

A regular meeting of the Town of Avon was held on Thursday, September 13, 2018 at 6:00 P.M. at the Avon Opera Block/Town Hall, 23 Genesee Street, Avon, New York 14414, with the following members present:

PRESENT: Supervisor David LeFeber, Deputy Supervisor Thomas Mairs, and Councilmen Malachy Coyne, James Harrington and Paul Drozdziel

OTHERS: Attorney James Campbell, Code Enforcement Officer Brian Glise, MRB Group Engineer David Willard, and Town Clerk Sharon Knight MMC/RMC

VISITORS: Janet Manko, Judy Falzoi, Mike Froome, Tom Guzek, Bruce Howlett, Sandy Howlett, Christine Ryan, Ken Rowe, and Steve Stephenson

Supervisor LeFeber called the meeting to order at 6:00 P.M. and led those in attendance in the Pledge of Allegiance.

DISCUSSION – VISITORS COMMENTS

Supervisor LeFeber asked for Visitor Comments and there were none.

RESOLUTION #166 APPROVAL OF MINUTES

On motion of Deputy Supervisor Mairs, seconded by Supervisor LeFeber the following resolution was

ADOPTED AYES 5 NAYS 0

RESOLVE to approve the minutes of August 23, 2018, as presented by e-mail and to request they be published on the Town of Avon website at townofavon-ny.org.

Vote of the Board: Councilman Drozdziel – Aye, Councilman Harrington – Aye, Councilman Coyne – Aye, Deputy Supervisor Mairs – Aye, Supervisor LeFeber – Aye

RESOLUTION #167 APPROVAL OF MINUTES

On motion of Supervisor LeFeber, seconded by Councilman Harrington the following resolution was

ADOPTED AYES 5 NAYS 0

RESOLVE to approve the minutes of September 6, 2018, as presented by e-mail and to request they be published on the Town of Avon website at townofavon-ny.org.

Vote of the Board: Councilman Drozdziel – Aye, Councilman Harrington – Aye, Councilman Coyne – Aye, Deputy Supervisor Mairs – Aye, Supervisor LeFeber – Aye

DISCUSSION – BUDGET

Avon Free Library Director Chris Ryan, Treasurer Brenda McKeown and the Board discussed the highlights of the budget including:

- Asking for an additional \$1,000.00.
- Children’s section and conference room is all new.
- Libraries are changing.
- Next July will replace the furnace, air conditioning, boiler and emergency generator.
- Still waiting for a grant from Senator Gallivan.
- We are very appreciative of the support from the Town and Village.
- Livingston County is the only county in the Pioneer System that gives money to the library.
- Annual Breakfast Meeting is October 11, 2018 at the Avon Inn. Avon Citizens will be given awards. You are welcome to attend.
- Supervisor LeFeber stated that the Board is always well prepared and appreciate your organized planning and keeping up with the changes.
- Councilman Drozdziel reported the Avon Free Library has been applying for grants that provided and opportunity to get some of our money back into our community. The State has provided the financial support of seventy-five percent of the project.
- Many grants have been awarded starting with a smaller dollar amounts and the last one was \$179,000.00.
- Examples of continued improvements to make the library a community destination.
- There is increased construction aid from the State due to the needs of the libraries.
- Next projects include replacement of a boiler and then replace the slate roof

DISCUSSION – OPEN PUBLIC HEARING LOCAL LAW T-5A-2018

Supervisor LeFeber read the following legal notice:

**TOWN OF AVON
LEGAL NOTICE
NOTICE OF PUBLIC HEARING**

NOTICE IS HEREBY GIVEN, pursuant to the provisions of the Code of the Town of Avon, and pursuant to the Town Law §130 that a public hearing shall be held by the Town Board of the Town of Avon, at the Opera Block/Town Hall, located at 23 Genesee Street, Avon, New York at 6:15 P.M. on Thursday, September 13, 2018 for the purpose of considering public opinion and comment about or concerning a proposed local law relating to the following:

Adding a new Article XV to the Zoning Chapter (Chapter 130) of the code of the Town of Avon which shall be entitled “Solar Energy Systems.”

The Town Board of the Town of Avon recognizes that solar energy is a clean, readily available and renewable energy source and the Town of Avon intends to accommodate the use of solar energy systems.

However, the Town Board deems it necessary to properly site and regulate solar energy systems within the boundaries of the Town of Avon to protect residential uses, business areas and other land uses, to preserve the overall beauty, nature and character of the Town of Avon, to promote the effective and efficient use of solar energy resources, and to protect the health, safety and general welfare of the citizens of the Town of Avon.

The current Code has no specific procedures to address the regulation and siting of solar energy systems. The purpose of the proposed local law is to direct the location, size and construction of these systems. In addition, the terms of the proposed local law will regulate and govern the proper and timely removal of solar energy systems upon such systems becoming non-functional or when they are no longer being utilized.

A copy of the proposed local law is available for review by the public at the office of the Town Clerk during regular Town Clerk hours, or by visiting the Town Government page of the Town and Village web site at www.avon-ny.org

All interested persons are invited to appear and be heard at the aforesaid time and place.

Dated: August 7, 2018

Published: August 16, 2018

By Order of the Town Board of the Town of Avon

Sharon Knight, RMC/MMC Town Clerk

Supervisor LeFeber asked those that speak to assist the Town Clerk by stating your name, address and if you are for or against the proposed local law adoption.

Attorney Campbell stated that we received a response dated August 15, 2018 after the referral was made from the County Planning Board. The County Planning Board reviewed it at their Regular Meeting held on August 9, 2018. They recommended Livingston County Planning Board recommended disapproval based on their prospective there is not enough provisions for the identification and protection of prime soils and the mitigation of potential solar farm locations impacts on agriculture. There were otherwise general comments about regulations of Town Law 264 regarding municipal notifications of other municipal that are within 500 feet of their boundaries and other general statements as well as the SEQR requirements.

Supervisor LeFeber stated that we are very fortunate to have prime agricultural soils and the only way to not have solar is to have a BAN and that he does not support that. Some of the prime soils are not necessarily profitable.

Supervisor LeFeber asked for public comments and they follow:

Visitor Janet Manko read the following:

1739 and 1745 Athena Drive
Avon, NY 14414
September 13, 2018

RECEIVED

SEP 13 2018

SHARON M. KNIGHT
TOWN CLERK / TAX COLLECTOR

Dear Town of Avon Town Board Members:

Public Hearing Local Law I-5A-2018
"Adding Solar Energy Systems article to the Code of the Town of Avon"

We do not agree with the Energy Law you present tonight for public comment. The parts that refer to Type 2 solar installations which are large-scale commercial solar farms are particularly troubling for us. How will this land use benefit our community? What are the cumulative risks of not limiting the number of commercial solar farms to a particular zone or area within a zone?

Reason One - Prime Soil

Why would this board so irresponsibly allow acres upon acres of **prime soil** to be covered with commercial solar farms rather than protect this valuable natural resource as has been the policy with every past municipal action? It is contrary to what our town values and desires to maintain into the future.

In addition, federal, state and county agencies advise towns not to use **prime soil** for solar farms. We find no evidence of any town in NYS that, in their solar codes, allow commercial solar farms on prime soil and soil of statewide importance.

By approving this land use law, our town board would be allowing a land use not found in the Vision, Policy and Goals of the current Comprehensive Plan or current law. Unless there is a compelling reason, supported by sound documentation, showing benefit to the overall community, this board is writing a law that conflicts with the town's Vision and Policy for developing the Town of Avon.

We cannot support this commercial land use in the Agriculture Zone that has nothing to do with farming.

Reason Two - Passing this law, conflicts with the Comprehensive Plan. That also bothers us.

We ask each of you to read our review of the Comprehensive Plan as it relates to agriculture and our community. Do this before voting on the law. We are giving each of you a folder that you should read before enacting a commercial large-scale solar farm law. such as this one. It is not a farming practice.

Are you truly representing the people who agree with the Comprehensive Plan that you also agree with? Are you using compelling reasons to identify benefits to the overall community? Where is your authority to write a law that conflicts with the policy and goals of this legal document? Maintaining agriculture is valued by our community for

many reasons found in the Plan. Are your reasons more valid than the words in the Comprehensive Plan? We have not heard any such words - and we attend 99% of the town board meetings.

Reason 3 This law offers no legal protection from conflict between a solar farm business and the members of our community.

We found no documents available to the public that make us confident this law considers the health, safety and welfare of the people. We are not confident each board member has enough knowledge about commercial solar farms to put this law into Town code.

Although we gave the town board members much material about solar development - including risks to firefighters, adjacent property, town monetary assets, soil issues, transfer of leasing rights, foreign investors, legal issues, property value, taxes, and much more including other towns' solar laws and government agency policy regarding prime soil locations. Still there is nothing in this solar law that references these topics to protect the public from harm or loss of assets. Instead, it appears to contain minimal standards that solar developers would find easy to work with.

Why not use the law to protect the public from possible harm? Other town boards have a better solar law.

Although the solar energy law says it is written to protect the health, safety and general welfare of the citizens, it **lacks the legally defensible words to give legal protection to someone harmed in some way by commercial solar farms.** A person might have to sue a company controlled by the government of China... in China! How would this law help us if we experience a problem due to a commercial solar farm? Would we have legal reason in local law to expect mitigation of a nuisance? There are no consequences in the solar farm law that hold the solar business accountable for mitigating a problem.

A solar company could walk away from responsibility to dismantle and reclaim land when the solar farm is no longer profitable. Would Avon take legal action or would the time and expense involved to litigate be prohibitive? Would we now have a brownfield that was once prime soil farmland? Would solar panels be allowed in a landfill? Who would pick up the still DC generating solar panels or pieces? What would this cost the taxpayers?

This law does not protect our welfare and personal assets.

While specific setback distance is in the law, what research was used to decide these numbers? Literature suggests any solar farm within 1.5 miles affects residential property value. Common sense says if living in a two-story home, you will be looking

down on the 15-foot high, tilted panels and the reflective metal structure. No fence or vegetation will block the view. How will this law protect home value?

It is apparent to us that this law indicates a **bias toward commercial solar developers** who would no doubt approve this law. In fact, we heard a board member ask someone if a commercial solar developer had any problems with this law. He didn't. Have solar developers influenced this law? How did the solar developer know what was contained in the law before it was made available to the public? Why ask his opinion?

There has been **no outreach to the community** to seek public opinion and support for this law. There was no committee research or summary report presented to this town board about commercial solar farms. We gave this board information every month that we thought objective and verifiable.

The recommendations about writing solar law suggested by NYSERDA, agency responsible for reviewing applications for solar development grants, have not been followed. The **Comprehensive Plan** has not been reviewed and revised to allow solar land use, community workshops have not been scheduled, and locating of solar farms on unusable land has been ignored.

NYSERDA states that solar farms should not be built on active farmland and especially on land classified as **prime soil**. More agencies, including Governor Cuomo, agree.

Livingston County Planning Board reviewed this law and gave a negative recommendation for many reasons. The most discussed reason was the unconditional use of prime soil. It conflicts with the Farmland Protection Plan.

Why are you presenting this same law without revision tonight?

Think about the consequences if the law as written tonight becomes part of our zoning code tomorrow. We have given you many reasons to VOTE NO.

Sincerely,

Judith Falzoi and Janet Manko

Visitor Judy Falzoi stated that she has a large stack of papers that she has put together since January regarding solar. She stated that this is it and it's real important. It should not be looked at tonight. She has gone through our Comprehensive Plan and requested that the Board review the documents. She read a portion of the information that refers to deviations and that the Board must have rationale that would be more important and compelling than the intent of the Town of Avon Comprehensive Plan (TACP). It must be a benefit to the overall community.

If you do not review the TACP, then you are not being objective. She requested that the documents be put in the record and they follow.

Visitor Judy spoke about a six page brochure that was sent out from the Town of Pittsford to her son's home regarding the possibility of community members to purchase renewable energy. Not through community solar but from other places and they could be purchasing from Avon, but that she cannot purchase from Avon.

She does not agree with the law as written tonight.

1739 and 1745 Athena Drive
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SHARON M. KNIGHT
TOWN CLERK / TAX COLLECTOR

Dear Town Board Members-

Public Hearing - Local Law T-5A-2018

Our Public Comment about adding Article XV to Zoning Chapter 130 entitled "Solar Energy Systems" We do not support this new land use as presented tonight.

1. Please read the words from the Comprehensive Plan that authorizes this town board to write a commercial solar farm law contained within a zoning code "Solar Energy Systems" referred to in the code as "Type 2 large-scale solar farms". This would be a new land use in the agriculture zone that is a commercial use. We cannot find the authority in the Comprehensive Plan.

Deviations possible with sound argument and rationale that shows overall benefit to the community - not one particular person or group. Benefit to the overall community.

2. Please identify the reason (rationale) for deviating from the Comprehensive Plan and ignoring Livingston County Planning Board negative recommendation regarding use of prime soil which contradicts the county's Farmland Protection Program. What rationale are you using that would be more important and compelling than the Intent, Purpose, Vision and Policy stated in the Comprehensive Plan? What argument do you have that is more important than the words found in the Comprehensive Plan that we think do not support commercial solar "farms" in our rural town?

3. Please identify the benefits expected to our community by allowing commercial, large-scale solar farms up to 25 acres in size on unlimited number of parcels in the agriculture zone. Permitting solar farms in Article XV seems to lack any consideration of soil classification or impact to adjacent properties, overall economic impact in the county, safety of emergency responders, and lacks sound reasons supporting the new land use.

You will put your community, its economy and neighbors at risk if this law is passed.

About 94 Number of 25+ acre parcels recorded in Livingston County Agriculture District Avon records currently available online

About 57 Number of landowners who could benefit from a solar farm use

About 7,164 Total number of people in the Town including Village.

Most not benefiting from commercial solar farm projects.

We are attaching our review of the Comprehensive Plan with respect to your authority to write a large-scale solar law in our community. The conditions in our comment are based on the Comprehensive Plan which allows for deviation under certain conditions. Until these three conditions are met, we are unable to support the Energy Law presented to the community tonight.

Sincerely,
Janet Manko and Judith Falzoi



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Sincerely,
Janet Manko and Judith Falzoi



Source: 2016 Town of Avon Comprehensive Plan

Introduction (pg 8)

Plan Purpose & Intent

The **primary purpose** of a Comprehensive Plan is to put the community's **vision** for its future on the record. **Any development proposal or action, whether private or public, should take into consideration the Town's vision as expressed in this Plan, and be consistent with its stated priorities.**

The **intent** of this 2016 Comprehensive Plan is to provide our Town with an **updated framework for future public and private investment in the community**. In the Town of Avon it is the **collective investment** by our residents, businesses, civic institutions, community organizations, and local government that will shape the physical, social, and economic character of our community.

Planning helps municipalities avoid reactionary decision-making by taking the steps necessary **to guide future development and investment based on the current needs and desires of the greater community.**

As a result, the Town of Avon 2016 Comprehensive Plan will serve as the foundation upon which future planning and policy decisions are to be based. Although this document is an instrument of Town Policy, it should not preclude future decisions that may not align precisely with the stated vision and goals. **However, for actions or decisions that deviate from the goals expressed in the Plan, a sound argument and rationale must be presented that is as convincing as that presented in the Plan. Such deviations should not be a common or an easily attainable outcome, and should be supported only after careful consideration of the overall benefit to the community.**

Utilization of the Plan (pg 9)

This 2016 Comprehensive Plan was adopted by the Avon Town Board on December 29, 2016. It shall be the policy of the Town to reference the Comprehensive Plan for all re-zonings and infrastructure projects planned by the Town and proposals from other governmental agencies. A copy of this Plan should also be provided to county and state agencies to assist with their future plans and projects in the Avon area.

Public Participation (pg 11)

Community Forum

Attendees participated in a key issue brainstorming exercise to identify the community's strengths, weaknesses, opportunities, and threats (SWOT Analysis).

- Strengths » Rural area, beautiful setting, aesthetic rural character
» Agriculture industry
- Threats » Potential for unplanned/incompatible development and industry
» Losing farmland/open space/green space
» Potential aquifer contamination (wells)
-

Agricultural Soils (pg 28)

Soils throughout much of the Town have high agricultural potential and are designated as either * Prime Farmland or Farmland of Statewide Importance (*see Map 5, pg 29 in Comprehensive Plan))

It is important to note, however, that conservation easements, along with the State's **Agricultural District program and local land use laws all serve as a level of development protection for these areas.**

Zoning District Summary (pg 34)

Agricultural (A): Preserve agricultural use whenever possible in recognition of the important economic, environmental and aesthetic contributions that agriculture provides to the community. **Due to the unique benefits of agriculture, the uses and lot requirements in this district are designed to encourage the continued use of the land for agricultural production and related activities.**

Our Policy Framework (pg 38)

Plan's Policy Framework is comprised of the following four key elements:

» **VISION:** An overarching statement that describes the aspirations of the Town as a whole, **all policies and actions in the comprehensive plan are aimed at achieving this end.** The vision is a statement intended to be a **guide for the long-term identity of the Town; therefore, it should not change dramatically over time.**

» **POLICY:** Similar to a vision in that it is a general statement of a future condition towards which actions are aimed. However, the scope of a policy is much more narrow. It should **support the vision** by addressing a specific area or issue facing the community. **Policies should not dramatically change over time,** but rather be consistent throughout the planning horizon. Ideally, the policies contained in this plan should be useful for the 10-year planning horizon.

Our Town's Vision (pg 39)

Our vision for the Town of Avon is to remain a rural town identified by our pastoral vistas and active farms that surround our historic Village. We will be a community known for our...

- » **Scenic rural environment,**
- » **Vibrant economy, and**
- » **Desirable quality of life.**

We will strive to achieve this through sustainable growth and development policies in our public and private sector decision- making. Our ultimate indicators of success

will be to foster people- friendly, inviting neighborhoods, a strong sense of community, and a sense of pride among Avon residents.

(See illustration (pg 39)

Rural Environment & Small Town Character (pg 40)

Policy Statement

It is the **policy** of the Town to be a community that **values and protects our farmland, open spaces, and natural environment**, while celebrating our rural heritage. These assets contribute to our local economy and serve to define the small-town, **pastoral character that our residents cherish**. We will strive to be sustainable in our approach to land use practices and support of local agricultural industries to ensure the health of our land, air, and water resources. We will preserve our existing historic resources and traditional development patterns in an effort to highlight our history and enhance our small-town charm.

Objectives (pg 40)

- A. Minimize the adverse impacts of development on agricultural land and preserve prime soils.**
- B. Preserve the Town's important environmental features and natural resources, including floodplains, woodlands, wetlands, waterways, and scenic viewsheds.**
- C. Partner with various county, regional, and state agencies to grow Avon's agricultural economy and protect our environment.**

Rural Environment & Small Town Character (pg 41)

- A. Minimize the adverse impacts of development on **agricultural land** and preserve prime soils.**
 - 2. Encourage the use of tax abatement programs and other incentives for property owners to maintain agricultural land uses.**
 - 3. Allow businesses that support local farm operations to locate, through special use permit, in designated agricultural areas. Utilize the site plan approval process to control the operation of such uses and to **minimize impacts on adjacent properties**.**
 - 4. Determine the potential adverse impacts on agricultural uses when considering utility extensions into designated agricultural areas.**
 - 5. Promote the use of sustainable agricultural practices that protect land from potential negative impacts, such as flooding, erosion, runoff, and pollution.**

- B. Preserve the Town's important environmental features and natural resources, including floodplains, woodlands, wetlands, waterways, and scenic viewsheds.
1. Consider the benefits of adopting Environmental Protection Overlay Districts.
 2. Increase use and understanding of the State Environmental Quality Review (SEQR) process by all review boards to **protect our natural resources** from the potential negative impacts of development.
 3. Consider the impacts of new development and investment on existing wildlife populations **and their natural habitats**.
- C. **Partner with various county, regional, and state agencies to grow the Town's agricultural economy and protect our environment.** (pg 42)
1. Support state and county programs, such as the agricultural districting program, that help to **protect agricultural land from urban development pressures**.

Vibrant Economy & Growing Tax Base (pg 44)

- B. Ensure new investment and development opportunities reflect the **desired scale and character** of their intended location within the Town.
1. Review and revise the Town Code to include land use and development regulations that **ensure** new commercial and industrial developments are attractive and have **minimal impacts to adjacent properties** (setbacks, access controls, landscaping, buffering, lighting, etc).
 2. Review and revise the Town Code to ensure that the intent and application of commercial and industrial zoning districts is in accordance with the desired future land use pattern of the Town.

Sustainable Growth & Development (pg 50)

- D. Encourage the use of green infrastructure and development practices with future investment.
2. Promote the use of green energy and green infrastructure in developments throughout the Town.
 4. Encourage renewable energy systems for residential, commercial, and industrial uses, where appropriate (e.g. wind, solar, geothermal).
 7. Consider becoming a Climate Smart Community (see NYS DEC webpage for more info www.dec.ny.gov).
-

Agricultural (pg 59)

A review of the intent statement, permitted uses, specially permitted uses, and dimensional requirements contained in the Town's Zoning Code indicates that the Agricultural zoning district successfully **gives priority to farming related activities over non-farming activities**

The Town should consider other zoning techniques to protect farming operations from the encroachment of **non-farming uses**.

Greenbelt/Viewshed (pg 60)

One of the key priorities of the Town is to preserve the existing greenbelt between the Hamlet of East Avon and the Village of Avon.

2. Work with the property owners and the Genesee Valley Conservancy to put conservation easements in place on both sides of the corridor.

What is your favorite thing about living in Avon? (pg 67)

"I love all the green that is still a part of the community."

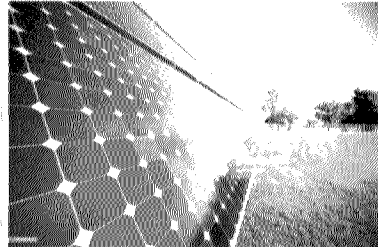
~ 2015 Community Survey Respondent

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SEP 13 2018

SHARON M. KNIGHT
TOWN OF AVON

The Town of Avon's Commercial Solar Farm (Energy Law) lacks basic protection of community assets while permitting commercial solar land use on **prime soil** in all agriculture zones.
(Judith Falzoi, August 9, 2018)



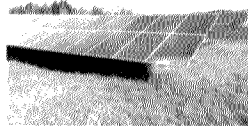
The rush to gain approval for large solar projects is being driven primarily by financial incentives, such as New York State's renewable energy credit program and federal tax credits and not necessarily by sound planning or engineering principles. In Livingston County, National Grid is offering incentives to solar companies that meet their application requirement and deadline.

York, NY Solar Workshops, spring 2018:

NYSERDA spokesperson admits the Model Energy Law is not based on any research data but is merely a guide that local communities might find helpful when creating an energy code - like a template.



Keeping farmland, and environmentally critical areas, wildlife habitats, cultural landscapes and scenic vistas either off limits to large-scale solar development or, if permitted, establishing conditions to mitigate impacts should be the objective of all locally written solar laws beginning with a **COMPREHENSIVE PLAN** that says or implies with words such as: **Commercial solar development is a desired land use. There should be a clear vision statement found in the town's master plan.**



*Municipalities can control this land use if they follow normal policies. Ordinances can encourage large solar facilities in appropriate places and **discourage their installation on farmland**, environmentally critical areas, wildlife habitats, and in forested areas among others.*

*Siting of solar energy facilities must avoid, to the maximum extent feasible...soils classified as **prime farmland** by the United States Department of Agriculture.*

Adopted from ANJEC
Association of New Jersey Environmental Commission
WHITE PAPER

P.O. Box 157, Mendham, NJ 07945 • Tel: 973-539-7547 • Fax: 973-539-7713 • Web site:
www.anjec.org • Email: info@anjec.org

Serious environmental and economic risks could result from haphazard conversion of farmland to solar energy generation

1. Environmental degradation – Ground-mounted solar development could **impact stormwater runoff patterns and compromise natural resources and critical areas.**

- Erosion and runoff potential of the hydrologic soil group may also be issues due to the **extensive land clearing and grading.**
- **Trees sequester carbon**, clear-cutting of forests to produce “green energy” is not a sustainable practice.
- Loss of the vital **carbon sequestration** function due to impaired access to sunlight

2. Local food – Conversion of farmland to energy production could **reduce access to fresh, locally grown food throughout the Rochester/Finger Lakes region. (Also animal feed)**

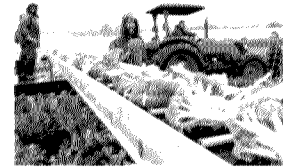


3. Agricultural impacts – Solar developers generally are willing to pay far more for land than farmers. **Competition for leased acreage** is especially problematic.

- **Solar developers often offer landowners higher prices than the established farmland preservation program can pay, interfering with municipal farmland preservation objectives.**
- **Soil quality** is an important criterion for determining the areas where farmland preservation should be a planning priority. Many municipalities have designated certain types of soils, **especially prime soils**, as important indicators of agricultural quality. (Important when agribusiness is desired.)
- Permanent **compaction** of hydric soils; contamination by cleaning products, pesticide use, and chemical vegetation products. pg.2

- **Loss of light** needed for particular vegetative communities and natural succession
- Invasion of **alien weeds** due to soil disruption
- Reduced ability to absorb **nutrients and filter pollutants** due to lack of vegetative biomass
- Increased erosion and downstream sedimentation due to the **loss of perennial root systems and conversion to alien weeds.**
- possible by **limiting soil removal, impervious cover**, controlling coverage by stone or gravel, limiting soil compaction, and **requiring soil restoration.**

4. Jobs impacts – Many renewable technology jobs are out-of-state, and the local jobs associated with solar installation tend to be short-term. On the other hand, **agriculture in Avon, Livingston County and NYS employs many people** in packing, warehousing, cold storage, transportation, farm equipment sales and service of farm equipment, seeds, and irrigation. (Agribusiness)



5. Undermining Comprehensive Plans – Haphazardly devoting more prime agricultural land to solar development could **undermine existing farmland/open space plans.** (People need to be informed and involved when a new land use is considered ` need for community education and discussion.)

6. Destroying habitat – due to a lack of scientific research on the long-term impacts of large-scale solar development on wildlife within Livingston County, it is not clear how inappropriate siting might affect wildlife and lead to **loss of species habitat.** However, it is clear that **solar sites generally exclude larger terrestrial wildlife** and remove most, if not all, of the existing vegetation except for short grasses.

- Land clearing, coverage with structures, and fencing destroy wildlife habitat
- Expect disruption of animal species using the habitat; fragmentation of natural habitat, breeding.
- Applicants should be required to address displacement and movement of wildlife, particularly large mammals.

7. **Decommissioning and disposal** – Fast-evolving technologies could lead to decommissioning and disposal issues for abandoned or obsolete panels

8. Impacted scenic views and vistas could compromise valuable cultural landscapes and result in **a loss of sense of place that is highly valued in the community** and identified as being highly valued in community surveys leading to Comprehensive Plan goals. (rural environment)

- An ordinance should also include noise standards and setback provisions for the **inverters** to assure that their fan noise does not bother neighbors.
- An ordinance should address accessibility for volunteer **fire fighters** and vehicles. Requirement for specialized training and clothing for extinguishing electrical fires on solar farms is essential for safety.

9. **Inverters** – Inverters convert the DC output of the panels to AC current suitable for the distribution system. The large box-like structures can be freestanding. They require routine access and are cooled by fans. **Cooling loads, and hence fan noise**, will be highest when the panels are producing power and will diminish after sunset. **Ordinances should specify acceptable noise levels at the property line** and require **inverters to be set back from the property line** to avoid disturbing neighbors with fan noise.

- consideration of **stray energy** - especially harmful to humans and animals
- **digital devices** can be affected

10. **Inverter Foundations** – Inverters are quite heavy and require durably constructed footings that provide adequate support. They may be cast-in-place concrete, pre-cast concrete or already incorporated into the base of the inverter unit. Inverters and their foundations are considered **impervious cover**.

11. **Access Roads** – Access roads may be paved or covered with crushed stone. Road construction specifications should relate to soil conditions. They are considered **impervious**,

12. **Perimeter Fencing** – Perimeter fencing is proposed on most sites for security reasons, often 7- to 10- feet-high chain link, sometimes with barbed wire on top. This raises **aesthetic concerns**, especially in a rural environment. Appropriate types of fencing and treatments should be specified for different locations, such as along road frontage or adjacent properties.

- Dark colored chain link fencing can be specified to reduce visual impacts. pg 4

LOCAL ORDINANCES

Not Permitted Use: prohibit use in a specific zone, or be silent and not mention that it is allowed.

- solar developer would have to apply for a use variance

Permitted Use: can permit use in specific zones.

- solar developer could still apply for a use variance in other zones

Conditional Use: can permit but also define conditions under which development is allowed

Critical Area Ordinance: a "floating zone" that protects critical areas, such as prime soils, open spaces, residential areas, schools, parks...

RECEIVED

SEP 13 2018

SOLAR COMPANY ARTICLE ABOUT EFFICIENCY PROBLEMS WHICH SHOULD BE A CONCERN FOR A TOWN WRITING A SOLAR ENERGY LAW

SHARON M. KNIGHT
TOWN TAX COLLECTOR

Anything Can Go Wrong on a Solar Farm
Maureen McHale for I
Aug 16, 2012

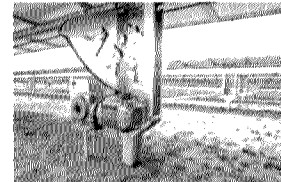


When it comes to solar power plants, a critical consideration to achieving maximum power output is the ongoing operation and maintenance (O&M) following the commissioning of the system. Although solar installations are highly reliable and designed to run with minimal manpower, efficiency will be lost and energy generation decreased if not maintained properly.

Solar equipment can be kept in service for decades with regular and proper attention to all major and ancillary features; however, many asset managers may not have a handle on what is really needed in the day-to-day operations of a power plant. Undetected failures and small issues impact the overall operations of the system, which leads to lost revenues and lower energy generation compounding with each undetected, unmanaged issue.

16 Potential O&M Issues

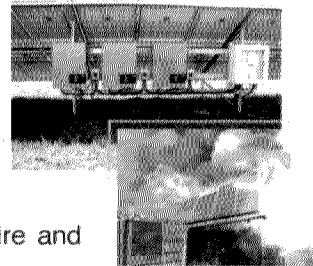
Here are 16 of the potential failures or damages that can occur on a solar farm and how they could impact operations if not addressed in a timely manner.



1. **Perimeter Fence Damage.** Damage caused to the perimeter fence can immediately have a negative effect on facility operations. Whether the damage was due to vandals, a storm or even an animal, this is an item that needs immediate attention. Not only can people be injured due to the high voltage produced by the system, but the expensive equipment is at risk if intruders enter the area with intent to destroy or steal items. Regular inspection and quick response to this is crucial for all solar farms.
 2. **Ground Erosion.** A naturally occurring process in nature, soil and ground erosion are caused by water and wind. Expected as a gradual occurrence and planned for at a certain periodic rate, sudden erosion can have a deleterious effect on a PV plant. Loss of topsoil can lead to reshaping of the ground and the creation of channels, holes and slopes in earth. This could cause racking to shift affecting the ability of panels to generate the energy. It could also lead to flooding and destruction of equipment. Proper and frequent site monitoring will
-

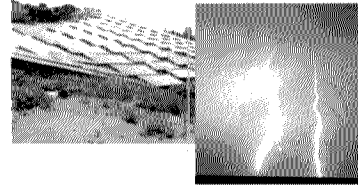
alert asset managers to anything out of the ordinary happening that could put operations at risk.

3. **Transformer Leakage.** Routine maintenance that certifies that transformers are in good condition every year helps avoid transformer leakage. A transformer leak can cause land contamination and other safety risks. Knowing if a leak is present and planning for maintenance to repair or replace it can be key in keeping energy generation at a maximum. There several ways to carry out preventive maintenance in transformers; however, monitoring transformer oil temperature, pressure and level to prevent a transformer from leaking in the first place is the best way to avoid down time issues. To prevent fatal errors, a parameter range is set and automatic alarms can be issued to check on site before the problem scales.
4. **Various Inverter Damage.** Taking the low voltage, high current signals from PV panels and converting into the voltage compatible with the utility grid, inverters are core components of grid-connected systems. Monitoring of inverters is of high importance, since changes to voltage and frequency may occur that affect performance as well as the safety of those in proximity. Inverter damage may lead to the complete failure of the PV plant or partial string outages as a result of defective inverters. Inverter failures are responsible for roughly 80% of PV system downtime. Clearly a response to any inverter damage must be taken quickly.
5. **Broken Conduit.** A broken conduit poses danger of shock as well as chaos on the operating system as charges are uncontained. When the construction of a site is finished and the plant goes into operation, earth movements may happen as the ground stabilizes. These movements can cause broken conduit and other issues with cables. Measuring isolation on cables ensures underground runs are damage free. This is important because broken conduit can cause a cable to break or damage the insulation which can cause a fire and personal hazards.
6. **Combiner Box Damage.** With the ability to simplify wiring, combiner boxes combine inputs from multiple strings of solar panels into one output circuit. Normally 4 to 12 strings are connected to a combiner box. If damaged, they pose a safety risk as well as a major decrease in productivity.
7. **Vegetation Overgrowth.** Vegetation can transform from a benign nuisance in to a major issue very quickly. In addition to attracting animals that then cause their own brand of destruction, vegetation can shade cells, interfere with wiring and affect structural integrity.
8. **Cell Browning/Discoloring.** In addition to providing power, UV radiation will lead to aging in panel cells, seen as browning and discoloration. This degradation in the film leads to impaired output and productivity.
9. **Panel Shading.** When designing a PV plant, it is critical that trees and other obstructions are cleared. PV cell electrical output is very sensitive to shade. If shaded, cells do not add to the power produced by the panel, but they absorb it. A shaded cell has a much greater reverse voltage compared to the forward



voltage of an illuminated one, it can absorb the power of many cells in the string and the output will fall drastically. Removal of any trees or structures causing shading will help optimize power output.

10. **Shorted Cell.** A shorted cell can impact productivity if not addressed in a timely manner. Production defects in semiconducting material often go undetected before PV cells are put into solar panel assemblies. Identifying these defects through testing via infrared imaging has been used for more than a decade. This efficient, cost-effective test and measurement methods for characterizing a cell's performance and its electronic structure help ensure maximum energy production.
11. **Natural Damage.** A hail storm or hurricane can wreak havoc on a solar power plant. Damaged panels, or wind torn racking and other equipment can severely decrease output or completely put a system out of commission. Keeping a pulse on the severe weather and inspecting the equipment following a storm is necessary for the overall health of the solar farm.
12. **Vandalism Damage.** Vandals pose a major threat to any PV facility. Whether they are stealing or destroying wiring, panels or other equipment, system damage can occur. A solar farm in North Carolina had golf ball damage by a neighbor who decided to use the array as the 18th hole. Detecting this damage through the use of solar monitoring equipment minimized outages and losses.
13. **Defective Tracker.** An exceptional tool to enhance early morning and late afternoon performance, trackers can increase total power produced by about 20-25% for a single axis tracker and about 30% or more for a dual axis tracker. Defective trackers can contribute significantly to lowered performance output and should be serviced as soon as detected.
14. **Racking Erosion.** Eroding structures can be a nightmare for a PV facility. Once the structural integrity is degraded, risks to proper water and wind flow within the facility are elevated which can gravely impact the functioning of the facility. As racking moves, panels are moved from their optimal positioning and energy generation suffers.
15. **Unclean Panels.** Dust, snow, pollen, leaf fragments, and even bird droppings – all can absorb sunlight on the surface of a panel, reducing the light that reaches the cells. Clean surfaces result in increased output performance over the lifespan of the equipment. Routine cleaning should be a part of all O&M plans.
16. **Animal Nuisance.** No matter whether an animal burrows under a perimeter fence, jumps over it or goes right through it - animals need to be kept out of a solar farm. Once inside the perimeter, they seem to have a way of finding wires to chew and unknowingly destroy equipment.



HAVE EMERGENCY RESPONDERS BEEN INCLUDED IN DRAFTING A LOCAL SOLAR LAW?

- SOLAR FARM FIRES ARE ELECTRIC FIRES BUT THE PANELS ABSORBING RADIATION CONTINUE EVEN WHEN AN INVERTER BOX IS SWITCHED OFF. (Battery back-up systems)
- DC CURRENT IS "HOTTER" THAN AC CURRENT.
- EMERGENCY PERSONNEL NEED SPECIAL EQUIPMENT AND TRAINING TO SAFELY EXTINGUISH FIRES AND PROTECT SURROUNDING PROPERTY.

HOW IS SAFETY ADDRESSED IN THE TOWN OF AVON'S LOCAL LAW?
WILL TAXPAYERS BE RESPONSIBLE FOR THIS ADDED EXPENSE?

Source: OHIOLINE Ohio State University Extension

(Excerpts)

According to a report developed by The Fire Protection Research Foundation, "the benefits of harnessing solar energy often outweigh the barriers, yet solar power systems are introducing new and unexpected hazards to fire fighters and other emergency responders" (Grant and United States, 2013).

When exposed to light, a grid-tied PV solar system will generate direct current (DC) electric that is converted to alternating current (AC) electricity by an inverter.

The inability to power-down photovoltaic panels exposed to sunlight makes this an obvious hazard during the daytime, but it is also a potential concern at nighttime for systems equipped with battery storage.

The danger of electrical shock to individual system owners, firefighters or emergency responders who come into contact with a damaged PV solar system is real, with the potential to be fatal and should be taken seriously.

Potential hazards can include electric shock, arc flash, cuts, burns, slips, trips and falls from an elevated surface. Safety considerations or practices should include the following:

1. Regular Maintenance Inspections - especially after storms
 2. Control Access to the PV System - Signage that states "Authorized Personnel Only" and "Danger: High-Voltage Electrical Area" to warn others of potential hazards.
 3. Utilize Personal Protective Equipment (PPE) and Other Safety Equipment - fall protection, fire-rated clothing, arc flash protection, hot gloves, protective eyewear and safety footwear.
 4. Develop an Emergency Response Plan
 - a. Identify Potential Emergencies
 - b. Identify the Solar Power System - Create a map or diagram of the system.
 - c. Identify Critical Resources
-

6. Considerations for Emergency Responders

- a. Since most solar PV systems cannot be completely shut down, emergency responders should treat all wiring and solar panel components as if they are electrically energized at all times.
- b. Defensive Fire Fighting/Fireman Safety - To avoid exposing fire personnel to uncertain electrical hazards, fire departments may proceed with a defensive fire fighting strategy (Let it burn).

7. Summary

Solar power systems are introducing new and unexpected hazards to fire fighters and other emergency responders" (Grant and United States, 2013).

Always assume the components and wiring of a PV solar electric system are electrically energized, stay away from a damaged PV solar system, and contact trained professionals to respond, remediate and repair the system.

ADD TO ANY LOCAL SOLAR FARM LAW.

Make the solar farm applicant responsible for local emergency personnel safety. This includes costs for equipment, clothing and training as a condition for permitting solar farms

Setback distance from adjoining property must consider a defensive fire strategy that lets a solar farm fire burn.

IS MY TOWN PREPARED AND WILLING TO TAKE LEGAL ACTION AGAINST A FOREIGN SOLAR FARM OWNER? HOW CAN LOCAL LAW PROTECT TOWN ASSETS AGAINST NON-COMPLIANCE WITH LOCAL LAW? HOW CAN A LOCAL ENERGY LAW PROTECT MY ASSETS?

<http://www.windtaskforce.org/profiles/blog/show?id=4401701%3ABlogPost%3A145501>

1. **Will we allow Communist China to build and operate the largest wind project in Maine?**

- Posted by [Thinklike A. Mountain](#) on September 5, 2018 at 10:30am
-

EDP Renewables has plans to build the largest wind project in Maine, the so called Number Nine wind farm in Aroostook County. <http://numberninewindfarm.com/>

This project was seemingly endorsed by Patrick Woodcock in 2015, then Director of Maine's Energy Office and now the Assistant Secretary of Energy for the Commonwealth of Massachusetts. [WOODCOCK%20EDPR.pdf](#)

EDP is partially owned by China Three Gorges, which is state run by Communist China. In the article below, it can be seen that China Three Gorges is trying to buy the remainder of EDP.

In other words, China plans to control others' electricity and in the process, collect free money via subsidies. At the same time it is continuously building coal plants for its own electricity production and trying to get the U.S. to stop using coal and other fossil fuels via international agreements, completely lopsided in China's favor.

Strategy Summary

- China slows us down with renewable energy folly
- Increased U.S. electricity costs due to renewables increases our manufacturing costs
- China burns coal, reducing its manufacturing costs
- China, who is openly trying to take over world trade through such programs as its "One Belt, One Road" neo-colonialistic plan wants to control others' energy production by buying their energy companies
- China takes in huge revenues selling renewable energy infrastructure to other countries
- China grows yet richer and others poorer as companies like EDP vacuum up our stupidly handed out subsidies for renewable energy
- As our national debt grows, China, who owns some of our national debt further enriches itself

China thinks global and acts local. An example of their local actions would be the Number Nine wind farm in Aroostook. As Mainers and U.S. citizens, do we really want to be this stupid?

2.

May 14, 2018

China Three Gorges to offer \$10.8 billion for EDP

China Three Gorges Corp. late Friday said it plans to launch a EUR9.07 billion (\$10.8 billion) offer to acquire the almost 77% it doesn't already own of Portugal's main energy utility, a bold move to expand further into Europe's power sector that will likely attract heavy scrutiny from the U.S. and other governments in the West.

By consolidating its ownership of **Energias de Portugal SA, or EDP**, China Three Gorges, or CTG, would gain full control of Portugal's largest electricity producer, distributor and supplier. But it also would offer the Chinese state-owned energy company a bigger platform to gain exposure to EDP's power operations in several other countries in Europe, including Spain, France, Italy and the U.K. In the Americas, the Lisbon-based company is present in Brazil, Mexico and in the U.S., where it operates wind farms across much of that country.

Read the full article at the following weblink:

<https://www.marketwatch.com/story/china-three-gorges-to-offer-108-b...>

3.

September 1, 2018

China's Most Dangerous Geopolitical Weapon

The Chinese strategy of encroaching on America's geopolitical position and security interests in this way has already borne fruit. Massive FDI flows into allied countries and strategic regions have unambiguously exposed Beijing's money as a pertinent threat. In a prime example of how easy it is to seize an entire country's strategic infrastructure, China Three Gorges in May bid \$11 billion to take over the entire capital of Portugal's largest grid company, EDP, with subsidiaries in the U.S., Spain, and Brazil.

Read the full article at the following weblink:

https://www.americanthinker.com/articles/2018/09/chinas_most_danger...

Attorney Campbell addressed those in attendance stating that he does not agree with Judy's statements. He does agree that looking at the Comprehensive Plan when you consider what is appropriate for the Town of Avon. There are many places that you can point to in the Comprehensive Plan that supports the proposed local law as there is legal protection. He did agree that the Board should consider the Comprehensive Plan.

Visitor Judy Falzoi asked if this was a public hearing or a debate. She stated in all other public hearings the community is heard and then comments are made. The Board requested the Attorney continue and he stated that it's not in conflict with the Comprehensive Plan and has legal substance to support the proposed local law. There is a set of standards and we are in compliance.

The bigger issue is if solar has a place in our Town and if so where and at what level. Site plan and special use permits are going to be required and if you need more detail than you should follow-up.

Visitor and Solar Committee Member Mike Froome, 23 Fisk Place stated that he does not agree with Judy. He has read the Comprehensive Plan and his wife was on the committee and it's not a conflict but is an interpretation. There seems to be two issues and one is whether or not we want solar in the community and I thought that was already decided. But if you want to look at risk you will always find something to validate the risk. You need to look at risk versus benefit. He also strongly disagree that the Board was not informed when the Committee provided lots of information.

Visitor Falzoi questioned where the information can be found as she has been looking for the information. She stated that she had asked Mr. Froome and Town Clerk Knight for information. The Town Clerk did not have the information and Mr. Froome stated that you only had your own.

Visitor Mr. Froome stated that he is strongly in favor of the law and use of solar in the community. He thinks the County did not have a thorough understanding of the information regarding prime soil. This is not a threat to our community and it's revisable. I think we were all surprised when we were shown the amount of prime soil in our community. The plaza, housing developments and street are on prime soil and this is the least impact of the soil. It's economically good for farming properties, if you do not allow for solar than you are asking Mr. Howlett in reality to just provide a park. The public has had a chance to discuss for over one year.

Visitor Judy Falzoi stated that when you look at the papers she provided, you will see the information that was cut and pasted right out of the Comprehensive Plan and it does talk about the ability to devastate under certain circumstances. She remembers the strong reference to ruralness. What does this really mean? Then you go into the policy and how is the policy going to be enacted in the lifetime of the Comprehensive Plan. She does care about prime soil and it's cared about by a lot of people and she is just giving you the information from other people that know things and they really care. She spoke about North Carolina and suggested to put it in the solar law. Mr. Froome stated that people knew about the discussions. But was the information really available?

She stated that a local law cannot be written to profit a particular business it has to benefit the entire community.

Supervisor LeFeber requested the public hearing be held open to allow for other agenda items.

DISCUSSION – BUDGET continued

Supervisor LeFeber stated that we have started to help supplement the Avon Cemetery. Working with the Association has been positive for both of us.

Avon Cemetery Representative Ken Rowe shared with the Board the concern of maintaining the cemetery. The cemetery is subject to New York State Cemetery Guidelines and many financial restrictions apply. Income for the Association is strictly selling plots, opening and/or closing graves and the interest of the permanent fund. Portions of the income are required to be deposited into a permanent fund and they are in an Edward Jones account and only the interest can be used for maintenance of the cemetery. Currently the fund has approximately \$130,000.00. In the 2017 Budget the Association asked for a one time mowing, however; this year clean-up from a storm used all of the mowing funds that were available. The Town has paid for all of the mowing which to date has been approximately \$10,000.00 to \$12,000.00.

Discussion continued regarding if the Association becomes financially unable to continue to run or if manpower does not support the cemetery. The cemetery becomes the responsibility of the Town. Both the Board and the Association appeared to agree that supplementing the Association is the goal rather than turning the entire responsibility to the Town. The cash flow continues to be reduced as most burials are changing to cremation. Many family members are being buried with relatives.

The cemetery has approximately seven acres and has approximately sixty percent of the land unused.

Both the Supervisor and the Avon Cemetery Association is supportive of each other.

Supervisor LeFeber continued to accept comments for the Public Hearing.

Councilman Drozdziel questioned what the process has been to get us to this point. Deputy Supervisor Mairs stated we had a committee setup for one year. Mr. Froome served as the Chairman and other Members included Deputy Supervisor Mairs, former Councilman Blye, Clara Mulligan and former Planning Board Chair Dr. Robert Tugel, Chuck Morgan and several others that researched and drafted the law which has had several revisions. The Committee began meeting in June of 2017.

Councilman Drozdziel questioned if there were any public presentations of the results? Mr. Froome stated that he put the presentation together. The committee reviewed and Attorney Campbell worked as the Scribner for the entire process. He understood the Committee's role was to function in that manor.

Deputy Supervisor Mairs stated that he was on the Committee and he is all right with the proposed local law as it stands.

Mike Froome, 23 Fisk Place is in support of the Local Law.

DISCUSSION – LOCAL LAW T-5A-2018 continued

Visitor Falzoi questioned Michael Froome when he gave the presentation regarding solar to the Board to see if it was indeed from the Committee, she was told the presentation was his own.

Visitor Manko is not against renewable energy, has a farming family and would like to see a community solar where the community benefits. The Board should be choosing to allow solar in a place that is least detrimental to the community.

Attorney Campbell stated the way the law is written any project would require site plan review and a special use permit. These are two slightly different reviews.

Councilman Drozdziel shared a concern of the law, that when it gets reviewed by the Planning Board and/or Zoning Board. Are there enough or should there be more in our law that refers to our design criteria.

Attorney Campbell stated that we talked about this before and our current design criteria does not have those details. It might be a good idea to suggest to the Boards to look to the Town Performance and Design Criteria.

Councilman Drozdziel stated this is left to the Code Enforcement Officer to determine. He questioned Code Enforcement Officer Glise to see if he would prefer to have the law make the determination rather than himself.

Code Officer Glise responded that he would rather have it determined.

Attorney Campbell questioned were we should place it looking at Section 2 there are some specifics. Councilman Drozdziel suggested a place where the Board Members can look that reminds them to check off and not forget the areas needed for consideration. Attorney Campbell stated that this is a starting place.

Councilman Drozdziel asked if it's easier to change the Design Criteria or this proposed Local Law. Attorney Campbell answered, yes, the Design Criteria is easier.

MRB Engineer David Willard spoke about requirements that are written such as setbacks, boundaries survey by a license survey, etc.

Design Criteria is for what we are building and what others are building. We need a place to make changes when they are needed as we learn. We may want to make further amendments to the Code as changes happen every day. We have no framework. Somethings maybe changed by local law or Design Criteria.

DISCUSSION – LOCAL LAW T-5A-2018 continued

Councilman Harrington questioned if changes are made does that affect the solar that has already been developed. Attorney Campbell responded stating that new laws would not require something that is built to be changed, but any new applications would adhere to what is in effect at the time.

Visitor Falzoi questioned if this law passes tonight and someone entertains “A lease to option”, does that count as an invested in the community. Attorney Campbell stated they do not fall into this to be grandfathered. At the time approval is granted the rules apply. We should assume if someone makes a request under an application that makes investments then they have a vested interest.

Attorney Campbell stated in this proposed local law, you can have a maximum of 25 acres per parcel without restriction of soil type.

Visitor Falzoi asked if there have been discussions with the Fire Chief such as broken panels as they still generate electricity and when mixed with water they will conduct.

Councilman Drozdziel questioned how does passing this law benefit the Town of Avon?

Supervisor LeFeber stated that it gives the opportunity to people that own property, a way to supplement their income to keep them able to pay their taxes and live in Avon. We have had someone that owns property and is nearing the age of retirement and he could possible make an arrangement with a provider and supplement his income and be able to stay in his home. He could use his property to generate more dollars than renting it out to an agricultural producer. It gives opportunity to a person that has a farming operation that has some prime soil that, the topography or other characteristic of the soil may not allow them to farm profitably. It could allow them to enhance their income, generating their ability to remain in Avon, to pay their taxes run a business and employ people. That is why he is in support. It's a change in the field; we have resources and use the resources to remain stable. Livingston County Planning Board prime soils you would need to BAN solar. There is a balance to own property.

Councilman Drozdziel stated the Town has some flexibility in a PILOT program. Attorney Campbell stated that you can tax up until the full value but you cannot go over that.

Supervisor LeFeber reported of a company that our Attorney responded to regarding coming into our community with a solar project. We need to work with the Assessor to come up with an idea on how you would like to structure a PILOT. Right now we need to value the development and determine if it's exempt and/or tax fully. Attorney Campbell responded stating that we have received a notification from Helios Energy, LLC they will be shortly entering into an interconnection agreement and making an initial deposit with National Grid, the location is 500 Rochester Street. He also reported that he responded to the notification as required by Real Property Tax Law Section 487.

DISCUSSION – LOCAL LAW T-5A-2018 continued

The notification needs to be completed within sixty days. Attorney Campbell stated that discussions with the Assessor and Board to take place regarding the PILOT.

Supervisor LeFeber shared his thoughts stating this is the same as the Event Barns. The barns were not able to continue to be used as farming operations so the owners asked for a different use and we adopted a local law to make it safe and healthy. It's working with citizens and property owners, while protecting our citizens to allow them to advance and be sustainable.

Discussion continued on what can be done for the other community members to help them become more sustainable. Councilman Drozdziel responded stating that having a stable tax base is a benefit to everyone.

RESOLUTION #168 ADOPTING THE FINDINGS MADE IN PART II – IDENTIFICATION OF POTENTIAL PROJECT IMPACTS

On motion of Councilman Harrington, seconded by Deputy Supervisor Mairs the following resolution was
ADOPTED AYES 5 NAYS 0

RESOLVE to adopt the findings made in Part II of the Full Environmental Assessment Form, identification of potential project impacts.

Vote of the Board: Councilman Drozdziel - Aye, Councilman Harrington - Aye, Councilman Coyne - Aye, Deputy Supervisor Mairs - Aye, Supervisor LeFeber – Aye

RESOLUTION #169 DECLARE NEGATIVE FINDINGS

On motion of Councilman Harrington, seconded by Councilman Coyne the following resolution was
ADOPTED AYES 5 NAYS 0

RESOLVE to declare that this project will result in no significant adverse impacts on the environment, and, therefore, an environmental impact statement need not be prepared.

Vote of the Board: Councilman Drozdziel - Aye, Councilman Harrington - Aye, Councilman Coyne - Aye, Deputy Supervisor Mairs - Aye, Supervisor LeFeber – Aye

RESOLUTION #170 AUTHORIZE SUPERVISOR TO SIGN AND TOWN CLERK TO REPORT TO THE ENVIRONMENTAL NEWS BULLITEN

On motion of Councilman Coyne, seconded by Councilman Harrington the following resolution was

ADOPTED AYES 5 NAYS 0

RESOLVE to authorize the Supervisor to sign Part 1 of the Full Environmental Assessment Form and to authorize the Town Clerk to post the negative declaration on the Environmental Notice Bulletin.

Vote of the Board: Councilman Drozdziel - Aye, Councilman Harrington - Aye, Councilman Coyne - Aye, Deputy Supervisor Mairs - Aye, Supervisor LeFeber – Aye

DISCUSSION PUBLIC COMMENTS

Visitor Janet Manko stated that if we would open this issue up to the community like you did for the Comprehensive Plan. The Board would be surprised to their conclusions. Assessments just went up again and we do not own twenty-five acres, it's getting costly to live here and what makes a vibrant community is to have people come into our community.

Tom Guzek from Solar Park Energy addressed the Board applauding the work of the committee. This is not about an individual this is for the benefit of the community, solar energy is being used all around the world, this is a great placement for the distributed energy and everyone in this community will have an option to purchase energy. He addressed many of the contributions and thanked Janet and Judy for their input and assured them that this would be a great project for our community. The project will be subject to site plan and require a special use permit. NYSERDA will take a portion of this project's energy and provide free energy to low/moderate income people. Hazard ligations we will provide assistance to educate the fire departments and first responders. As a part of the lease assurance, Solar Park will be providing a bond to remove the equipment and make sure there are no hazards and put the land to its original condition to be farmed in the future. There are a limited amount of locations that have an interconnection that is cost affective. There are many acres that cannot be used. We are thinking about this project to benefit us, our children and our grandchildren. Maps of the proposal were shared for viewing and he stated it will be maintained with the highest degree of effort, pollinators' shrubs that have been approved by the DEC will be planted.

Visitor Falzoi likes the projects with the exceptions of prime soils. The law is 42 square miles and that's the part that she does not understand. Other states that have been in this and we can learn from their experiences and the soil is affected and do not count on this coming back to farming. Limit you risks and you will probably be okay.

DISCUSSION PUBLIC COMMENTS-continued

Code Enforcement Officer Glise asked two questions regarding maximum land coverage with an accessory structure in our Town Code if this proposed local law is approved as follows:

The first regarding secondary structure requirement is one percent.

The second regarding no secondary structure shall be constructed on a plot of land without a primary structure.

Attorney Campbell responded stating this is a primary structure in this instance. For that portion it's the primary use.

Supervisor LeFeber thanked everyone for their comments.

RESOLUTION #171 CLOSE PUBLIC HEARING LOCAL LAW T-5A-2018

On motion of Deputy Supervisor Mairs, seconded by Councilman Harrington the following resolution was
ADOPTED AYES 5 NAYS 0

RESOLVE to close the public hearing on Local Law T-5A-2018.

Vote of the Board: Councilman Drozdziel - Aye, Councilman Harrington - Aye, Councilman Coyne - Aye, Deputy Supervisor Mairs - Aye, Supervisor LeFeber – Aye

DISCUSSION – PROPOSED LOCAL LAW 5A-2018

Attorney Campbell shared the local law process including the required supermajority vote that is needed as the Livingston County Planning Board did not approve the proposed local law.

Councilman Coyne thanked the community members that were involved in the development of the local law with their assistance they helped us get to where we are today and he is in favor of the proposed local law.

Councilman Harrington and Deputy Supervisor Mairs stated that they are in favor of the proposed local law.

Supervisor LeFeber is also in favor of the proposed local law and he agreed to thank those that took part to get us where we are tonight.

Councilman Coyne stated that each proposal will be reviewed by other Boards.

DISCUSSION – PROPOSED LOCAL LAW 5A-2018-continued

Attorney Campbell stated this is a part of New York State Government and this is the beginning and we can learn as we move forward.

Councilman Drozdziel questioned the procedural process, applications are made and it goes to the Planning Board and does it come back to the Town Board? Attorney Campbell responded stating that the applicant would apply to the Code Enforcement Department and approvals would need to come from the Planning Board and Board of Assessment Review.

RESOLUTION #172 ADOPT THE LOCAL LAW

On motion of Deputy Supervisor Mairs, seconded by Councilman Harrington the following resolution was
ADOPTED AYES 5 NAYS 0

RESOLVE to adopt the following local law.

TOWN OF AVON
LOCAL LAW NO. 3 OF THE YEAR 2018

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

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

Article XV shall be added to the Zoning Chapter (Chapter 130) of the code of the Town of Avon and shall be entitled “Solar Energy Systems” and shall read as follows;

§130-78. Authority and Legislative Intent.

The Town Board of the Town of Avon states the following as its findings and legislative intent:

- A. This Zoning for Solar Energy Law is adopted pursuant to New York State Town Law §§261, 263 and 264, which authorize the Town of Avon to adopt zoning provisions that advance and protect the health, safety, and welfare of the community.
- B. The Town Board of the Town of Avon recognizes that solar energy is a clean, readily available and renewable energy source and the Town of Avon intends to accommodate the use of solar energy systems.
- C. However, the Town Board finds it is necessary to properly site and regulate solar energy systems within the boundaries of the Town of Avon

to protect residential uses, business areas and other land uses, to preserve the overall beauty, nature and character of the Town of Avon, to promote the effective and efficient use of solar energy resources, and to protect the health, safety and general welfare of the citizens of the Town of Avon.

- D. Prior to the adoption of this Article, no specific procedures existed to address the regulation and siting of solar energy systems. Accordingly, the Town Board finds that the promulgation of this Article is necessary to direct the location, size and construction of these systems.
- E. In addition, the Town Board believes it to be necessary to regulate and govern the proper and timely removal of solar energy systems upon such systems becoming non-functional or when they are no longer being utilized.

§130-79. Definitions.

The following definitions shall apply to this Article:

Applicant - The person or entity submitting an application and seeking an approval under this Article; the owner of a Solar Energy System or a proposed Solar Energy System project; the operator of Solar Energy System or a proposed Solar Energy System project; any person acting on behalf of an Applicant, Solar Energy System or proposed Solar Energy System. Whenever the term “applicant” or “owner” or “operator” are used in this Article, said term shall include any person acting as an applicant, owner or operator.

Building-Integrated Solar Energy System - A combination of photovoltaic building components integrated into any building envelope system such as vertical facades including glass and other facade material, semitransparent skylight systems, roofing materials, and shading over windows.

Building-Mounted Solar Energy System - Any Solar Energy System that is affixed to the side(s) or rear of a Building or other Structure either directly or by means of support structures or other mounting devices, but not including those mounted to the roof or top surface of a Building.

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

Ground-Mounted Solar Energy System - Any Solar Energy System that is affixed to the ground either directly or by support Structures or other mounting devices where such Structure and mounting exists solely to support the Solar Energy System.

Roof-Mounted Solar Energy System - A Solar Energy System mounted on the roof of any legally permitted Building or Structure and wholly contained within the limits of the roof surface.

Solar Panel - A photovoltaic device capable of collecting and converting solar energy into electrical energy.

Solar Energy Equipment - Electrical energy storage devices, material, hardware, inverters, or other electrical equipment and conduit that are used with Solar Panels to produce and distribute electricity.

Solar Energy System - An electrical energy generating system composed of a combination of both Solar Panels and Solar Energy Equipment.

Type 1 Solar Energy System – A Ground-Mounted Solar Energy System intended to produce energy for onsite consumption or credit for onsite consumption for a building, single-family residence, multi-family residence, business or farm. Said system shall be considered an Accessory Use (as defined in §130-5) and an accessory Structure, designed and intended to generate electricity solely for use on the premises, potentially for multiple tenants, through a distribution system that is not available to the public.

Type 2 Solar Energy System – A Ground-Mounted Solar Energy System intended to produce energy for offsite sale to and consumption by one or more customers.

§130-80. Zoning districts where allowed. Subject to the provisions of this Article, Solar Energy Systems shall be allowed as follows:

- A. Building Integrated Solar Energy Systems are allowed in all zoning districts upon issuance of a building permit based on special application materials supplied by the Town Building and Code Department.
- B. Building-Mounted Solar Energy Systems are allowed in all zoning districts upon issuance of a building permit based on special application materials supplied by the Town Building and Code Department.
- C. Rooftop-Mounted and Building-Mounted Solar Energy Systems are permitted in all zoning districts, subject to the following:
 - (1) The placement, construction and major modification of Roof-Mounted Solar Energy Systems shall only be permitted upon issuance of building permit (pursuant to §130-45 C) based on special application materials supplied by the Town Building and Code Department.

- (2) Height. Roof-Mounted Solar Energy Systems shall not exceed the maximum height restrictions within the zoning district they are located. Roof-Mounted Solar Energy Systems shall not benefit from height exemptions as set forth in §130-32.
 - (3) Design standards. Roof-Mounted Solar Energy System installations shall comply with the following design criteria:
 - (a) Solar Panels facing the front yard must be mounted at the same angle as the roof's surface with a maximum distance of 18 inches between the roof and highest edge of the system.
 - (b) No part of a Roof-Mounted Solar Energy System shall extend above, beyond, or below the edge of the roof it is mounted to. Additionally, the Code Enforcement Officer may require, at his/ her sole discretion, a minimum three (3) foot wide center walkway for safety access purposes.
 - (c) If feasible, Solar Energy Equipment shall be installed inside walls and attic spaces to reduce their visual impact.
 - (d) If feasible, Solar Panels affixed to a flat roof shall be placed below the line of sight from a public right of way
 - (4) Roof-Mounted Solar Energy Systems shall be exempt from site plan review under the local zoning code or other land use regulations, excepting the requirement to obtain a building permit pursuant to §130-45 C.
- D. Type 1 Solar Energy Systems are allowed as accessory uses and/or structures in all zoning districts except Planned Unit Development and Planned Development Districts. Type 1 Solar Energy Systems which are to be located in a Planned Unit Development must comply with the requirements of §130-17 and Type 1 Solar Energy Systems which are to be located in Planned Development Districts must comply with the requirements of §130-18, before the same are permitted.
- (1) The placement, construction and major modification of Type 1 Solar Energy Systems shall only be permitted upon issuance of building permit (pursuant to §130-45C) based on special application materials supplied by the Town Building and Code Department.
 - (2) Height. Type 1 Solar Energy Systems shall not exceed fifteen (15) feet at the highest point when oriented at maximum tilt.

- (3) Setbacks. Type 1 Solar Energy Systems setbacks shall be twice the standard setbacks for Accessory Buildings or Structures within the zoning district it is located, but in no event shall any such setback be less than twenty (20) feet.
 - (4) Coverage. Type 1 Solar Energy Systems ground coverage shall not exceed the allowable total surface or area coverage for Accessory Buildings or Structures within the zoning district in which it is located and in no event shall the combination of all Accessory Buildings and Structures located on the premises exceed 20% coverage of the entire area of such parcel. For purposes of this provision, coverage shall be calculated based upon the total surface area of the Solar Panels at minimum tilt.
 - (5) All Type 1 Solar Energy Systems located in One-Family Residential Districts (R-1), One- and Two-Family Residential Districts (R-2), Multiple-Family Residential Districts (R-3), Limited Residential Districts (LR) and Residential Hamlet Mixed Use Districts (RH-M) shall be installed in the side or rear yard.
 - (6) All applications for Type 1 Solar Energy Systems for businesses or farms, to the extent permitted by law, shall be subject to Site Plan review pursuant to §130-45 E. Applications for Type 1 Solar Energy Systems for use on residential parcels may be subject to Site Plan review at the sole discretion of the Code Enforcement Officer.
 - (7) Pursuant to 6 NYCRR 617.5, Type 1 Solar Energy Systems to be used on residential parcels shall be deemed to be Type 2 Actions for purposes of review under the New York State Environmental Quality Review Act (16 NYCRR 617). All other Type 1 Solar Energy Systems shall be deemed to be Unlisted Actions pursuant to the New York State Environmental Quality Review Act.
- E. Type 2 Solar Energy Systems are permitted only in Agricultural Districts (A) and are subject to the requirements set forth in this Section, including Site Plan approval pursuant to §130-45 E, and are allowed only after the issuance of a Special Use Permit pursuant to §130-35. Applications for the installation of a Type 2 Solar Energy System shall be reviewed by the Zoning Enforcement Officer and referred, with comments, to the Town of Avon Planning Board (for Site Plan) and the Town of Avon Zoning Board of Appeals (for Special Use Permit) for their review and action, which can include approval, approval on conditions, or denial.
- (1) Special Use Permit Application Requirements. For a Special Use Permit application, the Applicant shall submit the Site Plan application provided to the Planning Board, any information required by §130-35 and the following documents and information:
 - (a) If the property of the proposed project is to be leased, proof of legal consent between all parties, specifying the use(s) of

the land for the duration of the project, including easements and other agreements.

- (b) Plans and drawings for the Type 2 Solar Energy System signed by a Professional Engineer showing the proposed layout of the solar energy system along with providing a description of all components, existing vegetation, any proposed clearing and grading of the lot(s) involved, any anticipated or possible storm water or erosion disturbances, and utility lines (both above and below ground) on the site and adjacent to the site.
- (c) Submitted plans and drawings shall show all property lot lines and the location and dimensions of all existing Buildings or Structures and uses on any parcel within 500 feet of the outer perimeter of the Solar Energy System.
- (d) Equipment specification sheets shall be provided for all Solar Panels, significant components, mounting systems, and inverters that are to be installed.
- (e) A Property Operation and Maintenance Plan which describes all ongoing or periodic maintenance of the Solar Energy System and property upkeep, such as mowing and trimming.
- (f) Clearing, grading, storm water and erosion control plan. Applicant shall submit an engineered Storm Water and Erosion Control Plan to the Town of Avon Engineer for its review and approval which shall demonstrate that post development runoff, storm drainage and erosion will not be negatively impacted by placement of the Type 2 Solar Energy System on the site.
- (g) Any such additional information as may be required by the Town's professional engineer or consultant, Town of Avon Planning Board, Town of Avon Zoning Board of Appeals, Town Attorney or Code Enforcement Officer.
- (h) Decommissioning Plan. To ensure the proper removal of Type 2 Solar Energy Systems after such improvements are no longer reasonably operable or have been abandoned, a Decommissioning Plan shall be submitted as part of the application. The Decommissioning Plan must specify that after the Type 2 Solar Energy System is no longer operational or has been abandoned, it shall be removed by the Applicant or any subsequent owner of the improvements.

The plan shall demonstrate how the removal of all infrastructure and the remediation of soil and vegetation shall be conducted to return the parcel to its original state prior to construction. The plan shall also include an expected timeline for execution and a cost estimate detailing the projected cost of executing the Decommissioning Plan, which is to be prepared by a Professional Engineer or reputable contractor. Cost estimations shall take into account inflation and shall be based on the operating life expectancy of the system.

- i. Prior to obtaining a building permit, the Applicant must provide an irrevocable financial security bond (or other form of surety acceptable to the Town of Avon at its discretion) for the removal of the Type 2 Solar Energy System, with Avon as the designated assignee/beneficiary, in an amount approved by the Planning Board which is equal to 110% of the estimated removal cost. The bond or surety shall provide for an annual increase in the amount of the surety to compensate for the cost of inflation or any other anticipated increase in costs of removal. Each year after a Type 2 Solar Energy System has been constructed, and no later than ten (10) days prior to the anniversary date of the issuance of the building permit for such system, the then owner/permit holder for the system shall provide the Town of Avon with written confirmation that the required financial security bond (or other form of surety) is still operable and valid and that such surety has been properly increased to account for inflation or any other anticipated increase in costs of removal as provided for above.

(2) Special Use Permit and Site Plan Approval Standards.

- (a) Height. Type 2 Solar Energy Systems shall adhere to the height requirements of the underlying zoning district.
- (b) Setbacks. Type 2 Solar Energy Systems shall be sited to create a front setback of no less than 200 feet from public roadways and setbacks of 100 feet from all side and rear property lines. In addition, no Type 2 Solar Energy System shall be located closer than 300 feet from any residential structure located on another parcel.

- (c) Lot/Parcel Size. Type 2 Solar Energy Systems shall be located on parcels with a minimum lot size of 25 acres.
- (d) Lot/Parcel Coverage. Type 2 Solar Energy Systems shall not exceed 25 acres of coverage on parcels that are 40 acres or more in size. On parcels that are less than 40 acres in size, Type 2 Solar Energy Systems coverage shall not exceed 60% of the total parcel size. The coverage area shall be determined by the area covered by the perimeter of the Solar Energy System at minimum tilt.
- (e) Fencing and Screening. All Type 2 Solar Energy Systems shall be enclosed by fencing to prevent unauthorized access. Warning signs with the owner's contact information shall be placed and maintained on the entrance and perimeter of the fencing. The fencing and the system may be required to be further screened by landscaping to avoid adverse aesthetic impacts. The Planning Board shall provide for enhanced screening and buffering for Type 2 Solar Energy Systems that are placed adjacent to residentially zoned areas or abut a public road.
- (f) Number of Type 2 Solar Energy Systems allowed per Lot. Only one Type 2 Solar Energy System shall be allowed per lot or parcel, regardless of lot size.
- (g) Recent Subdivision of Lot/Parcel. In order to prevent circumvention of the size and coverage restrictions set forth above, when considering such restrictions, the Zoning Board of Appeals shall consider the lot or parcel to be the largest configuration of the physical area where the Type 2 Solar Energy System is being proposed that has existed as a separate lot or parcel (with its own Tax Identifier Map Parcel Number) in the official tax records of the Town of Avon within the five (5) years immediately preceding the application seeking approval for such Type 2 Solar Energy System. This provision is specifically intended to prevent and owner of land from subdividing such land into smaller parcels that would permit siting of multiple Type 2 Solar Energy Systems on what would have otherwise been a lot or parcel that was restricted to one Type 2 Solar Energy System that would not exceed 25 acres of coverage.
- (h) Vegetation and Habitat. Type 2 Solar Energy System owners/developers shall develop, implement and maintain native vegetation to the extent practicable pursuant to a vegetation management plan by providing native perennial

vegetation and foraging habitat beneficial to game birds, songbirds and pollinators. To the extent practicable, when establishing perennial vegetation and beneficial foraging habitat, owners/developers shall use native plant species and seed mixes.

- (i) Any Type 2 Solar Energy System shall be accessible for all emergency service vehicles and personnel.
- (j) After completion of a Type 2 Solar Energy System, the Applicant shall provide a post- construction certificate from a Professional Engineer registered in New York State that the project complies with all applicable codes and industry practices and has been constructed and is operating according to the design plans.
- (k) Compliance with regulatory agencies. The Applicant is required to obtain all necessary regulatory approvals and permits from all federal, state, county and local agencies having jurisdiction and approval powers related to the completion of a Type 2 Solar Energy System.
- (l) Any application under this Section shall meet substantive Site Plan requirements in §130-45E that, in the judgment of the Avon Town Planning Board, are applicable to the system being proposed.
- (m) The Planning Board shall be required to hold a public hearing relating to Site Plan for any Type 2 Solar Energy System.
- (n) Prior to determination or issuance of any permit, all Type 2 Solar Energy System applications shall be subject to review pursuant to the New York State Environmental Quality Review Act (16 NYCRR 617). The Avon Planning Board and the Avon Zoning Board of Appeals shall conduct a coordinated review.
- (o) The development and operation of a Type 2 Solar Energy System shall not have a significant adverse impact on fish, wildlife or plant species or their critical habitats, or other significant habitats identified by the Town of Avon or other federal or state regulatory agencies. The Avon Town Planning Board and the Avon Zoning Board of Appeals may impose conditions on its approval of any Site Plan or Special Use Permit under this Article to enforce the standards referred to in this Article or to discharge its

obligations under the State Environmental Quality Review Act.

- (p) Time limit on completion. After receiving Site Plan approval and Special Use Permit approval of a Type 2 Solar Energy System, an Applicant shall obtain a Building Permit within six (6) months of such approvals or the approvals shall automatically terminate and be deemed null and void. Additionally, the Applicant shall complete construction of an approved (Site Plan and Special Use Permit) Type 2 Solar Energy System within twelve (12) months of obtaining such approvals or the approvals shall automatically terminate and be deemed null and void and be of no force an effect at law.
- (q) General complaint process. During construction, the Code Enforcement Officer can issue a stop work order at any time for any violations of a Special Use Permit approval or condition, Site Plan approval or condition or Building Permit. After construction is complete, the permit holder of a Type 2 Solar Energy System shall establish a contact person, including name and telephone number for receipt of any complaint concerning any permit, approval, maintenance, or operational requirements.
- (r) Inspections. Upon reasonable notice, the Town of Avon Code Enforcement Officer, or his or her designee, may enter a Lot on which a Solar Energy System has been approved for the purpose of determining compliance with any requirements or conditions of this Article or any approval given or permit issued pursuant to this Article. Twenty-four (24) hours' notice by telephone to the owner/operator or designated contact person shall be deemed reasonable notice. Furthermore, a Type 2 Solar Energy System shall be inspected by a New York State licensed Professional Engineer that has been approved by the Town of Avon at any time upon a determination by the Town' s Code Enforcement Officer that damage to such system may have occurred, and a copy of the written inspection report shall be submitted to the Code Enforcement Officer. Any fee or expense associated with this inspection shall be borne entirely by the permit holder and shall be reimbursed to the Town of Avon within thirty 30 days after delivery to the permit holder of an invoice substantiating such charges. Any failure to pay such reimbursable charges may result in revocation of any Special Use Permit granted. The Town of Avon reserves the right to levy all such un-reimbursed

expenses onto the real property tax bill associated with the real property upon which the Solar Energy System is located.

§130-81. General regulations. The placement, construction and major modification of all Solar Energy Systems within the boundaries of the Town of Avon shall be permitted only as follows:

- A. Any inconsistent provisions of the Code of the Town of Avon which purport to or may be interpreted to allow Solar Energy Systems in other districts are hereby superseded.
- B. All Solar Energy Systems existing on the effective date of this Article shall be “grand fathered” and allowed to continue as they presently exist. Routine maintenance (including replacement with a new system of like construction and size) shall be permitted on such existing systems. New construction other than routine maintenance on pre-existing systems shall comply with the requirements of this Article.
- C. No Solar Energy System shall hereafter be used, erected, moved, reconstructed, changed or altered except in conformity with these regulations.
- D. Any applications (including variance applications) pending for Solar Energy Systems on the effective date of this article shall be subject to the provisions of this Article.
- E. This Article shall take precedence over any inconsistent provisions of the Zoning regulations contained within the Code of the Town of Avon.
- F. The owners or developers of all Type 2 Solar Energy Systems shall be required to enter into a contract with the Town for payments in lieu of taxes pursuant to Real Property Tax Law §487 9.(a). Upon the owner or developer providing written notification to the Town of its intent to construct a Type 2 Solar Energy System, the Town Assessor on behalf of the taxing jurisdiction shall notify such owner or developer in writing within sixty (60) days of its intent to require a contract for payments in lieu of taxes.
 - (1) In no event shall such payment in lieu of tax agreement operate for a period of more than fifteen (15) years, commencing in each instance from the date on which the benefits of such exemption first become available and effective under Real Property Tax Law §487.
 - (2) In no event shall such payment in lieu of tax agreement require annual payments in an amount that would exceed the amount that

would otherwise be payable but for the exemption under Real Property Tax Law §487.

§130-82. Abandonment and Decommissioning.

- A. If the use of an approved Solar Energy System is discontinued, the owner or operator shall provide written notice to the Code Enforcement Officer within thirty (30) days of such discontinuance. In any case, Solar Energy Systems are considered inoperative and abandoned after 90 days without electrical energy generation which is consumed onsite (or credit for onsite consumption is received) for Type 1 Solar Energy Systems or without production of energy and offsite sale to and consumption by one or more customers for Type 2 Solar Energy Systems.
- B. Determination of Abandonment or Inoperability. A determination of the abandonment or inoperability of a Solar Energy System shall be made by the Town Code Enforcement Officer, who shall provide the permit holder/owner with written notice by personal service or certified mail. Any appeal by the permit holder/owner of the Code Enforcement Officer's determination of abandonment or inoperability shall be filed with the Town of Avon Zoning Board of Appeals within thirty (30) days of the Code Enforcement Officer causing personal service or mailing certified mail his written determination upon the permit holder/owner and the Board shall hold a hearing on same. The filing of an appeal does not stay the following time frame unless the Zoning Board of Appeals or a court of competent jurisdiction grants a stay or reverses said determination. At the earlier of the 91 days from the date of determination of abandonment or inoperability without reactivation or upon completion of dismantling and removal, any approvals and/or permits granted or issued for the Solar Energy System shall automatically expire.
- C. Removal. All Solar Energy Systems (and related infrastructure) shall be dismantled and removed immediately from a Lot where the Special Use Permit or Site Plan approval has been revoked by the Town of Avon Zoning Board of Appeals or the Town Planning Board respectively, or if the Solar Energy System has been deemed by the Code Enforcement Officer to be inoperative or abandoned for a period of more than 90 days and the Lot shall be restored to its pre-development condition. The responsibility to dismantle and remove and all such costs of removal shall be the sole responsibility of the permit holder, owner of the Solar Energy System and/or the owner of the property on which such Solar Energy System is located. If the permit holder, system owner or owner of the property does not dismantle and remove said Solar Energy System as required, the Town Board may, after a hearing at which the permit

holder/owner and property owner shall be given an opportunity to be heard and present evidence, dismantle and remove said facility and levy all related expenses associated with the removal onto the real property tax bill associated with the property upon which the Solar Energy System was located, regardless of who the permit holder is/was.

- (1) Removal of all Type 2 Solar Energy Systems shall be in accordance with the Decommissioning Plan required by §130-80 E (1) (h) i above. In the event that Applicant, the then owner of the Type 2 Solar Energy System, or the property owner fails to remove all equipment, infrastructure or appurtenances thereto, the Town shall be permitted at its sole discretion to utilize the financial security bond (or other form of surety) provided for in the Decommissioning Plan or to exercise its right after notice as provided for above, to dismantle and remove said facility and levy all related expenses associated with the removal onto the real property tax bill associated with the property upon which the Solar Energy System was located, regardless of who the permit holder is/was.

§130-83. Revocation.

If the Applicant violates any of the conditions of its Special Use Permit, Site Plan approval or violates any other local, state or federal laws, rules or regulations, such violation shall be grounds for revocation of the Special Use Permit or Site Plan Approval. Revocation may occur after the applicant is notified in writing of the violations and the Town of Avon Zoning Board of Appeals holds a hearing on same as provided for herein.

§130-84. Interpretation; conflict with other law.

In its interpretation and application, the provisions of this Article shall be held to be minimum requirements, adopted for the promotion of the public health, safety and general welfare. This Article is not intended to interfere with, abrogate or annul other rules, regulations or laws, provided that whenever the requirements of this Article are at a variance with the requirements of any other lawfully adopted regulations, rules or laws, the most restrictive, or those which impose the highest standards shall govern.

§130-85. Severability.

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

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

Vote of the Board: Councilman Drozdziel - Aye, Councilman Harrington - Aye, Councilman Coyne - Aye, Deputy Supervisor Mairs - Aye, Supervisor LeFeber – Aye

RESOLUTION #173 PAYMENT OF BILLS

On motion of Deputy Supervisor Mairs, seconded by Supervisor LeFeber the following resolution was

ADOPTED AYES 5 NAYS 0

RESOLVE to accept for payment Abstract 2018-17 in the following amounts:

Concerning ABSTRACT of Claims Number 2018-17 including claims as follows:

General Fund	Voucher #390 through #433 in amounts totaling \$68,508.53
Highway Fund	Voucher #127 through #139 in amounts totaling \$16,661.36
Water Fund	Voucher #290 through #300 in amounts totaling \$62,074.33
Cemetery Fund	No Voucher
Opera Block Capital Improvement	No Voucher
Royal Springs Lighting	Voucher #9 through #9 in amounts totaling \$983.50
Cross Roads Drainage District	No Voucher
Bruckel Drainage District	No Voucher
Royal Springs Drainage	No Voucher
Town Of Avon Fire Protection	No Voucher
Rte. 39 Water SW2	No Voucher

Vote of the Board: Councilman Drozdziel - Aye, Councilman Harrington - Aye, Councilman Coyne - Aye, Deputy Supervisor Mairs - Aye, Supervisor LeFeber – Aye

RESOLUTION #174 RECEIVED MONTHLY REPORTS FROM THE TOWN CLERK AND SUPERVISOR

On motion of Deputy Supervisor Mairs, seconded by Councilman Coyne the following resolution was

ADOPTED AYES 5 NAYS 0

RESOLVE to accept the monthly reports for August 2018 from the Town Supervisor and from the Town Clerk as shown below:

Town Clerk's August 2018 Report:

<u>Total Local Shares Remitted:</u>	<u>\$ 1,557.45</u>
<u>New York State Department of Health</u>	<u>\$ 135.00</u>
<u>NYS Ag. & Markets for spay/neuter program</u>	<u>\$ 41.00</u>
<u>NYS Environmental Conservation</u>	<u>\$ 1,225.54</u>
<u>TOTAL</u>	<u>\$ 4,523.23</u>

Vote of the Board: Councilman Drozdziel - Aye, Councilman Harrington - Aye, Councilman Coyne - Aye, Deputy Supervisor Mairs - Aye, Supervisor LeFeber – Aye

RESOLUTION #175 ACCEPT RESIGNATION OF HEATHER BURKE

On motion of Deputy Supervisor Mairs, seconded by Councilman Harrington the following resolution was
ADOPTED AYES 5 NAYS 0

RESOLVE to accept the resignation of Heather Burke from the Avon Recreation Board.

Vote of the Board: Councilman Drozdziel - Aye, Councilman Harrington - Aye, Councilman Coyne - Aye, Deputy Supervisor Mairs - Aye, Supervisor LeFeber – Aye

RESOLUTION #176 AMEND COMPENSATION SCHEDULE

On motion of Supervisor LeFeber, seconded by Councilman Coyne the following resolution was
ADOPTED AYES 5 NAYS 0

RESOLVE to amend the 2018 Compensation Schedule removing:

Burke, Heather Youth Recreation Board Member Part Time* \$40/month

Vote of the Board: Councilman Drozdziel - Aye, Councilman Harrington - Aye, Councilman Coyne - Aye, Deputy Supervisor Mairs - Aye, Supervisor LeFeber – Aye

DISCUSSION – ATTORNEY REPORT

Attorney Campbell reported on the following:

- Solar notice – Anyone that the Town receives notice to develop a solar project the Attorney needs to be notified to respond. If we do not respond within the required time the developer would not be required to enter into a PILOT. It was also discussed again that the Assessor and Board should meet to discuss a PILOT.
- IDA has been working on that so there might be a PILOT model to consider.

- The easements for Quickly have been executed and signed. Finish the dedication and will file with the county and then complete the dedication.
- Monday the 17th a lot on the agenda with the joint Planning and Zoning Board of Appeals. The items on the agenda were discussed.

DISCUSSION – ENGINEER REPORT

MRB Group Engineer David Willard reported on the following:

- Letter and concept plan for the Papermill Park with the change in gears. We might have grant money from Senator Young so the plan has been expanded. She has asked for an item list of things we can do. The timing is to be patient. The scope has changed and we can change if needed. Historian Kingston, Councilman Coyne, Supervisor LeFeber and Engineer Willard met with Senator Young to discuss the project. Councilman Drozdziel questioned the twenty-five percent fees list. It was explained that the fee includes engineering, survey, attorney, and town's administration.
- Highway solar project will start within the next couple of days.

DISCUSSION – CODE DEPARTMENT

Code Enforcement Officer (CEO) Glise provided the following report:

- It was questioned if the Code Enforcement Officer should attend the County Planning Board Meetings. The recommendation was to attend one to get the feel for how they run.
- The Wi-Fi password for guests was shared.

DISCUSSION – HIGHWAY/WATER DEPARMENTS

Supervisor LeFeber reported on the following:

- Highway: Normal activities.
- Water: Normal activities, reminder letters of the reconciliations will be mailed tomorrow as we are closing in on the discounted rates. Those unpaid water charges will be re-levied on the 2020 Town & County tax bills.

DISCUSSION – TOWN CLERK REPORT

Town Clerk Knight reported on the following:

- Communications were received and forwarded to the Town Board via email:

- Livingston County Traffic Safety Board Minutes of June 2018.
- Livingston County Planning Department – Watershed Education Center Year in Review
- Livingston County Planning Board – Preliminary Agenda

Deputy Town Clerk Zapf is on vacation and I will be attending a meeting on Monday morning and again on Tuesday morning. The office will be closed during these two times. I will be attending an IIMC Athenian Leadership Dialogue this Saturday afternoon in Canandaigua. Deputy Supervisor Mairs questioned with Deputy Town Clerk Zapf would be back from vacation. Town Clerk Knight replied the 1st of October.

DISCUSSION - SUPERVISOR REPORT

Supervisor LeFeber reported the following:

He attended a Village Board Meeting on Monday and they discussed the ambulance. Our next Joint Meeting would be the 8th of November with agenda items to include the ambulance and the back parking lot.

Right to Farm will be discussed at a future meeting.

DISCUSSION - BUDGET

Discussion continued regarding expanding the Town Clerk Office hours to include Wednesday afternoon.

Town Clerk Knight spoke of prior salary increases and the reduction in her family insurance due to age and federal insurance requirements. A thank you was extended for the Town Board for allowing her to purchase the health care for her spouse. There was a lot of careful thought about the Board's request and she wanted to be sure that the five Board Members who decides the salary understands what the responsibilities of the Town Clerk's Office and what I bring to the position. The following offerings were shared:

- Mentorship – Livingston County Town Clerk's Association held all offices.
New York State Town Clerk's Association held positions of
Regional Director and several Committees' as a Member and
Chair.
New York State Tax Receivers and Collectors as a Regional
Director and Membership Chair

Now it seems that I am mentoring the Mentors.

- New Employees – mentor
- International Institute of Municipal Clerk – Certification Municipal Clerk
Master Municipal Clerk
New York State Association of Town Clerk – Register Municipal Clerk
- Knowing how to be a leader – have others make the recommendations.

- Records Management
- New York State Retirement Reporting
- Local law filing
- Town Board Resolutions
- Hundreds of FOIL requests – Moratorium, denied a sitting Town Justice request, one that almost went out the door that DID NOT.
- Complaints – for all departments
- Balance three checking accounts
- Tax Collection – 19 years perfect balancing
- Vital – Birth, Death and Marriage
- Clerk to the Town Board – Do not always get all the information and the public requests that information.
- Assessable Permits
- Elections – Pickup and distribute materials
- Complete voting responsibility on public referendum
- Former Employee Retirement Information – paid by voucher
- Direct visitors to Town offices locations
- Faxes/Copy
- Notary – travel
- Sexton – water plants, empty dehumidifier, front lobbies
- Mail – Accept packages
- DEC – Hunting and Fishing Region 8
- Recognitions of community celebrations
- Office for the Aging
- Help to make Avon what we all want it to be.
- Avon Preservation & Historical Society – Former Membership
- Avon Garden Club
- Mock Town Board Meetings
- Help the people that need help.

Request for two dollar increase per hour in budget proposal, figured additional 200 hours, two percent increase and replace current cost of spouse benefit. Total would bring my salary to \$54,631.92.

Other Towns information was shared Avon, Geneseo, Livonia and N. Dansville including meeting per month, full/part time, open office hours, health benefits, deputy hours, years in position, certification and weighted votes. Additional considerations are the Village Clerk's salary at \$46,800.00 and as well as the population served.

Supervisor LeFeber clarified the Clerk's request and the Deputy Town Clerk's salary at \$27,000.00 would total \$80,000.00 for both Clerks to run the office.

Deputy Supervisor Mairs asked for the number without the health care added.

Councilman Coyne who determines the hours of the Clerk's Office?

Councilman Drozdziel asked what does it take for an additional four hours and does the Board have a say in the number of hours at all?

Councilman Coyne stated that you ran for the office knowing the hourly rate for the office. Taking an average of your salary and the Deputy's to determine cost for additional hours.

Councilman Harrington was looking at an hourly rate of \$21.55 with the increase of \$4,300.00 at your wage for a total of \$44,000.00 without an increase in pay.

Councilmen Drozdziel and Coyne agreed that the Town Clerk made the case that we should be open on Wednesday afternoon.

Councilman Harrington stated we also need to look at the Town Supervisor's salary.

Supervisor LeFeber stated we should not give it to him or maybe even the Councilmembers because the money has to come from somewhere. We do need to give raises because of the minimum hourly wage and some summer employees.

OPEN ITEMS

Supervisor LeFeber stated that we received a letter from Jeanette regarding internet speed and quality. No action was taken at this time.

Councilman Drozdziel provided an update on the light fixtures. A number of lights switched to LED, install new fixtures and what they may look like, and other lights that are under warranty.

The Board approved the quote for solar shades for our front doors and Town Clerk will place the order.

Supervisor LeFeber reported that we still need to have Tim Anderson talk with us about insurance and a tentative budget needs to be completed.

RESOLUTION #177 SPECIAL BUDGET MEETING

On motion of Deputy Supervisor Mairs, seconded by Councilman Harrington the following resolution was

ADOPTED AYES 5 NAYS 0

RESOLVE to request the Town Clerk publish the following legal notice.

TOWN OF AVON
LEGAL NOTICE

RESOLVE that a special budget meeting has been scheduled for Tuesday September 25, 2018 at 6:00 P.M., at the Avon Opera Block/Town Hall Building, 23 Genesee Street Avon, New York 14414 for the purpose of budget discussions and any other business that might come before the Board.

By order of the Town Board
Sharon M. Knight, MMC/RMC, Avon Town Clerk
Dated: September 14, 2018
Publish: September 20, 2018

Vote of the Board: Councilman Drozdziel - Aye, Councilman Harrington - Aye, Councilman Coyne - Aye, Deputy Supervisor Mairs - Aye, Supervisor LeFeber – Aye

On motion of Deputy Supervisor Mairs, seconded by Supervisor LeFeber the meeting was adjourned at 9:00 P.M.

Respectfully submitted by: _____
Sharon M. Knight, MMC/RMC Town Clerk