

Bovina Town Board
Public Hearing
April 29, 2009

Board Members Present: Tina Molé, Supervisor; Charles McIntosh, Kenneth Brown, Councilmen; Evelyn Stewart, Mary Joan Robson, Councilwomen; Catherine Hewitt, Town Clerk; Robert Burgin, Highway Superintendent

Others Present: Wayne Reynolds, Delaware County Commissioner of Public Works; Carrie Hewitt; Joseph Castiglione, Young, Sommer...LLC; Nicole Franzese, Director Delaware County Planning Department; Patti Cullen; Chris Ingvordsen.

Public Hearing on the following:

Professional Fees Reimbursement Law of 2009; Town of Bovina Communication Tower Facilities Law of 2009; Local Law Governing Road Dedications for Subdivision.

Supervisor Molé called the Public Hearing to order at 5:30 pm with the Clerk reading the Legal Notice from the Delaware County Times.

There were no comments on the Professional Fees Reimbursement Law of 2009. Public Hearing closed at 5:31 pm.

Public Hearing for the Town of Bovina Communication Tower Facilities Law of 2009 was opened at 5:31 pm. Councilwoman Robson said that she was under the impression that the priority for tower sitings were going to be Town owned land first, then to other properties. Councilman McIntosh agreed, he thought that the Board was looking at Town lands first. He feels that if a communication tower is on Town property, the revenue will benefit everyone. Nicole Franzese said that the Planning Board recommended the order to open tower placement to landowners. The order can be switched. Supervisor Molé thought the tower companies came in and decided the best location. Robson's concern is that she doesn't want this list to box the Board in. Someone down the road can say that the priority list says private first. McIntosh asked if in regards to the State Environmental Quality Review Act (SEQRA), do we have to go through the bird mortality and migratory bird corridors, surrounding wetlands, known nesting and breeding areas. Franzese said that the items listed for review are what can be included in SEQRA. McIntosh asked if the annual inspection and report on telecommunication towers over 100 feet had to be done that often. He said that it seems like a bit much. Franzese said that there were two people from the industry who helped out with this law in the beginning. The feelings were that the towers need to remain safe. McIntosh said that we do have setbacks which protect us from things falling on something or someone. He asked if they inspect the safety of the guide wires, bolts, etc., and not just the structure itself. Councilman Brown asked if the inspection included climbing the tower. Franzese said she doesn't know if the physically climb the tower. With no further comments, the public hearing on Communication Towers was closed at 5:37 pm.

Public Hearing for Local Law Governing Road Dedications for Subdivisions was opened at 5:37 pm.

Supervisor Molé began by saying that the dedication of a 30-foot right-of-way (ROW) has been done since 1975. The Planning Board voted to recommend this local law to the Town Board, with a vote of 4 ayes and 1 nay. She invited Joe Castiglione and Wayne Reynolds to this meeting to explain the reasoning behind this local law. Patti Cullen wanted to hear the reasons for

this process being done. Castiglione said that this has been a requirement in Bovina for 30 years. The narrow roads in the Town leave limited space for infrastructure. Reynolds said that Towns need to have roadways wide enough to meet changes as they happen. The roadway standards as well as regulations have changed through the years. Towns have to go to eminent domain to maintain roadways if there is not enough ROW. Castiglione said that the purpose of subdivision is to create buildable lots, which creates the need for more infrastructures. This kind of law saves the Town the headache of going through the process of eminent domain. Cullen said she thought these were all good points but she feels that the Town holds the subdivision hostage, and created a burden on her as the landowner. The process put all the costs on her and she gets nothing in return. There is no tax break; she is still paying taxes on the land dedicated to the Town. She feels that there is a better way to do what she had to go through. Councilwoman Stewart asked Reynolds to explain what ROW in fee means. Reynolds said that it means that the Town owns the land. Cullen, "but it's still on my tax bill". Chris Ingvordsen said that it shouldn't be, it was taken off his taxes when he subdivided. Councilwoman Robson asked if the 30-foot ROW is dedicated in a subdivision, then that land is taken off the property owner's taxes, and if that hasn't been done in the past how does the Town deal with that. If a landowner owns both sides of the road and subdivides their land they are giving up a lot of land and then that land is off the tax rolls. Franzese said that the land has no real value. Properties are taxed on the highest and best use of land and ROW land is not valued highly. Reynolds said that even if it is appraised, it is appraised much lower than other land. Franzese said that is correct, that land is not assessed as high as the rest of the land, it is a negligible amount. Councilman Brown said that by taking 30-feet from centerline of the highway, there's only about 18-feet left after you take out the road and ditch. Reynolds said that it differs on every road, most of the county roads are 12-foot from centerline and then there is 4 to 6 feet of shoulder. Councilman McIntosh feels that it is smarter for the Town to continue taking the 60-foot ROW. If they don't and they have to go through the process of eminent domain, it will cost a lot in attorney fees. Supervisor Molé said that putting this law together has cost the Town about \$6,000, which is a 1 ½ % cost to the taxpayers. Cullen thought it was money well spent to clear this up. McIntosh asked what the difference is between deeding and dedicating in fee. Castiglione said he didn't think there is a difference, and there is no legal significance between the two. Councilwoman Stewart said that an attorney told her there is no difference between deeding and dedicating. She also said that part of the reason for this ROW is to put sewer and water along roadsides and she cannot imagine that ever happening in Bovina. Castiglione said with New York City all over the place and giving incentives, sewer and water could happen sooner than later. Franzese said that the other reason would be stormwater. Reynolds said case in point, on County Route 6, they had a surface right to maintain what they always have. Robson asked if Towns have been slowed up in their ability to maintain roads and have incurred legal fees without the ROW. Reynolds said that there was a case of a stonewall being built on a County Road. He couldn't stop the building of the wall because he couldn't show that the County had maintained over 15-feet. This resulted in guard rails being erected at a cost to the taxpayers. Stewart asked if the County can remove a stonewall if it's on the ROW. Reynolds said that if he can prove it's within the ROW he would have it removed. Cullen reiterated that she thinks the property owner has the financial burden in this process. Castiglione said that this law will only come into play when a property owner comes in for a subdivision. Cullen feels that a right was taken away from her with no profit to her. Franzese said that all costs relating to subdivision is up to the land owner doing the subdivision. Councilman McIntosh asked about the wording in Section 2 saying dedication of 30-feet of road frontage as condition of certain subdivisions. He felt it should say all subdivisions. Castiglione said that the language in this law was based on subdivisions on Town Roads or roads that were

said that the language in this law was based on subdivisions on Town Roads or roads that were going to be Town Roads. McIntosh asked if a subdivision is done on a County Road, is the ROW dedicated to the County. Castiglione said the County has no law for dedicating ROW, so this law is only for the Town Roads. Councilwoman Stewart asked if she were to subdivide her property on County Highway 6, there would be no ROW dedication to the County. Supervisor Molé said that the Town can't make the decision for the County or the State. Franzese said that in new developments where roads are constructed, it is put together as a 60-foot in fee that can be done if the Town ever takes over those roads. Stewart asked if, when a subdivision is done is the ROW deeded on all or just what is subdivided. Castiglione said that any parcel that is created has a deeded ROW. Stewart said that her parents own about 400-acres with road frontage. If they subdivide, do they have to give all of their road frontage? It would be close to 7-acres of land, which seems extreme. She asked if this had always been done like this. Cullen said no, that's why she went through with her subdivision. Franzese said that she doesn't know with certainty how it's always been handled. Chris Ingvordsen said that 30-feet was dedicated on all his land on New Road. Franzese thinks that more often than not people did the whole piece. Reynolds said that in reality, we're talking about a narrow strip of land. Franzese said that she has been coming to Bovina since 1997 and she can't remember a time when this ROW dedication wasn't done. Cullen said she knows of someone who was not required to do the ROW at all (she withheld the name), and she said that one of the Farley subdivisions wasn't done. McIntosh said that when a property is owned on both sides of the road, the taxes are being paid on the land under the road. When this ROW is done, it takes away the tax on ROW and the land under the road. Franzese said that this is an area that needs to be discussed with the assessor. She said that if land is not usable, it is not considered part of the assessment. Cullen said that the land owner has to pay surveyor to get the land put correctly on the maps. Councilwoman Robson said that this all began when large developments were being put in. She has 100-acres which she will probably divide in half and there is an additional burden with the ROW. Cullen feels that Bovina is setting precedence since no other town does this. Molé said that she takes it as a compliment that Bovina is ahead on this. Cullen is disconcerted that there was no law but she was told that she had to do this.

Supervisor Molé said that this was advertised that these local laws would be voted on tonight. However, they will be voted on at the May meeting and she will ask Joe Gifford to attend that meeting.

With no further comments, the Public Hearing on Road Dedications for subdivisions was closed at 6:35 PM.

Public Hearing was closed at 6:36 PM.

Respectfully submitted,

Catherine Hewitt
Town Clerk