

Special Meeting
July 31, 2013

A special meeting of the Town Board of the Town of Homer for the purpose of meeting with the Zoning Advisory Committee on hydro-fracking held on Wednesday, July 31, 2013, in the Senior Center in the Town Hall building was called to order by Supervisor Frederick J. Forbes at 7:30 p.m.

PRESENT

Frederick J. Forbes, Supervisor
Barry E. Warren, Councilman
Dan A. Weddle, Councilman
Kevin M. Williams, Councilman
Patrick M. Snyder, Attorney for the Town
Anita W. Jebbett, Town Clerk

ABSENT

Brian D. Young, Councilman
Chad Butts, member, Zoning Advisory Committee
Lawrence Jones, member, Zoning Advisory Committee

OTHERS PRESENT

Dan Gustafson, Chairman, Zoning Advisory Committee
Gail Bundy, Recording Secretary & member, Zoning Advisory Committee
John Daniels, Code Enforcement Officer & member, Zoning Advisory Committee
Jay Deline, member, Zoning Advisory Committee
Kevin McMahan, member, Zoning Advisory Committee
Christopher Sammond, member, Zoning Advisory Committee
Ted Sudol, member, Zoning Advisory Committee
Gordon Wheelock, member, Zoning Advisory Committee
Eugene Wright, member, Zoning Advisory Committee
Gary Smith, Executive Director, MICAH-Cortland
Martin Sweeney, Town Historian
Tyrone Heppard, reporter, Cortland Standard
Eric Mulvihill, reporter, WXHC
Approximately 40 residents (see attached list)

PLEDGE OF ALLEGIANCE

REPORT & DISCUSSION ON HYDRO-FRACKING

Supervisor Forbes said that the main purpose of the meeting was for the Town Board members to listen to a presentation by the Zoning Advisory Committee which had been meeting for the past year on the issue of hydro-fracking. On behalf of the Town Board, all of whom were present with the exception of Brian Young who was absent due to a back injury, Supervisor Forbes thanked Dan Gustafson, Chairman, and members of the committee for all their hard work to get to this point.

Dan Gustafson, Chairman of the Zoning Advisory Committee, introduced the members present at the meeting, named those who were unable to attend, and thanked them for their participation and hard work.

Gustafson said that the committee started their work on July 24th, 2012, and he outlined the meetings and various presentations that were given by the following experts: Todd Miller, USGS geologist; Fred Hudson, farmland appraiser; Greg May, mortgage officer with Tompkins Trust; Stanley Scobie, scientist; George Franz, professor of Urban Planning at Cornell University; Anthony Ingraffea, professor of Engineering at Cornell University.

On April 23rd, 2013, the committee voted unanimously to recommend the proposed changes to the Town's Comprehensive Plan. At the May 28th, 2013, meeting

the recommended setback from residential wells was approved by a vote of 7 in favor, 3 opposed.

The following is a copy of the Zoning Advisory Committee recommendations:

In order to ensure that natural gas development in the Town of Homer is in keeping with the objectives articulated in the "Natural Gas Development" section of the Town of Homer Comprehensive Plan (pp. 15-17), the Zoning Advisory Board recommends the following:

- 1. Potential drillers will be required to apply for a conditional use permit from the Town of Homer.*
- 2. This permit process will require the driller to demonstrate a setback of at least two thousand feet (2000') of any part of the drill site from any surrounding residences or domestic water wells. The landowner of the property in question can apply for an area variance, reducing the setback(s) to one thousand feet (1000') if all the neighboring landowners within a 2000' radius of the proposed site indicate in writing that they are willing to have only a 1000' setback from their residence and/or well. No area variance will be allowed for less than one thousand feet (1000').*
- 3. No conditional use permits will be issued allowing drilling within 500 feet (500') of any of the principal and primary aquifers in the Town of Homer. This includes Zones 1 and 2 on the September 8, 2008 Town of Homer Zoning map, and the map of the Kinney Gulf primary aquifer as drawn by Todd Miller.*

We also make the following recommendation, which would impact natural gas development, but as it would also impact a much broader range of activities, we include it apart from the above recommendations:

Any pond structure created in the Town of Homer for any other purpose than retaining fresh water must have an engineer's stamp of approval prior to construction.

Attorney Patrick Snyder outlined the process going forward. He recommended that the Comprehensive Plan revisions be considered first. The Town Board could vote to submit the proposed changes to the Cortland County Planning Board. If they were to approve the changes, the Town Board would have to hold a public hearing prior to their adoption.

Similarly, the proposed changes to the Town's Zoning Law would need to go before the County Planning Board and would be subject to a public hearing prior to being adopted as a local law.

Following a suggestion by Martin Sweeney, resident & Town Historian, each Zoning Advisory Committee member present gave a brief comment about their part on the committee:

Kevin McMahon said that he had filled in for John Daniels beginning in January, and had seen that a lot of research and hard work had been done. Although he did not always agree with their conclusions, he said that he felt comfortable with the recommendations.

Gail Bundy explained that the recommendations are a compromise following heated discussions on both sides, and is not certain that she is comfortable with the compromise. She said that while she understands the benefits of gas drilling, she has concerns about the technology and the types of chemicals being used. She realizes that the gas drilling industry is constantly working to improve their methods to make the process safe, but is not there yet.

Gordon Wheelock said that he has taken two trips to Pennsylvania to see first-hand all aspects of a drilling operation and that some of the information about the harm drilling causes is not true. He said that he worked with the NYS DEC when he was in the logging business and has great respect for the oversight they will provide when the state-wide drilling moratorium is lifted.

Eugene Wright said that he moved to Homer in 1950 where he operated a farm until 2010. He believes that due to the world's appetite for oil and gas, eventually these resources will be developed. He believes that if the Town restricts drilling too much those restrictions will be overturned. This compromise gives the Town a better chance of controlling gas drilling.

Ted Sudol said that he has listened to both sides of the issue, but has not changed his mind and remains opposed to hydro-fracking. He said that although the gas drilling companies are constantly improving their techniques, mistakes can be made that can be detrimental to the general population and that may take years to fix.

Jay Deline said that he has 30 years of experience in the oil and gas industry and he has the only local business based in Homer involved in gas & oil drilling. His company is currently operating in nine states. He said that he brought first hand knowledge of all aspects of the drilling industry to the committee and feels that it is the safest industry out there. Gas & oil drilling have been going on in New York State for some time now and New York has some of the most stringent rules of any state. He stated that in the Town of Homer, the Marcellus shale is too shallow anyways, but the Utica shale may be drilled in the future. Deline said he feels that this compromise is a little bit of an overreach, but that it is fair.

Christopher Sammond gave Town Board members a written summary of the background research that was done by the committee concerning well failures in Pennsylvania. He discussed the committee recommendations to require special use permits for drilling. He reported that at the June 11th meeting the setback from both the primary *and* the principal aquifers of 500 feet was approved by a vote of 5 in favor, 3 opposed. He was pleased that the committee had decided to treat the principal aquifers in the Town – the east branch of the Tioughnioga and the Kinney Gulf aquifer - the same as the primary aquifer. He explained their use of the NYS DEC proposed setback for municipal wells (2000 feet) as the guideline for setbacks from residential wells. He also discussed the rate at which natural gas wells leak methane, which includes various carcinogens. He stated that 6 to 7% of new wells leak methane. Sammond said that he felt the committee had some unfinished business to attend to and wished that they had had more time to devote to the issue. He said that he was uneasy about the compromise and that he still had concerns that more should be done to restrict hydro-fracking.

John Daniels, Town Code Enforcement Officer, said that he is still “on the fence” about hydro-fracking. He said that the Town needs to have the proper tools and regulations in place. He said, as a nation, if it can be done safely, we need to utilize the resources we have and gas drilling may be inevitable. Although the committee members had many disagreements, he thought the compromise was the best solution.

Several of those in attendance made comments:

Charles Wheeler was very concerned about the possibility of hydro-fracking taking place in the Town of Homer and felt that the recommendations were insufficient.

Bruce Atkins was concerned that big oil & gas companies would assert their interests over the best interests of the local citizens if there is no opposition.

Peter Jeffers voiced his concerns about more investment in the fossil fuel industry. He has personally measured carbon dioxide levels in the atmosphere and they are much above the levels of the 1950's. He is very concerned about global warming and the fact that methane is a much worse greenhouse gas than carbon dioxide.

Bonnie Smith commended the committee on the compromise, but said she doesn't think that the DEC regulations go far enough.

Len Cohen suggested that if the State is protecting the drinking water of New York City and Syracuse with drilling bans, then they should also protect Homer's.

Aaron Fumarola thanked the committee but voiced concerns about the DEC regulations. He also questioned whether the suggested town law would be involved with the method of drilling rather than simply where it can occur.

Linda Wiley asked the Town to look into solar energy. She suggested that the town should become the first town anywhere that is completely powered by solar energy.

Bess Path suggested that 2000 feet may not be far enough.

Roger Williams pointed to the recent DEC clean-up of the former coal de-gasification plant on Route 11 as a warning that what may now seem to be a safe, state-of-the-art technology could prove to be detrimental in the future.

Bob Applegate said that communities need to protect themselves. He is aware of one instance in western New York where natural gas migrated underground for approximately 3000 feet.

Gary Smith suggested that there be a study about the social impacts from drilling. Both he and Stephanie Spina voiced concerns about quality of life issues affected by industrial drilling projects and again asked for either a ban or a moratorium on hydro-fracking.

Supervisor Forbes agreed to take all their questions and concerns into consideration and suggested that the County government may need to get involved to deal with any unintentional consequences.

Cortland County Chairman & Town Planning Board member Mike Park said that he would read over the committee's recommendations and comment prior to the August 7th meeting.

Supervisor Forbes stated that the August 7th Town Board meeting would begin at 7:00 p.m. and would include a presentation by TCI Renewables on the proposed wind farm at 8:00 p.m.

Forbes thanked the Zoning Advisory Committee for the tremendous job they did on such a contentious issue.

The meeting was adjourned at 9:00 p.m.

Anita W. Jebbett
Town Clerk