

PUBLIC HEARING  
**Town of Westfield**  
**April 2<sup>nd</sup>, 2014**  
**Amendment to Existing Cell Tower SUP (Sprint / Douglas Road)**

Supervisor Bills called the public hearing to order at 7:20pm in Eason Hall, 23 Elm Street, Westfield, NY, with the following members and guests present:

Supervisor:	Martha R. Bills	David Babcock	Joel Seachrist	Connie O'Connor
Councilmen:	Raymond Schuster	Scott Frudd	Jim Pacanowski	Janet Nass
	David Brown	Claude Abbey	William Bauer	Harold Nass
	David Spann	Richard Hanson	Jean Ballerstein	
		Michael Barody	Dale	

Ballerstein

Supervisor Bills explained that the Public Hearing was being held to hear all persons in regard to an application to amend an existing SUP submitted on behalf of Sprint to allow the placement of three (3) new remote radio units (RRU) and to replace the existing equipment cabinet with a new multimedia base station (MMBS) and battery cabinets, all on the existing platform at an existing telecommunications tower at 6302 Douglas Road.

Mr. Richard Hanson explained the modification in detail and answered all questions.

There being no further questions or comments, David Spann moved and David Brown seconded the motion that the public hearing be closed at 7:24pm. This was unanimously approved.

Respectfully submitted,  
*//original signed//*  
Timothy C. Smith, Town Clerk

PUBLIC HEARING  
**Town of Westfield**  
**April 2<sup>nd</sup>, 2014**  
**Amendment to Existing Cell Tower SUP (Verizon / Persons Road)**

Supervisor Bills called the public hearing to order at 7:25pm in Eason Hall, 23 Elm Street, Westfield, NY, with the following members and guests present:

Supervisor:	Martha R. Bills	David Babcock	Joel Seachrist	Connie O'Connor
Councilmen:	Raymond Schuster	Scott Frudd	Jim Pacanowski	Janet Nass
	David Brown	Claude Abbey	William Bauer	Harold Nass
	David Spann	Richard Hanson	Jean Ballerstein	
		Michael Barody	Dale	

Ballerstein

Supervisor Bills explained that the Public Hearing was being held to hear all persons in regard to an application to amend an existing SUP submitted on behalf of Verizon Wireless for modification of an existing Special Use Permit to allow the placement of twelve (12) new antennas, a new 12' x 30' shelter, and thirteen (13) lines of coaxial cable at an existing telecommunications tower at 7872 Persons Road.

Mr. Michael Barody explained the modification in detail and answered all questions.

There being no further questions or comments, Martha Bills moved and Raymond Schuster seconded the motion that the public hearing be closed at 7:30pm. This was unanimously approved.

Respectfully submitted,  
*//original signed//*  
Timothy C. Smith, Town Clerk

TOWN BOARD MEETING  
**Town of Westfield**  
**April 2<sup>nd</sup>, 2014**

The regular meeting of the Town Board of the Town of Westfield was called to order at 7:31pm in Eason Hall, 23 Elm Street, Westfield, NY, with the following members and guests present:

Supervisor:	Martha R. Bills	David Babcock	Joel Seachrist	Connie O'Connor
Councilmen:	Raymond Schuster	Scott Frudd	Jim Pacanowski	Janet Nass
	David Brown	Claude Abbey	William Bauer	Harold Nass
	David Spann	Richard Hanson	Jean Ballerstein	
		Michael Baroody	Dale Ballerstein	

Martha Bills moved and David Brown seconded a motion to waive the reading of the minutes inasmuch as all members received a copy thereof and that the minutes be approved. Unanimously carried.

The Town Clerk's report together with a check in the amount of \$2313.28 representing fees for the month of March 2014 was turned over to the Supervisor. State and County agencies received checks totaling \$167.72.

The Supervisor's report is as follows:

<u>Fund</u>	<u>Revenues</u>	<u>Expenditures</u>	<u>Checking Balance</u>	<u>MM Balance</u>
Gen. A	\$382,548.00	\$183,043.00	\$16,068.41	\$832,130.84
Gen B	103,221.00	24,223.00	75.18	136,480.21
Hwy DA	271,992.00	96,706.00	515.84	392,068.16
Hwy DB	49,542.00	38,430.00	37.64	166,093.81
Sewer HO1	23,622.00	18,810.00	-0-	5,225.67
Water HO2	16,223.00	12,203.00	-0-	102,310.39
Wfd. Fire	54,011.00	-0-	-0-	54,463.41
Sherm. Fire	9,232.00	-0-	-0-	9,327.98
Totals:	\$910,391.00	\$373,415.00	\$16,697.07	\$1,698,100.47

The Dog Warden's report for March 2014 was received and placed on file.

The Fire Department Report for March 2014 was received and placed on file.

The Historian's report for March 2014 was not received (position vacant).

The Town Court report for March 2014 was received and placed on file.

Highway:

- The Town Highway Superintendent submitted a written report on activities for March 2014 and highlighted fuel usage, sweeping roads, and work at the harbor.
- Raymond Schuster moved and David Spann seconded a motion to approve the Highway Superintendent's recommendations on acceptance of 2014 annual bids for fuels and materials. Unanimously approved.

Code Enforcement:

- The Code Enforcement Officer submitted a written report highlighting that 2 permits were issued, 3 Certificates of Compliance, and continuing construction on 5 homes in the Town for March 2014.

Barcelona Harbor: The Pier remains closed (opening for the 2014 season is weather dependent)

Announcements:

- Spring Clean-up (Saturday, May 10<sup>th</sup>, 9:00-1:00 @ Transfer Station)
- eWaste Turn-in (Saturday, May 17<sup>th</sup>, 9:00-1:00 @ Town Barn)

Old Business:

- Supervisor Bills stated that the MOA for services (towards the dredging of the harbor) between the Town and the Army Corps of Engineers has been signed. In addition the Army Corps of Engineers has the DEC permit for the federal portion of the channel.
- The 'Letter of Conditions' from USDA-RD for the Barcelona Water Project is nearly complete. Bids for the project will go out in April.
- WDC Board Chairman Joel Seachrist discussed efforts to have limited Amtrak passenger train service out of the depot on English Street. Although only in the discussion phase, the Town Board was in approval of the concept.

New Business:

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- David Brown offered the following resolution and moved for its adoption:

**Resolution No. 18 of 2014**

Negative Declaration / Amendment to Existing SUP (Sprint / Douglas Road)

**WHEREAS**, the Town Board of the Town of Westfield is considering the application of Sprint for modification of an existing Special Permit to allow the placement of three (3) new remote radio units (RRU) and to replace the existing equipment cabinet with new multimedia base station (MMBS) and battery cabinets, all on the existing platform at an existing telecommunications tower at 6302 Douglas Road, on a parcel designated as tax map Section 242.00, Block 2, Lot 7.1, and

**WHEREAS**, the use has been subject to environmental review pursuant to Article 8 of the New York State Environmental Conservation Law (State Environmental Quality Review Act), including the preparation and review of a full Environmental Assessment Form, and

**WHEREAS**, Part 617 of the implementing regulations pertaining to the State Environmental Quality Review Act requires this Board to determine and give notice of the environmental impact of the use, and

**WHEREAS**, the Board has determined that the facility changes proposed in the application will not have a significant environmental impact

**NOW, THEREFORE, BE IT RESOLVED**, that the Town Board hereby issues the attached Notice of Determination of Non-Significance, also known as a Negative Declaration, for the application of Sprint.

This was seconded by David Spann. Voting was as follows: Martha Bills, aye; David Brown, aye; Raymond Schuster, aye; David Spann, aye.

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- Martha Bills offered the following resolution and moved its adoption:

**Resolution No. 19 of 2014**  
Issuance of Amendment to existing SUP (Sprint / Douglas Road)

**WHEREAS**, the Town Board of the Town of Westfield is considering the application of Sprint for modification of an existing Special Permit to allow the placement of three (3) new remote radio units (RRU) and to replace the existing equipment cabinet with new multimedia base station (MMBS) and battery cabinets, all on the existing platform at an existing telecommunications tower at 6302 Douglas Road, on a parcel designated as tax map Section 242.00, Block 2, Lot 7.1, and

**WHEREAS**, the Town of Westfield Planning Board reviewed the application during a meeting held March 12<sup>th</sup>, 2014 and recommended approval of the application, and

**WHEREAS**, the application was referred to the Chautauqua County Planning Department pursuant to Section 239-n of the General Municipal Law and the Department advised by letter dated March 31<sup>st</sup>, 2014 that the matter was of local concern, and

**WHEREAS**, the Town board (“Board”) has carefully considered the issue of compliance with the State Environmental Quality Review Act, and has issued a negative declaration after examination of the record and a public hearing, and

**WHEREAS**, the Board has considered all the facts and papers before it, and has heard those wishing to be heard at a public hearing held April 2<sup>nd</sup>, 2014, after publication of legal notice, and finds ample justification to approve the application subject to the qualifications hereinafter set forth,

**NOW, THEREFORE, BE IT RESOLVED**, that the application be and hereby is authorized and approved subject to the conditions and requirements hereinafter set out:

1. The Applicant shall undertake the project in accordance with the plans submitted to the Town with the application, and agrees to be bound by the terms of the application, the site plan, and the conditions of this permit.
2. This permit shall not be assigned or transferred, in whole or in part, without the prior written consent of the Town.
3. The terms, conditions, and requirements of this permit shall be cumulative with and in addition to any set out in the Special Use Permit authorizing the existing telecommunications tower, and any subsequent additions, modifications, or amendments thereto.
4. Any failure or omission on the part of the Applicant to carry out any condition or requirement herein or in accordance with the terms or requirements of any statute, local law, ordinance or regulation, may be deemed a violation of the Town of Westfield Zoning Law and unless corrected in not more than 10 days following the service of written notice of such

violation upon the Applicant, may subject them to the penalties therein. Continued violations after written notice may result in revocation of this Special Use Permit.

5. This Amendment to an Existing Special Use Permit shall become effective after the Applicant approves each and every provision hereof and agrees to be bound by all of the terms herein contained in consideration of the granting of this Amendment to an Existing Special Use Permit.

This was seconded by Raymond Schuster. Voting was as follows: Martha Bills, aye; David Brown, aye; Raymond Schuster, aye; David Spann, aye.

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- David Brown offered the following resolution and moved for its adoption:

**Resolution No. 20 of 2014**

Negative Declaration / Amendment to Existing SUP (Verizon / Persons Road)

**WHEREAS**, the Town Board of the Town of Westfield is considering the application of New York RSA No. 3 Cellular Partnership (d/b/a Verizon Wireless) for modification of an existing Special Permit to allow the placement of twelve (12) new antennas, a new 12' x 30' shelter, and thirteen (13) lines of coaxial cable, at an existing telecommunications tower at 7872 Persons Road, on a parcel designated as tax map Section 193.00, Block 1, Lot 46.1, and

**WHEREAS**, the use has been subject to environmental review pursuant to Article 8 of the New York State Environmental Conservation Law (State Environmental Quality Review Act), including the preparation and review of a full Environmental Assessment Form, and

**WHEREAS**, Part 617 of the implementing regulations pertaining to the State Environmental Quality Review Act requires this Board to determine and give notice of the environmental impact of the use, and

**WHEREAS**, the Board has determined that the facility changes proposed in the application will not have a significant environmental impact

**NOW, THEREFORE, BE IT RESOLVED**, that the Town Board hereby issues the attached Notice of Determination of Non-Significance, also known as a Negative Declaration, for the application of New York RSA No. 3 Cellular Partnership (d/b/a Verizon Wireless).

This was seconded by Raymond Schuster. Voting was as follows: Martha Bills, aye; David Brown, aye; Raymond Schuster, aye; David Spann, aye.

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- Raymond Schuster offered the following resolution and moved for its adoption:

**Resolution No. 21 of 2014**

Issuance of Amendment to existing SUP (Verizon / Persons Road)

**WHEREAS**, the Town Board of the Town of Westfield is considering the application of New York RSA No. 3 Cellular Partnership (d/b/a Verizon Wireless) for modification of an existing Special Permit to allow the placement of twelve (12) new antennas, a new 12' x 30' shelter, and thirteen (13) lines of coaxial cable, at an existing telecommunications tower at 7872 Persons Road, on a parcel designated as tax map Section 193.00, Block 1, Lot 46.1, and

**WHEREAS**, the Town of Westfield Planning Board reviewed the application during a meeting held March 12<sup>th</sup>, 2014 and recommended approval of the application, and

**WHEREAS**, the application was referred to the Chautauqua County Planning Department pursuant to Section 239-n of the General Municipal Law and the Department advised by letter dated March 31<sup>st</sup>, 2014 that the matter was of local concern, and

**WHEREAS**, the Town board (“Board”) has carefully considered the issue of compliance with the State Environmental Quality Review Act, and has issued a negative declaration after examination of the record and a public hearing, and

**WHEREAS**, the Board has considered all the facts and papers before it, and has heard those wishing to be heard at a public hearing held April 2<sup>nd</sup>, 2014, after publication of legal notice, and finds ample justification to approve the application subject to the qualifications hereinafter set forth,

**NOW, THEREFORE, BE IT RESOLVED**, that the application be and hereby is authorized and approved subject to the conditions and requirements hereinafter set out:

1. The Applicant shall undertake the project in accordance with the plans submitted to the Town with the application, and agrees to be bound by the terms of the application, the site plan, and the conditions of this permit.
2. This permit shall not be assigned or transferred, in whole or in part, without the prior written consent of the Town.
3. The terms, conditions, and requirements of this permit shall be cumulative with and in addition to any set out in the Special Use Permit authorizing the existing telecommunications tower, and any subsequent additions, modifications, or amendments thereto.
4. Any failure or omission on the part of the Applicant to carry out any condition or requirement herein or in accordance with the terms or requirements of any statute, local law, ordinance or regulation, may be deemed a violation of the Town of Westfield Zoning Law and unless corrected in not more than 10 days following the service of written notice of such violation upon the Applicant, may subject them to the penalties therein. Continued violations after written notice may result in revocation of this Special Use Permit.
5. This Amendment to an Existing Special Use Permit shall become effective after the Applicant approves each and every provision hereof and agrees to be bound by all of the terms herein contained in consideration of the granting of this Amendment to an Existing Special Use Permit.

This was seconded by David Spann. Voting was as follows: Martha Bills, aye; David Brown, aye; Raymond Schuster, aye; David Spann, aye.

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- Raymond Schuster offered the following resolution and moved for its adoption:

**Resolution #22 of 2014**  
Bond and Note Financings (Post-Issuance Compliance Procedures)

**WHEREAS**, the Internal Revenue Service has issued new regulations requiring issuers of tax-exempt obligations to certify on Form 8038-G that they actively monitor compliance with federal tax rules following the issuance of such obligations; and

**WHEREAS**, the Town is an occasional issuer of tax-exempt obligations and thus is subject to the aforementioned compliance requirements which are critical for the preservation of preferential tax status of those obligations; and

**WHEREAS**, it is therefore in the best interest of the Town to adopt formal written procedures to ensure such compliance and to designate an official responsible for ensuring that such procedures are followed;

**NOW THEREFORE, BE IT RESOLVED**, that the Town hereby adopts the interim post-issuance compliance procedures attached hereto as “Schedule A” and resolves to be governed thereby; and

**BE IT FURTHER RESOLVED**, that this resolution shall take effect immediately upon its adoption.

**Schedule A**

- a. Purpose: The purpose behind implementation of post-issuance compliance procedures is to ensure that the Town is compliant with federal tax law requirements related to its outstanding tax-exempt obligations for the life of the obligations.
- b. Compliance Officer Designation, Education and Training: The Town will designate a “Compliance Officer” who will be the primary official responsible for monitoring post-issuance compliance with federal tax laws. The Compliance Officer will attend training and educational seminars at least annually at the law firm of Hodgson Russ LLP and will consult with bond counsel as needed to keep current on IRS regulations and developments relating to post-issuance compliance for its obligations. The Town’s designated Compliance Officer is Martha R. Bills.
- c. Record Retention and Due Diligence Review: The Compliance Officer is responsible for thorough record retention of all material documents relevant to the issuance of the Town’s tax-exempt obligations including, but not limited to, the transcript of proceedings, closing binder, bond counsel opinion, tax certificate, IRS-required filings, records of investments and expenditures made with proceeds, documents pertaining to existing or potential private and public use of bond-financed property, etc. The Compliance Officer will conduct due diligence review of these documents both upon receipt and at regular intervals throughout the life of the obligation.
- d. Monitoring Compliance: The Compliance Officer will monitor use of proceeds and arbitrage restrictions through implementation of accounting methods and consultation with bond counsel and a rebate consultant when necessary.
- e. Correcting Potential Non-Compliance: Upon discovery of potential or existing non-compliance with post-issuance tax laws, the Compliance Officer will promptly take steps, including consultation with bond counsel, to correct such non-compliance.

This was seconded by David Spann. Voting was as follows: Martha Bills, aye; David Brown, aye; Raymond Schuster, aye; David Spann, aye.

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- David Brown offered the following resolution and moved for its adoption:

**Resolution #23 of 2014**

Authorization to Advertise for Bids on Water System Improvements for the North Town Water District  
(Barcelona Water Benefit District Area Project)

**WHEREAS**, proceedings have been initiated to consider the increase and improvement of facilities of the Town of Westfield North Town Water District, in the area known as the Barcelona Water Benefit District, consisting of the construction of new water main, all necessary site work, equipment, apparatus, as well as such other improvements as more fully identified in a map, plan, and report prepared by the project engineers, Nussbaumer and Clarke, Inc., (hereinafter “Project”), and

**WHEREAS**, the Town Board has been advised by Nussbaumer and Clarke that it has prepared such plans and specification as are necessary to competitively bid the Project work, and

**WHEREAS**, Nussbaumer and Clarke has recommended that the Town Board proceed to advertise the Project construction and receive bids for such work at this time,

**NOW THEREFORE, BE IT RESOLVED**, that such advertisements and legal notices as may be required shall be published and posted as required by law for purposes of soliciting bids for the Project; and it is further

**RESOLVED** that sealed bids and appropriate bid security will be received for opening at a time and place to be determined and to be specified in the advertisement for bids, and it is further

**RESOLVED** that the Town Board understands that the advertisement for bids will be subject to and contingent upon all financing being authorized and upon the receipt of all required agency approvals, including that of the United States Department of Agriculture/Rural Development.

This was seconded by Raymond Schuster. Voting was as follows: Martha Bills, aye; David Brown, aye; Raymond Schuster, aye; David Spann, aye.

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- Raymond Schuster offered the following resolution and moved for its adoption:

**Resolution #24 of 2014**

Authorization to Execute the NYCLASS Municipal Cooperation Agreement

**WHEREAS**, New York General Municipal Law, Article 5-G, Section 119-o (“Section 119-o” empowers municipal corporations (defined in Article 5-G, Section 119-n to include school districts boards of cooperative educational services, counties, cities, town and villages) and districts to enter into, amend, cancel and terminate agreements for the performance among themselves (or one for the other) of their respective functions, powers and duties on a cooperative or contract basis; and

**WHEREAS**, the Town of Westfield wishes to invest certain of its available investment funds in cooperation with other corporations and/or districts pursuant to a municipal cooperation agreement; and

**WHEREAS**, the Town of Westfield wishes to assure the safety and liquidity of its funds; and

**NOW THEREFORE, BE IT RESOLVED**, the Town Supervisor is hereby authorized to execute and deliver the Cooperative Investment Agreement in the name of and on behalf of the Town of Westfield.

This was seconded by David Spann. Voting was as follows: Martha Bills, aye; David Brown, aye; Raymond Schuster, aye; David Spann, aye.

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- Martha Bills offered the following resolution and moved for its adoption:

**Resolution #25 of 2014**

Amendment to NYCLASS Municipal Cooperation Agreement

**RESOLVED**, The NYCLASS Municipal Cooperation Agreement is hereby amended so that the following changes are made:

- 1) The NYCLASS Investment Policy better conforms to New York State General Municipal Law.
- 2) The Governing Board is empowered with the ability to further amend the Investment Policy without further amendment to the cooperative, but while still maintaining appropriate notice to Participants.
- 3) Allows for the potential creation of other investment options as market conditions change or improve over time.

This was seconded by David Brown. Voting was as follows: Martha Bills, aye; David Brown, aye; Raymond Schuster, aye; David Spann, aye.

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- Raymond Schuster offered the following resolution and moved for its adoption:

**Resolution #26 of 2014**

Authorization for Supervisor to sign Memorandum of Agreement (MOA) with USACE

**RESOLVED**, that the Town Supervisor is hereby authorized to sign an MOA on behalf of the Town of Westfield with the Department of the Army for acceptance and authorizing return of contributed funds for maintenance dredging of non-federal berthing areas in Barcelona, Harbor, New York.

This was seconded by David Spann. Voting was as follows: Martha Bills, aye; David Brown, aye; Raymond Schuster, aye; David Spann, aye.

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Warrants dated April 2<sup>nd</sup>, 2014 (voucher #'s 10069 - 10123), in the amount of \$77,834.42 drawn on the following funds: \$22,460.79 General; \$2000.00 General Part-Town; \$4,000.00 Harbor Fund; \$7,173.78 Highway; \$31,274.34 Highway Part-Town; \$32.92 Sewer Fund; \$3.78 Shorehaven Water Project; 738.14 Trust & Agency; and Welch Building \$10,150.67 were presented and audited by the Board members. David Spann moved and David Brown seconded a motion that the Supervisor be directed to draw the necessary checks to cover the warrant as audited. Voting was as follows: Martha Bills, aye; Raymond Schuster, aye; David Brown, aye; David Spann, aye.

At 9:05pm Supervisor Bills moved and David Spann seconded a motion to move to Executive Session to discuss current litigation and acquisition of land. Unanimously carried.

At 9:35pm Supervisor Bills moved and Raymond Schuster seconded a motion to return to regular session. Unanimously carried.

- Raymond Schuster moved and David Brown seconded a motion to authorize the Town Supervisor to sign an agreement in order to transfer service contracts (for the Welch Building) with Otis Elevator and Simplex-Grinnel to the Town of Westfield with no change in cost. This was unanimously approved.

The next Town Meeting is scheduled for Wednesday, May 7<sup>th</sup>, 2014 @ 7:30pm.

There being no further business, at 9:37pm. Martha Bills moved and David Brown seconded a motion to adjourn. Unanimously carried.

Respectfully submitted,

*//original signed//*  
Timothy C. Smith, Town Clerk