

TOWN OF WHITEHALL
Special Meeting @ 10 AM
COURTHOUSE
57 SKENESBOROUGH DRIVE

June 23, 2017

BOARD MEMBERS PRESENT: George Armstrong – Supervisor
John Rozell-Councilperson
Stephanie Safka – Councilperson
Timothy Kingsley-Councilperson
David Hollister-Councilperson

OTHERS PRESENT: Town Clerk, Julie Millett; Whitehall Times Reporter, Matt Saari; Town Attorney, Erika Sellar-Ryan; Town Assessor, Bruce Caza; Whitehall Village Mayor, Phil Smith, John Millett Jr., David Waters, Whitehall Central School Attorney, Chris Langlois; Borrego Rep., David Bagley; Washington County Real Property Director, Laura Chadwick.

Special Meeting notice was posted in the Whitehall Times on June 8, 2017 as well as on the town clerk signboard and on website on June 6, 2017. Copy will be filed with the minutes.

Supervisor opened the meeting to discuss the two solar projects on Buckley Road and Cemetery Lane. The Buckley Road is a two- site project and the Cemetery Lane is a one site project. These projects are being built for SUNY Polytech. The buyer of these projects is called Canaan Energies and they are very active and have developed many other projects. The Buckley Road project has had some more development issues and we have been working with the railroad. We have tried to do a bridge and that failed because of land and we have made an agreement with the railroad just this week. We plan on starting next month and hope to finish by the end of the year. After that they still need to be connected to the grid which would be probably in the spring. The Millett Farm is up and producing.

Dave Waters has concerns on the Cemetery Lane project and them taking down some trees that he believes are on his friend's property. Borrego stated that a survey has been done and they would not take down trees on another person's property. Dave claims that the old survey filed in John Grady's Office is at an angle and Borrego has cut trees on Pinkowski land. Dave Bagley will look into for the land owner. The land will be leased for twenty years. Per site it is roughly 13 acres. The Buckley site is going to be built so sheep can still graze underneath the

panels. Bruce Caza stated that they will lose the ag. exemption because that will not be the primary use of the farm.

Dave Water also had concerns on the stream on the Buckley Road property with contamination. Erika stated that has nothing to do with this.

Erika stated that this will all be in open session.

Supervisor asked Borrego for their proposal. Dave Bagley and Bruce Caza have spent a lot of time on this. The town and county have requested PILOTS from Borrego. There have not been a lot of PILOTS that have been used in New York so this is new territory for us all. NYSERDA has gotten involved and they have been trying to see if there is a PILOT form to use.

Bruce Caza has the draft agreement that NYSERDA has done. He handed it over to the attorney for review. Dave Bagley will also send it to Erika. School attorney would also like them to consider the school when doing the PILOT. Erika stated that the town has no authority to negotiate for the school or the county, just the town. Bruce Caza and Borrego have not agreed on an assessment on the new projects yet. In June of 2016 the assessor made Borrego submit to him a net present value with the whole income stream. Dave produced the value for the Millett project. When Bruce went to Watertown the instructor was talking about federal tax credit because they get 30% tax credit. Then he got hooked up with Cornell University with another assessor in Rensselaer County and I met with her at the real property office. She showed me her contract and NYSERDA gives grants so I came back and questioned the grants. That money has to be put into the formula so on the Millett project the net present value calculation did not have the NYSERDA grants. These two projects coming forward they put the grants in as part of the income stream that increases the value dramatically. Bruce claims he has had over 1,000 conversations with assessors, attorneys, etc. on this over the last two years. Nobody understands how to do it. He has values from Dave Bagley on the two projects. Bruce hasn't presented anything to Borrego to tell them what he is going to use.

Laura Chadwick stated that the PILOTS set up through the IDA are based on what is the assessed value and any improvements after the vacant land. So, say for the first five years, 75% of that improvement is exempt, then the next five years is 50% is exempt and the last would be at 25%. Most of that is based on taking the assessment times the tax rate times the apportionment to get what the actual tax payer would pay.

Erika stated that the PILOT that has actually been proposed by NYSERDA is a lot of what she was thinking.

Bruce stated that Schoharie County has done something illegal. The Board of Supervisors passed a resolution saying if you want to do business with Schoharie County this is what you are going to pay and it is going to go to the school. This law was specifically written in 1977 that each entity has its own PILOT. The school and the county will have to do a PILOT separate to protect everyone's interest. In the 487 laws, it states that the PILOTS have to be saddled with themselves and would go to each entity.

Erika stated that we want something so someone in 10 years can look at it and understand it. We need a simple number and so we don't need litigation every year to figure out what the payment will be.

Erika asked Bruce if he had done the figures on what he thinks. Bruce stated that he knows where the range should be, but he doesn't want to depose that to the Board before an offer is

made. Erika stated that it should be very simple. In year one this is the amount, year two this is the amount, etc. Erika feels it should be a graduated number. The Town needs to be consistent with both projects.

Bruce handed out his spreadsheet that he had worked up on the Millett project. The Buckley Road project will be similar to this one. Taxes on project would be around \$20,720 for all three, school, town and county.

For just the town it would be \$4,250.

Dave Bagley stated that there are a few variables between this project and the Buckley project. The Millett project is a richer project because one it is a different off-taker with a different revenue stream and second, they have NYSERDA grants which they were richer at that time then they are now.

Erika stated that on an annual basis to the town between \$3,800 and \$4,300. Bruce is saying no because this sheet is based on a 90% exemption. If the assessment is 5 million and the tax rate is \$10 per thousand that would be \$50,000. On the Millett project, the town didn't ask for a PILOT. The only ones that have asked for a PILOT on these two projects are the county and the town. Dave Bagley feels that if we can find a number that works for us and you guys can decide how it gets split up.

Dave Bagley feels very confused by today's presentation by assessor. We have a school district that never responded to the letter so Borrego is not obligated to do a PILOT with them, the county that doesn't have a representative that can make a decision and the town who wants to make a deal. Dave Bagley concurs with the guidelines that NYSERDA has put forward for PILOTS and those guidelines are \$3,000-\$5,000 megawatt per AC. That is the total amount. The PILOT for the special district would come out of that and whatever is left is left to divide however the town sees fit.

Erika would like to move forward now and get an understanding of what the value of the project is and get a % that makes this work.

Bruce interprets the law that if they are granted the exemption it is only on the improvements. They pay full taxes on the land assessment and 100% special district taxes.

Councilperson Safka would like Laura Chadwick and Bruce Caza to sit down and come up with a tentative number and present it to each board. Bruce's number is \$25,000 for the town, county, school and special district. David Bagley \$20,500 for all three projects, the two on Buckley and one on Cemetery Lane. Dave would like a fixed PILOT for 15 years. Bruce stated that is extremely low.

Councilperson Hollister commented that we are getting considerable more money on the Millett project in taxes than we have been. If we didn't have the PILOT, these projects would still pay an increase on the land. What is the increase from what the land was on the Millett Farm and what it is now. Bruce stated the Millett property now on the final assessment roll is half of what it will be next year.

Bruce stated the project at the Millett farm cost 13.2 million dollars. The assessment should be 5 million dollars. The taxes on 5 million dollars would be \$110,000 and they are only going to pay \$20,000. The law allows this to happen.

Erika feels that once you get your number, increase by say 2% each year and divide that number by the % for the school, town, county and special district. That way you would have a fixed number going up 2% each year and divided by % for each entity.

Everyone would get their own check.

Councilperson Rozell asked if the school would be happy with that and would they accept less than their % since they never responded on the PILOT.

Dave Bagley wants to know if we can put the fire district under the PILOT? If we can deal with the special districts then \$4,000 could work. Dave Bagley is now confused. He thought the land was exempt. He didn't know that the land was going to be reclassified to industrial and the assessment would go up on the land. Bruce claims he has talked to Dave the last 2 years and told him that you are going from 1, 000 an acre to 15,000 an acre. Assessor is using \$1500 an acre with \$15,000 an acre in assessment at 30 acres that is \$450,000 so the taxes on that would be \$20,000, with a PILOT on top of that. Dave Bagley's expectation was that whatever the town, county and school was getting with today's exemptions, they would continue to get that amount of money. Anything over that whether it be improvements, recategorization would be covered by the PILOT. It was Dave's assumption that a PILOT would cover any of these increases. Erika wanted to know if the property is going to be exempt then how can we tax it. Bruce stated that they only get exemption on the improvements. The land assessment is contributed to the change in use of the land. It is a new property classification and is a change from agricultural to an industrial class. He claims the law says exemption is for the system. Dave Bagley will have to get back to them now that he understands how it is being done. Erika stated that you can think about it like there are two tax bills. One for the land and the system. We can't change what is going on with the land so now we have to come up with a figure on the PILOT.

Dave Bagley left at this time.

The school attorney thanked the board for including them in this discussion. Bruce Caza encourages the school to join in on the PILOT.

Laura Chadwick had nothing to add at this time.

Bruce Caza stated there are things that I have that are public information that aren't public information. The income for the Buckley project is \$867,000 a year and Bruce feels Borrego can find the \$12,000. Bruce feels bad for that little old lady that comes in that can't pay her taxes. Every penny they get to save is called profit in their pocket. He thinks if the board holds firm, they can get the \$12,000. Erika wishes the county attorney was here since they may be receiving some of the money on the PILOT.

Supervisor will get in touch with county attorney after the Board receives some figures from Dave Bagley.

Supervisor asked if there was any other business, none.

Motion to close the meeting at 12:15 PM made by Councilperson Safka and seconded by Councilperson Hollister.

ADOPTED **Ayes** 5 **Armstrong, Rozell, Safka, Kingsley, Hollister**
Nays 0

Adjourned

Respectfully submitted,

Julie Millett

Town Clerk