

October 10, 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; Mike Kaiser of PAC 99, John Douglas Sr., Reg Webster, Fred Freeman, Barbara Freeman, Les Enslow, Jim Forsythe, John Peters, Howard Rebeck, Ken Fort, Michael Hennessy, County Legislator; and Pete Pascucci. Attorney Rossi was absent.

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 September 12, 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 Williams, seconded by Bennati. No discussion. Ayes 4. Nays 0. Motion carried.

PUBLIC CONCERNS:

Reg Webster addressed the Board on behalf of Fred Freeman regarding a Code issue with their neighbor, John Peters. He gave the Board a page from the Code Book stating that a fence can be no closer to any lot line than three feet, and John Peters' fence is right on the property line. Also, he feels that the fence is not safe because it is barbed wire. This is an agricultural area, but the fence just goes around his property and nowhere else. The posted signs are on the inside around Freeman's property and it looks awful. Jody Thieme from the Town's Codes department had looked at it and told them that it is agricultural so there is a little bit of a gray area, and Webster said that nothing has been done about it. Supervisor Thurston asked Webster why he is speaking for Freeman and he replied that he is versed in Codes and was asked for his advice. Supervisor Thurston then said that agricultural district law supersedes any Town law and he will look that up and give a copy of it to him and Freeman. John Douglas Sr. said that he has a problem with that because he feels that the residential property owner is losing six feet of their property to the agricultural property owner and Supervisor Thurston replied that he would lose three feet, not six feet. Freeman said that Peters had a survey done for his property and found that his shed was on Peters' property. He was told to move it and did so in a timely manner, but Peters wanted him to pay \$400 for half of the cost of the survey. Freeman also said that Peters sprayed weed killer on his posts and he went into his property by a foot. Peters also called the troopers one time saying that he knocked over his fence, then he changed his story and said that he had someone else spray them. Webster then said that this fence devaluates Freeman's property and his property also. Bennati commented that the Board tries to solve issues in the Town as much as they can, but we cannot solve the money issue and we cannot dictate taste as far as the barbed wire fence is not within our realm. Barbara Freeman said that the fence is a safety issue for her grandchildren, it looks awful and that's not being friendly. Supervisor Thurston reiterated that a barbed wire fence is legal in an agricultural district. Howard Rebeck stated that he has nothing against Peters, but this fence was put up out of spite, not for agricultural reasons. McDonough said that farmers have to establish property lines on pins. Supervisor Thurston said that the only thing the Town can do is to clarify the code on a barbed wire fence in an agricultural district and send them that documentation. Webster said that Vernon Center is falling apart. Bennati commented that they can address the code issue, but the only way to get a settlement here is to go to civil court and it's not fair to say that Vernon Center is falling apart. Webster agreed that it probably will go to court. Supervisor Thurston said that he is sorry about this situation and will back to them on the code as soon as possible.

Bennati introduced Marty Buckley who has been in engineering for about 40 years and is originally from Central New York. First, he went through the definition of an expert: a person with extensive knowledge in a particular area of study. That is totally different from someone's individual opinion on the same subject. Second is the definition of bias: a particular tendency that prevents unprejudiced consideration. Hydraulic fracturing of gas and oil has been going on for a long time and production can be very high in New York and can create many jobs. The well casing and the wellhead (also called a Christmas tree) are important parts of drilling because they stop the flow and keep the oil or gas from going back into the aquifer. Another important part of drilling is the mud (which is water, chemicals and dirt) that they use to keep the drill bit cool and it keeps other minerals from coming in. New technology has developed that enables

horizontal drilling which makes it easier and cheaper to complete and produce wells, but it also allows drilling under someone's property without them knowing it or benefiting from it. This controversy may be something that the State will have guidelines on when they finish developing their regulations. The fracturing fluids that are used are 99.5% water and sand and typically confined by many thousands of feet of rock layers. Some of the chemicals used are found in swimming pool cleaners, disinfectants, pharmaceuticals and table salt. The whole point of fracking is to try to remove the pressure by breaking up the shale into little pieces to release the gas so it can escape effectively. Therefore, the chemicals have the ability to push the methane out and hold onto the rock. Also, the farther down into the earth that the drilling is done the hotter the temperature is, and the gas is going to come out more freely. Environmental concerns with hydraulic fracturing include the potential contamination of ground water, risks to air quality, the potential migration of gases and hydraulic fracturing chemicals to the surface, the potential mishandling of waste and the health effects of these, which has prompted the EPA to re-visit this topic. The gas and oil companies are required to monitor the water and air quality during the drilling process. Also, there is more radon in New York than in Pennsylvania. His final thoughts are that the fluid injection contents should be documented, an ad hoc person should be on site, a tax should be considered to share the benefit and all parties need to be notified of angular drilling. He also suggests having an exit plan to determine when, how and who pays for the wellhead to be capped when they are done because they usually last about 5-8 years. The gas and oil companies will do test wells first to see if they can produce enough to make it worth it. He does see this as bringing in revenue, creating jobs and producing energy. Bennati thanked him for coming and said that he learned a lot from this.

John Peters gave his side of this five year ongoing issue with the Freemans. He has a binder full of pictures and witnesses that Freeman knew his boundaries ten years ago and he told Freeman three times that his building was on Peters' land. Freeman has also burned tires on, piled junk on and put a cement fire pit on his land. He had Delta Engineering re-establish the boundary lines for \$800, which he asked Freeman to pay half of, but Freeman replied that he knows his boundaries. So, Peters paid to have the survey done and while he was mowing the cemetery on Potash Hill Road he found the stakes from his survey. Peters confronted Freeman who admitted to pulling them out because he didn't like where they were and Codes Officer Jody Thieme and the State Trooper witnessed this. Then, Delta Engineering found the underground metal rods and put up stakes again and Freeman pulled them out again. Peters called the State Troopers again and they documented this. At this point, Peters asked Freeman if he wanted to buy this land for the cost of the survey and Freeman said no. So, Peters asked Thieme what he can do and was told that he has the right to bulldoze the building if Freeman doesn't move it. Then, Freeman's wife called the police while Peters was putting in posts to mark the survey stakes and said that he was trespassing. Thieme said that he can not put the fence up on the property line, but talked to Supervisor Thurston who said that Thieme was not familiar with the agricultural district law superseding Town law. Therefore, Thieme told him that he could put up the fence. Freeman's wife called the police again while he was putting up the fence because she thought she would beat Peters to it. The police also told Peters to put up the fence. Bennati said that after all he has been through, he would suggest that Peters settle this in court once and for all. Williams said that she has known the Peters family for years and has never known anyone in his family to be malicious or hard to get along with. Peters said that Webster has had a problem with him ever since Webster plowed snow into the ditch across the road and it flooded out Freeman, then Webster blamed the Town for not digging out the ditch. So, Peters dug out the ditch and asked Webster to pick up the plow when he goes near the ditch to avoid this problem and he refused. Supervisor Thurston reiterated that they came here to ask if the barbed wire fence can be put up on the property line and the answer is yes because it is in an agricultural district. Bennati stated that it needs to be resolved if it takes going to court. Supervisor Thurston mentioned that Thieme did make a mistake in judgment, but has apologized for it. Supervisor Thurston then asked Peters how long he has been mowing Twitchell Cemetery and he replied about ten years, but he doesn't mind. Bennati said that we do mind because we are paying someone else to do it.

REPORTS:

The following reports were presented: Town Clerk, Codes Enforcement, Education and Libraries: Bennati reported that the Sherrill-Kenwood Library is in financial trouble. Economic Development: Supervisor Thurston said that the Village and the Town put in \$500 each for the Fall Festival and we have \$1000 left for 2012. Also, they are having a meeting to turn this over to a Fall Festival Committee. Operations: McDonough reported that they had a little meeting

with the Codes Officers regarding the issue between Peters and Freemans and property lines. SWOCO and Supervisor's Report were presented.

There were no reports from Planning Board, Zoning Board of Appeals, Assessors, Intergovernmental Relations, Historian (Supervisor Thurston mentioned that he needs to talk to the Historian about filling up our new display case) and Highway Superintendent (Freemire mentioned the Town's junk collection day on October 15, 2011 from 9:00 a.m.-1:00 p.m.).

County Legislator's Report: Mr. Hennessy reported: 1) that the proposed County budget includes keeping the Rome DMV open, but closing the DMV satellite offices, 2) Caroline Williams' job with the Oneida County Cooperative Extension is safe and 3) the libraries are funded for half the year.

A motion to accept above reports was made by McDonough, seconded by Williams. 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 hold a Budget Workshop on October 17, 2011 at 6:00 p.m. was made by McDonough, seconded by Williams. No discussion. Ayes 4. Nays 0. Motion carried.

There was a brief discussion on getting a salt dome elevator and McDonough reported that he has contacted someone that has a used one for \$60,000 including delivery. Highway Superintendent Freemire and Supervisor Thurston will look at it and see if that's what they want.

Notice was received from the New York State Environmental Facilities Corporation that the Town is eligible for \$4,950,000 interest free financing for 30 years from the Clean Water State Revolving Fund for the Town outside Oneida Castle sewer project and the Village of Oneida Castle received the same, but we still need more.

A motion to transfer \$10,000 from DB5148.1 Services for Other Governments to DB5130.4 Machinery was made by Bennati, seconded by Williams. No discussion. Ayes 4. Nays 0. Motion carried.

A motion to transfer \$2000 from A1990.4 Contingency to A5132.4 Highway Garage was made by Watson, seconded by McDonough. No discussion. Ayes 4. Nays 0. Motion carried.

A meeting for the 2012 Fall Festival and other business promotions is November 2, 2011 at 7:00 p.m. There is a balance of \$1026.44 in the account and the Festival went very well.

A motion to hold a public hearings on November 10, 2011 for Local Law #3 to increase tax rate more than 2% at 6:00 p.m., fire contracts at 6:30 p.m. and budget at 6:45 p.m. was made by Bennati, seconded by Williams. No discussion. Ayes 4. Nays 0. Motion carried.

Supervisor Thurston asked Williams if she could have a Fall newsletter done and she said that she could.

GOOD OF THE ORDER:

Bennati mentioned that the Board members' biographies are not on the new Town website. Supervisor Thurston responded that he is going to send a memo to all departments. Also, we need a sign to have cell phones shut off during Board meetings.

EXECUTIVE SESSION:

None

There being no further business, a motion to adjourn at 9:38 p.m. was made by Williams, 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:

Letter from County Executive Picente