

Village of Fleischmanns
Public Hearing
May 16, 2011

The Village of Fleischmanns Board of Trustees held a Public Hearing on May 16, 2011 at the Skene Memorial Library at 5:45 p.m. Present were: Mayor David Morell, Deputy Mayor Todd Pascarella, Harriet L. Grossman and Fred Woller. Village Trustee Benjamin Fenton was absent.

The Public Hearing was held in connection with NYS DEC's issuance of a Water Supply Permit under Article 15, title 15 of the New York State Environmental Conservation Law which both authorizes and limits NYC DEP ability to purchase land within the NYC Watershed West-of-Hudson River as a component of DEP's water quality protection program. The Water Supply Permit is for a period of 10 years with an additional 5 year renewal (permit will expire in January, 2026). Under Special Condition No. 1 of the Water Supply Permit, DEP can purchase in fee or in conservation easements during the term of the permit up to 105,043 acres in land. Special Condition No. 2 of the Water Supply Permit provides as follows: The City's LAP, the City Watershed Regulations and other programs and conditions contained in the Watershed MOA, when implemented in conjunction with one another, are intended to protect water quality while allowing existing development to continue and future growth to occur in a manner that is consistent with existing community character and planning goals of each of the watershed communities. The City's Land Acquisition goals recognize the importance of ensuring the availability of developable land in the Watershed will remain sufficient to accommodate projected growth without adverse effect on water quality and without substantially changing future population patterns in the Watershed communities. Land (or land subject to conservation easements) purchased by DEP are forever restricted from future residential or commercial development and must remain as open space. Special Condition 10 of the Water Supply Permit identifies areas within each community that from an environmental, social and economic perspective should remain unrestricted in order to insure that the amount of developable land in the community is sufficient to accommodate future generations. Under Special Condition 10 of the Water Supply Permit, the Village Board is given limited discretion to pass a resolution making a decision whether to allow DEP to purchase certain parcels and place restrictions prohibiting future residential and/or commercial development on parcels that have been identified as important to the long-term sustainability of the community. Under Special Condition 10, the Village Board has discretion whether to prohibit the City (and/or its agents) from purchasing parcels or conservation easements located in Areas denoted as the 1997 Designated Hamlet Area and the 2010 Expanded Designated Area. Under Special Condition 10 of the Water Supply Permit, the Village Board has a limited period of time to pass resolutions addressing these issues.

Shelly Johnson of the Delaware County Planning Board was present. She advised that the water supply permit granted to NYC is granted through the NYS DEC. This permit authorizes NYC to purchase property outside of their municipal boundaries as a mitigating measure to protect water quality in the NYC Watershed. The permit is also the mechanism that allows for upstate watershed communities to preserve lands in villages and hamlets for growth and economic stability. The parcels that are within the Village boundaries were defined in 1997 as the Village of Fleischmanns as they appear on the official village maps. The village as a whole can be preserved through the adoption of a local resolution that would preclude residents from selling or easing their property to NYC. In 1997, the Village of Fleischmanns did not preclude acquisitions and easements therefore leaving the Village parcels open for sale to NYC if a property met the criteria for acquisition. Since that time a handful of small parcels that are part of larger parcels within the Town of Middletown have been purchased and are no longer available for growth or development.

In response to the question about the flood buyout parcels, Shelly explained that after the 1996 flooding in the Village, Delaware County initiated a flood buyout for those homes that were substantially damaged and in the 100 year floodplain. The problem with rebuilding many of these homes was that it was not cost effective particularly if a homeowner didn't have flood insurance. The buyout was the only way to assist these

residents and allow them to relocate to less flood prone properties. NYC DEP partnered with Delaware County as a funding source for the required 25% match to the FEMA funds. In return Delaware County deeded ownership of the properties to NYC DEP to manage under their land acquisition program. These were not traditional acquisitions between a private landowner and NYC and would not have been part of the land acquisition program described in the water supply permit as these parcels would not meet DEP criteria for acquisition under the program.

The following letter addressed to the Mayor and the Village Board regarding property owners' rights and the DEP dated May 16, 2011 from Gloria Zola-Mulloy and family was read aloud as follows:

We are requesting that the Village of Fleischmanns *reject* the current proposition to prohibit property owners in the Village from selling their parcels to the NYC DEP. It is felt that the freedom currently had by property owners to sell their land to the DEP should be continued. A new ban on the sale of property to the DEP could be legally challenged and result in an expensive lawsuit. In addition, selling land to the DEP would enhance the value of all the remaining privately and publicly held properties in the Village by preserving a natural environment for which the Village is famous. Yet, parenthetically, when this writer requested in writing over a year ago, and verbally at a recent Village Board Meeting that the Village attempt to bar gas drilling companies from buying or leasing land in Fleischmanns, or, if that was not possible, to prohibit them from using Fleischmanns roads to transport dangerous fluids, the Mayor and the Board, to my knowledge, has not done anything.

The following letter regarding Local Decisions on Lands Eligible for Purchase under the Water Supply Permit Issued to the New York City DEP, addressed to the Village of Fleischmanns dated May 16, 2011 from Anita Rubin was read aloud as follows:

It is unclear to me whether the three points published in an information sheet dated April 01, 2011 represent the current law or whether these points are being made for the purpose of changing the current law?

I understand that acquisition of Village properties by the DEP can leave these parcels dormant and thus prohibit future Village development and the possibility of increasing tax rolls.

Parenthetically, it is also my understanding that the Federal government under FEMA can purchase small Village parcels with structures that is, if they have been damaged, threatened or destroyed in or by floods.

Although I am not certain of the current law, I want to voice my concern about the possibility of the purchase of small parcels, within the Village, that could be sold for the purpose of natural gas exploration which, in my view, would have a negative impact on the environment.

If we seek to limit DEP purchases which, in theory, are meant to protect the environment then, I believe, we should also limit the purchase of parcels which can destroy the environment. Unfortunately, the Village has over a 14 year history of permitting environmental damaging businesses to establish themselves and flourish within our Village. Our environment, quality of life and Village image have greatly suffered. If we limit the DEP for endeavors to preserve the environment we should also limit developers from purchases that would destroy our environment. This would include but not be limited to purchases for natural gas exploration.

Yes, natural gas exploration and DEP land purchases represent diametrically opposing viewpoints.

Although this hearing is specifically addressing DEP purchases I would like the Village Board to also consider limiting the possibility of purchases, small or large, for natural gas exploration within the Village of Fleischmanns.

Further discussion was held indicating that the new water supply permit for NYC from the State's DEC allows DEP to continue its controversial land acquisition program for the next 15 years in exchange for a variety of new concessions from the DEP to communities in the watershed that supply the City's water.

Those concessions include increased development rights in hamlets and villages, more recreational access to DEP lands.

Municipalities in the watershed don't have the legal right to prevent landowners and the DEP from making real estate deals, except in what are known as "designated hamlet

areas.” The hamlets are core neighborhoods within the town, carved out of the City’s land acquisition program during negotiations in the 1990’s between the City, the State, federal regulators, upstate watershed towns, and environmental organizations.

Shelly Johnson answered all questions from the Board and the public present.

Closing of Public Hearing

Motion made by David Morell to close the Public Hearing. Motion seconded by Harriet L. Grossman. David Morell-Aye. Harriet L. Grossman-Aye. Todd Pascarella-Aye. Fred Woller-Aye. Benjamin Fenton-Absent. Motion so carried.

Opening of Regular Village Board Meeting

Delaware Engineering/Water Storage Tank

John Brust of Delaware Engineering was present. Mr. Brust advised that the new water reservoir tank is ready to be put in service.

Delaware Operations

Purchase Orders

Motion made by Fred Woller to approve the following purchase orders for the month of May, 2011: Slack Chemical, chlorine bleach, 55 gal. drums, 110 gal. @ \$2.55/gal, total cost of request: \$281.00, reason for purchase: chemicals used in the treatment process; Slack Chemical, 60% Magnesium Hydroxide, 55 gal. drums, 110 gal. @ \$3.60/gal., total cost of request: \$396.00, reason for purchase: chemicals used in the treatment process; Slack Chemical, sodium thio-sulfate, 2-50 lb. bags, 100 lbs. @ \$1.00/lb, total cost of request: \$100.00, reason for purchase: chemicals used in the treatment process; Slack Chemical, Ammonia 19%, in 55 gal. drums, 110 gal. @ \$3.17/gal., total cost of request: \$349.00, reason for purchase: chemicals used in the treatment process to augment influent flows to prepare for the change in Village population coming in June 2011. Motion seconded by Harriet L. Grossman. Fred Woller-Aye. Harriet L. Grossman-Aye. David Morell-Aye. Todd Pascarella-Aye. Benjamin Fenton-Absent. Motion so carried.

Monthly Report/April 2011

At this time the Wastewater Facility is running through most of the month at a reduced rate of flow and discharges effluent flow from the facility almost every day of the week. Operators continue to monitor the pump station and the collection system on a daily basis.

Re-levy/2011 Village Taxes

Motion made by Fred Woller to re-levy \$13,288.23 of unpaid sewer bills on the 2011 Village taxes due June 1, 2011. Motion seconded by David Morell. Fred Woller-Aye. David Morell-Aye. Todd Pascarella-Aye. Harriet L. Grossman-Aye. Benjamin Fenton-Absent. Motion so carried.

Lou Dibble advised there were still approximately 16 properties not connected to the sewer system who are being billed on a regular basis.

Two requests were received by Delaware Operations to look at property. One was the property located on 423 Wagner Ave. (Bridge St. & Wagner Ave.) where the owners removed a cottage. It appears the cottage has been removed for some time. The owners are requesting that the cottage be taken off their sewer billing. Lou Dibble recommended that they be removed from the sewer bill. Another request was received from Jerry Stimmel concerning 1109 Main Street which has store fronts downstairs & apartments upstairs. Delaware Operations had the property listed as 4 apartments and after looking at the property, it should rightfully be listed as 2 apartments. Delaware Operations will be reassessing that property. Mayor Morell agreed that the properties will be reassessed as of July 1, 2011 bill & not go retroactive.

Pump Station/Rental

Lou Dibble of Delaware Operations was contacted by Tom Stalter of the DEP who had concerns as to the rental of the pump station property located at 492 Main Street. DEP advised that they do not want to pay for the increased costs in electric and propane usage

due to increased costs for tenant usage of the building. One electrical service operates both the lights in the building and runs the pump station. The propane tank provides the backup generator with propane and also provides heat for the building. Lou Dibble recommended that the Village calculate DEP's portion of the annual costs.

Mayor Morell advised that up to this point DEP was affording 80% of the costs to run the pump station. In order to monitor any additional costs incurred by tenant usage, Mayor Morell stated it would make more sense to install separate meters. Further discussion was held as to how to calculate the costs of the electric and fuel for the additional tenant use. Mayor Morell asked that Lou Dibble talk to DEP and see what they had to remedy the additional costs incurred on utilities due to the rental.

Public Comment

Discussion was held as to the Village of Fleischmanns being entitled to use of the Middletown Dog Warden since the Village pays licensing fees to the Town. Mayor Morell advised that the issue was in the hands of the Village Attorney.

Winifred Zubin of Fleischmanns First asked if the Village would have a presence at the Memorial Day event to perhaps address questions from the public as to the Comprehensive Plan, Playground, etc. Todd Pascarella advised that Jeannie Pascarella will have a table set up at the ball park with the park plan that was adopted. Mayor Morell advised he would see if the perhaps the Library would put out copies of the Comprehensive Plan.

Market on Main/Paula DeSimone

Motion made by David Morell to grant permission for the Market on Main to put a porta potty in the Village parking lot the 1st Sunday in June, 2011 till the last Sunday in August. Motion seconded by Harriet L. Grossman. David Morell-Aye. Harriet L. Grossman-Aye. Todd Pascarella-Aye. Fred Woller-Aye. Benjamin Fenton-Absent. Motion so carried.

Resignation/Pamela Grocholl/Treasurer of Village Revitalization Committee

Motion made by Harriet L. Grossman to accept the resignation of Pamela Grocholl as Treasurer of the Village of Fleischmanns Revitalization Committee; while still remaining an active member of the Committee. Motion seconded by Fred Woller. Harriet L. Grossman-Aye. Fred Woller-Aye. David Morell-Aye. Todd Pascarella-Aye. Benjamin Fenton-Absent. Motion so carried.

Playground Savings Account

Motion made by David Morell to have the Village of Fleischmanns open a savings account at Community Bank N.A. for the development of the Village playground; funds are to be earmarked specifically as matching funds slated only for the children's playground. Motion seconded by Fred Woller. David Morell-Aye. Fred Woller-Aye. Todd Pascarella-Aye. Harriet L. Grossman-Aye. Benjamin Fenton-Absent. Motion so carried.

Revitalization/Checking Account

Motion made by David Morell to open a checking account for the Revitalization Committee with the current signatories, David Morell, Todd Pascarella and Lorraine DeMarfio, in place to be used for the purchase of flowers, barrels, etc. for the Committee. Motion seconded by Harriet L. Grossman. David Morell-Aye. Harriet L. Grossman-Aye. Todd Pascarella-Aye. Fred Woller-Aye. Benjamin Fenton-Absent. Motion so carried.

Budget Adoption/2011-2012

Motion made by Todd Pascarella to adopt the 2011-2012 Village fiscal budget effective May 2, 2011. Motion seconded by David Morell. Todd Pascarella-Aye. David Morell-Aye. Harriet L. Grossman-Aye. Fred Woller-Aye. Benjamin Fenton-Absent. Motion so carried.

ZBA/Yvonne Reuter

Motion made by Harriet L. Grossman to re-appoint Yvonne Reuter to the Zoning Board of Appeals for a term of one year (1) expiring April, 2012. Motion seconded by Todd Pascarella. Harriet L. Grossman-Aye. Todd Pascarella-Aye. David Morell-Aye. Fred Woller-Aye. Benjamin Fenton-Absent. Motion so carried.

Coalition of Watershed Towns***Ballot for Executive Committee******Two Year Terms******Regular***

Motion made by Harriet L. Grossman to vote for William Stanton as a regular member of the Coalition of Watershed Towns for a term of two (2) years. Motion seconded by Todd Pascarella. Harriet L. Grossman-Aye. Todd Pascarella-Aye. Fred Woller-Aye. David Morell-Abstained. Benjamin Fenton-Absent. Motion so carried.

Two Year Terms/Alternate

Motion made by Todd Pascarella to vote for John Van Benschoten as an alternate member of the Coalition of Watershed Towns for a term of two (2) years. Motion seconded by Harriet L. Grossman. Todd Pascarella-Aye. Harriet L. Grossman-Aye. Fred Woller-Aye. David Morell-Abstained. Motion so carried.

Water Taps

Village Trustee Fred Woller advised that he thought it would be good to use a hose at the eastern entrance of the Village for the watering of flowers. Trustee Woller advised that the Village crew would install a water tap by the fire hydrant right by the gazebo.

Utility Poles/David Morell/Harriet L. Grossman

Discussion was held as to an up-date on the pole lines in the Village. Both Mayor Morell & Harriet L. Grossman spoke to Nick Thomson of Verizon who advised that private electric had to be removed before any work could proceed. Mayor Morell stated he had spoken with Blizzard Electric.

Library/Sump Pump Purchase

Motion made by David Morell to purchase a sump pump at a cost of up to \$500.00 to be installed by the Village crew in the Library basement to prevent flooding and damage to the furnace. Motion seconded by Harriet L. Grossman. David Morell-Aye. Harriet L. Grossman-Aye. Todd Pascarella-Aye. Fred Woller-Aye. Benjamin Fenton-Absent. Motion so carried.

Workshop/May 23, 2011

The Village Board of Trustees agreed to hold a Workshop Meeting on Monday, May 23, 2011 at 4:00 p.m. at the Skene Library.

Vouchers/May 2011

Motion made by David Morell to pay the following vouchers for the month of May, 2011: General Fund, Abstract # 80, Voucher # 327 totaling \$105.81; General Fund, Abstract # 81, Voucher # 328 totaling \$1,393.47; General Fund, Abstract # 82, Voucher # 329 totaling \$132.00; General Fund, Abstract # 83 (a), Voucher # 330 totaling \$13,000.00; General Fund, Abstract # 331 through 345 totaling \$5,863.07; Water Dept. Fund, Abstract # 24, Voucher # 54 totaling \$9,427.69; Water Dept. Fund, Abstract # 25, Voucher # 55 totaling \$178.50; Water Dept. Fund, Abstract # 26, Voucher # 56 totaling \$20,339.28; Water Dept. Fund, Abstract # 28, Vouchers # 57 through 59, totaling \$731.53; Sewer Dept. Fund, Abstract # 12, Vouchers # 123 through 12, totaling \$24,691.94. Motion seconded by Todd Pascarella. David Morell-Aye. Todd Pascarella-Aye. Harriet L. Grossman-Aye. Fred Woller-Aye. Benjamin Fenton-Absent. Motion so carried.

Adjourn

Motion made by David Morell to adjourn. Motion seconded by Harriet L. Grossman. David Morell-Aye. Harriet L. Grossman-Aye. Todd Pascarella-Aye. Fred Woller-Aye. Benjamin Fenton-Absent. Motion so carried.

