

PUBLIC HEARINGS  
TOWN BOARD TOWN OF MARLBOROUGH  
21 MILTON TURNPIKE, MILTON NY  
NOVEMBER 12, 2018 7:00 PM  
MINUTES OF PUBLIC HEARINGS

Present: Supervisor Lanzetta  
Councilman Molinelli  
Councilman Corcoran  
Councilman Baker  
Councilman Koenig

Also Present: Kevin Egan, Regional Sales Manager, Charter Communications

THE CHARTER COMMUNICATIONS AGREEMENT

*Supervisor Lanzetta opened the public hearing and stated that the agreement with Charter Communications (formerly Time Warner) is up for renewal after 10 years. Kevin Egan explained that there are a couple of modifications to the franchise agreement. The franchise fee is 5% and is currently paid annually and will be changed to quarterly. They are also maximizing gross revenues. Television is free for each town owned building. The Town of Marlborough Highway/Water Department, Court, and Budget Office currently have TV.*

***Councilman Molinelli made a motion to allow the Supervisor to sign the Charter Communications Franchise Agreement. Motion seconded by Councilman Koenig.***

***Yeas: 5                      Nays: 0                      Carried***

LOCAL LAW OF THE YEAR 2018 TO AMEND SECTION 155-32.2 OF THE TOWN  
CODE SOLAR ENERGY

*Supervisor Lanzetta explained that the amendment to the solar code is to opt out of the pilot program.*

A NEW AT-GRADE PEDESTRIAN RAILROAD CROSSING AT DOCK ROAD

*Supervisor Lanzetta explained that the Department of Transportation (DOT) instructed the town to follow New York State Railroad Law Section 90 and 91 and to hold a public hearing to notify CSX about the existing at-grade pedestrian crossing and a new at-grade pedestrian crossing on Dock Road in Milton. CSX wrote a letter to the town stating that*

*they will not be able to attend the public hearing. The next step is to contact the DOT Commissioner to set up a judicial review that should result in a decision. Councilman Koenig explained that CSX is replacing railroad ties and are supposed to fix the existing crossing.*

*Supervisor Lanzetta read the letter from CSX for the record which is incorporated into the minutes as follows:*



Derek S. Mihaly, P.E.  
Project Manager II – Public Projects  
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November 9, 2018

Mr. Al Lanzetta  
Supervisor's Office  
21 Milton Pike  
Milton, NY 12547

Subject: Marlborough, Ulster County, New York; Proposed pedestrian at-grade crossing south of existing Dock Road at-grade crossing with CSXT, MP QR 68.05

Dear Mr. Lanzetta,

Reference is made to the Town of Marlborough letter dated October 22, 2018 notifying CSXT of the public hearing on November 12, 2018 to discuss the subject project. CSXT is unable to have a representative attend the hearing but provides this letter to state its firm opposition to the project.

In addition to being adjacent (less than 250 feet) to an existing public crossing, there are numerous and substantial safety concerns associated with pedestrian grade crossings. The addition of this, or any pedestrian grade crossing, brings the potential for incidents involving trains and pedestrians. Both federal and state government policies discourage the creation of new grade crossings. CSXT endorses the United States Department of Transportation's goal of reducing the number of grade crossings through consolidation, elimination, grade separation and restriction of the number of new crossings installed. It is noted that there is already an existing grade crossing in the vicinity of this project at Dock Road.

If the Town of Marlborough intends to advance the project, CSXT will require a written request that presents the following information:

- a. A description of the project, including proposed passive or active traffic control devices, and a scale drawing or sketch of the proposed crossing and vicinity.
- b. Expected pedestrian Annual Average Daily Traffic (AADT), photographs, and aerial map.
- c. A detailed explanation of the necessity of the crossing.
- d. Identification of three (3) or more existing public at-grade crossings to be closed. Include their vehicular speed limit, AADT, and traffic type.
- e. Plans that depict the proposed crossing and associated safety treatments consistent with MUTCD and CSXT guidelines and requirements. These include, but are not limited to:
  - a. Emergency notification signs, "STOP" signs, advance warning signs, and "LOOK" signs.
  - b. Stop lines at a minimum distance of twelve (12) feet from the nearest rail.
  - c. Z-crossings with signage requiring cyclists to dismount before crossing.
  - d. Pedestrian swing gates on both sides of the crossing
  - e. Detectable warning strips
  - f. Fencing that adequately prevents trespass, at least 8'-0" high with openings no larger than 2" x 2", installed a minimum of 18'-0" from the centerline of the track.
- f. Written authorization for CSXT to incur costs associated with the following:
  - a. Review of the crossing request (whether or not the crossing is approved)
  - b. Signal design
  - c. Construction of the crossing surface and warning devices by CSXT forces
  - d. Project administration, coordination and management

It should be understood that these services will be paid for by the Town and have an order-of-magnitude cost of \$250,000 to \$350,000.

Upon approval of the project, CSXT will require a license agreement providing CSXT with indemnification, insurance, maintenance and termination protections, etc. and requiring the following fees:

- a. An annual license fee of \$1000 to maintain/administer the required license agreement.
- b. An annual maintenance fee of 70 \$/ft for CSXT forces to maintain the crossing surface.
- c. An annual signal maintenance fee of \$9000 for CSXT forces to maintain the warning devices.

As previously stated, CSXT opposes the proposed pedestrian at-grade crossing south of the existing Dock Road crossing due to the legitimate safety concerns it presents. CSXT respectfully requests that the Town of Marlborough reconsider this proposal.

Please do not hesitate to contact me with any questions regarding the above matters.

Sincerely,

Derek S. Mihaly, P.E.  
Project Manager II – Public Projects

CC: File

Robert Rohauer, CSXT  
Maurice O'Connell, CSXT  
Tony Bellamy, CSXT  
Sean Craig, CSXT  
Erin Goglia, Bergmann Associates  
Greg Hart, NYSDOT  
Clifford Thomas, NYSDOT

*James Garofalo asked if the (CSX) public hearing was for both the existing and new at-grade pedestrian crossings and also where the new crossing would go.  
Supervisor Lanzetta said yes both and the new crossing would go south of the existing crossing.*

***Councilman Koenig made a motion close the public hearings on the Charter Communications Agreement, local law of the year 2018 to amend Section 155-32.2 of the Town Code Solar Energy, and a new at-grade pedestrian railroad crossing at Dock Road at 7:10 p.m. Motion seconded by Councilman Baker.***

***Yeas: 5                      Nays:                      Carried***

*Respectfully submitted,  
Danielle Cherubini  
Deputy Town Clerk*