

Weekly Town Board Meeting
July 24, 2019

The Town Board held their Weekly Meeting on the above date at 7:30 p.m. at the Town Hall, 238 Main Street, Cold Spring, New York.

PRESENT:

Richard Shea	Supervisor
John Van Tassel	Councilman
Michael Leonard	Councilman
Judith Farrell	Councilwoman
Adam Rodriguez	Town Attorney

ABSENT:

Robert Flaherty	Councilman
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Supervisor Shea opened the meeting with the Salute to the Flag.

AGENDA

- 1. Discussion with regard to the Town Board accepting the proposed Stipulation of Settlement in the matter of New York SMSA Limited d/b/a Verizon Wireless, and Homeland Towers, LLC., against the Town of Philipstown et al.**

It was noted that Mr. Campanelli would not be present this evening --- that this is a continuation of a discussion on the proposed cell tower on Vineyard Road. Supervisor Shea stated that barring the cell tower actually going up, everything the residents have requested has been incorporated in the Stipulation of Settlement. Supervisor Shea once again stressed that this is the best outcome for Philipstown.

Adam Rodriguez, Attorney representing the Town of Philipstown, stated that in terms of the punch list that has been requested by the residents, there is now a provision for road repair and maintenance from the private road from Route 9 to the access road that will be Homeland's/ Verizon's responsibility. The following will also be the responsibility of Homeland/Verizon: the Cedar fence that was requested has also been added to the stipulation; security lighting to minimize light pollution, and the color is to be approved by the town and will be a color that is blended to the surroundings; the tower has to simulate a pine tree to the greatest extent possible, and they are responsible for maintaining the fence and the landscape screening in the same condition as it was initially installed. In so far as the roadway is concerned, Homeland/Verizon are under obligation to maintain and repair, so they will be posting a \$40,000 bond.

Councilman Van Tassel stated that he has sat through hours and hours of Zoning Board of Appeal's and Conservation Board testimony. He also objected to the construction of another tower. He noted that Mr. Fadden does have property rights and the application did go through. He then went on to explain that under Supervisor Shea's leadership the

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Town Board has stood up to the NRA and Roger Ailes, and have yet to back down. He stated that the Town Board has to make decisions on what's best for all the residents of the town. He believes that the town has come to a compromise that is the least impacting and risk to the residents.

Councilman Leonard stated that he never supported this tower. He further stated that there are incidences where some cell towers make sense, such as the one being worked on behind his residence. He understands the Federal Government coming in with studies, safety standards, etc., but when it comes to choosing where the town wants to place these towers should be the town's decision.

Councilwoman Farrell stated that she has read all the minutes of the Zoning Board and Conservation Board and listened to all the comments made to the Town Board on this subject. She went on to say that she is not happy about the tower, has read the Tele Communication Act of 1996 and has done other research. She believes that the settlement is better than what the town could have had and she doesn't believe that the town would have prevailed in court.

Cali Gorevic commented that she had thought that when the Zoning and Conservation Boards agreed to the opposition of the tower that it would not have ever reached this stage. She didn't understand why those boards didn't have the weight of decision making. She then referenced a report in the "Inside Towers" Newsletter, published on September 3, 2018, where they quoted Supervisor Shea. She continued speaking about the attorney's response to them with regard to intervening and proceeding with court hearings. She stated that she doesn't feel that the Town Board has been their friend or their representative.

Councilman Van Tassel interjected that the Vineyard Tower and the Nelsonville Tower are completely different. The town proposed the highway garage to keep the tower out of the Village of Nelsonville. It has nothing to do with Vineyard Road nor is the highway site happening. Supervisor Shea stated that the town never negotiated for seven months on behalf of Nelsonville. He also responded to Mrs. Gorivec's reference to the "Inside Towers" Newsletter, saying that they misquoted him.

A member of the audience wanted re-assurance that when the time comes and the tower needs to be removed will Homeland/Verizon be responsible for that and who will cover the cost of demolition? Supervisor Shea stated that the town controls the bonds and it's the responsibility of the tower companies to take down the towers, a responsibility that they cannot shirk. Discussion continued with regard to pursuing with the courts and why the town decided not to move forward with that.

Discussion continued at length with members of the audience putting forth questions that had been addressed already.

Mr. Rodriguez stated that the Supervisor and the Zoning Board Chair spent many hours giving their deposition and he feels they did a great job for the residents of Philipstown.

Barbara DiSilva asked for some details on this application.

RESOLUTION #115-2019

The following Resolution was presented by Councilman Van Tassel, seconded by Councilman Leonard;

RESOLVED, that the Town Board hereby authorizes Supervisor Shea to sign the Stipulation of Settlement in the matter of New York SMSA Limited d/b/a Verizon Wireless, and Homeland Towers, LLC., against the Town of Philipstown et al.

Roll Call

Supervisor Shea	AYE
Councilman Van Tassel	AYE
Councilman Leonard	AYE
Councilwoman Farrell	AYE
Councilman Flaherty	ABSENT

It was noted that the Attorney, Adam Rodriguez, representing the Town of Philipstown is the one to sign the Stipulation of Settlement.

RESOLUTION #116-2019

WHEREAS, New York SMSA Limited Partnership d/b/a Verizon Wireless and Homeland Towers, LLC (hereinafter collectively "Homeland Towers") applied to the Town of Philipstown for land use approvals for the construction of a cellular communications tower in the Town; and

WHEREAS, the said application was denied; and

WHEREAS, Homeland Towers commenced a lawsuit in the United States District Court for the Southern District of New York against Town claiming that the decision to deny the said land use approvals was made in error and seeking, among other items of relief, the issuance of all local approvals required for the construction of the proposed communications tower, and

WHEREAS, in the course of the said litigation, Homeland Towers presented a settlement proposal to the Town under which land use approvals for a cellular communications tower substantially reduced in scope and scale would be deemed approved; and

WHEREAS, the Town and its consultants have examined the proposed cellular communications tower and find that erection of it falls within the project analysis and SEQRA review conducted on the Homeland Tower application by the Town; and

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WHEREAS, to avoid the uncertainty and expense of litigation, the Town and Homeland Towers have agreed to enter into a Stipulation of Settlement, a copy of which is attached hereto, under which the litigation will be terminated and the land use approvals for the substantially smaller cellular communications tower will be deemed approved by Court Order;

NOW, THEREFORE, it is hereby resolved as follows:

1. That the Town Board hereby approves the attached Stipulation of Settlement;
and
2. That the Town Board hereby authorizes the Town's litigation counsel, Bleakley Platt & Schmidt, LLP, to execute and file the same with the Court.

Councilman Van Tassel presented the foregoing resolution which was seconded by Councilman Leonard;

The vote on the foregoing resolution was as follows

Judith Farrell, Councilwoman, voting	AYE
John Van Tassel, Councilman, voting	AYE
Robert Flaherty, Councilman, voting	ABSENT
Michael Leonard, Councilman, voting	AYE
Richard Shea, Supervisor, voting	AYE

There being no further business to discuss, Councilman Van Tassel made a motion, seconded by Councilwoman Farrell and unanimously carried to close the Weekly Town Board Workshop at 8:00 p.m.

Respectfully submitted by,

Tina M. Merando
Town Clerk