

December 5, 2012

A Public Hearing and the regular monthly meeting of the Lockport Town Board was conducted at 7:30 p.m. on Wednesday, December 5, 2012, at the Town Hall, 6560 Dysinger Road, Lockport, New York.

Present were: Supervisor: Marc R. Smith

Town Council members: Cheryl A. Antkowiak
Mark C. Crocker
Paul W. Siejak

Also present: Nancy A. Brooks, Town Clerk, Daniel E. Seaman, Town Attorney and
Judith Newbold, Deputy Town Clerk

Following the Pledge of Allegiance, Supervisor Smith welcomed those present and opened the meeting as follows:

**PUBLIC HEARING – Proposed Local Law to Amend the Zoning Code and Map of the
Town of Lockport** (Notice published in the Union Sun Journal on 11/10/2012)

The Supervisor explained the purpose of the Public Hearing and opened the floor to Perry Galdenzi, Pres. of LaFarge Corp. who gave a brief description of the reasoning behind LaFarge's wishes to expand the Mining District.

Presentation by LaFarge Representatives:

Mr. Galdenzi also presented a map of the proposed area which marked out the area in question and subject to the Town Board's rezoning approval. He then introduced Mr. John Hellert, a geologist who has worked at LaFarge Company's Hinman Road facility since 1973.

Mr. Hellert explained the geological reasons why LaFarge wishes to expand, stating that in order for LaFarge to meet Dept. of Transportation specifications used for the manufacturing of concrete and asphalt, they need to use specific grades of aggregates. The current dig site does not contain these grades whereas the proposed extended site (160 plus feet closer to Hinman Road) does contain the grades needed to meet these specifications.

He also reiterated Mr. Galdenzi's statements that this extension would increase the life of the quarry for approximately 1 ½ - 2 years. Both he and Mr. Galdenzi expressed the economic impact that the LaFarge quarry has on the community and stressed how failure to obtain the rezoning and the subsequent D.E.C. required permits would negatively affect the surrounding area's economy.

The floor was opened for the public to speak as follows:

James Mulrenin of 5307 Hinman Road stated he lives in an 1800's home and that water has gotten in and flooded his home due to blasting at the quarry which results in the shifting of underground water. He worries what this proposed expansion will do to the value of area homes.

Claudette Lemieux asked that the Town Board deny the rezoning as it will cause damage to homes. She questions why LaFarge has been purchasing homes along both sides of Hinman Road. She questioned if that is because LaFarge has already been assured by the Town that future expansions will be approved? She worries how this will affect assessments and future home values. Lastly, she asked if the gas company (have a large pipeline near Hinman Road) is aware of LaFarge's plans for expansion.

Continued next page

Ozzie Kariman of 5900 Bear Ridge Road stated that the fumes from the quarry when they are manufacturing asphalt are tremendous as is the noise from the truck traffic generated from the quarry.

Peter Frawley of 5411 Murphy Road stated that he continuously hears the loud noise of construction machinery and truck traffic. Blasting at the quarry rattles doors and windows in his home, ceilings and walls have cracked and items have fallen off walls. He has lived in his home for 2½ years and worries if the value of his home will fall.

Resident at 5310 Hinman Road stated she purchased her home because it was a nice neighborhood, one in which she could raise her children. If the quarry is allowed to expand, she worries what will happen to those children if there is additional truck traffic and stones which are thrown from them.

Kenneth Carter of 5317 Hinman Road stated he built his home in 1969 when the quarry was located at the far end of Hinman Road. He stated it was a nice area but LaFarge has expanded the quarry and is now a big factor in the quality of life he has. He stated that it's quite obvious that LaFarge intends to move south across Hinman Road and may go as far as Murphy Road and said he fears for those persons living on Murphy Road.

Bob Ensminger of 5677 Murphy Road has lived there since 1986 and since then his home has suffered damage. Years ago his home flooded and with the help of Lewis Hagen, former Town of Lockport Highway Superintendent, discovered that the flooding was due to LaFarge being in violation of their DEC - SPEDES permit. He stated that eventually, the issued was settled but he fears what expansion of the quarry will bring next.

Anthony Battaglia of 5449 Murphy Road stated he has been in his home for 1 year and fears that LaFarge will seek to move across Hinman Road and then onto Murphy Road. He asked what would happen if LaFarge should encounter a large sink hole while expanding? What would the Town do if this expansion resulted in sink holes to the streets or homes? He also questioned what an expansion would do to the air quality surrounding his home. Lastly, he questioned what other options have been researched.

Jim Pazik of 5662 Murphy Road has lived in his home since 1983. He stated that the LaFarge quarry expansion started due to the closure of the quarry located in Medina, New York which was at its life end. He questioned if the Hinman Road quarry was now approaching its life end and questioned if this proposed expansion is just a short-term solution with many consequences for area residents. He stated he is also worried about gas emergencies being that there is a huge propane tank farm in the area. He asked if a SEQRA study has been done or if one is necessary. Also, does LaFarge have any violations of permits? He stated that this is a "quality of life" issue and he wonders about the amount of money that LaFarge truly does put back into the community.

David Mongiolo of 5099 Day Road stated that zoning laws are in place to protect the rights of the residents of a community and he feels that the Town Board should respect the rights of these residents. He stated that LaFarge pays for lobbyists to promote their efforts. He questioned if perhaps campaign monies have been used to support these efforts.

Another resident asked if the Town of Lockport would be responsible for the repairs to homes, streets and water lines should damage be done due to the expansion of the quarry?

Lastly, Supervisor Smith read the letter of Pat McCormick-Aiken of 5657 Murphy Road who strongly urged that the proposed rezoning be denied based on current damages done to her home and others in the area. The Public Hearing was then closed and the regular business meeting opened as follows:

PUBLIC COMMENTS: Mr. David Mongiello of Day Road stood to speak but was not recognized by the Town Board as he has violated the Town of Lockport Public Comment Policy in the past.

No one else chose to speak before the Town Board and the regular business meeting continued as follows:

1. Approval of Minutes

MOTION (2012-202): to approve the minutes of Town Board meetings conducted on November 5, 2012, November 7, 2012 and November 21, 2012 was made by Council member Siejak and seconded by Council member Crocker. The motion was CARRIED: AYES - 4, NAYS - 0. Voting AYE: Antkowiak, Crocker, Siejak and Smith.

2. Approval of Payment of Bills

MOTION (2012-203): to approve the payment of bills for the month of December was made by Council member Antkowiak and seconded by Council member Crocker. The motion was CARRIED: AYES - 4, NAYS - 0. Voting AYE: Antkowiak, Crocker, Siejak and Smith.

3. Communications

The Town Clerk read the following names of candidates for volunteer fire service:

Shari J. Kiessling.....Rapids Fire Co.
Amie L. Burkley.....Rapids Fire Co.
Sara J. HuberWright's Corners Fire Co.

MOTION (2012-204): to approve the above named individuals for volunteer fire service in the Town of Lockport was made by Council member Antkowiak and seconded by Council member Crocker. The motion was CARRIED: AYES - 4, NAYS - 0. Voting AYE: Antkowiak, Crocker, Siejak and Smith.

4. Building Inspector's Report

The Supervisor read the Building Inspector's report for the month of November 2012 which states that 29 building permits were issued; \$3,993.00 was collected in fees; and the estimated cost of construction was \$1,002,170.00.

5. Supervisor's Monthly Financial Report

MOTION (2012-205): to approve the Supervisor's Monthly Financial Report for the period ending 11/30/2012 was made by Council member Siejak and seconded by Council member Antkowiak. The motion was CARRIED: AYES - 4, NAYS - 0. Voting AYE: Antkowiak, Crocker, Siejak and Smith.

6. Resolution: Adoption of SEQRA Determination for the Abandonment of a Portion of Crown Drive and a Ditch Easement in the Town of Lockport I.D.A. Park

MOTION (2012-206) On a motion by Council member Siejak and seconded by Council member Antkowiak the following resolution was duly ADOPTED: 4 AYES, 0 NAYS. Voting AYE: Antkowiak, Crocker, Siejak, and Smith.

RESOLUTION

A Short Form Environmental Assessment dated November 29, 2012, having been prepared and was filed by the Town of Lockport relative to a proposed termination and abandonment of a portion of Crown Drive and a ditch easement,

NOW, THEREFORE, THIS BOARD FINDS AS FOLLOWS:

The Town of Lockport is the lead agency and the only involved agency. The action is an unlisted action pursuant to the State Environmental Quality Review Act (SEQRA), this Board having reviewed said Environmental Assessment Form and considered all information contained therein, this Board finds that this action will not have any significant adverse effect or impact on the environment and, accordingly, directs that a negative declaration pursuant to SEQRA be issued.

7. Resolution: Consent to Discontinue and Abandon Portion of Crown Drive in Town of Lockport I.D.A. Park

MOTION (2012-207): On a motion by Council member Crocker and seconded by Council member Antkowiak, the following resolution was duly ADOPTED: 4 AYES, 0 NAYS. Voting AYE: Antkowiak, Crocker, Siejak, and Smith.

RESOLUTION

WHEREAS, an application has been submitted to the Town of Lockport Highway Superintendent for discontinuance and abandonment of a portion of Crown Drive, a Town Highway, now therefore,

The Town Board of the Town of Lockport takes the following actions:

- 1) This Board hereby determines that the only land taken or effected by the discontinuance and abandonment of so much of Crown Drive as set forth in Exhibit "A" attached hereto and made a part hereof are Yahoo! Inc., owner of land adjacent to and west of Crown Drive and the Town of Lockport Industrial Development Agency, owner of lands adjacent to and east of the part of Crown Drive described in Exhibit "A".
- 2) The Town of Lockport Town Board does hereby consent to the discontinuance and abandonment of that portion of Crown Drive as described in Exhibit "A" attached.

EXHIBIT " A "

ALL THAT TRACT OR PARCEL OF LAND situate in the Town of Lockport, County of Niagara and State of New York, being part of Lot 12, Township 14, Range 7 of the Holland Land Company's Survey, bounded and described as follows:

Continued next page

BEGINNING at a point in the east line of Crown Drive at the northwest corner of lands conveyed to 99 Alpha Properties, LLC by deed recorded in Liber 3119 of Deeds at page 1; thence westerly along the westward prolongation of the north line of said 99 Alpha Properties, LLC lands a distance of 60 feet to the west line of Crown Drive; thence northerly along the west line of Crown Drive a distance of 696.5 feet to the westward prolongation of the south line of lands conveyed to Ernest Berman and others by deed recorded on Liber 3203 of Deeds at page 548; thence easterly along the westward prolongation of Berman and others land a distance of 60 feet to the southwest corner thereof in the east line of Crown Drive; thence southerly along the east line of Crown Drive a distance of 696.5 feet to the point of beginning.

8. Resolution: Consent for Abandonment of Ditch Easement in the Town of Lockport I.D.A. Park

MOTION (2012- 208): On a motion by Council member Siejak and seconded by Council member Antkowiak the following resolution was duly ADOPTED: 4 AYES, 0 NAYS. Voting AYE: Antkowiak, Crocker, Siejak, and Smith.

R E S O L U T I O N

WHEREAS, the Town of Lockport obtained an easement which crosses premises being conveyed to Yahoo!, Inc. by the Town of Lockport Industrial Development Agency by instrument recorded in the Niagara County Clerk's Office in Liber 2895, at page 189, and

WHEREAS, the easement is not necessary for the part of the easement within the bounds of the premises to be conveyed, and

WHEREAS, the Town of Lockport Industrial Development Agency and Yahoo!, Inc. have requested that that portion of the easement within the bounds of the premises being conveyed be terminated, released and abandoned, now thereafter be it

RESOLVED, that that portion of the easement recorded in Liber 2895 page 189 which lies within the boundary of the following described property be permanently abandoned, terminated and released by the Town of Lockport:

Legal Description

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Lockport, County of Niagara and State of New York, being part of Lot 12, Township 14, Range 7 of the Holland Land Company's Survey, bounded and described as follows:

Beginning at a point in the east line of Crown Drive at the southwest corner of lands conveyed to Ernest Berman and others by deed recorded on Liber 3203 of Deeds at page 548; thence easterly at right angles and along the south line of Berman and others lands, a distance of 349.41 feet to the southeast corner thereof; thence northerly at an exterior angle of 89° 51' 08", a distance of 70 feet to the southwest corner of lands conveyed to Schwan's Sales Enterprises, Inc. by deed recorded in Liber 2290 of Deeds at page 76; thence easterly at right angles and along the south line of said Schwan's Sales Enterprises, Inc. lands along the south line of lands conveyed to Joseph A. Sykes, Sr. by deed recorded in Liber 2512 of Deeds at page 203, a distance of 474.57 feet to the southeast corner of Syke's lands in the west line of I.D.A. Drive; thence southerly along a curve to the right having a radius of 1270 feet and along the west line of I.D.A. Drive an arc distance of 197.50 feet to a point of reverse curvature therein; thence southerly along a curve to the left having a radius of 1330 feet and along

the west line of I.D.A. Drive an arc distance of 525.07 feet to a point of tangency therein; thence southerly along the west line of I.D.A. Drive, a distance of 67.49 feet to a point; thence westerly at right angles and in part along the north line of lands conveyed to 99 Alpha Properties, LLC by deed recorded in Liber 3119 of Deeds at page 1 a distance of 660 feet to the northwest corner thereof in the east line of Crown Drive; thence northerly at right angles along the east line of Crown Drive a distance of 696.5 feet to the point or place of beginning.

9. Resolution - Add Town Board meeting Date

MOTION (2012-209): to conduct a Town of Lockport work session at 1:00 p.m. on Wednesday, December 19, 2012 was made by Council member Siejak and seconded by Council member Antkowiak. The motion was CARRIED: AYES - 4, NAYS - 0. Voting AYE: Antkowiak, Crocker, Siejak and Smith.

10. Town Board Comments

Councilman Crocker thanked all those present for attending the meeting and thanked those who participated in the Public Hearing.

Councilman Siejak also thanked those that spoke before the Town Board during the Public Hearing. He also gave his deepest condolences to the family of Paul Pettit who passed away November 17, 2012. Lastly, he wished everyone a blessed holiday season.

Councilwoman Antkowiak thanked everyone who attended the meeting, especially those who spoke before the Board. She then thanked the Town Recreation Committee, Jay Krull and his wife, Therese, for all their hard work for the Christmas on the Canal Parade and the Town's Winter Festival. Additionally, she thanked the Town Water & Highway Departments for their work on the Town's restrooms and concession area which they helped to build at Day Road Park. Lastly, she encouraged everyone to watch and take care of the senior population, especially over the holiday season. She wished happy and healthy holidays to all.

10. Supervisor's Comments

Supervisor Smith also thanked everyone for their participation and good manners during the Public Hearing segment of the meeting. He wished all Happy Holidays.

11. Adjournment

MOTION (2012-210): to adjourn was made by Council member Antkowiak and seconded by Council member Siejak. The motion was CARRIED: AYES - 4, NAYS - 0. Voting AYE: Antkowiak, Crocker, Siejak and Smith.

The meeting was ended at 8:25 p.m. The Lockport Town Board will next meet at 1:00 p.m. on Wednesday, December 19, 2012.

Respectfully submitted,

Nancy A. Brooks, RMC, CMC
Lockport Town Clerk