

Tompkins County Council of Governments
 Regular Meeting Minutes – Approved 2-28-2013
Thursday, December 20, 2012 3:00 PM
 Scott Heyman Conference Room

Attendance

Attendee Name	Title	Status	Arrived
Martha Robertson	Member, Tompkins County	Present	
Richard Driscoll	Co-Chair, Town of Newfield representative	Present	
Fredric Dietrich	Member, Town of Danby representative	Present	
Herb Engman	Co-Chair, Town of Ithaca representative	Present	
Elizabeth Thomas	Member - Alternate, Town of Ulysses representative	Present	
Mary Ann Sumner	Member, Town of Dryden representative	Present	
Bill Goodman	Member - Alternate, Town of Ithaca representative	Present	
J.R. Clairborne	Member - Alternate, City of Ithaca representative	Present	3:15 PM
Roy Barriere	Member, Town of Enfield representative	Present	
Dominic Frongillo	Member, Town of Caroline representative	Present	
Chuck Rankin	Member - Alternate, Villlage of Groton	Present	
Kate Supron	Member, Villlage of Cayuga Heights representative	Present	

Municipalities Not in Attendance: V/Lansing, T/Groton, F/Freeville, V/Dryden, V/Trumansburg
 Staff: J. Mareane, M. Lynch, County Administration; M. Pottorff, Legislature Office
 Guests: C. Peterson, Environmental Management Council; T. Alt, W. Browne, R. DePaolo, W. van Leuken, L. DiPietro, Ithaca Times/Finger Lakes Community News

Call to Order

Mr. Engman called the meeting to order at 3:08 p.m.

Greeting/Sign In/Review Agenda

Three announcements were added to the agenda.

The following resolutions were added to the agenda:

Requesting an Extension of Time for Review of the Revised Regulations for High Volume Hydraulic Fracturing; and
 Support of the Tompkins County Legislature's Ban on the Use of Hydrofracking By-Product Brine on County Roads and Property

Announcements

Ms. Robertson announced that a conference entitled Climate Smart Climate Ready will be held April 19-21. The conference is being sponsored by Assemblywoman Lifton, Cornell Cooperative Extension, Sustainable Tompkins, and the Tompkins County Planning Department.

Mr. Frongillo announced that the Caroline Road Preservation Committee will hold three public meetings that are open to all municipalities:

- January 23 - Lynn Irwin of the Cornell Local Roads Program will speak about road strength and the impact of heavy trucks and the impact on road life;

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- February 21 - Fernando de Aragon will provide information on the road system, freight movement, and engineering reports from LaBella Associates on road strength and historic expenditures; and
- March 21 - tools available to towns and policy decision on road use agreements involving thresholds and why.

All meetings will be held at 7 p.m. at the Caroline Town Hall.

Mr. Engman announced TCCOG received certificates of recognition from Sustainable Tompkins for "offering our community a Sign of Sustainability" for the following initiatives:

Public Meeting about Gas Pipeline Development;
Study of Potential Hydrofracking Impact; and
"Unofficial" Public Hydraulic Fracturing Forum

Minutes Approval - November 15, 2012

It was MOVED by Ms. Robertson, seconded by Ms. Thomas, and unanimously adopted by voice vote by members present, to approve the minutes of November 15, 2012.

Gas Drilling Task Force

Mr. Clairborne arrived at this time.

Ms. Thomas read the following resolution that was adopted by the Gas Drilling Task Force on December 13, 2012:

"Resolution to Support an Information Meeting on Responding to the Revised Department of Environmental Conservation Regulations on High Volume Hydraulic Fracturing"

Whereas, the Revised Department of Environmental Conservation (DEC) regulations governing high volume hydraulic fracturing (HVHF) were released for public comment on November 29, 2012, and WHEREAS, the 30-day comment period falls over a holiday season and is an extremely short time for municipalities and individual to read, digest, draft comments and pass them through municipal boards, and

WHEREAS, the Tompkins County Council of Governments Gas Drilling Task Force (TCCOG-GDTF) servesto facilitate and provide information on HVHF to ensure the health, safety, and well being of citizens within their municipal boundaries,

THEREFORE BE IT RESOLVED, that the TCCOG-GDTF supports the organization and presentation of a public information meeting on December 17, 2013 at 7:00 p.m. at the Unitarian Universalist Church to provide analysis of the revised DEC regulations and also

RESOLVED, that the TCCOG-GDTF encourages TCCOG to provide \$250 to offset costs associated with the meeting.

Ms. Thomas said due to the limited timeframe there was an e-mail poll done of Task Force members. There were nine people in support of being a sponsor in name with two opposed and there were ten in favor of the \$250 contribution with one opposed. She reported on the informational meeting held December 17th and said there were many people in attendance. She said if a regulation was already addressed in previous comments and the DEC responded to it, it cannot be reargued that it is still wrong unless new information is provided. Ms. Thomas said given the January 11 deadline it will be difficult for municipalities to respond due but encouraged members to do whatever they can. She distributed a list of suggested websites that contain suggestions for commenting on the regulations.

Ms. Robertson reported Elected Officials to Protect New York has just released a letter to Governor Cuomo and DEC Commissioner Joe Martens explaining that the comment period, especially over a holiday, will mean local governments cannot officially comment on the regulations. The letter also requested a 90-day extension. She reported a letter will be sent from the Tompkins County Legislature with as many Legislator signatures as possible.

Ms. Thomas said another issue raised at the public meeting was with regard to the legality of putting regulations in place for the sGEIS is completed.

Motion: to Appropriate \$250 from the Tompkins County Council of Governments Reserve Fund to offset funds of Public Information Meeting to help public and municipalities understand areas of concern within the new hydrofracking regulations resulted as follows:

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Elizabeth Thomas, Member - Alternate, Town of Ulysses representative
SECONDER:	Richard Driscoll, Co-Chair, Town of Newfield representative
AYES:	Robertson, Driscoll, Dietrich, Engman, Thomas, Sumner, Clairborne, Barriere, Frongillo, Rankin, Supron

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Report from the Environmental Management Council

EMC State of the Environment Subcommittee Report (ID # 3911)

Ms. Peterson reported as a newly appointed member of the Environmental Management Council she volunteered to serve on a subcommittee updating the State of the Environment Report which was last done over 20 years ago. She asked members to review the document included in the agenda and help in listing pertinent information contained in the following topic areas: water resources, air quality, energy, climate change, natural gas development, solid waste, public health and Brownfield/contamination issues, invasive and over abundant species, agricultural landscape and open space preservation, and transportation. The report will focus on background information, strengths, and problem areas. Once the update is complete it will be posted on a website and updated on a regular basis.

Ms. Robertson asked how this will fit with the Cleaner Greener Southern Tier Study and suggested there may be a lot of useful information there. Ms. Peterson said Scott Doyle is the representative to the Environmental Management Council and would follow-up on this. She noted they will not be re-doing work that has already been done and that the report will contain links to other information sources. Members were asked to submit information before the end of January to Kathy Wilsea in the Tompkins County Planning Department at kwilsea@tom-pkins-co.org.

Ms. Sumner requested that the previous Plan be provided to members and posted on the TCCOG website.

Ms. Peterson announced she has been appointed to the Environmental Protection Agency as a government advisor for a two-year term and will represent all of Tompkins County. She said she has been appointed to the Small Communities Advisory Committee as one standing committee that is chartered under the Local Government Advisory Committee to the EPA for communities under 10,000. She said they have direct access to the EPA Administrator and other officials and said this could be a

great asset to the communities in this County. Ms. Robertson raised the issue of gas drilling and said it may be helpful to set up a time when the public can come to Washington, D.C. to testify. Ms. Peterson said meetings are all public and people can call in to meetings; she will let TCCOG members know the meeting schedule when it is available.

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Report from Cable Committee

Mr. Engman reported the Committee continues to meet. At the next meeting they will be looking at drafts of templates for possible negotiations with Time Warner Cable. He said information became available just yesterday that Time Warner Cable has applied to the Federal Communications Commission for a Petition for Special Relief. The Petition says that within the towns of Danby, Dryden, Caroline, and Groton there is effective competition, and therefore, they should be freed from any restrictions on the amounts they can charge. Mr. Dietrich said he inquired about this and said he doesn't believe it is related specifically to Tompkins County. He believes it is an attempt by Time Warner to gain revenue across the State and is aimed at the bottom-tier and they want to charge more for the basic service. Mr. Dietrich said towns have the opportunity to appeal, however, there are only 20 days in which to do that and it must be from when the town was first notified.

Mr. Engman suggested each town send a letter to the Federal Communications Commission stating they protest this and request an extension of time to at least be on the record of having responded within 20 days. Ms. Sumner said she received the notice yesterday and will be speaking to Jason Leifer about it tomorrow and will contact the affected municipalities afterwards.

Ms. Robertson suggested contacting Congressman Tom Reed's office through District Director, Joe Sempolinski, at 607-654-7617 (email: joe.sempolinski@mail.house.gov).

Report from Pegasys Oversight Committee

Mr. DePaolo said as a member Public Access Oversight Committee he is in attendance to raise awareness about Pegasys, to communicate why they believe it is important, to provide information on why they believe the current facility and services is deficient, and to let members know it is becoming increasingly difficult to work with Time Warner on the issue of public access. He said cable companies are not required to provide production facilities, it is a choice of the municipalities that grant the franchise. The City of Ithaca, Town of Ithaca, and the Village of Cayuga Heights, elected to participate in deferring costs to maintain a production facility. That facility has been coordinated by Lauren Stefannelli who is a liaison between Time Warner Cable and the Public Access Oversight Committee. Mr. DePaolo said Pegasys Access is a valuable community resource but noted Time Warner Cable's subscription base is shrinking and is not a priority for them. He said Pegasys gives certain segments of the community a voice they wouldn't normally have and it is important to maintain that.

Ms. Alt provided an overview of the background of Pegasys, stating in the late 1980's there was a negotiating committee that was able to acquire an access studio that was open from 3 p.m. to 11 p.m. seven days a week; there were two access channels aside from government and education. She said conditions have declined since that time and the studio is only open four days a week for four hours each day for a total of 16 hours during the work week. She said previously the studio was open on Sunday evenings which allowed people with busy schedules to still be interviewed; the elimination of Sundays has prohibited guests and allowing others to be producers because many are not able to do so during the work week. Mr. DePaolo said the Access Oversight Committee is supposed to have authority to set the hours of the studio and it is mutually negotiated between Time Warner and the participating municipality as far as the number of hours. He stated Time Warner strongly resists the studio being open during certain hours.

Mr. DePaolo said the one area of the franchise that hasn't been examined is the Pegasys component. He said there are now three participating municipalities and if other municipalities considered joining it would not only strengthen the negotiating ability of the group but would also lower the cost of participating. He also informed members that channels 13, 15, and 16 will be the first to "fall off" in areas where the signal isn't as strong as it should be; therefore, people who would be expected to be reached may not be. This is an issue they will attempt to address during franchise discussions.

Ms. Robertson suggested sending information containing costs and what the Access Committee is looking for to the TCCOG membership. Mr. Engman said the Committee that has been working on the proposed negotiation with Time Warner Cable has included Pegasys in the discussions; therefore, all municipalities that are a part of that effort and that have attended meetings are informed about this. As they enter negotiations each municipality will have to decide whether it is important enough to them to add it to their list of negotiation points.

Resolution: Support of the Tompkins County Legislature's Ban on the Use of Hydrofracking By-Product Brine on County Roads and Property (ID #3915)

Mr. Engman noted municipalities can also pass their own resolution and this resolution may provide leadership in doing so. He said he has been informed by the Department of Transportation that there is presently no hydrofracking fluid being spread in this area. Additional information could be requested regarding other types of brine. Ms. Robertson said more information is needed; she would like to know what is being spread and under what conditions it is being done.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Martha Robertson, Member, Tompkins County
SECONDER:	Elizabeth Thomas, Member - Alternate, Town of Ulysses representative
AYES:	Robertson, Driscoll, Dietrich, Engman, Thomas, Sumner, Clairborne, Barriere, Frongillo, Rankin, Supron

WHEREAS, the Tompkins County Council of Governments sponsored a public hearing on December 1, 2011 to allow area residents the opportunity to officially weigh in on New York State's proposed gas drilling rules and to provide verbal and written comments on the draft Supplemental Generic Environmental Impact Statement (dSGEIS) on the Oil, Gas and Solution Mining and regulations that will govern high-volume hydraulic fracturing and heard from over 850 individuals, and

WHEREAS, on December 18, 2012 the Tompkins County Legislature imposed a ban on the spraying, depositing, placing of all hydrofracking by-products, including brine liquid upon Tompkins County roads and properties and this prohibition will be reflected in relevant bidding documents and contracts,

WHEREAS, the definition of a "natural gas and oil by-product" is any refuse, sludge, or other waste materials, whether or not recycled or reused or intended to be recycled or reused, including solid, liquid, semi-solid, or contained gaseous material that results from, is associated with, or produced as a byproduct of natural gas and oil exploration or extraction, including, without limitation, production brine, produced waters, flowback, flowback fluids, or hydraulic fracturing fluids, and

WHEREAS, the mineral properties of this by-product brine include certain chlorides that lower the freezing point and/or draw moisture from the air allowing the hydrofracking by-product brine to be used as a deicing agent in snow and ice control and/or being used as dust control on gravel roads, and

WHEREAS, Tompkins County officials have been made aware that roads in certain areas adjacent to hydrofracking sites are being sprayed with hydrofracking by-product liquid brine, and

WHEREAS, the Tompkins County Council of Governments recognizes the dangers of additional harmful contents contained within this hydrofracking by-product brine, now therefore be it

RESOLVED, That Tompkins County Council of Governments hereby supports the Tompkins County Legislature's ban on the spraying, depositing, and placing of all hydrofracking by-products, including brine liquid upon Tompkins County roads and properties,

RESOLVED, further, That Tompkins County Council of Governments urges member municipalities to consider adopting a similar resolution,

RESOLVED, further, That copies of this resolution shall be sent to Governor Andrew Cuomo, New York State Department of Transportation Commissioner Joan McDonald, New York State Department of Environmental Conservation Commissioner Joe Martens, New York State Department of Environmental Conservation Executive Deputy Commissioner Marc S. Gerstman Chair of the Senate Committee on Environmental Conservation Mark Grisanti, Senate Majority Leader Dean Skelos, Deputy Senate Majority Leader Thomas W. Libous, Senate Minority Leader John Sampson, Deputy Minority Leader Neil D. Breslin, New York State Senators James Seward, Michael Nozzolio, Thomas O'Mara, New York State Assembly Speaker Sheldon Silver, Assembly Majority Leader Ron Canestrari, Assembly Minority Leader Brian Kolb, Chair of the Assembly Committee on Environmental Conservation Robert Sweeney, Chair of the Assembly Energy Committee Kevin Cahill, Assemblywoman Barbara Lifton, Attorney General Eric Schneiderman, New York State Association of Counties, the New York Association of Towns, and the New York Conference of Mayors, Tompkins County Legislature, and all municipalities and Highway Superintendents located within Tompkins County.

SEQR ACTION: TYPE II-20

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Resolution: Requesting an Extension of Time for Review of the Revised Regulations for High Volume Hydraulic Fracturing (ID #3919)

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Dominic Frongillo, Member, Town of Caroline representative
SECONDER:	Richard Driscoll, Co-Chair, Town of Newfield representative
AYES:	Robertson, Driscoll, Dietrich, Engman, Thomas, Sumner, Clairborne, Barriere, Frongillo, Rankin, Supron

WHEREAS, the New York State Department of Environmental Conservation (NYSDEC) has filed a Notice of Continuation with the Department of State to extend the rulemaking process by 90 days in order to give New York State Commissioner of Health Dr. Nirav Shah time to complete his review of the draft *Supplemental Generic Environmental Impact Statement (dSGEIS) on the Oil, Gas, and Solution Mining Regulatory Program: Well Permit Issuance for Horizontal Drilling and High-Volume Hydraulic Fracturing to Develop the Marcellus Shale and Other Low-Permeability Gas Reservoirs*, and

WHEREAS, NYSDEC has established a 30-day public comment period on the revised draft regulations from December 12, 2012 through January 11, 2013, and

WHEREAS, the documents released for public review by NYSDEC number 338 pages including

the revised regulations 6 NYCRR Parts 52, 190, 550 - 556, 560, 750.1, and 750.3; a summary and assessment of public comments; and additional analyses and impact statements, and

WHEREAS, Dr. Shah is providing a review, in consultation with outside experts, of whether NYSDEC has adequately addressed potential impacts to public health, and the release of the proposed regulations and the 30-day comment period prohibit inclusion of the results of the independent review of potential impacts to public health in the formation of the regulations as presented for public review, and

WHEREAS, many substantive comments on health issues were included among the thousands of public comments on NYSDEC's dSGEIS and it is unclear if the "outside experts" have been given sufficient time to consider these comments as part of their review, and

WHEREAS, the 30-day review period is completely inadequate for a thoughtful and thorough public review of the released documents and encompasses a period of time with major religious and national holidays, and

WHEREAS, the Tompkins County Health Department and other local health departments will be directly or indirectly affected by the proposed regulations, but due to Open Meetings Law requirements for advance public notice of agendas and supporting materials, the 30-day comment period essentially eliminates or severely hinders the ability for the Tompkins County Board of Health and similar regulatory or advisory organizations to review the released documents and draft, approve, and issue comments, now therefore be it

RESOLVED, That the Tompkins County Council of Governments urges that:

1. The NYSDEC should extend the public comment period on the revised regulations to a minimum of 90 days, and
2. The NYSDEC should also allow public comment on the results of the independent review of potential public health impacts during the same 90-day period, and
3. No final decision whether to allow fracking in New York State should be made without full consideration of said public comment on the regulations, the health impact review, and the revised SGEIS as well.

RESOLVED, further, That a certified copy of this resolution be sent to: Governor Andrew Cuomo; New York State Department of Environmental Conservation Commissioner Joe Martens, New York State Department of Health Commissioner Nirav Shah, New York State Association of Counties, New York State Association of Towns, New York State Association of State County Health Officials (NYSACHO), Tompkins County Board of Health, New York State Conference of Environmental Health Directors, Tompkins County Planning Department, Tompkins County Health Department, Tompkins County Water Resources Council, Tompkins County Environmental Management Council (EMC), Tompkins County Council of Governments (TCCOG), and the Tompkins County Soil and Water Conservation District (TCSWCD).

SEQR ACTION: TYPE II

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Review of 2012 accomplishments and goals for 2013

This item was deferred to the next meeting.

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Report from Nominating Committee and Election of Officers for 2013

It was MOVED by Ms. Robertson, seconded by Ms. Sumner, and unanimously adopted by voice vote by members present, to appoint the following leadership for 2013:

Richard Driscoll, Co-Chair
Kate Supron, Co-Chair

Election of a Vice Chair was deferred to the next meeting.

Next Meeting Agenda Items

The following items were suggested for inclusion on the next agenda:

Youth Services
Shared code enforcement database with an invitation to Greg Potter, County ITS Director
2013 Reserve Fund contribution
Election of Vice Chair
Review of 2012 and goals for 2013

Funding options for community development/affordable housing (February meeting)

Adjournment

On motion, the meeting adjourned at 4:30 p.m.