

The Town of Fenton Town Board held its regular Work Session on Wednesday, February 27<sup>th</sup>, 2019, at 6:00 PM, at the Fenton Town Hall, 44 Park Street, Port Crane, New York.

<b>PRESENT:</b>	Town Board Members	Gary Holcomb, Supervisor Thomas Moss, Deputy Supervisor David Gunster, Councilman Michael Husar, Councilman Richard Pray, Councilman
	Legal Counsel	Tina Fernandez (Hinman, Howard & Kattell)
	Town Clerk	Melodie Bowersox
	Admin. Asst./Bookkeeper	Susan Crosier
<b>ABSENT:</b>	Town Attorney	Albert Millus, Jr.
	Highway Superintendent	Randy Ritter

**OTHERS PRESENT:** Planning Board Member John Eldred, 19 members of the General Public

### **Pledge of Allegiance**

### **Review Abstract #2, 2019**

- Trust & Agency: Scelsi-Sabrina - Refund of Retirement - not required - Voucher #3 - \$3.60 – Mr. Husar asked about the refund of this voucher. Bookkeeper Sue Crosier said that Sabrina was vested and she was not aware of this.
- Mr. Holcomb has requested that Sue inform the Town Board Members of any new vendors each month.
- After a review of the Abstract, **Mr. Moss moved to approve payment of the bills for Abstract #2, 2019**, seconded by Mr. Pray. **Motion carried.**

**VOTE:** Ayes 5 Gunster, Holcomb, Husar, Moss, Pray  
Nays 0

### **RESUME PUBLIC HEARING – LOCAL LAW 6, 2018 – AMEND THE ZONING MAP OF THE TOWN OF FENTON**

Prior to resuming the Public Hearing, Mr. Holcomb said that letters were mailed to Residents' who lived within 500' of the property that is being considered for rezoning. He gave a brief history of the Depot property, saying that it has been owned by the Federal Government for decades. During that time it was zoned Limited Industrial which gave the Federal Government the liberty to do what they chose to do within the property. There was storage of mercury and other medical items over the years which caused the area to become contaminated. Around 2004 GSA indicated to the Town that they were going to close the facilities at which time they agreed to clean up the property to residential standards; 2007 reports indicate that was done. At that time the Town Board became concerned about what the property may be used for in

the future. The decision was made to rezone the property to Residential-B which would take away the large impact uses that were allowed in Limited Industrial. Over the years since the rezoning to Residential-B, there have been requests to the Town for projects within that area but they have been rejected. Carrier Services Group (CSG) is the first proposal that the Town Board felt may be a low impact use for that area; however, the property would need to be rezoned. Initially the Town Board considered rezoning to Limited Industrial but that would open it back up to many high impact uses. Recently the Special Use Permit was adopted which allows the Planning Board to perform the Site Plan Review then provide the Town Board with recommendations for or against the project. The Town Board will then review the project and approve or deny the project. The other Law that was recently adopted was the formation of a Restricted Commercial District which defines less impactful uses than in Limited Industrial Zones. The Special Use Permit is to be used with the Restricted Commercial District. The next step is to rezone the property to Restricted Commercial, then CSG or any other future property owners within that parcel may apply for a Special Use Permit and go through the permit process.

Mr. Holcomb resumed the Public Hearing for Local Law #6, 2018 to Amend the Zoning Map of the Town of Fenton at 6:19 PM.

The following persons spoke in favor:

- Atty. Nadine Bell – Atty. Bell, representative for CSG, reiterated her client's support for Local Law #6. She addressed that there was misunderstanding about the process and that the Public Hearing was to consider the rezoning of the property not the operations of CSG. The Special Use Permit is a very common zoning tool and the ability to enforce it is not necessarily the authority of the Town Board but the Code Enforcement Officers and the Courts. As stewards of the Town, it behooves the Town for the Board to be proactive and control what goes into that property; having this new Zoning District allows for that. Rezoning allows potentially for the best use of this property in a responsible manner – in a manner that is responsive to the concerns of the Community and allows the property to be used modestly.

The following persons spoke in opposition:

- Resident Annette Dedek – Annette stated she is opposed to the Law and does not believe that this is going to start small and stay small. She lives on Ronan Street and very close to the property. She is concerned about the potential truck traffic and destruction to the roads.
- Resident Marlene May – Marlene stated that she is opposed to the Law, expressing concerns about what kind of future activity a new company would bring to the area and what impact it would have on the primarily Residential Community. She also said it would mean more traffic for the roads and schools in the area.
- Resident Erin Cavanagh – Erin feels this is a terrible idea and she is totally in the dark about these Laws spoken of by Mr. Holcomb.

- Resident Jennifer O'Hare – Jennifer feels that the Town Board should weigh what is in the best interest of the Residents of the Town. She is concerned about the Board's ability to enforce any sort of penalty for any business that violates any of the zoning rules of the Town and wonders if they have the guts to enforce the Special Use Permit within this Restricted Commercial District not just monitor it.

Comments from the Board:

- Mr. Moss – Mr. Moss explained that the Special Use Permit that is to be used in this new Restricted Commercial District is to be used to restrict things not add to. If the business wanted to add to what was approved in the initial Special Use Permit, then the business would have to return to the Board for that approval.
- Mr. Husar – Mr. Husar responded to one comment made by Atty. Bell in saying that he understands what she was saying about the Board setting up the regulations and the Courts enforcing them, but it depends on how the Board sets up the regulations.

Questions posed to the Board:

- Resident Erin Cavanagh – Are the Laws on the website? Can we get copies of them? Mr. Holcomb said they have been on the website for several months. They can be put back on the website. Also, Erin may obtain copies from Town Clerk Melodie Bowersox.
- Residents Gus and Rachel Zandt – Shouldn't the letter have been sent out to Residents on Hoyt Avenue? Mr. Holcomb said he did not think of that at the time of the mailing.
- Resident Rachel Zandt – Rachel asked if there was a report from the traffic study that was done. Mr. Husar said there is a report available at the Town.
- Resident Jason Pepples – How will the uses be monitored? Mr. Holcomb said that will come out in the application process. He plans on working with Town Officials to improve the enforcement process.
- Resident Tim O'Hare – What happens if a business obtains a Special Use Permit within the Restricted Commercial District and sells the property? Mr. Holcomb said a new Special Use Permit would need to be obtained. This is within the Local Law.
- Resident Annette Dedek – Why is that particular area being rezoned? Mr. Holcomb said that Mr. Hartman of CSG has purchased that area and the rest belongs to the County.

There were also comments made and questions asked on matters not directly related to the Public Hearing. These were made by Residents Erin Cavanagh, Gus Zandt, Rachel Zandt, Jason Pepples, and Tim O'Hare. (The matters made reference to traffic on Hoyt Avenue, better communication and keeping the Community informed, restricting/limiting CSG in terms of truck traffic, times of delivery, etc. which is part of the project review process, CSG use of Chenango Valley School entrance which is a matter between CSG and the School not the Town, and no use of chemicals by CSG.)

All persons desiring to be heard, having been heard, the Public Hearing closed at 7:04 PM.

- **239 Review** – The 239 Review was received from the County. The County determined that there were no significant countywide or inter-community impacts associated with the project. A copy of a letter from Chenango Valley School District was received by the Town that was sent to Broome County Department of Planning and Economic Development in which they outlined where they believed the project does have Community impact. Also, a protest petition from 20% of the adjacent properties was received; the Town is not going to challenge that petition but because of the petition, to approve this action it will take a 75% favorable vote by the Board. The Broome County Health Department (BCHD) indicated that the property is within the Town's Aquifer Protection Zone and their comment was that this Law gives the "Town even more tools to oversee what happens there." The Binghamton Metropolitan Transportation Study (BMTS) noted that they "have reviewed the traffic data collection summary...Based upon this information we have not identified any site access or traffic impacts issues at this time." An Advisory Report has been provided by the Town Planning Board in which two recommendations have been made to the Town Board. One is that the Town Board declare a Negative Declaration and the second is that the Town Board approve this Law.
- **SEQRA Part 1** – The 'Full Environmental Assessment Form – Part 1 – Project and Setting' was filled out by Atty. Millus. Mr. Holcomb read 'Section A. Project and Sponsor Information: Brief Description of Proposed Action (include purpose or need)':
  - Proposed rezoning of the southerly portion of the property in the Hillcrest area of the Town of Fenton commonly known as the 'Hillcrest Depot' or 'DLA Facility' from Residential-B to a new zoning classification named 'Restricted Commercial,' the adoption of which is also currently being considered by the Town Board of the Town of Fenton (Introductory Local Law No. 5 (2018)). Uses in the Restricted Commercial District, if created, would be subject to a new Special Use Permit procedure, which is also currently being considered by the Town Board (Introductory Local Law No. 4 (2018)). The purpose of the proposed laws, in combination, is to allow low-intensity commercial activity on the property to be rezoned, which is improved by commercial structures, including warehouse buildings.'Section B. Government Approvals' identifies the Town Board as the agency making the approvals.  
'Section C. 1. Planning and Zoning Actions' asks: 'Will administrative or legislative adoption, or amendment of a plan, local law, ordinance, rule or regulation be the only approval(s) which must be granted to enable the proposed action to proceed?' The answer being yes, sections C, F, and G must be completed. (Sections D and E do not have to be completed because there is no specific project being reviewed.)
- **SEQRA Part 2** – Mr. Holcomb addressed the completion of the 'Full Environmental Assessment Form – Part 2 – Identification of Potential Project Impacts' with the Town Board Members, answering 'no' to all 18 questions of the form which included: Impact on Land, Geological Features, Surface Water, Groundwater, Flooding, Air, Plants and Animals, Agricultural Resources, Aesthetic Resources, Historic and Archeological Resources, Open Space and Recreation, Critical Environmental Areas, Transportation,

Energy, Noise, Odor, and Light, Human Health, Consistency with Community Plans, and Consistency with Community Character.

- **SEQRA Part 3** – Mr. Holcomb will provide a summary statement for 'Full Environmental Assessment Form – Part 3 – Evaluation of the Magnitude and Importance of Project Impacts and Determination of Significance' and distribute it to the Town Board Members prior to the Town Board Meeting on March 6<sup>th</sup>, 2019 for review. At the Meeting, the Board may make a determination and may vote on the proposed Law.

**Approve Annual Training for Town Clerk and Building Inspector – Mr. Husar made a motion to approve the annual training for the Town Clerk, Melodie Bowersox, and Building Inspector, Matt Banks,** seconded by Mr. Gunster. **Motion approved.**

**VOTE:** Ayes 5 Gunster, Holcomb, Husar, Moss, Pray  
Nays 0

**NYSERDA Clean Energy Code Enforcement Training** – Mr. Gunster said that the NYSERDA Clean Energy Code Enforcement Training is the same time as Matt Bank's annual training. He asked if Matt was considered the Code Enforcer for environmental issues and whether the Conservation Advisory Committee (CAC) should be involved in it. Mr. Holcomb said the Board should look into this further.

**At 7:36 PM, Mr. Pray made a motion to adjourn the meeting,** seconded by Mr. Husar. **Motion carried.**

Melodie A. Bowersox, Town Clerk