

**Public Hearing & Regular Meeting
of the Windsor Town Board
May 2, 2012**

Present were: Supervisor Randy J. Williams, Councilman LeWayne H. Colwell, Councilman George B. West, Councilman Timothy J. Bates, Councilman Jeff Olin, Attorney Cheryl Sacco, Code Enforcement Officer Dave Brown, County Legislator Steve Herz, Town Clerk Barbara Rajner Miller and the following guests: County Executive Debbie Preston, Broome County Commissioner of Planning & Development Elaine Miller, County Executive Steve Herz, County Clerk Rick Blythe, Michele Blythe, Eileen Ruggieri, Sue Rambo, Ron Rambo, Sr., Fred Stapleton, David Bagg, Tom Skinner, Jack Fettingner, Donna Fettingner, Elaine Valdes, Phillip Card, Ken Frederick, Bev Foster-Bills, Lesa Hawk-Shuler, Scott Baker, Sue Kohlbach, Scott Clarke, Cheryl Peet, Daniel Price, Carolyn Price, Mary Pellegrino, Lynn Klumpp, Barton Wolford, Liz Clark, Candi Contento, Steve Contento, and approximately ten others.

Supervisor Williams called the meeting to order at 7:30pm, and recognized the presence of Broome County Executive Debbie Preston and County Legislator Steve Herz.

County Executive Debbie Preston mentioned a few things:

- *Being that she was Town of Conklin Supervisor, her heart will always be with the Towns/Villages/Cities;
- *County is approximately \$6 million in the hole;
- *Going to work hard to get the 50/50 Sales Tax back for the Towns/Villages/Cities;
- *Does not believe that the County should balance the budget on the backs of the Towns/Villages/Cities;
- *Has a meeting with T/V/C Supervisors and Mayors on a quarterly basis;
- *The salary of sixty-three people in County Office Building (including Preston's) was cut by five percent;
- *Re-vamped vehicle policy, which will save approximately \$400,000 over the next five years;
- *She and her staff on the sixth floor do not have a County car or cell phone, don't claim mileage/gas;
- *Broome is one of NYS's top Counties looking at fraud in the social services programs;
- *Working hard on economic development;
- *Believes in safe, responsible natural gas drilling (she's not part of any coalition);
- *Holds open office hours from 9:00am-11:00am on Tuesdays;

Questions/Comments from guests were raised:

- *Scott Clarke referenced an article: Explosion at PA compressor site; concerned that this does not happen at Windsor's compressor station. Preston: DEC has not finalized the regulations for NYS. Albany is looking at all PA's issues. Supervisor Williams interjected that Mr. Clarke and Ms. Preston are talking about two different things: hydrofracking vs. Windsor's compressor station. Williams informed Clarke that the compressor station is under the Public Service Commission.
- *Eileen Ruggieri wondered about the noise control/road use agreement if drilling does take place. Ms. Preston responded that there would be, before any work begins.
- *Positive comment from Donna Fettingner.
- *John McNulty wondered about Preston's position on emergency services. She reassured McNulty that this is one of her most important departments. Any questions, call Brett Chelis.
- *Councilman Jeff Olin inquired about Preston's "Whistleblower Line." Have addressed a lot through that tip line.
- *Supervisor Williams prefaced his question with proclaiming that he is not a fan of the IDA, its leadership, and its attorney. He feels that they've done wrong by the Towns, especially when the Millennium Pipeline went through. Preston corrected Williams, who thought she appointed some of the people to that Board. She has no control over the IDA. She does appoint one person, who is usually the County Executive, or one of the Deputies. However, she does not feel that neither she nor one of her deputies should sit on any Board; so she appointed a businessperson that she knows. The rest of the appointees come from the Legislature.
- *Supervisor Williams has never been a fan of turning things over to the County. One example: Election costs used to be about \$5,000. Got turned over to the County and it went up to \$9,700.00 last year. This year it's up to \$16,760. Preston explained that election districts were cut, there is a new election in June, the Congressional. Should be hearing from the Association of Towns and Villages on that. She shares in the frustration.
- *Supervisor Williams mentioned that the sales tax issue has always been a "thorn in his side."
- *Supervisor Williams explained to Preston that the Ouaquaga Bridge is the proud combined effort of Windsor and Colesville, who are the joint owners. This is the only bridge in Broome County that is not owned by the County or the State. He was told that the County was going to take it over. It is a \$5.3 million bridge. Preston will get back to Williams on this issue.
- *Supervisor Williams wondered if there is any talk of the County taking over Windsor's new sewage treatment plant. She is not interested in taking over any sewage treatment plant.
- *Supervisor Williams mentioned that some Towns and Villages have taken away the health benefits from all of the elected officials. He feels that the County should do the same. Also, that there is no

Public Comment period at the County Legislature meetings. He urged her to use her “moxy” and make these recommendations. Scott Clarke mentioned that he had to “elbow his way into some of those meetings.”

Commissioner of Planning & Development, Elaine Miller, spoke briefly regarding a couple of projects: Regional Farmer’s Market, a high tech transfer incubator and flood issues/programs.

AT 8:19PM

PUBLIC HEARING – KENNEDY PLUMBING & HEATING EZ FILL STATION, OLD RTE 17, WINDSOR.

239 was sent to the County. Attorney Sacco reported that the Broome County Planning Department has not identified any county-wide or inner-community impact associated with the project. They did note that the project is partially located in the existing 100-year flood plain. The applicant (who is present at this meeting) should be made aware that there are risks associated with being in that plain. Also, the County recommends to the Town Board that they ensure that the propane filling station be located outside of the 100-year flood plain, if possible. County did note that there is a scale differential in the map, but the Code Enforcement Officer received a revised map. Also recommended, that the Board encourage the applicant to install landscaping along Old Rte 17. NYS and Broome County Health Department had no comment on the 239.

AT 8:22PM-Hearing Closed.

Attorney Sacco stated that this was referred first to the Planning Board for their recommendation, which was: "The Town of Windsor Planning Board, at its monthly meeting, on Wednesday, March 29, voted to recommend to the Town Board that it approve the site plan, requested by Kevin Kennedy, to move his business to 517 Old Rte 17, and allow him to construct a propane gas filling station on the premises, with the provision that he present a letter from the owner of the property acknowledging the use of the property." Code Enforcement Officer, Dave Brown: "We did get the letter."

SEQRA done by Attorney Sacco.

Motion By: Councilman LeWayne H. Colwell

Sec. By: Councilman Timothy J. Bates

To declare negative dec.

Vote of the Board:

Supervisor Williams - AYE

Councilman Colwell - AYE

Councilman Bates - AYE

Councilman West - AYE

Councilman Olin - AYE

Motion Approved.

Motion By: Councilman Jeff Olin

Sec. By: Councilman LeWayne H. Colwell

To approve the site plan as provided, noting that Broome County has recommended that the location of the propane tank be as far as possible, and that there be landscaping.

Vote of the Board:

Supervisor Williams - AYE

Councilman Colwell - AYE

Councilman Bates - AYE

Councilman West - AYE

Councilman Olin - AYE

Motion Approved.

Supervisor Williams mentioned that the tank has been moved to outside of the flood plain. Landscaping wasn't a concern to the Town Board.

Attorney Sacco will prepare a written decision.

PUBLIC COMMENT:

- Mary Pelligrino is concerned about the condition of her road. Hwy Superintendent mentioned that it'll probably have to be stone-and-oiled; perhaps with CHIPS money.
- David Bagg, wondered how the compressor station is assessed. Supervisor Williams responded that the Assessor visits/compares to other compressor stations (Elmira, Owego), and researched literature on the topic. If he needs further explanation, he should contact Assessor Becky Ottens.
- Eileen Ruggieri wondered when the assessments will be in. Attorney Sacco replied that the Tentative Roll was filed May 1, 2012.
- Ken Frederick once again mentioned poor road condition. Williams Oil assumed all of Laser's fixing liability/obligation. Roads will be looked at, with Williams Oil, Thursday morning.

Motion By: Councilman LeWayne H. Colwell

Sec. By: Councilman George B. West

To allow Williams Oil to repair roads, per list provided by Supervisor Williams; giving them 30 days to start, and 60 days to complete. If not started within 30 days, the bond will be called.

Vote of the Board:

Supervisor Williams - AYE
Councilman Colwell - AYE
Councilman Bates - AYE
Councilman West - AYE
Councilman Olin - AYE

Motion Approved.

- John McNulty wanted clarification that only people in the West Windsor Sewer District are actually paying for that project. Supervisor Williams confirmed.

OLD BUSINESS:

Motion By: Councilman George B. West Sec. By: Councilman Jeff Olin

To approve the minutes of the 4/8/2012 Regular Meeting as submitted.

Vote of the Board:

Supervisor Williams - AYE
Councilman Colwell - AYE
Councilman Bates - AYE
Councilman West - AYE
Councilman Olin - AYE

Motion Approved.

Motion By: Councilman LeWayne H. Colwell Sec. By: Councilman Jeff Olin

To approve the minutes of the 4/18/2012 Work Session Meeting as submitted.

Vote of the Board:

Supervisor Williams - AYE
Councilman Colwell - AYE
Councilman Bates - AYE
Councilman West - AYE
Councilman Olin - AYE

Motion Approved.

Scott Clarke wondered why there isn't a public comment period before this resolution, which was not posted on the bulletin board prior to this meeting. Attorney Sacco mentioned that all meeting Agendas and proposed resolutions/accompanying items are to be (and were for this meeting) posted on the Town's website, if the Town has high-speed internet access, which it does. However, it is not a requirement to post any proposed items on the hallway bulletin board. Mr. Clarke mentioned that he does not have a computer/does not go online, so he did not see the posted Agenda/Resolutions for tonight's meeting.

NEW BUSINESS:

**Town of Windsor, County of Broome, State of New York
Resolution # 24-2012**

PRESENT: Supervisor Randy J. Williams
Councilman LeWayne H. Colwell
Councilman Timothy J. Bates
Councilman George B. West
Councilman Jeff Olin

Offered By: Councilman LeWayne H. Colwell

Sec. By: Councilman Supervisor Randy J. Williams

WHEREAS, the state has dedicated more than three years and more than 10,250 man hours creating a 900-page comprehensive plan for the safe development of natural gas through its draft Supplemental Generic Environmental Impact State (SGEIS) under the leadership of the Department of Environmental Conservation (DEC) and Commissioner Joe Martens as well as Governor Andrew Cuomo; and

WHEREAS, promoting economic activity and creating jobs to support families is a top priority; and

WHEREAS, state officials are developing standards to ensure safe development of our natural gas resources based on the expertise of DEC employees and advisors, such as:

- Requiring DEC staff to visit every well pad before permits are issued; and
- Requiring preapproval of wastewater treatment plans for every proposed well pad; and
- Requiring natural gas operators to provide a plan for assessing and repairing any road wear before permits are issued;

WHEREAS, the role of municipal governments in New York State's natural gas development still remains under review by the DEC as a part of the ongoing SGEIS process; and

WHEREAS, local municipalities will have a designated role under the state guidelines once released; and

WHEREAS, development of our natural gas resources is currently prohibited pending the DEC's plan and final approval by Governor Cuomo.

WHEREAS, premature local action in our municipality could negatively impact the competitive environment of all of New York State for natural gas development, and jeopardize the potential \$11.4 billion in statewide economic impact of development; and

WHEREAS, preserving a competitive environment for development in New York as compared to neighboring states will be critical to the economic future of our region; and

NOW, THEREFORE BE IT RESOLVED, that we, the undersigned find pursuit of a ban or moratorium to be an irresponsible and premature misallocation of town resources pending the release of the state's final SGEIS; and

BE IT FURTHER RESOLVED, that we commend the state's leadership in developing a comprehensive statewide

program to address the potential resource development holds for New York; and **BE IT FURTHER RESOLVED**, that we have confidence the state will develop a program that allows development of our natural gas resources to proceed in a safe, responsible, and competitive manner.

Vote of the Board:

Supervisor Williams- AYE
Councilman Colwell- AYE
Councilman Olin- AYE
Councilman West- AYE
Councilman Bates- AYE
Motion Approved

Resolution Adopted: May 2, 2012

**TOWN OF WINDSOR, COUNTY OF BROOME, STATE OF NEW YORK
Resolution To Amend 2012 Budget For Records Management Grant
RESOLUTION #25-2012**

PRESENT: Supervisor Randy J. Williams
Councilman LeWayne H. Colwell
Councilman George B. West
Councilman Jeff Olin
Councilman Timothy J. Bates

Offered By: Councilman George B. West

Second By: Councilman Timothy J. Bates

WHEREAS, in 2012 the Town of Windsor has received monies in the amount of \$1,300.00 from the State of New York for a Records Management Grant; therefore

IT IS HEREBY RESOLVED by the Town Board of the Town of Windsor that the following budgetary amendment be made:

A510 Estimated Revenues \$1,300.00
Subaccount A3060 – State Aid: Records Management

A960 Estimated Appropriations \$1,300.00
Subaccount A1460.4 – Records Management Contractual

Vote of the Board:

AYE - Supervisor Randy J. Williams
AYE - Councilman LeWayne H. Colwell
AYE - Councilman Timothy J. Bates
AYE - Councilman Jeff Olin
AYE - Councilman George B. West

Motion Approved.

Resolution Adopted: May 2, 2012

**Town of Windsor, County of Broome State of New York
AUTHORIZING THE SUPERVISOR TO EXECUTE AN AGREEMENT REGARDING
MINING SETBACKS ON 496 MOUNTAIN ROAD, WINDSOR NY.
Resolution #26-2012**

PRESENT: Supervisor Randy J. Williams
Councilman LeWayne H. Colwell
Councilman Timothy Bates
Councilman Jeffrey Olin
Councilman George B. West.

At a regular meeting of the Town of Windsor Town Board, held at the Town Hall on the 2nd day of May 2012, the following resolution was

OFFERED BY: Councilman Timothy J. Bates

SECONDED BY: Councilman George B. West

WHEREAS, the Town has been in discussions with the NYS DEC and Gregg E. Story and Alice F. Story regarding waiving requirements to allow the Town to mine within the setbacks of its property at 496 Mountain Road, Windsor, tax map number 151.03-1-6;

WHEREAS, an agreement has been finalized and is attached;

WHEREAS, pursuant to Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act) (“SEQRA”), this entering into this agreement is Unlisted action under 6 NYCRR 617.2;

NOW THEREFORE, BE IT RESOLVED, that the Town Board hereby makes a determination that this agreement is an Unlisted action under 6 NYCRR 617.2; and further

RESOLVED, that the Town Board hereby declares itself lead agency pursuant to SEQRA for the environmental review of said agreement; and further

RESOLVED, that the review will be not be a coordinated review.

RESOLVED, that, based upon on the information and analysis in the short environmental assessment form that the proposed action does not result in any significant adverse environmental impacts.

RESOLVED, the Windsor Town Board, after due deliberation, finds it in the best interest of the Town to proceed with the attached agreement.

RESOLVED, that the Supervisor, Randy Williams, is expressly authorized to execute the attached agreement.

RESOLVED, this resolution shall take effect immediately.

Vote of the Board:

Supervisor Randy J. Williams - AYE

Councilman LeWayne H. Colwell - AYE
Councilman Timothy Bates – AYE
Councilman Jeffrey Olin- AYE
Councilman George B. West. – AYE
Motion Approved.

Resolution Adopted: May 2, 2012

AGREEMENT

THIS AGREEMENT is made this **2nd day of May, 2012**, between **GREGG E. STORY AND ALICE F. STORY**, residing at Rd 1, Brackney, PA. 18812 (the "Owners"), and **THE TOWN OF WINDSOR**, a municipal corporation, with offices located at 124 Main Street, Windsor, NY 13865 ("Town").

WHEREAS, the Town owns real property located at 496 Mountain Road, Town of Windsor, Broome County, New York with tax number #151.03-1-6 ("Town Property"); and

WHEREAS, the Owners own real property located at 474 Mountain Road, Town of Windsor, Broome County, New York with tax number #151.03-1-7.11 ("Story Property"); and

WHEREAS, the Town Property and Story Property are located adjacent to each other; and

WHEREAS, the Town conducts mining operations on Town Property under a permit issued by the New York Department of Environmental Conservation ("DEC") with mining ID # 70117; and

WHEREAS, the Owners conduct mining operations on Story Property under a permit issued by the DEC with mining ID# 70561; and

WHEREAS, DEC issued a letter to the Town dated July 20, 2011 stating the Town violated Condition #4 "Minimum 25' Separation From Property Line" when the Town conducted mining activity within 25 feet ("Setback") of an adjacent property line, which is the easterly boundary of Story Property and the westerly boundary of Towns Property ("Westerly Common Boundary Line");

WHEREAS, DEC conducted a site inspection on March 7, 2012 on Town Property and discovered the Town has also conducted mining activity within the Setback of the adjacent property line, which is the southerly boundary of Story Property and the northerly boundary of Towns Property ("Northerly Common Boundary Line");

WHEREAS, the Town and the Owners desire to enter into an agreement to waive the Setback to address the above violations as well as any possible encroachments by the Town;

NOW, THEREFORE, for good and valuable consideration by each to the other paid, the receipt and adequacy of which is hereby acknowledged, the undersigned Town and Owners agree as follows:

1. Owners agree to allow the Town to mine up to the Westerly Common Boundary Line and Northerly Common Boundary Line and waive the Setback requirement.

2. Town may retain any minerals, including any gravel which may have been removed from the Story Property prior to the date of this agreement.

3. Owners release and discharge the Town, and its applicable successors, assigns, representatives, officers, employees, insurance companies, of and from all, and all manner of action and actions, cause and causes of action, suits, dues, sums of money, accounts, reckoning, bonds, bills, specialties, covenants, contracts, controversies, agreements, promises, variances, trespasses, damages, judgments, extents, executions, claims for personal injuries and wrongful death, and demands whatsoever, in law or in equity, which against the Town, Owners ever had, now has or which their respective heirs, executors, administrators, successors, and assigns, hereafter can, shall or may hereafter accrue on account of or in any way grow out of any DEC violation or any possible encroachment and mineral removal by the Town on Story Property.

4. This agreement cannot be changed orally, but only by agreement in writing signed by the parties against whom enforcement of the change, modification or discharge is sought or by its duly authorized agent.

5. If any provision of this agreement, or any portion of any provision of this agreement, is declared null and void, such provision or such portion of a provision shall be considered separate and apart from the remainder of this agreement, which shall remain in full force and effect. The waiver by any party hereto of a breach or violation of any term or provision of this agreement shall not operate or be construed as a waiver of any subsequent breach or violation.

6. This agreement shall be governed and construed in accordance with the laws of the State of New York.

7. This agreement shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors and assigns.

8. The entire agreement of the parties is contained in this agreement. No promises, inducements or considerations have been offered or accepted except as herein set forth. This agreement supersedes any prior oral or written agreement, understandings, discussion, negotiations, and offers of judgment or statements concerning the subject matter thereof. The parties hereto agree to execute and deliver such other documents and to perform such other acts as may, from time to time, be reasonably required to give full force and effect to the intent and purpose of this Agreement.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals the day and date above written.

Town of Windsor ("Town")

Randy J. Williams, Supervisor L.S.

("Owner")

Gregg E. Story

("Owner")

Alice F. Story

STATE OF NEW YORK)
) SS:
COUNTY OF BROOME)

On this _____ day of _____, 2012, before me, the undersigned, a Notary Public in and for said State, personally appeared Randy J. Williams, Supervisor of the Town of Windsor, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

STATE OF NEW YORK)
) SS:
COUNTY OF BROOME)

On this _____ day of _____, 2012, before me, the undersigned, a Notary Public in and for said State, personally appeared Gregg E. Story, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

STATE OF NEW YORK)
) SS:
COUNTY OF BROOME)

On this _____ day of _____, 2012, before me, the undersigned, a Notary Public in and for said State, personally appeared Alice F. Story, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her capacity, and that by her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

Supervisor Williams requests a report from each committee monthly:

- **Highway-** none.
- **Zoning/Planning-** Productive Planning Board meeting. Mr. Ballard had proposals (generic plans) for West Windsor area.
- **Code Enforcement-** five building permits, two driveway permits, one special use permit.
- **Town Hall-** none.
- **Youth/Recreation-** Opening Day is Saturday, honoring Jim Crowley.
- **Cemetery-** tree issue; working with Rocky.
- **Dog Control-** none.
- **Sewer-** none
- **Historical-**none.
- **Natural Gas-Drilling, Pipeline, etc.-** none.

At 9:15pm:

Motion By: Councilman LeWayne H. Colwell

Sec. By: Councilman Jeff Olin

To enter into Executive Session.

Vote of the Board:

- Supervisor Williams - AYE
- Councilman Colwell - AYE
- Councilman West - AYE
- Councilman Bates - AYE
- Councilman Olin - AYE

Motion Approved

Returned from Executive Session: 10:15pm.

Motion By: Councilman Jeff Olin

Sec. By: Councilman Timothy J. Bates

To pay: ** General Fund Vouchers #198 through #248 (except voucher #242 for \$37.74), totaling \$74,663.49; and

** Highway Fund Vouchers #112 through #147 (except vouchers: #116 for \$2,565.00, #117 for

\$2,681.25, #118 for \$4,215.00, #119 for \$10,630.00, and #143 for \$1,732.80), totaling \$48,277.03; and

** Sewer Operating Fund Vouchers #26 through #29, totaling \$2,371.73; and

** Trust and Agency Vouchers #17 through #22, totaling \$43,018.27.

Vote of the Board:

Supervisor Williams - AYE

Councilman Colwell - AYE

Councilman West - AYE

Councilman Bates - AYE

Councilman Olin - AYE

Motion Approved

Motion By: Councilman LeWayne H. Colwell

Sec. By: Councilman Timothy J. Bates

To adjourn the meeting at 11:00pm.

Vote of the Board:

Supervisor Williams - AYE

Councilman Colwell - AYE

Councilman West - AYE

Councilman Bates - AYE

Councilman Olin - AYE

Motion Approved

Respectfully Submitted,

Barbara Rajner Miller, Windsor Town Clerk