

MINUTES OF THE SEPTEMBER 10, 2009 MEETING OF THE TOWN BOARD OF THE TOWN OF POUND RIDGE AND PUBLIC HEARING HELD AT THE TOWN HOUSE, 179 WESTCHESTER AVENUE, POUND RIDGE, N.Y. COMMENCING AT 8:00 P.M.

PRESENT: SUPERVISOR GARY WARSHAUER; COUNCIL MEMBERS: DANIEL PASCHKES, RICHARD LYMAN, PETER FALCO, PAUL McCONVILLE

ALSO PRESENT: TOWN ATTORNEY, JAMES SULLIVAN
TOWN CLERK, JOANNE PACE

CALL TO ORDER: Supervisor Warshauer called the meeting to order at 8:00 p.m.

EXECUTIVE SESSION: None

Supervisor Warshauer asked to schedule a work session for September 25, 2009.

Board Action: Motion by Councilman Paschkes, seconded by Councilman Lyman, all voting aye to hold a work session on Friday, September 25, 2009 at 8:00 a.m. to discuss the 2010 budget.

ANNOUNCEMENTS:

Supervisor Warshauer announced that the annual Pound Ridge Lions Club Country Fair will be held this Saturday, September 12, 2009 at the Town Park at 12:00 p.m. Next Saturday, September 19, 2009 will be the annual Tom Pisco Memorial Car Show at the Town Park at 12:00 p.m. On September 26, 2009, there will be the official dedication opening of Sachs Park on Stone Hill Road at 10:00 a.m. All are welcome to join in the celebrations.

MINUTES: Acknowledge/correct/accept minutes of Town Board Meeting on August 13, 2009.

RESOLUTION #: 196-09

Board Action: Motion by Councilman Lyman, seconded by Councilman Paschkes, all voting aye on the following:

RESOLVED, that the Town Board hereby accepts the minutes of the Town Board meeting on August 13, 2009.

PUBLIC HEARING: To Consider and Act on the Cable Franchise Agreement by and between the Town of Pound Ridge and Verizon New York, Inc.

Board Action: Motion by Councilman Paschkes, seconded by Councilman Lyman, with Councilman McConville recusing himself, all voting aye to open the Public Hearing to consider and act on the Cable Franchise Agreement by and between the Town of Pound Ridge and Verizon New York, Inc.

There have been numerous discussions with Verizon about the franchise agreement and there were concerns about the language of the tax offset section of that agreement. Supervisor Warshauer is

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happy to report that we have come to terms on the language that provides for a waiver of the tax offset as long as certain conditions were met. One of the conditions is that the other service providers continue not to apply the offset and that the Supervisor writes a letter at the end of each year advising Verizon of that. Councilman Paschkes added that the agreement also provides once the Town has a secured renewal of the CFA with the other service provider that formalizes the ongoing waiver, that the ongoing waiver likewise will be enforced with Verizon as well without the continuing requirement of writing an annual letter to Verizon. Mr. Scott Parr agreed to that statement.

Supervisor Warshauer said that there was correspondence within the last 24 hours raising concerns regarding public access with the Bedford Central School District. Presently, the District is pro-active in their communication with the community including live feeds like football games, sporting events as well as their meetings and other activities. There is a concern that our franchise agreement should have something in it to formalize that arrangement. This is something that Cablevision currently provides and it very welcome in the community. Mr. Parr responded by saying that the agreement that we have does provide for educational programming which is available regardless of what the ultimate result is of Verizon's effort to secure a franchise in Bedford. As it currently exists, we would be able to use a Verizon channel that is available to many communities in Westchester and to provide tapes for material that would be played back on that channel. It would effectively be administered by Verizon. Because Pound Ridge is served by a school district which is headquartered outside of Pound Ridge, it creates a situation where Verizon's ability to create any live programming is entirely dependent on Verizon completing a franchise agreement with the Town of Bedford. They are not able to address their intention or ability to have a franchise in Bedford or create a live programming site in the agreement before us tonight. Verizon is in negotiations with Bedford, but they are a great deal apart in terms that would be acceptable to both parties. In terms of our situation, there is a solution that would provide for programming that is not live and they cannot commit to say that they would be able to bring live programming given that they don't have the assurance that they would get a franchise in Bedford.

Counsel Sullivan asked if they do in fact conclude an agreement with Bedford that provides for live transmissions, does that guarantee that Pound Ridge would get it on our agreement? Mr. Parr said yes to the part that we would get live programming from the school district but when you go out to a football game and to things that are not in a studio or a building that is not connected to the network, without knowing how the Town currently does that, he cannot tell us that it would give us the football games. In terms of ordinary programming that is generated by the schools, yes. If it is live in Bedford, it will be live in Pound Ridge. Supervisor Warshauer asked if there is anything in our agreement that would preclude or hamper anything to provide those services. Mr. Parr said no. There is the baseline solution that permits and commits to offering educational programming on a play back basis or on a basis that does not include live programming. In order to secure the live programming, it depends on securing an agreement in Bedford. Councilman Paschkes' main concern is that we would be entering into an agreement that would afford us a lower level of service than the residents of Bedford. He needs the assurance from Mr. Parr that if Bedford residents receive live programming, Pound Ridge residents will receive the same live programming. Mr. Parr said that he is not certain that we are on the same wiring center but there is the ability to map the signal to Pound Ridge residents but not necessarily the Katonah-Lewisboro residents. Mr. Parr introduced Catherine Gasteyer, Director of External Affairs, who took Mr. John Butler's place tonight.

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Jon Powers said that at a later date, the Town might want to create its own live center. Does this agreement provide for this or preclude it? Mr. Parr answered that it does not provide for it or preclude it.

Catherine Gasteyer, Director of External Affairs, expressed their thanks to the Town Board for going forward with the franchise agreement and thanked the residents for contacting Verizon and they look forward to serving them.

Councilman Paschkes asked if the Town Board could get a copy of the transcript of tonight's Public Hearing. Attorney Pamela Goldstein, stepping in for Brian Johnson and Jeremy Schofer of Wiley Rein LLP, said that she doesn't know what the Town worked out in the past, but in order to get a copy of the transcript, the Town would have to make arrangements with Rockland & Orange Reporting to pay for a copy. Counsel Sullivan asked her to speak with Brian Johnson and try to get the Town a copy as in the past.

A resident asked when Verizon FIOS would be up and running in Pound Ridge and Mr. Parr said that Verizon would anticipate confirmation at the Public Service Commission hearing in October and shortly after that the Town would be up and running.

Ray Clark, Pound Ridge Fire Department, said that he understands some public buildings in the Town get free services and would like the Fire Department to receive the same. He was assured that the Fire House is one of the many public buildings that will receive free cable service.

Robert Hoch, Cablevision, said for the record that Verizon is not providing free internet service or service equivalent to what Cablevision is currently providing and they are not offering some type of payment in lieu of the service.

Board Action: Motion by Councilman Lyman, seconded by Councilman Falco, all voting aye to close the Public Hearing to consider and act on the Cable Franchise Agreement by and between the Town of Pound Ridge and Verizon New York, Inc.

RESOLUTION #: 197-09

Board Action: Motion by Councilman Lyman, seconded by Councilman Falco, the Town Board polled and motion passing 4-0 on the following:

RESOLVED, that the Town Board hereby authorizes Supervisor Warshauer to execute the Franchise Agreement as amended on behalf of the Town of Pound Ridge with Verizon New York, Inc.

Scott Parr thanked the Town Board on behalf of Verizon and for all their patience.

NEW BUSINESS:

Community Center- Consider request by the Recreation Commission and Community Center Construction Committee to bid the Community Center Building.

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The Pound Ridge Recreation Commission and the Pound Ridge Construction Committee met jointly on Tuesday, Sept. 8, 2009 to review the current plans of the Pound Ridge Community Center project-Phase II Building. It was unanimously agreed to recommend to the Town Board the approval for AP Construction to proceed to release and formally bid the Phase II bid packages. John Ritzcovan, Chair Recreation Commission, gave a tentative timeline spreadsheet. The Commission is hoping to have Phase I construction of the roadway started in early October and Phase II construction of the building in late October. The bids for Phase I were received and opened on September 4, 2009 and ranged between \$763,995.00 and \$1,325,000.00.

RESOLUTION #: 198-09

Board Action: Motion by Councilman Lyman, seconded by Councilman Paschkes, all voting aye on the following:

RESOLVED, that the Town Board hereby authorizes AP Construction to advertise the bid for Phase II-Building of the Pound Ridge Community Center project.

Councilman Paschkes thanked John Ritzcovan for all his work on this project.

High Ridge Road – Discuss residents requests for traffic control devices.

Supervisor Warshauer has received requests from residents in the vicinity of Upper Shad Road and High Ridge Road and also Horseshoe Hill Road and High Ridge Road to put some kind of traffic control devices to deter the high speed on High Ridge Road. Supervisor Warshauer held a forum on November 5, 2005 with Senator Leibell and Assemblyman Bradley and a few devices were discussed to help slow traffic. A resolution was made to authorize Supervisor Warshauer to write an official letter to the New York State Department of Transportation requesting the speed limit on High Ridge Road be reduced from 45 mph to 40 mph. This has been done. Any further discussion about alternate devices will be discussed at another time due to the fact that the residents that were concerned did not come to the meeting.

Consider adopting the New York State Department of State Local Government Efficiency Grant program Application Resolution, for the creation of a shared septic system database

Westchester County would like to submit a grant application to the Local Government Efficiency Grant Program to seek funds to support the scanning component of the Septic System Database Project. The grant program allows awards up to \$200,000 per participating municipality, up to a total of \$1 million. The County cannot apply for the grant unless at least two other municipalities sign-on as co-applicants and provide a resolution in support. The grant program requires a 10% local match. Westchester County will assume responsibility for the entire local match should the grant application

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be approved. The County will serve as lead applicant under the program. The grant would cover the cost of the scanning component of the Septic System Database Project. This is a shared services grant program that requires each application to be made jointly by at least three municipalities. The grant application is due on September 23, 2009. The Resolution is as follows:

RESOLUTION

**New York State Department of State
Local Government Efficiency Grant Program Application**

Whereas, Westchester County, in cooperation with local Westchester County municipalities, is developing a county-wide septic system "database" which will be GIS-driven, web-based and include records relating to all septic systems in the county including historical construction records and records relating to repair, maintenance and pump outs organized by parcel and identifiable and searchable by both street address and property record section/block/lot number; and

Whereas, the "database" will be shared with all Westchester County municipalities as well as with the New York City Department of Environmental Protection ("NYC DEP") to assist each of these governments in monitoring septic health, particularly in the critical watershed regions of the New York City Water Supply, and in implementing their respective statutory and regulatory obligations in the area of environmental health management and watershed protection; and

Whereas, the "database" will specifically assist those local governments located within the Westchester County portion of the watersheds of the New York City Water Supply: Town of Bedford, Town of Cortlandt, Town of Harrison, Town of Lewisboro, Town of Mount Pleasant, Town of New Castle, Town of North Castle, Town of North Salem, Town of Pound Ridge, Town of Somers, Town of Yorktown, Village/Town of Mount Kisco (the "East of Hudson Municipalities"), in establishing a Septic System Inspection Program, as required by the SPDES General Permit for Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4) issued by the NYS DEC on April 15, 2008; and

Whereas, the "database" project will include the "scanning component" of scanning of up to 49,545 paper records relating to the construction of septic systems within Westchester County, including as-built drawings and certificate of occupancy records, which are critical to development of this comprehensive "database," for the purposes of monitoring the condition of existing septic systems as well as guiding builders and septic system contractors which perform work on properties with a septic system; and

Whereas, the cost of the Scanning Component of the "database" development is expected not to exceed \$400,000; and

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Whereas, the Town of Pound Ridge is a member of the Northern Westchester Watershed Committee (NWWC) which is currently seeking the development of a regional consortium, inter-municipal agreement, management district or other shared service to address stormwater management; and

Whereas, Westchester County and certain East of Hudson Municipalities desire to apply as co-applicants to the New York State Department of State Local Government Efficiency Grant Program for funding of the Scanning Component of the "database;" and

Whereas, it is in the mutual interest of Westchester County and the co-applicants to apply for such funding in order to assist in the development of the "database" as a shared tool for the protection of the environment and public health, as well as to increase efficiencies in the management and monitoring of septic systems within Westchester County; and

Whereas, the County of Westchester agrees to assume the role of lead applicant for the purposes of contracting with the State and claiming and receiving payment on behalf of all applicants and will also assume responsibility for the 10% local match for any grant funding granted under this application; now, therefore, be it

Resolved, that Westchester County be and hereby is authorized to apply as lead applicant to the New York State Department of State Local Government Efficiency Grant Program for the Scanning Component of the "database," for grant funding in an amount not to exceed \$400,000; and be it further

Resolved, that Westchester County will commit to pay the costs of the local match equal to the amount of ten percent (10%) of the total cost of the Scanning Component of the Database, as required by the New York State Department of State Local Government Efficiency Grant Program; and be it further

Resolved, that the acceptance of grant funding from the New York State Department of State Local Government Efficiency Grant Program as aforesaid be further conditioned on the understanding that the "database" will be made available to the twelve East of Hudson municipalities to assist those municipalities in meeting the regulatory requirements for development of a septic inspection program under their SPDES General Permit for Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4). Notwithstanding the above, each municipality will be responsible for any post-database development expense attributable to utilizing the "database" locally and meeting local permit requirements.

Resolved, that the Supervisor of the Town of Pound Ridge is authorized to be a co-applicant in applying for a New York State Department of State Local Government Efficiency Grant.

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RESOLUTION #: 199-09

Board Action: Motion by Councilman Paschkes, seconded by Councilman Lyman, all voting aye on the following:

RESOLVED, that the Town Board hereby authorizes Supervisor Warshauer to adopt the resolution to submit a grant application to the Local Government Efficiency Grant Program to seek funds to support the scanning component of the Septic System Database Project.

Police Department – request for authorization to endorse a Memorandum of Understanding with the Bureau of Alcohol, Tobacco, Firearms and Explosives and the Law Enforcement Agency members of the Westchester Intelligence Center.

Chief Ryan is requesting authorization to sign the Memorandum of Understanding for the Sharing of Firearms Trace Data by and between the Bureau of Alcohol, Tobacco, Firearms and Explosives and the Law Enforcement Agency members of the Westchester Intelligence Center.

RESOLUTION #: 200-09

Board Action: Motion by Councilman Paschkes, seconded by Councilman McConville, all voting aye on the following:

RESOLVED, that the Town Board hereby authorizes Chief Ryan to sign the Memorandum of Understanding for the Sharing of Firearms Trace Data by and between the Bureau of Alcohol, Tobacco, Firearms and Explosives and the Law Enforcement Agency members of the Westchester Intelligence Center.

Pound Ridge Lions Club – Consider request to use area south of Trinity Corners Shopping Center, near the new sidewalk, as the location for their annual Pumpkin Sale Fund Raiser.

Record shows that Councilman Paschkes recused himself from the discussion about the Pound Ridge Lions Club Fund Raiser because he is an active member of the Club. Andrew Brodnick, President of the Pound Ridge Lions Club, spoke to the Town Board about the 2009 Pumpkin Sale Fund Raiser and he is requesting permission to use Town property Block 9456 Lot 3.6 for the Pumpkin Patch Fund Raiser. They would like to use it from September 27th to October 31st. Supervisor Warshauer told him that because this is being held on Town property, the Town requires their Liability Insurance Certificate to show the Town of Pound Ridge named as certificate holder and as an additionally insured.

RESOLUTION #: 201-09

Board Action: Motion by Councilman McConville, seconded by Councilman Lyman, all voting aye on the following:

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RESOLVED, that the Town Board hereby authorizes the Pound Ridge Lions Club members to set up the annual Pumpkin Sale Fund Raiser on Town property Block 9456 Lot 3.6.

Antiques & Tools – requests permission for Farmer’s Market and 2nd Sunday Antiques Markets for 2010.

Joan Silbersher, Antiques Tools of Business & Kitchen, has submitted an application for Special Event Permit to the Town Board for her 2nd Sunday Antiques and Farmers Market Event. Everything is the same as it has been in the past.

RESOLUTION #: 202 -09

Board Action: Motion by Councilman Paschkes, seconded by Councilman Falco, all voting aye on the following:

RESOLVED, that the Town Board hereby approves the following dates for the Special Events Permit Schedule 2009 for the 2nd Sunday Antiques Markets from 11:00 a.m. to 4 p.m. on April 11, May 9, June 13, July 11, August 8, September 12, October 10, November 14, and December 12, 2009, and January 1, 2010 and the Farmer’s Market every Sunday from 11:00 a.m. to 4:00 p.m. April through November.

Town Engineering Consultant, Woodard & Curran- Consider amendments to the Sidewalk and Highway/Sachs park project agreements.

Additional activities completed by Woodard & Curran for the Highway Garage/Sachs Park and Scotts Corners Sidewalk projects resulted in the need for additional budget and compensation. On the Highway/Sachs Park project, the original budget was \$117,370 and there is an additional cost increase of \$45,000 bringing the total to \$162,370.00 and on the Scotts Corners Sidewalk project, the original budget was \$85,750 and there was an additional cost of \$26,500 bringing the total to \$112,250.00.

RESOLUTION #: 203-09

Board Action: Motion by Councilman Lyman, seconded by Councilman McConville, all voting aye on the following:

RESOLVED, that the Town Board hereby authorizes the modifications to the budget as follows: On the Highway/Sachs Park project, the original budget was \$117,370 and there is an additional cost increase of \$45,000 bringing the total to \$162,370.00 and on the Scotts Corners Sidewalk project, the original budget was \$85,750 and there was an additional cost of \$26,500 bringing the total to \$112,250.00.

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There is also a contract with the Town Engineer Woodard & Curran not to exceed \$2,000 for the preparation of a portion of the MS4 report that we have to provide to New York State. It will be a list of all stormwater pollution plans.

RESOLUTION #: 204-09

Board Action: Motion by Councilman Paschkes, seconded by Councilman McConville, all voting aye on the following:

RESOLVED, that the Town Board hereby authorizes the payment not to exceed \$2,000 to Woodard & Curran for the preparation of a portion of the MS4 report that must be filed with New York State.

Appoint Court Officer

RESOLUTION #: 205 -09

Board Action: Motion by Councilman Paschkes, seconded by Councilman McConville, all voting aye on the following:

RESOLVED, that the Town Board hereby appoints John Segnit as a part time Court Officer for the hourly rate of \$20.00 subject to all proper application filing and background check.

Pound Ridge Fire Department – authorization for training

RESOLUTION #: 206-09

Board Action: Motion by Councilman Paschkes, seconded by Councilman McConville, all voting aye on the following:

RESOLVED, that the Town Board hereby authorizes the Pound Ridge Fire Department to use the Pound Ridge Highway Department garage for training that will include car extrication and fires during the month of October. The dates authorized are October 19, 2009 and October 26, 2009 between the hours of 7:30 and 9:30 p.m. This is subject to all surrounding residents being notified in advance by the Fire Department and providing a certificate of liability insurance to the Town.

Jon Powers mentioned that the OEM drill that was scheduled with Bedford and Lewisboro on October 3, 2009 has been postponed to the spring.

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FINANCIAL MATTERS

Receipt of Monthly Departmental Reports

The monthly reports have been received from the various departments and are on file with the Town Clerk's office.

Pay Bills

RESOLUTION #: 207 -09

Board Action: Motion by Councilman Paschkes, seconded by Councilman McConville, Board polled, motion passing 4-0 with Councilman Falco abstaining, to authorize payment of bills:

WHEREAS, Councilman Falco has audited claims for payment and has reported that same could be paid, Now, Therefore, Be It

RESOLVED, that the Supervisor be and is hereby authorized to pay the following claims for payment provided there are sufficient funds in the account to which a claim may be charged:

GENERAL FUND	G		\$ 71,046.85
HIGHWAY FUND	D		\$125,812.93
PARKING DISTRICT	ST		\$ 317.88
TRUST AND AGENCY	T		\$243,698.28
CAPITAL	H		\$124,282.04

ADJOURNMENT: There being no further business to come before the Board, Supervisor Warshauer adjourned the regular meeting at 9:10 p.m.

Joanne Pace

Dated at Pound Ridge, New York

September 11, 2009

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