

SPECIAL BOARD MEETING

December 2, 2009 7:00 p.m.

AGENDA

- **Public Information Session for Open Space Fund/Pierson Farm**
- **Town Board to approve minutes from November 12, 2009 Board Meeting**

**STATE OF NEW YORK
COUNTY OF DUTCHESS
TOWN OF LA GRANGE**

**SPECIAL TOWN BOARD MEETING
DECEMBER 2, 2009**

Present: Supervisor Jon Wagner
Councilman Joseph Luna
Councilman Gary Beck
Councilman Steve O'Hare
Councilman Edward P. Jessup

Recording Secretary: Margaret Schmitz, Deputy Town Clerk

Others Present: Dieter Lucas, Co-chair Open Space Implementation Committee
Duane Beyer, Co-chair Open Space Implementation Committee
Kevin Haight, Open Space Implementation Committee
Peter Iannucci, Open Space Implementation Committee
Jennifer Cherry, Dutchess Land Conservancy
Becky Thornton; President – Dutchess Land Conservancy

A Special Meeting of the Town Board was held on Thursday, November 12, 2009 at the LaGrange Town Hall, 120 Stringham Road. Supervisor Wagner called the meeting to order at 7:00 p.m. The Deputy Town Clerk led the flag salute. There were approximately 35 members of the community present in addition to a reporter from the Poughkeepsie Journal.

Supervisor Wagner gave a brief history of the preservation of open space in the Town of LaGrange and the 2008 Referendum on Open Space which passed overwhelmingly. Supervisor Wagner explained that the Referendum gave the Town of LaGrange the ability to Bond up to \$2,000,000 to preserve open space. Supervisor Wagner mentioned that leading up to the election the Town Board had consistently said it would hold public information sessions about any parcels the Town may be interested in spending that bonding authority on. Supervisor Wagner stated that the Pierson Farm first came to the Town's attention regarding preservation of open space as early as 2005 and the Town secured a \$100,000 grant for preservation of the Pierson Farm land. Supervisor Wagner turned the meeting over to the Open Space Implementation Committee and the Dutchess Land Conservancy for their presentations.

Dieter Lucas, co-chair of the Open Space Implementation Committee introduced the committee members and the representatives from Dutchess Land Conservancy. Mr. Lucas and Mr. Beyer presented the Open Space presentation; handouts of which are available in the Town Clerk's Office. Mr. Lucas spoke about the original survey which was done regarding open space and the three main areas which most people were concerned: the number one concern was for the preservation of active farmlands and orchards - 22.3%; second greatest concern was for the preservation of aquifers and lands for water quality - 19.9%; and thirdly for nature preserves and wildlife habitat - 18.1%. Mr. Lucas explained the focus of the presentation addresses those three areas of concern. Mr. Lucas gave an overview of purchasing development rights as an effective tool for preserving open space. Mr. Lucas turned the presentation over to Mr. Beyer.

Mr. Beyer spoke about the specifics of the Pierson property and how it fits into the Open Space Plan and why it is being considered. Mr. Beyer stated that the Pierson property meets all three criteria; ecological, working landscape and water resources. Mr. Beyer stated that the property is adjacent to Freedom Park which is important for wildlife which likes large contiguous areas. Mr. Beyer gave an overview of the of Open Space initiative time-line. Mr. Beyer stated that the Pierson property is a very good match for Open Space and then turned the floor over to Jennifer Cherry of the Dutchess Land Conservancy.

Ms. Cherry discussed further details of the property and what an Agricultural Conservation Easement means for the farm. Ms. Cherry spoke about the resources on the property such as prime soils and statewide important soils which this property is covered with. Ms. Cherry reviewed the water resources and stated the property is classified by Hudsonia as a kettle shrub pool which is habitat for Blanding's Turtles. Ms. Cherry identified additional attributes of the property in terms of wildlife preservation. Ms. Cherry explained that an agricultural easement is drafted to protect the property and to keep farmers farming without put unreasonable restrictions on them; the farmstead complexes on the easement are designated areas where structures would be centered with all other areas are left open. Ms. Cherry explained that the Pierson's would still own the land yet the easement will protect the property from development and the property stays on the tax rolls. Ms. Cherry stated the value of the easement is determined by an appraisal done by a certified conservation easement appraiser in which they value the property based on current zoning, as is with no restrictions; then they look at value of the property with the proposed restrictions; the difference between those values is the value of the development right. Ms. Cherry said Dutchess Land Conservancy would hold the easement and maintain responsibility for monitoring and enforcing the easement.

Supervisor Wagner asked for the figures; Ms. Cherry's response was "the current development rights are valued at \$756,000 based on 2006 appraisal; funding would be divided; 30 % from the County, 13% from the Estuary Grant and 57% from the Town".

Supervisor Wagner added that a new appraisal would be done and the County indicated yesterday that they are still interested.

Ms. Cherry added the County gave some very good feedback and they are very excited about it.

Public Comment

Rolf Nijhuis, member of CAC and an interested party, stated he is very much in favor of the project and had a few questions for the Town Board. "As you look at the property, about 30 % of property is underwater in the flood plains; when they assess it for building value do they take that into account?"

Supervisor Wagner replied that the appraisal definitely will take that into account. Ms. Cherry confirmed that fact.

Mr. Nijhuis asked if the farm is still approximately 173 acres, and has any of it been sold prior to this point?

Ms. Cherry responded that nothing has been sold.

Mr. Nijhuis had a question regarding the wetlands and the kettle pond on this property as a site rated by Scenic Hudson as the most significant site for Blanding's Turtles. "Would this area and the turtles be protected?"

Valerie Sutor, Titusville Road, stated she is very much in favor of this project and preservation of open space. "When you say the property remains on the tax rolls, do the taxes go down once the development rights are sold?"

Becky Thornton responded "It depends on your Town's Assessor, but typically the assessments don't change at all especially when it's a farm and they are getting agricultural assessment."

Peter Plavchan, 10 Apple Summit Lane asked the Town Board to vote against this proposal on a lot of different merits. Mr. Plavchan stated "there are many properties in LaGrange as agriculture that don't produce an agricultural product. The Pierson Farm has hay; according to the State Taxation Law you have to expense out, I believe \$50,000 a year in expenses, to qualify for farm assessment. That same law does not apply to how Bernie (Fountain) assesses agricultural products. Mr. Lucas' parcel, who is on the committee, borders this parcel. This parcel, from a real estate point of view doesn't have that many developable lots on it, in my view. If you look at the pattern of sprawl, it's from the South to the North. The farms that are in the way are down South like Nesheiwat's parcel & the old Karl Ehmer place; this is tucked up there. The topography of the land; there is a very steep cliff. You are not going to get that many building lots out of it. The 100 year flood plain, if people want to know the definition, 8 inches rain. In 2007 this town flooded with 4.5 inches of rain, so that was 50 year flood. I believe that a farm is a farm and they produce agricultural products for the community. In this particular case, in this economic time, I don't have the money to pay for this. We can talk about tax and spend Democrats or spend and bond Republicans; now is not the time. I cannot imagine, plus, I believe the application still has four houses still going to be built on the property. If you get six out of it, what are you saving; you are not saving anything? There are a lot of things to look at. What is declared agriculture? Also, this is the 2006 study; in the application it has a reserve to build four more structures. You have a person on the town Assessment Review Board that also

boarders the property. Everyone wants to preserve that land in their backyard and that is what this is. I spoke to two people today that should have been approached and were not. Camile's (?) property; never got a phone call. In this day and age don't let a dollar burn a whole in your pocket. Take your time, look around, wait for it; like a good baseball player; wait for the pitch. Take the first strike; this may be the first strike, you may have to walk away from a \$100,000 bond. I know you're going to get a dollar and spend seven but this may not be the one at the right time. I don't believe that in this time that we are going to see that much development on that particular parcel whether it's economic, whether its topography, that's it; and when you can build four more houses I know I would like to have \$700,000 because I know that will build at least one or two houses. So I am encouraging all of you to, due to the conflict of interest that exists on the Open Space Committee and people backing up to that property, due to this economic time, due to the way agricultural parcels are classified by Bernie. A farm is a farm, if you have an agriculture. output; if you are selling wood or selling hay, if you are selling cattle, or chickens; I don't care. If you just have a stand of trees that is 35 acres, that's not agriculture; that's taxable parcel. Thank you."

James Stuart, Cromwell Drive expressed that he believes now is the time to take advantage of this opportunity. Mr. Stuart said he has lived in this town for about 40 years and from his experience when developers say development will improve your tax base, taxes go up and up despite extensive development. Mr. Stuart stated "I believe this should be a first step; that we will save money because our taxes will go up when there is development; that is what happens. We discover we need another school; we need more teachers, and each new school cost a lot more than the last one we just build and land for the school cost more than the last one we built. The Town and the Arlington School District have failed in their planning in terms of locating schools where the development is; instead they located the schools where it is cheap and we pay for a great deal for busing. I say we take advantage of this to avoid one little chunk of development in the Town of LaGrange. It will save the tax payer money; at least that is my experience." Mr. Stuart stated "one more concern which is that you can have a dozen consecutive town boards saying let us protect this property and then one comes in where the developers put a lot of money into the elections and you get a town board that says let us take advantage of selling the development rights. No one will have benefits of the development rights except the owners of the property, whom ever that may be at that time. I think it is absolutely essential that this protection be very much secure so that one town board in one meeting can't turn it off; that is critical. I would suggest that if ever the development rights are made available they be made available only when the town has ownership of the land and it can be put up for auction. I don't think it would be a good idea to ever change this but it must be a very strong protection against one town board reversing the accomplishments of a half a dozen."

Supervisor Wagner responded that Dutchess County Land Conservancy, as the third party, will hold the key to the ensuring that the piece of property will always have that easement on it and cannot be developed. Future Town Boards will not have the luxury of medaling in it because Dutchess Land Conservancy won't let that happen; which is why it's a good thing to have a third party.

Peter Iannucci, Skidmore Road stated "I am on the committee and I'd like to clarify the misinformation regarding the 100 year flood plain. On Gidley Road, three years ago, they built a

house on the 100 year flood plain. It went before the court, the court approved building there, they put five or six feet of fill in. A friend of mine owns the house across; now his house floods. You can technically build in that 100 year flood plain from Gidley Road all the way through the Pierson property, Doherty's property, all the way to the parkway. It's a misconception that you can't build in a 100 year flood plain; you can."

Nancy Swanson, Freedom Road; "I am in favor of this project. I think it's a beautiful piece of land; nice for the Town to have and it's adjacent to the Freedom Park which is also good. I live on the other side of the Taconic, about four miles away. I'm not an adjacent land owner and I'm very much in favor of the project."

Lucy Johnson, Velie Road: "I have lived in the area for over 20 years now and have seen parcel after parcel, after parcel turn into developments and I think it's very important for the Town to preserve those pieces of open space that we still have available. The Pierson Farm does not only provide hay, but eggs, and it provided milk until the Pierson's got to an age where keeping a dairy herd was impractical for them; it is an active farm; it is a beautiful farm. It is in a location where, as the initial presentation showed, abuts Freedom Park which allows us to have a large open corridor for wildlife. I think not taking advantage of this opportunity would be a horrible blot on LaGrange's record. Thank you."

Al Rabasco, Rossway Road; "I am for this and I think the Pierson Farm is a very good candidate, but I think it's critical because it's the first one, that you get this right. I want some questions answered and some facts brought out. Forget the house, what is the taxable amount on the agriculture exemption"?

Supervisor Wagner responded that we don't have those figures here tonight; we can get them for you.

Mr. Rabasco; "If that property came out of the ag. program, the taxes would soar at their current assessment. I heard the taxes would not change if it went into this program; that clearly is not correct. If you own a piece of land with no development rights its appraisal has to go by its sale value. No one is going to spend \$2 million on a piece of land you can't build on. How could that possible be true? If you own a 100 acres and you build ten houses it is worth much more than if you can't build at all. The wetlands are another big thing; no builder is going to buy land in a wetlands. I own land in a wetlands and I have to stay 500 feet from it." The value of this property is a big thing for me. I saw on the maps that you show some areas they can build houses in this field."

Jennifer Cherry replied that with this easement there are three rights reserved for houses; the key with the ag. planned development rights, you can't leave the farmer with nothing. Ms. Cherry clarified that the purchase of development rights actually extinguishes the rights, no one is holding them; they don't come back. Ms. Cherry further added that from a property tax standpoint the assessor doesn't need to take that into consideration; the fair market value of the property may change.

Mr. Rabasco asked what the assessment of the farm is?

Supervisor Wagner asked Mr. Rabasco if he was asking for the real estate assessment or the appraised value?

Ms. Cherry responded that the land value in 2006 was \$11,000 an acre; the restricted land value is almost \$7,000 an acre and the development rights are worth \$4,000 an acre. Ms. Cherry stated "You are paying, based on the 2006 appraisal, \$4,000 an acre to ensure it stays as a farm."

Mr. Rabasco asked how many acres is it?

The response from the Board was 174 acres.

Mr. Rabasco asked when the \$750,000 was figured; did the house come out of that?

Mrs. Cherry responded that yes, the appraisers that do these appraisals are very savvy and they have to know what the easement says and what the restriction says so they actually do an evaluation based on the before value which is unrestricted and the after value. If the Pierson's were retaining any development rights the price paid by the Town would be much greater than the \$700,000 if they extinguished all their development rights. Ms. Cherry explained this is based on reserving three rights under the conservation easement; the appraiser does take into consideration all of the restrictions on the property including the flood plain, steep slopes, what could you do with this property based on current development scenarios based on the zoning.

Ms. Cherry said "When the property is reappraised, we can get an appraiser to come to a meeting to answer all these questions."

Supervisor Wagner added that the intention is to have it reappraised. A lengthy discussion pertaining to the appraisal process followed.

Councilman O'Hare added that he would like to see the current appraisal made public as well as the one still on the way.

Bob Kondas, Mountain Road stated "I own two dairy farms over 300 acres and wished to clear up something that was previously said by a Peter Plavchan. For an agriculture district you have to gross \$10,000. Becky, I have my tax bills home, our taxes went up over a \$1,000 last year so don't say taxes aren't going to change."

Ms. Thorton responded that once you sell your development rights, the assessor isn't going to reduce the Pierson tax bill; it's going to remain the same.

Mr. Kondas responded, "It would increase; if the real estate was low back then and they gave you a price for then and it was high now would you let the Pierson's go back and get another reappraisal to bring the price back up"?

Supervisor Wagner responded, "Yes, in all fairness to all parties, after four years the reappraisal has to be done."

Mr. Kondas replied, "My opinion is why don't you give them a million bucks? We get taxed enough; with the MTA Tax; where is it going to end?"

Scott Loveland, Curtin Court said, "I am in favor of this project, I like the idea that it's creating a large wildlife corridor and I also like the way it abuts the Park; it makes an ideal site."

Anthony DeMan, Ridgeview Lane stated that, "I think now is the perfect opportunity to take advantage of possibly saving on the bond cost in addition to the possible real estate value. This is the first step, where the Town people voted to have a small increase in taxes to protect the Town. We got slapped with an MTA tax that I don't think anyone voted for. This one we actually voted for that we wanted to do to maintain the environment. I think this is the first step for the people of the Town to finally do something for Town, so I'm all for it".

Supervisor Wagner thanked everyone for coming to the public information session and stated the Town Board will take all comments and concerns into consideration. Supervisor Wagner mentioned that a current appraisal will be done and another public information session will convene before a decision is made. Supervisor Wagner informed those present that this is not the only property being looked at by the Open Space Implementation Committee; there is another farm, centrally located in town, in which they are in negotiations with the owners to preserve 112 acres.

Agenda Item

Supervisor Wagner asked for a motion to approve the Town Board Meeting Minutes from November 12, 2009; Councilman Jessup made the motion, seconded by Councilman Beck; carried unanimously.

Town Board Comments

Councilman Luna stated that he had a conversation with a town resident who was unable to attend the meeting but wanted her objections added to the record. Councilman Luna summarized Mrs. Coffin's concerns regarding the Pierson Farm location as she feels there are better sites in town; she is also concerned about the price, assessment and the amount of the site that would be developable. A resident in attendance requested the name of the town resident to which Councilman Luna was referring. Councilman Luna stated the residents name is Judy Coffin of Traver Road.

Councilman Jessup stated that he received an email from town resident, Carl DeKeukelaere of Straub Drive, who is a strong advocate of the Open Space Committee but is not in favor of the Pierson Farm site as it is not one that he would have personally chosen.

Tracy Johnson, of Velie Road, stated he is strongly in support of purchasing the development rights of the Pierson Farm for the variety of reasons that have been put forward, but as a matter

of procedure, feels if we are going to require people at the public meeting to identify themselves and their addresses, it would be appropriate for people who are sending comments in as well.

Councilman Jessup made a motion to adjourn the meeting, seconded by Councilman Luna; carried unanimously. The meeting adjourned at 8:10 p.m.

Respectfully Submitted,

Margaret Schmitz
Deputy Town Clerk