

Evans Town Board

At a regular meeting of the Town Board of the Town of Evans, held at the Evans Town Hall, 8787 Erie Road, Angola, New York on Wednesday, February 7, 2007 at 7:30pm there were

|               |                        |                                  |
|---------------|------------------------|----------------------------------|
| PRESENT:      | Karen C. Erickson      | Councilman                       |
|               | Kathleen A. Bartus     | Councilman                       |
|               | Michael M. Spence      | Councilman                       |
|               | Paul T. Cooper         | Councilman                       |
|               | Robert R. Catalino, II | Supervisor                       |
| ALSO PRESENT: | Carol A. Meissner      | Town Clerk                       |
|               | J. Grant Zajas         | Town Attorney                    |
|               | Jeanne C. Ebersole     | Assessor                         |
|               | Charles LaBarbera      | Building Department Head         |
|               | Lori Szewczyk          | Dir. of Community<br>Development |
|               | Charles Katra          | Dir. of Finance                  |
|               | Russ Manguso           | Asst. Parks Crew Chief           |
|               | Sandra Brant           | Planning Division                |
|               | Robert Ferguson        | Police Chief                     |
|               | Julie Roach            | Seniors                          |
|               | Patrick Conrad         | St. Pt. Marina                   |
|               | Diana A. Cafferty      | Rec. of Taxes & Assess.          |
|               | Tom Kait               | Water Crew Chief                 |
|               | Rick Hanavan           | Wendel Duscherer                 |
| ABSENT:       | Edward Michalski       | Highway Superintendent           |

RESOLUTION 79 Approve Minutes

Supervisor Catalino moved and Councilman Erickson seconded that the reading of the minutes of the meeting of January 17, 2007 be dispensed with and approved as submitted by the Town Clerk.

Carried.

Supervisor Catalino extended the privilege of the floor to any and all persons present.

Bob Doering, 9136 Lakeshore Road, acknowledged the road crews in the Town of Evans doing a pretty good job during the latest storm. He has noticed that the number of people attending the Association of Towns meeting is down significantly over

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the past two years, which saves a lot of money. He still questions people being approved to go to the conference on Saturday when it doesn't officially start until Sunday, as it is a waste of money.

RESOLUTION 80 W.J. Connors - RE: Rezoning of property located at 8905 Lake Shore Road from Rural Residential (RR) to Residential (R-1).

Supervisor Catalino moved and Councilman Spence seconded to receive and file the communication from William J. Connors requesting the consideration of rezoning property located at 8905 Lake Shore Road owned by T.E. Connors, Inc. from Rural Residential (R-R) to Residential-1 (R-1), for the purpose of creating four (4) residential building lots and further that this communication also be referred to the Planning Division for review and recommendation.

Carried.

Councilman Spence commended the Highway, Parks, and Water Departments for their work during the recent storm.

Councilman Bartus thanked the Highway and all departments for their efforts during the storm.

Councilman Cooper extended his appreciation to the Highway Department, for their work. He recently attended the installation for the Angola and Evans Center Volunteer Fire Company's and would like to commend the volunteerism displayed by the membership. Both fire company's have significant milestones coming up. Evans Center Fire Company will be celebrating its 75<sup>th</sup> year of service and the Angola Fire Company will be celebrating its 125<sup>th</sup> year of service.

Councilman Erickson presented a building department report and commended the personnel in that office.

-presented a police department report

Supervisor Catalino explained the communication and efforts of the Town and Disaster Coordinator Leiutenant Danzi along with the police, highway, parks and water departments during the recent storm

RESOLUTION 81 Committee and Department Head reports

Supervisor Catalino moved and Councilman seconded to accept the Committee and Department Head reports as follows:

Carol A. Meissner, Town Clerk:  
Petty Cash - January 2007 \$-0-  
Games of Chance - January 2007 \$25.00  
Town Clerk's January 2007 monthly report \$10,641.19

Diana Cafferty, Receiver of Taxes & Assessments:  
Water Receipts January 2007 \$120,576.03  
Duplicate Bills & Receipts - January 2007 \$78.00  
Interest earned - January 2007 \$24.52

VOTE RESULT: Supervisor Catalino aye  
Councilman Erickson aye  
Councilman Spence aye  
Councilman Cooper aye  
Councilman Bartus Aye

RESOLUTION 82 Special Use Permit renewal, David Laskowski d/b/a D & L Trucking and Excavating

Councilman Erickson moved and Councilman Bartus seconded,

WHEREAS: David Laskowski, D/B/A D & L Trucking and Excavating is required to have a Special Use Permit for the purpose of storing and dispatching trucks, located at 8563 Erie Road (a.k.a. NYS Route 5), Angola, NY, a portion of SBL#235.06-1.13, and

WHEREAS: the Town Board of the Town of Evans conducted a public hearing regarding this project on January 17, 2007, and

WHEREAS: the Town Board of the Town of Evans has issued a negative declaration regarding the SEQR process on December 15, 2004 for the rezoning of said property that is still sufficient and valid for this action, and

WHEREAS: the Town Board of the Town of Evans has voted to rezone a 1.44+/- acre portion of the aforesaid property, subject to the issuance of a Special Use Permit

NOW THEREFORE BE IT

RESOLVED: that the Town Board of the Town of Evans grants a Special Use Permit to David Laskowski, 8563 Erie Road (a.k.a. NYS Route 5), Angola, NY, a part of SBL#235.06-1-13, subject to the conditions set forth hereafter, and

BE IT FURTHER

RESOLVED: that the following conditions be placed on said Special Use Permit

1. Placement of a railing or other demarcation acceptable to the Town Board along the rear (easterly) line of the 1.44+.0 acre MS zoning district as shown on the site plan.
2. Planting of a staggered line of evergreen trees and/or evergreen shrubs no less than 4' high, ranging and spacing from 5-10' on-center depending on plant type, acceptable to the Town Board. Said trees and/or shrubs shall be planted along the south property line as the same abuts property known as SBL#235.06-2-4 by January 1, 2008, to provide a visual barrier and buffer to future adjacent development.
3. Identify the designated snow storage area on the site plan
4. The number of tractor-trailer units on the premises at any time shall be limited to no more than nine (9) to be located in an area to be identified on the site plan.
5. The width and radius/curvature of the driveway and the driveway apron must be designed so trucks have the ability to make turns on to NYS Route 5 without encroaching into opposing travel lanes.
6. The northern access to this site shall not be shared with access to the motel or restaurant.
7. Engine idling shall not be permitted.
8. There shall be no outside storage of parts, equipment and debris. There shall be no storage of gasoline or fuel on the site unless in appropriate storage containers.
9. Only minor repairs on vehicles owned by the applicant shall be permitted. There shall be no painting, grinding or extensive repairs permitted on the site.
10. There shall be no docks, storage, loading/unloading or transferring of goods, merchandise or freight allowed on the site.
11. No new buildings may be constructed on site without Town permits and/or approvals.
12. The existing office shall be used for truck dispatching only.
13. The Special Use Permit shall be issued to the applicant, David Laskowski only, not to the property or the business, and shall not be transferable.
14. This Special Use Permit shall expire on January 31, 2010, at which time it must be reviewed for renewal pursuant to Town Code, and

BE IT FURTHER

RESOLVED: that the issuance of the Special Use Permit will be further conditioned upon receipt by the Planning Office by March 15, 2007, of (three)3 copies of a site plan, prepared by a professional, licensed to do so, acceptable to the Evans Town Board reflecting the above conditions numbered 1 through 5, and

BE IT FURTHER

RESOLVED: that a copy of this resolution be given to the Planning Office, Assessor's Office, Code Enforcement Office and Police Department.  
Carried.

RESOLUTION 83 Confirmation of the representative from the Town of Evans to the Association of Erie County Governments

Councilman Spence moved and Supervisor Catalino seconded,

WHEREAS: Kathleen A. Bartus is liaison for local governments as representative of the Town of Evans,

THEREFORE BE IT

RESOLVED: that Kathleen A. Bartus, Councilwoman is confirmed as the representative for the Town of Evans to the Association of Erie County Governments and

BE IT FURTHER

RESOLVED: that a copy of this resolution be sent to the Association of Erie County Governments.  
Carried.

RESOLUTION 84 Authorization for Karen Erickson to attend the Association of Towns meeting in NYC from February 17-21, 2007

Supervisor Catalino moved and Councilman Bartus seconded,

RESOLVED: that Town of Evans Town Board approves the request of Supervisor Robert R. Catalino, II and Councilman Karen Erickson to attend the annual Association of Towns meeting in New York City from February 17-21, 2007 and that all expenses to be paid per Town Policy.  
Carried.

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RESOLUTION 85 Appointment to the Assessment Review Board

Councilman Bartus moved and Councilman Cooper seconded,

WHEREAS: the term of Board of Assessment Review member, Jeffrey White, of 12 Ward Pkwy., Angola, New York, expired September 30, 2006,

THEREFORE BE IT

RESOLVED: that Jeffrey White is hereby appointed to the Board of Assessment Review to a term expiring September 30, 2011.

Carried.

RESOLUTION 86 Requesting NYS to rescind revisions of NYCRR Part 1203, entitled "Minimum Standards for Administration and Enforcement of the Uniform Code" as an unfunded mandate

Councilman Erickson moved and Councilman Bartus seconded,

WHEREAS: the Town of Evans is a rural town located in the southern area of Erie County and

WHEREAS: the Evans community is characterized by large number of young families and a growing senior population, many of whom are living with limited or fixed incomes, and

WHEREAS: the limited resources of the Town is making it increasingly difficult to provide the minimum, required governmental services to its residents, and

WHEREAS: additional services from the State of New York, which are not match by state funding sources add significantly to the inability of local governments like the Town of Evans to perform vital local services to our residents, and

WHEREAS: the Department of State, in enacting its revisions of NYCRR Part 1203, entitled "Minimum Standards for Administration and Enforcement of the Uniform Code", has imposed additional unfunded mandate upon the Town of Evans and other municipalities, and

WHEREAS: the Town of Evans, has determined that many of these mandates are not necessary or applicable to the Town of Evans and its residents, and

NOW THEREFORE BE IT

RESOLVED: that the Town Board of the Town of Evans hereby requests that these new regulations be rescinded and it is further

RESOLVED: that municipalities like the Town of Evans be given options for avoiding the additional unfunded burdens imposed by these new regulations

BE IT FURTHER

RESOLVED: that a copy of this resolution be forwarded to: Honorable Governor Eliot Spitzer, Hon. NYS Sen. Majority Leader Joseph L. Bruno, Hon. NYS Sen. Minority Leader Malcolm A. Smith, Speaker of the Assembly Sheldon Silver, Leader of the Assembly Ron Canestrari, Senators Dale M. Volker and Assemblyman Jack Quinn, the Association of Erie County Governments Inc.

Carried.

RESOLUTION 87 Support of NYS Assembly Bill No.12114 to mandate stricter penalties upon those who use the Internet to commit sex crimes against children

Councilman Bartus moved and Councilman Cooper seconded,

WHEREAS: sex offenders utilize computer and the internet to anonymously communicate with children, using fictitious identities in order to entice children to meet with them; with the ultimate goal of engaging in sex with children, and

WHEREAS: the incidence of this illegal and immoral crime against children has increased dramatically, and

WHEREAS: something must be done to protect children from this type of criminal behavior, and

WHEREAS: State Assemblyman Mark Schroeder, D-Buffalo, has sponsored a bill in the State Assembly (A.12114) which would enact a new law (Article 495 - Computer Sex Crimes Against Children) to make it a separate crime to use the internet to commit a sex crime against a child and to deem such crime to be subject to a more severe criminal penalty, and

WHEREAS: the Evans Town Board feels that this proposed legislation is worthwhile and would add an additional deterrent to sex offenders in New York State,

NOW THEREFORE BE IT

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RESOLVED: that the Evans Town Board hereby memorializes the New York State Legislature and Governor to enact Assembly Bill No. 12114 to mandate stricter penalties upon those who use the Internet to commit sex crimes against children, and

BE IT FURTHER

RESOLVED: that the Town Clerk be and hereby is authorized and directed to send copies of this resolution to Assemblyman Jack Quinn, Senator Dale Volker and Governor Eliot Spitzer and

BE IT FURTHER

RESOLVED: to direct a copy of this resolution to the Association of Erie County Governments.

Carried.

RESOLUTION 88 Authorization for the Code Enforcement Officers to attend a certification Educational Conference March 19-22, 2007 in Rochester, New York

Councilman Cooper moved and Councilman Bartus seconded,

WHEREAS: it is required by New York State that all Code Enforcement Officers be certified, and receive twenty-four hours of class room training per year, and

WHEREAS: a continuing Education Conference is scheduled for March 19, 20, 21, and 22 to be held in Rochester, New York

NOW THEREFORE BE IT

RESOLVED: that Chuck LaBarbera, Paul Ryerse, and Ron Milks be authorized to attend the above stated Conference with all reasonable expenses incurred being a town charge in accordance with the rules and regulations governing travel and education.

Carried.

RESOLUTION 89 Transfer of funds from the Equipment Reserve to purchase telephone equipment

Councilman Cooper moved and Councilman Erickson seconded,

WHEREAS: The Town of Evans has a need for a telephone system for administrative operations, and

WHEREAS: purchase of said telephone system will be in conjunction with new service that will save the Town approximately \$20,000 annually;

THEREFORE BE IT

RESOLVED: that up to \$49,000 is to be used from the Equipment Reserve for specific purpose of the purchase of telephone equipment. This resolution shall be subject to permissive referendum.

The Clerk shall publish a copy of this resolution in the official paper of the Town within 10 days under the heading "Notice of Adoption of Resolution Subject to Permissive Referendum."

|              |                     |     |
|--------------|---------------------|-----|
| VOTE RESULT: | Councilman Cooper   | aye |
|              | Councilman Erickson | aye |
|              | Councilman Bartus   | aye |
|              | Councilman Spence   | aye |
|              | Supervisor Catalino | aye |

RESOLUTION 90 Authorization for the Supervisor to sign the necessary agreements to purchase a Telephone System from NYS contracts

Councilman Spence moved and Councilman Bartus seconded,

RESOLVED: the Supervisor is hereby authorized to sign agreement for purchase of a telephone system from an authorized New York State OGS contractor and pursuant to New York State OGS Procurement contract pricing at an amount not to exceed \$49,000.

Carried.

At this time 7:50pm a public hearing is scheduled as duly advertised in the Town Crier, official newspaper of the Town of Evans to consider the issuance of a tower special permit for the erection of a telecommunications tower to be located at 6929 Erie Road (a.k.a. NYS Route #5), Derby, New York (Tocha property), as petitioned by Upstate Cellular Network d/b/a Verizon Wireless, 175 Calkins Road, Rochester, New York for a 125 foot (expandable to a 145 foot) cellular telecommunications tower being SBL#206-3-58.1 and SBL#206.07-2.20A.

Daniel Silber, attorney with Nixon Peabody LLP, 1300 Clinton Square, Rochester, New York representing the petitioner presented an in depth description of the project.

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There being no one else wishing to speak, the public hearing was closed at 8:02pm.

**RESOLUTION 91 Negative Declaration for Special Tower Permit for Verizon Cellular Communications Tower at 6929 Erie Road, Derby**

Councilman Erickson moved and Councilman Bartus seconded,

WHEREAS: Upstate Cellular Network d/b/a Verizon Wireless has expressed an interest in siting a telecommunication tower on certain property owned by Richard Tocha, located at 6929 Erie Rd. (a.k.a. NYS Route 5), Derby, NY, also known as SBL#206.00-3-58.1 and SBL #206.07-2-20.A, and

WHEREAS: at their meeting on January 24, 2007, the Town of Evans Planning Board has recommended that the Town Board issue a SEQR negative declaration for the proposed action

NOW THEREFORE BE IT

RESOLVED: that the Town Board of the Town of Evans adopts these findings and issues a Negative Declaration in accordance with the SEQR regulations for the Tower Special Permit for the said Verizon cellular communications tower (Addendum A SEQRA Long Environmental Assessment Form).

AND BE IT FURTHER

RESOLVED: that a copy of this resolution be given to the Planning Division Office.  
Carried.

**RESOLUTION 92 Issue Special Use Permit for Verizon Wireless at 6929 Erie Road**

Councilman Erickson moved and Councilman Cooper seconded,

WHEREAS: Upstate Cellular Network d/b/a Verizon Wireless has expressed an interest in siting a telecommunication tower on certain property owned by Richard Tocha, located at 6929 Erie Road (a.k.a. NYS Route 5), Derby, NY, also known as SBL#206.00-3-58.1 and SBL#206.07-2-20.A., hereinafter termed the premises, and

WHEREAS: the Town Code of the Town of Evans requires application to, and consideration by, the Town Board for the issuance of a Tower Special Use Permit for construction and use of structures on said premises, and

WHEREAS: Upstate Cellular Network d/b/a Verizon Wireless has made application to the Evans Planning Board for consideration of said Tower Special Permit and site plan approval, and

WHEREAS: upon the recommendation from the Evans Planning Board, the Town Board, as SEQR Lead Agency and pursuant to Part 617 of the SEQR regulations, issued a Negative Declaration for this action, and

WHEREAS: at their meeting on January 24, 2007, the Evans Planning Board made a recommendation to issue a Tower Special Permit based on the following reasons:

The project appears to:

- \*fill a gap in regional service coverage,
- \*the applicant has satisfactorily demonstrated that co-location on another existing tower is not feasible,
- \*the applicant has investigated a number of other properties within their search ring and determined that this is the most acceptable location for their service needs, and
- \*the applicant has adequately and reasonable demonstrated that this site would provide the most effective coverage, eliminating the future need for the construction of another tower further to the south, in the Town of Evans

WHEREAS: the Evans Planning Board recommended the following conditions be placed on this permit:

1. The applicant must furnish a copy of a fully executed demolition bond with the Town of Evans designated as obligee, acceptable to the Town Attorney.
2. The telecommunication company will allow the Town of Evans to place emergency equipment on this tower if the Town finds it useful or necessary.
3. The tower be an unlighted, self-supporting monopole.
4. That Upstate Cellular d/b/a Verizon Wireless shall reserve the right to expand the tower up to maximum of 145 feet to provide appropriate space to accommodate additional arrays of telecommunication antennae, without preference to kind, make or ownership.
5. That antennae space on said tower shall not be reserved for any particular company(s).
6. The tower shall be removed if the telecommunications facility becomes obsolete or ceases to be used for its intended purpose for 12 consecutive months.

7. The applicant shall provide a certification from a qualified, licensed engineer, certifying that the tower meets applicable structural safety standards. The owner shall also have a structural inspection performed every 2 years by a licensed professional engineer. A report shall be submitted to the town describing the structural integrity of the facility, maintenance issues and repairs needed or made, if any. Structural deficiencies shall be remedied within a reasonable time.
8. This approval is subject to future site plan approval by the Evans Planning Board.

NOW THEREFORE BE IT

RESOLVED: that all 8 said recommendations of the Planning Board be accepted and adopted, and a Tower Special Permit be granted to Upstate Cellular Network d/b/a Verizon Wireless for said tower and location, and

BE IT FURTHER

RESOLVED: that a copy of this resolution be given to the Planning Division Office, the Assessor's Office and the Code Enforcement Office.

Carried.

#### RESOLUTION 93 Town Licenses

Supervisor Catalino moved and Councilman Spence seconded that the Town Licenses applied for be granted contingent upon approval of the Chief of Police and Department of Health:

Derrick W. Decker d/b/a Decker's Corner LLC- Refreshment

Mobile Home Development

William R. Pfeil d/b/a Triton Valley Estates- Angola

William R. Pfeil d/b/a Triton Valley Estates- Derby

Carried.

#### RESOLUTION 94 Audit of Bills

Councilman Spence moved and Councilman Erickson seconded that all properly audited bills be paid out of their respective funds as set forth under abstract of claims on this date as follows:

Abstract #2  
Voucher #75-209  
Prepaid Voucher #3,4,5

|                   |           |
|-------------------|-----------|
| GENERAL           | 76,523.22 |
| PART TOWN         | 49,409.91 |
| HIGHWAY           | 47,692.67 |
| WATER             | 84,538.23 |
| SPECIAL DISTRICTS | 37,955.65 |

|              |                     |     |
|--------------|---------------------|-----|
| VOTE RESULT: | Councilman Spence   | aye |
|              | Councilman Erickson | aye |
|              | Councilman Cooper   | aye |
|              | Councilman Bartus   | aye |
|              | Supervisor Catalino | aye |

RESOLUTION 95 Adjournment

Supervisor Catalino moved and Councilman Cooper seconded to adjourn to the next Work Session on Monday, February 12, 2007 at 5:00pm and then to the next regular Town Board meeting to be held on Wednesday, February 21, 2007 at 7:30pm.  
Carried.

Respectfully submitted,

Carol A. Meissner  
Town Clerk