

REGULAR MEETING, TOWN OF LIVONIA
May 1, 2014

A regular meeting of the Town Board of the Town of Livonia, County of Livingston and the State of New York was held at Livonia Town Hall, 35 Commercial Street, Livonia on May 1, 2014.

PRESENT: Eric Gott, Supervisor
Andy English, Councilmember
Matt Gascon, Councilmember
Angela Grouse, Councilmember
Frank Seelos, Councilmember
Colleen West Hay, Clerk
Jim Campbell, Attorney, Town of Livonia

OTHERS PRESENT: Several Residents.

The meeting was called to order by Supervisor Gott at 7:00 PM.
Dawn Woodburn led the pledge.

PRIVILEGE OF THE FLOOR

Supervisor Gott opened the Open Session. No one wished to comment.

RESOLUTION 58-2014

ACCEPT MEETING MINUTES FROM 4/10/2014

On motion of Councilmember Grouse seconded by Councilmember English the following resolution was

ADOPTED Ayes - 5 (Gott, English, Gascon, Grouse, Seelos)
Nays - 0

Resolved to accept the meeting minutes from April 10, 2014.

DISCUSS "RIGHT TO FARM" LOCAL LAW

Supervisor Gott reminded everyone that the Town Board conducted a Public Hearing a couple of meetings ago regarding the "Right to Farm" proposed local law. We have since heard back from the County Planning Board. Their comments were favorable and they did not suggest any changes to the proposed law. Attorney Campbell has prepared the SEQR documents for review at this meeting.

Attorney Campbell reviewed the questions in Part II of the Short Environmental Assessment Form. The board considered each question and all agreed that the answers to all questions were "No, or small impact will occur."

RESOLUTION 59-2014

ADOPT FINDINGS OF SHORT ENVIRONMENTAL ASSESSMENT FORM

On motion of Councilmember Seelos seconded by Councilmember Gascon the following resolution was

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ADOPTED Ayes - 5 (Gott, English, Gascon, Grouse, Seelos)
 Nays – 0

Resolved to adopt the findings of the Short Environmental Assessment Form in regards to the Town of Livonia “Right to Farm Law.”

RESOLUTION 60-2014

NEGATIVE DECLARATION

On motion of Councilmember Gascon seconded by Councilmember English the following resolution was

ADOPTED Ayes - 5 (Gott, English, Gascon, Grouse, Seelos)
 Nays – 0

Resolved to declare the following:

The intent of the local law known as the Town of Livonia “Right to Farm Law” is to limit the circumstances under which farming may be deemed to be a nuisance and to permit agricultural practices inherent to and necessary for the business of farming to proceed and be undertaken free of unreasonable and unwarranted interference or restriction. It is not anticipated that any environmental resources will be directly affected by the adoption of the proposed local law.

RESOLUTION 61-2014

ADOPT LOCAL LAW #2-2014 – “RIGHT TO FARM”

On motion of Councilmember Gascon seconded by Councilmember Seelos the following resolution was

ADOPTED by ROLL CALL VOTE
 Supervisor Gott - Aye
 Councilmember English - Aye
 Councilmember Gascon - Aye
 Councilmember Grouse - Aye
 Councilmember Seelos - Aye

Resolved to adopt Local Law #2-2014 “Right to Farm” as follows:

This Local Law shall be entitled the “Right To Farm Law” of the Town of Livonia, New York.”

BE IT ENACTED by the Town Board of the Town of Livonia, Livingston County, New York, as follows:

Section 1. Legislative Findings, Intent and Purpose

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1. The Town Board of the Town of Livonia finds, declares and determines that agriculture is essential to the Town of Livonia, New York, for a variety of reasons, including but not limited to:
 - A. Agriculture is a livelihood and provides employment opportunities both on local farms and in businesses that support agriculture in the Town of Livonia;
 - B. Agriculture provides locally produced, fresh commodities for both local consumption and for export;
 - C. Agriculture diversity promotes economic stability;
 - D. Agricultural or farming operations in the Town of Livonia maintain valued open space and promotes environmental quality; and
 - E. Agricultural land does not increase the demand for services provided by local governments.
2. The Town Board further finds that in order to maintain a viable farming economy in the Town of Livonia, farmers must be afforded protection allowing them the right to farm. Non-agricultural land uses when they are extended into agricultural areas may be adversely impacted by widely accepted agricultural practices, and agricultural operations may become the subject of nuisance suits. As a result, farm operators may be discouraged from making the investments in equipment and capital improvements necessary to maintain their competitiveness in the market or may be forced to cease operation altogether.
3. It is the purpose of this article to reduce the loss to the Town of Livonia of its agricultural resources by limiting the circumstances under which farming may be deemed to be a 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.

Section 2. Definitions.

1. Unless specifically defined, words or phrases used in this local law shall be interpreted so as to give them meanings they have in common usage, and to give this local law its most reasonable application.
2. As used in this local law, the following terms shall have the meanings indicated:

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Agricultural Dispute Resolution Committee. A committee of the Town of Livonia authorized under this local law to provide a venue for resolving any issue or controversy that may arise regarding any inconveniences or discomforts occasioned by an agricultural operation, including, but not limited to, noise, odors, fumes, dust, the operation of machinery, the storage and disposal of manure, and the application by spraying or otherwise of chemical fertilizers, soil amendments, herbicides and/or pesticides. Said Committee shall be made up of three (3) members from the Town selected by the Town Board, as the need arises, one of which shall be the Chairman of the Planning Board or a designee. At least one member of the Committee shall be a member of the Town's farm community.

Agricultural Practices. Any activities conducted by a farmer on a farm which contribute to the production, preparation and marketing of crops, livestock and livestock products as a commercial enterprise, as defined in ARTICLE 25AA, Section 301 of the New York State Agriculture and Markets Law, as well as the construction and use of farm structures, fences and other facilities for the housing and control of animals, storage of animal wastes, farm equipment, pesticides, fertilizers, agricultural products, for the sale of agricultural products, and for the use of farm labor, as permitted by local and state building codes and regulations.

Agricultural Products. Those products as defined in Article 25-AA, Section 301 of the New York State Agriculture and Markets Law.

Farm. The land, buildings including residential buildings, equipment, manure processing and handling facilities, and agricultural practices which contribute to the production, preparation and marketing of crops, livestock and livestock products as a commercial enterprise.

Farmer. A person or persons, organization, entity, association, partnership, or corporation engaged in the agricultural practices as defined by this law, for profit or otherwise, including the cultivation of land, the raising of crops, or the raising of livestock, poultry, fur-bearing animals, or fish, the harvesting of timber or the practicing of horticulture or apiculture.

Generally Accepted Agricultural Practices. Those practices necessary for the on-farm production, preparation and marketing of agricultural

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commodities, including but not limited to the operation of farm equipment; proper use of agricultural chemicals and other crop protection methods; direct sale to consumers of agricultural commodities or foods containing agricultural commodities produced on-farm; agricultural tourism; and the production, management and harvesting of “farm woodland,” as defined in Article 25-AA, Section 301 of the New York State Agriculture and Markets Law.

Section 3. Authority to Engage in Agricultural Practices.

1. Farmers and those employed, retained, or otherwise authorized to act on behalf of farmers, may lawfully engage in agricultural practices within the Town of Livonia at all such times and in all such locations as are reasonably necessary to conduct the business of agriculture. In determining the reasonableness of the time, place and specific approach to any specific agricultural 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 and improved technologies.
2. Agricultural practices conducted in the Town of Livonia shall not be found to be a nuisance if such agricultural practices are:
 - A. Reasonable and necessary to the particular farm or farm operations;
 - B. Conducted in a manner which is not negligent or reckless;
 - C. Conducted in conformity with generally accepted agricultural practices.
 - D. Conducted in conformity with all local, state, and federal laws and regulations;
 - E. Conducted in a manner which does not constitute a threat to public health and safety or cause injury to health or safety of any person; and
 - F. Conducted in a manner which does not unreasonably obstruct the free passage or use of navigable waters or public roadways.
3. Nothing in this article shall be construed to prohibit an aggrieved party from recovering damages for bodily injury or wrongful death.

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Section 4. Consideration of Impacts on Farm Operations by Town Officers and Boards.

1. The intent and purposes of this article shall be taken into consideration by each Town officer and/or board in processing any application requesting rezoning, site plan approval and/or special use permit approval when the property which is the subject of such application is located within one thousand (1,000) feet of the boundary of an existing farm. Such Town officer and/or board may, as part of its review of such application, determine whether appropriate and reasonable conditions which would further the purposes and intent of this article may be prescribed or required as part of an approval of the application.
2. Such appropriate and reasonable conditions may include, but not be limited to, requiring declarations, deed restrictions and/or covenants which run with the land which would notify future purchasers and owners of the subject property that owning and occupying such property might expose them to certain discomforts or inconveniences resulting from the conditions associated with agricultural practices and operations in the Town.

Section 5. Resolution of Disputes

1. Should any issue or controversy arise regarding any inconveniences or discomforts, occasioned by agricultural operation, including, but not limited to, noise, odors, fumes, dust, the operation of machinery, the storage, management and application of manure, and the application by spraying or otherwise of chemical fertilizers, soil amendments, herbicides and/or pesticides, the parties may submit the issue or controversy to the Agricultural Dispute Resolution Committee as set forth below in an attempt to resolve the matter prior to the filing of any court action.
2. Any controversy between the parties may be submitted to the Agricultural Dispute Resolution Committee, whose decision shall be advisory only, within 30 days of the date of the occurrence of the particular activity giving rise to the controversy or of the date one or the other of the involved parties became aware of the occurrence.
3. The controversy shall be presented to the Agricultural Dispute Resolution Committee by written request of one of the parties within the time limits

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prescribed above. Thereafter, the Committee may investigate the facts of the controversy but must, within 30 days, hold a meeting to consider the merits of the matter and within 20 days of the meeting must render a written decision to the parties. At the time of the meeting, both parties shall have an opportunity to present to the Committee what each party considers to be the pertinent facts.

4. The effectiveness of the Agricultural Dispute Resolution Committee as a forum for resolution of grievances 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.

Section 6. Severability

If any provisions of this local law are held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, the remaining provisions of the local law shall remain in effect.

Section 7. Effective Date

This Local Law shall take effect immediately upon its filing in the Office of the Secretary of State.

DISCUSSION REGARDING MOWING BIDS

Supervisor Gott shared that we received five proposals for mowing and lawn maintenance for town properties. The lowest bid was \$11,500 from John Pratt. Supervisor Gott called Mr. Pratt and talked with him at length. He discovered that Mr. Pratt had not visited all the properties. He has two small riding lawn mowers and plans to do all the mowing himself with help from his wife. Supervisor Gott did not think that Mr. Pratt has the equipment or the manpower to adequately perform the job.

Supervisor Gott then talked with the next lowest bidder - Double D – who bid \$12,498. He spoke with each of the board members and he recommends accepting the bid from Double D. He took Don to all the properties today, and we have his certificate of liability insurance.

Councilmember English added that it is important to note that John Pratt only has two small rider lawn mowers, and only him and maybe his wife to do the mowing. He would not be able to mow the acres we have with that.

Supervisor Gott reported that Double D's price is very close to what we paid last year.

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RESOLUTION 62-2014

AWARD MOWING BID TO DOUBLE D

On motion of Councilmember English seconded by Councilmember Gascon the following resolution was

ADOPTED Ayes - 5 (Gott, English, Gascon, Grouse, Seelos)
Nays - 0

Resolved to award the 2014 Mowing and Lawn Maintenance Bid to Double D in the amount of \$12,498.

RESOLUTION 63-2014

APPOINT MAURICE WATSON AS VITALE PARK PART-TIME EMPLOYEE

On motion of Councilmember Grouse seconded by Councilmember Seelos the following resolution was

ADOPTED Ayes - 5 (Gott, English, Gascon, Grouse, Seelos)
Nays - 0

Resolved to appoint Maurice Watson as part-time Vitale Park employee at a rate of pay of \$10.60/hour effective 4/30/2014.

Letters will be sent to the other applicants to notify them that we have filled the position.

RESOLUTION 64-2014

APPOINT JEANNE (STEFANO) BROWN AS PART-TIME ZONING CLERK

Supervisor Gott reported that we did advertise for a part-time zoning clerk. Councilmember Grouse, Village Trustee Leader and Code Enforcement Officer Adam Backus interviewed the candidates. They unanimously recommend Jeanne (Stefano) Brown.

On motion of Councilmember Seelos seconded by Councilmember Gascon the following resolution was

ADOPTED Ayes - 5 (Gott, English, Gascon, Grouse, Seelos)
Nays - 0

Resolved to appoint Jeanne (Stefano) Brown as part-time zoning clerk at a rate of pay of \$13.50/hour, effective May 5.

Councilmember Grouse added that Ms. Brown presented an extensive amount of computer understanding and is very personable. She is getting married this month, so she will be starting, then taking a week off for wedding, then coming back after that.

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RESOLUTION 65-2014

APPOINT SCOTT MARSHALL TO AMBULANCE COMMISSIONER VACANCY

Supervisor Gott explained that we have a vacancy for an Ambulance Commissioner due to the death of Gordon Phillips. Councilmembers Seelos and Gascon along with Commissioner Kevin Dougherty interviewed 4 candidates. They recommend appointing Scott Marshall to fill the vacancy for the remainder of Phillips' three year term, which expires at the end of this year.

On motion of Councilmember English seconded by Councilmember Grouse the following resolution was

ADOPTED Ayes - 5 (Gott, English, Gascon, Grouse, Seelos)
Nays - 0

Resolved to appoint Scott Marshall to fill the remainder of the term for Livonia Ambulance Commissioner left by Gordon Phillips' death.

Councilmember Seelos will be sending letters to all four candidates.

TOWN'S CREDIT RATING UPGRADED

Supervisor Gott announced that the Town of Livonia's credit rating was recently re-evaluated and upgraded to an Aa3. Supervisor Gott explained that this is very high for a town our size. In addition, no other town in our area has such a high rating. He thanked Mike Lawton, the Town's bookkeeper, along with the board and department heads for their hard work to make this happen. He added that when we go to get long term financing for the library expansion project, we will be able to obtain a lower interest rate. Attorney Campbell remarked that the Town of Livonia's credit rating went up at a time when almost everyone else's is dropping. Supervisor Gott believes that part of the reason our credit rating is so high is because of our healthy fund balance. The state does not want to see high fund balances, but this shows that ours are in good shape.

CHIP HOLT NATURE CENTER FUNDRAISER IDEA

Councilmember Grouse distributed packets to board members regarding a proposed fundraiser that the Friends of the Chip Holt Center are considering. They will be on the agenda for the next meeting. She asked board members to please review the packet prior to the meeting so that they can be prepared with questions.

LIBRARY EXPANSION

Councilmember Grouse shared that the library is in the process of pulling together architectural proposals for the Library Expansion Project to present to the town board and public. The Town Board is invited to the opening of the Requests for Proposals (RFPs) on May 21 at 6 PM and the architectural presentations, which will be held May 27th-30th at 5 PM each day. All of these meetings will be held in the community room at the library.

Supervisor Gott said that construction is slated to begin one year from now. He promises that the debt will not affect the tax rate.

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LIVINGSTON COUNTY TEEN RECOGNITION EVENT

Councilmember Grouse shared that she and Supervisor Gott attended a teen recognition awards ceremony in Livingston County last night. The awards were based on community service, participation in extra-curricular clubs, and helping their fellow students. They were not based on academics or participation in sports. She thinks that it is wonderful that, as a county, we take the time to recognize these youth. Livonia was well represented in the attendees and award winners. Supervisor Gott added that he feels that there are three things that Livingston County does really well: recognizing youth, recognizing seniors, and recognizing employees.

RESOLUTION 66-2014

AUDIT OF CLAIMS

On motion of Councilmember English seconded by Councilmember Gascon the following resolution was

ADOPTED Ayes - 5 (Gott, English, Gascon, Grouse, Seelos)
Nays – 0

Resolved to pay claims 1162-1201 in the amount of \$249,733.24 from the Abstract dated 4/23/2014.

RESOLUTION 67-2014

AUDIT OF CLAIMS

On motion of Councilmember Grouse seconded by Councilmember Seelos the following resolution was

ADOPTED Ayes - 5 (Gott, English, Gascon, Grouse, Seelos)
Nays – 0

Resolved to pay claims 1202-1235 in the amount of \$63,435.52 from the Abstract dated 5/1/2014.

RESOLUTION 68-2014

EXECUTIVE SESSION

On motion of Councilmember Grouse seconded by Councilmember Gascon the following resolution was

ADOPTED Ayes - 5 (Gott, English, Gascon, Grouse, Seelos)
Nays – 0

Resolved to enter into Executive Session at 7:23 PM with Attorney Campbell to discuss contract negotiations.

RESOLUTION 69-2014

RETURN TO REGULAR SESSION

On motion of Councilmember Gascon seconded by Councilmember English the following resolution was

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ADOPTED Ayes - 5 (Gott, English, Gascon, Grouse, Seelos)
 Nays – 0

Resolved to return to Regular Session at 7:52 PM.

With no further business, on a motion of Councilmember Seelos seconded by Councilmember Grouse the meeting was adjourned at 7:53 PM. Carried unanimously.

Respectfully Submitted,

Colleen West Hay, Town Clerk