

**VILLAGE OF ALTAMONT
REGULAR BOARD MEETING**

October 2, 2012

Mayor James M. Gaughan
Trustee William F. Aylward
Trustee Kerry Dineen
Trustee Christine Marshall
Trustee Dean Whalen

Michael Moore, Legal Counsel
Patty Blackwood, Clerk
Catherine Hasbrouck, Treasurer
Timothy McIntyre, Supt. of Public Works
Robert White, Altamont Vol. Fire Chief
Todd Pucci, Altamont Police Chief

General Public: 5

7:00 p.m.

Mayor Gaughan called the meeting to order with the Pledge of Allegiance.

Trustee Marshall, Stormwater and Sewer Committee member, reported work on Wastewater Treatment Plant is progressing on schedule with no problems being reported. Mayor Gaughan reminded Board members to contact Tim McIntyre, Supt. of Public Works, if they would like a tour of the Wastewater Treatment Plant project.

Mayor Gaughan reported railroad crossing paperwork, among the agencies, will not be completed in time to do a complete rework of the tracks at the crossing. However, based on insistence from the Village they will do a temporary repair of the road at the crossing. The temporary repair will begin tomorrow and the complete project will begin in the spring. Mayor Gaughan reported he's still waiting for NYS DOT's response to his last email regarding Altamont-Voorheesville Road. Mayor Gaughan stated he sent an email to NYS DOT outlining the specifications envisioned for the retread of the road that is to take place next spring. NYS DOT's representative stated once they heard from the Village they would send an official letter outlining when the project would occur and specifications on drainage. Mayor Gaughan reported culvert repair on Route 156 went out to bid and was awarded to a professional contractor. Work will begin soon on the project. Mayor Gaughan reported Village Board will be reviewing water policy at November Board meeting. Original water committee, Trustee Dineen; Tim McIntyre, Supt. of Public Works; and Richard Straut, Barton and Loguidice, will be meeting in October and making recommendations to the Board at the November meeting.

Robert White, Chief Altamont Vol. Fire Dept, reported Altamont Volunteer Fire Department had 4 calls for the month of September all of them being alarm drops. Fire Prevention Open House will be on Sunday, October 7th from 1-4 p.m. Comedy Night fundraiser will be on November 3rd. Fit test training for Class A & B firefighters will take place on October 8th. Firefighters will be fit for new masks on the recently purchased 45-minute air packs. Chief White thanked Ron Ginsburg, Euclid Avenue, for a picture of the members of the Altamont Fire Department at the 11th anniversary of 9/11 memorial service. Chief White reported Albany County's 2012 Firefighters of the Year honorable mention recipients are Todd Kedik and Timothy McIntyre.

Todd Pucci, Chief Altamont Police Dept., reported all went well at the "Kickin' It Country" concert held at the Altamont Fairgrounds this past weekend. Chief Pucci reported he has recently had a few meetings with the Altamont 5K and Color Me Rad 5K race regarding traffic issues and a new plan is in place.

Trustee Dineen made a motion seconded by Trustee Aylward to approve the Treasurer's report; #5, #6 and transfer of funds as submitted. **Roll Call: All in favor**

Public Comment:

Michael LaMountain, Maple Avenue, inquired if state has maintenance plan in place for the drainage of the Village. A critical drain near his home is inundated with rock. Tim McIntyre, Supt. of Public Works, stated he would address this issue.

Public Hearing 7:15 p.m.

Michael Moore, Legal Counsel, opened public hearing with reading of the Legal Notice to consider authorization to expend up to \$15,637.50 from Water Project Reserve Fund for emergency repair of well on Gun Club Road, subject to permissive referendum.

Trustee Whalen inquired how much money is left in the reserve fund. Catherine Hasbrouck, Treasurer, stated over \$200,000 is left in the reserve fund.

Trustee Aylward made a motion seconded by Trustee Marshall to close public hearing at 7:16 p.m. **Roll Call: All in favor**

Trustee Dineen made a motion seconded by Trustee Marshall, subject to permissive referendum, to approve authorization to expend up to \$15,637.50 from Water Project Reserve Fund for emergency repair of well on Gun Club Road. **Roll Call: All in favor**

Public Hearing 7:17 p.m.

Michael Moore, Legal Counsel, opened public hearing with reading of the Legal Notice to consider proposed Local Law No. 2 of 2012, A Local Law Amending the Village of Altamont Zoning Law in Relation to Prohibition of Gas, Oil or Solution Drilling or Mining within the Village of Altamont.

Mayor Gaughan stated he has written up a few suggestions for proposed Local Law No. 2 of 2012.

Counsel Moore reported local laws relating to hydrofracking and gas exploration have been popping up a lot around the state and have been subject to a lot of litigation challenges by persons holding leases on lands where gases may be found or gas drilling companies. Over the last year, two legal challenges made their way to decision and in each case the court upheld the localities right, under its municipal police power and zoning power, to prohibit any such land uses involving gas exploration and fracking within their borders. Counsel Moore stated he was asked by the Board of Trustees to draft a proposed local law for the Village of Altamont. Counsel Moore stated he looked to one of the court decisions and the particular law from a town in Oswego County. The law that was upheld in that case seemed to fit very well with the structure of the Village's zoning code. In section 2 of the proposed law, it adds a new definition to the zoning code of gas, oil or solution drilling or mining. It defines the activities that are encompassed within the definition and add that definition of gas, oil or solution mining to a list of prohibited uses within section 355-12(b) of the zoning law. Counsel Moore stated his thought was this particular language having already been upheld by a court in Central NY, why mess with something that has already won judicial approval and because it fits

so neatly within the Village code, Counsel Moore adopted the language and fit it into the appropriate sections of the Village code.

Mayor Gaughan stated since Counsel Moore proposed this Local Law No. 2 of 2012 at the last Village Board meeting, he has studied and contemplated it and put together three friendly amendments to the proposed law. When you look at the proposed law that was put together by counsel it does in fact have in it a reference to storage, transfer, treatment or disposal of natural gas, etc. which is good and that's in the first section of the legislative intent and overview. Mayor Gaughan stated he felt the second section would strengthen the proposed local law by adding storage and disposal within the Village of Altamont. The same language within the definition as proposed in item number vi. Mayor Gaughan stated there are two other issues that he has experienced in his life living in Altamont and studying the issues regarding hydrofracking political and otherwise and feels that it would be worthy of some discussion to add two other elements to the definition subcategories. One of which being proposed is to be item number vii which would be extraction of water from any source within the Village of Altamont for use in oil or gas drilling or production operations at any location inside or outside the Village of Altamont because of the Village's incredible possessiveness and feeling about water it never hurts to add it. Mayor Gaughan stated, as is mentioned in the legislative intent, there is a proliferation so contended by those against hydrofracking that the transport over local roads to and from sites, that do have hydrofracking, could do a great deal of damage to the roads administered by the Village of Altamont. Of these kinds of products that could come out of the hydrofracking process they may be coming from the west or east end of Guilderland or up in the hilltowns somewhere that would come through our Village.

Counsel Moore stated the enabling legislation in the State of NY, Environmental Conservation Law and the court cases that have upheld the local laws have made clear that the localities like the Village of Altamont or the towns in question retain their zoning power to prohibit any kind of uses they like and in addition to retain their jurisdiction over local roads. What is not allowed is any purported regulation of the extraction process itself. Counsel Moore stated he was concerned with item numbers vi and vii, the first two elements of the Mayor's proposal, might tread a little close or even cross that line. Given it more thought he thought it would fit within the first part of section 2A under the title of definitions. Counsel Moore stated he thinks item numbers vi and vii would probably pass muster and the third amendment clearly would.

Trustee Aylward inquired if section 2B titled "Prohibited uses" is the section that prohibits gas, oil or solution drilling or mining. Counsel Moore stated it's a two part local law. Section 2A creates a new definition of gas, oil and solution mining which includes five items at present. The Mayor has proposed the Village Board consider three new elements to the definition and section 2B simply says that the activity as defined is a prohibited use.

Trustee Aylward stated it's important to understand the Village of Altamont is vulnerable. He understands that an acre of land would be sufficient to start a gas well. The Village is one square mile and he doesn't want anyone coming in particularly because Village drinking water is based on wells and this process is a very serious process for well water. Village should take this very seriously in Altamont and the Town of Guilderland has already passed a local law on hydrofracking. Trustee Aylward reported on a letter received by Albany County Legislature from William and Jeannette

Rice regarding the dangers of hydrofracking in Albany County. Copy of letter included with Official Minutes.

Village Board of Trustees discussed proposed amendments vi, vii and viii to section 2A of proposed local law.

Trustee Dineen made a motion seconded by Trustee Aylward to close public hearing at 7:37 p.m. **Roll Call: All in favor**

Trustee Dineen made a motion seconded by Trustee Aylward to leave public hearing open pending a report of recommendations from Albany County Planning Board on proposed Local Law No. 2 of 2012 as amended. **All in favor**

Trustee Whalen made a motion seconded by Trustee Dineen to approve amending Local Law No. 2 of 2012 as previously submitted to Albany County Planning Board to add the following subsections under section 2A; adding subsection vi, storage or disposal within the Village of Altamont of any wastes or byproducts arising from drilling or production of oil or gas at any location inside or outside the Village of Altamont, adding subsection vii, extraction of water from any source within the Village of Altamont for use in oil or gas drilling or production operations, and subsection viii, transport over roads administered by the Village of Altamont of water, waste products, chemicals, or other supplies for use in oil or gas drilling or production operations. **Roll Call: All in favor**

Trustee Whalen made a motion seconded by Trustee Aylward to approve authorizing Mayor Gaughan to sign Memorandum of Understanding between Guilderland Central District and the Village of Altamont regarding the cooperative use of real property, facilities, and resources pertaining to the safe routes to school program.

Roll Call: All in favor

Trustee Aylward made a motion seconded by Trustee Dineen to approve appointment of Kelly Best to Subregistrar of Vital Statistics in absence of Patty Blackwood, Registrar and Catherine Hasbrouck, Deputy Registrar per recommendation of Patty Blackwood, Village Clerk. **Roll Call: All in favor**

Trustee Dineen made a motion seconded by Trustee Aylward to approve holding Halloween celebration on Friday, October 26, 2012 at 6:30 p.m. in Village Community Room. Halloween celebration will feature "Amazing Kids Circus" partially paid for by Albany County Youth Grant. **Roll Call: All in favor**

Trustee Dineen made a motion seconded by Trustee Aylward to approve request for Village water for single family dwelling at 715 State Route 146, Guilderland, Tax Map #37.04-1-29 per request of Roy and Christine Saplin. Capital charge for a new service connection to the water system is \$2,500. Tim McIntyre, Supt. of Public Works, has reviewed the application and recommended the connection. **Roll Call: All in favor**

Trustee Marshall made a motion seconded by Trustee Whalen to approve of Board Minutes for September 6, 2012. **Roll Call: All in favor**

Trustee Dineen made a motion seconded by Trustee Marshall to adjourn at 7:47 p.m.
All in favor

Respectfully Submitted,

Patty Blackwood
Clerk