

The regular meeting of the Town Board of the Town of Homer held on Wednesday, May 7, 2014, in the board room of 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
Brian D. Young, Councilman
Patrick M. Snyder, Attorney for the Town
Anita W. Jebbett, Town Clerk

OTHERS PRESENT

Nancy Ruscio, Superintendent, Homer Central School District
Bernie Zolla, AV assistant, Homer Central School District
Martin Sweeney, Town Historian & Homer School Board member
Gordon Wheelock, Cortland County legislator
Tyrone Heppard, reporter, Cortland Standard
Approximately 40 residents (see attached list)

PLEDGE OF ALLEGIANCE

MINUTES

The minutes of the April 2, 2014, regular meeting were approved as presented, on motion by Councilman Weddle, seconded by Councilman Young and carried unanimously.

MONTHLY REPORTS

Presented for audit by the Board:

1. The Town Clerk's report of all receipts & disbursements for April.
2. The Supervisor's report of all receipts & disbursements for April.
3. Code Enforcement Officer's report of all building permits issued for April.
4. Dog Control Officer's report of all activities for March & April.

BILLS TO BE PAID

General bills were approved as audited on motion by Councilman Williams, seconded by Councilman Young and carried unanimously: **RESOLVED: that General vouchers #76 through #106 totaling \$22,518.68 be approved for payment.**

Highway bills were approved as audited on motion by Councilman Warren, seconded by Councilman Weddle and carried unanimously: **RESOLVED: that Highway vouchers #48 through #72 totaling \$42,718.16 be approved for payment.**

HOMER CENTRAL SCHOOL DISTRICT BUDGET

School Superintendent Nancy Ruscio gave a presentation on the proposed school budget for 2014-2015 and explained how cuts in State aid have affected their budgeting process over the past few years. She listed the propositions which will be on the ballot and said that there are four candidates running for three School Board positions.

The vote on the budget is scheduled for Tuesday, May 20th, at the High School music building. Ruscio thanked the Town Board for allowing her time on their agenda.

RECOMMENDATIONS OF THE ZONING ADVISORY COMMITTEE

The recommendations for changes to the Town Zoning Law made by the Zoning Advisory Committee on hydro-fracking were brought up for discussion. Supervisor Forbes asked for questions or comments from those in attendance.

Evelyn Pettit, a resident of the Town of Preble and owner of land on Searls Road, spoke about having signed a gas lease before much was known about hydro-fracking and how as she began to do research on the technique she became increasingly concerned and alarmed at the potential health and environmental damage it could cause.

Village residents, Bess Path and Janet Swinnich, each urged the Town Board to take action on the issue as it had been several months since the Zoning Advisory Committee had completed their work and made their recommendations.

Attorney Snyder reported on research he had done at the request of the Town Board regarding the wording of one of the recommendations. It would allow for a setback of 1000' from a residence and/or well (instead of 2000') if all the landowners within a 2000' radius of the drill site agreed in writing to a reduced setback. Attorney Snyder found that in several previous court cases zoning regulations based on the consent of the neighbors were found to be unconstitutional. These were frequently in the context of mobile homes, and the courts found this requirement to be arbitrary. However, in his opinion a regulation similar to that recommended by the Committee would be upheld if it was worded properly.

There was discussion about two cases which will be heard by the New York State Court of Appeals on June 3rd regarding drilling bans in the Towns of Middlefield and Dryden. Supervisor Forbes said that if the Court upholds the bans as did the lower courts, then the Town may consider its own regulations for drilling. If the Court overturns the lower court decisions, then, in his opinion, it would be solely up to the NYSDEC to regulate drilling.

In response to a question from Gary Smith, Executive Director of MICAH, Attorney Snyder said that towns would probably not be held financially liable if they have a local law that is overturned by the courts.

Supervisor Forbes listed several different options for the Town Board to consider:

1. To accept the recommendations of the Zoning Advisory Committee, draft a local law, and schedule a public hearing;
2. To modify the recommendations of the Committee, draft a local law and hold a public hearing;
3. To have the Board listen to knowledgeable speakers on both sides of the issue prior to making a decision, and;
4. To take no action and wait for a decision from New York State and the DEC.

Both Supervisor Forbes and Attorney Snyder agreed that it was not urgent that the Town make a decision on the proposed zoning laws regarding hydro-fracking due to the moratorium on drilling imposed by the State. Snyder said that even after the ban is lifted it will take drilling companies many months to take any action. Furthermore, the DEC has indicated that it would take them at least several months to finalize their regulations.

Supervisor Forbes said that for the public record, four out of the five Town Board members either had or still have leases that were signed before much was known about hydro-fracking.

Forbes stated that his position is that the State should decide on and regulate any hydro-fracking. The NYSDEC has the expertise and financial support to study the issue thoroughly. He said that personally he would agree to adopt three out of the four recommendations and leave it up to the State to establish the setbacks. Despite concerns expressed by those in attendance, Forbes said that in his experience on his dairy farm, the

NYSDEC has the will, desire and ability to enforce any and all regulations that it is obligated to enforce.

Christopher Sammond, a member of the Zoning Advisory Committee, said that he had worked on the Committee for over a year and that the recommendations that they finally agreed upon were over and above those being discussed by the DEC which they felt were inadequate. He suggested that a moratorium may be in order to study the new science on hydro-fracking and possible side-effects such as earthquakes.

Pam Jenkins, a Cortlandville resident, and others encouraged the Town to also look into regulating pipelines, compressor stations, and storage facilities, as has the Town of Preble.

On motion by Councilman Warren, seconded by Councilman Young and carried unanimously: **RESOLVED: that the Town Board hold off on taking any action on the recommendations of the Zoning Advisory Committee until the results of the appeals on the drilling bans enacted by the Towns of Dryden and Middlefield are known.**

Many in attendance expressed their frustration with the delay. Sara Watrous, a Town resident, asked to hear from each member of the Town Board. Each expressed a desire to have more time to consider the recommendations, and stated that they took the matter very seriously and wanted to make the right decision.

Attorney Snyder was asked bring paperwork for a moratorium to the June Town Board meeting scheduled for June 4th.

NEW BUSINESS

Memorial Day Parade – Supervisor Forbes reminded Board members to participate in the parade to be held on Monday, May 26th.

Results of PESH inspection – The results of an inspection of the Town Hall by the NYS Public Employee's Health & Safety Bureau are now posted on the Town's web site and a copy has been sent to the Village of Homer.

Homer Business Association - On motion by Councilman Williams, seconded by Councilman Weddle, and carried unanimously, **the Town Board agreed to make a \$20 donation to the Homer Business Association in place of a \$50 membership.**

Retirement reporting resolution – On motion by Councilman Williams, seconded by Councilman Young, and carried unanimously: **RESOLVED: that the Town Board hereby establishes the following standard work days for the Deputy Town Clerk and will report such to the New York State and Local Retirement System based on a record of her activities - 16.75 days per month.**

Town Hall rent – Board members discussed how much or if to charge the Village should they decide to move back into the Town Hall.

Josephine Brown – Supervisor Forbes noted the passing of the former Town Historian and long-time newspaper reporter. She was fondly remembered by all present.

The meeting was adjourned at 9:45 p.m.

Anita W. Jebbett
Town Clerk