

**PUBLIC HEARING & REGULAR MEETING  
OF THE TOWN BOARD  
TOWN OF WESTERLO  
WEDNESDAY, AUGUST 8, 2012**

The Town of Westerlo Town Board held a Public Hearing regarding proposed Local Law No. 2 of 2012-Gas Drilling Moratorium. The Public Hearing, followed by the regular Town Board meeting was held at the Westerlo Town Hall located at 933 County Route 401, Westerlo. Supervisor Rapp called the hearing to order with the Pledge of Allegiance to the Flag at 7:30 PM on Wed. August 8, 2012. A draft copy of the proposed law was available at the meeting, on the Town of Westerlo website @ [www.townofwesterlony.com](http://www.townofwesterlony.com), and was also available in the Town Clerk's office for public review.

**PRESENT WERE:** Supervisor Richard H. Rapp  
Councilman R. Gregory Zeh  
Councilman Anthony W. Sherman  
Councilman Edward A. Rash  
Councilman Alfred L. Field

Also present were: Zoning Administrator/CEO Edwin Lawson, Planning Board Chairperson Dorothy Verch, Town Clerk Kathleen Spinnato, several town employees and approximately forty-eight individuals; both resident & non-resident.

The Town Board and the public had the opportunity to comment and suggest any revisions to the proposed local law. Zoning Administrator Edwin Lawson explained the moratorium would give the Town of Westerlo a 1-year period to gather information for both the negative & positive effects of hydrofracking. He advised all present that the permit process is not done by any towns, it goes through New York State and to his knowledge no permits have been issued to date by the state.

The public asked questions, voiced concerns, making recommendations and providing their input on the subject. Residents who spoke included Anita Marrone, Gene McGrath, Leonard Laub, Patricia Britton, Dianne Sefcik, Anderson Smith, Helena Kosorek, William Bichteman Jr. Non-Residents who spoke included Toshia Hance, Bonnie Jones Reynolds, and Mary Finneran. They suggested revisions to the specific wording of the draft, voiced concerns regarding ie: related activities associated with the hydrofracking process, non sufficient fine amounts, water contamination, storage of chemicals, transportation, etc.

The Town Board members reviewed the draft, answered questions, and made recommendations for revisions to the draft of the moratorium. Councilman Zeh read the draft asking first the Town Board members' input and secondly the public input on each section and paragraph of the draft moratorium. Councilman Zeh noted all the requested revisions to the draft. He will forward the revisions to Town Attorney Aline Galgay for correction and inclusion in proposed Local Law #2-2012 Gas Drilling Moratorium. All persons present having been heard, Councilman Zeh made the motion to close the public hearing, seconded by Supervisor Rapp and carried unanimously. The Public Hearing closed at 9:20 PM

The regular meeting was then opened by Supervisor Rapp.

Councilman Zeh made a motion to approve the Town Board minutes of July 3, 2012 with the following corrections (as noted in red on the draft minutes) to paragraph #1, page #1: Zoning Chairperson changed to Planning Board Chairperson & Zoning Member changed to read Planning Member. The motion was seconded by Councilman Field and unanimously carried.

Councilman Zeh made a motion to adopt the following resolution:

WHEREAS: the Town of Westerlo has held a Public Hearing regarding the establishment of a one year moratorium on applications, approvals, and/or drilling for natural gas, including but not limited to, the process known as high volume hydraulic fracturing in the Town of Westerlo, be it RESOLVED: that Local Law #2-2012 Gas Drilling Moratorium is hereby adopted and will include the revisions as noted by Councilman Zeh and discussed by the Town Board during the Public Hearing of August 8, 2012.

Councilman Rash seconded the motion and a roll call vote resulted as follows:

AYES: Supervisor Rapp  
Councilman Zeh  
Councilman Rash  
Councilman Field  
Councilman Sherman

NAYS: None.

**RESOLUTION #24-2012 was thereby duly adopted.**

Councilman Field reported on the Gas Drilling Investigation Committee. He advised that the Committee had a preliminary meeting. Some of the items that need to be investigated are:

- The feasibility of horizontal drilling in the Town of Westerlo
- Infrastructure: roads, bridges, culverts and any damages caused to those structures
- Environmental issues: water usage, disposal, wells
- Social Issues: Population increases, Fire & Rescue demands
- Economics: Tax Revenue, Jobs
- Long term effects & use
- Traffic
- Maintenance
- DEC Regulatory responsibility

Councilman Rash suggested that the committee may also want to investigate the City of Albany Water Department that controls the Basic and Alcove Reservoirs. In the past when a proposed mercury plant wanted to establish a business in the Town of Westerlo the water department's involvement was very helpful.

Supervisor Rapp then advised the Town Board that Nancy Thackaberry asked to be put on the agenda for a complaint she has. Nancy Thackaberry had a complaint about a business next door on 45 CR 312 Triple L Landscaping. She gave a brief history of the business. Her complaints were regarding noise, traffic (the owner's business vehicles), material storage safety, screening of employees, odors, lighting from an overhead light, clearing of trees on the business owner's property, etc. She quoted and made reference to the Town of Westerlo Zoning Law. Nancy was asking for the Town Board to request a

Special Use Permit & place a Cease & Desist Order on the owners Ted & Deb Lounsbury until the special use permit is filed with the Town of Westerlo.

Councilman Zeh asked if she had spoken with Town of Westerlo Code Enforcement Officer (CEO) Ed Lawson. She had been in contact with Mr. Lawson since April when the clearing of trees began. She advised he responded by stating he would speak to the Lounsburys. Mr. Lawson advised her that in order for him to enforce any special permit requirements he would need to hear from the Town Board. Her original complaint was about the land clearing, she stated she had no idea that the business was not regulated by the Town of Westerlo

Councilman Zeh asked if CEO Ed Lawson would report on the matter to the Town Board. Mr. Lawson had looked into the matter due to the initial complaint about land clearing. There was no visible land clearing except for some trees taken down, which is totally permissible; the Town has no regulations on that. He advised Ms. Thackaberry that land clearing is regulated by New York State Department of Environmental Conservation. She contacted NYS DEC. NYSDEC has visited the property and the Lounsburys cooperated fully and allowed them on the site. NYSDEC has sent a letter to the Lounsburys and to Mr. Lawson that the site has no violations evident. Mr. Lounsbury can cut down his trees up to an acre; after that a NYSDEC permit is required.

CEO Lawson explained he had referred Nancy Thackaberry to the Town Board because in the past, when the Planning Board received applications for a business such as this; which does not conduct business on site, the business is conducted off site they were not required to have a Special Use Permit. The board in the past felt the activity of the business took place off site, so no requirement was needed. If the Town Board wants me to do something contrary to what I just explained I need specific direction on what you would like me to do. The Lounsburys have been cordial, I just visited them recently regarding construction of a deck and issued a permit for the deck. As you know that was recently made a law that decks are regulated and a permit is required.

Mr. Lounsbury responded he and his family have lived there all his life. His business is part time. He has done landscaping, sealcoating, and line striping. He invited the Board to come to look at his property and advised the lighting is for security reasons and everything is kept inside, no chemicals. All equipment is serviced off site at a local garage where waste oil is removed. The Lounsburys own 15 acres and his property comes to within 5 ft. of Nancy Thackaberry's deck, they have cut trees on his property and he has been a good neighbor and let it go. He has cleared a portion of his land 100 x 125 where it opens up to a field where he keeps his grass clippings. He has two employees who are both town of Westerlo residents. The business started in 1994-1995. The Town Board asked more questions which Mr. Lounsbury answered.

Steve Tomaser (Nancy Thackaberry's spouse) then spoke regarding the expansion of the commercial business, regarding noise and hours it occurs, fencing, and vehicles parked near property line should be moved so they are not within 50' from property line. He thought there should be a permit process put in place and a statement from Mr. Lounsbury of his intentions regarding the operations/expansion of this business. More comments regarding the issue were heard from Anita Marrone, Deb Lounsbury, Brenda Duncan, Peggy Duncan, Councilman Zeh & Councilman Rash.

Councilman Zeh advised if this is Nancy Thackaberry's formal complaint, and if the rest of the Town Board is in agreement, they should refer this matter to the Code Enforcement Officer for his review and his interpretation of the Zoning Law. Mr. Lawson can then report back to the Town Board. Councilman Zeh reminded the public that a similar complaint regarding noise and ATV's and neighbors having a dispute was brought before the Board last month. The Town Board can only do so much to restrict so much within the Town of Westerlo, after awhile everything is prohibited. He appreciated that Nancy Thackaberry had gathered all her information together and he congratulated the Lounsburys for running a business started in 1994. The information gathered was then provided to CEO Lawson for his review. The Town Board members agreed with Councilman Zeh.

Supervisor Rapp made a motion to transfer funds and to adopt the following resolution:

WHEREAS: some accounts have been overdrawn, be it  
RESOLVED: that the Supervisor is hereby authorized to increase the following appropriation accounts from available fund balance:

|           |             |
|-----------|-------------|
| A 1620.4  | \$15,000.00 |
| A 9040.8  | 2,000.00    |
| DA 9040.8 | 3,000.00    |

Councilman Zeh seconded the motion and a roll-call vote resulted as follows:

AYES: Supervisor Rapp  
Councilman Zeh  
Councilman Rash  
Councilman Sherman  
Councilman Field

NAYS: None.

**RESOLUTION # 25-2012 was thereby duly adopted.**

Supervisor Rapp made a motion to adopt the following resolution:

WHEREAS: the Town Board has audited the monthly bills, be it  
RESOLVED: that the following bills be paid  
Voucher #313 through # 361 in the amount of \$44,010.57

Councilman Zeh seconded the motion and a roll-call vote resulted as follows:

AYES: Supervisor Rapp  
Councilman Zeh  
Councilman Rash  
Councilman Field  
Councilman Sherman

NAYS: None.

**RESOLUTION #26-2012 was thereby duly adopted.**

Supervisor Rapp then opened the meeting to the Public.

Jack Milner continued the discussion from previous meetings on the topic of recycling of scrap metals at the transfer station. He compared different years & tonnage, difference in the price of steel per ton between Rensselaer Iron & Steel and Hudson River scrap metal companies and the large loss of income for the Town of Westerlo.

Councilman Rash asked Sal Spinnato if the Town had a contract with Rensselaer Iron & Steel. Sal reported that all he knew ever since he has been an employee of the

Town of Westerlo the Town has always used Rensselaer Iron & Steel (RIS) for recycling of scrap metals. The only thing that is done at the Transfer Station by Town employees is the loading of metal container with our loader. RIS provides the containers, trucks, drivers and transports the scrap metal to their facility, he sees no slips.

Councilman Sherman asked Mr. Milner if his comparison was for all steel. The Town of Westerlo Transfer Station recycled scrap metals are co-mingled it is not all steel. Councilman Rash asked Mr. Milner if he was comparing co-mingled steel with white steel and does Hudson River provide the containers, trucks, drivers for transport of scrap metals. Mr. Milner did not respond to the question. Discussion continued and ensued, Councilman Rash asked Mr. Milner to provide specific information and facts when doing his comparisons before making alleged accusations.

Tom Diedrich of the Town of Westerlo Volunteer Fire Co. reported on a federal grant that was awarded to the fire co. The \$429,000.00 grant involves 12 other fire departments. Westerlo Fire Co.'s maximum amount from the grant might be \$18,000.00. The grant is for recruitment and retention of new members. There are requirements and regulations that need to be met over the three year period. It can be used for physicals for new members and the purchase of turnout gear. There is going to be a press conference in a few weeks involving higher level politicians and he invited anyone from the Town Board to participate, just speak to him if you are interested. He also reported on the purchase of \$1,000 of equipment jointly with Berne Fire Department. The equipment is for the identification and to keep track of people during an emergency situation. He also reported due to the Hurricane Irene and the extreme amount of paperwork that was involved responding to calls they were able to obtain \$6,000.00. The funds were used for two vehicles if anyone wants to come and look. It has some rust spots and non functioning air conditioning the vehicles were bought through NYS surplus auction. The Fire Co. wanted to thank the local business Morin's Garage for transport and inspection. The vehicles are for use of chief officers and for required training classes and transport of air bottles that need to be tested. He provided more information on this subject and touch on aid between surrounding fire companies.

The last person to speak congratulated the Town Board for their cooperation, participation and interaction with the people tonight. Another woman reported that she has been to many Town Board meetings throughout the state and she saw democracy in action tonight and stated the Board was awesome.

There being no further business Councilman Zeh made a motion to adjourn the meeting at 10:10 PM. Motion was seconded by Councilman Rash and carried unanimously.

Respectfully submitted,

Kathleen J. Spinnato

