

York Town Board Meeting
September 14th, 2021
7:00 pm

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

Absent: Norman Gates and Frank Rose Jr.

Others: James Campbell (Town Attorney), Thomas Wolfe (Dep Highway Supt), Jakob Powell, Tim Boyle/Sean Hopkins (Developer & Attorney for the York Travel Center Project), Marcia Koch, Virginia Legno, Greg O'Connell, James Webb, Blaine VanRy, Joseph Bucci Sr. & Elaine Bucci, David Mandeville, David & Laurie Eaton, Anne Roth-Blizzard, Martha & Edward Edmonds, Molly Cummings, Donna Walker, Chris Pascuzzo, John Cichelli, Jon & Mary Ann Hann, Joe McIlroy, Becky Lewis, Emilie Lewis, Gurminder Virk, Preet Baidman, Justin Curley, Teresa & Mark Easton, Joanne & Dan Caraher, Tina Cottone, Russell Sutter, Thomasine & Alan Wing, Barb & Greg Spezzano, Henry Fuller, Kirk Richenberg, Linda Plummer, Mary Lou Boyd and Dustin Geiger.

Supervisor Deming opened the Town Board Meeting at 7:02 p.m. and invited Councilman Smith to lead in the Pledge of Allegiance.

MINUTES

RESOLUTION offered by Mrs. Parnell and seconded by Mr. Smith to approve the minutes of the August 10th Regular Town Board Meeting and September 2nd Special Town Board Meeting. Voted on and approved, Yes-3, No-0.

BILLS:

RESOLUTION offered by Mrs. Parnell and seconded by Mr. Smith to approve all claims brought before the Board. Voted on and approved, Yes-3, No-0.

- General Fund # 245-275 \$ 24,876.36
- Consolidated Water/Sewer # 190-211 \$ 22,505.81
- Highway Fund # 127-141 \$ 104,443.25

***7:03 p.m.- Councilman Gates arrived at this time.**

PRIVILEGES OF THE FLOOR:

1) York Travel Center:

Mr. Boyle and Mr. Hopkins came before the Board this evening to discuss plans for the York Travel Center project at the corner of Route 36 & Route 63, owned by Joe Bucci (YTC 1, LLC). Mr. Hopkins stated that the parcel is approximately 11.4 acres in size of

which 6.9 acres will be developed. The convenient store will encompass 6,600 sq. feet, a fueling facility, Tim Horton's and a Bank of Castile ATM. Mr. Hopkins commented that the reason for the request to speak with the Board is to address a specific portion in the Town's current code. In Section 607 "Drive-thru facilities" (c), facilities with an amplified audio/visual system shall be setback a minimum of 30 feet from the property line. These facilities shall not be located adjacent to residential uses or districts. Mr. Hopkins asked that the Board consider a proposed modification of:

Drive-thru facilities that are located on property contiguous to residential uses or contiguous to residential districts shall have a minimum setback of 150 feet from contiguous residential uses or contiguous residential districts and such drive thru facilities shall include features such that the noise generated by the ordering system is adjustable to background noise levels.

Mr. Hopkins added that the closet parcel facing the drive-thru speaker system is 187 feet and is currently owned by Patricia Ryan which we are under contract with to purchase.

Mr. Boyle stated that technology has changed over time, allowing speaker systems to be altered in volume unlike in the past. Mr. Boyle continued by outlining a decibel scale, ranging from 0 to 140 decibels with 80 db as max (very loud). He then proceeded by giving a decibel level summary of three locations he observed with documentation as follows:

Decibel Level Summary

Date of observation: 9-2-21 - Time 4:30PM

Weather conditions: Sunny, clear conditions, 80 degrees.

Site location: Proposed location of York Travel Center - NW corner NY RT63 and NY RT36

Device used to collect dB data: FLUKE 945 Sound Meter # 43930403 dB level at property line of 2551 Genesee 150' from RT63: 50 dB — 55 dB dB level at property line of 2551 Genesee

150' from RT63 w/ tractor running across RT 36: 78dB dB level at project ordering

station/speaker location: 55 dB — 58 dB dB level at corner RT63 & RT36 25' from intersection:

55 dB — 68 dB dB level with passing truck jake brake: 68dB -77 dB dB level at intersection

with no trucks idling: 50 dB dB level of motorcycle accelerating away from gas station heading

east: 85 dB

Date of observation 9-13-21 - Time: 2:00PM

Weather conditions: Sunny, clear, 74 degrees

Site location: Tim Hortons drive thru 1555 N French Rd Amherst NY

Device used to collect dB data: FLUKE 945 Sound Meter # 43930403 dB level at drive thru 5' from ordering board/speaker prior to ordering: 55 dB dB level at drive thru 5' from ordering board/speaker while cashier speaking: 62 dB dB level 10' behind ordering board/speaker prior to customer ordering 55 dB dB level 10' behind ordering board/speaker while cashier speaking: 55 dB

Date of observation 9-14-21 - Time: 1:30PM

Weather conditions Sunny, clear, 82 degrees

Site location: Tim Hortons drive thru 6125 Main St Williamsville, NY 14221

dB level at drive thru 5' from ordering board/speaker prior to ordering 53 dB dB level at drive thru 5' from ordering board/speaker while cashier speaking: 58 dB

Mr. Hopkins added this project will need to be approved by the Planning Board but due to the code issue, this must be resolved first, which we hope the Town Board will consider otherwise a variance is required with the Zoning Board of Appeals.

Mr. Boyle stated that the Board has a complete packet of the project.

Mr. Hopkins gave a brief overview of what the Town's current code allows and proposed suggested setbacks for the Board to consider. Mr. Hopkins stated for their project or future ones, the current code will not allow any proposed projects with what is in place. Mr. Hopkins added that representatives have spoken with 3 of the 4 adjacent parcels regarding the project and they are in favor.

Mr. Hopkins is asking the Board on behalf of the York Travel Center to consider authorizing the Attorney to prepare Local Law wording to modify the current Zoning Code in Section 607 (c) regarding Drive-Thru facilities.

Councilman Smith inquired why not present this to the Zoning Board of Appeals?

Attorney Campbell replied that this request could be presented to the ZBA for an Area Variance or Use Variance. This type of request would not qualify under an Area Variance and with a Use Variance, there are many State statutes to contend with

specifically dealing with hardship cases, which this project would not qualify under, making a variance more difficult to obtain. Mr. Campbell continued by saying that the Town Board is the legislative board and it is not uncommon for a project applicant to ask the Town Board for consideration. The Board has approved previous requests over the years.

Mr. Hopkins reiterated under the current code, it states that no drive thru facilities can take place in this area or in any area based on your code. Mr. Hopkins stated that the office received today and the Board this evening, petitions supporting this project which the community seems to be quite supportive of especially Tim Horton's.

Supervisor Deming asked the Board how they wish to proceed and if they want to move forward with the Local Law.

RESOLUTION offered by Mrs. Parnell and seconded by Mr. Smith authorizing the Town Attorney to prepare the necessary paperwork for proposed Local Law to modify the zoning code for Section 607. Voted on and approved, Yes -4, No-0.

HIGHWAY:

Deputy Highway Supt, Mr. Wolfe reported the following for the Highway Department:

- We continue to mow roadside and cemeteries
- We wedged Federal, Limerick and Simpson Roads
- Cowan Road culvert replacement will take place before winter
- Ordered metal for the salt shed, Highway Dept. will install new roof
- Dow Rd. bridge project...Liv Co. Highway Dept. is overseeing this project because the bridge is theirs. The County and CP Ward were onsite recently to review, we were not notified of the meeting.

WATER/SEWER:

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

- Meters have been read for the upcoming quarter (October)
- We received the latest numbers for THM's...we are in the 40's which is very good.
- We had a water break two weeks ago on Chandler Road, it was an easy fix, corrected in a timely fashion.
- York Road West project status...it is in the hands of Livingston County Health Dept at this point.

OLD BUSINESS:

1) Retsof Sewer Camera Bid:

Supervisor Deming stated that we reviewed the camera bids at the August 10th meeting but tabled the matter for clarification. After speaking with CPL they verified that the low bid was Sewer Specialty Services and recommended authorization to proceed.

RESOLUTION offered by Mr. Smith and seconded by Mr. Gates to approve the bid submitted by Sewer Specialty Services Company, Inc. in the amount of \$16,800.00 for cleaning and televising the Retsof hamlet system in order to finalize the design related to the improvements to rehab the mains. Voted on and approved, Yes-4, No-0.

2) National Grid/LED Street Lighting:

Supervisor Deming informed the Board tht we did receive verification from National Grid pertaining to the street lighting LED conversion. We have a total of 164 poles throughout the town. The upfront cost is \$3,959.24, with an incentive of \$8,740.00 after the upgrade is complete. Supervisor Deming stated that the only remaining decision now is to determine the wattage necessary which Mr. Worden will do.

RESOLUTION offered by Mr. Smith and seconded by Mrs. Parnell to proceed with the LED street lighting conversion at a cost of \$3,959.24. Voted on and approved, Yes-4, No-0.

NEW BUSINESS:

1) Solar Committee Formation:

Supervisor Deming reported that the Board received several letters of interest for the Solar Committee:

Davies Nagel
Blaine VanRy
Becky Lewis
Jason Feltham
David Deuel

Mr. Deming added that Attorney Campbell, at the request of the Board combined the existing solar laws into one for review by the Town Board and the upcoming solar committee.

RESOLUTION offered by Mrs. Parnell and seconded by Mr. Smith to approve the names listed to form a solar committee. Voted on ad approved, Yes-4, No-0.

*Councilmember Parnell will also participate on the committee

2) Water Service Restoration:

a) 2073 Limerick Road:

RESOLUTION offered by Mrs. Parnell and seconded by Mr. Smith to approve the Water Service restoration request submitted by Terry McCarron (agent) for the property located at 2073 Limerick Road (Betsy Scott) in the amount of \$200.00. Voted on and approved, Yes-4, No-0.

3) Water Service Shut-Off:

a) 2526 Main Street:

RESOLUTION offered by Mrs. Parnell and seconded by Mr. Smith to approve the Water Service shut off request submitted by Angela Stokes for property located at 2526 Main Street. Voted on and approved Yes-4, No-0.

4) Advertisement:

RESOLUTION offered by Mr. Smith and seconded by Mrs. Parnell authorizing the Clerk permission to advertise for the following vacancies:

Planning Board (2) 5-year term; effective 1/1/2022

Zoning Board of Appeals (1) 5-year term; effective 1/1/2022

Board of Assessment Review (1) 5-year term; effective 10/1/2021

Voted on and approved, Yes-4, No-0.

5) Budget Hearing:

Supervisor Deming stated that Clerk Harris presented the 2022 Preliminary Budget to the Board, we must now set the Budget Hearing date and time.

RESOLUTION offered by Mrs. Parnell and seconded by Mr. Smith to schedule the 2022 Budget Hearing for Tuesday, October 12, 2021 at 6:00 p.m. Voted on and approved, Yes-4, No-0.

6) Solar regulations:

Supervisor Deming stated that Clerk Harris provided each board member prior to this evening a draft copy of the proposed updated solar regulations, prepared by Attorney Campbell. The Town Board will need to review such changes and the newly formed Solar committee as well.

ADJOURNMENT:

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

Town Board Meeting closed at 7:35 p.m.

Respectfully Submitted,

Christine Harris

Christine M. Harris, Clerk