

York Town Board Meeting
November 12th, 2024
7:00 p.m.

Present: Supervisor Gerald L. Deming. Council members: Amos Smith, Lynn Parnell, Jason Swede and Frank Rose Jr.

Absent: None

Others: Dwight Kanyuck, Esq., Joe McIlroy, George Worden Jr. (Highway Supt) Stephen Hint, Kirk Richenberg, John Morgan, Andrew Walton, Walter Pond, Davies Nagel and Carl Peter.

Supervisor Deming opened the Town Board meeting at 7:00 p.m. and invited Councilman Swede to lead in the Pledge of Allegiance.

MINUTES:

RESOLUTION offered by Mr. Swede and seconded by Mr. Smith to approve the minutes of the October 22nd meetings (Public Hearing, Budget Hearing and Regular Meeting). Voted on and approved, Yes-5, No-0.

BILLS:

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

• General Fund Claim	# 297-327	\$ 44,345.75
• Consolidated Water/Sewer	# 243-267	\$217,881.33
• Highway Fund	# 159-178	\$ 21,666.05

PRIVILEGES OF THE FLOOR:

1)Kirk Richenberg:

Mr. Richenberg asked to speak with the Board this evening on the following topics: Water, Highway and Budget questions.

Q- Anything new regarding the Liv. Co W/S Authority as it affects our Flats Road pump station?

Supervisor Deming replied that they did have a meeting last week, very little was discussed about the Regional project, but was confirmed that the project did receive a \$14M dollar grant.

Comment: After the last board meeting, Mr. Richenberg said he visited their website and noticed a page outlining what is going on and they stated they had already received a \$5M dollar grant.

Supervisor Deming stated that they received a WIIA grant but gave it back, then received a \$14M grant in its place.

Q- Are they working on RFP's for this project?

Supervisor Deming replied they may be working on RFP's, but it has not been through the committee as of yet. Mr. Deming added Highway Supt. Mr. Worden will be involved with the RFP's and interview process.

Q- Up until August of this year we had the same legal counsel as the Liv. Co. Water & Sewer Authority?

Supervisor Deming answered, yes, we did.

Q- There was the same legal wording on contracts, that was representing many towns as well as the Authority, isn't that a conflict?

Supervisor Deming stated we have new legal counsel here this evening.

Q- Is it true we have the same engineering firm as well (CPL)?

Supervisor Deming replied we do have the same engineering firm, but we will be doing an RFP for the Flats Road pump station going forward, and it will involve other engineering firms.

Mr. Richenberg comment: There should be a major slow down with this project.

Supervisor Deming answered his main priority is making sure the AKZO money is protected. If Livingston County Water/Sewer want to extend further discussions will continue, but my focus is the needs of the Town of York and protection of the funds for us.

Q- Our previous counsel stopped working in York, what about the Town of Leicester?

Supervisor Deming replied that Attorney Campbell is still counsel for Leicester.

Q- Is there an ethical situation here?

Mr. Kanyuck, Esq. commented that attorneys are held to the ethics of New York State. In instances, waivers can take place if representing multiple clients. Conflicts of interest for attorneys are more stringent.

Q- I know you want to guard the AKZO money but what is the status?

Supervisor Deming stated funds are still in an account at the County.

Q- Maybe the Attorney General needs to be aware of this situation to investigate the matter further.

Mr. Richenberg comment: It is hard to take that through questions and comments made at the work session and budget hearing, discussions about altering the numbers but the changes made did not give back to the taxpayers. Additionally, I believe it is wrong for the Town Board to collect money for a budget and to give to any non-profit. Those funds should not be taken from the taxpayers without first scrutinizing how it will be spent.

NEW BUSINESS

1) Legal representation

Supervisor Deming introduced Dwight Kanyuck, Esq. this evening. Attorney Kanyuck represents the Town of Caledonia and several other towns and is currently assisting the Towns of York and Leicester with the White Creek Solar project. Supervisor Deming stated he is confident Mr. Kanyuck can represent our township well as legal counsel.

LEGAL APPOINTMENT

RESOLUTION offered by Mr. Smith and seconded by Mr. Rose to hire Dwight Kanyuck, Esq. as Legal Counsel for the Town of York. Voted on and approved, Yes-5, No-0.

Attorney Kanyuck stated the last time he was in attendance was to discuss with the Town Board the application submitted by White Creek, with conditions to review and contend with. Some of the conditions were waived, while others were not. Although the Town does not have permitting authority for this project, the Board can continue to recommend things as this moves forward. ORES completed the application in July and the draft version was completed in September. A Public Hearing will be held here tomorrow night, conducted by ORES, not the Town Board.

Attorney Kanyuck reviewed with the Board a summary sheet of White Creek Solar waiver requests for discussion.

Summary of White Creek Solar Waiver Requests-Town of York

Town of York Requirement	Waiver Request	Recommended Position
Prohibition on siting solar facility on prime farmland	Limited waiver related to underground cables adjacent to access roads and in existing utility transmission corridor	Board consented to waiver in March 2024 because negligible impact on farmable land.
Operational noise levels of the Solar Energy System will not exceed preexisting noise levels relative to all surrounding dwellings, structures and property lines,	Town noise standard not technically feasible, project meets or exceeds ORES noise standards. No nighttime noise impact.	White Creek generally demonstrates compliance with intent of Town Noise Standard. The Project does not materially impact the noise currently experienced at adjacent properties
200 ft. side and rear setback required except for adjacent participating properties with same owner.	Provide exemption for adjacent participating property owners with different consenting owners.	Consent to waiver if lease expressly shows consent to waiver by adjacent owners.
Required setback reference point is to fenceline.	Apply prior solar law setback reference point of setback to equipment (panels).	Consent to limited waiver to avoid expansion of project footprint.
Certification that no PFAS or GenX chemicals use on any portion of a solar energy system.	Not technically feasible to obtain certification of no PFAS/GenX present on any part of a solar energy system. White Creek has committed to selecting panels and self-cleaning coating that do not contain PFAS.	Requiring that panels and self-cleaning coating not contain PFAS as a permit condition would substantially meet intent of law.
Restore facility site to "original state" as part of decommissioning plan.	"Original state" would require substantial regrading and replanting of 227 acres of trees in established meadow.	Consent to limited waiver to avoid substantial regrading and allow for potential use of meadow for agricultural purposes.
Decommissioning surety requirement of 150% of cost estimate reevaluated annually.	Defer to ORES standard of 115% contingency updated every five years.	Do not consent to waiver
Decommissioning trigger after 180 days without electrical production with Town Board discretion for extension.	Request trigger of one year without electrical production with available ORES extension.	Consent to waiver since no town board jurisdiction over project.

Councilman Swede expressed concern about expansion of the project if we grant the waiver request regarding the setback reference point to the fence line. Attorney Kanyuck stated, without a waiver, additional land would be needed.

Councilman Swede inquired if that would set a president.

Councilman Smith stated we certainly need to have boundaries.

Attorney Kanyuck spoke on the Town's requirement for certification of no PFAS (polyfluoroalkyl substances) or GenX chemicals being used on any portion of a solar energy system. Mr. Kanyuck stated we are proposing to have them purchase panels without PFAS in their waiver because this class of chemicals are very hard to dispose of.

Councilmen Swede and Smith commented it is concerning because some other parts like metals, motors, seals, and lubrication still need to be added to the panels.

Stephen Hint stated on a safety data sheet, they could provide it and that would be a way to verify chemicals used.

Councilman Swede stated obtaining certification of zero chemicals is impossible. Attorney Kanyuck answered that White Creek has committed to selecting panels and self-cleaning coating that do not contain PFAS. Councilman Smith added, this goes back to

what ORES has agreed upon. Attorney Kanyuck continued by saying if we disagree with this waiver, they will ask for the reasoning and then we proceed from there.

Mr. Richenberg inquired, generally speaking, does public comment change anything?

Attorney Kanyuck replied, public comment can sometimes change it. Mr. Kanyuck added 20 permits have been approved.

Joe McIlroy asked, being that they are outside, do they have to permit every aerosol can?

Attorney Kanyuck replied, air permits are not required. ORES permit supersedes all permits, but if an air/chemical permit was required, they must meet all requirements in order to comply. They have a number of other permits that must be adhered to.

Councilman Swede asked if additional wording could be added regarding PFAS sourced material?

Attorney Kanyuck answered yes, additional wording could be added.

Attorney Kanyuck then reviewed the remaining three items in the summary sheet regarding Decommissioning.

Councilman Swede commented once the Decommissioning takes place, the soil will need to be graded, but they are not putting in actual topsoil after to put back as it previously was. Attorney Kanyuck replied they stockpile the topsoil. They are requesting from the “original state” of regrading and replanting to keep as a meadow rather than replanting 227 acres of trees.

Supervisor Deming stated if our zoning requires them to replant the trees to the original state, why would we alter that? Unless in 30-40 years from now the owner may or may not want it left as vacant farm land, perhaps we should leave it up to landowner(s). Councilmen Smith and Swede agreed that the landowner should have a say as to their acreage. Attorney Kanyuck stated we could add wording to leave it up to the landowner or the Town.

Highway Supt. Mr. Worden asked if trees are being replanted on the entire project, which Attorney Kanyuck replied yes, they would be required based on current regulations.

Kirk Richenberg commented these companies keep saying that this is all supposed to be fine for the environment.

The Town Board agreed to leave the existing wording to reflect “restore to original state.”

Attorney Kanyuck addressed the Decommissioning Bond and ORES’ waiver request. The Town Board briefly discussed this and decided to keep as is.

Attorney Kanyuck reviewed the last item on the sheet as it pertains to Decommissioning trigger after 180 days without electrical production. ORES requested a waiver of one year without electrical production with available ORES extension. After a brief discussion, the Board agreed their timetable is realistic and further agreed to consent to the waiver.

Attorney Kanyuck stated he will update the draft with the new changes.

Stephen Hint asked what are the standards, do they have to keep for 40 years?

Attorney Kanyuck replied there will be regulation management, which is in essence sheep grazing. Mr. Hint questioned if chemicals or weed killer are to be used. Attorney Kanyuck answered no chemicals or weed killer are to be used unless to irradiate a particular issue.

Councilman Rose inquired if there is government funding for this?

Attorney Kanyuck replied Yes, Federal tax credits and the State provides funding by renewable energy credits. Councilman Rose asked is funding guaranteed? Attorney Kanyuck answered roughly 80 were awarded.

Councilman Rose commented with a new administration coming in January, he wondered if solar funding may be repealed.

Kirk Richenberg asked if he could obtain a copy of the White Creek waiver request sheet before tomorrow nights' meeting, as it would be helpful to review prior.

Supervisor Deming answered he could have a copy this evening, Mr. Kanyuck had extra copies available for anyone interested.

HIGHWAY REPORT:

Mr. Worden reported the following for the Highway Department:

- We have been servicing trucks and making sure plow equipment is ready.
- We paved East Rd. in Piffard, used the topsoil pile that was located there and have one more catch basin to install at East & North.
- Our new employee is working out great. He has a great deal of knowledge and experience.
- Truck update: November 18th is the build date
- Requesting of the Board permission to advertise for an MEO position with proper licensing requirements (CDL).

RESOLUTION offered by Mr. Smith and seconded by Mr. Rose to advertise for a full time MEO position for the Highway Department, requiring a clean driver's

license and possessing a CDL and Class B license. Voted on and approved, Yes-5, No-0.

**** Applications must be submitted by Wednesday, Nov. 27th 12:00 noon.**

WATER/SEWER REPORT:

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

- At the corner of Batzing and McVean Roads, two (2) valves “let loose”, which has since been corrected. These valves were put in through the AKZO project. They were Mueller valves and have been replaced.
- After we conducted some flushing we noticed that we were losing additional water, ultimately realizing ARKEMA had a sizeable leak.

SEWER: The gas line is in but still needs to be pressure treated.

Supervisor Deming inquired about RG&E, which Mr. Worden responded that he has not heard a word from anyone at RG&E or their engineering firm.

- The Genset for the new pumpstation will be ready by the end of December.
- The contractor did correct the lateral on Retsof Avenue and we are now waiting on two remaining easements in order to get started on the second part of the project in Retsof.

Councilman Smith asked about the status of the Ezard situation in Piffard brought to us previously?

Mr. Worden replied he has attempted to locate the outlet a couple of times, but it is still undetermined. The next time it rains we will put dye in to verify where it ends up.

NEW BUSINESS continued

2) Liv. Co. Snow & Ice contract:

RESOLUTION offered by Councilman Rose and seconded by Councilwoman Parnell authorizing Supervisor Deming permission to sign the Livingston County Snow and Ice Control contract for a period of three (3) years, commencing on October 15, 2024-October 14, 2027, with a rate of compensation per mile as follows:

October 15, 2024 to October 14, 2025	\$4,900.00
October 15, 2025 to October 14, 2026	\$5,000.00
October 15, 2026 to October 14, 2027	\$5,100.00

Voted on and approved, Yes-5, No-0.

Councilwoman Lynn Parnell	Aye
Councilman Amos Smith	Aye
Councilman Jason Swede	Aye
Councilman Frank Rose J.	Aye
Supervisor Gerald L. Deming	Aye

3) Intermunicipal Agreement
 RESOLUTION offered by Councilman Smith and seconded by Councilman Swede to extend the Intermunicipal Agreement for Equipment, Machinery, Tools and Services Sharing for an additional term of one (1) year; effective January 1, 2025 and expiring December 31, 2025. Voted on and approved, Yes-5, No-0.

4) Line Transfers
 RESOLUTION offered by Mr. Smith and seconded by Mrs. Parnell to approve the following line transfers prepared by BBS:

TOWN OF YORK

PLEASE APPROVE THE FOLLOWING LINE MODIFICATIONS AT YOUR NEXT MEETING:

GENERAL FUND - TOWNWIDE

<i>Transfer From:</i>	A1110.2	Justice Equip. & Cap.	\$	3,500.00
	A1220.2	Supervisor Equip. & Cap	\$	2,500.00
	A1410.2	Clerk Equip. & Cap	\$	1,500.00
	A1420.4	Legal Contr.	\$	15,000.00
	A5182.4	Street Lighting	\$	8,000.00
	A7145.4	Joint Rec. Youth	\$	3,500.00
	AUB	Unexpended Balance	\$	367,522.00
		TOTAL:	\$	<u>401,522.00</u>

<i>Transfer To:</i>	A1110.4	Justice Contr.	\$	7,730.00
	A1355.2	Assessment, Equip. & Cap.	\$	870.00
	A1410.4	Clerk Contr.	\$	183.00
	A1440.4	Engineering, Contr.	\$	1,676.00
	A1450.4	Elections, Contr.	\$	150.00
	A1620.2	Buildings, Equip. & Cap.	\$	875.00
	A1620.4	Buildings Contr.	\$	43,199.00
	A1910.4	Unallocated Insurance	\$	6,042.00
	A1990.4	Contingency	\$	100.00
	A5132.2	Garage, Equip. & Cap.	\$	327,160.00
	A6989.4	Other Eco. & Dev. Contr.	\$	4,371.00
	A8010.4	Zoning, Contr.	\$	849.00
	A8020.4	Planning, Contr.	\$	1,871.00
	A8160.1	Refuse Pers. Serv.	\$	1,000.00
	A9060.8	Hospital Medical	\$	5,446.00
		TOTAL:	\$	<u>401,522.00</u>

HIGHWAY FUND - TOWNWIDE

<i>Transfer From:</i>	DA5142.4	Snow Contr.	\$	12,881.00
		TOTAL:	\$	<u>12,881.00</u>

<i>Transfer To:</i>	DA5130.1	Machinery, Pers. Serv.	\$	12,600.00
	DA5140.4	Brush & Weeds, Contr.	\$	281.00
		TOTAL:	\$	<u>12,881.00</u>

CONSOLIDATED WATER DISTRICT

<i>Transfer From:</i>	SW8320.4	Source of Supply, Contr.	\$ 410,922.00
			<u>\$ 410,922.00</u>
<i>Transfer To:</i>	SW1950.4	Taxes & Assessments, Contr.	\$ 89.00
	SW8340.4	Water Trans. Contr.	\$ 394,495.00
	SW9710.7B	2019 Bond Interest	\$ 16,338.00
			<u>\$ 410,922.00</u>

RETSEW SEWER DISTRICT

<i>Transfer From:</i>	SS8130.2	Sewage Treat Equip. & Cap.	\$ 2,500.00
	SS8130.4	Sewage Treat Contr.	\$ 4,000.00
	SSUB	Unexp. Balance	\$ 10,950.00
			<u>\$ 17,450.00</u>
<i>Transfer To:</i>	SS8110.2	Sewer Admin. Contr.	\$ 14,948.00
	SS9060.8A	Medical Reimb.	\$ 1,251.00
			<u>\$ 17,450.00</u>

SEWER DISTRICT #1

<i>Transfer From:</i>	SS18130.4	Sewage Treat. & Dist. Contr.	\$ 16,000.00
	SS1-AUB	Unexp. Balance	\$ 37,000.00
			<u>\$ 53,000.00</u>
<i>Transfer To:</i>	SS1-8110.4	Admin. Contr.	\$ 53,000.00
			<u>\$ 53,000.00</u>

SEWER DISTRICT #2

<i>Transfer From:</i>	SS2-UB	Unexp. Balance	\$ 13,016.00
			<u>\$ 13,016.00</u>
<i>Transfer To:</i>	SS2-8110.4	Admin, Contr.	\$ 3,000.00
	SS2-8120.4	Sewage Coll. Contr.	\$ 5,000.00
	SS2-8130.4	Sewage Treat & Disp. Contr.	\$ 5,000.00
	SS2-9055.8	Disability Ins.	\$ 16.00
			<u>\$ 13,016.00</u>

JOINT YOUTH

<i>Transfer From:</i>	JUB	Unexp. Balance	\$ 9,600.00
			<u>\$ 9,600.00</u>
<i>Transfer To:</i>	J7310.1	Youth Services	\$ 9,600.00
			<u>\$ 9,600.00</u>

Voted on and approved, Yes-5, No-0.

5) Genesee Valley Conservancy

Supervisor Deming reported that the Board received from the Genesee Valley Conservancy a list of six (6) Town of York owners seeking Farmland Protection grants through New York State Department of Agriculture and Markets. At this time they are requesting endorsement from the Town Board in order to proceed with the application process.

A) Donnan Farm (969 acres)

1- Conflict of Interest

Supervisor Deming asked the Town Board if any member has a Conflict of Interest with the Donnan Farm application. Each member replied they did not have a conflict.

2- Approval

RESOLUTION offered by Mrs. Parnell and seconded by Mr. Rose to endorse the Donnan Farm application to NYS Department of Ag. & Markets for a Farmland Protection Implementation Grant. Voted on and approved, Yes-5, No-0.

Councilwoman Lynn Parnell	Aye
Councilman Amos Smith	Aye
Councilman Jason Swede	Aye
Councilman Frank Rose J.	Aye
Supervisor Gerald L. Deming	Aye

B) Parnell Family (303 acres)

1- Conflict of Interest

Supervisor Deming asked the Town Board if any member has a Conflict of Interest with the Parnell Family application. Councilwoman Parnell stated she has a conflict and removed herself from the meeting area at this time. Supervisor Deming then asked once again if any other member had a conflict with the Parnell application. The Board members each replied they did not have a conflict.

2- Approval

RESOLUTION offered by Mr. Swede and seconded by Mr. Smith to endorse the Parnell Family application to NYS Department of Ag. & Markets for a Farmland Protection Implementation Grant. Voted on and approved, Yes-4, No-0.

Councilman Amos Smith	Aye
Councilman Jason Swede	Aye
Councilman Frank Rose J.	Aye
Supervisor Gerald L. Deming	Aye

*Councilwoman Parnell returned to the meeting.

C) M2K Farms (368.60 acres)

1- Conflict of Interest

Supervisor Deming asked the Town Board if any member has a Conflict of Interest with the M2K Farms application. Each member replied they did not have a conflict.

2- Approval

RESOLUTION offered by Mr. Rose and seconded by Mr. Swede to endorse the M2K Farms application to NYS Department of Ag. & Markets for a Farmland Protection Implementation Grant. Voted on and approved, Yes-5, No-0.

Councilwoman Lynn Parnell	Aye
Councilman Amos Smith	Aye
Councilman Jason Swede	Aye
Councilman Frank Rose J.	Aye
Supervisor Gerald L. Deming	Aye

D) MT Pockets Farm (654.72 acres)

1- Conflict of Interest

Supervisor Deming asked the Town Board if any member has a Conflict of Interest with the MT Pockets Farm application. Each member replied they did not have a conflict.

2- Approval

RESOLUTION offered by Mr. Rose and seconded by Mrs. Parnell to endorse the MT Pockets application to NYS Department of Ag. & Markets for a Farmland Protection Implementation Grant. Voted on and approved, Yes-5, No-0.

Councilwoman Lynn Parnell	Aye
Councilman Amos Smith	Aye
Councilman Jason Swede	Aye
Councilman Frank Rose J.	Aye
Supervisor Gerald L. Deming	Aye

E) Fraser Farm (170 acres)

1- Conflict of Interest

Supervisor Deming asked the Town Board if any member has a Conflict of Interest with the Fraser Farm application. Each member replied they did not have a conflict.

2- Approval

RESOLUTION offered by Mrs. Parnell and seconded by Mr. Smith to endorse the Fraser Farm application to NYS Department of Ag. & Markets for a Farmland Protection Implementation Grant. Voted on and approved, Yes-5, No-0.

Councilwoman Lynn Parnell	Aye
Councilman Amos Smith	Aye
Councilman Jason Swede	Aye
Councilman Frank Rose J.	Aye
Supervisor Gerald L. Deming	Aye

F) McCracken Farm (293.12 acres)

1- Conflict of Interest

Supervisor Deming asked the Town Board if any member has a Conflict of Interest with the McCracken Farm application. Each member replied they did not have a conflict.

2- Approval

RESOLUTION offered by Mr. Smith and seconded by Mr. Swede to endorse the McCracken Farm application to NYS Department of Ag. & Markets for a Farmland Protection Implementation Grant. Voted on and approved, Yes-5, No-0.

Councilwoman Lynn Parnell	Aye
Councilman Amos Smith	Aye
Councilman Jason Swede	Aye
Councilman Frank Rose J.	Aye
Supervisor Gerald L. Deming	Aye

*Clerk Harris stated she will prepare the letters of support in the morning.

6) Comprehensive Plan update

Supervisor Deming stated that the Draft version of the Town of York Comprehensive Plan has been submitted to the Livingston County Planning Board for review at their upcoming meeting this week on November 14th and asked the Board when to schedule the Public Hearing to present to the public.

RESOLUTION offered by Mr. Smith and seconded by Mr. Swede to schedule the Town of York Comprehensive Plan Public Hearing for **Tuesday, December 3, 2024 at 6:00 p.m.** Voted on and approved, Yes-5, No-0.

(Regular Town Board meeting will begin at 7:00 p.m. or shortly thereafter)

ADJOURNMENT

RESOLUTION offered by Mr. Swede and seconded by Mr. Rose to adjourn the Town Board meeting until December 3rd, 2024. Voted on and approved, Yes- 5, No- 0.

Town Board meeting closed at 8:15 p.m.

Respectfully Submitted,
Christine Harris
Christine M. Harris, Clerk