



Onondaga County Legislature

DEBORAH L. MATURO
Clerk

J. RYAN McMAHON, II
Chairman

KATHERINE FRENCH
Deputy Clerk

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PUBLIC HEARING MINUTES **December 16, 2014**

RENEWAL OF AGRICULTURAL DISTRICT NO. 3, TOWNS OF CAMILLUS, CICERO, CLAY, ELBRIDGE, LYSANDER, MANLIUS, AND VAN BUREN

MEMBERS PRESENT: Legislators May, Dougherty, Corl, Tassone, Rapp, Plochocki, Liedka, Ryan, Chase, Holmquist, Kilmartin, Knapp, Shepard, Jordan, Williams, Ervin, McMahon

Chairman McMahon called the 12:54 p.m. public hearing to order at 1:11 p.m. The Clerk read the notice of public hearing, and noted that it was duly published.

Chairman McMahon asked for speakers wishing to be heard:

1. Harvey Skeele, President, Onondaga County Farm Bureau – Statement on filed with Clerk:



Onondaga County Farm Bureau • 7413 County House Road • Auburn, New York 13021 • (315)252-1367 Fax: (315)252-1900

Testimony of Harvey Skeele, President, Onondaga County Farm Bureau Regarding Renewal of Agricultural District 3

Chairman McMahon and members of the Onondaga County Legislature, my name is Harvey Skeele. I am president of the Onondaga County Farm Bureau, the largest farm organization in the county representing five hundred twenty six member families. I am here today to speak in favor of the Onondaga County Agriculture and Farmland Protection Board's recommendation regarding the renewal of Agricultural District 3.

Agriculture in Onondaga County contributes significantly to the economy here locally. The latest statistics from the United States Department of Agriculture show that the value of farm products sold in 2012 were over \$152 million with land in farms over 150,000 acres. The county legislature has long demonstrated their support for agriculture in Onondaga County by supporting farmland protection programs funded by the state and federal governments. Onondaga County has also supported funding for Cornell Cooperative Extension, the Soil & Water Conservation District and the Ag Council.

The Agricultural Districts Law was created by an act of the New York Legislature in 1972 to provide a number of important protections for farmers. Included in this law were provisions for agricultural assessment of land in production of crops, livestock and livestock products; restrictions on local governments to implement land use regulations that interfere with normally accepted farming practices; and a notification of non-farm residents that they were near or adjacent to farming operations where noise, dust or odor may be present. The transparency this notice of disclosure provides non-farmers is important in fostering good neighbor relations. Should these parcels be removed from the

district, this notice would not be required. The law also protects the property rights of both farmers and non-farmers alike by allowing them to either opt in or out of the agricultural district. Opting in occurs once a year as prescribed by the county legislature. Opting out of the agricultural district occurs once every eight years when this body receives a report from the county Agriculture and Farmland Protection Board and the county approves that report.

The County Agriculture and Farmland Protection Board mailed notices to over three hundred property owners in Agricultural District 3 asking them to respond as to whether they would like to remain in the district or be removed. Twenty nine landowners indicated that they wanted to be removed with the rest either indicating they wanted to remain in or not responding at all. This review process has always been about land owner consent, and never in the history of this program has a county legislature gone against the wishes of the county Ag & Farmland Protection Board with regards to landowner participation in this program.

You may hear pleas from municipalities that this program deters them from luring more residential homes to their community. You may also hear that residential homes will create more tax revenue for their town. However, according to the American Farmland Trust, residential homes require more services than property taxes paid as opposed to farmland and open space which require fewer and less costly community services than they pay in taxes. For every dollar a residential homeowner pays in taxes the cost of services they receive from the municipality is \$1.27. For every dollar a farmer or owner of open space and forest land pays, they obtain twenty nine cents in services.

As president of Onondaga County Farm Bureau, I urge you to heed the recommendation of the County Agriculture and Farmland Protection Board and continue your commitment of support for one this county's largest industries. Thank you for the opportunity to speak with you today.

2. Dirk J. Oudemool, Attorney, Town of Elbridge

I am the attorney for the Town of Elbridge. For the first time in many, many years, the Town of Elbridge this year undertook to review the constituency of the ag district parcels in its town. As a result of doing it, I came up with some very interesting statistics. Upon review of the existing district, we found that 282 of the over 600 parcels in the ag district were less than 3 acres in size. Under Elbridge town law, in order to pursue agriculture, you must have a parcel that is at least 3 acres in size. It turns out that as a result of that, 42% of the parcels in the district were less than 3 acres. The other more interesting thing was that 148 of the 242 parcels were less than one acre in size. As you know, the purpose of this legislation and opportunity is laudable and appropriate, and clearly intended to protect the farming industry, and however, the legislature has defined what the constituency of the parcels should be. The definition of the Ag & Markets Law is that the parcel must be viable, agricultural land. It further goes on to say, specifically in Section 303, that non-viable farm land and non-farmland should be excluded. So, the Town believes that as a part of the Farmland Protection Board duties, that it should have investigated these parcels, which we brought to their attention, and I have had some interaction with Mr. Reeves about it. We also consulted with Ag & Markets about this whole issue of how this situation should be addressed. The Farmland Protection Board, I believe, made no independent investigation regarding these parcels that we brought to their attention, but rather what they did was that they circulated a second notice to these people indicating that the town had asked them to consider to omit them. They solicited their participation for a second time. As a result of that, some 37 parcels did contact the Farmland Protection Board and indicated their desire to be omitted. So, we have gained some ground in that respect.

Just to give you an example of what this is about – I am thinking of a particular parcel in the town, on Burton Road – the first one in the group on page 3. It is owned by William Bryan; it is tax map parcel 028.-02-01.0. You will see that the size of the parcel is .35 acres. I looked at that parcel in particular, hoping that it would be instructive, and it is. That parcel is assessed for land and improvements at \$43,000. It is a lot that is 100' x 15'; it has on it a mobile home-a trailer, with a bit of a shed like structure; and that is it. This is a parcel that was carved out from the Polmanteer Farm, which surrounds it, back in 1997. The gentleman that owns the parcel today has no relationship to the farm enterprise next door. As a matter of fact, for more that 10 – 15 years, that has been the case with this parcel. It makes no sense, as far as the Town Board is concerned, that this parcel should continue to be in the agricultural district. This gentlemen, on two occasions during this year, has received communications that his parcel is in the ag district, and he has not indicated, or responded in any way, his desire. As a result of his default, that Farmland Protection Board, says he should continue on. This is only one of many examples that we could point out to you.

You might say to me – *what difference does it really make to anybody – why does the town care.* The issue is this: we think we have a great small town, rural atmosphere, and we want it to be a place for anyone who wishes that type of a setting, to be a part of their lives--a stranger to the area, or somebody across county, that wants to get out of the city or so forth. If you look at a map of Elbridge, 75% of the land mass is in the agricultural district. If you are a city slicker, just looking for a little space – maybe you are offended by the smell of manure/fertilizer, or you have in mind that some of these things are something that would interfere with your enjoyment of your residence. It is a consideration, we believe, in the town that the face of the Town of Elbridge is distorted by many of these parcels being included within the district. So our purpose here, is not to any way to criticize, express displeasure with the promotion of agriculture. It is a wonderful part of our community; it is a tremendous asset; they are great people; they work hard; we don't want to bother them. But, what we want to do is open the community up to other people, and want the general public to understand that Elbridge is more than a farming community.

So, we would ask that you take another look at this, and if you agree with us that these parcels are not viable farmland, that you consider omitting from the reformation of this district these particular parcels. Some people may say – *wait a minute, are some of these guys hobby farmers, or something like that – are they going to be hurt by it.* The answer is *no.* The benefits of the ag district adjure to people that have 7 acres of land, generate gross profits of \$10,000 or more. So, the guy that wants to move to the country, have his own little garden and plow, and create things, doesn't get hurt by this. The purpose of the district is to protect the full time farmer, who has high production, because if he is pursuing a sound, agricultural practice, as is monitored and reviewed by Ag & Markets, nobody can complain about what he does. That is the real value of the Ag Market review and establishment of these districts. That is wonderful; that's great. The little guy, that has a little small parcel, doesn't need that protection. We thank you for the opportunity to speak on this matter.

3. Robert K. Hill III, 1541 Route 4, Elbridge, Landowner

My name is Robert Hill; I live on a farm that has been in my family since 1810. My house was removed from that parcel, from the ag district. I wasn't even notified. The process that the Town of Elbridge used was arbitrary and capricious. No land owner was ever notified that they were under review to have their property removed. Mr. Oudemool just told you that Ag & Markets said that this is the way it works. I have a letter from Robert Summer, Ag & Markets, to Mr. Oudemool, dated Aug. 7, 2014. The basis for the town's complaint was 3 acres. Mr. Summers wrote to Mr. Oudemool: *you indicate that the Town of Elbridge, through a zoning code, has determined that agriculture is only permitted on parcels of land that are 3 acres and larger. The Department has reviewed similar codes that specify parcel size and has always informed the municipality that an acreage limitation is unreasonably restrictive and a possible violation of Ag & Markets Law. The definition of farm operation in Ag & Markets Law does not specify acreage. A farm operation must be a commercial enterprise regardless of acreage.*

The farmers in the town of Elbridge have been continually harassed by Mr. Ouderpool. Every time we go to Ag & Markets, it is has been overturned. This is just another step. The Town of Elbridge has prostituted this process; not only by being arbitrary, but people called the town clerk with question of whether or not their land should remain in the ag district. The town clerk told them to remove it. This is an ethics violation. For these reasons, I think this whole thing should be dropped and approved without restriction. The town has overstepped their boundaries. No farmer was involved in this process. I can't understand Mr. Ouderpool standing up here and saying ... *well somebody moves out here and they don't want to smell manure.* They don't want dust, they don't want us working late at night. He has tried all of that on us, and every time they have been shut down by Ag & Markets. I find it really strange that he would say the town embraces agriculture when, in fact, they haven't. They are attacking agriculture. The town's biggest problem is an overabundance of low income housing. Mr. Ouderpool's son owns some, but that is the problem – agriculture is not the problem; the ag district is not the problem.

A study done by ESF said that people move to Elbridge for the open space. Our farm has been protected by the sale of development rights. We have protected the open space. As I said, my house has been part of the farm since 1810 – why it was removed, I have no idea. This is what I say when I say that the town was just arbitrary and capricious in their pursuit of this.

Mr. Oudemool picked out a parcel – if he wants to cherry pick, then we can cherry pick. There is a parcel owned by the Fletcher's that is 035-03.02.0, which is .39 acres. That parcel goes onto a bigger parcel that they farm. This is my problem. This was cherry picking at its best.

4. Robert Hill, Jr., 5700 Fikes Road, Memphis, Farmer

As my son just said, we have been farming about 700 acres, 200 years. We try to keep a decent looking farm; we try to keep the road sides up and the hedgerows down – looking great. You have to look back quite a few years – I helped start the ag district in this county – I was on the county committee. Our thoughts and feelings at the time was that we want to see agriculture in blocks. We thought then that future growth would go back towards Syracuse, and if there is any building it should be along present water lines and roads – not breaking up our farms. Also, we were talking about farmland. In Elbridge, it is very discouraging. At the end of our road are two beautiful fields. I would say the most fertile fields in Onondaga County, and now a home sits in both of them. It's a shame – each side there are weeds and stuff growing up. And that beautiful land ... I have always tried to protect land, but Elbridge has gone in the wrong direction. It is discouraging. Zoning ... to sit there all my life and see what has happened. He complains about manure, my God, farmers have spent thousands and thousands of dollars to control the odor and do it right. It is really hard to sit here and hear Oudemool talk down agriculture – what he has done for years in Elbridge. The zoning smells.

I hope you will straighten this out for the people in Elbridge – not only the farmers, but the people that live there.

5. Brian Reeves, Chair of Agriculture & Farmland Protection Board

I just wanted to give you a little background on the report we issued on the ag district and some of our reasoning behind it, and correct, maybe, a couple of pieces of information that was given prior. One thing we saw from the beginning with this issue is that we really saw it as an individual property rights issue. We felt that if the town was interested in removing some of these properties from the district, that we would keep an open mind and open ears – but really felt that landowner participation was crucial. We figure if we are going to err, we are going to err on the side of individual property rights, and not just defer to a municipality passing a ruling.

When we were contacted by the town, my conversation on the phone, and then later in a letter I wrote to the town – we really wanted to have some landowner buy in or else we probably, as a board would be reluctant to back the town up on their request. The town declined to go to that trouble, they didn't feel it was worthy or needed – whatever their reasons were. So as a board, we decided that we needed to do due diligence, so we sent another solicitation out to the property owners, and we wanted to get their support or lack of support for such a proposal. We felt it was important to involve the individual property owners in the process. At the expense of the County Legislature, and County Planning Department, I might add – not the expense of the Town of Elbridge.

We got back a pretty good response. I'm going to speak in general numbers; the report speaks about firm numbers. I'm going to say a little over 100 parcels were represented in replying to us. My number is approximately around 30 that requested to be removed, and our board voted to say *yup, we'll honor their wishes – remove them if they'd like*. I believe there were somewhere around 80 parcels that responded that said *no please don't remove me* for whatever reason. Our report reflects that we believe those 80 parcels should not be removed. Of course, the question the board had to deliberate was *what about those parcels who still did not respond; what about those individual property owners who did not respond*. We as a board unanimously voted that by default they should stay in the ag district.

One thing to correct is that our solicitation of those property owners was purposely worded to illicit a response – either affirmative or negative – whatever – but elicit a response. The first time these property owners received notice of the ag district renewal would have been probably back in January, and the nature of that letter is that if you want things to stay status quo, don't do anything. You don't need to respond positive or negative to remain status quo. We felt that wasn't strong enough, so we made our second response. So, it is not totally accurate to say there was two solicitations of these property owners. The first one was kind of of *hey if your happy, don't do a thing*, and we didn't think that was enough. So, that is why we went ahead with the second solicitation.

A couple of fine points – they may seem like they are just semantics, but they are not, as far as Ag & Markets Law. It is not true that Ag & Markets' definition of a viable enterprise is minimum of 7 acres or \$10,000 of income. They also go on to say that parcels much less than 7 acres can be viable agricultural operations, but they have a litmus test of \$50,000 of annual income. There are many examples throughout the state of people that have either a one-acre green house, or organic greens, or whatever production, and they can easily meet that Litmus test on a very small parcel of land. In fact, Ag & Markets has repeatedly stated that any restriction on lot size for agricultural enterprises is unduly restrictive, and it should be avoided by all towns. So, I would take issue with the 3 acre lot size that the Town of Elbridge has decided to use when they pick out parcels to remove. Second of all, the idea of predominately agricultural viable land in an ag district – again, Ag & Markets has issued the opinion before that this not about this parcel being viable in the ag district. It is about the entire ag district needing to be predominately viable. I think that the Town of Elbridge would agree, that when you take the entire Ag District No. 3, the vast majority of the property in that ag district, is agriculturally viable. It is not meant to look at specific parcels, and say *well this one is too small or that one is not viable*. That can be done, but that is not what Ag & Markets Law is set up to do.

Those are the reasons we, as a board, voted to not suggest those parcels be removed, as the Town of Elbridge would like to do. We value individual property rights and think it is important that the individual be involved in the process and not just at the mercy of a municipality requesting the change in the status of their property.

I would be happy, at any time, to answer any questions or anything that the legislature might ask.

There being no further speakers, Chairman McMahon closed the hearing at 1:24 p.m.

Respectfully submitted,

DEBORAH L. MATURO, Clerk
Onondaga County Legislature