

**REGULAR MONTHLY MEETING  
TOWN BOARD OF THE TOWN OF LIBERTY  
October 17, 2016 7:00 P.M.**

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At the Regular Monthly Meeting of the Town Board of the Town of Liberty held on October 17, 2016 at 7:00 p.m. at Town Hall, 120 North Main Street, Liberty, New York, the following Town Board Members were present:

**PRESENT:**

Supervisor Charlie Barbuti  
Councilperson Dean Farrand  
Councilperson Russell Reeves  
Councilperson Brian McPhillips  
Councilperson Vincent McPhillips

Finance Director Earl Bertsch  
Budget and Accounting Clerk Cheryl Gerow  
Water & Sewer Foreman Thomas Kehrley  
Confidential Secretary Carmen Malanka

**ALSO PRESENT:**

Richard Winters of Delaware Solar Co.

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After the Pledge of Allegiance, Supervisor Barbuti called the meeting to order at 6:30 p.m.

**CORRESPONDENCE**

1. An email from Jeremy Gorelick regarding activities on Mineral Springs Rd.
2. 239 Review from County of Sullivan regarding imposing a limited commercial solar energy generating facility land use moratorium in the Town of Liberty.

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**RECOGNIZE THE PUBLIC**

**Richard Winters of Delaware River Solar** explained the PILOT that the Sullivan County IDA is preparing. The Board gave conceptual approval for the IDA PILOT which would begin with a \$20,000 floor and 6% revenue (voluntary). The decommissioning still needs to be met.

**Sean Zigmund** presented the following (2) documents to the Town:

To Town of Liberty, NY Board Members Dean Farrand, Russell Reeves, Vince McPhillips, Brian McPhillips, and Supervisor Charlie Barbuti:

We, the 46 (and counting) signatories and tax payers included on this letter do hereby demand the Town Board of Liberty, NY immediately and indefinitely suspend the rezoning process of 2016 based on the fact that a) the zoning map changes are against the current Town and Village Joint Comprehensive Plan, the current Town Agriculture and Farmland Protection Plan, the Sullivan County Comprehensive Plan, and New York State Agriculture and Markets Law (25 AA, section 305a which states "**Local governments, when exercising their powers to enact and administer comprehensive plans and local laws, ordinances, rules or regulations, shall exercise these powers in such manner as may realize the policy and goals set forth in this article [Article 25-AA of the Agriculture and Markets Law], and shall not unreasonably restrict or regulate farm operations within agricultural districts in contravention of the purposes of this article unless it can be shown that the public health or safety is threatened.**") b) that the reasons given to the public for the rezoning are based in conjecture and there is no financial or economic data or evidence given to the public to back the Town Board's reasons, and c) the general public were not transparently involved in the process and we do not feel the changes presented will be positive for our town based on data obtained from the Town Clerk and obtained from members of the community who were questioned by our group of concerned tax payers. In fact, almost all people we've spoken to have no idea what is happening, how it is happening, where it is happening, or why it is happening.

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If the town continues to proceed with the rezoning, we have no alternative than to seek legal counsel and take legal action against the town and the members of this board.

Sincerely,  
The Concerned Taxpayers of Liberty NY Opposing the Rezoning of 2016

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Cheyenne	Zigmund	yaminala@hotmail.com	845-292-9126	Home/Farm	Root 'N Roost Farm
Christine	Miller		845-292-3269	Home/Business	Dahlia Delights
Christy	McCabe	christyllynnemccabe@gmail.com			
Cindy	Geiger	cmkgieger@gmail.com	(845) 482-5729	Home	Gieger Farm
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Dennis	Farrell	farrell784@gmail.com	321-505-6030	Cell	WSS Apartments
Donna and Anthony	Leyden	mtadleyden@gmail.com			
Eugene	Thallman	ethalman55@gmail.com	(631)332-7948	Cell	Sprouting Dreams Farm
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Kathie	Aberman	kmaberman@gmail.com			
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Leeanna	Maniace	leeannamaniace@gmail.com			Sprouting Dreams Farm
Leigh	Perlmutter	leighp123@hvc.rr.com	845 701 6162	Cell	
Linda Babicz			845-551-4188	Home	
Louis	Pegno	ljpegno@gmail.com			
Marilyn & Paul	Woods	beaverwoodfarm@gmail.com	(845)295-0194	Home/Farm	Beaverwood Farm
Michael	Economos	econo@optonline.net	516-521-7558	Home	
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Sean	Zigmund	sean@zigmund.com	845-292-9126	Home/Farm	Root 'N Roost Farm
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Todd	Monaghan	tminism@gmail.com			
Vincent	Cuneo	agrarianfeast@gmail.com	(845)701-3944	Cell	Agrarian Feast Farm

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***This list is growing DAILY.***

**Town of Liberty proposed zoning amendments**

**Sullivan County**

According to the AFPB, proposed amendments to the Town's Zoning Code will change the designation of 45 parcels within the Town from AC and RD to R-1. The proposed zoning change will affect 653.53 acres of land, of which, 404.35 acres are located within a county adopted, State certified agricultural district.

**Comments on proposed amendments to the Town's Zoning Code**

**Section 147-4 Definitions**

**Agri-business** – includes a number of activities, some of which have not been protected under the Agriculture and Markets Law (AML), or protected depending upon the circumstances, and/or have always been considered part of a farm operation. The town may include all of these activities as part of an agri-business, but if reviewed by the Department, protection depends upon the activity.

Activities that have never protected as part of a farm operation – bed-and-breakfasts, farm stays, farm supported businesses such as community kitchens and farm-compatible businesses.

Activities that may be protected, but protection is determined on a case-by case basis – expanded road stands (not sure of the meaning here), farm markets where more than one farmer participates in the market, seasonal events, school programs, weddings and parties, bakeries, farm stores and restaurants. Farm wineries, distilleries, cideries and breweries may or may not be part of a farm operation as defined in the AML. The Department has guidance documents on farm marketing and wineries/distilleries/cideries/breweries (copy enclosed).

Always protected – u-picks, CSAs, roadside stands/farm markets that predominantly sell products grown on the farm, corn mazes if the farm sells other farm products grown on the farm, hay rides, pumpkin patches, dairy barns, farm distilleries/farm wineries if they produce 51% of the ingredients needed to make the alcoholic beverages and, not mentioned in the definition, cideries and breweries if they produce 51% of the ingredients needed to make the alcoholic beverages. Omitted from the definition is "slaughterhouse", which may be protected if the landowner is only slaughtering their livestock.

Need to define **agri-tourism** if it is not defined in the Town Code. This activity is mentioned in the use schedule section of the draft code.

**Greenhouse, Commercial** – just a note to state that commercial greenhouses are part of a farm operation as defined in the AML. Nursery operations are also part of a farm operation as defined in the AML.

**Section 147-5 – Enumeration of Districts**

Regardless of the town's district designation, the AML protects all land, that is used in conjunction with a farm operation, from unreasonably restrictive local rules, regulations, ordinances and plans unless the municipality can demonstrate a threat to public health and safety. When drawing boundaries, planners should take into consideration where land within a county adopted, State certified agricultural district is located and make adjustments to the Code to accommodate agricultural activities on those properties. As stated by the AFPB, the R-1 Zoning District does not mention agriculture as a permitted use within that District.

**Section 147-20(B)** discusses home occupations. Under Section 147-20(B)(5)(d), commercial stables are listed as a prohibited home occupation. This should be excluded from that subsection because commercial stables, when conducted on land located within a county adopted, State certified agricultural district, are considered part of a farm operation if conditions set forth in the definitions of "commercial horse boarding operation" and "commercial equine operations" are met. These two activities are farms, not a home occupation.

**Article VII – Conservation Subdivision and Moderate-to High-Density Residential and Associated Development**

One of the tenants of this Article is to wisely develop land to, among other things, protect farming and forestry. The body of the Article refers to the creation/protection of common open space.

Farmland and managed forests are working landscapes and not open space.

Section 147-21(E)(4) stated that the Planning Board may seek the counsel of a registered landscape architect. If the conservation subdivision's intent is to protect farmland/forest land, the Sullivan County Soil and Water Conservation District would be better suited than a landscape architect to provide advice to the PB. Furthermore, their services are free.

It is important to target the easement holder according to the purpose of the easement. For example, Section 147-21(F)(2)(b) discusses property owners associations. They would be appropriate to hold an easement on recreational land, forever wild land or open space. They would not be appropriate to hold an easement on farmland or working forest land. They do not have the expertise to tell a farmer how to tend the land or crop and it would be difficult for a

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farmer to rent land from an association for a very long period of time. Furthermore, it is difficult for a municipality to hold an easement where the objective is to rent the land for agricultural purposes. This comment is based upon the inflexibility of the governmental bidding process and whether or not a long-term lease can be approved. Farmers will not put in the effort necessary to manage and improve the land if the term of the lease is on an annual basis. Departmental experience suggests that agricultural/forest land easements should be held by agricultural land trusts or local soil and water conservation districts.

If an agricultural easement is desirable for land as part of a conservation subdivision, the Town should look at the Department's conservation easement template as a starting point for the development of a local easement.

The sections of the draft amendments concerning special use permits and site plan review is indicative of a process that is time consuming, expensive and, if applied to farm operations located within a county adopted, State certified agricultural district, unreasonably restrictive. I have attached a copy of the Department's Zoning Guideline that discusses SUPs and site plan review. There are a number of agricultural activities mentioned in the Use Schedule that require SUPs and Site Plan.

**Area and Bulk Table**

AC Zoning Districts require a lot size of 5 or more acres and the RD Zoning District requires a lot size of 3+ acres. Please note that the definition of "farm operation" in the AML does not specify acreage. Therefore, the imposition of such limits may be deemed to unreasonably restrict a farm operation located within a county adopted, State certified agricultural district.

**Use Schedule**

In general, farm operations located within a county adopted, State certified agricultural district should be a permitted use, not a special use, under the Town of Liberty's Zoning Code. The AFPB identified 45 parcels in the agricultural district that will be placed within the Town's R-1 Zoning District. Farm operations are not a permitted use within that zone. Although the AFPB discussed grandfathering, this restriction alone may accelerate the conversion of those lands to non-agricultural uses. Landowners will not have an incentive to make improvements on a farm if agricultural activities are not permitted within the zone.

Agri-business and agri-tourism in the AC and RD Zoning Districts are listed as requiring a SUP from the Town, which includes submission to site plan review. For those activities that are deemed to be part of a farm operation, the requirement to submit to SUP review and a lengthy SP review is, on its face, unreasonably restrictive in possible violation of the AML. This would not pertain to all activities listed as part of an agri-business, however, as previously discussed. Some of the activities should also be a permitted use within the R-1 Zone.

Commercial stables and riding academies in the AC and RD Zoning Districts require a SUP and SP. This is unreasonably restrictive on its face. As long as the definition of "commercial horse boarding operation" and/or "commercial equine operation" are met and the land is located within an agricultural district, the AML considers the activity to be part of a protected farm operation. A streamlined site plan review may be applied to such activities as described in the Department's Zoning Guideline. They should be a permitted use within the R-1 Zone.

Dairy, livestock and poultry farming in the RD district is allowed as a special use requiring a permit and site plan review. This is unreasonably restrictive, however, a streamlined site plan review may be applied to such activities as described in the Department's Zoning Guideline. They should be a permitted use within the R-1 Zone.

Commercial greenhouses are farm operations under the AML. They should be a permitted use within the R-1 Zone.

Nurseries and tree farms are permitted uses within the AC Zoning District and by site plan review in the RD Zoning District. A streamlined site plan review may be applied to such activities as described in the Department's Zoning Guideline. They should be a permitted use within the R-1 Zone.

Sawmills are permitted by SUP and SP. Many times, farmers contract with sawyers to bring a portable sawmill to their property to saw lumber for use on the farm and/or for sale to the public. This activity should be allowed by the Town. It is a protected activity under the AML.

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**BUSINESS**

**2016-232      APPROVAL OF AUDIT**

The Town Board approved the following:

- October 2016 Abstract:  
Claims #1908 to #2083 totaling \$601,515.80

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- September Post Audit  
Claims #1880 to #1907 totaling \$113,450.68
  
- September General Ledger Abstract:  
Claims #304 to #339 totaling \$256,481.13

**Motion: Councilperson Dean Farrand  
Second: Councilperson Brian McPhillips  
5 AYES - Carried**

**2016-233      *APPROVAL OF MINUTES***

The Town Board approved the following minutes with changes.

- 9/19/16                  Public Hearing
- 9/19/16                  Regular Monthly Mtg.
- 10/3/16                  Dept. Head Mtg.

**Motion: Councilperson Brian McPhillips  
Second: Councilperson Russell Reeves  
5 AYES - Carried**

**2016-234      *ACCEPTANCE OF MONTHLY REPORTS***

The Town Board approved the following:

- Town Clerk's Monthly Report 9/2016
- Revenue & Expense Report 9/2016
- Supervisor's Report 9/2016

**Motion: Supervisor Charlie Barbuti  
Second: Councilperson Russell Reeves  
5 AYES - Carried**

**2016-235      *APPROVAL OF VOUCHER FOR BLAUER ASSOCIATES***

The Town Board does hereby authorize the payment of voucher to Blauer Associates for administrative services for the WSS Water District Phase 6 Improvements Project in the amount of \$375.00.

**Motion: Councilperson Dean Farrand  
Second: Supervisor Charlie Barbuti  
5 AYES - Carried**

**2016-236      *APPROVAL OF VOUCHER FOR DELAWARE ENGINEERING, DPC***

The Town Board of the Town of Liberty does hereby authorize the payment of voucher to Delaware Engineering DPC for engineering services for the WSS Water District Phase 5 Improvements Project in the amount of \$1,040.01.

**Motion: Councilperson Dean Farrand  
Second: Supervisor Charlie Barbuti  
5 AYES - Carried**

**2016-237      *APPROVAL OF VOUCHER FOR DELAWARE ENGINEERING, DPC***

The Town Board of the Town of Liberty does hereby authorize the payment of voucher to Delaware Engineering DPC for engineering services for the WSS Water District Phase 6 Improvements Project in the amount of \$3,741.00.



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**BE IT RESOLVED**, by the Town Board of the Town of Liberty, Sullivan County, New York, as follows:

Section 1. Repairs to the swimming pool at Hanofee Park comprised of replacement and installation of a hair strainer, butterfly valve and water line repairs, at a maximum estimated cost of \$6,500.00, and the expenditure of the sum of \$6,500.00 from the Town of Liberty Parks Capital Reserve Fund to pay such maximum estimated cost is hereby authorized and approved.

Section 2. The action authorized has been determined to constitute a Type II Action as defined in 6 NYCRR §617.5(c)(1) and (2) of the regulations promulgated pursuant to the State Environmental Quality Review Act, for which environmental review is not required.

Section 3. The plan for financing of such maximum estimated cost is by the appropriation and expenditure of monies heretofore deposited in the Town of Liberty Parks Capital Reserve Fund.

Section 4. Within ten (10) days after the adoption of this resolution, the Town Clerk shall post on the Town sign board and publish in the Sullivan County Democrat, the official newspaper of the Town, a notice in conformance with the requirements of Section 90 of the Town Law of the State of New York.

Section 5. This resolution is adopted subject to permissive referendum.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call, resulting as follows:

Supervisor Charlie Barbuti voting            AYE

Councilperson Dean Farrand voting    AYE

Councilperson Russell Reeves voting AYE

Councilperson Vincent McPhillips voting    AYE

Councilperson Brian McPhillips voting    AYE

The resolution was thereupon declared duly adopted.

**Motion: Councilperson Russell Reeves**

**Second: Councilperson Dean Farrand**

**5 AYES - Carried**

OLD BUSINESS:

1. Town Hall relocation to 119 North Main Street, Liberty –**The Town Board has asked Tim Kelly to give them prices on the relocation of the Assessor, Building, Finance and Town Clerk Offices to 119 North Main Street.**

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2. Proposed zoning changes – **The Town Board has agreed to remove the proposed R-1 changes in WSS.**

**BOARD DISCUSSION**

**Councilperson Brian McPhillips**-Nothing to report

**Councilperson Vincent McPhillips**-Nothing to report

**Councilperson Russell Reeves**-Nothing to report

**Councilperson Dean Farrand**

- Advised that the Board will put up the answers to the Zoning questions and then decide if they need another informational meeting or set the Public Hearing.

**Supervisor Charlie Barbuti**

- Received a quote to paint Town Hall - \$67,000
- Stop google & facebook on the website for the winter months
- Re-negotiate the \$3,000 per month maintenance fee
- Find out about hiring a non-competitive maintenance person
- Water tank property appraised at \$3,000
- Need to name Deputy Dog Control Officer
- 10/19/16 Joint Meeting w/ Village of Liberty Cancelled

**ADJOURN**

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**Motion: Councilperson Russell Reeves**

**Second: Supervisor Charles Barbuti**

Adjourned 9:03 p.m.

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Laurie Dutcher, Town Clerk