

**TOWN OF WESTERLO TOWN BOARD  
TWO PUBLIC HEARINGS**

- 1. Draft of Proposed Local Law #3 of 2016 a  
Six Month Moratorium on Ground Mounted Solar and Solar Farms  
&**
- 2. Proposed Abandonment of the South west section of Clickman Road  
on  
Wednesday, May 25, 2016**

The Town of Westerlo Town Board held two Public Hearings on 5/25/2016 at the Town Hall located at 933 CR 401, Westerlo, NY. Supervisor Rapp opened Public Hearing #1 at 6:30 PM with the Pledge of Allegiance to the Flag. The Public Hearings were advertised in the official newspaper, posted on the sign board, and posted on the Town website. A copy of the proposed local law was available for public in the Town Clerk's office, posted on the town website and at the Public Hearing.

ATTENDING WERE: Supervisor Richard H. Rapp  
Councilman Anthony W. Sherman  
Councilwoman Amie L. Burnside  
Councilman William F. Bichteman Jr.

Also attending were: Zoning Board of Appeals (ZBA) Chairwoman Virginia Mangold and member John Sefcik, Planning Board Chairwoman Dorothy Verch and member Edwin Stevens, and Town Clerk Kathleen Spinnato and approximately 18-20 residents.

Supervisor Rapp asked ZBA Chairwoman Virginia Mangold to advise the public why the Zoning Board is requesting the proposed Local Law #3-2016. Virginia advised that the ZBA is suggesting a moratorium , as more direction is needed in regards to solar energy, particularly for ground mounted solar energy and solar farms. The ZBA recently granted a variance after several site visits for a ground mounted solar installation on a substandard lot of less than one acre. The setbacks which are measured from the end of panels not the pole, glare, 20 to 30 year lease and if the company will dismantle when they are no longer wanted, are just some of the concerns of the ZBA. Councilman Bichteman advised the property owner would have a contract with the company.

Several Westerlo residents and a Town of Berne resident spoke giving their opinions, suggestions or made inquiries on the following:

- impact on individual properties
- impact on historical districts, if any in town
- checking with the Towns of Berne and Knox regarding solar
- whether more power lines would be required and the health and safety of public
- contains restrictive language for those who have adequate acreage or do not require a variance because they meet the setbacks
- believed a moratorium was not necessary, residential vs. commercial properties
- possible establishment of a committee.

The Town Board having heard the concerns of the public then held a discussion. Councilman Bichteman felt the draft of Local Law #3 was overreaching and the Town Board should ask the Town Attorney to redraft. Councilman Sherman felt the draft should separate the following categories:

- solar farms
- residential
- commercial
- properties requiring a variance.

The re-draft should also include language for the following concerns: glare, distance from a road, and safety of firefighters.

Supervisor Rapp asked for a motion to close the first public hearing. Councilman Sherman made a motion to close, seconded by Councilman Bichteman, motion carried all in favor. The first Public Hearing adjourned at 7:01 PM.

Supervisor Rapp then opened the second Public Hearing for a request from residents John & Dianne Sefcik to abandon a section of Clickman Rd.

The Sefcik's are requesting the Town of Westerlo file a Certificate of Abandonment for a portion of Clickman Rd. Mr. Sefcik read his letter of account on the background of Clickman Rd. since their purchase of the property in 2003 and that of the Newell's who are trying to sell property. Mr. Sefcik advised in order for the Newell property to have access to Clickman Rd., it would require a short distance be traveled through the Sefcik's property. He included his drawing of his measurements of where their property, the Newell property and Clickman Rd. meet. He also read an affidavit from Henry Whitbeck the surveyor of the Sefcik's property.

Attorney Jon Kosich representing Mr. & Mrs. Newell spoke advising of the bias position of the Sefcik's who are trying to lay claim to protect the privacy of their property. He advised the surveyor working for the Sefcik's did not survey the boundaries of Clickman Rd. The Town should not be put in the position of the Court. Other options are available such as Qualified Abandonment which preserves the public's right to the road. The burden of proof is on the Sefcik's to prove and take to Court.

Attorney Kenneth Stenger representing the Sefcik's spoke asking if there would be any other persons speaking so he could hear what they have to say.

Mr. Ed Newell spoke. He indicated he has lived on Johnny Cake Hill Rd. on a 125 acre parcel that was purchased by his father's grandmother in 1928. Clickman Road was there at that time and was not built by her. The access from that road to the farm had been used his entire life, long before the Sefcik's bought their property. Mr. Newell's father moved into a nursing home and was no longer able to brush hog his property. Mr. Newell indicated that he can still drive down to the Westerlo & Rensselaerville Town line with four wheelers. The brush is not overgrown as bad as has been indicated by others. An approximate 20 ft. wide bar gap that is there, has "grown rocks" two or three deep which were not placed there by neither him nor his brother. He indicated the measurements he had taken which go beyond the surveyor's pin. He has pictures of logs across the road that limited the access to Clickman Rd.

Charles Benninger indicated he had done brush hog work for the Sefcik's they had asked him to move some limbs and rocks.

Betty Filkins indicated that their family had permission from the Newell's to ride snowmobiles through the road in the winters which they did up until someone started blocking the road off. They got caught in barbed wire fence across the road while snowmobiling.

Ruth Savino indicated they grew up there. All generations of her family would walk or picnic to the Rensselaerville end of Clickman Rd., until her sister had an incident and was told to get off, it was private property. She would love to be able to continue to walk or ride bicycles on the road with grandchildren but is now afraid to after the incident which happened to her sister.

A question was raised by a resident about the deeds and if an easement exists. The Attorneys representing both parties expressed their differing legal opinions on the matter. Attorney Stenger then stated his legal opinion on the proposed abandonment or qualified abandonment of Clickman Rd. and statements made by the public.

Real Estate agent Tracy Boomhower hired by the Newell's spoke in regards to her experience. She indicated on the day before Thanksgiving 2015 she intended to drive down Clickman Rd and a chain

was blocking it. She parked her car and walked to what she believed was the opening shown on a tax map and took pictures when she walked back she was approached by Mr. Sefcik it was "aggressive and angry". She then provided more details of the event from that day. She wondered if others intending to walk down the road may have been approached the same. Attorney Stenger responded to her comments indicating it was hunting season, the chain was not locked.

A resident commented and gave her opinions on the past conversations between the Sefcik's and Town Officials and asked if there was a title search. Mr. Sefcik submitted a copy of a title from his Owner's Policy. Attorney Stenger indicated there is no recorded easement in this document.

Mr. Sefcik gave his account of the events on the day before Thanksgiving 2015. He advised that once he knew who Ms. Boomhower was, he showed her his property lines, the corner survey pin, and a copy of his survey.

Ms. Boomhower mentioned after that fact, what Mr. Sefcik failed to mention is that Mrs. Sefcik then came out yelling just as bad, it was a very upsetting experience.

Attorney Kosich advised that the Title submitted tonight by Mr. Sefcik, does not go back far enough and there could be easements from the 1800's, etc.

Attorney Stenger and Attorney Kosich debated arguments for both clients.

Betty Filkins mentioned that she has rode snowmobiles all her life. A surveyor would have no evidence in the month of June that a snowmobile had been through in the winter.

Charles Benninger inquired why it is so crucial now to abandon Clickman Rd if the Newell's property does not touch it. Attorney Stenger responded they are not asking to close the road, only for the Town Highway Superintendent to file a Certificate of Abandonment.

Councilman Bichteman read aloud a letter submitted by the Town of Rensselaerville Supervisor Valerie Lounsbury dated May 17, 2016 regarding proposed abandonment of Clickman Rd. The letter indicated Clickman Rd. does not appear on the Town of Rensselaerville 1968 Map of Roads.

Edwin Stevens commented that his concern with abandoning roads is that they could potentially affect other properties. He felt they should be cleared out as they may provide access for fire depts. Also utilities could go through to help develop properties. County roads surround this particular area with very fast moving traffic making Clickman Rd. a good alternative for walkers, etc.

Councilman Bichteman informed the public the Town Board would not make any decision this evening. The Board will hold a vote at the next Town Board meeting to be held on Tuesday, June 7<sup>th</sup>.

There being no additional comments, Supervisor Rapp asked for a motion to close the Public Hearing. Councilman Bichteman made a motion to close the Public Hearing, Councilman Sherman seconded, motion unanimously carried. Public Hearing adjourned at 8:15 PM.

Respectfully submitted,

Kathleen Spinnato

