

**SPECIAL MEETING – TOWN OF SHELBY**  
**4062 SALT WORKS RD., MEDINA, NY**  
**November 27, 2017 (after 5PM Public Hearing)**

Present: Merle Draper, Supervisor  
Dale Stalker, Councilman  
Stephen Seitz Sr., Councilman  
Kenneth Schaal, Councilman  
William Bacon, Councilman  
Darlene Rich, Town Clerk  
Daniel Spitzer, Special Counsel  
Kirk Myhill, Planning Board Chair  
Claude Grimes, Constable

Others:	Dina Barone	Ed Houseknecht
	Alan Bushover	Patti Bushover
	Les Quackenbush	Brian Murray Sr.
	Mally Diefenbach, Batavia Daily News	Todd Roberts
	Brian Murray Sr.	Thurston Dale
	Dennis Davis	Joe Picciotti, Attorney-Harris Beach
	Tom Rivers-Orleans Hub	Joel Terragnoll-Hodgson Ross
	Gail Miller	Dave Miller
	Karen Jones	Debbie White
	Brian McCarty	John Huber
	Meagan Boice -Green	Scott Green
	Holly Rousch	Richard Maurer
	Melissa Maurer	
	Stenographer	

Meeting was called to order at 5:23 PM by Supervisor Draper.

**RESOLUTION 140-17**

**RESOLUTION TO PAY CLAIMS AGAINST THE TOWN**

Motion by Councilman Schaal, seconded by Councilman Seitz to pay claims against the town.

Ayes-5, Opposed-0 Carried

Supervisor Draper asked Dan Spitzer to explain the litigation and the two resolutions.

Dan Spitzer-Article 78 suggests Wildlife Refuge Overlay District is setback law which creates a district. A law which bans brothels isn't a setback law, and in land use regulations the town is allowed to not only regulate the use but the location where a use might be. When you say a use is not allowed in an area, like a business is not allowed in a residential district then you are creating a use law. You're not creating a setback law. The law says mining is allowed within industrial zone and overlay district. With the Wildlife Refuge overlay district is also possible to ask for rezoning to eliminate the zone from a property. Dan says the law doesn't stop anyone

from coming to the town boards stating their case why it should be an industrial property and shouldn't be part of the district. People from the Iroquois National Wildlife Refuge spoke in support of the overlay district in the first public hearing held by the town. The Frontier Stone application is said to drain into the swamp by town infrastructure of the town which cannot handle the outflow. Climate change is more of an issue. With climate change, water tables rise. The models for upstate New York for climate change show a longer growing season and less snow. Other aspects such as flooding, is in this model as well. Infrastructure of town cannot handle this outflow. Mr. Spitzer asked Mike regarding the infrastructure of the roads  
Mike Supt.- It cannot operate. Infrastructure would not allow it. With climate change there would be flooding. It's not about application. Southern part of Shelby would be left with a huge lake in 75 years. He talked about the impacts of the Frontier Stone quarry on the DEIS, Hydrogen sulfide-sewer gas. According to the DEIS the hydrogen sulfide would drain into the refuge and it is very toxic to aquatic life with long lasting effects. He talked at great length of other toxic materials and gave the board a Safety Data Sheet.

SEQRA (State Environmental Quality Review. The heart of litigation –land use regulation uses as well as location set backs. Comprehensive plan is important to know what board did before. Law says mining in town with industrial zone and overlay zone. Application is on hold. Not affecting any use. Ag property receives special assessment. It does not reduce property value. SEQR-initial plan spoke in support of the overlay district.

Mr. Spitzer went over the Negative Declaration Resolution for the Local Law Amending the Zoning Local Law creating the Wildlife Protection Overlay District and asked Supervisor if there would be any impacts on land use, water resources, air quality impacts, wetland impacts erosion flooding and drainage impacts, solid waste production any major change in the use of either the quantity or type of energy, the creation of a hazard to human health etc. His response was no to each of the questions. There would be no change or major impacts.

#### **RESOLUTION 141-17**

#### **RESOLUTION TO ISSUE NEGATIVE DECLARATION FOR LOCAL LAW AMENDING THE ZONING LOCAL LAW OF THE TOWN OF SHELBY, CREATING THE WILDLIFE PROTECTION OVERLAY DISTRICT**

Motion by Councilman Schaal, seconded by Councilman Stalker to issue Negative Declaration for Local Law amending the zoning local law of the Town of Shelby, creating the Wildlife Protection Overlay District

Bacon-Aye  
Seitz Sr. Aye  
Schaal-Aye  
Stalker-Aye  
Draper-Aye-  
Carried

Dan Spitzer-Proposing Local Law- recommendation from Town Planning Board, County Planning Board. Public Hearing notice was published in the Batavia Daily Newspaper and law is on the desk number of appropriate days.

**RESOLUTION 142-17**

**RESOLUTION TO ADOPT LOCAL LAW NO. 5 OF 2017, AMENDING THE ZONING LOCAL LAW OF THE TOWN OF SHELBY, ORLEANS COUNTY CREATING THE WILDLIFE REFUGE PROTECTION OVERLAY DISTRICT.**

Motion by Councilman Schaal, seconded by Councilman Stalker to adopt Local Law No. 5 of 2017 amending the zoning Local Law of the Town of Shelby, Orleans County, creating the Wildlife Refuge Protection Overlay District

Councilman Schaal -Aye

Councilman Bacon -Aye

Councilman Seitz Sr. -Aye

Councilman Stalker -Aye

Supervisor Draper -Aye

Motion Carried

Motion by Councilman Schaal, seconded by Councilman Stalker to close the Special Meeting at 5:48 pm

Respectfully submitted,

Darlene Rich, MMC, RMC  
Town Clerk