

****DRAFT****

PUBLIC HEARING UPON

PROPOSED LOCAL LAW # 1 OF 2010 ENTITLED “A LOCAL LAW REPEALING CHAPTER 89 OF THE FORESTBURGH CODE WHICH SETS FORTH THE RIGHT TO FARM LAW PREVIOUSLY ADOPTED AS LOCAL LAW #1 OF 2000”.

FEBRUARY 4, 2010

Supervisor Galligan called the public hearing to order at 7:00 p.m.

Roll Call: Present – James P. Galligan, Supervisor
William B. Sipos, Councilman
Michael Creegan, Councilman
Absent - John W. Galligan, Councilman
Eugene D. Raponi, Councilman

Recording
Secretary – Joanne K. Nagoda, Town Clerk

Others
Present – William Bavoso, Attorney for the Town
Dan Hogue, Highway Superintendent
Susan Hawvermale, Planning Board Chair
Luiz C. Aragon, Sullivan County Commissioner of Planning
Kathy LaBuda, Legislator
Frank Armstrong, Legislator

Proof of Notice as published in the Sullivan County Democrat was submitted and read by Town Clerk, Joanne Nagoda.

Supervisor Galligan stated that this is a public hearing, not a debate. Please address your comments to the board and not each other. Attorney Bavoso will give a brief overview of the Right to Farm law.

Attorney Bavoso stated that the Right to Farm law was enacted several years ago and it was enacted by many municipalities around the State of New York. It mirrors to some degree, the right to farm provisions in the Agricultural laws and it's stated purpose was to encourage and preserve the rural nature of New York and protect people interested in maintaining farming operations within a town. It has a notice requirement to sellers of real property, that they must provide notice to buyers within 500 feet of the agricultural district. One of the provisions of the law that may affect our local community is that it requires the Town Board be a dispute resolution board generated by controversies that may involve the agricultural practices that are occurring on the agricultural land in the town, between individuals who may claim that these agricultural practices are creating a nuisance that dispute must be submitted to the Town Board for resolution. That is the general “gist” of the right to farm law.

Luiz C. Aragon, Commissioner of the Sullivan County Division of Planning – The County cannot ignore home rule. I work for you, for the Town of Forestburgh. It's important to remember, that Forestburgh, like all of the other towns are part of a puzzle. For this County to really work, we all have to work together, my job is to be the glue that holds the pieces together. We just had a charette for economic development for the County, and many of you who are here attended that. We debated what should happen in the County so there is a bright and shining light at the end of the tunnel so that we can turn the economy around. While debating the future of the County, there was one common denominator, all discussions, all groups all of the recommendations – that was agriculture. Everyone, all 155 people in that room debating the future of the county, agreed that agriculture was the single most important industry in this County. We are talking about a revenue of 84 million dollars generated with an economic impact of 250 million dollars a year to our economy. Without it, we are in real trouble. Having said that, and acknowledging the importance of home rule, of what you want to do in your town, because it's your right. We need to remain

together when we talk about agriculture. I need to be able to talk about the county and say that Sullivan County supports agriculture. One of the things that I have learned in my professional life is that the hardest thing in the world is human communication. Right now today, as I am speaking, what I think I am saying to you may not be what you are hearing. It is very hard to communicate. Discussions of how can we make this process easier, how can we make sure, that in a 30 day window, when the ag district comes up again, that the Town is more involved. In the discussions, in resolving what the issues are. So, I propose the following, that before any recommendation is made to the ag and farmland protection board, that my office, when we go out to visit the site when an application is received. I will invite the Supervisor of each impacted town to come with us to visit the site and any other board member who wants to visit the site, so we can get their input as we view the site. Once that is done, I am also recommending that my office will sit down with every Supervisor and we will debate the issues that you may have with that application. It's my office and I will attempt to resolve any issues before any recommendation is made to the ag & farmland protection board. So that when the recommendation is made, it's made in a way that embraces the issues that the Town may have. I urge you to think about that when you make your decision, because I am here to work together with you not without you.

Mary Ann Toomey – I am in favor of home rule and I think the law should be done away with.

Ben Wechsler – I must say the atmosphere here is much more open than it used to be at our Town Board meetings and I am grateful for that. Of course I am here in favor to repeal this almost pointless piece of legislation and to tell you about my guesses. I don't remember this bill being passed a few years ago, and I am pretty attentive to the activities of the town. I certainly heard no discussion of it. I think the State of New York passed legislation that was intended to protect existing farms from changes in the neighborhood produced by growth. And as homes and even apartment buildings began to be developed in the vicinity of farms which, in a couple of heart wrenching cases, produced the legislative action in Albany, had been there for 200 years as a family farm. People moving in began saying they didn't like the noises, they didn't like the smells and they would pass new zoning legislation which would be retroactively employed. Instead of keeping the farms and their activities grandfathered. So correct that, the freedom to farm act was passed. I think at the same time a recommendation was sent down to the counties for a parallel local law which was then sent by the then, not the "new" county planning department without much reflection or discussion to the Town's and the Town Board's thought "nice idea" and they passed it. Not a good way to conduct government. This law now serves no purpose. It has been superseded by the State law, but it implies, and this the major thing for the board to consider, that we approve giving up, dare I say it, our sacred right to self government. Lincoln said, as I have told the County Legislature twice, in the last year and a half. This is a government of the people, BY the people. Not by people who can pass laws and make rules which, if they vote wrong will never affect them, because they live hundreds of miles away and don't even know about it. I do not think we can do that, and I think that if we do nothing else, if this law is repealed, it expresses our displeasure at the contempt of which we have been held by others who will never feel the impact of what they do. Now I think Mr. Aragon's ideas are good, but do not go far enough. They still leave the authority of the future of Forestburgh in his hands and he does not run for office. My experience with him, which is limited has been excellent and I think he is a remarkable contribution to the county staff, but I still think laws should be made by elected officials. Let me go to something slightly different, as Mr. Aragon's presentation, I think the fundamental function of every government, the government of communist China, the government of Italy, the government of Russia, the government of Brazil, the government of Forestburgh is to protect its citizens. I would like to suggest to you, to consider, as concomitant, parallel, hand-in-hand with your repeal of this freedom to farm so-called act, either a new law or an amendment to the comprehensive plan which says the first commitment and priority of the government of Forestburgh, and it's planning arms, should be the protection of existing communities. Which would mean Lake Joseph, Hartwood, Merriewold, Black Brook, the Hatchery Road, Gilman Pond and anything else you can think of, Oakland Valley. That is what we need to do. We need to get our priorities straight and tell the County what our priorities are. It has been recorded in the paper that some officials at the County said that if we repeal this law, it might stop new farms from coming into Forestburgh. That is more than ridiculous, that's asinine. We have a Planning Board, we have a Town Board, applications can be examined not by somebody who lives in Albany, but by somebody who lives here.

George Billeci – I bought Pauline Bott's property almost 20 years ago on Plank Road. I have a historic barn on the property that I know doesn't look so good now, but you will all be very pleased to see these new drawing that I have to repair the barn. Anyway, what enabled me to finally be able to do this was, if I start a small Christmas Tree Farm, the County will give me \$25,000.00 to fix the barn, at like 3%, if I do the tree farm. I don't know where that stands, but... wouldn't the Town benefit if I open a Christmas Tree Farm? Just the history of farming, I'm confused.

Robert Kaplan – I am the chairman of the Sullivan County Agriculture and Farmland Protection Board and I just want to make one comment to correct the statement made by Mr. Wechsler. Just to get correct information. The comment is that he didn't feel that Mr. Aragon should be in charge basically of what goes on in your local town and that the people who wrote these decisions should be elected. Mr. Aragon is just one member of the Agriculture and Farmland Protection Board. His office is responsible for everything that we do with reporting to the Department of Agriculture for the State of New York, but he is one member of the board. The remainder of the Board is either County Commissioners, the Commissioner of Real Property Tax Service, we have a Legislator, Frank Armstrong, who is a member of our board, the remaining members of the board are members of the agricultural community, all of whom are appointed by the County Legislature. So this is not a group of people or an employee of the county telling you what to do. It is representatives from the County agricultural community and elected officials that are involved in determining whose properties are requested to be part of the ag district. I think that is important for all of you to understand.

ROLL CALL – Eugene D. Raponi, Councilman, Present

Paul Jones – Repealing this law can get us more home rule here and get the County off of our backs a little bit, I would be in favor of that.

Supervisor Galligan asked Clerk, Joanne Nagoda to read the letters/comments received by mail and e-mail.

The first is a letter from the Sullivan County Agricultural and Farmland Protection Board – They respectfully request the following be read into the minutes of the public hearing on February 4, 2010 referencing the repeal of the “Right to Farm Law”.

“As Forestburgh was the first Town to adopt the Right to Farm Law in the County of Sullivan back in the year 2000, you as the Town Board recognize the importance of Agriculture in the County. Agriculture is the County's number one year round industry for revenue producing over \$82 million dollars of economic value to the County. When you consider that each dollar generated at the farm turns over 3 times in the community, the total economic impact of agriculture in the County is over \$246 million dollars. These figures are from the year 2008. What that means is that the trend in the County is an increasing number of farms due to the small niche farming operations. This directly correlates to the economic impact of agriculture within the County on a steady rise from years past.

Farms help to keep the taxes in the Town lower. The taxes are lower due to the fact that residential property consistently demands more in town and school expenditures than it contributes in tax revenues. Studies have shown that for every one dollar in farm revenue generated only twenty to thirty six cents in services are needed while homes need \$1.17-\$1.74 in services for every dollar collected in taxes.

Farming encourages open space. In preserving farmland discourages expensive urban/suburban sprawl and steer development toward hamlets and villages with existing infrastructure. With the public wanting to know more of where their food comes from this point is extremely important for food security reasons. Once we lose our open farmland to development there is no going back. They say that blacktop is the last crop.

Farming operations attract tourists and second home buyers. Visitors and seasonal residents are attracted to the County because of its diversity of landscape and farms are an essential component of this.

Farms preserve natural environments. This is something Forestburgh is known for, its pristine landscapes. Farm operations help to provide and preserve self-sustaining landscapes and serve as a natural filter and buffer to reduce soil erosion and/or improve water quality.

Farming operation fundamentally support and help sustain many other businesses within the County. Farming is the mainstay of a healthy rural economy. Farmers buy their supplies locally and support other local businesses such as lumber yards, hardware stores, car dealerships, etc.

The Agriculture and Farmland Protection Board would like to respond to the minutes of the December 3, 2009 where it was stated that there are currently no working farms in the Town. This statement is absolutely false as the Town of Forestburgh houses the largest Alpaca operations in the County. Also there are a few individuals interested in starting small niche operations in your town. If you repeal the Right to Farm law currently in your code you are closing the door on preserving the natural beauty of the landscape your Town has cherished since its foundation, and opening the door to commercial industrialized invasive growth that will eventually diminish your pristine landscape. Respectfully submitted, Robert Kaplan, Chairman of the Sullivan County Agriculture and Farmland Protection Board.

Next is a letter received this afternoon via e-mail – We are sorry that we are unable to attend this evening’s board meeting, but wanted to make a comment regarding the subject of repealing the “RIGHT TO FARM” law. My husband and I are owners of a home and property in Forestburgh and although we are not full time residents yet, when we do retire this will be our home. After carefully reading the State Agriculture and Markets law, agricultural practices and products we feel that this change would be detrimental to the community as well as our way of living. If someone wants to open a Christmas tree farm, sell maple syrup, fruits, vegetables, wood land products raised for bioenergy or livestock and lamas; and add to our tax base this would be a plus. But if we deny the freedom of commerce to any future residents and change a peaceful way of life we do not think repealing this law would benefit anyone. We also think that this issue is being brought up for the benefit of a few over a longstanding feud that should not change the way of life in Forestburgh we look forward to in the future.

Thanking you for your time

Bob and Barbara Leone

To the Town of Forestburgh and Honorable Board Members,
As a concerned citizen and local tax payer I am writing you with my concerns and to let you all know how I feel regarding Thursday evenings public hearing. I would like to state that your support for Mr. Wechsler in the past is greatly appreciated by me and many other silent taxpayers. Rest assured we have been watching what has been going on in our Town. I and my fellow taxpayers are very concerned about the misuse of our Agricultural District status. While we are aware that this was imposed on us under false pretences we hope that motions will be made to repeal the "freedom to Farm Law" and restore our Home Rule. Allowing Big Brother and the local "bully on the block" to rule from afar and with selfish motives is a slap in the face to our community and wrecks of cronyism. We need to take back our wonderful community before it is too late. Due to the fact that I have a previous engagement Thursday evening I will not be able to attend, so I will ask you to please feel free to read this e-mail for the record.
Sincerely,
Christopher Thiesing

Dear Supervisor Galligan-

I wish to commend town officials for their consideration in repealing Forestburgh's right-to-farm law. As an owner of 5 acres on the Hatchery Road I strongly hope that you are successful in strengthening home rule. Forestburgh is named as it is. There is no more beautiful area than your town. Your governing body must be in control of Forestburgh so that YOU make future decisions rather than the County Legislature or worse-Albany.
Please protect our wonderful environment. Sincerely Philip Chase

Please advise the board that I support the motion to repeal the ."FREEDOM OF FARM" law. JOAN FARROW

I FULLY support the Repeal of The Freedom to Farm Act. The original intension of this law was noble, i.e. protecting existing, working farms. I do not believe a personal zoo is what this law was put in place to protect. True advocates for farming should be alarmed at how this has been twisted for certain individuals personal benefit. At the very least, a clearer definition of a "farm" is necessary. Please read this at the meeting this evening. Thank you.

Sincerely,
Donald Devine
Land owner on the Hatchery Road in Forestburgh,

I am writing to you at this time to express support for any motion to repeal the "freedom to Farm Law" in order to preserve Home Rule and not allow others to control the people's lives who might live far from rules maker, in Albany, for instance. I believe that the Town of Forestburgh has the right to set its own rules in this situation, in that it is a unique and beautiful area, whose character and integrity would be threatened by random and wanton farming

development. I also request that this opinion be read at the February Public Hearing. Sincerely, Dorian C. Tergis
MD Eden Falls Hunt and Fish Club Owner-Member

MOTION by Councilman Sipos, seconded by Councilman Creegan to close the public hearing at 7:30 p.m. and receive written comments until February 18, 2010. Vote: 4 ayes – 0 nays. Motion carried.

Respectfully submitted,

Joanne K. Nagoda,
Town Clerk