

LONG LAKE SPECIAL TOWN BOARD MEETING

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Town Board: Supervisor Clark J. Seaman
Councilman Richard B. Dechene
Councilman Lew A. Plumley
Councilman Dean H. Pohl
Councilman Craig J. Seaman

Location: Long Lake Town Hall - MEAL SITE

Date: December 20, 2012

Time: 7:00 PM

TENTATIVE AGENDA

1. Review/Approval of Settlement Terms

Resolution Authorizing the Settlement of Claims By The Town of Long Lake Against Robert J. Vris and those By Robert J. Vris Against The Town of Long Lake

WHEREAS:

1. The Town enacted Local Law #4 of 2011, "Wellhead and Public Water Supply Protection and Conservation Law of the Town of Long Lake."
2. The Town is the sole owner in fee of the Wellhead site also sometimes referred to as the Bissell Pit Wellhead site which has *Tax Map Parcel Number 18.000-1-11.211* with an approximate area of 4.333 acres ("Town Wellhead Site")
3. Vris is the sole owner in fee of Lot 6 of the Thomas T & Jane Bissell Living Trust subdivision which has a *Tax Map Parcel Number 18.000-1-11.212* conveyed to Robert John Vris by deed dated 29 Jul 2002 L. 226, P 772 ("Vris Lot").
4. The Town Wellhead Site and the Vris lot are adjacent.
5. The Town is under regulatory obligation to the New York State Department of Health and must comply with New York Public Health Law with respect to its newly installed public water supply wells on the Town's Wellhead Site that are in proximity to the Vris Lot. The Town believes that part of that regulatory and permit-based obligation was to enact the "Wellhead and Public Water Supply Protection and Conservation Law of the Town of Long Lake."
6. The afore-described regulatory obligation of the Town, as well as underlying New York State Public Health Law have, as a consequence, the imposition of environmental restriction upon land area within a 200 foot radius of two public water supply wells.

7. Environmental restrictions extend as a function of a 200 foot radius from the Town's two wellheads on the Town Wellhead Site. In the case of the Vris Lot, the Protected Area subject to the environmental restrictions amounts to approximately 0.30 Acres.
8. Vris maintains there has been, and has threatened to bring suit to address, alleged diminution in value of his property adjacent to the Town's Wellhead Site on account of the installation of the public water supply wells and the enactment of Local Law #4 of 2011.
9. The Town does not agree with Vris that there is a basis for an actionable diminution in value claim or for any constitutional just compensation claim for taking in light of its prior offer to convey any residential septic tank leachate from the Vris Lot property as a consequence of the unlikely eventuality that the environmental restriction provides an actual bar to reasonable expectations of lawful use of the Vris Lot.
10. The Town has stated its intent to interpose a set of monetary claims against Vris for his alleged actions undertaken while he was in the employ of the Town of Long Lake for work related to filling in the area around the Town Wellhead Site. The Town has calculated its direct damages claims against Vris in the amount of \$5,193.
11. Vris disputes the Town's claims as to his employment performance and he further disputes that any damage has been caused by any statement or other action on his part.
12. The Parties wish to avoid litigation and to comprehensively settle all the outstanding disputes related to the environmental restrictions upon the lands of Vris and the claims of the Town against Vris.

NOW, THEREFORE BE IT:

RESOLVED, that the Town herewith approves settlement terms pursuant to terms set forth within a mutually agreed upon proposed text of a comprehensive settlement agreement that is entitled: "Settlement Agreement with Purchase and Sale Agreement and Mutual Release" and is to be dated on or about December 24, 2012, and be is further,

RESOLVED, that this Town Board authorizes and approves the execution by the Town Supervisor, upon approval as to form by the Attorney for the Town, all settlement documents, real property closing documents and all payments called for under such comprehensive Settlement Agreement, with essential terms to include:

1-Agreement that Vris sell and the Town purchases an Easement over the Vris Lot, that is solely for the purpose of, and as limited to an extent necessary to effectuate protection of the Town of Long Lake's water supply as it may be drawn from the Grantee's Wells.

2-The purchase price for the acquisition of the easement established in the Easement Agreement is \$20,000.00 (twenty-thousand dollars) and shall be deemed paid to Vris, upon closing in escrow.

3-As a function of the global settlement nature of this Settlement Agreement relating to all outstanding matters between the Town and Vris as of the date of the Settlement Agreement, it is specifically agreed that the actual **net cash payment of \$15,000** (fifteen-thousand dollars) to Vris from the Town shall be the full net settlement amount taking into account the Town's rounded offsetting claim and

the assumption by the Town for all costs of survey, recording and TP-584 transfer tax, filing costs of the Easement Agreement and the expense of escrow services of Mountain Abstract Company, Inc.. Each Party however is fully responsible for its attorney's fees and any applicable income tax. Costs for transfer tax, filing/recording tax and escrow services are authorized in an amount not to exceed \$2000.00

4-The Town shall receive a full general release from Vris and Vris shall likewise receive from the Town a full general release at closing; and be is further,

RESOLVED, that in the absence of the Town Supervisor, the Deputy Supervisor is specifically authorized to execute the settlement and real property documents called for under the Settlement Agreement and to cause due payments required under the Settlement Agreement.

An Executive Session may be necessary