

AGENDA - TOWN BOARD MEETING

October 13, 2011

7:00 P.M.

UNSAFE BUILDING HEARING: 8 CASTLE COURT

PUBLIC HEARING: Town of Warwick/AT&T Wireless Facility Application

PRESENTATION: FARM AID/MURAL

REGULAR MEETING:

**CALL TO ORDER
PLEDGE OF ALLEGIANCE
ROLL CALL**

ACCEPTANCE OF MINUTES:

- 1. Regular Meeting, 09/22/11**

CORRESPONDENCE:

GLORIA MCANDREWS – Village Clerk, Village of Florida, 33 South Main Street, PO Box 505, Florida, NY 10921 – Letter of notification that the Board of Trustees of the Village of Florida will continue the public hearing originally held on August 10, 2011 to consider proposed amendments to Sec. 119 of the Village Zoning Law at the Village Hall, 33 South Main Street, Florida, New York, on October 12th 2011, at 7:30 p.m., or as soon thereafter as the matter can be heard. Copies of said proposed local law, and Zoning Law may be reviewed at the Village Clerk’s office during regular village hours.

DOUGLAS J. GENITI – 236 Spanktown Road, P.O. Box 247, Florida, NY 10921 – Letter to the Supervisor and Town Building Inspector regarding a notice of violation dated August 22, 2011 disallowing the taking off and landings of private helicopters from property located at 172 Union Corners Road. This issue was previously addressed with a Notice of Violation dated August 27, 2010 and subsequent Notice of Correction dated September 27, 2010, was issued upon having provided the Town with NY State rules and FAA guidelines.

JOANNE WILCOX – Bookkeeper, Town of Warwick – Memos to the Town Board asking for the following budget transfers:

<u>FROM</u>	<u>TO</u>	<u>AMOUNT</u>
R. Land LLC Timber Bond (TA0.0676.001)	Engineer Insp. Fee (B00.1601.000)	\$1,000.00

<u>FROM</u>	<u>TO</u>	<u>AMOUNT</u>
R. Land LLC Timber Bond (TA0.0676.002)	Escrow Land (TA0.0899.000)	\$1,000.00

EDWARD BUTLER, P.E. – Town Engineer, Tectonic Engineering & Surveying Consultants, P.C., P.O. Box 37, 70 Pleasant Hill Road, Mountainville, NY 10953 – Memo to the Supervisor regarding W.O. #532.04 Rock Springs Subdivision Paiges Way, SBL 40-1-99.3 Landscape Bond. “This is in regard to a letter from Mike Hazard, of 9 Paiges Way in Warwick, NY, requesting release of his landscaping bond for the referenced project. As a condition stated on the approved plans, the applicant was required to plant 40 street trees, with no definite location specified. There have been well over 40 trees planted on the site, and have survived several growing seasons. One tree was currently noted as dead. I do believe the one tree is insignificant when considering the landscape and beauty of the site, therefore do recommend release of the landscape bond.”

FRANK J. GRAESSLE - 35 Clear View Lane, Warwick, NY 10990 – Letter informing the Town of Warwick and the New York State Liquor Authority that they are renewing their liquor license.

FRANCES N. SANFORD – Recording Secretary, Town of Warwick Zoning Board of Appeals – Letter to the Supervisor and Town Board notifying them of her resignation as the Recording Secretary from the Town of Warwick Zoning Board of Appeals effective immediately.

THOMAS F. MCGOVERN, JR. – Police Chief, Town of Warwick Police Department – Memo to the Town Board requesting a budget transfer in the amount of \$3,167.00 from Selective Way Insurance Company, to (B02.00.3120.403) auto repair.

THOMAS F. MCGOVERN, JR. – Police Chief, Town of Warwick Police Department – Memo to the Town Board requesting a budget transfer in the amount of \$3,000.00 from (B02.00.3120.182), to (B02.00.3120.482) police uniform allowance.

EILEEN ASTORINO – Assistant Secretary, Town of Warwick Building and Planning Department – Letter to the Supervisor and Town Board requesting a refund on the balance of a building department escrow in the amount of \$407.50 to Thomas Halka.

BENJAMIN ASTORINO – Chairman, Town of Warwick Planning Board – Letter to the Town Board regarding zoning for the Drew Garage located at 2 Schoolhouse Road in Pine Island that it be changed from the SL zone to the LB zone.

**State Environmental Quality Review (SEQR)
Negative Declaration
Notice of Determination of Non-Significance**

This notice is issued pursuant to Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act) of the Environmental Conservation Law.

The Town Board of the Town of Warwick, as Lead Agency, has determined that the proposed action described below will not have a significant effect on the environment

and a Draft Environmental Impact Statement will not be prepared.

Name of Action: Town of Warwick/New Cingular Wireless Telecommunications Facility

SEQR Status: Type I
Unlisted

Conditioned Negative Declaration: YES
 NO

Description of Action: The Town Board and AT&T propose a joint project to develop a new wireless telecommunications facility on a Town-owned parcel currently used for public water supply purposes. The proposal includes the construction of a new stealth monopine pole of 165 feet and an associated equipment shelter within a fenced compound at the tower's base. The Town intends to provide for emergency services telecommunications on the tower while AT&T has proposed the tower to fill an existing 2.67 mile wireless service gap from Black Rock Road to just beyond the New Jersey State border.

Location: State Route 94 in the CB Zoning District, Town of Warwick, Orange County, NY. The parcel is identified as Section 51, Block 1, Lot 40.4.

Reasons Supporting This Determination:

- 1. The Town Board of the Town of Warwick has given due consideration to the subject action as defined in 6 NYCRR 617.2(b) and 617.3(g).**
- 2. After reviewing the Environmental Assessment Form (EAF) for the project dated 06/22/2011 and as revised on 09/23/2011, the Town Board has concluded that environmental effects of the proposed project will not exceed any of the Criteria for Determining Significance found in 6 NYCRR 617.7(c).**
- 3. The Town Board has proposed the facility jointly with AT&T. There are several aspects of the project that will not comply with the Town Zoning Law. However, the nature and scope of the Town Board's authority to enter into an agreement with AT&T for use of Town owned lands is broad. The Town Board prepared and adopted the Town of Warwick Zoning Law. The Town Board also has the ability to amend the Zoning Law subject to the requirements of Town Law, Municipal Home Rule Law and the State Environmental Quality Review Act. The Town Board also has broad discretion to seek immunity from its own Zoning Law when it involves a matter of public safety as well as compliance with the Federal Telecommunications Act of 1996. The areas where the proposed facility do not comply with the Town Zoning Law include limitation on the height of a new wireless telecommunications tower to 120 feet, where the proposed tower is 165 feet high. The Zoning Law also requires certain setback restrictions from any property line and the tower is proposed 15 feet from the property line where 165 feet is required. The noise generation from the backup power generation may exceed 50 decibels (dB) at the property line, which may not comply with the Zoning Law requirement during times when the backup power generator is being tested and during times when power from the existing**

electric grid is unavailable due to power outages.

For the proposed project, the Town Board will be holding a Public Hearing to provide an opportunity for the Town of Warwick resident's and landowners interests to be heard. The Town Board's grant of authority for the Zoning Law rests solely with the Town Board. The land use involved is a telecommunications tower that will benefit town residents, visitors, businesses, emergency services as well as the Town itself due to the revenues generated from leasing the land that the Tower is placed upon. The primary areas where the Zoning Law is not complied with are those identified above, namely the height of the tower, the setback from the property line and the potential exceedance of the power generation equipment on a temporary basis. If the proposed tower consisted of an application solely from a private wireless services provider, area variances from the Town Zoning Board of Appeals would be available to modify the bulk requirements, so that the tower could be approved as proposed by the Town and AT&T. The Zoning Board can approve tower heights of up to 199 feet if an independent radio frequency consultant determines that adequate coverage would not be provided by a tower of up to 120 feet. For all of the reasons identified herein, the proposed telecommunications facility will serve the public interest and provide benefits to the public which includes enhanced 911 coverage, location of communications equipment on the tower by local emergency services providers with emergency battery and generator backup power supply, as well as co-location for other wireless providers in the Town which will have the ability to enhance their wireless services as well. While AT&T will profit from the new tower, this does not undermine the public interests served. Therefore, this justifies exemption from the three identified requirements of the Zoning Law.

4. The site is located in the Town's Aquifer Protection Overlay (AQ-O) Zoning District. An Aquifer Impact Assessment was prepared for the proposed project by Black & Veatch dated March 25, 2011. The Assessment describes the potential for impacts on groundwater as a result of the proposed construction activities as well as the operation of the facility. The proposed facility has been designed to comply with the AQ-O District use restrictions. Any surface water flowing into the proposed stormwater treatment area will be of sufficient quality to protect groundwater. This is because of conformance with an Erosion Control Plan prepared in compliance with the New York Guidelines for Urban Erosion and Sediment Control as well as the Town of Warwick Stormwater Management Regulations. None of the use restrictions identified in the Town Zoning Law will be potentially violated as a result of the proposed facility. The only potential for adverse effects arises from the back-up power generator's energy source as well as an uninterruptable power system (UPS), which uses lead-acid batteries. Often, diesel or gasoline are used for back-up electric power generation. However, the generator has been proposed as a propane fired generator which will mitigate any potential for releases of petroleum products. The UPS will be routinely inspected for cracks, leakage or evidence of corrosion as part of the on-going maintenance of the facility and any visible leakage will be immediately cleaned, with damaged batteries properly recycled off site. Finally, no pesticides or herbicides will be stored or applied at the facility.

5. The proposed action will not require water supplies nor the construction or use of sanitary sewage disposal systems since the facility will be un-manned and there will be no permanent occupancy.

6. A Visual Analysis was conducted of the proposed tower. The Analysis included the floating of a 40 inch diameter helium filled balloon to a height of 165 feet on April 22, 2011. The Analysis followed the New York State Department of Environmental Conservation's publication entitled "Assessing and Mitigating Visual Impacts." Photographs were taken towards the proposed tower site from 24 locations in the surrounding area. Scaled simulations of the proposed 165 foot tower were then superimposed on the photographs to show visibility of the tower. The proposed tower will be most visible from areas closest to the site, especially those that lack dense vegetative screening, including from State Route 84 east of Sanfordville Road and west of County Route 1. The tower will be highly visible at the entrance to the PriceChopper Plaza on Route 94. No visibility can be expected from the Village of Warwick and its Historic District with seasonal visibility expected from the historic structures located near the project area including the General John Hathorn Stone House and the Jeremiah Morehouse House, both located over 3,000 feet from the proposed tower. The tower is not expected to be readily visible from the Warwick Valley Central School or the historic Warwick Cemetery and would be seasonally visible from the Sanfordville Elementary School, which is located approximately 2,300 feet from the proposed tower. To minimize visibility, a monopine has been proposed in an attempt to blend into the existing trees in the area where the tower is proposed. There are existing trees with a height of approximately 80 feet high that are found adjacent to the proposed tower. A tower of 120 feet high may be less visible than a tower of 165 feet high but, both towers would stand above the height of the prevailing height of existing vegetation in the surrounding area. When viewed from the ground at locations close to the site in the CB District, especially along Route 94, either tower would be visible. While a 120 foot tower would be less visible, this height would not provide the needed gap in wireless communications that currently exists as discussed below. Since the tower will be designed to resemble a pine tree, it will be properly camouflaged in accordance with the Town Zoning Law. Finally, the rolling topography of the site and surrounding area, the antenna design which is integral with the proposed pine branches, the surrounding tree cover including existing mature hardwoods, the existing and proposed structures at the Fairgrounds site and the use of screening the tower by camouflage design, off-site views of the facility will be minimized consistent with the identified public need for the facility identified in the Comprehensive Radio Frequency Report and Supplemental Radio Frequency Report discussed more fully below.

7. AT&T was asked to provide a radio frequency analysis of tower heights at 120 feet and 165 feet. Based upon a Supplemental Radio Frequency Report prepared by an Independent Radio Frequency Engineer dated September 30, 2011, a monopine of 120 feet in height would not provide substantially seamless service to its customers. While a tower height of 165 feet would fill an existing critical gap in service coverage¹ of 2.67 miles from Black Rock Road to New Jersey, a tower of 120 feet would only provide a gap in coverage of 1.8 miles, thereby leaving a gap in coverage for travelers and emergency services providers on Route 94 as well as a gap in

coverage for homeowners and businesses located in a corridor area within 1.6 miles to the north of Route 94 and most of the land areas within 1 mile south of Route 94. This would be contrary to the mandates of the Federal Communications Commission license to AT&T. Furthermore, according to the Radio Frequency Report, other locations have been examined for potential tower locations and the proposed site represents the best available location for the facility.

8. The Town's parcel, where the telecommunications tower is proposed consists of 1.355 acres of land. It is surrounded on all sides by the existing Fairgrounds Price Chopper Grocery Store on parcel 51-1-40.2 as well as by the recently approved Fairgrounds retail center on parcel 51-1-40.1. Other privately owned vacant or farmlands within 500 feet of the site adjoin the Fairgrounds parcels to the north and west. A parcel located to the southwest of the Fairgrounds parcels (51-1-5.231, the Homarc development) is currently proposed for retail and office development. Two of the vacant or farmland parcels are located in the Town's Office and Industrial Park (OI) District. Thus, no existing residential development is located within close proximity to the site. All surrounding lands are either vacant or devoted to non-residential development. Due to the presence of protected freshwater wetlands, no new development (other than the approved Fairgrounds retail development) is expected adjacent to the site to the west or north. Thus, the setback of 165 feet is not required to protect adjoining land uses or future land uses. The size of the parcel and the presence of the existing public water supply wells would preclude any tower from being located on the site if the setback requirements were adhered to. Furthermore, the nearest residence is located approximately 1,100 feet from the proposed tower and an existing subdivision's closest dwelling is located approximately 1,700 feet from the proposed tower. The Town's CB Zoning District is designed to provide a place for attractive development of business activities that serve community needs. The proposed tower will serve community needs by filling a critical gap in wireless coverage for residents, visitors and those traveling on Warwick's roads, will provide the opportunity for the Town's emergency services providers to obtain enhanced coverage for their critical needs, will enhance 911 coverage, and will provide needed non-property tax revenues to the Town to support its community service obligations.

9. There may be a temporary exceedance of the 50 decibel limits on noise from the new telecommunications tower. This is because of the small size of the parcel proposed for the tower. For all of the reasons cited in paragraph 8 above, no tower could be developed on the site that would likely comply with the 50 dB limitation due to its small size and inability to provide sound buffering. Sound is attenuated by distance and the siting of a power generation unit on the site will create sound levels that exceed the Zoning Law limitations. Due to the site's location in a business district, the nature and use of the lands surrounding the site as described above, it is not expected that this exceedance will be considered significant, particularly when weighed against the compelling public need and benefits offered by the proposed tower. The noise exceedance will be temporary in nature and will be limited to regular maintenance at the site when all systems are tested, and to times when the power grid is not operational, when it can be expected that numerous other power generation equipment will be used throughout the Town to provide power in times of

emergency.

For Further Information:

Contact Person: Michael Sweeton, Supervisor

Address: Town of Warwick Town Board

132 Kings Highway

Warwick, NY 10990

Telephone: 845.986.1124

A Copy of this Notice Filed With:

Town of Warwick Town Board (Lead Agency)

132 Kings Highway

Warwick, NY 10990

NYS-DEC (Notice Only)

Environmental Notice Bulletin

625 Broadway

Albany, NY 12233

Email: enb@gw.dec.state.ny.us

BOARD’S DISCUSSION ON CORRESPONDENCE

VISITING ELECTED OFFICIALS

REPORTS OF BOARDS AND COMMISSIONS

COMMITTEE REPORTS

DEPARTMENT OF PUBLIC WORKS REPORT

<u>WORK BEING</u>	<u>LOCATION</u>	<u>REASON FOR WORK</u>	<u>LENGTH</u>
<u>DONE</u>			
CULVERT	129 Bellvale Lakes		
PIPES	Rd.	Replace pipe	30 ft. 36 in.
DRAINAGE	Sleepy Valley Rd.	Repairs from hurricane damage	
	Bellvale Lakes Rd.	Repairs from hurricane damage	
	Iron Mountain Rd.	Repairs from hurricane damage	
	Black Rock Rd.	Repairs from hurricane damage	
	Shepard Rd.	Repairs from hurricane damage	
DITCH WORK	Black Rock Rd.	Repairs from hurricane damage	
	Iron Mountain Rd.	Repairs from hurricane damage	
PAVE ROAD	Barrett Rd.	Repair storm damage	
MOWING	Town wide	As needed	
POT HOLES	Town wide	As needed	

ROAD SIGNS Town wide As needed

ENVIRONMENTAL CONSULTANTS REPORT

COUNCILMAN DE ANGELO REPORT

COUNCILMAN DE BUCK REPORT

COUNCILMAN GERSTNER REPORT

COUNCILMAN SHUBACK REPORT

ATTORNEY'S REPORT

TOWN CLERK'S REPORT

Fees Collected – Month of September, 2011 – Return Check Fees, \$40.00; Wickham Lake Key Replacement, \$20.00; Copies of Maps, \$5.00; Certified Marriages, \$140.00; Photocopies, \$27.25; Peddler Permit Fees, \$100.00; Use of Kitchen Fee, \$50.00; Interest in Checking Account for Month of August, \$1.14; Dog Impoundment Fees, \$1,375.00; Town Park Pavilion Fees, \$25.00; Athletic Field Fee, \$50.00; Marriage License Fees, \$350.00; Road Maps, \$3.00; Conservation Licenses, \$923.16; Dog Licenses Issued/Renewed, \$2,016.00; Use of Room Fees, \$220.00; Registrar Fees, \$10.00; Waterfront Park Daily Non-Res. Fees, \$224.00; Waterfront Park Daily Res. Fees, \$615.00; Town Park Deposits, \$50.00. Total Fees Collected - \$25,574.39

Fees Paid – Month of September, 2011 – NYS Dept. of Health for Marriage Licenses, \$450.00; NYS Dept. of Ag & Markets for Spay/Neuter Program, \$254.00; NYS Dept. of Environmental Conservation, \$17,645.84; Village of Florida for Registrar Fees, \$40.00; Village of Greenwood Lake for Registrar Fees, \$60.00; Village of Warwick for Registrar Fees, \$880.00. Total Fees Paid to the Supervisor, \$6,244.55

SUPERVISOR'S REPORT

- 1. FEMA Response Update**
- 2. Greenwood Lake Drawdown –DEC Permit Issued**
- 3. CPF Update**
- 4. Meeting Date Changed – November 3rd to November 10th**
- 5. Monthly Budget Review/Annual Budget Process**
- 6. Supervisors Corner – Published each week in the Warwick Dispatch with excerpts printed in the Warwick Advertiser**

PRIVILEGE OF THE FLOOR (AGENDA ITEMS)

NEW BUSINESS:

- 1. BUDGET TRANSFERS – BOOKKEEPER**
- 2. BUDGET TRANSFERS – POLICE DEPARTMENT**
- 3. AUTHORIZATION OF BOND RELEASE – ROCK SPRINGS SUBDIVISION – PAIGES WAY – MIKE HAZARD**
- 4. ESCROW REFUND – THOMAS HALKA**
- 5. ACCEPT RESIGNATION – FRANCES N. SANFORD**
- 6. AMEND #R2011-235 – SCHEDULE PUBLIC HEARING – PURCHASE OF PARCELS FOR BACK TAXES**
- 7. SPECIAL EVENT PERMIT – RICHARD JACOB RUDY MEMORIAL FUND – CHARITY RUN/WALK 5K**
- 8. SALE OF USED POLICE VEHICLE**
- 9. HALLOWEEN CURFEW**
- 10. AUTHORIZATION TO SIGN AGREEMENT WITH ORANGE COUNTY DEPARTMENT OF SOCIAL SERVICES**
- 11. DECLARE NEGATIVE DECLARATION – TOWN OF WARWICK/AT&T TELECOMMUNICATIONS FACILITY**

BILLS:

PRIVILEGE OF THE FLOOR (GENERAL)

EXECUTIVE SESSION:

RECONVENE:

ADJOURN: