

MINUTES OF THE APRIL 19, 2011 MEETING OF THE TOWN BOARD OF THE TOWN OF POUND RIDGE AT THE TOWN HOUSE, 179 WESTCHESTER AVENUE, POUND RIDGE, N.Y., COMMENCING AT 8:00 P.M.

PRESENT: SUPERVISOR WARSHAUER; COUNCIL MEMBERS: PETER FALCO AND PAUL McCONVILLE

ALSO PRESENT: TOWN ATTORNEY, JAMES J. SULLIVAN, ESQ.  
TOWN CLERK, JOANNE PACE  
DEPUTY SUPERVISOR, JONATHAN POWERS

ABSENT: COUNCILMEN DANIEL PASCHKES AND RICHARD LYMAN

**CALL TO ORDER:** Supervisor Warshauer called the meeting to order at 7:00 p.m.

**CALL FOR EXECUTIVE SESSION:** None

**NEW BUSINESS:**

- **Consider adoption of the resolution approving AT&T as a co-locator on the Cell Tower at the Ambulance Corps property in Scotts Corners**

Counsel Sullivan stated that the AT&T Draft is subject to a little change. The AT&T resolution is basically mirroring the T-Mobile resolution and a couple of clauses were eliminated in the AT&T resolution that Counsel feels is important to put in. One clause that should be added is "All references to the "Applicant" shall include the Applicant's successors and assigns, and where applicable its contractors and employees". Anthony Gioffre, Cuddy & Feder Counsel for AT&T, said he had no objection to adding that clause in the AT&T resolution. The other area that needed to be addressed in the resolution is the "re-open" clause that T-Mobile has where "The Town reserves the right to hold a hearing, upon reasonable notice to and opportunity to be heard by the Applicant and Owner, no sooner than ten years after the date of this resolution, and not more often than every 5 years thereafter, to determine whether the Applicant's Facility or portion thereof has been inoperative or abandoned for a period of 180 consecutive days, or no longer has a valid approval, permit or license, or is otherwise no longer necessary for the provision of "adequate coverage" and "adequate capacity." There was some discussion as to whether it was necessary to put it in the resolution. Mr. Gioffre doesn't feel it is necessary to put that clause in the AT&T resolution but did suggest granting a Special Permit with a time limit of 10 years as another way to revisit the Special Permit.

Supervisor Warshauer has a few comments about the resolution. In the "Whereas, AT&T has agreed to contribute a one-time fee to the Town for the purchase of the Town of Pound Ridge Police Department and the Town of Pound Ridge Fire District's emergency service antennas and equipment to be placed on T-Mobile's approved telecommunications tower facility, in an amount not to exceed \$33,000 or half of the total cost of said emergency service antennas and equipment, whichever is less," Supervisor Warshauer wants the next line to be changed from "on the condition that AT&T shall be reimbursed by such other collocators that occupy the subject facility in the future for their respective pro rata share(s)" to say ***with the understanding that AT&T.....*** Mr. Gioffre did not object to the change. Supervisor Warshauer and the Councilman Falco felt

strongly that the re-open clause should be put into the AT&T resolution and will require all the applicants to put it in their resolutions to keep a level playing field. Mr. Gioffre had no objection to putting it in. Supervisor Warshauer wants additional language in number 4 of the AT&T resolution where it says “The Town Board hereby approves the Special Permit for a wireless telecommunication services facility consisting of the collocation of up to 9 cluster mounted panel antennas installed at a centerline height of 100 feet on T-Mobile’s approved 130-foot tall monopole...” *to acknowledge that the top 10 feet of the tower are reserved for emergency services.* Mr. Gioffre had no objection to that acknowledgement. Supervisor Warshauer questioned whether or not AT&T should give us a copy of a lease as did T-Mobile, but Counsel said it wasn’t necessary because AT&T has a sub-lease agreement with T-Mobile. Supervisor Warshauer mentioned that AT&T should have something that mirrors T-Mobile’s clause number (3) and (9) “The Applicant shall be responsible for ensuring that all proposed vegetation shown on the approved site plan shall be kept free of litter and debris as all times.....” and “The site plan drawings shall be revised to provide adequate emergency egress from the rear of the existing building...” Counsel Sullivan said that site plan compliance rests with T-Mobile and that has already been approved. AT&T will be bound by the site plan requirements set forth by T-Mobile to the extent that they are applicable to AT&T. Mr. Gioffre objected to anything written in the resolution because in terms of any violations, AT&T would not want to be brought into litigation or take blame for T-Mobile’s actions.

Councilman Falco said that he sees reimbursement for the emergency equipment but nothing is written with respect to the installation costs. Counsel Sullivan said that T-Mobile has a lease with the Ambulance Corps and that has a provision to install all Fire, Ambulance and Police emergency equipment with no cost to Ambulance Corps. We will not have a County facility at this location.

Counsel Sullivan asked if Mr. Gioffre had an idea of how much the AT&T bond would be. Mr. Gioffre said that he would have to work that out with the construction crew but seems to think it will be significantly less than T-Mobile’s bond.

Santo Borsellino, Rolling Meadow Lane, asked if there is a provision allowing the pole to be extended another 10 feet. Do all the carriers move up on the pole if this is allowed? Supervisor Warshauer said that T-Mobile would have to come back to the Town Board with a valid reason for the increase in height. Each new collocator must come before the Town Board for approval but the position on the pole is up to T-Mobile. The increase of the height of the monopole would be an offset to building a new cell tower.

#### **RESOLUTION #: 90-11**

**Board Action:** Motion by Councilman McConville, seconded by Councilman Falco, the Town Board polled with Councilman Falco, aye, Councilman McConville, aye and Supervisor Warshauer, aye, motion passing 3-0 on the following:

RESOLVED, that the Town Board hereby adopts the Resolution for New Cingular Wireless PCS, LLC (AT&T) as co-applicant with T-Mobile Northeast

LLC, Pound Ridge Lions Ambulance Corps, 89 Westchester Avenue, subject to the conditions discussed at the meeting.

**ADJOURNMENT:** There being no further business to come before the Board, Supervisor Warshauer adjourned the regular meeting at 8:00 p.m.

Joanne Pace  
Dated at Pound Ridge, New York  
April 20, 2011