

MINUTES
TOWN BOARD
SPECIAL MEETING
July 1, 2014

The Town of Manlius Town Board assembled at the Town Hall, 301 Brooklea Drive, Fayetteville, New York, with Supervisor Edmond Theobald presiding and the following Board members present:

John R. Loeffler, Councilor
David M. Marnell, Sr., Councilor
Nicholas J. Marzola, Councilor
Jason Cassalia, Councilor
Vincent Giordano, Councilor
Karen Green, Councilor

The following Town Officers were present:

Allison A. Edsall, Town Clerk	Fran Marlowe, Chief of Police
Ann Oot, Town Manager	Doug Miller, Engineer for the Town
Fred Gilbert, Planning Board Chairman	Steven Primo, Attorney for the Town

Other persons attending:

Martha Dygert, Village of Manlius Clerk, Paul Whorrall, Village of Manlius Mayor. Allie Wenner, Eagle Bulletin.

1. The Pledge of Allegiance

Supervisor Theobald, called the meeting to order at 6:00 pm. The Pledge of Allegiance was recited. Supervisor Theobald welcomed everyone and thanked all for attending.

2. SEQRA – Village of Manlius Fire Station

Supervisor Theobald stated that this special meeting was called in response to the Notice of Intent from the Village of Manlius that they be lead agency for a coordinated SEQRA review for the Village of Manlius Fire Station Project.

Steve Primo, Attorney for the Town, stated that the location of the fire station project is located within the Town on the corner of Rte. 92 and Enders Road. One of the first steps that takes place in the project approval process is the establishment of the Lead Agency for SEQR purposes. The Village of Manlius has passed two resolutions which include the establishment of lead agency and the use of municipal sovereignty with respect to zoning and planning.

Attorney Primo discussed jurisdictional authority amongst municipalities developing within another municipality. Attorney Primo stated that Clerk Dygert and Mayor Whorall had a meeting with the Town to inform them that the Village of Manlius Board had adopted two resolutions in which they declared themselves jurisdictionally exempt from the Towns regulations and to assume lead agency for SEQRA purposes.

Attorney Primo stated that the Village of Manlius would submit to the Town's review process but the Village wants to assume lead agency for purposes of SEQRA review. Attorney Primo stated that the Village of Manlius would like to expedite the process for SEQRA without cutting corners.

Attorney Primo stated that he would like to give the Town Board legal advice in executive session.

Mayor Whorall stated that this fire station project has been a seven year plus project. The Village has explored different locations for the fire department and completed numerous studies regarding those locations. These studies indicated that the Fire Department needed to go back to one fire station that is centrally located.

Mayor Whorall discussed the history of the Manlius Fire Department membership, the Fire Station locations and the evolution of the fire district.

Mayor Whorall stated that the Rte. 92 Corridor was the best location for the fire station and the Village of Manlius received a great deal on the purchase of the land on Rte. 92. The Village is on

their third option to purchase this land and the owner of the land recently passed away. The contract to purchase the land ends in August and the estate could then choose to not sell the property to the Village of Manlius.

Mayor Whorall stated that by building one new station the Village has the option to get a 30 year bond. If the Village was to repair the current stations the only bond option would be a fifteen year bond. The shorter bond period would be a more difficult tax burden for the tax payers.

Mayor Whorall stated that he understands that Town residents in the Manlius Fire District are concerned that they will not have a say in the process because they do not live in the Village. Constructing the fire station on Rte 92 gives the Town residents better service because it is centrally located in the district.

Councilor Marzola asked why the Village of Manlius wants to be lead agency?

Clerk Dygert stated that it is simply a matter of time. It is the Village of Manlius's project, funding, and land. Clerk Dygert stated that if the Village of Manlius had more time they would not object to the Town of Manlius holding the position of lead agency but in order for the Village to conduct a referendum on this matter there must be a negative declaration for SEQR purposes prior to the vote. The Village has spent \$440,000 on the project and to let it go after completing numerous studies and reviewing different sites would not be advantageous to date.

Mayor Whorall discussed the history of the Fire Station Committee, the engineers and architects that were developing this project. Mayor Whorall stated that the prior Village administration halted the referendum ten days prior to the vote occurring.

Attorney Primo stated that the lead agency procedure and jurisdiction over the project approval process are two separate issues. The law is no longer clear on these matters. The Village is asserting that the Village should be exempt from Town jurisdiction with respect to planning and zoning and then that the Village is declaring lead agency status.

Attorney Primo stated that Clerk Dygert and Mayor Whorall have expressed that the Village of Manlius would submit to a Town approval process. This approval process would have to be created and can be outlined through an intermunicipal agreement (IMA) and would give the Town oversight of the project. Once a notice of intent to declare lead agency status has been provided there is a 30 day waiting period for a response from other agencies.

Councilor Marzola asked what zoning and planning laws would the Village be superseding and how does that coexist with becoming lead agency?

Attorney Primo stated that the Village would be superseding all planning and zoning laws and the Town's status of being an involved agency is watered down to the point where it does not make sense for the Town to be lead agency. Attorney Primo stated that with the IMA, regardless of who is lead agency, the Town will still have involvement as an involved agency and therefore be heard on the environmental issues.

Conversation ensued regarding the process by which one municipality develops within another municipality's jurisdiction.

Attorney Primo stated that the Village of Manlius is proposing that the Village of Manlius be lead agency for SEQRA purposes and that none of the Town of Manlius laws would apply except as the municipalities agree to otherwise. Attorney Primo stated that he envisions planning this agreement as an IMA pertaining to this particular project.

Attorney Primo stated that his concern is that this is a sensitive corridor for commercial development and public perception might appear as though the Town is opening the door for development if the Town is not exercising any jurisdiction over the development of this project. Attorney Primo stated that in his opinion this is a unique project and does not open the door further commercial development or waiver of rules or requirements. The Town does not want the appearance that this is a project of neglect when it comes to review when it is actually just the opposite. The Town would be approving a very specific project for a very specific use.

Supervisor Theobald stated that he is concerned that this could appear as though the Town is not being represented because the Town is not lead agency on a project that is developed on Town land. Supervisor Theobald stated that through the coordinated effort of the IMA the Town would be able to ensure the Planning Board could have an advisory capacity.

Attorney Primo stated that the concept of lead agency has been discussed but he believes this could lead to a deadlock. If the Town Board was to object to the Village of Manlius becoming lead agency on this project the process would then be to submit to the New York State Department of Environmental Conservation and they would decide as to who would be lead agency. If the Town was to reject the Village of Manlius's declaration of municipal sovereignty that type of dispute would be decided through the courts. These disputes would delay the project.

Councilor Loeffler stated that he expects that there would be issues regarding storm water and tax rates. Councilor Loeffler asked if the Town was obsoleting the zoning and planning regulations or superseding Town regulations. He is very concerned about obsoleting the Town regulations and following the Villages regulations.

Attorney Primo stated that obsoleting the Town regulations would have the same effect as agreeing to follow the Village regulations. Attorney Primo stated that he cannot say that the Town and the Village would now be following the Villages regulations because Town regulations and Village regulations are categorically different.

Attorney Primo stated that what could happen is the Town could throw out all of the regulations for this particular site and exchange it for a well thought out plan that has the assent of both the Village and Town. This would be custom made for this particular project leaving no precedent whatsoever.

Councilor Green asked about annexing the parcel. Attorney Primo stated that there are contiguity issues.

Councilor Loeffler asked why would it be faster for the Village of Manlius to be lead agency on this project as both municipalities have a process to follow.

Clerk Dygert stated that this should have and could have been accomplished over the last 18 months through no fault of the Town of Manlius. The Village is only trying to expedite the process of getting this project to a referendum vote. Clerk Dygert stated that the Village has done their due diligence with the funds that have already been expended and if the project is voted down at referendum then the project ends. The Village has already completed several parts of the Environmental Assessment (EAF) and professionals have declared this an unlisted action. Clerk Dygert stated that it is unlikely that the Town could complete the environmental studies in the timeframe that the Village needs.

Attorney Primo stated that the Town Board is taking a risk by not reaching some sort of agreement with the Village as to how they are going to handle the SEQRA review. If the Court were to determine that the Village can declare municipal sovereignty then the Town loses the argument over SEQRA. At that point the Town would not even be able to be an involved agency in the SEQRA process.

Attorney Primo stated that one of the concerns that could arise is the potential for increased cost to the taxpayers who do not even have the ability to vote on this project because they are not Village residents. That concern itself could unduly delay the real SEQRA process.

Attorney Primo stated that what the Town loses by not being lead agency is the ability to really push the final decision on environmental decisions. What the Town would lose by not even being an involved agency would be any input at all on this project.

Attorney Primo stated that as long as the data that the Town is resting their decisions on is accurate, in depth, complete and part of the record for SEQRA purposes the Town and Village could have a smooth proceeding. There are some issues with the Environmental Assessment Form (EAF) that have to be addressed a different way but that is normal for the process. It would be ideal to have a Town wide vote but there is no provision in the law for that.

Discussion ensued regarding the timeline of drawing up an Intermunicipal Agreement and the timeline for the referendum process in relation to declaring lead agency.

Attorney Primo stated that if the Town does not respond to the Villages declaration of lead agency it is automatic that the Village is lead agency. Attorney Primo stated that because this is an unlisted action something called a conditioned negative declaration can be done. It is the easiest, most expeditious way of addressing environmental concerns, mitigation factors and conditions without having to go through a full blown SEQRA proceeding.

Supervisor Theobald asked when the Towns involvement would begin.

Attorney Primo summarized the proposed process as follows;

- Amendment of Part 1 of the EAF
- The Village would recognize that the Town will have a hybrid project approval process with advisory from the Planning Board and final decision from the Town Board
- Recognition of both the Town Planning Board and the Town Board as involved agencies eligible to participate in the SEQRA process.
- County Planning would also be listed as an involved agency.
- Formalize all of these items in a letter and the Town will relinquish lead agency status
- The Village would submit a copy of the proposed plans.

Councilor Loeffler stated that he would like to know the cost of the project. Clerk Dygert stated that the estimated cost of the project is \$6.6 to \$7.7 million dollars and the building would be 20,000 square foot.

Conversation ensued regarding a small house located near the project site.

Councilor Loeffler asked about the possible tax impact on the Village of Manlius residents. Clerk Dygert stated that they have explored every possible cost scenario and it is hard to give a good estimate because the Village is not certain how much it will cost to actually build the building and how much the Village will receive for the sale of the existing fire station.

Mayor Whorall reviewed the history of the development of the fire station project.

Councilor Marnell made a motion, seconded by Councilor Marzola to enter into executive session at 7:07pm to discuss matters covered by attorney client privilege.

Ayes: Supervisor Theobald, Councilor Loeffler, Councilor Marzola, Councilor Giordano, Councilor Green, Councilor Marnell, Councilor Cassalia

Nayes: 0

All in favor.

Motion Carries.

Upon motion duly made by Councilor Marnell and seconded by Councilor Green, the Board unanimously agreed to close Executive Session and re-enter Regular Session.

The Town Board re-entered Regular Session at 8:18 p.m.

Supervisor Theobald stated that the notice from the Village of Manlius to take the status of lead agency on a project within the Town is a major concern for the Town Board. The Town Board is not ready to make a final decision on that notice. The Town would like to make a decision that is in the best interest of the Town and the Village while being mindful of the timeline.

There being no further business to come before the Board, upon motion duly made by Councilor Marnell and seconded by Councilor Loeffler, the Board unanimously voted to adjourn the Regular Session at 8:21 p.m.

Submitted by:

Allison Edsall
Manlius Town Clerk