

Regular Town Board Meeting
& Public Hearing April 13, 2017

Supervisor Nayer opened the Public Hearing at 6:30pm with 37 people in attendance. The purpose of the Public Hearing is for the consideration of the adopting of Local Law # 2 of 2017 entitled “Town of Copake Solar Energy Law”.

Jeff Wood questioned how was the 10 kilowatts limit established and how is it going to be measured. Also it is mentioned in the proposed Local Law a 20% maximum coverage which it makes it appear as if the Town is discouraging any large scale solar projects. The proposed Law also requires a decommissioning of the site if it is idle for one year, what happens if the solar site operator is having a dispute with the power company, it could take far more than a year to resolve an issue.

Marcia Becker thanked the Solar Committee, Town Attorney Dow, the Z.B.A. and the Planning Board for their work on the proposed law. I agree with the 4th paragraph on the April 6, 2017 memo from the PB to the Town Board. (Read the PP), and I agree that Utility Solar Energy Systems which are Power Plants ARE inconsistent with the Comprehensive Plan. “Typically, a solar developer who has secured an investment portfolio to build a utility scale power plant will seek out prime property to lease for the life of the system (20-25 yrs)”. Cornell University Cooperative Extension Sullivan County – Solar Farm Leases Q & A.

Based upon this proposed law, I am confident that the Copake ZBA and the PB can conduct thorough application reviews. But I am concerned that Copake does not have the management in place to monitor and oversee Power Plants during the 20-25 year life span of the systems. That is the second reason that I believe that Solar Energy Power Plants should not be permitted in Copake at this time.

For example: What body of government will insure the following will happen?

1. Section 232-44 C.2 (k) and (l) (page 8)
2. Section 232-44 E (e), (j) (k) all of k (page 10)
3. Section 232-44 F. 1.2. (page 11)
Section 232-45 A. B. (page 12)

Steve Futrell questioned if a solar project is put on a agricultural piece of land will it be reassessed to an industrial solar power plant and will the benefit in any way by tax revenue do to the re classification of this land? Mr. Pertel does support the proposed Local Law and thanked everyone who worked on it.

Edgar Masters spoke in favor of passage of the proposed Local Law, it is a careful balance between the rights of landowner and the desire to produce energy in a more environmentally friendly way and the needs of the Town to have some control over the size and the long term effects of what solar energy may have.

Deb Cohen spoke in favor of the proposed Local Law and it goes along with Town’s Compressive Plan and preserves the values of the Town of Copake while allowing a very important practice towards renewable energy.

Supervisor Nayer closed the Public Hearing at 6:45pm.

The regular Town Board meeting followed at 7:00pm with the following members present: Supervisor Nayer, Councilperson Miller-Simmons, Councilperson Mettler, Councilperson Sullivan and Councilperson Gansowski.

A motion was made by Councilperson Mettler and was seconded by Councilperson Gansowski to wave the reading of the minutes of March 9, 2017 minutes of the Town Board meeting and accept the minutes as read. Motion was carried.

Announcements: Park Annual Easter Egg Hunt is Saturday at 11:00am sharp, Copake Fire Company Chicken BBQ is Saturday from 5:00-7:00pm, May 20th is Copake Cleanup Day at the Highway Garage from 9:00-Noon and April 21st at 3:00pm is the bike ride with the Big Wheels.

Correspondence:

From Dan Hass – an email speaking in favor of Bill Rasweiler’s proposed solar farm.

From Donald Coons, Jr. Scoutmaster B.S.A. Troop 752 – a letter announcing that B.S.A. member Riley Clark, a resident of Copake has attained the rank of Eagle Scout. Riley’s Eagle Scout Court of Honor is tentatively scheduled for Sunday, June 4, 2017 at the Taghkanic Firehouse.

From Park Superintendent Gregory – a letter further explaining his initial request for a load of beam clay for the ball fields along with pictures of before and after of the three fields when he took over as Park Superintendent. Superintendent Gregory also advised the Board that he did not over spend the Park Contractual as Supervisor Nayer indicated at last month’s meeting while in fact there was over \$5,000.00 left in 7140-472 at the end of 2016.

From Patricia Placona, President Board of Trustees, Roe Jan Library – a letter listing some of the people that had a tremendous impact on their lives by using the Library services and programs.

From N.Y.S.D.E.C. – a letter to Jon Urban issuing permit number DEC#4-1032-00249/00001, 2 & 3 for Culvert replacement project at 786 Pumpkin Hollow South, Copake, New York.

From the Department of the Army – a letter advising Nathan Sawyer & Taryn Zarrillo that their proposed Dock Plans at Robinson Pond may be authorized under Department of Army nationwide general permit # 18.

From Charter Communications – a letter advising that beginning April 25, 2017 channels # 127 & 114 will no longer be available on all of their lineups.

From Brad Peck Inc. – a letter advising the Town that their Property Casualty Renewal is renewing with less than a 1% increase over last year.

Department Head/Committee Reports:

Deb Cohen, Chairperson of the Broad Band Committee reported that the Copake Broad Band Committee held a joint meeting with the Hillsdale Broad Band Committee this past Saturday in an effort to explore opportunities from Municipal Calibration. Both Town Committees will be asking all residents and Officials to send a letter to PSC asking them not to approve the proposed merger of Charter Communications and Consolidated Communications until Fairpoint upgrades its entire fiber optic system

so that the actual service level matches that which has been claimed on the N.Y.S. Broad Band Program Office's Service Map.

Presentation:

Gabriel Wapner, Director Development, Hecate Energy presented a power point showing what was proposed for the Rasweiler Project in Craryville and answered many questions and concerns from the Public and the Board.

Public Forum:

Bill Gellert – has known Bill Rasweiler for a long time and Bill does things right and we should not judge this proposed project based on the solar farm that already exists along Two Town Road which was short sidedness by everyone involved in it. What Mr. Rasweiler is trying to do is a completely different thing. Mr. Gellert is in favor of Mr. Rasweiler's proposed project and feels the Town should keep an open mind, look at the merits of the project and base it on that and not on the system along Two Town Road.

Edgar Masters is concerned if this project is approved, what is going to stop more projects of a similar size coming into Copake. It would be very difficult for the Community to say no when they have already allowed one and we could become a large Copake Panel.

New Business:

Supervisor Nayer reported that recently the County increased Veteran's Exemptions on their property taxes and the Town's usually follow suit and increase their limits to match the County's.

A motion was made by Councilperson Gansowski and was seconded by Councilperson Sullivan to have Attorney Dow look into the next step for the Town to increase their Veteran's property tax exemptions limits to match the County's. Motion was carried.

Chris Quinby gave an update on the Music in the Park Program for this upcoming season.

Councilperson Mettler reported that the Roe Jan Ramble Committee is once again asking for the co-sponsorship of the Towns of Ancram, Copake and Hillsdale at no financial cost to the Towns. Also this year the Roe Jan Ramble Committee is chaired by Thomas Goldsworthy. All riders ride for free and they have an opportunity to raise money for the Harlem Valley Rail Trail Extension.

A motion was made by Councilperson Mettler and seconded by Councilperson Miller-Simmons that the Town of Copake co-sponsor the 2017 Roe Jan Ramble Bike Tour. Motion was carried.

Old Business:

Sam's Club Membership is opened for the Town.

Supervisor Nayer reported that he still working on some final details with the Highway Union Contract.

Supervisor Nayer and Attorney Dow looked into establishing a Medical Reserve Fund and it is not permitted by the State. They are going to research other options and report back at the next meeting.

Supervisor Nayer reported that the Little League met and will not be paying for beam clay for the ballfields. Supervisor Nayer went over and looked at the ball fields and they are in very good condition.

And didn't see any indication of discrepancy between the infield and outfield. The infield clay looks like it needs to be rototilled and at this point we are okay and do not feel that we need to purchase clay. Councilperson Gansowski stated he walked around and looked at the fields and does not see why they need any additional clay but did see where the basketball court had a crack about 1 ½" wide and about 21' long that should be put in the budget to be repaired next year and also there are cracks in the skate board park. Supervisor Nayer reminded Councilperson Gansowski that we are discussing the ballfields now not the whole Park. Councilperson Mettler advised she also went over and looked at the ballfields and also did not see where there is a need for clay this year. Councilperson Sullivan stated she went over and looked at the ballfields and had no idea what she was looking at but they looked fine and the kids were playing on them and when she asked a mother's opinion she stated everything looked fine. Councilperson Miller-Simmons agreed with the rest of the Board. Supervisor Nayer stated if there is not a motion we will not be spending money on clay this year.

Supervisor Nayer reported that another Town Board Zoning Revision Update workshop has been scheduled for April 18th at 7:00pm. We are getting very close to completing this project.

Local Law:

The following resolution was offered by Councilperson Mettler and was seconded by Councilperson Gansowski:

To enact Local Law No. 2 of 2017, "Town of Copake Solar Energy Law"

WHEREAS, the Town Board of the Town of Copake finds that it is in the best interest of the Town of Copake to enact Local Law Number 2 of 2017, "Town of Copake Solar Energy Law" for the reasons set out in Section 2 of such Local Law (Section 232-39 of the proposed new Article VIII of Chapter 232 of the Code of the Town of Copake); and

WHEREAS, all legal prerequisites to the enactment of such Local Law have been timely completed, including receiving a statement of recommendations from the Town of Copake Planning Board, submission to and recommendation from the Columbia County Planning Board, notice to the public and the holding of a public hearing, and the issuance by the Town Board of a negative declaration pursuant to SEQRA;

It is hereby RESOLVED, that Local Law Number 2 of 2017, "Town of Copake Solar Energy Law" is hereby enacted.

Board Discussion:

Supervisor Nayer stated we spent a lot of time drafting this law, every Town is faced with this issue, you see it in the paper. Some Towns are just not allowing commercial solar systems at all, we have built into place certain criteria for people to ask for relief. Supervisor Nayer asked Town Attorney Dow the project that was presented to us today, that does not mean that that project cannot happen whether we pass this law or not, it means that they have another way to go to another authority, the Z.B.A. to ask for an area variance to allow a bigger project. Attorney Dow replied yes, anything to do with the sizes, distances or quantities, those are things that can be over ridden by an appeal to Z.B.A. and the granting of an area variance. Practical terms, one of the factors is the substantiality of the variance so it would be up to the Board to make a determination whether it is warranted to grant the variance.

Councilperson Mettler stated I have appreciated hearing from all of the people who spoke here today, and personally I resonate with much of what has been said.

I would start by saying that I absolutely believe that this nation- and each of us individually- have to acknowledge and confront the threats posed by global warming- which are real and imminent. These issues I believe are beyond argument.

I think it is worth mentioning what this discussion is not about.

The issue before the Board is NOT whether the installation proposed by Hecate should be allowed.

And this discussion is NOT about the integrity of Dr. Rasweiler-- that is definitely not at issue. Everyone in this town loves him- and his integrity and character is beyond dispute.

The only issue before the Board is whether to adopt a proposed law which allows-- but also restricts the installation of solar panels in this Town.

And to make that decision, we need to be guided by the Comprehensive Plan, adopted by the Town Board in 2011 by a unanimous vote. It is that Plan which reflects the visions of this Town, and which is legally binding. New York law requires that zoning laws be adopted in accordance with a comprehensive plan.

Turning to that Plan we do see that a recommended action is to: **Encourage the use of “green energy”- including solar energy- and “alternative energy production”**. But the Comprehensive Plan includes this qualifying phrase: *“if it has acceptable environmental and scenic impacts”*.

In terms of goals and overarching concerns, the Comprehensive Plan emphasizes the preservation of Farmland, open space and the “scenic rural landscape”. The plan states that one of our primary goals is **preserving our rural character** and states “this goal embraces the Town’s motto: “Land of Rural Charm”.

The Plan continues: “Copake contains some of the most beautiful countryside in Columbia County...Gently rolling hills provide scenic vistas of productive agricultural fields....We cherish these attributes, they make us want to stay here”.

What has come to light tonight are two competing goals: 1) to promote solar energy in order to reduce the carbon footprint, to do what we can locally to address the urgent threat of global warming, and 2) to maintain Copake’s rural vistas unmarred by large industrial power plants which in the opinion of many would disfigure our Town and change its character forever.

The best that we can do here, I believe, is to adopt a law which tries to balance these two goals. Indeed, the directives of the Comprehensive Plan are instructive: we must encourage the use of “alternative energy production” provided that *“it has acceptable environmental and scenic impacts”*.

Parenthetically- I would note that the law before the Board does allow and even promotes the installation of solar panels on and near homes for the benefit of the homeowner, and by farms and other businesses for the benefit of the farm or business.

The point which is in controversy here is whether the Town should impose a ten acre cap on utility size installations.

I want thank the four member Committee which worked on the first draft of this law- Bob Haight, Chris Grant, Frank Peteroy and Edgar Masters. The law has been reviewed by the Town Board and our attorney and has undergone some revisions and to my mind, improvements. It has been reviewed by the Planning Board and that Board has recommended its adoption.

After consideration of all of the comments here tonight, and my own review of the law, it is my recommendation that the Town Board adopt the law as currently drafted.

With regard to the 10 acre cap, I understand that some may believe this does not adequately meet our obligation to reduce the use of fossil fuels.

As a member of the Copake Town Board, I have taken the following into consideration.

1. First, I believe that the Board is bound by the goals set forth in the Comprehensive Plan which call upon the Town to preserve its Rural Character. I do not think that we can take the beauty of our countryside for granted and I think it is incumbent upon us to be proactive in supporting farming and preserving open space. I agree with those who believe that installation of large solar power plants greater than 10 acres would fundamentally change the character of the town.
2. I note that these installations are not truly "farms" --they are power plants. If our town had an "industrial district" we might confine large installations to that district. Our current zoning has a tiny little industrial district and our new zoning may have little or no industrial district. We are a rural area where our main industries are agriculture and tourism.
3. I have taken into consideration the fact that the energy produced will not be for the use of people in Copake or the Roe Jan area. Nor will these power plants provide significant employment for local people.
4. I have concerns that in the event of a fire, the Fire Department would not be able to go into the midst of a huge installation. All that they can do is contain a fire. Even a 10 acre fire would have impact all the nearby properties, livestock and vegetation. Leaving a larger area to burn would pose a serious threat to the safety and wellbeing of our community including not only neighbors, livestock, wildlife and air quality- but also the lives and wellbeing of our volunteer first responders.
5. This is brand new technology and I am sure that as advances are made better and smaller systems will be on the horizon- and Copake will be left the vestiges of an industry in its infancy. Think what cellphones looked like just ten years ago, think what computers looked like in the 90's. This law does provide that if an installation is no longer used it will be removed- but I have huge concerns about the remnants - including the concrete in the ground.

Two final comments- First, in the event that a landowner feels that his or her particular situation warrants a relief from the specifics of this law, he or she can make application to the Zoning Board for a variance. So there is recourse for an individual landowner.

Moreover—this is our first attempt to deal with a brand technology. Some towns in Columbia County have, or no doubt will ban these solar power plants completely. Copake is not doing that. Copake is

trying to allow and even promote the production of solar energy- with restrictions. In the years to come, if we come to realize that this 10 acre cap is unduly restrictive- if perhaps the visual impact of the panels is decreased, or the safety concerns are addressed, we can always expand the cap.

But I think that as we wade into this era of new technology, caution and prudence are appropriate. And I believe that 10 acres is a reasonable restriction.

I support the adoption of the Law as written.

Public Comment:

Marcia Becker stated that the concern she has is with the utility scale, power plants and the aspect that I am concerned about is based on my experience of working with land use projects for the Town. These things require monitoring and over sight, once a project is done, approve, stamped good to go, they are gone. So who for example the decommissioning plan applies to the applicant and all subsequent owners and operators of the subject parcel or solar energy facility or their successors. Who is going to track that? If the applicant party receive notices or the addresses thereof changes at any time the applicant is required to notify the Town Clerk. Are they going to do that? Who is going make sure that the buffer are is going to be maintained five years down the road? These are just a few issues that have not been fully explored by the Town.

Resolution # 4	Supervisor Nayer	yes
Dated April 13, 2017	Councilperson Miller-Simmons	yes
Copake, New York	Councilperson Mettler	yes
	Councilperson Sullivan	yes
	Councilperson Gansowski	yes

Supervisor Nayer thanked everyone who worked very hard on this Solar Law.

Budget:

Supervisor Nayer reported that AUD has been completed and we are in good financial shape.

Supervisor Nayer requested the Board's permission to invest money in CD's at Kinderhook Bank who had the best rate of the banks he checked with. Kinderhook Bank offer .4% for one month, .44% for two months and .55% for three months. Supervisor Nayer will be investing \$1,000,000.00 in staggered three month CD so every month one would come do. These CD's will bring in about \$5,000.00 year in interest income versus the \$1,200.00 per year we are getting now.

A motion was made by Councilperson Mettler and seconded by Councilperson Miller-Simmons to hereby authorize Supervisor Nayer to invest \$1,000,000.00 in staggering 3 month CD's. Motion was carried.

Supervisor Nayer reported that the Equipment Reserve Fund CD came due, we made \$1,382.64 in interest and the Capital Improvement Reserve Fund brought in \$276.53 in interest and the interest was rolled back into the CD's. Councilperson Miller-Simmons questioned if the interest had to be rolled back into the respective CD's? Supervisor Nayer and Town Attorney Dow both felt that the interested had to be rolled back into the CD's

Councilperson Report:

Councilperson Gansowski met with the Trout Unlimited people, Columbia County Soil & Water and Highway Superintendent Gregory regarding grants that are available for culvert replacement throughout the State. Councilperson Gansowski would like to set up a special meeting to discuss this further with these agencies. Supervisor Nayer stated that there is a lot of stuff he needs to know financially. Supervisor Nayer did speak to the Chatham Supervisor who got a \$300,000.00 grant and it is not costing the Town of Chatham anything. Councilperson Gansowski went onto explain that this would be a grant for \$10,000.00 to do a study of all the culverts in the Town then they will work with the Highway Superintendent on which culverts will be done, if any and get the grant money and then do them. The Board agreed that a Thursday Morning would be the best for the members and Councilperson Gansowski will reach out to the other agencies to see that will work for them.

Councilperson Miller-Simmons requested on behalf of the Park Commission permission to spend \$250.00 for a grill, \$250.00 for the purchase of 2,000 raffle tickets and \$300.00 for the purchase of side curtains for the pavilion. The Park has over \$1,600.00 in prizes already for the raffle. Also the Park Commission is requesting to spend at least \$500.00 for the concession stand for the Music in the Park Program. Councilperson Miller-Simmons reminded everyone to drop off their Easter Baskets off at the Park and the new playground equipment installation is on hold until the ground dries out. The next 35 anniversary meeting will be April 24 at 7:00pm.

A motion was made by Councilperson Sullivan and was seconded by Councilperson Mettler to authorize the Park Commission to spend \$250.00 for a grill, \$250.00 for the purchase of 2,000 raffle tickets and at least \$500.00 for the concession stand for the Music in the Park Program. Motion was carried.

Town Attorney Dow announced that the Appellate Court have upheld the original Court's decision upholding the actions of the Planning Board and Z.B.A. issuance of a special use permit. Supervisor Nayer questioned that if someone wanted to invest in this project, it can move forward. Attorney Dow state yes they could as long as the plans were the same as the original ones.

Public Forum:

Roberta Roll stated that the Comp Plan does speak on green energy and the Town should look at future plans with an open mind.

A motion was made by Councilperson Mettler and was seconded by Councilperson Gansowski to enter into executive session for litigation and personnel matters. Motion was carried.

A motion was made by Councilperson Gansowski and was seconded by Councilperson Mettler to return to the regular meeting. Motion was carried.

A motion was made by Councilperson Miller-Simmons and was seconded by Councilperson Mettler to approve the Settlements for items #2-16 in the amount indicated under "New Assess" and authorize Attorney Dow to sign the Stipulation Settlement to resolve these matters:

Revised Assessments approved by Town Board on April 13, 2017, to settle Tax Certiorari matters

Attorney	Petitioner	Judge	New Assess	Orig Assess
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1	Certil./Dale Allinson	Etra Trust (Discontinued)	Zwack	<i>Discontinued</i>	\$	1,595,900
2	Kevin Thiemann	Parmalee	Zwack	\$85,000	\$	224,200
3	Kevin Thiemann	Echols	Zwack	\$180,000	\$	353,000
4	Kevin Thiemann	Kramer	Mott	\$252,000	\$	300,000
5	Kevin Thiemann	Swenson	Mott	\$285,000	\$	320,000
6	Kevin Thiemann	DeRuzzio	Zwack	\$297,000	\$	330,000
7	Kevin Thiemann	Fair	Zwack	\$475,000	\$	550,000
8	Kevin Thiemann	Sawyer	Mott	\$780,000	\$	827,000
9	Kevin Thiemann	White	Zwack	\$835,000	\$	900,000
10	Kevin Thiemann	Atwood	Zwack	\$560,000	\$	600,000
11	C-W/Jeremy Smith	Konsker	Mott	\$1,725,000	\$	1,917,000
12	C-W/Jeremy Smith	Nachbar	Mott	\$984,000	\$	1,184,200
13	C-W/Jeremy Smith	Connors	<i>Nichols</i>	\$1,100,000	\$	1,204,000
14	Wellner	Friedlander	Zwack	\$850,000	\$	1,266,200
15	Wellner	Schnepf	Zwack	\$356,900	\$	466,900
16	Richard T. Blancato	Blancato	Zwack	Offered \$460	\$	951,000

Motion was carried.

A motion was made by Councilperson Miller-Simmons and was seconded by Councilperson Gansowski to contract with Armstrong Appraisals, LLC to do three more Realty Appraisals as per April 11, 2017 Proposal. Motion was carried.

A motion was made by Councilperson Miller-Simmons and was seconded by Councilperson Mettler that the bills from the General Abstract # 4 and the bills from Highway Abstract # 4 be paid. Motion was carried.

A motion was made by Councilperson Gansowski and seconded by Councilperson Miller-Simmons that the meeting be adjourned. Motion was carried.

Respectfully submitted,