

Adoption of Local Law 2016-#1– Moratorium of Disposal of Sludge, Sewage Sludge and Septage

PRESENT: Supervisor Broderick; Councilmembers Bax, Ceretto, Geiben and Morreale; Deputy Supervisor Conrad; Town Attorneys Seaman and Catalano; Building Inspector Masters; Town Engineer Lannon; Finance Officer Blazick; Recreation Dir. Dashineau; Chief Previte; 2 Press; 20 Residents and Clerk Donna Garfinkel

The Supervisor opened the Public Hearing, followed by the Pledge of Allegiance and a moment of silent reflection.

Clerk read notice into the record:

NOTICE IS HEREBY GIVEN that a Public Hearing will be held by the Town Board of the Town of Lewiston on the 22nd day of February, 2016 at 6:00 p.m., at the Town Hall, 1375 Ridge Road, Town of Lewiston, New York, on the adoption of a proposed Local Law entitled, “Moratorium of Disposal of Sludge, Sewage Sludge and Septage,” an abstract of which is as follows:

The Town Board of the Town of Lewiston currently has under review amendments to the Town Code in regard to solid waste and recycling. The Town Board desires to review and address, in a careful manner, provisions relating to solid waste and recycling and the disposal of sludge, sewage sludge and septage on a comprehensive and town wide basis and to amend and/or adopt appropriate provisions to achieve these purposes. The Town Board of the Town of Lewiston finds it prudent and necessary to enact a moratorium applicable to solid waste and recycling and the disposal of sludge, sewage sludge and septage. This moratorium is intended to ensure that no approvals for such land use application be granted or permitted until this Board can complete its planning studies and has had an opportunity to consider and enact appropriate amendments to the Code.

The complete text of said Law is on file at the Office of the Town Clerk, and is available for review by any interested person during business hours.

At such public hearing, all persons interested, who wish to be heard, will be heard.

Ordered by the Town Board February 8, 2016

The Supervisor invited residents to address the Board.

Wolfgang, Jerald – Chairman – Environmental Commission – At the Environmental Commission meeting of February the Commission approved the continuation of the Moratorium.

Glasgow, Paulette – The Circle - Although the Board is given the authority, under Municipal Home Rule, to impose this Moratorium, the courts will look carefully to see what the time frame of the moratorium expresses, a relatively short but specific duration. And this time frame is followed by the municipality’s actions necessary to address and resolve the moratorium issue.

The United State Supreme Court has recognized the difficulty in selecting a fixed time frame for a moratorium. However the courts have historically had little patience for the municipality’s delay in carrying out the expressed reason for setting a moratorium. The courts have on numerous occasions, specifically in a 1974 decision, Lake Oriala Corp. vs. Town of Garden, the New York State appellate division struck down a moratorium when a time frame imposed was exceedingly long and the Town did nothing to resolve the issue.

In the 1985 Appellate decision the court struck down the Town of Stafford moratorium, which lasted more than 5-years, because the Town had exceeded the reasonable time frame to resolve the issue. There are numerous cases where the courts have struck down a moratorium of two years or more.

The Board has imposed, including tonight, 4 moratoriums over 2 years. Once this moratorium was imposed the Board has done nothing to either address the reason or impose to resolve the issue.

It took Thomas Jefferson 17 days to write a list of grievances against the British Monarchy stating why the 13 Colonies were seeking freedom. 17 days to establish a time frame for which we now hold our freedoms.

Tonight the Board is holding the 4th Public Hearing to impose a moratorium. Has the Board reviewed the amendments to the Town Code regarding to solid waste and recycling? The review should address how to dispose of this solid waste by amending or adopting legislation to achieve this purpose.

This moratorium, once approved tonight, will sit around and do nothing until just before 6 months is up, and will impose another. How long does it take to review or amend a Town Code or write appropriate legislation that is defensible in court?

As a taxpayer, Glasgow suggests the Board stop the delay, instruct the attorney to draft the appropriate amendment in the Town Code, and stop this and resolve the issue once and for all.

Geiben MOVED to close the Public Hearing, Seconded by Bax and Carried 5 – 0.

Respectfully Transcribed and Submitted by:

Donna R. Garfinkel
Town Clerk