

Work Session/ March 7, 2017  
5:30 pm

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

Others: James Campbell (Town Attorney)  
Kirk Richenberg

Supervisor Deming opened the work session at 5:35 pm stating that the purpose of gathering this evening was to revisit several ongoing issues that had been previously discussed but not yet resolved with topics to include Fracking, Solar Energy, and the removal of trees in the Fowlerville area. Mr. Deming noted that he wants to take the above issues and split them giving 2 Board members each a topic to follow up on.

Councilman Frank Rose Jr. arrived at 5:40 pm.

In terms of Fracking; Mr. Campbell spoke of the likely hood that Fracking probably would not take place in our Town but the fact that we would be more likely to contend with the waste or storage from the industry rather than the actual drilling. Attorney Campbell reminded the Board of the High Impact Industrial Use plan that had previously been given to him to modify for possible adoption to suit our Town code. It was then that Mr. Campbell asked the Board to review where they wanted to go and what they wanted to achieve. In addition, he also inquired as to whether the Board members had looked at any prior recommendations from earlier meetings specifically around Fall 2016 when documentation was presented regarding: Ban vs no Ban.

Councilman Smith asked Mr. Campbell how much has this all cost the Town so far. Mr. Campbell replied that he was not certain as he does not keep track per issue. Supervisor Deming said that the Town should be able to provide that figure for him based on our invoices paid to Mr. Campbell's firm.

At that time the Board and Mr. Campbell then discussed the word "Industrial Use" which could potentially interfere with existing businesses. Councilman Rose said that for an Industry or business to want to relocate here it would not be in their best interest if restrictions were in place therefore making it more likely for them to go to neighboring areas where there were none.

Supervisor Deming asked Mr. Campbell why the Town just couldn't go off the original moratorium with Mr. Campbell stating that it was a temporary document that did not produce any regulation. In addition, it needs to be fit to Town Code. Attorney Campbell gave a brief description between a moratorium and a ban with Councilman Rose asking him if any other communities have a ban in place or are considering one?

Supervisor Deming stated that it was his understanding that the Town of Lima does but Mr. Campbell was unaware and could not confirm that. Supervisor Deming also stated that he will be asking the Conservation Advisory Council (CAC) to mark the document noting key information and return it to the Town Board for review within the month as to continue moving forward with a decision.

Mr. Campbell discussed further acknowledging the Town wanting to act but not certain what they want to achieve without singling out any specific terms as it is still unclear what direction the State of NY is heading in. Decisions pertaining to current Environmental Conservation Law states no permanent modifications to bans.

Councilman Smith asked if the Town passes a ban on Fracking and NYS overturns law what would happen? Mr. Campbell said that ruling would supersede the Town to which then Mr. Smith acknowledged that it would then be a waste of money to pursue.

The Town Board and Mr. Campbell continued discussing based on industry conversations that more than likely no actual drilling in our community would take place. Supervisor Deming and Councilman Gates both agreed with Mr. Campbell that it is more likely that the storage and waste could become the significant issue for our Town.

Councilman Smith then posed several questions regarding whether the State currently had a ban in place and term limits while Mr. Campbell spoke about the process of revocation of laws and permits. Attorney Campbell reiterated several times that is fine with however the Town wants him to proceed and did say that it is reasonable to be concerned about the possibility of storage given prior usages referencing the Salt mine and Leicester Brine facility. Councilman Rose inquired as to whether it can be specifically spelled out to exclude certain areas of the Town that we would not want to see included in HVHF. Mr. Campbell reminded the Board that back in 2013 lawyers were brought in by the gas corporations to generate lawsuits against Towns that were promoting bans naming the Town of Avon as one that was sued. Despite winning, Mr. Campbell recognized that continuing to expend funds is also fiscally draining on budgets.

Henry Fuller arrived at 6:00 pm

Mr. Campbell stated that the Board needs to know where the CAC stands before more time and funds are spent. Supervisor Deming said that he would contact CAC member David Rose for an update. Mrs. Barefoot noted that the CAC had requested privileges and is on the agenda for the Board Meeting later in the week (3/9).

Supervisor Deming mentioned that we now have a direction for Fracking and then turned the topic to Solar Energy.

Mr. Campbell explained to the Board that he had provided documentation before on Solar Arrays and we are now seeing applications in surrounding communities specifically Avon where Agricultural areas, site lines and road ways are factors.

Supervisor Deming also stated that he did not think anyone has done a moratorium yet. Mr. Campbell said that the Town of Lima has but only on a commercial level not residential. He also shared that the Town of Livonia has recently asked him to look in to working on a Solar Moratorium. Councilman Rose added that he had recently heard that the Town of Mt. Morris has a signed plan to move forward for solar array. Supervisor Deming turned to Councilman Smith to ask if he was leaning toward a moratorium on prime farm land with Mr. Smith noting there were possible incentives if NYS Codes were followed.

Mr. Campbell told the Board that there was a difference in regulations in commercial vs residential tweaking the model so that it fits per our Town code. Supervisor Deming shared that what he sees as the potential future issue with solar is groups buying up farm land for profit therefore taking all the acreage. Councilman Smith stated a reclamation clause would not allow that and Mr. Campbell reiterated that we are a Right to Farm community. Councilman Rose and the Supervisor both stated that Solar and wind energy are both considered farming.

Mr. Campbell said the question now is if the Board still wanted to act or entertain a moratorium. Supervisor Deming shared that two locals had already contacted him as possible contenders and if we were to move ahead with a moratorium how much acreage was necessary...10...20? He also thought it was best to give the Conservation Advisory Council (CAC) the NYS model codes to review language, giving them an opportunity to make suggestions then turning over to Mr. Campbell to start working on it.

Councilman Smith mentioned that he sat in a land use meeting recently and made a point to say to all that he wanted to be sure the Board and the two gentlemen in attendance this evening (Mr. Richenberg & Mr. Fuller) were aware that this IS NOT a personal issue but a community issue.

The Supervisor spoke while saying he is clearly in favor of solar energy, just not taking prime farm land away to do it. Mr. Campbell agreed with both Mr. Smith and Supervisor Deming while reiterating that we need to find out if the Board opinions are all in agreement. On a personal level, Mr. Deming believes that we should proceed with a moratorium. Mrs. Parnell asked what the time frame might be regarding how long the moratorium should be for...a year...6 months?

Mr. Campbell questioned moratorium vs code provisions and provided detailed information. Both Councilman Smith and Supervisor Deming agree that we need to move forward and this forces the Board to do so.

Mr. Campbell reminded the group that the recent solar project at York Animal Hospital was an example of a good responsible development with all agreeing. Supervisor Deming added that based upon Board comments this evening he has an idea as to where they are going with solar arrays.

The last topic Supervisor Deming wished to address with the Board was the recent tree removal in the Fowlerville area specifically Batzing and Casey Roads. Per the Town's Comprehensive Plan, Mr. Deming stated that we are trying to keep that area rural and questioned how do we enforce it?

Mr. Campbell said that we need to know the difference and sort them out as there are very specific Ag rules that do not apply. Another factor to consider is at what level are we restricting a person's usage of their own land. Would need to build in exceptions.

Supervisor Deming turned to the Town Board and asked for thoughts and opinions from the group.

Councilman Smith said it deals with landowner rights which makes it a "sticky situation". From an environmental standpoint, there is a process for which a landowner is to apply for a permit depending on the scale of the removal.

Mr. Campbell added that we need to know if clear cutting has an impact on the land specifically drainage.

Councilman Rose asked, "Did the Fowlerville project need approval?" Mr. Smith said if so, then some type of approval for the project should be on record at Natural Resource Conservation Services (NRCS) and looked to Mr. Richenberg who was in attendance and asked if he had looked in to anything pertaining to this issue. Once Mr. Richenberg realized that Councilman Smith posed the question to him he said no he had not but added that the Army Corps of Engineers and the Livingston County Soil and Water Authority might also have that information on file.

Attorney Campbell then mentioned Big forestry regulations and offered to look in to that further but the Supervisor stated that he did not want to spend funds at this point to go that route. Mr. Campbell appreciates the Board being conscientious and suggested using volunteers to do the homework as it really is not cost effective for him to look in to the matter at this time.

Supervisor Deming then briefly recapped a summary on the other topics that had been discussed noting that the action the Board intends on taking with Fracking. In regards to Solar Arrays, he asked the Board to think about whether they wanted to consider moving forward with a moratorium.

Mr. Campbell said the Board would need to tell him if they wanted to move forward on any actions discussed possibly reviewing and going through Local Law adoption steps to view it first, tweak and make comments.

Councilman Rose asked Supervisor Deming how the sidewalk meeting went last week and he replied that it is moving forward.

RESOLUTION offered by Mrs. Parnell and seconded by Mr. Rose to adjourn the Town Board Work Session. Voted on and approved Yes- 5, No- 0. Work Session adjourned at 6:30 pm.

Respectfully Submitted,

Patti Barefoot  
Dep Town Clerk

