

June 9, 2020

Regular Meeting

Minutes of a Regular Meeting of the Town Board of the Town of Southport held at the Southport Town Hall, 1139 Pennsylvania Avenue on June 9, 2020.

Members Present: Supervisor Kathleen Szerszen, Council Members Daniel Hurley, Joseph Roman, Timothy Steed

Members Absent: Council Member Glenn Gunderman

Others Present: Attorney Kimberlee Balok-Middaugh, Code Enforcement Officer Peter Rocchi, Town Clerk Carolyn A. Renko

The meeting was called to order by Supervisor Kathleen Szerszen at 7:00 p.m., followed by the Pledge of Allegiance to the Flag of the United States of America.

Moment of Silence – Kathleen Szerszen

Monthly Reports were received as follows:

March – 2020:

Town Clerk Carolyn A. Renko

Town Clerk & Dog License Fees	\$ 775.58
Funds Turned to State and County Agencies	<u>\$ 501.17</u>
	\$ 1,276.75

Receiver of Taxes \$ 220,542.60

Code Enforcement Officer

Building Permit Fees	\$ 1,062.00
Building Permit Values	\$ 310,800.00
Operating Permit Fees	\$ 950.00

City of Elmira Animal Control
Justice Office
Recreation/Aging/Youth Services
Residential Deputy

April – 2020:

Town Clerk Carolyn A. Renko

Town Clerk and Dog License Fees	\$ 626.96
Fitzsimmons Lot Sales	\$ 275.00
Funds Turned to State & County Agencies	<u>\$ 242.54</u>
	\$ 1,144.50

Code Enforcement Office

Building Permit Fees	\$ 547.00
Building Permit Values	\$ 84,100.00
Operating Permit Fees	\$ 250.00
Site Plan Fees	\$ 75.00

City of Elmira Animal Control
Justice Office
Recreation/Aging/Youth Services
Residential Deputy

May – 2020

Town Clerk Carolyn A. Renko

Town Clerk & Dog License Fees	\$ 1,089.79
Fitzsimmons Lot Sales	\$ 3,300.00
Funds Turned to State & County Agencies	<u>\$ 620.96</u>
	\$ 5,010.75

Code Enforcement Office

Fees Collected:	Building Permit Fees	\$ 1,752.60
	Building Permit Values	\$ 292,065.00
	Operating Permit Fees	\$ 200.00
	Site Plan Fees	\$ 75.00

City of Elmira Animal Control
Justice Office
Recreation/Aging/Youth Services
Residential Deputy

Council Member Steed made a motion, Council Member Roman seconded to accept the monthly reports from March, April and May 2020.

Council Member Hurley made a motion, Council Member Roman seconded to accept the minutes from March 11, 2020, April 14, 2020, and May 12, 2020 Regular meetings and March 18, 2020 Special Meeting.

There was no Correspondence received.

Under Taxpayer’s Comments, Agenda and Discussion Items only, Charles Collins from 436 Kinner Hill Road commented on Discussion item #1 Winter Parking and item #2 Recommendation from Town of Southport Planning Board to allow an “Event Center.”

RESOLUTION NO. 91-2020

REFERRAL TO PLANNING BOARD REGARDING AMENDING THE TOWN CODE TO ALLOW AN
EVENTS CENTER AS PERMITTED USE

Resolution by: Steed
Seconded by: Hurley

WHEREAS, the Town of Southport Town Board referred the request for amending the Town of Southport zoning law to include the use of “Events Center” to the Town of Southport Planning Board, and

WHEREAS, the Town of Southport Planning Board reviewed the request and provided for recommendations for such use to be allowable in accordance with a special use permit in the commercial neighborhood district, however, the Planning Board did not provide any guidance for defining the use of “Events Center” or recommendations related to this use in other zoning districts, and

NOW THEREFORE BE IT RESOLVED, that since the Town of Southport Code Chapter 525, Article XIV requires that the Planning Board provide recommendations for any amendment to the zoning requirements or districts and the Planning Board, ultimately, is responsible for reviewing any special use permits, the Town of Southport Town Board requests that the Town of Southport Planning Board provide a further detailed recommendation for defining the use of "Events Center" to address the request by the local business, Chamberlain Acres, and the impact such use may have on the Town and to further recommend whether such use may be allowable in other zoning districts throughout the Town of Southport, and

BE IT FURTHER RESOLVED, that this matter is referred to the Town of Southport Planning Board for such recommendation as described herein.

AYES: Hurley, Roman, Steed, Szerszen
NOES: None
ABSENT: Gunderman
CARRIED.

RESOLUTION 92-2020

AUTUMNVIEW ESTATES SKETCH PLAN

Resolution by: Roman
Seconded by: Steed

WHEREAS, in accordance with the Town of Southport Code Chapter 525, Article 7 Planned Development District Provisions, Section 44 Application review and approval procedure, whenever a Planned Development District (PDD) is proposed, the first step of the process requires Town Board review of a sketch plan, and

WHEREAS, the Town of Southport Town Board is in receipt of an updated sketch plan for the PDD known as "Autumnview Estates" project from Fagan Engineers on behalf of David and Amy Cleary, and

NOW THEREFORE BE IT RESOLVED, that the Town Board of the Town of Southport, County of Chemung, State of New York, has reviewed the sketch plan submitted by Fagan Engineers on behalf of David and Amy Cleary for the proposed Planned Development District known as "Autumnview Estates" as outlined in the correspondence dated April 30, 2020 and June 3, 2020, in accordance with Town of Southport Code Chapter 525, Article 7 Section 44 and as a result of the review process the Town Board has determined that additional information is required for the sketch plan to meet the requirements as set forth in Chapter 525, Article 7, Section 44; and

BE IT FURTHER RESOLVED, that the Town of Southport Town Board has refused the sketch plan as submitted and requested that the applicant provide additional information to address the deficiencies in the application specifically related to Town of Southport Code Chapter 525, Article 7, Section 41 (D) and Section 42 (F) and (G), and

BE IT FURTHER RESOLVED, that a special meeting is scheduled to address the “Autumnview Estates” sketch plan application on June 16, 2020 at 7:00 p.m.

AYES: Hurley, Roman, Steed, Szerszen
NOES: None
ABSENT: Gunderman
CARRIED.

RESOLUTION NO. 93-2020

APPROVING ABSTRACT OF GENERAL FUND CLAIMS

Resolution by: Roman
Seconded by: Hurley

RESOLVED, that the Abstract of General Fund Claims submitted by the Town Clerk for the month of June 2020, No. 239 through No. 312, not to exceed \$103,730.30, has been audited and approved for payment by this Town Board.

AYES: Hurley, Roman, Steed, Szerszen
NOES: None
ABSENT: Gunderman
CARRIED.

RESOLUTION NO. 94-2020

APPROVING ABSTRACT OF HIGHWAY FUND CLAIMS

Resolution by: Hurley
Seconded by: Steed

RESOLVED, that the Abstract of Highway Fund Claims submitted by the Town Clerk for the month of June 2020, No. 90 through No. 103, not to exceed \$40,911.26, has been audited and approved for payment by this Town Board.

AYES: Hurley, Roman, Steed, Szerszen
NOES: None
ABSENT: Gunderman
CARRIED.

RESOLUTION NO. 95-2020

APPROVING ABSTRACT OF LIGHT FUND CLAIMS

Resolution by: Hurley
Seconded by: Roman

RESOLVED, that the Abstract of Light Fund Claims submitted by the Town Clerk for the month of June 2020, No. 5, not to exceed \$7,427.16, has been audited and approved for payment by this Town Board.

AYES: Hurley, Roman, Steed, Szerszen
NOES: None
ABSENT: Gunderman
CARRIED.

RESOLUTION NO. 96-2020

AUTHORIZING THE TOWN BOARD TO APPROVE THE PROPOSED NAME OF KINSMAN CREEK, A CURRENTLY UNNAMED TRIBUTARY OF SOUTH CREEK AND AUTHORIZING SUPERVISOR TO COMPLETE THE RECOMMENDATION FORM AND ANY RELATED DOCUMENTATION FOR THE APPROVAL OF SAID NAME

Resolution by: Steed
Seconded by: Hurley

WHEREAS, the US Board on Geographic Names is seeking input for the proposal of a name for one stream which runs through the Town of Southport. The name being proposed is Kinsman Creek.

RESOLVED, that the Town Board of the Town of Southport hereby approves the proposed name of Kinsman Creek and further authorizes the Town Supervisor to complete the recommendation form and any related documentation for the approval of said names.

AYES: Hurley, Roman, Steed, Szerszen
NOES: None
ABSENT: Gunderman
CARRIED.

RESOLUTION NO. 97-2020

AUTHORIZING SUPERVISOR TO ENTER INTO A LAND USE AGREEMENT WITH PENNSYLVANIA AVENUE
UNITED METHODIST CHURCH

Resolution by: Roman
Seconded by: Steed

WHEREAS, the Supervisor and the Recreation Department have requested that the Town enter into an agreement with the Pennsylvania Avenue United Methodist Church to use a portion of their property as playing fields,

RESOLVED, that the Town Board of the Town of Southport in regular session duly convened, authorizes the Town Supervisor to enter into an Agreement with Pennsylvania Avenue United Methodist Church to use the rear portion of the church's property for playing fields and a parking area to be used in connection with the playing fields,

RESOLVED, that this Agreement shall run through June 30, 2021.

AYES: Hurley, Roman, Steed, Szerszen
NOES: None
ABSENT: Gunderman
CARRIED.

RESOLUTION NO. 98-2020

TOWN HALL SUMMER HOURS

Resolution by: Steed
Seconded by: Hurley

RESOLVED, that Town Hall Summer hours effective June 15, 2020 until September 4, 2020 will be as follows:

Monday	7:30 a.m. to 4:00 p.m.
Tuesday	7:30 a.m. to 4:00 p.m.
Wednesday	7:30 a.m. to 4:00 p.m.
Thursday	8:00 a.m. to 4:00 p.m.
Friday	8:00 a.m. to 2:00 p.m.

AYES: Hurley, Roman, Steed, Szerszen
NOES: None
ABSENT: Gunderman
CARRIED.

Under Discussion was Winter Parking, which will be tabled until the July meeting.

RESOLUTION NO. 99-2020

PROPOSED LOCAL LAW NO. 1 OF 2020, AMENDMENT TO THE CODE OF THE TOWN OF SOUTHPORT,
CHAPTER 525, ARTICLE IX,
SECTION 109. WIRELESS TELECOMMUNICATION SERVICES FACILITIES

Resolution by: Roman

Seconded by: Steed

WHEREAS, the Town of Southport wishes to revise the Wireless Telecommunication Service Facilities Law to provide further clarifications related to Small Cell Facilities and to address and to incorporate a Small Cell Facility Aesthetic Design Standard in ensure specific design and aesthetic requirements for all small cell facilities within the public right of way; and

WHEREAS, the Town of Southport Town Board is in receipt of the Town of Southport Planning Board's recommendations and has incorporated such recommendations into this proposed local law; and

NOW THEREFORE, BE IT RESOLVED, that the Town of Southport Town Board, County of Chemung, State of New York hereby refers the following proposed Local Law No. 1 of 2020, Amendment to the Code of the Town of Southport, Chapter 525, Article IX, Section 109. Wireless Telecommunication Services Facilities, along with the Small Cell Facility Aesthetic Design Standard which is incorporated by reference into such local law, to the Chemung County Planning Board pursuant to NYS General Municipal Law Section 239-m; and

BE IT FURTHER RESOLVED, that the Town of Southport Town Board, County of Chemung, State of New York hereby schedules a public hearing for Local Law No. 1 of 2020, as set forth herein, on July 14, 2020 at 7 p.m. at the Town of Southport Town Hall.

PROPOSED LOCAL LAW NO. 1 OF 2020, AMENDMENT TO THE CODE OF THE TOWN OF SOUTHPORT,
CHAPTER 525, ARTICLE IX,
SECTION 109. WIRELESS TELECOMMUNICATION SERVICES FACILITIES

Chapter 525. Zoning

Article IX. Development Requirements

§ 525-109 Wireless Telecommunication Services Facilities.

- A. PURPOSE. The Town Board has determined that the establishment of provisions to institute minimum standards for wireless telecommunications services facilities is in accordance with the goals, objectives and policies of the Town's Comprehensive Plan.

- (1) The purpose of this law is to reasonably control the location, construction and maintenance of wireless telecommunications services facilities in order to encourage the siting of said facilities in nonresidential areas and to protect, to the maximum extent practicable, aesthetic impacts, the open space character of portions of the Town of Southport, the property values of the community, and the health and safety of citizens, while not unreasonably limiting competition among wireless telecommunication providers.
- (2) The purpose of this law is also to establish uniform policies and procedures for the deployment and installation of towers, wireless telecommunication services facilities, antennae, distributed antenna systems and small cell wireless telecommunication facilities (small cell facilities) in the Town of Southport, which will provide a public health, safety, and welfare benefit consistent with the preservation of the integrity, safe usage, and visual qualities in the Town.

B. DEFINITIONS

ACCESSORY EQUIPMENT. Any equipment servicing or being used in conjunction with a wireless telecommunications services facility or wireless telecommunication support structure. The term includes utility or transmission equipment, power supplies, generators, batteries, cables, equipment buildings, cabinets and storage sheds.

ANTENNA. A system of electrical conductors that transmits or receives electromagnetic waves or radio frequencies signals. Such waves shall include but not be limited to radio, television, cellular, paging, personal telecommunications services (PCS) and microwave telecommunications. This definition does not include rods, wires, or other similar devices affixed to a residence or other structure and used solely to receive radio or television signals.

BASE STATION. A structure or equipment at a fixed location that enables Public Service Commission or Federal Communication Commission-licensed or authorized wireless communications between user equipment and a communications network. The term does not encompass a tower as defined in this law or any equipment associated with a tower.

COLLOCATION or CO-LOCATION. The mounting or installation of transmission equipment on an eligible support structure or any structure for the purpose of transmitting and/or receiving radio frequency signals for communications or telecommunication purposes.

DISTRIBUTED ANTENNA SYSTEM (DAS). A network of spatially separated antenna nodes connected to a common source via a transport medium that provides wireless telecommunication service within a geographic area or structure.

ELIGIBLE FACILITIES REQUEST. Any request for modification of an existing tower or base station that does not substantially change the physical dimensions of such tower or base station, involving: i) collocation of new transmission equipment; ii) removal of transmission equipment; or iii) replacement of transmission equipment.

ELIGIBLE SUPPORT STRUCTURE. Any tower or base station as defined in this law, provided that it is existing at the time the relevant application is filed with the Town of Southport.

FCC SHOT CLOCK. Rules issued by the Federal Communications Commission (FCC) establishing time limits for municipal review of and action on an application for the installation or construction of wireless telecommunication services facilities. These time limits, which may be revised from time to time by FCC action, are set forth below. Each time limit begins to run on the date a complete application is formally submitted to the municipality:

60 days for projects meeting the FCC definition of “small wireless facilities” collocated on existing structures;

90 days for projects meeting the FCC definition of “small wireless facilities” involving new construction;

90 days for projects not meeting the FCC definition of “small wireless facilities” collocated on existing structures;

150 days for projects not meeting the FCC definition of “small wireless facilities” involving new construction.

RIGHT-OF-WAY. Surface and space in, on, above, within, over, below, under, or through any real property in which the Town has an interest in law or equity including but not limited to any public street, road, highway, alley, sidewalk, or any other place, area, or real property owned by or under the legal or equitable control of the Town.

SMALL CELL FACILITY. A wireless telecommunication services facility that meets the following qualifications: i) each antenna is located inside an enclosure of no more than six cubic feet in volume or, in the case of an antenna that has exposed element, the antenna and all of its exposed elements could fit within an imaginary enclosure of no more than three cubic feet; ii) all other wireless equipment associated with the facility is cumulatively no more than 28 cubic feet in volume; and iii) the facility is either (A) mounted on a structure 50 ft. or less in height including antenna, or (B) mounted on a structure that is no more than 10 percent taller than the nearest adjacent structure on any side, or (C) mounted such that it does not extend any existing structure on which it is located to a total height of more than 50 ft. or by more than 10 percent, whichever is greater. The following types of associated ancillary equipment are not included in the calculation of equipment volume: electric meter, concealment elements, telecommunications demarcation box, ground-based enclosures, grounding equipment, power transfer switch, cut-off switch, and vertical cable runs for the connection of power and other services.

SUBSTANTIAL CHANGE. A modification substantially changes the physical dimensions of an eligible support structure or Small Cell Facility (tower or base station) if it meets any of the following criteria:

- (1) The mounting of the proposed antenna on existing towers, other than towers in the public rights-of-way, would increase the existing height of the tower by more than 10%, or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet, whichever is greater; for other eligible support structures, it increases the height of the structure by more than 10% or more than 10 feet, whichever is greater;

- (2) The mounting of the proposed antenna would involve the installation of more than the standard number of new equipment cabinets for the technology involved, not to exceed four, or more than one new equipment shelter;
- (3) The mounting of the proposed antenna would involve adding an appurtenance to the body of existing towers, other than towers in the public rights-of-way, that would protrude from the edge of the towers more than 20 feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater; for other eligible support structures, it involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six feet, except that the mounting of the proposed antenna may exceed the size limits herein if necessary to shelter the antenna from inclement weather or to connect the antenna to the tower via cable;
- (4) The mounting of the proposed antenna would involve excavation outside the current existing structure site, defined as the current boundaries of the leased or owned property 1+surrounding the existing structure and any access or utility easements currently related to the site;
- (5) The modification defeats concealment and/or stealth elements of the support structure; or
- (6) The modification does not comply with prior conditions of the approval for the existing structure and/or site; provided, however, that this limitation does not apply to any modification that is noncompliant only in a manner that would not exceed the thresholds identified above.

TOWER. Any structure built for the sole or primary purpose of supporting any licensed or authorized antennas and their associated facilities, including structures that are constructed for wireless communications services, including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated site. Tower does not include a structure meeting the definition of Small Cell Facility.

UTILITY POLE. A pole or similar structure that is used in whole or in part for the purpose of carrying electric distribution lines or cables or wires for telecommunications, cable or electric service, or for lighting, traffic control, signage, or a similar function regardless of ownership, including Town-owned poles. Such term shall not include structures supporting only wireless telecommunication service facilities. Any pole in excess of 50 feet shall be deemed a tower.

WIRELESS TELECOMMUNICATION SERVICES (“WTS”). The provision of wireless telecommunication services, including those more commonly referred to as “cellular phones” which services are regulated by the Federal Communications Commission (FCC) in accordance with and as the term “personal wireless service” is defined in the Communications Act of 1934, as amended by the Telecommunications Act of 1996, 47 USC Section 332(c)(7)(c), or as amended.

WIRELESS TELECOMMUNICATION PROVIDER or SERVICE PROVIDER. A wireless telecommunications service infrastructure provider or wireless telecommunications service provider.

WIRELESS TELECOMMUNICATION SERVICES FACILITY or WTS FACILITY. A structure, facility or location designed or intended to be used as, or used to support, antennas. It includes, without limit, freestanding towers, guyed towers, monopoles, small cell facilities whether or not installed on utility poles in the public right-of-way or property of the Town of Southport or of another municipal corporation within the Town of Southport and similar structures that employ camouflage technology, including but not limited to structures such as a multistory building, church steeple, silo, water tower, sign or other similar structures intended to mitigate the visual impact of an antenna or the functional equivalent of such.

It is a structure intended for transmitting and/or receiving radio, television, cellular, personal telecommunications services, commercial satellite services or microwave telecommunications, but excluding those used exclusively for dispatch telecommunications, or exclusively for private radio and television reception and private citizens' bands, amateur radio and other similar telecommunications.

C. WIRELESS TELECOMMUNICATION SERVICE FACILITIES

(1) Use. Except as provided hereinafter:

(a) No WTS facility other than a Small Cell Facility shall be located, constructed or maintained on any lot, building, structure or land area in the Town of Southport unless a special use permit has been issued in conformity with the requirements of this law and all other applicable regulations, including but not limited to the Town of Southport Use Regulation Table (Article IV, § 525-20; § 525 Attachment 1).

(b) No Small Cell Facility shall be located, constructed or maintained on any lot, building, structure or land area in the Town of Southport unless a Small Cell Facility Permit has been issued in conformity with the requirements of this law and all other applicable regulations, including but not limited to the Town of Southport Use Regulation Table (Article IV, § 525-20; § 525 Attachment 1).

~~(c)~~

2. WTS Facility Application Materials and Supporting Documents. The following information shall be submitted in support of an application for all WTS facilities requiring a Special Use Permit **no sooner than** seven (7) days, but **no later than** two (2) days before the Planning Board meeting at which applicants wish to have their application materials reviewed by the Planning Board. This information is required in addition to the information and documents mandated by the Code of the Town of Southport, pertaining to site plan review, special use permits or variances. [See Section 3, Subsection C below for the submission requirements applicable for Small Cell Facilities, which pursuant to Section 3, Subsection A above require a Small Cell Facility Permit rather than a Special Use Permit.]

(a) A full application on a form supplied by the Town and the truthfulness attested to by a licensed professional engineer;

(b) A completed Full Environmental Assessment Form (FEAF), Part 1, and a site description that identifies and describes:

1. The proposed WTS facility, including but not limited to:
 - (a) The type of service and facilities to be provided;
 - (b) the size of applicant's trading area (overall network area) within the Town and five miles beyond as licensed by the FCC;
 - (c) the size of the area to be served by the proposed WTS facility;
 - (d) the general service improvements to the applicant's customer base that will be achieved if the proposed WTS facility is permitted;
 - (e) the need for and/or improvements in emergency communications that will be achieved if the proposed WTS facility is permitted;
 - (f) any upgrading of necessary infrastructure (if any) for business development within the proposed WTS facility's service area; and
 - (g) the elimination of redundant facilities or equipment to be achieved if the proposed WTS facility is approved;
 - (h) Man-made topographical features at and within one (1) mile of the selected site;
 - (i) Environmental resources on or adjacent to the selected site, including but not limited to water bodies and wetlands;
 - (j) Surrounding vegetation (i.e. tree species) at the selected site;
 - (k) Fencing around the proposed WTS facility;
 - (l) Building materials for equipment sheds;
 - (m) Proposed visual impact mitigation measures and a description of applicant's efforts to minimize visual impacts. If this objective cannot be accomplished, applicant shall provide an explanation why the minimization of visual impacts is technically impossible, providing substantive evidence to support this claim. Increased costs associated with minimizing visual impacts shall not be considered sufficient support of a claim of impact mitigation infeasibility. For Small Cell Facilities, visual impacts shall be addressed through compliance with the Town's Small Cell Facility Aesthetic Design Standards, as amended if applicable, which are incorporated herein by reference.
 - (n) Applicant's compliance with the National Environmental Policy Act of 1969 and the National Historic Preservation Act; and
 - (o) All SEORA Involved Agency permits required, as applicable.

2. The manufacturer's or applicant's design drawings pertaining to installation, stamped by a licensed professional engineer.
3. The applicant's maintenance and inspection schedule.
4. Site access, road alignment, road width, road surface type, proposed curb-cuts, anticipated construction and operation vehicular traffic to and from the site and construction parking and storage areas. Location of the curb cut is subject to DOT regulations or a Town Highway work permit.
5. Each application for installation of antennas shall include either a preliminary or a certified statement that the installation of the antennas, including reception and transmission functions, will not interfere with the radio or television service enjoyed by adjacent residential and nonresidential properties or with public safety telecommunications. In the event only a preliminary statement is submitted with the application, a final certified statement on noninterference will be provided and approved by the Town prior to the issuance of a permit. A Town-approved professional engineer shall prepare the statement.
6. A safety analysis and certification by a licensed professional engineer that the proposed WTS facility will be in compliance with all applicable FAA and FCC laws and regulations.
7. Proof of the site owner's consent, if the applicant is not the owner of the site on which the applicant seeks to locate a commercial WTS facility.
8. The name of the operator, owner, lessee(s) to the application, with correct direct contact information for the same.
9. A copy of applicant's FCC License.
10. Names and addresses of adjacent property owners, as contained in public records.
11. An inventory of applicant's existing sites. Each applicant shall provide a map showing applicant's FCC-licensed service area (within the municipality and five miles beyond) with a separate map showing applicant's inventory of its existing communications towers and antenna sites within the Town and within one mile of the Town's borders including, for each such structure, specific information regarding the communications tower and/or antenna height and the location, street address, tax parcel, latitude and longitude and mean sea level height of the communications tower base.
12. The location of any equipment or other facilities required by each of the three potential collocators or additional users.
13. A visual impacts study, generated by an appropriately licensed consultant that:
 - (a) Complies with the NYS Department of State Model Visual Impact Analysis methodology;

- (b) Describes the natural and manmade character of the area surrounding the proposed WTS facility's site, including identifying highways and residential and commercial streets and roads, vegetation, land use and visually sensitive sites including but not limited to parks, historic sites and public access facilities (such as trails and boat launches) within a five (5) mile radius of the proposed WTS facility's site;
 - (c) Includes a computer-imaged photograph of any proposed communications tower as it would appear on the site, including any proposed attachments, from at least three different angles selected by the Town and during all four seasons of the year;
 - (d) Includes a list of key viewer groups, including but not limited to residents, hikers, motorists, campers and boaters;
 - (e) Identifies key viewpoints, such as public roads, recreation areas and residential developments with a determination whether the viewpoints are stationary or moving and the view's duration;
 - (f) Describes the width of the field of view and the horizontal viewing angle;
 - (g) States whether the view is through vegetation or open area;
 - (h) Identifies the natural and manmade features that will be seen by the view in the foreground (0 to 0.5 mile), middle ground (0.5 to 3.5 miles) and background (3.5 to 5 miles) views;
 - (i) Includes a visual analysis map, line of sight profiles, and visual simulation photographs keyed to the site map consistent with visual analysis methodology;
 - (j) Demonstrates applicant's compliance with the National Environmental Policy Act of 1969 and the National Historic Preservation Act; and
 - (k) Includes a description of applicant's efforts to minimize visual impacts. If this objective cannot be accomplished, applicant shall provide an explanation why the minimization of visual impacts is technically impossible, providing substantive evidence to support this claim. The Town may consider these efforts and require additional efforts if there is a reasonable basis, in the Town's sole discretion, for such requirement.
14. No fewer than three (3) alternative sites that meet the applicant's technical requirements and the Town's zoning/land use requirements.
- (a) For each alternative, applicant must describe the proposed communications tower, antennas and support facilities as follows:

- i) Size (height above ground level to the top of the communications tower and to top of antennas, dimensions of all components, including base and top dimensions);
- ii) Type (e.g. self-supporting monopole, guyed communications tower), materials and color of the communications tower);
- iii) Configuration and sizes of each alternative communications tower's foundation and antenna supports;
- iv) FAA-mandated lighting or striping for each alternative communications tower if required;
- v) The equipment shelter associated with each alternative communications tower; and
- vi) A viewshed map for each alternative site that identifies those locations within five (5) miles of each proposed site where there is a relatively high probability that the proposed alternative WTS facility will be visible. The viewshed map shall be based on the proposed structure height at each location at an elevation of 2 feet above base flood elevation. The viewshed map shall define the maximum area from which the tallest element of the completed WTS facility could potentially be seen within the study area (ignoring the screening effects of existing vegetation), with a delineation of foreground (0 to 0.5 mile), middle ground (0.5 to 3.5 miles) and background (3.5 to 5 miles).

(b) Applicant shall select a preferred alternative site based on the lowest potential visual impact and the preferred alternative site's technical and economic feasibility. Applicant shall provide the Town with:

- i) A signal propagation study for the preferred alternative site; and
- ii) A detailed explanation supporting the preferred alternative site's selection that includes a demonstrated need for service supported by substantive evidence; environmental, visual and site impacts; initial development and life-cycle costs; and an explanation of why other alternative sites were not preferred.

15. Additional submission requirements for communications towers include:

- (a) Identification and description of an anti-climbing device.

- (b) A report from a licensed professional engineer, which describes the communications tower, including its height and design, demonstrates the communications tower's compliance with applicable structural standards (including but not limited to foundation design, wind loading and guy wire plans) and describes the communications tower's capacity, including the number and types of antennas it can accommodate.
 - (c) The site plan shall show distances between the proposed communications tower structure and structures on adjoining properties within 750 feet, together with the names and addresses of all property owners within 750 feet of the boundary of the property on which the communications tower is proposed, as contained in the public records.
 - (d) Identification and location of any WTS antennas located within one mile of the proposed communications tower, regardless of ownership.
 - (e) As-built drawings certified by a professional licensed engineer, within 60 days after completion of the construction.
16. A decommissioning bond or other security acceptable to the Town for the purpose of removing the communications tower if the owner fails to do so upon the communications tower disuse for a period of six months, or has been ordered removed by the Town, because the communications tower is no longer necessary to achieve or facilitate the applicant's permitted use. Such bond or security shall be automatically renewable on each anniversary until advised by the Town of Southport in writing that it is no longer needed.
3. Small Cell Facility Permit Application Materials and Supporting Documents. A Small Cell Facility Permit application shall require:
- (a) All of the application materials listed in Section 3, Subsection B above, except that the applicant need not submit the following items:
 - B.3 (viii)-(xii)
 - B.5
 - B.13
 - B.14
 - B.15
 - B.17
 - With respect to item B.16, the applicant need only submit information on one alternative site instead of three alternative sites.
 - (b) An applicant seeking to replace existing street lights with new street lights designed to accommodate Small Cell Facilities must provide the Planning Board with three (3) styles of replacement street lights, at least one of which shall be identical to or in the same general style of the street lights proposed to be replaced. Applicants proposing to install replacement street lights that can accommodate Small Cell Facilities shall site said street lights in the same location as existing street lights.

If this is infeasible, applicant must provide the Planning Board with the technical justification, certified by a licensed telecommunication engineer, for siting the replacement street lights in the proposed new locations. Any costs or expenses associated with complying with these Small Cell Design Criteria shall be borne by Applicant.

~~(c) An applicant need not submit the following items from Subsection C(2) as part of the application for a small cell facility permit:~~

~~[1] Subsection C(2)(b)[1][h] through [1].~~

~~[2] Subsection C(2)(b)[3].~~

~~[3] Subsection C(2)(b)[11].~~

~~[4] Subsection C(2)(b)[12].~~

~~[5] Subsection C(2)(b)[13].~~

~~[6] Subsection C(2)(b)[14].~~

(d) Batched Small Cell Facility Applications: Applicants submitting five (5) or more Small Cell Facility Permit applications at one time are strongly encouraged to negotiate, in good faith and in recognition of the Town's resources, extension of the ten (10)-day period during which the Planning Board must determine whether each Small Cell Facility application is complete and the sixty (60) or ninety (90) day shot clock applicable and Small Cell Facility reviews.

4. State Environmental Quality Review Act (SEQRA).
 - (a) All proposed WTS facilities other than Small Cell Facilities shall be SEQRA Type I Actions.
 - (b) Planning Board as SEQRA Lead Agency. The Planning Board shall be the proper Lead Agency for any proposed WTS facility's SEQRA review. The Planning Board shall comply with the provisions of Article 8 of the New York Environmental Conservation Law and its implementing regulations as codified in New York Code Rules and Regulations Title 6, Part 617.
5. Planning Board Review. All proposed WTS facilities shall be subject to Planning Board review and approval pursuant to this chapter. In addition to the requirements of this Chapter, all proposed WTS facilities requiring a Special Use Permit are subject to the applicable requirements and procedures of Article IX (Development Requirements), Article XV (Special Use Permits), and Chapter 431 (Site Plan Review). Applications shall be reviewed and acted upon by the Planning Board within the time required by any applicable FCC Shot Clock rule.
6. Review Process for WTS Facilities Requiring a Special Use Permit.
 - a. To facilitate the application review process, applicants are strongly encouraged to engage in voluntary pre-application discussions with the Planning Board prior to filing an application.

- b. Special Use Permit applications for WTS Facilities must be filed **no sooner than** seven (7) days, but **no later than** two (2) days before the Planning Board meeting at which applicants wish to have their Special Use Permit application reviewed by the Planning Board.

7. Review Process for Small Cell Facility Permits.

- a. To facilitate the application review process, applicants are strongly encouraged to engage in voluntary pre-application discussions with the Planning Board prior to filing an application.
- b. Applications for Small Cell Facility Permits must be submitted **no sooner than** seven (7) days, but **no later than** two (2) days before the Planning Board meeting at which applicants wish to have their application materials reviewed by the Planning Board.
- c. Planning Board Review. All proposed Small Cell Facilities shall be subject to Planning Board review and approval pursuant to this chapter and applicable requirements and procedures, if any, of Article IX (Development Requirements) and Chapter 431 (Site Plan Review), and the associated applications shall be reviewed and acted upon by the Planning Board within the time required by any applicable FCC Shot Clock rule.
- d. Any application to the Planning Board shall include copies of the full application, if one is required, to the Zoning Board of Appeals.
- e. All proposed Small Cell Facilities shall comply with the Town's Small Cell Facility Aesthetic Design Standards, as amended if applicable, which are incorporated herein by reference. The Small Cell Facility Aesthetic Design Standards may be amended from time to time, and such amendments are not subject to the procedural requirements for an amendment to the Town Code.

8. Collocation requirements.

- a. A proposal for a WTS Facility shall not be approved unless the Planning Board finds that proposed WTS Facility cannot be accommodated on an existing or approved WTS Facility due to one or more of the following reasons:
 - 1. Collocation would exceed the structural capacity of the existing or approved WTS Facility, as documented by a qualified professional engineer, and the existing or approved WTS Facility cannot be reinforced, modified or replaced to accommodate the collocation.

All reasonable costs of such modification or replacement of the WTS Facility shall be presumed to be borne by the applicant or WTS Facility owner.

2. Collocation would cause interference materially impacting the usability of other existing or planned collocated antenna as documented by a qualified professional engineer and the interference cannot be prevented at a reasonable cost.
 3. Existing or approved communications towers and structures cannot accommodate the antenna at a height necessary to function reasonably, as documented by a qualified professional engineer, and cannot be modified or replaced as provided for in this Chapter.
 4. Other technical, economic, or aesthetic factors or unforeseen reasons that make it infeasible to locate the antenna upon an existing or approved WTS Facility.
- b. Any proposed communications tower shall be designed, in all respects, to accommodate both the applicant's antennas and comparable antennas for three or more additional users. Communications towers must be designed to allow for future rearrangement of antennas upon the communications tower and to accept antennas mounted at varying heights. Additionally, the necessary land to accommodate the equipment of said additional users shall be under the control of the communications tower applicant. This control may be through ownership, lease or contract with a period of time no less than the control the applicant has over the land used for the equipment for subject communications tower application.
9. The applicant shall submit to the Planning Board a letter of intent committing the applicant, and his/her successors in interest, to negotiate in good faith for shared use of the proposed communications tower or structure by other WTS providers in the future.

D. Notwithstanding anything to the contrary herein, the collocation requirements of this chapter are intended to be enforceable as to existing antennas, WTS Facilities and/or land encumbered by antennas, WTS Facilities. Accordingly, upon a renewal, extension or exercise of option for a renewal term of an existing lease for land, WTS Facility, a clause in any such lease, whether entered into prior to or after the enactment of this chapter, which provides for exclusivity as to the land, WTS Facility in favor of one or more carriers shall not be enforceable against a carrier seeking collocation.

E. Adherence to local, state and federal standards; proof of compliance. All WTS facilities must meet or exceed all applicable federal, state and local laws, rules, standards or regulations of the FCC and the FAA. If such standards, rules, laws or regulations are changed or amended, at any time in the future, then the owners of such facilities shall bring those facilities into compliance with such revised regulations if such changes or amendments provide for existing communications towers and/or antennas to be brought into compliance.

F. Inspections and licenses.

1. Communications towers shall be inspected every five years on behalf of the communications tower owner by a licensed professional engineer for structural integrity and continued compliance with these regulations. A copy of such inspection report, including findings and conclusions, shall be submitted to the Town Code Enforcement Officer with the application for a license during the month of December every five years. This requirement shall be considered a condition to any special use permit, variance or any other permit or license required by this chapter.
2. Operators shall obtain Town licenses for each communications tower and/or antenna operated pursuant to this chapter no later than January 31 of the sixth year from the year in which the communications tower or antenna initially becomes operational, and every five years thereafter. The license fee shall be set from time to time by the Town Board.
3. The operator of any WTS facility sited within the Town of Southport shall submit certification every five years, signed by a New York State licensed professional engineer, verifying such facility is in compliance with all applicable federal, state and local radio frequency radiation emission standards. Such certification shall be delivered to the Town Code Enforcement Officer with the application for a license during the month of December every five years. This requirement shall be considered a condition to any special use permit, variance or other permit or license required by this chapter.

G. Performance standards.

1. Changes in technology. The performance of all WTS facilities shall be measured against current industry-wide technological standards, which may change from time to time.
2. Antenna safety. Antennas shall be subject to state and federal regulations pertaining to nonionizing radiation and other health hazards related to such facilities. The owner shall submit evidence of compliance with the FCC General Population exposure standard every five years, with the application for a license, as provided for elsewhere in this chapter. If new, more restrictive applicable standards are adopted, the antennas shall be made to comply or the Town may restrict continued operations. The cost of verification of compliance shall be borne by the owner and operator of the communications tower.

3. Random testing. The Town of Southport, in its sole and reasonable discretion, reserves the right to randomly test any WTS facility at any time for FCC compliance, at the tower owner's expense.
4. Powering up. Once erected, the power output of any WTS facility or its antennas may not be increased without prior notice to the Town Code Enforcement Officer, which notice shall be accompanied by evidence of compliance with FCC requirements, and existing antennas may only be replaced with similar antennas, but in no event shall the new antennas emit higher levels of radio frequency (RF) radiations than the antennas being replaced.
5. Noncompliance. To the extent any WTS facilities and antennas are not FCC compliant as required by Subsections A and C hereof, the owner of such facilities or antennas shall have thirty (30) days to cure such non-compliance and bring its facilities or antennas to code. In the event such breach has not been corrected within thirty (30) days following written notification of non-compliance from the Town to the applicant, the Zoning Board of Appeals, in its sole discretion, reserves the right to (a) suspend or revoke any permits or approvals that had previously granted for the installation of such facilities or antennas or (b) request an immediate shut down of the respective facilities with no re-activation option unless, and until, a hearing is conducted before the appropriate local zoning authority. In the event of a permanent revocation and shut down, the removal of existing communications towers and attachments thereto shall be conducted at the owner's expense and in accordance with §130-65.13 hereof.
6. Communications tower lighting. Communications towers shall be designed and sited to avoid the application of FAA lighting and painting requirements. Communications towers shall not be illuminated by artificial means and shall not display strobe lights unless the FAA or other federal or state authority for a particular communications tower specifically requires such lighting.
7. Signs and advertising on communications towers. The use of any portion of a communications tower for signs other than warning or equipment information signs is prohibited. Said signs shall not be larger than two square feet.

H. Screening and security of communications towers and accessory structures.

1. Existing on-site vegetation shall be preserved to the maximum extent practicable, and applicant shall be required to comply with all applicable landscaping requirements for the district in which the proposed WTS facility is to be located.

2. The base of the communications tower and any accessory structures shall be landscaped and meet the required screening of the district. The equipment shed associated with the communications tower may be separated from the communications tower to maintain vegetation necessary to achieve maximum screening;

3. Communications towers and accessory structures shall be provided with Town-approved security fencing to prevent unauthorized entry.

I. Design of antennas, communications towers, accessory structures and site.

1. Communications towers and antennas shall be designed to blend into the surrounding environment through the use of color and camouflaging architectural treatment, except in instances where the color is dictated by federal or state authorities such as the FAA. Communications towers shall be a galvanized finish or painted grey above the surrounding tree line and painted grey, black or green below the surrounding tree lines. For communications towers on structures, every antenna and communications tower shall be of neutral colors that blend with the natural features, buildings and structures surrounding such antenna and structure; provided, however, that directional or panel antenna and omnidirectional or whip antennas located on the exterior of a building that will also serve as an antenna communications tower shall be of colors that match, and cause the antenna to blend with, the exterior of the building. Accessory structures will be designed to be architecturally compatible with principal structures on the site and adjoining sites. Applicant shall be responsible for the regular maintenance and upkeep of all said design elements.
2. The maximum height of a communications tower and antenna, collectively, is limited to 200 feet above the ground upon which it is placed.
3. The use of guyed communications towers is discouraged unless a demonstrated safety issue requires them. Communications towers should be self-supporting without the use of wires, cables, beams or other means. The preferred design should utilize a non-guyed monopole configuration, unless the applicant can demonstrate through reports by a licensed professional engineer that an open framework construction is the only feasible method that will allow the provider to provide service to the area to be served and that a non-guyed monopole will not allow for that service to be provided. In the event guys are allowed, all guy supports shall be sleeved and entirely fenced in to a height of 8 feet above the finished grade. Permanent platforms or structures exclusive of antennas that serve to increase off-site visibility are prohibited.

4. For communications towers, a driveway and an appropriate parking area will be provided to ensure adequate emergency and service access. Maximum use of existing roads, public or private, shall be made. As an occasionally used facility, all pavements shall be grass block or porous material, to minimize runoff and preserve natural vegetation. Location of road cut shall be approved by the Planning Board and will comply with the DOT and Town requirements.

J. Communications tower setbacks and visibility.

1. It shall be demonstrated to the satisfaction of the Planning Board that the proposed facility is set back adequately to prevent damage or injury resulting from ice fall or debris resulting from the failure of a wireless telecommunications facility, or any part thereof and to avoid and minimize all other impacts upon adjoining properties, including but not limited to noise, lighting, traffic and storm water runoff
2. A communications tower's setback requirement may be altered in the sole discretion of the Zoning Board of Appeals to allow the integration of a communications tower into an existing or proposed structure such as a church steeple, light pole, power line or similar structure.
3. Communications towers shall be set back from adjoining properties a distance equal to 150% of the communications tower height.
4. Communications towers and facilities shall avoid ridge lines where the communications tower will be silhouetted against the sky.
5. Communications towers and facilities shall be back-dropped by existing trees and topography.

K. Compliance with other agencies and governments.

1. The operator of every WTS antenna shall submit to the Southport Planning Board office copies of all licenses and permits required by other agencies and governments with jurisdiction over the design, construction, location and operation of such antenna and shall maintain such licenses and permits and provide evidence of renewal or extension thereof when granted.

L. Assignment of permit. Every permit granting approval of an antenna or communications tower shall state that any assignment or transfer of the permit or any rights thereunder may be made only upon 60 days prior written notice of such transfer or assignment to the Town. In the event of non-compliance, the Town may in its sole discretion revoke the assignment and such assignment shall become null and void effective immediately.

M. Removal of abandoned or unused communications towers. Abandoned or unused communications towers or portions of communications towers shall be removed as follows:

1. The applicant shall remove all abandoned or unused communications towers and associated facilities and subsurface features, within six months of the cessation of operations unless the Zoning Board of Appeals approves a time extension. If the applicant is not a landowner, a copy of the relevant portions of a signed lease which requires the applicant to remove the communications tower and associated facilities and subsurface features upon cessation of operations at the site shall be submitted at the time of application. In the event that a communications tower, associated facilities and subsurface features are not removed within six months of the cessation of operations at a site, the Town will utilize the funds held in the decommissioning bond required pursuant to Section 3.B.18 to remove the communications tower and associated facilities and subsurface features.

2. Unused portions of communications towers above a manufactured connection shall be removed within six months of the time of antenna relocation. The replacement of portions of a communications tower previously removed requires the issuance of a new special use permit.

N. Exemptions. The Town of Southport shall be exempt from this chapter, as shall any ambulance, emergency services, police or fire protection agencies.

O. Fees. The applicant seeking a Special Use Permit or Small Cell Facility Permit for any WTS facility shall reimburse the Town of Southport for all necessary fees and costs reasonably incurred by the Planning Board and/or Zoning Board of Appeals for the services of any consultant, engineer, attorney, or other professional deemed necessary by such board or boards to provide assistance with review of the application and associated project and preparation of documents related thereto to the extent permitted by local, state, and/or federal law. The fees incurred herein shall be subject to the audit requirements of Section 525-143(B)(3). No approval or permit for a WTS facility shall be issued until the applicant has reimbursed the Town for all fees and costs audited and approved of as described in this paragraph. These reimbursements shall be in addition to, and separate from, any application fee or other review fee required pursuant to this Code. The Town will publish a schedule of fees associated with the permit applications identified in this Chapter.

AYES: Hurley, Roman, Steed, Szerszen
NOES: None
ABSENT: Gunderman
CARRIED.

Under Taxpayer's Comments, no one wished to speak.

Council Member Steed made a motion, Council Member Hurley seconded to adjourn the meeting.

The meeting was adjourned at 9:20 p.m.

Respectfully Submitted,

Carolyn A. Renko, Town Clerk