

**Present:** Supervisor Donald Emhardt, Councilmen Kenneth Burnett, Thomas Carlson and Scott Cummings, Highway Superintendent, Dan Thorsell, Town Attorney, Joel Seachrist, Town Clerk, Rebecca Luba, Deputy Clerk, Jess Emhardt and Zoning Clerk Elizabeth Steinbach

**Absent:** Councilman, Dave Ward

**Others Present:** Karen Harvey, Jay Young, Mike Manning, John & Deborah Funka, Jane Currie, Sandi & Jeff Wagner, Maripat & Brian Kayes, Donald Fox, Emily Cherico, and Jared Lusk

Supervisor Donald Emhardt opened the regular meeting at 7:00 P.M. with the Pledge of Allegiance.

**Motion** made by Councilman, Scott Cummings to approve the minutes for the November 9, 2020 for regular meeting as presented to the board.

**Second:** Councilman Kenneth Burnett

**Vote:** Supervisor Donald Emhardt – Aye  
Councilman Scott Cummings – Aye  
Councilman Thomas Carlson – Aye  
Councilman Kenneth Burnett – Aye  
Councilman Dave Ward - Absent

**Carried**

**Departmental Reports:**

Town clerk monthly fees remitted for November totaled \$7,847.32 with the following disbursements; A Fund: \$1,115.09, B Fund: \$2,522.10, SS1 Fund: \$1,504.56, SW3 Fund: \$1,461.31. AG & Mrkts Animal Population Control: \$28.00, NYS DEC license sales: \$1,148.75, Dept. of Health: \$67.50. 2021 Town and County tax collection will begin January 6, 2021. A total of \$1,391.39 in unpaid water/sewer charges were sent to the County to be relieved. Clerk's office will be closed December 24<sup>th</sup> and 25<sup>th</sup> for Christmas and New Year's Day.

Building Department reported that 21 building permits were issued in November with a total project value of \$1,790,461.82 and 29 Certificates of Completion were issued with a total project value of \$607,105.00.

Highway Department reported on cutting roadside brush since weather has been mild. Built new pipe rack, installed arches and panels on salt shed, put up snowmobile signs and cleaned and organized shop. Councilman Cumming inquired whether the highway department has been able to inspect any of the roads being constructed for the Mandolin Ridge Sub-Division or if the Town should consider hiring a 3<sup>rd</sup> party to monitor and inspect their installation since they plan on turning these roads over to the Town. Highway Superintendent was in favor of this.

Assessor's report was submitted and on file. All STAR and Aged Exemptions have been mailed out. Agricultural renewals will be mailed out the same time as tax bills. Filing deadline is March 1<sup>st</sup>. The office has been deeply involved in doing the 2021 town-wide revaluation along with reviewing building permits and fieldwork for the 2021 Assessment Roll.

**Committee Reports:**

The handbook committee has completed all revisions to the employee handbook after it was reviewed by the Town's attorney. Final draft will be emailed to all Board members to be voted on at the next meeting.

Mike Manning from Ramboll, gave the Board an update on the following Capital Improvement projects for the Town;

Sewer District 1 Force Main and Pump Station

Waiting on Ledge Creek to submit last Payment and waiver. Overall, it is projected that the entire project will finish \$333,000.00 under budget.

Sewer District 1 Extension 1 North

Currently waiting on a bid from SHPO to complete feasibility report.

Water District 2- Water Supply

Order on Consent is moving forward on the flushing system. Currently working on a new site recommendation for a water well and plan to start drilling in January.

**Public Comments:**

Karen Harvey inquired if there were any large utility projects being planned within the Town for Solar or wind and voiced concern of the environmental impacts this could bring. A disc was given to the board containing information on why she feels it would be a detriment to our area.

**Agenda:**

**CMB Gym Use**

A request was submitted to the Board by David Turnball to use the gymnasium in the evenings to coach and instruct individuals in basketball. A schedule will have to be worked out for public gym use once pandemic restrictions are lifted.

**Public Hearing – Franchise Agreement**

**Motion:** made by Councilman Scott Cummings to open the public hearing at 7:11p.m. for the proposed Cable Franchise Agreement.

**Second:** Councilman Thomas Carlson

**Vote:** Supervisor Donald Emhardt – Aye  
Councilman Scott Cummings – Aye  
Councilman Thomas Carlson – Aye  
Councilman Kenneth Burnett – Aye  
Councilman Dave Ward - Absent

**Carried**

The floor was opened for comment in which there were none.

**Motion:** made by Councilman Thomas Carlson to close the public hearing at 7:12p.m.

**Second:** Councilman Kenneth Burnett

**Vote:** Supervisor Donald Emhardt – Aye  
Councilman Scott Cummings – Aye  
Councilman Thomas Carlson – Aye  
Councilman Kenneth Burnett – Aye  
Councilman Dave Ward - Absent

**Carried**

**WHEREAS**, an application has been duly made to the Town Board of the Town of Chautauqua, County of Chautauqua, New York, by Spectrum Northeast, LLC, an indirect subsidiary of Charter Communications, Inc. (“Charter”), a limited liability company organized and existing in good standing under the laws of State of Delaware doing business at 2604 Seneca Avenue, Niagara Falls, New York

14305, for the approval of a renewal agreement for Charter's cable television franchise for ten (10) years commencing with the date of approval by the Public Service Commission; and

**WHEREAS**, the franchise renewal agreement would bring the franchise into conformity with certain provisions of the Federal Cable Communications Policy Act of 1984, as amended, and certain court rulings; and.

**WHEREAS**, a public hearing was held in the Town of Chautauqua, New York on December 14, 2020, 7:15 P.M. and notice of the hearing was published in the Jamestown Post-Journal on December 4, 2020 and

**WHEREAS**, the Town Board finds that:

1. Spectrum Northeast, LLC has substantially complied with the material terms and conditions of its existing franchise and with applicable law;
2. Spectrum Northeast, LLC has the financial, legal and technical ability to provide these services, facilities and equipment as set forth in its proposal attached; and
3. Spectrum Northeast, LLC can reasonably meet the future cable-related community needs and interests, taking into account the cost of meeting such needs and interests.

**NOW, THEREFORE, BE IT**

**RESOLVED**, that the Town Board hereby grants the cable television franchise of Spectrum Northeast, LLC and the Town of Chautauqua for ten (10) years commencing with the date of approval by the Public Service Commission and expiring ten (10) years hence; and.be it further

**RESOLVED**, that the Town Board hereby confirms acceptance of this franchise renewal agreement

**Motion:** made by Councilman Scott Cummings to approve the resolution as presented.

**Second:** Councilman Kenneth Burnett

**Vote:** Supervisor Donald Emhardt – Aye  
Councilman Scott Cummings – Aye  
Councilman Thomas Carlson – Aye  
Councilman Kenneth Burnett – Aye  
Councilman Dave Ward - Absent

**Carried**

**Public Hearing – Dewittville Communication Tower**

**Motion:** made by Councilman Thomas Carlson to open the public hearing at 7:15p.m. for the proposed Cable Franchise Agreement.

**Second:** Councilman Scott Cummings

**Vote:** Supervisor Donald Emhardt – Aye  
Councilman Scott Cummings – Aye  
Councilman Thomas Carlson – Aye  
Councilman Kenneth Burnett – Aye  
Councilman Dave Ward - Absent

**Carried**

The floor was opened for comment.

John Funka spoke in opposition of the tower due to it being withing 500 feet of his line of site and inquired what type of tower was being installed and whether or not it would have lights. Jared Lusk,

attorney for Tarpon Towers, addressed all of Mr Funka’s concerns stating it was a 130-foot monopole tower which is the least obtrusive design in towers. The tower is shorter than FAA regulations, so it does not need additional lighting other than one 25-watt light attached to the cabinet for technicians to use when they check the tower 1-2 times a month.

Deborah Funka and Karen Harvey voiced concern on the RFs emitted from the Tower. Mr. Lusk directed the audience to tab ‘M’ of the application showing that they are well within federal guidelines and then gave a short history on cell towers and how much they have progressed.

Maripat Kayes spoke in favor of the tower stating how the lack of coverage in the area has created a hardship for schooling her children when schools closed due to the pandemic.

**Motion:** made by Councilman Thomas Carlson to close the public hearing at 7:48p.m.

**Second:** Councilman Scott Cummings

**Vote:** Supervisor Donald Emhardt – Aye  
Councilman Scott Cummings – Aye  
Councilman Thomas Carlson – Aye  
Councilman Kenneth Burnett – Aye  
Councilman Dave Ward - Absent

**Carried**

**State Environmental Quality Review**

**WHEREAS**, Tarpon Towers II, LLC and Bell Atlantic Mobile Systems LLC d/b/a Verizon Wireless, hereinafter called the “Applicants”, have submitted a special permit application requesting permission to construct and operate a telecommunications facility on land owned by Jane Currie Revocable Trust on a parcel adjacent to Springbrook Road, which is designated on the Chautauqua County Tax Map as Section 264.00, Block 2, Lot 12., which is located in the Residential-Agricultural (R-A) District, and

**WHEREAS**, the proposed use has been subject to environmental review pursuant to Article 8 of the New York State Environmental Conservation Law (State Environmental Quality Review Act), including the preparation and review of a short Environmental Assessment Form, and

**WHEREAS**, Part 617 of the implementing regulations pertaining to the State Environmental Quality Review Act requires this Board to determine and give notice of the environmental impact of the proposed use, and

**WHEREAS**, the Board has determined that the proposed use will not have a significant environmental impact,

**NOW, THEREFORE, BE IT RESOLVED**, that the Town Board hereby approves Parts I and II of the Environmental Assessment Form, issues the attached Notice of Determination of Non-Significance, also known as a Negative Declaration, for the proposed use, and authorizes the Supervisor to complete and sign the Environmental Assessment Form accordingly.

**Motion:** made by Councilman Thomas Carlson to adopt the negative declaration as presented

**Vote:** Supervisor Donald Emhardt – Aye  
Councilman Scott Cummings – Aye  
Councilman Thomas Carlson – Aye  
Councilman Kenneth Burnett – Aye  
Councilman Dave Ward - Absent

**Carried**

**Special Permit**

**Action of the Board:**

To consider the application of Tarpon Towers II, LLC and Bell Atlantic Mobile Systems LLC d/b/a Verizon Wireless for a special use permit and site plan approval that would allow the construction and operation of a telecommunications facility on land owned by Jane Currie Revocable Trust on a parcel adjacent to Springbrook Road, which is designated on the Chautauqua County Tax Map as Section 264.00, Block 2, Lot 12. The communications facility as proposed would consist of a 130' monopole tower and equipment appurtenant thereto.

**WHEREAS**, Tarpon Towers II, LLC and Bell Atlantic Mobile Systems LLC d/b/a Verizon Wireless (hereinafter, collectively, the "Applicants") submitted an application on or about October 17, 2020, requesting permission to construct and operate a new 130' monopole telecommunications tower to be located on property owned by Jane Currie Revocable Trust and designated on the Chautauqua County Tax Map as Section 264.00, Block 2, Lot 12 (the "Premises"); and

**WHEREAS**, the Town of Chautauqua Zoning Board of Appeals conducted site plan review and made a report and recommendation to the Town Board following a meeting held November 17, 2020, and found that the site plan met all criteria of the Town's Zoning Code and recommended that this Board approve the application subject to certain conditions, and

**WHEREAS**, the Chautauqua County Planning Department by letter dated December 11, 2020, in response to a zoning referral submitted pursuant to Section 239-m of the General Municipal Law, advised that the proposed action was of local option, and

**WHEREAS**, the issue of compliance with the State Environmental Quality Review Act has been thoroughly addressed, and a Negative Declaration was issued on December 14, 2020, after examination of the record and public hearing, and

**WHEREAS**, the Town Board has considered all the facts and papers before it, and has heard those wishing to be heard at a number of public meetings held since the application was submitted, and finds justification to approve the application subject to the qualifications hereinafter set forth, now

**THEREFORE BE IT RESOLVED**, that the application to construct and operate a telecommunications tower and the structures and equipment appurtenant thereto (the "facility") on the parcel of land located of Springbrook Road on Section 264.00, Block 2, Lot 12, be and hereby is authorized and approved subject to the conditions and requirements hereinafter set out:

1. Before the applicants operate the facility, all development and construction on the site shall comply with the site plans and maps submitted with the application, *except as hereinafter modified*.
2. The Applicants shall comply at all times with the current applicable standards and regulations of the FCC and FAA, and of all other agencies of the federal government with authority to regulate such facilities.
3. The tower shall be inspected and maintained in accordance with the applicable standards for towers published by the Electronic Industries Association, as amended from time to time.
4. The Applicants shall screen the facility, particularly the ground buildings and fence, to the greatest extent possible by trees and/or foliage, which shall be planted in a manner so as to shield the view of the tower from passers-by on Springbrook Road.
5. The terms, conditions, and requirements of this special permit bind and obligate the applicants, their successors, and assigns.
6. The permit shall not be assigned or transferred, in whole or in part, without the prior written consent of the Town of Chautauqua Zoning Board of Appeals.
7. This permit shall expire automatically if the facility is not operational by December 14, 2021.

8. This permit shall become effective after the applicants approve each and every provision hereof and agree to be bound by all of the terms herein contained in consideration of the granting of this special permit.

**Motion:** made by Councilman Thomas Carlson to approve the Special Permit for Tarpon Towers.

**Second:** Councilman Scott Cummings

**Vote:** Supervisor Donald Emhardt – Aye  
Councilman Scott Cummings – Aye  
Councilman Thomas Carlson – Aye  
Councilman Kenneth Burnett – Aye  
Councilman Dave Ward - Absent

**Carried**

### **Assessment Office- Staffing**

The office is currently going through a Town wide revaluation in which the former Assessor, Kevin Okerlund will be assisting 10-15 hrs/ week. This is allotted in the current budget but needs Board approval.

**Motion:** made by Councilman Scott Cummings to hire Kevin Okerlund 10-15 hours a week at a rate of \$42.00/hour until the revaluation is complete.

**Second:** Councilman Thomas Carlson

**Vote:** Supervisor Donald Emhardt – Aye  
Councilman Scott Cummings – Aye  
Councilman Thomas Carlson – Aye  
Councilman Kenneth Burnett – Aye  
Councilman Dave Ward - Absent

**Carried**

### **Town Constable Appointment – Felix DeJesus**

A request was submitted by Joe Gerace of the Chautauqua Institution Police Department for a new constable appointment along with the required training certifications.

**Motion:** made by Councilman Scott Cummings to appoint Felix DeJesus as Town Constable while employed with the Chautauqua Institution.

**Second:** Councilman Kenneth Burnett

**Vote:** Supervisor Donald Emhardt – Aye  
Councilman Scott Cummings – Aye  
Councilman Thomas Carlson – Aye  
Councilman Kenneth Burnett – Aye  
Councilman Dave Ward - Absent

**Carried**

### **MOA- Town Constable Public Safety Radio Network**

A proposal was submitted for the Board's review in regard to getting Town Constables on the current public safety radio network. The Board discussed the agreement and felt it should be signed and agreed upon by the Sheriff's Department and Chautauqua Institution prior to the Board's vote.

### **Pandemic Planning Committee**

Norma Cummings has agreed to assist the Town of Chautauqua on a State approved pandemic plan that needs to be in place by April 1, 2021 and has requested the Board to consider putting a committee in place. Anyone interested should contact the Town Supervisor.

**Motion:** made by Councilman Scott Cummings to set a public hearing for the 2021 Organizational meeting on Saturday, January 2, 2020 at 9AM.

**Second:** Councilman Thomas Carlson

**Vote:** Supervisor Donald Emhardt – Aye  
Councilman Scott Cummings – Aye  
Councilman Thomas Carlson – Aye  
Councilman Kenneth Burnett – Aye  
Councilman Dave Ward - Absent

**Carried**

**Motion:** made by Councilman Thomas Carlson to approve the Supervisor’s report for November.

**Second:** Councilman Scott Cummings

**Vote:** Supervisor Donald Emhardt – Aye  
Councilman Scott Cummings – Aye  
Councilman Thomas Carlson – Aye  
Councilman Kenneth Burnett – Aye  
Councilman Dave Ward - Absent

**Carried**

**Motion** made by Councilman Thomas Carlson to approve the vouchers as presented to the board for payment. Abstract #012, Voucher # 704-776

**ABSTRACT # 012**  
**DEPOSIT OF 10/01/2020 - 12/31/2020**

Code	Fund	Amount
<b>Book:</b> A B DA DB H1 H2 H3 H4 H5 K SF2 SF4 SL1		
A	GENERAL FUND - TOWNWIDE	583,434.55
B	GENERAL FUND - OUTSIDE VILLAGE	12,086.91
DA	HIGHWAY FUND - TOWNWIDE	54,771.59
DB	HIGHWAY FUND - OUTSIDE VILLAGE	67,266.56
H3-	SEWER & WATER EXPANSION	11,617.71
H4-	WATER DISTRICT 2	2,018.00
SL1-	PT CHAUTAUQUA LIGHT DISTRICT	306.26
SL2-	DEWITTVILLE LIGHTING DISTRICT	307.70
SL4-	BAYBERRY LANDING LIGHTING DIST	19.35
SS1-	CHAUT HEIGHTS SEWER DISTRICT	16,158.20
SW1-	CHAUT HEIGHTS WATER DISTRICT	10,143.78
SW3-	CHAUTAUQUA SHORES WATER DISTRICT	24.16
<b>Total:</b>		<b>758,154.77</b>

**Second:** Councilman Scott Cummings

**Vote:** Supervisor Donald Emhardt – Aye  
Councilman Scott Cummings – Aye  
Councilman Thomas Carlson – Aye  
Councilman Kenneth Burnett – Aye  
Councilman Dave Ward - Absent

**Carried**

**Motion** made by Councilman Thomas Carlson to adjourn the regular meeting at 8:16 P.M.

**Second:** Councilman Scott Cummings

**Vote:** Supervisor Donald Emhardt – Aye  
Councilman Scott Cummings – Aye  
Councilman Thomas Carlson – Aye  
Councilman Kenneth Burnett – Aye  
Councilman Dave Ward - Absent

**Carried**

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Rebecca L. Luba, RMC

Town Clerk

Town of Chautauqua