

PRESENT: Supervisor S. Broderick; Councilmembers W. Geiben, J. Jacoby, R. Morreale & J. Myers; Dep. Sup W. Conrad; Hwy. Supt. D. Trane; Water Foreman D. Zahno; Atty. A. Bax; Eng. R. Lannon; Finance Director J. Agnello; Bldg. Insp. T. Masters; Rec. Dir. M. Dashineau; Seniors Coordinator M. Olick; Historian M. Maggard; 1 Press (Sentinel) 5 Residents and Dep. Clerk C. Schroeder

The Supervisor called the meeting to order, followed by the Pledge of Allegiance and a moment of silent reflection in memory of the victims of September 11, 2001.

The Supervisor opened the first Public Hearing on the proposed Special Use Permit and Site Plan Review for property located at 2481 Saunders Settlement Rd. The public notice was read into the record:

PLEASE TAKE NOTICE that a Public Hearing will be held by the Town of Lewiston Board, Niagara County, New York, on the 13th day of September, 2021, commencing at 6:00 P.M., at the Town Hall, 1375 Ridge Road, Lewiston, New York, to hear and consider the following property and property owner/applicant:

OWNER/APPLICANT: Lisa Caldwell/Borrego Solar Systems, Inc.
PROPERTY LOCATION: 2481 Saunders Settlement Road
(Tax Map No. 118.00-1.2.1)
Niagara County, New York

TO CONSIDER AN APPLICATION FOR A SPECIAL USE PERMIT AND SITE PLAN REVIEW for a ground mounted utility grade solar energy system on said premises. All interested parties will be heard by the Town of Lewiston Town Board at said Public Hearing. A full copy of the application is available for review at the Town of Lewiston Building Inspector's office during normal business hours.

By Order of the Lewiston Town Board
August 23, 2021

The Supervisor asked for public comment.

Marc Kenward, PE, (Erdman Anthony Consulting Engineers) provided a project summary with regard to the construction and operation of a 5.0 Mw AC ground mounted Community Solar energy system at 2481 Saunders Settlement Rd (Rte. 31). The site is located on the north side of the road, approx. 2,400-ft east of Chew Rd. The site has historically been used as actively tilled farmland, although in the last few years the northern portion has remained fallow and is reverting back to brush.

The project site area is on a 97.58± acre land parcel with 441-ft of frontage on Saunders Settlement Rd and is approx. 3,960-ft deep. The project encompasses approx. 25± acres of the southern portion nearest Saunders Settlement Rd. The two fenced arrays total 13.53 acres, 0.82 acres of access driveway from Saunders Settlement Rd; 0.25 acres of permanent topsoil storage, and .04± acres of vegetative screening along the south and west sides of the south array. No tree clearing is needed or required.

Access to the fenced solar array will be by the way of a 20-ft wide crushed stone surfaced driveway off Saunders Settlement Rd that follows the same alignment as an existing 11-ft wide gravel driveway that extends all the way to a stormwater pump station at the rear (north side) of the property.

The proposed site layout has been designed and laid out in accordance with the Town's Solar Energy Zoning Code. It requires provisions to reduce potential visual impacts. Vegetative screening in the form of 9-10 ft. high evergreen trees is proposed on the south side of the site and along the western side of the south array. Hedgeline screening slats are proposed for almost the entire south fence line of the south array. Other code requirements include a De-Commissioning Plan, which has been submitted.

Minor amounts of excavation and grading work is required. Re-grading is proposed in the area of the two equipment pads. Wetlands are present on the site but impacts are limited to

a minor amount of NYS DEC Buffer area on the north and east side of the proposed arrays. Upon completion, the site area within the fence will be planted with meadow grass. The remainder of the site outside the fence solar array will be planted with a honey-bee forage mix of clover.

During construction, the project will generate approx. 50 vehicle trips per day (25 arriving, 25 exiting.) Once the project is in operation, it will generate no traffic, no discernable noise to neighboring receptors, no adverse glare. No night-time site lighting is proposed.

Maintenance activity is limited to mowing two times per year and an occasional visit by electrical service technicians.

Jeremy Genter, Saunders Settlement Rd. said when he moved into his home the area was rural residential with farm fields. They are now proposing an industrial solar field. He is against the project. He lives on the adjacent property that surrounds the project. When he looks out his second story window, all he will see is an array of solar fields. He is also concerned about the additional impact of flooding.

Broderick commented to Borrego Solar: I was incredibly disappointed with the screening on Swann Rd; it was pathetic. That was the first solar farm to go in. That is the one we are basing everything off of. From here on out, every solar farm is going to have beefy, beefy screening. As part of any approval, it is going to have a minimum of 10-ft trees. There will be some maintenance issues that we will talk about. I can't tell you how disappointed I was with the first solar farm. We're going to learn from our mistakes and correct them.

Geiben MOVED to close the Public Hearing. Seconded by Morreale and carried 5-0.
Broderick said no action would be taken at this meeting.

The Supervisor opened the second Public Hearing. The Clerk read the notice into the record:

NOTICE OF PUBLIC HEARING ON A PROPOSED LOCAL LAW OF THE TOWN OF LEWISTON, AS SET FORTH HEREIN LEGAL NOTICE IS HEREBY GIVEN that pursuant to Section 20 of the Municipal Home Rule Law of the State of New York, and pursuant to a resolution of the Town Board of the Town of Lewiston, adopted on the 23rd day of August, 2021, the said Town Board will hold a public hearing at the Town of Lewiston Town Hall, 1375 Ridge Road, Lewiston, New York on the 13th day of September, 2021 at 6:00 o'clock P.M., to hear all interested parties and citizens regarding the adoption of proposed Local Law No. 3 of 2021, titled "Small Cell Telecommunications Facilities Law". Said hearing may be adjourned from time to time as necessary. Further information, including access to a copy of said proposed Local Law, may be obtained at the Town Clerk's Office, 1375 Ridge Road, Lewiston, New York 14092.

The Supervisor asked for public comment. There was none.

Geiben MOVED to close the Public Hearing. Seconded by Myers and carried 5-0.

The Supervisor said no action would be taken until a fee schedule has been established.

On behalf of the Niagara Military Affairs Council (NIMAC), Holly Curcione, provided a yearly update on the Niagara Falls Air Reserve Station (NFARS) and its activities. She provided a short presentation about NIMAC, a non-profit organization that works to support the growth and prosperity of the NFARS and its personnel, creating a positive economic impact of the WNY Community. Founded in 1996 as a result of the 1995 Base Realignment and Closure Commission (BRACC), NIMAC continues to support and promote capital investment by the Federal government in the NFARS. NIMAC is an apolitical and Hatch Act Compliant organization allowing free communication between NIMAC and military leadership.

Her message to State and Local government is that the NFARS is worth the investment. We need your financial support.

A complete scope of the presentation is available in the Clerk's office for public review.

AGENDA: Additions: Geiben: Lewiston Ice Rink

Geiben MOVED the agenda, as amended. Seconded by Myers and carried 5-0.

ABSTRACT: Jacoby MOVED to approve the Regular Abstract of Claims Numbered 21-02227 – 21-02401 and recommended payment in the amount of \$391,034.52 plus a post-audit of \$44,336.40. Seconded by Morreale and carried 5-0.

APPROVAL OF MINUTES: Geiben MOVED approval of the 8/23/21 P.H./RTBM minutes. Seconded by Morreale and carried 5-0.

OLD BUSINESS: Site Plan / Special Use Permit - Thompson – Solar

Jacoby read the following Resolution:

**TOWN OF LEWISTON
STATE ENVIRONMENTAL QUALITY REVIEW ACT NEGATIVE
DECLARATION AND NOTICE OF DETERMINATION OF NON-SIGNIFICANCE

DG NEW YORK CS III, LLC AT 2645 RIDGE ROAD, RANSOMVILLE, NEW
YORK**

WHEREAS, a proposed solar energy generation facility located at 2645 Ridge Road, Ransomville, New York (the "Project") is being considered for approval of a Special Use Permit and Site Plan Approval by the Town Board, and

WHEREAS, the Town has previously circulated notices of its intent to act as lead agency with respect to the Project for purposes of conducting a review under the State Environmental Quality Review Act and the implementing regulations of the New York State Department of Environmental Conservation adopted thereunder (6 NYCRR Part 617) (hereinafter collectively referred to as "SEQR") to all involved and interested agencies, and has received no objection to its serving as lead agency; and

WHEREAS, a Full Environmental Assessment Form was prepared by GHD, the Town's Engineers, and was submitted to the Town Board (the "EAF"), and which EAF was also circulated to involved agencies for input pursuant to SEQR, and

WHEREAS, the Town Board has considered the Project and reviewed the EAF and all comments received from involved or interested agencies, in light of the criteria set forth in SEQR in order to determine whether the Project will have a significant effect on the environment, now therefore be it

RESOLVED, that the Town Board of the Town of Lewiston hereby declares itself lead agency for the purposes of SEQRA review of the Project, and be it further

RESOLVED, that based upon the information set forth in the EAF, and for reasons more fully set forth in parts 2 and 3 of the EAF, the Town Board hereby determines that there will be no significant environmental impacts with regard to the Project, and hereby adopts and issues the attached Negative Declaration under SEQRA with respect thereto, and be it further

RESOLVED, that following the Town Supervisor be, and hereby is, authorized to execute any necessary documents in conjunction hereto.

Jacoby MOVED the Resolution calling for a Negative Declaration under SEQRA. Seconded by Morreale and carried 5-0.

Jacoby MOVED the following Resolution:

**TOWN OF LEWISTON
RESOLUTION REGARDING AN APPLICATION BY DG NEW YORK CS III, LLC
FOR SITE PLAN REVIEW AND SPECIAL USE PERMIT FOR A PROPOSED
UTILITY SCALE SOLAR ENERGY SYSTEM LOCATED AT 2645 RIDGE ROAD,
RANSOMVILLE, NEW YORK**

WHEREAS, the Town of Lewiston received an application from DG New York CS III, LLC for a Special Use Permit and Site Plan review for a utility scale solar energy system to be located at 2645 Ridge Road, Ransomville, New York; and

WHEREAS, the Town of Lewiston Planning Board reviewed the proposed project and recommended approval, with conditions, to the Town Board of the Town of Lewiston; and

WHEREAS, the Town of Lewiston Town Board, on August 23, 2021 did hold a duly advertised Public Hearing at Lewiston Town Hall, 1375 Ridge Road, Lewiston, New York, regarding the application for a Special Use Permit and site plan review of the proposed utility scale solar energy system and at such public hearing every party wishing to be heard was heard; and

WHEREAS, the Town Board has considered all relevant testimony, documents, and all other information presented and placed before it;

NOW THEREFORE BE IT RESOLVED, that based on the testimony, documents, and other information presented, the Town Board makes the following findings:

a. That the use, a utility scale solar energy system, is designed, located and proposed to be operated so the public health, safety, welfare and convenience will be protected, to wit: the project has been designed and located such that the solar panels will be behind hedges and vegetation substantially reducing its visibility and impact to neighboring properties and public highways and the solar panels are enclosed by a chain link fence which inhibits physical access to the system. Additionally, the project is also located in a relatively sparsely populated area of the Town, and a glare study submitted by the applicant shows no glare impact from the project; and

b. That the use, a utility scale solar energy system, will not cause substantial injury to the value of other property in the neighborhood where it is located, to wit: the project has been designed and located, such that the solar panels will be behind hedges and vegetation thus substantially reducing its visibility and impact to neighboring properties; and

c. That the use, a utility scale solar energy system, will be compatible with adjoining development and the character of the neighborhood where it is located, to wit: the neighborhood the project is located in is zoned rural residential which allows for such uses pursuant to special use permit and site plan approval. The rural residential zone generally consists of large lots with single family homes and/or large farming operations, vacant areas, or woods. The character of the neighborhood will not be affected since the project has been designed to substantially minimize and obscure the solar panels from view of neighboring properties and public highways; and

d. That the use, a utility scale solar energy system, provides adequate screening to preserve the character of the neighborhood, to wit: the project is located on a lot with existing hedges and vegetation surrounding the panel site and applicant is providing additional screening and vegetation to obscure sight lines of the system; and

e. That the use, a utility scale solar energy system, provides adequate off-street and loading and the special use will not substantially interfere with traffic on abutting streets, to wit: while the project will cause an increase in traffic during construction that impact is not expected to be substantial and will be limited in time to the period of construction only. Once completed, the nature of the project does not require the presence of employees or other staff beyond periods of required maintenance; and

BE IT FURTHER RESOLVED that the Site Plan Approval and Special Use Permit for operation of a utility scale solar energy system at 2645 Ridge Road, Ransomville, New York is granted, with the following conditions:

1) Submission of a fully funded decommissioning bond, with decommissioning plan, in substance and form acceptable to the Attorney for the Town and the Town Engineer, prior to issuance of a building permit.

2) Continued compliance with all requirements of Article XXVIII of the Town Code (Solar Energy Systems), as amended.

3) A PILOT agreement and/or community host agreement must be agreed to and fully executed prior to the issuance of a building permit.

4) Solar energy system to be constructed and operated in accordance with the New York Department of Agriculture & Markets: Guidelines for Agricultural Mitigation for Solar Energy Projects.

5) The extra land which will be used for screening shall be under lease and controlled by the applicant for the life of the project and proof of same must be in form acceptable to the Attorney for the Town prior to issuance of building permit.

6) The property shall be sufficiently cleaned/remediated to the code enforcement officer's standards prior to issuance of building permit.

7) The project shall have received appropriate licensing/permits relative to federal wetlands and proof of such shall be provided to the Town Engineer and Building Inspector prior to issuance of a building permit.

8) A "Notice of Intent" must have been filed with New York State Department of Agriculture and Markets and proof of such shall be provided to the Town Engineer and Building Inspector prior to issuance of a building permit.

9) The project will follow a Maintenance Plan which shall include maintaining the property outside the fence which encompasses any vegetation, trees and such, and the roadway entering into the property must be maintained by mowing,

10) All plantings of trees will be at least a minimum of 10-ft tall.

The Motion was seconded by Morreale and carried 5-0.

NEW BUSINESS:

Clerk's Correspondence: The Town Clerk's office received three notifications, via Certified Mail, that a renewal for an alcoholic beverage license has been applied for by the Niagara Falls County Club, 505 Mountain View Dr for on-premises consumption at the Clubhouse, Grill Room & Patio. Notification received and filed.

DEPARTMENT HEAD STATEMENTS:

Police: Previte said his department has been monitoring and enforcing traffic pretty heavily, trying to get in under control especially in the Village.

Previte said he received a resignation from a Part-time Officer Ian Sitek, effective September 7, 2021. **Geiben MOVED to accept Ian Sitek's resignation, with regret. Seconded by Morreale and carried 5-0.**

BRODERICK

1. Legal: None

2. Engineering: Eng. Lannon said they are waiting on the coordination between CSX and Milherst Construction to do the last few hundred feet of waterline.

Broderick spoke of the Lower River Park pavilions. The proposed plan called for three pavilions. After measuring where the pavilions would be, he and Bldg. Insp. Masters did not think there is enough room for three.

They have been working with a company for design of a pavilion off State Bid. The cost is projected to be \$170,000. It would be for a pavilion only, and would not include a concrete pad or masonry work, which the Town would want included.

After talking with the Town Engineer, it was suggested he put together a bid packet. Lannon would do the engineering of the pavilion the way we want it. We would put the whole project out to bid and get a finished project with the pavilion, concrete and brick work. Broderick said the cost for the engineer to put together a bid spec. would be \$10,000 - \$12,000. Broderick said he is hoping for a finished project that will be cheap if not cheaper than the State bid.

Broderick MOVED to direct the Engineer to move forward with bid packet for design and construction of an open-air pavilion at a cost not exceeding \$12,000. Seconded by Morreale and carried 5-0.

Sewer Credits:

Broderick MOVED to approve a sewer credit of \$73.60 for John Jacoby, 4621 Lower River Rd. Seconded by Geiben and carried 4-0. Jacoby abstained.

Broderick MOVED to approve a sewer credit of \$66.01 for Amy & Ryan Wilcox, 457 Dutton Dr. Seconded by Morreale and carried 5-0.

3. Finance: The Finance Officer requests approval of the following 2021 budget revisions.
- a) A request to move \$590.00 to Professional Report Fees Contractual (A00-1220-401-0000) from Budget Officer Contractual (A00-1310-0400-0000) to cover financial report filing fees associated with our BAN and Bonds.
 - b) A request to move \$400.00 to Safety Gasoline (B00-3620-0400-3510) from Safety Contractual (B00-3620-0400-0000) to cover gasoline expense for the remainder of the year.
 - c) A request to move \$70,000.00 to Permanent Improvement Contractual (DB0-5112-0400-0000) from Highway Appropriated Fund Balance (DB0-1000-0599-0000) to cover additional paying.

Geiben MOVED the budget revisions, as submitted. Seconded by Jacoby and carried 5-0.

GEIBEN:

Provisional Assessor Information Clerk: Geiben referred to a memo from Linda E. Johnson, Assessor: After posting the Assessor Information Clerk's job for ten days and working with Niagara County Civil Service to find an acceptable candidate, Johnson requests current Temporary Clerk, Jamie O'Shea be appointed as Provisional Assessor Information Clerk at \$16.52/hr. effective September 14, 2021.

Geiben MOVED for approval. Seconded by Morreale and carried 5-0.

Recreation: The Recreation and Youth Events have spiked since the relaxing of rules associated with the Covid Pandemic. Town programs saw bigger than expected registration. This Fall, Recreation will be running Falls Baseball and Softball until October 15. Costs will be for uniforms and supplies in the amount of \$1,500 - \$2,000.

The Recreation Dept. is planning two or three outdoor Halloween parties. This will incorporate "trunk-or treat" with a movie night and haunted playgrounds and bounce houses for the kids. Costs of these events should be \$1,200 - \$1,400 per event.

Lewiston-Porter had indicated they will open their campus for the popular Saturday Morning Basketball program. This traditionally costs about \$2,500 per season, with registration fees associated.

Senior Center boiler: Geiben deferred to Morreale to address the Boiler. Morreale indicated the Boiler at the Senior Center needs to be replaced. The existing Boiler is about 30 years old. The Town went out to get three bids as per the procurement policy. Bids were received from H.W. Bryk & Sons – \$10,195.00; Steve's Heating – \$10,900.00; and D & M Refrigeration – \$24,451.40.

Morreale MOVED accept the low bid from H.W. Bryk & Sons in the amount of \$10,195.00 to replace the Senior Center Boiler with a 1-year warranty and to authorize the Supervisor to execute the contract. Seconded by Jacoby and carried 5-0.

The Finance Director asked for the following fund transfer. A request to move \$10,195.00 to Senior Center Equipment (A00-7630-0200-0000) from A Fund Appropriated Fund Balance (A00-1000-0599-0000) to cover the purchase of a new boiler.

Jacoby MOVED said budget transfer. Seconded by Morreale and carried 5-0.

Lewiston Ice Rink:

Geiben MOVED to make a formal request to the Village of Lewiston Board of Trustees to allow the Town of Lewiston to operate the Ice Rink at Academy Park, at its original location, for this upcoming season, with a projected opening date of November 19. Seconded by Jacoby and carried 5-0.

Geiben said once they get this information solidified, the Town will move forward to determining as to whether or not we can make it work this year.

JACOBY:

Liaison Report: The Council on the Arts has performed its Marble Orchard dress rehearsal. It will run in the Fall.

Fire Company Roster: The Upper Mountain Fire Co. announced that the following individuals are no longer members and should be deleted from the membership roster, effective immediately: Steve Gorney & Kassandra Bissell.

Jacoby MOVED for the removal of Steve Gorney & Kassandra Bissell from the Upper Mt. Fire Co. roster. Seconded by Geiben and carried 5-0.

MORREALE:

Highway: Morreale said bids were opened on 9/3/21 for Wood Grinding Services. Three bids were obtained: Lardon Construction Corp. - \$41,500.00 (\$3.75 cost per yard); Villani's Lawn & Landscape, LLC - \$29,000 (\$1.73 cost per yard); and Zoladz Construction Co. Inc. - \$44,137.00 (\$2.93 cost per yard).

Morreale MOVED to accept the low bid from Villani's Lawn & Landscape, LLC in the amount of \$29,000 (\$1.73 cost per yard) for Wood Grinding Services. Seconded by Geiben and carried 5-0.

Perry - Vrooman Subdivision: Kristen Savard, Owner/President Advanced Design Group, said they have been retained by Mark Perry & his family to subdivide a 13.7 +/- acre area on the parcel located at 4639 Vrooman Dr into 12 separate parcels – One (1) existing family home and Eleven (11) new single-family homes.

The Planning Board, on August 19, 2021, reviewed a preliminary plat approval for Mr. Perry on West Park Dr., SBL# 87.00-1-21. The Planning Board recommends preliminary plat subject with conditions.

Broderick MOVED to schedule a public hearing for September 27, 2021 beginning at 6:00 p.m. on the proposed subdivision. Seconded by Geiben and carried 5-0.

MYERS: Myers thanked the members of the Kiwanis Club for making the Peach Festival successful.

PRIVILEGE OF THE FLOOR – No one spoke

Jacoby MOVED to adjourn. Seconded by Morreale and carried 5-0. Time: 7:30 p.m.

Broderick gave a shout out to Town Clerk, Donna Garfinkel, who has been working very hard on the – The Rock Out Cancer event to be held September 19, 2021.

Transcribed and
Respectfully submitted by:

Carole N. Schroeder
Deputy Town Cler