

December 5, 2011

The regular meeting of the Town Board of Vernon was held at the Town Office Building on the above date with the following persons present: Myron J. Thurston, Supervisor; Gene Bennati, Mick McDonough, Sandy Williams and Randy Watson, Council members. Also present: Art Freemire, Superintendent of Highways; Garold Vanderwerken, Bret Carhart, Mike Kaiser of PAC 99, John Douglas Sr., John Peters, Elizabeth A. Eastman, Jim Moffitt Sr., Jim Dixon, Marcia Kessler, Reg Webster, Fred Freeman, Sarah Peavey, Paul Schlick, Joel Peters, Howard Regner, County Legislator elect; Cynthia Faulkner, Buddy Richardson, and Judson Chandler. Attorney Rossi was also present.

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.

Supervisor Thurston stated that he knew the minutes from the November 10, 2011 meeting had been received by council members and asked if there were any additions or corrections. There being none, a motion to approve the minutes as written was made by McDonough, seconded by Bennati. No discussion. Ayes 4. Nays 0. Motion carried.

PUBLIC CONCERNS:

None

Attorney Rossi had to be at another meeting so Supervisor Thurston asked him to explain the ruling on the portion of the agricultural zoning district and interpretation issue of Town Code paragraph 139-12d that states "Farms are exempt from the requirements of obtaining zoning or site plan approvals in agricultural zoning districts" concerning fences that are put up in agricultural zoned areas because we have a disagreement on this issue. Attorney Rossi explained that if you are a farm in an agricultural district you don't have to get approval from the zoning officer, so the landowner is exempt and does not have to move his fence back three feet. There is an idea in law that says when you have an enforcement officer interpreting a law, the law defers to some extent to what the person who is responsible to enforce it thinks. John Douglas Sr. stated that he consulted with an attorney who said that the landowner would be exempt from the permit and planning board section, but they still need to follow any Codes that are enforced within the Town. Also, law enforcement would deal with civil issues regarding the protection of property and the fence is not the solution to individual private problems. The fence was erected with barbed wire without livestock and could be dangerous. Attorney Rossi said that as far as our Codes are concerned, the fence can be on the property line. On the other hand, if you can prove that the fence is there to deliberately annoy their neighbor, then that is a decision for a judge to make. Douglas then said that he was told that the Town's Codes supersedes any exemption and that the fence needs to be three feet from the property line. Attorney Rossi responded that one of the difficulties with the practice of law is that something could be true for the purposes of one law and not be true for the purpose of another law. John Peters stated that he had a survey done and the fence is clearly on his land and Mr. Freeman told the State Police that he agrees. Attorney Rossi said his opinion is that this fence is legal, but that doesn't mean that either landowner can't bring proceedings to Court. Supervisor Thurston said that the issue for the Board is whether we are going to allow fences in agriculturally zoned land in the Town of Vernon to be erected on up against the line or on the property side of the owner. Attorney Rossi added that the reason for the three foot setback of fences is that in a congested residential area it might not be a good idea to have fence butted against fence to give the adjoining owner a little space, but in an agricultural area the landowner would be surrendering a significant portion of his property. McDonough commented that if we make Peters move his fence three feet off the line, then every farmer in the Town of Vernon needs to adhere to it. Reg Webster agrees that the fence can be put up without a permit or a plan, but the fence needs to be set back three feet according to the Town Code. Also, the fence needs to be inspected by a Codes officer. Attorney Rossi responded that there is an exemption for farm structure. Bennati commented that through this entire process we have not heard from Mr. Freeman. Webster said that Bennati cut Freeman off and did not let him talk at the first meeting they came to and Peters spoke after that meeting was over. Bennati replied that he has been on the Board for almost 30 years and has never told anyone they could not speak. Supervisor Thurston said that we are here to discuss whether we want to change the fencing situation in the agriculturally zoned area. This has gone back and forth and taken up a lot of time for something that has never been an issue before. So,

Supervisor Thurston asked if any of the Board members want to make a motion to change where this fence is and no one did. Williams commented that the meetings are public and the last Board meeting was not over when Webster left and Peters spoke. Webster, Douglas and Freeman then left the meeting. Supervisor Thurston clarified that this is the end of this discussion and that they weren't told to leave and he will take questions from the audience, other than public concerns, as long as it doesn't obstruct the business of the Board. Buddy Richardson asked if they are talking about an agricultural property and Supervisor Thurston replied that it has to be an agricultural zoned district. Also, now you have to reapply to be agriculturally zoned every year. Jim Moffitt Sr. is Peters' neighbor and asked if all the land there is agricultural and Supervisor Thurston said that he could look on his tax bill or he could ask our Assessors. Elizabeth Eastman asked if she could put up a fence on her property line and Supervisor Thurston said that she can as long as she is in an agriculturally zoned district.

REPORTS:

The following reports were presented: Town Clerk (Supervisor Thurston commented that we have had many dog licenses through the dog census), Codes Enforcement, Supervisor's and Historian (Garold Vanderwerken mentioned that he would like to take current pictures this spring and summer of our area businesses to put in the archives. Supervisor Thurston also mentioned that area businesses can have a link to their website put on the Town's website if they just send it to "bookkeeper@townofvernon.com").

There were no reports from Planning Board, Zoning Board of Appeals, Assessors, Education and Libraries, Intergovernmental Relations, Economic Development, Operations, SWOCO, Highway Superintendent and County Legislators.

A motion to accept above reports was made by Williams, seconded by Watson. No discussion. Ayes 4. Nays 0. Motion carried.

A motion to pay bills was made by McDonough, seconded by Bennati. No discussion. Ayes 4. Nays 0. Motion carried.

BUSINESS:

A motion to appoint Karen Nixon as dog control officer @ \$20/hr. for phone calls and paperwork for dog complaints was made by Williams, seconded by Bennati. She will submit a log and will start with a 6 month probationary period. No discussion. Ayes 4. Nays 0. Motion carried.

A motion to approve the 2012 Board meeting dates of January 2, February 6, March 12, April 9, May 14, June 4, July 9, August 13, September 10, October 8, November 8, December 3 and December 27 was made by Bennati, seconded by Watson. No discussion. Ayes 4. Nays 0. Motion carried.

A motion to pass a resolution to accept Wentworth Drive 200 block was made by Watson, seconded by Williams. No discussion. Ayes 4. Nays 0. Motion carried.

A motion to approve blacktop of 1.71 miles of road for 2012 was made by Bennati, seconded by Williams. No discussion. Ayes 4. Nays 0. Motion carried.

Notification was received for NYS liquor license renewal from Mid-State Raceway.

A motion to transfer \$300 from A1990.4 Contingency to A3510.4 Dog Control; Special lighting \$71.28 from A51824.10.05 Skenandoah Drive to A51824.10.02 Vernon Center; \$8.61 from A51824.10.01 Oneida Castle to A51824.10.03 Pratt Drive was made by Bennati, seconded by McDonough. No discussion. Ayes 4. Nays 0. Motion carried.

McDonough suggested that we need clarification of agriculturally zoned compliances and the Board agreed. Supervisor Thurston will ask Attorney Rossi about this.

GOOD OF THE ORDER:

Jim Moffitt Sr. mentioned that the new mini mall in Town is booming. Bennati added that there are many businesses in the old Oneida Limited building including Aqua Vita, where they grow greens from fish waste and water. They are also going to start growing tomatoes. Moffitt also asked Highway Superintendent Freemire if they could take a big maple tree down on the corner of his property that keeps loosing branches during wind storms and he replied that they would do that as long as the tree is on the right of way of the Town.

Bennati mentioned an article on propane gel now used in hydrofracking. He said that the gel carries small particles of sand or manmade material known as proppant that are forced into cracks to hold them open so gas can flow out, but unlike water used in fracking, the gel does a kind of a disappearing act underground. It reverts to vapor, the returns to the surface without carrying back the surface drilling chemicals, ancient seabed salts and underground radioactivity. Supervisor Thurston added that the comment period has given another 30 days by The State of New York for hydrofracking, so the DEC is taking a very long, hard look at this.

EXECUTIVE SESSION:

None

There being no further business, a motion to adjourn at 8:11 p.m. was made by McDonough, seconded by Watson. No discussion. Ayes 4. Nays 0. Motion carried.

Respectfully submitted,

Additions to minutes on file
in Town Clerk's Office.

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.

COMMUNICATIONS:

None