

Weekly Town Board Meeting
November 2, 2016

The Town Board held their Weekly Meeting on the above date at 7:30 p.m., at the Town Hall, 238 Main Street, Cold Spring, New York 10516.

Present:

Richard Shea	Supervisor
Nancy Montgomery	Councilwoman
John Van Tassel	Councilman
Michael Leonard	Councilman
Robert Flaherty	Councilman

Supervisor Shea opened the meeting with the Salute to the Flag.

Supervisor Shea stated the reason we are all here is to take comments on the Safe Storage Law, which was referred to the town attorney two weeks ago. This matter comes about as a result of a group that presented it to the Town Board.

Robert Tendy, Putnam County D.A. (ethically able to attend and speak on a law that may become before him) addressed the Town Board as both the District Attorney and a private citizen. He stated for the record that there are five reasons why this proposed law is not viable, First being pre-emption; Second, Constitutionality; Third, Lawsuit; Fourth, Enforcement; Lastly, in his opinion, the law is unnecessary. The State of New York has enacted regulations with regard to guns – in a sweeping coverage – called the “Safe Act”. For a community to pass a law that adds, and/or deletes New York State’s law and takes control is illegal. Pre-emption is defined as “a local government entity should not overtake a law that NYS has passed” which may involve lawsuits for Philipstown as well as other communities.

On the issue of Constitutionality; if this law is passed it violates the District of Columbia vs. Heller. It stands for – that a municipality cannot legislate firearms to the effect that they would become useless to you in a self-defense situation. You have the right as residents of the United States to defend yourself in your home at a moments notice.

Honorable Tendy then spoke of enforcement, noting that when the Journal News published the names and addresses of all gun owners, as DA, the department cannot enter their homes; No one in law enforcement can conduct himself or herself in that manner. It’s a violation of the 4th amendment. The only way this can be enforced is if, God forbid, a tragedy occurs. Prosecuting a case like this is also impossible to prove.

Craig Watters first commented stating that most in the audience share common grounds, as sportsmen and gun owners. He named several main points that would be covered as a group. He brought up the sad issue of suicide, which is a subject that plays a different role in gun safety, as it is a tragedy with mental health issues at hand. He asked who gets to decide what security devices are required in this proposed law. Councilwoman Montgomery stated that as it stands now, the Sheriff requires a photo of a safe bolted to the floor. Mr. Watters pointed out that this is only for handgun storage; the proposed law includes long firearms. Kevin McConville interjected and stated that a judicial branch made a recommendation that handguns are stored in this manner; it is not a requirement. Mr. Watters stated no one here is arguing about responsible gun ownership, as with the rights of gun ownership comes responsibility. Anyone here does take steps to safeguard their firearms, noting that this safeguard is what is

appropriate for each individual and their families. Common sense gun safety has been practiced for a long period of time. He asked that the Town Board cease any further consideration of this proposed mandate.

Mr. McConville then presented the Town Board a petition containing 537 signatures opposing the proposed ordinance. He supplied the Town Board with the decision of the District of Columbia vs. Heller, and the Common Council of the City of Poughkeepsie's points of contest. He then spoke of charges against the gun owner with various levels of enacted mandates and which one is to be used. It's unfair to the gun owners and would make prosecution nearly impossible. It is his belief that the Town Board is looking at enforcement by way of EMS services to report, much like CPS agencies. This would be an unintended consequence under this ordinance. There are sufficient Penal Law's in effect, to address this issue; the Town doesn't need to enact this ordinance. Mr. Watters added that having EMS personnel mandated to report is an additional layer of responsibility placed an overburdened task at hand. They then referenced Penal Law – Reckless Endangerment – that would most definitely cover any incident. And the second amendment protects the citizens to possess firearms – it is our given right.

Eric Vogel spoke of his family, including three small children and emphasized how he has taken the time to educate them on gun safety. He noted that the verbiage of this ordinance is all encompassing and self-limited at the same time. This proposal proposes that firearm owners don't have the intellect, or capability of safe storage; however, this council is deeming that you are capable of doing what firearms cannot. He noted that one and a half years ago, this type of legislation was attempted in Poughkeepsie and failed. He asked that this Town Board heed the decision made in Poughkeepsie.

Supervisor Shea spoke to the audience to assure them that this is an open discussion, which began when a large group of residents supporting this ordinance presented it to the Board. He went on to say that there is no reason to accuse the Town Board of violating the Constitution or federal and state mandates. We instead are taking comments from both sides to get a better understanding. This matter was referred to the Town attorney, as any other item presented to the board would be.

Edward (last name audible) stated that he served in law enforcement for over 30 years and has since retired. Through those years, he has witnessed legal gun owners protect themselves in the Bronx. They were able to protect themselves not only because they had firearms, but also they could retrieve them quickly. He added that without his firearms readily available to him, he would not be able to reach his firearm, thus leaving him defenseless.

Barbara Lusk stated she has researched the origins of this movement to moveon.org, which is across the country. This type of legislation has been enacted in California imposing a \$1,000.00 fine for each incident.

Tony Bardes interjected that this proposal is to save lives – on both sides, perhaps a closer look at gun safety courses is warranted. He recalls having these classes as part of the school curriculum.

Arthur Lopatin agreed with Mr. Bardes' suggestion with regard to education. He concluded that bit-by-bit ordinances such as this are opening up tyranny.

Rodney Dow gave some statistics regarding drug overdoses as compared to firearm deaths: Drug Overdoses – 69 in the past five years as compared to 27 deaths by firearms in Putnam County. This, to Mr. Dow, translates that anyone having opiates and other drugs in their medicine cabinets should now have to store them stored in a locked box. Just as that would be an invasion of your privacy, so is this ordinance to firearm owners. He went on to say that we have a great community and issues such as this divide our community. He strongly reiterated that gun safety courses are very important for our youth.

Another member of the audience Gerald (last name inaudible) pointed out that 12 years ago Westchester passed a similar law whereby his carry license can be used when hunting, fishing or camping. However when he stops at a McDonald's, he must leave his firearm in his car; this ordinance would make this illegal.

Some other items brought up are as follows:

- Locking up alcohol
- While cleaning your firearm and you are taken away from that for whatever reason, you are violating the law
- This law is criminalizing law abiding citizens and subjecting them to a misdemeanor and a \$1,000.00 fine
- Law enforcement officers carry their firearms everyday, active or retired, this is counter productive

Turning back to education, Councilwoman Montgomery asked if anyone in attendance participate in educational programs. Responding to that question, it was noted that the NRA conducts education courses. Putnam County Firearms Association and Scope in our community is looking into establishing just such courses.

Ralph Fleming asked each member of the Town Board if they are against or in favor of this ordinance to which Supervisor Shea responded saying that the Board is here to hear the pro-gun side. Councilwoman Montgomery said she is in favor of this process, which is not complete as of yet. She stated that this question is an insult to the democratic process. Supervisor Shea stated that it is premature for the board to offer an opinion, as they haven't fully vetted the subject. Councilman Van Tassel interjected that he too is a sportsman and grew up with firearms and yes he supports safe storage. He went on to say that the last time the Town Board heard both sides of this, he changed his storage to a different level as he now has a teenage son.

Sarah Geer argued that this ordinance would make any gun owner as responsible as members of this audience.

Another member of the audience, who is a safety instructor, opposes this law. One argument is that this ordinance provides for a criminal to enter someone's home, knowing that the guns are locked away, and hold a gun to the victims and walk away with additional firearms.

Marylyn Miller explained that when she was twelve years old, while babysitting, a known pedophile broke into the house. He was standing between Ms. Miller and the phone. She went on to say that had her parents not taught her about the handling of firearms she would not be speaking here tonight. She reached for the shotgun, knowing that there were two things she had to do before firing. She had to rack it and remove the safety. By the time she racked it he ran, without even pointing the gun at him.

Nick Castellano of Scope & Putnam County Firearm Owners Association pointed out that everyone here tonight is in favor of safe storage of firearms, however, we believe it should be left up to the individual and not a mandate. He also stated that mandated recommendations lead to unintended circumstances.

Supervisor Shea added he believes education is important. He also commented that he doesn't want to criminalize this matter – no one wants that. He reiterated that he has not made up his mind as of yet, because we want to hear what residents have to say.

There was a question from Mike Bowman asking who drafted this. Councilwoman Montgomery stated that she believed it came from the Albany draft. Supervisor Shea made it clear that any lobbying group did not lobby them.

Kathy (last name audible) stated that ordinances such as this one focuses on law abiding citizens, noting that the criminal element doesn't follow any of the laws. She also gave some stats on suicides with firearms.

Evelyn Watters gave a brief presentation touching on comments previously addressed, along with some statistics.

Thomas Allen grew up with firearms and has taught his daughters safety. It is his hope that if anyone enters his home that his wife will be able to defend the family, as she grew up around firearms.

Richard Longo stated he has served in the Air Force, law enforcement, and is currently an active threat instructor. He stated that if you lock someone's gun in a safe, it would only be a death sentence for someone trying to defend him or herself. We all sleep well at night because all men stand ready with a gun when we need it. He also touched on mental health issues, which need to be addressed. He closed stating we all owe our freedom to the men who picked up a gun.

Kevin (last name audible) is a national instructor on gun safety. Statistically, the number of deaths for youths fourteen and under has decreased by 28%. He generously offered to volunteer his hours to conduct training classes in gun safety.

Another member of the audience who is also well versed in gun safety and is currently holding classes also volunteered to teach this course. Joe Hyatt offered the Fish & Fur facility to conduct such classes.

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Finally, the remainder of the audience expressed their opposition to this ordinance for various reasons noted above. By the end of this meeting yet another instructor offered his time.

Shawn Conway made a final comment, for the proposal.

There being no further comments, the workshop ended at 9:45 p.m.

Respectfully submitted by,

Tina M. Merando
Town Clerk