

August 23, 2018

The Town Board of the Town of Warwick held a Public Hearing on a Proposed Cell Tower Located at WVOCT Water District Complex. Said public hearing was held on Thursday, August 23, 2018 at the Town Hall, 132 Kings Highway, Town of Warwick. Supervisor opened the public hearing at 7:20 p.m.

ATTENDANCE: Supervisor Michael Sweeton
Deputy Supervisor James Gerstner – Absent
Councilman Mickey Shuback
Councilman Floyd DeAngelo
Councilman Russell Kowal

Attorney for the Town, Jay Myrow – Absent

LEGAL NOTICE: Clerk read the legal notice which was duly published in the Warwick Valley Dispatch on August 8, 2018. (Copy of legal notice posted at the end of these minutes)

Supervisor Sweeton – I would like to invite representatives from Homeland Towers to come forward.

Vincent Xavier - Regional Manager, Homeland Towers, LLC – I am here today with David Kenny an Attorney from Snyder & Snyder and I will let him take over and explain what we've done since our last meeting and what we are seeking to do.

David Kenny Esq. – This facility will be 195-foot monopole located on State School Road on Town land within 3,700 square foot compound. We filed with this application a cover letter that explains that the Town is immune from zoning under a Monroe Balancing Test. Together we've also filed required escrow fees, and EAF or Environmental Assessment Form, a visual addendum, we also submitted another visual assessment showing that the facility will not create a negative visual impact for the surrounding area. We also provided a RF exposure report and the facility will comply with the FCC regulations regarding the RF remissions. We also provided a structural report for the facility and it will have the structural capacity to provide colocations space for different carriers as well as provide site plans showing the layout of the facility. There was a need to revise our EAF and we revised it showing the property is located and eligible to be considered a historic district. We also provided an escrow agreement together with the escrow check and we did provide an additional rendering facility for a monopine design and we believe with the height of this facility and there's no tall trees directly surrounding the facility it would be out of place to have a monopine design, also it would take away from the structural capacity and the ability to provide colocation for additional carriers.

Vincent Xavier – I have hard copies of that with photos for you.

Supervisor Sweeton – Please that would be great.

David Kenny Esq. – If the Board has any questions regarding anything filings I will be happy to answer them otherwise I can go through the balancing factors that we included in our cover letter.

Supervisor Sweeton – Just so the Board understands all of the technical data has been provided. The professionals, our planner and our engineer have all received it sometime last week. You all received copies, so there will not be any action other than the SEQR tonight. Those professionals will weigh in and provide comments to the applicants and then hopefully they can respond quickly and get this back to us by the meeting of the 13th of September. There is going to be a prominent space on the tower for emergency services correct?

David Kenny Esq. – At the top of the tower.

Supervisor Sweeton – Correct on the very top of the tower, so you will have a chance to peruse everything as this goes on in the next few weeks.

Vincent Xavier – You referred to the 13th and the meeting is September 10th.

Supervisor Sweeton – The 10th I'm sorry. Thank you. You want to go through the Monroe Balancing and just explain for the audience what that entails.

Vincent Xavier – There is a court case in Monroe County that states municipalities in towns can be immune from the zoning if it complies with or follows through with the nine balancing factors and if those factors weigh in the immunity of zoning, then the town would be immune from the zoning. This project does meet all nine factors. The scope and nature of the instrumentality seeking immunity would be the Town. The Town obviously is purely a public entity and is absolutely within the description of being the instrumentality of seeking immunity. There will be no encroaching of any other governmental activity because this is completely on Town owned property and the entire facility will be located within the Town of Warwick and there are no other jurisdictions it will be encroaching upon. The function of the land use will be for the wireless telecommunications facility as we explained, which New York State has determined this will be a public benefit. This is a public utility and wireless telecommunications services that will include emergency services and the township will be collocating its emergency services with the facility. The imposition of land use regulations would have negative effect of delaying the project and delaying the ability to provide the communications services that will be a public benefit. There are no alternative locations for this facility. This facility is on land that would actually allow this facility to be approved by special permit, in addition this location is located next to two 180' water towers, so its in a good location where there are already tall structures, so it won't be breaking a new sky plane or anything like that. The facility will not have an impact on the local community and this had been shown in our EAF that we have submitted in addition with the FCC compliance report which shows the facility will comply with the FCC rules and regulations regarding radio frequency admissions. Again, there is no other feasible alternative location there's also

another feasible method of providing the services. This type of gap of coverage that needs to be filled can only be filled by a macrosite such as the one that is being on the monopole. The facility will serve the public interest as explained. It will be able to provide for enhanced communications services throughout the town including emergency communication services will provide a public benefit. In addition, since this is on town property we will have a public hearing as we did tonight for the ability for the public to have an input on this decision is available. For those nine factors we believe the town will be able to exclude itself from the zoning and therefore the Monroe Balancing Test states that this town is immune from zoning for this particular land use action.

Supervisor Sweeton – Thank you. Does everybody understand that clearly? I just want to point out that our Planner had already looked at the issue of the eligibility for the national register to determine it will be a Type One action, but there are no other involved agencies so the Town will be cleared to be the Lead Agency tonight on this. For the public's information this is in the center of the former Mid-Orange Correction Facility a 700-acre parcel, it's in the water district area where the water tanks are, so it's not near any homes or anything like that, that could be an objection. It should be a very good place for this tower, it will enhance public safety, it will provide revenue for the lease of the space to the Town of Warwick to the tune of about \$24,000 a year, which is significant in this day and age. Overall it seems like it's a project that makes sense for us.

Julio Martinez – Resident, Town of Warwick, NY 10990 – I live in the Kings Estates community and we have issues there now with a cell tower being built on top of a water tower. We feel that it's not in our best interest to have this cell tower built on a water tower, a water tank that we are paying extra money to paint which has to be painted because it's corroded. We put a cell tower on top of this water tank we are going to have health issues. When we were trying to fight this before in the Chester Planning Board it was approved on July 18th and the cell tower will be coming to my community. We were told they could not put a cell tower in the area that they are putting a cell tower now. We respectfully ask this Board not to approve the cell tower until we can revisit the issue we are having in Kings Estates Sugar Hills. I thank you so much.

Supervisor Sweeton – I thank you for your comments we appreciate that.

Julio Martinez – This is for the cell tower that's being built in Chester to improve the service. This cell tower that's going to be built in the former prison will be able to alleviate the problem they are having with the cell tower?

Supervisor Sweeton – I don't know the answer tonight, but when our engineer looks at the data that they provided we'll give you that answer.

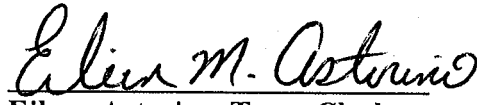
Julio Martinez – Thank you so much.

Supervisor Sweeton – You're very welcome.

David Kenny Esq. – I just want to clarify we are not building on top of the water tanks that are there. This will be a tower next to the water tank.

Supervisor Sweeton – No, the gentleman knows that. His issue is with a tower in the Kings Estates Sugar Hills community. he's not speaking to yours in particular. The issue there is sort of unfortunate because the land the private water company has is in the Town of Chester, so it never came to the Town of Warwick and whether Chester was aware or not of this I don't know. We did send a letter from the town in support of our residents saying we didn't feel it was an appropriate place. The Chester Town Planning Board on its own volition approved the project. I know the residents are exploring some options but this tower is not associated with that per say. This will remain open until September 10th which will be a Monday evening and we will see these gentlemen back and any of the public that wishes to do so. Mr. Martinez I will have your contact so I'll get you that information as soon as I have it.

**ADJOURN PUBLIC HEARING: Motion Councilman DeAngelo, seconded Councilman Shuback that the public hearing be adjourned. Motion Carried (4 ayes, 0 nays & 1 absent Councilman Gerstner absent) 7:40 p.m.
08-23-18 CP**


Eileen M. Astorino
Eileen Astorino, Town Clerk

LEGAL NOTICE

PLEASE TAKE NOTICE that the Town Board of the Town of Warwick will hold a **Public Hearing for Proposed Cell Tower** located at **WVOCT Water District Complex** in the Town of Warwick. Said Public Hearing to be held on **Thursday, August 23, 2018** at **7:15p.m.** or soon thereafter as the matter may be heard at the **Town Hall, 132 Kings Highway, Warwick, NY**

All interested persons will be given the opportunity to be heard.

DATED: August 8, 2018

**BY ORDER OF THE TOWN
BOARD OF THE TOWN OF WARWICK
Eileen M. Astorino
Town Clerk**