

TOWN BOARD REGULAR MEETING (VIRTUAL)
TOWN OF SHELBY

February 9, 2021

Present: Jeffrey Smith, Supervisor
William Bacon, Councilman
Stephen Seitz, Councilman
John Pratt, Councilman
Ryan Wilkins, Councilman
Darlene Rich, Town Clerk
Bethany Centrone, Council for Bond, Schoeneck & King
Miranda Bennett, Bookkeeper

Dale Root, Highway Supt.
Trisha Laszewski, Assessor
Kirk Myhill, Planning Board
Dan Wolfe, Zoning Board

Virtual Meeting was called to order at 7:00 PM

Public forum regarding agenda items only is one resolution regarding selling surplus and miscellaneous parts.

Highway Report – Had seventeen call-ins for plowing. Most was nuisance snow and frigid temperatures. Truck 654 required repair of alternator belt and clutch fan bearing along with a set of rear axle bearings. Truck 657 required a new elevator chain and elevator pan repair handled in house. They did a good job. Was able to spend considerable amount of time with the county's help cutting down more trees. Much more needs to be done. The Highway Department in conjunction with the town court and town clerk's input put together the mandated communicable disease and pandemic plan for Shelby, along with assembling the 180 day supply of products to serve our needs. Installed at town clerks request a lock box outside the front doors for residents to pay their water bills, taxes, dog licenses. Ordered 500 ton and 750 ton of salt to replenish stock. Constant monitoring of water ppm., stacking E waste, stakeouts which were plentiful as many new power line poles have been replaced and sadly many burials. The new water meter reader has arrived and Ti-Sales will be here soon to get it up and running. The new plow blades arrived and have been installed and feedback from staff is all a positive that this was a good move for the department. Starting this year we have gone to using straight salt on the roads. Again the staff made it clear that has been a huge improvement in ice and snow removal, saving trips out and have received compliments on how roads have been, some I am sure can be attributed to the somewhat milder winter. Dale thanked the board in helping the highway department move forward on these projects.

Assessor Report – (Trisha Laszewski) –Julie has completed the second part of the class Cost, Market and Income and has passed her exam. Julie has two classes remaining, Mass Appraisal

and Intro to Farm Appraisal, before she will be eligible for the NYS Assessor's certification. We are hoping the NYSAA or NYS Tax and Finance will offer one or both of the classes by the end of 2021. It seems both agencies are embracing the need for virtual classes. Continue to work on the 2021 Assessment update. The numbers for the update may come as a surprise to some as value are increasing by the thousands. One thing that was not affected by the pandemic was the real estate market. The market had been on an upward trend since before the pandemic and it certainly did not slow down. I would invite the board members to look at the website www.homesnap.com. This is the website I most often use to track what is available for sale. It is a great tool in tracking days on the market before a contract is signed the asking price and then eventually my office receives the selling price. We are seeing the majority of sales selling over the asking price and many out of town buyers. There has also been an upswing in houses that have been purchased only flip once rehab is complete. Take a minute to look at the interior pictures of some of the homes for sale you will see even the most modest houses are selling far above assessed value. This is my 20th year of being an Assessor and I have never seen such an increase in selling prices.

Planning Board Report – (Kirk Myhill) – Received and approved the Amendment for Solar. All board members have the letter of approval. Issued Special use permit for site plan for Agriculture Distribution Facility. Needs a site variance. They will work with Dan. A Special Use Permit site plan for an Outdoor Recreation Facility was returned to be redone.

Code Enforcement Report- (Dan Wolfe) – Closing out building permits from 2020. Have about 85% done. Attended County Planning Board Meeting on behalf of the Town of Shelby on the revisions of solar laws. Attended Planning Board meeting regarding Phil Keppler for an Agriculture Distribution Facility and Bill Keppler for the Outdoor Recreation Facility. Classes are being offered on line that he needs to take to receive credit hours. Will take class on Friday in the Town of Shelby. He needs 24 hours to stay certified. So hopefully he will have that many at the end of the year.

RESOLUTION 17-21

RESOLUTION TO APPROVE MINUTES OF THE ORGANIZATIONAL MEETING ON JANUARY 12, 2021

Motion, Pratt; second by Seitz

Ayes –5

Opposed – 0

Motion carried

RESOLUTION 18 -21

RESOLUTION TO APPROVE MINUTES OF THE TOWN BOARD MEETING ON JANUARY 26, 2021

Motion, Wilkins; second Pratt

Ayes –5

Opposed – 0

Motion carried

RESOLUTION 19-21

RESOLUTION TO APPROVE MINUTES OF THE PUBLIC HEARING ON JANUARY 26, 2021, - PROPOSED LOCAL LAW #1 "A LOCAL LAW TO AMEND THE TOWN LAW REGULATING SOLAR SYSTEMS

Motion, Seitz; second Pratt

Ayes –5

Opposed – 0

Motion carried

RESOLUTION 20-21

RESOLUTION TO APPROVE TOWN CLERK'S REPORT

Motion, Wilkins; second Pratt

Ayes – 5

Opposed – 0

Motion carried

RESOLUTION 21 -21

RESOLUTION TO APPROVE SUPERVISOR REPORT

Motion, Wilkins; second, Pratt

Ayes – 5

Opposed – 0

Motion carried

RESOLUTION 22-21

RESOLUTION TO APPROVE PAYMENT OF BILLS

Motion, Pratt; second, Seitz

General	\$	39,467.04	Highway	\$	40,633.10
Water No. 1	\$	1,991.83	Water No. 2	\$	332.91
Water No. 3	\$	1,750.93	Water No. 4	\$	1,297.63
Water No. 4B	\$	1,297.63	Water No. 5	\$	110.97
Water No. 6	\$	1,214.64	Water No. 7	\$	813.39
Water No. 8	\$	670.02	Water No. 9	\$	759.79
Water No. 10	\$	537.85	Water No. 11	\$	648.82
Water No. 12	\$	263.96			

Ayes – 5

Opposed – 0

Motion carried

RESOLUTION 23-21

RESOLUTION ADOPTING THE REVISED EMPLOYEE HANDBOOK

Motion, Wilkins; second, Seitz

Ayes-5

Oposed-0

Motion carried

RESOLUTION 24- 21

RESOLUTION ADOPTING THE NEW PROCUREMENT POLICY

Motion, Pratt; second, Wilkins

Ayes-5

Oposed-0

Motion carried

RESOLUTION 25- 21

RESOLUTION APPOINTING BETHANY CENTRONE ESQ. AS TOWN ATTORNEY

Motion, Bacon; second, Wilkins

Ayes-5

Oposed-0

Motion carried

As of February 15, 2021 Bethany Centrone will no longer be affiliated with Bond Schoeneck & King. The town retainer fee as the town attorney will be more economical for the town.

RESOLUTION 26- 21

RESOLUTION ADOPTING SEQRA DETERMINATION OF SIGNIFICANCE FOR PROPOSED LOCAL LAW #1 OF 2021 “A LOCAL LAW TO AMEND THE TOWN LAW REGULATING SOLAR ENERGY SYSTEMS”

The board has reviewed part 2 & 3 of SEQRA form and report no changes needed.

WHEREAS, the Town Board of the Town of Shelby (the “Town Board”) is considering a proposed local law to clarify certain provisions within Section 787 of the Zoning Local Law of the Town of Shelby (the “Town Zoning Law”) regulating solar energy systems and to further protect the environment, health, safety, and general welfare of the Town and its citizens (the “Proposed Local Law”); and

WHEREAS, the Town Board introduced the Proposed Local Law during its November 10, 2020 meeting as proposed Local Law No. 1 of 2020 and it has since been renumbered as proposed Local Law No. 1 of 2021; and

WHEREAS, the approval and adoption of the Proposed Local Law (the “Action”) is an action subject to review under the State Environmental Quality Review Act (“SEQRA”) set forth at Article 8 of the New York State Environmental Conservation Law; and

WHEREAS, the Town Board desires to comply with the requirements of SEQRA and its implementing regulations set forth at 6 NYCRR Part 617 (the “Regulations”) with respect to the Action; and

WHEREAS, as sponsor of the Action, the Town Board has prepared Part 1 of the Short Environmental Assessment Form (“SEAF”) for the Action; and

WHEREAS, the Town Board is the only “involved agency” (as the quoted term is defined in the Regulations) for the Action; and

WHEREAS, by Resolution No. 97-20 adopted on November 10, 2020, the Town Board declared its intent to act as lead agency for the SEQRA review of the Action and preliminarily classified the Action as an “Unlisted Action” under SEQRA; and

WHEREAS, the Town Board has considered the comments submitted to date concerning the Action; and

WHEREAS, pursuant to the Regulations, the Town Board has considered the significance of the potential environmental impacts of the Action by: (1) using the criteria specified in Section 617.7(c) of the Regulations, (2) examining the SEAF for the Action, including the information in Part 1 of the SEAF and completing the analyses for Parts 2 and 3 of the SEAF, together with examining other available supporting information relevant to the Action, to identify the relevant areas of environmental concern, and (3) thoroughly analyzing the identified areas of relevant environmental concern;

NOW, THEREFORE, BE IT RESOLVED THAT the Town Board confirms and adopts the following determinations with respect to SEQRA:

1. The Action is subject to SEQRA.
2. The Town Board is the only involved agency for the Action and is hereby established as the lead agency for the SEQRA review of the Action.
3. The Town Board hereby classifies the Action as an Unlisted Action under SEQRA.
4. The Town Board has completed Parts 2 and 3 of the SEAF and has compared the impacts that that may reasonably be expected to result from the Action to the criteria for determining significance identified in Section 617.7(c)(1) of the Regulations and evaluated the issues of causation and significance in light of the standards under the same Section of the Regulations.
5. The Town Board has not identified any significant adverse environmental impacts associated with the Action and none are known to the Town Board. Based upon its review, and for the reasons set forth in the SEAF, including its supporting written elaboration, the Town Board hereby determines that the Action will not have any significant adverse impacts on the environment and reaches the following further conclusions:
 - (A) The Action will not result in (i) substantial adverse change in existing air quality; ground or surface water quality or quantity, traffic or noise levels; a substantial increase in solid waste production; or a substantial increase in potential for erosion,

- flooding, leaching or drainage problems; (ii) the removal or destruction of large quantities of vegetation or fauna; substantial interference with the movement of a resident or migratory fish or wildlife species; impacts on a significant habitat area; substantial adverse impacts on threatened or endangered species of animal or plant, or the habitat of such species; or (iii) other significant adverse impacts to natural resources;
- (B) The Action will not affect a critical environmental area as designated pursuant to 6 NYCRR § 617.14(g);
 - (C) The Action will not conflict with the community's current plans or goals as officially approved or adopted;
 - (D) The Action will not result in the impairment of the character or quality of important historical, archeological, architectural, or aesthetic resources or of existing community or neighborhood character;
 - (E) The Action will not result in a major change in the use of either the quantity or type of energy;
 - (F) The Action will not result in the creation of a hazard to human health;
 - (G) The Action will not result in a substantial change in the use, or intensity of use, of land including architectural, open space or recreational resources, or in its capacity to support existing uses;
 - (H) The Action will not result in encouraging or attracting of a large number of people to a place or places for more than a few days, compared to the number of people who would come to such place absent the action;
 - (I) The Action will not result in the creation of a material demand for other actions that would result in one or more of the above consequences;
 - (J) The Action will not result in changes in two or more elements of the environment, no one of which has a significant impact on the environment, but when considered together result in a substantial adverse impact on the environment; and
 - (K) The Action will not result in two or more related actions undertaken, funded or approved by an agency, none of which has or would have a significant impact on the environment, but when considered cumulatively would meet one or more of the criteria in 6 NYCRR § 617.7(c).

6. The information available concerning the Action was sufficient for the Town Board to make its determination.

7. The Town Board hereby approves and adopts the SEAF for the Action (Parts 1, 2, and 3 with its supporting written elaboration), issues a Negative Declaration, and will not require the preparation of an environmental impact statement for the Action.

8. The Town Board hereby directs the SEAF to be signed and the Negative Declaration to be filed and/or published as required by law.

9. The Town Board hereby authorizes the Town Supervisor and the Town Clerk to take such other steps as may be necessary to carry out this Resolution.

10. This Resolution shall take effect immediately.

Motion, Pratt; second, Bacon

Upon being put to a vote, the foregoing Resolution was adopted as follows:

	Yea	Nay	Abstain	Absent
Supervisor Jeff Smith	<u> X </u>	_____	_____	_____
Councilman William Bacon	<u> X </u>	_____	_____	_____
Councilman Stephen Seitz	<u> X </u>	_____	_____	_____
Councilman John Pratt	<u> X </u>	_____	_____	_____
Councilman Ryan Wilkins	<u> X </u>	_____	_____	_____

RESOLUTION 27- 21

RESOLUTION ADOPTING PROPOSED LOCAL LAW NUMBER 1 OF 2021 “A LOCAL LAW TO AMEND THE TOWN LAW REGULATING SOLAR ENERGY SYSTEMS”

This was originally proposed Local Law 1 of 2020 however there were written comments at the public hearing which resulted in revisions to this local law. Time was needed time to make revisions, so it became Local Law #1 of 2021.

Town of Shelby
Local Law No. 1 of the Year 2021
A Local Law to Amend the Town Law Regulating Solar Energy Systems

Be it enacted by the Town Board of the Town of Shelby as follows:

Section 1. Authority

This Local Law is enacted pursuant to the provisions of the New York Town Law and the New York Municipal Home Rule Law.

Section 2. Purpose

The purpose of this local law (the “Local Law”) is to amend certain provisions within the Town of Shelby’s (the “Town”) existing law regulating solar energy systems (originally enacted by Local Law No. 2 of 2016, which was later repealed and superseded by Local Law No. 1 of 2019) under Section 787 of the Zoning Local Law of the Town of Shelby, Orleans County, New York

(the “Town Zoning Law”). These amendments are intended to clarify certain requirements for solar energy systems in the Town.

Section 3. Amendments to Section 787 of the Town Zoning Law

Section 787(A) of the Town Zoning Law shall be amended to add the following paragraph:

5. In light of these considerations, the provisions contained in this Section 787 are intended to regulate solar energy systems to protect the environment, public health and safety, and to promote the general welfare of the Town and its citizens, as well as to further Town planning and zoning goals.

Section 787(D) of the Town Zoning Law shall be amended to add the following paragraph:

6. Any applicant or entity proposing to install and/or operate a utility-scale solar energy system in the Town must enter into a host community agreement with the Town to compensate the Town for any expenses and impacts on the community associated with that solar energy system, and to provide other benefits for the community as may be negotiated between the Town and the applicant. Nothing in this law shall prevent the Town from entering into such additional agreements with the applicant as may be necessary to protect the Town’s and its citizens’ interests (e.g., separate road use and maintenance agreements, or decommissioning agreements). In addition, except where such funding is provided for by other New York State laws or regulations, any applicant for approval of a utility-scale solar energy system must also enter into an escrow agreement with the Town to pay the Town’s technical, engineering, and legal costs and fees associated with the Town’s review of the project application, including the review required by SEQRA and the Town’s review and negotiation of agreements for community benefits, payments in lieu of taxes, or other agreements associated with the proposed system.

Section 787(E)(3) of the Town Zoning Law shall be amended to read as follows:

3. Small ground mounted solar energy systems shall be subject to the following requirements:
 - a. The location of said solar energy system shall be placed no closer in accordance with setback requirements for an accessory structure of the use district in which it is located; and
 - b. The location of said solar energy system shall be only located in the side or rear yard;
 - c. The total surface area of said solar energy system on a lot shall not exceed the allowed accessory structures where permitted in the District.

Section 787(E) of the Town Zoning Law shall be amended to add the following paragraphs:

9. Decommissioning and Site Restoration. Any applicant or entity proposing to install and/or operate a utility-scale solar energy system shall submit a decommissioning

plan to the Town, which shall include: (i) the anticipated life of the solar energy system; (ii) the estimated decommissioning costs in current dollars; (iii) how said estimate was determined; (iv) the method of ensuring that funds will be available for decommissioning and site restoration; (v) the method, such as by annual re-estimate by a licensed engineer, that the decommissioning cost will be kept current; and (vi) the manner in which the solar energy system will be decommissioned and the site restored, which shall include removal of all structures, panels, equipment, transmission lines, wiring, and debris from the surface and to a depth of three feet, restoration of the soil, and restoration of vegetation (consistent and compatible with surrounding vegetation), less any fencing or residual minor improvements requested by the landowner. The plan shall include a copy of the decommissioning bond or other financial mechanism or instrument providing the financial assurance required by this Section. The decommissioning plan shall be reduced to a decommissioning agreement between the Town and the system applicant or operator.

10. Financial Assurance for Decommissioning and Site Restoration. For the life of the utility-scale solar energy system, the applicant, or its successors or assigns, shall continuously maintain a bond or other appropriate form of financial security that is acceptable to the Town and payable to the Town in an amount—unless such amount is otherwise established or required by New York State laws or regulations—at least equal to 125% of the estimated costs of removing all components of the utility-scale solar energy system (including any appurtenant equipment or facilities) and restoration of the system site(s) in accordance with the decommissioning plan. All expenses or costs of establishing or maintaining financial assurance shall be borne solely by the applicant, or its successors or assigns.

Section 787(G)(8) of the Town Zoning Law shall be amended to read as follows:

8. The design, construction, operation, and maintenance of a utility-scale solar energy system shall prevent the misdirection and/or reflection of solar rays onto neighboring properties, public roads and public parks in excess of that which already exists. The applicant for a utility-scale solar energy system shall provide adequate considerations for its use of local roads during the construction, operation, and maintenance activities for the system, including any road repairs, maintenance, or restoration that may be required due to heavy equipment or increased frequency of use associated with construction or operation of the system.

Section 787(G)(14) of the Town Zoning Law shall be amended to read as follows:

14. The utility-scale solar energy system, as designed and constructed, shall provide adequate visual screening and site security measures. A berm and/or screening may be required along property lines abutting a residential lot.

Section 787(G)(17) of the Town Zoning Law shall be amended to read as follows:

17. A bond or other appropriate form of security acceptable to the Town Board shall be provided to cover the cost of the removal and site restoration in accordance with Section 787. Said bond or security shall be established and provided to the Town prior to construction. Said bond or security shall not be revocable without the Town's written consent and shall extend for a period of not less than the actual system removal and restoration without limit as duration; and shall transfer to cover any subsequent owner or operator of the system.

Section 787(H)(5) of the Town Zoning Law shall be amended to read as follows:

5. All solar energy systems shall be dismantled and removed by the applicant/owner immediately from a lot when the special permit or approval has been revoked by the Town Board or the solar energy system has been deemed to be non-operating or abandoned by the Building Inspector for a period of more than three hundred and sixty-five (365) days, at the cost of the applicant or owner/operator. If the owner/operator or applicant does not dismantle and remove said solar energy system as required, the Town Board may, after a hearing at which the owner/operator or applicant shall be given an opportunity to be heard and present evidence, dismantle and remove said facility and draw on the bond or other form of financial assurance provided to the Town for the solar energy system in accordance with this Section, or otherwise to place the cost of removal as a tax lien on said parcel. Such action shall be in addition to and not in lieu of any other enforcement remedies the Town may have.

Section 4. Severability.

If any section, subsection, phrase, sentence, or other portion of this Local Law or Section 787 of the Town Zoning Law is for any reason held invalid, void, unconstitutional, or unenforceable by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

Section 5. Effective Date

This Local Law shall take effect immediately upon filing in the Office of the New York State Secretary of State.

Motion, Bacon, second, Pratt

Upon being put to a vote, the foregoing Resolution was adopted as follows:

	Yea	Nay	Abstain	Absent
Supervisor Smith	<u> X </u>	_____	_____	_____
Councilman Bacon	<u> X </u>	_____	_____	_____
Councilman Seitz	<u> X </u>	_____	_____	_____
Councilman Pratt	<u> X </u>	_____	_____	_____
Councilman Wilkins	<u> X </u>	_____	_____	_____

RESOLUTION 28- 21

RESOLUTION TO SELL SURPLUS EQUIPMENT AND MISCELLANEOUS PARTS

Motion, Pratt, second, Seitz

Ayes-5

Oposed-0

Motion carried

Public Comments-none

Board Comments-none

Motion by Bacon; second, Seitz to adjourn the meeting at 7:19 PM

Respectfully submitted,

Darlene A. Rich, MMC, RMC
Town Clerk