

MINUTES
TOWN BOARD
March 14, 2018

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:

Absent	John R. Loeffler, Councilor
	Sara Bollinger, Councilor
	Nicholas J. Marzola, Councilor
	Vincent Giordano, Councilor
	Karen Green, Councilor
	Richard Rossetti, Councilor

The following Town Officers were present:

Tim Frateschi, Attorney for the Town	Allison A. Weber, Town Clerk
Mike Crowell, Police Chief	Ann Oot, Town Manager
Doug Miller, Town Engineer	Randy Capriotti, Director of Code

Other persons attending: Ellen & Mike McGrew, Manlius. Mark Matt, Fayetteville. Michael Larosche, Kirkville. Jacob Larosche, E. Syracuse. Jeanne Jackson, Manlius.

The Pledge of Allegiance

Supervisor Theobald, called the meeting to order at 6:30 pm. Councilor Marzola led the Pledge of Allegiance. Supervisor Theobald welcomed everyone and thanked all for attending.

Approval of Minutes – February 28, 2018

Councilor Rossetti made a motion, seconded by Councilor Green, to approve the minutes of February 28, 2018, as submitted by Town Clerk Weber.

Ayes: Supervisor Theobald, Councilor Rossetti, Councilor Marzola, Councilor Giordano, Councilor Green

Nays: 0

Abstain: Councilor Bollinger,

Motion Carries.

Approval of Abstract # 5

Councilor Marzola made a motion, seconded by Councilor Green, to approve Abstract # 5 as submitted by Town Clerk Weber.

Ayes: Supervisor Theobald, Councilor Rossetti, Councilor Marzola, Councilor Bollinger, Councilor Giordano, Councilor Green

Nayes: 0

All in Favor.

Public Hearing – Spectrum Franchise Agreement

Attorney Frateschi reviewed the proposed cable franchise agreement. Attorney Frateschi stated that he has been negotiating with Spectrum-Charter-TWC and there have been some changes made to the indemnification clause and the umbrella liability policy.

Attorney Frateschi stated that the franchise agreement allows Spectrum to use the town's right of way to install their infrastructure. The charges associated with the franchise agreement are all regulated by the Federal Cable Act.

Attorney Frateschi reviewed the approval procedure for the franchise agreement. Attorney Frateschi stated that the agreement would be sent to the Public Service Commission for review once it has been approved by the Town Board.

Attorney Frateschi stated that the Town would receive a 5% of Spectrum's gross revenue from cable services for the use of the town right of way.

Discussion ensued regarding the negligence clause of the franchise agreement.

Attorney Frateschi stated that the current proposed agreement had been reduced to a 10-year agreement from an original 20-year agreement.

Councilor Bollinger asked if there was any information on the areas of the Town, especially the rural areas, that do not have access to the internet. Councilor Bollinger stated that all school children should have access to the internet for school purposes.

Attorney Frateschi stated that Spectrum and the cost and services it provides is governed by the New York State Public Service Commission. The Town has no role in how the cable company expands its services or what it charges its customers. The only role the Town plays is allowing the cable provider to use its right of ways.

Councilor Bollinger asked the Town Board to consider encouraging Spectrum to move into the more rural areas of the community that do not have access to the internet. Councilor Bollinger asked about the kinds of barriers that prevent Spectrum from expanding into rural communities and if the town board could skip the 5% franchise fee in the areas without internet to encourage Spectrum to expand.

Attorney Frateschi stated that it is unlikely that the Town would be able to forego the fee for some residents and take the fees from other residents. The fee is based on gross revenue for the cable services, so as a practical matter, it would be difficult to charge some and not others.

Councilor Bollinger stated that that the Town should at least ask the question of Spectrum and to consider strategies to enhance the possibility that Spectrum could expand.

Councilor Bollinger stated that it is difficult to be a child in school and not have access to the internet.

A conversation ensued regarding how internet access is provided and who may have access to the internet.

Councilor Giordano made a motion, seconded by Councilor Bollinger, to waive the reading of the public notice in the matter of the public hearing to consider entering into the proposed Spectrum Franchise Agreement.

Ayes: Supervisor Theobald, Councilor Giordano, Councilor Green, Councilor Bollinger, Councilor Rossetti, Councilor Marzola

Nayes: 0 All in Favor. Motion Carries.

Councilor Rossetti made a motion, seconded by Councilor Bollinger to open the public hearing at 6:40 pm in the matter of the public hearing to consider entering into the proposed Spectrum Franchise Agreement.

Ayes: Supervisor Theobald, Councilor Giordano, Councilor Green, Councilor Bollinger, Councilor Rossetti, Councilor Marzola

Nayes: 0 All in Favor. Motion Carries.

Jeanne Jackson, Manlius, stated that she is very concerned that Spectrum does not have any competition in the area and they will not negotiate their prices. Ms. Jackson stated that she understood that the Town could not tell businesses how to operate but asked if there were some incentives to entice competitors to come to the Town of Manlius. Ms. Jackson discussed the high price that she pays for cable and internet and the limited amount of time that she uses those services. Ms. Jackson stated that the costs for cable keep rising and there have been several complaints about Spectrum's service. Ms. Jackson stated that she had contacted Congressman Katko and Senator DeFransico and they could not help her. Ms. Jackson stated that her local representatives have to be able to help negotiate the cable costs.

Supervisor Theobald stated that he agreed with Ms. Jackson's comments. Supervisor Theobald stated that he would like to see Verizon offer more services to the Town of Manlius. Supervisor Theobald stated that the Town has contacted Verizon in the past and requested expansion into the Town. Supervisor Theobald stated that Verizon has built out its current infrastructure and does not have plans to expand further.

A conversation ensued regarding Direct TV service and pricing.

Councilor Rossetti stated that the New York Public Service Commission has more control over cable providers than the Town of Manlius.

Councilor Giordano discussed his experience with negotiating cable packages with Spectrum.

Ellen McGrew, Manlius, asked if the Town Board had an exclusive agreement with Spectrum and if the Town could stop allowing Spectrum to use the Town right of way as a negotiating tactic.

Councilor Rossetti stated that there are several businesses in the community and losing internet would be detrimental to those businesses.

Attorney Frateschi stated that the Town does not have an exclusive agreement with Spectrum and any company can use the Town's right of way with a franchise agreement. Attorney Frateschi discussed how cable rates are approved and stated that the Town of Manlius is restricted by some provisions of the cable act.

Jacob Larosche, E. Syracuse, asked if the Town understood what gross revenue was?

Attorney Frateschi reviewed the definition of gross revenue from the proposed franchise agreement.

Mr. Larosche asked the Town Board how the funds collected from the franchise agreement are used? Councilor Marzola stated that the franchise fees are used in the general fund and reduce taxes.

Mr. Larosche asked if the reduction from the franchise fees are shown on his tax bill. Councilor Marzola stated that the franchise fees are outlined in the budget.

Discussion ensued regarding where the town right of way is and if the existing cable poles are in the town right of way.

Mr. Larosche discussed the recent increase on his Spectrum cable bill.

Mike Larosche, Kirkville, stated that the franchise fee is put right back on the consumer and in his mind that is still a tax.

Attorney Frateschi stated that the Cable Act gives the cable company the right to add a franchise fee line on the cable bill.

Mark Matt, Fayetteville, stated that the presented agreement is a pretty standard approach and not a forward-looking 10-year document. Mr. Matt stated that the Town does not yet know the number of people that do not have access to the internet. Mr. Matt expressed concerns over the kind of service delivered by Spectrum and stated that he knows a number of people who are unable to work from home or remotely. Mr. Matt stated that he would mostly discuss data. Mr. Matt stated that since we have lost net neutrality data providers are putting together packages.

Mr. Matt discussed the way that the franchise fees are passed along to the residents. Mr. Matt stated that a resident's bill could be raised by 20 dollars a month and the town will collect more revenue from that increase. Mr. Matt stated that the franchise fee is a direct flow through to customers and the more the cable company gains in revenue, the more franchise fees are collected. Mr. Matt stated that there are holes in the current system and

the Town needs to be forward thinking. Mr. Matt stated that the Town is contributing to the loss of net neutrality by allowing this franchise agreement. Mr. Matt stated that the Town is not doing anything wrong but stated that the Town needs to start thinking differently and collaborating with the Villages on this matter.

Councilor Rossetti asked for more clarification on the concept that the franchise agreement contributes to the elimination of net neutrality and more clarification on how the Town should proceed differently.

Mr. Matt explained that the cable company raises the rates and the town collects 5% of the gross revenue. Therefore, any rate increase will increase the total franchise fees collected. Mr. Matt stated that he does not have a solution to the problem, but he wanted the Town Board to consider new ideas.

Councilor Rossetti stated that he believes the cable rates would be raised with or without the franchise agreement. Councilor Rossetti stated that the Town could at least collect the franchise fees to offset the costs of maintaining the right of ways.

Attorney Frateschi stated that the Town is charging the cable company for the cost of using the Town right of way.

Discussion ensued regarding franchise agreements in other municipalities and how franchise fees are allocated.

With there being no further comments from the public, Councilor Rossetti made a motion, seconded by Councilor Green, to close the public hearing at 7:11 pm in the matter of the – Spectrum Franchise Agreement.

Ayes: Supervisor Theobald, Councilor Giordano, Councilor Green, Councilor Bollinger, Councilor Rossetti, Councilor Marzola

Nayes: 0 All in Favor. Motion Carries.

Attorney Frateschi stated that the Town Board could pass a resolution subject to negotiation by the Attorney for the Town.

Councilor Rossetti stated that he would like to table the matter until there are more answers.

The Town Board tabled the matter for further information and review.

County Legislator – Kevin Holmquist – Update on County Business

County Legislator Holmquist gave an update on the State of the County Address. County Legislator Holmquist reviewed several topics including budget, infrastructure, and notification of county work on roads and bridges. County Legislator Holmquist stated that he had been appointed to serve on the Cornell Cooperative Extension Committee which covers topics such as deer management.

County Legislator Holmquist reviewed the ways that the public can learn information about the legislative sessions as there are no minutes or recordings. County Legislator Holmquist stated that he tweets and posts 5-minute video summaries of the actions taken at the County Legislature.

Correspondence/New Business

A) Highway Superintendent – No New Business

B) Planning & Development – No New Business

C) Attorney

Attorney Frateschi stated that he would be presenting a draft local law to amend the Commercial B (CB) zoning classification to allow self-storage units at the next town board meeting.

D) Town Clerk

Town Clerk Weber presented the notice of appropriation from the New York State Department of Transportation for parcels of land located on Fremont Road. Attorney Frateschi reviewed the notices and stated that there is no action required.

Special Permit Renewal – Cell Tower – 6721 Schepps Corner Rd.

Town Clerk Weber thanked Deputy Clerk Witzel for all of her hard work maintaining the special permits for cell towers. Often the companies that own the cell towers are difficult to track down or may have changed.

Town Clerk Weber presented the renewal application for a special permit for a cell tower located at 6271 Schepps Corners Road. Town Clerk Weber stated that the application is in order and has been reviewed by the Office of Planning and Development.

Councilor Rossetti made a motion, seconded by Councilor Giordano to approve the special permit for the cell tower located at 6721 Schepps Corner Rd. (Tax Map # 046.-02-13.0/1), FCC Tower # 1008877 to expire in 7 years on 03/14/2025.

Ayes: Supervisor Theobald, Councilor Giordano, Councilor Green, Councilor Bollinger, Councilor Rossetti, Councilor Marzola

Nays: 0

All in Favor.

Motion Carries.

Special Permit Renewal – Barry Hutchinson – 7090 Myers Rd.

Town Clerk Weber presented the renewal application for a special permit for a cell tower located at 6271 Schepps Corners Road. Town Clerk Weber stated that the application is in order and has been reviewed by the Office of Planning and Development. Town Clerk Weber stated that the original special permit was issued for well over seven years.

The Town Board discussed the renewal period for special permits and decided to keep the length of the special permit congruent with the majority of the special permits in the town.

Councilor Rossetti made a motion, seconded by Councilor Marzola to approve the special permit for Barry Hutchinson (Reinsulated Piping Systems), 7090 Meyers Rd. to expire 7 years on 03/14/2025.

Ayes: Supervisor Theobald, Councilor Green, Councilor Bollinger, Councilor Rossetti, Councilor Marzola

Nays: 0

Abstain: Councilor Giordano

Motion Carries.

Town Clerk Weber stated that she has added a document repository to the town website and updated the Police Committee webpage.

E) Police Chief – No New Business

F) Town Board

Councilor Giordano made a motion seconded by Councilor Green, to approve a one-year agreement with Tru Green for lawn care at Town Hall.

Ayes: Supervisor Theobald, Councilor Giordano, Councilor Green, Councilor Bollinger, Councilor Rossetti, Councilor Marzola

Nays: 0

All in Favor.

Motion Carries.

Councilor Giordano stated that there are 47 homes on Limestone Drive that would like to form a special district to connect to public sewer. Councilor Giordano discussed the process to form a special district and stated that town officials have met with neighborhood representatives from the Limestone Drive area.

Councilor Bollinger stated that she attended the Syracuse Metropolitan Transportation Council's presentation of the Fayetteville traffic study on February 28 at Fayetteville Elementary. Councilor Bollinger reviewed the results of the traffic study and stated that the study would be available on the Village of Fayetteville's website when it is released.

G) Supervisor

Supervisor Theobald stated the town held an informational meeting on the proposed Salt Springs water project. Supervisor Theobald stated that the meeting was informative and more than 50 residents were in attendance.

All of the information presented, including the transcript of the meeting is available on the town website and in the Town Clerk's Office.

There being no further business to come before the Board, upon motion duly made by Councilor Rossetti and seconded by Councilor Green the Board voted unanimously to adjourn regular session at 8:05 PM.

Ayes: Supervisor Theobald, Councilor Rossetti, Councilor Marzola, Councilor Giordano, Councilor Bollinger, Councilor Green

Nays: 0

All in favor.

Motion Carries.

Respectfully Submitted by:

Allison A. Weber
Town Clerk