Town of Canton
Regular Board Meeting
Wednesday, April 12, 2023
In Person and Video Conferencing
Minutes

Present:

Mary Ann Ashley	----	Town Supervisor
Jim Smith	----	Council Member
John Taillon	----	Council Member
Bob Santamoor	----	Council Member

Also Present: Town Clerk Heidi L. Smith, Code Enforcement Officer Mike McQuade, Highway Superintendent Steven Smith, Recreation Director Meghan Richardson, Attorney Eric Gustafson, CPA Angela Gray, Solar Attorney Bill Buchan

Absent: Council Member Randy Brown, Assessor Cindy Brand, Historian Linda Casserly, Economic Developer Leigh Rodriguez

Public Attendance: Lance Rudiger, Paul Mitchell North Country This Week, Tom Graser Watertown Daily Times, Rainbow Crabtree, Barbara Lee

Zoom Attendance: Ryan Peters, Barb Rogers, Toby Irven, Kristy Ramkisson, Ryne Martin, Paige Beyer – Barclay Damon, Bhavin Mistry – Algonquin/Liberty

A. Call Meeting to Order/Welcome

Supervisor Ashley called the regular monthly meeting to order at 6:00 pm.

B. St. Lawrence County Chamber of Commerce Consolidation

Ben Dixon, Executive Director of the St. Lawrence County Chamber of Commerce gave updates on the possibility of the consolidation of the Canton, Ogdensburg, Massena and St. Lawrence County Chambers. Some benefits for Canton would be that there will be full-time staffing that would bring multiple skills and talents to the table. The administrative responsibilities will be absorbed by the integrated chamber staff, allowing for more time to work on programming, trainings, marketing, promotion, etc. Canton will still have its identity. Dixon added staying responsive to the needs of the community is important. There will be three representatives from each community on the board and increased coordination and communication between the other ten communities. There will also be a bank account restricted for Canton.

C. Public Comment

None

D. County Legislator Representative(s) Update(s)
None

E. Approval of Minutes
A motion was made by Council Member Bob Santamoor and seconded by Council Member John Taillon to approve the regular meeting minutes from March 3, 2023.
All in favor. Motion carried.

F. Correspondence
Supervisor Ashley stated there was one correspondence from the St. Lawrence County Public Health asking municipalities to consider suitable places within their communities which could serve as cooling centers.

G. Town Finances Report
Angela Gray, Gray & Gray gave a year-to-date financial report for the Town. The report was given to the board prior to the meeting.

Supervisor Ashley stated the 2022 Annual Update Document was submitted to the State. This is a legal document that outlines all the expenditures for the prior year.

Angela Gray reported on the financials for the Town Clerks Office. Angela pointed out that the biggest item is taxes. Clerk Smith and the board were given the financial report prior to the meeting.

H. Audit Committee

"A" General Fund	$85,789.89
"B" Town Outside	$157,953.35
"DA" Town Wide Highway	$33,922.39
"DB" Highway	$9,225.90
"SF" Special Fire	$4,588.83
"SL" Special Lighting	$287.29
"TA" Trust & Agency	$22,549.17

A motion was made by Supervisor Mary Ann Ashley and seconded by Council Member Bob Santamoor for the approval of the April expenditures.
All in favor. Motion carried.

I. Acceptance of Department Reports
Town Clerk Report: Clerk Smith reported that March was a busy month. Smith pointed out that as of March 28th Town and City clerks are now required to issue one day marriage officiant licenses in accordance with Domestic Relations Law. There is a $25.00 fee that is retained in full by the Town. The person applying for the license needs to apply with the same clerk the couple received their marriage license from. Clerk Smith added

that she will be going to NYSTCA Conference April 22nd-26th. The office will be closed during that time.

Highway Report: Highway Superintendent Smith reported it has been a busy month with repairs and maintenance on trucks and equipment. The highway crew has started spring cleanup. The county bid book was issued on 4/6/23 and Smith is working on project pricing for this year's construction. Smith asked the board for approval to put the front loader back on Auction International. The board agreed.

Recreation Report: Recreation Director Richardson reported ice season was extended two weeks. The ice was removed on April 5th with the help from the Town Highway and Village DPW. The recreation staff has started the process of opening the parks and playgrounds for the season.

Code Enforcement Officer Report: Code Officer McQuade reported he issued seven new building permits, two occupancy and three compliance certificates. McQuade attended a tour of the Anerobic Digester at Stauffer Farms and provided the board with information collected. McQuade also provided the board with information from General Code along with a Proposal for Codification Services for the Town.

A motion was made by Council Member John Taillon and seconded by Council Member Bob Santamoor to accept department reports.
All in favor. Motion carried.

J. Committee Reports

Sustainability Committee
Bob Santamoor reported that the committee met on the 4th. Bob also reported that Rainbow and Barb did a great job with the EDF program.

Economic Development Committee
Bob Santamoor reported the Chamber integration was discussed.

Insurance Committee
Mary Ann Ashley reported the committee will meet in May with the Highway Department to discuss possibly changing insurance. The committee also reviewed the liability insurance through NYMIR.

Communication and Technology Committee
John Taillon reported the committee has met with three different website design companies and hopes the committee will have a recommendation at the joint meeting.

Recreation Committee
John Taillon reported the committee is still working on a recreation shared agreement.

John added there is a need for a new lifeguard shed for Taylor Park which is on the agenda for discussion.

Supervisor Ashley moved New Business #4 Board of Assessment Review Appointment up in the agenda.

A motion was made by Supervisor Mary Ann Ashley and seconded by Council Member Bob Santamoor to appoint Lance Rudiger for a five-year appointment (4/12/2023-9/30/2027) on the Board of Assessment Review.
All in favor. Motion carried.

K. Old Business

1. Authorization to Execute Host Community Benefit Agreement with Community Solar Developers

Supervisor Ashley asked Solar Attorney Bill Bucan to give a background on the journey.

See attached narrative.

Supervisor Ashley stated there are six different host community benefit agreements. A roll call vote was done for all agreements.

Council Member Jim Smith asked Bill if all the issues with the access road on the 310 project have been resolved. The original access for the 310 project was not approved by the Highway Superintendent. There are multiple reasons why this access point was not approved. Bill responded that their application was reviewed and approved by the planning board. Code Officer Mike McQuade responded that the new revised site plan for that project has not been signed off on.

Bill will follow up with the developers to get this matter resolved. Bill stated that a permit cannot be issued until this matter is resolved because it is condition in the site plan.

Bill explained the host community benefit agreement is essentially an agreement that each of the developers in the town provide a funding to the town on an annual basis. This is in addition to the PILOT agreement. The funding is the main element of the agreement. The funds can be used for public purposes, the board has the discretion to use the funds as they see fit. There are remedies for breaches.

A motion was made by Council Member Bob Santamoor and seconded by Council Member John Taillon to execute the host community benefit agreements for the six projects.

Council member Jim Smith stated that he does not believe the Town is getting what they deserve, and his biggest concern is the use of the land. Smith stated he is not against solar but thinks that it could be placed more strategically.

Supervisor Ashley stated for the record hadn't we seen this coming five-years ago and put a moratorium in place so that we could study it and create a law. It still would have happened, and the Town wouldn't get any of the benefits. Ashley commended everyone for seeing it coming and all of their hard work.

Roll Call Vote:
Jim Smith - Aye
Bob Santamoor - Aye
Mary Ann Ashley - Aye
John Taillon - Aye
Randy Brown – Absent
All in favor. Motion carried.

Supervisor Ashley moved New Business #1 PILOT Resolutions for solar projects up in the agenda.

Supervisor Ashley stated there are three separate IDA PILOT resolutions.
Bill Buchan stated that PILOT (Payment In Lieu Of Taxes) projects are tax exempt. In making them tax exempt, the state law says you can require a PILOT agreement. PILOT is based on the taxes that they would have otherwise paid. The taxes rates are different for the School, County and Town. Bill mentioned this is also in the narrative.

A motion was made by Council Member John Taillon and seconded by Council Member Bob Santamoor to approve the three resolutions.

Roll call vote:
Jim Smith – Aye
Bob Santamoor – Aye
Mary Ann Ashley – Aye
John Taillon – Aye
Randy Brown – Absent
All in favor. Motion carried.

2. Complete Streets Proposed Law

A motion was made by Council Member Bob Santamoor and seconded by Council Member John Taillon to remove the Complete Streets Proposed Law from agenda.

Supervisor Ashley asked why it is being removed and not tabled. Council Member

Santamoor stated that after reviewing the law it hamstrings the highway superintendent too much.

Roll call vote:
Jim Smith – Aye
Bob Santamoor – Aye
Mary Ann Ashley – No
John Taillon - -Aye
Randy Brown - Absent
Motion carried.

3. **Court Constable Position**
   Supervisor Ashley reported that the courts would like to change the structure for the constable position and contract with the Village of Norwood Police Department. A draft MOU has been sent to Attorney Eric Gustafson and NYMIR for review.

   Attorney Eric Gustafson stated that a written agreement for this type of service is essential.

4. **Confidential Secretary/Bookkeeper Appointment**
   Supervisor Ashley reported that she has appointed a new Confidential Secretary/Bookkeeper. Shelby Bacon and she will start on April 20th.

L. New Business

1. **PILOT Resolutions for solar projects**
   Moved up in the agenda, after old business #1.

2. **Set Special meeting for Part 1 and Part 2 SEQRA Environmental Assessment Amending Chapter 70 Zoning; Repealing Chapter 71 Solar Energy Facilities of the Town of Canton Code; Amending Chapter 9 Planning board of the town of Canton Code; Set Public Hearing on Proposed Zoning Update Law**
   A motion was made by Council Member Bob Santamoor and seconded by Council Member John Taillon to set a special meeting on May 2nd at 6:00 pm for Part 1 and Part 2 SEQRA Environmental Assessment Amending Chapter 70 Zoning; Repealing Chapter 71 Solar Energy Facilities of the Town of Canton Code; Amending Chapter 9 Planning board of the town of Canton Code; Set Public Hearing on Proposed Zoning Update Law.
   All in favor. Motion carried.

3. **2010 Dog Licensing Law**
   Clerk Smith presented to the board that the current dog licensing local law needs to be reviewed. After speaking with Janet Collier from NYS Ag & Market it was determined that our local law be reviewed by the board for updates. One portion of the local law

that needs to be reviewed is services dogs. Services dogs are required to be licensed with the Town, but it is the discretion of the Town Board to charge a few. The owner still needs to pay the surcharge even if the Town decides to waive the Town fee. The other parts of the local law that needed to be reviewed were emailed to the board prior to the meeting.

Attorney Eric Gustafson will review the law local and be in touch with the board.

4. Board Review of Supervisor Office

Council Member Bob Santamoor reported that himself and Council Member John Taillon did the board review for the Supervisor office. Santamoor reported that they were very pleased and there no issues to report. The Supervisor's office does a wonderful job.

5. Board of Assessment Review Appointment

Moved up in the agenda after committee reports.

6. Budget Amendment 64 Main Street Purchase

A motion was made by Council Member Bob Santamoor and seconded by Council Member John Taillon to allow the Town Supervisor to transfer the money for the purchase of 64 Main Street.
All in favor. Motion carried.

7. Rescind Resolution #1-January 16, 2019 Consolidation of Vital Registration Districts between Rensselaer Falls and Town of Canton

Supervisor Ashley reported that the Consolidation of Vital Registration Districts between Rensselaer Falls and Town of Canton was never solidified through the state.

A motion was made by Council Member John Taillon and seconded by Supervisor Mary Ann Ashley to rescind resolution #1-January 16 2019 Consolidation of Vital Registration Districts between Rensselaer Falls and Town of Canton.
All in favor. Motion carried.

8. Approve Purchase of Lifeguard Shed and Trailer

Recreation Director Richardson stated that a new lifeguard shed is needed at Taylor Park. A quote was provided with the monthly report. A trailer/running gear is an added bonus. Richardson followed the Village procurement policy.

Richardson stated that the current shed will be used to store the kayaks.

A motion was made by Council Member John Taillon and seconded by Council Member Bob Santamoor that the Town pay half of the shed in the amount of $2,370.50.

Council Member Jim Smith stated he would make and gift the lifeguard shed. Richardson will supply the schematics to Jim.

Council Member John Taillon rescinded his motion.

M. Public Comment

Barb Rogers (zoom) asked are there any provisions for protections in case of bankruptcy?

Bill Buchan responded yes, there is a decommissioning agreement and a decommissioning bond.

Barbara Lee asked if there was a moratorium, would it have been overridden by the State?

Bill responded that regarding the Rich Rd Solar Project the moratorium for the Town would have no effect. There was a moratorium for community solar that created a pause to craft a local law. Once the local law was passed then the development can be regulated. Council Member Smith added that there was a moratorium that was extended three times before the local law was created.

Barbara Lee asked if SolAmerica has sold the project to Nautilus U.S. Power.

Bill responded that SolAmerica entered into a lease agreement to require the rights to develop the property. It applied to permits in the name of a limited liability corporation. That LLC is receiving the permits through the Town. In order to finance the millions of dollars that need to be spent SolAmerica entered into an agreement with Nautilus to buy all of the interests in the LLC. The LLC is qualified for tax credits, 30% tax credits from the federal government. This helps the invested make profit on this project. SolAmerica has made promises that Nautilus needs to keep. They are required to keep all agreements made by SolAmerica.

Ryan Peters (zoom) with SolAmerica asked Bill if the escrow agreements get voted on by the board or was that part of the host community benefits?

Bill responded that they are reviewed by the planning board.

Rainbow Crabtree asked for clarification on the host community agreement and PILOT for the Rich Rd project. Is the ORES in charge of that or IDA?

Bill responded IDA.

Rainbow also stated as a business owner she is excited about the Chamber of Commerce coming together.

A motion was made by Supervisor Mary Ann Ashley and seconded by Council Member Bob Santamoor to adjourn the regular meeting at 7:50 PM
All in favor. Motion carried.

Respectfully Submitted,

Heidi L. Smith, Town Clerk

Town of Canton
Community Solar Project Regulation and Narrative
April 12, 2023

1. In accordance with New York State Real Property Tax Law Section 487 renewable energy systems including ground mounted solar arrays are exempt from real property taxes for a 15 year period. Taxing jurisdictions may "opt out" of the tax exemption if it so chooses. In support of renewable energy for its residents, the Town of Canton maintained the tax exemption.

2. In 2019 the Town Board formed a committee to study the impacts of solar energy development in the Town. The Committee drafted and the Town Board passed Local Law # 3 of 2019 "A Local Law to Regulate Solar Facilities in the Town." The Town's law provides in sum:
    a. Standards for development of "Major Solar Systems" defined as those that generate more than 110% of the electricity used on the site;
    b. Limits siting of Major Solar Systems to commercial and rural districts and requires Site Plan Review and issuance of a Special use Permit;
    c. Provides height and setback restrictions;
    d. Requires wildlife friendly fencing and vegetative buffers for visual screening;
    e. Prohibits removal and minimizes displacement of prime soils;
    f. Requires preparation of stormwater Pollution Prevention Plans;
    g. Implements standards for roadway construction;
    h. Requires underground utility runs, where feasible;
    i. Regulates glare/glint impacting occupied structures;
    j. Sets standards for signs and safety;
    k. Requires a decommissioning plan and a financial assurance mechanism to fund removal of the system in the event the system owner fails to do so;
    l. Triggers decommissioning if the system is abandoned for more than 365 days;
    m. Implements notification requirements upon change in ownership;
    n. Requires town approval of an operation and maintenance plan that provides for monitoring of key project mitigation measures such as vegetative buffers;
    o. Establishes fees to fund technical oversight and legal review of developer agreements;
    p. Empowers the Town Board to set fees for the issuance of permits;
    q. Requires the Developer to enter into a Host Community Benefit Agreement and PILOT Agreement with the Town.

3. The Town retained the engineering firm Barton & Loguidice, D.PC. as its technical consultants for solar projects and the law firm of Buchan & Sutter, P.C. to support the Town's review of solar projects and implementation of its solar law. The costs of all such professional services are paid by the Town using fees imposed on the solar projects. Taxpayer dollars are not spent on these professional services.

4. Between 2019 and 2022 seven major solar projects were proposed to be sited in Canton that will interconnect with the distribution system owned and operated by National Grid. All of the seven projects are subject to the requirements of the Town solar law and require Site Plan review by the Town Planning Board and issuance of a Special Use Permit and Building Permit by the Town Code Enforcement Office.

5. In January of 2021 the Town Board revised its fee schedule for Building Permits for major solar systems to increase the fee to $10,000 per megawatt consistent with neighboring municipalities in St. Lawrence County.

6. Throughout 2021 permit applications for the seven major solar projects were presented to the Town and proceedings before the Town Planning Board including public hearings for each project were commenced to review each project for compliance with the Town's solar law and the uniform code. All seven were reviewed as Type 1 actions under the New York State Environmental Quality Review Act (SEQR).

7. Throughout 2021 and 2022 the Town's attorneys working in concert with the Town Board's solar committee engaged in negotiations with all seven developers to arrive at a mutually acceptable form of Host Community Benefit Agreement and fee structure. It became apparent that the PILOT agreement and the Host Community Benefit Agreement would be funded by the developers from the same pool of available funds. We worked unsuccessfully with the other taxing jurisdictions to reshape the PILOT to maximize the revenue stream available to the town. Ultimately, the Town concluded that the best course of action was to opt-out of the section 487 tax exemption to be in a position to fully tax energy projects in the future. Although, the Town Board voted to opt-out of the tax exemption under section 487 effective December 2022, the seven community solar projects had already secured the tax exemption will not be taxable until 2037.

8. Tonight, the Town Board will consider a resolution approving Host Community Benefit Agreements with six of the seven Community Solar projects. The parties reached a financial agreement based upon a formula of $1,500/MWAC for a 15 year period with an annual escalator of 2%. A five MW (5 MW) project will generate $220,500 from a combination of permit fees and 15-year stream of income from the PILOT and the Host Community Benefit Agreement.

9. In the summer of 2021, the Town was informed that an eighth solar project to be located on Rich Road was planned for development in the Town. Representatives for EDF Renewables appeared before the Town Board to present its plan to site a 240 MW solar energy generator and 20 MW battery storage facility on approximately 1,700 acres of land located wholly within the Town of Canton.

   Unlike the previous seven community solar projects that interconnect with the local distribution grid owned and operated by National Grid, EDF's project will interconnect with the New York Power Authority's new Moses-Adirondack Smart Path transmission line, which runs through the Town of Canton and terminates in the Lewis County town of Croghan.

In contrast to the seven community solar projects that are sited and permitted by the Town of Canton, the EDF project will be sited and permitted by the recently created New York State Office of Renewable Energy Siting or "ORES" pursuant to a new law the Climate Leadership and Community Protection Act (the "CLCP") published as section 94-c of the New York State Executive law and its implementing regulations appear in 19 NYCRR Part 900.

The CLCP expressly preempts any Town law that ORES deems to be inconsistent with the CLCP. Preemption is a legal doctrine that means in this case that the Town of Canton solar law will be applied by ORES to the Rich Road project only to the extent that town law is consistent with New York State law. Neither the Canton Town Board nor its Planning Board have jurisdiction to issue permits or act as lead agency for SEQR review, as that role is exclusively reserved to ORES.

Local governments at all levels and concerned citizens can participate in the ORES siting process through review and comment on the application materials. Funding is available from ORES for both host communities and other interested parties. The deadline for applying for funding is May 1, 2023. To apply for funding visit the ORES website at ORES.ny.gov

It should be noted that the ORES regulations require the Rich Road project developers to enter into a Host Community Benefit Agreement with the Town. The developer has already been in discussions with the St. Lawrence County IDA regarding a PILOT agreement. The proceeds from these agreements will flow to the Town outside the NY tax cap.

This document was written by:

William M. Buchan, Esq.
Energy Counsel to the Town of Canton

END