

**HARVEYS LAKE BOROUGH  
LUZERNE COUNTY  
Public Hearing  
CELDF Ordinance  
March 15, 2011**

The Public Hearing of the Harveys Lake Borough Council was held on Tuesday, March 15, 2011 at 6:30 P.M. at the Harveys Lake General Municipal Building, Route 415, Sunset, Harveys Lake, PA.

Council President Kopko called the meeting to order and asked everyone to join him in the Pledge of Allegiance.

President Kopko announced the meeting tonight was being tape-recorded and if anyone in the audience had a recorder to please advise Council at this point. Matt Hughes from the Times Leader indicated that he had a tape recorder.

**Roll call:**

Clarence Hogan	Mayor	Present
Fran Kopko	President	Present
Larry Radel	Vice President	Present
Boyd Barber	Council Member	Present
Rich Williams	Council Member	Present
Carole Samson	Council Member	Present
Ryan Doughton	Council Member	Present
Diane Dwyer	Council Member	Present
Charles McCormick	Borough Solicitor	Present
Susan R. Sutton	Borough Secretary	Present

**\*\*Indicates motions made.**

President Kopko stated that this was a public hearing to take public comment on the Proposed CELDF Ordinance and consider voting on enacting the Ordinance.

*(The meeting was advertised in the Times Leader and posted at the Borough Office.)*

The floor was opened for public comment.

Neil Turner read a prepared statement urging Council to pass the CELDF ordinance in order to protect the borough from the effects of Gas Drilling. He also presented a signed petition to council with 507 notarized signatures indicating that he feels this is a majority of voting citizens in favor of this ordinance. He also questioned the validity of using any resources from PSATS due to the fact that their annual conference is being held with donations from Chesapeake Energy, Range Resources, and other gas companies.

**DRAFT**

He stated that some of council's concerns were with legal issues and issues of liability. He feels the liability would be a remote possibility. He quoted several court cases and their outcomes. He feels that using zoning and strengthen zoning would also cost money. If the CELDF was passed, as least the brief would be written for the Borough. He stated that lots of communities had been helped by the CELDF ordinances that they had passed. He demanded that the Harveys Lake Borough Council represent the people who elected them and pass the CELDF ordinance.

President Kopko asked Mr. Turner to name some of the communities and the ordinances that had helped them. He was unable to answer. Mr. Kopko pointed out that he had made a statement that many communities had been helped and he asked him to name a few. Mr. Turner was unable to answer.

Ben Price from CELDF got up and tried to answer the question. He named communities and ordinances that were unrelated to gas drilling. Ie, the water issue in Maine where companies were taking water and not having to pay for it, and Sludge in another area. He gave the vision and scope of work for CELDF in Chambersburg. He gave a lengthy dissertation on rights and oaths. He stated also that the Council could do: 1) nothing 2) try to use structure of the laws in place like zoning. He stated that the people have a fundamental right to clean water.

Council asked Mr. Price if the city he lived in, Chambersburg, had passed any of the CELDF ordinances. He said no.

Rich Williams asked Mr. Price if this ordinance violates the Oil and Gas Act. He said no.

However it was emphatically pointed out that this ordinance clearly violates the Oil and Gas Act.

The audience got out of hand briefly with arguing amongst themselves, and council clearly stated that this was not a forum for debate. This was a forum to elicit public comment. Council had given Mr. Price, who is not a resident a chance to speak and was asking that he give the same courtesy to the residents as well.

Michael Daley read a prepared statement. He was clearly against drilling and fracking in Harveys Lake Borough, but did not support this CELDF ordinance. He felt it would be a big mistake for Council to enact this ordinance. He also had concerns with who would foot the bill if it ever came to court. He pointed out that the CELDF is not offering money to help defend it. He quoted several cases that had recently been decided and offered to provide the links to the Borough Secretary for anyone who wanted to check them out themselves. He strongly recommended that zoning laws be strengthened in order to help protect our lake.

Mike Dziak stated his concern that zoning only goes as far as the borough line. Our watershed extends beyond borough lines. We can't control our watershed through zoning. It is proper that council consider section #4 that would allow us to control our

destiny.

Robyn Jones stated that she had serious concerns after all of the research she has done since she heard about the ordinance here. She is a cancer survivor. She discussed some of the findings she had, including the fact that waste water from fracking is being allowed in the state to be disposed of with inadequate treatment. She is seriously concerned with the health risks. She urged council to please put people ahead of politics and citizens ahead of corporations.

Michelle Boice spoke and strongly recommended that council vote for the CELDF ordinance. She had a prepared statement, including pointing out problems in areas around, like Dimock, that are having major water issues directly caused from the gas drilling. She feels that the State is doing nothing and agreed that the people need to continue to lobby the State. She wanted to know what we fear. Do we fear contaminated water or a lawsuit? She feels it is all about the money. When we take the money we take the cancer. DEP is understaffed. The Borough needs protection now. She urged council to pass this ordinance.

Sheryl Newberry asked what kind of assurances Council could give that the gas drilling will not affect the Borough.

Santo Agati asked why didn't council hire someone experienced in drafting zoning laws and enact a law that will work. He asked if the Borough was ready to defend these ordinances. Get expertise on evaluating these ordinances and see if there is any validity. Let's use our money on expertise.

Michael Daley stated that he would provide the information on the court decisions to the Secretary.

Theresa Kotuski stated that by the time we have an expert, it will be 25 years down the road and the damage will already be done.

Jack Varaly, a planner for the Borough, spoke on behalf of the zoning ordinances. He feels that although zoning is imperfect, it is the best option that we have. The regulation to ban gas drilling is a land use and has to be incorporated in zoning. Any regulation can not ban use. It is site specific. If you ban it outright and it is challenged in court and proven unconstitutional, the site that was chosen will be allowed to drill in that location, no matter where it is, even in the middle of the lake. Zoning is not ideal, but it is the best that you are being offered at this time. It requires a Conditional Use and an Environmental Impact Study. He urged a review of the current zoning ordinances in order to have any success. Zoning does not regulate leasing. The Burden of proof is on the applicant.

Ben Price agreed in general, but differed in a few points dealing with land use and zoning. He stated that he is offering free legal services to the borough, with limitations. Not cash, just services. They will assist in defense with out charging for legal services.

Jack Varaly stated with great respect that he strongly disagrees. It is not a land use.

Mike Dziak stated that neighboring Wyoming County can issue permits. But who controls the surface. Zoning won't.

Irene Brislin stated that she is 100% against fracking. Where is the State at this meeting? Why aren't they here?

Sandra Serhan asked about the CELDF "fund". Where's the money? How much money do they have to defend us?

Mr. Price stated that there is no money in a fund. (Community Environmental Legal Defense Fund) is just a name. They are offering services, not cash.

Carol Culver stated that she is in agreement with Robyn Jones. That we need to find the right path to protect Harveys Lake Borough. The elected officials need to find the way to do that. She doesn't feel that our small community would be in a position to be sued. Why wouldn't they sue Pittsburgh instead?

She reminded Council that at the last meeting she had asked Boyd Barber to recuse himself from the vote, and was asking again tonight, that he recuse himself since he has property leased in another county.

She also challenged Ryan Doughton's right to vote stating that she feels his income comes from the gas industry. Ryan Doughton strongly disagreed with her statement and said that he will be voting. She accused him of smirking which he also strongly disagreed with. He stated that he takes this issue very seriously.

Rae Dziak asked if council was so concerned with the cost, than how were they going to feel when there were no property values.

**\*\*Councilmember Radel made a motion to adjourn, seconded by Councilmember Samson. The motion carried unanimously.**

At this point, the floor was closed.

**\*\*The meeting was adjourned at 8:00 pm.**

Respectfully submitted by:

Susan R. Sutton  
Borough Secretary