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Allegations over Shelby's Local Law No. 3

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SHELBY — On June 19, the Shelby Town Board held a special meeting at 1 p.m.

The board passed Local Law No. 3 of 2017, creating the Wildlife Refuge Protection Overlay District.

Recently, The Daily News received complaints from a Shelby resident, who declined to go on record, alleging the town passed the local law behind closed doors and didn't properly notify area residents.

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BACKGROUND

The Wildlife Refuge Protection Overlay District local law dates back to last year, when it was first officially introduced as Local Law No. 2 of 2016.

A public hearing was held Sept. 7, 2016 on a revised draft for the overlay district.

No resolution to formally approve the overlay was presented for the remainder of the year. The issue wasn't brought up again until this past June 16 at a regular Shelby Town Board meeting when Peggy Hill, a resident of Shelby, asked if there was anything being done with regards to it, and Supervisor Merle "Skip" Draper informed her the overlay was still pending.

In that same meeting, it was announced a special meeting would be held at 3:30 p.m. on June 16.

Board members at the June 16 meeting went into an executive session to discuss pending litigation, and the town board came out of the executive session at 4:05 p.m. with no action taken. There was a motion to hold a special meeting on June 19 at 1 p.m. with notice to be sent to The Daily News, the town's official newspaper.

The Daily News has nothing on record under legal notices filed by the town nor its two law firms regarding the June 16 or June 19 special meetings.

A legal notice filed with the newspaper following the June 16 meeting also couldn't be published until June 21. The special meeting for June 19 wasn't listed on the calendar on the town's website, although the June 16 special meeting was.

At the June 19 meeting, the Shelby Town Board introduced and passed a resolution for Local Law No. 3 of 2017 — the Wildlife Refuge Protection Overlay District.

WHAT IS THE OVERLAY?

An overlay is an amendment to the zoning map which adds extra regulations to a certain area.

This particular overlay's purpose was to protect the Iroquois National Wildlife Refuge from "improper development" which could threaten its existence. According to the language of Local Law No. 3 of 2017, the overlay aims to ensure that uses allowed in and near the refuge are consistent with its goals and protecting the habitat within and outside the refuge, that are essential to the it's viability.

This version of the overlay is different from the amended version introduced in 2016 — it reduced the boundary of the overlay from 3,000 feet north of the refuge to 2,000 feet; moved the section in the town law the local law was found under from section 598 to section 210, tightened the language regarding blasting; and changed the motor vehicle repair shop, motels or hotels, commercial campground and outdoor commercial recreation facilities provisions. The amended local law can be found on the town's website under public notices.

TOWN'S RESPONSE

The Daily News spoke to Dan Spitzer, the special counsel for the town Shelby this week

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regarding the allegations.

"For public hearing notices, it's not a question when hold a second meeting or when you hold a meeting that you publish it, the question is did you notify the press and the public," he said when asked if the town had any documentation showing the advertising of the special meeting. "You do that by posting, and the open meeting law actually has provisions based on what you do based on when the meeting is going to be held, what sort of notice you give. The town was in full compliance with all these laws."

He added that the town board even cancelled a meeting due to concerns of the public notice not getting out to the residents. When asked why the overlay district was passed at a special meeting instead of a regular board meeting, Spitzer said that's a town board decision.

"There is no requirement for public input at that meeting," he said. "It's a publicly held meeting so there is no reason not to hold it that way."

Spitzer, also addressing allegations made in the past that the overlay was made to targeting the proposed quarry by Frontier Stone, said the overlay wasn't about that particular quarry.

"(Frontier Stone) has never come back to us for their original application," he said. "They have an application in for rezoning and that's all they need now. That doesn't change."

"Mining has been illegal in this town for some time," he continued. "To change that you need rezoning. Nothing in this law changes that. You may need additional rezoning, but if the town board is in favor, they can get a rezoning. This is about protecting the refuge over the breath of the whole area north of the refuge."

The Daily News also asked why the town didn't hold a second public hearing for the local law after the changes were made, and Spitzer said there doesn't need to be a second public hearing after changes were made. He said a public hearing notice is to alert those members of the public who may be interested the subject that a public hearing is being held on a local law of interest of them, but doesn't require second hearing if the law had changes.

"The Town of Shelby did that and people are well aware of the debate," Spitzer said. "Shelby is a very well run town that knows how to hold meetings. They know how to do things correctly. They didn't adopt anything behind closed doors."

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