

York Town Board Meeting
December 12, 2013

Present: Supervisor Deming, Council Members: Lynn Parnell, Norman Gates, David Deuel and Frank Rose Jr.

Absent: None

Others: John Ellis, Henry Fuller, Davies Nagel, George Worden Jr. (Highway Superintendent), Carl Peter (Zoning & Code Officer) and Lee Gratwick

Supervisor Deming opened the Town Board Meeting at 7:32 p.m. and invited Mr. Worden to lead in the Pledge of Allegiance.

MINUTES

RESOLUTION offered by Mr. Gates and seconded by Mrs. Parnell to approve the minutes of the November 21st Town Board Meeting. Voted on and approved, Yes-5, No-0.

PRIVILEGES OF THE FLOOR

1) Davies Nagel:

Mr. Nagel stated he has a few questions and comments regarding the draft zoning changes he was recently sent as a Planning Board Member, to review.

#1 – The draft mentions amending the zoning map, but the map was not included with the document, will it be sent out to the Planning Board members for review?

*Response: Supervisor Deming stated the maps will be copied and dispersed to each member.

#2 – Is there a time table for reviewing and commenting by the Planning Board as well as confirming that there are no important changes? There is no meeting scheduled for December and no meeting planned for January?

*Response: Supervisor Deming replied at the November 21st Town Board Meeting, the Board agreed to accept comments until Wednesday, December 11th. Town Board, Planning Board and Steering Committee members each received a copy of the document for review.

Mr. Nagel stated he was not aware of the deadline and did not see a notation stating the 11th.

Mr. Deming added that the Planning Board is not scheduled to meet in December, but does have a meeting slated for Tuesday, January 14th.

Mr. Nagel asked the Board if Mr. Campbell can attend the meeting in January to explain to the Planning Board members further the new draft zoning.

Supervisor Deming stated he will contact Mr. Campbell to inquire as to his availability for the 14th of January.

#3 – From what I can understand this draft zoning allows the hydrofracking industry to come to the Town of York but includes a number of restrictions, is this correct?

*Response: Supervisor Deming commented, yes, the new draft zoning regulations allow fracking, but a number of restrictions are also outlined.

#4 – Isn't it a fact that under New York's Oil, Gas and Solution Mining Law, towns can't regulate the oil and gas industry? This can only be done by the State as in the SGEIS (Supplemental Generic Environmental Impact Statement)? so far the towns can ban but not regulate. This draft attempts to regulate?

*Response: Supervisor Deming and Councilwoman Parnell commented that the draft prepared is a way to update our existing zoning regulations. Having safeguards in place is necessary, such as setbacks. Mr. Deming and Councilman Rose stated this document regulates setbacks. Mr. Rose added we would prefer to have larger setbacks than initially discussed. Supervisor Deming stated the major challenge to this draft in the Board's opinion will be the setback requirements. Mr. Deming continued, much of the wording in our existing codes cover regulations, this draft would expand on it, based on Home Rule. Mr. Deming stated the Board has three options: we can proceed with the draft, we can take the BAN approach or allow applications...Mr. Deming stressed we can not sit back and do nothing, we must be proactive.

Mr. Nagel's Final Comment:

"These are just my thoughts based on what I have learned recently. There seems to be a lot less interest in drilling in New York State except for maybe an area of land along the Pennsylvania border. The conditions just don't seem favorable for doing so. But what has now developed is the need to get rid of the solid and liquid wastes from the drilling in PA. The waste already goes into New York landfills such as in Angelica and is being spread on the roads and farmer's fields in New York. By any other industry standards this stuff is toxic but because the oil and gas industry has special rules they can get rid of it this way.

If the Town Board allows the fracking industry to come into York it is extremely likely the result will be a flood of toxic wastes coming into York and being dumped on our roads, our farm fields and maybe even being pumped down the many gas wells that already exist in the town of York. The people of York had a real problem with importing manure from out of town, and I have a feeling that there might be even more resistance to importing toxic wastes from out of state into the Town of York".

2) John Ellis:

Mr. Ellis asked to speak with the Board this evening regarding a few issues. Mr. Ellis asked Mr. Worden what the status was for Anderson Road, will the work continue in the spring. Mr. Ellis added that an accident occurred last week near his residence and questioned whether or not road conditions/low shoulders/not wide enough, may have been the cause.

Mr. Worden and Supervisor Deming stated we hope to have Anderson Road completed with 2014 funds, since the budget for this year has been expended. Mr. Worden commented as far as the accident he is well aware of the snow fall that took place and spoke with the officer regarding the matter. The cause of the accident was not low shoulders, it was speed of the vehicle and extreme wear of the tires, the driver's tires were almost completely bald, leaving him with minimal traction.

Mr. Ellis addressed the issue of town water to the Limerick and Anderson Road areas.

"New water line/service to Limerick and Anderson Roads request/needed desperately. For your information 30 homes on Anderson Road, Caledonia Diesel at Simpson/Anderson Road, 15 homes on Limerick Road, which equals 45 residences plus a Commercial business. I have talked with a majority of people who are in favor of water service to these areas because many are trucking water. My biggest concern is why these folks (elderly and families) have to do this, this is 2013, not 1913. It seems we have money for various programs and nothing for the amount of persons with water woes. If a petition is required to help get the ball rolling, consider it will happen. Another question, any grants available (federal, state, county, etc.). I challenge the Board to expedite any/all ways to make this happen as soon as possible. Any other information required/needed feel free to contact me immediately".

Supervisor Deming stated over the years the biggest problem we encounter is the cost factor to the residents and the maximum amount the state allows us to bill each customer directly. The maximum debt service we may bill is \$360.00 per year. Mr. Deming commented we have had numerous discussions about obtaining water to the hamlet of Linwood. Mr. Worden added in these discussions, our hope was to include Pavilion, which would involve the Monroe County Water Authority. The thought was to place a tank in Linwood to be shared between our hamlet and Pavilion, with water supplied from Monroe County Water Authority. Supervisor Deming and Mr. Worden stated the Board met with Anderson Road residents and Paul Raymond of Caledonia Diesel two years ago to discuss the cost involved with municipal water. Mr. Worden stated Mr. Raymond was very interested in obtaining water to the business for fire protection purposes, while the residents needed it for potable drinking water. Unfortunately, Mr. Raymond decided not to proceed, which halted the water line, due to the length of pipe needed from Fowlerville Road to Anderson Road, making it unaffordable. Mr. Deming added we anticipate scheduling another meeting for the Linwood area in late January or February to discuss further. Our goal is to have a loop to "feed" as many homes as possible, but without grant funding it makes the project much more difficult, and sometimes unaffordable. Lee Gratwick asked if York Road West would be included in the proposed water line project. Supervisor Deming and Mr. Worden replied that her area would

also be part of the project. Mr. Deming added, several years ago the Board included the entire township in the Consolidated Water District, some are still in non-service areas, but have been included in the district when we are able to proceed with an actual project.

Mr. Fuller asked why not involve the Livingston County Water Authority. Supervisor Deming stated we have spoken with the County Water Authority and they conveyed their interest, but wanted to take over our system, which is something we are not ready to do, and ultimately they would be experiencing the same issues we have with the THM levels. Mr. Deming added we are trying to make options available and affordable to the residents. Mr. Ellis expressed how heart breaking it is to see the homes without water and the hauling they have to do, especially the 80 year old neighbors. It is critical to do what we can to obtain municipal water. Supervisor Deming agreed saying water is definitely needed in the Linwood area, we need to make the numbers work to proceed and hope to share that with the residents when the time comes, hopefully in February. Mr. Worden stated the average water usage for our system is 350,000 gallons per day. Mr. Ellis asked if dual systems could be used. Mr. Deming replied they could be used, but Health Department regulations do not allow mixing of the two systems.

Mr. Ellis stated he submitted his comments to Clerk Harris pertaining to the draft zoning changes. Clerk Harris stated she has a folder for all written comments, adding Mr. Ellis' this evening.

Other:

(additional comments to D. Nagel's privileges)

Mr. Nagel and Mr. Deuel each discussed compulsory integration. If a land owner chooses not to sign a gas lease, then New York State has a process called compulsory integration to account for unleased acreage. Before a gas company can be issued a permit to drill, they must have 60% of the acreage within the proposed spacing unit under lease to proceed ahead with compulsory integration. If you are compulsory integrated (do not sign a lease), then you will not receive a signing bonus from the gas company, but will still collect royalties from gas pulled from under your property. The gas company doesn't have any surface rights on your property.

3) Henry Fuller:

Mr. Fuller stated he reviewed the draft zoning changes recently and questioned one fact. When the Steering Committee was preparing their findings for the Town Board, they asked about increasing the setbacks and was informed by Attorney Campbell that it would be an issue, but now has been altered. Supervisor Deming stated initially that was the case, but after further review, he feels he could defend the Board's decision to increase the setback requirements. Mr. Deming commented, the decision for larger setbacks was the Board's decision, not the Attorneys, but Mr. Gardner (Clark Patterson) and Mr. Campbell

did agree with the change. Mr. Fuller expressed his frustration on what was originally stated to the committee and now seems not to be an issue, and commented that he feels he and the Steering Committee wasted their time and the Town's money. Supervisor Deming replied, he does not believe the Town or the Committee wasted either, a great deal of time and effort went into the Final Conclusions and Recommendations document, with one alteration regarding setbacks, in his opinion much was accomplished, which is not a waste at all. Mr. Fuller commented after review of the bills submitted and paid to Clark Patterson, the town spent \$17,000.00 for this document from start to finish, who will get royalties when this is used elsewhere? Mr. Deming replied unfortunately he doesn't think we can copy write the document, but is well aware that many Towns are watching closely on how this proceeds. Councilman Deuel and Supervisor Deming both stated over the years we have benefited from other towns' preparations. Some of the wordings for our Local Laws, Ordinances, Master Plan and Right to Farm regulations came from other municipalities as a guide. Mr. Fuller stated Attorney Campbell represents the Towns of York, Avon and Leicester and feels he is spread too thin, not giving the Town of York the attention needed, and should look for a new Attorney. Supervisor Deming commented he does not agree with Mr. Fuller, but stated his opinion is noted.

HIGHWAY

Mr. Worden reported that the Highway Department has been very busy plowing snow, with much more to follow this weekend. We have had one mailbox complaint thus far, which we are sorry for, but unfortunately happens this time of year. Mr. Worden stated due to the snowy road conditions the men have been working a great deal. He began to alter the call out hours, in order for the men to receive necessary rest when they can, which has been working well. Mr. Worden added when they are not plowing, other duties are getting accomplished, cleaning, painting and maintenance to the trucks. Mr. Worden stated he received the new payloader, so if the Board agrees, we can surplus the old forklift.

RESOLUTION offered by Mrs. Parnell and seconded by Mr. Gates authorizing the Town to declare the 10,000 pound forklift Surplus Equipment. Voted on and approved, Yes-5, No-0.

** Mr. Worden commented he hopes to get at least \$5,000.00 for the forklift.

Councilman Deuel informed Mr. Worden of a sulfur order he encountered Tuesday afternoon near the Chestnut Street area. Mr. Deuel asked if the Highway Department had any chemicals they were working with. Mr. Worden replied that it was not at the Highway barns and he did not smell the odor. Mr. Deuel asked if any residents complained, which Mr. Worden and Clerk Harris answered, no one had. Mr. Worden stated the smell could be coming from Main Street traffic. Many of the 2009 and 2010 vehicles had a regenerating system with a sulfur smelling output, which could be from any vehicle traveling through.

OTHER

1) Speed Limits:

Mr. Fuller asked if it was possible to obtain speed limit signs for Fowlerville Road to the bridge. Mr. Worden replied rather than multiple speed limit signs, it would be beneficial to post area speed limits, and cheaper as well.

The Board stated they will review the area further for a recommendation to the Traffic Safety Board.

WATER/SEWER

Mr. Worden reported that the Water Department experienced a small water leak on Saturday the 7th in Piffard. Mr. Morsch was called to correct the saddle issue, which was under warranty. Mr. Worden stated that Clerk Harris contacted the residents in the area prior to digging, giving them a “heads up” on what was happening.

Mr. Worden commented due to ongoing vacation time for personnel, the water department continues to maintain their daily schedule, but nothing additional is happening. Mr. Worden stated our THM and HAAS levels have been elevated once again. The read coming into Town was 60, leaving us with minimal to work with. Supervisor Deming added the State is discussing the possibility of lowering the levels further, which will make the standard even more difficult to meet. Councilman Deuel asked, aren't the levels usually decreased in the winter? Mr. Worden replied, Yes, usually the levels are much lower in the winter months.

Supervisor Deming suggested scheduling a meeting with Geneseo once again to review the existing numbers and possible options available.

OLD BUSINESS

1) Mary McDonald:

Councilman Deuel asked about the status of the Mary McDonald complaint. Supervisor Deming replied that he had spoken with County Highway Superintendent, Don Higgins about the matter previously, with Higgins visiting Mrs. McDonald directly to handle the issue. Mr. Deming stated he has not contacted the County Highway Department yet to inquire as to the results.

NEW BUSINESS

1) Meeting change:

The Board discussed the Friday, December 27th meeting currently scheduled for 7:30 p.m. After some discussion the Board agreed to change the time from 7:30 p.m. to 1:00 p.m. for the final meeting of the year.

2) 2014 Organizational Meeting:

The Board Scheduled the 2014 Organizational Meeting for Thursday, January 2nd, 2014 at 4:30 p.m. All are welcome to attend.

* Clerk Harris stated she will advertise the time change for the December 27th Town Board Meeting and Organizational Meeting on January 2nd in the Livingston County News and on the Town's website.

3) County Planning Meeting:

Councilman Deuel informed the Board of a meeting he attended recently at the County Highway Department building. The meeting was hosted by the Livingston County Planning Department (Mary Underhill), discussing agricultural issues throughout New York. Also in attendance, from New York State Department of Agriculture and Markets was Bob Somers and Diane Held, the Executive Director of Erie County Cooperative Extension. Town of York representatives, David Sliker and Joe McIlroy were also present. Mr. Deuel commented that the meeting was very informative, discussing ways to conserve and protect the natural resources of agricultural land.

4) Brine Plant update:

Supervisor Deming informed the Board of the status of the Cuylerville brine plant. Recent discussions have been that AKZO will close the plant down on the 15th or 16th of December. Town and County officials have asked for assistance from our State representatives for a delay of the closure, but have yet to receive word back. Mr. Deming added one MOU (Memorandum of Understanding) states that the plant must stay open, but AKZO continues to believe they have met their obligation, and the State is also leaning that direction. Supervisor Deming commented that the State continues to stress if an issue should arise down the road, \$20 million has been set aside for assistance, but he quickly states that amount of money will not be enough to rectify the problems we may encounter.

OTHER

1) Route 63 Bridge:

Councilwoman Parnell inquired as to the status of the Route 63 bridge project by the State. Mr. Worden replied funding for this project is not available at this time and specifications have yet to be prepared, so we have more time before the closure will take place. Supervisor Deming added, to date twenty-one (21) bridge projects have been approved, with Route 63 as project #22. We are relieved that it will be some time before they start the reconstruction, but officials assured us that once they begin, the project should take roughly 4 weeks to complete.

BILLS

RESOLUTION offered by Mr. Gates and seconded by Mr. Deuel to approve all claims brought before the Board. Voted on and approved, Yes-5, No-0.

• General Fund Claim	#368-401	\$18,347.77
• Joint Water and Sewer	#307-322	\$ 9,351.62
• Youth Fund Claim	#19	\$ 121.36
• Highway Fund Claim	#184-194	\$ 6,056.19
• Street Lights	#12	\$ 1,737.98

ADJOURNMENT

RESOLUTION offered by Mrs. Parnell and seconded by Mr. Rose to adjourn the Town Board Meeting until December 27, 2013. Voted on and approved, Yes-5, No-0.

Town Board Meeting closed at 8:40 p.m.

Respectfully Submitted,

Christine M. Harris, Clerk