

Official Minutes

A regular meeting of the Town Board of the Town of Lima, County of Livingston and the State of New York was held at the Town Hall, 7329 East Main Street, Lima, New York, on the **2nd day of April 2019** at 6:00 P.M. Notice was printed in the Mendon-Honeoye Falls-Lima Sentinel.

PRESENT: Supervisor, Michael Falk
 Deputy Supervisor, Ian Adams
 Councilperson, Cathy Gardner
 Councilperson, Bruce Mayer
 Councilperson, Bill Carey
 Town Clerk, Jennifer Heim
 Town Attorney, James Campbell
 Highway Superintendent, Keith Arner
EXCUSED: Councilperson, Dan Marcellus

Guest(s): Glenn Ceisner & Marcye Bears

Call the Meeting to Order

Supervisor Falk called the meeting to order at 6:00 P.M. followed by the Pledge of Allegiance.

Supervisor's Report

Supervisor Falk mentioned receipt of said report. On a motion by Councilperson Gardner to accept the Supervisor's report, seconded by Councilperson Carey, the vote went as follows:

CARRIED: Ayes: 4 Falk, Mayer, Gardner, Carey
 Nays: 0

March 5th Town Board Minutes

Minutes from the March 5th Town Board meeting were approved, upon motion by Councilperson Mayer, seconded by Councilperson Gardner, the vote went as follows:

CARRIED Ayes: 4 Falk, Mayer, Gardner, Carey
 Nays: 0

Audit of Claims/Abstracts

Resolved that the bills contained on Abstract #3 have been reviewed by the Town Board and are authorized for payment in the following amounts:

General Funds:	No. 80 through 114	\$21,272.86
Water Funds 1, 2, &3:	No. 11 through 13	\$ 3,138.11
Highway Funds:	No. 49 through 66	\$26,067.47

On a motion by Councilperson Carey, seconded by Councilperson Mayer, the vote went as follows:

CARRIED Ayes: 4 Falk, Mayer, Gardner, Carey
 Nays: 0

Building Inspector/Code Enforcement Officer Report

Charlie Floeser discussed highlights from his report.

Town Water Report

Highway Superintendent Arner discussed the water report. District #1 had no issues. District #2 has ongoing issue with Coats and Meisenzahl meters. Meter reader at the car wash is functioning properly. District #2 is in the process of meter replacement project. Hydrants will be flushed in the next week. District #3 has no issues.

Guest(s) Discussion

Mr. Ceisner was not pleased with the 2.45% fee charged for of the credit card machine. The board explained it is a convenience fee charged by the credit card company and not the Town.

Large Scale Solar Installation Law

Attorney Campbell explained the timeline to complete the adoption of a local law before the moratorium expires on July 2nd.

Campbell distributed new language to the board regarding solar systems and after discussion it was agreed to incorporate said language into the current draft local law. The following local law will be considered for adoption.

LOCAL LAW NO. _____ OF THE YEAR 2019

A Local Law Entitled “Adding Solar Energy Systems article to the Code of the Town of Lima.”

Be it enacted by the Town Board of the Town of Lima as follows:

The code of the Town of Lima shall be amended by the addition of a new Chapter entitled “Solar Energy Systems” as follows:

Authority

This Solar Energy Law is adopted pursuant to Sections 261-263 of the New York State Town Law, which authorizes the Town of Lima to adopt zoning provisions that advance and protect the health, safety, and welfare of the community, and to provide for, so far as conditions may permit, the accommodation of Solar Energy Systems (as hereafter defined) and equipment which generate electricity primarily for on-site use.

Statement of Purpose

This Solar Energy Law is adopted to permit the construction of Solar Energy Systems in the Town of Lima in a manner that advances and protects the public health, safety and welfare of the Town of Lima while facilitating the production of renewable energy. In so doing, this Chapter seeks to:

1. Take advantage of a safe, abundant, renewable and non-polluting energy resource.
2. Preserve and protect the natural resources and Prime Farmland/Farmland of Statewide Importance within the Town of Lima in accordance with the Town’s Comprehensive Plan, inclusive of the Town’s Agricultural and Farmland Protection Plan, which requires consideration of uses that support and facilitate agriculture and prohibition of uses that do not.
3. Permit solar installations as hereinafter defined in all zoning districts for the production of renewable energy to be used principally on-site, subject to reasonable conditions to mitigate potential impacts to adjoining properties and preserve neighborhood aesthetics.

ARTICLE I. Findings of Town Board.

The Town Board of the Town of Lima makes the following findings:

- A. The Town Board of the Town of Lima has heretofore adopted a Temporary Moratorium concerning the siting and construction of large scale or commercial/industrial Solar Energy Systems within the Town of Lima. In connection with its review of this subject, the Town Board has recognized the

desirability of promulgating regulations as to the siting and construction of Solar Energy Systems in other applications.

The Town Board of the Town of Lima has not prohibited the erection or creation of small-scale Solar Energy Systems intended to primarily benefit the property on which the Solar Energy System is located. To date, existing Solar Energy Systems in the Town of Lima have been built and used in residential applications.

- B. The Town Board of the Town of Lima recognizes that solar energy is a clean, readily available and renewable energy source. At this time, the Town of Lima intends to accommodate the use of Solar Energy Systems in the context of residential and agricultural applications, as well as single-user commercial applications in which the Solar Energy System provides energy for the commercial property, but is not intended to create sufficient excess solar energy to make its resale as a marketable commodity the purpose of the Solar Energy System, but rather an incidental or subordinate product thereof. The Town Board's determination not to allow Large-Scale Solar Energy Systems (as hereinafter defined) is based on the Town's farmland protection objectives, recognition of unique local conditions, i.e. the prevalence of highly productive soils throughout the entire Town, recognition that fragmentation of the land base is counter to local objectives and threatens the sustainability of agriculture.
- C. The Town Board acknowledges and finds a growing need to properly site Solar Energy Systems within the boundaries of the Town of Lima so as to protect the large abundance of Prime Farmland/Farmland of Statewide Importance within the Town, residential properties, business areas and other land uses, to preserve the overall beauty, nature and character of the Town of Lima, to promote the effective and efficient use of solar energy resources, and to protect the health, safety and general welfare of the citizens of the Town of Lima.
- D. Prior to the adoption of this Chapter, no specific procedures existed to address the siting of Solar Energy Systems or to mitigate their potential impact upon adjoining properties or the public view shed. Accordingly, the Town Board finds that the promulgation of this article is necessary to direct the location and construction of these systems.
- E. Solar Energy Systems need to be regulated for removal when no longer utilized.

ARTICLE II. Definitions.

The following definitions shall apply to this Chapter:

APPLICANT: The person or entity filing an application and seeking approval under this Chapter.

BUILDING-INTEGRATED PHOTOVOLTAIC SYSTEM: A combination of photovoltaic building components integrated into any building envelope system such as vertical facades including glass and other façade material, semitransparent skylight systems, roofing materials, and shading over windows.

BUILDING-MOUNTED SOLAR ENERGY SYSTEM - Any Solar Energy System that is affixed to the side(s) of a building or other structure either directly or by means of support structures or other mounting devices, but not including those mounted to the roof or top surface of a building. Said system is designed and intended to generate electricity solely for use on said lot, potentially for multiple tenants, through a distribution system that is not available to the general public.

FARMLAND OF STATEWIDE IMPORTANCE: Land, designated as “Farmland of Statewide Importance” in the U.S. Department of Agriculture Natural Resources Conservation Service (NRCS)’s Soil Survey Geographic (SSURGO) Database on Web Soil Survey, that is of statewide importance for the production of food, feed, fiber, forage, and oilseed crops as determined by the appropriate state agency or agencies.

GLARE: The effect by reflections of light with intensity sufficient as determined in a commercially reasonable manner to cause annoyance, discomfort, or loss in visual performance and visibility in material aspects.

GROUND-MOUNTED SOLAR ENERGY SYSTEM - Any Solar Energy System that is affixed directly or indirectly to the ground or land surface, rather than attached to the wall or roof of a structure. Said system is designed and intended to generate electricity solely for use on said lot, potentially for multiple tenants, through a distribution system that is not available to the general public.

LARGE-SCALE SOLAR ENERGY SYSTEM: A Solar Energy System that is ground-mounted and produces energy primarily for the purpose of offsite sale or consumption. A Large-Scale Solar Energy System is not authorized or permitted, but is prohibited by this local law.

PRIME FARMLAND: Land, designated as “Prime Farmland” in the U.S. Department of Agriculture Natural Resources Conservation Service (NRCS)’s Soil Survey Geographic (SSURGO) Database on Web Soil Survey, that has the best combination of physical and chemical characteristics for producing food, feed, forage, fiber and oilseed crops.

ROOFTOP-MOUNTED SOLAR ENERGY SYSTEM - Any Solar Energy System that is affixed to the roof of a building and wholly contained within the limits of the roof surface. Said system is designed and intended to generate electricity solely for use on the lot (upon which the structure containing the Solar Energy System is located), potentially for multiple tenants, through a distribution system that is not available to the general public.

SOLAR ACCESS: Space open to the sun and clear of overhangs or shade so as to permit the uses of active and/or passive Solar Energy Systems on individual properties.

SOLAR ENERGY EQUIPMENT: Electrical storage devices, material, hardware, inverters, or other electrical equipment and conduit of photovoltaic devices associated with the production of electrical energy.

SOLAR ENERGY SYSTEM: The components and subsystems required to convert solar energy into electric energy suitable for use. The term includes, but is not limited to, Solar Panels and Solar Energy Equipment. The area of a Solar Energy System includes all of the land inside the perimeter of the Solar Energy System which extends to any interconnection equipment. A Solar Energy System is classified as a Tier 1, Tier 2 or Tier 3 Solar Energy System as follows:

- A. Tier 1 Solar Energy Systems include the following:
 - (1) Roof-Mounted Solar Energy Systems
 - (2) Building-Integrated Solar Energy Systems

- B. Tier 2 Solar Energy Systems include Ground-Mounted Solar Energy Systems that generate no more than 110% (except in the Industrial Use District as set-forth immediately below) of the electricity consumed on the site or more than one site or piece of property within the jurisdictional limits of the Town of Lima owned by the same person, entity, farm or business over the previous 12 months. Tier 2 Solar Energy Systems may include Solar Energy Systems that are developed, operated and maintained by a third-party by lease agreement or through a power purchase agreement, but in no event shall such systems produce power in excess of the 110% maximum yield as referenced immediately above.

Tier 2 Solar Energy Systems located on properties that are currently developed (as of the date of adoption of these regulations) and operating as industrial use properties and are located in the Industrial Use District located on the north and south sides of New York State Routes 5 & 20 and being easterly of the easterly line of the Village of Lima, shall be permitted to site and develop on such properties, Tier 2 Solar Energy Systems that generate up to 175% of the electricity consumed on such site over the 12 months prior to development, so long as such lands are already part of a parcel that has been developed for industrial use and is not in agricultural production. This unique and “area specific” provision is deemed appropriate because several of the developed industrial use parcels already have significant electrical infrastructure that provides capacity to easily and efficiently accept a greater amount of electrical energy input from a Solar Energy System. It is the specific intent of this provision

that no land within the Industrial Use District that is in agricultural production be removed from such production in order to develop Tier 2 Solar Energy Systems. It is also the intent of this allowance to permit Tier 2 Solar Energy Systems at a higher level than would otherwise be permitted, only as a secondary or accessory use that is subordinate to the principal industrial use of such properties.

- C. Tier 3 Solar Energy Systems are systems that are not included in the list for Tier 1 and Tier 2 Solar Energy Systems.

SOLAR PANEL: A photovoltaic device capable of collecting and converting solar energy into electrical energy.

STORAGE BATTERY: A device that stores energy and makes it available in an electrical form.

UNIFIED SOLAR PERMIT: An expedited solar permitting process has been developed by the NY-Sun public-private partnership, which process utilizes a standard, unified permit across municipalities in New York State.

ARTICLE III. Applicability. The placement, construction and major modification of all Solar Energy Systems within the boundaries of the Town of Lima shall be permitted only as follows:

- A. A building permit issued by the Town of Lima Building Department shall be required for the installation of any Solar Energy System.
- B. All Solar Energy Systems existing on the effective date of this local law shall be allowed to continue in usage as such presently exist. Routine maintenance (including replacement with a new system of like construction and size) shall be permitted on such existing systems. New construction other than routine maintenance shall comply with the requirements of this chapter.
- C. No Solar Energy System shall hereafter be erected, moved, reconstructed, changed or altered except in conformity with these regulations.
- D. All Solar Energy Systems shall be designed, erected, and installed in accordance with all applicable codes, regulations, and industry standards as referenced in the NYS Uniform Fire Prevention and Building Code ("Building Code), the NYS Energy Conservation Code ("Energy Code") and the Town of Lima Code.
- E. Any applications pending for Solar Energy Systems on the effective date of this local law shall be subject to the provisions of this law.

- F. This local law shall take precedence over any inconsistent provisions of the Zoning Law of the Town of Lima.

ARTICLE IV. Use Districts Where Allowed. Subject to the provisions of this Chapter, certain Solar Energy Systems shall be allowed as follows:

- A. Tier 1 Solar Energy Systems are permitted outright in all zoning districts in the town.
- B. Tier 2 Solar Energy Systems are permitted as accessory structures in all zoning districts in the town, except for Land Conservation Districts (L-C). Tier 2 Solar Energy Systems located in the Industrial Use District on the north and south sides of New York State Routes 5 & 20 east of the Village of Lima have special allowances as set-forth in Article II. B. above.
- C. Tier 3 Solar Energy Systems are prohibited in all zoning districts in the town.
- D. Any inconsistent provisions of the Zoning Law which purport to or may be interpreted to regulate or to allow Solar Energy Systems other than as set forth in this Chapter are hereby superseded.

ARTICLE V. Permitting Requirements for Solar Energy Systems.

- A. Tier 1 Solar Energy Systems shall be permitted in all zoning districts and shall be exempt from site plan review under the local zoning code or other land use regulation, subject to the following requirements for each type of Solar Energy System:
 - (1) Roof-Mounted solar energy Systems may be attached to any lawfully permitted building or structure and shall incorporate the following design requirements:
 - a. Roof-Mounted solar energy systems shall not exceed the maximum height restrictions of the zoning district within which are located and are provided the same height exemptions granted to building-mounted mechanical devices or equipment.
 - b. Solar panels on pitched roofs shall be mounted with a maximum distance of 12 inches between the roof surface and the highest edge of the system.
 - c. Solar panels on pitched roofs shall not extend higher than the highest point of the roof surface on which they are mounted or attached.

d. Glare: All Solar Panels shall have anti-reflective coating(s).

(2) Building-integrated Solar Energy Systems shall be shown on the plans submitted for the building permit application for any building containing such system and shall meet the following requirements:

a. Building-mounted solar energy systems shall not be located or extend more than 7 feet from the building wall and in no instance shall any part of the system extend beyond the roof line or parapet wall.

B. Tier 2 Solar Energy Systems shall be permitted in all zoning districts as accessory structures, except for Land Conservation Districts.

Site plan approval is required for Tier 2 Solar Energy Systems to be built or modified for the production of electricity principally for on-site use for a commercial or industrial business within the Town of Lima.

All other Tier 2 Solar Energy Systems, including systems for farm operations, are exempt from site plan approval.

(1) Tier 2 Solar Energy Systems within Residence Use Districts (R), General Business Use Districts (B), Industrial Use Districts (M), Planned Development Districts (P-D), Planned Senior Residential Districts (PD-SR) and Mining, Quarrying and Land Excavations Districts (Q) shall be subject to the following requirements:

a. Setbacks: Tier 2 Solar Energy Systems shall be subject to the setback regulations for a building or accessory structure within the underlying zoning district, whichever setback is greater.

b. Location: Tier 2 Solar Energy Systems shall be located in the side or rear yard of a property. No placement in a front yard shall be permitted unless the location is a minimum distance of (200) feet from the road and entirely concealed from view from the road due to topography or landscape conditions that must be maintained for the duration of the installation of said system.

c. Height: Tier 2 Solar Energy Systems shall comply with the height limitations specified for accessory structures within the underlying zoning district.

d. Glare: All Solar Panels shall have anti-reflective coating(s).

- e. Screening and Visibility: All Tier 2 Solar Energy Systems shall have views minimized from adjacent properties to the extent reasonably practicable. Evergreen tree plantings may be required to screen portions of the site from nearby residential property, public roads, and from public sites known to contain important views or vistas, such as gateway entrances to the Town. Solar Energy Equipment shall be located in a manner to reasonably avoid and/or minimize blockage of views from surrounding properties and shading of property to the north, while still providing adequate solar access.
- (2) Tier 2 Solar Energy Systems within Agricultural Use Districts (A) and which are a part of a farm operation as defined by Article 25 AA of the New York State Agriculture and Markets Law shall not be subject to site plan review and shall be subject to the following requirements:
- a. Setbacks: Tier 2 Solar Energy Systems shall be subject to the setback regulations for a building or accessory structure within the underlying zoning district, whichever setback is greater.
 - b. Height: Tier 2 Solar Energy Systems shall comply with the height limitations specified for accessory structures within the underlying zoning district.
 - c. Glare: All Solar Panels shall have anti-reflective coating(s).
- C. Solar storage batteries. When solar storage batteries are included as part of any Solar Energy System, they shall be placed in secure container or enclosure meeting the requirements of the New York State Building Code.
- D. All Solar Energy Systems shall adhere to all applicable federal, state, county and Town of Lima codes, laws, regulations and building, plumbing, electrical and fire codes.
- E. Any Solar Energy System shall be situated in a location which shall be readily accessible for all emergency service vehicles and personnel.
- F. All structures and devices used to support solar collectors shall be non-reflective and/or painted a subtle or earth-tone color.
- G. The design, construction, operation and maintenance of any Solar Energy System shall prevent the misdirection and/or reflection of solar rays onto neighboring properties, public roads and public parks in excess of that which already exists.

- H. The development and operation of a Solar Energy System shall not have a significant adverse impact on fish, wildlife or plant species or their critical habitats, or other significant habitats identified by the Town of Lima or other federal or state regulatory agencies.
- I. Artificial lighting of any Solar Energy Systems shall be limited to lighting required for safety and operational purposes only, and shall be shielded from all neighboring properties and public roads so as to prevent the illumination of adjoining properties or excessive lighting.
- J. If the use of an approved Solar Energy System is discontinued, the owner or operator shall notify the Building Inspector within thirty (30) days of such discontinuance. If a Solar Energy System is to be retained and reused, the owner or operator shall further inform the Building Inspector of this in writing at such time and obtain any necessary approvals within one year, otherwise it shall be automatically deemed abandoned.

ARTICLE VI. Maintenance, procedures and fees.

- A. Time limit on completion. After the granting of site plan approval of a Ground-Mounted Solar Energy System by the Planning Board, the building permit shall be obtained within six (6) months and the project shall be completed within twelve (12) months. If not constructed, the permit and/or site plan approval shall automatically lapse twelve (12) months after the date of approval by the Town of Lima Planning Board. A new application will be subject to ordinary review and approval to obtain a new building permit.
- B. Inspections. Upon reasonable notice, the Town of Lima Building Inspector or his or her designee may enter a lot on which a Solar Energy System has been constructed for the purpose of compliance with any requirements or conditions. Twenty-four (24) hours advance notice by telephone to the owner/operator or designated contact person shall be deemed reasonable notice. Any fee or expense associated with this inspection shall be borne entirely by the permit holder. Consent to such inspection shall be deemed given by the applicant upon submission and granting of A Unified Solar Permit.
- C. General complaint process. During construction, the Town Building Inspector can issue a stop order at any time for any violations of a site plan or building permit.
- D. Continued operation. A Solar Energy System shall be maintained in operational condition at all times, subject to reasonable maintenance and repair outages. Operational condition includes meeting all approval requirements and

conditions. Further, the Building Inspector shall also have the right to request documentation from the owner for a Solar Energy System regarding the system's usage at any time.

- E. **Removal and Soil Remediation.** All non-integrated Ground-Mounted Solar Energy Systems shall be dismantled and removed immediately from a lot where the permit or approval has been revoked by the Town of Lima Planning Board or the Solar Energy System has been deemed inoperative or abandoned by the Building Inspector for a period of more than three hundred and sixty-five (365) days, which said dismantling and removal shall be at the cost of the owner. Removal of all equipment and infrastructure and remediation of soil and vegetation in the entire area which supported the installation shall be required to be completed to return the area to its original state prior to construction. This work shall be inspected and approved for satisfactory compliance by the town building inspector. If the owner does not dismantle and remove from the premises said Solar Energy System as required, and does not restore and remediate the soil so as to support vegetation and plant life of the type that would have been supported on said site prior to the installation of the Solar Energy System, the Town Board may, after a hearing at which the owner shall be given an opportunity to be heard and present evidence, dismantle and remove said facility and/or remediate the site and place the cost of removal and/or remediation as a tax lien on said parcel, regardless of whether the owner of the parcel owned or leased the Solar Energy System. The Town Board shall also be authorized to maintain an action at law to compel the owner to accomplish such removal and remediation, but the Board cannot be required to exercise this remedy, which shall be available to it in its reasonable discretion.

- F. **Determination of Abandonment or Inoperability.** A determination of the abandonment or inoperability of a Solar Energy System shall be made by the Town Building Inspector, who shall provide the property owner with written notice by personal service or certified mail. Any appeal by the property owner of the Building Inspector's determination of abandonment or inoperability shall be filed with the Town of Lima Zoning Board of Appeals within thirty (30) days of the Building Inspector causing personal service or mailing certified mail his written determination and the Board shall hold a hearing on same. The filing of an appeal does not stay the following time frame unless the Zoning Board of Appeals or a court of competent jurisdiction grants a stay or reverses said determination. At the earlier of the three hundred and sixty-six (366) days from the date of determination of abandonment or inoperability without reactivation or upon completion of dismantling and removal, any approvals for the Solar Energy System shall automatically expire.

- G. **Application and annual fees.**

- (1) Site plan application for Ground-Mounted Solar Energy Systems. An applicant shall pay the standard site plan review fee as determined from time to time by the Town Board, by resolution.
- (2) Fee for issuance of a building permit. In addition to any site plan application fee, an applicant shall pay a building permit fee for a:
 - (a) Building-Mounted, Ground-Mounted or Rooftop-Mounted Solar Energy System: one-half of one percent of the project cost, or such other amount as the Town Board may, from time to time, determine by resolution.
- H. Prior to the issuance of a building permit, the applicant shall document that all applicable federal, state, county and local permits have been obtained.
- I. In the context of the requirement of site plan approval, the Town of Lima Planning Board may:
 - (a) For Ground-Mounted Solar Energy Systems when review is required by the Board pursuant to this article, grant site plan approval, deny site plan approval or grant site plan approval with written stated conditions. Denial of site plan approval shall be by written decision based upon substantial evidence considered by the Board. Upon issuance of a site plan approval, the applicant shall obtain a building permit for the Ground-Mounted Solar Energy System.
- J. Any changes or alterations after construction to a Ground-Mounted Solar Energy System shall be done only by amendment to any previously issued building permit and/or site plan (if required) subject to all requirements of this Code.

ARTICLE VII. Revocation. If the applicant violates any of the conditions of its building permit, site plan approval or violates any other local, state or federal laws, rules or regulations, this shall be grounds for revocation of the building permit or site plan approval. Revocation may occur after the applicant is notified in writing of the violations and the Town of Lima Planning Board holds a hearing on same.

ARTICLE VIII. Applicability; Interpretation; conflict with other law. In their interpretation and application, the provisions of this article shall be held to be minimum requirements, adopted for the promotion of the public health, safety and general welfare. It is not intended to interfere with, abrogate or annul other rules, regulations or laws, provided that whenever the requirements of this article are at a variance with the requirements of any other lawfully adopted regulations, rules or laws, the most restrictive, or those which impose the highest

standards shall govern. The requirements of this law shall apply to all Solar Energy Systems installed or modified after its effective date, excluding general maintenance and repair.

ARTICLE IX. Severability. If any section, subsection, phrase, sentence or other portion of this article is for any reason held invalid, void, unconstitutional, or unenforceable by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

ARTICLE X. Effective date. This Local Law shall take effect immediately upon filing with the Secretary of State of New York.

Guest, Marcye Bears asked what board members intentions were for businesses and solar installations. Bears agreed that prime farmland should not be taken over with large scale solar installations but is also torn because she believes a landowner should be able to do what they want with their property.

Councilperson Gardner stated business owners are able to install solar panels in the industrial zoned area.

Gardner also distributed a memo to board members from the Lima Agricultural Committee regarding the solar energy projects. Said memo was in response to Supervisor Mike Falk, from potential implications associated with permitting installation of Tier III solar projects in Lima. Said memo as follows:

MEMO TO: Lima Town Board
FROM: Lima Agricultural Committee
RE: Solar Energy Projects
DATE: March 6, 2019

The Town of Lima Agriculture Advisory Committee held a regular meeting on March 6, 2019. Notice of the meeting was published in The Sentinel and on the Town of Lima website.

At this meeting, a quorum was present, including Chairman Dennis Neenan, Ed Blodgett, Jr. Ron Blodgett, Jr., Marc Krieger and Mike Neenan. Excused members: Dick Gruschow, Jeff Shanks and Ted Zornow. Guests: Ron

Gruschow – Lima farmer and agricultural enterprise operator and Steve Werner – Lima resident and agricultural equipment sales representative in four counties. Supervisor Mike Falk and Councilwoman / Agricultural Committee Liaison Cathy Gardner were also in attendance.

In response to the attached e-mail from Lima Town Supervisor Mike Falk, the Lima Agricultural Advisory undertook discussion of potential implications associated with permitting the installation of commercial, “Tier III,” solar projects in the Town of Lima.

With due consideration given to numerous considerations, including:

- The Town of Lima Agricultural and Farmland Protection Plan
- Prevalence of prime soil, an exceptional agricultural resource, in Lima
- Consistent guidance to protect Prime Farmland and Farmland of Statewide Importance as a highly valued and limited resource: NYSERDA, NYS Department of Agriculture & Markets, Livingston County Planning Board, Livingston County Agricultural & Farmland Protection Board, and consultants to Lima’s Agricultural and Farmland Protection Plan – American Farmland Trust and George R. Frantz, AICP, ASLA, Department of City & Regional Planning – Cornell University
- Requirement to maintain the available working land base to sustain farm businesses and the many ancillary local businesses that depend on farm customers
- Town of Lima farms require more farmland than the town’s existing inventory of remaining undeveloped land. All available land is in current use
- Recognition that solar projects entail a permanent conversion and loss of land from agriculture and that best siting practices do not include best tillable land
- Uncertainty about the efficiency and long term viability of solar technology and project developers
- Acknowledgement that farming is highly valued by the community at large, as documented in two community-wide surveys and in public engagement sessions conducted during the Town’s agricultural planning process

- Priority of maintaining a welcoming and attractive appearance in the Town's "gateway" entrances

Mike Neenan, moved to advise the Town Board that the Agricultural Advisory Committee supports Lima's draft law which allows Tier I and Tier II solar installations for on-site use and prohibits Tier III solar projects in all zoning districts, seconded by Ed Blodgett, Jr., the motion passed with all in favor. Of note, excused members Dick Gruschow and Ted Zornow consulted with Chairman Neenan in advance of the meeting and expressed their views, which support this finding.

This opinion seconds a similar outcome of prior committee discussion held on February 20, 2017. The findings of that meeting are attached and the Chairman requests that both memorandums be presented at the next regular meeting of the Town Board of Lima and entered into the official minutes of that meeting.

Councilperson Gardner asked that the below memo also be included in the minutes.

Ag Committee Chairman, Dennis Neenan requested this memo also be included in the minutes to reflect the two reviews held by the Ag Committee on this subject in 2017 and 2019 were similar.

MEMO TO: Lima Town Board
FROM: Lima Agriculture Advisory Committee
REGARDING: Solar Energy Projects
DATE: April 12, 2017

At the request of the Lima Town Board, the Lima Agriculture Advisory Committee met to discuss the relatively recent evolution of commercial scale solar projects in New York, and associated siting requirements.

For the purpose of this review, an initial meeting was held on February 20, 2017. At this meeting, the committee reviewed information on the scale and purpose of these projects, the New York State Model Solar Energy Law, recently adopted Town of Canandaigua regulations pertinent to solar installations, best practice siting guidelines, a detailed map of Lima's soils

prepared for this review by the Livingston County Planning Department as well as land use goals and recommendations from the Town's Agricultural and Farmland Protection Plan/Town of Lima Comprehensive Plan.

Allowing time for members to further consider the information and discuss it with others, the committee met again on April 12, 2017. In the interim, a newly released resource, "New York State Department of Agriculture and Markets Guidelines for Agricultural Mitigation for Solar Energy Projects" became available and was distributed in advance of this follow-up review.

Following deliberations, the Agriculture Advisory Committee determined that permitted accessory rooftop, building-mount and ground-mount solar energy installations for on-site energy generation enable Lima residents and businesses, including farm businesses to access solar power. As costs continue downward and technology advances, e.g. with the development of solar collecting roof shingles, it is anticipated that the prevalence of these installations will continue to grow.

With due consideration given to numerous considerations, most particularly:

- Lima's Agricultural Protection Plan, i.e. Lima's commitment to supporting the viability of agriculture as an industry; to protecting the land base needed to support farms, to good stewardship of the local prime and productive soils that provide jobs and income for local residents,
- NYS Department of Agriculture & Market's siting guidance, "Project sponsors should avoid the installation of solar arrays on the most valuable productive farmland, "
- Best practices for siting commercial scale solar installations favor conditions that are not prevalent in Lima, e.g. brownfields, retired landfills, redevelopment sites, impervious surfaces, sand and gravel pits rooftops,
- Prevalence of valuable agricultural soils throughout the Town of Lima, Ref: Town of Lima Prime Soils Map,
- Fragmentation of the land base threatens the sustainability of agriculture,
- Concerns about impact on valuable soils, feasibility of decommissioning and reclamation, potential for abandonment, limited access to transmission infrastructure,

- Towns are not required to accommodate commercial scale solar installations
- The relatively unique concentration of highly productive agricultural soils in Lima, combined with limited fragmentation of the land base for non-agricultural development have sustained a highly productive agricultural economy that is much appreciated and valued by the local community. 85% of residents ranked the amount of farming and agricultural uses of land as critically or very important,

the Agriculture Advisory Committee recommends that commercial scale solar projects not be introduced as a permitted use within the Town of Lima.

The Committee acknowledges that, as with all regulatory considerations, future changes in conditions and/or energy technology may support an updated review of this subject.

Supervisor Falk mentioned the receipt of Mr. Tom Simpson's email. Said email follows: Mike, a high school friend - Marge Linsner, is running for county judge and is asking for help tonight. Can't make the meetings this week but wanted to share the Livingston county news article about solar farm installation. 1. Being installed on bad soil - like Doran Rd. 2. Additional revenue for the town. 3 I wanted to ask that if a ban/law is created for Lima it would state "currently farmed land" exempting those that are in that situation and still maintains protection of farms.

Thanks Tom

<https://thelcn.com/lcn01/open-houses-planned-for-1000-acre-solar-project-in-mount-morris-20190124&template=mlcn>

Falk also received an email from Mark Petroski stating the following:
Supervisor Falk: I see no real purpose in commenting at public hearings in the Town since it has been my observation that certain members of the Town Board will negate and ignore anything that does not fit the narrative they promote. Suffice to say I'm 100% against this ongoing moratorium for solar installations. There are others throughout the Town, including members of the farming community, who feel as I do. They don't see a point in speaking up. How many moratoriums have been put in affect and extended on this topic

so far? Why isn't anything being issued to the public so we can see what is being considered? Please do not use moratoriums to push personal agendas. If you are trying to figure out how to ALLOW this in our Town, well, involve the public and get it done. If you are just using this as a tactic to scare people away, then just ban them and be done with it. I disagree with him but our Governor is on a mission to ban fossil fuels in NYS. A mistake but he and all the other Dems in NY are following his lead. Where do you think energy is going to come from if we ban solar installations? Not in my back yard only goes so far when the fridge stops running or the cost of electricity exceeds our property taxes. Saying no to everything is not a solution. Thanks and I don't need a reply. I read the minutes and see what's going on. Thanks

Campbell will make a referral to the County Planning Board and plan to hold a public hearing at the June 4th meeting after obtaining the County Planning Board feedback for deliberation at said meeting.

Campbell will distribute an updated draft to the board. Same will be posted to the Town website once available.

Complete Streets Resolution #4 of 2019

Councilperson Gardner stated the Planning Board did not convene as there was no business so they were unable to review said resolution. Superintendent Arner said the Complete Streets Resolution was fine.

Post Office

Supervisor Falk said the roof is leaking again and the drain box collapsed leaving a large hole in the parking lot. Campbell stated the property owners should take care of this. Supervisor Falk asked Floeser to reach out to Mayor Luft, as this is a Village issue.

Communications

Falk said the only communications received was from Mr. Simpson.

Library Replacement Roof Project

Supervisor Falk shared with the board the bid results received and opened on March 28th. Two (2) bids were received which includes the installation of an EPDM rubber roof system with a 20-year warranty. The project also includes an alternate (1) for the Conference room roof and alternate (2) for the installation of a heat trace snow melt system for the canopy and rear of the building. J&B Installations had a quote of \$123,995.00 and Leo J. Roth a quote

of \$116,178.00. Councilperson Gardner asked if there potentially getting another 10 or 15 years out of the new roof, as the roof was just put on while she was on the board, and then completing the same treatment to it later. Campbell said that doing the later work may compromise the warranty, as the work to the remaining project will be complete. After discussion it was agreed to complete the roof as stated in the project as a decent amount of engineering was done for this project. Upon motion by Councilperson Mayer to accept the contract of Leo J. Roth, seconded by Councilperson Carey the vote went as follows:

CARRIED Ayes: 3 Falk, Mayer, Carey
 Nays: 0
 No Vote: 1 Gardner

The roof will start in July and be finished in October.

Village Water Project

Falk received and email from Mayer Luft saying: Mike, the first stage of the water project has started. The surveyors have been out to map the paths of the water lines. We are working with our engineers to complete the necessary forms for the grant requirements. We also held our meeting with the engineers at the sewer plant to show exactly where all the new designs will interface with the existing plant buildings and facilities. Carl

Spectrum Proposal to Upgrade Internet Speeds

Falk received a quote from Spectrum to upgrade Town Hall and Highway internet speeds per request by Councilperson Marcellus. The current package used is no longer offered and considered slow. A telephone line was also dropped as it was not used. Upon motion by Councilperson Gardner to upgrade, seconded by Councilperson Carey the vote went as follows:

Carried: Ayes: 4 Falk, Mayer, Gardner, Carey
 Nays: 0

West Fire Proposal for Additional Security Cameras

Falk received a proposal from West Fire to add additional cameras at Town Hall. This would place cameras downstairs by the food pantry where gifts were taken, the front door and parking lot. Upon motion by Councilperson Carey to accept the proposal, seconded by Councilperson Mayer the vote went as follows:

CARRIED Ayes: 4 Falk, Mayer, Gardner, Carey
 Nays: 0

Councilperson Gardner asked if the quality of the video is adequate to get a definitive ID or license plate. Falk will ask West Fire and be sure they are of high quality should something happen.

Out-of-District Sewer User on York Street- Perry Property

Attorney Campbell did not hear back from Michael Tobin, Esq., Village of Honeoye Falls Attorney regarding the out-of-district sewer users and collecting payment for sewer as the Town was not in favor of having those fees placed on Town & County tax bills.

Resolution #6 of 2019 - Street Light Removal

Attorney Campbell prepared a required street light removal resolution to have the light removed from the Library parking lot. Said Resolution is below.

TOWN BOARD
TOWN OF LIMA
COUNTY OF LIVINGSTON

6 of 2019 RESOLUTION

At a regular meeting of the Town Board of the
Town of Lima, Livingston County, State of New York,
held at the Lima Town Offices on April 2, 2019

WHEREAS, the Town of Lima (hereafter “Town”) has a number of street lights that provide illumination in certain areas of the Town in order to maintain safety for vehicles and pedestrians; and

WHEREAS, the Town has recently undertaken an effort to convert such street lights to LED lamps in order to save energy and reduce the cost to the tax payers of the Town for such lights; and

WHEREAS, as part of the LED replacement project, the Town has determined that a certain light is no longer required for purposes of maintaining vehicular and pedestrian safety, such street light being

designated as Light Pole # 5 which is located in the parking lot of the Lima Public Library; and

WHEREAS, the Town wishes hereby to formally request that National Grid (the street light and electric provider for the Town) remove the 400W Light Pole #5 from the Lima Public Library parking lot and from the electricity account for the Town.

NOW, THEREFORE, upon motion by Cathy Gardner seconded by Bruce Mayer, it is hereby

RESOLVED, that the Town Board of the Town of Lima has determined that the 400W Light Pole #5 from the Lima Public Library parking lot is no longer necessary in order to maintain appropriate vehicular and pedestrian safety at its present location and that such area is adequately served by other light sources; and be it further

RESOLVED, that the Town Board of the Town of Lima does hereby officially request that National Grid remove the 400W Light Pole #5 from the Lima Public Library parking lot and remove such light from the account of the Town.

Dated: April 2, 2019

Vote of the Board:	Michael J. Falk	Aye
	Dan Marcellus	Absent
	Cathy Gardner	Aye
	Bill Carey	Aye
	Bruce Mayer	Aye

**BY ORDER OF THE TOWN BOARD
OF THE TOWN OF LIMA**

Jennifer A. Heim, CMC, RMC,
Town Clerk

Town of Lima Website

This agenda item will be reviewed on a projector at the May 7th meeting when Councilperson Marcellus is available.

Resolution # 5 of 2019 Standard Workday Resolution – Correction for Charlie Floeser

Hours of reporting changed for Mr. Floeser. A corrected resolution, below, will be sent into the Comptroller’s Office and posted on the Legal board at Town Hall for 30 days.

RESOLUTION #5 of 2019

Adopt Standard Work Day and Reporting Resolution for Elected and Appointed Officials

Charlie Floeser, Code Enforcement Officer, submitted his RS 2417-A, Standard Word Day and Reporting Resolution. On motion by Councilperson Carey, seconded by Councilperson Gardner, the following resolution was

ADOPTED Ayes: 4 Falk, Mayer, Gardner, Carey
 Nays: 0

RESOLVE to adopt the following Standard Work Day and Reporting Resolution

I, Jennifer Heim, Clerk of the governing board of the Town of Lima, of the State of New York, do hereby certify that I have compared the foregoing with the original resolution passed by such board at a legally convened meeting held on the 2nd day of April 2019, on file as part of the minutes of such meeting, and that same is a true copy thereof and the whole of such original. IN WITNESS WHEREOF, I have hereunto set my hand and the seal of the Town of Lima on this 2nd day of April 2019.

Signature of Clerk: _____

Affidavit of Posting: I, Jennifer Heim, being duly sworn, deposes and says that the posting of the Resolution began on April 3, 2019 and continued for at least

30 days. That the Resolution was available to the public on the community board at Lima Town Hall.

Hazardous Material Survey & Overview to Update Town Hall

Falk met with Maria Mazurek from Clark Patterson Lee regarding the Town Hall building and where it will be physically located in the next 10 to 50 years. Falk mentioned either building a new facility somewhere or invest money in the current Town Hall to make it alive and vibrant. Falk is in favor of working on the current building as it is in good shape but stated it needs some updating. Maria is currently working on plans for Town Hall updates, as newer handicap regulations are needed as well as safety modifications for the offices, etc., as well as a hazardous material survey which will be the first thing completed. Maria suggested getting a list of contractors and estimates of cost to remove hazardous material or hazards in the building. Gardner recommended inviting Fran Gotcsik or other member of the Historic Preservation Commission be engaged in the project. Falk agreed. After discussion the board agreed to have someone assess the building and get quotes to identify the hazards and bring same back to the board.

Highway School Approval

Arner requested approval to attend Highway school. Upon motion by Councilperson Mayer, seconded by Councilperson Gardner, the vote went as follows:

CARRIED Ayes: 4 Falk, Mayer, Gardner, Carey
 Nays: 0

Move into Executive Session – Employment of Employee

A motion by Councilperson Mayer to move into executive session at 7:31 PM, seconded by Councilperson Gardner, the vote was unanimous.

Move out of Executive Session

Upon motion by Councilperson Gardner to move out of executive session at 7:50 PM, seconded by Councilperson Mayer, the vote was unanimous.

No Action was taken.

Approval to Spend Up To \$10,000 on Highway Truck

Superintendent Arner asked for board approval to spend up to \$10,000 on a new truck. Upon motion by Councilperson Carey for Arner to have an

allowance of \$10,000 to purchase a truck, seconded by Councilperson Gardner, the vote went as follows:

CARRIED Ayes: 4 Falk, Mayer, Gardner, Carey
 Nays: 0

Upon Motion by Councilperson Gardner to adjourn at 8:03 P.M., seconded by Councilperson Mayer, the vote was unanimous

Respectfully Submitted by:

Jennifer Heim, CMC/RMC
Town Clerk