

November 29, 2017  
6:00 P.M.  
Public Hearing  
“Local Law #3 of 2017”

Present: Supervisor Gerald L. Deming, Council Members: Lynn Parnell, Amos Smith, Norman Gates and Frank Rose Jr.

Absent: None

Others: Richard Henry (Engineer, Clark Patterson Lee), James Campbell (Attorney for the Town), Henry Fuller, Bill McPhail & Rachel Kobel (WNY), George Worden Jr. (Highway Supt.) and Kirk Richenberg

Supervisor Deming opened the Public Hearing at 6:00 p.m. and turned the meeting over to the Town’s Attorney, James Campbell.

Mr. Campbell read aloud the Public Hearing notice published in the Livingston County News pertaining to proposed Local Law #3 of 2017 entitled, “Town of York Sewer Use Law”. Attorney Campbell stated if adopted this law would repeal and replace the existing Town of York Code, “Local Law #1 of 1973; Retsof Sewer District, Use of Public and Private Sewers and Drains” and “Local Law #2 of 1983; Retsof Sewer District, Regulating Use of Public and Private Sewers and Drains”.

Mr. Campbell stated that the proposed regulations is in keeping with the DEC model, with a few modifications from Clark Patterson Lee, the Town’s Engineering Firm, and very recent, modest recommendations from DEC officials, pertaining to industrial uses.

Attorney Campbell opened the hearing up to the public for comment and/or questions:

Mr. Fuller asked if approved, how long will it take before the law is in effect? Attorney Campbell replied once Clerk Harris files the necessary paperwork with the State, the law is then in place. Mr. Fuller stated if we are not in any way compliant right now, when do we come into compliance? Mr. Campbell answered this does not go retroactive, once filed we proceed forward. Mr. Fuller commented he understands once it has been filed and then goes into effect officially with the State, then what. Supervisor Deming asked Mr. Fuller if he is alluding to the infiltration the plant takes in from the public, which Mr. Fuller answered that he is and it is one of the issues.

Attorney Campbell added that the Board is aware of the current issues with infiltration, and with these regulations we will be able to correct them, but will take time. New uses will become effective immediately. Mr. Campbell stated if a violation for many years was to come to lite, it may take a bit of time to rectify.

Mr. Fuller asked what the rush was to proceed. Attorney Campbell replied DEC wants the Town to proceed in this fashion because we are not keeping up with what DEC standards are. Mr. Fuller questioned if the Town was moving quickly due to the

“Industrial Plant at the end of Craig Road...the cheese plant”. Mr. Campbell answered this process was not done this quickly (rushed) for the Cheese Plant project, the Retsof Treatment Plant has already experienced outstanding issues that we need to contend with.

Mr. Fuller stated that the Town does not have certified people in place, which Supervisor Deming pointed out that we do. Mr. Fuller asked if either of the two have the title of Superintendent, which Mr. Deming replied they do not, but still are certified.

Mr. Fuller asked the Board if they have read this document. Councilman Smith replied that the Board has read the proposed law and feels it is certainly needed given the fact that we have addressed these ongoing issues a number of times with Mr. Worden, we need to mitigate the issue.

Mr. Fuller commented if and when this is adopted, will we go back to the way it is right now? We have no plan to fix or correct the matter immediately and once the cheese plant connects, they will be set and the rest of our issues will go by the wayside. Supervisor Deming stated at the last Town Board Meeting we discussed at great length our problems with infiltration and the time it will take to rectify, which will not be overnight. Mr. Campbell added we will certainly need to get guidance and address all ongoing issues, which would have to happen whether the cheese plant was involved or not.

Mr. Fuller asked if the sewer plant was capable of handling extra waste, which Supervisor Deming and Mr. Henry answered Yes, it is capable.

Mr. Richenberg stated under definitions for Superintendent, it states “ that individual appointed by the Town of York Town Board, shall be qualified to oversee water treatment and distribution operations”, is that going to be spelled out at some point ? Supervisor Deming answered it is already, with the Civil Service requirements, currently the overseer of the department is our Highway Superintendent. Mr. Richenberg asked if the board will be trying to get into compliance, currently it is an appointed position, will this change. Supervisor Deming replied it will change. We are not sure if we will be hiring a new person, but will be part of the next negotiation contract.

Mr. Richenberg asked with private sewer systems does it supersede County or State Health Laws. Attorney Campbell and Mr. Henry both replied it does not.

Mr. Richenberg stated at some point prior to now, there was talk about pre-treatment, are they still planning to. Mr. Henry replied yes, still addressed to pre-treat. Mr. Richenberg asked if there are different levels. Mr. Henry answered that there are special permits/ condition rates (flow/quality). Mr. Richenberg questioned if each user will have a permit, which Mr. Henry responded they will. Attorney Campbell added each will hone in specifically to the needs of the user (customize each permit). Mr. Richenberg asked if the permit will address BOD, Phosphorous or other levels, which Mr. Henry replied it will.

Mr. Richenberg stated on page 42 of the proposed law there is a chart but it looks incomplete. Mr. Henry answered that the chart is now complete after the recent assistance from DEC, and Clerk Harris was given a copy of the updated information this evening. Mr. Richenberg asked if the new chart will be included, which Attorney Campbell replied it will be added.

Mr. Richenberg asked, on page 46, Section 1002- "Notification to Industrial Users", at the end of the paragraph what does RCRA mean? Attorney Campbell replied that RCRA refers to the Resource Conservation and Recovery Act. Mr. Richenberg questioned if it is a Federal Standard, and Mr. Campbell answered yes it is, EPA regulation.

Mr. Richenberg questioned on page 55, Section 1016- "Special Agreements", is there one drawn up for DFA? Mr. Henry and Mr. Campbell reported that DEC has worked with us for almost a year on wording for one. Attorney Campbell stated that each discharge permit is different, and now through their assistance, wording is ready. DEC has scrutinized this very heavily.

Mr. Richenberg asked why we are having an Emergency meeting after the public hearing. Mr. Campbell replied at the November meeting the board scheduled the hearing and had every intention to schedule a Special meeting, but did not. This Emergency meeting allows them the opportunity to render a decision if they decide to do so.

Mr. Richenberg asked about the Final draft and questioned if the board has a different document. Mr. Campbell stated there is not a different document but effective today after the recommendations from DEC, a few sections were altered pertaining to penalties for industrial users (Sections 1105, 1113 and 1115). The Federal code has been updated for Industrial users. DEC did not have this in their original model, we are updating.

Mr. Richenberg asked if the sewer line had been turned over to the town, which Supervisor Deming answered it has not. Mr. Richenberg questioned if it has been tested and Mr. Deming replied he believes it has been tested. Mr. Henry added that DFA's contractor used this proposed document, but we could require them to re-test if the Town Board wishes.

Mr. Fuller stated that many things have not been done regarding this project. Attorney Campbell commented that Mr. Fuller is correct that some things have not been completed yet, but with this in place, it will be a good start.

Mr. Richenberg asked if the Town is going to set a rule or grandfather in residents that have had problems. Attorney Campbell replied we don't believe we have to. We have had pre-existing conditions that continue and don't have the funds to correct everything all at once, we have to allow residents time to correct their issues, then after sufficient time a violation will occur if need be. Supervisor Deming added that in the Retsof area we have bigger issues but cannot go forward with violations until corrected infrastructure is in place. Mr. Richenberg commented that he understands the situation and feels that

the board needs to have some compassion regarding this problem. Supervisor Deming expressed that the board will certainly have compassion in this matter.

Mr. Richenberg asked if there is a timeline for sewer from the cheese plant. Bill McPhail from WNY replied, product trials hopefully will begin in late January or early February.

Mr. Fuller stated that he wanted the record to reflect that no representation was in attendance this evening from the Retsof hamlet.

**RESOLUTION** offered by Mr. Smith and seconded by Mrs. Parnell to adjourn the Public Hearing at 6:36 p.m. Voted on and approved, Yes-5, No-0.

### **EMERGENCY MEETING 6:30 P.M.**

**RESOLUTION** offered by Mrs. Parnell and seconded by Mr. Gates to open the Emergency Meeting at 6:36 p.m. Voted on and approved, Yes-5, No-0.

Mr. Campbell asked the Board if they wanted to go ahead with the SEQR for Local Law #3 of 2017. The Board agreed and Attorney Campbell read aloud a brief description and then asked the members to respond to the following formatted SEQR questions, for PART 2. The response from the Board for the 11 questions were all “No, or small impact may occur”.

#### **RESOLUTIONS**

a) Adoption of Findings:

**RESOLUTION** offered by Mrs. Parnell and seconded by Mr. Rose to Adopt the Findings that were made in the review of Part II of the Short Environmental Assessment Form as set forth therein. Voted on and approved, Yes-5, No-0.

b) Negative Declaration:

**RESOLUTION** offered by Mr. Smith and seconded by Mrs. Parnell to adopt a Negative Declaration based on the findings made in the review of the Short Environmental Assessment Form. Voted on and approved, Yes-5, No-0.

c) Authorization:

**RESOLUTION** offered by Mr. Rose and seconded by Mrs. Parnell authorizing the Supervisor permission to sign the EAF signifying the Negative Declaration being made. Voted on and approved, Yes-5, No-0.

d) Approval:

**RESOLUTION** offered by Mrs. Parnell and seconded by Mr. Smith to adopt Local Law #3 of 2017, “Town of York Sewer Use Law”. Voted on and approved, Yes-5, No-0.

Councilman Norman Gates	Aye
Councilman Frank Rose Jr.	Aye
Councilman Amos Smith	Aye
Councilwoman Lynn Parnell	Aye
Supervisor Gerald L. Deming	Aye

**ADJOURNMENT**

RESOLUTION offered by Mr. Smith and seconded by Mr. Rose to adjourn the Emergency Meeting at 6:45 p.m. Voted on and approved, Yes-5, No-0.

Respectfully Submitted,

Christine M. Harris, Clerk