

December 26, 2012

The year-end work session of the Lockport Town Board was conducted at 1:00 p.m. on Wednesday, December 26, 2012, at the Town Hall, 6560 Dysinger Road, Lockport, New York.

Present were: Supervisor: Marc R. Smith

Town Council Members: Mark C. Crocker
Paul S. Siejak

Absent: Cheryl A. Antkowiak

Also present: Nancy A. Brooks, Town Clerk, Daniel E. Seaman, Town Attorney and Robert Klavoon of Wendel Engineering.

The Supervisor welcomed everyone to the year-end work session and opened the meeting for the following discussion and/or action:

1. **Town Clerk**

The Clerk reported that she required Town Board action for the following:

Authorization for Supervisor to Balance Accounts for Fiscal Year

MOTION (2012- 221) to authorize the Supervisor, as chief fiscal officer, to balance the accounts for the fiscal year ending 12/31/2012, the monies to be taken from unexpended balances, was made by Council Member Siejak and seconded by Council Member Crocker. The motion was CARRIED: AYES-3, NAYS-0. Voting AYE: Crocker, Siejak and Smith.

Authorization for Supervisor to Spend 2013 Highway Funds

MOTION (2012-222) to authorize the Supervisor to spend the 2013 Town Highway Funds was made by Council Member Crocker and seconded by Council Member Siejak. The motion was CARRIED: AYES-3, NAYS-0. Voting AYE: Crocker, Siejak and Smith.

Authorization for Tax Receiver to not impose Service Charge for Delinquent Tax Notices

MOTION (2012-223) to authorize the Town Tax Receiver not to impose a service charge for the required mailing of delinquent notices to Town taxpayers was made by Council Member Siejak and seconded by Council Member Crocker. The motion was CARRIED: AYES-3, NAYS-0. Voting AYE: Crocker, Siejak and Smith.

Authorization for Town Clerk to Issue 2013 Manufactured Home Park Permits

MOTION (2012-224) to authorize the Town Clerk to issue the 2013 Manufactured Home Park Permits was made by Council Member Crocker and seconded by Council Member Siejak. The motion was CARRIED: AYES-3, NAYS-0. Voting AYE: Crocker, Siejak and Smith.

2. **Town Attorney – No report.**

3. **Engineer**

Mr. Klavoon requested approval for a change order to Contract #10-1 to close out the project.

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MOTION (2012-225) to approve Change Order #2 to Contract #2010-1, which is a deduct charge order in the amount of \$113,648.59 to facilitate the close out the project with J.R. Swanson was made by Council Member Siejak and seconded by Council Member Crocker. The motion was CARRIED: AYES-3, NAYS-0. Voting AYE: Crocker, Siejak and Smith.

Mr. Klavoon then requested approval for a payment of \$319.08 as the final closeout payment for Contract #2010-1.

MOTION (2012-226) to approve the final close out payment for Contract #2010-1 to J.R. Swanson in the amount of \$319.08, was made by Council Member Crocker and seconded by Council Member Siejak. The motion was CARRIED: AYES-3, NAYS-0. Voting AYE: Crocker, Siejak and Smith.

Lastly, Mr. Klavoon requested Town Board approval for Payment No.1 for Contract #2012-1 Sewer Slip Lining.

MOTION (2012-227) to approve Payment Request No. 1 for Contract #2012-1 Sewer Slip Lining, in the amount of \$37,667.50 payable to Skanex Pipe Services, Inc. was made by Council Member Siejak and seconded by Council Member Crocker. The motion was CARRIED: AYES-3, NAYS-0. Voting AYE: Crocker, Siejak and Smith.

Supervisor Smith added that the Niagara County Sewer District will be reimbursing the Town of Lockport nearly \$20,000.00 toward this slip lining project.

4. **Town Board Comments** – There were no reports.

5. **Supervisor's Comments**

Discussion on Proposed Zoning Amendment – LaFarge Mining Expansion

There was brief discussion of the proposed zoning amendment. Supervisor Smith stated he had reviewed all the information gathered relative to the proposal, including all the letters from neighboring residents and that he was prepared to vote on the amendment. Councilman Siejak asked whether LaFarge has agreed that neighbors will be notified of blasting and that if damages to private property occur, that LaFarge has a procedure in place to work with residents and their insurance carrier to cover legitimate claims that are brought forth. Both Councilman Crocker and Councilman Siejak stated that after review of all the documentation and having heard the arguments brought forth by the residents, and those brought by LaFarge and Kistner Concrete, that they were prepared to vote on this proposed amendment. They both emphasized that they will require much more information and public input should any future proposals for expansion across Hinman Road are brought before the Board.

Determination of Lead Agency and Adoption of Neg. Declaration under SEQRA

Whereas the Town of Lockport having ordered a coordinated review pursuant to the New York State Environmental Quality Review Act (SEQRA) and that review having been completed and the Town of Lockport has received notification from the New York State Department of Environmental Conservation that they agree that the Town of Lockport should act as Lead Agency, the following action was taken:

MOTION (2012-228) On a motion by Council Member Siejak and seconded by Council Member Crocker, the following resolution was duly ADOPTED: 3 - AYES, 0 - NAYS. Voting AYE: Crocker, Siejak and Smith.

RESOLUTION

WHEREAS, The Town of Lockport has proposed a Zoning Law amendment to establish a special mining district designation, SM and attaching this designation to property on Hinman Road, and

WHEREAS, in accordance with Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act – SEQRA) of the Environmental Conservation Law, the Lockport Town Board has conducted a coordinated review of the draft Zoning Law amendment, and

NOW THEREFORE, BE IT RESOLVED, the Lockport Town Board, in that the proposed Zoning Law amendment and map revision will not adversely affect the natural resources of the State and/or the health, safety and welfare of the public and is consistent with social and economic considerations and therefore issues the attached SEQR Negative Declaration in accordance with Section 617.7 of the SEQR regulations, and

BE IT FURTHER RESOLVED, that the Supervisor is authorized to sign the Environmental Assessment Form (EAF) and cause to complete the appropriate notices and mailings. (The Negative Declaration is an attachment to these minutes).

Adoption of Local Law – Zoning Code Amendment Establishing Special Mining District

MOTION (2012-229) On a motion by Council Member Crocker and seconded by Council Member Siejak, the following resolution was put to a ROLL CALL vote and was duly ADOPTED: 3 - AYES, 0 - NAYS. Voting AYE: Crocker, Siejak and Smith.

LOCAL LAW No. 1

BE IT ENACTED by the Town Board of the Town of Lockport as follows:

The Code of the Town of Lockport is hereby amended by adding the following Article and Sections:

ARTICLE XIV – SPECIAL MINING (S M) DISTRICT

§200-86. STATEMENT OF INTENT,
The Special Mining District (S M District) is established to authorize zoning in accordance with New York State Department of Environmental Conservation (DEC) Permits of an area north of Hinman Road adjacent to an existing ravine, because due to previous zoning codes and area 300 feet in width and adjacent to the north bounds of Hinman Road was eliminated from prior special use permits and DEC Permits. It is the finding of this Board that, with DEC permit restrictions, a sufficient set back from Hinman Road will be provided.

§200-87.
Notwithstanding any other provision of Chapter 200 of the Code of the Town of Lockport there is hereby established a use district known as the Special Mining Use District (S M District). The following uses are allowed in such districts: Mining and Mining related activities and structures.

§200-88.

The use allowed in the district shall not be subject to Planning Board Review or any other approval, so long as the appropriate New York State Department of Environmental Conservation permit(s) are obtained for the use allowed in this district and complied with. If any other provision of Chapter 200 is inconsistent with or in conflict with the provisions of this Article, the provisions of this Article shall prevail, provided nothing in this Article shall repeal or render inapplicable any provision of Chapter 200 of the Town Code, except as it relates to the allowed uses in the S M District. Except for the lands contained in the SM Use District, the provisions of Section 200-16(B) shall remain in effect.

§200-89. The Zoning Map of the Town of Lockport is hereby amended to include the following area in the S M District:

That part of Tax Map/Parcel Numbers 122.00-1-30.1; 122.00-1-77; 122.00-1-61.1; 122.00-1-62 and 122.00-1-30.2 which lie north of Hinman Road and which are bounded on the south by Hinman Road and on the north by a line parallel to the north bounds of Hinman Road and distant 300 feet northerly there from. The east bounds of said district is the east boundary line of the Town of Lockport. The west boundary line of said district is the west line of tax map parcel number 122.00-1-77. The southerly boundary line of said district is approximately 4324.81 feet in length.

AUTHORIZATION FOR HIGHWAY DEPT. TO PURCHASE NEW PICKUP TRUCK

MOTION (2012-230) to authorize the Town Highway Superintendent to purchase one ¾ ton pickup truck, a 2013 Chevrolet Silverado 4WD from Joe Basil Chevrolet in the amount of \$27,649.41, the monies to be encumbered from the 2012 Town highway Budget, was made by Council Member Crocker and seconded by Council Member Siejak. The motion was CARRIED: AYES-3, NAYS-0. Voting AYE: Crocker, Siejak and Smith.

AUTHORIZATION FOR HIGHWAY DEPT. TO PURCHASE NEW INTERNATIONAL PLOW TRUCK

MOTION (2012-231) to authorize the Town Highway Superintendent to purchase a new 2013 International plow truck from Regional International in an amount not to exceed \$145,872.34, the monies to be encumbered from the 2012 Town Highway Budget, was made by Council Member Siejak and seconded by Council Member Crocker. The motion was CARRIED: AYES-3, NAYS-0. Voting AYE: Crocker, Siejak and Smith.

AUTHORIZATION TO PAY YEAR-END BILLS

MOTION (2012-232) to approve the payment of year end bills including vouchers #28056 – 28212 in the amount of \$262,734.84, was made by Council Member Siejak and seconded by Council Member Crocker. The motion was CARRIED: AYES-3, NAYS-0. Voting AYE: Crocker, Siejak and Smith.

6. Executive Session Entered

MOTION (2012-233) to enter Executive Session for consultation with the Town Attorney was made by Council Member Siejak and seconded by Council Member Crocker. The motion was CARRIED: AYES-3, NAYS-0. Voting AYE: Crocker, Siejak and Smith.

The Town Board entered Executive Session at 1:12 p.m.

7. Executive Session Ended and Work Session Reconvened

MOTION (2012-234) to exit Executive Session and to reconvene the work session was made by Council Member Crocker and seconded by Council Member Siejak. The motion was CARRIED: AYES-3, NAYS-0. Voting AYE: Crocker, Siejak and Smith.

The Town Board reconvened the work session at 1:29 p.m. with no Town board action taken during Executive Session.

8. Adjournment

MOTION (2012-235) to adjourn was made by Council Member Siejak and seconded by Council Member Crocker. The motion was CARRIED: AYES-3, NAYS-0. Voting AYE: Crocker, Siejak and Smith.

The meeting ended at 1:29 p.m. The Lockport Town Board will next meet at 1:00 p.m. on Monday, January 7, 2013.

Respectfully submitted,

Nancy A. Brooks, RMC, CMC
Lockport Town Clerk

December 4, 2012

**State Environmental Quality Review Act
NEGATIVE DECLARATION
Notice of Determination of Non-Significance**

This notice is issued pursuant to Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act) of the Environmental Conservation Law.

The Lockport **Town Board**, as SEQR Lead Agency, has conducted a coordinated review of this project, and after a thorough review, has determined that the proposed action described below will not have a significant adverse impact on the environment and that a Draft Environmental Impact Statement will not be prepared.

Name of Action: Zoning Law Amendment Establishing Special Mining District

SEQR Status: Type I

Description of Action: Enactment of a zoning amendment to establish a Special Mining (SM) zone and map same, consisting of an area adjacent to and north of Hinman road, being 300 feet in width. The Zone abuts an existing quarry operated by LaFarge, North America. This action amends the zoning code, which prohibits mining; by establishing a district adjacent to the existing mine (quarry) allowing mining. The zoning change will allow mining if a permit is obtained or modified from the NYSDEC.

Location: Hinman Road, Town of Lockport, Niagara County, New York

Reasons Supporting this Decision (See Plan for additional documentation):

1. **Impact on Land:** There are no direct impacts on land with the adoption of this zoning amendment. Any subsequent projects proposed for this site, will need approvals from the Town, NYSDEC and potentially other regulatory agencies, and will be subject to a separate SEQR analysis (see SEQR Segmentation discussion). Therefore, the Town Board finds that potential adverse impacts to land resources resulting from the adoption of this zoning code amendment are not anticipated.
2. **Impact on Water:** The zoning code amendment changes the zoning of a small area of Town, but does not specifically allow any construction or any impacts to water resources. Therefore, the Town Board finds that potential adverse impacts to water resources resulting from the adoption of this zoning code amendment are not expected.
3. **Impact on Air:** The Town Board finds that potential adverse impacts to air quality resulting from the adoption of this zoning code amendment are not anticipated (Zoning does not produce Air Quality impacts).
4. **Impact on Plants and Animals:** The Town Board finds that potential adverse impacts to plants and animals resulting from the adoption of this zoning code amendment are not expected.
5. **Impact on Agricultural Land Resources:** The predominant land uses in the area are a quarry and industrial uses, and will not impact agriculture. Therefore, the Town Board finds that potential negative impacts to agricultural resources resulting from the adoption of the zoning code amendment are not anticipated.

6. **Impact on Aesthetic Resources:** The area is predominately industrial and the proposed zoning complements the existing land uses. Therefore, the Town Board finds that potential adverse impacts to aesthetic resources resulting from the adoption of the zoning code amendment are not expected.
7. **Impact on Open Space and Recreation:** The proposed zoning code amendment only affects a small area of the Town and no important open space or recreational features. Therefore, the Town Board finds that potential impacts to open space and recreation resulting from the adoption of the zoning code amendment are not expected.
8. **Impact on a Critical Environmental Area:** There are no critical environmental areas (CEA's) in the Town of Lockport.
9. **Impact on Transportation:** The Town Board finds that potential negative impacts to the transportation system resulting from the zoning code amendment are not anticipated as the rezoning has no specific affect on transportation and any future project would need to evaluate these potential impacts.
10. **Impact on Energy:** The Town Board finds that potential adverse energy impacts resulting from the adoption of the zoning code amendment are not expected.
11. **Noise and Odor Impacts:** The Town Board finds that there will be no noise and odor impacts resulting from the adoption of the zoning code amendment.
12. **Impact on Public Health:** The area is predominantly industrial in nature and the zoning amendment compliments the area's uses. The amendment itself will have no direct impacts on public health, and therefore the Town Board concludes that potential adverse impacts on public health from the zoning code amendment are not expected.
13. **Impact on Growth and Character of the Community:** The zoning code amendment is in general conformance with the Town's Comprehensive Plan (this area being predominantly industrial in nature and represents an industrial growth corridor in the Regional Comprehensive Plan). Therefore, the Town Board finds that potential adverse impacts to the growth and character of the community or neighborhoods resulting from the adoption of the zoning code amendment are not expected.

The Town of Lockport, therefore, concludes that the project will not adversely affect the natural resources of the State and/or the health, safety and welfare of the public, and is consistent with social and economic considerations. In reaching this decision, the Town of Lockport carefully considered all the Criteria for Determination of Significance listed in the SEQR regulations (6 NYCRR 617.7).

In accordance with Section 617.3 (g) of SEQR, the Town of Lockport is identifying the fact that it has segmented the review of the proposed zoning code amendment from any future development that could occur on the site. This is being done because future development of the site, as a quarry, may or may not occur, the adoption of this code amendment does not automatically allow any development of the site to a quarry, and any development of the site as a quarry is controlled through the NYSDEC, who will act as SEQR Lead Agency on any proposed quarry development (The NYSDEC allowed the Town to be Lead Agency on the zoning amendment). This segmentation is no less protective of the environment, as any proposal for a quarry must go through a rigorous permitting process with the NYSDEC and an evaluation of the quarry under the SEQR process.

For Further Information Contact:

Andrew C. Reilly, PE, AICP
Wendel Duchscherer Architects & Engineers
140 John James Audubon Parkway, Suite 201
Amherst, New York 14228
(716) 688-0766