

August 15, 2011

A special meeting of the Town Board of Vernon was held at 7:00 p.m. on the above date at the Town Office Building for the purpose of a public hearing to consider enacting a local law imposing a 12 month moratorium prohibiting hydraulic fracturing in the Town of Vernon, or other intensive industrial uses in the Town of Vernon until further information can be developed as to the effects of such uses. Council members present were: Myron Thurston, Supervisor; Gene Bennati, Mick McDonough and Sandy Williams. Randy Watson was absent. Also present: Attorney Rossi, Diane Roberts, Abe Acee, John Douglas, Cheryl Cary, David Lenhart, Sherry Batchelder, James Anderson, Melody Scalfone, Catherine Phelan, Buddy Richardson, Randy Thieme, Tom Phelan, Bill Williams, Pete Richardson, Christine Reeves, Michael Crocco, Kristine A. Boylan, David Fox, Carlton Corey, Titia Finch Baker, Daniel Baker, Laura Schram, Rosa Schram, Betty Schlick, Patricia Douglas, Paul Schlick, John Douglas Jr., Alex Janowski, Marcia Janowski, Joan Batchelder, Milton Vaill, Dan Strobel, Toshia Hance, Norma Vleer, Fritz Scherz, Keith Scheibel, Nikki Scheibel, Ken Fort, Patrick Brennan, County Legislator; Audrey Robison, John S. Anderson, Diane Lummis, Carol Peck, Jim Peck, Frank Laguzza, Town Assessor; Bernard Lanz, Cliff Kitchen, Isabel Chiquom, Kathy Wojiechowski, Cynthia Banas and a few names that were illegible.

Following the Pledge of Allegiance, there was a moment of silence. The meeting was called to order by Supervisor Thurston at 7:00 p.m.

The meeting was called to order by Supervisor Thurston at 7:00 p.m. The Notice of Public Hearing dated July 21, 2011 is attached to the minutes. Supervisor Thurston announced that we have a guest speaker whom Councilman McDonough contacted, her name is Melody Scalfone. She is an environmental attorney from Syracuse, who is finishing her Master's degree in Science at Syracuse University and she will give us information regarding hydraulic drilling. We want to hear from everyone to help us make decisions as we go forward with this issue. We will listen and act in the best interests of the majority of the people or what's best for our Town. Please be courteous to one another. Each of you will have 5 minutes to speak and please stay on the issue of hydrofracking. If we do have any unruliness, we will take action to discontinue it. We are here to listen and will not make any decisions tonight. Each of the Board members has a large folder of problems that other areas have had that were brought to our attention at the July Board meeting. Our speaker will give her presentation first, then I would like the Town of Vernon residents to speak.

Melody Scalfone said that she would like to show actual data and maps because it is important to the original sources, but Powerpoint is not working. Overall, I am on the side of the sciences and the side of the law. Oil and gas drilling is not new to New York. As of 2010, there are about 13,000 active wells. Hydrofracking has been done in New York since 1949 and horizontal drilling since 1989.

First, she'll give an overview of the geology and the process, water quality and water quantity and legal issues, if there is enough time. It's called Marcellus shale because the layer of rock is physically in Marcellus, NY and that layer gets deeper and deeper and at the New York and Pennsylvania border is about 5000-7000 feet. That depth makes it a higher quality shale, which produces a higher quality of gas and is more productive. They drill down in stages and then horizontally, so they can have several horizontal wells and these tiny charges break up the shale and forces the gas out. The problem they had in Pennsylvania was that they didn't wait for the cement to dry. The real concern now is over the land disturbance, which is a whole lot less with the hydraulic process because it's like multiple spokes on a wheel. The water quantity is not an issue because the new DEC report found that the total water consumption would only increase by .24 percent. The water quality issue is the difference between what goes down and what comes up. When the well is initially drilled it is about 99.25% sand and water and a small percentage is other additives. About 20-30% of the water that comes back up is produced water that has some trace metals and sodium chloride, which can be used as a brine. The little earthquakes that it produces amounts to a -3 on the Richter scale, so it can actually be broken up with your hand. Another concern is that the gas or chemicals can come up the conduits into the aquifer and this is not true because the rock is very dense and has tons of layers. Of the 400 hundred fracking jobs that were done in West Virginia, Pennsylvania and Ohio, they did not get any closer than 5000 feet to the aquifer. There is also a trend to re-use frack water from one well to the next and the DEC has decided to mandate a closing system for this.

Regarding the legal issues, the DEC has not banned hydrofracking in New York. They are going through an assessment process before they will issue permits to drill. Their responsibility by law is to protect the quality of life in the environment, but also to authorize and provide for the operation and development of oil and gas properties that we have. The process that the DEC is going through now is SEQRA (Safe Environmental Quality Review Act), which says that the department has to minimize environmental impact and figure out economic, social and science impact before they can move forward. There was no significant environmental impact found in their assessment in 1992, which was at a lower volume. In 2008 Governor Paterson, in a memorandum, directed the DEC to update the 1992 assessment to address potential impact from new horizontal techniques including potential impact to ground water, surface water, wetlands, air quality, noise, traffic and community character as well as cumulative impact. This generic statement is done so each company doesn't have to do a separate study. So, the new draft was out in 2008, public comment was out until the end of 2009, in July 2011 they released an incomplete draft of the new impact statement and that should go out again for public comment in a couple weeks. The next step would be to complete this revised draft, have either written comments or public hearings, then publish their final impact statement. They would then issue a findings statement determining that this is a problem and they will not allow drilling in New York, or that there is no significant environmental impact and they will allow permit applications to be submitted. Also, another layer of protection is that the permit application is quite rigorous and the permit is subject to litigation. DEC will require that a landowner have his well water tested before any drilling is done so you know what your original quality was.

There was a brief question and answer period and Melody will answer any other questions through her email address www.scalfonelaw.com.

Supervisor Thurston asked our County Legislators if they would like to address the group. Marcia Janowski, former Town Board member, asked if she could direct a question to Melody Scalfone and Supervisor Thurston granted that request. Janowski asked who pays her to come to make these presentations and she replied that no one does. Then Janowski asked her why she does it because it sounds like she is for it and she replied that she does think it is incredibly safe and can provide astronomical economic benefit for New York State. Then, Second District County Legislator Michael Hennessy stated that he is here to learn more about it and may have a statement at the end. Third District County Legislator Patrick Brennan stated that he is also here to learn and he was just at a meeting in Marshall regarding the same issue and he also may have something to say at the end.

Supervisor Thurston then asked that the Town of Vernon residents speak.

Catherine Phelan spoke in favor of a one year moratorium because we need to learn more before we put our lands and our way of life in harm's way and with Home Rule the Town can become the first line of defense. Our land is worth nothing if it is poisoned and the water is poisoned.

John Douglas is against hydrofracking because there are too many secrets. There are health and safety issues, a dangerous blend of drilling materials, waste water and drilling shafts problems and air pollution. Also, monitoring should be done now concerning illnesses. It only creates jobs temporarily. We should trust our elected representatives and know what they stand for. He is dead set against it until some questions are answered.

Kristina Boylan, who is a ten year Professor of history at SUNYIT, has learned that engineers want to go forward without knowing all the facts and taking everything into consideration. We moved here to start a small organic farm and we will not get certified if gas drilling comes here.

Tom Phelan referred to the Town's Comprehensive Plan on page 23 that pertains to the Town's commitment to protect our water supply, farming and the rural beauty of our Town. The DEC's 2011 Preliminary Revised Draft Supplemental Generic Environmental Impact statement is 1100 pages long. There is so much we need to learn and understand and that is why we need more time. A moratorium by this Town is the only way to protect our air, land, animals, children and our precious water. Hydrofracking could affect residential mortgage lending, title insurance, the safety of our roads and our most cherished asset, our clean water.

David Fox moved here from Connecticut because the pollution was so bad. The radiation made him sick when he was in the Navy. The gas companies don't know what's happening thousands of feet down and they don't know which way the water flows. Also, we don't know if this is being monitored like it should be.

Dan Strobel is concerned about the gas companies being exempt from the Clean Water and Clean Air Act and that sends a signal that there might be trouble with the way they do business.

Milton Vaill, as a farmer, said that landowners should be able to make these decisions for themselves because they have been able to buy and maintain their own land in the past and know the right thing to do with their land.

Titia Finch Baker thanked everyone for coming because this does affect everyone's rights. We want a year to study what the poor people in Pennsylvania didn't know when they signed these leases. We don't want to look back and say that we wish we had done this or that differently. The decisions that we make today will affect future generations. Would the Town Board consider if even a small amount of poison being acceptable to us.

Ron Acee thinks that the DEC is quite qualified in determining some of the issues that are out there. It will bring jobs and clean energy. I have been to Pennsylvania a number of times, and within 2 months it's cleaned up and looks like nothing was ever done there. It would be better to have clean air and industry that would be around for a long time. Also, there is a lot of myth out there because people have not gone to where there is drilling and looked at it for themselves.

Cynthia Banas has been here for years and it has always worked that neighbors helped neighbors. We need to know why the gas companies are exempt from the Clean Air and Clean Water Act. We need to learn from history and not repeat mistakes that we have made because without clean water and clean air we will not be here.

Kathy Wojciechowski urged the Board to vote for a moratorium because we need time to find out more about hydrofracking and the long term affects of this. Also, if the gas companies think this so great why aren't they investing in our area instead of just taking from us and then leaving.

Bernard Lanz doesn't understand why we don't want the gas companies to drill because we need the gas and we need the fuel.

Buddy Richardson went to a meeting in Lancaster and they said that the roads are better now than they have ever been and we should have the right to sign a lease if we want to. Somehow, some way the gas companies will be able to get around a lot of the regulations that we put in place anyway.

There were no other Town of Vernon residents that wanted to speak, so Supervisor Thurston asked the non-residents to speak.

Sherry Batchelder said that U.S. Congress passed an amendment that exempts hydrofracking companies from the environmental laws, so they are not protecting us. New York State is also not protecting us because they are considering only preventing hydrofracking from State lands, New York City area and Syracuse area, so all Town Boards need to protect us by passing a moratorium for a year to gather more information. It's sad that gas companies try to persuade vulnerable landowners in a bad economy to ruin their land to make a quick buck. We can research alternative methods of energy sources and ways to make money, but we cannot live without clean air and clean water. Also, many banks won't give mortgages to landowners if their neighbors are hydrofracking. My neighbors should not have the right to make it so I cannot sell my house. A chemistry professor has stated all the health risks involved with hydrofracking and our health is more important than making a quick buck.

Carlton Corey was asked to invite the Town of Vernon (and anyone else who is interested) to work with the Town Board of New Hartford because they are looking at zoning laws against heavy industry to keep it out of the Town. His agricultural enterprise depends on four wells and a farm pond, so he is very concerned about hydrofracking. Gas companies say that there has never been a well contaminated due to hydraulic fracturing, but he has a document from the State of Pennsylvania Department of Environmental Protection that lists 30 examples of thermogenic gas found in the wells. He also visited Pennsylvania and the air pollution was terrible. Also, his concern is that there is no difference between the aquifer that his water comes from and the aquifer that the water from Syracuse and NYC comes from. So what is the hurry, other than that the gas companies don't want people to get any more educated, and once they come we will never get rid of them.

Cheryl Cary had a 2-page list of bans in New York and Pennsylvania because no one is sure about this process and the 2005 energy bill, which showed how long it took to get them exempt from the Clean Water Act. When you have a government fighting with the EPA to get these exclusions, then it is not safe. The gas industry in Alabama still used diesel after signing a memorandum not to use it during hydrofracking. New York State should not be able to pass a law that forces us to give up our rights because they say there is an energy crisis.

Toshia Hance has done a lot of research and has only facts on this. The oil and gas industry claims that it brought 48,000 jobs into Pennsylvania, but overall between 2007 and 2010 fewer than 10,000 new jobs were created. The Marcellus Industry created only 1.7% of all new hires. Unemployment was the highest in Pennsylvania in 30 years in June 2011. The micro-

seismic imaging project from Devon Energy that monitored fractured growth during hydraulic stimulation revealed a complexity of interplate between hydraulic and natural fractures previously unimagined. The longest fracturing actually traveled 28 miles. The extraction and production industry in the Oil Field and Review publication admits that predicting hydraulic fracture behavior is difficult. Methane gases are heavier than oxygen and have escaped 100% of the time during drilling. These are all facts and we need to save our State and our people.

Clifford Kitchen thinks that we are sitting on a pot of gold and no one wants to go after it. We should put a moratorium on the auto industry because they are the biggest air polluters and cars kill people. Hydrofracking may have problems, but we should go for it.

Supervisor Thurston thanked everyone for coming and the courtesy that they have shown. There are no DEC regulations in place right now and our Town Attorney is working with other Towns on this issue. We will look at this over the next month or so and we want to decide what's best for our community. We won't make any decision without a lot of thought and education because we love our community. Then, Supervisor Thurston asked our County Legislators to give their closing thoughts.

County Legislator Brennan has a lot of compassion for this public hearing and he attended the Town of Marshall public hearing, who also had an unbiased speaker who talked about the law and science of hydrofracking. He has been to many of these meetings and this was the most objective presentation he has ever heard. County Legislators need to support their Towns and Villages but they are struggling with what their role is, within the authority of being a County Legislator, in providing that support. We also don't know what the legal aspects are involving this and the possibility of being sued by the oil and gas companies. Attorney Rossi stated that there is a group of lawyers joining together to find out what their options are. County Legislator Brennan said that he is the son of a dairy farmer, so he put together a landowner meeting back in February or March and had 72 farmers attend that owned about 20,000 acres all together. His purpose was not to promote hydrofracking in NYS, but to protect and inform his neighbors and family so they can be educated enough to decide whether to sign the agreement or not. The Department of Environmental Conservation "suggests" that the natural gas companies sign a road use agreement with the municipality and he thinks it should be changed to "mandated" because the roads have been built in Pennsylvania and they were built better than any municipality could afford. The 2012 County budget is going to be very difficult because we depleted most of our savings and we don't have any stimulus money to rely on. So, he is going to forward a resolution to make certain that NYSAC lobbies DEC to change the language from "suggests" to "mandates" on the road use agreements.

County Legislator Hennessy thanked the Board for the opportunity for the whole community to be able to provide input on this. It's a very difficult decision and he thinks it should be made on the Town level because they know their residents better. He also understands that landowners want the right to make their own decision regarding their property, but also understands the concerns that people have for their environment. He would like to have the Board make a trip to Pennsylvania with him to see it for themselves to be able to make the best possible decision for the community so the issue can be moved forward. Bennati suggested getting a bus so multiple Towns could go.

The meeting was adjourned at 9:38 p.m.

Respectfully submitted,

Julie A. McElroy
Town Clerk

It should be noted that this meeting was tape recorded and is on file in the Town Clerk's office.