

York Town Board Meeting
April 14, 2016

Present: Deputy Supervisor Lynn Parnell, Councilmen: Frank Rose Jr., Amos Smith and Norman Gates

Absent: Supervisor Gerald Deming

Others: George Worden Jr. (Highway Supt.), Art Bernecker Jr. and Art Bernecker III, Harold Wolcott, Henry Fuller, Kirk Richenberg, Harold Smith, Joseph and Timothy Eyer, Marta Burroughs, Deborah Cisco, Ted Andrews, George and Millie Worden, Betsy Linsner, William Hasler, Joe McIlroy, Lawrence Smith, Courtney Weimar (LCN), Morgan Rose, Richard Roberts, William Lubanski and James Campbell (Town Attorney)

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

MINUTES

RESOLUTION offered by Mr. Rose and seconded by Mr. Smith to approve the minutes of the March 10th Public Hearing and Regular Town Board Meeting. Voted on and approved, Yes-4, No-0.

AG TAX UPDATE

Deputy Supervisor Parnell stated, as it was expressed at the March 10th meeting, in order to render a decision on the Ag Tax matter, we wish to have a full board in attendance for that vote. Unfortunately Supervisor Deming was unable to attend this evening, and she will not be at the May meeting. A decision may have to wait until the June meeting for a decision of the full board.

HIGHWAY REPORT

Mr. Worden reported the following for the Highway Department:

- Met with DDS Pipeline recently to review plans for a gas line in the right of way at end of Tuttle and Old State Road to service a residence. After verification of the plans, documentation is in order and his signature is now required, but needs board approval.
- The department has been working on road signs and mower maintenance
- Hauled in additional salt. The Town must bid for salt per contract. We have received 70% thus far of our 1700 ton for this year's contract, and have until June to obtain the remaining salt (92 ton) in order to fulfill the contract.
- We have been dismantling plow equipment from the trucks and repainting to preserve.

- Questioned if a brush clean-up day will be scheduled.
- Asked permission to advertise for part-time help (2)

* The Board and Mr. Worden agreed that a brush clean-up will be scheduled for Monday, May 16th, 2016. Clerk Harris stated she will prepare the notice for the paper and website.

RESOLUTION offered by Mr. Gates and seconded by Mr. Smith authorizing Highway Superintendent Worden permission to sign the required documents for DDS Pipeline in order to proceed with the gas line request. Voted on and approved, Yes-4, No-0.

RESOLUTION offered by Mr. Gates and seconded by Mr. Rose authorizing permission to advertise for two (2) part-time seasonal laborers for the Highway Department. Voted on and approved, Yes-4, No-0.

Mr. Worden requested of the Board Executive Session later in the evening to discuss a Personnel matter, pertaining to an Employee's recent injury.

WATER/SEWER REPORT

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

- This billing cycle we had an issue with the meter reader, ultimately having to re-read all meters (1,028). Issue has been resolved.
- Will be starting restoration work on Route 20/McVean Road next week.
- Had an issue in Wadsworth recently with the Route 36 watermain replacement portion (for 1 customer). We had to contact the contractor, Randsco for correction, which they took care of with assistance from Mr. Worden. Our Engineers, Clark Patterson Lee was well aware of the issue and was onsite to verify the correction.
- Sewer plant has been efficient, with no issues to speak of. Continue to conduct routine maintenance and getting prepared for our annual DEC inspection.

OLD BUSINESS

1) Consolidated Water Dist. Rules & Regulations:

The Board received a copy of the current Consolidated Water District Rules and Regulations at the March 10th meeting, and was asked to review the suggested additions regarding meter service installation. The Board confirmed they had reviewed the updates and was ready for approval.

RESOLUTION offered by Mr. Smith and seconded by Mr. Rose to approve the revision to the Consolidated Water District Rules and Regulations. Voted on and approved, Yes-4, No-0.

** Copies of the Rules & Regulations may be obtained at the Town Clerk's office or on the Town's website: www.yorkny.org.

NEW BUSINESS:

1) Davies Nagel request:

Mrs. Parnell reported that the board received a request from Davies Nagel as a member of the Conservation Advisory Council to attend a workshop on May 19th at the Burgundy Basin Inn. Mr. Nagel feels the session will consist of a number of pertinent natural resource topics, which may be helpful to the newly formed committee, and asked permission to attend.

After a brief discussion of the Board...

RESOLUTION offered by Mr. Rose and seconded by Mr. Smith authorizing Davies Nagel permission to attend a workshop scheduled for May 19th at the Burgundy Basin Inn. Voted on and approved, Yes-4, No-0.

2) Green Burial Information:

Clerk Harris discussed with the Board the topic of green burials as it pertains to municipal responsibility.

To: York Town Board Members

Prepared by: Town Clerk, Christine Harris

Over the last two years, I have verbally received two inquiries about potential “green burials”. A green burial is in essence returning one’s remains to the earth as directly and simply as possible, which avoids embalming, metal caskets and burial vaults. Green burials involve covering the body in cloth shrouds or in simple coffins made from cardboard or plentiful softwoods, like pine. Bodies are then laid in to vault free graves, some in “natural cemeteries” and others on one’s private rural property. Headstones may be used or remembrance shrubs and trees may be planted instead to mark the area.

There are some green cemeteries located throughout New York State, closest being Holy Sepulchre Cemetery in Rochester. Although having these cemeteries available, the requests will be for burial at their property here in the Town of York. Currently the Town does not have any regulations in place pertaining to green burials, and may wish to consider perhaps documenting some, in order to have parameters to adhere to.

After speaking with local funeral director, Michael Dougherty and Cindy Craig from the New York State Division of Cemeteries, each was able to offer suggestions on how to potentially proceed if the Board desires. Ms. Craig stated New York State does allow green burials, but would be up to the individual town to determine whether or not they want to set law(s) or parameters for such requests. Ms. Craig suggested the following:

- burial site should be clearly marked
- burial should not be located within 100 feet of a dwelling
- have the family set up an endowment, outlining a trustee and explanation on how to protect the burial site. Perhaps denote on official Deed, address burial distance from road right of way (50 feet?)
- burial should be at least 100 feet from a private water source (well)

As stated, the Town of York does not have any current regulations in place regarding green burials, which is not unusual, it has only been within the last few years that such requests have become more popular. When deciding what would be best for our township, consider the fact that numerous property owners have ample land to have such burials, but in other areas within the town, smaller lots could become an issue for a burial site if parameters are not set.

The Board must render a decision on whether they wish to allow green burials by enacting stipulations and/or parameters by way of a Local Law **or** allow any and all future burials regardless of location.

The Board asked several questions, but commented additional discussion will take place before a decision can be determined.

3) Livingston County Planning Board

a. Zoning referrals:

Deputy Supervisor Parnell reviewed with the Board correspondence received from the County Planning Board regarding a Referral Exemption Agreement. Attorney Campbell stated, in accordance with General Municipal Law, the County is authorized to enter into an agreement with a municipality if they desire to have County Planning Board referrals and review of certain local zoning and subdivision actions. The purpose of this agreement is to eliminate the need for local referral and county review of certain actions that do not have inter-community or countywide impacts. Ultimately, the Town can determine if they wish to send all actions to the County or limit such referrals. Mr. Campbell added the complicated actions unfortunately will take longer to process, and will need County referral, but smaller actions may not. Mr. Campbell recommended that the Board consider approving such agreement with the County Planning Board, with the guidelines they prepared.

The Board commented they wish to table a decision until they have an opportunity to fully review all material submitted.

4) York Fire Department

a- New Member:

RESOLUTION offered by Mr. Smith and seconded by Mr. Rose to approve Zach Bishop, of Piffard as a new member to the York Fire Department. Voted on and approved, Yes-4, No-0.

*All background checks have been completed on Mr. Bishop.

5) SEQRE Review:

a- 2016 Sewer System Improvements:

Mr. Campbell discussed and read aloud the brief description of the proposed action of the Full Environmental Assessment Form, Part 1 (Project and Setting) for the 2016 Sewer System Improvements, encompassing in the Town of York – Craig Road,

Retsof Wastewater Treatment Facility and Retsof Sewer District, asking the Board numerous questions. Mr. Campbell stated due to the size of larger projects, Long Form EAF is required to be reviewed, for Parts 1,2 and 3, and continued the review process with the Town Board.

Mr. Campbell stated in Part 2 we must Identify Potential Project Impacts. Mr. Campbell read from the SEQRA document, requiring Board participation. Mr. Campbell commented the Board may have questions on particular aspects and if additional information is needed we will address it further. Mr. Campbell noted the main source of knowledge and expertise for this document comes from our Engineering Firm, Clark Patterson Lee, if additional information is necessary.

The following topics were addressed and answered:

- (1) Impact on Land
- (2) Impact on Geological Features
- (3) Impacts on Surface Water
- (4) Impact on Groundwater
- (5) Impact on Flooding
- (6) Impacts on Air
- (7) Impact on Plants and Animals
- (8) Impact on Agricultural Resources
- (9) Impact on Aesthetic Resources
- (10) Impact on Historic and Archeological Resources
- (11) Impact on Open Space and Recreation
- (12) Impact on Critical Environmental Areas
- (13) Impact on Transportation
- (14) Impact on Energy
- (15) Impact on Noise, Odor and Light

Mr. Campell expressed once again if the Board is uncomfortable answering any of the questions in Part 2, we do not need to proceed.

Mr. Richenberg questioned how the Board can answer any of the SEQRA questions without viewing the plans or even a map.

Councilman Smith responded that the board is aware of the proposed project, and feels that this community needs to have things happen in order to grow. Mr. Smith added when you come to board meetings, your privileges always reflect a complaint or making accusations of some sort, the Town has to move forward.

Morgan Rose suggested that the Board review the project documents and then revisit the process.

Mr. Smith asked Attorney Campbell how other Boards' handle this process. Mr. Campbell answered, there are different methods, but usually open forums at meetings is the best way. Mr. Campell stated once again he is not pushing the board this evening to complete the process, he wants the Board to feel comfortable continuing if that's what they want. Councilman Smith and Rose stated they feel comfortable to continue.

Mr. Campbell continued with the remaining three questions in Part 2:

- (16) Impact on Human Health
- (17) Consistency with Community Plans
- (18) Consistency with Community Character

Attorney Campbell expressed the need to follow good process and do it thoughtfully. If the Board feels they cannot answer the questions comfortably, we can certainly slow the process down, which is in everyone's best interest in order to do it properly. We can revisit the SEQRA process at a later date.

Deputy Supervisor Parnell asked the Board if they feel comfortable in adoption of Part 2. The Board agreed they were comfortable.

ADOPTION OF FINDINGS

RESOLUTION offered by Mr. Smith and seconded by Mrs. Parnell to Adopt the Findings that were made in the review of Part II of the Full Environmental Assessment Form as set forth therein. Voted on and approved, Yes-4, No-0, Absent-1, Gerald Deming.

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

PRIVILEGES OF THE FLOOR

1) William Hasler:

Mr. Hasler asked to speak with the Board this evening to discuss a matter at the Pleasant Valley Cemetery. Mr. Hasler stated that the roads/driveways throughout, are in very rough shape and in need of leveling and grading. Mr. Hasler asked if the Board would consider assisting in the cemetery with the Town excavator. Councilman Smith asked if the cemetery organization had funds for such repairs, which Mr. Hasler responded minimal. The monies received go out as quickly as they come in. Councilman Smith asked what will ultimately happen if their cemetery association is unable to keep it going. Mr. Hasler stated if the association can no longer handle things, the Town of York would end up with it. Councilman Rose commented many of the families buried in this cemetery and other town cemeteries have been in this community for years and feel we should assist when needed. Highway Superintendent, Mr. Worden stated we cannot show favoritism to one cemetery over another, we need to be available to both if the Board agrees to assist with maintenance. Attorney Campbell added, if a cemetery can't be maintained by the current cemetery association it will end up in the Town's hands and will ultimately become our responsibility.

RESOLUTION offered by Mr. Rose and seconded by Mr. Smith authorizing Highway Superintendent, Mr. Worden permission to assist both cemeteries (Pleasant Valley Cemetery and Mt. Pleasant Cemetery) with future leveling and grading at their locations when requested. Voted on and approved, Yes-4, No-0.

2) Art Bernecker Jr. and Art Bernecker III:

The Berneckers asked to address the Board to discuss property owned on Retsof Road. Mr. Bernecker stated that the property currently has 2.2 acres. They are trying to sell the home, but the nearest neighbor has requested purchase of the land surrounding the home in order to merge with his existing parcel.

Attorney Campbell commented, it appears that the lot is undersized in an Agricultural zoned area. If split we would have two non-conforming lots, and would have to proceed with a variance to the Zoning Board of Appeals, who would have jurisdiction. Councilman Smith asked if there is a time factor to contend with, which the Berneckers replied not an immediate one, but simply trying to get organized. Attorney Campbell stated after review of Zoning officer, Carl Peter's email on the subject, there are two options to consider:

- 1- Go before the Zoning Board of Appeals for a variance or
- 2- Petition Town Board requesting the Hamlet Residential Zone be extended to include these 2 parcels (which would require it as a potential Local Law)

Mr. Bernecker commented he would prefer the zone to be Hamlet Residential and go before the Town Board.

Attorney Campbell stated if the Berneckers wish to address the request to the Town Board, it can't be done this evening because it will need to be written as a Local Law with a Public Hearing requirement.

3) Henry Fuller:

Mr. Fuller commented on the statement made by the Board member this evening that all we do is complain at meetings, and stated as a taxpayer he has the right to be part of the process. Mr. Fuller added he wants to defer his privileges until Supervisor Deming is present.

4) Kirk Richenberg:

Mr. Richenberg also addressed the comment made by Councilman Smith that "all we do is cause a ruckus at meetings" and stated if that's what he feels, it's unfortunate. Mr. Richenberg added he has concerns that need to be addressed and will continue to do so. Mr. Richenberg commented he feels this project is getting fast tracked and needs to be slowed down to fully review all aspects, and added maybe this project is moving quickly because it will benefit this Board member directly.

Mr. Richenberg stated his main purpose for privileges tonight was to speak on Fracking. The Town already had a moratorium on Fracking, but now the mindset seems to be for a BAN. The community did not want to spend any more money above the \$20,000 already spent, but at the last meeting the Board approved working with the National Defense Council. Although it will not cost anything to work with them, the involvement with our Attorney will, which is continuation of town funds being spent.

Deputy Supervisor Parnell stated now that all Privileges have concluded we will resume with the SEQRA review.

Mr. Worden Sr. commented at the bottom of the hill on York Road West by Gratwick's, there use to be a pond not far from the road and believe there is shale in that area.

Attorney Campbell stated with what is being proposed for the WNY Cheese Sanitary Sewer District, 15,000 linear feet of force main would be installed. The developer would be paying for the infrastructure/improvements, which would create a Single User District. Within that district it is paid for by them. Mr. Campbell added in order to go through the process for such project, the Town must have a request (petition) to be heard, to move forward. The sole user of this district (the developer) has prepared and signed a petition for Formation of the Town of York WNY Cheese Sanitary Sewer District. They have submitted the petition this evening, which the Board acknowledges receiving, stating that it does meet the town regulations. Mr. Campbell stated that questions have arisen on whether or not this project is a benefit to this community, which the Board will have to determine. The developer is offering amenities to the Town, asking us to consider improvements to the existing district, not only for benefit of their project but for potential other areas as well. If approved, all infrastructure will be put in by them and then legally dedicated over to the Town. In essence, they will pay for improvements and then the Town will take ownership after dedication.

Mr. Campbell stated initially part of the planning involved running water to their site from Lake LeRoy, but then Clark Patterson Lee proposed a different option for municipal involvement. The formation of this is very important, and they have now formally requested by way of a petition.

PETITION ACCEPTANCE

RESOLUTION offered by Councilman Smith and seconded by Councilwoman Parnell to receive and accept the Petition for Establishment of the Town of York WNY Cheese Sanitary Sewer District, noting that it is in compliance with the requirements of New York State Town Law § 191. Voted on and approved, Yes-4, No-0.

Mr. Andrews commented with the Muller plant in Batavia now vacant, maybe we need to ask for a Bond as a form of protection for the Town. Attorney Campbell stated many of the improvements are paid for upfront without long term debt. Several entities have signed on to this project, Noblehurst Farms and DFA (Dairy Farmers of America) to name a couple, and with the number of entities assisting, it shows that they are committed here for some time, but we would certainly be requesting a Surety Bond in any case which is a form of assurance.

Mr. Worden Sr. asked if the waterline is being paid upfront. Attorney Campbell replied some portion/expense will be borne by existing district customers, but the lion's share of the water is paid upfront by the developer. Mr. Campbell stated he believes the maximum amount proposed to be expended for sewer will be 7 million dollars. Mr. Worden Sr. asked will all residents have to connect if the line runs past their property. Mr. Campbell answered the sewer debt service is strictly paid for by Nobles, but water debt service that appears on the yearly tax bill would be paid by all residents within the proposed area. The residents would have the option on whether or not they wish to connect to the main line, but still required to pay the yearly debt amount. Councilman Smith questioned if others could potentially connect to the sewer district if it goes by

their property. Mr. Campbell replied once again that the sewer line is a single user district, but once it has been dedicated to the Town, they may contact us for potential future users. Mr. Campbell stated the next step at this point is to schedule a Public Hearing to present the project and the figures involved. Mr. Campbell added the Engineers have received positive feedback from the community regarding this project.

Mr. Worden Sr. asked if there is a timetable for this project, which Mr. Campbell answered they hope to have water and sewer in and operational by September of 2017. Mr. Andrews commented when you drive by the majority of milk plants with their own lagoons, the size of what is proposed is a bit hard to fathom. Mr. Campbell stated if the Town has the capacity, Nobles see a benefit proceeding in this format versus other avenues, even with the figures involved. They will ultimately end up being the largest user of water. Mr. Andrews questioned whether or not Lake LeRoy has ample capacity for a project this size. Councilman Smith replied he had heard there are other issues with Lake LeRoy (quality). Mr. Richenberg added that the Town of LeRoy really struggled to treat it properly in order to meet the State standards.

PUBLIC HEARING

RESOLUTION offered by Mr. Smith and seconded by Mrs. Parnell to schedule a Public Hearing for Thursday, May 12th at 8:00 p.m. to receive comment on the Petition submitted for District Formation of the Town of York WNY Cheese Sanitary Sewer District. Voted on and approved, Yes-4, No-0.

SEQRA Review meeting:

Attorney Campbell informed the Board that he texted Mr. Henry from Clark Patterson expressing the Board's desire to have a Special Meeting to present a map and other pertinent information regarding the proposed project, including any potential concerns. Mr. Henry conveyed his willingness to meet with the Board whenever is convenient with them. The Board agreed before scheduling a date they wish to discuss it with Supervisor Deming first.

9:30 P.M.

RESOLUTION offered by Mr. Rose and seconded by Mr. Gates to enter into Executive Session for a Personnel Matter, to include: Town Board, Highway Superintendent and Town Clerk. Voted on and approved, Yes-4, No-0.

9:50 P.M.

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

Deputy Supervisor Parnell reported no action was taken in Executive Session.

OTHER

1) Zoning Board of Appeals:

Councilman Rose reported we received two letters of interest for the vacant position on the Zoning Board of Appeals, Dustin Geiger and Harold Wolcott. After conducting interviews with both qualified applicants, the committee recommends to the Board appointing Mr. Wolcott.

RESOLUTION offered by Mr. Smith and seconded by Mr. Rose to appoint Harold Wolcott II to fill the vacancy on the Zoning Board of Appeals, term to expire December 31, 2016. Voted on and approved, Yes-4, No-0.

2) Correspondence:

Clerk Harris read aloud a letter received from Cathy Clark & Rick Blum of McVean Road:

March 11, 2016

Dear York Town Board,

We would like to thank you for all the effort and time that was given to the McVean Road water project. We can't tell you how wonderful it is to be able to drink the water from the faucet!

Please extend our gratitude to George Worden and his crew for all their work in helping to make this project possible.

Thank you again.

Sincerely,

Cathy Clark and Rick Blum

3) Ag Tax comment:

Clerk Harris read aloud an email she received from Donna Falkner in regards to the Ag Tax discussion:

April 11, 2016

To Whom It May Concern:

As a taxpayer of the Town of York why should the non-farmer get charged more fire tax so that the farmer can pay less when they have sometimes more buildings that can burn? I feel the fire tax levy should remain the way it is now and not be changed. Why are farmers any better than anyone else in the town (and I come from a farming background).

Donna Falkner
Resident & Taxpayer

4) Davies Nagel:

Clerk Harris verified with the Board that each had received a copy of Mr. Nagel's prepared notice for the first meeting of the Conservation Advisory Council (CAC), to be held on Wednesday, May 18th at 7:30 p.m. at the York Town Hall.

The Board agreed they had received a copy of the notice.

BILLS

RESOLUTION offered by Mr. Gates and seconded by Mr. Smith to approve all claims brought before the Board. Voted on and approved, Yes-4, No-0.

General Fund Claim	# 90-123	\$ 19,487.17
Joint Water & Sewer	# 72-100	\$ 40,016.32
Street Lights	# 3	\$ 1,607.81
Capital Improve. Project	# 1	\$ 900.00
Youth Fund Claim	# 4	\$ 120.00
Highway Fund Claim	# 65-87	\$ 27,541.68

ADJOURNMENT

RESOLUTION offered by Mr. Gates and seconded by Mr. Rose to adjourn the Town Board Meeting. Voted on and approved, Yes-4, No-0.

Town Board Meeting closed at 10:15 p.m.

Respectfully Submitted,

Christine M. Harris, Clerk

