

York Town Board Meeting  
September 8, 2016

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

Absent: Frank Rose Jr.

Others: James Campbell (Town Attorney), George Worden Jr. (Highway Supt.), Joe McIlroy (Planning Board Chairman), Members of the York Valley Fest: Maxine Flint, Jane Towne, Norma Geary, Kathy Cunningham, Elizabeth & Anna Lyness and Mary Jane Schwan; Henry Fuller, Kirk Richenberg, York/Leicester Youth Recreation: Diane Blythe and Dave Wolfson; and Sarah Santora (Liv. Co. News)

Supervisor Deming opened the Town Board Meeting at 7:30 p.m. and invited Clerk Harris to lead with the Pledge of Allegiance.

MINUTES

RESOLUTION offered by Mr. Gates and seconded by Mr. Smith to approve the minutes of the August 11<sup>th</sup> Public Hearing and Regular Town Board Meeting. Voted on and approved, Yes-4, No-0.

HIGHWAY REPORT

Mr. Worden reported that his crew has been repairing street signs and straightening posts along the roadside. Driveway pipe replacement on Limerick Road has also taken place.

Councilman Smith asked Mr. Worden if he inquired to the County about repairs to the ditch, which Mr. Worden replied he has and was told that the work will be conducted sometime in the fall.

Mr. Worden added that his department also assisted County Highway on Fowlerville Road by removing gutters and replaced with millings.

Mr. Worden addressed with the Board the need for a committee to review all applications submitted for the Full-time position at the Highway Department, after the recent retirement of Mr. Burger. Supervisor Deming and Councilman Smith stated they will join Mr. Worden on the committee to determine the next employee.

WATER/SEWER REPORT

Mr. Worden reported that the Water department completed the annual flushing of the entire water system, beginning Monday, August 8<sup>th</sup> and concluding on the 19<sup>th</sup>. Mr. Worden mentioned that the department recently tested for THM's but results have yet

to be received. Mr. Worden commented that the men have begun reading water meters for the upcoming October billing cycle. If the read process goes smoothly, which we anticipate it will, it should be completed within two weeks.

Mr. Worden reported that we will be replacing the effluent pump on the final clarifier at the Wastewater treatment facility. The pump has been ordered and should arrive within the week.

Councilman Smith asked Mr. Worden if he has completed the bid for the York Road East piping project. Mr. Worden replied that he has not prepared the necessary paperwork to go to bid to replace the existing cast iron piping, but hopes to do so by the next Town Board meeting in October. Mr. Worden reiterated once again, the potential cause for the occurrence of the break may have been a combination of the older cast iron piping with the increase in the water sales at the Highway barns, resulting in more pressure on the lines.

### PRIVILEGES OF THE FLOOR

#### 1) York Valley Fest:

York Valley Fest Committee member, Jane Towne addressed the Board this evening on behalf of the entire group. Ms. Towne commented that this year's festival was once again successful and the members are pleased to be able to present the York/Leicester Youth Recreation Program with a \$1,000.00 check this evening for materials and other necessary items for the program. The committee did make a recommendation that the money be used for such items, but specified not for salaries. Ms. Towne added we have been fortunate over the years with so many gracious sponsors, which we are most appreciative for. Mrs. Blythe and Mr. Wolfson thanked the Valley Fest for their generous donation to the program, stating it will be put to good use.

### OLD BUSINESS

#### 1) Caledonia water:

Supervisor Deming informed the Board that he recently spoke with Livingston County Water Authority about a request from four Caledonia residents regarding municipal water. The location of the homes are in close proximity to where our new water main is on Telephone Road, and questioned whether or not they could potentially connect to our system.

Highway Superintendent, Worden commented if we were able to maintain control of the line, including testing and flushing as we do, along with charging them O & M (Operation and Maintenance), he would be agreeable. Supervisor Deming stated this request was initially brought to our township, but advised the Caledonia residents to proceed with the County format, but still has concerns on whether we should be part of this. Councilman Smith asked how this would proceed. Mr. Worden responded we would bill the County directly and they in turn would bill the residents, but we would maintain control of the line itself. Mr. Deming stated the County would install the line, with Mr. Worden adding once again we would charge them for materials and testing. Mr. Worden stressed if we can conduct the O & M of the line charge back to the County, he is comfortable because we have enough water to supply them.

Mr. Deming asked the Board their thoughts on the matter. After little discussion the members commented if we have sufficient supply of water and can be in control of the line, per Mr. Worden's request, they would be agreeable in proceeding.

Mr. Richenberg questioned the perception about servicing other towns while areas of our town are still in need of municipal water. Mr. Richenberg added as he recalls it, at the McVean Road/Telephone Road Public Hearing he thought water expansion could not take place in that area. Mr. Worden replied expansion can go forward with the existing main in place but not with any major development, the current line would need to be updated in that event. Mr. Richenberg commented it certainly looks like from the general public that we are willing to serve other towns before our own. Councilman Smith stated we could also look at the situation in the opposite way, stating that the residents would witness that even though Caledonia couldn't assist them, perhaps the Town of York can.

Mr. Richenberg asked going forward are we looking at a middle person. We are talking about four homes, wasn't there others in our area that wanted to be serviced and we couldn't accommodate. Mr. Worden replied that we were able to service those properties interested, and the issue with that area was being able to keep water fresh to the residents. Supervisor Deming added Stokoe Farms expressed from the beginning that they never wanted to be included in the water district, so their land was not an issue. Councilman Gates asked whom would incur the boring costs, which Attorney Campbell replied the County Water & Sewer Authority would. Mr. Campbell continued by saying the partnership would be with the Water Authority, which is independent from the County itself. Mr. Richenberg questioned if they have their own Board of Directors, which Mr. Campbell responded they do. Mr. Richenberg asked how many from the McVean/Telephone area have connected. Mr. Worden replied all but two properties have connected to our system. Mr. Richenberg asked if any pressure issues have arisen, which Mr. Worden responded there has not been any issues.

Attorney Campbell stated the reason this issue was brought before the Town of York is in order to meet the cost threshold for these residents, our line on Telephone Road is closer than where they can connect in Caledonia, and they have experienced several years of water issues. If the amount is over \$1,000.00 for the first year debt payment, the State will not approve the project, and they might not have the ability to form a district. Mr. Campbell added properties in the Ag District do not pay the same debt. Mr. Worden commented that the Village of Caledonia has a water district supplied by Monroe County Water Authority, but the Town does not. Mr. Richenberg asked if this extension would have to be approved through the County, which Supervisor Deming replied it would not. Mr. Deming expressed that he was approached twice on this request, the first time saying no, not at this time but now has been brought to the entire board for discussion. Mr. Campbell mentioned to the Board in addition to being the Town of York's Attorney, he is also the Attorney for the County Water & Sewer Authority.

Attorney Campbell stated if the Town Board is interested in proceeding we can certainly prepare an Intermunicipal Agreement to outline procedures.

8:00 P.M.- Councilman Rose arrived at this time.

2) Fracking document:

Attorney Campbell provided the Board with a revised document after receiving comments & recommendations from Livingston County Planning Deputy Director, Heather Ferrero. Mr. Campbell stated at this point the Town Board must review the proposed Local Law. After such review a Public Hearing can be scheduled (perhaps at the November meeting). Once the process has been completed the Board can adopt it. Mr. Campbell stressed, this proposed law is not a Ban. The law is not intended to single out an industry, the intention is to address concerns from the community pertaining to storage, handling, treatment and/or processing of oil or natural gas wastes. Mr. Campbell asked the Board to fully review the document in order to make any changes and added that he will submit the information to County Planning in order to get on the docket for their upcoming meeting.

3) Planning/Zoning Board of Appeals:

Supervisor Deming reported after approval of Local Law #3 of 2016, authorizing the Town Board to appoint alternate members of the Planning & Zoning Boards to act in place of existing members that can't attend a given meeting, the Board agreed guidelines need to be put in place. At this time we are compiling information from other towns in order to construct guidelines that will be useful to both boards.

4) McPherson Road update:

Mr. Worden reported after the August 11<sup>th</sup> meeting he spoke with Caledonia Diesel regarding the truck traffic discussion and possibility of use of their driveway as a turn around, which they were agreeable to. Councilman Smith asked what the costs would be to post the weight limit signs on McPherson. Mr. Worden answered roughly \$160.00, signage would be \$50.00 each plus \$30.00 for posts, plus labor involved (would need a total of 2, one on each end). With Simpson Road as well as McPherson, additional signs will be needed, we are looking more toward \$ 1,000.00 total.

Councilman Smith stated he is unsure what we would be gaining by using town money to post these roads. Mr. Worden answered we can post "no trucks" signage if the board desires. Mr. Smith continued by saying why would we, who would obey the postings. Supervisor Deming stated the reasoning behind the weight limit signs was that we were trying to save what we had recently repaired and paid for.

Mr. Fuller stated he doesn't understand why the signs are needed because the trucks can't make the turn onto Route 20, which Supervisor Deming replied they can and have made the turn and continue to use that route. Mr. Fuller commented there are only three homes located on that road. Mr. Deming responded he is aware of the number of homes, but the condition of the roads were the main concern. Supervisor Deming added, if Highway Supt. Worden feels it will not work then we won't proceed. Councilman Smith asked Mr. Worden in his opinion, will it make a difference if we post. Mr. Worden replied probably not because we can't enforce it. Councilman Rose stated he agrees with Mr. Worden's suggestion to post "no trucks" signage, it may make a

difference with future vehicles. Mr. McIlroy commented if you don't post it they will always use it. Mr. Fuller stated if traffic is re-routed to MacIntyre Road, we will be replacing that road as well. Councilman Smith suggested placement of a sign at Caledonia Diesel.

Supervisor Deming stated due to difference of opinions, we will be tabling the discussion at this time.

### NEW BUSINESS

#### 1) Justice Audit:

Supervisor Deming stated that the majority of the Board has reviewed the Justice Audit documentation prepared by Court Clerk, Norma Geary. Once Councilman Rose reviews as well, we will proceed with approval later in the meeting.

#### 2) Baldwin Business Services:

##### a- 2017 contract:

RESOLUTION offered by Mrs. Parnell and seconded by Mr. Gates approving the 2017 contract with Baldwin Business Services for the upcoming year. Fees are as follows: \$12,100.00 for the accounting portion, plus a monthly fee of \$100.00 for payroll services and a \$5.00 fee per pay period for direct deposit, totaling: \$ 13,430.00. Voted on and approved, Yes-5, No-0.

#### 3) Water shut-off request:

##### a- Angela Stokes:

RESOLUTION offered by Mr. Gates and seconded by Mrs. Parnell to approve the Water service shut-off request submitted by Angela Stokes for property located at 2526 Main Street. Voted on and approved, Yes-5, No-0.

### OTHER

#### 1) Solar arrays:

Councilman Smith inquired as to whether or not other surrounding towns have had application(s) submitted regarding solar array development and asked what our potential options are. Attorney Campbell answered that he was aware of other towns either receiving inquiries or an application itself, but as far as the Town of York, we have three options to consider:

- 1- Do nothing
- 2- Prepare regulations to address potential concerns (include in Zoning regs.)
- 3- Adopt a moratorium by way of a Local Law, as a temporary halt until the Board decides a more permanent action

Councilman Smith asked what a Local Law entails, specifically expenses to the town. Mr. Campbell stated the expenses would be preparation of the draft document, substantiating the purpose of the law and the cost of the Public Hearing notice in the Town's legal publication, The Livingston County News.

Mr. Smith stated the developers are targeting farms and other property owners with 20 or more acres. Mr. Fuller added he had recently attended a Farm Bureau meeting in

Wyoming County, with Jim McCormick speaking on this issue. Mr. Fuller commented it was stated that the developers do not need anywhere near the 20 acres to do business, but encourage lease agreements of that size or larger. Mr. Fuller stated that the meeting was very informative and suggested that a member of the Board contact Mr. McCormick regarding the details in order to assist us here in York. Mr. Fuller added as it was discussed, the solar developers are very aggressive with their pitch when trying to secure a contract. It would be beneficial to those landowners to get an Attorney to review any and all information prior to signing anything. Mr. Fuller also stated that it would be likely that a switching station would need to be installed.

Attorney Campbell agreed with Mr. Fuller that it would certainly be in the landowner's best interest to have an attorney advise them. When a lease is signed, it is usually in the company's best interest not the property owner. Mr. Campbell stated from the town's standpoint, a moratorium may be the best way to proceed and during that time period, we would have to research the topic more fully and potentially update our code. The main factor is we need to address the topic in a timely fashion in order to get "in front" of it before an application is submitted. Attorney Campbell stated he is currently working on solar regulations for the Town of Avon's codes, specifying what is allowable. Mr. Fuller stressed once again the recommendation to contact Mr. McCormick for assistance with this issue.

Councilman Smith stated that this project would chew up a large amount of land and once it is gone, the landowner will not get it back. An acre of land can produce a lot of yield over time and not having that ability due to a lease agreement would be difficult. Mr. Richenberg questioned the wasteland acreage and stated if it can't be used for Ag purposes, won't you be taking the landowner's rights away from them with the moratorium. Mr. Campbell answered with a moratorium you are not trying to take away rights, you try to prepare regulations that benefit the whole community. In the regulations we must address what happens when things don't work out or if bankruptcy should happen, and requirements for removal of material or equipment in that event. Mr. Campbell stated we will also discuss whether or not there are more suitable places within the town for such development. Mr. McIlroy stated currently our zoning has no regulations in place outlining this type of development, when we do address solar arrays, perhaps we need to look at small scale development as well as the larger ones.

Mr. Fuller reported the State is aggressively pushing for more electricity through solar, and the Cuomo administration has set a mandate for New York to have 50% of its electricity by 2030 and to be fully (100%) solar by 2080.

Mr. Campbell commented to the Board if we take the approach to ban this industry, we will have problems going forward. The goal is to address concerns of the township. Attorney Campbell asked at this point do you as a Board want to be proactive on this topic. Councilman Smith suggests that the Board be proactive and recommends proceeding with a moratorium. Councilman Rose asked in the proposed moratorium, how would we protect the small arrays, for example roof mounted ones. Mr. Richenberg stated there is only a handful of properties within the town that would benefit. Mr. Richenberg added there are two plants probably driving this issue in relative proximity.

Council Members Parnell and Gates each agreed that a moratorium would be the temporary protection we may need until regulations can be put in place. Councilman Smith stated many concerns need to be addressed and having a moratorium would benefit us. Councilman Rose reiterated his suggestion to focus on the large scale arrays only. Attorney Campbell replied roof-top arrays would be excluded, we would be focusing on large scale solar.

RESOLUTION offered by Mr. Smith and seconded by Mr. Rose authorizing Attorney Campbell to prepare the necessary documentation for a moratorium pertaining to solar arrays. Voted on and approved, Yes-5, No-0.

### PRIVILEGES OF THE FLOOR

#### 1) Kirk Richenberg:

Mr. Richenberg questioned, at the last meeting it was referenced that MacIntyre Road was oil and stoned and chip sealing took place on McPherson Road, and asked what the difference was between the two. Mr. Worden replied actually there is no difference. Mr. Richenberg stated as we discussed earlier this evening about weight limit postings, Federal Road, North of Linwood has a weight limit sign but southbound has no posting. There is plenty of traffic that occurs both ways. A local farm goes to and from up and down this road quite frequently. Mr. Richenberg asked if the McVean Road water project was done, which Mr. Worden replied that it was. Mr. Richenberg questioned the reseeding aspect. Mr. Worden responded that seeding was done, but due to lack of rainfall he is sure the area could use additional attention, but added he has not received any complaints thus far from the residents in that area.

Mr. Richenberg asked about the ditch on Mt. Pleasant Road, roughly 6-8 feet in depth. The project was engineered by county soil & water, but was a dual project with us. Mr. Richenberg stated it won't be long before it is full once again, then it will begin to erode. He also asked about the future of Cowan Road. Mr. Worden stated he would like to dig up and raise the road at some point. Mr. Richenberg questioned the remainder of Cowan Road. Mr. Worden reported that he is waiting on the heat to subside before they do routine shimming and then oil and stoning.

On another topic Mr. Richenberg asked the Board why the property at Craig Station Creamery has not been removed from the Ag District, and looks like will be in it until roughly 2022. Attorney Campbell responded anything relating to an Ag District distinction is really a question for Livingston County Real Property and/or Livingston County IDA. Mr. Richenberg asked, wasn't it a Special Use Permit project, which Supervisor Deming and Planning Board Chairman, Mr. McIlroy replied it was not. The project did receive from the Planning Board a Special Use Permit though. Mr. Campbell added the property is still zoned agricultural. Mr. Fuller asked how the size of this entire business can still be classified as agricultural. Mr. Campbell answered there are many Ag related businesses associated with it. Mr. Richenberg stated with all of the dirt being moved around at the cheese factory, how has a building permit not been issued, and why has the Public Hearing not been closed. Mr. Richenberg quoted in the zoning

regulations, Section 905-D (Powers and Duties of Planning Board), how can the Planning Board make a decision if they haven't officially closed the Public Hearing. It was open during the March meeting and comments made were never entered into the minutes and still have not been brought forth. Mr. Richenberg expressed that all motions must be in the minutes. Attorney Campbell stated that the Planning Board did conduct the hearing and approval has been given. Mr. Richenberg also questioned that the project manager made reference to a structure over 80 feet tall but in our current regulations we do not allow anything that high. Supervisor Deming and Mr. McIlroy reported at this time they have not applied for a building permit for that structure. Mr. Campbell added site work can be done prior to a structure. Mr. Campbell answered Site Plan approval has taken place, but any large changes or modifications to the plan must be brought back to the Planning Board for review.

Lastly, Mr. Richenberg stated at the last meeting he addressed approval of minutes from board members. How can a Town Board member approve minutes if they weren't present and then come to the following meeting to vote on them. Mr. Campbell stated there is nothing in the current law that prohibits a member from approval of minutes the following month, even though they had not been present prior. Supervisor Deming added even though a member(s) are not present at a given meeting, they have the ability to read and review the minutes prior to approval at the following meeting. Mr. Richenberg commented he has a problem with voting that took place at the August 11<sup>th</sup> meeting, a person on the Board stated they would recuse themselves from the vote but then voted. Attorney Campbell stated a Board member can recuse themselves from the vote, but can still make a motion or a second.

## 2) Henry Fuller:

Mr. Fuller stated with the continuation discussion of McPherson Road posting this evening, he does not feel there is any reason for signage in that area and recommends that the Town not proceed.

Mr. Fuller addressed with the Board the cheese factory project and the Town's Planning Board involvement. Mr. Fuller commented that the Town must admit that this project was way over the board's head and should have brought people in to assist with it. Attorney Campbell stated he does agree that this project is very large, something that the Planning Board and many boards have not had to deal with.

Mr. Fuller stated at the last meeting, you seemed to indicate that I was in favor of the Local Law regarding alternates voting, which I am not. We should not be allowing alternates to participate unless guidelines are in place first. The people who make up these boards have been appointed or elected to do a specific job, they need to appear at the meetings.

Mr. Fuller questioned Mr. Worden on a few outstanding issues. On Fowlerville Road, the County had concrete gutters on both sides of the road from the old Station 42 past Stella's property, what are they planning to do. Mr. Worden replied they will be paving and rolling a gutter back into that area. Mr. Fuller also addressed the ditch in front of



his property. Over a year ago the county cleaned it and grated the bank, however they never returned to reseed it, and fill in the water erosion area. Mr. Fuller stated that the area is so rough it is impossible to mow. Mr. Fuller also stated that he wanted the county to be mindful, when rolling of roadside takes place the equipment (vibrator) used is very powerful and is close proximity to the nearby residences. Mr. Worden replied he will speak with the county about the equipment and ditch issues.

Mr. Fuller asked Mr. Worden what the town gets paid to do the roadside mowing. Mr. Worden answered we are paid by way of the given rate. Mr. Fuller asked what the distance is from the Right of Way to the center of the road. Mr. Worden replied, Fowlerville Road is a 3-rod road, making it 49.9 feet.

### JUSTICE AUDIT

RESOLUTION offered by Mrs. Parnell and seconded by Mr. Smith acknowledging that the York Town Board examined Justice Walter Purtell and Justice Thomas Porter's court records for the year 2015 and found them to be procedurally adequate for control of monies, per Section 2019-a of the Uniform Justice Court Act. Voted on and approved, Yes-5, No-0.

### 9:00 P.M.

RESOLUTION offered by Mr. Smith and seconded by Mr. Rose to enter into Executive Session to discuss a Personnel matter, to include Town Board, Town Attorney and Town Clerk. Voted on and approved, Yes-5, No-0.

### 9:30 P.M.

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

Supervisor Deming reported no action was taken in Executive Session.

### BILLS

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

General Fund Claim	#258-282	\$ 16,312.51
Joint Water & Sewer	#204-230	\$ 14,820.16
York/Leicester Youth	#15-22	\$ 1,097.49
Street Lights	#8	\$ 1,476.29
Highway Fund Claim	#167-180	\$ 18,502.67

ADJOURNMENT

RESOLUTION offered by Mrs. Parnell and seconded by Mr. Gates to adjourn the Town Board Meeting until October 13<sup>th</sup>. Voted on and approved, Yes-5, No-0.

Town Board Meeting closed at 9:31 p.m.

Respectfully Submitted,

Christine M. Harris, Clerk