

# MINUTES OF TOWN BOARD MEETING HELD ON AUGUST 13, 2018

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A meeting of the Town Board of the Town of Lewisboro, Westchester County, New York, was held on August 13, 2018 at 7:30 p.m. at the Town House, 11 Main Street, South Salem, New York.

## **PRESENT:**

Supervisor	Peter Parsons
Council Members	Jane Crimmins, Tony Gonçalves, John Pappalardo, *Daniel Welsh
Town Clerk	Janet Donohue
Absent	None

Also attending was the Attorney for the Town Anthony Mole', Facilities Maintenance Manager Joel Smith, Parks and Recreation Superintendent Dana Mayclim, Comptroller Leo Masterson, and Confidential Secretary/Benefits Coordinator Mary Hafter.

Approximately 21 residents/observers.

Supervisor Parsons called the meeting to order at 7:30 p.m.

## PLEDGE OF ALLEGIANCE

The Supervisor led the Pledge of Allegiance to the flag.

## PUBLIC HEARING – Section 220-26(F)(5) Middle Income Housing (7:32 – 7:33 p.m.)

Mr. Parsons called the public hearing to order. There was no objection to the time or form of the public notice (attached). Mr. Parsons called for comments from the public.

There were no public comments.

On motion by Mr. Parsons, seconded by Mr. Pappalardo, the Board voted as follows:

THE VOTE:	Yes	- Parsons, Crimmins, Gonçalves, Pappalardo,	(4)
	No	- None	(0)
	Absent	- Welsh	(1)

## RESOLUTION

RESOLVED, that the public hearing for amending Section 220-26(F)(5) Middle Income Housing, is now closed.

## TOWN CODE – Chapter 220, Section 220-26(F)(5) Middle Income Housing

On motion by Mr. Parsons, seconded by Ms. Crimmins, the Board voted as follows:

THE VOTE:	Yes	- Parsons, Crimmins, Gonçalves, Pappalardo,	(4)
	No	- None	(0)
	Absent	- Welsh	(1)

LOCAL LAW NUMBER 8-2018 OF THE TOWN OF LEWISBORO  
AMENDMENT TO CHAPTER 220, SECTIONS 220-26(F)(5)  
OF THE LEWISBORO TOWN CODE

**§ 220-26 R-MF Multifamily Residence District.**

In an R-MF District, all such uses shall be subject to site plan approval in accordance with Article **VI** of this chapter. Multifamily dwellings are subject to the following requirements:

F. Middle-income dwelling units.

- (1) Distribution. Such units shall be available for sale, resale or continuing rental only to middle-income families, as defined in § **220-2** of this chapter. Such units shall be physically integrated into the design of the development in a manner satisfactory to the Planning Board and shall be distributed among efficiency, one-, two- three- or four-bedroom units in the same proportion as all other units in the development unless a different proportion is approved by the Planning Board as being better related to the housing needs, current or projected, of the Town of Lewisboro.
- (2) Minimum floor area.
  - (a) The minimum gross floor area per dwelling unit shall not be less than the following;

Minimum Gross Floor Area	
Dwelling Unit	(square feet)
Efficiency	450
1-bedroom	700
2-bedroom	900

<b>Dwelling Unit</b>	<b>Minimum Gross Floor Area (square feet)</b>
3-bedroom	1,100, including at least 1 1/2 baths
4-bedroom	1,300, including at least 1 1/2 baths

- (b) For purposes of this section, the Planning Board may allow paved terraces or balconies to be counted toward the minimum gross floor area requirement in an amount not to exceed 1/3 of the square footage of such terraces or balconies.
- (3) Occupancy standards. In renting or selling, the following priority schedule shall apply to middle-income dwelling units:

<b>Number of Persons</b>		
<b>Number of Bedrooms</b>	<b>Minimum</b>	<b>Maximum</b>
Efficiency	1	1
1	1*	2
2	2	4
3	3	6
4	5	8

**NOTE:** \* Only if efficiency is not available. Tenants should be transferred to efficiency when one becomes available, and the lease should so provide.

- (4) Maximum rent and sales price. The maximum monthly rent for a middle-income dwelling unit shall not exceed 1.75%, excluding utilities (gas, oil, electricity, water and sewage), and the maximum gross sales price for a middle-income dwelling unit shall not exceed two times the maximum aggregate family income for a middle-income family as defined in § 220-2 of this chapter for the maximum size of family eligible for such unit as set forth in Subsection F(3) above, except for the efficiency unit where the maximum family size is one.

(5) Continued eligibility.

- (a) Applicants for middle-income rental units referred to in this section shall, if eligible and if selected for occupancy by the owner or manager of the development, sign leases for a term of no more than two years.
  - (b) As long as a resident remains eligible and has complied with the terms of the lease, said resident shall be offered a two-year renewal of the lease. If a resident's annual gross income should subsequently exceed by more than 20% the maximum then allowable, as defined in § 220-2 of this chapter said resident may complete his current lease term and shall be offered a non-middle-income rental unit available in the development at the termination of such lease term, if available. If no such dwelling unit shall be available at said time, the resident may be allowed to sign one additional one-year lease for the middle-income dwelling unit he occupies but shall not be offered a renewal of the lease beyond the expiration of said term.
  - (c) Resale; title restrictions.
    - [1] In the case of owner-occupied middle-income dwelling units, the title to said property shall be restricted so that in the event of any resale by the home buyer or any successor, the resale price shall not exceed the then-maximum sales price for said unit, as determined in accordance with Subsection F(4) of this section, or the sum of the following, whichever is greater:
      - [a] The actual purchase price of the unit by the home buyer.
      - [b] The value, not to exceed original cost of any fixed improvements made by the home buyer, and not included within Subsection F(7)(c)[1][a] above.
      - [c] Reasonable and necessary expenses incidental to the resale.
    - [2] The form of the deed for the transfer of any such units is subject to the review of the Housing Committee prior to such transfer, to ensure that the appropriate restriction is included in the deed.
  - (d) Each year the renters and owners of the middle-income dwelling units must complete and submit to the Building Department within 10 days of receipt or by the deadline set forth in the survey, whichever is later, a completed survey as provided by the Housing Committee. Failure to submit the completed survey shall be a violation of this chapter.
- (6) Administration.
- (a) The Town Board shall establish a Town Housing Agency, which shall be responsible for the

administration of the middle-income housing requirements of this section as well as for the promulgation of such rules and regulations as may be necessary to implement such requirements. Until the establishment of such agency, the Housing Committee appointed by the Town Board shall be considered empowered to exercise all the functions of such agency.

- (b) At the time of the issuance of a certificate of occupancy, the Building Inspector shall send a copy of such certificate to the Town Housing Agency, which shall then inform the applicant of the maximum rental or sales charge which may be established for the middle-income dwelling units in such development and the maximum annual gross family income for eligibility for occupancy of said units.
- (c) The Town Housing Committee shall certify as eligible all applicants for rental or sales of middle-income dwelling units and shall annually reexamine or cause to be reexamined each rental family's income.
- (d) On or before March 30 of each year thereafter, the Town Housing Agency shall notify the owner or manager of each multifamily development containing middle-income units as to the rent, sales and income eligibility requirements for such units based upon figures derived from the preceding calendar year.
- (e) The owner or manager of such multifamily development shall certify to the Town Housing Agency on or before May 31 of each year that the current rental or sales prices of all middle-income dwelling units comply with the terms of this chapter.
- (7) Tax Assessment. The limited rental income and/or sales value of middle-income units shall be taken into consideration by the Town Assessor in determining the full value basis for assessments on such units.

PUBLIC COMMENT PERIOD (Supervisor Parsons asked that all comments be limited to 2 minutes)

LAKE KITCHAWAN ROAD – Doherty re Flooding (7:34 – 7:45 P.M.)

Joseph and Patti Doherty read the following during public comment period and showed several pictures (see attached).

*My name is Joseph Doherty. This is my wife, Patti. We live at 174 Lake Kitchawan Drive, which is a lakefront property on Lake Kitchawan. We are here tonight to make the Town Board aware of a dangerous condition across the street from our house and to ask for your help in resolving it.*

*In March and April of 2011, our house was flooded twice due to massive backflow from the Town-owned storm drainage basin located across the street from our driveway.*

*I wish to make clear, this was not a question of basement flooding. We don't have a basement. Our house is a lake cottage. It sits on a concrete slab. When I say our house flooded, I mean that our entire first floor and its contents were all ruined. Our kitchen, our living room, a home office.*

*We suffered tens of thousands of dollars in losses.*

*A subsequent investigation by the Town revealed that the storm drainage system across the street had been compromised by a large root ball which contributed to the backflow that caused the flooding.*

*Later that spring, the Town removed and replaced the length of conduit between the storm drain basin opposite our driveway and another basin further up the street.*

*This alleviated but did not entirely resolve the backflow problem. On several occasions in the seven years since, we have notified the town and highway department when the storm drain backflows.*

*On three occasions since June of this year, we have alerted the town and the highway department when serious backflowing was occurring.*

*On one occasion, during a sustained thunderstorm, the situation was so dire that we also contacted the Vista Fire Department. The water backflowed out of the basin, flooded the street and submerged the entire storm basin under the rising water. The water continued to rise in the road until it crossed the street to our driveway. It then breached our property and raced towards the lake, placing our home in immediate danger of flooding again.*

*Fortunately this occurred in daylight. We were able to see the danger and rushed out to create a makeshift diversion dam with sandbags that I have kept by our driveway ever since the first floods. Even so, an alarming amount of water flowed towards our house before we could get outside.*

*We have some photos to show you (Patti presents photos to Town Board showing the storm drain backflowing, subsequently being submerged under water, and water from the road cascading into our property during August 1st thunderstorm).*

*Based on the photos we have presented here tonight, it seems clear that the current drainage system does not have the capacity to handle even a thunderstorm of sustained duration without backflowing and placing our home and property in danger of flooding.*

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*We have contacted the Town alerting you about this dangerous condition but as yet have received no reply regarding possible resolution of this ongoing problem.*

*Meanwhile, we live in a state of constant vigilance and anxiety whenever heavy rain is predicted. We feel unable to be away from home whenever storms are forecast.*

*We came here tonight to make the Town Board aware of our situation and to ask when we may expect a response and action to protect our home from the ongoing liability -- the storm drain -- across the street from our house. Thank you.*

The Doherty's explained that they have used sand bags and a gutter system to try to divert the water.

Mr. Pappalardo stated that he was sorry that they were encountering this situation. Mr. Pappalardo did ask the Doherty's if they brought a law suit against the Town and the Doherty's responded yes, however, due to a technicality (lack of prior notification to the Town on behalf of the Doherty's) it was found in the Town's favor. Mr. Pappalardo suggested that the Doherty's engineer discuss this situation with the Town Engineer. The Doherty's can no longer afford their engineer. Supervisor Parsons did state that the Town Engineer had been out to the Doherty's property last week along with the Highway Superintendent and that he was waiting for the engineer's report. The Doherty's did not realize this but would like this situation remedied as soon as possible.

Ms. Crimmins stated that they would follow up with the Doherty's once they receive the Town Engineer's report.

NO PARKING ON PARK ROAD – Petition (7:46 – 7:48 p.m.)

Michael Altiero of Park Road in Goldens Bridge, NY wanted to talk about the no parking on Park Road. He is working on getting the new law revoked and he has two new things to mention. One is a letter from the Wild Oaks Townhouse Owners Association (WOTOA; see attached letter) and it mentions that it is reevaluating the parking on the private Courts. This concerns Mr. Altiero because where would he park his second car. The letter also discusses upcoming paving work on the Courts. Mr. Altiero stated that the police department has agreed to waive enforcement of the law because it's inconvenient to the Court residents. It seems surreal to Mr. Altiero that when the law is inconvenient to the Court residents it is waived, however when it is inconvenient to the Park Road people which is every single day, it is enforced. Mr. Altiero does not agree with the selective enforcement. Mr. Altiero is hoping that this will prompt a response from this Board with a removal of the no parking on Park Road law.

FORECLOSURES – Town Owned (7:48 – 7:51 p.m.)

Residents John and Martha Goodman of 258 Kitchawan Road asked again about the property directly across the road from them which is 249 Kitchawan Road. This property was foreclosed on by the town for failure to pay taxes. Mr. and Ms. Goodman were both at the June 11, 2018 meeting and asked when the foreclosure proceedings would take place. They again asked Supervisor Parsons when this property would be up for auction and the Supervisor responded most likely within a month. Mr. & Ms. Goodman stated that they have tried in good faith to get this resolved for several years and they sensed an irritation with the Supervisor. Ms. Goodman stated that she also sensed an irritation and belligerence on behalf of Supervisor Parsons with the Doherty's. Ms. Goodman stated that Supervisor Parsons is an elected official and she expects him to be polite and considerate to residents and reminded him that he works for the residents. Ms. Goodman also stated that they sat through a meeting regarding the banning of bags and discussion went on for half an hour. Supervisor Parsons stated that this was a public hearing on the bags. Ms. Goodman stated that after the public hearing there was also a public comment period where he allowed people to go on with no time constraint. Ms. Goodman would like this auction to move forward as soon as possible for the sake of the Town.

\*Dan Welsh arrives at 7:50 p.m.

COMMUNICATIONS

STEVE HILL – Passed Away

Supervisor Parsons informed the Board that former Highway Superintendent Steve Hill passed away today, August 13, 2018.

NO PARKING ON PARK ROAD – Letter from Peggy Van Tassell

Supervisor Parsons read the following letter, dated July 16, 2018, from Peggy Van Tassell, who lives on Peach Court in Goldens Bridge, NY:

*The no parking ban on Park Road is working well. The ambience is greatly improved and walkers feel much safer. Ellen Brief's reaction to the ban was to circulate another petition and park her car on Peach, Dogwood and Cherry Courts while her garage stood empty. Some of the latest signers already regret their signatures.*

*Regretfully, this matter was not handled diplomatically on WOTOA's part, and it has taken up too much of your time. I hope it can finally be put to rest. Thank you for your time and consideration.*

*P.S. Will the police practice thoughtfulness during the holidays?*



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CONSENT AGENDA

MINUTES - Approved

On motion by Supervisor Parsons, seconded by Mr. Pappalardo, the Board voted 5-0 to approve the meeting minutes of July 9, 2018 and to receive and file departmental reports.

THE VOTE:	Yes	- Parsons, Crimmins, Gonçalves, Pappalardo, Welsh	(5)
	No	- None	(0)
	Absent	- None	(0)

REPORTS – Monthly Reports

On the above motion and second the July reports from the Building and the Police Departments were received and filed.

THE VOTE:	Yes	- Parsons, Crimmins, Gonçalves, Pappalardo, Welsh	(5)
	No	- None	(0)
	Absent	- None	(0)

GARDEN CLUB –Daffodil Planting

George Scott, representing the Garden Club, asked for permission to plant additional daffodil bulbs at the Old Bedford Road/North Street Triangle in Goldens Bridge, NY.

On motion by Mr. Parsons, seconded by Ms. Crimmins, the Board voted as follows:

THE VOTE:	Yes	- Parsons, Crimmins, Gonçalves, Pappalardo, Welsh	(5)
	No	- None	(0)
	Absent	- None	(0)

RESOLUTION

RESOLVED that the Town Board does authorize the Garden Club to plant additional daffodil bulbs at the Old Bedford Road/North Street Triangle in Goldens Bridge and at the entrance to the East portion of Leon Levy and be it further  
RESOLVED that any and all fees be waived.

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CABARET LICENSE – Renewal Issued for Waccabuc Country Club

On motion by Supervisor Parsons, seconded by Ms. Crimmins, the Board voted as follows:

THE VOTE:	Yes	- Parsons, Crimmins, Gonçalves, Pappalardo, Welsh	(5)
	No	- None	(0)
	Absent	- None	(0)

RESOLUTION

RESOLVED, that the Town Board does hereby authorize renewal of a cabaret license for Waccabuc Country Club as submitted.

SCHOOL RESOURCE OFFICER AGREEMENT – Authorize Supervisor to Sign

On motion by Mr. Welsh, seconded by Mr. Pappalardo, the Board voted as follows:

THE VOTE:	Yes	- Parsons, Crimmins, Gonçalves, Pappalardo, Welsh	(5)
	No	- None	(0)
	Absent	- None	(0)

RESOLUTION

RESOLVED, that the Town Board authorizes the Supervisor to sign the School Resource Officer (SRO) agreement with the Katonah-Lewisboro School District and to forward same to the Katonah Lewisboro School District.

NUTRITION PROGRAM – Authorize Supervisor to Sign Contract

Mr. Parsons explained that a resolution is needed to have the Supervisor sign the 2017 Memorandum of Agreement for the Senior Citizen Nutrition Program and pay the program fee. He said the Town gets an estimated contract and then once the actual usage is known, a final bill is sent. This has been budgeted for. Mr. Parsons and the Board also thanked all of the wonderful volunteers that help to deliver the meals to our Senior Citizens.

On motion by Mr. Welsh, seconded by Ms. Crimmins, the Board voted as follows:

THE VOTE:	Yes	- Parsons, Crimmins, Gonçalves, Pappalardo, Welsh	(5)
	No	- None	(0)
	Absent	- None	(0)

RESOLVED

RESOLVED, that the Supervisor be and hereby is authorized to sign the 2017 agreement for the Senior Citizen Nutrition Program along with the Towns of North Salem, Somers and Lewisboro for \$16,230 and be it further

RESOLVED, that the Supervisor be and hereby is authorized to execute the 2018 good faith agreement.

PARTNERS IN SAFETY 2018 COMPLETE DEPARTMENT OF TRANSPORTATION (DOT) PROGRAM AGREEMENT – Authorize Supervisor to Sign Agreement

On motion by Ms. Crimmins, seconded by Mr. Pappalardo, the Board voted as follows:

THE VOTE:	Yes	- Parsons, Crimmins, Gonçalves, Pappalardo, Welsh	(5)
	No	- None	(0)
	Absent	- None	(0)

RESOLUTION

RESOLVED, that the Town Board does hereby authorize the Supervisor to sign the Partners in Safety 2018 Complete Department of Transportation (DOT) program agreement as submitted and reviewed by counsel.

REFUSE LICENSE – AAA Carting and Rubbish Removal, Inc.

On motion by Supervisor Parsons, seconded by Mr. Gonçalves, the Board voted as follows:

THE VOTE:	Yes	- Parsons, Crimmins, Gonçalves, Pappalardo, Welsh	(5)
	No	- None	(0)
	Absent	- None	(0)

RESOLUTION

RESOLVED, that the Town Clerk is hereby authorized to issue a Commercial and Residential refuse license to AAA Carting and Rubbish Removal, Inc., for a period of one year ending August 25, 2019.

REFUSE LICENSE - Winter Brothers Hauling of CT, LLC

On motion by Supervisor Parsons, seconded by Mr. Gonçalves, the Board voted as follows:

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## RESOLUTION

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WOLF CONSERVATION'S GRANT – Authorize Supervisor to Sign Letter

On motion by Mr. Pappalardo, seconded by Mr. Welsh, the Board voted as follows:

THE VOTE:	Yes	- Parsons, Crimmins, Gonçalves, Pappalardo, Welsh	(5)
	No	- None	(0)
	Absent	- None	(0)

RESOLUTION

RESOLVED, that the Town Board does hereby authorize the Supervisor to sign and send a letter of support to Governor Cuomo regarding support of the Wolf Conservation's Grant Application for the New Education Center.

OAKRIDGE WATER DISTRICT UPGRADE PROJECT – Discussion (8:06 – 8:25 p.m.)

Bill Bright from Delaware Engineering discussed the Oakridge Water District issues that were originally discussed at length at the November 13, 2017 Town Board meeting.

Mr. Bright explained that the Town can apply for a Water Infrastructure Improvement Act (WIIA) grant and he suggests that the Town do so. There is a 50/50 chance that the grant could be awarded to the Town. The total cost of the project is \$482,500. The grant would cover 60% of the total cost which equates to \$289,500 and it would cost the district \$193,000.

Mr. Bright explained that this project should be declared an emergency and this would allow going to a sole source which would ultimately cost the district less. And if this project is deemed an emergency, the chances of obtaining a grant is greater. However, the project needs to be completed regardless of obtaining a grant or not.

Delaware Engineering is hoping that this work would begin sometime from January through April of 2019.

OAKRIDGE WATER DISTRICT UPGRADE PROJECT – Emergency Project

On motion by Supervisor Parsons, seconded by Ms. Crimmins, the Board voted as follows:

THE VOTE:	Yes	- Parsons, Crimmins, Gonçalves, Pappalardo, Welsh	(5)
	No	- None	(0)
	Absent	- None	(0)

RESOLUTION

RESOLVED, that the Town Board does hereby declare the Oakridge Water District upgrade project an emergency.

OAKRIDGE WATER DISTRICT UPGRADE PROJECT – Map & Plan 202 (b) Report

On motion by Supervisor Parsons, seconded by Mr. Gonçalves the Board voted as follows:

THE VOTE:	Yes	- Parsons, Crimmins, Gonçalves, Pappalardo, Welsh	(5)
	No	- None	(0)
	Absent	- None	(0)

RESOLUTION

RESOLVED, that the Town Board does hereby accept the Map and Plan 202 (b) Report pertaining to the Oakridge Water District Upgrade Project.

OAKRIDGE WATER DISTRICT UPGRADE PROJECT – Type II Action Under SEQR

On motion by Supervisor Parsons, seconded by Mr. Welsh, the Board voted as follows:

THE VOTE:	Yes	- Parsons, Crimmins, Gonçalves, Pappalardo, Welsh	(5)
	No	- None	(0)
	Absent	- None	(0)

RESOLUTION

RESOLVED, that the Town Board does hereby determine the Oakridge Water District Project be a Type II Action under SEQR and that the Town Board is the lead agency.

PUBLIC HEARING ANNOUNCED – Oakridge Water District Improvements

On motion by Supervisor Parsons, seconded by Mr. Pappalardo, the Board voted as follows:

THE VOTE:	Yes	- Parsons, Crimmins, Gonçalves, Pappalardo, Welsh	(5)
	No	- None	(0)
	Absent	- None	(0)

RESOLUTION

PLEASE TAKE NOTICE that the Town Board of the Town of Lewisboro, Westchester County, New York, will meet at the Vista Fire House, 377 Smith Ridge Road in South Salem, New York, in said Town, on August 27, 2018, at 7:30 o'clock P.M., Prevailing Time, for the purpose of conducting a public hearing relating to the proposed increase and improvement of the facilities of the Oakridge Water District in said Town, consisting of various improvements to the Oakridge Water District water treatment plant, including the design and construction of an aeration system, design and installation of a monitoring system, upgrades to the chemical feed system and the repurposing of existing pressure valves, including incidental expenses in connection therewith, at a maximum estimated cost of \$482,500, at which time and place said Town Board will hear all persons interested in the subject thereof concerning the same. Such cost shall be annually apportioned and assessed upon the several lots and parcels of land within such Oakridge Water District in the manner provided by law and levied and collected in an amount sufficient to pay the principal and interest on said bonds as the same become due. The map, plan and report, including estimate of cost, relating to this project is on the file in the Office of the Town Clerk where it is available for public inspection during normal business hours.

BEDFORD AGREEMENT – Senior Citizen Bus Agreement

On motion by Supervisor Parsons, seconded by Mr. Pappalardo, the Board voted as follows:

THE VOTE:	Yes	- Parsons, Crimmins, Gonçalves, Pappalardo, Welsh	(5)
	No	- None	(0)
	Absent	- None	(0)

RESOLUTION

RESOLVED, that the Town Board does authorize the Parks and Recreation Superintendent to enter into an agreement with the Town of Bedford for their use of our Senior Bus for the Tri-Festa event to be held on September 22, 2018.

PROPOSED WINTER CLUB AND ICE RINK – Discussion (8:27 – 8:34 p.m.)

Supervisor Parsons wanted to discuss the proposed winter club and outdoor ice rink which is being proposed just over the border in Ridgefield, CT on Peaceable Street at the former Pinchbeck Nursery Property. Supervisor Parsons did obtain the submission report from the town of Ridgefield. In his opinion, he feels that there will be two significant issues and that is traffic and noise.

Supervisor Parsons plans on discussing this with our engineers. He will take their comments and will compose a letter in opposition of this project. Supervisor Parsons also plans on attending the public hearing which is being held on September 4<sup>th</sup>, 2018 at the East Ridge Middle School.

Supervisor Parsons has already asked Ms. Hodges in the Zoning Department to draw up a list of South Salem residents who live close to this location and they will be alerted via mail.

LVAC CELL TOWER – Discussion

Robert G. Gaudio, Attorney for Homeland Towers went over all the documentation that they have submitted thus far regarding the proposed LVAC cell tower. Mr. Gaudio informed the Board that they will continue to work with the Planning and Wetland Departments moving forward. Mr. Gaudio also informed the Board that they have agreed to enter into a memorandum of agreement with the Historical Society and they agreed to a proposal. This means that part of the monies that the Town receives in rent will be earmarked to improve the Cross River Historical area such as the Reynolds Cemetery and the Cyrus Russell Community House on a yearly basis.

Mr. Pappalardo asked about the DEC being concerned about the timing of the one tree being cut down due to the release of bats. Mr. Gaudio stated that any project in this area, if there is a possibility of an endangered species of bats the DEC requires that any tree cutting happen at a time when the bats won't be hibernating in the tree. There is no proof that the bats are in this particular tree but it will be cut down during the appropriate season.

Mr. Parsons would also like Mr. Gaudio to come back to the Board with how they are going to make the tower as unobtrusive to the eye as possible. Mr. Parsons suggested that it be similar to the tower in Vista. Mr. Gaudio will have a simulation created by Saratoga Associates and will present it to the Board at a later date.

APPROVAL OF NEGATIVE DECLARATION – LVAC Cell Tower

On motion by Supervisor Parsons, seconded by Mr. Gonçalves, the Board voted as follows:

THE VOTE:	Yes	- Parsons, Crimmins, Gonçalves, Pappalardo, Welsh	(5)
	No	- None	(0)
	Absent	- None	(0)

RESOLUTION

RESOLVED, that the Town Board of the Town of Lewisboro adopts the Negative Declaration for the Cell Tower to be located at 779 Route 35 in Cross River, NY.



**NEGATIVE DECLARATION**  
Notice of Determination of Non-Significance

Project Number / Agenda Item: Monroe Exemption to Homeland Towers, LLC

Date: August 13, 2018

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 of Lewisboro (the "Town") by its Town Board, acting as Lead Agency, has determined that the Proposed Action described below will not have a significant effect on the environment and that a Draft Environmental Impact Statement will not be prepared.

**Name of Action:** Monroe exemption on Town land to Homeland Towers, LLC approving the construction and operation of an antenna support structure.

**Status:** Type I

**Conditioned Negative Declaration:** Yes \_\_\_\_\_  
No   X  

**Description of Action:** The Proposed Action consists of a determination by the Town Board pursuant to the Monroe Balancing Test to approve a public utility and emergency services facility on an approximately 2,965 square foot portion of property at 779 Route 35, Town of Lewisboro, County of Westchester, State of New York and shown on the Tax Map of the Town of Lewisboro as Sheet 0018, Block 10532, Lot 001. Homeland Towers, LLC ("Tenant") will construct, maintain and operate a 170-foot communications tower and related ancillary facilities and improvements for the transmission and reception of communication signals and to accommodate the installations of wireless carriers and Town and local emergency service antennas and equipment, including without limitation, radio equipment cabinets, antennas and related equipment and utilities.

**Location:** 779 Route 35, Town of Lewisboro, County of Westchester, State of New York

**Reasons Supporting This Determination:**

Based upon a review of the Environmental Assessment Form, the Plans, the Visual Resource Assessment, the structural report, the FAA Opinion Letter analysis, the Pinnacle RF Exposure Report, the US Fish and Wildlife Service Letter, the Affidavit of Raymond Vergati, the RF coverage reports from PierCon Solutions and Goosetown Communications, letters from the LVAC, correspondence from CBRE regarding historic resources, public comment, comments of the Planning Board, SHPO, the DEP and the Town Planner, and all other documents submitted, in connection with the project, the Lead Agency makes the within negative declaration of environmental significance based upon the following findings:

The Proposed Action will not have a significant adverse environmental impact as a result of physical changes to the site. The area of the project site where the facility is to be located will require only minimal grading. Most of the location is already a portion of the LVAC parking lot. An existing access drive is proposed to be used by permit from the New York City DEP, or in the alternative a gravel access drive shall be constructed. Tenant shall be required to perform soil testing and prepare a stormwater pollution prevention plan ("SWPPP") that will be reviewed by the Town and the DEP prior to construction.

The Proposed Action will not have a significant adverse environmental impact on unique or unusual land forms found on the site. As noted above, most of the location is in an existing parking lot. Only minor tree removal and grading shall be required and a SWPPP will be prepared prior to construction.

The Proposed Action will not have a significant adverse environmental impact on any water body designated as protected. The property is adjacent to a New York City Watershed Boundary and wetlands. However, no variances are required from the Watershed Regulations. No wetlands will be impacted. Moreover a SWPPP subject to DEP and Town review shall be prepared. The project will be covered by the general DEC SPEDES permit. While the project is within the Town regulated wetland buffer there will be no impacts to the wetlands and the Town Board has exempted the project from the Town Code except that a Town Building Permit shall be required.

The Proposed Action will not have a significant adverse environmental impact on any non-protected existing or new body of water. The compound will be finished with gravel to control runoff and a full erosion and sediment control plan will be implemented.

The Proposed Action will not have a significant adverse environmental impact on surface or groundwater quality or quantity. All necessary erosion and sediment control measures will be implemented.

The Proposed Action will not have a significant adverse environmental impact as a result of altered drainage flow or patterns, or surface water runoff. As noted above a SWPPP will be prepared and an erosion and sediment control plan implemented.

The Proposed Action will not have a significant adverse environmental impact on air quality.

The Proposed Action will not have a significant adverse environmental impact on any threatened or endangered species. As detailed in the EAF, there shall be a restriction on the cutting of any trees so as to not disturb roosting bats.

The Proposed Action will not have a significant adverse environmental impact on non-threatened or non-endangered species. As noted above, the project will be located generally within a parking lot, only minor tree removal is required and there will be no impact on any wetlands.

The Proposed Action will not have a significant adverse environmental impact on agricultural land resources as none will be affected.

The Proposed Action will not have a significant adverse environmental impact on aesthetic resources. Based on the location, design as a slender monopole, coloring and existing landscaping and buffering, the facility will not have a significant adverse impact as demonstrated by the Visual Resource Assessment and results of the publically noticed balloon test attended by Town Board members. The Board is also aware that the area is characterized by fast moving traffic along Route 35 where there are no sidewalks or other safe areas for pedestrians.

The Proposed Action will not have a significant adverse environmental impact on any site or structure of historic, prehistoric or paleontological importance. While the New York State SHPO has opined that there will be an adverse effect on the recently created historic district, the Town Board disagrees. The Visual Resource Assessment demonstrates that based on the relocation of the facility to the back of the property being approximately 450 feet from Route 35, the slender design of the monopole, the two-tone coloring of the monopole, the significant existing vegetation including large evergreen trees, and the fact that the compound has been reduced in size, there will not be an adverse impact rising to the level of significance. Moreover, the Archeological Report attached to the EAF demonstrates that there will be no impact on archeological resources. Finally, the Tenant and the Town have agreed to fund improvements to Cyrus Russell Community Center and Cross River Cemetery thereby improving the current situation.

The Proposed Action will not have a significant adverse environmental impact on the quantity or quality of existing or future open spaces or recreational opportunities. The facility will not impact the Cyrus Russell Community Center or the LVAC. In fact the facility will provide essential public safety and commercial wireless services, thereby improving the safety of all residents in the area.

The Proposed Action will not have a significant adverse environmental impact on existing transportation systems. In fact, the facility will improve emergency communications in the area of Route 35.

The Proposed Action will not have a significant adverse environmental impact on the community's sources of fuel or energy supply. Only minimal electricity will be used by the facility.

The Proposed Action will not have a significant adverse environmental impact as a result of objectionable odors, noise, or vibration. In fact, the only noise associated with the facility will be the result of the emergency generator that will be used infrequently.

The Proposed Action will not have a significant adverse environmental impact on the public health and safety. The facility will comply with all FCC requirements related to radio frequency exposure.

The Proposed Action will not have a significant adverse environmental impact on the character of the existing community for the reasons described above in relation to the aesthetic impact and safety impact.

There are no potential adverse environmental impacts related to the proposed project, and the application of the Monroe Balancing Test. There are no cumulative or long term impacts associated with the project.

The Lead Agency has relied upon the Environmental Assessment Form, the site plan and other documentation described above and in the record in preparing this document. All such documents are incorporated by reference herein.

**If conditioned Negative Declaration: N/A**

**Lead Agency:** Town Board  
Town of Lewisboro  
11 Main Street, P.O. Box 500  
South Salem, New York 10590

**For Further Information:** Contact Person: Peter Parsons, Supervisor, Town of Lewisboro

**Address:** 11 Main Street, P.O. Box 500  
South Salem, New York 10590

**Telephone Number:** (914) 763-3151

**For Type 1 Actions and Conditioned Negative Declarations, a copy of this notice has been filed with:**

Town Clerk and Town Board  
Town of Lewisboro  
11 Main Street, P.O. Box 500  
South Salem, New York 10590

All Involved and Interested Agencies  
Planning Board  
Building Department  
NYS DEC  
NYC DEP  
County Planning Department  
Homeland Towers, LLC  
NYS Office of Parks, Recreation and Historic Preservation  
US Fish and Wildlife Service

**For Unlisted Actions, a copy of this notice has been filed with:**

A copy of this negative declaration is on file in the office of the Town Board of the Town of Lewisboro together with copies of all reports and documents referenced herein. These documents are available for review by the public.

**For Type 1 Actions and Conditioned Negative Declarations, notice of this determination has been provided to the following organization for publication in the ENB:**

*Environmental Notice Bulletin, Rm. 538, 625 Broadway, Albany, NY 12233-1750 for publication in the ENB. The electronic address to use is enb@dec.ny.gov.*

**APPROVAL OF MONROE TEST - LVAC Cell Tower**

On motion by Supervisor Parsons, seconded by Mr. Pappalardo, the Board voted as follows:

THE VOTE:	Yes	- Parsons, Crimmins, Gonçalves, Pappalardo, Welsh	(5)
	No	- None	(0)
	Absent	- None	(0)

**RESOLUTION**

**TOWN OF LEWISBORO**  
County of Westchester, State of New York

**APPROVAL OF MONROE TEST EXEMPTING PORTION OF TOWN PROPERTY  
FROM TOWN CODE TO HOMELAND TOWERS, LLC**

WHEREAS, the Town of Lewisboro owns a parcel of real property located at 779 Route 35, Town of Lewisboro, County of Westchester, State of New York and shown on the Tax Map of the Town of Lewisboro as Sheet 0018, Block 10532, Lot 001 (hereinafter referred to as the “subject premises”), and

WHEREAS, the subject premises currently has two buildings located thereon, namely the Cyrus Russell Community House and the Lewisboro Volunteer Ambulance Corps building, and

WHEREAS, the Town Board of the Town of Lewisboro has leased a portion of the subject premises to Homeland Towers, LLC for the purpose of constructing, establishing, and maintaining a radio transmission tower facility for its use and that of its subtenants, licensees and customers, which facility includes a tower and associated facilities, including radio transmitting and receiving antennas, communications equipment, and related cables, wires, conduits, air conditioning equipment and other appurtenances (the “Facility”), as shown on a certain site plan for said purpose as submitted to the Town Board, which site plan is subject to final approval, and WHEREAS, the Town Board of the Town of Lewisboro found that it is in the best interest of the Town to lease a portion of the subject premises, as set forth in a certain Lease,

and as shown on the aforementioned site plan, (hereinafter referred to as the “Lease Area”) to Homeland Towers, LLC, a New York limited liability company having a place of business at 9 Harmony Street, 2<sup>nd</sup> Floor, Danbury, Connecticut 06810, and

WHEREAS, in accordance with Article 8 of the Environmental Conservation Law (the State Environmental Quality Review Act) and 6 NYCRR Part 617 of the implementing regulations, the proposed action has been determined to be a TYPE I Action; and

WHEREAS, the Town Board of the Town of Lewisboro has reviewed the Environmental Assessment Form submitted for the project and all documents in the record, and

WHEREAS, the Town Board of the Town of Lewisboro hereby issues a negative declaration of significance pursuant to Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act) of the Environmental Conservation Law, in that it has determined that the proposed action, namely applying the Monroe Balancing Test to exempt the project from the Town Code, other than the requirement of a SWPPP and Building Permit, will not have a significant environmental impact and that a Draft Environmental Impact Statement will not be prepared, and

WHEREAS, it is recognized under New York State Law that towns are accorded certain immunity from local zoning regulations; and

WHEREAS, the leading New York Court of Appeals decision, Matter of County of Monroe v City of Rochester, 72 N.Y.2d 338, 533 N.Y.S.2d 702 (“Monroe”), establishes the balancing of the interests approach for determining whether a project should be accorded immunity from local zoning and wetlands regulations; and

WHEREAS, Monroe permits the Town to determine whether or not it is in the public interest to subject a particular project serving governmental interests to local zoning; and

WHEREAS, Monroe discusses the following nine (9) factors for consideration when balancing the interests of the public and the governmental entity:

- 1) The nature and scope of the instrumentality seeking immunity;
- 2) The encroaching governmental entity's legislative grant of authority;
- 3) The kind of function or land use involved;
- 4) The effect local land use regulation would have upon the enterprise concerned;
- 5) Alternative locations for the facility in less restrictive zoning areas;
- 6) The impact upon legitimate local interests;
- 7) Alternative methods of providing the proposed improvement;
- 8) The extent of the public interest to be served by the improvements; and
- 9) The intergovernmental participation in the project development process and an opportunity to be heard; and

WHEREAS, the Town has analyzed each of the foregoing considerations to determine whether the Facility should be exempt from the Town of Lewisboro zoning and wetlands regulations and has determined that the Facility as proposed to be located, should be exempt from such zoning regulations;

NOW, THEREFORE, upon a duly noticed public hearing and upon the evidence adduced there at and the entire written record in this matter, it is hereby found and determined that based upon a review of the foregoing considerations, this board has adopted the following findings of fact:

FIRST: The Town is a municipal corporation of the State of New York and provides emergency and public safety protection to its residents. Therefore, the Town is purely public in nature and is a governmental entity that provides an essential public service.



SECOND: The Facility will be located within the municipal borders of the Town, and therefore there is no encroaching entity. Pursuant to Section 64(2) of New York State Town Law, the Town has authority to lease Town lands.

THIRD: The function or land use that is contemplated by the Town under the Lease, is a wireless communications facility. The Facility will consist of a 170-foot tower and compound to support the communication needs of various Town departments, the LVAC and to provide for the collocation of antennas operated by wireless public utility telecommunications service providers.

FOURTH: Imposing local land use regulations on the proposed Facility would have the effect of unreasonably delaying an essential public need for immediate and effective emergency response and reliable wireless communications.

FIFTH: There are no alternative locations for the Facility in less restrictive zoning areas as such facilities are permitted in all Town zoning districts by special use permit. Moreover, the proposed location for the Facility at the subject Property is ideal in order to minimize aesthetic impacts to the greatest extent feasible based on the large size of the property and distance from neighboring uses, as demonstrated by the Visual Resource Assessment. The Property already supports large scale municipal operations of the LVAC and the Community Center and, therefore, the location of the Facility on the Property will not have a detriment on the community. By controlling the location of the Facility on municipal property, the Town can ensure that there is adequate infrastructure in place for the location of emergency communication antennas, while controlling the proliferation of new towers.

SIXTH: The Facility will not have an adverse environmental or other impact on the public because the Facility will be sited on a large parcel and will be distant from neighboring residential uses. The Facility will benefit the public interest by providing essential services and by

producing revenue for the Town, by providing critical infrastructure for municipal emergency wireless communications and public utility commercial wireless services and will be sited to minimize any potential adverse environmental impacts. The Facility will comply with all structural standards and will not adversely affect the public health, safety or the general welfare. The Facility will not cause any harmful interference with the frequencies of any radio, television, telephone or other uses. The Facility will have no impact on pedestrian or vehicular traffic, since the proposed use is unmanned requiring infrequent maintenance visits of approximately once per month. The Facility will not produce any smoke, gas, odor, heat, dust, noise above ambient levels, fumes, vibrations or flashing lights; the Facility will not generate solid waste, waste water or sewage, will not require water supply or waste disposal, and will not attract insects, vermin or other vectors. The Town and Homeland Towers, LLC shall support a fund to help with the restoration of the Cyrus Russell House and Cross River Cemetery in amounts deemed reasonable by both parties. Any human exposure to electromagnetic energy from the Facility even under worst case conditions, will be several orders of magnitude below the exposure limits established by the FCC, the American National Standards Institute, the Institute of Electronic and Electrical Engineers, the National Council on Radiation Protection and Measurements, and the New York State Department of Health. The Facility will not impact any wetlands.

SEVENTH: Due to the topography of the Town, the proposed height of the Facility is necessary to provide reliable wireless communications services in the local area and support collocation thereby discouraging the proliferation of towers as confirmed by PierCon, Goosetown Communications and the AAB.

EIGHTH: The Facility will protect and promote the public interest, in that it will serve and benefit the entire community by providing the infrastructure necessary to offer the public wireless

telecommunications services essential for protecting public health, safety, and welfare, including the provision of enhance 911 services.

NINTH: The zoning exemption contemplated by this resolution shall apply and extend to the commercial public utility antennas and related equipment located on or associated with the Facility consistent with the decision of the New York State Court of Appeals in the Matter of Crown Communication New York, Inc., 4 N.Y.3d 159.

TENTH: The Town Board has reviewed the project over many months and years, conducted a publically noticed balloon test and site visit, and has conducted a public hearing and provided all notices required under the New York State Town Law. The matter has also been reviewed by the Town Attorney, Town Planner, AAB, Town Planning Board and other interested and involved agencies.

NOW THEREFORE BE IT RESOLVED, that the Negative Declaration prepared in connection with the project is hereby adopted; and

RESOLVED, that based upon the foregoing balancing of interests, it is not in the public interest to subject the Facility to local zoning, wetlands and land use regulations.

NOW, THEREFORE BE IT RESOLVED, that the Town Board of the Town of Lewisboro hereby authorizes and approves the project on the subject premises to Homeland Towers, LLC, upon the terms and conditions contained in the Lease and as detailed on the site plan, incorporated herein by reference thereto, subject to a SWPPP and Building Permit review and issuance, and subject to Homeland Towers, LLC obtaining all required agency approvals and compliance with all outstanding comments from the Town Engineer and Town Planner; and

BE IT FURTHER RESOLVED, that the Town Board of the Town of Lewisboro hereby authorizes the Supervisor to execute any and all documents necessary to give effect to this resolution.

PICKLE BALL COURTS – Accept Bid

The Town received one bid in the amount of \$32,250 to have pickle ball courts installed over one of the basketball courts. Supervisor Parsons would like the bid to be accepted even though it was over the agreed upon limit of \$30,000. Supervisor Parsons did also state that the composting toilet bid came in slightly lower than what was agreed upon which was \$65,000.

On motion by Supervisor Parsons, seconded by Ms. Crimmins, the Board voted as follows:

THE VOTE:	Yes	- Parsons, Crimmins, Gonçalves, Pappalardo, Welsh	(5)
	No	- None	(0)
	Absent	- None	(0)

RESOLUTION

RESOLVED, that the Town Board approves the bid in the amount of \$32,250 from Sport Tech Acrylics Corporation to create three temporary/removable pickle ball courts at the Town Park.

COMPOSTING TOILETS – Accept Bid

The Town received one bid in the amount of \$62,860 from Clivus Multrum, Inc. for one double unit installed. The composting toilets take approximately six weeks to build so they should be installed in October.

On motion by Supervisor Parsons, seconded by Ms. Crimmins, the Board voted as follows:

THE VOTE:	Yes	- Parsons, Crimmins, Gonçalves, Pappalardo, Welsh	(5)
	No	- None	(0)
	Absent	- None	(0)

RESOLUTION

RESOLVED, that the Town Board approves the bid from Clivus Multrum, Inc. in the amount of \$62, 860 which is the cost of the composting toilet unit plus set up at Onatru Farm and be it further

RESOLVED, that the Town Board approves the maintenance fee in the amount of \$1,500 which will be in effect for the first 14 months, expiring December 31, 2019.

POOL COPING – Approve Form of Bid

On motion by Supervisor Parsons, seconded by Mr. Pappalardo, the Board voted as follows:

THE VOTE:	Yes	- Parsons, Crimmins, Gonçalves, Pappalardo, Welsh	(5)
	No	- None	(0)
	Absent	- None	(0)

RESOLUTION

RESOLVED, that the Town Board approves the form of the bid for the main pool coping project at the Lewisboro Town Park.

CLAIMS – Authorized for Payment

On motion by Mr. Pappalardo, seconded by Mr. Gonçalves, the Board voted 5-0 to authorize payment of the Town's bills in the amount of \$917,752.43.

MEETINGS – Dates Set

Upcoming meetings include a meeting on Monday, August 27, 2018 at 7:30 p.m. at the Vista Fire House, 377 Smith Ridge Road, South Salem, NY and another meeting on Tuesday, September 11, 2018 at 7:30 p.m. at the Town House, 11 Main Street, South Salem, NY

EXECUTIVE SESSION – To Discuss Legal Issues and Committee Appointments

On motion by Supervisor Parsons, seconded by Ms. Crimmins, the Board voted 5-0 to go into executive session at 8:57 p.m. to discuss legal issues and committee appointments.

On motion by Supervisor Parsons, seconded by Mr. Pappalardo, the Board voted 5-0 to come out of executive session at 10:00 p.m.

PEDESTRIAN AND BICYCLE ADVISORY COMMITTEE – Appointment of Members

On motion by Mr. Parsons, seconded by Ms. Crimmins, the Board voted as follows:

THE VOTE:	Yes	- Parsons, Crimmins, Gonçalves, Pappalardo, Welsh	(5)
	No	- None	(0)
	Absent	- None	(0)

RESOLUTION

RESOLVED, that Christine Schopen and Malcolm Wright are appointed as Members of the Pedestrian and Bicycle Advisory Committee for a four year term expiring December 31, 2021.

BUILDING DEPARTMENT – Part-Time Position

On motion by Mr. Parsons, seconded by Ms. Crimmins, the Board voted as follows:

THE VOTE:	Yes	- Parsons, Crimmins, Gonçalves, Pappalardo, Welsh	(5)
	No	- None	(0)
	Absent	- None	(0)

RESOLUTION

RESOLVED, that the Town Board approved the hiring of Kara Sullivan for a part-time position in the Building Department.

ADJOURNMENT

On motion by Supervisor Parsons, seconded by Mr. Pappalardo, the Board voted 5-0 to adjourn at 10:02 p.m.

Janet L. Donohue  
Town Clerk