

Town of Barre
Board Meeting
May 12, 2021

Present: Supervisor Sean Pogue
Councilman Lynn Hill
Councilman Tom McCabe
Councilman Kerri Richardson
Councilman Margaret Swan

Others present: Maureen Beach, Town Clerk, Lance Mark, Esq., Larry Gaylard, Iva McKenna, George McKenna, Mason Chase, Tanner Taylor, Kaleb Fisher.

Others by Phone: Dale Brooks, Hwy Superintendent
Terresa Bakner, Attorney for AES, Adam Wingard, Dwight Kanyuck.

Meeting was called to order at 7:05pm by Supervisor Pogue with the salute to the flag.

Minutes

The minutes for the April, 2021 Town Board meetings and a Public Hearing were submitted and approved.

SUPERVISOR'S FINANCIAL REPORT

REVENUES: Major receipts were:

Town Clerk Fees	880.00
Justice Fees	3,643.00
Franchise Fees	15,093.58
Sales Tax(1 st Qtr)	18,852.77
Traffic Diversion	4,528.61
Metered Sales	7,506.30
Maintenance Fees	2,613.00
Water Penalty Fees	43.20
Other Revenues	48.37
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Total receipts for the month were: \$53,208.83

EXPENSES:

General Fund Townwide: Year to date expenses are \$185,040.50
Highway Townwide: Year to date expenses are \$303,521.64

HIGHWAY SUPERINTENDENT REPORT

Water: Samples acquired, readings completed, equipment repairs completed as required, ground stumps from tree removals, all stake outs completed. Shared services with Orleans County DPW, Village of Albion Cemetery. Began summer hrs. 4-10 hour days. Safety training for Dig Safe compliancy, performed Fire Flow testing (no results yet). Began mowing parks, fire hall, town hall, Barre Signs, and cemeteries. Summer help has started. Placed shoulder material on Angevine Road, still plowing snow and salting as of April 22, 2021. Wet weather has hindered us greatly with mowing and hot patching.

TOWN CLERK'S REPORT

The monthly report was submitted to Supervisor Pogue at the meeting, along with the check for the local share. The taxes have been balanced and returned to the Orleans County Treasurer's Office.

ASSESSOR'S REPORT

No Report.

ZONING OFFICER'S REPORT

No Report

BILLS

General Funds	\$ 46,907.45
Highway - Town Wide	\$ 10,843.12
Capital Projects	\$ 2,400.00
Special District-Water	\$ 71,998.50
Total Outflow	<u>132,149.07</u>

PAY BILLS

RESOLUTION #32 Pay Bills

Lynn Hill made a motion to approve and pay the bills, seconded by Tom McCabe. Vote 5-1, passed.

BOOKKEEPER'S REPORT

Account	Ending Balance
General Fund	\$272,676.75
Highway Fund	867,684.07
Highway Equip.	98,064.43
Water Dist. #1 Oper,	277,812.67
Water Dist. #2 Oper,	17,697.60
Water Dist. #3 Oper,	12,090.50
Water Dist. #4 Oper,	45,721.89
Water Dist. #5 Oper	52,486.13
Water Dist. #6 Oper.	31,819.24
Water Dist. #7 Oper.	18,075.60
Water Dist. #8 Oper.	37,463.96
Water Dist. #9 Oper.	27,267.71

OLD BUSINESS

Water District #11

Jay Grass discussed the Income Survey for Water District #11. Supervisor Pogue went over the possible map for the proposed Water District #11, water pressure was discussed, a new 2nd tank on Pine Hill Road vs, new larger pumps or a larger tank in Barre Center. Councilwoman Richardson asked how many dead ends that will be removed with this district.

Water District #10

The cost of the equipment has increased, higher than what was budgeted. Town Attorney, Lance Mark, reported that the easements have been filed for Water District #10, and the notice has been sent to Rural Development.

NEW BUSINESS

RESOLUTION #33 Heritage Wind Project PILOT
Lynn Hill made a motion to accept and pass the following Resolution, seconded by Tom McCabe. Vote 4-1, Richardson against. Motion passed.

**RESOLUTION OF TOWN OF BARRE AUTHORIZING THE
NON PROPORTIONAL ALLOCATION OF PAYMENTS IN LIEU
OF REAL ESTATE TAXES (PILOT PAYMENTS) IN
CONNECTION WITH THE HERITAGE WIND ENERGY
PROJECT IN THE TOWN OF BARRE, NEW YORK**

NEW BUSINESS, Con't

RESOLUTION #33 Heritage Wind Project PILOT Con't

WHEREAS, Heritage Wind, LLC (the "Company") has proposed to construct and equip an approximate 184.8 megawatt (MW) wind-powered electric generating project in the Town of Barre, New York (the "Project"); and **WHEREAS**, by letter dated October 12, 2018, the Town of Barre requested that the County of Orleans Industrial Development Agency (COIDA) assist with the development of a payment in lieu of tax (PILOT) agreement for the Project; and **WHEREAS**, in November 2019, the Company submitted a project application to COIDA seeking an abatement of real property taxes for the Project and a PILOT agreement providing for payments to be calculated on a per-megawatt (MW) basis instead of the assessed value of the Project; and **WHEREAS**, in November 2019, the Company submitted a project application to COIDA seeking an abatement of real property taxes for the Project and a PILOT agreement providing for payments to be calculated on a per-megawatt (MW) basis instead of the assessed value of the Project; and **WHEREAS**, COIDA convened and moderated a series of discussions with representatives of the Town of Barre, the County of Orleans, the Albion Central School District and the Oakfield-Alabama Central School District (each an "Affected Tax Jurisdiction" and collectively, the "Affected Tax Jurisdictions") and the Company to develop the terms of an agreement for the Project, by which Company will pay the Affected Tax Jurisdictions Nine Thousand Dollars (\$9000) per megawatt of Project installed capacity ("Base Rate"), of which 75% will be paid to Town of Barre ("Barre Share") and 25% to be shared by the remaining Affected Tax Jurisdictions, as provided herein below ("PILOT Payments"); and **WHEREAS**, Town of Barre anticipates entering into a separate agreement with the Company that will provide specific benefits to Town of Barre, including annual payments from the Company in the amount of the Barre Share (the "Host Community Agreement"); and **WHEREAS**, each of the Affected Tax Jurisdictions desires to consent in writing to a PILOT agreement which does not provide for payments to be allocated among the Affected Tax Jurisdictions in proportion to the amount of real property tax and other taxes which would have been received by each Affected Tax Jurisdiction had the Project not been tax exempt due to the status of COIDA, and under which the County of Orleans, the Albion Central School District and the Oakfield-Alabama Central School District will receive their agreed portions of the PILOT Payments; and **WHEREAS**, in view of the benefits to be received pursuant to the Host Community Agreement, the Town of Barre is willing to waive and relinquish its right to receive PILOT Payments pursuant to the PILOT agreement between COIDA and the Company.

NOW, THEREFORE, TOWN OF BARRE HEREBY RESOLVES AS FOLLOWS:

- Town of Barre hereby consents to the non-proportional allocation of payments in lieu of real estate tax and other taxes pursuant to a PILOT agreement with a Term of twenty-five (25) years, to be entered into between COIDA and the Company in connection with the Project.
- Town of Barre is hereby authorized to execute and deliver a PILOT Allocation Agreement by and among COIDA and each of the Affected Tax Jurisdictions, which agreement shall authorize COIDA to allocate and distribute PILOT Payments received from the Company on a non-proportionate percentage basis as follows:

County of Orleans:	50%
Town of Barre:	0%
Albion CSD:	48.485%
Oakfield-Alabama CSD:	1.515%

NEW BUSINESS, Con't

RESOLUTION #33 Heritage Wind Project PILOT Con't

The amount of such PILOT Payments shall increase at an annual rate of 2% beginning in Year 2 of the payment term of the PILOT Agreement, and at an annual rate of 2.5% beginning in Year 15.

- Town of Barre is hereby authorized to enter into the Host Community Agreement.
- Town of Barre is hereby authorized to take such steps and actions and to execute any and all necessary documents, agreements and/or modifications thereto as may be reasonably necessary to effectuate the purpose and intent of these resolutions.
- These resolutions shall be effective immediately.

RESOLUTION #34 Local Law Compliance Statement to ORES

Kerri Richardson made a motion to authorize the submission of the Local Law Compliance Statement to ORES after review of additional comments from the Town Board meeting this evening. The motion was seconded by Tom McCabe. Vote 5-0, passed.

RESOLUTION #35 Local Law Compliance Statement to ORES

Kerri Richardson made a motion to authorize the submission of the petition based on the non-compliance issues to ORES in regards to the Heritage Wind Project, motion seconded by Margaret Swan. Vote 5-0, passed.

RESOLUTION #36 Post Issuance Tax Compliance

Lynn Hill made a motion to adopt the following Post Issuance Tax Compliance, seconded by Tom McCabe. Vote 4-1, Richardson Abstains.

**RESOLUTION, DATED MAY 12, 2021, OF THE TOWN
BOARD OF THE TOWN OF BARRE, ORLEANS COUNTY,
NEW YORK (THE "TOWN") ADOPTING POST-ISSUANCE
TAX COMPLIANCE PROCEDURES**

WHEREAS, the Internal Revenue Service has issued regulations requiring issuers of tax-exempt obligations to certify on various forms that they actively monitor compliance with federal tax rules following the issuance of such obligations; and WHEREAS, the Town is a periodic issuer of tax-exempt obligations and thus is subject to the aforementioned compliance requirements which are critical for the preservation of the preferential tax status of those obligations; and

NEW BUSINESS, Con't

RESOLUTION #36 Post Issuance Tax Compliance, Con't

WHEREAS, it is therefore in the best interest of the Town to adopt formal written procedures to ensure such compliance and to designate an official responsible for ensuring that such procedures are followed; and WHEREAS, Hodgson Russ LLP, as bond counsel to the Town, has prepared (and has recommended that the Town adopt) post-issuance tax compliance procedures; NOW THEREFORE, BE IT RESOLVED, that the Town hereby adopts the updated post-issuance tax compliance procedures that are attached hereto as "Schedule A" and resolves to be governed thereby; and be it further RESOLVED, that the below Schedule A will be placed in its entirety in the official records, files, and minutes of the Town and adhered to going forward; and be it further RESOLVED, that this resolution shall take effect immediately upon its adoption.

Schedule A

TOWN OF BARRE, ORLEANS COUNTY, NEW YORK
Post-Issuance Tax Compliance Procedures for Tax-Exempt Bonds

and Notes **Statement of Purpose** These Post-Issuance Tax Compliance Procedures (the "Procedures") set forth specific procedures of the **Town of Barre, Orleans County, New York** (the "Issuer") designed to monitor, and ensure compliance with, certain requirements of the Internal Revenue Code of 1986, as amended (the "Code") and the related Treasury regulations, promulgated thereunder (the "Treasury Regulations") in connection with the Issuer's issuance of tax-exempt bonds and notes ("Obligations"). These Procedures describe various systems designed to identify, on a timely basis, facts relevant to demonstrating compliance with the requirements that must be satisfied subsequent to the issuance of Obligations to ensure that the interest on such Obligations is eligible for exclusion from gross income for federal income tax purposes. The federal tax law requirements applicable to the Obligations will be described in the tax questionnaire and/or tax certificate prepared by bond counsel and signed by officials of the Issuer. These Procedures establish a permanent, ongoing structure of practices that will facilitate compliance with the requirements for individual borrowings. To ensure compliance with applicable federal tax requirements, the Issuer must monitor the various direct and indirect uses of proceeds of the obligation and the investment of such proceeds, including but not limited to: (1) Monitoring the use of financed property over the life of the obligation. (2) Determining the sources of debt service payments and security for the obligation. (3) Calculating the percentage of any nonqualified use of the financed property. (4) Calculating the yield on investments of proceeds. (5) Determining appropriate restrictions on investments. (6) Determining the amount of any arbitrage on the investments. (7) Calculating any arbitrage rebate payments that must be paid to the U.S. Treasury. The Issuer recognizes that compliance with the pertinent law is an on-going process, necessary during the entire term of the Obligations. Accordingly, the implementation of the Procedures will require on-going monitoring and consultation with bond counsel and the Issuer's accountants and municipal advisor.

NEW BUSINESS, Con't

RESOLUTION #36 Post Issuance Tax Compliance, Con't

General Procedures The following procedures relate to monitoring post-issuance tax compliance generally.

- A. The **Town Supervisor (currently, Sean P. Pogue, Ed.D.)** (the "Compliance Officer") shall be responsible for monitoring post-issuance tax compliance issues.
- B. The Compliance Officer will coordinate procedures for record retention and review of such records.
- C. All documents and other records relating to Obligations must be maintained by or at the direction of the Compliance Officer. In maintaining such documents and records, the Compliance Officer will comply with applicable Internal Revenue Service ("IRS") requirements, such as those contained in Revenue Procedure 97-22 (see the reference materials presented herewith, referred to herein as "Reference Materials").
- D. The Compliance Officer shall be aware of remedial actions under Section 1.14112 of the Treasury Regulations (see Reference Materials) and the Treasury's TaxExempt Bonds Voluntary Closing Agreement Program (VCAP) and take such corrective action when necessary and appropriate.
- E. The Compliance Officer will review post-issuance tax compliance procedures and systems on a periodic basis, but not less than annually.
- F. The Compliance Officer will be responsible for training any designated officer or employee who is delegated any responsibility for monitoring compliance pursuant to this procedure. To the extent the Compliance Officer needs training or has any questions with respect to any item in this procedure, he or she should contact bond counsel and/or Issuer's accountants and advisors. The IRS recognizes that the Compliance Officer and any delegated individual are not expected to act as lawyers who know the proper response to all compliance situations that may arise, but they should be familiar enough with federal tax issues that they know when to ask for legal or other compliance advice.

Issuance of Obligations: Documents and Records With respect to each issue of Obligations, the Compliance Officer will:

- A. Obtain and store a closing binder and/or CD or other electronic copy of the relevant and customary transaction documents (the "Transcript").
- B. Confirm that the applicable information reports (e.g., Form 8038 series) for such issue are filed timely with the IRS. Issuer should consult with their accountants and/or bond counsel with questions regarding the filing of such forms.
- C. Coordinate receipt and retention of relevant books and records with respect to the investment and expenditure of the proceeds of such Obligations.

NEW BUSINESS, Con't

RESOLUTION #36 Post Issuance Tax Compliance, Con't

Arbitrage The following procedures relate to the monitoring and calculating of arbitrage and compliance with specific arbitrage rules and regulations.

The Compliance Officer will: A. Confirm that a certification of the initial offering prices of the Obligations with such supporting data, if any, required by bond counsel, is included in the Transcript. B. Confirm that a computation of the yield on such issue from the Issuer's municipal advisor or bond counsel (or an outside arbitrage rebate specialist) is contained in the Transcript.. C. Maintain a system for tracking investment earnings on the proceeds of the Obligations. D. Coordinate the tracking of expenditures, including the expenditure of any investment earnings. If the project(s) to be financed with the proceeds of the Obligations will be funded with multiple sources of funds, confirm that the Issuer has adopted an accounting methodology that maintains each source of financing separately and monitors the actual expenditure of proceeds of the Obligations. E. Maintain a procedure for the allocation of proceeds of the issue and investment earnings to expenditures, including the reimbursement of pre-issuance expenditures. This procedure shall include an examination of the expenditures made with proceeds of the Obligations within 18 months after each project financed by the Obligations is placed in service and, if necessary, a reallocation of expenditures in accordance with Section 1.148-6(d) of the Treasury Regulations (see Reference Materials). F. Monitor compliance with the applicable "temporary period" (as defined in the Code and Treasury Regulations) exceptions for the expenditure of proceeds of the issue, and provide for yield restriction on the investment of such proceeds if such exceptions are not satisfied. G. Ensure that investments acquired with proceeds of such issue are purchased at fair market value. In determining whether an investment is purchased at fair market value, any applicable Treasury Regulation safe harbor may be used. H. Avoid formal or informal creation of funds reasonably expected to be used to pay debt service on such issue without determining in advance whether such funds must be invested at a restricted yield. I. Consult with bond counsel prior to engaging in any post-issuance credit enhancement transactions or investments in guaranteed investment contracts. J. Identify situations in which compliance with applicable yield restrictions depends upon later investments and monitor implementation of any such restrictions. K. Monitor compliance with six-month, 18-month or 2-year spending exceptions to the rebate requirement, as applicable. L. Procure a timely computation of any rebate liability and, if rebate is due, to file a Form 8038-T and to arrange for payment of such rebate liability. M. Arrange for timely computation and payment of "yield reduction payments" (as such term is defined in the Code and Treasury Regulations), if applicable.

Private Activity: Use of Proceeds

The following procedures relate to the monitoring and tracking of private uses and private payments with respect to facilities financed with the Obligations.

NEW BUSINESS, Con't

RESOLUTION #36 Post Issuance Tax Compliance, Con't

The Compliance Officer will: A. Maintain records for determining and tracking facilities financed with specific Obligations and the amount of proceeds spent on each facility. B. Maintain records, which should be consistent with those used for arbitrage purposes, to allocate the proceeds of an issue and investment earnings to expenditures, including the reimbursement of pre-issuance expenditures. C. Maintain records allocating to a project financed with Obligations any funds from other sources that will be used for otherwise non-qualifying costs. D. Monitor the expenditure of proceeds of an issue and investment earnings for qualifying costs. E. Monitor private use of financed facilities to ensure compliance with applicable limitations on such use. Examples of potential private use include: 1. Sale of the facilities, including sale of capacity rights; 2. Lease or sub-lease of the facilities (including leases, easements or use arrangements for areas outside the four walls, e.g., hosting of cell phone towers) or leasehold improvement contracts; 3. Management contracts (in which the Issuer authorizes a third party to operate a facility, e.g., cafeteria) and research contracts; 4. Preference arrangements (in which the Issuer permits a third party preference, such as parking in a public parking lot); 5. Joint-ventures, limited liability companies or partnership arrangements; 6. Output contracts or other contracts for use of utility facilities (including contracts with large utility users); 7. Development agreements which provide for guaranteed payments or property values from a developer; 8. Grants or loans made to private entities, including special assessment agreements; and 9. Naming rights arrangements. Monitoring of private use should include the following: 1. Procedures to review the amount of existing private use on a periodic basis but not less than annually; and 2. Procedures for identifying in advance any new sale, lease or license, management contract, sponsored research arrangement, output or utility contract, development agreement or other arrangement involving private use of financed facilities and for obtaining copies of any sale agreement, lease, license, management contract, research arrangement or other arrangement for review by bond counsel. If the Compliance Officer identifies private use of facilities financed with tax-exempt debt, the Compliance Officer will consult with bond counsel to determine whether private use will adversely affect the tax status of the issue and if so, what remedial action is appropriate. The Compliance Officer should retain all documents related to any of the above potential private uses.

Reissuance

The following procedures relate to compliance with rules and regulations regarding the reissuance of Obligations for federal law purposes. The Compliance Officer will identify and consult with bond counsel regarding any post-issuance change to any terms of an issue of Obligations which could potentially be treated as a reissuance for federal tax purposes.

NEW BUSINESS, Con't

RESOLUTION #36 Post Issuance Tax Compliance, Con't

Record Retention The following procedures relate to retention of records relating to the Obligations issued. The Compliance Officer will: A. Coordinate with staff regarding the records to be maintained by the Issuer to establish and ensure that an issue remains in compliance with applicable federal tax requirements for the life of such issue. B. Coordinate with staff to comply with provisions imposing specific recordkeeping requirements and cause compliance with such provisions, where applicable. C. Coordinate with staff to generally maintain the following: 1. The Transcript relating to the transaction (including any arbitrage or other tax questionnaire, tax regulatory agreement, and the bond counsel opinion); 2. Documentation evidencing expenditure of proceeds of the issue; 3. Documentation regarding the types of facilities financed with the proceeds of an issue, including, but not limited to, whether such facilities are land, buildings or equipment, economic life calculations and information regarding depreciation; 4. Documentation evidencing use of financed property by public and private entities (e.g., copies of leases, management contracts, utility user agreements, developer agreements and research agreements); 5. Documentation evidencing all sources of payment or security for the issue; and 6. Documentation pertaining to any investment of proceeds of the issue (including the purchase and sale of securities, yield calculations for each class of investments, actual investment income received by the investment of proceeds, guaranteed investment contracts, and rebate calculations). D. Coordinate the retention of all records in a manner that ensures their complete access to the IRS. E. Keep all material records for so long as the issue is outstanding (including any refunding), plus seven years.

RESOLUTION #37 Local Law #2 of 2021/Solar Law

Margaret Swan made a motion to pass the following Local Law #2 of 2021, the Town of Barre Solar Law, seconded by Lynn Hill. Vote 4-1, Richardson against. Motion passed.

BE IT ENACTED by the Town Board of the Town of Barre as follows:

Section I: Title.

This Local Law shall be entitled as: “A Local Law Amending the Town Code to Establish a New Article XII Entitled ‘Solar Energy Systems and Facilities’, and to Amend the Schedule of Use Regulations to Provide for those Facilities”.

NEW BUSINESS, Con't

RESOLUTION #37 Local Law #2 of 2021/Solar Law, Con't

Section II: Amendments to Town Code Establishing Article XII

The Town of Barre Town Code is hereby amended to revise and restate Article XII entitled: "Solar Energy Systems and Facilities" as follows:

350-112 Purpose and Intent Solar energy is a renewable and non-polluting energy resource that can prevent fossil fuel emissions and reduce a municipality's energy load. Energy generated from solar energy systems can be used to offset energy demand on the grid where excess solar power is generated. The use of solar energy equipment for the purpose of providing electricity and energy for heating and/or cooling is a priority and is a necessary component of the Town of Barre's current and long-term sustainability agenda. Because it is in the public interest to provide for and encourage renewable energy systems and a sustainable quality of life, the purpose of this law is to facilitate the development and operation of renewable energy systems based on sunlight while minimizing adverse impacts on neighboring properties to protect the public health, safety and welfare

350-113 Definitions As used in this law, the following terms shall have the meanings indicated, unless the context or subject matters require others.

Alternative Energy Systems – Structures, equipment, devices or construction techniques used for the production of heat, light, cooling, electricity or other forms of energy on site and which may be attached to or be separate from the principal structure.

Building-Integrated Photovoltaic (BIPV) Systems – A solar energy system that consists of integrating photovoltaic modules into the building structure, such as the roof or the façade and which does not alter the line of the roof.

Collective Solar – Solar installations owned collectively through subdivision homeowner associations, condominium associations, "adopt-a-solar panel" programs, or other similar collective arrangements.

Farm – For the purposes of this section an agriculture farm is one that has an average of \$10,000 in gross sales and has at least 7 acres of land used to produce livestock, or crops for the preceding two years.

Flush-Mounted Solar Panel – A photovoltaic panel or tile that is installed flush to the surface of a roof and which cannot be angled or raised.

Freestanding or Ground-Mounted Solar Energy System – A solar energy system that is directly installed in the ground and is not attached or affixed to an existing structure. Pole-mounted solar energy systems shall be considered freestanding or ground-mounted solar energy systems for purposes of this chapter.

NEW BUSINESS, Con't

RESOLUTION #37 Local Law #2 of 2021/Solar Law, Con't

Flush-Mounted Solar Panel – A photovoltaic panel or tile that is installed flush to the surface of a roof and which cannot be angled or raised.

Freestanding or Ground-Mounted Solar Energy System – A solar energy system that is directly installed in the ground and is not attached or affixed to an existing structure. Pole-mounted solar energy systems shall be considered freestanding or ground-mounted solar energy systems for purposes of this chapter.

Glare – As defined by NYSERDA in the model solar energy local law: The effect of reflection of light with intensity sufficient as determined in a commercially reasonable manor to cause annoyance, discomfort, or loss of visual performance and visibility in any material respects.

Net Metering – A billing arrangement that allows solar customers to get credit for excess electricity that they generate and deliver back to the public utility grid so that they only pay for their net electricity usage at the end of the month or year.

NYSPE – New York State Professional Engineer

Permit Granting Authority – The Town's Code Enforcement Officer who is charged with granting permits for the operation of solar systems.

Photovoltaic (PVI) System – A solar energy system that produces electricity by the use of semiconductor devices, called photovoltaic cells that generate electricity whenever light strikes them.

Qualified Solar Installer – A person who has skills and knowledge related to the construction and operation of solar electrical equipment and installations and has received safety training on the hazards involved. Persons who are on the list of eligible photovoltaic installers maintained by the New York State Energy Research and Development Authority (NYSERDA), or who are certified as a solar installer by the North American Board of Certified Energy Practitioners (NABCEP), shall be deemed to be qualified solar installers for the purposes of this definition. Persons who are not on NYSERDA's list of eligible installers or NABCEP's list of certified installers may be deemed to be qualified solar installers if the Town's permit granting authority or such other Town Officer or employee as the Town Board designates determines such persons have had adequate training to determine the degree and extent of the hazard and the protective equipment and job planning necessary to perform the installation safely. Such training shall include the proper use of special precautionary techniques and personal protective equipment, as well as the skills and techniques necessary to distinguish exposed parts from other parts of electrical equipment and to determine the nominal voltage of exposed live parts.

NEW BUSINESS, Con't

RESOLUTION #37 Local Law #2 of 2021/Solar Law, Con't

Rooftop or Building Mounted Solar System – A solar power system in which solar panels are mounted on top of the structure of a roof either as a flush-mounted system or as modules fixed to frames which can be tilted toward the south at an optimal angle.

Setback – The required minimum distance from the property line to the nearest part of the structure measured at the right angles to the property line within which a freestanding or ground-mounted solar energy system is installed.

Small-Scale Solar – Refers to solar photovoltaic systems or solar thermal that produce up to 25 Kilowatts (kW) of energy or solar thermal systems which serve the building to which it is attached or one associated on that tax parcel in accordance with section 350-116 and section 350-117 of this law.

Solar Access – Space open to the sun and clear of overhangs or shade, including the orientation of streets and lots to the sun so as to permit the use of active and/or passive solar energy systems on individual properties.

Solar Collector – A solar photovoltaic cell, panel or array, or solar hot air or water collector device which relies upon solar radiation as an energy source for the generation of electricity or transfer of stored heat.

Solar Easement – An easement recorded pursuant to New York Real Property Law §335-b, the purpose of which is to secure the right to receive sunlight across real property of another for continued access to sunlight necessary to operate a solar collector.

Solar Energy Equipment System – Solar collectors, controls, energy storage devices, heat pumps, heat exchangers, and other materials, hardware or equipment necessary to the process by which solar radiation is collected, converted into another form or energy, stored protected from unnecessary dissipation and distributed. Solar systems include solar thermal and photovoltaic. A solar energy system does not include any solar energy system of 32 square foot in size or less.

(USSES) Utility Scale Solar Energy System (USSES)– Energy generation facility or area of land principally used to convert solar energy to electricity, whether by photovoltaics, concentrating solar thermal devices or various experimental solar technologies with the primary purpose of wholesale or retail sales of electricity.

Solar Panel – A device for the direct conversion of solar energy into electricity.

Solar Storage Battery – A device that stores energy from the sun and makes it available in an electrical form.

NEW BUSINESS, Con't

RESOLUTION #37 Local Law #2 of 2021/Solar Law, Con't

Solar Thermal Systems – Solar energy systems that directly heat water or other liquid using sunlight. The heated liquid is used for such purposes as space heating and cooling, domestic hot water and heating pool water.

350-114 Applicability The requirements of this law shall apply to all solar energy systems and equipment installations modified or installed after the effective date of this Local Law.

- Solar energy system installations for which a valid building permit has been issued or, if no building permit is presently required, for which installation has commenced before the effective date of this local law, shall not be required to meet the requirements of this local law. All solar energy systems shall be designed, erected and installed in accordance with all applicable codes, regulations and industry standards as referenced in the New York State Building Code and the Barre Town Code. Solar collectors, unless part of a (USSES) or solar power plant, shall be permitted only to provide power for use by owners, lessee, tenants, residents, or other occupants of the premises on which they are erected, but nothing contained in this provision shall be construed to prohibit collective solar installations or the sale of excess power through a net-billing or net-metering arrangement in accordance with New York Public Service Law §66-j or similar state or federal statute. Notwithstanding any other provision of this Local Law, any solar energy systems installed on a farm and designed to serve only that farm, shall only require a building permit for systems under 50 kW. Agricultural farm-installed solar energy systems of 50 kW or more shall require a building permit and site plan review. This section shall not apply to any premises or property owned or controlled by the Town of Barre which shall be exempt from these solar zoning requirements.

350-115 Permitting and Approvals Required

- Rooftop or building mounted solar systems shall be permitted in all zoning districts pursuant to a solar system building permit granted by the Town's Code Enforcement Officer and subject to the requirements of this article. Freestanding or ground mounted small scale solar energy systems for residential use in all districts are subject to the issuance of a solar system building permit and for systems in excess of 25 kW, a site plan approval by the Planning Board is required. (USSES)s shall be permitted only in the AR District subject to a solar system building permit and a special use permit and a site plan approval by the Town Board with a Planning Board recommendation. Building-Integrated photovoltaic (BIPV) systems are permitted in all zoning districts provided they are shown on the plans submitted for the building permit application for the building containing the system approved by the Town's Code Enforcement Officer.
- Solar thermal systems are permitted in all zoning districts, subject to the conditions set forth hereinafter.

NEW BUSINESS, Con't

RESOLUTION #37 Local Law #2 of 2021/Solar Law, Con't

350-116 Requirements for Rooftop, Building Mounted and Wall Mounted Solar Collectors

- Rooftop and building-mounted solar collectors may exceed the maximum height prescribed for principal or accessory uses for the applicable zoning district, but only extend by 3 feet higher than the finished roof to which it is mounted. The solar array must be set back a minimum of 18 inches from all edges of the rooftop and the top ridge line, to allow for firefighter access to the rooftop area. Fire safety and emergency access – All such installations shall comply with the New York State Uniform Fire Prevention and Building Code (the “State Code”) to insure firefighter and other emergency responder safety and access.

350-117 Requirements for Small Scale Solar Freestanding and Ground-Mounted Solar Collectors

Freestanding and ground-mounted solar collections shall be subject to the following conditions: In all Districts, a lot must have a minimum size of 40,000 square feet for a freestanding or ground-mounted solar collector to be permitted. The location of a ground-mounted or freestanding solar collector shall comply with the setback requirements for accessory buildings, as set forth in the Barre Town Code. No ground-mounted or freestanding solar collectors shall be permitted in the front yard. The height of the solar collector and any mount shall not exceed 20 feet when oriented at a maximum tilt. Ground-mounted and freestanding solar collectors shall be screened as much as possible and practicable from adjoining lots and street rights-of-way through the use of architectural features, earth berms, landscaping, fencing or other screening which will harmonize with the character of the property and surrounding area. The proposed screening shall not, however, interfere with the normal operation of the solar collectors. Solar energy equipment shall be located in a manner to reasonably minimize blockage of sunlight for surrounding properties and shading of property to the north while still providing adequate solar access for collectors. Solar energy equipment shall not be sited within any required buffer areas. The total surface area of all ground-mounted and freestanding solar collectors on a lot shall not exceed the area of the ground covered by the building structure of the largest building on the lot measured from the exterior walls, excluding patios, decks and balconies, screened and open porches and attached garages. Installations on non-residential properties exceeding the size may be approved by the Town Board, with recommendation of the Planning Board, subject to site plan review pursuant to Article X of the Barre Town Code. subject to site plan review pursuant to Article X of the Barre Town Code. The area beneath ground-mounted and freestanding solar collectors shall be included in calculating whether the lot meets maximum permitted lot building coverage and lot surface coverage requirements for the applicable district, notwithstanding that the collectors are not “buildings”. The installation of ground-mounted and freestanding solar collectors shall be considered a development or development activity. Solar thermal systems shall comply with the following conditions:

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for the installation of solar thermal systems. Ground-mounted and freestanding solar thermal systems shall be subject to the same requirements set forth in subsection 350-117(A) above for ground-mounted and freestanding solar collectors. All solar energy systems and equipment shall be permitted only if they are determined by the Town Code Enforcement Officer not to present any unreasonable safety risks including, but not limited to, the following: Weight load.

Wind resistance. Ingress or egress in the event of fire or another emergency. Prevention of glare. All solar collectors and related equipment shall be surfaced, designed and sited so as not to reflect glare onto adjacent properties.

350-118 Safety

- All solar collector installations must be performed by a qualified solar installer. Prior to operation, electrical connections must be inspected by the Town's Code Enforcement Officer and by an appropriate electrical inspection person or agency, as determined by the Town. Any connection to the public utility grid must be inspected by the appropriate public utility. Solar energy systems shall be maintained in good working order. Rooftop and building-mounted solar collectors shall meet New York's Uniform Fire Prevention and Building Code standards. If solar storage batteries are included as part of the solar collector system, they must be placed in a secure container or enclosure meeting the requirements of the New York State Uniform Fire Prevention and Building Code (the "State Code") when in use and when no longer used shall be disposed of in accordance with the laws and regulations of the Town and other applicable laws and regulations.
- If a small-scale solar collector ceases to perform its originally intended function for more than 12 consecutive months, the property owner shall remove the collector mount and associated equipment by no later than 90 days after the end of the twelve-month period.
 - Marking of equipment: Solar emergency systems and equipment shall be marked in order to provide emergency responders with appropriate warning and guidance with respect to isolating the solar electric system. Materials used for marking shall be weather resistant. For residential applications, the marking may be placed within the main service disconnect. If the main service disconnect is operable with the service panel closed, then the marking should be placed on the outside cover.
 - For commercial application, the marking shall be placed adjacent to the main service disconnect in a location clearly visible from the location where the lever is operated.

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- In the event any of the standards in this Subsection “H” for markings are more stringent than applicable provisions of the New York State Uniform Fire Prevention and Building Code (the “State Code”), they shall be deemed to be guidelines only and the standards of the State Code shall apply.

350-119 Utility Scale Solar Energy Systems (USSES)s

(USSES)s shall be permitted in the AR District as an “electrical generating” use subject to special permit and site plan review by the Town Board. (USSES)s shall be subject, but not limited to, the following supplementary regulations in addition to the requirements of 350-117 of this Chapter:

- (USSES)s shall be enclosed by perimeter fencing to restrict unauthorized access at a height of 7 feet. However, the Town Board shall have the discretion to vary or eliminate this requirement where appropriate.
- (USSES)s and solar power plants shall have a maximum lot coverage of 75%.
- The manufacturers and installer’s identification and appropriate warning signage and emergency contact information shall be posted at the site and clearly visible.
- (USSES)s shall be inspected by a New York State licensed professional engineer prior to obtaining a certificate of operation. Each (USSES) shall be inspected annually, or at any time that the Town Building Inspector has determined that damage may have occurred, by an NYSPE and a copy of the inspection report shall be submitted to the Town Building Inspector.
- (USSES) buildings and accessory structures shall, to the extent reasonably possible, use materials, colors and textures that will blend the facility into the existing environment.
- Appropriate landscaping and/or screening materials may be required to help screen the (USSES) solar. The average height of the solar panel arrays shall not exceed 12 feet measured from the base of the solar array rack to the top of the solar panel array rack. However, the Town Board shall have the authority to increase the average height of the solar panel array rack up to an additional 8 feet as necessary to accomplish the purposes they are intended to serve. Such determination shall be made with consideration of the subject property’s natural and vegetative buffers, and proximity to residential and/or commercial uses etc.
- Artificial lighting of (USSES) facilities shall be limited to lighting required for safety and operational purposes and shall be shielded from all neighboring properties and public roads.
- Setbacks: Any (USSES) shall adhere to the following setbacks measured to any solar dedicated structure.

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- From any property lot lines: A minimum of fifty (50) feet from any property line.
 - From buildings or structures not on the lot proposed for the solar energy system:
 - A minimum of two hundred and fifty (250) feet.
 - A minimum of two hundred and fifty (250) feet setback from any non-participating dwellings and other inhabited buildings.
 - From buildings or structures on the lot proposed for the solar system: A minimum of one hundred (100) feet from any building, structure or dwelling.
 - From public roads: A minimum of one hundred twenty (120) feet from any public road (measured from the center of the road).
 - From schools, public parks: A minimum of five hundred (500) feet from all property lot lines bordering a school or public park.
 - Where there are two or more contiguous parcels that have a (USSES) lease agreement, setback requirements shall not apply for contiguous property lines between such parcels.
-
- (USSES) and solar power plant panels and equipment shall be surfaced, designed and sited so as not to reflect glare onto adjacent properties and roadways.
 - On-site power lines shall be placed underground.
 - All applications for (USSES)s shall be accompanied by a decommissioning plan to be implemented upon abandonment, or cessation of activity, or in conjunction with the removal of the structure, which shall be reviewed and approved by the Town Board and its consultants.
 - The following requirements shall be met for decommissioning:
 - (USSES)s which have been inactive for a period of one year shall be removed at the owners' or operators' expense within six (6) months of the date of expiration of the one-year period All above ground and below ground equipment, conduits, structures, fencing and foundations shall be removed from the site to a depth of at least three (3) feet below grade.
 - All above ground and below ground equipment, conduits, structures, fencing and foundations shall be removed from the site to a depth of at least three (3) feet below grade.
 - The site shall be restored to as natural a condition as possible within six (6) months of the removal of all equipment, structures, and foundations. Such restoration shall include, where appropriate, restoration of the surface grade and soil after removal of all equipment and re-vegetation of restored soil areas with native seed mixes.

Decommissioning costs shall be determined by an independent professional engineer during the application for the (USSES). The Town Board shall, as a condition of approval, require the posting of a removal bond of the USSES). For the life of the utility-scale solar energy system, the applicant or its successors or assigns, shall

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continuously maintain a bond or other appropriate form of financial security that is acceptable to the Town and payable to the Town. The bond shall be maintained during the life of the project at 125% of the decommissioning cost. The value of the bond shall be renewed annually and increasing by 2.5% for inflation. The bond shall be reviewed and re-determined every five (5) years with a minimum value of 125% of the estimated decommissioning cost.

- All expenses or costs of establishing or maintaining financial assurance shall be borne solely by the applicant, or its successors or assigns. The Applicant shall provide proof of compliance with the bond requirement upon request of the Town. The Decommissioning Plan shall be reduced to a Decommissioning Agreement between the Town and applicant/operator.

350-120 Penalties for Offenses

Violations of this section are subject to a maximum fine of \$250 per day, each day of violation is a separate offense.

350-121 Appeals

- If a person is found to be in violation of the provisions of this article, appeals may be made to the Zoning Board of Appeals in accordance with the established procedures and time limits of the Town of Barre Code and New York State Town Law.
- If a building permit for a solar energy device is denied based upon a failure to meet requirements of this law, the applicant may seek relief from the Zoning Board of Appeals in accordance with the established procedures and time limits of the Town of Barre Code and New York State Town Law.

350-122 Building Permit Fees for Solar Panels

The fees for all building permits required pursuant to this article shall be paid at the time of each building permit application pursuant to the Fee Schedule of the Town of Barre.

Section III; Town of Barre Schedule of Use Regulations

The Town of Barre Schedule of Use Regulations contained in the Town Code is hereby amended as follows:

The list of permitted uses is hereby amended to provide for “rooftop or building mounted solar systems”, as permitted use in all zoning districts.

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- The list of permitted uses is hereby amended to provide for “small scale solar free-standing or ground-mounted solar energy systems”, as permitted uses in all zoning districts subject to site plan approval by the Planning Board.
- The list of residential uses is hereby amended to provide for “small scale solar free-standing or ground-mounted solar energy systems”, as permitted uses in all zoning districts.
- The list of permitted uses is hereby amended to provide for (USSES)s, as a permitted use subject to a special use permit and site plan approval by the Town Board with recommendation of the Planning Board.
- The list of permitted uses is hereby amended to provide for solar thermal systems, as permitted uses in all zoning districts.
- District uses are hereby amended to add six notes at the end of the section reading as follows:

Note 1 – “Rooftop or building mounted solar systems shall be permitted in all zoning districts pursuant to a solar system building permit granted by the Town’s Code Enforcement Officer, in accordance with the provisions of Article XII of the Town of Barre Code.”

Note 2 – “Free-standing or ground mounted solar energy systems shall be permitted in all zoning districts subject to the issuance of a solar system building permit and site plan approval by the Planning Board pursuant to the provisions of Article XII of the Code.”

Note 3 – Special use permits for USSES are issued to developers or the land owner and are non-transferrable.

Note 4 – “(USSES)s shall be permitted only in an A/R District subject to a solar system building permit and a Special Use Permit and Site Plan approval by the Town Board with recommendation of the Planning Board, pursuant to the provisions of “Article XII of the Code.”

Note 5 – “Building integrated photovoltaic (BIPV) systems are permitted in all zoning districts provided they are shown on the plans submitted for the building permit application for the building containing this system approved by the Town’s Code Enforcement Officer in accordance with the provisions of Article XII of the Code.”

Note 6 – “Solar thermal systems are permitted in all zoning districts subject to the provisions of Article XII of the Code.”

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Section IV: Supersession

This local law is hereby adopted pursuant to the provisions of RPTL ~487, ~10 of the New York State Municipal Home Rule Law and ~10 of the New York State Statute of Local Governments. It is the intent of the Town Board to supersede any provisions of the New York State Law to the extent that they may be inconsistent with the provisions of this Local Law.

Section V: Effective Date

This local law shall take effect immediately upon filing in the Office of the New York State Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.

350-122 Tax Exemption

The town hereby exercises its right to opt out of the tax exemption provisions of the Real Property Tax Law § 487, pursuant to the authority granted by Subdivision 8 of that law.

350-123 Host Agreement

The applicant for a (USSES) shall enter into a Host Community Agreement with the Town. The applicant or its successors shall be required to pay the Town a Host Community Fee annually to compensate the Town for expenses or impacts on the additional agreements with the applicant as may be necessary to protect the Towns and its citizens interest (E.G., separate road use and maintenance agreement or decommissioning agreement). The Host Community Fee shall be in addition to any payment in lieu of taxes which may be authorized to be collected by the Town pursuant to Section 487 of the Real Property Tax Law of the State of New York. The amount of the Host Community Fee will be determined by the Town Board from time to time but not more frequently than annually.

350-124 Engineering and Legal Costs

The Town shall require any applicant to enter into as Escrow Agreement to pay the engineering environmental review and legal costs of any application review, including but not limited to the review required by SEQRA. All such fees shall be negotiated and determined prior to the approval and issuance of a Special Use Permit for an (USSES).

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Baird Solar Project

The Barre Town Board reviewed the SEQR requirements for the Baird project.

RESOLUTION #38 Baird Solar Project/SEQR

Tom McCabe made a motion to declare a Negative Declaration for the SEQR process regarding the Baird Solar Project, the motion was seconded by Lynn Hill. Vote 5-0, passed.

COMMITTEES

Planning Board

The Town of Barre Planning Board has been discussing battery storage.

Barre Town Park

The park committee will hold an auction on June 19, 2021 at 4:00pm. To raise funds needed to provide electricity to the park.

COMMUNICATIONS

Old American flags – The Barre Betterment Committee has placed a box in the vestibule of the Barre Town Hall for the disposal of any old, worn American flags. The Boy Scouts will properly dispose of these flags.

Kerri Richardson made a motion the town boards members receive the agenda and financial reports one week prior to the board meeting. There was no second. Motion failed.

Lynn Hill made a motion to adjourn the Town Board meeting, seconded by Tom McCabe.

Meeting Adjourned at 9:40pm.

Respectfully submitted,

Maureen Beach, Town Clerk

