

Approved

A regular meeting of the Geneseo Town Board was held on Thursday, February 9, 2012 in the conference room of the Geneseo Town Office Facility.

TOWN PRESENT:

William S. Wadsworth, Supervisor
Roberta A. Irwin, Deputy Supervisor
Felicisimo Manapol, Council Member
Richard L. Taylor, Council Member
Jerald T. Wrubel, Council Member
Jean Bennett, Town Clerk
Ron Maxwell, Code Enforcement Officer
Larry Levey, Highway Superintendent

VILLAGE PRESENT:

Richard B. Hatheway, Mayor
John Fox Jr., Deputy Mayor
Sandra F. Brennan, Trustee
Margaret Duff, Trustee
Thomas LaGrou, Trustee
Marsha Merrick, Clerk/Treasurer

PUBLIC PRESENT:

Jon Norris - Clark Patterson Lee	Ben Gajewski	Linda Ratajczak
Becky McKeown - Genesee Sun	Sheila W. Chanler	Gordon McClellan
Andrew Timm	Katherine Peterson	Susan Bailey
Lila Chambers	Brandyn Friedly	Jean Trescott
Rudi Muller	William W. Lloyd	Coyne Lloyd
Sara W. Wood	Anne McCarthy-Zmich	Tamar Massen
Christopher Ivers	Amy Ivers	Sara Y. Kelly
Nicole Jelonek	Kristen Balschunat	Allison Hoppe
Matthew Briars	Justin Shapiro	Ed Dehu
Michael Dabramo	James Willey	Evelyn A. Cilley
Bridget Hardiman	Donna Schultz	Jeremy Grace
Robert Wied—Lanape Resources Inc. (unreadable)	Eddie Lee	Dan Repinski
Don McLane	Edith Kort	Lisa O'Brien
Emily Wrynn	Darcy Young	Cheryl Lynch
Jean Hennessey	Maria Lombardo	Maggie Cashman
Cynthia Carestio	Lisa Johnson	Matt Berman
	Jamie Carestio	Marcia Ballard

MEETING OPENING, APPROVAL OF MINUTES & VOUCHERS:

Supervisor Wadsworth called the meeting to order at 5:30 pm. Councilman Wrubel led the pledge to the flag and a moment of silence was held for service men and women at home and abroad.

The minutes of January 26th were reviewed and amended. Mr. Taylor moved and Ms. Irwin seconded the motion to approve the January 26, 2012 minutes as amended. Motion passed with voting as follows: Wadsworth-aye; Taylor-aye; Irwin-aye; Manapol-aye; Wrubel-aye. Nays: None.

The Board reviewed abstract #2 of vouchers and voucher #102 was pulled from the abstract since it was paid in January. Mr. Taylor moved and Mr. Wrubel seconded the

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motion to approve payment in the amount of \$108,367.36 for vouchers #83 through #159, except #102, on voucher abstract #2. Motion passed with voting as follows: Wadsworth-aye; Taylor-aye; Wrubel; Irwin-aye; Manapol-aye. Nays: None.

MISCELLANEOUS:

Supervisor Wadsworth reported that former Councilman David Dwyer is unable to serve as the Town's Representative on the Livingston County Youth Board. It was suggested that Jeff Rose may be interested in the position and willing to serve on the Board when Larry Kelley's term is up on August 31st.

The Town Clerk offered her 2011 Town Clerk and Tax Collection books to the Board for audit. It was agreed Councilman Taylor will do the audit, with assistance from Councilman Wrubel.

Nomination forms for an annual Earth Day award were in board packets as well as on the counter at the town office and are due February 27th.

Supervisor Wadsworth updated the board on the town's effort to comply with the new open meetings law. In order to make records available to the public prior to the meetings, an electronic "board packet" was posted on the town's website on the calendar page. The Supervisor requested that Board Members familiarize themselves with the new law so that compliance can be discussed more in depth at the next meeting.

Mr. Taylor provided Board Members with a copy of an article from the January /February 2012 Talk of the Towns about Computer System Security Breach Notifications. The article contained a sample policy that will be forwarded to the Town Attorney for review for adoption. The security breach notification policy will be put on the agenda under items for consideration until it is resolved.

The Town Clerk provided Board members with her 2011 annual report.

PUBLIC HEARING – 2012 INTERIM MORATORIUM on Natural Gas & Oil Activities:

At 5:45 pm Supervisor Wadsworth opened the public hearing on the "2012 Interim Moratorium on all Natural Gas and Oil Activities".

Comments were received via fax on February 9th from Michael P. Joy of Reed Smith LLP, counsel retained by Lenape Resources Inc. Copies of these comments were provided to Board Members at the meeting and are attached to the minutes of this meeting.

Darcy Young stated she supports the Town Board in taking this step. She is pleased with the moratorium and feels that adopting the moratorium is an action that is needed. It will give the Town time to investigate actions they need to take to protect the

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community, including looking at the impact on traffic, water and other environmental impacts.

Sara Kelly, Maggie Cashman, Maria Lombardo, Tamara Mason, Brandon Friedly, Emily Wrynn, Donna Schultz, Don McLane, as well as numerous others, many of them students of SUNY Geneseo, added their support to the Town Board taking action on the proposed interim moratorium law and thanked the Board for consideration of this action.

Jean Trescott stated she is very appreciative of the Town Board in joining the over 72 municipalities in New York State in considering the adoption of a moratorium or ban. She encouraged the Board to say “No” to the use of purposely poisoned fresh water, to say “No” to the technology that has turned rural areas in over 34 states in the US into toxic industrial zones, to say “No” to the use of our waste-water treatment plant, and “No” to the profit of the few at the expense of the many. Ms. Trescott continued that there are over 1000 documented cases of water contamination from this process and the air pollution is high around the drilling sites due to the diesel engines and large amount of truck traffic. Ms. Trescott encouraged the Board to adopt the moratorium, requesting that the Board not be swayed by big money and fear tactics from the “gasmen”.

Andrew Timm stated he appreciates the Town Board proceeding with the moratorium law. He read aloud an article from the December 13, 2011 edition of the Watertown Daily News entitled “Hydrofracking sure to contaminate water”, written by NYSDEC Region 5 environmental engineering technician Paul Hetzler. After much experience in groundwater remediation projects, Mr. Hetzler writes that there is no doubt that hydraulic fracturing as it is practiced today *will* contaminate our aquifers and, if you were looking for a way to poison a drinking water supply, this would be a very effective way. His experience has taught him that there is no such thing as a perfect well seal, and since all rock layers leak to some extent, there is no way to protect wells from contamination from hydrofracking. Due to the absence of oxygen under the ground, the chemicals injected into the aquifers will persist for many years/lifetimes. In concluding his article, Mr. Hetzler encourages developing safe technologies first, *before* drilling for gas. Andrew Timm submitted this article for the record.

Susan Bailey requested that the environmental impacts be looked at seriously. She grew up in Youngstown, where geologists believe that two (2) earthquakes were caused by hydrofracking.

Mike Dabramo addressed the Board, saying that he heard that the state of Pennsylvania passed a law so that communities do not have a say in natural gas drilling in their community, and he hopes that does not happen here. Mr. Dabramo suggested putting a policy in place that provides for costs being charged to whoever incurred them – for example, gas company should pay for testing people’s water before the drilling. Mr.

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Dabramo also suggests that since the price of real estate decreases due to the gas drilling, tax assessments should increase on the properties where hydrofracking is taking place, during the period when the gas company is making money.

Sheila Chanler asked if this is a 1-year moratorium and will the Town have to start all over after that year.

Gordon McClellan stated that testing the well water is a good idea, advising that landowners with wells have a thorough water test performed prior to gas companies drilling for gas since that will be the basis for a lawsuit if your well is contaminated by the hydrofracking. He reminded the Board of the salt mine collapse and that we have already seen natural gas coming up from wells. He suggested that, as a result of the mine collapse, this area may already be a fragile area for hydrofracking. Gordon stated that Section 9 of the proposed moratorium law provides for a fine not to exceed \$5000 for anyone violating the provisions of this law and he feels that this will not deter anyone. He would like to see something with more "teeth". Mr. McClellan asked about the definition in Section 5B for Natural Gas and Oil Activities, saying it looked like it had been "cut and pasted" from somewhere else. Since we already have gas wells with regular extraction, are we disallowing that which is presently occurring?

Bill Lloyd stated he supports the moratorium. He and his family own more than 3000 acres of land. He would like to go on record that there are landowners in Geneseo and surrounding areas who are concerned about the land and the effect of this method of natural gas extraction.

Jeremy Grace and Sally Wood are landowners of large acreages in Geneseo. Both stated that they echo Bill Lloyd's statements, as landowners they have an obligation to protect the land.

Kathy Shaffer stated she is a nurse who, in her "younger days", moved to Appalachia to help people. At that time, there was strip mining going on in the area. They were mining coal and the mining company promised to "restore the land" when they were done. Though the mining was not on the land on which Ms. Shaffer's family lived, the mining affected the wells where she lived. Due to the color of the water, the Shaffer family did not drink it. When the mining company left, they left the land ravaged and they did not leave a forwarding address. Ms. Shaffer suggested we learn from this experience and work strongly for a ban, and be prepared to ban together as a community to protect the community.

Kathryn Peterson thanked the board for their time and consideration. She is afraid of "compulsory integration" that she has heard about. If a company has gas drilling rights on 60% of the property in an area, she has heard that they can take the other 40% through eminent domain. She is also worried about the 5% failure statistics cited by the energy companies, which is still 1 square mile out of 20 square miles. Ms. Peterson

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stated that in Pennsylvania, due to the radon that occurs in nature, the waste water is too radioactive and cannot be disposed of.

One SUNY Geneseo student stated he is in support of the moratorium and thanked the Board for writing this proposed law, for considering the immediate effects of the hydrofracking and for protecting this and future generations.

Donna Schultz stated she is concerned about the negative health effects and water supplies.

Robert Wied, consultant from Lanape Resources Inc, addressed the Board. Lanape is an owner/operator of natural gas wells and the lessee of extensive oil and gas development rights in Livingston County. He stated that Lanape has had leases on 400 wells since the 1980s and every one of those wells has been hydrofracked - hydrofracking has been around for years. Mr. Wied added that high-volume fracking seems to be the town's concerns, which differs from the past "hydrofracking" that has been done by the amount of water going into the hole. Mr. Wied stated he also has some questions and comments for the Town's Attorney; Is this law subject to SEQR review and is it characterized as a Type 1 action or a Type 2 action? ; this moratorium law is contradictory to the provisions of Article 23, Section 303 (2) of the current environmental law (ECL) and the Board runs the risk of violating New York State law if they adopt this moratorium. Mr. Wied added that the proposed local law has listed activities that the town does not have jurisdiction over, and this law would be in conflict with New York State Environmental Conservation Law (ECL). A gas drilling company is not required to come to the Town of Geneseo for the actions that are prohibited by this proposed law.

Mr. Wied continued that the Department of Environmental Conservation in New York State is stronger than any other agency in any other state, and there is nothing the Town can do that is any more in depth than what the NYSDEC is presently doing. There is 1500+ pages in the draft Generic Environmental Impact Statement and 60,000 comments have been received in this public hearing round.

Eddie Lee stated he supports the moratorium. He believes that the previous speaker (Robert Wied) has drawn some conclusions and asked if this moratorium was modeled on others that have been drawn up. He asked if the NYSDEC issues regulations and other decisions about this are made at the state level, has the Board talked to the Town Attorney about what this moratorium would do?

Supervisor Wadsworth responded that New York State has the ability to "wipe this moratorium out" and if so, it is left to be seen what the Town will have the authority over and what the Town can do to protect against any impacts.

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Lisa Johnson identified herself as the Vice-President of the SUNY Geneseo environmental group. She thanked the Board for initiating the moratorium and for holding the public hearing, as well as thanking those attending. She advised that the objection is specifically to high-volume hydrofracking, which has only been around for 8 years and there has not been a lot of data about. She warned that the high-volume hydrofracking could seriously damage and pollute our environment. Much more contamination can occur than just at the “joints” shown on the DEC maps.

At this time, Supervisor Wadsworth stated the public hearing is being left open until later in the meeting and invited Village Board Members and Jon Norris of Clark Patterson to the board table to discuss much needed renovation work on the Geneseo Village Building.

JOINT MEETING WITH VILLAGE BOARD REGARDING “THE GENESEO BUILDING” :

At 6:30 pm Supervisor Wadsworth opened the joint meeting to discuss the Geneseo Building exterior repairs, and any other matters that may come before the two governing boards.

Supervisor Wadsworth turned the discussion over to Mayor Hatheway who explained that Clark Patterson Lee had been hired to perform an evaluation of the exterior of the building in terms of brickwork, windows, and columns. The roof was replaced in 2008. Jon Norris went over the building evaluation that was completed in December 2011 and copies were distributed to both Boards and Code Officer Maxwell.

The hazard survey was completed by Lu Engineers. Some hazardous materials were found in the caulk and paint on the exterior of the building. Proper precautions will be observed when working with those materials. Jon went over the building codes that would pertain to improvements made to the exterior shell of the building. Jon also went over some of the considerations that the State Office of Parks and Historic Preservation (SHPO) might have if and when repairs and rehabilitation of the exterior of the building take place.

Jon went over the mortar evaluation that was completed in October of 2011. The mortar is a mixture of Portland cement, hydrated lime and sand with an iron-oxide based pigment. American Petrographic Services evaluated the mortar sample. Jon explained that the goal would be to *heal* the brick rather than replacement. Some re-pointing will take place also especially at the sidewalks interface at both the front and rear of the building. Three to four courses across the entire front and clusters seven high next to the doors in the back would be subject to repair. Overall, however, the report states that the *brick are in good to very good condition*.

The evaluation of the trim around doors and windows and louvers showed evidence of lead paint and these areas will be scraped, sealed and painted as well as the wood replaced where necessary.

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The existing windows are original to the building construction in 1906. They are double hung with a rope and counterweight balance. The windows at the basement level and first floor level have exterior aluminum storm windows. The windows at the second floor are not protected with any type of storm window assembly. Overall the windows are in fair to poor condition. The windows in the front of the building are the exception where the fire doors were removed in 1980. Those windows are insulated glass and in good condition. There are two windows at the south elevation of the building that are metal frames with wire glass.

At the front of the building, the roof is supported by large wooden columns. The columns have elaborate capitals of carved wood and molded plaster. The column bases are curved sandstone and rest on a rectangular slate layer. The evaluation showed the bases to vary in quality from very poor to good. At this time they function structurally fine; however, the life expectancy of the bases would be estimated at less than ten years.

Price evaluations based on recommendations were distributed. Masonry/brick work is estimated at \$18,735, Metals/Trim work at \$19,543, work on the Columns/Porch amounts to \$24,449, Doors amounts to \$6,200 (which may be reduced due to the replacement already of the east side rear entrance door), Window Wells amount to \$5,000 (two windows on the south side are actually below ground level), Exterior Window Sills would amount to \$13,840, and Window replacement would amount to \$167,945. The total project items above would amount to \$255,712 with contingencies added for a total project cost of \$331,070.

The next step in the process would be to write to the State Office of Parks and Historic Preservation to determine whether or not the recommended repair and replacements would be acceptable.

Supervisor Wadsworth stated that the evaluation was thorough and it appears that a conservative approach was taken to the project. A project schedule would include 1-2 months for SHPO approvals, 1 month for the bidding process and then work could commence in about 4 months (June).

Mayor Hatheway asked the Town Board if they would be willing to assist the Village in this project to preserve the exterior of the Geneseo Building and the response was that they would consider the project and respond within a month's timeframe. Mayor Hatheway added that the Village Board is committed to pursuing the project and will ask Jon Norris to submit the evaluation and project plan to SHPO for their approval.

The Village Board thanked the Town Board for their consideration and look forward to possibly working together on the project.

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With no further business to discuss the Village Board was excused at 7:05PM from the remainder of the Town Board meeting and the public hearing on the “2012 Interim Moratorium on all Natural Gas and Oil Activities” continued.

PUBLIC HEARING – 2012 INTERIM MORATORIUM, continued:

Darcy Young reviewed some of the towns that have adopted a moratorium and asked if the Town Board plans on acting tonight.

Supervisor Wadsworth responded that the Town Board is unable to consider adoption of the moratorium at tonight’s meeting since the Livingston County Planning Board is reviewing the moratorium law at their meeting tonight at 7:00 pm and the Town must wait for their advisory comments. The Interim Moratorium law will be on the agenda for consideration at the next Town Board meeting on February 23rd.

Matt Berman asked what the Board is looking to do in one year when the moratorium is up and suggested the Board work with geologists at SUNY Geneseo to do a localized study to present to the state.

One speaker requested that the Board not interfere with the existing technology. Supervisor Wadsworth responded that Section 8 of the proposed moratorium law takes the existing technology into account.

Gordon McClellan had the following additional comments: 1) he reiterated his concern over the definition in Section 5B of the proposed law; 2) the first sentence in Section 4D has the word “and” when it is not needed; 3) the law should include water testing in the area of the drilling before any permit is issued and before drilling activities start; 4) add (perhaps in Section 7) “the forced transfer of mineral rights” as a prohibited action; 5) In response to the proposed Moratorium, Section 8 E (3), Mr. McClellan stated that we have no God-given right to make return on our property; 6) he brought in a dvd for Board Members to watch and encouraged its duplication; 7) where will the water for the hi-volume hydrofracking come from? Will the state allocate it from the lake(s)?

Robert Wied stated: 1) he agrees with Gordon’s McClellan’s concern over the definition of Natural Gas and Oil Activities in Section 5B of the proposed local law, and that the definition needs to be reviewed again, it is “over-reaching”; 2) it is foolish for an oil and gas company not to test the water that is in and around where they are drilling, for their own protection. Lanape tests water from wells that are within 1000 feet of the drill site; 3) pre and post testing of wells in the drilling area are required in the draft GEIS; 4) According to the town’s proposed law, no oil and gas activities would be allowed in the Town, and the law does not contain any references to high-volume hydrofracking; 5) If Town Board Members would like to meet with Lanape representatives to discuss their concerns, Lanape would be glad to do so; 6) NYSDEC is doing their job, the process has taken 3 years so far; 7) Mr. Wied does not think the Town needs a moratorium since no one is “running” to the Town of Geneseo to do high-volume hydrofracking right now,

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and he expects that it would be more than one year before anything happens anyway, perhaps even longer.

Darcy Young encouraged the Town Board Members to keep moving forward.

Since there were no further comments on the proposed Moratorium law at 8:40 pm Mr. Wrubel moved and Ms. Irwin seconded the motion to close the public hearing on the "2012 Interim Moratorium on all Natural Gas and Oil Activities". Motion passed with voting as follows: Wadsworth-aye; Wrubel-aye; Irwin-aye; Manapol-aye; Taylor-aye. Nays: None.

At this time, Geneseo resident Marcia Ballard arrived at the meeting and requested the Board allow her to comment on the proposed local law imposing a moratorium on natural gas and oil activities. The Board granted her request. Ms. Ballard suggested a policy of "better safe than sorry" would be a good one to adopt with respect to high-volume hydrofracking. While the public may want this energy, we still need to look at if it can be obtained safely. Ms. Ballard grew up in Springville near Cattaragas Creek where the trout actually "glowed". She needs potable safe water for her business, and since the oil companys do not have a very good track record, Ms. Ballard encouraged the board to say "no" to hydrofracking and side with humanity and the environment.

CONSEUS LAKE/ POINT PARK ISSUES:

Councilman Wrubel had some suggestions to the Supervisor's proposed resolution establishing an area for smoking at Long Point Park. The Board will look at this at their next Town Board meeting.

Mr. Manapol reported that the Town has received a check from the Geneseo United Methodist Church for reserving the Long Point Park pavilion for Sunday, September 9th, 2012 and suggested returning it since many of the Methodist Church Members are also Geneseo taxpayers. Mr. Manapol moved and Mr. Taylor seconded the motion to approve the Methodist Church use of Long Point Park pavilion on 9/9/12 and waive the fee, with a proper certificate of insurance to be provided. Motion passed with voting as follows: Wadsworth-aye; Manapol-aye; Taylor-aye; Irwin-aye; Wrubel-aye. Nays: None.

Mr. Taylor informed the Board that a group of students from Geneseo High School are interested in forming a community support/help group. They would work with SUNY Geneseo's Circle K/Kiwanis organization and would also be supported by the Geneseo Kiwanis group. They are willing to do volunteer work at Long Point Park and local cemeteries such as yard work, raking and trimming. Mr. Taylor asked what the sense of the Board is. The Board agreed that there may be some liability issues and the Town Attorney and Insurance Agent should be contacted to see if these issues can be worked out.

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WATER & SEWER ISSUES:

The Board reviewed a request from David and Sue Bank regarding the \$30/quarter fee per water account for their parcel of land on Conesus Lake. They had the water shut off at the curb because they no longer have a structure there and are requesting a waiver of the \$30 fee on their February, 2012 and subsequent water billings. Since they did have an RV at the site and were using the water during 2011, Mr. Taylor moved and Ms. Irwin seconded the motion to authorize the Supervisor to write a letter that the Banks should pay the \$30 fee on the February billing for the 2011 fiscal year and, if the water is shut off and capped, the \$30 fee will not be charged for the 2012 fiscal year. Motion passed with voting as follows: Wadsworth-aye; Taylor-aye; Irwin-aye; Manapol-aye; Wrubel-aye. Nays: None.

ADJOURNMENT:

At 9:00 pm Mr. Manapol moved and Ms. Irwin seconded the motion to adjourn the meeting. Motion passed unanimously.

Jean Bennett, Town Clerk and
Marsha Merrick, Village Clerk/Treasurer (Joint meeting)

ATTACHMENTS: Michael P. Joy comments on 2012 Interim Moratorium proposed local law; December 13' 2011 article by Paul Hetzler from Watertown Daily News submitted by Andrew Timm; Jean Trescott comments