

February 26, 2013

The regular meeting of the Town Board of the Town of Warwick was held on Thursday, February 26, 2013 at the Town Hall, 132 Kings Highway, Town of Warwick. Supervisor Sweeton called the meeting to order at 1:05 p.m.

ATTENDANCE: Supervisor Michael Sweeton
Councilman Floyd DeAngelo
Councilman Russell Kowal
Councilman James Gerstner
Councilman Mickey Shuback

Town Attorney, John Hicks – Absent
DPW Commissioner, Jeff Feagles
Police Chief, Thomas McGovern, Jr.

CORRESPONDENCE:

DONNA COTE – 17 Little Brooklyn Rd., Warwick, NY – Letters to the Supervisor and Town Board requesting that they consider the importance of the fracking issue and look at the great potential and economic prosperity fracking will bring to our town, state and country.

MICHAEL & EILEEN ALTMAN – 37 Candlestick Court, Warwick, NY – Letter to the Supervisor informing the Board that they are opposed to any form of hydraulic fracturing and use of brine on the roads in the Town.

LAURA BARCA, P.E. – HDR, Eastgate Corporate Park, 7 Coates Dr., Suite 2, Goshen, NY 10924 – Memo to the Supervisor stating that competitive bids were requested from three local companies to grind the large pile of wood, brush and stumps generated by fallen trees following Hurricane Sandy that is currently located at Union Corners Park

DAVID CHURCH, AICP – Commissioner, Orange County Department of Planning, 124 Main St., Goshen, NY 10924 – Notice to the Town Board in regards to Local Law to Prohibit Brine on Town Roads and Local Law to Prohibit Heavy Industry. The Department has received the above referenced local laws and has found no evidence that significant intermunicipal or countywide impacts would result from their approval. We have no advisory comments regarding these local laws.

BENJAMIN ASTORINO – Chairman, Town of Warwick Planning Board – Letter to the Town Board regarding proposed Zoning text change that would prohibit heavy industry, natural gas and/or oil exploration, extraction and support activities. “The Planning Board has made a careful inquiry and determination in regards to the proposed Zoning Amendments, and has reviewed the potential

changes that would result if the Zoning text amendments were adopted as well as what could occur if they were not. The Planning Board's recommendation to the Town Board is to consider adopting the changes to the Zoning Law as proposed at this time."

DONNA COTE – 17 Little Brooklyn Rd., Warwick, NY – Letter to the Supervisor and Town Board thanking them for passing the resolution to support the Second Amendment.

State Environmental Quality Review (SEQR)

Negative Declaration

Notice of Determination of Non-Significance

This notice is issued pursuant to Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act) of the Environmental Conservation Law.

The Town Board of the Town of Warwick, as Lead Agency, has determined that the proposed action described below will not have a significant effect on the environment and a Draft Environmental Impact Statement will not be prepared.

Name of Action: Adoption of Amendments to the Town of Warwick Zoning Law and Chapter 65 of the Town Code

SEQR Status: Type I
Unlisted

Conditioned Negative YES
 NO

Description of Action: The Town Board has proposed a series of amendments to the 2002 Town of Warwick Zoning Law and one amendment to Chapter 65 of the Town Code. The two actions are closely related. The first is adoption of an Amendment to the Town's Zoning Law in accordance with Article 16 of Town Law and Articles 2 and 3 of Municipal Home Rule Law. The second action is the adoption of a new Chapter 65 of the Town Code entitled "Brine Prohibition." Both actions are referred to in this Negative Declaration as the "action." The Amendment to the Zoning Law includes provisions that would make

it clear that "heavy industry" as a land use, is prohibited in the Town. Included within the proposed definition of heavy industry is "natural gas and/or oil exploration," "natural gas and/or oil extraction," and "natural gas and/or oil support activities." The proposed Zoning Amendments differentiate "heavy industry" from "light industry" making it clear that activities constituting heavy industry, including the present methods used for unconventional oil and/or gas extraction, are prohibited due to concerns for Warwick's health, safety, and general welfare if such land uses were to become established in the Town. The proposed Chapter 65, "Brine Prohibition" makes it clear that the byproducts and other waste materials produced as a result of the current methods used by the natural gas and oil industries cannot be applied on any Town roads or properties.

Location: Town of Warwick, Orange County, NY

Reasons Supporting This Determination:

1. The Town Board has given due consideration to the subject action as defined in 6 NYCRR 617.2(b) and 617.3(g).
2. After reviewing the Full Environmental Assessment Form (EAF) for the action dated 02/15/13 including Parts 1, 2 and 3, the Town Board has concluded that environmental effects of the proposed action will not exceed any of the Criteria for Determining Significance found in 6 NYCRR 617.7(c).
3. The Town of Warwick is primarily a rural community where the predominant land uses are agriculture, forests, low and medium density residential, and conservation (such as Sterling Forest State Park, Pochuck State Forest, Mount Peter Hawk Watch Trailway, Appalachian National Scenic Trail, Wallkill River National Wildlife Refuge, privately conserved lands, Orange County and Town parks). There are currently no uses within the Town that include heavy industry, oil, and/or gas extraction and support activities. Jones Chemicals, Inc. is located in both the Town and Village of Warwick. It is a manufacturer primarily of products for the water treatment and agricultural industries and is not a heavy industry by Warwick's proposed definition. Even if Jones Chemicals Inc. were to be classified as a heavy industry, it would not be significantly affected by the proposed Zoning Amendments but would be grandfathered and could continue indefinitely as a non-conforming use in accordance with § 164-45 of the Zoning Law. In terms of surface mining industries, there are currently no sand, gravel or hard rock mines with active permits from the State Department of Environmental Conservation in the Town.
4. New York State Town Law requires that "All town land use regulations must be in accordance with a comprehensive plan adopted pursuant to this section." The Town of Warwick Comprehensive Plan reflects the wishes of Town residents, as expressed in the current 2008 Plan as well as through numerous public meetings and public hearings that were held prior to

adoption of the 1987 Master Plan, the 1999 Comprehensive Plan and the most recent 2008 Comprehensive Plan update. A broad consensus was reached from these public participation efforts that certain recommended actions needed to be taken to address land use issues in a manner that has a beneficial effect on the character of the Town. These included its small town rural and environmental quality, its farmland and forests, natural and cultural resources and scenic resources, while accommodating development that allows for a healthful, prosperous and independent way of life and benefits the community as a whole.

5. Both New York State and the Federal government are studying the environmental and health impacts of high volume hydraulic fracturing using horizontal drilling (hydraulic fracturing) for shale gas. New York State is undertaking what is now a four year SEQR environmental review of new regulations on gas drilling using hydraulic fracturing. Governor Cuomo has publicly stated that the State's review process will not close until a health impact review is completed by the State Department of Health. The United States Environmental Protection Agency has predicted that it will complete its review of hydraulic fracturing sometime in 2014. To date then the assessments of hydraulic fracturing on both human health and the environment are incomplete. The Town Board has determined that it is necessary to adopt the proposed Amendments to the Zoning Law and Chapter 65 of the Town Code to protect the health, safety and welfare of Town residents in the absence of definitive conclusions about the health and environmental impacts of hydraulic fracturing using current technologies.
6. The State's proposed regulations on hydraulic fracturing, at the time this SEQR environmental assessment was prepared, would potentially allow the application of flowback wastewater for winter de-icing or summer dust suppression on roads in the State. According to the DEC, flowback contains *"Residual fracturing chemicals and naturally-occurring constituents from the rock formation"* and they *"could be present in flowback water and could result in treatment, sludge disposal, and receiving-water impacts."* This is the primary rationale why the Town Board has proposed a prohibition on the application of "Natural Gas and Oil Production Byproducts" on Town roads through an amendment to Chapter 65 of the Town Code.
7. The impacts of heavy industrial development, hydraulic fracturing in particular, on water resources include watershed impacts, water supply, water quality, and accidents as described in the Part 3 Environmental Assessment Form prepared for the action. Land clearing, loss of forested cover, soil compaction, erosion and stormwater runoff are all associated with well pad construction, road and pipeline construction, and well operation. Loss of forested cover and soil compaction interfere with groundwater recharge and contribute to watershed impairment. Erosion and subsequent runoff have the potential to significantly contribute to degradation of surface water quality. Heavy industrial development, including gas wells, results in a decrease in overall watershed forest cover, and an increase in compacted impervious

surfaces. The disruption of local drainage patterns caused by heavy truck traffic and other equipment on rural roads and nonpaved cleared surfaces, including numerous wetland and small stream crossings, has the potential to substantially interfere with the ability of watersheds to provide adequate water supply and high quality water, especially when these activities occur over a large area. Surface compaction may substantially reduce the flood control capability of natural systems, especially in floodplains and wetlands.

Nonpoint source pollution from stormwater runoff and erosion often results from site clearing and grading. Especially where well pads are near small wetlands or streams, the ensuing sedimentation effects may be significant. A single gas well pad site has been estimated to lose 2.3 tons of soil per 2.47 acres, due to improperly installed and maintained silt fences. Any streams or wetlands in close proximity to well pads and associated activities would likely be affected by this level of erosion and potential sedimentation. The potentially large amount of land cleared for well pads, pits, roads and pipelines increases the chances of widespread and cumulative sedimentation and subsequent water quality issues.

The impact on wetlands is especially significant. Small non-protected wetlands are some of the most ecologically and economically valuable habitats but they are also among the most threatened. Cumulatively, such small wetlands provide significant benefits including flood control, water quality improvement, and moderation of stream flows during drought. Since no protective buffer is required these wetlands are not protected from water quality impacts.

Hydraulic fracturing requires the use of large quantities of water and fracturing fluids, which are injected underground at high volumes and pressure. Each well can be hydrofracked multiple times over a period of years, using anywhere from 1.5 to 9 million gallons of water each time. Some gas wells in Michigan have used more than 20 million gallons of water per well. With an expected well density of 10 to 12 horizontal wells per square mile, the cumulative effect of this level of water use in the Town is significant. The water supply required for well development would come from the Town's surface and/or groundwater resources. Groundwater is the source of baseflow for most rivers and streams and supplies drinking water to a significant portion of the Town's residents.

The Town of Warwick contains numerous surface and ground water resources. Major stream systems include the Walkkill River, Pochuck Creek, Wawayanda Creek, Stony Creek, Wheeler Creek, Outlet of Warwick Reservoir, Long House Creek, Double Kill, Mistucky, and Trout Brook. Stream classifications for these 10 streams range from "AA(T)" to "D." All streams are associated with extensive wetland complexes. Additional large and small wetlands, and lakes such as Greenwood Lake, Glenmere Lake,

Wickham Lake, Blue Lake are found in the Town. Drinking water comes primarily from individual wells, with a segment of the town's population served by municipal water from Glenmere Lake, Greenwood Lake and the Village of Warwick's Reservoir system. The Town's agriculture industry in the Black Dirt area depends upon pure water as a source of supply for irrigation.

The numerous surface water bodies in the Town are of significant importance for groundwater recharge, wildlife habitats, aesthetics, sustaining downstream water levels, recreational fishing areas, and for irrigation and livestock support. These resources provide the Town with an array of benefits from drinking water to recreation. Water quality throughout the Town is generally good. Groundwater is the source of baseflow for most rivers and streams and supplies drinking water to a significant portion of the Town's residents.

Prohibiting heavy industrial uses within the Town provides Warwick with the opportunity to more concertedly protect its water resources, both in quantity and in quality, by avoiding the impacts associated with such development (including erosion and runoff, forest removal and soil compaction, and contamination from spills, leaks, accidents, and flowback). Agricultural operations would avoid losses due to impacts on livestock or crops. The Town would also avoid expensive clean up costs or drinking water supply replacement in the event of spills and drinking water contamination. The Town would continue to enjoy the benefits from tourism and recreation that are dependent on healthy water resources. In this case, it is likely to be less costly to prohibit heavy industry than to repair damages that are likely to result from it. The savings to the Town in terms of economic expense and maintenance of a high quality of life (recreation, tourism, clean drinking water) are likely to be substantial. The Town Board has determined that it is necessary to avoid the potential for adverse impacts on the Town's water resources by enacting the proposed action.

8. Air quality impacts from heavy industrial uses include emissions from a variety of stationary and mobile sources. One of the larger sources of air pollution from hydraulic fracturing are the engines used by trucks and other heavy equipment. Air emissions from the exploration and production of shale gas include a variety of potential air pollution sources that change during different phases of operation. These include exhaust from drilling rigs; venting and flaring of natural gas; exhaust from multiple diesel-powered pumps (to achieve necessary pressure in the well); vehicular traffic; volatile chemicals that escape into the air from several sources; fugitive emissions from leaks in pipe connections and other equipment; dehydrators that remove water from natural gas and separators that may vent large volumes of methane and volatile organic compounds (VOCs); sulfur removal systems; and diesel powered compressors and pumps. Some of the diesel powered equipment operates 24 hours a day for days at a time. Compressor stations operate 24 hours a day.

A report by the US House of Representatives' Committee on Energy and Commerce states that more than 2,500 hydraulic fracturing products containing 750 chemicals and other components were used between 2005 and 2009. These included 25 toxic chemicals that are hazardous air pollutants and that are used in various hydraulic fracturing products; 595 products contained 24 different hazardous air pollutants (pollutants that cause or may cause cancer or other serious health effects e.g. reproductive effects or birth defects, or adverse environmental and ecological effects) including hydrogen fluoride, lead, and methanol. In another study, the Pennsylvania Department of Environmental Protection identified 21 chemicals, used in fracking fluid, that are readily airborne. All of them cause human health effects and many are known cancer-causing agents.

The cumulative effect of these contaminants is the potential for degraded air quality and subsequent impacts on human health. This can be illustrated by following the impacts of just one of them, ozone, which is a commonly measured air quality indicator. Ozone is a major component of smog and a potentially harmful air pollutant. It is created by sunlight reacting with chemicals found in hydrocarbon vapors and emissions from cars and industrial activities. Besides generating an array of human health effects, ozone has also been shown to have detrimental effects on plants and ecosystems, reducing forest growth and crop yields.

Within the Town of Warwick, air emissions generated from heavy industrial development, and especially from hydraulic fracturing activities and equipment could be significant, along with subsequent effects on health, ecosystems and agriculture. Increased emissions and ozone due to truck traffic alone may be significant. At an average of 1,200 truck trips generated by each well during development, further multiplied by the cumulative number of wells estimated to be developed under the State's build-out estimates (and the need for re-fracking wells to maintain production), the result points to a potentially significant increase in emissions and ozone levels over an extended period of time. From 1999 to 2009, Ozone levels in Orange County have been dropping and in 2009, were better than the Nationwide average. Based on information available from the Environmental Protection Agency, overall air quality in the County is considered "good" the highest rating available. Based on the foregoing, it can be reasonably anticipated that overall air quality in the Town could be degraded as a result of heavy industrial activity, if it were to become established in Warwick. The Town Board has determined that it is necessary to avoid the potential for adverse impacts on the Town's air resources by enacting the proposed action.

9. Heavy industrial development, particularly gas development and hydraulic fracturing, affects natural systems on several levels. Such activities affect habitats, species and ultimately ecosystems. The benefits provided to human communities by ecosystem services are in turn affected. These potential impacts are complex due to the interconnections among species and their

habitats. Changes in habitat and condition affect different species in different ways. Many of these species, whether they depend upon upland forests or freshwater wetlands and streams, may experience changes in behavior, reproduction, distribution, or mortality from the array of impacts associated with natural gas well construction and operation, associated road and pipeline construction, and fracking wastewater use and disposal. A landscape that is biologically diverse is more resilient to changes, and this stability helps to ensure that ecological services and benefits will continue into the future. Many of these benefits also have economic value to the Town, especially within the watershed context. As stated in Economic Benefits of Open Space Preservation, a report by the New York State Office of the State Comptroller, 2010, *“Decision-making that explicitly considers and values the positive economic effects of open space, as well as environmental and quality-of-life implications, will best serve a community’s long-term interests.”* Some of these economic benefits, noted in the report, include the control of stormwater runoff, flood control and storage, erosion control, preservation of surface water quality and stream flows, and groundwater recharge. Prohibiting heavy industrial land uses in the Town will avoid these potential impacts. The Town Board has determined that it is necessary to avoid the potential for adverse impacts on the Town’s ecological resources by enacting the proposed action.

10. Construction and use of gas wells and well pads results in a direct loss of active farmland when developed on active farmland. Any direct loss of farmland from heavy industrial development is contrary to the Town Comprehensive Plan goals to: a) Support the economic viability of farming; b) Create incentives for landowners to maintain land in agricultural use, keeping it affordable so new farmers can begin farming; c) Preserve as many of the operating farms as possible; d) Preserve the agricultural heritage of the Town; and e) Discourage incompatible nearby land uses which have the potential to place burdensome pressures on farming activities.

Indirect losses from the cumulative effects of heavy industrial activities may cause the loss of even greater amounts of farmland. Every well pad or access road that cuts across a farm field fragments productive farmland. As farm parcels become smaller, there are fewer contiguous areas of active farming available to operating farms. Eventually farms may become too small to operate profitably. As farms go out of business, the critical mass to economically support related businesses is reduced. Loss of those businesses leaves remaining farms without nearby supply or service providers. As a result, other farms will inevitably fail simply from being caught up in the spiral. Pennsylvania agricultural agencies report that 25 percent of farmers receiving royalty payments from gas companies discontinued farming, while another 25 percent converted from dairy farms to grazing operations.

Agriculture is a large sector of the Town’s economy. There is a great deal of evidence to suggest that unconventional shale gas extraction could ultimately

damage the Town's agricultural base. The quality and marketability of locally produced agricultural products depends upon clean air and water that, as described above, could be degraded by hydraulic fracturing and shale gas extraction. Instances of drilling-related groundwater contamination have been reported in many states including New Mexico, Wyoming, Louisiana, Pennsylvania, and West Virginia. Surface waters have also been contaminated. Sixteen cattle were reported to have died in a northwestern Louisiana field in 2009 after apparently drinking fluids near a natural gas drilling rig, according to Louisiana's Department of Environmental Quality and a report in the Shreveport Times. High levels of airborne toxic emissions have been detected in Dish, Texas, and Rifle, Colorado. Similar instances of contamination could render nearby farmland, that is not subject to leasing and drilling, unsuitable for agriculture and put those additional farmers out of business. Based upon the foregoing, it can be expected that the impacts of heavy industrial activities, associated with gas drilling and production activities, could have far reaching consequences and impacts on Warwick's farms if such uses were to become established. The Town Board has determined that it is necessary to avoid the potential for adverse impacts on the Town's farms and related agricultural uses by enacting the proposed action.

11. The Town of Warwick's landscapes are made up of ridges, valleys and the flat "black dirt" areas. Small hamlets like Edenville, Amity, Pine Island, New Milford, Bellvale, and the villages of Warwick, Florida and Greenwood Lake dot the valleys surrounded by agricultural and forested lands. The ridges are generally more forested than the valley areas. The scenic Village of Warwick is in the heart of the Town. There are thousands of acres of protected open space in the Town including a state park, a state forest, a national wildlife refuge and numerous privately conserved lands. Tourism to facilities in the Town are driven by the scenic rivers, valleys and hills that comprise the Town's sense of place. The natural beauty and rural character of the Town creates a unique quality of life for its residents and visitors. Heavy industrial activities are widely perceived as "unsightly." Therefore, aesthetics of the entire Town could be affected. The Town Comprehensive Plan established that protection of the rural character of the Town was the preferred vision of residents. Such community character consists of landscapes having a mixture of active farm fields, wooded, and other undeveloped natural areas as well as landscapes having barns, silos and other obvious farm buildings. It can be reasonably anticipated then, that non-farm, non-residential development such as heavy industrial activities, could irreversibly degrade the scenic aspects of the Town's rural character. The Town Board has determined that it is necessary to avoid the potential for adverse impacts on the Town's scenic resources by enacting the proposed action.
12. A large area of the Town is considered historically sensitive and any development must consider the impact on historic resources, including archaeological resources. Direct adverse impacts to historic resources may include destruction of all or part of a historic property, isolation from or

alteration of its surrounding environment, introduction of visual, audible or atmospheric elements out of character with the property (or that alter its setting), and neglect that results in its deterioration or destruction. Primary impacts on archaeological resources may occur whenever the ground surface is disturbed by construction activities. Construction impacts consist of potential disturbances of sites with the consequent loss of scientific or historic information. Development of or alteration to the open spaces that surround known historic or archaeological resources, or the landscapes that comprise important scenic viewsheds, may diminish the historic integrity of such properties and districts. Similarly, alteration of the character of historical areas by the introduction of structures, objects or land uses incompatible with the historic setting or buildings in the historic area would be considered an adverse impact on the cultural quality of the Town. According to the DEC, *“The impacts of construction activities on archaeological resources are more serious. Since archaeological sites are generally difficult to detect by their surface appearance, they are more likely to be damaged during construction. Even if artifacts are salvaged before excavation begins, removal from their original location and disturbance of the site will destroy much of their value. Even with safeguards, it is possible for an archaeological site to escape detection until construction actually begins.”* The introduction of heavy industrial activities would create an irreversible and irretrievable commitment of cultural resources to land uses deemed by the Town Board to be potentially incompatible with the Town Comprehensive Plan. The Town Board has determined that it is necessary to avoid the potential for adverse impacts on the Town’s cultural resources by enacting the proposed action.

13. The open space and recreational resources of Warwick are abundant as detailed in the 2008 Comprehensive Plan and 2006 Community Preservation Plan. Heavy industrialization of Warwick from the effects of gas well and other similar developments run a significant risk of contaminated surface water, groundwater, air and soils, creation of visual impacts of an industrialized landscape in a bucolic rural community, and potential loss of the clean water, clean air, and scenic and aesthetic resources that fuel a large sector of the Town’s economy. An industrialized landscape would unavoidably transform open space including the natural beauty of the Town. Industrialization also has the potential to adversely affect infrastructure by the large trucks that must ply the Town’s roads, and the potential for increasing health related concerns. The effects on Warwick of heavy industrialization may lead to a permanent foreclosure of future recreational opportunities in the Town. Tourists to the Town’s open space and recreational facilities may no longer wish to visit the area if they had to contend with heavy truck traffic, blighted landscapes, and polluted resources and residents may be similarly concerned about use of open space and recreational lands in close proximity to industrialized areas. The Town Board has determined that it is necessary to avoid the potential for adverse impacts on the Town’s open space and recreational resources by enacting the proposed action.

14. Development of heavy industrial activities, like natural gas facilities, would be accompanied by a significant increase in the level of heavy truck traffic compared to current conditions. The Revised dSGEIS conservatively estimates the number of truck trips per well at 1,200. On an annual basis, the number of additional truck trips per year depends on the number of wells drilled in a given year. But, any significant increase in the number of travel cycles in the Town (such as would accompany gas drilling) will increase the risk of accidents. The risk of any accident increases substantially if it occurs with a truck carrying hazardous materials and the accident occurs in close proximity to a water feature such as Greenwood Lake, Glenmere Lake, Wickham Lake and their tributaries as well as the Wallkill River or the Village of Warwick's reservoirs.

Town roads are maintained by the Town Highway Department. Large volumes of truck traffic will stress all roads but local roads and bridges will be especially affected by trucks weighing 80,000 pounds and sometimes up to 100,000 pounds. Town roads (some of which are dirt or gravel), including bridges, culverts and road beds, have not been designed to support the weights of heavily laden trucks carrying industrial loads. This will increase maintenance and capital costs and will also increase the risk of accidents that result in leakage or spillage of hazardous materials. Trucks used by heavy industrial activities like hydraulic fracturing often involve convoys of 100 or more trucks to a site when it is being mobilized and demobilized. The effects of diesel exhaust have been described above. If the trucks drive on unpaved or gravel roads, which exist in the Town and which will be constructed for well pad access, dust can also be a source of emissions. Well operations go on 24 hours of the day seven days a week so the truck traffic is non-stop.

Traffic can also be affected when roads must be crossed by pipelines. While the initial trucking activity is related to drilling, producing wells require additional local disturbance associated with the opening up of roads and drainage ways to allow the construction of underground pipelines which will be necessary to connect the well heads to markets. During the time a road is cut open to install a pipeline, it is not available for public and emergency use. An additional concern with Town roads is seismic testing. One of the practices that gas drillers follow involves the use of trucks with special equipment to explore the geological structure of an area through vibration or underground sound waves. The principal concern regarding this type of use relates to any restriction to traffic flow while this type of exploration is occurring and the potential for damaging Town roads. The Town Board has determined that it is necessary to avoid the potential for adverse impacts on the Town's road infrastructure by enacting the proposed action.

15. Energy needs of the Town are currently met through the diverse use of oil, propane, natural gas, electricity, wood, biomass, solar, and geothermal. The Town of Warwick encourages the use of renewable sources of energy for the Town's residents and businesses. It provides allowances for farms to

produce energy involving “solar, wind, biomass, hydropower or other alternative nonfossil fuel source produced on the farm.”¹ The Town itself has undertaken renewable energy production through installation of a 20kW solar system on the rooftop of the Town Hall, to meet the daily electricity needs of both the Town Hall and the adjoining Warwick Senior Center. The solar system brings a clean solar energy solution to the Town government and acts as an example of the potential for use of renewable power as an alternative to fossil fuels. The Town Board has determined that it is prudent to continue to encourage and enable use of renewable energy sources, rather than to do so for finite fossil fuels with the potential for significant adverse impacts, by enacting the proposed action.

16. Warwick is a rural community with few sources of high noise levels. The principal sources currently include road noise from local transportation sources, and intermittent use of farm equipment, forestry equipment, and residential activities such as leaf blowing and lawn mowing. There are no Interstate highways close enough to Warwick to cause a noise impact and only one small airfield found in the Town along Kings Highway in the vicinity of the former Mid-Orange Correctional Facility. Warwick is a quiet rural community and its residents have an expectation of quiet as part of their quality of life. Noise affects humans and animals in adverse ways. Noise is generally measured in decibels (dBA). To put decibel readings into perspective, a quiet rural area at nighttime can be expected to be in the range of 20 decibels. The medical literature has identified the human health impacts of noise pollution on the communities surrounding oil and gas development. Specifically in relation to oil and gas exploration activities: drilling, well pumps, compressors, and vehicle traffic. Low frequency noise, produced from oil and gas compressors, may be of concern in the surrounding community. The State studied the potential for significant noise from hydraulic fracturing in the Revised dSGEIS and found that there is the potential for significant adverse noise impacts. The process of conducting hydraulic fracturing for development of a single well would exceed the Town’s established noise limits of 75 dBA for any land uses located within 1,000 to 2,000 feet or less from a well. The Town Board has determined that it is necessary to avoid the potential for adverse impacts on noise by enacting the proposed action.
17. Accidental spills, leaks, and releases associated with natural gas well drilling and fracturing activities have resulted in hundreds of documented groundwater and surface water contamination incidents across the country. Surface spills can be a relatively common occurrence at well sites because the drilling and fracturing process involves transfer of large volumes of fluids between trucks, tanks, wells, pits, and so on, often at high flow rates and pressures, substantially increasing the likelihood of a spill due to human error, equipment failure, or accident. Surface spills can be categorized as resulting

¹ See Section 164-40M(14)(d) of the Town Zoning Law.

in either acute or chronic impacts based on proximity to streams and lakes. Acute spills include accidental or intentional chemical releases that occur adjacent to or in a stream or lake. Chronic spills can occur at the well site or beyond the immediate vicinity of a stream or lake.

Heavy industry involves use of hazardous machinery and hazardous materials. Accidents can and will happen. They are likely to always be associated with heavy industrial activities and can be expected to occur in Warwick if heavy industry becomes established in the Town. DEC's Revised dSGEIS states that *"Contamination of surface water bodies and groundwater resources during well drilling could occur as a result of failure to maintain stormwater controls, ineffective site management and inadequate surface and subsurface fluid containment practices, poor casing construction, or accidental spills and releases including well blow-outs during drilling or well component failures during completion operations. A release could also occur during a blow-out event if there are not trained personnel on site that are educated in the proper use of the BOP system."*

The New York State Department of Health, as of the date of this SEQR environmental assessment of the Town Board's action, is conducting *"a review of the DEC's draft Supplemental Generic Environmental Impact Statement to provide an additional review, in consultation with outside experts, of whether DEC has adequately addressed potential impacts to public health."* Other studies by local, state and federal government agencies are underway of both the environmental and human health impacts of hydraulic fracturing. Until the multiple studies of hydraulic fracturing's health and environmental effects have been concluded by others, the Town Board has determined that the proposed action is in the best interests of the Town's residents and businesses.

18. According to Penn State's College of Agricultural Sciences Cooperative Extension, many communities in the Marcellus Shale region are experiencing rapid population growth and changes to daily life as natural gas development accelerates. Communities experiencing growth associated with energy development have been called "boomtowns." Previous research on these boomtowns, usually in the western United States, has documented both positive and negative impacts to economies, communities, families, and individuals. Recent studies of the boomtown effect have documented how local governments are generally unprepared for the new growth that comes with heavy industrial development like gas drilling and production and are at a disadvantage to mitigate potential growth problems. The disadvantages include a lack of information, growth volatility, lack of jurisdiction, conflict between long-term residents and new residents, resistance to new government policy or planning strategies, shortage of staff or expertise, and a lack of or lag in sufficient revenues to pay for the added services. Economic impacts can be mixed since some landowners and governments will benefit much more than others. Businesses or residents with no ties to industry may

have to deal with inflationary or employment pressures while not seeing any gains in revenue. While some new jobs will be created, not all workers will be suited for or interested in these jobs. A significant body of literature also shows that boomtowns can harbor disproportionate increases in social problems such as crime, mental health problems, community dissatisfaction, education shortfalls, and other indicators, all impacting the demands for local services and therefore the costs to local government. The costs and impacts to local government include accelerated road maintenance needs, traffic congestion from trucks, higher public safety costs, increased demand for health and education services, new service requirements, such as emergency response capacity, training, and environmental monitoring and remediation.

Local residents may have to absorb some or all of the costs and impacts to local government if they are not otherwise covered through state tax policies, local taxes and fees, or through local agreements, if they can be negotiated with gas companies. Depending on the pace and scale of drilling, the Town of Warwick may not have the capacity to respond to these new demands. Impacts on community character from heavy industrialization could also be significant. Warwick is known for its clean air, clean water, farms, forests, hills, trout streams, scenic viewsheds, historic sites, quaint villages and hamlets, rural lifestyle, recreational activities, sense of history, and history of landscape conservation. These features give Warwick its sense of place and its community character. Heavy industrialization of the Town however could potentially impact directly, indirectly and cumulatively, each of these features. It is the natural and cultural assets that Warwick possesses, which allows the economy to survive, guaranteeing its residents continued employment, health, safety, and welfare. Altering the community character would irreversibly overwhelm the rural character of the Town, including needed municipal services, its architecture and archaeological resources, natural resources, tourism, waterways and other special environmental assets. The Town Board has determined that it is necessary to avoid the potential for adverse impacts on noise by enacting the proposed action.

For Further Information:

Contact Michael Sweeton, Supervisor
Person: Town Board of the Town of
Address: Warwick
 132 Kings Highway
 Warwick, NY 10990
Telephone: 845.986.1124

A Copy of this Notice Filed With:

Town Board of the Town of Warwick (Lead Agency)
132 Kings Highway
Warwick, NY 10990

BOARD'S DISCUSSION ON CORRESPONDENCE

Supervisor Sweeton – I did receive two letters of correspondence somewhat opposing our intent to pass the local laws that are on the agenda today. I believe they were the only written opposing comments we got from residents. We also did receive a recommendation from our Town Planning Board which is required for us to enact any zoning changes in the affirmative support of our passing of the legislation. We also did receive correspondence from Orange County Planning Board as a result of our obligation under General Municipal Law 239 to refer any zoning changes to them that affect potential county infrastructure. We received correspondence back indicating that they had no determination or issue with the potential local laws.

VISITING ELECTED OFFICIALS

REPORTS OF BOARDS AND COMMISSIONS

1. **Katie O'Reilly – Warwick Valley Central School District Liaison**

COMMITTEE REPORTS

ENVIRONMENTAL CONSULTANTS REPORT

DEPARTMENT OF PUBLIC WORKS

**WORK
BEING
DONE**

LOCATION

REASON FOR WORK

TREE WORK	Blooms Corners Rd.	Clear right of way
SANDING	Town wide	2/16/13, 2/19/13, 2/22/13
ROAD SIGNS	Town wide	As needed
MAIL BOXES	Town wide	As needed
HAUL MATERIAL	Baldwin's to Union Corners Park	
	Loads of salt & mix to GWL	

COUNCILMAN DE ANGELO REPORT

1. **The Warwick Valley Humane Society is having a dog and cat photo contest. There is a \$10 entry fee for each 4x6 non-returnable color or black and white**

photo for each category entered. The posters will be up on the Community Channel. On Saturday, April 6th there will be a TARA, the Animal Rights Alliance spay/neuter mobile for cats only includes a rabies vaccine. For Chester and Warwick residents it's \$20 per cat and all others are \$70 per cat. A pre-registration is required with cash fee and the telephone number is 986-2473.

Chief McGovern – As an effort to increase public safety and prevent unnecessary accidents the Warwick Police Department will be distributing gun locks to any town residents who have firearms that they don't have a lock for. The locks are capable of securing and/or disabling any type of firearm including handguns, shotguns, and rifles. Proof of residency is the only thing we ask. We're not going to take any information down or ask where you live; we don't really care. Just show that you live in the Town of Warwick and we're happy to provide this service to the residents. Also, we have available the "opt-out" forms for pistol permit holders who wish to not have their residence disclosed on that database. We have the form available at the desk for anyone who doesn't have access to them online or in any other format.

COUNCILMAN KOWAL REPORT

1. I got some reports from the locals that a lot of people are making use of the ice skating rink at Pine Island Park which you can continue to do until it gets too warm to do so. I thank the DPW for setting it up and maintaining it. A lot of kids and adults are skating and playing hockey on it when ever they can. Other than the tree removal the parks are kind of quiet this time of year.

COUNCILMAN GERSTNER REPORT

1. We received a letter from Mike Cipolla our Chairman of the Recreation Commission looking to stay on in that position and I thank him for his hard work. The committee will be getting together again and meeting to get going for the spring.

COUNCILMAN SHUBACK REPORT

1. I have nothing further to report other than the same thing that has been going on for the last two months, snow removal and clearing when there's no snow.

ATTORNEY'S REPORT

TOWN CLERK'S REPORT

1. One bid was received for the grinding and removal of wood debris at the Union Corners Park from:

Material Processors, Inc.	Bid: \$22,250.00
280 State School Rd.	
Warwick, NY 10990	
(845) 986-1366	

Supervisor Sweeton stated that the bid is related to cleanup of debris from Hurricane Sandy.

SUPERVISOR'S REPORT

1. I wanted to remind and ask the press to please publicize and the public to publicize the fact that there will be another Honor Flight leaving on April 20th from Stewart. This is an opportunity for any World War II Veterans that you may know to go down and visit the World War II Memorial in Washington. It's no cost to them and they get care along the way; the whole trip they're buddied up with people to help them. They get meals and assistance to visit the memorial and they come back the same day. If you know of a World War II Vet that lives near you or you know through any other association the number to reserve a spot is 845-667-2949.

2. There are two local laws today that we are going to entertain and I just wanted to say something for the Board and to the public. Shortly we'll be considering two local laws that will preclude high volume hydraulic fracturing in the Town of Warwick. I firmly believe that extracting natural gas is ultimately in the best interest of this country in our effort to break our dependence on foreign sources of energy. It does have the potential to help revitalize manufacturing in America. After carefully weighing all the information both pro and con as well as reviewing our own local Comprehensive Plan for its compatibility with the process the Town Board has determined that there are questions still to be answered. The permitting process as proposed by New York State DEC clearly places a small window, 15 days from a notice that gets placed in the New York State Environment bulletin which admittedly is not on everyone's reading list. We only had 15 days for which we as a municipality could object and provide specific data, backed evidence, that issuing that permit would be detrimental to our town. Without studies of water supplies, aquifer flows, geology reports, road construction documentation and traffic studies the town would be ill-equipped to convince the DEC not to issue a permit. After careful consideration it is my belief that the town should take a conservative approach to ensure the town and its residents remain in control of how our town develops. We need time to allow this technology to be explored and to evolve and to review what safeguards should be put in place for us to consider it to be conducted safely in our town. Each community in our state does have and should have the right to make this determination as best as they see fit for their residents. So I will be supporting it this afternoon as we move forward.

3. Supervisors Corner is published each week in the Warwick Dispatch, with excerpts printed in the Warwick Advertiser.

PRIVILEGE OF THE FLOOR (AGENDA ITEMS)

1. Tracy O'Halloran - I want to understand what you just said, that you are supporting the permits.

Supervisor Sweeton – No, I am supporting the legislation that's before the Board this afternoon.

Tracy O'Halloran – Resident, Town of Warwick, NY 10990 - Ok which is to take a conservative approach.

Supervisor Sweeton – In other words, the most conservative approach here is the town to retain its rights under a local control to determine whether this process would ever happen in the Town of Warwick. At this point in time the only way to do that is to prevent the process until such time as we can learn if there is in fact any safe way or any place in the town that we would want to do it.

Paula Cornine – Resident, Town of Warwick, NY 10990 - Does that mean passing the two laws?

Supervisor Sweeton – I personally, yes am going to do that.

Sean O'Halloran – Resident, Town of Warwick, NY 10990 – The aquifers underground is there an agency in charge of taking a look at them?

Supervisor Sweeton – We have groundwater maps. There were studies done under the Town of Warwick about the Town of Warwick probably around 1998. All of us here attended the conferences two weeks ago in New York City for the Association of Towns and there were numerous speakers on the issue. I thought an important one was an attorney who actually focused just on the process. He said if you're going to ban it, ban it. If you're not going to ban it, here's what you need to watch out for, and he walked us through what the actual permitted process is right now, once the state lifts its moratorium or whenever it's doing its review. That process is flawed in my mind because it gives the municipality very little time to react and the reaction can't be "Oh this is bad, it's going to pollute the water". That's not going to cause them not to issue a permit. What he stressed was you as a municipality if you're going to permit this you need to have very concrete things in place already before a permit comes to your town and quite frankly we don't have that and not too many other municipalities do. I think that's what certainly swayed me and I think most of the Board members. We just need to be very cautious and this is the cautious part.

Sean O'Halloran – For the record, I support the conservative approach to it. I don't believe in banning it. I don't think we need anymore laws infringing our rights at all. I don't think that's our answer right now. On a Warwick map I would love to see that because it's very important.

Supervisor Sweeton – We share that concern with you.

Taylor Demeglio - I don't know if you're interested in this and I know it's down to the wire here but a friend of mine had given me this article here from the New York Times dated January 3, 2013 "Gas drilling is Called Safe in New York according to the State Health Department". I don't know if you're interested in looking at it?

Supervisor Sweeton – You can submit it, sure. I think our attempt here today is put ourselves in the best position going forward to say if you want to have discussions of this we can have it and look at all the evidence as it comes out.

Tracy O’Halloran – Can we see the language of what’s going to be passed today?

Supervisor Sweeton – That was all published on the website and stuff but you’re welcome to get a copy afterwards. It clarifies some very vague, the Town of Warwick Zoning initially when it was formed as it relates to business development was very vague and the intent was good that we wanted to encourage whatever we could to come. It does provide a lot of loopholes now that we’ve gone 20 years from when that was first put together; to say we’ve evolved, we’ve built an industry based on Agri tourism and our commerce centers so we need to continue to refine it. What this local law will do is give us that ability. It clarifies different classifications heavy industry, light industry, office, those kinds of things.

Brian Baird – Resident, Town of Warwick, NY 10990 – I have a question about the gun locks. When you provide evidence of your residence is that written down? Is that taken down? Is it a quick release kind of thing or do you have to have a key?

Police Chief McGovern – Each lock has a key.

NEW BUSINESS:

**#R2013-89 ACCEPT BID – GRINDING AND REMOVAL OF WOOD DEBRIS
AT UNION CORNERS PARK – HURRICANE SANDY**

Motion Councilman Shuback, seconded Councilman Gerstner to adopt a resolution to accept the bid for the grinding and removal of wood, brush and stumps generated by fallen trees following Hurricane Sandy that is located at Union Corners Park from Material Processors, Inc., 280 State School Rd., Warwick, NY 10990 at a cost not to exceed \$22,250.00.

Motion Carried (5 ayes, 0 nays) Supervisor declared this resolution duly adopted.

**#R2013-90 ACCEPTANCE OF EAGLE SCOUT PRELIMINARY PROJECT
PLAN – BRYAN CURRAO**

Motion Councilman Kowal, seconded Councilman DeAngelo to adopt a resolution to accept the preliminary project plan of Boy Scout Bryan Currao for his Eagle Scout project that includes the construction of a lacrosse wall to be located at Union Corners Park.

Motion Carried (5 ayes, 0 nays) Supervisor declared this resolution duly adopted.

Discussion: Supervisor Sweeton stated that this is an eagle scout project that a young scout came whose worked with Bill Roe and through some volunteer efforts

from one of our engineers to make sure when its constructed is done safely and properly.

**#R2013-91 AUTHORIZATION FOR USE OF THOMAS P. MORAHAN
WATERFRONT PARK FOR ANNUAL CREW REGATTA**

Motion Councilman Gerstner, seconded Councilman DeAngelo to adopt a resolution to authorize the use of the Thomas P. Morahan Waterfront Park from 2:00 p.m. to 8:00 p.m. on Wednesday, May 15, 2013 to the Warwick Valley High School Crew Club for their annual Crew Club Regatta subject to proper insurance, adequate port-a-johns, traffic control, overflow parking plans, certified lifeguards, safety launch boats and trash removal.

Motion Carried (5 ayes, 0 nays) Supervisor declared this resolution duly adopted.

**#R2013-92 ADOPT LOCAL LAW #1 OF 2013 – AMENDING THE CODE OF
THE TOWN OF WARWICK, CHAPTER 95, “JUNK DEALERS”**

Motion Councilman Gerstner, seconded Councilman DeAngelo to adopt the following resolution:

WHEREAS, a Local Law to amend Chapter 95, entitled “Junk Dealers”, was introduced on February 14, 2013, and

WHEREAS, a public hearing was held as required by law on February 26, 2013 to consider the adoption of said local law, and

WHEREAS, the Town Board has considered all comments received and has determined that the adoption of the said local law is in the public interest,

NOW, THEREFORE BE IT RESOLVED that the said local law amending Chapter 95 of the Code of the Town of Warwick is hereby adopted and same shall go into effect as provided by law.

Motion Carried (5 ayes, 0 nays) Supervisor declared this resolution duly adopted.

**#R2013-93 ESTABLISH LEAD AGENCY – ADOPTION OF A NEW
CHAPTER 65 OF THE CODE OF THE TOWN OF WARWICK,
BRINE PROHIBITION**

Motion Supervisor Sweeton, seconded Councilman Gerstner to adopt the following resolution:

WHEREAS, the Town Board of the Town of Warwick, Orange County, New York, is considering adoption of a new Chapter 65, Brine Prohibition, that would prohibit application of the byproducts and other waste materials, produced by the natural gas industry, to Town roads and properties in the Town, and

WHEREAS, an Environmental Assessment Form (EAF) dated February 15, 2013 was prepared to address the environmental effects of the proposed adoption, and

WHEREAS, after comparing the thresholds contained in 6 NYCRR 617.4 and 5, the Town Board has determined that the proposed action is a Type 1 action, and

WHEREAS, after examining the EAF, the Town Board has determined that there are no other involved and/or federal agencies on this matter.

NOW THEREFORE BE IT RESOLVED, that the Town Board hereby declares itself Lead Agency for the review of this action.

BE IT FURTHER RESOLVED, that a Determination of Significance will be made at such time as all information has been received by the Town Board to enable it to determine whether the action will or will not have a significant effect on the environment.

Motion Carried (5 ayes, 0 nays) Supervisor declared this resolution duly adopted.

#R2013-94 NEGATIVE DECLARATION – NEW CHAPTER 65 TO THE CODE OF THE TOWN OF WARWICK, BRINE PROHIBITION

Motion Supervisor Sweeton, seconded Councilman Gerstner to adopt the following resolution:

WHEREAS, the Town of Warwick Town Board is the SEQR Lead Agency for conducting the environmental review of a proposed adoption of amendments to Chapter 65 of the Town Code, Zoning, that would prohibit application of the byproducts and other waste materials produced as a result gas development, Town of Warwick, Orange County, New York, and

WHEREAS, there are no other involved agencies pursuant to SEQR, and

WHEREAS, the Town Board has reviewed an Environmental Assessment Form (EAF) for the action dated February 15, 2013, the probable environmental effects of the action, and has considered such impacts as disclosed in the EAF.

NOW THEREFORE BE IT RESOLVED, that the Town Board adopts the findings and conclusions relating to probable environmental effects contained within the attached EAF and Negative Declaration and authorizes the Supervisor to execute the EAF and file the Negative Declaration in accordance with the applicable provisions of law, and

BE IT FURTHER RESOLVED, that the Town Board authorizes the Supervisor to take such further steps as might be necessary to discharge the Lead Agency's responsibilities on this action.

Motion Carried (5 ayes, 0 nays) Supervisor declared this resolution duly adopted.

#R2013-95 ADOPT LOCAL LAW #2 OF 2013 - ADOPTING A NEW CHAPTER 65 OF THE CODE OF THE TOWN OF WARWICK ENTITLED "PROHIBIT BRINE ON TOWN ROADS"

Motion Supervisor Sweeton, seconded Councilman Gerstner to adopt the following resolution:

WHEREAS, the State of New York is expected to complete new regulations in 2013 that would allow for the exploration and extraction of natural gas using high volume hydraulic fracturing in combination with horizontal drilling (HVHF) into deep shale formations that lie beneath the Town of Warwick; and

WHEREAS, exploitation of the natural gas resource using present-day HVHF technologies elsewhere in the Nation have resulted in heavy industrial activities with the potential for impacts on the environment and health, which have been documented in the State's Revised draft Supplemental Environmental Impact Statement (dSGEIS) on the natural gas [oil and solution mining] industry; and

WHEREAS, the Town Board determined that the current Town Code needed to be amended to prohibit an activity that under the State's current proposed regulations on HVHF could allow for the application of waste byproducts, known as "flowback" or simply "brine" on roads for wintertime de-icing and summertime dust suppression in the Town; and

WHEREAS, according to the dSGEIS, flowback contains "Residual fracturing chemicals and naturally-occurring constituents from the rock formation" and they "could be present in flowback water and could result in treatment, sludge disposal, and receiving-water impacts"; and

WHEREAS, the Town Board declared itself Lead Agency on February 26, 2013 with regard to the SEQR review of the Proposed Action and designated the action as Type 1 under SEQR; and

WHEREAS, the Town Board determined it was the only agency to adopt a Local Law to Prohibit Brine on Town Roads and there were no other involved agencies for purposes of SEQR review of the Proposed Action; and

WHEREAS, the Town Board issued a Negative Declaration following review of a Full Environmental Assessment Form, prepared by the Town Planner, on February 26, 2013 in accordance with 6 NYCRR §617.7 of the SEQR regulations; and

WHEREAS, the Town Board held a public hearing on the Proposed Action on February 11, 2013 and accepted written comments on the Proposed Action until February 21, 2013; and

WHEREAS, the Town Board duly referred the Proposed Action to the Orange County Department of Planning in accordance with the requirements of General Municipal Law §239-l and 239-m; and

WHEREAS, the Town Board also duly referred the Proposed Action to the Town of Warwick Planning Board for its review and comment; and

WHEREAS, the Town Board has received and reviewed the comments of the Orange County Department of Planning, the comments of the Town of Warwick Planning Board, and has duly evaluated and considered those comments; and

WHEREAS, the Town Board will forward a Notice of adoption of a Negative Declaration for a Type 1 Action to the Environmental Notice Bulletin

for publication in accordance with the requirements of NYCRR §617.12(c)(1);
and

WHEREAS, the adoption of the Proposed Action is made pursuant to the authority of Municipal Home Rule §10(1)(ii)(d)(3).

NOW, THEREFORE, BE IT RESOLVED that the Town Board of the Town of Warwick, hereby adopts Local Law #2 of 2013 entitled "A Local Law to Prohibit Brine on Town Roads"; and it is

FURTHER RESOLVED, that the Town Clerk shall file a copy of the Local Law with the Orange County Department of Planning; and it is

FURTHER RESOLVED, that the Town Clerk shall file copies of Local Law #2 of 2013 with the Department of State, as required by Law.

Roll Call Vote:

Supervisor Michael Sweeton	Aye
Councilman Floyd DeAngelo	Aye
Councilman Russ Kowal	Aye
Councilman James Gerstner	Aye
Councilman Mickey Shuback	Abstain

Motion Carried (4 ayes, 0 nays & 1 abstention Councilman Shuback abstaining)
Supervisor declared this resolution duly adopted.

#R2013-96 ESTABLISH LEAD AGENCY – ADOPTION OF AMENDMENTS TO CHAPTER 164, ZONING

Motion Supervisor Sweeton, seconded Councilman Gerstner to adopt the following resolution:

WHEREAS, the Town Board of the Town of Warwick, Orange County, New York, is considering adoption of Zoning Amendments that would prohibit heavy industry in the Town, and

WHEREAS, an Environmental Assessment Form (EAF) dated February 15, 2013 was prepared to address the environmental effects of the proposed adoption, and

WHEREAS, after comparing the thresholds contained in 6 NYCRR 617.4 and 5, the Town Board has determined that the proposed action is a Type 1 action, and

WHEREAS, after examining the EAF, the Town Board has determined that there are no other involved and/or federal agencies on this matter.

NOW THEREFORE BE IT RESOLVED, that the Town Board hereby declares itself Lead Agency for the review of this action.

BE IT FURTHER RESOLVED, that a Determination of Significance will be made at such time as all information has been received by the Town Board to enable it to determine whether the action will or will not have a significant effect on the environment.

Motion Carried (5 ayes, 0 nays) Supervisor declared this resolution duly adopted.

**#R2013-97 NEGATIVE DECLARATION – ADOPTION OF ZONING
AMENDMENTS**

Motion Supervisor Sweeton, seconded Councilman Gerstner to adopt the following resolution:

WHEREAS, the Town of Warwick Town Board is the SEQR Lead Agency for conducting the environmental review of a proposed adoption of amendments to Chapter 164 of the Town Code, Zoning, that would prohibit heavy industry, Town of Warwick, Orange County, New York, and

WHEREAS, there are no other involved agencies pursuant to SEQR, and

WHEREAS, the Town Board has reviewed an Environmental Assessment Form (EAF) for the action dated February 15, 2013, the probable environmental effects of the action, and has considered such impacts as disclosed in the EAF.

NOW THEREFORE BE IT RESOLVED, that the Town Board adopts the findings and conclusions relating to probable environmental effects contained within the attached EAF and Negative Declaration and authorizes the Supervisor to execute the EAF and file the Negative Declaration in accordance with the applicable provisions of law, and

BE IT FURTHER RESOLVED, that the Town Board authorizes the Supervisor to take such further steps as might be necessary to discharge the Lead Agency's responsibilities on this action.

Motion Carried (5 ayes, 0 nays) Supervisor declared this resolution duly adopted.

**#R2013-98 ADOPT LOCAL LAW #3 OF 2013 – AMENDING CHAPTER 164
OF THE CODE OF THE TOWN OF WARWICK, “ZONING”**

Motion Supervisor Sweeton, seconded Councilman Gerstner to adopt the following resolution:

WHEREAS, the Town's current Comprehensive Plan was adopted in 2008 and such Plan's overall goal is “Protection of Warwick's rural quality and its natural environment”; and

WHEREAS, the Comprehensive Plan clearly omits any discussion of the need for heavy industry as an acceptable land use in the Town, focusing instead on encouraging the agricultural industry, the tourism industry and light industry in planned office and industrial parks; and

WHEREAS, the State of New York is expected to complete in 2013 new regulations that would allow for the exploration and extraction of natural gas using high volume hydraulic fracturing in combination with horizontal drilling (HVHF) into deep shale formations that lie beneath the Town of Warwick; and

WHEREAS, exploitation of the natural gas resource using present-day HVHF technologies elsewhere in the Nation have resulted in heavy industrial activities with the potential for impacts on the environment and health, which have been documented in the State's Revised draft Supplemental Environmental Impact Statement on the natural gas [oil and solution mining] industry ; and

WHEREAS, the Town Board determined that its current Zoning Law needed to be amended so as to be in accordance with the provisions of the Comprehensive Plan by identifying heavy industry as a land use that should be clearly prohibited in the Town; and

WHEREAS, the Town Board declared itself Lead Agency on February 26, 2013 with regard to the SEQR review of the Proposed Action and designated the action as Type 1 under SEQR; and

WHEREAS, the Town Board determined it was the only agency to adopt a Zoning Local Law and there were no other involved agencies for purposes of SEQR review of the Proposed Action; and

WHEREAS, the Town Board issued a Negative Declaration following review of a Full Environmental Assessment Form, prepared by the Town Planner, on February 26, 2013 in accordance with 6 NYCRR §617.7 of the SEQR regulations; and

WHEREAS, the Town Board held a public hearing on the Proposed Action on February 11, 2013 and accepted written comments on the Proposed Action until February 21, 2013; and

WHEREAS, the Town Board duly referred the Proposed Action to the Orange County Department of Planning in accordance with the requirements of General Municipal Law §239-l and 239-m; and

WHEREAS, the Town Board also duly referred the Proposed Action to the Town of Warwick Planning Board for its review and comment in accordance with the requirements of the Town's Zoning Law; and

WHEREAS, the Town Board has received and reviewed the comments of the Orange County Department of Planning, the comments of the Town of Warwick Planning Board, and has duly evaluated and considered those comments; and

WHEREAS, the Town Board will forward a Notice of adoption of a Negative Declaration for a Type 1 Action to the Environmental Notice Bulletin for publication in accordance with the requirements of NYCRR §617.12(c)(1); and

WHEREAS, the adoption of the Proposed Action is made pursuant to the authority of Municipal Home Rule §10(1)(ii)(d)(3).

NOW, THEREFORE, BE IT RESOLVED that the Town Board of the Town of Warwick, hereby adopts Local Law #3 of 2013 entitled "A Local Law to Prohibit Heavy Industry"; and it is

FURTHER RESOLVED, that the Town Clerk shall file a copy of the Zoning Local Law Amendments with the Orange County Department of Planning; and it is

FURTHER RESOLVED, that the Town Clerk shall file copies of Local Law #3 of 2013 with the Department of State, as required by Law.

Roll Call Vote:

Supervisor Michael Sweeton	Aye
Councilman Floyd DeAngelo	Aye
Councilman Russ Kowal	Aye
Councilman James Gerstner	Aye

Councilman Mickey Shuback Abstain
Motion Carried (4 ayes, 0 nays & 1 abstention Councilman Shuback abstaining)
Supervisor declared this resolution duly adopted.

BILLS: Motion Councilman DeAngelo, seconded Councilman Gerstner to pay the bills as audited. Motion Carried (5 ayes, 0 nays)

PRIVILEGE OF THE FLOOR (GENERAL)

Paula Cornine – Resident, Town of Warwick, NY 10990 – I wanted to show my appreciation about the resolution in the support of the second amendment. I do have one concern in the resolution in paragraph seven where it says that we're open to debate that would include some provisions in the legislation such as it would effectively, control, manage, and reduce violence in our society, such as mental health, anti-bullying for schools, enforcement of existing firearms goes without saying. But the anti-bullying and the mental health reforms I think are very vague and it could be a red flag that needs to be observed again.

Supervisor Sweeton – Ok duly noted, thank you.

Brian Baird – Resident, Town of Warwick, NY 10990 - Would it be worth explaining what steps the Board took to explore the options whether this could be done without the law that was just passed to sort of satisfy your concerns about it.

Supervisor Sweeton – I will reiterate what we looked at if you like, sure. We did weigh a lot of different ways to try to make sure that we were giving the local control the most protection. People have discussed moratorias and other restrictions. The moratoria avenue was fraught with legal issues and overturning it. Once you enacted one or if you tried to do an end run up around a zoning change itself by using a moratoria the courts have overturned those so far. So we really didn't want to get into litigation. We wanted to make sure in the end of all this we locally are the ones that control what happens and I think that's what we pursued. So we did look at a lot of different ways to do this and I think this is the most secure and in fact there was case law where I think in the City of Binghamton where they tried to do this and walk down the middle actually changing their laws and the court ruled in fact that when they put a time limit essentially it was a moratorium even though they weren't calling it that, so they overturned it and there were legal fees incurred by the taxpayers of Binghamton and they were no better protected than they were when they started down the road. I think this is the approach we took with it.

Taylor Demeglio – I wanted to clarify what you passed today. What would be the next steps; is it putting all the control you say locally but could the Board overturn letting hydro fracturing come to Warwick or not or would it be another...

Supervisor Sweeton – We passed a local law so it's a law now so whenever you're going to change a local law especially zoning there's a process and we've been

through it for the past 6 months now. There are public forums, there's an actual public hearing and ultimately it comes down to a vote of your elected officials to pass the law or not, but there's a whole process by which we go. I think the approach is and quite frankly I'm one of the bigger skeptics as to whether this process would ever happen here anyway. Whether there's actually enough natural gas and enough deposits here to ever make this happen here, but who know so as technology evolves down the road years from now maybe they find a very simple way to extract it I don't know. There's a process that you have to go through to now make it happen in Warwick is my point.

Mary Makofsky – I just want to commend the Board for passing these laws and just a point of information you're talking about control and the only way we can control the fracking process here is to say yes or no. Towns are not allowed to tell a gas company how to do this process and so that's where that local control comes in. Thank you very much.

Tracy O'Halloran - Who says you can't control the process?

Supervisor Sweeton – What happens is the State of New York exempts certain things from local control and so again this was stressed to us at various courses we attended the last couple of weeks. Unless you have very specific things and I'll give you a for instance. The way they do this process now involves a lot of truck traffic comings and goings all the time. If you don't have things in place to deal with potential damage to your roads you can't say to the company when it comes in with its permit "Oh wait a minute you need to give us a million dollar bond for our roads" so that's the kinds of things she's referring to. Once the state decides what it's going to do and decides where the guys issuing these permits, it means they don't have to come to the Planning Board like you or anyone else in the town that wants to do something and it's that Planning Board process that gives us the authority to try to get safeguards in place; so I think that's exactly what she's referring to. The example is the Millennium Pipeline which came through. It's no big deal; they did a great job, they were good for the economy, they behaved themselves for the most part but they really were exempt from our process. They chose as a public relations effort to actually come to the Planning Board and they posted some bonds for different things but they were quite clear in their first appearance. We do not have to be here and we're only here because we want to be good neighbors, so maybe the gas companies will be good neighbors, we don't know the verdict's still out. We just want to make sure that down the road probably when none of us are here and somebody wants to say maybe this is something we need to look at that they know exactly what they have to do and have it in place.

Tracy O'Halloran – Especially because the state only allows a 15 day processing time to respond.

Supervisor Sweeton – They publish it in that bulletin which if you're not a follower of you're going to miss it. It's not like they have to come like we do and put it in the

paper and our website so you know. We just want to keep them honest is the name of the game.

**ADJOURN: Motion Councilman DeAngelo, seconded Councilman Gerstner that the regular meeting be adjourned. Motion Carried (5 ayes, 0 nays) 1:40 p.m.
02-14-13 CP.**

Marjorie Quackenbush, Town Clerk