Supervisor, CARL DENNIS, Board Member, GREGORY HERLIHY, Board Member, GIOVANNI LAFACE, Board Member and VICTOR LAFRENZ, Board Member

WHEREAS, the TOWN of POMPEY, on behalf of the Pompey Pines Water Supply District Extension No. 1 and the North Pompey Water Storage and Distribution District, and the AUTHORITY desire to enter into an AGREEMENT for the lease of a pump station, tank and water supply system (“FACILITIES”), and for the supply of water and water service to the Pompey Pines Water Supply District Extension No. 1 and the North Pompey Water Storage and Distribution District; and

WHEREAS, the TOWN of POMPEY represents to the AUTHORITY that the Pompey Pines Water Supply District Extension No. 1 and the North Pompey Water Storage and Distribution District were duly established as provided by law; and

WHEREAS, the TOWN of POMPEY represents to the AUTHORITY that the TOWN has the power and the AUTHORITY to bind itself to the provisions of the proposed AGREEMENT; and

WHEREAS, the TOWN of POMPEY Town Board previously approved an AGREEMENT for the lease of the FACILITIES to the AUTHORITY on April 6, 2016, which AGREEMENT; and

WHEREAS, the TOWN of POMPEY desires to rescind the April 6, 2016 lease agreement with the AUTHORITY and replace it with a revised lease; and

WHEREAS, the revised lease would limit the ability of the AUTHORITY to subleasing the FACILITIES only for uses related directly to the

AUTHORITY's operation of its water system.

NOW, THEREFORE,

BE IT RESOLVED, that the AGREEMENT between the AUTHORITY and the TOWN of POMPEY, on the behalf of the Pompey Pines Water Supply District Extension No. 1 and the North Pompey Water Storage and Distribution District, dated April 6, 2016 is hereby rescinded; and

BE IT FURTHER RESOLVED, that the AGREEMENT between the AUTHORITY and the TOWN of POMPEY, in the form as is annexed hereto, be and hereby is approved by the TOWN of POMPEY, on the behalf of the Pompey Pines Water Supply District Extension No. 1 and the North Pompey Water Storage and Distribution District; and

BE IT FURTHER RESOLVED that the Town Board of the TOWN of POMPEY hereby executes said AGREEMENT on behalf of the TOWN of POMPEY and the POMPEY PINES WATER SUPPLY DISTRICT EXTENSION NO. 1 and the NORTH POMPEY WATER STORAGE AND DISTRIBUTION DISTRICT, subject to permissive referendum, and the Town Clerk is hereby authorized to deliver a copy of the executed AGREEMENT to the AUTHORITY, and any other party,

I, the undersigned, Town Clerk of the TOWN of POMPEY, hereby certify that the foregoing is a true and correct copy of a resolution adopted at a special meeting of the Board of TOWN of POMPEY, at which a quorum was present, held in the Town Clerk's Office, 8354 Route 20, Manlius, New York on the 18th day of May, 2016 at 5:30 p.m.

I further certify that public notice of this meeting was duly given as required by law.

Dated: May 18, 2016

Town Clerk

Motion carried.

Supervisor Marsh spoke to those in attendance about the car robberies that have recently happened. A gentleman was arrested and charged with petit larceny.

There was a discussion on our workers compensation insurance. Hank Chapman has done research for us. The best value for us is Perma due to our experience rating. There is still a rate increase of 28% and we budgeted for a 15% increase.

R-77-16 Made by Dennis, seconded by LaFace to authorize Supervisor Marsh to sign the renewal forms with PERMA. All in favor. Motion carried

R-78-16 Made by Dennis, seconded by Laface to approve the following transfer:

From:	SS599	Appropriated Surplus		\$900.00
To:	SS8126.4	Arbutus Park Ph. 1 Sewers	Contractual	\$900.00

All in favor. Motion carried.

The Town Board had no objection to Bookkeeper Chartrand reviewing the time used and time reimbursed to the employee who has a workers' compensation claim.

Supervisor Marsh spoke about the proposed solar farm the Town of Dewitt is doing at their old landfill. She along with Councilor Herlihy have attended meetings to look and see if this is something that we can do.

Holbrook Heating today cleaned our furnaces and air conditioners which are 22 years old. There is one air conditioner that needs to be replaced because it would be cheaper to put in a new unit instead of replacing the various parts. They gave a quote of \$3,598.00. Bookkeeper Chartrand stated that our procurement policy states that we need a minimum of two written quotes and needs to include prevailing wages. They have to be for the same equipment, work and labor. The quotes need to be written and can be faxed, emailed or delivered in person.

R-79-16 Made by Dennis, seconded by LaFace to approve the payment of General Fund Abstract Nos. 173-181, totaling \$69,832.77. All in favor. Motion carried.

R-80-16 Made by Dennis, seconded by Herlihy to adjourn at 6:30 p.m. All in favor. Motion carried.

Respectfully submitted,

Ann Christmas
Pompey Town Clerk

