

York Town Board Meeting
February 11, 2016

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

Absent: None

Others: Henry Fuller, Kirk Richenberg, Patricia Gardner, David Deuel and George Worden Jr. (Highway Superintendent)

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

MINUTES

RESOLUTION offered by Mr. Gates and seconded by Mr. Smith to approve the minutes of the January 14th Town Board Meeting. Voted on and approved, Yes-5, No-0.

HIGHWAY REPORT

Mr. Worden reported the following for the Highway Department:

- Servicing equipment
- Continuing to patch potholes
- Ordered road name signs
- Department is ready for snow fall this weekend

WATER/SEWER REPORT

Mr. Worden reported the following for the Water and Sewer Departments:

- At the January 14th meeting, it was discussed that the Gen Set for the Tabtronics pump station needed repair. Mr. Scondras was contacted and after review, stated he was unable to correct the issue. Cummins Northeast was then contacted. They informed us that a new voltage regulator and gas valve needed to be replaced, which they did, and is now running smoothly.

- The Department continues to check the pump stations regularly to verify each is working properly.

- McVean Road/Telephone Road water main is now completely live. Anyone wishing to connect may do so. Mr. Wall was the first property owner on Telephone Road to connect.

Supervisor Deming commented that he received a call today from Chris Wall asking to convey to Mr. Worden and his department his gratitude for their assistance. He was very thankful for their help in the connection process.

OLD BUSINESS

1) Informational Meeting:

Supervisor Deming reminded the Board of the scheduled February 24th Informational Meeting at 7:00 p.m. for discussion pertaining to the fire tax for Ag value assessment. We have received one letter already (Livingston County Farm Bureau) to comment on the proposed change.

2) Anderson Road update:

Supervisor Deming reported he along with Rick Henry of Clark Patterson Lee, have had several discussions regarding water to the Linwood area, trying to decipher what option(s) may be most affordable. Income surveys are being prepared now to be mailed out shortly.

Councilman Smith asked if we have a number as it pertains to an increase in usage at the plant. Mr. Worden replied currently we are not using half of our allotment, we have much more capacity. Mr. Smith added, if we increase usage, can we re-negotiate the rate? Supervisor Deming replied he also had the same idea and has contacted Geneseo Village Mayor, Richard Hatheway about scheduling a meeting to discuss water matters further. Councilman Smith asked if the Village dictates the rate, which Supervisor Deming responded they do.

3) Right to Farm update:

Councilman Rose updated the Board on the recent meeting held last week (February 2nd) regarding the ongoing agricultural matter. The committee is now complete and consists of: Jay Swede, Frank Rose Jr. and Bill Hasler, along with both parties within the dispute: Kirk Richenberg and Rob Donnan. Mr. Rose stated he also requested that Highway Superintendent, Mr. Worden attend as well.

Councilman Rose commented he feels the first meeting went well, a few issues were resolved. Mr. Donnan expressed their intentions with the assistance of an Environmental Planner, to develop a plan for future needs. Mr. Rose stated as it stands if a spill does take place the first call will be to the Livingston County Sheriff's Department, and they will in turn contact Mr. Worden. Supervisor Deming questioned why the Sheriff's Department would be the first call, where Mr. Rose responded they would have a record of the incident and then Mr. Worden called out if it is a safety hazard. Mr. Worden commented the reason he would be contacted is anytime there is any action within the Right of Way, he must be notified for protection of the roadway(s). Mr. Worden added that Mr. Donnan did ask him if he would train their employees on what to do in the event of a spill and the time factor involved. Supervisor Deming stated he understands notifying Mr. Worden for Town road matters, but whom will be contacted on County Roads? Mr. Worden replied more than likely he will also be dispatched for County roads as well. Councilman Rose added, Mr. Donnan did indicate that the training should include other farms as well as Donnan employees.

Councilman Smith commented for their farm he is charge of their CAFO plan (Concentrated Animal Feeding Operations) and states, it dictates an emergency action plan. What has occurred is not a spill itself, but a constant act of irresponsibility.

Mr. Richenberg stated in the meeting that took place, two laws that were discussed being violated, touched on debris on the road and the Highway Superintendent needing to be notified due to work being done in the right of way. Mr. Richenberg expressed that he hopes that it won't get to this point again, they should not wait to clean the roadways, which would ultimately resolve the issue in a timely manner.

Councilman Rose commented that Rob Donnan himself stated that the farm needs to act quicker. Mr. Worden added, Mr. Donnan agreed things need to be changed, with action happening far quicker than it has. Supervisor Deming stated after reading the letter submitted by Mr. Donnan outlining the recent meeting and their upcoming actions, he thought a resolve would be more automatic for a response time, and felt that the Sheriff's Department should not have to be called to rectify. Mr. Worden replied it may take some time to train the employees. Mr. Deming questioned what happens if it doesn't work. Councilman Smith responded that the Right to Farm law was started to protect agricultural business from civil law suits. This recent action was not a spill, it was mud covering the road, not being cleaned in a timely fashion, which is not an accepted agricultural practice. Mr. Deuel added the intent of the law was to maintain the continuation of accepted Ag practices and to promote ways to resolve disputes, this law is a protocol for spills. If there is a case, you try to settle it locally by mediation through Right to Farm protocol. If it continues it may end up in a lawsuit if nothing is resolved locally.

Councilman Smith stated he believes in the Right to Farm law there might need to be an action or event that gets the process started. Mr. Richenberg replied aren't we trying to prevent it. Mr. Deuel answered, the best solution is to try to resolve locally if possible. Mr. Richenberg commented that the farm celebrated 200 years last year, and over the years they have been asked numerous times to be more accountable, but it still continues. Supervisor Deming asked if there has been a date to rectify. Mr. Worden replied there has not been a date specified yet, he has offered to train, but has not outlined a deadline time frame. Mr. Richenberg questioned could there be a liability issue now that Mr. Worden has input and willing to train, and why only train one (1) farm, and not others? Supervisor Deming stated Mr. Worden could train other farms, but we haven't had issues with any others. Mr. Richenberg commented, this has been isolated to one farm. Mr. Worden asked the board what would be an acceptable time frame for clean up? Supervisor Deming replied immediately or within a 24 hour window. Mr. Richenberg stated he would be glad to meet once again if necessary. Councilman Rose stated he will contact Rob Donnan to ask about time frame with their Environmental Planner. Councilman Smith expressed that this process does not need to be more complicated, actions have consequences, just take care of issues in a timely manner.

Councilman Rose stated he will contact Mr. Donnan to inform him of the Town Board's discussion this evening.

*A copy of Mr. Donnan's letter to Mr. Rose and Mr. Worden is as follows:

RECEIVED

BY *Commit* DATE *2/11/16*
7:30 p.m.

DONNAN FARMS, INC.

P.O. Box 392 York, N.Y. 14592 V-585-243-4583 F-585-243-5235 donnanfarms@gmail.com

2-11-16

To Whom It May Concern;

Donnan Farms, Inc. has attended a Right to Farm Hearing called by citizen Kirk Richenberg, hosted by the York Town Board.

The meeting was chaired by Frank Rose with hearing officers Jay Swede and Bill Hasler. Also in attendance was Highway Superintendent George Worden.

To Ensure better practices by Donnan Farms, Inc.

- 1) We have purchased a new tool for safely scraping off the roads.
- 2) We are working towards developing a plan to be submitted back to the chair of the hearing panel.

With the help of a) Livingston County Sheriff

b) Highway Superintendent of York

c) Our Environmental Planner

- 3) Upon completion of the plan it will be submitted to:

a) The Chair of the Hearing Panel

b) Town Supervisor

c) Highway Superintendent

d) Livingston County Dispatcher

- 4) A joint training meeting with York Highway Department, Donnan Farms, Inc., and other farms doing business in the town of York will be held in Mid March.

Thank You,

Robert Donnan

Robert Donnan

NEW BUSINESS

1) Water Tap Application:

a- Tennessee Gas Pipeline Co.

RESOLUTION offered by Mr. Smith and seconded by Mr. Gates to approve the Water Tap Application submitted by Tennessee Gas Pipeline Company for property located at 2251 Dow Road, in the amount of \$1,500.00. Voted on and approved, Yes-5, No-0.

2) Proposed Local Law #2 of 2016-**Rescheduled**:

Supervisor Deming stated at the request of the Town Attorney, proposed Local Law #2 of 2016, Public Hearing will be deferred until the March 10th meeting, for considering public opinion and comment relating to authorization of the Town to award purchase contracts. The re-scheduled hearing will take place at 7:00 p.m.

3) Art Bernecker water adjustment request:

Supervisor Deming reported that he received a letter from Art Bernecker requesting a water adjustment for the property he owns at 2706 Main Street (York Post Office). The Board reviewed the past history at this site and noted that an adjustment had already been approved in July of 2013. Per Board policy, once an adjustment has been given, a second one will not be approved.

After a brief discussion, the Board agreed that an adjustment will not be granted for Mr. Bernecker for this location.

4) Project Garden:

Supervisor Deming informed the Board of recent conversations pertaining to Project Garden, which is the proposed cheese plant operation at Nobles. Questions have arisen regarding water and sewer to the site. Supervisor Deming stated nothing is finalized at this time, they are looking into a few options. Lake LeRoy (which they own) is a possibility, but would require updates. Another possible option could be installation of water and sewer lines up Craig Road with the initial tie into the Town's main line. Mr. Deming added if a large portion of water main could be installed in the hamlet of Linwood, perhaps it could be the beginning steps of servicing the surrounding areas as well. Mr. Deming stated we have yet to review anything in writing to date, but will continue to keep the Board apprised of the ongoing discussions.

Councilman Smith asked, are there costs prepared for the Linwood area? Supervisor Deming replied we do have figures prepared for Linwood area, unfortunately the numbers are very high for the residents based upon the completed surveys to date.

PRIVILEGES OF THE FLOOR

1) Henry Fuller:

Mr. Fuller commented it was his understanding in Phase I of Project Garden, that additional water would not be needed because they had Lake LeRoy, what changed? Supervisor Deming commented, actually the Town approached Nobles to discuss with them other options in order to perhaps expand water main to other areas in Linwood while installing to their site. It was also noted if Lake LeRoy is used, they would definitely need to do improvements. Mr. Fuller asked in regards to sewer, would our plant be capable to include Project Garden's needs? Supervisor Deming responded that

the existing plant will certainly be able to accept more. When upgrades took place at the plant years ago, we took into account future expansion. Mr. Fuller questioned what the Planning Board is reviewing at this time if it is only a proposal. Mr. Deming replied, it is a proposal at this point until SEQRE has been completed and they are working on it currently.

Mr. Fuller discussed with the Board, Freedom of Speech, and the guidelines that should be followed. The town residents voted in representatives (Board members) that have the responsibility to represent the citizens, and feel this is not happening with this quorum. Attitude has changed about how people view government, and feels the government has closed themselves off to the people. Mr. Fuller continued by saying, if he was to approach a board member, they should be able to inform him or answer questions, he should not have to go elsewhere to obtain information. The reason people attend meetings is to ask questions or make comments, the Board needs to listen to everyone. To ask a question at a meeting(s) and to be cut off is not right, or interrupted in the middle of a statement or question, is not allowing his first amendment right. The Board needs to be fair with everyone. We stand at the beginning of each meeting and Pledge Allegiance to the flag, with wording, "with liberty and justice for all", and feels it is not happening here.

2) Kirk Richenberg:

Mr. Richenberg commented that he did see on part of the proposed Project Garden application, a number reflecting 30,000 gallons of sewer per day, would the plant be able to handle that? Mr. Worden replied the treatment plant can handle up to 300,000 gallons per day. Mr. Richenberg also addressed the proposed anticipated water consumption per day at 300,000 gallons. Mr. Deming stated the number he heard was 250,000 gallons per day, but has not seen the application, and added, is still within the contract allotment with the Village of Geneseo. Mr. Richenberg asked with discussions taking place with the Town and Engineers, who's paying for that. Supervisor Deming replied, Nobles are paying for it.

Mr. Richenberg stated he had some questions pertaining to proposed Local Law #2 of 2016. Under Section 3 (B) "Authorization", it states: The election to award any such contract on the basis of best value shall be made by the Town Board which authorizes the solicitation for bids, does "election" mean, approval by the Board? Supervisor Deming replied with such wording, he does believe it refers to approval by the board, but will verify with Attorney Campbell to confirm. Mr. Richenberg also asked if this process includes equipment. Mr. Worden responded that once the law is approved, it would include equipment and supplies.

Mr. Richenberg discussed with the Board action taken at the January meeting to approve two trucks (1 for Highway and 1 for Water/Sewer) and commented as a taxpayer he would like to hear in detail why replacement is needed prior to approval.

DEC just closed the comment period on CAFO, but noted they will be changing the rules for winter and wet weather seasons for spreading, which will likely have a higher concentration. Councilman Smith replied it is not necessarily more likely that higher concentrations will incur during dry seasons but not as much during the winter months and more storages will likely result. Most farm operations try to move swiftly during those seasons to move along the process anyway.

Councilman Smith addressed the discussion regarding last month's approval to purchase two trucks. Mr. Smith stated the Board only made a motion to bid out, but has not yet approved the purchase of any vehicles. Mr. Worden commented the Town brought a truck to auction last year that was quite rusted and was costing us more for upkeep. He feels that a one ton will last longer and be worth more than the current ¾ ton trucks used for this application. Also a one ton truck with a dump box will be able to handle cold patching and plowing snow better than the ¾ ton. Ultimately the smaller trucks have better maneuverability which is less stress on the streets. Mr. Worden added, regarding the request for a one-ton for the water/sewer department, the reasoning is much of the same. The current 2001 F250 has quite a bit of mileage, lots of rusting and repair costs are getting expensive. We would use the new truck to plow snow as well as cold patch and running for parts. A one ton handles better. Mr. Worden stated we can share both trucks between the departments.

Mr. Richenberg commented he was not questioning why the purchases were necessary, only that it would be nice to have a few more details.

OTHER

Mr. Deuel asked if the Board had any questions for him this evening, which they did not.

Councilman Smith stated he received in his correspondence a letter from the Farm Bureau expressing their opinion on the Ag tax topic, for our upcoming meeting. Clerk Harris reported Supervisor Deming and each Board member also received a copy. Supervisor Deming stated anyone interested may also receive a copy.

8:22 P.M.

RESOLUTION offered by Mr. Rose and seconded by Mrs. Parnell to enter into Executive Session to discuss the pending Employee Union Contract to include Town Board, Highway Superintendent and Town Clerk. Voted on and approved, Yes-5, No-0.

8:28 P.M.

RESOLUTION offered by Mr. Gates and seconded by Mr. Smith to end Executive Session. Voted on and approved, Yes-5, No-0.

Supervisor Deming reported no action was taken in Executive Session.

NEW BUSINESS-continued

4) Union Contract:

RESOLUTION offered by Mrs. Parnell and seconded by Mr. Rose to approve the Union Contract agreement for the Town of York Highway and Water/Sewer Departments and Teamsters Local 264, effective January 1, 2016 – December 31, 2019. Voted on and approved, Yes-5, No-0.

BILLS

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

- General Fund Claim #26-65 \$ 196,120.69
- Joint Water/Sewer #24-43 \$ 116,721.30
- Street Lights #1 \$ 1,839.82
- Youth Fund Claim #2 \$ 60.00
- Highway Fund Claim #13-36 \$ 27,990.17

ADJOURNMENT

RESOLUTION offered by Mrs. Parnell and seconded by Mr. Rose to adjourn the Town Board Meeting until February 24th Informational Meeting. Voted on and approved, Yes-5, No-0.

Respectfully Submitted,

Christine M. Harris, Clerk