

Monday May 21, 2012

Members present: Dave Granzin, Linda Lefko, Floyd Hoover, Jack Hessney, Elaine Thiesmeyer and Sam Selwood excused.

Meeting called to order at 7:00 Pm.

Motion was made by Dave to accept the modified minutes to include the information regarding the A. Martin request for a variance regarding a fence that has been constructed on NYS Dept of Transportation land. Seconded by Hoover, passed unanimously.

Discussion on the April meeting motion to notify the town board regarding a feasibility study and previous costs of feasibility study - Dave felt it was up to person who made the motion to make the rescinding motion; possible rescinding of motion tabled until June meeting.

Committee Reports:

Agriculture Committee made recommendation to have the town Board adopt the Milo version of the Right to Farm Law. This should be passed on to the Town Board for passage. It reads:

Chapter 85.

FARMING

[HISTORY: Adopted by the Town Board of the Town of Milo 2-21-2006 by L.L. No. 1-2006. Amendments noted where applicable.]

GENERAL REFERENCES

Subdivision of land — See Ch. 120.

Zoning — See Ch. 140.

§ 85-1. Legislative intent and purpose.

- A. The Town Board recognizes that farming is an essential enterprise and an important industry which enhances the economic base, natural environment and quality of life in the Town of Milo. The Town Board further declares that it shall be the policy of this Town to encourage agriculture and foster understanding by all residents of the necessary day-to-day operations involved in farming so as to encourage cooperation with those practices.
- B. It is the general purpose and intent of this chapter to maintain and preserve the rural traditions and character of the Town, to permit the continuation of agricultural practices, to protect the existence and operation of farms, to encourage the initiation and expansion of farms and agri-businesses, and to promote new ways to resolve disputes concerning agricultural practices and farm operations. In order to maintain a viable farming economy in the Town of Milo, it is necessary to limit the circumstances under which farming may be deemed to be nuisance and to allow agricultural practices inherent to and necessary for the business of farming to proceed and be undertaken free of unreasonable and unwarranted interference or restriction.
- C. It is also the intent of this chapter to establish an Agricultural Advisory Committee. The purpose of this chapter is to recognize the importance of agriculture as both a vital local economic base and as a landform that provides the Town of Milo with much of its rural land, rustic character and charm. The Agricultural Advisory Committee will set up a structure for which complaints, questions and comments about current and future farming practices can be handled in a timely and professional manner; to aid the Town Board in keeping abreast on current and future farming practices; establish a cooperative relationship between all different types of farms and Town government; to give the non-farm community comfort that their concerns and questions can be handled without unnecessary alarm; and to reaffirm that the Town of Milo supports agriculture.

§ 85-2. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

AGRICULTURAL PRACTICES

Those practices necessary for the on-farm production, preparation and marketing of agricultural commodities. Examples of such practices include, but are not limited to, operation of farm equipment, proper use of agricultural chemicals and other crop production methods, and construction and use of farm structures.

AGRICULTURAL PRODUCTS

Those products as defined in § 301(2) of Article 25-AA of the State Agriculture and Markets Law, including, but not limited to:

- A. Field crops, including corn, wheat, rye, barley, hay, potatoes and dry beans.
- B. Fruits, including apples, peaches, grapes, cherries and berries.
- C. Vegetables, including tomatoes, snap beans, cabbage, carrots, beets and onions.
- D. Horticultural specialties, including nursery stock, ornamental shrubs, ornamental trees and flowers.
- E. Livestock and livestock products, including cattle, sheep, hogs, goats, horses, poultry, llamas, ratites, such as ostriches, emus, rheas and kiwis, farmed deer, farmed buffalo, fur-bearing animals, milk and milk products, eggs, furs, and poultry products.
- F. Maple sap and sugar products.
- G. Christmas trees derived from a managed Christmas tree operation whether dug for transplanting or cut from the stump.
- H. Aquaculture products, including fish, fish products, water plants and shellfish.
- I. Short-rotation woody crops raised for bioenergy.
- J. Production and sale of woodland products, including but not limited to logs, lumber, posts and firewood.

FARMER Any person, organization, entity, association, partnership, limited-liability company, or corporation engaged in the business of agriculture, whether for profit or otherwise, including the cultivation of land, the raising of crops, or the raising of livestock.

FARMLAND

Land used in agricultural production, as defined in Subdivision 4 of § 301 of Article 25-AA of the State Agriculture and Markets Law.

FARM OPERATION

As defined in § 301(11) of the State Agriculture and Markets Law.

§ 85-3. Necessary agricultural practices authorized.

- A. Farmers, as well as those employed, retained, or otherwise authorized to act on behalf of farmers, may lawfully engage in agricultural practices within this Town at all times and all such locations as are reasonably necessary to conduct the business of agriculture. For any agricultural practice, in determining the reasonableness of the time, place, and methodology of such practice, due weight and consideration shall be given to both traditional customs and procedures in the farming industry as well as to advances resulting from increased knowledge, research and improved technologies.
- B. Agricultural practices conducted on farmland shall not be found to be a public or private nuisance if such agricultural practices are:

- (1) Reasonable and necessary to the particular farm or farm operation;
- (2) Conducted in a manner which is not negligent or reckless;
- (3) Conducted in conformity with generally accepted and sound agricultural practices;
- (4) Conducted in conformity with all local state, and federal laws and regulations;
- (5) Conducted in a manner which does not constitute a threat to public health and safety or cause injury to the health or safety of any person; and
- (6) Conducted in a manner which does not reasonably obstruct the free passage or use of navigable waters or public roadways.

C. Nothing in this chapter shall be construed to prohibit an aggrieved party from recovering from damages for bodily injury or wrongful death due to a failure to follow sound agricultural practice, as outlined in this section.

§ 85-4. Notification of real estate buyers.

In order to promote harmony between farmers and their neighbors, the Town requires land holders and/or their agents and assigns to comply with § 310 of Article 25-AA of the State Agriculture and Markets Law and provide notice to prospective purchasers and occupants as follows: "It is the policy of this state and this community to conserve, protect and encourage the development and improvement of agricultural land for the production of food, and other products and also for its natural and ecological value. This notice is to inform prospective residents that the property they are about to acquire lies partially or wholly within an agricultural district and that farming activities occur within the district. Such farming activities may include, but not be limited to, activities that cause noise, dust and odors." This notice shall be provided to prospective purchase of property within an agricultural district or on property with boundaries within 500 feet of a farm operation located in an agricultural district. A copy of this notice shall be included by the seller or seller's agent as an addendum to the purchase and sale contract at the time an offer to purchase is made.

§ 85-5. Agricultural Advisory Committee.

- A. The Agricultural Advisory Committee (hereinafter "Committee") shall be composed of five members appointed by the Town Board as follows:
 - (1) Four residents of the Town of Milo from the agricultural community, including, but not limited to, representatives from the crop production and dairy segments, livestock, field crop, greenhouse/vegetable, and vineyard. The members shall recommend a chairperson for appointment by the Town Board.
 - (2) One member of the Town Board shall serve as an ex-officio member.
- B. The four community members appointed to the Committee shall serve for four-year terms. Upon initial formation one member shall be appointed for one year, one member shall be appointed for two years, one member shall be appointed for three years, and one member shall be appointed for four years. Each year thereafter reappointments or new appointments will be for a four-year term. The Town Board member shall serve and be appointed for a one-year term.
- C. Appointments shall be from January 1 through December 31.
- D. Members shall serve without salary.

§ 85-6. Duties of Agricultural Advisory Committee.

A. The Agricultural Advisory Committee (hereinafter "Committee") shall:

- (1) Meet annually or biannually to discuss any issues pertaining to farming in the Town that might be of concern in the Town. These annual review and recommendations shall focus on zoning, planning activities and other actions within the county agricultural districts and the Town agricultural zones.
- (2) Report annually to the Town Board, with copies of the report being forwarded to the Yates County Farmland Protection Board, Yates County Farm Bureau and possibly in the future other towns with Agricultural Advisory Committees.
- (3) Advise the Town Board and the County Agricultural and Farmland Protection Board in relation to the proposed establishment, modification, continuation or termination of any county agricultural district. The board shall present advice relating to the desirability of such action, including advice as to the nature of farming and farm resources within any proposed or established area.
- (4) Review county, state and federal legislation affecting agricultural issues and communicate the effect to the appropriate board and/or the Town Board.
- (5) Serve as a vehicle for communication between the agricultural community, the Town and/or the County Agricultural Farmland and Protection Board.
- (6) Submit to the Town Board an annual summary of the activities of the Agricultural Advisory Committee.

B. Whenever a proposed zoning, policy change or development (residential, business or industrial) affecting Town agricultural zoning districts is presented to the Town Board within or contiguous to a county agricultural district or Town agricultural zones it shall be referred to the Agricultural Advisory Committee for review. The Agricultural Advisory Committee shall have 45 days to respond with a recommendation(s) for the action(s). The board shall present advice relating to the desirability of such action, including advice as to the nature of farming and farm resources within any proposed or established area. This recommendation(s) shall include a determination as to whether the proposed action(s) will have an unreasonable adverse effect on the continuing viability of a farm enterprise or enterprises within the county or Town agricultural districts. This recommendation(s) shall be advisory only.

C. If any controversy arises regarding any inconveniences or discomfort occasioned by agricultural operations which cannot be settled by direct negotiation between the parties involved, either party may submit the controversy to a Dispute Resolution Committee as set forth below in an attempt to resolve the matter prior to the filing of any court action and prior to a request for a determination by the Commissioner for Agriculture and Markets about whether the practice in question is sound pursuant to § 308 of Article 25-AA of the State Agriculture and Markets Law.

- (1) If controversy arises between the parties, it shall be submitted to a Dispute Resolution Committee within 30 days of the last date of occurrence of the particular activity giving rise to the controversy or the date the party became aware of the occurrence.
- (2) The Dispute Resolution Committee shall be composed of three members from the Town selected by the Town Board, as the need arises, including one representative from the Agricultural Advisory Committee, one person from Town government and one person mutually agreed upon by both parties involved in the dispute.
- (3) The effectiveness of the Committee as a forum for the resolution of disputes is dependent upon full discussion and complete presentation of all pertinent facts concerning the dispute in order to eliminate any misunderstandings. The parties are encouraged to cooperate in the exchange of pertinent information concerning the controversy.

(4) The controversy shall be presented to the Dispute Resolution Committee by written request of one of the parties within the time limits specified. Thereafter, the Committee may investigate the facts of the controversy but must, within 25 days, hold a meeting at a mutually agreed place and time to consider the merits of the matter and within five days of the meeting render a written decision to the parties. At the time of the meeting, both parties shall have an opportunity to present what each considers to be pertinent facts. No party bringing a complaint to the Committee for settlement or resolution may be represented by counsel unless the opposing party is also represented by counsel. The time limits provided in this subsection for action by the Committee may be extended upon the written stipulation of all parties in the dispute.

Adopted by Town of Milo 2-21-2006

Torrey Hydrofracking Committee meets on Wednesday and has several new members. They are working on reports of impacts of hydrofracking in preparation for a Town Meeting.

Sub Division Draft review- a concern that there is no table of contents, discussed Keyhole Development, restructured sentences throughout, edited spelling, deleted redundant wording, Jack will make changes to the draft and redistribute to members.

Discussion on application for sub division, Colby will be contacted by Jack, to make the update changes needed.

Dave announced he will be absent for June meeting, Jack will prepare agenda.

There being no further business, Jack made a motion to adjourn 2nd Floyd carried at 8:15 Pm.