

Minutes of the Constantia town board meeting held April 19, 2005 at 7:30 p.m. in the town hall.

Present; George Nowack - deputy supervisor  
John Metzger, Paul Holst – council members  
Janet Warford – town clerk  
Others present - Steve Brill - ceo  
David Webb - highway superintendent  
Warren Bader - town attorney  
Absent - Lora Sterling - supervisor  
Richard Colesante - council member

Mr. Holst made the motion to accept the March minutes as presented to the board. Seconded by Mr. Metzger.

Carried                      Nowack - yes                      Holst - yes                      Metzger - yes

Mr. Nowack made the motion to accept the Town Clerk's Monthly Report for March 2005 and the 2005 Town and County Tax Collection Report. Seconded by Mr. Holst.

Carried                      Nowack - yes                      Holst - yes                      Metzger - yes

The Code Enforcement Officer reported having sent out letters with regard to code violations He has started working on the back room, which will be replaced this year. Mr. Nowack made the motion to accept the Code Enforcement Monthly Report for March 2005. Seconded by Mr. Holst.

Carried                      Nowack - yes                      Holst - yes                      Metzger - yes

Mr. Holst made the motion to accept the Supervisor's Budget Report as presented through April 19, 2005. Seconded by Mr. Metzger.

Carried                      Nowack - yes                      Holst - yes                      Metzger - yes

Vouchers Submitted;

General Fund claims no. 81 – 112 as set forth on Abstract no.4, dated 4/19/05.

Highway Fund claims no. 47 – 62 as set forth on Abstract no.4, dated 4/19/05.

Mr. Holst made the motion to pay the vouchers as submitted. Seconded by Mr. Nowack.

Carried                      Nowack - yes                      Holst - yes                      Metzger - yes

Cleanup Days will be held May 2 and 3<sup>rd</sup> this year. Notice of such has been posted in the Oswego County Weeklies and on the town bulletin board.

Mr. Metzger made the motion to appoint Denise Steckel to the position of part time Data Collector to upgrade property cards at an hourly rate of \$17.00 per hour, plus mileage. Seconded by Mr. Holst.

Carried                      Nowack - yes                      Holst - yes                      Metzger - yes

A letter of resignation was received from Lora Sterling effective March 31, 2005. Mr. Nowack made the motion to accept the resignation, seconded by Mr. Holst. The board wished Ms. Sterling the warmest regards and a speedy recovery.

Notice was given that Grievance Day would be held this year on Wednesday, May 25, 2005.

The town has been receiving requests for donations from non-profit organizations. Mr. Nowack asked Town Attorney Bader to review the proper procedures for such donations.

Mr. Nowack stated several letters have been received with regard to Matthew Todd Solomon's application for Site Plan Review from Attorney Bader, Attorney Kelsey and the Planning Board. Mr. Bader than read the following Resolution:

WHEREAS, the Town of Constantia Land Development Law ("Land Development Law") sets forth the site plan review procedures applicable to telecommunications towers in Section 655 of said law; and

WHEREAS, on or about October 21, 2003, Matthew Todd Solomon (hereinafter "Applicant") submitted an application for site plan review under the Land Development Law to request permission to locate a telecommunications tower on Martin Road, Cleveland, New York (hereinafter "Tower Site"); and

WHEREAS, the tower site is owned by Margaret M. Cutler, who has signed the Landowner Consent form indicating her consent and agreement to the application and the corresponding development of the tower site; and

WHEREAS, the applicant intends to use the Tower site for the development of a 190 foot telecommunications tower pursuant to a Radio Station Authorization and Antenna Structure Registration granted by the Federal Communication Commission ("FCC"); AND

WHEREAS, the FCC Authorization and Registration documents set forth respective applicability and limitations; and

WHEREAS, the applicant currently does not have a contract with any entity, including a wireless service provider or other public utility, for use of the proposed tower, and the Applicant does not qualify as a public utility; and

WHEREAS, pursuant to Section 655 (2) of the Land Development Law, the application was provided to the Town of Constantia Planning Board for their review and recommendation, with final determination to be made by the Town Board; and

WHEREAS, on or about February 22, 2005, the Planning Board recommended disapproval of the application for the following reasons:

Mr. Solomon's application is to construct a 190 ft. tower. The Planning Board interprets the C.L.D.L. to allow this tower height only for large service providers who provide great public benefit to the community. For example, the tall tower on Hillside Drive is used by Cingular. The tall tower near Old Farm Road is used by Time Warner. The tall tower on Rt.17 is part of the County 911 system.

The Planning Board does not recognize Mr. Solomon's FCC license as that of a service provider. We agree with the report of the Tug Hill Commission in this regard. Therefore, C.L.D.L. Section 655, Paragraph 4A is not met;

The Planning Board recognizes Mr. Solomon's FCC license issue to support his logging business, and he has a right to construct a tower. But Mr. Solomon has not indicated a willingness to consider any lesser tower height than 190 ft. mentioned previously. There is documented opposition to this tall tower by Mr. S. Duggleby of Martin Road. C.L.D.L. Section 655, Paragraph 5D4 specifies "Tower height no greater than that required to provide the required service area coverage, and shall be so demonstrated." The Planning Board believes that comparable FCC licenses issued to the Town Highway Dept., and the C.S. School Bus Garage are very similar to Mr. Solomon's FCC license. However, the former operates very successfully in the Martin Road area with only 78ft. and 39ft antenna height respectively. The Planning Board is willing to consider these tower heights for Mr. Solomon's business related FCC license, but he has not been willing, he has only been interested in 190ft.

The submitted landowner consent and agreement form does not include all the tax codes for the proposed Martin Road site;

C.L.D.L. Section 655, Paragraph 5C setback requirements (height tower plus 50ft) are not delineated on the submitted survey; and

WHEREAS, the Town Board has fully and completely reviewed the materials submitted by the Applicant together with the recommendations of the Planning Board.

NOW, THEREFORE, be it

RESOLVED, that the Town Board acknowledges the purpose and intent of the Land Development Law to promote sound use and planning by minimizing the visual effects of towers, protecting surrounding properties and maximizing the use of new and existing towers; and be it further

RESOLVED, that the Town Board accepts and adopts the findings and conclusions of the Planning Board in its recommendation dated February 22, 2005; and be it further

RESOLVED, that the Town Board finds that materials required by the Town of Constantia Land Development Law have not been included and/or are incomplete in the subject application, including:

1. An existing cellular/personal communications service coverage propagation plot showing existing operational neighboring sites up to five miles beyond the boundaries of the town;
2. Written documentation indicating the location, height, and function of all existing telecommunication towers within a five mile radius of the proposed tower site and correspondence from each tower and site owner indicating their inability to accommodate the applicant's good faith effort to utilize their existing tower and site;
3. Any schematic or other drawings indicating the design of the tower, including evidence of a non-climbable section for the first ten feet above grade;
4. Evidence that the tower height is not greater than that required to provide the required to provide the required service area coverage;
5. Evidence that site access is suitable for emergency vehicles;
6. A landscaping plan demonstrating adequate screening and preservation of the area's visual character;
7. Documentation certifying compliance of the radiating antenna with the FCC regulations regarding radio frequency radiation;
8. A letter addressed to the Planning Board signed and notarized by an authorized representative of the tower owner which states that the tower and tower site will be made available, in good faith and at market rate, for multiple usage by others' and
9. Materials demonstrating the location, type and intensity of any lighting on the tower

And be it further

RESOLVED, that in addition to the missing items, the Applicant has not made any demonstration of his need for a 190 foot tower as required by the Land Development Law, and in fact has provided no information whatsoever with regard to the needed height of the tower such that the Town Board is unable to determine what height is required to satisfy the needs of the Applicant while constraining such height to serve sound development purposes and to protect surrounding properties; and be it further

RESOLVED, that the subject application of Matthew Todd Solomon dated October 21, 2003 seeking permission to locate a telecommunications tower on Martin Road, Cleveland, New York is therefore DENIED.

The resolution was offered by Paul Holst, who moved its adoption, seconded by John Metzger.  
Carried            Nowack - yes            Holst - yes            Metzger - yes            Colesante – absent

County Legislator Bryant reported the recreational trail over Scriba Creek has been closed because of bridge damage. The county has looked into the situation and is planning on having repairs done to this area by the end of summer.

Highway Superintendent Webb has contacted Niagara Mohawk with regard to street light outages and they have stated they will be fixed. He has contacted the county engineers and they have said a No Right Turn sign off Lower Road for trucks onto Doris Park Drive would be appropriate. Mr. Nowack moved to restrict right turns for trucks off Lower Road onto Doris Park Drive. Seconded by Mr. Metzger.  
Carried            Nowack - yes            Holst - yes            Metzger - yes

Discussion was held regarding restricting entrance to Salt Road. It was noted no accidents have been reported there. Mr. Webb asked the board to look into the situation and this matter will be taken up at a later meeting.

Mr. Webb stated he would like to put out for bid a 2004 Ferris mower, a Ford Flail mower and utility trailer with bids to be opened at the May 17th meeting. Mr. Nowack made the motion the town advertise these items for bid, seconded by Mr. Holst.  
Carried            Nowack - yes            Holst - yes            Metzger - yes

The board gave Superintendent Webb approval to research the pricing of a new snow plow truck under state bid. If one were to be purchased the highway department would get rid of the 1975 dump truck and replace it with the 1991 truck..

Paul Baxter reported on the Local Government Conference that was held in Watertown in March.

Mr. Solomon stated that he totally objected and disagreed with the decision made by the town board with regard to his application.

Mr. Cook addressed the board about the situation in his neighborhood regarding chickens running loose. Steve Brill stated a letter has been sent to the chicken's owner and the situation should be rectified shortly. Mr., Bryant has talked to the owner and was told the chickens would be gone within 30 days and the turkeys penned.

Justices James and Buchan were present at the meeting and requested the court clerk's be compensated on an hourly basis, rather than by salary while they are handling the backlog of file work needed to be done. Discussion followed. Compensation amounts are set in the budget, but the board will review this request and see what can be done.

Mr. Holst made the motion to adjourn. Seconded by Mr. Metzger.  
Carried            Nowack -yes            Holst - yes            Metzger - yes