

Town of Fowler Special Meeting with the Town Board, Planning Board, Code Enforcement Officer, and Town Attorney Meeting Minutes of February 20, 2019 at 6:30 PM

A Special Meeting for the Town of Fowler was held on the above date with all Board members present, with the exception of Councilperson Bishop. Also present were Lisa Durham, Town Clerk Tami Gale, Highway Superintendent Randy Durham, Assessor Chair Sherry Geer, Code Enforcement Officer Glen Besaw, Planning Board Members: Stephen Gale; Roger Refici; Larry Streeter; and Art Besaw, Board of Ethics Committee Member Vicky Cappellino. Town Attorney Henry Leader, was not able to attend the meeting.

Supervisor Cappellino called the special meeting to order at 6:31 PM. Supervisor Cappellino stated that the reason for the special meeting was to discuss making changes to the Land Use Laws and Regulations that would include establishing a water district for Sylvia Lake waterfront and riverfront properties within the Town. Supervisor Cappellino stated that the County had put the new Land Use Laws and Regulations together. He stated that the main concern in establishing changes to the Land Use Laws and Regulations was to protect the Town of Fowler. Code Enforcement Officer Besaw stated that the current regulations are 200' for residential frontage with a minimum of a 1 acre lot. He stated that it would be ideal to keep that the same.

Councilperson Newvine stated that Code Enforcement Officer Besaw had some concerns pertaining to the issuance of a stop work order, and non-compliance of the stop work order. Code Enforcement Officer Besaw wondered who would be held liable in this situation. Councilperson Newvine stated that it is a matter that the Town should seek advice on from the Town attorney. Supervisor Cappellino stated that he had corresponded with Town Justice Young earlier in the day who had stated the same. Code Enforcement Officer Besaw stated that the Town needed to get something in place. He stated that any violation of code in the code book is now a misdemeanor. He stated it is considered an un-classified misdemeanor. Code Enforcement Officer Besaw recommends the Town put in to place penalties to hold the offender accountable. Councilperson Simmons stated that the last page in the Land Use Laws and Regulations lists the penalties for the offenses. Councilperson Newvine stated that the regulations didn't say that the Code Enforcement Officer could have the offender removed from the property if they failed to comply with a stop work order. Code Enforcement Officer Besaw wonders if the Town could be held liable, in the instance of a homeowner coming back on the Town if there was an injury during a stop work order, that was not complied with, and the Town having a Code Enforcement Officer that didn't stop the work. Supervisor Cappellino stated that Code Enforcement Officer Besaw would have his stop work order that he issued, that would prevent the Town from being held liable. Assessor Chair Geer recommended

serving the stop work order on the homeowner as well as the individual performing the work, which would make the homeowner an interested party. Supervisor Cappellino reported that the Land Use Laws and Regulations states that the offender would be liable for a civil penalty of not less than \$100.00 and not more than \$350.00 for each day of the issuance of the stop work order in the notice to the date of resolution or part there of. Supervisor Cappellino asked the Town Board if they wanted to enforce the penalties and remedies as listed in the Land Use Laws and Regulations as provided by the County. Supervisor Cappellino stated that this is just a proposal at this point, the Town does not have any Land Use Laws in effect by Law at this time. Councilperson Newvine asked Supervisor Cappellino if the Town had approved the other Land Use Law policy that the Town had. Supervisor Cappellino stated that it was never filed and made into a Law. Supervisor Cappellino reported that the Town had to discuss the new Land Use Laws and Regulations. The Board will have to approve it, the Planning Board will have to agree to it, and then it goes to the Town Attorney. The Town Attorney then sends it to New York State, and then New York State has a time frame to enact it. Supervisor Cappellino thought it was either 30 or 60 days. Councilperson Newvine stated that it would be nice to get it done before the building season begins.

Councilperson Andrews stated if this isn't a Law right now, then what did the Town have. Code Enforcement Officer Besaw stated that the Town has State Law. Code Enforcement Officer stated that he issues tickets under State Law, which is stricter than the Land Use Laws and Regulations that is in discussion. Code Enforcement Officer Besaw stated that the State is also moving toward disallowing Code Enforcement Officers to use that article in the code. He stated that Code Officers will have to strictly go by the supplement, which reverts back to local laws. Code Enforcement Officer Besaw stated he has training the first week of March 2019, and they may have something new pertaining to this discussion.

Planning Board member Streeter asked who initially came up with the Land Use Laws and Regulations that we were discussing. Supervisor Cappellino stated that the County had, and it was taken from the County codes. Planning Board member Gale stated it also included some of our existing laws that were on the books. Supervisor Cappellino stated that the Town of Fowler requested the special shoreline districts be included into the Land Use Laws and Regulations. Supervisor Cappellino stated that page 20 in the Land Use Laws and Regulations determined the set-backs – (front, side, and rear), water frontage is 50'. Planning Board member Gale stated that the water frontage should be changed from 50' to 100', existing residences would be excluded. Councilperson Newvine asked if this would include any shoreline. After discussion, it was agreed that any existing deeded water frontage remain at 50', any new property of water frontage 100'.

Supervisor Cappellino asked the Board how they felt about the penalties page. Councilperson Newvine stated that was what Code Enforcement Officer had questions about. Supervisor Cappellino stated that the Planning Board and the Town Board had to decide what they would like to have written. Planning Board member Streeter asked who decides the penalties. Councilperson Newvine stated that it was up to the judge.

Code Enforcement Officer Besaw asked if the Town of Fowler Land Use Site Plan Review/ Subdivisions, Local Law of December 2, 2014 was going to be a part of the new Land Use Laws and Regulations. After more discussion, everyone agreed that they would be combined as one containing the changes discussed at this evenings meeting.

Councilperson Newvine stated that he felt that Supervisor Cappellino, Code Enforcement Officer Besaw, and members of the Planning Board should go meet with the Town Attorney to make the needed changes to the Land Use Laws and Regulations. Supervisor Cappellino reported that he would get ahold of Town Attorney Henry Leader to set up an appointment to move forward on this. Councilperson Simmons stated that Town Justice Ryan Young needed to be made aware of the new Laws.

Supervisor Cappellino stated that the Board needed to designate a Planning Board Chair. The term is 5 years. After discussion, a motion was made by Councilperson Andrews seconded by Councilperson Simmons for Stephen Gale to serve as the Planning Board Chair. All in Favor. MOTION CARRIED.

Councilperson Simmons stated that the Town needed to fill 3 positions on the Board of Appeals. Councilperson Simmons stated that she has spoken to Joe Lacks, and he would like to serve on the Board of Appeals so the 3 Board member is missing 2 positions if anyone is interested. Councilperson Simmons asked Town Clerk Gale to advertise the open positions for the Board of Appeals in the paper.

Councilperson Simmons stated that the Town needed to discuss Beaver Control. Assessor Chair Sherry Geer stated this is about the planning board. Councilperson Simmons stated the sign said Special Meeting. Councilperson Simmons reported that she had talked to Dan Moyer about the beaver thing. She stated he said that Highway Superintendent Durham had stated himself that he didn't have the time to devote to checking on the beaver like he felt he should have last year. Councilperson Simmons stated that Dan Moyer suggested that maybe 1 day a week he would go around and check the beavers himself, and then if he sees a problem then he can take care of it for maybe either mileage or for an amount determined by the board. Councilperson Newvine stated that would take it off of Highway Superintendent Durham. Highway Superintendent Durham stated he didn't mind doing it. It was just that last year was

so busy he felt he wasn't doing a good job. After much discussion, it was agreed that the Beaver contract would be kept as it was last year. Highway Superintendent Durham will let Beaver Control know when there is a beaver issue. Supervisor Cappellino stated that he and Code Enforcement Officer Besaw could help check on the beaver if Highway Superintendent Durham became too busy during the paving season. Councilperson Simmons asked if the Town wanted to stay with Dan Moyer as Beaver Control, or advertise the job. It was the consensus of the Board to stay with Dan Moyer, and to appoint him at the March Town Board meeting. Supervisor Cappellino asked the Board if they would like the pay to remain at \$250 per beaver occurrence. The Board agreed that it would. Assessor Chair Geer asked if Dan Moyer had to Bid on the Beaver Control last year. Supervisor Cappellino stated yes, it had been bid out. Assessor Chair Geer asked if Dan had agreed to do the Beaver Control for the same price this year. Councilperson Simmons stated that he had.

Code Enforcement Officer Besaw asked Supervisor Cappellino if he had contacted Keith Zimmerman to find out what laws we have on the books. Supervisor Cappellino stated he didn't think that Keith would know that. Assessor Chair Geer stated that Local Laws are on the Department of State website.

Highway Superintendent Durham stated that he was working on a couple of things right now. He stated that the USDA is funded and that the Town will be funded in a day or two for the \$33,000 grant and loan. Highway Superintendent Durham stated that the Highway Department's 1999 New Holland tractor is basically junk. He stated that it won't be able to be auctioned off. When it was first started up after getting it back from being worked on it had oil squirting out of it. He had to take 2 more quarts of oil out of it to get it down where it belongs and now it just makes a bang bang bang sound. He stated he has checked on a tow behind sweeper that will cost \$20,000, using the tractor as a trade in as well as the mower that is on it. After further discussion he found a brand new 70 horse power tractor for about \$28,000 that we could put our equipment on, and it is a New Holland. Supervisor Cappellino asked Highway Superintendent Durham if the existing mower that we have would fit on the 70 horse power tractor. Highway Superintendent Durham stated that he was still checking that out so he can give the Town Board the proper information. Supervisor Cappellino wondered if we could use the tractor with the broom and that mower. Councilperson Andrews asked if the tractor would be big enough for the mower. Supervisor Cappellino asked Highway Superintendent Durham to verify if the tractor could handle the mower by the next board meeting. With no further business, on a motion of Councilperson Simmons, seconded by Councilperson Newvine, the special meeting was adjourned at 7:45 PM. All in Favor. MOTION CARRIED. Tami Gale; Town Clerk

