

## TOWN OF POMPEY BOARD MINUTES

The Regular Monthly Meeting of the Town Board of the Town of Pompey was held on May 5, 2013. In attendance: Supervisor Carole Marsh, Councilors Carl Dennis, Greg Herlihy, Victor Lafrenz and Craig Smithgall; Town Clerk Ann Christmas and Attorney Jeff Brown. There were 108 residents in attendance.

Supervisor Marsh called the meeting to order at 7 p.m. followed by the Pledge of Allegiance and a moment of silence for our service men and women and also for the people in Boston and Texas.

Attorney Brown spoke to the Town Board about the Resolution concerning Local Law No. 1 of 2013 that he had forwarded to them. This needs to be acted on before the Public Hearing. It will be designated as a type I action. There will need to be a coordinated review. The resolution designates the Town Board as the lead agency. This proposed local law will need to be forwarded to Onondaga County Planning for their review. Attorney Brown recommends that Councilors Smithgall and Dennis should not actively participate in any discussions tonight because of a potential conflict of interest.

Councilor LaFrenz read the proposed Resolution.

R-95-13            Made by LaFrenz, seconded by Marsh to adopt the following Resolution:

### RESOLUTION OF THE BOARD OF THE TOWN OF POMPEY

**WHEREAS**, the Town Board of the Town of Pompey (the "Town Board") is proposing to adopt Local Law No. 1 of 2013 (the "Action"); and

**WHEREAS**, the Action involves the adoption of a Local Law promoting the protection, order, conduct, safety, health, and well-being of the residents of the Town of Pompey (the "Town") and the lands that lie within the Town's border by prohibiting any land within the Town to be used for the purposes of natural gas exploration and extraction and the associated uses of land, including treatment, storage, and transportation of natural gas exploration and production wastes; and

**WHEREAS**, the Town Board is holding a public hearing on the Action on May 6, 2013; and

**WHEREAS**, the Town Board desires to comply with the New York State Environmental Quality Review Act ("SEQRA") and the regulation in 6 NYCRR Part 617 adopted by the New York State Department of Environmental Conservation (the "Regulations") with respect to the Action; and

**WHEREAS**, pursuant to the Regulations, the Town Board has considered the Action in light of the actions included on the Type I list specified in Section 617.4 of the Regulations and on the Type II list specified in Section 617.5 of the Regulations; and

**WHEREAS**, there are no other "involved agencies" (as the quoted term is defined in the Regulations) with respect to the Action; and

**WHEREAS**, the Town Board desires to determine whether undertaking the Action may have a significant adverse environmental impact and, therefore, requires the issuance of a positive declaration and further environmental review; and

**WHEREAS**, the Town Board is mindful of the criteria set forth in Section 617.7 of the Regulations for the determining the environmental significance of an action.

#### **NOW, THEREFORE, BE IT RESOLVED, THAT:**

1. Based on Section 617.4(b)(2) of the Regulations, the Town Board has determined that the Action is a "Type 1 Action" (as the quoted term is defined in the Regulation).

2. The Town Board wishes to undertake a coordinated review for the Action and has determined that it will act as the “lead agency” for the Action (as the quoted term is defined in the Regulations) because there are no other involved agencies.

3. The Clerk of the Town of Pompey is directed to refer the Action to the Onondaga County Planning Board for review.

4. This Resolution shall take effect immediately.

Roll call vote taken:

Supervisor Marsh	Yes
Councilor Dennis	Abstain
Councilor Herlihy	Yes
Councilor LaFrenz	Yes
Councilor Smithgall	Abstain

Motion carried.

R-96-13 Made by Marsh, seconded by Herlihy to open the Public Hearing on the adoption of Local Law No. 1 of 2013 to amend Chapter 165 (Zoning) of the Code of the town of Pompey to add new section 165-16A entitled “Prohibition against natural gas and/or petroleum extraction, exploration or production wastes” and to supplement existing sections of Chapter 165 to comport with same at 7:10 p.m. 3 yes (Herlihy, LaFrenz and Marsh) 2 abstain (Dennis and Smithgall) Motion carried.

Attorney Brown informed those in attendance that there would be no action tonight on the adoption of this proposed local law as there had to be a coordinated review with County Planning.

Speaking against :

Robert Neufang, Route 91, asked the Town Board members if any of them had ever been to a hydrofracking site and witnessed what ever happened from start to finish? Supervisor Marsh stated that she had. He asked if that would be detrimental. He feels that this is a mute point. He would like things to be done to affect the town residents. There is no new revenue coming into the Town. The last good thing that happened in the Town concerning revenue was Pompey Pines and The Preserve. We need to increase our revenue. There is nothing in the Master Plan about hydrofracking. He feels hydrofracking could benefit our town and school district. There is scientific evidence that says it is safe. Hydrofracking has been done since 1947. He has been to two sites in Pennsylvania. He hopes that the Town Board takes an objective view and considers the scientific facts. He cares about facts not emotions. Councilor Smithgall started to comment and Phil Benedict and Victor Greene informed him that he couldn't say anything.

Marie Smithgall read a letter that expressed her and her husband's feelings on the ban. Her husband is a Professional Engineer and DCEE. The letter is on file in the Town Clerk's office.

Eric Austin, Indian Hill Road, feels it is shortsighted to ban it without any study. DEC is working on our behalf. He is a mechanical contractor. He feels that more information is needed.

Speaking in favor:

Marcel Wellner, Ransom Road, has lived in Pompey for 50 years. Doesn't want to live in an industrial area.

Jack Daly, Hamilton Road, has lived in Pompey for 40 years. He has concerns about the unknown.

Years ago asbestos was used all over and now it is considered a hazard. We need to have a better understanding.

Bill Fischer, lives in CNY, he read a letter and commended the Town Board for taking this action. He feels the Town Board needs a unified voice. We need to have clean air and clean water. Despite all of the drilling in Pennsylvania he said unemployment went up; homeowners have liens filed against their property. There is great risk to our aquifer; air quality; food quality and disposal of waste. The Town Board has the power and duty to protect the residents.

John Shaheen, Gulf Road, has lived here for 35 years. He is a professional engineer. He was approached five years ago by a gas company and he declined. He is convinced he did the right thing. Gas companies will minimize the risk. He feels there are significant impacts and he supports the ban.

Velda Ward and Markey Dormer spoke about compulsory integration and held up maps that indicated where the gas leases are in the Towns of Fabius and Pompey. There are 6,155 acres leased in Fabius and 6,900 acres leased in Pompey. Markey Dormer left pamphlets with Supervisor Marsh.

Maureen Nolan, Route 91, thanked the Town Board for taking action and not waiting for DEC. She asked that they consider the risks.

John Lawyer read a prepared statement about excess truck traffic, water spills; he doesn't feel that there is enough oversight. He wants it kept out of Pompey. Perhaps in 30 years it could be reconsidered.

Susan French Lawyer has lived in Pompey for 25 years. She understands that farmers are struggling and that is why they may have signed the leases. We need to protect ourselves and also help support the farmers. We should look at this again when we know it is safe.

Jane Kennedy Ayers, is a life resident of Pompey. If people want to see what industry has done she thinks they should look at the gravel beds in Delphi Falls. She used to be able to see to Manlius now she sees berms. Last summer she counted 200 trucks in one day going thru Town. Water from their wells are going into the pit. It has ruined the agricultural beauty.

Denise Wertz has lived in Pompey 25 years. Spoke about a toxic dump that was proposed for the area years ago.

Donna Willis questioned if there any law that prohibits the Town Board from voting on this issue tonight. Attorney Brown informed her that County Planning needs to weigh in on this. It will be voted on at the June 3, 2013 meeting.

R-97-13        Made by Herlihy, seconded by LaFrenz to close the Public Hearing on the adoption of Local Law No. 1 of 2013 at 7:50 p.m. 3 yes (Herlihy, LaFrenz, Marsh) 2 abstain (Dennis, Smithgall) Motion carried.

The monthly report of the Supervisor was submitted and reviewed. The Court fines are coming in strong. This is due to the fact that they are catching up for fines imposed last year. Bookkeeper Chartrand handed out a new investment policy that is with NBT Bank. This should be reviewed and acted on next month.

Bookkeeper Chartrand reviewed some items he learned at the Finance School. One of the things was fiscal stress monitoring and how we will be rated. There are 3 rates (significant, moderate and susceptible). We are not in fiscal stress. Councilor Herlihy stated that not having any debt is good.

Highway Superintendent Purcell spoke to the Town Board about the purchasing of a new truck that he has been budgeting for over the past few years. He would like to purchase a new plow truck from Tracey Road Equipment under Oneida County Bid in the amount of \$162,754.00. It is a 2014 Western Star 4800/4900SB Cab and Chassis. This will replace an 1991 all wheel drive Auto plow truck that has

135,000 miles. He will take this truck to auction. Attorney Brown questioned Highway Superintendent Purcell if the Oneida County bid documents permitted piggy backing of other municipalities on the successful bid. Highway Superintendent Purcell stated that they were.

R-98-13 Made by Dennis, seconded by Marsh to authorize the purchase of a 2014 Western Star 4800/4900SB Cab and Chassis under Oneida County bid from Tracey Road Equipment in the amount of \$162,754.00. All in favor. Motion carried.

Highway Superintendent Purcell informed the Town that the Town will an increase in CHIPS funding in the amount of \$26,500.00. He would like to use this towards the purchase of the new truck and the remaining amount would come from the new machinery budget line. He budgeted \$20,000.00 this year for a used roadside mower/tractor. There are auctions going on now that he would like to attend and see if there are any used mowers.

R-99-13 Made by Dennis, seconded by Herlihy to authorize Highway Superintendent Purcell to attend auctions and bid up to \$20,000.00 for a used roadside mower/tractor. All in favor. Motion carried.

Highway Superintendent Purcell also reported that he has been working with Steve Snell from O'Brien and Gere about the drainage problem in Hartsfield. He has talked to Bob Caron, the developer, and he has agreed to do the work.

Councilor Herlihy complimented Highway Superintendent Purcell on the good job his department has been doing. Councilor Dennis stated that the highway department takes good care of their equipment.

As Code Enforcement Officer Penhall wasn't present Councilor Herlihy read the report that had been furnished to him by Mr. Penhall.

Supervisor Marsh informed the Town Board that Allison Chartrand will be playing with the Syracuse Symphony next weekend. This is a huge accomplishment and she is proud of her. She also read part of the proclamation that Ann Christmas received at the NYS Town Clerks Association Conference in which she was named District 5 Town Clerk of the Year. She also informed the Town Board that she had received the inspection report from NYS Ag and Markets on Sue Snavlin and everything is satisfactory.

R-100-13 Made by Dennis, seconded by Herlihy to authorize the purchase of two computers for the Town Clerk's office in the amount of \$549.00 each from Syracuse Computer Store. All in favor. Motion carried.

There was a discussion on whether or not to continue the water testing of the residents in Pompey Center. Councilor Smithgall stated that he didn't feel that we were getting anything for our money. Supervisor Marsh stated that the residents are concerned. Councilor Smithgall stated that the reverse osmosis systems are reliable. Supervisor Marsh will go and talk to the neighbors. This will discussed next month.

R-101-13 Made by Dennis, seconded by LaFrenz to declare May 14, 2013, as Robert Mawson Day in recognition of his 50 years of service to the Delphi Falls Volunteer Fire Department. All in favor. Motion carried.

R-102-13 Made by Dennis, seconded by Marsh to accept the Town Clerk and Supervisor's reports and bank reconciliations. All in favor. Motion carried.

R-103-13 Made by Dennis, seconded by Marsh to send a letter of thanks to Darla Mawson for her 28 years of service to the Planning Board and 20 years of service to the Zoning Board of Appeals and to purchase a plaque. All in favor. Motion carried.

Councilor Dennis stated that he had met with Ruth Hotaling and has a quote from Eastern Security for a security system for the schoolhouse. The quote is in the amount of \$2,495.00 with a \$5.00/month charge. He will meet with Ruth and obtain another quote from another company.

Councilor Herlihy thanked the volunteer fire servers. There was a tragic accident on Route 20 the other day and it is amazing what they do.

R-104-13        Made by Herlihy, seconded by Marsh to hold a Special Meeting on June 12, 2013, at 6 p.m. to review the recommendations on the internal review that was just completed. All in favor. Motion carried.

Thomas Douglas along with his attorney, Paul Curtin, and Tom Kinslow, his architect, were present. They did a presentation on a proposal for an apartment complex dedicated to seniors on Pompey Center Road that is contiguous to The Preserve. It is the responsibility of the Town Board to provide adequate housing for all members of the community no matter where they may be. This would not be subsidized housing but would be market rate. Currently the property is zoned agricultural. Instead of a zone change they are proposing an overlay district to allow this type of use on a specific piece of property so long as it met specific criteria. They have done this type of thing in several other communities. They were before the Board to see if there is any interest in this. If there is Attorney Curtin will draft up info for Attorney Brown to review. There will be 1 and 2 bedrooms available for seniors as they downsize. They would keep it with the residential quality of the neighborhood. Any concerns can be addressed during the site plan approval. This would not be considered spot zoning. An informal meeting for the neighbors was held several weeks ago. Mr. Douglas stated that the property in question is owned by Paul O'Mara. Currently Mr. O'Mara stores his hay in the barn and cattle is on the property. Mr. O'Mara told him years ago that the neighbors wanted him to leave because they didn't like the use. The age of the occupants would be 55 and above. There would only be 2 occupants in each apartment. It will have the look and feel of condominiums. Mr. Douglas stated that this would be a tax generator for the Town and it won't cost the Town anything. They anticipate that there would be 1.5 day trips/unit. They won't be traveling every day. Supervisor Marsh stated that she has received numerous complaints from the neighbors because of dust and other items going into their pools and they won't have to deal with the noise, dust, smell and rodents any longer. She is in favor of it. Councilor Dennis stated that it is a great idea. It is the only area in the Town where this would work. Many residents have been asking for something like this for years. Mr. Douglas stated that this is the only place in the Town that has the infrastructure in place. Councilor Herlihy stated that that area of the Town has changed significantly and that there are commercial sites near this area and yet no senior housing up here. Attorney Curtin stated that in an Overlay District they would follow HUD standards of 55 and older; they would need to do an annual certification; no less than 80% of the units have to be 55 years and older. Their objective is to keep people here in their community. Attorney Brown asked the applicant's attorney if there would be separate public hearings on creating the overlay district concept and creating the specific overlay district for this particular project, and the attorney said yes. Attorney Brown also stated that there would be a separate public hearing on the site plan application, giving Town residents multiple opportunities to voice their opinions." Attorney Brown stated that he had received a call from a neighbor about the informational meeting held. Mr. Douglas stated that there was no public notice as this was strictly informational. He stuffed paper tubes of neighbors within 500 feet of the proposed site. Approximately 20 people attended the meeting.

Alexandra Coursen stated that she didn't feel that this went along with our Master Plan; she doesn't see any tax benefit for the Town of Pompey; she feels there are drainage issues; that it does not fit in with the surrounding area; and that the County doesn't want this type of thing going on.

Tom Malagisi of Lamp Post Circle stated that within one-half mile there are 400 apartments. He would rather see houses there. He questioned what would it look like in 20 years. Would only Pompey residents live there?

Kevin Coursen stated that he is upset with the developer. He is a member of the Planning Board and that Mr. Douglas met with the Planning Board one night. He told the Planning Board that none of the buildings would be any taller than the existing structures on site. The only existing structure on site that would

have that height would be the silo. Mr. Coursen felt that was misleading. He feels his notification to the neighbors was an injustice to the other neighbors. Attorney Brown cautioned him not to prejudge the application, which he agreed he would not. We already have several other types of overlay districts in the Town. He feels the market is to Manlius and it shouldn't be marketed as a benefit for Pompey residents. He understands that the septic and sewer are up a bit of a difficulty because they are up further up elevation wise and this would be a difficult task. He doesn't feel that it will truly be a senior housing and that the developer should be upfront and open about what he is trying to accomplish.

Mary Alice Haynes questioned the number of units and what the monthly rental would be.

Attorney Curtin stated that they are only looking for an indication from the Board that this project has merit and that they should proceed.

Supervisor Marsh, Councilor Dennis and Councilor Herlihy said yes. Councilor LaFrenz said it should go thru the normal process and he wanted to abstain. Councilor Smithgall stated that he felt that they should let the market decide and that if there are any engineering problems they can be overcome.

Attorney Curtin will provide a rough outline of the legislation and Attorney Brown will look it over.

R-105-13 Made by Dennis, seconded by LaFrenz to hold a Public Hearing on June 3, 2013, at 7 p.m. to consider the adoption of Local Law Now. 2 of 2013 to amend Chapter 165 (Zoning) of the Code of the Town of Pompey by making a technical correction to 165 Attachment 1 "Schedule Limiting the Use of Buildings and Land" to clarify that "SP" shall mean site plan approval. All in favor. Motion carried.

R-106-13 Made by Dennis, seconded by Marsh to hold a Public Hearing on June 3, 2013 at 7:05 p.m. to consider the adoption of the Franchise Agreement with Time Warner Cable. All in favor. Motion carried.

R-107-13 Made by Herlihy, seconded by LaFrenz to approve the quote from O'Brien and Gere to provide landfill monitoring for 2013 in the amount of \$15,224.00. All in favor. Motion carried.

R-108-13 Made by Dennis, seconded by Smithgall to approve the payment of General Fund Abstract Nos. 147-175, totaling \$47,136.75; Highway Abstract Nos. 66-87, totaling \$33,267.02; and Special District Abstract Nos. 18-20, totaling \$833.24. All in favor. Motion carried.

#### Public Comment

Phil Benedict apologized to Craig Smithgall. He stated that he knows how passionate he is about hydrofracking. He asked that the Town Board consider his offer for the surplus constable equipment.

Tom Malagisi stated that he thinks Highway Superintendent Purcell is doing a good job and he had big shoes to fill. He asked is any spraying will be done for EEE. Supervisor Marsh will check on this. He also stated that he doesn't feel that Mr. Douglas' project will fit.

R-109-13 Made by Dennis, seconded by Herlihy to adjourn at 9:25 p.m. All in favor. Motion carried.

Respectfully submitted,

Ann Christmas  
Pompey Town Clerk

DRAFT