

York Town Board Meeting
October 11th, 2018
7:30 p.m.

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

Absent: Frank Rose Jr.

Others: George Worden Jr. (Highway Supt), James Campbell (Town Attorney), Joe McIlroy (York Planning Board Chairman), David Deuel, Henry Fuller, Kirk Richenberg and Brett Hastings (Geronimo Energy)

Supervisor Deming opened the Town Board Meeting at 7:30 p.m. and invited Councilwoman Parnell to lead in the Pledge of Allegiance.

MINUTES

RESOLUTION offered by Mr. Smith and seconded by Mrs. Parnell to approve the minutes of the September 12, 2018 Regular Town Board Meeting. Voted on and approved, Yes- 4, No-0.

RESOLUTION offered by Mr. Gates and seconded by Mr. Smith to approve the minutes of the September 17, 2018 Emergency meeting. Voted on and approved, Yes- 4, No- 0.

RESOLUTION offered by Mr. Gates and seconded by Mr. Smith to approve the minutes of the October 3, 2018 Public Hearing. Voted on and approved Yes-4, No-0.

HIGHWAY REPORT

Mr. Worden reported the following for the Highway Department:

- Wedged River Road between Abbey of the Genesee driveway to Rt. 63
- Wedged North Road in Piffard
- Fixed pot holes on Tenth Street in Retsof & Craig Road with Spring St slated for next week.
- Servicing trucks for the upcoming winter season
- Prep work for the plow equipment is taking place as well.

Mr. Worden stated that he met with the Contractor in Linwood regarding damage that was done during installation of water and sewer mains. Mr. Worden outlined specific restoration we will require. Additional digging will take place shortly with restoration to follow.

Supervisor Deming addressed complaints he has received recently regarding Craig Road in front of Lawnel Farms and also asked the status of Cowan Road. Mr. Worden replied that Craig Road is on the schedule to be done Monday or Tuesday of next week. In regards to Cowan Road, we are running behind on projects this year but hope to get to it before years end, if not it will be completed next year.

WATER/SEWER REPORT

Mr. Worden reported the following for the Water & Sewer Department:

- Old State Road/Tuttle Road: We have a very hefty punch list that the Contractor needs to take care of. Visone has been slowing down as of late, need to move them along more so. Taps need to be switched over in order to decommission the old line.

Councilman Smith inquired what the time line is for Tuttle Road completion. Supervisor Deming replied completion is expected in February 2019. Councilman Smith asked once the project is complete will the residents get proper notice outlining the additional pressures they may experience. Mr. Worden responded the residents will receive notice and will also have pressure reducing valves (PRV's) installed by Visone per contract.

- Sewer Plant is running smoothly. We want to flush the lines shortly as we have done previously as routine maintenance which has been helpful to the system.

PRIVILEGES OF THE FLOOR

1) David Deuel:

Mr. Deuel expressed in great detail the impacts of large scale solar on habitat and ultimately less land available for food production. Questions are still unanswered regarding the effects to the environment the panels may have, and in a time when we are trying to save the planet, we are destroying open space and feels we may be "robbing Peter to pay Paul". Comments were made at the Public Hearing from the Solar Companies requesting changes and feels that the industry is trying to set the tone for our zoning, which is a big concern of his. "We should not bend over backwards for industry, think about our Comprehensive Plan".

Mr. Deuel made several suggestions and commented that special development should have a separate zone (solar zone) under power line corridors. Mr. Deuel added that a Land Management Plan would be an essential feature to the Solar regulations, in order to obtain soil samples prior to development, sampling after development is in place and

after removal. Sampling prior would give a much needed baseline to work from. The Town should also require a Plan after removal of such panels (visual scope).

Mr. Deuel concluded by expressing his desire for the Board to continue with a moratorium on solar until we have ironed out some wording. Mr. Deuel stated if it wasn't for the Abbey of Genesee's possible application, we might be having a different discussion.

Mr. Deuel commented on another note, he stated to the Board that the Ash trees discussed at a previous meeting need to be addressed.

Supervisor Deming responded to Mr. Deuel's comment by stating that the Abbey is one property owner that has inquired but there is another landowner that has discussed plans for solar arrays as well.

2) Henry Fuller:

Mr. Fuller stated that he had two topics to speak with the Board about this evening, one of which was the most recent results of the TTHM sampling but will pass tonight because he has already received a copy of the report. (The Town of York's results this quarter were under the limit).

Mr. Fuller inquired if he had understood correctly a comment made by a member of the Solar committee that the meetings they were holding were not open to the public?

Supervisor Deming replied that was not accurate, the meetings were always open to the public. Mr. Fuller questioned where the minutes are for those meetings. Mr. Deming answered that several meetings have been posted but Mary Underhill does have more to post and will contact her to do so.

Mr. Fuller asked how the Town Board can proceed if not all of the minutes are given and no questions were able to be asked at the Public Hearing. We used to be able to ask questions along with our comments, why not now.

Mr. Fuller also stated that he has an issue with the view sheds. Supervisor Deming expressed that the view shed includes everything east of MacIntyre/River Roads and has been discussed at great length over the years, but was not included in the Comp Plan.

Mr. Fuller concluded by stating that the farming industry is the one generating the most opposition to solar but what happens if their farm industry fails years from now they may want solar panels to help them. This local law needs more fine tuning. He is in favor of some protection but not what has been prepared.

3) Kirk Richenberg:

Mr. Richenberg asked the Board for details on the purpose for the Emergency meeting held on September 17th. Supervisor Deming replied we needed to get approval to order

the pumps for the Tuttle Road project and in order to do this it had to be done as a change order. Mr. Richenberg questioned if it was bid out with the original project which Mr. Deming answered it was not, this is why it was done thereafter as a change order.

Attorney Campbell added that the Board did not approve this change order at their September 12th regular meeting at his request due to verification needed on particular wording to ensure the Town's rights. Once confirmation was obtained the emergency meeting was called in order to get the pumps ordered right away.

Mr. Richenberg had several questions pertaining to the original project costs and whether or not the pumps were included in such price. Supervisor Deming replied that the pumps were not part of the original bid price but was included with the borrowing process, pumps were done through the change order request. Mr. Campbell reiterated, it was part of the overall project but charged it as a change order. Mr. Richenberg suggested going forward it would be helpful to give a more detailed explanation at the meetings to know what the money is going toward. Supervisor Deming agreed.

Mr. Richenberg asked specifically where the pumps will be located and if the money for the pumps will put the town close to the Bond? Mr. Worden answered that the pumps will be located on Tuttle Road and Supervisor Deming added that the pumps to be installed will bring us close to the Bond but still within the budgeted amount.

Mr. Richenberg questioned the status of the water tower and if the Grid Bee was included? Supervisor Deming replied that they are back working on the tower for the electric, grid bee and fencing and should be completed within 2-3 weeks. Mr. Worden added that he gave the contractor a very large punch list to complete and reviewed with the Board in detail what that includes. Mr. Worden added that the Grid Bee is included but still needs to be put in the tank.

Mr. Richenberg asked when specifically the Board passed a resolution authorizing Mr. Campbell to prepare Local Law #2. Attorney Campbell answered that the Town Board had the Solar Committee formed to ultimately draft wording to the Board as a recommendation for future action. The committee submitted the draft and Mr. Campbell submitted such to the town Board and to the Livingston County Planning Dept. for review as required.

Mr. Richenberg commented when speaking about the view shed for the Town, it has been referenced several times that it was part of the Comp Plan but it is not, "talking about it and writing it into the Plan are two different things". "It may be in the zoning a little but it's not in the actual Comp Plan".

Mr. Fuller asked the Board if they feel that maybe the people on the east side vs west side of the view shed distinction could be discriminated against. Supervisor Deming answered that Mr. Fuller made a very valid point. Attorney Campbell added that he viewed the zoning regulations portion where it describes view sheds and commented

that it can certainly be described in further detail at some point due to how generic it currently is.

Mr. Fuller inquired about the Town of Avon's law and the Town of York's Local Law and their differences. Attorney Campbell described in great detail the similarities and differences between the two laws and added that Avon's is more restrictive. Mr. Campbell stated that the Town of Avon adopted their law even after the County rendered their "Disapproval" decision. Attorney Campbell reiterated to the Board that the moratorium will be expiring next week on October 17th. The current zoning code does not allow solar at this time. Mr. Campbell stated if the Board wanted to extend the moratorium they could but there would be a gap without protection for roughly 2-3 months with the legal requirements that must be adhered to (preparation of a new local law document, public hearing and approval). Mr. Campbell posed to the Board if we should approve the Local Law tonight with minor tweaks, at least having something in place and perhaps move more toward another moratorium until all is satisfied with the wording. Mr. Campbell stated that comments were received by the Board at the public hearing and additional ones thereafter and now need to make a decision on how you wish to proceed.

Mr. Fuller asked if the Town can override a decision then why do we have to go back to the County, why not take steps to refuse any application, "Cease & Desist?" Attorney Campbell commented that a moratorium is in essence a cease and desist under the law but we have to afford the public the opportunity to speak and express comment legally. Mr. Campbell stated that Mr. Fuller is correct when he said that the Town can override the County decision but it will have to be done by a super majority vote. We cannot set a president of not accepting applications without putting a moratorium in place.

Councilman Smith commented that the Solar Committee has done a great deal of work this year on preparing a draft for the Board and even if we pass this Local Law tonight, we still have more work to do to fine tune it.

Mr. Fuller stated that he feels the meetings took place without public attendance and Mr. Richenberg added that minutes should be posted as well. Supervisor Deming pointed out that Mr. Richenberg along with others were present at the earlier solar meetings where the public was allowed to speak so the public was included from the onset.

Attorney Campbell stated that the Town Board must decide at this time what fashion they wish to proceed. Do you want to proceed with some sort of protection? (Mr. Campbell informed the Board that Mt. Morris is already working on their 3rd revision) Mr. Campbell added with whatever decision the Board may make, it may be just the beginning of more changes to come throughout the years.

Comments from the Board:

Councilman Gates stated that he is not completely in favor of the law because he feels the Town should not be able to tell people what to do with their land but will agree to move forward due to potential protection.

Councilman Smith stated he wants to move forward with the Local Law with the understanding that additional work is necessary. Mr. Smith added that he does not agree that landowners should be able to do whatever they wish with their land, zoning requirements are necessary.

Councilwoman Parnell stated she agrees with Councilmen Smith and Gates regarding the need to move forward with the law and added that after reading one of the comments from the Oct 3rd Public Hearing pertaining to her absence she wanted to state that it was unavoidable but still wants to proceed.

Attorney Campbell stated with the Board asking to proceed, he now will review the required SEQR documents that must be completed prior to an approval decision.

Part 1-Project and Setting:

Attorney Campbell read aloud the purpose of Part 1 which describes the intent to establish regulations for the proper siting and development of solar energy systems within the Town of York requiring Supervisor Deming’s signature.

Part 2- Identification of Potential Project Impact:

Attorney Campbell read aloud 18 questions for Part 2 SEQR review with the Board replying “no” to each of them.

(a) Adoption of Findings:

RESOLUTION offered by Mr. Smith and seconded by Mrs. Parnell to Adopt the Findings that were made in the review of the Part II of the Full Environmental Assessment Form as set forth therein for proposed Local Law #2 of 2018 to add Solar Energy Systems regulations to the Code of the Town of York. Voted on and approved, Yes-4, No- 0.

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

(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 Full Environmental Assessment Form. Voted on and approved, Yes-4, No- 0.

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

(c) Authorization:

RESOLUTION offered by Mr. Smith and seconded by Mrs. Parnell authorizing the Supervisor permission to sign the EAF Signifying the Negative Declaration being made. Voted on and approved, Yes-4, No-0, Absent-1.

Part 3-Determination of Significance:

(a) Town Clerk certification:

RESOLUTION offered by Mrs. Parnell and seconded by Mr. Gates authorizing the Town Clerk permission to submit to the Environmental Notice Bulletin a copy of Type 1 Actions and Conditioned Negative Declarations. Voted on and approved, Yes-4, No- 0, Absent-1.

Attorney Campbell stated that two corrections were made to the original draft solar law: code clarification and view shed designation and if no other changes wish to be made by the Board, we are free to proceed with adoption if desired.

ADOPTION:

RESOLUTION offered by Mrs. Parnell and seconded by Mr. Smith to approve Local Law #2 of 2018 entitled “Adding Solar Energy Systems article to the Zoning Ordinance of the Town of York” with the two stated corrections. Voted on and approved, Yes-4, No-0.

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

Further Action (Moratorium):

RESOLUTION offered by Mr. Gates and seconded by Mr. Smith authorizing Attorney Campbell permission to prepare documentation for preparation of another moratorium. Voted on and approved, Yes- 4, No- 0.

NEW BUSINESS

1) Golden Hands

Supervisor Deming read aloud correspondence from the Golden Hands group expressing their appreciation for use of the York Town Hall for their meetings and requested permission to continue to do so for the upcoming year.

After little discussion the Board agreed to authorize the Golden Hands organization permission to continue to use the Town Hall for their gatherings.

2) Advertisements:

a- Planning and Zoning members expiring 12/31/2018:

RESOLUTION offered by Mrs. Parnell and seconded by Mr. Smith authorizing the Clerk permission to advertise for the interested Town of York residents to fill two vacancies

effective January 1, 2019 (1 on the York Planning Board and 1 on the Zoning Board of Appeals). Voted on and approved, Yes- 4, No- 0.

3) 2019 Tentative Budget Presented:

Supervisor Deming reported that Clerk Harris has submitted the 2019 Tentative Budget to the Board this evening which now allows us to schedule the Budget Hearing.

4) 2019 Budget Hearing:

RESOLUTION offered by Mrs. Parnell and seconded by Mr. Smith to schedule the 2019 Town of York Budget Hearing for Thursday, November 8, 2018 at 6:30 p.m. Voted on and approved, Yes- 4, No- 0.

5) Local Law to override the Tax Cap:

Supervisor Deming reported after preparation of the upcoming 2019 budget it was determined that the town will need to proceed with a Public Hearing if we will be overriding the tax levy limit established by the state, which will take place. Attorney Campbell stated with such action, it is required to be filed as a Local Law. Mr. Campbell commented after speaking with Supervisor Deming, he was instructed to prepare the proposed Local Law legislation and submitted it to the Board this evening. Supervisor Deming acknowledged receiving the proposed local law documentation.

RESOLUTION offered by Mr. Smith and seconded by Mr. Gates acknowledging proposed Local Law #3 of 2018 documentation as presented and scheduled the Public Hearing for "Overriding the tax levy limit established in General Municipal Law 3-C" for Thursday November 8, 2018 at 6:00 p.m. Voted on and approved, Yes- 4, No- 0.

6) Additional comments:

Supervisor Deming reported that comments from the York Planning Board were received regarding solar and will be added with the others.

7) Recycling resignation:

Supervisor Deming informed the Board that we received Mary Mayes resignation as the Senior Recycling Attendant effective November 1, 2018. We have begun advertising for applicants and also posted on the Town's web site. Mr. Deming stated the uncertainty of the recycling center if an applicant does not come forward.

OTHER

Mr. Richenberg questioned why the Board is proceeding with a moratorium after just passing the Local Law.

Supervisor Deming and Attorney Campbell explained that until more detailed wording is established (revisions), a moratorium would give the Town a level of protection.

8:58 P.M.

RESOLUTION offered by Mr. Smith and seconded by Mrs. Parnell to enter into Executive Session at the request of Highway Supt. George Worden to discuss a Personnel matter to include with the Town Board, Town Clerk, Highway Supt. and Town Attorney. Voted on and approved, Yes- 4, No- 0.

9:13 P.M.

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

Supervisor Deming reported no action was taken in Executive Session.

8) Highway position-MEO:

RESOLUTION offered by Mr. Smith and seconded by Mrs. Parnell authorizing permission to advertise seeking applicants for a full time position with the York Highway Department. Voted on and approved, Yes-4, No- 0.

BILLS

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

General Fund	# 286-317	\$ 16,472.36
Joint Water & Sewer	# 213-235	\$ 268,518.06
Light District	# 10	\$ 1,652.41
Highway Fund	# 178-199	\$ 107,586.63

ADJOURNMENT

RESOLUTION offered by Mr. Smith and seconded by Mr. Gates to adjourn the Town Board meeting until November 8, 2018. Voted on and approved, Yes-4, No-0.

Town Board meeting closed at 9:15 p.m.

Respectfully Submitted,

Christine M. Harris, Clerk