

SEPTEMBER 12, 2011 REGULAR TOWN BOARD MEETING MINUTES

MEMBERS PRESENT:	Norman Teed	Supervisor
	Carl Beechler	Councilman
	Doris Day	Councilwoman
	John Dole	Councilman
	Dennis King	Councilman
	Terry Featherly	Highway Superintendent
	Linda Nieskes	Town Clerk

PUBLIC ATTENDANCE: See listing in book.

CALL TO ORDER: Supervisor Teed called the Regular Meeting to order at 7:00 PM.

PLEDGE OF ALLEGIANCE: Councilwoman Day led the meeting with the Pledge of Allegiance.

PUBLIC HEARING LOCAL LAW #2, 2011 FOURTH MINING MORATORIUM: Supervisor Teed called the Public Hearing on Local Law #2, 2011 entitled Local Law Establishing a Fourth Moratorium on Mining Operations. Supervisor Teed asked Town Clerk Nieskes to read the Public Hearing Notice. He asked if anyone wished to address the Board either for or against this proposed Local Law.

DAVID SMITH, 2100 LESTER ROAD, PHELPS: Mr. Smith said he had spoken his mind previously. He said he is all for the Moratorium because the Town has to enforce the laws they already have in place. He said Hanson moved into an area that is not zoned for mining. He said they continue to mine there and not follow the rules of the Town. He said we need to have rules as to how close a mining operation can come to someone's house. He said he has information regarding the government law from DEC, where the Town has the power to stop it. Mr. Smith said he had a form from Hanson stating that the land was leased in 2006; and as far as he can tell, if the land is leased it is not owned. He said he requested copies of all their blasting reports and Hanson gave him the blasting for August 17th and the next one back is from 2007. He said supposedly this is all the blasts done and they are now blasting every 3 weeks. He said he is working to get more answers but nobody seems to want to answer; they just turn their heads. He said he is not going to let them knock his house down, he does not care how much money they have. He said if it comes to push the Town to do it, he will because the Town has to stand up to the law they put into effect. He stated he does not want to cause anybody any problems; but he is not going to lose his house. Supervisor Teed thanked Mr. Smith.

BRUCE OAKS, 2094 CO. RD. 6, PHELPS: Mr. Oaks asked what took so long to bring this up. He said this was brought up at the March 14th meeting and now 6 months have gone by. Supervisor Teed said it has been turned over to our attorneys in Rochester and they have been reviewing it. He said we are at the point now where they have been through most of it and they figure within a couple of weeks they will have their recommendation to the Board. He said after it comes back to the Board, it then goes to the County Planning Board and then back to us

again. He said he asked them what timeframe they are looking at and he was told 2 to 3 months to get through the whole process and get this on the books. Mr. Oaks wanted to know what was going to happen with all the piles of dirt along the road that are not the way they are supposed to be, is that all part of the scheme? Supervisor Teed said reclamation is controlled by the DEC; but the actual mining operations or location of mines is controlled by Zoning. Mr. Oaks asked our Zoning Board and then commented are we in trouble. Mr. Oaks asked if we could act quicker with new people, would they be more aggressive? He thanked everyone. Supervisor Teed told him he was welcome.

Supervisor Teed asked is anyone else wished to speak for or against this Local Law.

JOE DENDIS, 52 ST. RT. 318, PHELPS: Mr. Dendis said you are not doing anything with the law, just extending it. Supervisor Teed said we are just

extending

the moratorium. He said one reason it took so long is because we lost 2 members of our Mining Committee, as everyone knows, in the course of a year. He said he was going to appoint someone else and they decided they would rather deal with it themselves instead of bringing someone else up to speed. Mr. Dendis asked how many times this has been extended. Supervisor Teed said this is the 4th one. He said this is for 6 months; but hopefully we will not have to use the 6 months.

MIKE LEWIS, HANSON AGGREGATES: Mr. Lewis said just to answer Mr. Smith's questions or comments. He said as far as not following the laws, there has been some history with Hanson and the Town as to whether the first moratorium in 2002 applied to our operation and it was determined by the legal entity that it did not apply because we were grandfathered. He said the area that was referenced by Mr. Smith has been leased for a long time with the intent to mine and that is what we are doing. He said we are following the DEC permit. He said as far as the blast reports, they would be more than happy to share those with Mr. Smith. Mr. Lewis said we always monitor every blast across the street from his house and they have always been fine. Supervisor Teed asked Mr. Lewis if he would be willing to make those reports available to the Smith's. Mr. Lewis said he would have to check; but we usually make those available through the DEC. He said Hanson's position is we are following the laws, we always follow the laws otherwise we would not have a business. Councilwoman Day asked if they were blasting every 3 weeks. Mr. Lewis said it really varies depending on the market for the stone.

Supervisor Teed asked twice if anyone else wished to speak for or against the proposed Local Law. There was no other participation. Supervisor Teed closed the Public Hearing at 7:12 PM.

PUBLIC PARTICIPATION: None.

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CORRECTIONS TO THE Councilman King, offered the following Resolution. RESOLVED that,

AUGUST 8, 2011 TOWN BOARD MINUTES: the August 8, 2011 Regular Town Board Meeting Minutes be approved as written. The Resolution was seconded by Councilwoman Day, who moved its adoption. 5 AYES. Motion carried.

RESOLUTION: Approve Standard Work Hours for Elected and Appointed Employees within the Retirement System (see attached).

RESOLUTION: Schedule Public Hearing for Local Law #3, 2011 Lighting Legislation (see attached).

RESOLUTION: Schedule Public Hearing for Local Law #4, 2011 Establishing a Moratorium on Horizontal and Directional Gas Drilling and Hydraulic Fracturing (see attached).

HIGHWAY: Superintendent Featherly presented his August 2011 Highway Report to the Board (see attached).

ZONING REPORT: The Zoning Report for the month of August 2011 is on file in the Town Clerk's Office.

MONTHLY REPORT: The Town Clerk's August 2011 report was reviewed by the Board Members for their approval.

DISCUSSION WITH THE SUPERVISOR: A) The October 2011 Town Board Meeting will be held on TUESDAY, October 11, 2011 because of the Columbus Day Holiday on Monday, the Town's usual meeting night.

B) A special Town Board Meeting will be held for the approval of Local Law #2, 2011, 4th Moratorium on Mining. This meeting will be on Thursday, September 22, 2011 at 7:00 PM at the Phelps Town Court/Meeting Facility, 1331 St. Rt. 88, Phelps, NY 14532. Supervisor Teed said it is an open meeting and anyone can attend; but there will be no public participation.

OPEN FORUM: KARA SIMMONS, 2258 TOLL ROAD, PHELPS, NY: Mrs. Simmons asked where the proposed Ag Law stands. Councilman Beechler said it is at the attorney's and has to go back to the Town Planning Board, the Town Board and then a public hearing will be set. He said unfortunately it will be at least a couple of months yet.

Mrs. Simmons asked when the budget process is started. Supervisor Teed said we are starting our budget process now. Mrs. Simmons wanted to know when the budget would be finalized and Supervisor Teed said we approve the budget at our November meeting.

SUPERINTENDENT FEATHERLY: Superintendent Featherly wanted to know if there was any more progress on getting the barns cleaned up from the fire.

Supervisor Teed said no, but the insurance company said you can pull that truck out of the barns but it needs to be kept in a secure area. He said if we do not have a secure area for it, the insurance company will make a place for it. Superintendent

Featherly said we will need to tear the door off to get it out and we will need to put a new door on there. Supervisor Teed said Superintendent Featherly had a quote for a new door. Superintendent Featherly said an uninsulated door is \$1,335.00 and an insulated door, which is what we have now, is \$1,785.00. He said these quotes are from Finger Lakes Door and are at least a month old. Councilman King asked if that was the door and installation. Superintendent Featherly said he believes that is just the door. He asked if we are going to get the barns cleaned. Supervisor Teed said he would like to see the highway men do that. Superintendent Featherly said they have some issues with that because they would have to wear dusk masks. Councilwoman Day asked if our insurance company covered the cleaning. Supervisor Teed said they do; but it comes out of the settlement. He said everything we take out of the settlement is less we have to put toward the new building. He said the company wants \$20,000 to clean the building. He asked Superintendent Featherly what he would like to see done. Superintendent Featherly said just pressure washing it down would probably be enough. He said get everything out of there, clean it and then put the stuff back. He said they might also take the celotex off the ceiling. He said we are running out of time because the cold weather is fast approaching. Councilman King said let's get at it and get it done.

Councilman King offered the following Resolution. RESOLVED that, we approve Superintendent Featherly to get the building cleaned at a cost not to exceed \$12,000. The Resolution was seconded by Councilman Beechler, who moved its adoption. 5 AYES. Carried.

Supervisor Teed said he would like to see the trucks put in the Cold Storage Building. Superintendent Featherly said it would not be a bad idea if we could get a floor poured in there. He will bring a quote to get a floor poured to the October meeting. He said they could do all the excavation and preparation work.

Councilman Dole offered the following Resolution. RESOLVED that, we approve Superintendent Featherly to purchase the insulated garage door at a cost not to exceed \$1,785. The Resolution was seconded by Councilman King. 5 AYES. Carried.

NEXT TOWN BOARD MEETING:

The next Town Board Meeting will be held TUESDAY, October 11, 2011, at the Phelps Town Court/Meeting Room, 1331 Rt. 88, Phelps at 7:00 PM.

BILLS:

Councilwoman Day offered the following Resolution. RESOLVED that the following bills:

PREPAID GENERAL "A" - #262 - #269 IN THE AMOUNT OF \$22,385.31,
GENERAL "A" - #270 - #295 IN THE AMOUNT OF \$47,401.74,
PREPAID GENERAL "B" #76 - #77 IN THE AMOUNT OF \$124.37,
GENERAL "B" - #78 - #85 IN THE AMOUNT OF \$1,283.06,

PREPAID HIGHWAY "DB" - #183 - #184 IN THE AMOUNT OF \$4,088.94,
HIGHWAY "DB" - #185 - #208 IN THE AMOUNT OF \$276,956.95,
PREPAID SEWER DISTRICT #22 IN THE AMOUNT OF \$28.12

SEWER DISTRICT - #23 IN THE AMOUNT OF \$30.06,
WHITE ROAD WATER DISTRICT #24 IN THE AMOUNT OF \$25.00,
PREPAID RT. 96/488 WATER DISTRICT #44 IN THE AMOUNT OF \$1.76,
RT. 96/488 WATER DISTRICT #45 - #53 IN THE AMOUNT OF \$11,797.87,
PREPAID ORLEANS WATER DISTRICT #33 - #34 IN THE AMOUNT OF
\$23.73,
ORLEANS WATER DISTRICT #35 - #39 IN THE AMOUNT OF \$60,593.99,
PREPAID SPAFFORD RD. WATER DISTRICT #21 - #22 IN THE AMOUNT
OF \$63.24,
SPAFFORD RD. WATER DISTRICT #23 - #26 IN THE AMOUNT OF
\$1,168.09,
PREPAID MELVIN HILL WATER DISTRICT #31 IN THE AMOUNT OF \$1.32,
MELVIN HILL WATER DISTRICT #32 - #36 IN THE AMOUNT OF \$433.06,
PREPAID TRUST & AGENCY #29 - #34 IN THE AMOUNT OF \$7,825.11,
TRUST & AGENCY - #35 IN THE AMOUNT OF \$60.90 be approved.
The Resolution was seconded by Councilman Beechler, who moved its adoption.
5 AYES. Carried.

EXECUTIVE SESSION: Supervisor Teed said the Town Board would move into Executive Session with Town Clerk Linda Nieskes, Water Superintendent Mike Vienna and Phelps Fire Department President Ronald Nieskes present to discuss a legal matter. He said no votes will be taken during Executive Session.

Councilwoman Day offered the following Resolution. RESOLVED that, the Town Board move into Executive Session at 7:40 PM. The Resolution was seconded by Councilman Beechler, who moved its adoption. 5 AYES. Carried

Councilman Beechler offered the following Resolution. RESOLVED that, the Town Board move out of Executive Session at 9:00 PM. The Resolution was seconded by Councilman Dole, who moved its adoption. 5 AYES. Carried

Supervisor Teed called the Regular Meeting back to order at 9:02 PM.

Councilman Beechler offered the following Resolution. RESOLVED that, the Board move forward with regard to the legal matter and the letter be dated September 13, 2011 and mailed to the 3 people certified, return receipt requested. He also stated that the administrative charges be added to the amount to be paid to the Town. The Resolution was seconded by Councilwoman Day, who moved its adoption. 5 AYES. Carried.

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ADJOURNMENT: Councilwoman Day offered the following Resolution. RESOLVED that, the Town Board Meeting be adjourned. The Resolution was seconded by Councilman King, who moved its adoption. 5 AYES. Motion carried.

TIME: 9:10 PM.

Respectfully submitted,

Linda Nieskes
Town Clerk