

PRESENT: Supervisor Broderick; Deputy Supervisor Conrad; Councilmembers Bax; Geiben; Jacoby and Morreale; Attorney Parisi; Engineer Lannon; Code Enforcement Officer McAuliffe; Finance Director Jackie Agnello; Martha Blazick; WWTP Chief Opt. Ritter; Deputy Water Foreman Zahno; Police Captain Cain; 2 Press; 29 Residents and Clerk Donna Garfinkel

Supervisor opened the meeting with the Pledge to the Flag followed by a moment of silent reflection.

AGENDA APPROVAL

Additions: Jacoby – Bicentennial Committee; Broderick – Deletion Upper Mountain Fire Co.

Bax MOVED to approve the agenda as amended, Seconded by Morreale and Carried 5 – 0.

RESIDENTS STATEMENTS

Warren, Rose Mary – Griffin Street – In regards to the power reduction, residents affected by the Solar Farm, will receive 10%, it should be 100%.

It is nice that the Board has done an executive session and broken it down. The students from Lew-Port should have been introduced.

Warren questioned if the Town has a second attorney that would be called in if the Town Attorney had to recuse himself? Broderick said the Town would contract with outside counsel.

Sanger, Daniel – Ridge Road – Sanger is here tonight to present a petition to stop the Solar Farm project on Swann Road. Signatures are of residents from Swann Road, Porter-Center Road and Williams Road. Not one household did not sign the petition. Sanger said there are many signatures on the petition and potentially has 100's more, just by what he has seen. About half of them did not know anything about this project. Sanger asks the Board "Do you think more people should have been informed."

Geiben said there were articles in the Sentinel, notices published in the Gazette and Sentinel, along with pictures in the Sentinel. The Town has been going through the process for six-months. Sanger said the road should have had a mailer. Geiben said notices are sent to abutting property owners. Geiben doesn't know how to make people know.

Sanger is asking for a "stay", so he can buy a little time so he can go out and retrieve more signatures, and inform the people of what is going on.

Sanger has spoken to local farmers. All were approached by these solar companies for the last few years. All have done research on this and all said no. One farmer told Sanger he was in fear of reprisal because of one man of power, the Building Inspector. That demonstrates distrust and the conflict of interest.

Sanger strongly insists this project be voted out of this neighborhood, or at least a "stay" to gather public support and knowledge. If this goes through, solar panels could end up in anyone's backyard. Don't set precedence. These people are voters. Sanger gave the petition to the Supervisor.

Gormley, Tobin – Swann Road – On March 14, 2011 there was a Public Hearing regarding the Comprehensive Plan and Zoning Code. At the meeting Drew Riley, Wendell Engineering, updated the progress of the Comprehensive Plan and Zoning Code. The existing Comprehensive Plan was adopted in 2000. A plan is required when you zone. You must zone in accordance with the Comprehensive Plan.

The Comprehensive Plan is designed to provide a community with guidelines to use in assessing current and future policy decisions. Under NYS Town Law a Comprehensive Plan, while not required, is recommended as basis for making land use and zoning decisions.

In the 2011 Comprehensive Plan, under Agricultural Land Use – “the Town of Lewiston supports agriculture as an important component of the Town. It contributes to the rural character and is a significant element of the Town’s economy. Policies should discourage converting active agricultural lands to non-agricultural use and encourage the maintenance of State Agricultural Districts established under Ags. & Market Law.”

The map included with this document clearly shows the location in which Gormley resides and where this is proposed does not fit within this plan; hence the Special Use application.

As part of the bigger Comprehensive Plan, the County has a Comprehensive Plan. Gormley hopes all Board members have read it in detail. The Board is about to embark on a vote on a decision that should be based on what is in the County Comprehensive Plan.

Within this document, there were surveys submitted by the various townships. Gormley found it interesting that there is one from the Town of Lewiston. The survey was completed by Tim Masters, Robert Martinez, Carol Brandon, Chris Salada and John Sharpe. #1 - *What do you consider to be three of the most significant assets or opportunities in your community today, relative to land use transportation?* Answer – The escarpment, river access, park land and picturesque views. #2 – *Describe your communities goals and objectives for land use and transportations as well as any actualable steps that can be taken towards accomplishing these goals.* Answer – To promote continued stability in established neighborhoods. Gormley lives there and is here to say “it is pretty established”.

With respect to this document – Niagara Community Comprehensive Plan 2030 – the purpose of the plan is to unify existing county-wide planning efforts under a single umbrella, as a guide post to assist in decision making over the next twenty-years. The conversion of land from one use to another is reflected in apparent changes and community character. Gormley said this community has not changed, this is a proposed change. This project will reflect a change.

Under key goals and recommendations: To preserve the amount of County wide agricultural acreage from further conversion to other land uses. Reduce development pressures on existing farm practices and maintain open-space resources.

Within the document there are several questions which Gormley will propose to the Board, but can answer himself. #1 – Is the Special Use permit consistent with local plans? No; #2 – Is it compatible with surrounding land use? No, you can force it upon Gormley and tell him to deal with it, but is that compatibility? No; #3 – Will the proposed action affect non-threatened or endangered species of animals? Yes, deer, fox, pheasant, migrating birds; #4 – Will the proposed action affect agricultural land uses? Yes, it neither protects it nor does it enhance it; #5 – Will the proposed action have an aesthetic impact? Undoubtedly screening is an attempt to reduce it but it doesn’t mitigate. #6 – Will the proposed action have a noise impact? Yes, as much as it is claimed to be minimal, it is still there. #7 – Will the proposed action affect the character of the existing community? Yes. All those present do not want this.

In the minutes of July 23, 2018, Jacoby stated “Hope the Town receives more applications”. Gormley asks why?

Gormley, Patti – Swann Road – Gormley lives across the street from the proposed project. Her dad bought property on Swann Road decades ago with the hope his family would move here and build houses, and they did. It is beautiful out there. What this is going to do to that? It is going to ruin it. It will ruin the property value. It is not right.

Gormley agrees with Sanger in regards to the notification of the meeting/project. When she received the letter, she called the Town Hall and was told the Town needs to notify people within 500 feet of the proposed project. Gormley said it is not like the Village, there are large lots. Porter-Center Road, Swann Road and Williams should all have been notified.

Gormley has always supported Lewiston, why can’t Lewiston support them. “Give the consideration that it doesn’t have to be done right now and it doesn’t have to be in my front yard, or someone else’s backyard.”

Sanoian, Cynthia – Swann Road – Sanoian is a lifelong resident of Lewiston. They are the community. They do not want an industrial sized solar plant in a residential area. They live there. It will be seen every day; no matter what you put up. If Sanoian doesn't like what is planned, she doesn't want it.

Sanoian has a problem with the conflict of interest with Tim Masters. Tim Masters works for the Town, Tim Masters is the Town Inspector, Tim Masters represents the Town, and Tim Masters speaks for the Town. When Tim Masters had a problem with the lagoons, he was the first one to come and talk to the neighbors, but guess what? Where was Tim Masters when this went down? Tim Masters never talked to us. Why do you think that is? We know why. It is a money thing for Masters and the neighborhood gets nothing. They get to look at it. Masters doesn't care, he is making it rain he's getting the money. That is why Masters did not come and talk to the neighbors.

Sanoian is asking the Board to step-back, "let's look at it, and let's think about it. We don't want it".

Sanger, Terry – Ridge Road – Sanger requests the Board look into the conflict of interest. Sanger has read the Code of Ethics for Town of Lewiston, and there is a significant conflict of interest with this project. Sanger requests, on the record – the Board look into it.

Muzzi, Anita – Sweethome Road – Muzzi forwarded a letter to the Town Board stepping down as Chairperson for the Zoning Board of Appeals. It was an excruciating decision. Conflicts with work and a time element have gotten in the way. For Muzzi to do a good job, she needed the time, and didn't want to do the job half way. If the Boards needs any help, please reach to her. Muzzi thanked the Board for all their support.

Geiben told Muzzi she can reflect back on how much education she provided to the Board. It was an essential part of her time.

Parisi said it is a shame to lose Muzzi as the ZBA Chairwoman. Parisi attends the ZBA meetings, and the Town should only be so lucky to have such a dedicated public servant.

DEPARTMENT HEAD STATEMENTS

Police Caption Cain - Harvest Festival, Mighty Niagara Run and the Peach Festival all went well.

Mighty Niagara Run would like to schedule their run for September 14th or 28th. They are looking to see what date works best for the Town. Cain suggests September 14, 2019.

Town Clerk Garfinkel – 360 PSG has prepared a proposal for the Town to update the website. This will make it mobile friendly, update colors and the modules. The proposal is for \$1,830.00 plus a SSL Certificate costing \$120/year.

Jacoby MOVED to accept the proposal from 360 PSG for the upgrade of the Town Website, with funds from A00-8095-0400-0000, Seconded by Geiben and Carried 5 – 0.

Garfinkel has ordered eight (8) microphones. The inside wires of the present microphones moved around a lot causing them to crackle.

APPROVAL OF MEETING MINUTES

Geiben MOVED to approve the Public Hearing Solar Farm minutes of September 10, 2018, Seconded by Morreale and Carried 5 – 0.

Geiben MOVED to approve the Work Session minutes of September 10, 2018, Seconded by Morreale and Carried 5 – 0.

AUDIT PAYMENT

Geiben MOVED to approve the Regular Abstract of Claims numbered 2782 to 2946 and recommend payment in the amount of \$226,652.64, plus a Post-Audit of \$8,979.16, Seconded by Bax and Carried 5 – 0.

OLD BUSINESS

Board/Commission Vacancies (Cable-1; Board of Ethics-1; Zoning Board of Appeals - 1)

Street Light request – Vista North Subdivision – Remove from Agenda

Ditch / Pipe request – Adams Circle – Broderick to meet with the resident to look at property.

Solar Farm Application – Swann Road

Geiben asks Parisi to summarize the options/direction the Board can take. Parisi said the Board has four options: approve; approve with conditions; deny or move the decision making to a later date. The Board is required to make a decision within 62 days from the closing of the Public Hearing.

Jacoby responded to Gormley's comment about him saying he "hopes the Town receives more applications." Jacoby was involved with the writing of the Solar Law and believes it is written with ample protection for surrounding people, but perhaps it's not.

Gormley raised very valid points; is the Town keeping with the Master Plan and following the County Plan. It's a valid question, "why do we write these plans if we don't make some attempt to adhere to them". Jacoby said this is easy to say because it is not next store to him. If there was a proper buffer, he may not be all that upset.

In regards to Sanger's petitions, this does add a little impact to the protest. If the application approval is moved to another meeting, Jacoby asked Lindsey McEntire, from Borrego Solar, if that would kill the project. McEntire said Borrego is battling a NYCERTA time line, so the funding for the project is closing. The company is trying to stay on top of it.

Jacoby asked Parisi what the Town's position is, as far as keeping with the Master Plan, is this viewed as a conflict. Parisi said no, if looked at the micro-level things can change. As a Town Board, you need to determine certain things, like it's going to be a solar farm in a place where there was farming before, but the impact on the land is such that it can be removed and it would be farmable land again.

Parisi said because the Town has a Master Plan, one can never put a project like this in a rural-residential area. The Plan guides the decision, it's not the be all, end all.

Neighbors are coming out and speaking. What they say is then part of the public record. It should be considered and made part of the record, the Board's decision and the findings. The purpose of the Public Hearing is to inform the Board members to take all sides into consideration and then make a determination based on the facts, as the Board sees them.

Bax struggles with this issue also. The Board has a basic understanding that residents are free to do what they want with their own properties, within reason, and that is where the zoning comes in. The Board also has to take into consideration the impact on other people's property and quality of life.

One of the issues that has been mentioned, but not discussed, is the inferred conflict of interest with Mr. Masters. Bax feels there is not a conflict at all. It has been a practice of municipalities to go outside of the Town, to neighboring Towns, to look at the building codes and make sure everything has been looked at.

Parisi said the conflict of interest issue was contemplated when the project was presented. The Town took steps to eliminate this conflict by removing Mr. Masters from the process. Masters had no review or approval, or any participation in the process other than as the property owner. Masters did recues himself, in writing to the Town Board. As far as Parisi is aware Masters has not participated in any decision making. McAuliffe has been spearheading this project.

The Engineer reviewed the project for compliance. It was reviewed by the Planning Board and then the Town Board. The Board reviews at a Public Hearing based on the information received.

Bax did not expect such “headwind” for what Bax considers to be a green project. Bax is in favor of moving green projects forward, but also believes people should do what they want with their property.

The Board represents and has an obligation to the residents, but also an obligation to up-hold Town Code.

Broderick will say, he has not taken this decision lightly. Broderick has met with Gormley on several occasions and with Sanger. The biggest issue with this project is “the unknown”. Residents are saying this will lower property values. That is not known it could decrease or increase the value, it is an unknown.

The Town created the Solar Law; this fits the Solar Law, with no variances. Broderick is ready to move forward.

Morreale asked how the Master Plan from 2011 with a law just passed, coincide with each other. Parisi said the Master Plan is in place, it is there to guide. The Board makes certain decisions, certain findings. The Board may disagree with the Master Plan on the impact of the project and how it fits in; the Solar Company could disagree with how the project fits in the Master Plan. The residents see it differently because they see it through different lenses.

Geiben said, first the Town had a moratorium on Solar Farms, and then created the law. Historically when Towns don’t move ahead with projects or are over-resistant, the State takes over. The Local Law was created and Public Hearings were held.

There is always the unanticipated consequence – “What is going to happen that the Board is not aware of?” The one thing here, the farmers and residents in this area cherish their land, and want to protect it. Geiben sees this position, as well as the applicant doing the project.

Masters is not asking for any variances, has been reviewed by many groups, no special privileges, he has dotted all i’s and crossed all t’s. The Board has a tough decision.

Jacoby asked Bax what he feels is the reason to hold off for another meeting. What would be achieved? Bax would like to achieve perfection in the plan, but that is not going to happen. Bax would like there to be a way residents can contact someone to have any dying portion of the buffer, to have it taken care of right away. They have said they will cut the grass twice a year, this should be more often. These items can be added to the approval.

Bax has been on the Board long enough to know that with enough time both sides are going to come back with more items, and it is not going to make the decision anymore difficult or easier.

Conrad worked with Parisi on the Solar Law. Provisions were put in the Law to protect the properties around where a project was located. As Chairman of the Planning Board, when reviewed by the PB, they looked to make sure it was in compliance with the Solar Law. They did everything that was required within the law. It is going to be difficult to say you can’t do this, if you create a law and the applicant abides by the law, to the letter and then some.

Conrad has solar panels in his backyard to service his home. There is no noise, the kids play around them.

Gormley, Tobin – Swann Road – It is obvious, everyone in the room knows, don’t want a headline in the Gazette or the Buffalo paper that says “Town of Lewiston against Solar Panels, Town of Lewiston anti-green”. Borrego is in this for money, Gormley would like to see Borrego make money, but not at the residents expense. There is plenty of other areas in the Town of Lewiston, as dictated in the Master Plan, were this is to go. The Board, as a government body is supposed to consider that. The Board can’t mandate it, but the Master Plan is a guide.

Gormley said the problem is, the Board created the Solar Law and it is in conflict with the Master Plan. Broderick said “things change”.

In regards to the legal aspects of this and who can get sued. Nobody wants to see it come to that. It would behoove Borrego to not do anything like that. They are supposed to be working with communities; green is supposed to be good and clean. The last thing they need to do is to sue a community that said “we don’t want it here; we don’t have a problem with you putting it somewhere where people are going to complain about it, we don’t want it in our front and backyards where we are.”

Gormley has mentioned he has seen solar farms in areas where the farms are much larger. They were in a vast farmland, with no homes, or dilapidated and a bit beat up, but no doubt the owner made a bit of money. Good for him, good for Masters but it is at the residents expense.

Gormley agrees with Bax about tabling this, it will not go away, it will fester. Gormley wants to know that everyone reviewed the application. The Board should review/use the County Master Plan, this will help guide your decision and it will ultimately lead to the Town’s legal decision.

Gormley said “Borrego Solar, from out of Town, or the residents of 25 years.”

Geiben asked if a motion needs to be done to approve; disapprove; or table. Parisi said yes, but the approval motion can’t occur until the Board has made SEQRA determination.

If the Board is ready to move on the project the Board needs to make SEQRA determination.

For the record the application went to and was approved by the Niagara County Planning Board, Lewiston Environmental Commission and Lewiston Planning Board.

Parisi suggests the Engineer review the Full Environmental Assessment Form, SEQRA Form, Part 2 and Part 3, dated 9/19/2018 with the Board.

Lannon reviewed the Engineering’s thoughts and opinions on the matter. Part 2, has 18 yes or no answer questions. Lannon reviewed where GHD thought there is a moderate to large impact that may occur, and any mitigated measures that could be in place to mitigate those impacts.

Impact on Land and Surface Water

The proposed action may result in increased erosion, from the physical disturbance of the land during construction. However, the project will be required to have an approved Storm Water Pollution Prevention Plan which requires the installation of an appropriate storm water control to mitigate the potential of erosion and drainage impacts.

The proposed action will impact a federal wetland with the extension of a 15” culvert pipe under the proposed access road. However, the project will require jurisdictional determination by the US Army Corp of Engineers and will be required to meet any permit requirements in order to mitigate potential impacts to wetlands.

The proposed action may create turbidity in a water body from upland erosion during construction and affect the water quality of downstream water bodies. However, the project is required to have an approved SWPPP which requires the installation of appropriate storm water controls to mitigate the potential for erosion and drainage impacts.

Impacts on Aesthetic Resources and Community Character

The proposed action is substantially different from current adjacent land use. However, the solar energy system is situated to the rear of the proposed site and the Town has mitigated visual impacts to adjacent residential property by requiring appropriate buffers.

Impact of Noise, Odor and Light

The proposed action will result in an increase in odor and noise from heavy construction equipment during construction. However, the related impacts are temporary and limited to construction of the solar energy system. After construction has been completed, there will be no noise or odor impacts related to the operation of the solar energy system.

Impact on Agricultural Resources

The project will convert agricultural land within an agricultural district to a non-agricultural use. However, the solar panels will be installed on pole screw foundations which minimize the soil compact and limit the overall impact to farmland. In addition, the project will be required to file a Notice of Intent with the NYS Dept. of Agriculture and Markets to further evaluate and mitigate any adverse impacts identified by the NYS Ag & Markets.

Should the Board consider making the requirement that planks be constructed in accordance with NYSAGM guidelines for mitigation for solar energy projects, the revision was dated April 19, 2018.

With all this being said, Lannon said it is GHD's findings that the project will result in no significant adverse impacts on the environment, and, therefore, an environmental impact statement need not be prepared. Accordingly, this negative declaration is issued.

Parisi said at this point he can read a motion to approve the SEQRA Determination, to the Board. The Board can then take action to table or vote. .

Application for Special Use Permit and Site Plan Review for utility scale Solar Energy System at 1897 Swann Road:

WHEREAS, Borrego Solar Systems Inc. ("Applicant") has applied to the Town of Lewiston ("Town") for a Special Use Permit and Site Plan Review for a utility scale solar energy system on a property located at 1897 Swann Road, and

WHEREAS, coordinated review has taken place, and no other agency has objected to the Town Board assuming Lead Agency, and the time for such comment or objection has passed, and

WHEREAS, a full Environmental Assessment Form, Parts 2 and 3 having been prepared and filed with the Town by the Town Engineers, and

WHEREAS, the only moderate to large impacts that may occur as identified in Part 2 of the Environmental Assessment Form involve the impact on Agricultural Resources, and

WHEREAS, the Town has reviewed the Full Form Environmental Assessment, and has otherwise assessed the possible environmental impacts of the proposed action with regard to each of the consideration listed on part 2 of the EAF.

NOW THEREFORE BE IT RESOLVED, that it is determined that the action will not result in any significant adverse impacts on the environment, and it is directed that the Determination pursuant SEQRA be prepared and filed.

Geiben asked, in following Roberts Rules, if he makes a motion and Bax seconds it, someone else will have to make a motion to table it? Geiben cannot table his own motion.

Geiben MOVED to approve the SEQRA Resolution as read by Town Attorney Parisi, Seconded by Bax, Carried 5 – 0.

Parisi said the Board will make findings either way, whether approved or denied. Geiben asked, in the past the Board has make conditions/suggested while in discussion that don't always make it into the Resolution. There was discussion on a buffer and screening.

Morreale asked Conrad if the Planning Board vote was unanimous, Conrad said yes.

Parisi said every five (5) years Borrego needs to submit a new decommissioning plan.

Geiben would like to include wording regarding the drop-down of usage. Bax believes this is not something the Town would be privy to.

Geiben requests wording regarding change of ownership of the company and/or the land that it be reviewed at that time by the Town Board and the Planning Board.

Geiben would like the buffer of the panels to be dense and sufficiently high-enough to cover the fence. The landscaping should be something that is green year round.

Geiben MOVED the following Resolution for Site Plan review and Special Use Permit for a proposed Utility Scale Solar Energy System located at 1897 Swann Road, Seconded by Bax

WHEREAS, the Town of Lewiston received an application from Borrego Solar Systems, Inc. for a Special Use Permit and Site Plan review for a utility scale solar energy system to be located at 1897 Swann Road, Lewiston, New York; and

WHEREAS, the Town of Lewiston Environmental Commission reviewed the proposed project and recommended approval, with conditions, to the Town of Lewiston Town Board by letter dated July 9, 2018; and

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

WHEREAS, the Town of Lewiston Town Board, on August 27, 2018 and September 10, 2018, 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 structures and vegetation substantially reducing its visibility and impact to neighboring properties and public highways, the project is also located in a sparsely populated area of the Town, and a glare study submitted by the applicant shows a very minimal and rare impact from glint, but no glare from the solar panels; 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 structures and vegetation thus substantially reducing its visibility and impact to neighboring properties, berms and landscaping have also been made part of the project to reduce visibility to neighbors, and the applicant has exceeded the setbacks required under the Town Code for distances from neighboring properties, structures and lot lines; 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. It generally consists of large lots with single family homes and/or large farming operations or woods. The character of the neighborhood where the project is located will not be effected 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 does require a berm and additional landscape plantings; 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 on Swann Road during construction that impact is not expected to be substantial and will be limited in time to only the period of construction. 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 Special Use Permit for operation of a utility scale solar energy system at 1897 Swann Road is approved with the following conditions:

- 1) Upon change of ownership of the company, Borrego Solar Systems, Inc., or the property owner, review of the solar energy system by the Town of Lewiston Planning Board and the

Town of Lewiston Town Board for continued compliance with the Town Code and these conditions of approval; and

2) Landscape buffering consistent with the landscape plan submitted by or on behalf of Borrego Solar Systems, Inc., with continuous live vegetation, forever green, dense, and sufficiently high to block view of the fence and solar energy system at ground level from the street and neighboring properties; and

3) Solar Farm is to be constructed and operated in accordance with the Guidelines for Agricultural Mitigation for Solar Energy Projects (rev. dated 4/19/2018).

BE IT FURTHER RESOLVED that the Site Plan for the utility scale solar energy system at 1897 Swann Road is approved with the following conditions:

1) Upon change of ownership of the company, Borrego Solar Systems, Inc., or the property owner, review of the solar energy system by the Town of Lewiston Planning Board and the Town of Lewiston Town Board for continued compliance with the Town Code and these conditions of approval; and

2) Landscape buffering consistent with the landscape plan submitted by or on behalf of Borrego Solar Systems, Inc., with continuous live vegetation, forever green, dense, and sufficiently high to block view of the fence and solar energy system at ground level from the street and neighboring properties; and

3) Solar Farm is to be constructed and operated in accordance with the Guidelines for Agricultural Mitigation for Solar Energy Projects (rev. dated 4/19/2018).

Carried 5 - 0

Recess taken – 7:35 pm – 7:50 pm

PENDING

NEW BUSINESS - Residents / Public Correspondence - None

SUPERVISOR BRODERICK

Liaison Report

Unpaid Water / Sewer on taxes

Deputy Clerk Meogrossi request the following be placed on 2019 Town & County tax bills: Water - \$71,615.05; Sewer (Master) - \$41,724.86; Sewer (South) - \$15,736.80; Town Fee - \$43,300.00 for a total of \$172,676.71.

Broderick MOVED to place the following on 2019 Town & County Tax bills: Water - \$71,615.05; Sewer (Master) - \$41,724.86; Sewer (South) - \$15,736.80; Town Fee - \$43,600.00 for a total of \$172,676.71, Seconded by Morreale and Carried 5 – 0.

Upper Mountain Fire – Request Open House Sign Exemption

Upper Mountain Fire Company is having their Open House on October 13, 2018 and is requesting exemption from Town Code Chapter 30, Article XXV, regarding temporary promotional signs.

Geiben MOVED to approve the exemption of Chapter 30, Article XXV, regarding temporary promotional signs, for a sign to be place two weeks prior to October 13, 2018 and removed by October 15, 2018, Seconded by Bax and Carried 5 – 0.

Upper Mountain Fire Company roster removal

Geiben MOVED to remove Chris Copland from the Upper Mountain Fire Company roster, Seconded by Morreale and Carried 5 – 0.

Sewer Refund - 995 N. Hewitt Drive

This home has a water-based sump pump. Earlier this year the pump was stuck on. At that time they requested a sewer fee refund, and the Board approved a one-time refund of \$256.50, based on their average sewer usage. It happened again and they are requesting a refund in the amount of \$374.29. Ritter said this is not consistent with the Town's policy. Ritter will reach out to them.

Board takes no action.

Legal – Nothing

Engineering – Nothing

Finance - Budget Adjustments

Agnello is requesting to transfer of \$250.00 to cover the cost of vehicle gasoline. Town Hall and Dog Control divide gas cost.

Geiben MOVED to transfer \$250.00 from A00-3510-0400-3510 – Dog Control – Gasoline to A00-1620-0400-3510 – Buildings – Gasoline, Seconded by Jacoby and Carrie 5 – 0.

Agnello is requesting a transfer of \$990.00 to cover the cost of personnel assisting in the Parks Dept.

Bax MOVED to transfer \$990.00 from B00-7110-0100-0000 Parks Personnel to B00-7110-0100-0100 – Out of Dept. Personnel, Seconded by Morreale and Carried 5 – 0.

Agnello is requesting a transfer of \$63.00 to cover the cost of personnel assisting in the Parks Dept. Ice Rink.

Geiben MOVED to transfer \$63.00 from A00-7310-0100-4403 – Recreation Seasonal – Ice Rink Personnel to A00-7110-0100-4403 – Parks – Out of Dept. – Ice Rink, Seconded by Bax and Carried 5 – 0.

Agnello is requesting a transfer of \$2,765.00 to cover the cost of personnel assisting in the Recreation Seasonal Dept.

Bax MOVED to transfer \$2,765.00 from A00-7310-0410-000 – Recreation Special Events to A00-7310-0100-4401 – Recreation Seasonal – Special Events Personnel, Seconded by Morreale and Carried 5 – 0.

Health Care Consortium

On August 22, 2016, the Board approved total payment of \$737.00 to the Town of Somerset, over a two-year period, for the purpose of investigating a Health Care Consortium. To date, the Town has disbursed \$849.63. The Board approved an overpayment of \$112.63 on 2/12/18. The Town received an additional invoice for \$552.35. If paid, this would bring the total expenditure to \$1,401.98. This additional payment for \$552.35 must be approved by the Board for payment over the amount approved by the Board. This expenditure has come from the Supervisor's contractual budget and there should be enough funding in that budget to cover this additional expense.

Geiben MOVED to approve the additional expense of \$552.35 to the Town of Somerset for Health Care Consortium expenses, Seconded by Bax

Jacoby asked if this will ultimately save the Town money. Broderick said this is what is being looked at. The question is will the Unions go along with it. Research answers will be sent to the Town and that is when the Town decides to stay or drop out. There were 26 municipalities to start, it is now 20. Broderick recommends this be paid.

Carried 5 – 0.

COUNCILMAN BAX

Liaison Report

Grass cutting – Taxes

Bax MOVED Grass Cutting fees be placed on the 2019 Town & County tax bill for 33 parcels in the Town in the amount of \$6,373.75 plus \$100 administration fee per parcel for a total of \$9,673.75, Seconded by Morreale and Carried 5 - 0

Zoning Board of Appeals Chairman resignation

Bax read Anita Muzzi's letter. Bax commends Muzzi for a fabulous job. Muzzi's dedication, intelligent and passion for the job was very inspiring to all on the Board. Muzzi takes the Town and its Code very seriously, and wanted to give back. Muzzi touched more people than she knows. Bax thanked Muzzi for her efforts.

Bax MOVED to regretfully accept Anita Muzzi's resignation as Chairman of the Zoning Board of Appeals, Seconded by Geiben and Carried 5 – 0.

COUNCILMAN GEIBEN – Nothing to report

COUNCILMAN JACOBY

Liaison Report

It has been brought to Jacobi's attention that the Board did not officially appoint Liaisons to the Town & Village Bicentennial Planning Committee.

Jacoby MOVED to appoint Alfonso Bax and John Jacoby as Liaisons to the Town & Village Bicentennial Planning Committee, Seconded by Geiben

Geiben said he is an ex-officio member and Garfinkel was appointed Secretary to the Committee.

Carried 5 – 0.

COUNCILMAN MORREALE

Liaison Report

LED Light project additions – Senior Center

All Town buildings lights have been replaced with LED bulbs. A storage room at the Senior Center was missed. To replace 16 bulbs, the estimate cost is \$2,115.68, National Grid will pay \$1,480.98, and the Town pay (upfront) \$571.23.

Morreale MOVED to move ahead with replacing the bulbs in the storage room at the Senior Center for \$571.23, from H-97 – Hydro Fund, Seconded by Geiben and Carried 5 – 0.

Town Car Leases – Assessor / Building

Morreale received five (5) bids. West Herr Honda submitted a bid for a Honda Clarity, hybrid plug-in-vehicle, averages 110/mpi with a full charge; \$224/month for 36 months, with 12,000 miles/year. If the Town didn't get another Honda, it would be liable for \$350 per vehicle disposition fee.

Morreale MOVED to approve the West Herr New York Honda bid for \$224/month per vehicle, Seconded by Geiben and Carried 5 – 0.

Broderick gives Morreale a lot of credit and commends him on a job well done.

Building Permits – Architectural Drawings on a disc

The Assessor requests the Board propose a resolution requiring all building permits, for structures that require architectural drawings, be submitted along with an electric copy of a disc.

Parisi to review Town Code to see what form is required to be submitted.

Board tables.

RESIDENTS STATEMENTS

Glasgow, Paulette – The Circle – Glasgow asked if the Preliminary Budget has been presented. Broderick said no. Blazick said the Finance Office has to have the Budget to the Town Clerk by September 30th, who then has 5 days to present to the Board. This meeting is set for October 4th at 4:00 pm.

Glasgow asked Parisi if it is required, by law, to post a resolution prior to voting. Parisi said no. Often time the Board makes oral resolutions at the time of discussion. Glasgow asked Parisi if it “is his opinion that it does not have to be posted prior to approval.” Parisi said yes. Parisi said if it exists and it is on the agenda, it could be posted, but the Board makes oral motions all the time.

Witryol, Amy – Lower River Road – On June 4th Witryol sent an email to Lannon and the Board, with a copy of a report that identified roughly 350-tons of contaminated soil that is buried on the property which the Town would like to make into a Town Park. Witryol asked Lannon what information he had available, that he provided the DEC. At last week’s Greenway Commission meeting it was mentioned there was no hazardous waste on the property. Witryol wants to know where the 350 tons of waste had gone, or if a sampling analysis plan was done.

Lannon said samples have been taken on the property, and the results of that will be summarized and detailed in the SEQRA resolution, which the Town is not ready to do. The Town is still coordinating with NYS Office of Parks, Recreation and Historic Preservation.

Witryol asked if this report was discussed with the DEC. Lannon said no. Greg Sutton, who recently retired, is working at Ecology and Environment, worked on the excavation of the lagoon on that property. Witryol encourages Lannon to contact Sutton to see whether the samples are anywhere near where that material is.

This is going to be a public park. Once this lagoon or contaminated soil was buried, it maybe in such a state where very little needs to be done, or it needs to be removed.

Witryol suggests that in any request to the Greenway Commission the Town be above board and disclose the Town has documentation showing this. The sampling and analysis plan should be reviewed with the DEC. Witryol suggests the Town talk with Mr. Sutton to make sure we are looking in the right area.

Witryol hopes there is more information on this project before the Town gets too far down the road.

Witryol asked Lannon if the view shed for the solar project is confined to the street level. Was it evaluated from Route 104 or the escarpment? Lannon did nothing with the view shed. Parisi said a glare study was performed and submitted by the company. Witryol encourages the Board to find out if it is visible. If it can be seen from the escarpment the trees will have to grow tall.

Witryol spoke to residents surrounding the solar farm regarding Modern Disposal and would it block the view, and they believe Modern is further west.

Broderick MOVED to adjourn, Seconded by Bax and Carried 5 – 0.

Transcribed and Respectfully Submitted by Donna R. Garfinkel, Town Clerk