

Regular Town Board Meeting
Public Hearing
August 17, 2023

Present: Supervisor, David DiSalvo; Deputy Supervisor, Don Huff; Councilmember, Nate Guzzardi; Councilmember, Jeff Coniglio; Highway Superintendent, Sam Cipriano ; Code Enforcement Officer, Shawn Grasby; Transfer Station Manager, Kitt Ceroni; Attorney, Ed Russell

Others Present: Community Members, Karl and Johnna Schrier; Pete DiSalvo, Teri Carabello, Michael Duby, Dave Swanson, Jeff Swanson, Anne Hunt, Jen Young

At 6:30pm Supervisor DiSalvo opened the Town Board meeting at the Mount Morris Town Hall, 103 Main Street, Mount Morris, NY. Supervisor DiSalvo led the Pledge of Allegiance.

PUBLIC HEARING

Supervisor DiSalvo opened the public hearing at 6:31 PM on Local Law No. 3-2023 A local law to impose a Moratorium on the Creation of any new Battery Storage Facilities in the Town of Mount Morris.

PUBLIC COMMENT/OPEN FORUM

Supervisor DiSalvo asked if there were any public comments.

Mike Duby lives on Hoagland Road advised the board that he would like the moratorium to be continued, especially due to the recent fire in Jefferson County.

Supervisor DiSalvo advised the public that there is a study being conducted on that fire.

Jeff Swanson asked if Hendershot goes into the towns power supply. Supervisor DiSalvo said that it does.

Teri Carabello said that she disagrees with solar and thinks that's it dangerous when you have one power supply company that controls the fees, and people are stuck using that one company. It would be nice to have more choices and it would be more beneficial to the people and the community.

Karl Schrier said that they have multiple different choices, RG&E controls the lines but other companies can sell the electric.

Code Enforcement Officer Shawn Grasby asked if the moratorium is rescinding the towns current law. Attorney Ed Russell said, no that it is just stopping any new development.

Dave Swanson said that he gave past Supervisor DiPasquale a bill for the trees and the town ignored it. Supervisor DiSalvo advised Mr. Swanson that this case has been settled in court and it can't be discussed any further. Attorney Ed Russell said that the town dropped the charges on him. Dave asked, "what about the trees? This was the second time they mowed them down. Supervisor DiSalvo said it was settled in court. Mr. Swanson said that it isn't right, and that the town knew those trees were there. Attorney Ed Russell advised Mr. Swanson to talk to his attorney about the case. As far as the town is concerned the case is settled, and they can't discuss it any further.

APPROVAL OF MINUTES

The Board reviewed the minutes of last month's meeting from July 20, 2023. A motion was made by Deputy Supervisor Huff, seconded by Councilmember Guzzardi to approve the minutes from the meeting on July 20, 2023.

Vote: Aye 4 (DiSalvo, Huff, Guzzardi, Coniglio)
 No 0
 Motion Carried

SUPERVISOR'S REPORT

A motion was made by Councilmember Guzzardi, seconded by Deputy Supervisor Huff to accept the Supervisor's Report for July 2023 as presented.

Vote: Aye 4 (DiSalvo, Huff, Guzzardi, Coniglio)
 No 0
 Motion Carried

HIGHWAY SUPERINTENDENTS REPORT

Superintendent Cipriano said that the new employee is a very hard worker. He is hopeful for him to continue to be a good worker.

He said that Greg Oconnell asked the Town Highway Dept. to change the direction of the one cross over pipe. They didn't know there was an existing ditch in the hedgerow. They were informed by the previous property owner that it was there, and they directed the water into that pipe.

Superintendent Cipriano said that he believes Short Tract Rd needs to be widened and it will need gravel placed on both sides. The Highway Department would like to purchase two pieces of equipment in order to do this. The town would need to buy a road widening machine and a wheel loader. Superintendent Cipriano said that the town will have leftover money in chips and could use that money to buy the necessary equipment. He called Albany and asked them about using the chips money for the equipment and chances are it will get approved.

They have access to another shoulder widener but it's very slow. Superintendent Cipriano said his department did River Rd last year with the machine that they have access to, and it wasn't the best. The workers could wedge it with a grader, but it won't last. Councilmember Coniglio asked if the piece of equipment he wants to buy will compare to anything the town has now? Superintendent Cipriano said no, this is used exclusively for shoulder and road widening. It would also work well for tiling.

Supervisor DiSalvo asked for boards thoughts. Deputy Supervisor Huff said he thinks it would be a good purchase.

Councilmember Coniglio asked if the town has anymore ARPA money? Supervisor DiSalvo said no, the town used all of the ARPA money they were allowed to use on equipment. Councilmember Coniglio wants to make sure that none of this money is coming out of the budget. Supervisor DiSalvo and Deputy Supervisor Huff said no it would be used from the chips money. Councilmember Coniglio said he doesn't have a problem as long as it comes out of chips.

Councilmember Guzzardi said that he agrees to purchasing the equipment as long as it will get used enough.

Supervisor DiSalvo said it also may be beneficial because the solar company may pay the town to use it or pay the town to fix the roads for them.

Supervisor Huff doesn't think the equipment should be loaned out or rented. He also said that the town will have enough left after buying this equipment to pay the BAN.

A motion was made by Deputy Supervisor Huff, seconded by Councilmember Guzzardi to purchase the road widening machine and wheel loader.

Vote: Aye 4 (DiSalvo, Huff, Guzzardi, Coniglio)
 No 0
 Motion Carried

Superintendent Cipriano said that his credit card isn't working. Clerk Woodworth informed him that none of the cards were working and that all the payments had been paid. The card company keeps saying the payments are late. Ever since Elan Financial took over FiveStar she has had

issues with the company. She advised the board if the issues continue, they may need to look at a different company to handle their credit needs.

Superintendent Cipriano is worried about the state of Creveling Road. The road needs a lot of work, and the solar company has requested it get closed due to the state of the road. Attorney Ed Russell advised him to close the seasonal portion of the road and say that it is closed until repairs can be done. Superintendent Cipriano said that he looked and there isn't anything that says what is reasonable as far as a timeframe. Attorney Ed Russell said that is because it could differ depending on the road.

Councilmember Coniglio asked what it will cost to fix the road. Supervisor Huff said at least 85k.

A motion by Deputy Supervisor Huff, seconded by councilmember Coniglio to close the seasonal portion of Creveling Road until repairs can be done.

Vote: Aye 4 (DiSalvo, Huff, Guzzardi, Coniglio)
 No 0
 Motion Carried

AMBULANCE

104 -Stated	34 -ALS Transport	06 -Standby
17- Unstated	38 -BLS Transport	13 -Cancellation
02- Inmate Transport	11 -Treat/Release	

Deputy Supervisor Huff asked Supervisor DiSalvo to talk to Trevor(the head of the ambulance) about putting a cover on the ATV.

Supervisor DiSalvo said that the town has 40k to spend on a new SUV for the Ambulance. Trevor got a price of a 2023 Durango Pursuit for 40,302.00. It's in Niagara Falls and it already has a tow package.

A motion by Deputy Supervisor Huff, seconded by councilmember Guzzardi to buy the 2023 Durango Pursuit.

Vote: Aye 4 (DiSalvo, Huff, Guzzardi, Coniglio)
 No 0
 Motion Carried

Deputy Supervisor Huff said that it would be nice to have a spreadsheet done with the money we have received from solar and the money we will be getting.

Councilmember Coniglio asked what the town does with the PILOT money. Supervisor DiSalvo told him it goes into Fund A but they haven't figured out what else the town can do with it yet.

TRANSFER STATION

Councilmember Guzzardi said that Kitt informed him that the switch was shot on the cardboard compactor and got it temporarily fixed but it needs to be completely replaced. They are not sure if they can find parts for it, but they are trying.

Kitt Ceronie the Transfer Station Manager said that he talked to Chris Leaper from waste management on ideas to cut down on the cost of the compactor. Chris Leapers suggestion was to keep the furniture separate and then they can haul it away when need be. Kitt said when mattresses get in the compactor they don't compact. Chris Leaper is saying that over the course of the year, the town would save about \$600. Kitt said that the transfer station has the room to set the furniture aside since Karl Schrier is taking the cardboard. Waste Management also doesn't care if the items are wet. They will charge by the item. Kitt said that the contract the town has with e-waste is going well.

CODE ENFORCEMENT

Code Enforcement Officer Grasby said that the Solar project started, and they received the NTP for the switch yard the only ones they didn't get are for the energy storage and the POI.

There was a planning board meeting last night. There were four subdivisions on the agenda.

Code Enforcement Officer Grasby asked Attorney Ed Russell about the moratorium and the solar that is expected to start. Attorney Russell said the applications are already in place and those applications were already submitted prior to the moratorium.

Code Enforcement Officer Grasby said that he sent the proposed zoning changes to the County Planning Board for review and the SEQR is done so the public hearing needs to be set for the proposed changes.

A motion by Councilmember Coniglio, seconded by Deputy Supervisor Huff to set a public hearing for September 21, 2023 at 6:30 PM on the proposed zoning changes.

Vote: Aye 4 (DiSalvo, Huff, Guzzardi, Coniglio)
 No 0
 Motion Carried

ASSESSOR REPORT

Assessor Brian Knapp said that last month the county approved a local law for firefighters and ambulance workers. He said that unless the exemption is adopted by more than just the county it may not be worth it. You have to have a minimum of two years of service and there are other eligibilities for surviving spouses.

A motion made by Councilmember Coniglio, seconded by Deputy Supervisor Huff to set a public hearing on September 21, 2023 on a Local Law Providing a Partial Exemption from Real Property Taxes to Certain Qualifying Volunteer firefighters and Ambulance Workers.

Vote: Aye 4 (DiSalvo, Huff, Guzzardi, Coniglio)
 No 0
 Motion Carried

PUBLIC HEARING

A motion made by Deputy Supervisor Huff, seconded by Councilmember Guzzardi at 7:53 PM to close the public hearing.

Vote: Aye 4 (DiSalvo, Huff, Guzzardi, Coniglio)
 No 0
 Motion Carried

A motion made by Councilmember Coniglio, seconded by Deputy Supervisor Huff to adopt Local Law No. 3-2023 A local law to impose a Moratorium on the Creation of any new Battery Storage Facilities in the Town of Mount Morris.

TOWN OF MOUNT MORRIS Local Law No. 3 of the Year 2023

A Local Law to Impose a Moratorium on the Creation of New Solar Farms and New Battery Energy Storage Systems in the Town of Mount Morris

Be it enacted by the Town Board of the Town of Mount Morris as follows:

Title.

This Local Law shall be known as the “Moratorium on New Solar Farms and New Battery Energy Storage Systems.”

Authority and Purpose.

Authority and Intent. This Local Law is intended to be consistent with and is adopted pursuant

to the authority to enact zoning laws granted to the Town under the New York State Constitution, and the laws of the State of New York, including but not limited to the following authorities: New York State Constitution Article IX, § 2(c)(ii)(10); Municipal Home Rule Law § 10; and Statute of Local Governments § 10.

Purpose. In 2016, the Town of Mount Morris adopted Chapter 48-44.3 of its Code entitled “Solar Farm Law” to set forth development standards for creation of Solar Farms within the Town and adopted Chapter 15 of its Code entitled “Battery Energy Storage Systems” in 2020 to set forth development standards for creation of Battery Energy Storage Systems within the Town. Since that time, unanticipated and significant Solar Farms development has permeated the Town, including in locations in which such Solar Farms may have a disproportionate impact on surrounding land uses. This has been true of Battery Energy Storage Systems as well. This Moratorium is necessary to temporarily restrict the development of New Solar Farms and New Battery Energy Storage Systems so that the Town Board may consider creating subsequent zoning regulations to encourage appropriate Solar Farm and Battery Energy Storage System development. The Town Board has determined that this would best enhance and protect the health, safety, and welfare of the citizens of the Town of Mount Morris.

Definitions.

For purposes of this Local Law, the following terms shall have the meanings set forth below:

- a) “Solar Farm” shall have the same definition as it has in Section 48-44.3(A) of the Town of Mount Morris Code.
- b) “Battery Energy Storage System” shall have the same definition as it has in Section 15-3 of the Town of Mount Morris Code.
- c) “Solar Collector” shall have the same definition as it has in Section 48-44.3(A) of the Town of Mount Morris Code.
- d) “New Solar Farm(s)” shall mean any Solar Farm which is not currently the subject of any pending Special Use Permit Application and for which no Special Use Permit has ever been obtained.
- e) “Town” shall mean the Town of Mount Morris, in Livingston County, New York.
- f) “New Battery Energy Storage Systems” shall mean any Battery Energy Storage System which is not currently the subject of any pending Permit Application and for which no Permit has ever been obtained.

Moratorium and Prohibition.

The Town Board hereby imposes a Moratorium on applying for, the processing of applications for, and/or constructing any New Solar Farms or New Battery Energy Storage Systems in the Town of Mount Morris for a six (6) month period commencing on the effective date of this Local Law and continuing until February 17, 2024, and further provides that no application for a building permit, variance, special use permit, or approval of any kind will be accepted for review by the Town Code Enforcement Officer, Town Planning Board, or Town Zoning Board of Appeals during this period.

The Town Board hereby imposes a Moratorium on applying for and/or constructing any New Solar Farms or New Battery Energy Storage Systems in the Town of Mount Morris for a period commencing on the effective date of this Local Law and continuing until February 17, 2024, and further provides that no application for a Building Permit, Variance, or Special Use Permit will be accepted for review by the Town Code Enforcement Officer, Town Planning Board or Town Zoning Board of Appeals during this period. This moratorium shall apply to all zoning districts and all real property within the Town.

Variations.

The Town Board shall have the power, after a public hearing, to vary or modify the

application of any provision of this Local Law upon its determination that strict application of this Local Law would impose practical difficulties or extraordinary hardships upon an applicant and that the variance granted would not adversely affect the health, safety or welfare of the citizens of the Town or significantly conflict with the general purposes and intent of this Local Law. Any request for a variance shall be in writing and filed with the Town Clerk. The Town Board shall conduct a Public Hearing on the application on not less than five (5) days' public notice and shall make its decision within thirty (30) days after the close of the Public Hearing.

Extensions.

This Moratorium may be extended for such additional periods as the Town Board may determine to be necessary to protect the public health, safety, and welfare of the citizens of the Town and accomplish the stated purposes and intent of this Local Law.

Termination.

This Moratorium may be terminated earlier than February 17, 2024, upon enactment of local legislation regulating development of New Solar Farms and New Battery Energy Storage Systems within the Town.

Penalties and Enforcement.

Building Inspector. The provisions of this Local Law shall be administered and enforced by the Code Enforcement Officer.

Any person, firm or corporation that shall establish, place alter, enlarge or erect or modify any sign or billboard on any structure or freestanding, in violation of the provisions of this Local Law or shall otherwise violate any of the provisions of this Local Law shall be subject to:

Injunctive relief in favor of the Town of Mount Morris to cease any and all such actions which conflict with this Local Law and, if necessary, to remove any construction which may have taken place in violation of this Local Law; and

A fine not to exceed ONE THOUSAND AND 00/1000 DOLLARS (\$1,000) for each violation. Each day a violation continues shall be considered a new and separate violation.

Costs and Attorneys' Fees. In the event the Town is required to take legal action to enforce this Local Law, the violator will be responsible for any and all necessary costs incurred by the Town relative to such action, including attorneys' fees, and such amount shall be determined and assessed by the Court. If such expense is not paid in full within 30 days from the date it is determined and assessed by the Court, such expense shall be charged to the property or properties within the Town on which the violation occurred, by including such expense in the next annual Town tax levy against such property, and such expense shall be a lien upon such property until paid.

Superseding Intent and Effect.

This Local Law shall supersede any inconsistent provisions of the Town Code, or all other local ordinances, laws, or resolutions of the Town of Mount Morris.

Hardship

Should any owner of property affected by this Local Law suffer any extraordinary hardship in carrying out the strict letter of this Local Law, then the owner of the said property may apply to the Town Board of the Town of Mount Morris in writing for a variance from strict compliance with this Local Law upon submission of evidence of such extraordinary hardship. For the purposes of this Local Law, extraordinary hardship shall not be the mere delay in being permitted to make an application or waiting for a decision on the application for any permit or approval of any kind whatsoever during the period imposed by the moratorium set forth in this Local Law.

An application requesting a variance based upon extraordinary hardship shall be filed with the Town Clerk, including a fee of \$250 to cover processing and advertising costs by the

landowner, or the applicant with consent of the landowner. The application shall provide a recitation of the specific facts that are alleged to support the claim of extraordinary hardship and shall contain such other information as the Town Supervisor or his or her designee shall prescribe as necessary for the Town Board to be fully informed with respect to the application.

Upon submission of the aforementioned written application to the Town Clerk, the Town Board shall, within thirty (30) days of receipt of said application, schedule a public hearing to consider whether an extraordinary hardship is present. A public hearing on any request for an exception for extraordinary hardship shall be held by the Town Board at the first regular meeting of the Town Board that occurs after the expiration of the publication of notice of the request for a waiver. The notice shall be advertised in the Town's designated newspaper at least ten (10) days prior to the date of the public hearing. Notice shall also be given, by regular mail, to abutting property owners at the addresses on the tax rolls. At said public hearing, the property owner and any other parties wishing to present evidence with regard to the application shall have an opportunity to be heard, and the Town Board shall, within fifteen (15) days of the close of said Public Hearing, render its decision, either granting or denying the application for variation from the strict requirements of this Local Law.

If the Town Board determines that a property owner will suffer extraordinary hardship if this Local Law is strictly applied to a particular property, then the Town Board shall vary strict compliance with this Local Law to the minimum extent necessary to provide the property owner relief from strict compliance with the Local Law.

Termination.

This Moratorium may be terminated earlier than February 17, 2024, with the enactment of local legislation regulating development of New Solar Farms and New Battery Energy Storage Systems within the Town.

Severability.

If any provision of this Local Law is determined to be unconstitutional or invalid, the validity and enforceability of the remainder shall not be affected.

Effective Date.

This Local Law shall take effect immediately upon filing with the Secretary of State.

Vote: Aye 4 (DiSalvo, Huff, Guzzardi, Coniglio)
 No 0
 Motion Carried

TOWN CLERK'S REPORT

The Board reviewed the Clerk's report for the Month of July. A motion was made by Deputy Supervisor Huff, seconded by Councilmember Guzzardi, to accept the report as presented.

Vote: Aye 4 (DiSalvo, Huff, Guzzardi, Coniglio)
 No 0
 Motion Carried

VOUCHERS/ AUDIT OF CLAIMS

Abstract 7, Year 2023 and related vouchers were reviewed by the Town Board. Councilmember Coniglio advised that a voucher was missing for the electrical work that Chad Young did at the Tuscarora Park. Clerk Woodworth advised that the invoice was never received. Jen Young, Chris Youngs spouse spoke up and said that she sent it through email from the invoice service they use to Clerk Woodworth and to the Supervisor. Clerk Woodworth checked her email and advised that she never received the invoice. Supervisor DiSalvo checked his email also and advised that he never received the invoice. Jen Young said she would send it from her personal email to Clerk Woodworth's email.

A motion by Councilmember Coniglio, seconded by Deputy Supervisor Huff to approve Vouchers 214-248 which includes the voucher to Young and Sons on General A Abstract in the amount of \$73,141.64.

Vote: Aye 4 (DiSalvo, Huff, Guzzardi, Coniglio)
 No 0
 Motion Carried

A motion by Councilmember Guzzardi, seconded by Deputy Supervisor Huff to approve Vouchers 38-39 on General B Abstract in the amount of \$931.19.

Vote: Aye 4 (DiSalvo, Huff, Guzzardi, Coniglio)
 No 0
 Motion Carried

A motion by Deputy Supervisor Huff, seconded by Councilmember Guzzardi to approve Vouchers 88-94 on the Highway DA Abstract in the amount of \$16,550.22.

Vote: Aye 4 (DiSalvo, Huff, Guzzardi, Coniglio)
 No 0
 Motion Carried

A motion by Councilmember Coniglio, seconded by Councilmember Guzzardi to approve Vouchers 21-24 on the Recycling SR Abstract in the amount of \$1,913.63.

Vote: Aye 4 (DiSalvo, Huff, Guzzardi, Coniglio)
 No 0
 Motion Carried

A motion by Deputy Supervisor Huff, seconded by Councilmember Guzzardi to approve Voucher 14 on the Sewer SS Abstract in the amount of \$29.52.

Vote: Aye 4 (DiSalvo, Huff, Guzzardi, Coniglio)
 No 0
 Motion Carried

A motion by Deputy Supervisor Huff, seconded by Councilmember Coniglio to approve 19-20 on the Water SW Abstract in the amount of \$1,223.60.

Vote: Aye 4 (DiSalvo, Huff, Guzzardi, Coniglio)
 No 0
 Motion Carried

Total Abstract 7 \$93,789.80

EXECUTIVE SESSION

A motion made by Supervisor DiSalvo, seconded by Deputy Supervisor Huff to go into executive session at 7:49 PM.

Vote: Aye 4 (DiSalvo, Huff, Guzzardi, Coniglio)
 No 0
 Motion Carried

A motion by Councilmember Coniglio, seconded by Deputy Supervisor Huff to exit executive session at 7:56 PM.

Vote: Aye 4 (DiSalvo, Huff, Guzzardi, Coniglio)
 No 0
 Motion Carried

Councilmember Coniglio stated that he would like to set the dates for the Party in the Park so that he can start scheduling vendors and bands ahead of time.

A motion was made by Councilmember Coniglio, seconded by Supervisor DiSalvo to adjourn this meeting.

Vote: Aye 4 (DiSalvo, Huff, Guzzardi, Coniglio)
 No 0
 Motion Carried

Meeting adjourned at 8:00 PM

Respectively Submitted,

Chelsey Woodworth
Town Clerk/Tax Collector

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