

Changes to Wheatfield's solar law discussed at public hearing

BY MICHAEL DEPIETRO

On Monday, the Town of Wheatfield held a public hearing regarding proposed changes to its laws related to solar farms and energy systems.

After the town's solar law was first adopted in 2017, one solar farm, a 30-acre, 6.3-megawatt project by Borrego Solar Systems at 2469 Lockport Road, was approved and completed. In the subsequent years since, the town itself has received a number of proposed solar projects while New York state has passed additional solar legislation. Amid the changes came significant pushback from residents unhappy with the proposed areas for these facilities, which often involved land traditionally used for farming.

To address the changes and to address repeated concerns, the town issued a six-month moratorium in January to halt further proposed solar energy facilities while the law was reviewed.

During that time, a Solar Code Update Committee was formed. Wendel Engineering, the town's engineering firm, alongside the town's Zoning/Planning boards, conducted a coordinated review process to evaluate the current law and offer recommended changes.

Walt Garrow, chairman of the Wheatfield Planning Board and vice chairman of the Niagara County Planning Board, called the new law "comprehensively better."

"As we've processed other solar applications, we found issues and we've relayed those issues into this draft," he said. "We've made it a little bit more neighborly friendly and relative to residential proximities as well. ... It's much better, more comprehensive, I would say; probably more rigorous than many other town laws are."

During the hearing, Andrew Reilly, director of planning and environmental services for Wendel, was on hand to summarize some of the proposed changes and field questions.

"One of the important things we did in that law was - a solar law is a zoning law and zoning in New York state must be in accordance with the comprehensive plan. So, we made sure we referenced the town's comprehensive plan and the LWRP, which is your water-front plan. ... We referenced those things and we improved definitions. We decided where and how the solar panel should be allowed," Reilly said.

He explained solar projects in general are now sorted into four tiers: tier 1 - building-mounted solar energy systems; tier 2 - ground-mounted solar energy systems intended to generate electricity primarily for use on said lot through a distribution system that is not available to the general public; tier 3 - large-scale solar energy systems less than 30 acres in size intended to supply energy primarily into a utility grid for sale to the general public; and tier 4 - utility-scale solar energy systems that are 30 acres or more in size and are intended to supply energy into a utility grid for sale to the general public.

In response to resident Julie Otto's questions about enforcement, Garrow and Town Inspector Mike Klock said the new law has more "teeth" to it.

They explained that, traditionally, the Planning Board conducts an annual review process wherein it

reviews the application to look for any violations or deficiencies. Per the new law, stipulations will also be outlined in the special use permit, which Reilly explained gives the town attorney the ability to go out and help with code enforcement. From there, the owner will be given a set amount of time to rectify the issue. Noncompliance can result in the termination of the permit and the site shut down.

Reilly said the committee ultimately identified a number of known issues that were observed with the first solar project on Lockport Road, including what zoning districts solar systems are allowed in, setback requirements, screening and landscaping, post construction and decommissioning, among various others.

To put some of the changes in perspective, Councilman Larry Helwig asked how this new solar law would have changed the Lockport Road project, which has generated headaches in terms of screening and landscaping. Reilly said zoning, setback and landscaping requirements are now such that that project (as it is today) may not have occurred on that piece of property.

"We require the plan to be done by a registered landscape architect. Now, we required the planning to include 8- to 10-foot trees and a mixture of evergreens and shrubs, etc., in a zigzag pattern," he said. "We also require, now, guarantees on those trees and vegetations, that they need to be replaced. And by the way, in your existing law, I believe you (can) go out and have those trees replaced, because anytime landscaping is part of a site plan and approved, it really should be. ... (But) that was a big issue that was discussed by the committee. And the setback requirement. We have setbacks not only if there's a residential structure next door, but there's also setback requirements for different zoning districts that are there. So we also say it's not allowed if you're butting certain districts that you don't want these in. So, not only do you have to have the correct zoning on the property but, if the adjoining property is not zoned for that particular use, you may be restricted from putting it on that site also. So it's very restrictive from that standpoint."

Garrow said Borrego is headed back to the Planning Board next

Wednesday to discuss solutions for screening and landscaping issues.

Otto also questioned whether the 125% bond costs for deconstruction and site remediation are proactive enough to ensure those costs are covered in 20-30 years time, as prices can fluctuate unexpectedly. Garrow explained the mechanism has an annual escalator for 2% and a bond renewal revisiting period to examine costs every five years.

Another resident questioned whether the updates to the new law could be applied to the Lockport Road facility. Town Attorney Matthew Brooks explained they could not, as their application was submitted prior to the moratorium.

"If they're still under the basic framework of that application, which was completely submitted prior to the moratorium and they were exempted from that moratorium, we cannot now make them subject to the moratorium. ... It's a grandfather situation when someone's grandfathered under the prior law," he said. "And if we didn't, when they had a fully completed application and then we pulled the rug out from under them, we'd be subject to a lawsuit and it probably wouldn't go well because there's a certain precedent with municipalities have to follow."

No further action was taken on the matter. The moratorium period is set to expire in August.

•Elsewhere at the meeting, the Town Board approved a 2021 general fund budget transfer in the amount of \$10,000 from a contingency contractual account number to the veterans service contractual account to provide funds for additional concrete work at the Veterans Memorial.

•The board also passed a resolution to abandon the town's interest of a pedestrian right-of-way in the Eagle Chase subdivision, between Colleen Terrace and Niagara Mohawk property. The town determined Rosal homes owns the property in question and there was "no viable reason" the town should maintain a walkway there.

•Finally, a resolution was passed to remove Erik Salisbury as deputy chief constable and to promote Dan Guilhaer to the deputy chief constable effective immediately.

The next Town Board meeting will be at 7 p.m. Monday, Aug. 2.



TNT Chamber of Commerce holds golf tournament



The Chamber of Commerce of the Tonawandas held its annual Golf Classic on June 14 at member location Pendleton Creek Golf Club. Phyllis Gentner was the chairperson. A press release stated, "This event would not be possible without the support of our golf sponsors, chamber member RAC Engineering, Tops Markets and McGirr's, along with all our 2021 corporate sponsors, and Just Signs and Designs for all the wonderful hole sponsor signs and golf banner."

"Our chamber members support is invaluable to our success. We love seeing the regulars every year and the new guests that decided to join us."

Next year's event is June 13 at Pendleton Creek Golf Club. For more information, contact Sarah Nelson at 692-5120. (Photos by Sharif Hamdy)

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Mayor Anne Welch and the Village Board of Trustees would like to send a sincere Thank You to the following individuals, organizations and municipalities who contributed funds and resources toward the Lower Niagara River Region July 4th 2021 Independence Day Fireworks.

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August 20 - Mackenzie Highlanders Pipes and Drums
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NOTE: rain location (if needed) will be the Red Brick gym, 240 Lockport St.
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