

The Town of Fenton Town Board held its regular Work Session on Wednesday, July 26th, 2017, at 6:00 PM, at the Fenton Town Hall, 44 Park Street, Port Crane, New York.

PRESENT:	Town Board Members	David Hamlin, Supervisor Gary Holcomb, Deputy Supervisor Michael Husar, Councilman Thomas Moss, Councilman Richard Pray, Councilman
	Town Attorney	Albert Millus, Jr.
	Highway Superintendent	Randy Ritter
	Town Clerk	Melodie Bowersox
	Administrative Asst./Bookkeeper	Susan Crosier

OTHERS PRESENT: Broome County Legislator Cindy O'Brien, Planning Board Chair John Eldred, Zoning Board of Appeals (ZBA) Member Cindy Cook, 25 members of the General Public

Review Abstract #7, 2017

- CDBG (Community Development Block Grant) – Mr. Holcomb asked about the \$13,000.00 check that was cut in June and later voided. Bookkeeper Sue Crosier explained that according to the State, THOMA overbilled and the check had to be voided so new checks for the correct amount totaling \$7,000.00 were issued.
- After a review of the Abstract, **Mr. Pray moved to approve payment of the bills for Abstract #7, 2017**, seconded by Mr. Holcomb. **Motion carried.**

VOTE: Ayes 5 Hamlin, Holcomb, Husar, Moss, Pray
Nays 0

Rezoning of DLA Property – Mr. Holcomb explained that at the Planning Board Meeting last night, a recommendation was made to the Town Board not to rezone the DLA property owned by Carrier Services Group (CSG) to Limited Industrial. The Planning Board seemed to be more in favor of a Limited Use District. Mr. Holcomb said he did not know if the Town Board should withdraw the previous motion to change it to Limited Industrial or whether they could leave it sitting as is. Mr. Hamlin said he thought they could leave the motion as is until the Town Board is able to review the County's 239 Review. He had a discussion with Broome County Department of Planning and Economic Development Director Frank Evangelisti regarding rezoning the area. Mr. Pray put together some ideas for a new zoning which included some things that would and would not be allowable on a site such as this. These ideas were distributed to the Planning Board Members last night and they agreed to take a look at these and make suggestions as well. Mr. Holcomb has some ideas on truck limitations to possibly include in the new zoning. He attended the Planning Board Meeting last night and there was a lot of discussion about the topic. Many said they would like to see the area remain zoned as Residential-B. Personally he does not see that happening and feels that the Town Board needs to come up with a good, viable limited use and a good compromise that the Community can live with. Mr. Pray said that basically he listed limiting traffic in and out of there (number of trucks),

coming up with rules on how much that traffic would be, setting in place restrictions on numbers, putting in place fines for going over those numbers, listing several unallowable uses, setting hours and days of delivery, etc. The Town Board would like to exclude anything that caused problems in the past. The buildings are warehouses and nothing residential is going to be built out of those buildings; they were not built for residential use but for warehouses. Mr. Pray explained that the property was rezoned Residential-B several years ago to keep any industrial use out of the area similar to what was in there previously that included raw materials and pollutants. It was intended to be rezoned at some point in time when an applicant would come before the Town Board with an acceptable use to go in there. Several proposals have been turned down over the years.

The Town Board did not formally open the floor to the Public for discussion in regard to the CSG issue; however, as the Town Board was discussing it, those in attendance interjected comments, concerns, and questions about CSG. The following portion of the minutes reflects some of these that were brought up. (Note: With the exception of the attorneys that were present, no one from the General Public stated their names prior to speaking.)

- If CSG were to expand their business at the DLA site, there is concern about what would happen with the truck traffic coming in by the School.
- With the uncertainty of the easement issue between the School and the Depot, truck traffic would be a concern in terms of the safety of the children. In regard to the easement, Atty. Millus said his understanding is that there is a dispute between the School and the Depot whether that easement is valid or not. Atty. Nathan VanWhy from Coughlin & Gerhart, on behalf of Chenango Valley School District, stated that the site plan still continues to leave open the possibility that they may use the easement through the School District's property for any traffic whatsoever and the School's position is they are going to continue to oppose that. Obviously this is not site plan review and this is clearing the way for approval of site plan and so to the extent that the Town Board is considering that tonight, the School's position is to oppose that.
- Atty. Nick Cortese – Atty. Nick Cortese has recently been retained as the new legal representation for CSG. They are just getting up to speed on the project and attended the Planning Board Meeting last night. He spoke to the Engineer who did the site plan for CSG and the way it is drawn up is to discourage ingress/egress traffic through the northern side of the property. The current position of his client, he believes, is that it was drawn up for emergency traffic.
- There was a suggestion to define the emergency use for the easement to be used (ex: safety emergency vs. shipping emergency).
- Atty. Millus – The Town Board agrees that most of the uses would not be appropriate in the Limited Industrial District for that facility. There was no public controversy so the idea was to rezone it to Limited Industrial and then create a new District and rezone it again. There was also an attorney conflict issue. Atty. Millus asked for an opinion from the State Bar Association which he just received within the last few days and they said it is not a waivable conflict; you cannot represent both a Municipality and an applicant.

Although Atty. Millus has no relationship at all with CSG, he is not convinced that he will still represent the Town on this matter. He has recommended to the Town Board that they hire other counsel so there will be no questions or conflicts. The original unofficial opinion told him that the Board would not be meeting for a while and he was referred to one of its members in Ithaca who said it is ok if both sides consent but at the first sign of controversy you should get out. That is when he told Ken Kamlet, Attorney Representative for CSG, to bow out. Atty. Millus is waiting to hear from Dave Berger, Town of Vestal Attorney, about representing the Town in his place.

- Keep the area zoned as Residential-B. Changing it could cause more traffic issues on Chenango Street and Hoyt Avenue. Leave the buildings as is. Atty. Millus said his understanding is that the deed from the Federal Government says it cannot be used for residential purposes.
- If the property is rezoned and restrictions were applied, who would supervise what is put in there? The Board and Atty. Millus answered that the Sheriff's Department and Town Zoning Enforcer would.
- A comment was made as to why CSG would be doing work on the buildings. CSG bought (for \$440,000.00 per Mr. Hamlin) and owns two buildings and can do work on the buildings. The Town will receive tax revenue on the buildings now that it no longer is owned by the Town. Prior to CSG owning the property, the property was Wholly Exempt, which means taxes were not paid on it.
- Comments were made as to why CSG would invest in the property if it was zoned Residential-B. Mr. Hamlin said that the Federal Government advertised it as industrial zoned.
- Does the Town Board have to accept the recommendation of the Planning Board? Mr. Hamlin answered that if the Planning Board makes a decision, then the Town Board cannot reverse that decision. Atty. Millus interjected that he felt they were talking about two different things. Last night, the Planning Board made a recommendation to the Town Board not to rezone the property to Limited Industrial. Several individuals were confused about that recommendation and thought the Town Board was voting on changing the rezoning. Mr. Hamlin clarified that the Town Board decided not to vote on the rezoning because Limited Industrial is too broad of a category for that property and they want to define it in a new category that is more acceptable to the Town. Atty. Millus clarified that the Town Board cannot overrule the Planning Board if they grant a site plan approval for an allowed use.
- There does not seem to be a benefit to the Town of Fenton to allow the project.
- The only way to get into the property currently is through the School or Hoyt Avenue.
- Broome County had made mention of it being used as an evacuation shelter, but Mr. Hamlin explained that the idea did not work out due to the high costs of such a project.
- Can the rezoning be done for the owner? Mr. Holcomb said it can only be done for the property not the owner. If a new zone was created to be applied Town-wide, the parcel that CSG is located on could be rezoned to that new zone.
- What is the assessed value of the building? Mr. Hamlin believes it is \$285,000.00. The only tax revenue the Town of Fenton receives is highway tax; there is no general Town

tax. There are Hillcrest light and fire district taxes and Chenango Valley School District taxes on the property. If the building is improved, the assessment could go up if it is reassessed by the Town Assessor.

- No PILOT (Payment in Lieu of Taxes) from the IDA has been asked on it at this time? Mr. Hamlin said it would be very difficult to obtain one now; usually they are obtained prior to the purchase of the property.
- The question was asked if a traffic study was done. Mr. Hamlin said that the County had a traffic recommendation but does not know that they insisted on a traffic study.
- Will all of this dialogue take place again with legal representation? Yes, once a decision has been made on a change in zoning, working with a new attorney the dialogue will continue, and a Public Hearing has to be held. What will be the County's involvement? The County would do a 239 Review. Atty. Millus explained that the Town Board would develop a proposed district with appropriate allowed uses then it would be sent to the Planning Board for a recommendation; a coordinated review would be sent to the County. Typically a 239 Review is initiated because it is within 500' of a State or County road or Municipal boundary, which this is not. But in this case it would need to be done because it is within 500' of a Municipal owned property that has Municipal buildings on it. After the Public Hearing, the final decision is made by the Town Board.
- If restrictions were put on due to the rezoning, who would enforce those? Would inspections be done? CSG has strict certifications that would most likely require inspections and if they lose those certifications, they are done working. Also, the Town has a Town Zoning Enforcer that can look into zoning issues.
- The decisions that are being made are more about business and industry and less about the Community. Mr. Moss responded that the Town Board has responsibilities to find a balance between businesses and enterprises and residences. What about the small businesses that come to us and say they would love to have a business that injects 20 employees in our neighborhood (because they have lost customers due to Link, Triple Cities Metals, etc. leaving) so they would come buy lunch at my small business establishment in Hillcrest? We have to think about this as well. We have to consider the balance between residential and businesses that can help our tax bases both from a school tax perspective, Town tax perspective, and County tax perspective, and inject some energy into our area.

1142 Chenango Street – Atty. Millus filed a complaint with the State Insurance Department and he has a call into the property manager. The mortgage serving company is in California and they told him that they would provide the information to their Property Preservation Department so he hopes he will hear back from the company. Resident Joan Giblin said that a Sheriff was there today and escorted teenagers (who she assumes are from the Children's Home) off the premises. Mr. Hamlin talked to Atty. Millus and he said that they are going to lock down the home at 1142 Chenango Street; he knows professionals that can do this. Atty. Millus said that a new Zombie Law was adopted in 2016 that says that if a property is abandoned and goes into foreclosure, then the bank is responsible for the maintenance of the

property so that is what the Town is working on now. He said there must be a Property Manager because the lawn was mowed after the last meeting.

Nelson Ellis Survey – Resident Joan Giblin said that whoever is purchasing the Nelson Ellis building was having a survey done and an individual was on the corner of her lot. Mr. Hamlin said that he was there because that corner would be a reference point to obtain an accurate survey. Mr. Deamer is looking into purchasing the building for a storage unit.

1001 Chenango Street – The Town was told a month ago that the demolition paperwork was accepted but nothing has been done since. Atty. Millus contacted the attorney and hopes to hear back from him.

New CDBG (Community Development Block Grant) for 2017 – Mr. Hamlin received a call from THOMA who is doing the administration of the CDBG for the remodeling of 16 homes for low income and senior Town of Fenton Residents. He is going to ask Rich Cunningham of THOMA to attend a Town Board Meeting to explain the process again to the Public, as there were 39 applications that were received. Initially a mailer was sent out for Residents to respond to and then a drive-by was done. Applications were then filled out followed by an individual being sent out to discuss the remodeling with the applicant and to do an inspection of the home. This is a \$500,000.00 single-purpose Federal Grant that the Town can re-apply for and Rich would like the Town to look ahead to re-applying for it due to the number of applications that were initially received.

Grants – Individuals from the audience were interested in finding out how to obtain grants such as the CDBG and expressed an interest in forming a committee to assist in finding grant money. Mr. Hamlin said this would be a marvelous idea but they should keep in mind that there will be an administration fee each time you apply for the grant. Resources may be libraries, Federal Register, and grants.gov.

NG Advantage Tour/Mike Husar – Mr. Husar went on the NG Advantage Tour that was offered to interested residents of Fenton, Hillcrest, Port Dickinson and Chenango Bridge on July 15th, 2017. He said that it “made sense to see what we were talking about and to see things firsthand.” Mr. Husar described the tour, in detail. He said that the site looks like a gas station with a small electrical substation next to it. It is on the highway and there was a lot of traffic going by but not as much as ours; the traffic was louder than the compressors, which were running when they were there. The workers answered questions but were not trying to sell you anything. They sat in the control room where all of their customers are listed on a board (this is a backup to what is on their computer). Every truck is monitored on GPS; they listen to road conditions and accidents then divert their drivers around those. There are cameras so they can watch the transfer of the gas. The building is small and contains a ladies room, a men’s room, a control room, and a couple office spaces. This site basically takes gas from their station to a facility and that facility uses that gas. Mr. Husar concluded by saying that he was really impressed with the facility (and he was against this to begin with), very impressed with the

staff, and very disappointed that he was only one of 11 that took the bus trip. Several in the audience asked questions and Mr. Husar answered the questions.

- Was there an aroma? No, there was no aroma.
- Was a simulated evacuation done? We did not ask for one; they probably would have done one.
- Did you tour around the area? We had to – that is where the bus went. Was the Community as big as Hillcrest? It didn't seem to be; it is just outside of Burlington. There is a house that a member of the Public built right next to the plant after the plant was there.
- Did they have two compressors? I think they had more than two.
- Did they fuel any trucks while you were there? They were fueling a truck while we were there.
- Do you feel like you can compare it to what NG Advantage is proposing here? Senator Akshar visited the Vermont site and commented that he was impressed with how clean and quiet it was but that you cannot compare it to what is proposed here in the Town of Fenton. Mr. Husar answered, "I think so - with the exception of the traffic. I think there can be some solutions with the traffic."

Comments/concerns were expressed about the Natural Gas Compressor Station that included:

- The location of the facility.
- Truck traffic.

Atty. Millus said that the issue is in the Courts and the Judge is going to make his decision.

Chenango Valley High School Mural Press Conference – There will be a Press Conference tomorrow at 10:30 AM to reveal the new mural at the Chenango Valley High School.

At 7:29 PM, Mr. Hamlin adjourned the meeting.

Melodie A. Bowersox, Town Clerk