

Joint Work Session of  
Town Board & Planning Board  
March 5, 2014  
7:00 p.m.

Present: Town Board; Deputy Supervisor, Lynn Parnell, David Deuel & Frank Rose Jr.  
Planning Board; Chairman David Russo, Heather Grant, Joe McIlroy and  
David Dermody

Clerks: Planning Board Secretary, Donna Falkner & Town Clerk, Christine Harris  
Others: James Campbell (Attorney for the Town), Carl Peter (Zoning & Code Officer),  
Lee Gratwick, Anne Roth-Blizzard, Fred Mingrino and Henry Fuller

Planning Board Chairman Russo opened the meeting at 7:00 p.m. and commented how pleased he is that the Town Board and Planning Board scheduled their first joint work session. The subject for tonight's session is to review the Final Conclusions and Recommendations document prepared by the Town of York Steering Committee. Mr. Russo at this point turned the meeting over to Deputy Supervisor Parnell.

Mrs. Parnell introduced and welcomed the newest member of the York Planning Board, David Dermody, and invited Clerk Harris to lead in the Pledge of Allegiance. After such time, Council Member Parnell turned the meeting over to Attorney James Campbell.

Mr. Campbell commented the purpose of the work session is to accomplish meaningful discussion pertaining to the proposed Local Law draft. Currently the document is not ready for a Public Hearing, the goal is to refine the draft prepared by the Steering Committee to then proceed forward.

Mr. McIlroy asked if any changes had occurred since the original draft had been prepared, which Mr. Campbell replied there has not. Mr. Campbell stated although the Town Board is required to adopt the Local Law, it is very important to solicit suggestions and recommendations from the Planning Board. Mr. Campbell proceeded to review the draft proposed Local Law:

**pg. 1 Section 2. Purpose**

Mr. Campbell stated Davies Nagel expressed at a Planning Board Meeting concern about protecting the rural character of the Town and that in "B5" traffic wouldn't lesson or avoid congestion on public streets due to the increase in vehicles associated with the fracking industry. Mr. McIlroy asked for clarification on what constitutes public streets, is it all roads (county, town and state)? Mr. Campbell stated the document does not define it specifically, but is usually all roads in the Town's jurisdiction, which is not county or state roads. Mr. McIlroy suggested further clarification in the document. Mr. Campbell stated we will alter the sentence to read: 5. "Lesson and avoid congestion on town roads".

**pg. 2 Section 3. Amendments to Article II. Definitions**  
Article II, Section 201-

Mr. Deuel inquired if a volume amount should be listed with “High Volume Hydraulic Fracturing” (over a certain amount of gallons). Mr. Russo suggested removal of the wording High Volume, which Mr. Deuel commented would be fine. Mr. Campbell stated by such removal, would the document still accomplish what the Steering Committee proposed? Mr. Deuel added he believes High Volume refers to volume 300,000 or more, which Mr. Campbell also agreed to be accurate. Mr. Campbell will verify this information with Clark Patterson, but commented be mindful of removing wording and how it may change the document. Mr. McIlroy stated the definition needs to be firmed up. Mr. Deuel also addressed the fact that nothing is listed for property that has a current lease on it, and stated should be added to the regulations. We need a definition of what leased land is. Mr. Campbell answered, any parcel encumbered by a natural gas or oil lease.

pg. 3 “A”

Councilman Deuel questioned whether we needed anything additional after listing the 8 items in this section. Mr. Campbell stated the more specific we are will be beneficial. When defining, we need to be aware of what’s appropriate for this community, without looking regulatory. Mr. Campbell agreed with Mr. Deuel’s suggestion. Mr. Deuel stated any radioactive material would be included in listing 2-8, is it necessary for the listing in #1? Mr. McIlroy asked how do we regulate anything below regulatory concern and how do we defend it? Attorney Campbell replied the regulations were determined to cover all concerns, Federal and State level. Mr. Russo stated it might be beneficial to keep as an additional protection. Mr. Campbell added by keeping item #1, the intent may be helpful, but still could be challenged. Mr. Campbell offered to contact Clark Patterson Engineer, Norm Gardner for clarification on this section regarding item #1. The consensus was to add in paragraph A, a colon, reading as follows: “Any of the following in any form”:

Mr. Campbell stated he will show lines removed with a black line through them and add new verbiage.

Attorney Campbell asked if any member wished to add any further definition to Section 3 (C), which all agreed they did not, all were comfortable with such wording.

pg. 4 **Natural Gas and Petroleum Facilities**

Councilman Rose stated the majority of retail businesses (gas stations, etc.) and farms have storage on their properties and questioned removal of “storage operations” from the paragraph. Mr. McIlroy commented we do not currently have a definition of storage in our zoning regulations. Mr. Dermody added, the facility we are talking about would not be for extraction purposes, just storage. Mr. McIlroy suggested continuing on through the document this evening, making notations of areas for further evaluation, in order to discuss more of the entire document. Mr. Campbell agreed by marking the “problem points” tonight it will allow us more time to review and proceed further into the report. Zoning/Code Officer, Mr. Peter suggested adding a definition outlining possible bulk storage of X number of gallons. Mr. Campbell expressed the need to make sure existing businesses are not affected by future wording. Storage is a critical issue not to be overlooked. Storage operations are associated with commercial extraction or production of natural gas or petroleum products. Mrs. Grant asked if a separate definition of storage operations could be added. Mr. Campbell stated it could

be, but not sure how it may fit into the document and whether or not other areas may have to be re-written.

Mr. Fuller stated he feels Mrs. Grant is correct in the suggestion of a separate definition of storage operations. Perhaps listing a number of gallons free and then charge for the overage. Mr. Campbell stated he will make a notation of this suggestion but will not make any spot changes until the document has been fully reviewed, making sure possible changes do not conflict or alter the original intent of the document. Councilman Deuel stated storage is a big part of the lease agreements and must be addressed. Mr. Campbell agreed.

pg. 4 **“Wellpad”**

Mrs. Grant stated she feels the definition of wellpad is very generic. Mr. Campbell agreed it is and stated it is generally governed by the State.

pg. 4 **Section 4: Amendments to Article III.**

This section is straight forward.

pg. 5 **Section 5: Amendments to Article IV.**

Mr. Campbell stated we are adding under Section 400, “Special Use Permit” (10), Natural Gas and Petroleum Facilities. Special Use is a use permitted as a matter of right, which cannot be denied and may require further review or process. Mr. Peter stated much of the definitions in the current zoning cover what was discussed tonight. Mr. McIlroy stated review of bulk wells still must take place. Mr. Campbell stated we will still be limited with a Special Use Permit. We can’t proceed with anything that may constitute a regulatory action of this industry, it can and will be challenged and won’t be enforceable.

pg. 6 **“411” (A) Principal Aquifer Overlay (PAO)**

Mr. Campbell explained the importance of the Principal Aquifer Overlay as an additional level of protection and preservation of lands associated with quality and quantity of the Town of York’s groundwater resource.

pg. 8 **Section 6. Amendments to Article V.**

(508) F. Accessory Buildings and Uses

Mr. Russo asked the size of wellpads ? Mr. Deuel replied usually 3-6 acres in size. Mr. Campbell stated this sentence of the document requires them to keep to the existing wellpad site, unable to spread out over another. Mrs. Grant asked if DEC regulates wellpads. Mr. Deuel responded they regulate the construction aspect.

(509) Dumping of Waste Material

Mr. Campbell stated waste material is not defined. Mr. McIlroy commented manure is a waste product and needs to be addressed. Mr. Deuel suggested an exemption for agriculture. Mr. Fuller reported in 1971 Town regulations addressed outside waste brought to the Town of York, which was not permissible...what happened to that regulation? Mr. Peter stated if it was in the zoning regulations, they have since been updated, but if it was a Local Law it may still be on the books. Mr. Deuel stated existing agricultural practices should be excluded.

Mrs. Blizzard asked the question of dumping of waste material, what happens to the frack fluid, where will it be stored. Mr. Deuel responded 4-5 million gallons are used in the process, 90% remains in the ground & 10% is stored in a tank and sent to an industrial landfill, which is a NYSDEC requirement, it will not remain here.

pg. 9 (510)D6 Outdoor Storage of Materials and Equipment

Questions arose on how to screen the entire site. Will need further discussion.

(512) Temporary Uses & Structures

(514) C7 Protection of Environmentally Sensitive Areas  
(Language is acceptable)

(516) A2 (b) Performance Standards

Mr. Campbell suggested this additional sentence not only for potential fracking applicants but for all construction applications. This sentence will be helpful for extreme situations. Mr. Peter explained it is not uncommon to seek engineering assistance in a zoning situation, and has had to previously.

Mr. McIlroy inquired about classification of an "Operator". Mr. Campbell stated Operator is usually the one who leases the premises.

pg. 10 **Section 7 Amendments to Article VI.**

The members decided this section is very lengthy to review this evening and chose to skip over until the next scheduled session.

pg. 14 **Section 8 Amendments to Article X.**

(1001) Penalties for offenses:

Mr. Campbell stated the current code lists the fine of not more than \$500.00, but is proposing a new maximum of \$2,000.00, which might enhance compliance for all industry, business or other applicants.

After much discussion, members suggested leaving it at \$ 500.00 with a continuing violation each week. Council Members Parnell and Rose agreed with the \$500.00 amount, with the Judge ultimately rendering the final decision.

**Section 9. Amendments to Article XI.**

(1109) Reimbursable Costs

Mr. Campbell stated more towns have put this into place as a way of assuring proper review at a minimal out of pocket expense, charging back consultant and/or legal services to the applicant. Mr. Russo stated he does not like the word "Any" costs incurred in this paragraph.

This will require further review as well.

(1111) Inspection of Improvements

Mr. Campbell stated this section allows if needed, the Code Enforcement Officer permission to retain a consultant to assist with the inspection of site improvements and determine compliance, allowing him the tools necessary to make a proper decision.

The members discussed two possible dates for the next meeting:

Tuesday, March 25<sup>th</sup>

Tuesday, April 1<sup>st</sup>

(to begin at 6:30 p.m.)

Mrs. Parnell will discuss both dates with Supervisor Deming and once confirmed, will notify the Boards of the date selected.

ADJOURNMENT

RESOLUTION offered by Mr. Deuel and seconded by Mr. McIlroy to adjourn the Joint Work Session at 9:45 p.m. Voted on and approved.

Respectfully Submitted,

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Donna Falkner, Sec. of Planning Board

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Christine M. Harris, York Town Clerk