

May 11, 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 - Absent
	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 54-2023

MOTION by Councilman Huntington, seconded by Councilman Grant to adopt the minutes of the April 6, 2023, work session and April 13, 2023 board meeting as presented.

Ayes: Annable, Huntington, Hill, Grant Nays: 0 ADOPTED

RESOLUTION 55-2023

MOTION by Councilman Grant, seconded by Councilman Huntington 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: 2023000337-2023000414

General:	\$39520.70
Part Town:	\$11314.61
Highway:	\$44623.88
Refuse:	\$26301.25
Water:	\$20704.54
Total:	\$142464.98

Ayes: Annable, Hill, Huntington, Grant

Nays: 0

CARRIED

ASSESSOR / CEO REPORTS:

Supervisor Annable: The house that was knocked down due to fire is pretty much down but there is still work to be done on that.

Councilman Hill: At least it is safer now.

HIGHWAY/WATER REPORT:

Supervisor Annable: The highway and water departments have been busy. The Hometown Heroes banners are up and the landscaping around our memorial is done. The swing sets are in the park, and everything has been put back in place there. We do need to approve a fuel bid that needs to go out and some surplus equipment.

RESOLUTION 56-2023

MOTION by Councilman Huntington, seconded by Councilman Hill to go to bid for fuel for a one-year contract with the option to renew for four more years.

Ayes: Annable, Huntington, Hill, Grant

Nays: 0

ADOPTED

RESOLUTION 57-2023

MOTION by Councilman Huntington, seconded by Councilman Grant resolved that the following attached list of equipment be declared as surplus and authorizes Highway Superintendent Keith Hurtgam, to sell at auction.

Ayes: Annable, Huntington, Hill, Grant

Nays: 0

CARRIED

NEW BUSINESS:

Supervisor Annable: We have some new staff for recreation this year and salaries to set for them.

RESOLUTION 58-2023

MOTION by Councilman Huntington, seconded by Councilman Grant resolved to set the salaries of the recreation leaders and park attendants and appoint the following individuals to those positions.

Ayes: Annable, Huntington, Hill, Grant

Nays: 0

CARRIED

Recreation leaders: \$14.40 per hour

Jackson Webber

Alyson Berner

Jordan Standish

Park Attendants/Splash Pad Attendants: \$15.50 per hour

Zachary Hill

Slate Spicer

Madelyn Colley

Supervisor Annable: Also, we just want to note our appreciation for Comtech of Lockport. They make a donation annually to our recreation program so we will need a motion to approve that.

RESOLUTION 59-2023

MOTION by Councilman Hill, seconded by Councilman Huntington to accept the donation from ComTech to the Recreation Department.

Ayes: Annable, Huntington, Hill, Grant Nays: 0 CARRIED

Supervisor Annable: Next up, Larry Winters from Johnson Creek Road would like to speak to the board.

Larry Winters: I have a petition here signed by all our neighbors in the 35 mile per hour speed zone from 104 to past Mrs. Wozniak's house. We must do something about the speeding. It is out of control. On Sunday's they just wail up and down that road. There is someone on a motorcycle that comes down about quarter after twelve on Sunday and he must be doing close to 100 by the time he gets past my house. We have all kinds of kids down there and it is getting to be ridiculous.

Councilman Huntington: Where does the 35 mile per hour speed zone end right now?

Larry Winters: Just past my house. Joe Szalay says the same thing. There are people from the church crossing the street. Nobody wants to obey the speed limits. I don't know what we can do. Radar has been out there a couple of times and gotten a few people. I've been there 15 years and it gets worse and worse every year.

Supervisor Annable: We have notified the State Police, Sheriff's Department, and Middleport Police so they have been down there regularly. I know it is hit or miss on trying to catch everybody, but I think they have issued 3 or 4 tickets in the last week or so.

Larry Winters: When I was coming to the meeting today, I saw someone in a pick-up going at least 70.

Supervisor Annable: Since covid it hasn't just been speeding but all different aspects I have seen.

Councilman Grant: What do you think about putting speed bumps in?

Supervisor Annable: In villages you can have speed bumps. We will have to look into whether it would be legal to put them there. We will continue to keep law enforcement on it.

Councilman Hill: We may be able to get a few more signs down there too.

Larry Winters: There are some signs down there, but it seems like nobody abides by them.

Supervisor Annable: We were successful in getting a crosswalk and some signage there a year or so ago for the church. We will see what we can come up with along with some more enforcement.

Chris Sullivan: The houses in that section are very close to the road too and the kids are right there.

Supervisor Annable: Thank you. We will see what we can do. Next up, we need to appoint Dan Sutch as a MEOII effective April 21, 2023. He just completed all his training.

RESOLUTION 60-2023

MOTION by Councilman Huntington, seconded by Councilman Hill to appoint Dan Sutch as MEOII, effective April 21, 2023.

Ayes: Annable, Huntington, Hill, Grant Nays: 0 CARRIED

Supervisor Annable: Next is our refuse contract with Modern. We have the option to continue that for another three years. We have had some discussions and it probably behooves us to do that. It is only a 2% increase per year. If we put it out to bid, there isn't really anyone else to bid and with the way inflation is right now I think we would see a much higher price.

RESOLUTION 61-2023

MOTION by Councilman Hill, seconded by Councilman Huntington to approve the three-year extension of the current refuse contract with Modern Disposal at a 2% increase per year.

Ayes: Annable, Huntington, Hill, Grant Nays: 0 CARRIED

Supervisor Annable: Next, we have a contract for the Independence Day Committee that does our fireworks for us each year. It lays out rules and regulations and makes sure they have the proper insurance for that day.

RESOLUTION 62-2023

MOTION by Councilman Huntington, seconded by Councilman Hill to approve the Independence Day Committee contract for 2023.

Ayes: Annable, Huntington, Hill, Grant Nays: 0 CARRIED

Supervisor Annable: Also, we would like to let everyone know that the Town of Somerset is having a bicentennial celebration. It will be held July 21st-23rd with a parade on July 22nd at 2:00. They participated in our bicentennial and brought a float to our parade. We can discuss a float and maybe get some volunteers together for that.

Supervisor Annable: I also want to take the time to recognize Dan Sutch. He built the memorial wall in the front hallway for veterans. My secretary and the historian put all the photos together. The photos on the main wall are the same as the photos on the banners that are up and down 104. Anyone else that has family or friends that they would like to add, whether they are former or current military, we are happy to put those put. We still have plenty of room to go. We are happy to honor and recognize all our veterans from the Town. We will also be doing our own dedication for the monument that is out front. If you noticed when you came in, the memorial is new this year. We are going to dedicate that on Flag Day so we will put out more information as that comes. We want to make sure we honor our veterans by doing that.

Supervisor Annable: We are in the shadows of Memorial Day. I would like to take the time to recognize those that have sacrificed for the Town of Hartland over the years in law enforcement and the military. Peace Officer Memorial Day was proclaimed in 1963 by President Kennedy. Now there is National Police Officer Memorial Day and Police Week May 15th. It was established by a joint resolution of Congress. It pays special recognition to those officers that have lost their lives in the line of duty while dedicating themselves to the safety and protection of others. We have four individuals that were killed in the line of duty in our Hartland Cemetery, so I just want to take the opportunity to recognize them. Ocala City, Florida police officer, Jared Forsyth, a former Hartland resident, at age 33, passed away April 13, 2015. He was killed in a firearms training accident. Niagara County Deputy Sheriff Howard Mead age 62 on June 4, 1967 from a fatal head injury while struggling with two prisoners at the Niagara County jail. He was also made United States Military Police during World War II. Charles County Maryland Deputy Sheriff Lawrence McParlin, age 35, on May 21, 1918 was shot and killed along with Washington

DC Officer John Conrad while serving a summons in Washington DC. Lastly, a Town of Hartland Constable Abner Hawkins, age 62. On October 14, 1913 he was accidentally shot and killed by a clerk at a hardware store when returning a pistol that he had used in service. So, we just want to take this opportunity to remember those that paid the ultimate sacrifice in the line of duty. Then, our military veterans from the Town of Hartland that were killed in the line of duty goes back to the Civil War. Captain Benjamin Foote Company E eighth calvary was killed during the battle of Brandy Station April 9th, 1863. Lt Carlos S. Smith company E, eighth New York calvary was killed in Broad Run Virginia during the Broad Run Bristoe campaign October 14, 1863. Brothers Sam and William Nichols served together in the 24th New York Independent Battery. They were captured and spent time in a southern prisoner of war camp. Their headstone reads “a victim to rebel starvation”. During Word War I Charles Harrington was killed at Ponteaux Landis France January 1, 1919. In WWII we have an inscription that was put in by Hartland Cemetery in 1950. It is a seven-foot-tall granite marker that was inscribed with the names of Hartland residents killed during WWII: Ralph Buffham; Henry Glaser; Merrill McDaris; Charles Patszalek; Charles Peters; Howard Shepard; Gerald Swift; William Ellis; Alfred Kuzynski; Glen Mudge; Leo Patszalek; Edward Peterson; and John Silsby. Again, we just want to remember the sacrifice that those individuals made in the American fight for freedom. That concludes all our normal business, so we are going to reopen our public hearings. We will start with our solar public hearing.

Public Hearing 3 – 2023

Proposed Amendments to Section 144-17 Solar Energy Systems

Date/Time/Place: May 11, 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.

Ray Sullivan: We still don’t have what tier 1, tier 2, tier 3 or a set thing for the battery yet about what they are going to use?

Supervisor Annable: There is no proposal yet. If it were to go through they are telling us about an acre in battery storage.

Ray Sullivan: Did they originally have that in the site plan for battery storage?

Supervisor Annable: It has always been in that discussion, yes. It is not in anything yet because there is no permit filed. Until they file a permit, we wont know exactly what they are looking to do. I am going to surmise that they will put that in because it falls under 94C.

Ray Sullivan: All of Hartland is an Ag district, right?

Supervisor Annable: The rural, agricultural farmland is, yes.

Ray Sullivan: I believe they said the batteries aren't applicable with 94C unless they are put in with the site plan?

Supervisor Annable: Right. That is why we have a separate solar law so that whether this developer or another developer were to come in with a large or small scale we would control the process for the battery storage. If it is under 94C we can't, but anything that comes in after the fact, we can control.

Leo Shannon: Are we any closer to the Town Board voting on this?

Supervisor Annable: This is the third opportunity for people to speak. There were some minor changes made so that is why we put one more night on. So, we are going to listen to everybody and take what is projected here and at the next board meeting we will have the vote on it. So, anything that is brought up tonight can be looked at and see if we want to change or add anything.

Leo Shannon: I had taken it that we were a long way away from voting on this.

Supervisor Annable: Once we hold a public hearing there is a time frame that we have to abide by to bring it to a vote. That is why we have left 3 months go by to allow everybody to come in and have the opportunity to speak. We will take one final look at this with our attorney and engineer and see if there is anything we want to tweak and then we will put it on the agenda for next month.

Leo Shannon: What is the time frame that we have.

Attorney Haylett: From when you close the public hearing, you have 62 days.

Elizabeth Neadow: I know the solar company is going around and trying to buy people off.

Supervisor Annable: I would be careful about how you allege buy-offs.

Elizabeth Neadow: Okay, they are paying people to be allowed to have closer setbacks. What are you guys suggesting? I know it goes 150, 200, 300 that they are allowing a payment to people. I know at one time the Planning Board had said 600 feet. Do you guys have a suggestion? I know it is from the house, but I would love to see it from a property line.

Supervisor Annable: It is 100 feet from a property line and 250 feet from a house. What we have gone with is what the state has predominately approved for other sites. We have spent a lot of time looking at other municipalities that have gone through this, what happens in their permitting process, and what has happened recently with Cambria. They basically steamrolled everything Cambria put in there with what the state is standardized at.

Elizabeth Neadow: Is there any way you could file suit against the state to change that?

Supervisor Annable: There was a suit filed but this is state law that has been passed by the state legislature.

Elizabeth Neadow: I realize that but if every town filed suit...

Supervisor Annable: Of all the towns in 62 counties a couple of towns that tried to pursue that.

Attorney Haylett: Cambria and Somerset were parties to a lawsuit with some of the community organizations. I think they lost the first round, and it is still pending appeal in Albany.

Elizabeth Neadow: I would just like to follow suit with what they are doing.

Supervisor Annable: It is an expensive process. The Town doesn't have that kind of money to be honest with you. It can cost hundreds of thousands of dollars to do that for something that we are going to get steamrolled on. So back to your questions about the good neighbor agreements. It is my understanding that they are offering to pay to have the 250 foot setbacks which is already kind of the standard.

Elizabeth Neadow: It is from the house though and I think it should be from the property line.

Supervisor Annable: That is an offer that they are making, it is not the law.

Elizabeth Neadow: Right, that is why I want you to write it into the law that we want it farther from the property line, not the house.

Supervisor Annable: We will consider that, but the problem is the state is going to override that. We are trying to mitigate as much as we can and put as much into this law as we can and holding their feet to the fire for safety and those kinds of things. The state is just going to come in and tell us what they are going to do. We also want to be able to control those smaller scale projects that may come in. For 94C we don't have that control.

Kris Muzzill: So, at this point your vote is going to be for 250 feet from my home?

Supervisor Annable: More than likely, because that is what the state has ruled.

Kris Muzzill: Last time I was here someone had mentioned asking it to be pushed off reasonably a little bit further. I understand that they are coming in and saying 250 feet but if there is the opportunity to push it back, we should. It's killing me what you are about to do to my acre and my home.

Supervisor Annable: It is not what we're doing, it is what the developer is doing. The state is pushing this on us. You've seen everything the state does. We aren't even going to be able to have gas in new homes. This is all done by the downstate legislatures and governor. We don't have control.

Kris Muzzill: We have to be able to have a voice. We can't just sit here and bend over.

Supervisor Annable: We do have a voice throughout the permitting process, but the state has already shown what they are going to allow. We have zoning laws here for certain things. If you come in here and apply for something, you have to follow the zoning laws. That is how it works. The same goes for the state. They've already established those standards.

Kris Muzzill: You need to push back Ross. I am one little acre, and they are about to surround me.

Supervisor Annable: EDF has agreed to work with neighbors, especially in residential areas, to work around some of those things. Where is your property?

Kris Muzzill: Gow Road. None of the landowners mail even comes to Appleton and I have been there for 30 plus years.

Jon Davis: Isn't money going to be allocated to the town if they want to file a lawsuit?

Supervisor Annable: There is what is called intervenor funding. The problem with that money is that it comes too late. That is why we are doing all of this leg work now. Under Article 10, you go to intervenor funding prior to the process. Once the permitting process is done, our laws aren't going to have any impact. That is why we are doing this before they file. The money doesn't come until after they file.

Tim Neadow: That is probably be design so you don't have the money to sue them.

Supervisor Annable: That is New York State law. Home rule has been taken away from us. All the municipalities are stuck with this. We looked and shopped and talked around and everyone is in the same boat that we are. We are not alone. There is not really a lot of talk about lawsuits because it is kind of a moot point. You have to have something to sue over. Decreasing property values is not useable. The lawsuit that went through was regarding the procedure of this not the actual projects. You have to have something to be able to sue for and it is a difficult process.

Leo Shannon: What if our Town Board members all voted no? Would that not stop the project?

Supervisor Annable: There is nothing to vote on. We don't get a vote. That is what I'm trying to explain to you. We don't get a vote.

Leo Shannon: So, none of you are going to be able to vote on it?

Supervisor Annable: There is a state law. They've established the permitting process and taken it away from us. If you build a house, there are zoning laws for building a house and we control that. The state has taken this particular zoning aspect away from us. It goes through the state. That's why it is a state permitting process. We don't control it. We have an opportunity to challenge it and that is what we'll do when the time comes. Take a look at Cambria. They have several items that they have put in for to try to deter certain things and they were overridden. The setbacks and everything to do with that was overridden. We don't get any kind of a vote. Article 10 at least let us have a seat at the sitting table. That is gone. We don't have a seat in anything. The point I have been trying to make is we don't control this.

Kris Muzzill: Then this is all for nothing?

Supervisor Annable: Unfortunately, that is where we are at with this whole process. We are passing this law to try and mitigate some things but a lot of it is not going to matter for the 94C project. We do have the opportunity to manage smaller projects. The only ones that we don't manage are the large scale under 94C.

Barbara Outten: I believe we should have passed the type of solar law that Somerset passed. We asked to be defended. As a town, two thirds of the residents didn't want it. If we passed a restrictive law, we, the residents, would have felt defended. You just said they will override us, so it doesn't matter what law we pass. You made a friendly law to EDF.

Supervisor Annable: We complied with the state law.

Barbara Outten: You could've passed what Somerset did, but you chose not to. You altered it to be more friendly to EDF.

Supervisor Annable: We didn't alter it to be friendly. We altered it to be in line with what the state recommends.

Barbara Outten: So, Somerset has bad lawyers? Mr. Haylett, do you know who the Town of Somerset has for a lawyer?

Attorney Haylett: That would be me.

Barbara Outten: Okay so is it possible for us to have the same law here in the Town of Hartland that Somerset has?

Attorney Haylett: If the board wanted it, yes. But that Somerset law is going to be tested right now because they have a pending application.

Barbara Outten: That is perfectly fine but that would have made us, the residents, feel represented. If the board chose to use that law – that is the key phrase.

Kris Muzzill: It's the neutrality that you all speak to that doesn't sit well with us.

Supervisor Annable: I've spoken to a lot of people who either don't care or support it as well. I know the people that don't want it to come here to our board meetings to profess that. What you have to remember is in addition to the state's law, we are a right to farm community. Sometimes that causes problems for people just because of the type of operations farmers run with noise and smells and that kind of thing. We don't control and can't override those farm laws either. Solar is an approved agricultural use. Whether it is right or wrong, it is still an approved use. The supporters don't come here because when this first started it was an embarrassment the way people treated their neighbors that were supportive of it. I watched people get verbally attacked and they don't come here because they don't want to be verbally attacked.

Elizabeth Neadow: That is a shame that the state put us in the position to be neighbor against neighbor.

Supervisor Annable: That is right, and I wish this project never came along.

Elizabeth Neadow: All along though people begged you – and maybe it won't get through, but it would make us feel like you guys are for us if you could just put it in there. Maybe it doesn't mean anything and that's fine, but we can at least put it in there.

Barbara Outten: Why not just use the Somerset law? What is the problem?

Supervisor Annable: This basically is the Somerset law. We just took a lot of the extra language out that was not necessary. It's basically the same law.

Barbara Outten: But if it makes us happy why can't we use the same Somerset law?

Kris Muzzill: Are you guys all neutral?

Councilman Grant: We are still gathering all of the facts.

Councilman Huntington: I am neutral, yes.

Kris Muzzill: But you are all ready to vote on this.

Councilman Huntington: I am not ready to vote on this project. I am ready to vote on this law. There is a difference between the project and the law.

Barbara Outten: You could just not vote on the law.

Councilman Hill: If we do that it is just going to be worse. This gives us a way to negotiate. If we go crazy and make them big setbacks, they are going to say that is ridiculous.

Barbara Outten: I don't think the Somerset law has unreasonable setbacks.

Kris Muzzill: I have heard the Mr. Reed has recused himself from it but why?

Supervisor Annable: He may have some land involved in it.

Kris Muzzill: But you guys are neutral?

Councilman Hill: Are you talking about neutral as far as the solar project?

Kris Muzzill: Right.

Councilman Hill: To be honest with you I don't think we have a choice. Right now, we are playing defense. As for the law, we hired a firm, and this is what they do, and they do it all over New York. If you were here when Drew was here, that guy has forgotten more than we all know put together. That is who we are counting on, and I am fully behind what he says. When he says "this is what I would do", that is what I would do, and I am fully behind what he is telling us for the law.

Tim Neadow: The state said they wanted to do 2% but we are taking on more than 2%. That is like putting all the weight in the back corner of your car, it's just not fair.

Supervisor Annable: The 2% is statewide, not per community.

Tim Neadow: But it should be distributed evenly don't you think? I know that would be hard to do in New York City, but they could put it on buildings.

Supervisor Annable: Not every community is viable for this. We are because of the power lines.

Tim Neadow: That is because they shut down the cleanest coal plant instead of investing money to make coal even cleaner.

Councilman Grant: So, Somerset isn't going to have any solar panels whatsoever?

Supervisor Annable: Yes, they will.

Councilman Grant: Right now, Somerset is fighting whether or not they want it south of 18. They are saying they love the Somerset law. What are they arguing about if they are saying there isn't going to be any solar?

Supervisor Annable: What they are looking for is the Somerset law.

Barbara Outten: What I am saying is why don't we bag this law and use the Somerset law because Mr. Haylett and the same people wrote the Somerset law. We can use that one in Hartland. That would make the people feel represented.

Supervisor Annable: You want us to pass a law that we know is going to be overridden.

Barbara Outten: Yes, because it is going to be overridden no matter what. That is what you told us.

Supervisor Annable: We will consider that.

Tim Neadow: Shouldn't everybody be on the same page because it is all farming community stuff in Somerset and here.

Supervisor Annable: It is, and we have farmer versus farmer.

Councilman Grant: I talked to Drew after the last meeting, and they did not solicit anybody for the solar lots here in Hartland. The farmers came on their own. How did the company get 2400 acres?

Barbara Outten: EDF went and talked to everybody.

Councilman Grant: They sent letters to everyone to see if they were interested.

Ray Sullivan: That isn't true because they came to my door. They told me I'm the guy that is never home. They solicit people every day in this town.

Councilman Grant: So, you aren't signed up?

Ray Sullivan: No, I am not. I am on the power lines and one of the people blocking it.

Barbara Outten: In one of our town meetings in the minutes the EDF representative said they were invited to the Town of Hartland. The guy flipped his lid and said they were invited to this town, and I said thank you for telling us the truth.

Supervisor Annable: We didn't invite anyone. We didn't even know about EDF. Four years ago, they called me, and the representatives wanted to have a meeting to explain what this was and what they wanted to do. We had two meetings, and you can look at the minutes. Then they advertised a meeting at the fire hall in August to introduce it to the public. That is how this came about. When they came here, they already had people signed up. There was more than one solar company that was working in the area, but EDF is the only one that approached us, and they already had people signed up at that time.

Leo Shannon: How is it that they already had people signed up?

Supervisor Annable: They went and talked to everybody. There are people that have leases for fracking in Hartland. That never came to fruition but there are people that signed up for that.

Leo Shannon: What happened with fracking? Why did that end?

Supervisor Annable: New York State didn't allow it. My point is people signed up before it was even decided whether it was legal or not.

Leo Shannon: Am I correct that 24 people want it?

Councilman Grant: No, it is 2400 acres.

Leo Shannon: How many people signed up for it?

Supervisor Annable: Probably 40 or 50.

Leo Shannon: How many out of those 40 or 50 are major farmers?

Supervisor Annable: I know of a couple but I'm not sure. I haven't really seen the list except for seeing it on the map.

Leo Shannon: I know the Harris's aren't going to do it. I know the McCollum's are not for it. They went to the Harris's, and they wanted to run the power line from Slack's property all the way across to the main power lines and the Harris's are not going to do that.

Councilman Grant: You said they were going to allow them to do it.

Leo Shannon: They are not going to get an easement from Harris Farms. What does that tell you when you've got 200 years of farming and these people are not in favor of it? They don't want the money and they don't want the power lines there.

Supervisor Annable: We understand that. This is a public hearing on the law.

Leo Shannon: You laugh at me. Mr. Annable always does all the talking and the councilmen just sit there and never ask any questions of anyone. We're not being represented.

Supervisor Annable: If you go to the county public hearing you don't have a conversation like this with the county legislators. We have allowed everybody to have a say. We try to debate and give you information. A public hearing is an opportunity for you, the public, to give us your ideas and opinions and then we take that into consideration. We don't have to have a conversation. If you go to any meeting, the chairman, the mayor, the supervisor, does all the talking and controls the meeting. We let everybody speak and try to give you information back. We have kept this public hearing open for 3 months so that we can hear everybody. I get it. I am sick and tired of solar too but there is nothing I can do about it. I could probably get a four-year degree out of the time I have spent on solar. I get it but I also know the law and the legal process. I've talked to representatives. This is here. We are going to have to live with it and mitigate it as best we can. That is what we are trying to do. EDF, fortunately, has been receptive to some of the issues we've brought up around residences and setbacks. They have been pretty good to work with. The company in Cambria doesn't even talk to their town board. We are fortunate to have a company that at least is willing to work around some of those things. We could get one of those

companies that come in here and doesn't talk to us and just steamrolls it and not have any input at all. That is where we are at. I appreciate that nobody from this room wants this. I understand that. But it's here. And it's going to be here. And we are going to see more types of solar projects and battery storage in homes. That is why we want to have laws for both, so we have some control.

Kris Muzzill: How do I get EDF to know my name?

Supervisor Annable: I can give you the number of the representative of the company. They would be happy to sit down with you.

Kris Muzzill: I am banking on that birds of prey study that they did because a man sat out behind my home for months at a time in different periods of time.

Supervisor Annable: They have lots of studies they have to do. The bird watch is a big one. Any one thing that comes up environmentally can shut down the whole project. There is no guarantee that it is going to go through for them. They still have a lot of work to do on that aspect.

Kris Muzzill: Were you guys able to vet through that process?

Supervisor Annable: That is overseen by the state. There are specific rules that they have to follow. That siting process they have to go through they have to use legitimate companies and surveyors to put it together. At some point in time, we will be able to see it.

Kris Muzzill: Then the well study that will be coming out, what are they looking for there? I do have a small well on my land.

Supervisor Annable: They are looking to make sure there won't be an opportunity to contaminate a well where they are building.

Jon Davis: We talked about people that are in favor of this program. According to the map that our zoning officer put out with the properties that are being leased, the largest landowner doesn't even live in this country. He lives in Canada. There are at least three more that live in the Town of Royalton and another down in Arkansas that has over 100 acres. They're not voters. They aren't even here to see it. So, these people that favor it shouldn't be represented here.

Supervisor Annable: I understand that, but they own property here.

Ray Sullivan: I have been to every one of these meetings since EDF came here. We had a petition that 700 – 800 people signed. It was blown off. That was before Article 10 or 94C and you didn't do anything about it. That should've stopped it right then and there.

Supervisor Annable: What would it have stopped? Article 10 was already in play.

Ray Sullivan: We could have stopped it when it started four years ago. From day one the majority of the people have said no.

Jon Davis: Somerset did.

Supervisor Annable: It was the same process. It still took home rule. Article 10 was just a longer process. They made 94C to streamline it faster. The problem with those petitions is that I found them invalid because they put faulty information out to people. They put out information saying the batteries were going to blow up our town and that the solar panels were toxic and would burn up our town. It was a scare tactic. It was not accurate information.

Ray Sullivan: At that time, the solar panels were not silicon. The ones that were coming out were toxic.

Supervisor Annable: We weren't told which panels they would be using at that time, and I think they still don't know. But, we know they will be silicon based and not contain cadmium.

Jon Davis: There was an explosion in Arizona where one of the batteries blew up right before the petition went out.

Supervisor Annable: We had the fire official here last month that explained that. That was an isolated incident that was created by untrained firefighters opening the container.

Ray Sullivan: We didn't know that at the time.

Supervisor Annable: I did. I read the article that came out and it was a known fact four years ago.

Councilman Huntington: That was also addressed at the meeting at the fire hall with fire officials there.

Supervisor Annable: That is one container in the last few years so that is a pretty small percentage. There are fire codes for those. I've talked to firefighters and trainers from Arizona to Boston and New York City to our own local firefighters. You heard that last month. It is a

manageable risk. They are not these things that are going to explode and put toxic material into our town. If they were, they wouldn't be allowed anywhere.

Elizabeth Neadow: The state government is snow balling you. They told us Love Canal wasn't going to be bad and the mosquito spray they used when we were kids wasn't going to make us sick.

Roseann Heitzenrater: What would contaminate the wells?

Nick Neadow: The construction process in general can contaminate a well in a certain proximity depending on what they do and what they encounter.

Leo Shannon: The paper I brought in and showed everyone that had the picture of the panels and showed the chemicals that are in them – are those chemicals going to be in these panels?

Supervisor Annable: No because they use a silicone process now for the panels.

Ray Sullivan: There is more environmental impact on the back side of this than the front side. The amount of acid that is used to clean the panels is huge. We can ask EDF because I don't know if you know this, but EDF started a solar farm in France and it was shut down for environmental impact. It takes a lot of hydrochloric acid to clean the sand in order to bake it.

Supervisor Annable: The process to make the panels is problematic.

Ray Sullivan: EDF still won't answer what the break-even point is for the green energy versus what it takes to get it here. They refuse to answer that. Elon Musk says it takes 10 years for his cars to break even.

Supervisor Annable: I believe it will take several years, definitely.

Ray Sullivan: With all of these banks collapsing, do you know who EDF is backed by?

Supervisor Annable: It is a French owned company, but I am not sure as far as financials. We can ask them. I'm sure they use multiple banks.

Leo Shannon: It has been made public that the company went bankrupt, and the French government owns it now.

Supervisor Annable: Yes, they owned around 90% of it and then purchased the rest.

Roseann Heitzenrater: Can you say yes to solar but no to big solar?

Supervisor Annable: That is what our law is about. We do get to control the smaller projects. There is opportunity through the permitting process to challenge them but everyone that has challenged has been overridden. That is why we hired experts like our engineer that have done this all over the state. We aren't the first or the last, but we try to use the best-case scenario that

is presented to us. You should see a lot of the laws that New York State puts through. It would make you even madder.

Ray Sullivan: How are they mitigating all the wetlands that are in Hartland?

Supervisor Annable: They have to do a study on the wetlands, but I don't believe they have anything in what is considered federal or state wetlands.

Tim Neadow: They've already added the new transmission lines that follow through the original easement between the reservation and the wildlife refuge.

Leo Shannon: That is why the station in Middleport was put up. So, when they hook into here it can go right to there.

Ray Sullivan: Actually, that line on 93 is for hydro and nuclear power from Canada. It has nothing to do with solar.

Leo Shannon: The Town of Ridgeway on Sweat Road has 1000 panels put in. They have been there for 14 months, and they are not being used. There are no electric lines or battery storage. What happens if they do the same thing to us? What worries me is that we cannot count on the French government to be honest with us.

Supervisor Annable: There are a lot of things that we have to work through if this comes through. We need to make sure we hold their feet to the fire and make sure they meet all the regulations, and everything is done correctly. We are in uncharted territory.

Councilman Huntington: Do you know what company that is?

Leo Shannon: I'm not sure but it is in the Town of Ridgeway and there are no lines going up the telephone poles. If they haven't had these things active in fourteen months is the Town of Ridgeway losing money?

Supervisor Annable: They probably are not receiving any money until it is functional.

Leo Shannon: Let's not let that happen here.

Supervisor Annable: We will be working on all of those components. I will find out what is going on over there.

Ray Sullivan: They still don't have all of the easements for the power lines, right?

Supervisor Annable: Not that I am aware of, no.

Ray Sullivan: Are they ever going to give us a map of what this is going to look like?

Supervisor Annable: Yes, as a matter of fact I asked them about the design of this. They said they haven't designed it yet. They will have to have it for the permitting process if they get all the easements they need.

Ray Sullivan: That two lane highway is 38 feet, and they want 100. Those are some pretty big swatches cut through the town.

Councilman Grant: Don't you think that is the reason a lot of farmers are opposing it? Would you like to plant corn in a field that has a 100 foot right of way and a cable buried 4 or 6 feet deep.

Leo Shannon: They don't want to lose their brown land. That is the whole thing.

Councilman Grant: That isn't brown land. They don't want their good fields messed up.

Leo Shannon: Of course that is brown land. Harris's grow everything in there.

Councilman Grant: Brown land is soiled or contaminated. If you were a farmer, you wouldn't want them to mess up your good fields.

Supervisor Annable: People have that choice. They can't force them to let them use their land.

Councilman Grant: I think the guys that own that right of way have more power than the guys that want solar on their land because they can't get to it.

Supervisor Annable: Let's wrap this up as far as this particular law. Does anyone have anything else that they want to point out for the law?

Chris Sullivan: Is this a finite amount of acreage that they are taking? Or is it going to get larger in the future?

Supervisor Annable: Whatever they want, they are going to ask for now. I spoke to a representative from NYSEG. There is a limitation on how much power can go there.

Ray Sullivan: How did Cattaraugus County put a moratorium on solar and get around 94C? They said there would be no more industrial solar in Cattaraugus County.

Supervisor Annable: They haven't. They can say that, but the state can still override it. This is just speculation, but I don't see the state coming here to say they are going to put two large scale projects in Hartland.

Nick Neadow: In the construction process, how are we going to be represented?

Supervisor Annable: We have the option to have our engineering firm represent us and they have to pay them. That is part of 94C.

Roger Mittlestadt: Have they come out with a map yet that tells where they are going to be running the lines? They have contracts of what they want to do.

Supervisor Annable: No, they have not put that together yet. They don't have all the easements yet for that. They do have a map of proposed land use but until they have something to submit to the state, we won't get it. I know some general areas because I know of some people that have signed up for it, but I don't know the full extent because they don't have it yet.

Elizabeth Neadow: Once they have a plan will everyone in the town be able to look at that?

Supervisor Annable: Yes, because it will become part of the permitting process.

Attorney Haylett: If anybody is interested, right now for the project in Somerset, they have the application at the Somerset Town Hall. It is seven binders wide. If anyone wants to see what the application would be like they can view the one at the Somerset Town Hall.

Heike Jacob: They are also required by the state to hold community meetings.

Ray Sullivan: They always say that if somebody maintains a property for more than seven years, they can always claim eminent domain. What are the chances that EDF says after 20 years they've paid us enough and claim it.

Supervisor Annable: They can't. That is why they are working on easements, because they don't have eminent domain.

Ray Sullivan: What is to say the state won't do it?

Barbara Outten: It was just in the Union Sun & Journal that the New York Power Authority is looking at using eminent domain to get the transmission lines through. That is their next move because they are getting push back from hundreds of communities across the state.

Supervisor Annable: I will look into that aspect of it. I am going to close out this public hearing and open the battery storage public hearing.

Leo Shannon: This gentleman was talking about speeding issues. On the 33 there are signs that tell you what your speed is and on top of them they have a 3D camera. When your car is coming that camera can take a picture of your face behind the wheel of that car. Could we work something out with Middleport and get that set up? Think about how many tickets would be coming into this town.

Supervisor Annable: They are quite pricey, but it is something to look at. I have looked at them in the past. I've been a police officer for 45 years. Public safety has been my top priority. It always has been and always will be. Traffic safety is one of the components that I used to teach. Now with covid and less enforcement there are people speeding, passing, and pulling out in front of people. I have never seen it like this in my life.

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.

Elizabeth Neadow: I have talked to a lot of people that have autism or epilepsy and batteries do have a hum. They are gearing where they are going to figure out what you'll be able to hear in your house with the windows closed. I would appreciate it if the noise was considered from the property line instead of inside the home.

Supervisor Annable: If they put in batteries, they will be in one location near the power lines. It will not be spread out throughout the town. Those are some of the things we have addressed with them to keep those decibel levels down.

Ray Sullivan: When will they know what batteries they are going for?

Supervisor Annable: I don't think they will know until they design this, and I don't think they know if they will even have batteries or not at this point. There is a possibility that there won't be batteries.

Ray Sullivan: Was this law written by the state?

Supervisor Annable: That was written by Wendel but there is a model that the state has that helped design that.

Barbara Outten: What if we just banned the battery energy storage systems in the Town of Hartland?

Supervisor Annable: 94C is going to override that. But we also want control over other battery storage. There are going to be a lot of battery storage systems in the future. Solar systems that people have on their houses are going to have battery systems, so we need to have rules and regulations for all types of battery storage.

Barbara Outten: If EDF brings them there will be approximately 130 tractor trailer sized batteries in one spot so that is sizeable.

Supervisor Annable: We don't know that for a fact. If they were to put batteries in, they have said it would be about a one-acre lot.

Jon Davis: At the original meeting that was here they said there could be 155 batteries. I think they have backed off on that ever since they got push back on the batteries.

Barbara Outten: I'm being conservative in saying 130. Some people signed some battery petitions against it. I know it probably won't change anything, but I'd like it to go on public record. The development of BESS sites is increasingly common. They are purchasing agricultural land often located within short distances of rural communities in order to install these. I think that those residents need to be aware of what is coming. I know you think it is scare tactics but if something happened like Palestine, the way federal and state laws are set up they'll be able to say that's your problem. They didn't come to the peoples rescue in Palestine. They did come, but it took time. Therefore, we would just like them banned. They are noisy and potentially hazardous with thermal runaway. There will be more than 130 batteries because they only last five years so some will be offline. The ones that are offline are potentially even more dangerous as they de-energize. Residential properties will suffer, and we don't want to bow to the political agenda of Albany. We ended up collecting 64 of these.

Supervisor Annable: This is going to be our problem in the future. We are going to have a ton of this stuff five or ten years from now. The electrification of America is not something I agree with, but it is happening. We need to be prepared for it. We didn't have a battery storage law prior to this and again Drew, who has been guiding us, has done this with multiple municipalities.

Roger Mittlestadt: Where do I get rid of the lithium batteries that I have in my basement?

Supervisor Annable: I can check into that. This is the problem that we're facing. Electrification pushed the cart before the horse.

Nick Neadow: With all of the changes that are coming through from the state I know a lot of towns and counties in the southern tier are leaning towards making sure their residents are protected in the event that we lose all of our natural gas and resources that we have come to love and are able to afford. There is a lot of stuff forcing people into not being able to produce their own energy. If you wanted to be disconnected from the grid, you would not be allowed to do that. They are actually starting to build laws around people not being allowed to produce their own power and be able to live independently on their own property. I just want to bring that into consideration with battery storage. I know that in Erie County they are starting to use meters to regulate how much power can go into a house and there is a lot of stuff being written where they don't have a choice. They can just decide to regulate your power. There are some that heat their

houses with electricity and they are being asked to turn their power down in the event of a storm. As we embark on our electrified adventure here people are going to seek other ways of producing power on their own. People will start building their own battery banks, we are going to start seeing stuff like that. So, this could be spread a lot further from a safety standpoint than just the solar. There are people that will just build it in their shed.

Supervisor Annable: You're right. Some might not buy it from a company that is regulated and approved and just do their own. I know someone in Arizona that did that actually.

Nick Neadow: We want the right to be able to produce our own power if it came to that.

Supervisor Annable: I will try to find out what some of the southern tier area municipalities are doing. We will close this public hearing out then.

Ray Sullivan: Will this be sent in then?

Supervisor Annable: We have to pass it yet. We will have some discussions before that and next month we will probably put it on the agenda. Next month's meeting will be the third Thursday in June.

PUBLIC PARTICIPATION – AGENDA ITEMS: None

OLD BUSINESS: None

PUBLIC PARTICIPATION:

Barbara Outten: This has been a difficult and trying time for the community. Democracy requires public participation and community engagement to enable a government "of the people, by the people, for the people." Local governments have a responsibility to engage their community members in a robust manner to effectively carry out the key functions of government such as crafting and implementing laws, budgets, plans, directives, and strategic visions. As we, the people of the Town of Hartland, have witnessed over the past four to four and a half years, the effects of political agendas over the will of the people. The survey by the town clearly showed that 3 or 4 residents are strongly opposed to this green energy project for many reasons. As a result, and the absence of firm and decisive actions being taken, representing the will of those being governed, the result is a loss of faith in government at the local and county levels. I have talked to many people that are devastated and just feel hopeless. Inaction is action. Your failure starts with not providing a vision for the future of the town, by engaging the residents to develop a comprehensive plan, the foundational document that assures an agreement and consent of the governed to move into the future with trust and a common goal. Do we have a current comprehensive plan?

Supervisor Annable: We do.

Barbara Outten: We do? So, they had public hearings on it?

Supervisor Annable: They did years ago. It hasn't been changed. That is the Planning Board's responsibility.

Barbara Outten: Instead, your actions have bypassed the will of the people to appease and placate the county and state agenda that are not based on any science, but rather for power and control and to allow a money grab out of the pockets of the residents of the are that cannot be restored. I know you are defending those that signed the leases. I know one family in particular that should be grieved because they didn't go to their neighbor and tell them they were going to surround their house on three sides with solar panels. For four and a half years the town has been deadlocked in indecision. What has the town accomplished during this time that is notable to benefit the residents? And how many tax dollars and time have been wasted in this discussion of a fantasy? History will prove the truth. The town administration has been told the will of the people. They can never say "we did not know". Therefore, prepare to be known for history as the town government that watched the generations of work by the residents be destroyed by their own inaction. I'm holding you guys accountable. You can say it is Albany but it's not.

RESOLUTION 63-2023

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 8:23 PM.

Ayes: Annable, Huntington, Hill, Grant

Nays: 0

ADOPTED

Respectfully submitted:

A handwritten signature in black ink, appearing to read "Rachel M. Kushner". The signature is fluid and cursive, with a long horizontal flourish at the end.

Rachel M Kushner

Town Clerk

Next scheduled regular meeting will be June 15, 2023 at 7:00 p. m.