

Town of Knox, Albany County

Established 1822

Planning Board Meeting Minutes

10/11/12

Planning Board Members:

Present: Dan Driscoll, Bob Gwin, Bob Price, Brett Pulliam, Earl Barcomb, Pam Fenoff

Absent: Tom Wolfe, Betty Ketcham

Community Members:

Ed Ackroyd

Meeting called to order at 1930.

1. Approval of the draft minutes of the 13 September 2012 meeting.

One change, per Dan: on second page, "...they have a law on the books". Should be a "...draft law on the internet."

Approved unanimously with the change.

2. Hydro Fracking

Bob and Dan informed the Board about what they had learned from the seminar on High Volume Hydraulic Fracturing held at the Albany Law School on September 28th. While the information was focused on HVHF matters, it also has relevance to the WECS draft regulation since it dealt with the need to up-date the Town's Comprehensive Plan.

Dan, Betty and Bob Price attended this meeting. The speakers were mostly very good. Bob recapped the meeting and noted it was at no cost to the Town and the food was great.

Towns of Dryden and Middletown – both have passed a ban / ordinances on small scale / low volume fracturing / drilling; i.e., using less than 80,000 gallons of fracturing fluids. These are allowed in NY, high volume wells are not allowed. It is important to note the regulations in the Supplemental Generic Environmental Impact Statement, SGEIS, only deals with large volume wells.

Bob mentioned a couple of speakers, one from the Town of Wright (Nan Stoltzenberg) and one from Ithaca (Krys Cail), and plans to ask them to provide a proposal to review our comprehensive plan and critique it so that the Town Comp Plan can be the basis for a potential ban on hydraulic fracturing in Knox.

The Town Board approved the review, on 10/9/12, so Bob will formally request a quotation from each.

Potentially, they could also be asked to provide oversight in our efforts to re-write the Comp Plan. This would obviate the need to form a committee to make the changes.

Another phase would be to ask for aid in rewriting it. We don't need 16 people in a room for 19 months to get this done. We can just make changes to it, update it, etc., as necessary.

Dan agrees that we need to review and update the comprehensive plan. He has surveys from prior years that asked townspeople what should be added and/or changed in the existing Comp Plan.

Bob Price also reported that the Governor has asked the NYS Dept of Health to provide a full report on the health issues related to hydraulic fracturing and that report could take six to nine months to complete. If that occurs, then DEC may have to start all over with the SGEIS document further delaying any applications for high volume wells.

Bob Price mentioned that he asked one of the speakers if a driller went to DEC, requesting to drill in a specific town, does DEC have to notify the affected town? The answer was no, they do not under the current version of the SGEIS.

The Town Board, Tuesday 10/09, concluded that they do not have to rush into this. A judge in Binghamton recently threw out a moratorium, on the grounds that the wording included "dire emergency" and since there was no regulation permitting high volume fracturing currently in place in New York, the words "dire emergency" didn't really apply.

Someone asked the rhetorical question: can Knox do the same with its putative moratorium as we [Knox] did several years ago? Could Knox develop more strict rules than DEC? Knox is famous for winning a case against the DEC 18 years ago regarding waste water drainage. Knox created a regulation regarding SPEDES permits that was much stricter than the one put forth by DEC. DEC took us to court and the NYS Court of Appeals ruled that a town had the right to have a more restrictive regulation than the DEC but not a less strict regulation.

Another question raised at the seminar was how is DEC going to properly monitor the large number of potential high volume wells since it currently only has five inspectors. There is nothing in the SGEIS that would force the drillers to contribute to a fund to hire additional inspectors.

One area that is strongly worded in the SGEIS is the ability of a town to strictly regulate the use of the Town roads as it pertains to weight limits, the right to force truckers to provide funds to keep town roads repaired etc. Limits could be placed on how many 3,000 gallon capacity trucks could move through the town.

Ed Ackroyd pointed out that some fire and milk trucks carry more than 3000 gallons.

Importantly, the Town has the time to conduct the Comp Plan review. Since the Town is going to pay for the town plan to be reviewed and revised, we might be able to add more about wind turbines and even vertical axis wind turbines.

Earl asked – could a town put restrictions on the low volume fracking? Answer: probably not since they are currently permitted and private owners might have a leg to stand on in court.

It was noted that two areas in the state have been exempted from high volume drilling– the Syracuse and NYC watersheds since the risks were too high to allow for any contamination. The implication is that HF has the potential to create irrevocable damage to ground water supplies how ever low that possibility may be.

Many disaster stories, many success stories, too. NE has been fracking for 25 years. But given the possibility for disaster, the regulations should be unbelievably strict.

Bob Gwin asked if anyone talked about what's in the pipeline for the future. There should be a more environmentally friendly way to do this. Something our kids will benefit from. What's next? There was an article recently about 4000 wells in MYS that have never been touched.

Bob P – nothing that he knows of. He also pointed out that all of this waste water from HVHF is excluded from the Federal Waste Water / Clean water treatment act.

This is driven by potential income. Marsellas shale is about 5000 feet down; Utica shale is below that, another 2000 feet. Utica is underneath all of Knox. There is so much of it the price is going down, not such a return on the investment.

Dan confirmed that there is really not much interest to access the Marsellas shale here in Knox. Most of the area of interest is in the southern tier of NYS.

The Utica shale under Knox, might be of interest, but it is probably too deep and doesn't contain enough useable gas to be economically extracted.

The distinction between a moratorium and a ban. The moratorium was struck down because it wasn't needed, the high volume isn't allowed.

Bob P - the city never established that there was a "dire emergency" on something that is not permitted in NYS.

The current SGIES regulations supposedly prohibits the towns from regulating how drillers conduct there operations. The towns can control where and when but not how.

Bob P - properly regulated it could be a benefit. But there is always "what if it fails?"

Ed – would this ban / moratorium affect someone trying to drill a well?

Bob P – No, this would be on a commercial basis. It needs to be dealt with carefully, or simply ban it.

Dan – how do they drill down then turn 90 degrees. With a bevel gear – 3 would equal a 90 degree angle.

Bob P – if the 90 degrees puts them under your property, you are entitled to \$\$\$.

Both Bob and Dan offered to loan out the books they got from the meeting.

3. Questions & Comments from the audience.

- A. Robert Delaney, the Town Building & Zoning Administrator asked the Board to look a proposal from Pastor Jay Francis for a building to put up in the spring This would be a ministry house for missionaries to stay in temporarily, youth groups, ministers etc. It would be an eight to nine bedroom house with the usual amenities set on a 15 acre lot.

Bob Gwin asked – could you call it a Parish House? Yes. Therefore, see p 25 of the Zoning Ordinance regarding these types of buildings. Bob P – lets call it a Parish House and Pastor Francis will let us know when he needs approval. He need to bring all the necessary information re: parking, lights, plat plans, etc.

Dan suggest the Pastor Francis should look at how to do a site plan approval in the Z/O, if anything doesn't fit you can apply for a variance.

In Zoning Ordinance there is a note about “convent”. If it falls under that category, it would require PB approval.

Other Notes – Pastor Francis noted that he has a food pantry and feeds about 80 families a month.

- B. Ed Ackroyd – requested that if the Planning Board changes the room / time of the meeting to, please notify the public. Re: last meeting, 9/13/12.

Bob – apologized for the oversight. Town Clerk didn't notify the Planning Board that that the room was being used for the primary elections. And to make matters even worse, one election “official” was turning people away, saying that the PB meeting had been canceled. Mr. Price assured Mr. Ackroyd that it would not happen again.

Motion to adjourn – Dan, seconded by Bob Gwin.

Meeting Adjourned at 2028.

Next Meeting is Thursday, November 8, 2012 at 1930.