

CHAPTER I

THE ACTION by the TOWN BOARD and the CHARGE to the HYDRAULIC FRACTURING COMMITTEE

This report is prepared for the Town Board of the Town of Rensselaerville, New York, for the intended purpose of addressing questions and issues posed in **LOCAL LAW NO. 3 OF THE YEAR 2011**, entitled “**Gas Drilling Moratorium Law of 2011 of the Town of Rensselaerville.**” (See Appendix 1 for complete text.)

This local law was passed by all Town Board members present on November 10, 2011: Councilperson Bolte – Aye; Councilperson Cooke – Aye; Supervisor Dermody – Aye; Councilperson Kudlak – Aye; Councilperson Chase – Absent.

The following community servants were appointed by the Town Board to the Hydraulic Fracturing Committee at a special meeting held on November 17th, 2011:

Dave Bowdish, Medusa, NY
Scott Kunkler, Medusa, NY
John Mormile, Preston Hollow, NY
Jeannette Rice, Rensselaerville, NY
Dave Warburton, Medusa, NY

The committee’s charge was outlined in a special resolution of the Town Board on December 13, 2011. (See Appendix 1 for complete text.) The resolution stated that the purposes of the committee were to:

1. Recommend and assist the Town Board in developing regulations regarding natural gas drilling in the Town as well as to provide recommendations on this use in the Town;
2. Report to the Town Board from time to time as to its progress and any recommendations it may have on natural gas drilling and the hydraulic fracturing technique of extraction as applicable to the Town of Rensselaerville (TOR), including but not limited to adoption of Town laws, regulations and/or policies with respect to the same.

The purposes of the committee’s research include:

1. Contributing to the general knowledge of the TOR citizens and the Town Board;
2. Specifically addressing questions posed by the “Town of Rensselaerville Gas Drilling Moratorium Law of 2011”;
3. Making recommendations for possible changes in local zoning laws regarding hydraulic fracturing and natural gas drilling operations.

The expressed issues to be addressed and studied by the Hydrofracking Committee are:

1. Impact of Hydraulic Fracturing (HF), High Volume Hydraulic Fracturing (HVHF) and natural gas extraction operations on the Town's:
 - a. Water Supply and Quality
 - b. Property Values
 - c. Roads and Safety due to the high volume of truck traffic
 - d. Community Character & Quality of Life
2. How may any State regulation affect the Town of Rensselaerville? What are the issues involved?
3. Is the extraction of natural gas by the process of HVHF, or natural gas extraction operations within the Town of Rensselaerville compatible with the Comprehensive Plan?
4. Under what circumstances should, or if, the process of HVHF be allowed in the Town of Rensselaerville?
5. Draft proposed amendments to Town laws, regulations and/or policies.

In addition the committee will research and study any other topics that may be relevant to heavy industry and/or natural gas extraction operations in the Town of Rensselaerville.

RESEARCH METHODOLOGY/study approach:

Issues will be studied and addressed by using a literary review of the Town of Rensselaerville Comprehensive Plan, 2007 (TOR CP); the New York State draft Supplemental Generic Environmental Impact Statement On The Oil, Gas and Solution Mining Regulatory Program, September 2011 (dSGEIS); New York State Generic Environmental Impact Statement on the Oil, Gas and Solution Mining Regulatory Program 1992 (GEIS); and other current available data from the natural gas industry, government, university, and independent resources.

ACKNOWLEDGEMENT and THANKS:

Committee members attended legal education workshops in Tully, New York and Guilderland, NY and thank the following attorneys who are experts in local land use laws in relation to natural gas drilling operations and the protection of community assets, and who helped to address some of our local questions and concerns:

➤ Bradley G. Allen, Whiteman Osterman & Hanna LLP
“Municipal Powers & Limitations to Adopt Local Laws to Protect Land & Natural Resources”
“Natural Gas Drilling Powers & Limitations with Respect to Zoning”

➤ Michael E. Kenneally, Jr., The Association of Towns of the State of New York
“Drafting and Adopting Local Land Use Laws: Considerations and Tools for Preparing Your Community for Natural Gas Drilling in the Marcellus Shale”

➤ Guy K. Krough, Esq., Thaler & Thaler
“Selected Topics on the Municipal Power of Regulation in Regards to Oil & Gas Exploration & Production”

➤ David F. Slottje, Senior Attorney, Community Environmental Defense Council
“Using Local Laws to Protect Health, Safety, and Community Assets”

Committee members also had the benefit of attending the Association of Towns for the State of New York conference in NYC on February 21, 2012, listening to:

- Steven C. Russo, Deputy Commissioner and General Counsel, NYS DEC
- Gregory R. Nearpass, Esq., Nixon Peabody LLP, representing the viewpoint of the gas industry
- David Everett, Esq., Whiteman Osterman & Hanna LLP
- Michael E. Kenneally, Jr., The Association of Towns of the State of New York

The committee would like to acknowledge and thank the follow people who offered their expertise and assistance as we developed this report:

- Dawn G. Jordan, Chair, Hydrofracking Study Committee, Town of Berne, NY
- Dr. Arthur Palmer, Professor Emeritus of Hydrology and Geochemistry, SUNY at Oneonta, Oneonta, NY
- Professor Johanna Titus, MS Biology, Dutchess Community College, Poughkeepsie, NY
- Robert Titus, PhD, Paleontologist, Department of Geology, Hartwick College, Oneonta, NY
- Jeremy Weremeichik, Geologist, MS student at University of Mississippi