

April 13, 2023

The regular meeting of the Town of Hartland, County of Niagara, State of New York, was held on the above date at the Town Hall, 8942 Ridge Road, Gasport convening at 7:00 p.m.

Members present:

Supervisor: W. Ross Annable

Town Clerk: Rachel Kushner

Councilman: Joseph Reed

David Huntington

David Hill

Cliff Grant

Attended by: Sign in sheet attached.

Supervisor Annable called the meeting to order with all present standing for the pledge to the flag.

RESOLUTION 51-2023

MOTION by Councilman Huntington, seconded by Councilman Grant to adopt the minutes of the March 9, 2023 meeting as presented.

Ayes: Annable, Reed, Huntington, Hill, Grant

Nays: 0

ADOPTED

RESOLUTION 52-2023

MOTION by Councilman Reed, seconded by Councilman Grant resolved that the following bills, as prepared by the Town Clerk and having been reviewed by the Town Board, be authorized for payment in the following amounts:

Voucher #'s: 2023000237 - 2023000336

General:	\$48,358.28
Part Town:	\$2,469.18
Highway:	\$31,582.53
Refuse:	\$26,301.25
Water:	\$59,003.15
Total:	\$167,714.39

Ayes: Annable, Reed, Hill, Huntington, Grant

Nays: 0 CARRIED

ASSESSOR / CEO REPORTS:

Michael Hartman: We are about a third of the way through the inventory collection of the town which involves redrawing every house and adding anything that has been installed that we were unaware of. I sent the tentative roll to the county on April 11th. I am scheduling the Board of Assessment Review for May. We are up about a million dollars in construction. The equalization rate is at about 62%. I see the selling prices about 40% above assessment still. In zoning, the house on 104 is getting cleaned up. We have the results of the planning board for the manure - you guys should have a copy of that. It is what the planning board had suggested about keeping manure 100 feet off of property lines. That is not spreading it out against the property line. We want to get it off the property line or 100 feet off the road. It is just a common courtesy for people. If the house is close to a property line, we want it 150 feet away from the house. I finished the Finger Lakes Building Officials training and I am heading to the Planning Federation next week. We also have the Niagara County Planning Board referral form for you.

HIGHWAY/WATER REPORT: None.

PUBLIC PARTICIPATION – AGENDA ITEMS: None

OLD BUSINESS: None

NEW BUSINESS:

Supervisor Annable: Dan Sutch from the Highway Department just did a fabulous job with the new display boards for Veterans. He is very talented, and it will allow us to have more room for additional people so we just want to thank him for his efforts.

Supervisor Annable: We also need to reschedule the June meeting to Thursday June 15, 2023 at 7:00PM.

Supervisor Annable: Next up we have a couple presentations. I've invited two individuals to talk about the solar issues that were raised last month. We did meet with the Planning Board to discuss some of those issues and work some of those out. First up, I have Dan Handrich who is a state certified fire investigator for the county. He is going to give us a little information about solar panels, battery storage, and fire science.

Dan Handrich: Good evening. Sorry to take some of your time up. I was recently made aware of some of the concerns that your community has over the upcoming solar project. Just a quick background – I've

spent 30 years in the fire service. I am past chief of one of the fire companies that provide your town protection. I have been a state certified fire investigator for over 10 years, and I have sat on many HAZMAT teams. I have been made aware that there have been several key points of concern for your town. I want to answer some questions that have circulated on social media and at some of the meetings. As far as solar panels catching fire there have been a lot of isolated incidents with solar panels themselves. Probably one of the biggest cases that has been around are Amazon warehouses. Understand that these solar panels were installed on a flat roof through private means. When they had their first fire in California, they decided to shut that system down and do their investigation. In the last 5 years the study on the fire engineering end has really taken off. The Amazon fires came back to an issue with the code and wiring and inverter systems. The panels themselves were seeing heat from underneath due to the roofing material and caused a lot of the damages. There are several publications that have done these reports. The big problem that people have with solar panels is what happens to them when they are subjected to fire. Solar panels are 90% silica glass and are the same type of glass that you would find in your vehicles. There is an EVA coating on this glass. If you've ever seen the windshield of a car spider, it is the same exact coating that holds that glass together. So, if they do get broken, they are designed to maintain whatever is inside of that panel. As far as concerns with rubbish fires or grass fires, or anything in the remote vicinity of those panels, that is what will be taking the heat. I have not been aware of any incidences where it has done more than damage to that EVA panel itself. There have not been any reports of any solar panels actually ignited from a field fire. There has been wiring that has been damaged but as far as the solar panel itself there have not been cases reported along those lines. The biggest thing is battery storage or BESS systems. Everyone seems to hover around the most popular battery storage fire or explosion. It was in 2019 in Arizona. The company that designed it was AES, the same company as Somerset. They started installing in two towns. The first one was called Surprise, Arizona. They installed this battery containment system – as you all know they are lithium-ion batteries stored in an enclosed vessel. The vessel is like what you would see on freighters, and it was all made out of steel. The event started happening a little before 7:00 at night. The responding agencies came up unaware of what they were going into. This is one of the biggest things that came of this. When NFPA and IFAI and Texas A&M studied it they looked to see what could be improved on the safety of the issue. The first issue was they had a bunch of people show up that should have been trained and weren't. They had no idea what was inside the vessel. When they finally made the decision to make entry, it had been almost three hours. When those gentlemen opened the door, thermal runaway occurred. What that means is as these lithium-ion batteries were breaking down, they were producing a lot of heat and they continued to break down. They had been breaking down for 3 hours without venting. When they opened the door and allowed the air to rush in it created the event where those gentlemen were injured. Since that incident AES and APS took their stuff offline. The NFPA came out and set several standards involving battery storage systems. The very first one was NFPA855. That states that anyone developing battery storage systems has a requirement to have some type of ventilation. One of the other things that followed was they claimed to have had a fire suppression system inside the storage container. The problem was that system was designed for a trash fire. It was never designed to stop thermal runaway. That was the second cause. They used not water, but a new product that isn't halon but has the same tendencies as halon. It actually locked that system down. It was designed to close it off so it couldn't breathe at all. They also created NFPA 68 and 69. Depending on how many units are in that storage container they have to have a safety factor beyond the thermal runaway that may be caused to make sure they would be able to continue to vent. Since then. Anyone that has been designing and building them is required to follow that code. That AES

system that was designed prior to 2019 never actually had any codes to follow. It was one of the first ones out there. A lot of people have been centering on that, so I have spent the last few years looking into it and what is coming of age. I live in a neighboring town to Hartland, and we have 3 active solar systems that are being put online in differing stages of development and another town that we provide fire protection to is already installing the posts. I was involved in the site planning of that as far as fire protection. The best advice I can give your town is to hold the installers to the letter to actively promote the information about their site and provide it to the local fire chiefs. If they aren't trained, that is where the safety falls out.

Supervisor Annable: Please hold all questions until the end but thank you Dan for coming out. Next up is Andrew Reilly. Mr. Reilly is the director of planning environmental services at Wendel Engineering. We have hired Wedel to help us through this stage. He is pretty renowned around the state and has been involved in quite a few of these projects. He also dealt with Cambria and Somerset, so he has a lot of good information to share with you. He was also at the Planning and Town Board meeting so I will let him share what we have come up with regarding the law.

Drew Reilly: Thank you. I also brought Heike Jacob with me as she attended the last Public Hearing and relayed that information to me. That was a great presentation. I know one of the issues with these projects is always fire. Understand that we have beefed up our code to include emergency operations plans and training for fire companies. I will go through the changes we made. We heard the citizens and Planning Board loud and clear to make sure this law reflects your needs. I have done probably 30-40 or more of these laws across New York State. I spoke at the Association of Towns conference to a couple hundred municipalities and got input from them as well. A lot of these meetings included fire personnel and first responders, so we got a lot of good input from those. When we create these laws, we start with NYSEDA's model laws, but they agree that you should take that model law and build it for the uniqueness of your community. I work with suburban, rural, and farming communities and they are all unique. Ag and Markets is charged with protecting agriculture in New York State just as Niagara County is. They input for these laws as well. One of the questions was about topsoil. Ag and Markets has very strong rules about stockpiling soil on a site and how you need to keep it and decommission making sure that the site can be used again agriculturally whether that is 20 years from now or 40 years from now. Ag and Markets used to say these solar farms were not a permanent use of the land, but they have since changed the definition of a permanent use. They agree now that 30-40 years is permanent and just because the land is returned to agricultural use doesn't necessarily mean it will return to farming. The Planning Board mentioned that I do not call the different stages of solar by tier 1-4 anymore. There are still four different types of solar. The first is rooftop solar. You are still allowed to do this by this law as long as it meets the standards. If someone can't put solar on the rooftop and they have to put it in their backyard, this is the second type of solar project. We have rules and regulations in place for that. It still has to be an accessory use to a building, and it can only produce 110% of the yearly energy consumed by that building. When we get to large and utility grade solar projects, I am talking about tier 3 and tier 4. These are independent systems. Most tier 3 projects are 5 megawatts. That magic 5-megawatt number is because the state has a program to finance them. Five megawatt or less projects fall under the New York Sun Program. They have gotten clever now and they can put two 5 megawatt systems on the same property as long as they have separate connections to the grid. So just because we don't use the tier 1-4 wording, doesn't mean it isn't the same as the Somerset law. It is still the same, it is just structured differently around the old law. We also added a little more detail to the emergency operations plan. We

asked them to submit and work with the fire departments to create the emergency operations plan and it must be given to the fire departments and training has to be provided to them. Also, there are always concerns about setbacks. We left the setbacks as they are, but we reminded the Planning Board of is we put in the law "greater setbacks may be needed due to specific property issues and adjoining uses determined through the SEQRA process." The most powerful tool you have is SEQRA. This does not apply to 94C projects. That is the tool you use to respond to the uniqueness of properties and their needs. If the applicant is not taking into consideration those local issues, you have the power to positive dec that project and request impact statements and ask for specific mitigations. So, I think the Town Board and Planning Board felt a lot more comfortable knowing they have this tool. In 10 or 15 projects that I have done, the SEQRA law was used to make them change that project. Slayton Settlement in Lockport was not originally approved because that state and town told them they were impacting too much agricultural land. Ag and Markets and the town used SEQRA to positive dec the project and request impact statements and they actually had to reduce the project to meet those requirements. We also did change the setback requirements from schools and public parks to 1000 feet. The state also agrees that public places like important facilities that are designated by the state and should have greater setbacks. We also added the agricultural standard for decommissioning. By the way, tier 3 and 4 projects that are not 94C require a special use permit. That is another powerful tool of the town. In most towns when we are approving these types of projects you can have 25-28 conditions of that special use permit that are unique to that piece of property. You have preconstruction conditions, construction conditions, and post construction conditions. When you approve a site plan and for whatever reason two years later it is not going the way you thought it was going to go, it is very difficult to take them to court to fix that problem. Special use permits are very different because they have to meet your conditions to operate. If they are not meeting those conditions the building inspector can be authorized to make them shut down the operation. In Batavia that actually shut down a solar project because of the landscaping. The berms were falling over, and the trees all died, and they ignored the town when they were asked to fix the issues, so they went to court and got an order to shut the system off until it was fixed. We also added a whole section on the responsibility of the applicant to supply an annual report to the town. One of those items is if there was damage done to the system and how it was addressed and whether or not it is fixed. Those are the major changes that we have made to the law. Having said that, you have tier 3 systems and tier 4 systems up to 25 megawatts that will all be local approvals by the town. After 25 megawatts, they can go the 94C route. So, we still have a law that addresses projects over 25 megawatts but if they go the 94C route they have to consider your law but not follow it. Every day I read about judges making decisions on 94C projects. You all can do that too if you go to the ORES website, you can see all of the projects and how they've been processed. If you go to the end of that you will see hundreds of pages of documents. That is how we learn about these projects and what judges believe to be reasonable requests versus ones that will be thrown out. For example, our law says you need to have 125% or 150% of the decommissioning cost bonds and the State of New York has already determined that is not something that they will consider. We haven't had much luck forcing them the other way but if you read those there are certain things they will consider. When they apply for that 94C project they are going to take this law and go line for line and submit everything they have met and have not met. If they can't meet something they will ask for a waiver and they will probably get it. So, we try to make reasonable requests for those larger projects and make them pay attention to it but understand that we can't get too crazy with our requests because the state is going to ignore it anyway. Some communities put in 3000-foot setbacks and the state just ignored it. I think we have proposed reasonable setbacks and they will try to meet those to the best of their abilities because they want to go to

the state with a clean application without asking for 10-30 waivers. Right now, we are in the preapplication stage which is the time to have them meet our community and see what we need. We didn't make a lot of changes to the battery energy storage law. We have clarified a couple things in there. The biggest issue with battery storage is making sure you have the right requirements for fire safety and the new building code and NFPA code addresses that. Battery storage is coming. As the state moves towards more green energy, they are proposing 6000 megawatts of battery storage within the New York system within the next 5 years because they need to have that storage. I think this project has a proposal for 20 megawatts. I'm working with some communities that have 100 battery storage systems proposed. That is about 7.5 acres. So, you are probably talking about a couple acres and a system enclosed in a fence. The new rules that are in here are a good guideline for them to do a battery energy storage system. We also wrote a law because battery energy storage systems will be everywhere. Homeowners are going to be putting in battery storage systems instead of normal generators. The costs are coming down and they are starting to pop up. Businesses are going to start putting them in. we even have development companies looking at them. You can put in a half megawatt battery storage system, and they will buy their power at night when it is cheap and sell it during the day when it is worth more money. You can regulate all battery storage systems except those that are within a 94C project. We have a bunch of projects in the southern tier that were put in years ago and there are companies coming in to put in battery energy storage systems now and they all fall under local approvals no matter what the size is because it is not part of a 94C project. With that, I am going to turn it back over to the Town Board. We have two public hearings on this, and we want to hear everyone's input. We are not going to adopt it tonight because we want to make sure we have it correct. Hopefully, maybe by next month, we will be able to adopt these laws.

Supervisor Annable: So, we are going to continue our public hearings. I just want to point out that we are trying to address all of the concerns that have been raised. That is why we've brought in Drew and Dan and met with the Planning Board to discuss these things. As everyone knows the state has pushed 94C on us and we don't have control over that. We are trying to mitigate that as best we can. We do have the representative from EDF here, Kevin Campbell. He will be around afterwards if you want to ask questions of him. We have had conversations with EDF regarding setbacks and they have been willing to work with the town in certain areas. With that, we will open our Public Hearings.

Public Hearing 3 – 2023

Proposed Amendments to Section 144-17 Solar Energy Systems

Date/Time/Place: April 13, 2023 7:00 PM – Town Hall

Notice of said hearing was duly published in the Lockport Union Sun & Journal.

Public Hearing 4 – 2023

A Local Law to Amend Local Law 4-82, as Thereafter Amended, Entitled “A Local Law to Regulate Zoning (Chapter 144, of the Code of the Town of Hartland, New York

Date/Time/Place: April 13, 2023 7:00 PM – Town Hall

Notice of said hearing was duly published in the Lockport Union Sun & Journal.

The complete text of said Law is on file at the Office of the Town Clerk and is available for review by any interested person during business hours.

The Public Hearing was called to order by Supervisor Annable.

Leo Shannon: **Mr. Shannon distributed a handout containing a social media post that states “The Solar Saga Continues.... Solar Farm Fire above us on East River and Riley Road in Cortlandville (5/11/2022). Was told by Solar Company after I inquired that a panel caught fire. Solar panels contain toxic materials and a solar fire produces highly toxic and carcinogenic chemicals when burning (Cadmium Telluride, Gallium Arsenide, and Phosphorus). According to CESA PV Fire Training it is to be treated as a HAZMAT incident (<https://www.cesa.org/resource-library/resource/pv-fire-safety-training-slides/>) along with an image of a fence in front of some solar panels.**

Councilman Reed: What is this picture of?

Leo Shannon: That shows the leaking of a solar panel. It tells you where it happened, the date, the time, and it also tells you the chemicals. May I address Dan Handrich?

Supervisor Annable: Sure.

Leo Shannon: Did you see the names of the chemicals on there? You told me that there were very little chemicals. What did you say it was?

Dan Handrich: I said the majority of the panels are comprised 90% of silica which is glass.

Leo Shannon: What about the other chemicals?

Dan Handrich: I don’t produce solar panels. I just know what the reports have said. I am aware of cadmium telluride. You said you saw leaking. Those chemicals are solids. I don’t catch the full jist of the picture.

Leo Shannon: It shows leaking there, sir. These are toxic chemicals. If we have a fire, what is the first thing you would do to approach that fire?

Dan Handrich: First, is the fire underneath the panel?

Leo Shannon: No that shows you it is leaking out of the panel and onto the ground.

Councilman Hill: Where is the panel?

Leo Shannon: The panel is right behind the fence and it’s telling you what chemicals are in the panels.

Dan Handrich: There is no liquid in the panels. The way I understand the chemical makeup of the panels I have researched is it is all in layers. Cadmium is a metal.

Leo Shannon: They are all toxic though sir.

Dan Handrich: I am not a chemical expert. If you went up to the panel and ate it, it would probably be toxic. You’re saying it is leaking and I’m assuming you are thinking it is a water type system and it’s not.

Unless the panel is broken, and they are spraying water on it and it is coming out from that but I can't really tell from your picture.

Supervisor Annable: First, you would need to find out what type of chemicals would be used in the panels that will be installed here. I know that cadmium for example is not used today in most applications of modern panels. That is something that we know we have to research when the company comes to install them. They may or may not contain all of these chemicals. We won't know until they introduce the project.

Leo Shannon: How would you go about that fire if it were to happen?

Dan Handrich: It depends on what started it.

Leo Shannon: It wasn't a fire. The panels were leaking onto the ground. When you get there, it is already on the ground. There is no fire.

Dan Handrich: That would be a HAZMAT situation.

Leo Shannon: Is Niagara County HAZMAT equipped to handle that?

Dan Handrich: I don't represent Niagara County HAZMAT. I will tell you that as a past chief I think they are absolutely able to handle that. You were talking about a fire, but now you are talking about a leak from a panel. In that case, they would basically encapsulate whatever is leaking and dispose of it.

Leo Shannon: What would they use to contain it?

Dan Handrich: They would capture it. It depends on what is leaking. I don't want to represent what they would do in that situation but sometimes they use absorption pads, but it depends on what it is. I can't tell what it is doing from this picture. Whether it is a heavy metal or powder, or someone put water on it, and it is leaking they would have to contain the leak. That would be the same as if there were a fire at your house.

Supervisor Annable: Hazardous material is in a lot of different fires so Niagara County has a HAZMAT team that would come out and deal with whatever type of material that needs to be addressed.

Leo Shannon: My whole question is, how are they going to stop the fire?

Councilman Reed: You said there was no fire.

Leo Shannon: No, but there will be leakage into the ground. How are they going to handle that?

Supervisor Annable: Like any other material that needs to be cleaned up. They would dig out the area and clean out that toxic dirt.

Dan Handrich: Niagara County HAZMAT is going to stop it. Then it will go to the owner who will be required by the state to do HAZMAT remediation. That is how it works.

Leo Shannon: So, the owner will be responsible?

Dan Handrich: At some level. HAZMAT will stop the emergency, but the responsibility will eventually go back to the owner. That is how most HAZMAT situations work.

Leo Shannon: If an owner has 1000 panels and there are some that leak, he is going to be responsible for the cleanup of that?

Supervisor Annable: That would be between him and the company and their contract but yes.

Leo Shannon: Do they know that they will be responsible? I don't think that will be a fifty dollar clean up.

Supervisor Annable: I don't know what their contract says.

Leo Shannon: Has anyone ever seen a car battery fire? They can last six and a half hours. They use water and it goes into the ditch and into the water system. All they did was flush it out. My concern is if we get a battery station and it starts on fire, how are we going to put that out? If we use water, it will come out of the batteries and into the soil and contaminate the soil as far as the water goes. What chemical are we going to use in Hartland to conceal this fire?

Dan Handrich: So, you talked about car battery fires. There are probably people in your town right now that have hybrid or full electric cars. Your town code doesn't address that. If the car starts on fire it is going to catch the house on fire. Lithium-ion batteries in cars have a unique situation where that car gives it fuel to continue to burn and break down as opposed to a lithium-ion battery in a steel storage unit. The car has many other objects inside of it that will fuel that fire. Car battery fires are completely different than battery storage fires. That car battery fire is being refueled by whatever that car is composed of. You are right. There have been times where they have had a car on a tow truck and two days later the battery takes. The reason is the cell is not contained like it is in a battery storage system. It is an open cell. That open cell is contained in plastic versus a steel containment system. It melts down and is more subject to thermal runaway and it burns. Places have allowed them to burn, and some have placed them in an area where they will self-extinguish without oxygen.

Leo Shannon: Is the town going to be able to assure the residents that the panels are not going to contain those chemicals that I read?

Supervisor Annable: That is one of the aspects that we will be looking at down the road.

Leo Shannon: That wasn't made up. I feel so much animosity when I come here. I speak the truth. The last time I came here you told me that when I come next time, I need to bring you proof. I'm bringing you proof.

Supervisor Annable: What I am telling you is we understand that there are components and that has to be addressed and will be addressed. That is why we have laws, and the state has laws and that is why we will work with the company. But again, at the end of the day we don't have authority expect to bring these things to light with the developer and we will work around that with our fire companies and the HAZMAT team. All of that is something that absolutely has to be worked out.

Leo Shannon: And that cleanup will be the responsibility of the landowner, not the taxpayers of the Town of Hartland.

Supervisor Annable: Right. As discussed, there is money put up for the removal of these.

Leo Shannon: That is the same company from France that went broke and now the government of France owns them.

Supervisor Annable: It didn't go broke. The government of France does own a larger part of that. At the end of the day though they still have to put up the money and we control the money. The town controls the money once it is put up. There is a decommissioning fund. That is what we were just talking about. We asked for 125%. The state has not pushed that far but that is what we are asking for. The law says they have to provide that funding up front.

Leo Shannon: The last thing I have is on the news I saw France is over with China.

Supervisor Annable: Does this have anything to do with solar?

Leo Shannon: Yes, it does because it was a subsidy owned by a French company and now the French government turned it over and has control of it. Now the French government owns it, and the other day France was sucking up to China. What is to say the French government doesn't say we don't owe them anything?

Supervisor Annable: We don't control what other governments do. All we can do is control what goes on here. How this all works out with the government and entities and people who manufacture this – we don't have any control over it. We don't control this.

Leo Shannon: Why can't we fight it? That is what I don't understand. That is what bothers me the most.

Supervisor Annable: It is a state law. There is a farm law here in Niagara County. We can't set laws that are going to tell a farmer that they can't operate their farm. The state says the same thing about solar. We don't control that. It is controlled by state law. The only way to fight it is to try to get the governor and down state legislators to try to change that.

Leo Shannon: That is progress to me if we tried that.

Supervisor Annable: It has been tried. It affects every county and every township. As it was just stated to us about the law and how it works, we don't have control over that. It is easy to say we should fight it but with what?

Leo Shannon: Our voices, and our pleas.

Supervisor Annable: Those have been pleaded and they have fallen on deaf ears.

Leo Shannon: We are no longer a republic then. We had 150 signatures to not have this project and only 24 people have leased their land.

Drew Reilly: For the 94C project you will have your opportunity. Once the application is made there will be funds available to hire people to say we don't like this. You as an individual can also submit comments on the project to the State of New York. Sometimes they don't listen, but they give you that opportunity. They actually give the town money to hire attorneys and others to present their case and concerns. If you

go on that website I told you about, you can see where they had to respond to every citizen that wrote in comments to say how they are or are not addressing them.

Leo Shannon: I went to Mr. Ortt and complained to him about it. I never even got a phone call from the guy. He couldn't take five minutes out of his day to call me back.

Supervisor Annable: We aren't talking about other people or entities. We are talking about Hartland and this project.

Drew Reilly: When they submit their application there will be an opportunity for you and the town to submit their comments and they have to address those comments. Hopefully the applicant will address some of the concerns in the pre-application phase. Once the application is made, they provide money to the town to say they didn't listen and so they can hire experts. You as a citizen can also submit letters to the State of New York and they will be responded to. They won't be ignored. You may not like the answer, but they will respond.

Leo Shannon: If my own representative blew me off, what makes you think they won't?

Drew Reilly: They have to respond under their own law.

Margaret Zaepfel: I just wanted to ask Mr. Reilly about setbacks. You had said some communities had asked for 3000-to-5000-foot setbacks which were thrown out. Some of the ones from the Planning Board were 500 or 750 feet. I just feel that we should have something more like that as a negotiating thing. If they're going to throw them all out, they're going to throw them all out but at least we have it for negotiating. To not have what we would like in the law puts us at a disadvantage. If we say 750 feet back from a road that has 50% houses that would give our community room to grow.

Drew Reilly: My opinion is if you make your setbacks way too big, they just totally ignore them. If you make them reasonable, but beyond what the state says, a lot of times the applicant will work with you. In Somerset they made some changes to the project to try to come closer to meeting those requirements. With really big setbacks they totally ignore them because they are unreasonable. If the state says 200 feet for a setback and your law says 300 feet, they will try to meet that. If your law is 1000 or 2000 feet your law is just unreasonable.

Margaret Zaepfel: Well, we are talking about our law. I don't remember what the Planning Board put in there, but I think it was 750 or 500 feet back. So, we were just talking enough that if it were 500 feet back from the road we could have growth in our town. We could still have a little ranch and solar along there.

Drew Reilly: For non 94C projects I think your law is pretty strong and again you have SEQRA as a tool to say it needs to be set further back. For 94C the state requirement is only 50 feet from the center line of the road which puts it in the right of way of the road. I think even the applicant has agreed that part of the state law is wrong. We are trying to make a reasonable setback from the road and meet those screening requirements.

Margaret Zaepfel: Two hundred feet from the road doesn't help the town at all but 500 or 750 feet would help the town. That is why I am requesting it go in. We had discussed the roads that have no water lines or houses on it, and I don't care if it is 5 feet off of the edge of the road. On the roads that we spent

money to put water on, having solar 200 feet off the road will mean that road will have no growth on it because there is just not enough room. Not only that but with 200 feet back you are still going to know it's there. If it is 500 feet with some nice trees, you might be able to get away from it. I want to understand what you said about decommissioning. The state Ag and Markets is using the word permanent.

Drew Reilly: Right, they are calling it a permanent conversion. It puts it under a different status. So, for example if it were not permanent, they wouldn't have to pay back taxes on the property but now that it is considered permanent, they do have to pay back taxes. In the eyes of the state, 40 years is a permanent conversion. It may go back to agricultural land 40 or 50 years from now, but the state is acknowledging that 40-50 years is a long time.

Margaret Zaepfel: Everyone I have ever talked to including yourself rolls their eyes when you say the land will go back to farming because everybody knows it will not go back to farmland after 40-50 years. They are getting involved in the decommissioning amounts that we ask for too and saying we can only ask for so much. I'm just saying it is a slippery slope. The main thing is the setbacks. In the law that we approve I'd like it to really look at where the town will be in 10 years. Are people going to move out? Are property values going to go down? You said we are going to give 1000-foot setbacks for schools and public parks. My kids are grown. I don't care if it is close to a school or park. I care that it is across the street from my house. I spent my money to live there and that is my home. I think that is the American dream – to own their home and live in the country if that is what they choose to do. I don't understand why schools and public parks become more important than property owners in the Town of Hartland.

Drew Reilly: If you have a house across the street, we did put in there that it has to be 500 feet away from a dwelling. If your house is only 100 feet away from the road, the project still has to be 400 feet off of the road on the other side. Again, this is for a non 94C project and the town can ask for even more with no problem.

Margaret Zaepfel: The 94C project is the only one I am concerned with at this point. For non 94C projects we can make our law work. With 94C we have to be very careful, and I am just afraid that if we don't have proper setbacks and enough people move out then we will get another project that comes in and does the exact same thing and our town will be gone forever.

Drew Reilly: Like I said with this front yard setback it is tough. If we ask for 1000 feet and the law is 50 feet, they are not going to meet it.

Supervisor Annable: Anyone else?

Richard Herman: I have a question on battery containment and the change to venting rather than the closed containment building. What chemicals do they expect to be vented out?

Dan Handrich: Historically the problems that people refer to happened about 4 or 5 years ago. They were putting in fire systems and enclosing the whole system. If a battery fails, it produces heat. Their fire suppression system was not strong enough and also when you have that much heat, you have degradation of the support structure. They are in sleeves or racks. If it gets bad enough it melts the plastic and frames and produces heat and gases like any fire. Instead of having the system rupture, they put in pressurized

venting systems that will open up and allow the heat to come out. That is what NFPA instituted along with the battery manufacturers.

Richard Herman: I don't see how it could stop a runaway.

Dan Handrich: People talk about a single cell and a single cell has thermal runaway. We've just recently realized there are micro fissures in the castings of lithium-ion batteries when you are fast charging. It could be a thermal runaway in one cell or five cells depending on how the systems are built. The original ones were packed in really tight but now they are starting to change them where they don't even go inside these storage units, and I am not sure which ones they are going to use to be honest with you. There are ones they can access from the outside and pull racks out. There are a lot of changes out there but for a general speak they created a new law for self-venting and also to stop the pressure build up and burst of flame that people classify as an explosion.

Ray Sullivan: The preferred method would be water correct? They use that to keep the batteries cool to avoid what you just explained so it could be 2-3 days of pumping water through there? Do they put a containment system like a sump in the bottom of these things to catch all of that?

Dan Handrich: I don't design these, but I'll be honest with you. When you talk about containment systems, they are all different and I don't know if the ones they will put in here will have their own fire suppression system. Water is not always the answer for some lithium-ion battery fires. To really stop thermal runaway, it is temperature based and breaking apart the chemistry of it. There are some areas that allow them to burn out because of the way they are assembled.

Ray Sullivan: That burn out could be days.

Dan Handrich: I don't know that for a fact because I don't know how they are assembling the racks. I've seen three different ways. In one they stacked them in so tight, now they are going to a racking system, individual containment systems are required so that one container is a sufficient enough distance, so it doesn't take the next container out. All of those things are codes that were developed in those storage systems.

Ray Sullivan: That is the reason for the water – to keep the heat down so it doesn't move to the other ones.

Dan Handrich: They can use water to control it, yes.

Ray Sullivan: That can go on for days if it doesn't restart. That water has to go somewhere.

Dan Handrich: Out west they seem to have more experience and there are some factions that make a determination using what is called TECs or thermal energy cameras, and air sampling. They decide how bad the thermal runaway is and sometimes they can contain it by pulling out the rack and it is contained. If we are talking worst case and the whole thing goes up it comes down to your local fire agencies and HAZMAT and how they want to contain it. I am not the HAZMAT coordinator. Again, there is so much new technology that puts fire suppression systems in them. I could say yes, they are going to put water on it and then they put in a fire suppression system that contraindicates that then that is a problem on my end.

If all they had was water, they would probably use it to cool the system down. I don't think it would behoove them to dump every last gallon of water out of the main onto it.

Ray Sullivan: If the solar panels do ignite is the standard just to let them burn?

Dan Handrich: Most places go in and hit them and cool them off but what is burning? It is aluminum, glass, a thin coating of EVA that basically melts. If it is just grass underneath it, it will not give it enough heat to make that stuff ignite. You need certain calories to get those things to light. They are mostly glass. The chemicals Leo is talking about are sandwiched between layers and have to do with the actual solar cell.

Ray Sullivan: Wasn't there an issue with DuPont black paper that was igniting them? They recalled that black mat because of the fires.

Dan Handrich: That was a long time ago and I try to keep it as current as possible. That mat was an Acraglas mat that wasn't meant for a certain heat. When I sit on boards and hear about solar panels my biggest concern is people that put them on their houses because you have asphalt shingles and small distances between in. I'm more concerned about that than having them sit in a field.

Ray Sullivan: This is a 350-megawatt project. Is there another project in New York State as big as this one?

Drew Reilly: Oakfield and Elba in Genesee County has 500 megawatts. Sardinia and Concord are the same size as yours.

Christie Sullivan: Is there still an issue with noise with the batteries?

Drew Reilly: The solar panels have invertors that generate about 65 decibels, and they usually locate them in the middle of the site.

Christie Sullivan: So, they locate them far enough away from homes that we won't have to hear them, and wildlife won't either. Wildlife doesn't like to hear the constant humming and it disrupts them too.

Drew Reilly: Supposedly and maybe Kevin can answer this question. My understanding originally was that most of the invertors shut down at night, which is when you are going to have the most issues with noise, but some companies are telling me they run slightly at night. There is not a lot of power being generated at night obviously, but they still run just maybe at a lower level.

Margaret Zaepfel: You said they are located in the middle of the fields. If it is in the middle of every 15 acres, then it could be kind of close to homes. I had assumed that the invertors would go way in the back.

Drew Reilly: They are spread throughout the field of solar. They try to put them in central locations to tie them in. All of the ones I've seen don't have the invertors at the edge of the site. They are internal to where the solar panels are. They are obligated in 94C and non 94C to do a test to see how loud it will be at the property line and at the nearest noise receptor meaning a home. I have been told that they are usually at 25 decibels or less and 25 decibels is really a whisper.

Margaret Zaepfel: Are we not going to hear the crickets anymore at night?

Kevin Campbell: The crickets are roughly 65 decibels.

Drew Reilly: There are some operating solar systems around here. I went to the one in Batavia and stood there at night and I couldn't hear anything.

Supervisor Annable: We went to one and it sounded like a window air conditioner.

Drew Reilly: An air conditioner is actually louder than solar.

Kevin Campbell: Like Drew mentioned, we have to model every single noise source within the vicinity and make sure we never exceed 45 decibels at the nearest homes. Oftentimes it is much lower than that.

Drew Reilly: My concern is that 45 decibels is fine during the day but at night we'd like to try to keep it less than 35.

Kevin Campbell: The invertors definitely make less noise at night, but the transformers are always on.

Drew Reilly: The transformers are on all the time and the location of those transformers is going to be a big determining factor in the impact on the community.

Christie Sullivan: Are the transformers going to be as loud as the invertors during the day?

Kevin Campbell: They are typically not as noisy. If you are at home and your dishwasher or fridge compressor or furnace turns on, that is about 45 decibels.

Drew Reilly: The biggest concern is always going to be at night. In the daytime you have other noises to drown it out. If you live near a big substation, I know you will hear humming all night long. That is why big companies really have to work on noise suppression. Again, EDF will have to do those studies and the town will review them. If the town wants to hire an expert to review those studies, they can hire a noise expert. The State of New York is also going to review it.

Chris Muzzillo: When I look at this map, you are going to surround my little parcel on all four sides. I just wonder how that is going to factor in. Have you decided where the battery storage is going to go?

Kevin Campbell: The battery storage is likely going to go along the transmission corridor. The further you are from that corridor, the less likely it is that battery storage will be near you, but we haven't decided where it is going to go yet. We don't even know if we are going to do battery storage. It is still just proposed. As the project moves forward, we may submit applications in 2024 and start constructing in 2025 or 2026. So, there is plenty of time for lots more public meetings and for us to get feedback and redesigning before any final decisions are made.

Chris Muzzillo: I know they were doing a bird study. Where can I find the results of that? Also, I know there are underground springs surrounding me on the farmer's land. Are there any studies done or concerns with that?

Kevin Campbell: There was a wet land delineation study that was done and that will be shared when we share our application materials. There will be a public meeting at some point likely later this year where all of our environmental studies will be shared.

Drew Reilly: For 94C you also have to identify all of the wells.

Kevin Campbell: Right, and the town has a ditch system as well that we need to take into account. There were quite a few wetlands identified through the site.

Chris Muzzillo: I know it isn't a wetland but there are underground springs and I have a well on my land and I am just concerned so I'd like to see those results.

Kevin Campbell: Any neighboring well within 500 feet of the project needs to be studied and tested through construction.

Chris Muzzillo: How do you know I have a well though?

Kevin Campbell: We will do a survey. We will send a letter to neighbors asking about wells.

John Davis: I haven't seen or heard anything about decreasing property values in the surrounding areas. How will that be addressed?

Supervisor Annable: I have seen studies that say both things. I haven't seen anything yet that says it will or will not happen definitively.

John Davis: I have seen two and it says it can drop 25%.

Supervisor Annable: It very well may.

John Davis: The people are still going to be paying full taxes even though the value of their house has dropped.

Supervisor Annable: It depends on what the valuation of the house is determined to be. If you come in for a re-evaluation with an estimate from a realtor that says your value has decreased, you take it through the process of having it reduced. People do that all the time.

Drew Reilly: Just so everybody knows when it comes to 94C they will not look at property values. It has been brought up several times and the judges have ruled that it is not an issue for solar projects. There will be nothing in their study about property values.

Councilman Hill: But we as a town can look at it.

Drew Reilly: Yes, but the State of New York will not be looking at it.

Councilman Grant: There are two guys in a white car riding around taking pictures. What are they doing?

Kevin Campbell: We have done some property boundary surveys and different studies.

Councilman Grant: They were up at the cemetery taking pictures and then they were on Hartland Road and this afternoon they were on Hosmer Road.

Kevin Campbell: They may be taking pictures from visually sensitive locations so we can start doing some visual modeling of what the solar fields will look like from various points within the town. That

way we can show what the project will look like with visual buffering and we can show the public what it will look like in reality through images. They are taking those photos while there are still no leaves on the trees because that is when there will be the biggest visual impact.

Shawn Florkowski: It is my view that the Ridgeview project will cause me and my family harm. Hopefully the town will listen to the outspoken members of the community and not just those who have signed on to lease their property. I think it is intuitive to ask if any of you councilmembers will have solar panels adjoining your properties.

Councilman Grant: I will.

Councilman Reed: I have solar on my roof.

Shawn Florkowski: Will you have a 2000-acre solar field across the street from your house?

Councilman Reed: No.

Shawn Florkowski: Would you want one?

Councilman Reed: I won't answer that because I have already recused myself.

Supervisor Annable: I don't have any. I do have farmland behind me but my back yard is buffered so I don't see the farm and I wouldn't see what was back there. So, it wouldn't impact me visually because of that.

Shawn Florkowski: I have the potential to be surrounded by this Hartland project if Royalton has a 94C project come in. Four sides of my property would be surrounded by this project. I'm probably going to be arguing with this town and Royalton to look out for my best interests because that is why you guys are elected. It seems like "there's nothing we can do" is the answer we continue to get. Will it be 2000 acres of fenced in solar panels or will there be individual buffers around these?

Kevin Campbell: There will basically be just under 2000 acres of fenced in areas, but it will go parcel by parcel. There is a project we are doing right now and where there were streams the designers could have gone over the stream with the fence. What we have decided to do is not go over those streams with the fencing and fenced in blocks to leave the streams unblocked. Those are the kinds of decisions that are going to be made with public input.

Shawn Florkowski: I know that out west they made wildlife corridors and things like that. With the battery containment fire issue, the east branch of 18 Mile Creek runs through my property. I certainly have a wetland there and this whole project is right on that 18 Mile Creek watershed area with multiple ditches running through. If there was a battery fire while it is raining at the heat temperatures that we know these fires last, and the chemicals we are using to put the fire out along with anything that might be in the surrounding area it would inevitably leech into an already vulnerable creek. I would also suggest that the Ridgeview project change its name because those of us that live around here don't see the Ridgeview appeal to it. This was made farm ground with a commitment to the land to grow food and farm. This is not that. I understand that you should be able to do what you want on your property. It is a reasonable point but not when you are causing harm to other members of your community. I have four neighbors that could get solar panels behind their houses, and they would also be surrounded. That just

seems morally wrong. My wife and I moved here 15 years ago, and we love this area. We have two young kids that we had hoped would someday want to live here. If this goes down and there are 2000 acres to the north of me and 1500 acres across the street and 200 acres behind me, you will lose valuable members of the community. They will leave. I am just a nobody, but my loving wife works so hard to help deliver your children and grandchildren. You are going to lose what you cant recruit. The most important part of the community is the people. I'm not going to come out of my driveway every day and look at 1500 acres of solar and then go up to NES and drive by the Ridgeview project and then go south down to the canal side and have it on both sides of me and go over to Becker Farms surround the whole area. You are going to lose people. That is the most valuable part of this community. It is not the tax money you bring in. you are going to lose valuable members of the community.

Ray Sullivan: Did you, Mr. Huntington, say there would not be solar in front of your house? Did you not know that they are going in across the street from you?

Councilman Huntington: I know the transmission line is going underground but I was not sure if there would be panels or not.

Kevin Campbell: There are no solar panels going there. We did studies and there is no room for panels on that property.

Margaret Zaepfel: I have a question about good neighbor agreements. Could you explain that to people? I understand that it goes with the property in the future and the company pays you money up front and then you are not allowed to complain in the future and when you sell your property, they can't complain in the future. If something goes wrong, it is hush money.

Kevin Campbell: Just last week we started reaching out to neighbors who will be within 400 feet or so of the facility. ORES allows us to go up to 250 feet from a house provided that we meet the noise ordinance. If a neighbor is willing to agree to that setback, we are willing to contribute \$1500 per year during the life of that project to that neighbor. We want to share in that value. It means we can put more panels in that area, and we don't have to spread the project out as much. In my experience, 400 feet is about where neighbors aren't as concerned. On the other end, we are giving out a \$500.00 one-time payment for those that agree to 400 feet. There is also a middle-of-the-road agreement of 325 feet which also provides an annual payment because again we want to share in that value.

Councilman Huntington: You said it is \$1500.00 per year for the life of the project. When the house gets sold, does that \$1500 go to the new owners?

Kevin Campbell: Yes. Those agreements are recorded on the deed. Just line anyone who signed leases, those agreements go with the title.

Margaret Zaepfel: Is there anything in there about noise or damage? Let's just say it is 20 years out and the panels are cracked now and we're on to nuclear power and they are just kind of sitting there. Those people will still have to honor that hush money, right? They cant complain to the company or have any legal footing?

Kevin Campbell: The agreement does say that if we are going to give something there has to be reciprocity. So, it does say in the agreement that you aren't going to stop the project. Sometimes you do

these good neighbor agreements and say instead of 45 decibels, we will agree to 50 decibels so we can make a little bit more noise. We didn't do that. All we put was the setback. We want to be good neighbors as well and meet eh noise and visual buffering requirements. These agreements don't say we will give you money in exchange for not doing visual buffering. We are still honoring everything else. We just want to have conversations with neighbors. If we don't have any agreement at all we could go 250 feet. In Mount Morris we basically did gentlemen's agreements with neighbors. Three years ago, we exchanged, and they had some concerns, so we took some setbacks with no agreements and carried it through to the end and stayed true to our word. Here we want to document things and have signatures from the landowner and the company that say this is the minimum setback I want to see from my house.

Margaret Zaepfel: Lets just say you have 10 houses in a row, and I ask my neighbor to have a 500-foot setback from my house. The company is going behind people's backs and offering each one of those individuals money to have that setback come closer. I'm just cautioning everybody that we are going to have neighbor against neighbor. If two out of the ten neighbors say I don't care if you put it out there and ill take the \$1500 a year and the other neighbors now are screwed. That is why we have a law and work with you on the law instead of the company working with the individuals just like they got the contracts with the individuals without considering the effect that it would have on the whole community. That is where the balance has to come. Is that something that we can see?

Ray Sullivan: I have been to every one of these solar meetings. During the first solar meeting you said if you don't want us, we will leave. What happened to that? Then you imposed 94C on us. You went from welcome neighbor to sorry. We went door to door and got 700-800 people that didn't want it and it obviously didn't go anywhere. Then two years ago you basically said too bad, 94C. I'm just trying to figure out the good neighbor thing here because it sort of went out the window.

Supervisor Annable: Let's get back to the public hearing folks. Does anyone else want to speak on the public hearing?

Barbara Outten: I do see the changes. Is it safe to say that I would have time to review these changes and the next time there will be a hearing and it will not be voted on?

Supervisor Annable: We are not voting on this tonight, no.

Barbara Outten: I mean next time. I want to have enough time to analyze the laws, not just complain.

Supervisor Annable: We don't know when we are going to vote on it just yet because we want to have enough time to hear everyone's concerns. If there are no other comments, we will leave the public hearings open and pick them up at the next meeting.

John Davis: For every megawatt of solar energy, subsidies amount to \$82.00. For coal, it is 73 cents. So, when you put solar into the grid tax money and subsidies are going in to pay for most of it. It doesn't compare to coal or natural gas or any other power source. Solar energy is at the top of the list.

Supervisor Annable: Thank you everyone. We will open our normal public participation now if anyone has anything outside of the scope of solar or battery storage.

PUBLIC PARTICIPATION:

John Davis: What is going on at the end of Chapman and Quaker?

Joe Mahar: We are going to have topsoil there and sell mulch. It will just be a yard and we are going to put a topsoil screener out there. It is kind of just a staging area where people would come in and get loaded.

Barbara Outten: I just want to ask each one of you, what actions have you taken to represent the two thirds of citizens who do not want solar?

Supervisor Annable: We represent everybody here and that is why we have not put out any kind of declaration. We realize that we do not have control and we are trying to go through this process with the law to mitigate and negotiate with EDF.

Barbara Outten: What about when we did have control?

Supervisor Annable: We never had control unfortunately.

Barbara Outten: You are elected by us. Our only recourse is election time. If I were to ask each of you where you stand on solar what would you say?

Supervisor Annable: We have been neutral this whole four years studying and researching this. We are at a point where we don't control it one way or the other. We are just trying to mitigate it. We are not trying to utilize those kind of issues. We are just looking to go through the process the best we can.

RESOLUTION 53-2023

MOTION by Councilman Huntington, seconded by Councilman Hill that since there is no further business to come before the board, the meeting be adjourned at 8:40 PM.

Ayes: Annable, Reed, Huntington, Hill

Nays: 0

ADOPTED

Respectfully submitted:



Rachel M Kushner

Town Clerk

Next scheduled regular meeting will be May 11, 2023 at 7:00 p. m.