

TOWN OF WHITEHALL
SPECIAL MEETING @ 10:00 AM
57 SKENESBOROUGH DRIVE

May 16, 2017

PRESENT: George Armstrong – Supervisor
Stephanie Safka – Councilperson
Timothy Kingsley-Councilperson

ABSENT: David Hollister-Councilperson
John Rozell-Councilperson

OTHERS PRESENT: Town Clerk, Julie Millett; Highway Superintendent, Louis D. Pratt II; Town Attorney, Erika Sellar-Ryan; Town Assessor, Bruce Caza; Village Compliance, Peter Telisky, Christina Kosby, John Millett Jr., Teresa Austin; Washington County Code Enforcement, James Buxton & Eric Sommer; Village Mayor, Phil Smith; Whitehall Times Reporter, Matt Saari; Town Compliance Officer, Vernon Scribner, Richard Newell, Syncarpha Representatives, Cliff Chapman & Ferd Convery.

Special meeting was posted in the Whitehall Times on May 11, 2017 and posted on Town Clerk signboard and Town website on May 2, 2017. Whitehall Times notified on May 8, 2017. Notice was posted on Town Clerk signboard.

Supervisor opened the meeting at 10 AM with Pledge to the Flag.

Jim Buxton was introduced by the Supervisor at this time. Supervisor would like to address the many properties throughout the town and village and what can be done in regards to potential junkyards and other properties that are not up to code. It is hard to understand how so many properties have gotten in the shape they are in. One idea is having a moratorium on junkyards. The Town would like to hear what the county is working on and how we can get this under control. The Town had a lady call the other day and wanted to know why Whitehall is in the shape it is in with the rundown buildings and the shape of the cemeteries.

Jim Buxton stated that in Whitehall Village Court he has five active cases. The oldest being last September. No one shows up for court. The ADA is talking to the judge about issuing bench warrants. He doesn't think it will work. Some are out of county and some are out of state.

Mountain Street problem where you can't reach the windows there is so much junk. Violation went to the owner at the last address and came back undeliverable. Also, had an address in Florida and that one came back. Another case in Whitehall supposed to be completed June 1st and the owner had three other buildings that he is working on. If not done by June 1st will try to get back in court. Then it will be handed over to the ADA. Councilperson Safka wants to know if there is a better way of checking maybe if the taxes are being paid. Jim gets the addresses off of image mate online. Safka wants to know what recourse do we have? It just seems very frustrating that we can't do anything. Erika asked if the judge can issue a default judgement? Councilperson Safka would like to know if we could change our local laws in any way to deal with this?

Peter Telisky stated that it is super risking to take over these buildings because it can get very expensive for the asbestos abatements.

Erika suggested talking to the Attorney General's Office to see about state land banks. She stated that with imminent domain on the village level is taking a risk.

Washington County goes by the State codes.

Peter stated that there had been talk in the past on these properties that don't pay taxes some of the money recovered by the county at sale could be looked at to remove properties rather than resell them.

Erika stated that it all comes down to money. She suggested finding a way to set up a fund where you could channel money into a fund each year to take care of some of these properties. Peter wishes that once a property owner does run down a property there is a way to never let that person buy another piece of property again.

Eric is also trying to educate new owners and hopefully doing it the right way from the beginning by doing asbestos and lead testing.

The county cannot deny a building permit for outstanding violations.

Bruce Caza stated that there are too many bank foreclosures and out of town landlords.

Jim Buxton stated that it takes resources to get things done. We could use a full - time code person in Whitehall, but the county doesn't have the resources.

Eric tries to go down a village street with his camera and take pictures of anyone on the street that has violations. He then goes back to the office and does violations up and gets them to court and hopefully they get the message.

Pete Telisky stated that in the 1990's the village turned over all building violations to the county.

Christina Kosby would like to address the Board on a piece of property at 31 Boardman Street next to her. She has asked for help from the village for three years now. She has taken pictures of the property with washers, dryers, SUV's that are broken down, wagons filled with junk and garbage. She gave them to Jim and Eric. She thinks the Dept. of Health should be called in because she has found dead mice. Peter thinks he has cleaned up lately and Christina says owner has not cleaned up. She also can't believe the boats at Longtin's.

Richard Newell would like to discuss Azzil Stone Company that has been crushing six days a week for 13 hours a day. His property is next door and the noise is terrible. He wants to know if the town can do anything. He heard that they want to go to sixteen hours a day. DEC has taken

the lead on this project and they have approved the hours. He also said the dust is terrible. He wanted to know why the company didn't have to go through the planning board. Supervisor stated that they have done everything legally and are employing many people. When you own property things change and if they are doing things legally what can the town do? Bruce Caza stated that DEC has guidelines that have to be followed when you own a mine. He knows that by law they have to notify all the property owners that are next to the property 60 days before they do public hearings. They have to do dust control and noise tests before a permit is issued. He went and listened one day and could not hear anything. Richard Newell stated that he pays a lot of taxes and has lived here for a long time and has to listen to this now almost every day. Supervisor thanked Jim Buxton and Eric Sommer from the county for coming today.

11:10 AM - Now we will talk about the PILOT (payment in lieu of taxes) on the solar projects. Washington County Administer, Chris Debolt, Whitehall Central School Business Administrator, Jody Burch and Whitehall Village Mayor, Phil Smith were introduced by Supervisor. Cliff Chapman and Ferd Convery are here from Syncarpha which is the company that owns the Millett Solar fields. This will be the only solar project we will be discussing today.

The purpose of this meeting was requested by Syncarpha, the owner of the project. They were led to believe when they purchased the project from Borrego developers that there would be no increase in taxes for 15 years. The project life of this project is 25 years. They would have gotten an exemption for 15 years' bases on their belief and the last 10 years they would have to pay full taxes. Syncarpha came to Bruce and asked if they could get some help on the back end to compensate for on the front end. Bruce stated that he would have to talk to counsel. One it would have to be done under contract and two if we could extend beyond the 15 years.

Erika Sellar-Ryan has researched the law and spoke to the Washington County attorney on this subject and a PILOT can only be for 15 years, not 25 years.

Bruce stated that the purpose of the meeting was to consider 25 years. Bruce has researched this for over two years. An appraiser does an appraisal based on opinion and based on support of documentation. The project technically started in the fall of 2014. One thing we have to do as assessors is follow law 487 which has to do with solar, wind and farm waste energy. The Dept. of Taxation and Finance is the state agency that I report to. They create rules and guidelines and we follow the guidelines. In 2014 before I arrived as the assessor here in Whitehall, the statute of 487 was granted by the Board where the Town allowed the exemption for solar, wind or farm waste energy. In the Spring of 2015, Borrego, Rob Garrity wrote him a letter and wanted to know the tax structure. Bruce read the law and he was led to believe that the increase in assessment would be exempt. The statute says the exemption is available, but the only way it is available is if you apply for it by filling out the application for the exemption. When you go through the application it says that you need to tell the assessor the cost of the project and you need to create what is called incremental values because it is my opinion of the way I interpreted the law. The law says the system is going to be exempt and it says that in several spots in the law. It

also states that you can get guidelines through NYSERDA. The person applying for the application is the one filling out these blanks on the application. NYSERDA has guidelines that tells about different forms of solar energy. For each type, it tells exactly how to calculate each exemption. It defines what the system is and if it is on a building. I interpret this as not a building that a resident would have, but what a company building of 20 acres such as General Motors or General Electric. His interpretation is if it is a building, anything up to the system is not exempt in the hookup and the hookup with National Grid on this project was over \$750,000. So, beyond the transformer to go to the hookup is not tax exempt. That is the way I understand it. So now becomes when you get the ratio which is applied to what is called contributory value. Obviously when you buy a house and you put a new roof on it and the new roof is \$10,000, it didn't contribute \$10,000, but contributed something. My job is that I have to create the assessment and then I have to take the % or get the contributory value. There are certain standards assessors have to follow:

Three methods that we can use for value property:

1. Sales comparison in the market place by looking at 3 similar house sales.
2. Cost approach which is usually not relied on.
3. Income approach.

I have to go by things presented in my office that are public record. The project cost 13.7 million. We take the land assessment and cost of the project take it all out and get a taxable value. The statute also says that the exemption would only apply to town, county & school not on special district taxes.

The income approach is looked at when there is income producing. We have the ground lease which is an agreement that was made between the developer and the property owner. The landowner pays nothing and collects a lease payment. Direct capitalization where you convert that rent to a value. There is a gag order, I don't know what that lease payment is on the property. I have to find that through different formats. Different leases are structured differently based on production, based on other things. I went out and researched and did my own market studies. I went to other states, talked to other assessors, went to a seminar in Watertown on it and spoke to an instructor who is one of three in the nation. I determined on my own market study the value dollars per acre and I capitalized it. That is how I arrived at the latest assessments.

Operation of the solar farm where it is called a lease hold value. You could go to a bank and borrow money on these. They are purchased on long term investments. The value I arrived at by doing the income stream is called a net present value. What did the investor pay today for a future benefit over time? We bring it back to today's value and the two of them added together would be the assessment. I requested from the developers to generate the net present value what that is takes in gross income (panels generate) less expenses and capitalize that. The value that I come up with using the net present value for the project is contributory value. I just told you the project is worth 13 million. If I assess that at 3.7 million then where did the other 10 million dollars go. It is because of the methodology and is acceptable in the market place in the industry. I have already compensated them for 10 million dollars in taxation. Through the process, I researched and went to a seminar in Watertown. NY. They said that the company gets federal tax credits. I researched that and it looks like 30% in year one. At the federal level, 13 million dollars at 30% is 4.2 million dollars. Town of Half-moon Assessor has the same issues

that I have with the solar. Assessors all over the state are running into the same issues. The law was written in 1977 and just being implemented today.

The assessors from the Town of Greenwich, Half-moon and myself met at the Washington County building to brain storm. She brought their application for the exemption for her town. That developer divulged to her that NYSEDA gives grants. The minute the switch gets turned on NYSEDA gives them a check. Some checks go three to four years. Bruce stated that 50% of his time here in Whitehall as assessor has been spent on solar. Cliff Chapman from Syncarpha gave Bruce the name of someone at NYSEDA and he happen to be the deputy director. The governor wants these projects to happen. I knocked on several doors and no one would help. Every decision leads back to me. How do we calculate the exemption? The owners believe that they should pay no taxes for 15 years and I believe they should pay some taxes. I assume what they put on that paper is true. What I did when I did the assessment roll is I gave them 75% exemption. Cliff came and said that he gave Bruce the incremental costs and so then we agreed on a 90% exemption. The owners of the system go out and get a Power Purchase Agreement and in this case, it is for 25 years. (1/2 to Gore Mountain and 1/2 to Whiteface). The other two projects coming in Whitehall only have 20 year agreements. While in construction, they sell the project to investors. The law written in 1977 has a 15-year exemption and that doesn't follow the PPA's. I am supposed to treat everyone the same. I did my best to research, but the industry needs basic training and NYSEDA should go to the governor to change things. The only entity that gets 100% is churches. The statute says in my opinion that the system gets exempt and not the project.

I have spent 2 1/2 years and many hours of research and I have done the best that I can do. Bruce explained why the land value went from \$100,000 to \$450,000. Bruce is saying he did not do that. The value of the market dictates that. When the property owner goes to the planning board and asks for a change in use to the property. We do market studies for each classification of land, ag. land and forest land and commercial land and residential land. Market studies are done. Obviously now we have industrial land. The change in use is what created the value of the land to change. The increased value from the ag. to utility land is obviously a change in use. He did market studies of what is a typical rent for industrial property in the solar farm industry to create the new neighborhood that will consist of three property owners.

Supervisor opened up to the public for discussion.

Cliff Chapman from Syncarpha Capital would like to thank everyone especially Bruce for all of his hard work. We want to get off on the right foot and do a PILOT. We were under the understanding that we would have the exemption for any increase on the property for solar. We knew we would have to pay on the fire district. We own several of these in Massachusetts, Carolina's and New Jersey. This is the first one in New York State. What Bruce has said about the state incentives we feel is incorrect. You have to balance incentives with the costs involved. We have taxes that we will be paying of about \$11,000 a year just on the land which is about 40% of what we are paying the Millett's for their lease. We feel that this is completely out of whack. The way the lease is written we could push that amount on the land owners, but we won't do that to them. We have researched the law and spoken to lawyers and we see 100% exemption for 15 years. We would like some equitable solution for all parties. We would like

something in writing for the next 15 years so we and know exactly what our cost will be by doing a PILOT or some kind of contract.

Ferd Convery from Syncarpha stated that we have been doing this for a long time and spoke to owners of other sites and there are many solar operating sites that are on private land. Bruce Caza asked for a list of these projects. It is remarked over and over that it should be exempt. In the statute, there is an AG ruling in 1982 that refers to solar installed on the ground as being fully exempt, while solar installed on a building is a ratio. John Millett Jr., the property owner also feels the same way. Borrego told them it would be exempt. We went into the project on the basis of it being exempt. This is new and I have spoken to assessors and lots of lawyers around the state. I also spoke to the governor's office. What is happening here is happening all over the state. We would like the % of exemption increased and taking from that we would be willing to ask all three, the town, county & school for a PILOT. We pay \$700,000 to National Grid and monies paid to National Grid to build the info structure offsite that they own. We are being taxed for this and it is actually for a third party that they are retaining and they own. It is not anywhere near the leased property. That would take us to 96% exemption.

Bruce stated that he has spent two and half years of his life on this and now he is getting upset. The bottom line is I don't like a flip flop. We will give the land assessment that they had prior and give them 100% exemption and they can pay full on the special district.

Erika thinks we have gotten a little overdone here. She doesn't hear anything that didn't sound like a very respectful difference of opinion. The question is whether their proposal was logical to go from the 90% to the 96%. Bruce stated that if we do that then there will not be a PILOT. Erika stated that if three weeks ago you were at a 75% exemption and you both agreed to go up to 90%. They would like the additional cost that they found to get it up to 96% they are respecting your view. The question is that realistic. Bruce stated that National Grid has to report that to Public Service Commission. Erika asked why we don't increase National Grid. Bruce will call the Public Service Commission and research this. Ferd will send Bruce the paperwork on it.

Erika envisions this as; you have your PILOT and say where as the Town has researched and looked at the cost analysis and town's assessment to be 96% exempt and therefore the taxes would be X however we are entering into an agreement for taxes Y. She doesn't see why that has changed whether or not we can do a PILOT. Are you telling me it's now financially null and void?

Bruce stated that it is a 30-acre tract of substantial amount of lot clearing. There will be two more systems built. One will be the same size and the other half the Millett's size. Let's say system was 15 million with 5 million for site development and 10 million for the system then they would be exempt 66%. The Terry project and the Cahan project are mostly fields. There will be a whole lot less site development costs so therefore if it cost a million to do site development and the system cost 10 million now they are 99% exempt. Erika stated that we are still getting additional taxes because a parcel that used to be ag. that got an exemption is now being put on the tax rolls as industrial at no exemption.

Erika views the PILOT as the Town is making for each project. Bruce gets the decision to give 96% and you are telling them this is the rate. In the next project because you are given different information and the assessor is going to be doing the math and whatever number you come up with whether it is 94% to make sure the % off that they give you is still the same. Say for example the taxes on this project are \$100,000 and the Board should treat all three projects the same meaning if it is \$100,000 we are going to enter into a PILOT where you only have to pay 60% of the taxes. The assessor is the one setting the numbers for the projects and the Town has to make that % consistent.

Bruce is stating that if he can't use incremental costs then he can't use the system that he put on the assessment roll.

Erika just heard an agreement from everyone involved to disagree. If they are going along with the incremental costs they just want 96% instead of 90%. From Erika's perspective, the question from the Board is that if they agree on 96% what % of those taxes left is the Town willing to enter into a PILOT.

Bruce would like to know how the school and county feel about it. Erika understands that since the Town is the one who sets the assessment roll that still gives them some certainty of them knowing if the other two don't say yes to a PILOT there is a difference between when they are thinking about contesting it whether they are at 90% or 96%.

Bruce stated that he doesn't really care that he could probably roll it over and give the 100%. If we give the farm away, we give the farm away. Bruce will research with Public Service Commission and National Grid.

John Millett Jr. thinks if you took incremental costs out and used costs not directly attributable to the system.

Chris Debolt took some notes and will report back to Washington County Board for review. I am not authorized to make a decision right now. I visited the solar site and spoke to Rob Garrity several times on this issue.

Jodi Burch also does not have the authority to make a decision for the Whitehall Central School Board at this time. We had a different school administration at that time. Bruce has encouraged Syncarpha to grieve the assessment. He also offered to come to the county and school for another presentation if they need it.

Motion to adjourn meeting at 12:30 PM made by Councilperson Kingsley and seconded by Councilperson Safka.

ADOPTED **Ayes 3 Armstrong, Safka, Kingsley**
 Nays 0

Adjourned @ 12:30 PM

Respectfully submitted,

Julie Millett
Town Clerk

