

Hearing of the Town Board of the Town of Cuba
Town of Cuba Sex Offender Local Law

Held at the Cuba Circulating Library, 39 E. Main St., Cuba, NY

Present:

Supervisor: Barbara Deming
Council Persons: Joseph Miller, Jeffrey Dahill, Lynnford Sweet
Also, Present: Nancy Orcutt, Town Clerk
Absent: Robert Carney

Supervisor Deming called the Hearing to order at 6:30 pm with the Pledge of Allegiance.

With approximately 30 people in attendance, Supervisor Deming explained that the object of this hearing is to take into consideration the fact that the Town Board would like to pass a sex offender law. This law would limit where sex offenders could reside within our community. Before the law passes, there are still studies that need to be completed. The Clerk then read the preliminary law, which she explained, does need corrections.

Briefly summarized it states the legislative intent is to prevent sex offenders residing or living near areas where children regularly meet and congregate. The Town Board believes this legislation is necessary to protect further, the best interests of all children and to protect the health, safety and welfare of residents in the town of Cuba.

It goes on to define certain locations including church, synagogue, mosque or house of worship, day care center, library, park, playground, recreational and sports facilities, and school.

Residency restrictions are for persons over 18 year of age convicted of a violation of a sexual offense upon a child of the age of 16 or under. Law requires these people to register as sex offenders under state and/or federal law and they cannot live within 1,000 feet of the areas described above. Absence from a place of residence for a period of 30 days or longer shall be deemed a break in residency for purposes of this local law.

Penalties for offenses of failure to comply with the requirements of this local law within 30 days of receipt of a written notice by the Police Chief of the Town of Cuba or other Town Officers, shall be punishable by a fine not to exceed \$1,500 or imprisonment for a period not to exceed 15 days or both fine and imprisonment.

This law would take effect immediately upon its filing with the office of the Secretary of State as required by section 27 of the Municipal Home Rule Law.

There were numerous questions raised throughout the hearing and the Town Board and Police Chief Burch addressed all concerns very competently.

The Town cannot pass a local law that would not allow any sex offender to live in the Town of Cuba because it could create a lawsuit that the Town could not afford and it is discriminatory. Those offenders already residing in Cuba in areas described in the proposed local law 1,000 feet area are grandfathered in and cannot be asked to move. The audience showed signs of great distress at this fact. Chief Burch addressed concerns about how they congregate and how many can live in an area. Other State laws govern these situations are not a part of this local law. This law is to restrict where sex offenders may and may not live. This law is to help alleviate some of the recent problems experienced in Cuba and prevent them from reoccurring.

A brief discussion about Erin's Isle took place. Burch assured those present that the Department keeps an eye on the registered offenders. The police do know where they live because they are required to register. Offenders are also required to check in every so often to update or confirm information on file. Residents receive notifications in the mail to alert them to the fact that an offender is living in their neighborhood. A list of sex offenders and their pictures are on line at the Town website, cubany.org. Updates are done as soon as information is available.

Councilman Miller explained there is an age stipulation of 18 or older for convicted offenders because anyone under 18 would have youthful offender status, which is a shield, or prosecution takes place in family court. If the crime were so heinous, consideration would be given to publish their crime as an adult. The State has covered this field quite extensively. Once the sex offender has paid their dues to society through probation, which is 10 years, and told where they can and cannot live, at some point they should be able to resume a normal life. They essentially have a life sentence. Even though they are no longer on probation, they will always have to register with the local authority. When a local municipality steps outside of what the State says is permissible, the municipality is giving them a life sentence beyond what the offender was originally charged. This is not permissible. Municipalities cannot create a law that is more than a violation.

If everything goes smoothly, this local law could pass in 60 – 90 days of its adoption by the Town. Supervisor Deming hopes it will be passed at the September 11, 2012 Regular Board Meeting.

Chief Burch stated that we do not make the State Laws, but we do have to enforce them. Unfortunately, these people do have rights, we may not agree they should, but we do have to follow the law. The police will map out where the sex offenders cannot live and hand them a map when they register with the Police Department.

When someone moves from another municipality, the local police notify the new municipality of their move, along with the Probation Department. If they have not registered within 10 days, they are in violation, and another crime has been committed. Councilman Sweet commented that the Town Board is hoping that this will deter offenders from moving to Cuba because of this law. They cannot live within certain designated areas, but they could still move to your neighborhood. Supervisor Deming added that family members, friends or close neighbors commit 94% of this type of crime against small children.

As for children who need to walk to school, Chief Burch brought up the Neighborhood Watch Program recently established in our community. He gave several tips such as have children walk in groups, adults may take turns walking them, and just keep an eye out for anything suspicious, to name a few. The next meeting is at 7 pm on August 30, at the A. A. Arnold building, behind the fire hall. Everyone is always welcome. Every few months the group meets and discusses different topics. This could be a topic this month if the group chooses to do so. The idea of the group is to have neighbors watch out for each other and report anything suspicious. He emphasized that all reports will be investigated to give peace of mind.

If a second offense is committed, that is dealt with by the State, as this is more than a violation. One meeting attendee stated that a child is entitled to a childhood. A sex offender deprives the child of that right. Why do we have to listen to all the State's laws? Most laws written are not deterring the offenders one little bit. Chief Burch and Councilman Miller encouraged the public to contact their Senators and Assemblymen

about these concerns and ask why these laws are so weak and not written in a manner to strengthen them. At this point, a push by their constituents is possibly the best way to set this in motion. As it is now, our hands are tied.

If someone reports an offender, a signed, written complaint needs filed. Unless an officer is present at the time of the action, he cannot make an arrest. The accused has the right to know who is reporting them in the event they want to confront that person.

A request that another meeting be held on same topic before the law is considered for adoption. Deming agreed to hold another hearing at 6:30 pm, prior to the Regular Board Meeting on September 11. The meeting is scheduled at the Library.

At 7:19 pm, Councilman Dahill motioned to close the hearing, seconded by Councilman Sweet. All in favor, motion passed.

Respectfully Submitted,

Nancy A. Orcutt
Town Clerk
Town of Cuba