

## **Regular Meeting of the Vestal Town Board February 15, 2017**

The Regular Meeting of the Town Board of the Town of Vestal, County of Broome and the State of New York was held at the Town Hall, 605 Vestal Parkway West, Vestal, NY on February 15, 2017.

### **TOWN BOARD PRESENT**

**Councilman Majewski  
Councilwoman Fitzgerald  
Councilwoman Messina  
Councilwoman Agneshwar**

**ABSENT: Supervisor Schaffer**

**ALSO ATTENDING:** Town Attorney David Berger, Town Clerk Emil Bielecki, 1<sup>st</sup> Deputy Town Clerk Kathie Young, Water/Waste Water Superintendent Scott Groats, Comptroller Laura McKane and approximately 9 members of the general public.

Deputy Supervisor Majewski called the Regular Meeting to order at **6:00 PM**, welcomed everyone and led all present in the PLEDGE OF ALLEGIANCE.

### **APPROVAL OF MINUTES**

On a motion of Councilwoman Messina, seconded by Councilwoman Agneshwar, the following resolution was

**ADOPTED** Ayes 4      Majewski, Fitzgerald, Agneshwar, Messina  
                 Nays 0      Absent 1      Schaffer

Resolved the Minutes of the Regular Meeting on February 8, 2017 are approved.

### **PUBLIC HEARINGS**

#### **Public Hearing on Proposed Local Law “A” of the Year 2017**

Deputy Supervisor Majewski offered *Proof of Posting* and *Affidavit of Publication* regarding the Public Hearing for **Proposed Local Law “A” of the Year 2017** entitled: “A Local Law Amending Sewer Rents in the Town of Vestal.”

Water/Waste Water Superintendent Scott Groats explained that in order to keep our system in good order, we are constantly undertaking expensive maintenance projects. Those paying the minimum rate will see an increase from \$83 to \$87.

Deputy Supervisor Majewski stated that the Binghamton-Johnson City sewage treatment plant is raising their rates and we have no choice but to pass this on to the residents. We are raising our rates less than what is needed to cover these

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increases because we have built up some reserves that we can apply. He noted that we are increasing the amount in Sec. 18-202(b)(4) from \$5.00 to \$7.00 per account so we can borrow less for capital projects.

A speaker stated that utilities should be billed solely on consumption and that all water and sewer bills be available online so that everyone could see if people are paying their bills. Superintendent Scott Groats responded that all billing information could be accessed through a FOIL request.

**Adopt Proposed Local Law “A” of the Year 2017**

**R045-17** On a motion of Councilwoman Messina, seconded by Councilwoman Fitzgerald, the following resolution was

**ADOPTED** Ayes 4 Majewski, Fitzgerald, Agneshwar, Messina  
Nays 0 Absent 1 Schaffer

Resolved to adopt **Local Law “A” of the Year 2017** entitled: “A Local Law Amending Sewer Rents in the Town of Vestal” as follows:

Section 1. Chapter 18, Article V of the Code of the Town of Vestal is hereby amended to provide as follows:

(b) Sec.18-202(b) (1) Imposition and Computation is amended by deleting “...five dollars and thirty cents (\$5.30)...” and inserting in its place “five dollars and seventy cents (\$5.70)” and further amended by deleting “...fifty three dollars (\$53.00)...” and inserting in its place “fifty seven dollars (\$57.00)”.

(c) Sec. 18-202(b)(4) is amended by deleting: “...\$5.00 per account” and inserting in its place “...\$7.00 per account”.

**Public Hearing on Proposed Local Law “C” of the Year 2017**

Deputy Supervisor Majewski offered *Proof of Posting* and *Affidavit of Publication* regarding the **Proposed Local Law “C” of the Year 2017**, “A local law placing a temporary moratorium on telecommunication towers within the Town of Vestal”.

Deputy Supervisor Majewski noted that this is a temporary moratorium to give us time to update the Code to reflect the impact of new technology. This is a **Type 2 action** requiring no further review under SEQRA.

**Adopt Proposed Local Law “C” of the Year 2017**

**R046-17** On a motion of Councilwoman Agneshwar, seconded by Councilwoman Messina, the following resolution was

**ADOPTED** Ayes 4 Majewski, Fitzgerald, Agneshwar, Messina  
Nays 0 Absent 1 Schaffer

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Resolved to adopt **Local Law “C” of the Year 2017** - “A local law placing a temporary moratorium on telecommunication towers within the Town of Vestal” as follows:

**Section I.** Title

This Local Law shall be entitled and known as "**Moratorium on Telecommunications Towers within the Town of Vestal.**"

**Section 2.** Purpose

A Temporary Moratorium on Telecommunications Towers within the Town of Vestal

The Federal Telecommunication Act (the “Act”) was signed into law in February of 1996. The Act preserves the authority of local governments over reasonable nondiscriminatory decisions regarding the placement, construction, and modification of telecommunications towers. The passage of the Act, the increased sale of airwaves rights and issuance of licenses by the FCC, the increased demand for wireless communications services, and new technology have led to significant increase in the demand for telecommunications towers within the State. It is possible that the Town of Vestal may receive requests to locate such towers and accessory use within the Town of Vestal.

The Town of Vestal has significant concerns over the location of telecommunications towers within the Town of Vestal. The Town of Vestal would like to insure that the installation of these towers proceed in a fashion that minimizes any adverse impacts while maximizing services and benefits to the community. The Town of Vestal wants to accommodate the need for telecommunication towers while regulating their location and number, minimize adverse visual effects through proper design, siting or screening, avoid potential physical damage to adjacent properties, and encourage joint use of tower structures.

This law is necessary in order to address the Town of Vestal concerns by prohibiting the filing of new applications for tower construction and prohibiting any permits for towers and thus defer official government action permitting the construction of towers in order to give the Board of The Town of Vestal time to research the issues and adopt a local law requiring telecommunications towers and accessory uses consistent with the goals of the Town of Vestal.

**Definitions.**

1. Telecommunications Tower - A structure, including one or more antennas, that is intended for transmitting and/or receiving radio, television, telephone, or microwave communications, or exclusively for private radio and television

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reception and private citizen's, amateur radio and other similar private, residential communications.

2. Accessory Use - An accessory use service the principal use, is subordinate in area, extent or purpose to the principal use, and is located on the same lot as the principal uses. Examples of such uses include transmission equipment and storage sheds.

### **C. Imposition of Moratorium.**

For a **period of one year, (365 days)** from and after the effective date of this law, no application for the construction or erection of telecommunications tower or accessory use may be filed, accepted or processed, nor any permit issued therefor, nor shall any person, firm or corporation construct or erect a telecommunications tower. For the purpose of this law, an application for tower construction shall be deemed to mean any request for official action by the Zoning Enforcement Officer or Town of Vestal Zoning Board of Appeals or Board of the Town of Vestal which request and approval would in any way commence or continue the process whereby a telecommunications tower or accessory use is or may be constructed or erected.

2. This moratorium shall not apply to personal radio or television antenna constructed or erected for personal, residential use and accessory to a residence.

### **D. Penalties.**

Any person, firm, entity or corporation that shall construct erect, enlarge or alter any telecommunications tower in violation of the provisions of this local Law or shall otherwise violate any of the provisions of this local law shall be subject to:

1. Penalties as otherwise provided by the Zoning Ordinance of the Town of Vestal for violations thereof; and or

2. Injunctive relief in favor of the Town of Vestal to cease operations which are in conflict with this local law.

### **PRIVILEGE OF THE FLOOR**

Referencing the bonding resolution on the agenda, a speaker stated that the Town replaces its equipment too frequently and this constant borrowing will saddle future generations with the debt burden.

### **RESOLUTIONS & MOTIONS**

**Authorize Federal-aid and State "Marchiselli" Program-aid Implementation R047-17** On a motion of Councilwoman Messina, seconded by Councilwoman Fitzgerald, the following resolution was

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**ADOPTED** Ayes 4      Majewski, Fitzgerald, Agneshwar, Messina  
              Nays 0      Absent 1      Schaffer

Resolved to authorize the implementation, and funding in the first instance 100% of the Federal-aid and State "Marchiselli" Program-aid eligible costs, of a transportation Federal-aid project, and appropriating funds therefore.

WHEREAS, a Project for the **Washington Drive over Fuller Hollow Creek Bridge Rehabilitation**; Town of Vestal; Broome County, P.I.N. 9754.00 (the Project") is eligible for funding under Title 23 U.S. Code, as amended, that calls for the apportionment of the costs such program to be borne at the ratio of 80% Federal funds and 20% non-Federal funds; and

WHEREAS, the **Town of Vestal** desires to advance the Project by making a commitment of 100% of the Federal and non-Federal share of the costs of the **Preliminary Engineering and Design (Phases 1-4 only)** work.

NOW, THEREFORE, the **Town of Vestal Board**, duly convened does hereby RESOLVE, that the **Town of Vestal Board** hereby approves the above-subject project; and it is hereby further

RESOLVED, that the sum of **\$64,000** is hereby appropriated from **Capital Projects fund 5288** pursuant to **Resolution R011-17** and made available to cover the cost of participation in the above phase of the Project; and it is further

RESOLVED, that in the event the full Federal and non-Federal share costs of the project exceeds the amount appropriated above, the **Town of Vestal Board** shall convene as soon as possible to appropriate said excess amount immediately upon the notification by the New York State Department of Transportation thereof, and it is further

RESOLVED, that the **Town Supervisor** of the **Town of Vestal** be and is hereby authorized to execute all necessary Agreements, certifications or reimbursement requests for **Federal Aid and/or Marchiselli Aid** on behalf of the **Town of Vestal** with the New York State Department of Transportation in connection with the advancement or approval of the Project and providing for the administration of the Project and the municipality's first instance funding of project costs and permanent funding of the local share of federal-aid and state-aid eligible Project costs and all Project costs within appropriations therefore that are not so eligible, and it is further .

RESOLVED, that a certified copy of this resolution be filed with the New York State Commissioner of Transportation by attaching it to any necessary Agreement in connection with the Project, and it is further

RESOLVED, this Resolution shall take effect immediately.

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**Washington Dr. over Fuller Hollow Creek; Bridge Rehabilitation Agreement**

**R048-17** On a motion of Councilwoman Agneshwar, seconded by Councilwoman Messina, the following resolution was

**ADOPTED** Ayes 4 Majewski, Fitzgerald, Agneshwar, Messina  
Nays 0 Absent 1 Schaffer

Resolved to authorize the Vestal Town Supervisor to sign an agreement for the **Washington Drive over Fuller Hollow Creek; Bridge Rehabilitation**; Town of Vestal, Broome County: Project ID Number: 9754.00: BIN: 2226010; CFDA NUMBER: 20.205; PHASE: Per Schedules A; Federal aid Local Project Agreement - Comptroller's Contract No. 0035498. This Agreement is by and between: the New York State Department of Transportation (NYSDOT), having its principal office at 50 Wolf Road, Albany, NY 12232, on behalf of New York State (State); and the Town of Vestal (the Municipality/Sponsor) acting by and through the Vestal Town Board with its office at 605 Vestal Parkway West, Vestal, NY 13850.

**Authorize \$205,000 Bond for Purchase of Highway Equipment**

Town Attorney Berger noted this resolution is the same as the one previously adopted but it needs to be re-approved because the notice of its adoption did not get published within the legal timeframe.

**R049-17** On a motion of Councilwoman Messina, seconded by Councilwoman Agneshwar, the following resolution was

**ADOPTED** Ayes 4 Majewski, Fitzgerald, Agneshwar, Messina  
Nays 0 Absent 1 Schaffer

Resolved to **rescind R039-17** as adopted on February 8, 2017 and to adopt a RESOLUTION AUTHORIZING, SUBJECT TO PERMISSIVE REFERENDUM, THE ISSUANCE OF \$205,000 BONDS OF THE TOWN OF VESTAL, BROOME COUNTY, NEW YORK, TO PAY THE COST OF THE PURCHASE OF HIGHWAY EQUIPMENT, FOR SAID TOWN.

**Approve Southern Tier Enduro Bicycle Race at Jones Park in June 2017**

**R050-17** On a motion of Councilwoman Messina, seconded by Councilwoman Agneshwar, the following resolution was

**ADOPTED** Ayes 4 Majewski, Fitzgerald, Agneshwar, Messina  
Nays 0 Absent 1 Schaffer

Resolved to authorize the Vestal Town Supervisor to sign an agreement with Anthony Folk to hold the **Southern Tier Enduro Bicycle Race** at Jones Park in June 2017. This event will be staged as a benefit for the maintenance and preservation of Jones Park and its trail system.

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**CONSENT AGENDA**

On a motion of Councilwoman Agneshwar, seconded by Councilwoman Messina, the following resolution was

**ADOPTED** Ayes 4 Majewski, Fitzgerald, Agneshwar, Messina  
Nays 0 Absent 1 Schaffer

Resolved the **Consent Agenda** is approved as follows:

**FINANCE: Agneshwar/Fitzgerald**

**Receive and File - Warrant Reports:** 2017-06, 2017-06A

**PERMA Wellness Grant**

**R051-17** Approval to accept a **PERMA Wellness Grant** in the amount of \$400 to help fund the *Get Healthy in 2017 Program* by Positive LifeForce corporate wellness services.

**Town Attorney Billable Hours**

**R052-17** Authorization to pay Town Attorney David Berger \$262.50 for January 2017 billable hours.

**PERSONNEL: Messina/Majewski**

**Hire Tarah Tripp as Part-Time Dog Control Officer**

**R053-17** Authorization to hire **Tarah Tripp as the Dog Control Officer** (part-time) at an annual rate of \$28,000.00.

**END OF CONSENT AGENDA**

**SUPERVISOR'S ANNOUNCEMENTS**

- Public Hearing on March 8, 2017 on **Proposed Local Law D** - "A local law to prohibit Smoking in all Town Parks."
- We are continuing to accept expressions of interest for the sale of Magnolia Park.

**ADJOURNMENT**

On a motion of Councilwoman Messina, seconded by Councilwoman Agneshwar, the **meeting was adjourned at 6:20 PM.** Carried unanimously.

Approved by \_\_\_\_\_  
**Emil J. Bielecki, Town Clerk**