

**Minutes**  
**Cayuga County Committee for Review under NYS GML §§239-l, m & n**  
**March 21, 2013**

The meeting was called to order at 9:15 AM in Conference Room on the 5th floor of the County Office Building at 160 Genesee Street in Auburn, New York.

The following committee members were present:

Director of Planning and Development: **Steve Lynch**  
Director of Environmental Health: excused  
Environmental Engineer: **Bruce Natale** (left at 9:45)  
Superintendent of Highways: **Rich Wheeling** (designee)  
Director of Soil and Water Conservation: **Doug Kierst**

A quorum was thereby established.

Others present: Gabriel Holbrow (staff); David Morris (Town of Sennett Planning Board).

**MINUTES:**

Minutes from February 21, 2013:

**MOTION BY DOUG KIERST:** Approve minutes.

**SECOND BY STEVE LYNCH:** Steve Lynch, Rich Wheeling, and Doug Kierst vote AYE.  
Bruce Natale was out of the room.

**Motion Approved and Carried.**

Minutes from March 12, 2013:

**MOTION BY STEVE LYNCH:** Approve minutes.

**SECOND BY DOUG KIERST:** Steve Lynch, Bruce Natale, and Doug Kierst vote AYE.  
Rich Wheeling abstained because he was not present at the  
March 12 meeting.

**Motion Approved and Carried.**

**The following municipal matters were submitted to the Committee for consideration pursuant to New York State General Municipal Law §§239-l, m, & n:**

**1. Town of Brutus – Zoning Law Amendment**

The Committee carefully considered the materials provided by the Town related to the proposed zoning amendments intended to protect agriculture and farmland. The Committee discussed the aims and purpose of the amendments as well as their specific provisions.

**MOTION BY STEVE LYNCH:** Approve with one comment:

**Comment:** The Committee supports the Town’s efforts to protect agriculture and provide a strong model for other Towns in the county.

**SECOND BY DOUG KIERST:** All vote AYE.

**Motion Approved and Carried.**

**2. Town of Sennett – Use Variance – Weather Tight Solutions, 3245 Turnpike Road**

The Committee carefully considered the materials provided by the Town related to the proposed use of the property for offices. The Committee discussed the regulations in the Town of Sennett zoning law for nonconforming uses, as well as the criteria in NYS Town Law for considering use variances. The Committee noted that the property is located at a difficult intersection, but that the proposed change in use would be unlikely to worsen the traffic situation.

**MOTION BY STEVE LYNCH:** The action appears to have no intermunicipal concerns and to be of local concern only. The committee makes the following two comments:

**Comment #1:** Section 905 of the Town of Sennett Zoning Ordinance may allow some flexibility for considering this proposal as a special permit rather than a use variance.

**Comment #2:** The applicant must adequately address each of the four statutory criteria in order to qualify for a use variance, including the criteria of no reasonable rate of return for any other allowed use, uniqueness, no alteration of the essential character of the neighborhood, and no self-created hardship. The materials referred to the Committee did not provide sufficient evidence that the proposal meets each of these four criteria.

**SECOND BY RICH WHEELING:** All vote AYE.

**Motion Approved and Carried.**

**3. Town of Sennett – PDD – East Side Heights**

The Committee carefully considered the materials provided by the Town related to the proposed subdivision and planned development district. The Committee discussed the history of this development and the differences from past versions of the proposal. The Committee noted that parts of the project in the City of Auburn have already been completed, including a road, stormwater detention basin, drainage systems, and water and sewer lines.

The Committee members noted that the application narrative states that water and sewer would be provided by the City of Auburn, while fire protection would be provide by the Town Fire Department and police services would be provided by the County Sherriff’s Department. Committee members observed that as a practical matter fire and police services would realistically fall to the City. The Committee discussed the potential that owners in the development would enjoy city services but not pay the city taxes that support those services.

The Committee discussed issues with stormwater on the site and its potential impact on increased flow to Hunter Brook and flooding along Route 5. Committee members noted that the stormwater detention basin was built to handle the stormwater load of a development of all detached homes, as originally proposed. The change to duplex semi-attached homes may increase the impervious surface or otherwise increase stormwater flows on the site, such as by doubling the number of paved driveways per structure. The Committee understands that the Town Planning Board was told that there would be no increase in impervious surface.

Before a motion was made, Bruce Natale left to attend another meeting.

**MOTION BY STEVE LYNCH:** Approve with two comments:

**Comment #1:** The Committee strongly recommends that the Town Board be provided with detailed analysis showing impervious surface as previously approved compared to as proposed and compared to the capacity of the stormwater system as built.

**Comment #2:** The Town Planning Board minutes for January 13, 2013 indicate that “there will be intermunicipal agreements.” Without review of any intermunicipal agreements, the Committee cannot assess the equity of cost allocation for services between the City and the Town.

**SECOND BY DOUG KIERST:** All vote AYE.

**Motion Approved and Carried.**

David Morris left the meeting.

**4. Village of Union Springs – Zoning Law**

The Committee carefully considered the materials provided by the Village related to the proposed new zoning law. The Committee discussed measures that the law introduces, including limiting encroachments in the lakefront, implementing site plan review, and concentrating commercial uses in the center of the village.

**MOTION BY RICH WHEELING:** Approve without change.

**SECOND BY DOUG KIERST:** All vote AYE.

**Motion Approved and Carried.**

**5. Town of Niles – Natural Gas and Petroleum Law**

The Committee carefully considered the materials provided by the Town related to the proposed local law banning gas and petroleum extraction and related activities. The Committee discussed the wide breadth of activities banned by the local law, and discussed the law's effect on propane transfer or storage. Committee members expressed that they find it unfortunate that law is not more narrowly targeted to the Town's specific issues of concern, but recognized that the decision of what to cover in the law should be in Town's hands rather than the Committee's.

**MOTION BY STEVE LYNCH:** Approve with one comment:

**Comment:** The Committee does not believe that it is the Town's intention to prohibit the use and storage of LP or propane in the town, but it is not clear to the Committee if these would be allowed under the law. The Committee urges the Town to revisit or revise the definitions to ensure that LP and propane use is allowed.

**SECOND BY RICH WHEELING:** All vote AYE.

**Motion Approved and Carried.**

**6. Town of Genoa – Comprehensive Plan**

The Committee carefully considered the materials provided by the Town related to the proposed comprehensive plan. The Committee members noted the goals and recommendations in the plan, and expressed that they were glad to see attention on models such as the Skaneateles Lake

Watershed Agricultural Program and that they welcomed the interest in partnering with other organizations such as the Soil and Water Conservation District.

**MOTION BY STEVE LYNCH:** Approve with one comment:

**Comment:** The Committee supports the plan's recommendations including protection for agriculture, water quality, and rural character, thoughtful consideration for infrastructure development, as well as establishment of a planning board and site plan review.

**SECOND BY DOUG KIERST:** All vote AYE.

**Motion Approved and Carried.**

**7. Town of Genoa – Extension of Gas and Petroleum Moratorium**

The Committee carefully considered the materials provided by the Town related to the proposed local law extending the moratorium on natural gas and petroleum extraction and related activities. The Committee discussed their minutes from last year regarding the Town's initial moratorium, as well as the Town's reasons for extending the moratorium.

**MOTION BY STEVE LYNCH:** The action appears to have no intermunicipal concerns and to be of local concern only. The Committee makes the following comment:

**Comment:** Courts have upheld challenges to land use moratoria that extend beyond two years. Genoa is approaching this timeframe.

**SECOND BY DOUG KIERST:** All vote AYE.

**Motion Approved and Carried.**

**8. Town of Victory – Gas Drilling Moratorium**

The Committee carefully considered the materials provided by the Town related to the proposed moratorium on natural gas drilling and support activities. The committee noted the differences and similarities between Victory's proposed moratorium and other gas drilling moratoria in Cayuga County. The committee discussed the current and possible future situation of gas drilling in northern Cayuga County.

**MOTION BY STEVE LYNCH:**

The action appears to have no intermunicipal concerns and to be of local concern only. The Committee makes the following two comments:

**Comment #1:** If it is the intention of the Town to prohibit high-volume horizontal hydraulic fracturing, all of our analysis indicates that there appear to be no formations or opportunities for this type of development in the town. The Committee urges caution about passing laws that may not pertain to actual future activity.

**Comment #2:** The definition of natural gas drilling and extraction at Section 3.1 A would more accurately describe natural gas trapped “within” shale, rock or other natural formations, rather than “behind” these formations.

**SECOND BY RICH WHEELING:** All vote AYE.

**Motion Approved and Carried.**

**Motion to adjourn by Doug Kierst. Seconded by Rich Wheeling. All approving.**  
**Adjourned at 10:45 AM.**

**The next regularly scheduled meeting is 9:00 AM on Thursday, April 18, 2013.**