

REQUEST TO CALL SPECIAL MEETING

To the Clerk of the Board of Supervisors:

You are hereby directed to call a Special Meeting of the Board of Supervisors of Wayne County, New York, to be held in the Supervisors' Chambers in the Court House in the Village of Lyons, New York, on **Thursday, August 27, 2009 at 11:00 a.m.**, for the following purposes:

- FIRST: To review the project for the renovation of the Former Wayne County Nursing Home Facility (County Office Building No. 0006).
- SECOND: Authorization to enter into a settlement agreement with R.E. Ginna Nuclear Power Plant, LLC regarding a proceeding for the review of tax assessments under Article 7 of the Real Property Tax Law.
- THIRD: To hear, consider and act upon any other matter which may be brought to the Board in the same manner and to the same effect as if the Board were convened in regular session.

Dated at Lyons, New York
August 20, 2009

James D. Hoffman, Chairman
Wayne County Board of Supervisors

NOTICE OF SPECIAL MEETING

State of New York
Wayne County
Office of the Clerk of the Board of Supervisors

Upon direction of the Chairman of the Board of Supervisors of the County of Wayne, I do hereby call a Special Meeting of the Board of Supervisors of Wayne County, New York, to be held in the Supervisors' Chambers in the Court House in the Village of Lyons, New York, on **Thursday, August 27, 2009 at 11:00 a.m.**, for the following purposes:

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Dated at Lyons, New York
August 20, 2009

Sandra J. Sloane, Clerk
Wayne County Board of Supervisors

14th Day
Thursday, August 27, 2009
11:00 a.m.

The Board met pursuant to call in their chambers in the Court House, Chairman Hoffman presiding.

The Pledge of Allegiance was led by Supervisor Fabino.

Upon roll call, all Supervisors, with the exception of Supervisors Hammond and Park, were present.

County Administrator James Marquette and County Attorney Daniel Wyner were also present.

APPROVAL OF MINUTES:

Mr. Fabino moved, seconded by Mr. Lauderdale, to waive the reading of the minutes of the previous meeting and approve them as distributed. Upon roll call, carried.

OTHER BUSINESS

Mr. Lyon moved, seconded by Mr. Kelsch that one (1) resolution be allowed on the floor under other business. Motion carried.

RESOLUTION NO. 596-09: AUTHORIZATION TO ENTER INTO A SETTLEMENT AGREEMENT WITH R.E. GINNA NUCLEAR POWER PLANT, LLC REGARDING A PROCEEDING FOR THE REVIEW OF TAX ASSESSMENTS UNDER ARTICLE 7 OF THE REAL PROPERTY TAX LAW.

Mr. Kelsch presented the following:

WHEREAS, R.E. Ginna Nuclear Power Plant, LLC ("Ginna") has instituted a proceeding to obtain judicial review of assessments of certain real property identified as tax map numbers 62119-00-620478.1 (the "addition") and 62119-00-620478.2 (the "firing range") located in the Town of Ontario for the taxable status dates of March 1, 2008 and March 1, 2009 and for a judgment declaring that all of the property and improvements owned by Ginna for the purpose of operating a nuclear powered electric generating facility which includes but is not limited to the addition and the firing range (collectively, the "property") is exempt from all general ad valorem taxes and assessments and a portion of special ad valorem levies and special assessments (collectively, "Real Property Taxes") pursuant to Real Property Tax Law ("RPTL") Section 485, exemptions created by the adoption of local laws and resolutions by the Town of Ontario ("the Town") Wayne Central School District ("School District") and the County of Wayne ("the County") (collectively, the "Exemptions"), and a payment in-lieu of taxes agreement executed by the Town, County, School District and Petitioner, and Ginna dated February 28, 2005 (the "PILOT Agreement"); and

WHEREAS, the Town, County and School District") are named as Respondent's in said proceeding; and

WHEREAS, the parties have engaged in settlement negotiations and after consideration of all material facts have proposed to resolve their differences and terminate said proceedings without further litigation of said differences as follows:

1. The final assessments for the Addition and the Firing Range for the Town's 2008 and 2009 assessment rolls shall be removed from the 2008 and 2009 assessment rolls for taxable real property and placed on the 2008 and 2009 assessment rolls as exempt real property, and the assessment of the Firing Range on the 2009 assessment roll shall be reduced to \$900,000.

2. None of the Tax Jurisdictions shall levy any Real Property Taxes on the Property for the balance of the term of the PILOT Agreement, except to the extent permitted by RPTL §490.
3. Petitioner waives any and all Real Property Tax refunds that it may be entitled to from any of the Tax Jurisdictions based on the 2008 assessments on the Addition and the Firing Range.
4. The parties acknowledge that, pursuant to RPTL Section 485, the Exemptions, and the PILOT Agreement, all of the Property owned by Ginna for the purpose of operating its nuclear powered electric generating facility known as the R.E. Ginna Nuclear Facility shall be exempt from Real Property Taxes for the duration of the PILOT Agreement.
5. Notwithstanding the foregoing, to assist the Town, School District, and County relative to their declining PILOT revenues due to declining tax rates, beginning in January 2010 and continuing for the balance of the term of the PILOT Agreement, Petitioner agrees to make supplemental payment(s) to the Town, School District, and County and waive entitlement to refunds on the Addition and the Firing Range. Such supplemental payments shall be calculated as follows: if the total amount of payments in lieu of taxes payable to all of the Tax Jurisdictions pursuant to the PILOT Agreement ("PILOT Payments") made for the fiscal tax years of the Tax Jurisdictions based on the same Town assessment roll (in the aggregate, the "Total Annual PILOT Payment") is less than \$8,600,000, then Petitioner will pay to the Town, School District, and County an additional amount equal to the amount by which the Total Annual PILOT Payment is less than \$8,600,000 (the "Assistance Payment").
6. In consideration of Ginna's willingness to help address the Town, School District, and County's declining PILOT revenues and Petitioner's willingness to waive entitlement to refunds relative to the Addition and the Firing Range, beginning in January 2010 the Town, School District, and County agree to pay to Petitioner the amount by which the Total Annual PILOT Payment is greater than \$8,900,000 (the "Assistance Return Payment").

and

WHEREAS, the Town and the School District have approved the settlement of this matter in accordance with the above-mentioned terms and conditions; now, therefore, be it

RESOLVED, that the Wayne County Board of Supervisors hereby approves entering into a stipulation resolving the above-mentioned litigation in accordance with the stipulated terms and conditions as set forth above; and be it further

RESOLVED, that the Chairman of the Board of Supervisors is hereby authorized, subject to review and approval of the County Attorney, to execute a stipulation agreement together with other documents necessary to resolve the above-mentioned litigation.

Mr. Plant moved the adoption of the resolution. Seconded by Mr. LeRoy. Upon roll call, adopted.

James Marquette, County Administrator, addressed the Board today to give an overview of the project for the renovation of the Former Nursing Home Facility – County Office Building No. 0006 and to seek direction and to receive input on the funding options from the Board for the next phase of this project.

Mr. Marquette re-introduced Randal Sickler of SWBR Architects & Engineers, P.C. and Todd LaBarr of Watchdog Building Partners to the members of the Board and were present to answer questions regarding the project.

A power point presentation was given, narrated by Mr. Sickler, to review the existing floor plans and the schematics of the proposed renovations to the building.

Many discussions took place regarding the County departments involved, including efforts in seeking grant funding; future demolition costs of unusable parts of the building; the remaining steps for asbestos abatement; as well as the identification of different funding

options for possible consideration and presentation to the next meeting of the Board in September.

The Building Relocation Committee and contractors were commended on their efforts in working with the County departments involved and the accomplishments made in making the best use of the space in the existing structure.

Supervisor Steve LeRoy introduced his grandchildren, Jessica and Jacob LeRoy, to Board Members.

ADJOURNMENT:

The next scheduled meeting of the Board is Tuesday, September 15, 2009 at 7:00 p.m.

Mrs. Crane moved, seconded by Mr. Plant, that the Board adjourn the meeting at 12:42 p.m. Carried.

Sandra J. Sloane, Clerk, Wayne County Board of Supervisors
