

**Town of New Scotland  
Special Town Board Meeting  
February 8, 2019**

The following Town Officials were in attendance:

Supervisor:	Douglas LaGrange
Councilperson:	Adam Greenberg Daniel Leinung Patricia Snyder
Town Clerk:	Diane Deschenes
Absent: Councilperson:	William Hennessy

**1. Call to Order**

Supervisor LaGrange called the meeting to order at 8:30 AM. The Board got together because of the timeliness of the issue of the Small Cell Wireless Facility regulations. Councilperson Greenberg and Councilperson Hennessy have been discussing this with Attorney Peck. Councilperson Greenberg said that there was a federal rule by the FCC that was passed October 15, 2018, that gave local municipalities only 180 days to enact any kind of restrictions on these 5G cell towers to go in wherever and however they wanted. They also regulated the decisions of it. We could only impose restrictions on aesthetic areas of the 5G technology. We're on a strict timeline; it runs out around April 15, 2019. We got news of it in the beginning of January and said what should be done here.

We met with Attorney Peck because Attorney Naughton has done some work for Verizon so there is a conflict of interest there. We thought Attorney Peck would be the best person to talk to and she knew a fair amount about it. Colonie has been dealing with it and some other municipalities that she does some work for. She said she could handle it, and she had some suggestions. She did a little bit of research and gave us this estimate on what she thought it would take to put it together. She thought the best way to do it was to wrap it into our already existing telecommunications law, so that's kind of where we are now. If we pay her for a few hours that she's put into it we should have something to talk about at our Wednesday regular Town Board meeting.

Councilperson Snyder said that she first became aware of this as an issue when she read something in the newspaper about poles suddenly appearing, mostly in the City of Albany, in front of people's houses. She thinks it got all of our attention because we were curious as to what was going on and did anybody know about it in advance other than the utility that was erecting the poles. She thinks that that prompted us to try and find out what was going on. She would like to make a comment. She doesn't know if everyone heard anything, but she's really disappointed that we didn't hear anything from any of our elected representatives that something like this happened. Granted, she doesn't think it was done in the legislature; she thinks it was an FCC ruling. Councilperson Leinung said that it was on the federal level. Councilperson Snyder said that unfortunately she doesn't think anybody let us know about it. He doesn't think we were singled out. He thinks none of the municipalities knew about it. She's a little disappointed in that lack of communication forcing us to then be reactive rather than being proactive. Supervisor LaGrange added that it caused us this smaller timeframe to address it because basically if we don't do it and have it in place by the middle of April then we're stuck with whatever they want to do.

Councilperson Leinung said that he knows there is a bill on the state level. He thinks Assemblywoman Fahy put it in. That only deals with the companies having to notify the municipalities and the property owner when they are going to put up a pole. He thinks it's an interesting idea too, but this is dealing with us on the local level. Supervisor LaGrange asked if it was any type of utility. Councilperson Leinung said that he needed to look at it, but he thought it was specifically 5G. The way it's written now with the FCC rule, it looks like they can just stick it up without notifying anybody. Supervisor LaGrange said that that's similar to what he's had people calling about in the last month, mostly in the outskirts like Cass Hill and one or two other places because they were seeing Spectrum going out and trucks that weren't identified too that would be marking out and painting areas and roads. That was a prequel to Spectrum doing their rural additions to their lines and stuff. That came out of nowhere. Nobody called and then he had to chase that down. It was quite similar. Councilperson Snyder said that in the Spectrum situation people were pleading for cable. Supervisor LaGrange said generally a good deal of the

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calls were happy. He believed that he had two that said they didn't want that on their road. They were single homes or something like that on a short drive. He had two kinds of complaints and several that wondered if Spectrum was coming. Supervisor LaGrange said that he told them he didn't know and would have to check. He finally got some maps that suggested where they were going. Councilperson Greenberg said that people will plead for 5G as well and it's not coming to New Scotland anytime soon but the fact is that we only had a 180-day period. Even if it doesn't happen for five years here, this was our chance.

Councilperson Snyder asked what will this do for us. What discretion will we have? Councilperson Greenberg said that the FCC didn't give anyone a lot of discretion. It's mostly around aesthetics. What do these things have to look like and can there be a little bit of say maybe in placement? We will send the law around and look it over. Attorney Peck is doing the research. He doesn't know exactly what she's come up with yet. He hasn't seen it or looked at it yet. Councilperson Snyder said that her understanding is that there is not a lot we can do. Councilperson Snyder added that we can tweak it a little bit. Councilperson Leinung said that perhaps if it's a bad corner we might be able to move the pole 10 feet one way or another. It might only be able to be so high. He doesn't even know if we can put a height restriction on it. Councilperson Greenberg replied that we can't. It's mostly aesthetic. Your wires can be done in a certain way. Any chance you have to combine it with an existing pole, you need to use that. It's very limited. Councilperson Leinung said that something is better than nothing. Councilperson Greenberg added that he didn't blame our elected officials at all. He thinks most people were unaware of this. He thinks it was kind of a sneak-through ruling at the federal level and a sellout to the telecommunications people. He thinks most people became aware of it when that article in the Times Union was on the front page about the lot in Pine Hills where they put the pole right in front of somebody's house. Councilperson Leinung said that he thinks the state-level legislation came out of that. Councilperson Greenberg said that this was not on anyone's radar until that happened. Councilperson Leinung said that that story came out, and then they introduced the bill a week or two later. Supervisor LaGrange said that it's pretty sad when you have to find out in the newspaper. Councilperson Greenberg said that he thinks this happens all the time where things are snuck through these federal committees and you don't realize they are there until somebody puts up a cell tower or something. Councilperson Leinung said that this is on the agency level so this is outside of Congress. They did some regulations and put them through.

Councilperson Snyder asked if the NYS Public Service Commission had any input in anything like this. They usually weigh in on any kind of telecommunication/utility kind of things. Where do they come in? Councilperson Leinung said that he didn't know that they did. They generally regulate this kind of stuff, but at the same time this federal rule is kind of taking away that discretion from the state level and local level preempting any type of regulation. He's not sure. That would be something interesting to find out. They might have submitted a comment on the federal level. Councilperson Snyder said that they should at least have a position on what happens. Councilperson Leinung said that that's an interesting point. He's sure it's part of Attorney Peck's research. We will find that out. Councilperson Snyder said that she's sure it's because it could strengthen perhaps the foundation of what we are trying to do going forward if our position dovetails with what we're trying to do.

Councilperson Greenberg said Attorney Peck will come Wednesday night, and she can update us in a more specific way. We're obviously not passing anything Wednesday. Supervisor LaGrange added that our intent is to have something and set a public hearing for the following month. So, to that end he has a letter from Attorney Peck which states:

*Please allow this letter to serve as my firm's estimate for legal services associated with the local law for the aesthetic regulations of Small Cell Wireless Facilities in light of the FCC's recent Declaratory Ruling and Third Report and Order regarding the same.*

*Service for time spent researching, drafting, and amending the local law along with attendance at town Board meetings and public hearings to discuss its introduction and adoption is estimated between 12 to 17 hours at a rate of \$175 per hour (\$2,100 to \$2,975). Said estimate includes any necessary meetings with individual Town Board members to discuss the proposed law.*

Supervisor LaGrange said that he would suggest up to \$3,000. That's only \$25 more than what's she's estimating.

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**Resolution 2019-039**

Supervisor LaGrange offered the following resolution and moved its adoption:

**RESOLVED**, that the Town Board of the Town of New Scotland does hereby contract with Attorney Peck to develop this allowing up to \$3,000 to do that.

Councilperson Leinung asked if this accounts for work that maybe she's already done. Supervisor LaGrange said probably because she had to start digging into it.

Seconded by Councilperson Greenberg.

Councilperson Snyder said that she'd like to ask a question but she'd like to be off the record. Town Clerk Deschenes said that it's an open meeting. Supervisor LaGrange asked if it was contract related. Councilperson Snyder replied that it was. Supervisor LaGrange said that they could go to Executive Session for a moment. Councilperson Leinung asked if we could vote on this first or does it have to do with this? Councilperson Snyder wanted to go into Executive Session before they voted.

**Executive Session**

**Resolution 2019-040**

Supervisor LaGrange offered the following resolution and moved its adoption:

**RESOLVED**, that the Town Board of the Town of New Scotland does hereby approve an Executive Session for a contractual issue.

Seconded by Councilperson Leinung All present and voting, the motion carried (5 Ayes).

Executive Session began at 8:40 AM.

Supervisor LaGrange made a motion to adjourn Executive Session, seconded by Councilperson Greenberg.

Executive Session adjourned at 8:50 AM.

**Resolution 2019-039 Amended**

Supervisor LaGrange offered the following resolution and moved its adoption:

**RESOLVED**, that the Town Board of the Town of New Scotland does hereby contract with Attorney Peck to develop this allowing up to \$3,000 which will be funded out of the B fund balance.

Seconded by Councilperson Greenberg.

His only other thought was if there was a planning budget. Supervisor LaGrange said that we started to talk about it, but the planning is specifically for the Planning Board to use for things. We don't have a Town Board planning budget per se. The only thing we come close to is Ms. Stolzenburg's budget. Councilperson Leinung said that this is legal and we're drafting a law for Town Board consideration. Councilperson Greenberg said that he's fine with the B reserve. He was just curious and he trusted Mrs. Boehlke's guidance on it.

All present and voting, the motion carried (5 Ayes).

Extension of Real Property Tax Deadline for winter weather

Supervisor LaGrange received an email yesterday and wanted to get the Board's thoughts on it. This is time sensitive regarding extension of a Real Property Tax deadline for winter weather. This is above and beyond what they've already done for the furloughed employees and giving them a grace period. Councilperson Greenberg asked who the letter was from. Supervisor LaGrange said that it was from Gerry Geist, Executive Director for the Honorable Andrew Cuomo. The letter read:

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Dear Town Supervisor:

As you are likely aware, New York State experienced significant winter weather on January 31, 2019, which also coincided with the last day to pay Real Property Taxes penalty-free. The Governor is willing to issue an executive order extending the Real Property Tax interest-free deadline by 21 days for any local government that submits a request for an extension by 5 PM on Friday, February 8, 2019. Please note that the Executive Law authorizes the Town Supervisor to make this request. If you are interested in offering this to your residents, please reach out to the Governor's office by the close of business tomorrow. A template was included. The provided form request says:

Dear Governor Cuomo:

For the time period of January 30 to February 1, 2019, you declared a State of Emergency due to inclement weather. Local tax bills were due at the end of January for town and county taxes. There is presently no discretion for local tax collectors to waive interest and penalties. Pursuant to New York State Law, on behalf of the Town of New Scotland I respectfully request that you exercise your executive authority to provide an extended grace period of 21 days to taxpayers to make their tax payments without penalty and interest.

Supervisor LaGrange said that his first question to Mrs. Deschenes is did anyone come in a day late and say they couldn't get here because of the storm? Mrs. Deschenes replied, "No." Supervisor LaGrange said that his inclination was to not make this request. If anyone has any thoughts regarding that, he would consider it but not at this point because no one came in and said they couldn't get here because of the weather. Councilperson Leinung said that we didn't close on January 31<sup>st</sup>. Supervisor LaGrange replied that we didn't. Town Clerk Deschenes added that she didn't even think we had bad weather. She added that the forecast threatened a storm and people came in the day before. Supervisor LaGrange said that he didn't want to decline it or ask for it if anyone heard anything different, especially Mrs. Deschenes. Councilperson Leinung asked if she already ran a report of who paid on the 31<sup>st</sup>. Town Clerk Deschenes said that she runs a report for each deposit every day. Councilperson Leinung asked if she had a listing of who hadn't paid and when that goes out. Town Clerk Deschenes said that she doesn't send out another bill. People know that after January 31<sup>st</sup> we're in the penalty period. The only time she sends out another notice is in March when she's required to. Councilperson Leinung said that he just wanted to make sure that if we did do something she wouldn't have to go back and undo anything. Councilperson Leinung said that if we did it he didn't think there was any harm, but he didn't know how necessary it was. Supervisor LaGrange said that he's inclined not to do anything. Councilperson Snyder said that we could have if we had known this earlier, but she doesn't even know if it would make a difference. She thinks it just depends on where you live geographically. Councilperson Greenberg said that he's opposed. He didn't think it was for here. There were parts of the state that got much worse. Some places had three feet so for that he would understand. They are making a blanket statement to towns to allow it, but they are not talking about towns that got four inches. Supervisor LaGrange said that he knew we were open and he didn't recall there being a bad storm. Councilperson Leinung asked if we get any phone calls that day saying they couldn't make it in. Town Clerk Deschenes replied, "No." Supervisor LaGrange figured that while we were gathered he'd asked. Town Clerk Deschenes said that she doesn't expect anyone on the furloughed exemption either. The only remark she got was from one resident with an FHA loan and if the government hadn't reopened it wouldn't get paid, but she was prepared to pay it. Councilperson Leinung added that we don't have a listing of all the federal employees that were affected in the town. Supervisor LaGrange said that it could happen again and that's the other thing.

## **2. Adjourn**

Supervisor LaGrange made a motion to adjourn, seconded by Councilperson Greenberg. The meeting adjourned at 8:55 AM.

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Diane R. Deschenes, Town Clerk