

**REGULAR MEETING
OF THE
TOWN OF WESTERLO
TOWN BOARD
TUESDAY JULY 3, 2012**

The Town of Westerlo Town Board met on Tuesday July 3, 2012 in the Westerlo Town Hall located at 933 County Route 401 in Westerlo. The meeting was opened by Supervisor Richard H. Rapp with the Pledge of Allegiance to the Flag at 7:30 pm with the following present:

PRESENT WERE: Supervisor Richard H. Rapp
Councilman R. Gregory Zeh Jr.
Councilman Alfred L. Field
Councilman Anthony W. Sherman

ABSENT: Councilman Edward A. Rash

Also present were Town Clerk Kathleen Spinnato, Zoning Administrator/CEO Edwin H. Lawson, Planning Board Chairperson Dorothy Verch, Planning Board Member Edwin (Ned) Stevens, & Highway Superintendent John Nevins, Albany County Legislator Deborah Busch, several town employees and approximately 35 residents & interested persons.

Supervisor Rapp asked for a motion to accept the June 5, 2012 Town Board minutes. Councilman Zeh made the motion to approve the minutes, seconded by Councilman Sherman, motion unanimously carried.

Supervisor Rapp asked Kenneth Drumm to speak about a situation he and several neighbors have. Mr Drumm described the situation as a safety & noise issue from a neighboring home on State Route 143 in the Westerlo hamlet. He feels the dirt & stone being kicked onto the State Highway or their riding so near the highway with the dirt bikes may cause oncoming traffic to swerve to avoid them, either of which may cause an accident/injury. The noise is from revving of compact car engines and the dirt bikes with loud mufflers. He would like the activities to stop or at least be curtailed.

Jeff Meszaros a neighbor was concerned about his children who ride quieter vehicles in the back, if this would cause a stop to their activities. He doesn't have a problem with the occupants riding as long as they quiet it down and ride in the back where he believed there was 3 acres with the property.

Anita Marrone reported a separate situation of unknown persons spinning vehicle wheels on Tan Hollow Road stirring up dust, stone and a bee nest on the bridge.

Barbara Vendon a neighbor had issue with the noise. Noise can start at 10AM and continue until 9:15 PM. It is not just the tenants ATV's, other persons are bringing their ATV's to the State Route 143 location and riding.

Simone Smith a neighbor explained there have been times when she had an issue with noise. She has spoken to the tenants and that seemed to help for awhile. Her concern is that a rule would be established that would affect other people or children who ride Go-karts, ATV's or other vehicles not quite as often that are quieter and have never received a complaint prior to this.

Bill Bichteman Jr. who owns a nearby shop, has spoken to the tenants not for the noise but because he felt they were being unfair to the neighbors. The individuals have

removed the spark arrestors making the dirt bikes extremely loud and the fact that they are riding so close to the road. He had concerns that the complaints may cause the Board to enact legislation that would affect other Town residents as well.

Councilman Sherman asked if the police had been there. Mr. Drumm said he was unsure. One neighbor had seen an officer there, the tenants swept the dirt from the roadway.

Supervisor Rapp offered to speak to the home owner, and write a letter to the State Police or Sheriff's so they are aware of what is happening and asked the Board for their input. Councilman Zeh was in agreement on having Supervisor Rapp have a direct conversation with current tenant & property owner to address the situation and asked the Supervisor to let the Town Board know if this has any effect on the situation. He also agreed with some neighbors that he would dislike enacting a law or legislation for a few that may impact more people especially outside of the hamlets. No other comments were made by the Board members.

Town Clerk Kathleen Spinnato reported that the NYS Retirement System requires a Standard workday reporting resolution be adopted for elected and appointed officials who are active members of the NYSERS. The completed resolution report was presented to the Town Board members who were present. Councilman Zeh made the motion to adopt the following resolution:

WHEREAS: the Town of Westerlo needs to establish the standard work day for elected and appointed officials and report to the NYS Employees Retirement System be it hereby

RESOLVED: the Standard Work Day and Reporting Resolution form RS2417-A & B (2 pages) of July 3, 2012 is adopted. The Town Clerk will post the resolution for 30 days, send an affidavit and the report to the NYS Employees Retirement System for filing.

Councilman Sherman seconded the motion and a vote resulted as follows:

AYES: Supervisor Rapp
Councilman Zeh
Councilman Sherman
Councilman Field

NAYS: None.

RESOLUTION # 22-2012 was thereby duly adopted. **POSTED 7/10/12 on www.townofwesterlony.com

Supervisor Rapp reported that he has had a conversation with Roger Hannay regarding land he owns which abuts the Town of Westerlo Transfer Station on Anable Rd. Mr Hannay would like to donate the property to the Town of Westerlo but he wants to make sure that the Town of Westerlo will do something with the land. Councilman Zeh reported as a Board we have a concern to understand and know what the stipulations are on the property. If there is a contingency or concern that we use the property, we want to fully understand what the contingency is before the Town agrees to accept the property. Councilman Zeh suggested that the Town Board ask that Mr. Hannay either outline the terms of the deal in writing in a letter of understanding or the Town of Westerlo Attorney be able to speak to Mr. Hannay's attorney which is where it was left the last time this matter was brought up. Councilman Zeh appreciated Mr. Hannay reaching out to Supervisor Rapp but more information before making his decision.

Supervisor Rapp asked for a motion for Town of Westerlo Attorney Aline Galgay to speak with Mr. Hannay's Attorney. Councilman Zeh seconded the motion and carried all present in favor.

Supervisor Rapp then turned the meeting over to Councilman Field. Councilman Field made a motion to have a Public Hearing next month regarding the establishment of a proposed Moratorium on Hydrofracking. *(see decision below)

Resident Helena Kosorek interrupted asking the Town to make 18 copies of information she had gathered on Hydrofracking, asking the town to then distribute the copies to Town Board members, Planning Board members, Town Attorney and a copy for the Town to keep on hand. She also requested permission for Tasha Hans be present at the next Town Board meeting to present information on Hydrofracking. She was also asking for the Town Board to make the Town Hall available the last two days in July to have the Public come and have information available.

Councilman Zeh explained that Councilman Field's motion was to establish a Public Hearing for the adoption of a resolution to establish a moratorium on Hydrofracking. He believed that Councilman Field's motion was more towards the length and legality of a moratorium, not the moratorium issue itself no decision would be made on the moratorium issue. The Town Board discussed last month looking into three issues: the legality of a moratorium, would a moratorium sustain the rigors of legal scrutiny, and what happens if NYS DEC issues permits. Since then we have received legal advice and guidance that it would stand on its own legal merits, and a precedent is established in other court cases relating to other towns having moratorium's challenged.

Discussion followed regarding the proposed public hearing with more public comment on the subject and regarding posting of the draft moratorium for public review. Councilman Zeh then re-advised that the purpose of the Public Hearing is strictly to adopt the establishment of a moratorium itself, not the topic of Hydrofracking. The public can comment on the wording of the proposed establishment of a moratorium on hydrofracking, and either agrees or does not.

**Councilman Zeh seconded the motion made by Councilman Field to hold a Public Hearing on proposed Local Law #2 of 2012 entitled "Gas Drilling Moratorium Law of 2012 of the Town of Westerlo" to be held with the August Town Board meeting. Motion carried by all present. The proposed law will be posted on the Town of Westerlo website and available in the Town Clerk's office for public review.

Supervisor Rapp advised that in August he would be attending a function that coincides with the date of Tues August 7th. He asked the Town Board if it would be possible for the August Town Board meeting to be held on Wednesday August 8th and to advertise the date change for the August meeting in the Altamont Enterprise. Councilman Zeh made a motion to hold the Town Board meeting on Wednesday, August 8th 2012 seconded by Councilman Field and carried by those present in favor.

Supervisor Rapp reported the Town Board has received an application for the use of the Town Hall by two persons who want to practice Ballroom dancing whenever the hall is available. A brief discussion followed with questions and comments from the public and Councilman Zeh explaining why he was not in favor of the application approval. The Town Board then voted on the application for use of the Town Hall with the following results:

AYE: Supervisor Rapp
NAY: Councilman Zeh
Councilman Field
Councilman Sherman

The application for use of the Town Hall auditorium was denied.

Supervisor Rapp reported the monthly bills need to be paid and made a motion to adopt the following resolution:

WHEREAS: the Board has audited the monthly bills, be it
RESOLVED: that the following bills be paid:

Vouchers # 271 through #312 -----\$39,062.28

Councilman Sherman seconded the motion and vote resulted as follows:

AYES: Supervisor Rapp
Councilman Sherman
Councilman Field
Councilman Zeh

NAYS: None.

RESOLUTION # 23-2012 was thereby duly adopted.

Supervisor Rapp then opened the meeting to the public.

William Bichteman Jr. spoke regarding the Westerlo Water District #1. He asked if the Town had become a member of the UFPO. Supervisor Rapp thought they had become a member of some organization not sure what one, he didn't have that information on hand at this moment. Supervisor Rapp reported that Central Hudson had told him they had called before setting power poles. Mr. Bichteman explained that the water district could be subject to a charge, for a repair that was not necessary and should not have happened. In any event, the water line was not located and Central Hudson stuck the power pole on top of the water main. Luckily it resulted in a minor repair. He would think Central Hudson will go through their insurance company and pay the cost of repair. The indication of a valve by the side of the pole should have been an indication to CH that something was there.

Councilman Zeh asked if they could elicit the support of the Town of Westerlo Highway Superintendent to validate the UFPO filing and provide contact information. John Nevins reported that a UFPO was filled out along with Kim Slingerland, the main contacts are John Nevins, Jody Ostrander; and Edwin H. Lawson for design and planning. Councilman Zeh reported they had filed with the Rural Water Association or Rural Water Board. They provide a GPS service to show the, as built, is accurate and correct. This should be followed up on to validate the water district information.

Mr. Bichteman maintained there had been a failure to follow through on a previous discussion from two years earlier regarding, contact person(s), spare parts, the exact location of the water main, spray paint for marking water main, and flushing of the system. The system operator failed to advise the Town on sending boil water letters. Supervisor Rapp and Councilman Zeh reported that the letters were sent to the occupants of the water district to boil water. Bill asked if the current Town Hall (933 County Route 401) is connected to the Water District if not it should be. Supervisor Rapp responded no, due to lack of funds.

Water District meetings were briefly discussed, the meetings should be occurring twice yearly.

Clinton Milner spoke regarding the land offered by Roger Hannay and the price he felt was insufficient that the Town of Westerlo received from the sale of metal from Rensselaer Iron & Steel Co.

Eugene McGrath asked if there were any permits on the Klersey property for multiple family dwellings on Flood Road. Code Enforcement Officer Ed Lawson reported not to his knowledge, but asked if Mr. McGrath had any knowledge of multiple family dwellings and if he was notifying him, he would look into the matter. Mr. McGrath was unsure. He had noticed vehicles on the property and parked on the roadway (Flood Rd.). Mr. Lawson advised that the cars parked on the road would be a police matter. Mr. McGrath then asked for the residency of Councilman Zeh. Councilman Zeh advised Mr. McGrath and Mr. Milner that his residence is in Westerlo.

Helena Kosorek then requested the information she had requested earlier in this meeting on hydrofracking be presented to the Boards, etc., for speaker Tanya Hans be put on the August 8th Town Board agenda & the possible use of the Town Hall for two days in the end of July for speaker Tanya Hans.

Councilman Zeh made the motion that Mrs. Kosorek provide the information she currently has on hydrofracking to the Hydrofracking Committee. He also believed Tanya Hans being put on the Aug. 8th Town Board agenda as a speaker is not pertinent to the information relating to the establishment of the proposed moratorium on gas drilling in his opinion. The use of the Town Hall building is a decision for the entire Town Board. Councilman Sherman seconded the motion and carried those present in favor. No decision was made by the Town Board on the two day use of the building. Discussion followed with further comments from Anita Marrone and Bill Bichteman Jr. on the topic.

Anita Marrone asked about bids on the roof that had been discussed at the last Town Board meeting. Councilman Sherman asked CEO Ed Lawson if he had a chance to work on soliciting bids for the roof work that needs to be done. Ed Lawson has contacted some contractors and is waiting for their response.

Ned Stevens felt that the Town of Westerlo should consider elimination of salt use on Town roads. Mary Finneran of Cairo, NY commented that salt from hydrofracking activities can be used as road salt and was banned in Ulster County.

Leonard Laub asked if the Hydrofracking Committee has met yet. Councilman Field responded that they have not, and the Committee was advised by legal counsel that they should not meet until a moratorium is in place. A short discussion followed between Leonard Laub, Councilman Field and Larry Verch.

Helena Kosorek questioned the length of time it took to form a Hydrofracking Committee. A brief discussion followed between Councilman Field, Mrs Kosorek, and Larry Verch on this topic.

No further comments being made, Supervisor Rapp made a motion to adjourn the meeting, seconded by Councilman Zeh and carried all present in favor. Meeting adjourned at 8:40 PM.

Respectfully Submitted,

Kathleen Spinnato, Town Clerk

