

February 28, 2011

Motion Made By _____

RESOLUTION NO. _____

MEMORIALIZING THE NEW YORK STATE SENATE AND THE ASSEMBLY OF THE STATE OF NEW YORK TO REPEAL AND AMEND APPROPRIATE STATE LAWS TO PROTECT THE RIGHTS OF LANDOWNERS; TO REGULATE THE PRACTICE OF LAND-LEASING FOR THE PURPOSE OF GAS DRILLING; AND TO ESTABLISH A COMPENSATION AND REMEDIATION FUND TO ADDRESS UNFORESEEN DAMAGES TO LANDOWNERS AND MUNICIPALITIES AS A RESULT OF ACTIVITY RELATED TO GAS-DRILLING.

WHEREAS, gas-drilling includes hydrofracking, a technology for obtaining natural gas and is proposed for use in the Town of Fabius and other areas in Central New York and beyond; and

WHEREAS, hydrofracking involves pumping large quantities of water and additives at extremely high pressures into deep vertical wells, fracturing the rock and injecting sand into the cracks to release the natural gas; and

WHEREAS, there are many questions about environmental risk to land and to aquifers as a result of hydrofracking and related gas-drilling activity; and

WHEREAS, there is a law in New York State, "Compulsory Integration," which allows the gas industry an eminent domain tactic which is unconstitutional and coercive, and

WHEREAS, there is an effort on the part of gas companies to lock up rights to drilling in areas of their own determination referred to as "Spacing Units;" and

WHEREAS, the Compulsory Integration Law allows gas companies and their agents the ability to take control of land against the will of landowners; and

WHEREAS, the Compulsory Integration Law permits gas companies and their agents to use coercive methods in obtaining leases under the threat of compulsory integration, whereby landowners who fail to sign a lease will have their land included in the gas company "Spacing Unit" against their will and be compensated at a lesser amount than other leasees, and

WHEREAS, the environmental and health concerns including the potential contamination of aquifers and fresh water supply, the use of massive quantities of water, the disposal of the fracking fluids, the release of chemicals used in the process, and the impact upon local landscapes are rarely disclosed by gas companies and their agents in the course of securing a lease; and

WHEREAS, concerns have been raised about the potential of hydrofracking to pollute our drinking water by injecting unknown contaminants underground; and

WHEREAS, issues have been raised about the requirements and incentives for the gas drilling industry to restore the land and clean up any waste, creating questions about the possible impact upon our local landscape, the potential impact upon the health of our residents, and damage to private property; and

WHEREAS, it is acknowledged that gas drilling, including hydrofracking and similar operations are governed by the rules and regulations of the State of New York and that it is the responsibility of the State of New York to protect its citizens; and

WHEREAS, New York State law prohibits local municipalities, including the towns, from regulating the gas mining industry; and

WHEREAS, it is the desire of the Fabius Town Board for the New York State Senate and the New York State Assembly to amend appropriate state laws, to address the practice of gas drilling, including hydrofracking, as follows:

1. **Repeal Compulsory Integration.**
2. **Enact a Landowner's Bill of Rights** requiring gas companies and their representatives (Landmen) to disclose the true nature of gas drilling, including hydrofracking, and the liabilities which landowners may face as follows:
 - a. A detailed description and diagram of the type of well, including vertical and horizontal distance proposed.
 - b. A list of the chemicals which are used in the process of high-pressure drilling, or created as by products, or which may be released from deep within the rock below.
 - c. A thorough description of the waste created by the drilling, and illustration of how it will be stored on the land.
 - d. An estimate of the number and type of trucks, and other equipment, which will travel over both the private land and public roads, with tonnage calculation.
 - e. A list of possible negative environmental impacts, including gas contamination of water sources
 - f. A thorough explanation of Compulsory Integration, which apparently removes the right of neighboring landowners to decide if the mineral resources will be removed from under their lands.
 - g. A thorough explanation about the value of base-line testing for wells and springs prior to gas drilling.
3. **Establish a Compensation and Remediation fund** to compensate landowners and communities who suffer losses as a result of hydrofracking.

RESOLVED, that the Clerk of the Town of Fabius is hereby directed to transmit a copy of this resolution to the New York State Senate and the New York Assembly representatives for the Town of Fabius and requests them to enact legislation to accomplish the goals of the resolution.