

## Public Budget Hearing, Town Of Otto

A Budget Hearing of the town board of the Town of Otto, Cattaraugus County and the State of New York was held at the Otto Town Hall, 8842 Otto- East Otto Road, Cattaraugus, NY on the 7th day of November 2019.

**Present:** Ron Wasmund .. Town Supervisor  
James Wojdan .. Councilmember  
Brenda Mallaber .. Councilmember  
Paul Stang .. Councilmember  
Marlene Gregory .. Councilmember  
Trisha Priest .. Town Clerk  
Robert Barber Jr. .. Highway Superintendent

### Others Present:

None

Supervisor Wasmund opened the public hearing at 7:00pm.  
Copies of the proposed budget were distributed to all present.

The town clerk certifies that the publication for the public hearings were submitted to the Ellicottville Times Newspaper on October 24, 2019. The notice of the filing of the preliminary budget and scheduling of the public hearing were posted at the Otto Post Office and the Town Hall on October 22, 2019. The Public Hearing notices were also placed on the OttoNY.org website October 25, 2019. The public hearing notices for Local Law 1-2019 and 2-2019 were posted on the same dates and places as the proposed budget.

With everyone having the opportunity to speak and no one appearing for or against the proposed budget, Supervisor Wasmund closed the public hearing at 7:14pm.

### RESOLUTION 2019-62

#### Approval of the 2020 budget

On a motion made by Councilmember Mallaber and seconded by Councilmember Gregory, the following resolution was

APOPTED      Ayes    5      Gregory, Mallaber, Stang, Wasmund, Wojdan,  
                 Nays    0

Resolved that the 2020 budget be approved as submitted.

The public hearing on Proposed Local law 1-2019 was opened by Supervisor Wasmund at 7:15pm.  
Copies of the proposed Local Law 1-2019 Senior Citizens Tax Exemption were distributed to all present.

With everyone having the opportunity to speak and no one appearing for or against the proposed Local Law 1-2019 Senior Citizens Tax Exemption, Supervisor Wasmund closed the public hearing at 7:22pm.

### RESOLUTION 2019-63

#### Adoption of Local Law 1-2019 Senior Citizens Tax Exemption

On a motion made by Councilmember Gregory and seconded by Councilmember Stang , the following resolution was

APOPTED      Ayes    5      Gregory, Mallaber, Stang, Wasmund, Wojdan,  
                 Nays    0

Local Law 1 OF 2019 Senior Citizens Tax Exemption Law

A LOCAL LAW GRANTING PARTIAL EXEMPTION ON REAL PROPERTY TAXATION TO CERTAIN SENIOR CITIZENS

**BE IT ENACTED** by the Town Board of the Town of Otto as follows:

**Section 1. Legislative Intent and Purpose**

It is the intent of the Town Board of the Town of Otto to continue to provide a partial real property tax exemption to certain individuals sixty-five (65) years of age or over in accordance with section 467 of Real Property Tax Law and also permit an offset to the income used in determination of an applicants' eligibility for the senior citizens exemption to be offset by medical and prescription drug expenses.

WHEREAS, the Town Board resolved to adopt the Cattaraugus County age exemption of 2009 and

WHEREAS, the Town Board resolved to adopt the Cattaraugus County Local Law No. 3-2016 (Intro No. 2-2016) allowing for option 2 of the Senior Citizen Exemption income eligibility sliding scale.

WHEREAS, Cattaraugus County has amended Local Law 3-2016 (Intro No. 2-2016) by enactment of Local Law No. 8-2019 to permit an offset to the income used to determine an applicant's eligibility for the Senior Citizens Exemption.

**Section 2. Local Law 1-2019**

This law shall be known as the Town of Otto Local Law 1 of 2019. A Local Law adopting the New Cattaraugus County Senior Citizens Real Property Tax Exemption Local Law 8-2019 pursuant to Section 467 of the New York Real Property Tax Law.

**Section 3. Maximum Income Eligibility level**

Effective January 1, 2017, the maximum income eligibility level as described in Section 467 of the Real Property Tax Law is hereby established as follows:

\$18,500 or less = 50% of assessed value exempt  
\$18,501 but less than \$19,500 = 45% of assessed value exempt  
\$19,500 but less than \$20,500 = 40% of assessed value exempt  
\$20,500 but less than \$21,500 = 35% of assessed value exempt  
\$21,500 but less than \$22,400 = 30% of assessed value exempt  
\$22,400 but less than \$23,300 = 25% of assessed value exempt  
\$23,300 but less than \$24,200 = 20% of assessed value exempt

**Option 2**

\$24,200 but less than \$25,100 = 15% of assessed value exempt  
\$25,100 but less than \$26,000 = 10% of assessed value exempt.

**Section 4. Offset of Medical Expenses**

Any income used in determination of an applicant's eligibility for the exemption hereby granted shall be offset by all medical and prescription drug expenses actually paid which were not reimbursed or paid for by insurance.

**Section 5. Repeal of Resolutions**

By enactment of Local Law 1-2019, the Town Board of the Town of Otto hereby repeals all prior senior citizen tax exemption laws or resolutions in particular the December 2009 resolution and resolution 2016-101.

**Section 6. Real Property Tax Law**

All other provisions of Section 467 of the Real Property Tax Law of the State of New York shall be in effect for the purposes of County real property taxation in Cattaraugus County.

**Section 7. Severability Clause**

If any part of this local law is for any reason held to be unconstitutional or invalid, such decision shall not affect the remainder of this local law. The Town Board of the Town of Otto hereby declares that it would have passed this local law and each section and subsection thereof, irrespective of the fact that any one or more of these sections, subsections, sentences, clauses or phrases may be declared unconstitutional or invalid.

**Section 8. Effective Date**

This Local Law shall be effective January 1, 2020.

The public hearing on Proposed Local law 2-2019 was opened by Supervisor Wasmund at 7:30pm. Copies of the proposed Local Law 2-2019 Right to Farm were distributed to all present.

With everyone having the opportunity to speak and no one appearing for or against the proposed Local Law 2-2019 Right to Farm Law, Supervisor Wasmund closed the public hearing at 7:40pm.

RESOLUTION 2019-64

**Adoption of Local Law 2-2019 Right to Farm Law**

On a motion made by Councilmember Gregory and seconded by Councilmember Stang , the following resolution was

APOPTED       Ayes   5       Gregory, Mallaber, Stang, Wasmund, Wojdan,  
                  Nays   0

Local Law 2 OF 2019 Right To Farm Law

A LOCAL LAW CREATING POLICY THAT ENCOURAGES AGRICULTURE AND FOSTERS UNDERSTANDING BY ALL RESIDENTS OF THE NECESSARY OPERATIONS INVOLVED IN FARMING

**BE IT ENACTED** by the Town Board of the Town of Otto as follows:

**Section 1. Legislative Intent and Purpose**

The Town Board recognizes farming is an essential enterprise and an important industry which enhances the economic base, natural environment and quality of life in the Town of Otto. The Town Board further declares that it shall be 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.

It is the general purpose and intent of this law 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 Otto, it is necessary to limit 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) "Farmland" shall mean land used in agricultural production, as defined in Subdivision Four of Section 301 of Article 25AA of the state Agriculture and Markets Law.
- 2) "Farmer" shall mean 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, raising crops or raising of livestock.
- 3) "Agricultural Products" shall mean those products as defined in Section 301(2) of article 25AA 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) Fruit crops, including apples, peaches, grapes, cherries, and berries.
  - c) Vegetables, including tomatoes, snap beans, peas, cabbage, carrots, beets and onions.
  - d) Horticultural specialties, including nursery stock, 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 or transplanting or cut from stump.
  - h) Aquaculture products, including fish, fish products, water plants and shellfish.
  - i) Short rotation woody crops raised for bio-energy.
  - j) Production and sale of woodland products, including but not limited to logs, lumber, posts, firewood.
- 4) "Agricultural practices shall mean those practices necessary for the on-farm production, preparation and marketing of agricultural commodities. Examples of such practices include, but not limited to, operation of farm equipment, proper use of farm structures.
- 5) "Farm Operation" shall be defined in Section 301 (11) in the state Agriculture and Markets Law.

## **Section 3. Right-to-Farm Declaration**

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 the advances resulting from increased knowledge, research and improved technologies.

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 will all local and 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 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. Nothing in this law shall be construed to prohibit an aggrieved party from recovering from damages for bodily injury or wrongful death due to failure to follow sound agricultural practice as outlined in this section.

#### **Section 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 Section 310 of Article 25AA 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 this district. Such farming activities may include but are not 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 sales contract at the time an offer to purchase is made.

#### **Section 5. Resolution of Disputes**

1) Should any controversy arise 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 dispute resolution committee 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 Commission of Agriculture and Markets about whether the practice is question is sound pursuant to Section 308 of Article 25AA of the state Agriculture and Markets Law.

2) Any Controversy between the parties shall be submitted to the Cattaraugus County Agricultural and Farmland Protection Board within thirty (30) days of the last date of occurrence of the particular activity giving rise to the controversy or other date the party became aware of an occurrence.

3) The effectiveness of the Cattaraugus County Agricultural and Farmland Protection Board as a forum for the resolution of disputes is dependent upon full discussion and complete presentation of all pertinent information concerning the controversy.

4) The Controversy shall be presented to the Cattaraugus County Agricultural and Farmland Protection Board by written request of one of the parties within the time limits specified. Therefore, after the Cattaraugus County Agricultural and Farmland Protection Board my investigate the facts of the controversy but must, within twenty-five (25) days, hold a meeting at a mutually agreed place and time to consider the merits of the matter within five (5) 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 consider 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 written stipulation of all parties in the dispute.

5) Any reasonable costs associated with the function of the Cattaraugus County Agricultural and Farmland Protection Board process shall be borne by the participants.

#### **Section 6. Severability Clause**

If any part of this local law is for any reason held to be unconstitutional or invalid, such decision shall not affect the remainder of this local law. The Town hereby declares that it would have passed this local law and each section and subsection thereof, irrespective of the fact that any one or more of these sections, subsections, sentences, clauses or phrases may be declared unconstitutional or invalid.

**Section 7. Precedence**

This Local Law and its provisions are in addition to all other applicable laws, rules and regulations.

**Section 8. Effective Date**

This Local Law shall be effective immediately upon filing with the New York Secretary of State.

With no further discussion, on a motion of Councilmember Mallaber and seconded by Supervisor Wasmund, the meeting was adjourned at 7:46pm. Carried unanimously.

The next board meeting will be held on November 19, 2019 7PM at the Otto Town Hall.

Respectfully Submitted,

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Trisha A. Priest, Town Clerk