

Town of Olive  
County of Ulster  
State of New York  
Tuesday, February 12, 2013

Minutes of the monthly meeting of the Town Board of the Town of Olive held Tuesday, February 12, 2013 7:30 pm at the Town Meeting Hall in Shokan.

Members Present:           Berndt Leifeld, Supervisor  
                                  Donald VanBuren, Board Member  
                                  Linda Burkhardt, Board Member  
                                  Bruce La Monda, Board Member  
                                  Peter Friedel, Board Member

Recording Secretary:     Sylvia B. Rozzelle, Town Clerk

Others Present:         Drew Boggess, Planning Board Chairman; Bill Cook, Sole Assessor;  
Jimmy Fugel, Highway Superintendent; Susan Horner, Clerk to the Supervisor; Dawn Giuditta,  
Court Clerk; Chris Winne, Olive Fire Chief; and Ron Wright, Town Justice

On a Burkhardt/VanBuren motion the Town Board approved the January minutes as submitted by the Town Clerk and as corrected on page 224.

The following correspondence was read and filed:

#16 -13

On a Leifeld/La Monda motion the Town Board approved the membership of Steve Bambina to the Olive Fire Department Co. #1, Inc.

#17-13

The Devereaux Foundation of New York states that in accordance with Section 41.34 of the NYS Mental Hygiene Law they are formally notifying the Town of their interest to develop a home as a community IRA. The proposed home is located at 133 Sheldon Hill Road and would be operated by their foundation providing supervision by trained staff on a 24 hour per day basis. A Community Fact sheet and a copy of the state law were enclosed. The site would house six (6) adults some of which may need assistance with taking care of their personal needs and may have difficulty with ambulation. They note that under the State statute 41.34 the Town has forty (40) days upon receipt of this letter to respond in one of three ways: 1) approve the recommended site 2) suggest one or more suitable sites within this jurisdiction and 3) object to the establishment of a facility of the kind because to do so would result in such a concentration of community residential facilities for the disabled in the municipality or in close proximity of the site. Board Member La Monda stated we should refer it to the building department for their input. Board Member Friedel stated we should refer and get recommendations from the building department before acting on it.

On a La Monda/VanBuren motion the Town Board approved payment of the following audited bills: Highway Vouchers #1-#56, \$39,040.43; Prepaid General Fund Voucher #3, \$3,821.92; General Fund Vouchers #4-#73, \$161,447.96; Prepaid Special Lighting Voucher #1, \$58.27; Special Lighting Voucher #2, \$57.56; and Special Fire Protection District Voucher #1, \$118,437.14.

Supervisor Leifeld noted cash received for December 2012 as \$191,187.14 and interest received for December 2012 as \$259.83.

On a Leifeld/La Monda motion the Town Board approved the following budget modifications:

Highway --

Increase D2701 Refund Prior Year's Expense for \$4,109.00

Increase D5110.1 General Repairs (Personal Services) \$4,109.00

General --

Transfer \$997.00 from Reserve "K" Computers to 1220.2 Supervisor (Equip.)

Transfer \$113.00 from Reserve "R" Records Management to 1460.4 Records Management (Contractual)

On a Leifeld/VanBuren motion and unanimous roll vote the Town Board approved Resolution #3 of 2013 adopting Local Law #1 of 2013 A Local Law creating §155-45 of the Town of Olive Zoning Ordinance with regard to Exploration for and/or Extraction of Natural Gas and/or Petroleum. Roll vote being: Van Buren, yes; Burkhardt, yes; La Monda, yes; Friedel, yes; and Leifeld, yes. Board Member Burkhardt prefaced her "yes" vote by stating her main concern was that the law would hold up in court and she feels that it will. Board Member La Monda stated on behalf of his children and grandchildren his vote is "yes".

Supervisor Leifeld apologized for the KINGSTON FREEMAN mix up in stating that the scenic byway would be on tonight's agenda.

Supervisor Leifeld stated the Town Board will be holding a special meeting on Tuesday, February 19<sup>th</sup>, 7:30 pm for the purpose of interviewing candidates for the open position on the Planning Board.

Supervisor Leifeld stated we had a NYS Audit which is happening in every town in Ulster County and these following policies must be adopted. On a Leifeld/Burkhardt motion the Town Board approved the following policies: (#18-13) Town of Olive Compensation and Benefits Manual; (#19-13) Town of Olive Employment Practices Compliance Manual; and (#20-13) Town of Olive Information Technology Disaster Recovery Plan.

Supervisor Leifeld appointed Board Member La Monda as liaison to the Wastewater Treatment Plant and Sewer District.

The following committee reports were read and filed:

PARKS & RECREATION liaison Board Member Burkhardt stated that basketball is going on now at the high school. She stated the coordinator for the Barracuda swim team came and talked to the committee. There are six Olive kids on the swim team whereby allowing them to swim all winter long. It is hopeful they will have meets at the town pool.

Carol La Monda stated the Senior Art group has been invited to do an exhibit at the CWC in Margaretville which will be during March and April.

POLICE Commissioner La Monda submitted January report #21-13 showing 119 calls for the month and submitted an annual report (#22-13) showing a total number of 2,484 calls responded to during 2012. He stated the department brought in revenues to the general fund totaling \$41,653.00.

Town of Olive  
Resolution #3 of 2013

Adopt Local Law #1 of 2013 A Local Law creating §155-45 of the Town of Olive Zoning Ordinance with regard to Exploration and/or Extraction of Natural Gas and/or Petroleum

WHEREAS, the Town Board of the Town of Olive has considered Local Law #1 of 2013 to control the use of land for the exploration and extraction of natural gas and petroleum anywhere in the Town; and

WHEREAS, the Town Board adopted Resolution #2 of 2013 on January 8, 2013 which outlined the SEQR process, the UCPB referral with a “no county impact” response, set a Public Hearing date, and determined that the passage of this Local Law as a Type I action has a non-significant impact; and

WHEREAS, the Town Clerk provided written notification of the public hearing date and copies of Local Law #1 of 2013 to all adjoining Towns, NYS DEC, NYC DEP, and NYS Dept. of Ag & Markets; and

WHEREAS, the Town Clerk submitted a Notice of Publication Form to the ENB regarding the Town Board Negative Declaration on the Type I action; and

WHEREAS, legal notice on the Public Hearing date was advertised and a Public Hearing on said Local Law was held February 11, 2013 with approximately 80 people in attendance and all who spoke expressed support for adoption of Local Law #1 of 2013;

THEREFORE, BE IT RESOLVED the Town Board of the Town of Olive adopts Local Law #1 of 2013 A Local Law creating §155-45 of the Town of Olive Zoning Ordinance with regard to Exploration for and/or Extraction of Natural Gas and/or Petroleum.

	Aye	Nay
Berndt Leifeld, Supervisor	_____	_____
Donald VanBuren, Board Member	_____	_____
Linda Burkhardt, Board Member	_____	_____
Bruce La Monda, Board Member	_____	_____
Peter Friedel, Board Member	_____	_____

Dated this \_\_\_\_\_ day of February, 2013

\_\_\_\_\_  
Sylvia B. Rozzelle, Town Clerk

## **Town of Olive Local Law #1 of 2013**

A Local Law creating §155-45 of the Town of Olive Zoning Ordinance with regard to Exploration for and/or Extraction of Natural Gas and/or Petroleum.

### **Section 1.**

This Local Law is adopted and enacted pursuant to the authority and power granted by the Constitution and Laws of the State of New York including without limitation the Municipal Home Rule Law of the State of New York, Articles 2 and 3, and Article 2 of the New York State Statute of Local Governments, and pursuant to the authority of Section 265 of the New York State Town Law.

### **Section 2. PURPOSE**

- A. It is the purpose of this Local Law to promote the protection, order, conduct, safety, health, and well-being of the residents of the Town of Olive and the lands that lie within the Town's borders.
- B. It is the purpose of this Local Law to protect and enhance the Town's physical and visual environment.
- C. It is the purpose of this law to respond to the legitimate concerns of the citizens of the Town about the potential for expansion of the Exploration for or Extraction of Natural Gas and/or Petroleum Industry in the Town and about the potential for major portions of the Town and its citizens to be adversely impacted by such Industry.
- D. Further, it is the purpose of this Local Law to control those activities related to the Exploration for or Extraction of Natural Gas and/or Petroleum Industry, which may impact wetlands, lakes, streams, groundwater resources, drinking supplies, air quality, public health, public roads, historic landscapes, Agriculture, small town character, and the town's tourism and recreational- based economy. Impacts related to the Exploration for or Extraction of Natural Gas and/or Petroleum Industry that the Town Of Olive seeks to avoid include, but are not limited to contaminated water supplies, air pollution, light pollution, traffic congestion, deterioration of roads and bridges, noise, introduction of industrial uses into non-industrial areas, human and animal illness, and incompatible changes to the rural character of the Town.
- E. This Local Law is intended to be of general applicability, in conjunction with Chapter 155 and is intended to regulate all uses, practices, and methodologies associated with the Exploration for or Extraction of Natural Gas and/or Petroleum Industry, except as provided herein.

### Section 3. DEFINITIONS

§155-45 of the Zoning Ordinance of the Town of Olive shall be created to include the following definitions which shall be inserted alphabetically into that section:

**“Natural Gas”** shall mean any gaseous substance, either combustible or non-combustible, which is produced in a natural state from the earth and which maintains a gaseous or rarified state at standard temperature and pressure conditions, and/or gaseous components or vapor occurring in or derived from petroleum or other hydrocarbons.

**“Natural Gas and/or Petroleum Exploration”** shall mean geologic or geophysical activities related to the search for natural gas, petroleum or other subsurface hydrocarbons including prospecting, geophysical and geologic seismic surveying and sampling techniques, which include but are not limited to core or rotary drilling or making an excavation in the search and evaluation of natural gas, petroleum, or other subsurface hydrocarbon deposits.

**“Natural Gas and/or Petroleum Exploration and Production Materials”** shall mean any solid, semi-solid, liquid, semi-liquid or gaseous material used in the exploration or extraction of natural gas.

**“Natural Gas Exploration and/or Petroleum Production Wastes”** shall mean any garbage, refuse, cuttings, leachate, sludge, flow-back fluids, produced waters or other discarded materials, including solid, liquid, semi-solid, or contained gaseous material that results from or is associated with the exploration, drilling or extraction of natural gas and/or petroleum.

**“Natural Gas and/or Petroleum Extraction”** shall mean the digging or drilling of a well for the purposes of exploring for, developing or producing natural gas, petroleum or other subsurface hydrocarbons.

**“Natural Gas and/or Petroleum Extraction Support Activities”** shall mean a water or fluid gathering station and /or water extraction sites in all town and private waterways including but not limited to reservoirs, aquifers, rivers, creeks, ponds; a water or fluid injection station; construction, use, or maintenance of a storage or staging yard; a natural gas or petroleum storage facility and/or waste water retention “ponds;” a natural gas or petroleum gathering line, venting station, or compressor associated with the exploration or extraction of natural gas or petroleum.

### Section 4: REGULATION

Now, therefore, Chapter §155-45 Regulation of Exploration and./or Extraction of Natural Gas and/or Petroleum of the Town of Olive Zoning Ordinance is hereby created as follows:

§155-45 EXPLORATION FOR OR EXTRACTION OF NATURAL GAS AND/OR PETROLEUM

- A. **Prohibition against the Exploration for or Extraction of Natural Gas and/or Petroleum.** No land in the Town shall be used: to conduct any exploration for natural gas and/or petroleum; to drill any well for natural gas and/or petroleum; to transfer, store, process or treat natural gas and/or petroleum; or to dispose of natural gas and/or petroleum exploration or production wastes; or to erect any derrick, building, or other structure; or to place any machinery or equipment for any such purposes.
- B. **Prohibition against the Storage, Treatment and Disposal of Natural Gas and/or Petroleum Exploration and Production Materials.** No land in the Town shall be used for: the storage, transfer, treatment and/or disposal of natural gas and/or petroleum exploration and production materials.
- C. **Prohibition against the Storage, Treatment and Disposal of Natural Gas and/or Petroleum Exploration and Production Wastes.** No land in the Town shall be used for: the storage, transfer, treatment and/or disposal of natural gas and/or petroleum exploration and production wastes.
- D. **Prohibition against Natural Gas and/or Petroleum Extraction Support Activities.** No land in the Town shall be used for natural gas and/or petroleum extraction support activities.

**Section 5. ENFORCEMENT**

Upon authorization by the Town Board, the Town may institute an action or proceeding in a court of competent jurisdiction, to prevent, restrain, enjoin, correct, or abate any violation of, or to enforce, any provision of this law in addition to the penalties in §155-33.

**Section 6. SEVERABILITY**

The provisions of the local law are declared to be severable, and if any section, subsection, sentence, clause or part thereof for any reason is held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of any remaining sections, subsections, sentences, clauses or part of this local law.

**Section 7. REPEALER**

All local laws or parts of local laws inconsistent or in conflict with this local law are hereby repealed to the extent of such conflict or inconsistency.

**Section 8. EFFECTIVE DATE** This law shall become effective immediately.

FIRE DPARTMENT Chief Winne submitted the year end report (#23-13) showing a grand total of man hours volunteered for 2012 as 11,840.83 hours reported for the 90 members. He stated that approximately 9 years ago the department started a junior program. Any kids who are interested in joining should contact him.

TRANSFER STATION liaison Board Member Friedel stated there is no report this month. He stated that unrelated to the Transfer Station he would like to submit a resolution for Town Board adoption next month regarding our second amendment rights.

TOWN CLERK Rozzelle submitted January report #24-13 noting \$7,874,419.18 was received in Tax Collections with \$3,750,646.00 being paid to the Supervisor fulfilling the warrant for the General Fund, the Highway Fund, and the special districts. The balance of \$4,123,773.18 was sent to the Ulster County Department of Finance. Town Clerk Rozzelle stated the clerk must annually submit to the Town Board the number of hours of training fulfilled by the Planning Board Members. She submitted correspondence #24-12 outlining the members' training.

Supervisor Leifeld stated that regarding the Rt. 28 scenic byway at this particular point he received an email from Shandaken Supervisor Rob Stanley who was trying to organize the Route 28 Supervisors to meet on a regular basis; but, that hasn't come about yet. He stated he will contact Rob Stanley and see if the Supervisors on the Route 28 corridor will get together and discuss the Route 28 scenic byway. Board Member Friedel asked if the board would be voting on this next month. Supervisor Leifeld stated he would like to see what Mr. Stanley and the other Supervisors want. He stated he felt it's not a bad idea to have another public hearing on the issue.

Charlene Roberts asked about the Devereaux Foundation site and as a neighbor wanted to know if this information would be public as she wants to be apprised of what is planned there. Supervisor Leifeld stated that would all be a part of the review. Planning Board Chairman Drew Boggess stated that he would think a site plan is necessary; but, he is not familiar with the law as this type of facility may be governed differently.

A question was asked about what the State is putting on their roads prior to winter weather. Board Member La Monda stated it is simply salt and water.

George Koury wanted to thank the entire board to see this law through on hydro-fracking and appreciates all they have done to protect the town.

Christina Humberger expressed her gratitude to George Koury for starting up the citizen group ODAF (Olive Defense Against Fracking).

Delia Adams stated she is always proud of this town in that we don't always jump on board and do what everybody else does.

On a Leifeld/Burkhardt motion the Town Board adjourned at 8:30 pm in memory of Lawrence H. Topper and Patrick (Bill) Cresham.

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Sylvia B. Rozzelle, Town Clerk

Town of Olive  
County of Ulster  
State of New York  
Tuesday, February 19, 2013

Minutes of a special meeting of the Town Board of the Town of Olive held Tuesday, February 19, 2013 at the Town Meeting Hall in Shokan, NY. The purpose of the meeting as stated at the February 12<sup>th</sup> Town Board meeting was for the Town Board to interview candidates for the open position on the Planning Board.

Members Present:           Berndt Leifeld, Supervisor  
                                  Linda Burkhardt, Board Member  
                                  Bruce La Monda, Board Member  
Members Absent:           Donald VanBuren, Board Member  
                                  Peter Friedel, Board Member

The Town Board interviewed the following persons for the open position on the Planning Board: Edward Kahil, Claude Johnson, and Guy Blake.

All business having been discussed the Town Board adjourned at 9:20 pm on a Leifeld/La Monda motion.

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Sylvia B. Rozzelle, Town Clerk