

## March Update on Solar Project from Councilperson Wolf

On January 23, Supervisor Mettler, Planning Board Chair Bob Haight and Councilperson Wolf met with several representatives of Hecate Energy, a Chicago based Energy Company. They were informed that they intend to build a 60 Megawatt solar facility in Copake. To generate 60 Megawatts, the facility will require close to 200,000 solar panels. The facility's footprint would take up almost 500 acres within a 900-acre area.

Hecate has been planning this since sometime in 2017. By the time Hecate representatives met with us, they already had entered into, or were in the process of finalizing, lease agreements with local landowners. They had already obtained from a State agency (NYS Energy Research and Development Authority) unspecified credits to help defray their costs.

It is Councilperson Wolf, Supervisor Mettler, and Planning Chair Haight that the electricity generated by new facility would feed into NYSEG's distribution network. Hecate calls the project "Shepherd's Run" because of its stated intention to have sheep grazing under the solar panels to keep down the grass and other vegetation.

Hecate is already conducting required testing of the affected area. Microphones have been set up in the fields adjacent to County Route 8 and on the north side of State Route 23. The microphones were measuring noise levels, although we are informed that solar farms make almost no noise. Councilperson Wolf was also told that a team of biologists have been making observations of the project area, documenting bird flight patterns and nesting areas, in an attempt to determine the likely and potential impacts of the project on area wildlife.

The solar project, although in its early stages, is well underway.

Councilperson Wolf discusses that NYS has one of the country's most ambitious carbon emissions reduction plans, seeking to obtain 70% of NYS electricity from renewable sources by 2030. To this end, current State Law allows developers seeking to build large capacity solar facilities to circumvent most local Town laws and procedures, and instead to obtain approval from a State Siting Board, the "State Board of Electric Generation Siting and the Environment". Under the law, known as Article 10, "large-capacity" means 25 Megawatts or larger. Thus Article 10 encourages developers to "think big" and thereby avail themselves of the speedier and less cumbersome State approval process.

Councilperson Wolf discusses that the Article 10 process allows for some Town participation in the siting and review process. Later in the process, Supervisor Mettler and the Chief Executive of Columbia County will propose nominees to the State Siting Board, so up to two members of the seven-member Siting Board would represent local interests. Councilperson Wolf goes on to say that limited 'intervenor funds' are to be made available by Hecate to Copake and other "interested parties: to pay for legal counsel and studies of the potential impacts of Shepherd's Run on Copake and the surrounding area. However, at \$350 per Megawatt, initial intervenor funds will be capped at \$21,000, and Article 10 would guarantee Copake only 50%, or \$10,500. Article 10 also provides for a second infusion of intervenor funds further into the process.

Councilmember Wolf does not outline the entire Article 10 process now, because (1) we will all receive a much better explanation from legal counsel who have experience with the process (whom the Town Board is in the process of retaining) and (2) Article 10 may soon be superseded by a proposed new law which, if passed as part of the State budget, would drastically reduce Copake's already limited opportunity to comment upon and hopefully affect the siting and size of Hecate's Shepherd's Run solar project.

Councilmember Wolf goes on to briefly summarize where things currently stand with the solar project.

On January 31, 2020 Hecate formally began the State's Article 10 approval process, by filing its proposed "Public Involvement Program" ("PIP") plan with the State Siting Board. The proposed PIP presents a broad description of the project, identifies "interested parties", lays out a plan for public participation (including open houses and other meetings) and the eliciting of comments, provides Hecate contact information, and lays out a preliminary project schedule. The schedule indicates that Hecate hopes that Shepherd's Run will begin commercial operations sometime in the third quarter of 2022.

On March 2, 2020, the staff of the State Department of Public Service commented on the proposed PIP, making several specific recommendations necessary to make the PIP "more robust". Within 30 days, Hecate must file a final PIP plan, either adopting each recommendation or explaining why it chooses not to do so. The final PIP should be submitted around the end of the month.

The next Article 10 process milestone could occur as soon as the end of June, when Hecate could file its "Preliminary Scoping Statement" ("PSS"). This is when more details must be provided, including the location of the project: where within the 900-acre area the solar arrays will be placed. Among other things, the Article 10 requires that the PSS identify significant, adverse environment impacts, together with studies Hecate will conduct to evaluate potential impacts, and measures Hecate will take to avoid or mitigate these impacts. The Town has the opportunity to comment, and meet with Hecate to discuss the methodology and scope of impact studies. It is unclear how this might work in practice,, inasmuch as Hecate, already has initiated some impact studies.

Councilmember Wolf continues to say that the Governor has proposed a budget amendment entitled the "Accelerated Renewable Emergency Growth and Benefit Act, which would create a new State office, the Office of Renewable Siting, which would establish "uniform standards and conditions for the siting, design, construction and operation of major renewable energy facilities", those with generating capacities of 25 Megawatts or more. These are supposed to "avoid or minimize any potential significant adverse environment impacts."

When reviewing applications the new office would consider site specific potential adverse impacts and require mitigation or, in lieu of mitigation, payment into an endangered and threatened species fund. Details regarding all of this will presumably be fleshed out in rules and regulation.

The proposed Act would dramatically curtail the permitting process it would require the new Siting Office to determine within 60days whether an application is "complete" then, within 60 days thereafter, draft permit conditions would be proposed and published for public comment, and the comment period

would consume another 60 days. During the comment period, Copake would submit a statement indicating whether the proposed facility is “designed to operate in compliance with applicable local laws and regulations.” The answer is clear, and the answer is no. Shepherd’s Run, with a 500-acre footprint, would be fifty times the size allowable under Copake’s Solar Law. This may not matter because the proposed Act contains a strong local override, which reads, “...the office may elect not to apply in whole or in part, any local law or ordinance which would otherwise be applicable if it finds that, as applied to the proposed major renewable energy facility, is unreasonably burdensome in view of the CLCPA (Climate Leadership and Community Protection Act”) targets (70% by 2030) and the environmental benefits of the proposed major renewable energy facility.”

Councilmember Wolf states that a siting permit decision must be issued by the new Office within one year from the date the application was deemed complete.

Councilmember Wolf continues to say, although Hecate has filed a preliminary PIP for Shepherd’s Run pursuant to Article 10, it apparently would have the option to proceed instead under the new Act, if adopted.

Councilmember Wolf reports that regardless of whether the proposed Act passes, regardless of whether Hecate proceeds under Article 10 or new, as yet established procedures, the Town Board is moving to protect Copake’s interests. We have interviewed two law firms with considerable energy and environmental law experience and will soon retain counsel. We also intend to hire an engineer consultant to study potential adverse environmental impacts of a large-scale solar project.