

**REGULAR MEETING  
SHELDON TOWN BOARD  
September 16, 2020**

The Regular Meeting of the Sheldon Town Board held September 16, 2020 at the Sheldon Town Hall, 1380 Centerline Rd., Strykersville, NY 14145 was called to order by Town Supervisor Brian Becker at 7:30 p.m. The meeting took place in the highway bay as to allow room for social distancing due to the COVID-19 pandemic.

Present: Supervisor Brian Becker  
Councilmen: Mike Armbrust, Vince Kirsch, Joe Meyer, Jim Fontaine  
Recording Secretary: Town Clerk Carol Zittel  
Also present: Highway Supt. Dave Ricketson, Resident Mary McNall, Resident Jim Perl

**Minutes**

A motion was made by Vince Kirsch and seconded by Jim Fontaine that the minutes from the August 19, 2020 regular meeting be approved.

Ayes: (5) Becker, Armbrust, Kirsch, Fontaine, Meyer      Nays: (0)      Motion Carried.

**Communications**

The Town Clerk, Carol Zittel, reported on the following:

**NYS Department of Taxation – 2019 Full Aid Certification**

The Town received a congratulations letter from the NYS Dept. of Taxation & Finance commending the Town Assessor for “maintaining a system of real property tax administration that meets the highest standards set by the State.” The Town will receive a voucher in the amount of \$4,458.25 from the Office of the State Comptroller.

**Delaware River Solar**

A letter was received from Delaware River Solar regarding a possible solar farm in Sheldon.

**Reports**

The Town Supervisor financial reports, cash flow reports, Town Clerk August report and Town Justice August reports were distributed.

**Highway Superintendent Report**

Highway Superintendent David Ricketson reported on the following:

**Patching & Shimming**

The Department has been busy patching and shimming Town roads.

**New 10-Wheeler Truck**

The new truck was slated to arrive yesterday but no notification has been received yet. Once it arrives it has to go to Marquart to get equipped. The Superintendent expects one to two months before the Department has possession of the truck.

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**Sand – Gernatt**

The Department will be purchasing sand from Gernatt this year.

**CHIPS Funding**

Supt. Ricketson reported that CHIP funding may be cut by 20% this year.

**Purchase of New Pickup Truck**

There was a short discussion on whether the Town should purchase a new pickup truck for the Highway Superintendent this year. The Board tabled discussion until the next board meeting.

**Advertising Old Plow for Sale**

The Board had a short discussion on whether the old snow plow should be listed for sale before the new truck arrives. The Board tabled the issue until October. The Board would like to open bids on the sale of the old plow at the November meeting.

**Supervisor’s Report**

Supervisor Becker reported the following:

**Senator Gallivan Meeting**

Senator Gallivan met Supervisor Becker at the Town Hall this month. Supervisor Becker thanked him for his assistance in obtaining funding for the salt building (\$75,000) and for aiding the Town in addressing the Route 98 road erosion.

**Wyoming County Board of Supervisors – Change in Chairperson**

Supervisor Jerry Davis stepped down from his duties as County Chairman. He had only been in the position since January 2<sup>nd</sup>. A new Chairperson will be appointed tomorrow.

**Acceptance of Reports**

A motion was made by Jim Fontaine and seconded by Vince Kirsch to accept all reports as presented.

Ayes: (5) Becker, Armbrust, Kirsch, Fontaine, Meyer      Nays: (0)      Motion Carried.

**Old Business:**

**Open Public Hearing – Local Law – Regulating Solar Energy Systems in the Town of Sheldon**

At 8:00 p.m. a motion was made by Jim Fontaine and seconded by Mike Armbrust to open the public hearing on “Local Law – Regulating Solar Energy Systems in the Town of Sheldon.”

Ayes: (5) Becker, Armbrust, Kirsch, Fontaine, Meyer      Nays: (0)      Motion Carried.

**Open Public Hearing – Local Law – Regulating Battery Energy Storage Systems in the Town of Sheldon**

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At 8:00 p.m. a motion was made by Jim Fontaine and seconded by Mike Armbrust to open the public hearing on “Local Law – Regulating Battery Energy Storage Systems in the Town of Sheldon.”

Ayes: (5) Becker, Armbrust, Kirsch, Fontaine, Meyer      Nays: (0)      Motion Carried.

**Common Energy – Electric Supplier**

Mary McNall was present at tonight’s meeting representing the company Common Energy. Ms. McNall informed the Board that she expects the Town to save approximately \$428 year if they make the switch to Common Energy as electric supplier. Supervisor Becker stated that he needs to first speak with Town Bookkeeper Katie Chmura and will have Attorney David DiMatteo draw up paperwork if the Board decides to proceed with this program.

**North Java Fire District Expansion**

The Board met at the North Java fire hall on September 15, 2020 and voted to approve the dissolution of the North Java Fire Protection District and the extension of North Java Fire District. A set of minutes for that meeting will be prepared.

**Tax Override Law**

The Town Board received a copy of the proposed Local Law to Override the Tax Cap. At the October meeting they will schedule a public hearing for the proposed law.

**New Business:**

**Snow & Ice Contract – Wyoming County Highway**

A motion was made by Mike Armbrust and seconded by Vince Kirsch to reject the County snow & ice contract as presented. Supervisor Becker will inform the County.

Ayes: (5) Becker, Armbrust, Kirsch, Fontaine, Meyer      Nays: (0)      Motion Carried.

**Form Sub-Committee Judicial Agreement with the Town of Wethersfield**

A motion was made by Vince Kirsch and seconded by Jim Fontaine to appoint a four-person sub-committee on the proposed judicial agreement with the Town of Wethersfield. The committee will consist of Laura Kirsch, Donna Almeter, Brian Becker and Mike Armbrust.

Ayes: (5) Becker, Armbrust, Kirsch, Fontaine, Meyer      Nays: (0)      Motion Carried.

**Bills:**

Supervisor Becker confirmed that the Board had a chance to review the abstracts.

A motion was made by Jim Fontaine and seconded by Joe Meyer that the General Bills #174 to #198 for a Total of \$12,534.73, the Highway Bills #124 to #134 for a Total of \$23,738.96, the Trust & Agency Bills #28 to #30 for a Total of \$523.66, the Varysburg Water District Bills #43 to #48 for a Total of \$738.67, and the Lighting District Bills for a Total of \$839.70 be paid.

Ayes: (5) Becker, Armbrust, Kirsch, Fontaine, Meyer      Nays: (0)      Motion Carried.

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**Review of Battery Energy Storage Law**

The battery storage law as prepared by the Town Attorney had given permit approval authority to the Town Planning Board. The Town Board requested that the law be amended to state that the Town Board would have the authority to approve permits. There were several times in the law that the planning board was referenced – all references will be changed to the Town Board.

The Town Board also amended another section of the law so that it now requires that notices be sent via registered mail to neighboring property owners at the applicant's expense. Below is the amended section:

Subject to a public hearing to hear all comments for and against the application. The Town Board of the Town of Sheldon shall have a notice printed in a newspaper of general circulation in the Town at least five (5) days in advance of such hearing. The notice shall be mailed by the Town Zoning Officer via registered mail to adjoining landowners or landowners within two hundred (200) feet of the property at least ten (10) days prior to such a hearing. The Applicant shall be responsible for mailing fees of all notices. Proof of mailing shall be provided to the Town Board at the public hearing.

The Town Clerk will request that the Attorney's office make these changes.

**Review of Solar Energy Systems Law**

The Town Board reviewed the solar energy systems law as presented and requested that following changes be made to the setbacks:

Page 10:

#11 a.i. Change setbacks to 150

#11 a.ii. Change wording to say from the nearest road center and change setback to 150 ft.

#11, a.iii. DELETE THIS SECTION

#11, a.iv. Change to a.iii and change setback to 150 ft.

#11, a.v. Change to a.iv. and change setback to 150 ft.

Pages 5 and 6:

11A#1 – 150 ft

11A#2 – change wording to say from the nearest road center and change setback to 150 ft

11A#3 – DELETE THIS SECTION

11A#4 – 150 ft

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11A#5 – 150 ft

11B – 100 ft

11. Setbacks.

a. Large-scale ground-mounted solar energy systems.

i. The setback from the property line for all solar collectors constructed as part of a large-scale ground-mounted solar energy system shall be ~~300-150 feet~~ to the first solar panel.

ii. The setback from the nearest road for all solar collectors constructed as part of a large-scale ground-mounted solar energy system to the first solar panel shall be ~~300~~ 150 feet.

~~iii. The setback from any structure on an adjoining lot for all solar collectors constructed as large-scale ground-mounted solar energy system to the first solar panel shall be 500 feet.~~

~~iv~~iii. The setback from any cemetery for all solar collectors constructed as part of a large-scale ground-mounted solar energy system to the first solar panel shall be ~~300~~ 150 feet from the closest grave site, or proposed grave site.

~~v~~iv. The setback from any park for all solar collectors constructed as part of a large-scale ground-mounted solar energy system to the first solar panel shall be ~~300~~ 150 feet to the boundary of the park.

b. All other setbacks for all solar energy system equipment and components/structures developed as part of a large-scale rooftop-mounted, building-mounted and/or ground-mounted solar energy system not identified above shall be ~~200~~ 100 feet.

11. Setbacks.

a. Utility-scale ground-mounted solar energy systems.

i. The setback from the property line for all solar collectors constructed as part of a utility-scale ground-mounted solar energy system shall be ~~300 feet~~ 150 feet to the first solar panel.

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- ii. The setback from the nearest road **center** for all solar collectors constructed as part of a utility-scale ground-mounted solar energy system to the first solar panel shall be ~~300 feet~~ **150 feet**.
- ~~iii. The setback from any structure on an adjoining lot for all solar collectors constructed as utility scale ground mounted solar energy system to the first solar panel shall be 500 feet.~~
- iii. The setback from any cemetery for all solar collectors constructed as part of a utility-scale ground-mounted solar energy system to the first solar panel shall be ~~300 feet~~ **150 feet** from the closest grave site, or proposed grave site.
- iv. The setback from any park for all solar collectors constructed as part of a utility-scale ground-mounted solar energy system to the first solar panel shall be ~~300 feet~~ **150 feet** to the boundary of the park.

**Close Public Hearing – Local Law – Regulating Solar Energy Systems in the Town of Sheldon**

At 9:05 p.m. a motion was made by Mike Armbrust and seconded by Joe Meyer to close the public hearing on “Local Law – Regulating Solar Energy Systems in the Town of Sheldon.”  
Ayes: (5) Becker, Armbrust, Kirsch, Fontaine, Meyer      Nays: (0)      Motion Carried.

**Close Public Hearing – Local Law – Regulating Battery Energy Storage Systems in the Town of Sheldon**

At 9:05 p.m. a motion was made by Jim Fontaine and seconded by Mike Armbrust to close the public hearing on “Local Law – Regulating Battery Energy Storage Systems in the Town of Sheldon.”  
Ayes: (5) Becker, Armbrust, Kirsch, Fontaine, Meyer      Nays: (0)      Motion Carried.

**Adoption of Local Law – Regulating Solar Energy Systems in the Town of Sheldon**

**WHEREAS**, all Board Members, having due notice of said meeting, and that pursuant to Article 7, §104 of the Public Officers Law, said meeting was open to the general public and due and proper notice of the time and place whereof was given as required by law; and

**WHEREAS**, pursuant to Governor Andrew Cuomo’s Executive Orders put into place in consideration of the COVID-19 pandemic and the guidelines put in place during Phase IV of New York Forward, said meeting was held in accordance with social distancing protocol and face coverings were worn by all Board Members and public attendees; and

**WHEREAS**, the Town Board of the Town of Sheldon is considering a proposed local law, entitled “Regulating Battery Energy Storage Systems”, to regulate Tier 1 and Tier 2 Battery Energy Storage Systems within the Town of Sheldon; and

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**WHEREAS**, the Town of Sheldon recognizes that battery energy storage systems are becoming an integral component to alternative energy sources; and

**WHEREAS**, pursuant to §§239-1 and 239-m of the General Municipal Law, said local law and all supporting documentation, including Part 1 of the FEAF, was submitted to the Wyoming County Planning Board for review at their August 3, 2020, and the following determination was made:

Approval with Comments, said comments being:

- All local County and State permits should be obtained prior to approval.
- All required setbacks must be met.
- The Town is commended for submitting a complete application including all SEQR.
- There appear to be no significant county-wide negative impacts related to this proposed project.

; and

**WHEREAS**, the Town Board did hold a public hearing on the 16th day of September, 2020 to consider the adoption of said local law; and

**WHEREAS**, the Town Board has sought Lead Agency status for the purposes of the State Environmental Quality Review Act (hereinafter “SEQRA”) review of said project, by resolution dated July 15, 2020, and, through a Notice of Intent to Act as Lead Agency, advised the potentially involved or interested agencies; and

**WHEREAS**, the Town Board has received no objections to acting as Lead Agency and has established themselves as SEQR Lead Agency; and

**WHEREAS**, the Town Board has reviewed the EAF, comments and input received from Wyoming County Planning Board, the public, and the Town Attorney and has completed parts 2 and 3 of the full EAF; and

**WHEREAS**, the Town Board, in accordance with SEQRA, has determined that the proposed local law will not adversely affect the natural resources of New York State and/or the health, safety and welfare of the public and is consistent with social and economic considerations and has determined that the proposed local law will result in no significant adverse environmental impacts.

**NOW ON MOTION OF** Mike Armbrust which has been duly seconded by Vince Kirsch, now therefore, be it

**RESOLVED**, that Town Board of the Town of Sheldon hereby issues a Negative

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Declaration and the Supervisor of the Town of Sheldon is hereby authorized to sign Part 3 of the FEAF which will act as the SEQR Negative Declaration; and be it further

**RESOLVED**, that the Town Board of the Town of Sheldon hereby adopts the local law entitled “Regulating Battery Energy Storage Systems”, to regulate Tier 1 and Tier 2 Battery Energy Storage Systems within the Town of Sheldon.

Roll Call Vote:

Ayes: (5) Becker, Armbrust, Kirsch, Fontaine, Meyer      Nays: (0)      Motion Carried.

**Adoption of Local Law – Regulating Battery Energy Storage Systems in the Town of Sheldon**

**WHEREAS**, all Board Members, having due notice of said meeting, and that pursuant to Article 7, §104 of the Public Officers Law, said meeting was open to the general public and due and proper notice of the time and place whereof was given as required by law; and

**WHEREAS**, pursuant to Governor Andrew Cuomo’s Executive Orders put into place in consideration of the COVID-19 pandemic and the guidelines put in place during Phase IV of New York Forward, said meeting was held in accordance with social distancing protocol and face coverings were worn by all Board Members and public attendees; and

**WHEREAS**, the Town Board of the Town of Sheldon is considering a proposed local law, entitled “Regulating Battery Energy Storage Systems”, to regulate Tier 1 and Tier 2 Battery Energy Storage Systems within the Town of Sheldon; and

**WHEREAS**, the Town of Sheldon recognizes that battery energy storage systems are becoming an integral component to alternative energy sources; and

**WHEREAS**, pursuant to §§239-l and 239-m of the General Municipal Law, said local law and all supporting documentation, including Part 1 of the FEAF, was submitted to the Wyoming County Planning Board for review at their August 3, 2020, and the following determination was made:

Approval with Comments, said comments being:

- All local County and State permits should be obtained prior to approval.
- All required setbacks must be met.
- The Town is commended for submitting a complete application including all SEQR.
- There appear to be no significant county-wide negative impacts related to this proposed project.

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; and

**WHEREAS**, the Town Board did hold a public hearing on the 16th day of September, 2020 to consider the adoption of said local law; and

**WHEREAS**, the Town Board has sought Lead Agency status for the purposes of the State Environmental Quality Review Act (hereinafter “SEQRA”) review of said project, by resolution dated July 15, 2020, and, through a Notice of Intent to Act as Lead Agency, advised the potentially involved or interested agencies; and

**WHEREAS**, the Town Board has received no objections to acting as Lead Agency and has established themselves as SEQR Lead Agency; and

**WHEREAS**, the Town Board has reviewed the EAF, comments and input received from Wyoming County Planning Board, the public, and the Town Attorney and has completed parts 2 and 3 of the full EAF; and

**WHEREAS**, the Town Board, in accordance with SEQRA, has determined that the proposed local law will not adversely affect the natural resources of New York State and/or the health, safety and welfare of the public and is consistent with social and economic considerations and has determined that the proposed local law will result in no significant adverse environmental impacts.

**NOW ON MOTION OF** Joe Meyer which has been duly seconded by Vince Kirsch, now therefore, be it

**RESOLVED**, that Town Board of the Town of Sheldon hereby issues a Negative Declaration and the Supervisor of the Town of Sheldon is hereby authorized to sign Part 3 of the FEAF which will act as the SEQR Negative Declaration; and be it further

**RESOLVED**, that the Town Board of the Town of Sheldon hereby adopts the local law entitled “Regulating Battery Energy Storage Systems”, to regulate Tier 1 and Tier 2 Battery Energy Storage Systems within the Town of Sheldon.

Roll Call Vote:

Ayes: (5) Becker, Armbrust, Kirsch, Fontaine, Meyer      Nays: (0)      Motion Carried.

**Comments from the Floor**

There were no comments from the floor.

**Adjournment**

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At 9:09 p.m. a motion was made by Brian Becker and seconded by Jim Fontaine to adjourn the September 16, 2020 meeting of the Sheldon Town Board.

Ayes: (5) Becker, Armbrust, Kirsch, Fontaine, Meyer      Nays: (0)      Motion Carried.