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TOWN OF NEWTOWN

TOWN OF NEWTOWN LEGISLATIVE COUNCIL MEETING FEBRUARY 7, 2018 NEWTOWN MUNICIPAL CENTER, NEWTOWN, CT MINUTES

PRESENT: Chris Eide, Chris Smith, Jordana Bloom, Robert Pickard, Judit DeStefano, Ryan Knapp, Dan Wiedemann, Paul Lundquist, Kelley Johnson, Jay Mattegat, Dan Honan.

ABSENT: Phil Carroll.

ALSO PRESENT: First Selectman Dan Rosenthal, Chair of Sustainable Energy Commission Kathleen Quinn.

CALL TO ORDER: Mr. Lundquist called the meeting to order with the Pledge of Allegiance at 7:32 pm.

VOTER COMMENT: None.

MINUTES: MR. HONAN MOVED TO APPROVE THE MINUTES OF THE JANUARY 17, 2018 MEETING. SECOND BY MR. WIEDEMANN. ALL IN FAVOR. (11-0).

COMMUNICATIONS: None.

COMMITTEE REPORTS: None.

FIRST SELECTMENS'S REPORT: First Selectman Rosenthal recapped items from the Board of Selectman's meeting, Newtown's AAA bond rating from Moody's was reaffirmed, and offered a stable outlook. Report was complimented fiscal controls and policies in place. BOS completed the budget on Monday and it was unanimously passed by BOS, with an increase of 2.5%. With a 2.2% increase for BOE, the net increase is currently estimated at 2.3%. Combined with current revenue estimates and outcome of reval, this represents about a 1.5% tax increase.

Paul Lundquist and the First Selectman were in Hartford as guests of Rep. Mitch Bolinsky to attend the State of the State address. Previous to this, the Governor pre-released budget numbers; Newtown stands to lose \$507,000 in next fiscal year in cuts.

BOS approved a business incentive for Teton Capital for development on 37 Church Hill. This 69 unit assisted living community still in a competitive bidding situation, the tax incentive can help Newtown land development over other communities. This will go next to BOF, then LC for approval.

LEGISLATIVE COUNCIL

Paproski Farm (Castle Hill) had been supported for \$450,000 to participate in grant with Federal Government and State Government, but ultimately conditions of the grant were considered too onerous so the owners pulled out of deal. They are now applying to a different farmland trust grant. Commitment from town would be anywhere from \$300,000 to \$320,000 if the Town decides to move forward. The BOS hired the design firm, Kaestle Boos, for the new police department. The firm was chosen partially because of ability to keep much work in house and incorporate technology in design. BOS is currently reviewing the possibility of live-streaming Town meetings. This would allow residents to view meetings in real time and have availability of video immediately after a meeting.

Mr. Wiedemann had a question about bonding for Paproski Farm (\$450,000), with Mr. Rosenthal explaining that the funds have been bonded because it was believed that the project was moving forward. Bond Council has clarified that the LC can amend the bond language. Assuming there is a positive balance of funds, Mr. Tait can use the difference in bonding amounts in lieu of bonding for other projects.

NEW BUSINESS

2016-2017 Financial Statement

Postponed due to weather. Auditors requested to be rescheduled to the Feb 21 meeting.

Initiate process to consider creating ordinance for the prohibition of storage, disposal or use of Fracking Waste

MR. WIEDEMANN MOVED TO REFER TO THE ORDINANCE COMMITTEE, TO BEGIN CONSIDERATION TO CREATING AN ORDINANCE FOR THE PROHIBITION OF STORAGE, DISPOSAL OR USE OF FRACKING WASTE. SECOND BY MR. EIDE.

Mr. Lundquist explained that this was an issue initially brought forward in 2017, but due to workload of the Ordinance Committee, it was passed forward for the newly seated Council to take up. Kathleen Quinn, Chair of Sustainable Energy Commission, was asked to speak about the motion. Ms. Quinn stated that approximately 34 towns in the state have either passed bans or are in the process of considering a ban on fracking waste, including Redding, Ridgefield, Southbury, and New Milford among others. There is currently a state moratorium on allowing fracking waste, but there is ongoing concern about loopholes or potential end of the moratorium that could allow waste in. She clarified that we're not talking about banning fracking, since there is none in CT. Fracking is a process that allows extraction of oil from sources not previously available. Done via proprietary methods that the public is not privy to, it pumps pressured chemicals into the ground, brings oil out of the ground, leaving waste that is contaminated with chemicals from fracking. States that allow fracking have accumulated waste, and they need to send it somewhere and do something with it. So we, like many CT towns, should seek to keep it away from our water supplies, towns, etc. Ultimately, the hope is if enough towns enact a ban, when the state gets around to creating legislation, pre-existing ordinances in towns might give the Legislature incentive to pass stricter prohibitions on fracking waste. Ms. Quinn shared a letter from Conservation Committee in support of ordinance, as well as general background. A sample or template for similar ordinance is also available. (ATTACHED TO MINUTES)

LEGISLATIVE COUNCIL

Mr. Knapp shared that it's important to note this discussion is not about adopting an ordinance, but a discussion of whether or not to send this legislation to the Ordinance Committee. He also described the process the ordinance committee would take to enact an ordinance, beginning with research of existing ordinances already enacted, as well as relevant State statute. He also noted that given that Connecticut is a Dillon's Rule State, anything we do, we'd need to be allowed to do. He asked Ms. Quinn if there enabling language from the State that allows us to do this? Ms. Quinn said she was unsure of State statute language.

Mr. Rosenthal asked if Redding passed a similar ordinance, to which Ms. Quinn stated that they will be voting next week. He added that although no enabling language is known off-hand, the fact that so many other towns have been able to bring this forward suggests this may not be an issue.

Ms. Johnson asked what the difference is between fracking material with bad stuff in it and other fill with bad stuff in it? Adding, she was simply wondering if there was already a statute in about contamination in fill. Ms. Quinn was unsure of those specifics. Mr. Lundquist asked if the recently passed or currently considered ordinance language spoke specifically to transportation of fracking waste, or was it focused on storage and use. Ms. Quinn said although it would be difficult to expect prohibition of transportation on I-84 or State roads, Redding does have language about company liability if there was any kind of a spill on local roads. Mr. Lundquist said all of these are fair questions, but much of this will be explored in detail as part of the initial research process if taken up by the Ordinance Committee.

MOTION PASSED UNANIMOUSLY. (11-0)

OLD BUSINESS: None.

VOTER COMMENT: None.

ANNOUNCEMENTS: None.

ADJOURNMENT: There being no further business the meeting was adjourned at 8:28.

Respectfully Submitted,
June Sgobbo
Clerk

Attachments: Conservation Commission Fracking Ban Support, Explanation Fracking Ban Waste Short Version, Generic Draft Ordinance Waste Ban, Fracking Ban Redding, Fracking Ban Ridgefield.

These are draft minutes and as such are subject to correction by the Legislative Council at the next regular meeting. All corrections will be determined in minutes of the meeting at which they were corrected.

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TOWN OF NEWTOWN
CONSERVATION COMMISSION

January 25, 2018

Kathleen Quinn
Chairman
Sustainable Energy Commission
Newtown Municipal Center
3 Primrose Street
Newtown, CT 06470

Re: Proposed Local Ordinance to Ban Fracking Waste

Dear Ms. Quinn,

The Conservation Commission has discussed the issue of toxic fracking waste and its potential for groundwater contamination. We believe our town has a responsibility to protect our reservoirs, the aquifer, and private wells.

Therefore, the Conservation Commission supports the Sustainable Energy Commission's proposal for a local ordinance prohibiting the storage, disposal or use of fracking waste in the Town of Newtown.

Sincerely,


Holly Kocet, Chairman
Newtown Conservation Commission

Fracking is a process used to extract natural gas and oil. Millions of gallons of a toxic chemical solution are injected underground at high pressure to crack dense rock and release oil and gas. Fracking fluids and contaminated solids come to the surface and need to be disposed of as waste. There are no good options for disposing of this toxic and possibly radioactive waste or its by-products in **Your Town**. The dangers associated pose an unacceptable risk to health and safety, municipal and private property values and natural resources.

While there is currently a temporary moratorium for disposing fracking waste in CT, CTDEEP is currently considering regulations to allow this waste to be imported into CT, and may submit these regulations for review as early as next summer. Regulations cannot prevent accidents, spills and leaks from contaminating soil, surface and ground waters, and aquifers and drinking water have been contaminated in other states.

(Our Town/Citizens Group-No Frack Waste Danbury) is proposing a local ordinance that would ban the application of fracking and other oil & gas extraction wastes. If passed, the application of wastes and by-products would be prohibited on any road or real property. Storage, disposal, handling, acquisition, sale, treatment and processing within our town would also be prohibited. The **town/ordinance** would also require vendors who are entering into contact with the town to sign a statement that they will not source any materials from fracking wastes or by-products. There are also legal parameters in the ordinance to impose cease & desist orders, fines and hold violators accountable for remediation. **The Town** has legal authority to do this, as granted by CT General Statute 7-148.

Who has banned fracking waste in our region:

- Andover, Ashford, Branford, Coventry, Portland, Mansfield, Middletown, Washington, Windham (includes Willimantic), Windsor and more towns pending.
- Over 400 NY municipalities, all 5 boroughs of NYC, 15 NY counties, including our neighbors across the NY border.
- Dozens of New Jersey towns, cities & 2 counties
- State of Vermont & Pelham, MA and more MA towns pending

Verbatim language for Sections 1-3 have passed in 9 CT municipalities: Andover, Ashford, Branford, Coventry, Middletown, Mansfield, Portland, Windham (includes Willimantic), and Windsor. These municipalities have individualized language in sections 4-6. As shown here, sections 4-6 is a composite of what has passed already in CT. Some towns have omitted section 7; it is not necessary, as nothing in the language defines or prohibits transportation. Branford is the only town to include section 5. This draft ordinance is modeled after language crafted by legal counsel for Riverkeeper.

TOWN of (YOUR TOWN), CONNECTICUT

CODE OF ORDINANCES

Ordinance Prohibiting the Storage, Disposal or Use of Fracking Waste

xxx-01 Definitions for the Purposes of this Ordinance:

- 1) For the purposes of this Ordinance, the following terms, phrases, and words shall have the meanings given here, unless otherwise clearly indicated by the context:
- 2) *“Hydraulic fracturing”* shall mean the fracturing of underground rock formations, including shale and non-shale formations, by manmade fluid-driven techniques for the purpose of stimulating oil, natural gas, or other subsurface hydrocarbon production.
- 3) *“Natural gas extraction activities”* shall mean all geologic or geophysical activities related to the exploration for or extraction of natural gas, including, but not limited to, core and rotary drilling and hydraulic fracturing.
- 4) *“Oil extraction activities”* shall mean all geologic or geophysical activities related to the exploration for or extraction of oil, including, but not limited, to, core and rotary drilling and hydraulic fracturing.
- 5) *“Natural gas waste”* shall mean: a) any liquid or solid waste or its constituents that is generated as a result of natural gas extraction activities, which may consist of water, brine, chemicals, naturally occurring radioactive materials, heavy metals, or other contaminants; b) leachate from solid wastes associated with natural gas extraction activities; c) any waste that is generated as a result of or in association with the underground storage of natural gas; d) any waste that is generated as a result of or in association with liquefied petroleum gas well storage operations; and e) any products or byproducts resulting from the treatment, processing, or modification of any of the above wastes.
- 6) *“Oil waste”* shall mean: a) any liquid or solid waste or its constituents that is generated as a result of oil extraction activities, which may consist of water, brine, chemicals, naturally occurring radioactive materials, heavy metals, or other contaminants; b) leachate from solid wastes associated with oil extraction activities; and c) any products or byproducts resulting from the treatment, processing, or modification of any of the above wastes.
- 7) *“Application”* shall mean the physical act of placing or spreading natural gas waste or oil waste on any road or real property located within the Town/City of (Your Town).

- 8) As used in this Ordinance and from CGS 22a-220 (g), “collector” means any person who holds himself out for hire to collect solid waste on a regular basis from residential, business, commercial or other establishments.
- 9) As used in this Ordinance, the term **Town/City** shall mean the **Town/City** of **(Your Town/City)**

xxx-02 Prohibitions:

- 1) The application of natural gas waste or oil waste, whether or not such waste has received Beneficial Use Determination or other approval for use by DEEP (Department of Energy & Environmental Protection) or any other regulatory body, on any road or real property located within the Town for any purpose is prohibited.
- 2) The Introduction of natural gas waste or oil waste into any wastewater treatment facility within or operated by the Town is prohibited.
- 3) The introduction of natural gas waste or oil waste into any solid waste management facility within or operated by the Town is prohibited.
- 4) The storage, disposal, sale, acquisition, transfer, handling, treatment and/or processing of waste from natural gas or oil extraction is prohibited within the Town.

xxx-03 Provision to be included in bids and contracts related to the construction or maintenance of publicly owned and/or maintained roads or real property within the Town:

- 1) All bids and contracts related to the retention of services to construct or maintain any publicly owned and/or maintained road or real property within the Town shall include a provision stating that no materials containing natural gas or oil waste shall be utilized in providing such a service.
- 2) All bids and contracts related to the purchase or acquisition of materials to be used to construct or maintain any publicly owned and/or maintained road or real property within the Town shall include a provision stating that no materials containing natural gas or oil waste shall be provided to the Town.
- 3) The following statement, which shall be a sworn statement under penalty of perjury, shall be included in all bids related to the purchase or acquisition of materials to be used to construct or maintain any publicly owned and or maintained road or real property within the Town and all bids related to the retention of services to construct or maintain any publicly owned and/or maintained road or real property within the Town: “We _____ hereby submit a bid for materials, equipment and/or labor for the Town of **(Your Town)**. The bid is for bid documents titled _____. We hereby

certify under penalty of perjury that no natural gas waste or oil waste will be used by the undersigned bidder or any contractor, sub-contractor, agent or vendor agent in connection with the bid; nor will the undersigned bidder or any sub-contractor, agent or vendor agent thereof apply any natural gas waste or oil waste to any road or real property within the Town of (Your Town) as a result of the submittal of this bid if selected.”

xxx-04 Penalties

This ordinance shall apply to any and all actions occurring on or after the effective date of this ordinance. In response to a violation of this ordinance, the Town is empowered to a) issue “Cease and Desist” orders demanding abatement of the violation, b) seek any appropriate legal relief, including immediate injunctive relief, as a result of any violation of this ordinance; c) file a complaint with any other proper authority; and d) require remediation of any damage done to any land, road, building, aquifer, well, watercourse, air quality or other asset, be it public or private, within the Town. The Town may recoup from the offending person(s), jointly and severally, all costs, including experts, consultants and reasonable attorney’s fees, that it incurs as a result of having to prosecute or remediate any infraction of this ordinance. Any person who violates this ordinance shall be liable for a fine of \$250 per CT Statute. The Town may also pursue other penalties as applicable defined in CT General Statutes.

xxx-05 Enforcement:

Any designee authorized by the (Leadership of Your Town) may pursue penalties against any person(s) who commits violations of this ordinance. The involvement of any (Your Town) officials will not require testing of waste products to determine chemical contents, this work will be done via contacting CT DEEP or other 3rd party analytical laboratories as is current practice of (Your Town) for other exposures to potentially hazardous chemical situations. Any designee authorized by the Board of Selectmen may request the Commissioner of CTDEEP pursue civil penalties defined by CT General Statutes, as applicable.

xxx-06 Severability

If any clause, sentence, paragraph, subdivision, section or part of this local law or the application thereof to any person, individual, corporation, firm, partnership, entity or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, effect or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this law or in its application to the person, individual, corporation, firm, partnership, entity or circumstance directly involved in the controversy in which such order or judgment shall be rendered. To further this end, the provisions of this Chapter are hereby declared to be severable.

xxx-07 Transportation

Nothing in this ordinance shall be interpreted to ban the transportation of any product or by-product described herein on any roadway or real property within (Your Town).

DRAFT

REDDING

Voters to decide on proposed fracking ban

By Katrina Koerting

REDDING — Voters will decide on a proposed ordinance to ban the use or storage of fracking waste in town, though some residents and officials worry its wording might not be strong enough to protect the community.

Residents will vote on the ordinance at a town meeting at 7 p.m. Feb. 13 at the Redding Community Center. The selectmen set the date Monday following a presentation on the proposed ordinance.

Under the draft ordinance, it would be illegal to store, sell, dispose or use waste from fracking operations for oil and gas in town.

Fracking is the process that uses a high-pressure mixture of water and chemicals to force oil or natural gas out of bedrock. Opponents of the practice, which is common in Pennsylvania and New York, said the technique contaminates groundwater and can harm the environment and public health.

“Contamination would affect not only the environment, but land values and property values in Redding,” First Selectman Julia Pemberton said. “We just have to make sure the language is appropriate.”

Although fracking is not used in Connecticut, the fear is that fracking waste can be brought in and used as fill at construction sites, on road projects, as well as mixed in with the soil, which was done at a playing field in Greenwich.

If the proposal is approved, Redding would join 34 other municipalities in the state with similar ordinances.

Protecting the area’s water supply was the chief reason residents gave Monday for supporting the ordinance.

“The number of people potentially affected by the leaching of chemicals into the watershed is significant,” said Planning Commission Chairman Toby Welles.

Kelly Harran, a resident leading the effort, said she decided to tackle the issue while thinking of the costs associated with cleanup of the old Gilbert and Bennett wire mill in Georgetown. She worried the town wouldn’t be able to afford another environmental cleanup and about the potential negative effects on health and the environment.

“This fracking issue is the Gilbert and Bennett of our time, and we’re being proactive,” she said.

Harran said a state fracking moratorium doesn’t fully protect localities, which is why many towns are adopting their own ordinances.

“The moratorium has too many loopholes,” she said, noting that while fracking waste is banned, waste from the drilling process isn’t, and that a hazardous materials facility in Bridgeport is permitted to accept the waste.

Many also warned that the U.S. Environmental Protection Agency is considering rolling back certain federal regulations.

“If our state government and federal government aren’t protecting us, then we need to have this Fort Knox language to protect us,” said resident Carrie Knoll.

The town law would forbid the application of natural gas waste or oil waste, even if it was approved by the state Department of Energy and Environmental Protection. It would also ban adding it to any wastewater or solid waste treatment facility in or operated by Redding. It would also require any bids for construction projects to state that fracking waste won’t be used in the process.

A violation could result in a \$250 fine and associated legal costs.

The ordinance does not apply to transportation of fracking waste or byproduct through town.

Several residents and officials at Monday’s meeting worried that the town is still vulnerable to a spill if the material is trucked

through town, especially because trucks would travel near several Redding reservoirs if Route 7 is closed. The ordinance would require the company bringing the material to remediate any spill.

“It would offer us protection because then they would be responsible,” Pemberton said. kkoerting@newstimes.com;
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RIDGEFIELD**Ban on fracking waste proposed**

By Anna Quinn

RIDGEFIELD — Officials have decided to draft an ordinance banning the use or storage of fracking waste in town, which they hope will protect the community when a statewide ban on the waste expires this summer.

The Board of Selectmen voted Wednesday to have the town attorney examine the idea, proposed by the Ridgefield Action Committee for the Environment (RACE), and bring a draft ordinance to the board's next meeting. If the selectmen decide to move forward, they would need to set a public hearing and town meeting to consider the measure.

Kristin Quell, a RACE representative, said 33 other towns have adopted similar ordinances in case the state moratorium on the waste, set to expire in July, is not renewed. Other communities, such as Redding, are considering similar protections.

"We would be moving to preemptively prevent this, so we are moving forward on a safe-not-sorry method," Quell said.

Fracking is a process that uses a high-pressure mixture of water and chemicals to force oil or natural gas out of bedrock. Opponents of the practice, which is common in Pennsylvania and New York, said the technique contaminates groundwater and can harm the environment and public health.

Fracking waste is sometimes put in products such as road de-icing agents or construction fill, Quell said.

Under the proposed ordinance, storage or use of both liquid and solid fracking waste would be prohibited in town.

The ordinance would also protect the town should waste traveling through Ridgefield spill, which Quell said is one of the group's biggest concerns. Any waste facility, such as one in Bridgeport accessible by Route 7, could apply to store fracking waste once the state ban expires, she said.

"Since there's currently a moratorium, we don't know exactly how much waste can be coming through, but in Pennsylvania alone they're producing about 1.7 billion tons of liquid waste and 100,000 tons of solid waste per year," Quell said. "They ship it out to eight various states and they're always looking for new places to ship their fracking waste."

Ridgefield would not be able to stop trucks carrying the waste from traveling through town on state or federal roadways, but the ordinance would make sure the town isn't liable for damage or cleanup in the event of a leak, she said.

First Selectman Rudy Marconi told the selectmen he has reached out to a fracking expert with a New York drilling company to better understand the risks. He suggested bringing the expert to the board's next meeting to explain the fracking process.

"(He said) it's a terrible situation," Marconi said. "There was an extreme amount of lack of responsibility in terms of controlling the waste when they first started fracking. Simply put, it's a serious situation." aquinn@newstimes.com