

Informational Meeting on APO
July 12, 2011

The Hamlin Town Board held an Informational Meeting on the “Agricultural Protective Overlay” at the Hamlin Town Hall located at 1658 Lake Rd., Hamlin, New York. The meeting was called to order at 7:00pm by Supervisor Terry.

Present: Supervisor Peter Terry, Councilpersons’, Breslawski, Goodrich, Rath and Rose.

Also Present: Attorney Ken Licht, Highway Superintendent Steven Baase, Planning Board Members Dave Martin, Mark Reeves and Tom Jensen, Zoning Board Member Rocky Ellsworth and Town Historian Robert Kruger.

Residents Present: Henry Hermanowski, Alan Bertch, Joseph Lancia, Bill Mitchell, Michael Quataert, Bunnie Beardsley, Jim Guion, Dean Strussenberg, Ron Breslawski, Vicki Breslawski, Dina Carbone, David Isabella, Joan Jackling, Margaret Bennett, Richard Dollard, Janice Dollard, Dan Shapiro, John Hand, Art Holcomb, Barbara Speed, Rick Bower, Denise Ezrow, Mike Ezrow, Carol McFarland, Paul Brightly, Jeanne Brightly, Dave Dudley, Marla Dudley, John Szczepanski, Margaret Pearson, Gary Sherwood, Linda Sherwood and Mike Wyant.

Our intention tonight is to provide information on the proposed Agricultural Protection Overlay District. This effort by the Zoning Workshop Committee has been three years in the works. We welcome your input, and we are all here for the good of the town. Councilman Breslawski has been the steward of this program from its inception.

Councilperson Breslawski showed a Power Point presentation. He then opened the meeting for questions from the residents.

QUESTIONS

Jim Guion of Roosevelt Highway stated that he had 56 acres, developed 30 acres and had 25 acres left. He asked, “If this goes through, I can only develop 2.5 acres of the 25 acres remaining?” Mr. Guion stated that he didn’t intend to sell, but if he or his wife came up with health issues he may have to.

Councilman Breslawski stated correct, but he could go for a lot size variance or petition for a removal from the APO.

David Isabella of Walker Lake Ontario Road asked what the 10% criteria was based on. Where did they come up with that number?

Councilman Breslawski stated that they took a look at the Town of Seneca and River Head’s law and took the best of them for Hamlin. The percentage can be changed to go up or down.

Rick Bower of Hamlin Parma Town Line Road felt the APO should be offered as a voluntary thing. He stated, “I don’t want it and why should I spend my time and my money coming to 3 months of meetings to get out of something that I don’t want. This is going to affect an enormous amount of landowners. I know because I am a developer and when I see these types of things that say restrictions, believe me, it’s brutal. I own the land, I am surrounded by farmland, I grew up there, and I know the situation with the existing farmers.”

Councilman Breslawski stated, “That’s why we are here”, and he thanked him for his opinion.

Steve Baase of Lake Road West Fork stated he belonged to the gun club in town and St. John’s Church. His question was, “Does everyone with 10 acres or more including churches, cemetery

committees, gun clubs, etc. have to go before the Town Board and try to get out of this, even all the existing things?"

Councilman Rath stated yes, but only if they wanted to subdivide and develop it.

Steve Baase asked if existing uses are grandfathered.

Councilman Breslawski stated, "Yes, existing uses are grandfathered, it would only be if they wished to develop that property."

Rick Dollard of Lake Road asked what the total percentage of land that is in the APO and what is the percentage of land that is already being used for agricultural?

Councilperson Breslawski stated he didn't know percentage wise, but right now we have over 2/3 of the town in Monroe County Agricultural District.

Dan Shapiro of Lake Road East Fork stated he owns 21 acres of lousy farmland on Wiler Road. You are taking away our right and I would have to jump through hoops with the APO.

Councilperson Breslawski asked if the land was behind the sewer line. You have to jump through hoops with the regular zoning requirements anyway, but it would be an additional layer to preserve the farmland.

Mr. Shapiro also stated that the APO is supposed to maintain agricultural vistas and opportunities to promote agro-tourism, and preserve the rural character of the Town. When you go down Rt. 18 all of sudden there are a pile of wineries up here with brand new tin buildings. All of a sudden it has become very agro-tourist, and we are not an agro-tourism town. You can't preserve agro-tourism when you are promoting agro-tourism. You are not preserving the character of the town if you promote agro-tourism. As an American, I don't like people taking other people's rights.

Councilperson Breslawski thanked him.

Mark Reeves of Brick Schoolhouse Road asked, "So if a guy owns 100 acres, with this he can sell 10 acres. If he dies and he has 90 acres left in the estate and they sell, has the next person that buys it lost his right to develop that land because of the APO?"

Councilperson Breslawski said that he hasn't lost it; he bought it knowing that it does not have it.

Mr. Reeves stated, "So the present people are going to be alright if they are quick to develop, but down the road, it is kind of locked up."

Rick Bower stated, "Due to the fact that I sell real estate for a living, how am I supposed to convince someone to buy that land at a fair market price? You are putting an excessive burden on the resale or sale of any property because of that rule."

Councilperson Breslawski said, "Okay, thank you."

Gary Sherwood of Church Road stated, "I own approximately 50 acres and I am against this because I view it as theft outright. What's going to happen is that I own the property and there are neighbors around me on smaller lots. They look at my property and they are going to vote for this because they will say, 'Great, that land can never be developed. I will enjoy it for the rest of my life.' I am going to develop 5 acres and maybe one house if I am lucky and then what happens to the rest of that land? What happens to the other 45 acres; who is going to buy it? The only person that is going to buy it is the big farmers that are going to pay me rock bottom prices because there is no other use for it. I can't sell it for anybody else to build on it; it's just going to lay there. This is theft of my property and I am totally against it."

Alan Bertch of Walker Road - Our land is behind houses on the front of Walker Road, so if you have 100 acres and you can only develop 10 acres, nobody is going to want to buy this land that they can't do anything with and there aren't that many farmers in Hamlin or even Monroe County that are going

to be wanting to buy property. I am not against preserving farmland, but taxes are eating us up. If we are going to do something, maybe we should be looking at tax abatement. On 60 acres of land we rent out to a farmer, we get \$1,100 per year off our taxes, which are \$12,000 on the one property. When you put our properties together, we are paying close to \$30,000 per year in taxes; we can't afford it anymore. So if we decide we wanted to sell something, we are going to be locked in with all this criteria, there aren't going to be that many people jumping in wanting to buy it. I questioned Don Wells at length because when I lived in Webster, we had 150 acre farm and we paid zero tax with agricultural exemption. I don't understand out here on 60 acres that we are renting out how it comes to only \$1,200 off the taxes. That's something that needs to be looked at, giving better exemptions, because right now you are driving farmers out of business here with the high property taxes. If someone wants to petition to have them removed from the APO, what criteria will be used to say that this person gets it and not the other one? You will start getting into lawsuits. I am all for preserving farmland, but you have to do some sort of abatement for people.

Councilperson Breslawski stated, "The criterion is defined as according to the Comprehensive Plan and the stated purpose of the APO. Thank you."

Margaret Pearson of Church Road stated, "I just want to make sure I understand this correctly. The APO affects owners of over 10 acres of land and they would be allowed to sell off 10%. I thought you needed 5 acres to build a home. You would have to have a minimum of 50 acres to be able to sell off enough to build a home. So anyone with less than 50 acres is stuck with just a big yard. I purchased my land 20 years with the thought of someday building a second home, but because it's just a little over 10 acres that dream is gone with this."

Councilperson Breslawski answered, "That's a good question and that depends upon your zoning district and in your case that is how it works out. You would have an option of applying for a variance. Should someone wish to develop, they would have 2 options: first would be to petition for removal from the APO keeping in mind the criteria, and the second would be to apply for an area variance to subdivide."

Alan Bertch – Piggybacking on what she said, let's say a person followed the criteria and it doesn't meet the criteria to remove it from the APO, then they are stuck with 40 acres that they bought as an investment and now can't sell. If that's the case they shouldn't have to pay \$6,000-\$8,000 in taxes per year for land that they can't do anything with. If the Town wants them to keep it and they can't do anything with it, they need to give them a tax break on it.

Rick Bower – On the corner of Burritt and Rt. 259 going out of the village, there is a lot there owned by Martin Farms. There was some concern around the development of that. The Town stepped up and bought the easement around the property. If the Town wants to keep an APO and be so strong about what they are doing, why didn't they step up and buy the property to allow building rights so we can now get paid and do what we want with the land we own.

Councilman Breslawski stated, "We surveyed the farmers and that was not acceptable to them and we also surveyed the Town of Hamlin. In the 2003 survey the percentage of residents who were in favor of the purchase of development rights was 14%. That is why we felt it was not worthwhile going forward with only 14% of residents in the Town in favor of purchase of development rights, yet 94% in favor of protecting farmland."

Mr. Bower stated, "I have lived here 52 years and I do not appreciate paying taxes on land and having someone tell me what to do with it."

Councilman Breslawski stated, "We appreciate it, that's what we are here for."

Jim Guion – "Wouldn't it be an easier solution to follow the same procedures that are in place now? Whereas you alluded to earlier there are a certain number of hoops to jump through between the

Zoning Board and Planning Board. I had the unfortunate pleasure of jumping through those hoops in the past. Aren't those hoops in place so that if a farmer wants to develop a certain amount of land, wouldn't the Zoning Board and Planning Board be able to step in and say no that's not what we would like you to do? Shouldn't it be looked at in an individual situation and not a blanket situation for the entire town?"

Councilman Breslawski answered, "That's a very good question, and this is why we are here getting this feedback. The goal here was a more active preservation of farmland as opposed to a passive. I read an article in the paper a year or two ago about the Town of Penfield bragging about how they had preserved their farmland. They had it all locked up and their farmland was safe in Penfield-- all 400 acres of it. We didn't want Hamlin to come to that. The goal of this was more active preservation."

Mr. Guion continued, "I don't think anyone wants to see that happen either. I just think this is creating some issues. Part of the thing that you have to go before the Town Board for is, in order to get an exemption you have to prove your land is not able to be farmed. I have 25 acres of total woods. Could it be farmed? Sure, if someone wanted to come in and cut it down and dig all the stumps up, it can be farmland. It would be cost prohibitive but you have it in your guidelines that that's an out that you have.

Councilman Breslawski said, "Thank you."

Rick Dollard – "How much of this is actually farmed land? What is designated that is actually being farmed? How did you come up with 10 acres as a basis to start with?"

Councilman Breslawski stated, "I don't know exactly, the Town Board decided on 10 acres and above as an idea to delineate the boundaries."

Mr. Dollard continued, "Your stated purpose is you would like to see agricultural operations continue. What are the agricultural operations in the town currently?"

Councilman Breslawski said the criteria for removal from the APO under the statement of purpose the parcel should be for existing or future agricultural use, otherwise the parcel can be removed.

Mr. Dollard said, "Based on the outline here you are going to be inundated with petitions."

Councilman Breslawski said, "We may, it doesn't affect a whole lot of regular uses; it's only when you are going to subdivide."

Dean Strussenberg of Walker Lake Ontario Road – "Is this whole idea is based on your tax parcel? If you look at a 200 acre field, there might 3 or 4 different parcels. Are you basing it all on each different parcel? You aren't looking at a 200 acre farm; you are looking at 3 or 4 different parcels. My farm is divided up into several parcels, and I would have to treat each individual parcel individually."

Councilperson Breslawski answered, "I see what you are saying, if I have 5 parcels of 50 acres, it's not as good as having one parcel of 250 acres. The solution to that is handled in Section E and that is to combine the lots with combined development rights."

Mr. Strussenberg continued, "I'm not really happy with the idea."

Linda Sherwood of Church Road – I have a question about your survey. When you asked people about the rural character of Hamlin, a large percentage said, yes, we do want to preserve the rural character of Hamlin. But when you asked them whether they would agree to a decrease in taxes, they said oh, no, we are not willing to pay for it but we want the rural character. It doesn't seem fair to us as landowners that with the volume of people that like green space, but yet they are not willing to pay for it with a decrease in taxes. They are expecting the landowners to take all the financial responsibility for guaranteeing green space in Hamlin. I don't think that's fair to the landowners in Hamlin. I don't think anyone here wants to take away green space. We obviously moved out here because we like it,

but I think it's a shared responsibility. If 94% of the town said they want green space, then 94 – 100% should share the financial responsibility, and that's not happening with this APO.

Councilperson Breslawski stated, "Right, that's correct. You can see what has led us to this law. We have 14% saying we want to pay, but 94% saying they want green space."

Linda Sherwood continued, "It is going to be a very unpopular voting position for the folks that are running for election this year because a large percentage of us vote. I think it stinks that you managed to sacrifice us as a small group. I think the goal of green space is a good one, but if you want to make it fair everyone has to pay for it."

Councilman Breslawski stated, "That's why we are here tonight; this has not gone through. This is why we brought this forward and this is why we are taking all this feedback. Thank you."

Mark Reeves of Brick Schoolhouse Road – "First of all being in front there a few times, I appreciate you guys doing this and sending out the letter. You could have snuck it through without any input, and I appreciate your position on being the point guy or the sounding board. When the team was developing these regulations, was there any consideration to the financial impact, which would seem to be on the landowner's property values?"

Councilperson Breslawski stated, "No, there was not. We looked at the data from the surveys and we tried to find a way to accomplish what these surveys said the residents wanted."

Dave Isabella of Walker Lake Ontario Road – "Is the Town Board facing on-going pressures where they felt it necessary to enact something like this?"

Councilman Breslawski said, "The thought was not only the surveys but the Comprehensive Master Plan, and in the Comprehensive Master Plan active preservation of farmland was one of the most important goals, and so this was born out of that."

Linda Sherwood – "We have a Master Plan that was approved 4 years ago. Doesn't that designate the government areas?"

Councilman Breslawski answered, "It does; it was one of the goals in the plan, the preservation of farmland, the land use and rural character. This was an attempt to classify those goals and meet the objective of the survey."

Linda Sherwood continued, "I am just trying to figure out a way to reach that goal using other alternatives rather than dictate how an owner uses their land. You could set up green districts or something like that. To severely hurt one small constituency, and again, driving down the price of the land that we can sell it to the farmer at. It doesn't seem fair to the landowners."

Councilman Breslawski decided to do a straw poll as there were no more questions. Asking who would be in favor of this, there were 4 in favor. Most were against the APO.

Alan Bertch – If you are interested in doing this in the most equitable way, maybe it would be in the best interest of the town to get a group of 5 or 10 of these people to come in with the Board to talk about their ideas and then have the next 10 people come in and talk and then gather all that information and formulate it into something that may become workable. Thanks, Tom for getting everyone's input at this meeting so we don't have to guess.

Councilman Breslawski thanked him for his input.

Dave Martin of Lake Road East Fork, asked, "If these people decided to get into this APO, is there a tax break there for them? If their land is in the Ag district, they definitely get a tax break."

Councilman Breslawski said that they had not discussed tax breaks at this point.

Councilman Breslawski thanked everyone for coming. He said, "We drafted this whole law, we got your feedback and we all heard it, as much as it pains me to say so. Thanks to everybody, I do appreciate you coming."

He then closed the information meeting at 8:00 pm.

Respectfully submitted,

Kathi A. Rickman, MMC
Hamlin Town Clerk