

April 22, 2010  
Public Hearing  
6:30 p.m.

Present: Supervisor Gerald L. Deming, Council Members: Lynn Parnell, Norman Gates and David Deuel

Absent: Frank Rose Jr.

Others: Dave Bojanowski (Genesee Valley Conservancy), Dave Thorp (Livingston County Cooperative Extension), Ronald Cicoria (Town Attorney), Theodore Andrews, Bruce MacIntyre, Heather Grant, Joe McIlroy, Larry Smith, Lee Gratwick, Bill Andrews, Bill Korth, Kirsty & Tim Northrop, Davies Nagel, Jerry Sturm and Scott Stokoe

Supervisor Deming opened the Public Hearing at 6:30 P.M.

#### PURPOSE

Mr. Deming opened the hearing by explaining the purpose. The hearing was scheduled by the Town Board to introduce and discuss proposed Local Law #1-2010, entitled, "Town of York Right to Farm Law". Supervisor Deming explained that Councilman David Deuel and his committee have worked very diligently over the past year to prepare a law to maintain and preserve rural traditions and character of the Town. Mr. Deming stated he will now turn the meeting over to Mr. Deuel to explain further.

Councilman Deuel informed the public that his committee's main purpose in preparing the proposed law was to permit the continuation of agricultural practices, to protect the existence and operation of farms, to support the initiation of farms, farm enterprises, agri-business and to promote new ways to resolve agricultural disputes. Mr. Deuel thanked his committee (Lee Gratwick, Heather Grant, Davies Nagel and Larry Smith) for their efforts in proposing a local law to keep the agricultural community in the Town of York viable.

Mr. Deuel stated at their last meeting a few recommendations were included in the proposed law, they are as follows:

#### Section 2: Definitions

- #3 (K) Apiary products, including but not limited to honey, royal jelly, pollen, beeswax and propolis
- (L) Compost products

#### Section 3: Right to Farm Declaration

First paragraph, 2<sup>nd</sup> sentence: for any agricultural practice in determining the reasonableness of the time, place, and

methodology of such practice, due weight and consideration shall be given to both traditional customs and procedures in in the farming industry as well as to advances resulting from increased knowledge, research and improved technologies.

#### COMMENTS/QUESTIONS

1) **Davies Nagel:** “As a committee member, we looked at numerous approved Right to Farm Laws throughout the state, using their wording as a starting guide for ours. It appears those laws have worked well in their areas and we hope it will here as well.”

2) **William Korth:** “Do any surrounding towns have this yet?”

\*Response: Mr. Deuel stated “the Town of York would be the first in Livingston County to approve such law, but added the Town of Lima is also working on one currently, anticipating its adoption within 3 months.”

3) **Kirsty Northrup:** “What stage are we at now and how long if approved tonight, before it can be officially a law?”

\*Response: Supervisor Deming replied we will be receiving public comment on the subject until Monday, May 10<sup>th</sup>. All comments will be reviewed prior to the regular Town Board Meeting on May 13<sup>th</sup>. If approved at the May 13<sup>th</sup> meeting, it will be filed with the state within 5 days and then approved as law once we receive written confirmation.

4) **William Korth:** “What prompted this action?”

\*Response: Mr. Deuel commented that the committee looked at other towns on how they handle farm related business practices and their community around them and wanted to educate the public on the importance of farming. He added what prompted this action in his opinion he feels the community is a bit disconnected from the farming community and farming in general, and wanted to educate the residents.”

Comment: Town Attorney, Mr. Cicoria stated the strength of this proposed local law is uncertain until it actually tested in court and how they handle the issues.

Mr. Deuel stated he feels very comfortable with the existing wording if an issue ultimately has to go to court.

5) **Joe McIlroy:** “How productive have these rules been in other areas?”

\*Response: Mr. Deuel stated “in Erie County, the towns who have adopted this Local Law are pleased with the guidelines and those who attended mediation had productive results.”

Comment: Supervisor Deming thanked Mr. Deuel and his committee for their efforts in preparing this proposed law, and reminded the public that the comment period will remain open until Monday, May 10<sup>th</sup>.

\*Mr. Deuel informed the public that a letter and survey was recently prepared, and mailed out this morning regarding an Open Space meeting on Wednesday, May 5<sup>th</sup> at 7:30 p.m. at the York Town Hall, with Diane Held as the guest speaker. Mr. Deuel encourages the public to ask questions and make comments on agricultural related issues, because we are trying to move forward with additional farming education within our community.

After no further comment or questions...

RESOLUTION offered by Mr. Gates and seconded by Mrs. Parnell to adjourn the Public Hearing at 7:07 P.M. Voted on and approved, Yes-4, No-0.

Respectfully Submitted,

Christine M. Harris, Clerk

Regular Town Board Meeting  
April 22, 2010  
7:30 p.m.

Present: Supervisor Gerald L. Deming, Council Members: David Deuel, Lynn Parnell and Norman Gates

Absent: Frank Rose Jr.

Others: Carl Peter (Zoning & Code Officer), Ronald Cicoria (Attorney) and George Worden Jr. (Highway Superintendent)

Supervisor Deming opened the regular Town Board Meeting at 7:40 p.m. with the pledge to the flag.

#### MINUTES

RESOLUTION offered by Mr. Gates and seconded by Mrs. Parnell to approve the minutes of the April 8<sup>th</sup> Town Board Meeting. Voted on and approved, Yes-4, No-0.

## HIGHWAY

### 1) Brush clean up:

Mr. Worden reminded the Board of the upcoming Town of York 1 day brush clean up scheduled for Monday, May 10<sup>th</sup>. Clerk Harris informed the Board all necessary notices have been placed in the Genesee Valley Penny Saver as well as postings throughout the local businesses.

### 2) Gravel Pit:

Mr. Worden informed the Board of the Highway Department's recent activities. The men have been crushing gravel in our pit in anticipation of processing orders for the Towns of Conesus and Leicester.

### 3) Maintenance:

Mr. Worden stated the Highway Department crew have been ditching roadways and changing out driveway pipes. Mr. Worden commented that recent information pertaining to the CHIPS funding is a bit more positive than in earlier months. Rumor has it that money is in the budget, but until the budget has been passed we cannot confirm it.

### 4) Government Surplus:

Mr. Worden informed the Board of a recent purchase. Early this morning Mr. Worden and part-time employee, Dennis Brinkman drove to Long Island to pick up a used backhoe from the Government Surplus Program. Mr. Worden believes the backhoe was built in the early 90's, and cost us only \$ 1,500.00. The equipment comes with a rear bucket, but not a front one, which we will be purchasing. Mr. Worden added that the backhoe seems to be in decent working order and had been used at the Long Island National Cemetery.

Mr. Worden stated the reason he asked Mr. Brinkman to accompany him was the fact that Dennis' wife was originally from that area, and he knew exactly where the location was, making the trip a smooth one.

## OLD BUSINESS

### 1) Water Adjustment:

#### a- Jessica Eagan:

RESOLUTION offered by Mr. Gates and seconded by Mr. Deuel to approve the Water Adjustment request submitted by Jessica Eagan for property located at 3173 Center Street. Voted on and approved, Yes-4, No-0.

### 2) Parnell/Slater water:

Supervisor Deming and Town Attorney, Mr. Cicoria commented that they recently received a fax from the Department of Ag. & Markets regarding policy for lateral restrictions in hardship cases. The information is as follows:

- 1- The only land and/or structures which will be allowed to connect to the proposed waterline or sewer within an agricultural district will be existing structures at the time of construction, further agricultural structures, and land and structures that have already been approved for development by the local governing body prior to the filing of the Final Notice of Intent by the municipality.

Land and structures that have been approved for development refer to those properties/structures that have been brought before a local governing body where approval (e.g., subdivision, site plan, and special permit) is needed to move forward with project plans and the governing body has approved the action. If no local approval is required for the subdivision of land and/or the construction of structures, the municipality accepts the limitation under Public Health Law Section 1115 that defines a “subdivision”, in part, as “any tract of land which is divided into five or more parcels.” Water and/or sewer service won’t be extended to the fifth and subsequent parcels where no local approval is required and the land is located within a county adopted, State certified agricultural district.

- 2- If a significant hardship can be shown by an existing resident, the lateral restriction to the resident’s property may be removed by the municipality upon approval by the Department. It is the responsibility of the resident landowner to demonstrate that a hardship exists relative to his or her existing water supply or septic system and clearly demonstrate the need for public water or sewer service. The municipality shall develop a hardship application to be filed with the municipality, approved by the County Department of Health and agreed to by the Department of Ag. and Markets.
- 3- If it can be demonstrated to the Department’s satisfaction that the landowner requested the county to remove his or her land from an agricultural district at the time of district review and the county legislative body refused to do so, lateral restrictions may be removed by the municipality if the Department determines that the removal of the restriction for the subject parcel(s) would not have an unreasonably adverse effect on the agricultural district.
- 4- If land is removed from a county adopted, State certified ag district and the district has been reviewed by the county legislative body and certified by the Commissioner for modification, lateral restrictions imposed by the municipality are no longer in effect for the parcels of land that have been removed from the agricultural dist.

Mr. Cicoria stated, as you can see in notation #2 listing we cannot approve a tap to this location as a hardship because there is not an existing resident or structure on site. If a home had already existed and then experienced water issues, we could have granted "hardship" approval, but unfortunately is not the circumstances.

The Board agreed it is unfortunate we are unable to assist the Slaters in their request, but after reviewing NYS Ag. & Markets lateral restriction policy we have no other choice but to deny the request.

Supervisor Deming asked Mr. Cicoria to draft a letter for Melissa Slater outlining the recent information and the Town Board's decision this evening.

3) Telephone system:

RESOLUTION offered by Mr. Gates and seconded by Mrs. Parnell to accept the quote submitted by Hurricane Technologies in the amount of \$ 7,012.79 for a new telephone system at the Town Hall, including voicemail capabilities for the Water & Sewer and Highway Departments. Voted on and approved, Yes-4, No-0.

#### NEW BUSINESS

1) Industrial Appraisal:

RESOLUTION offered by Mr. Deuel and seconded by Mrs. Parnell to approve payment to Industrial Appraisal Company in the amount of \$ 440.00, for the continuous updates to the Property Record Report for the Town of York. Voted on and approved, Yes-4, No-0.

2) Board of Assessment Review:

RESOLUTION offered by Mrs. Parnell and seconded by Mr. Deuel to appoint Chris Pascuzzo to the York Board of Assessment Review, to fill the vacancy of Floyd Anderson, term expiring September 30, 2014. Voted on and approved, Yes-4, No-0.

\*\* Mr. Pascuzzo was the sole applicant for this position.

3) Leash Law:

Clerk Harris addressed the Board on the issue of a possible leash law in the Town of York. Mrs. Harris stated a few residents have contacted her about our existing information pertaining to dog control and the need for a Town Leash Law.

The Board asked if we have a few isolated dog issues or do we have a bigger problem. Clerk Harris responded we have had several complaints in the last year, but not an over abundance of them. The Board discussed in order to consider an actual leash law, we would ask the resident(s) to start a petition method, allowing neighbors and surrounding residents the opportunity to voice their opinion on whether or not a law is needed.

4) DOT letter:

Clerk Harris reported she received a letter from the New York State Department of Transportation regarding the Board’s request to have them investigate traffic conditions on Dow Road between Route 36 and the Covington Town Line for a reduction in the speed limit. Regional Traffic Engineer, David C. Goehring stated upon completion of the study, we will be notified of their determination.

5) Retsof Ave. complaints:

Supervisor Deming reported on the parking complaints from Retsof residents, at the ARC facility on the Avenue. We received numerous calls stating that visitors to the home had been parking on both sides of the road, making travels up and down the street very difficult.

After a brief discussion the Board agreed a letter should be drafted to Livingston-Wyoming ARC from Zoning Officer, Carl Peter informing them of the issue and recommending usage of St. Lucy’s parking lot for larger gatherings.

**EXECUTIVE SESSION: 8:25 P.M.**

RESOLUTION offered by Mrs. Parnell and seconded by Mr. Gates to enter into Executive Session to discuss personnel matters to include, Town Board, Town Attorney and Town Clerk. Voted on and approved, Yes-4, No-0.

**EXECUTIVE SESSION: 8:55 P.M.**

RESOLUTION offered by Mr. Gates and seconded by Mr. Deuel to end Executive Session. Voted on and approved, Yes-4, No-0.

Supervisor Deming reported no action was taken in Executive Session.

**BILLS**

RESOLUTION offered by Mr. Gates and seconded by Mr. Deuel to approve all claims brought before the Board. Voted on and approved, Yes-4, No-0.

Sewer Districts	# 63-67	\$ 1,568.82
Consolidated Water	# 81-85	\$ 2,015.14
General Fund Claim	# 130-142	\$ 3,600.14
Youth Fund Claim	# 4	\$ 1,097.00
Highway Fund Claim	# 68-74	\$ 4,986.97

ADJOURNMENT

RESOLUTION offered by Mr. Gates and seconded by Mr. Deuel to adjourn the Town Board Meeting until May 13<sup>th</sup>. Voted on and approved, Yes-4, No-0.

Town Board Meeting closed at 8:59 p.m.

Respectfully Submitted,

Christine M. Harris, Clerk