

TOWN OF PORTLAND BOARD MEETING
PORTLAND TOWN HALL
AUGUST 14, 2019 – 7:00 P.M.

BOARD MEMBERS PRESENT:

Daniel Schrantz	Supervisor
Jerry Boltz	Council
Gary Miller	Council
Patti Farrell	Council
Rick Manzella	Council

OTHERS PRESENT:

Ken Becker	Highway Superintendent
Eric Holton	EWT Direct Drive Wind Turbines
Dan Brocat- Representative from Abundant Solar Power	
Approximately 18 to 20 residents	
Joel Seachrist	Attorney
Roxane Sobecki	Clerk

Supervisor Schrantz opened the Board Meeting at 7:00 p.m. with the pledge to the flag.

MINUTES

63-19

On a motion of Council Miller, seconded by Council Farrell the following resolution was ADOPTED Ayes 4 Schrantz, Boltz, Farrell, Manzella, Miller

Nays 0

RESOLVED The Portland Town Board approves the Minutes from the July 10, 2019 board meetings.

DEPARTMENTAL REPORTS

64-19

On a motion of Council Manzella, seconded by Council Boltz the following resolution was ADOPTED Ayes 4 Schrantz, Boltz, Farrell, Manzella, Miller

Nays 0

RESOLVED the Portland Town Board approves the Departmental Reports as presented:

Monthly reports received and filed:

- Assessor
- Code Enforcement
- Town Clerk
- Town Justice
- Dog Control

TREASURY REPORT

65-19

On a motion of Council Boltz, seconded by Council Miller the following resolution was ADOPTED Ayes 5 Schrantz, Boltz, Miller, Farrell, Manzella

Nays 0

RESOLVED the Portland Town Board approves the Treasury Report for July 2019 as presented by the Supervisor.

CORRESPONDENCE:

Supervisor Schrantz read the following:

- Dan Brocat of Abundant Solar Power Inc. filed the notice of intent for the permit/hearing and site plan for a solar farm located at 8772 Route 20, Brocton.
- AT&T Communications of New York notice of petition under Article 7 of Real Property Tax Law against the Town of Portland. Supervisor Schrantz asked Attorney Seachrist to review this.
- Letters from Roxanne McFadden, Sandy and Dave Ball, and Diane Clark were read regarding Wind Turbines in the Town of Portland. All showing opposition and asking that there be no industrial wind turbines in our lake plane community. Ms. Clark's letter also includes a petition to continue the moratorium on wind turbines in the Town stating this is only the beginning of petitions.
- Town of Portland equalization rate will remain the same at 55%.

MUSEUM:

Rob Pawlak, curator for the Portland Museum addressed the board about the current condition of the Museum building, stating the Museum is running out of space. He suggested having a small building built behind the current structure. He also discussed different ideas he has for the Museum. The board thanked Mr. Pawlak.

SOLAR:

Dan Brocat a representative of Abundant Solar Power stated he has filed an application package to the Zoning and Planning Boards pending a referral from the Town Board.

ABUNDANT SOLAR APPLICATION PACKAGE

66-19

On a motion of Council Miller, seconded by Council Boltz the following resolution was

ADOPTED Ayes 5 Schrantz, Boltz, Miller, Farrell, Manzella

Nays 0

RESOLVED the Portland Town Board will turn over the Solar Application Package from Abundant Solar to the Planning and Zoning Board's for further review under the current law.

PUBLIC COMMENT:

Several members of the public commented on Wind Turbines within the Town of Portland.

Mark Twichell asked the board to protect the health and well being of residents, Wind Turbines are a big impact on all townships. He asked the Board for a wind law that accounts for not only for this small project but also for much larger projects.

Doug Walter asked the board if they have been in contact with John Droz of wiseenergy.com. Supervisor Schrantz said the board has received information from him. Mr. Walter told the board Mr. Droz is offering his services to the board. Mr. Walter stated Mr. Droz is not pro or con to wind energy, he just bases all his information on science. He asked the board to have the following added to the Wind Turbine Local Law: an economic study on the pro's and con's, a one to two-mile setback, 35 DBA and property value grantee.

Carrie McCausland asked the board to keep an open mind, to review site by site. She told the board the tax base is excessive, if there are options to help mitigate this, they would appreciate it.

Bill Moran asked the board to speak with the residents of Arkwright, discussed lower DBA and the increase of setbacks.

Sandy Ball told the board she has spoken with residents of Arkwright regarding the turbines, she said some of the residents would be glad to come to a meeting and speak with the board.

Eric Holton of EWT has ten sites proposed, these are just options. The electricity stays within the Town of Portland. EWT cannot install more than ten turbines.

Kevin Powell addressed the board; he said the scale of this project with EWT cannot compare with the turbines in Arkwright. He asked the board to keep an open mind.

Supervisor Schrantz thanked everyone, he told the residents two board members will be assigned to Wind and two board members will be assigned to solar. The board is reviewing the Town's of Richland and Somerset local laws on Wind Turbines.

OLD BUSINESS:

VILLAGE/TOWN:

Supervisor Schrantz told the board the attorney is drafting an agreement between the Town and Village for the Town overseeing the Village of Brocton's Highway Department. Council Miller will be attending the next Village board meeting. Board committee members will meet with the Code Office to review the needs for the office.

TOWN HIGHWAY GARAGE :

Supervisor Schrantz stated the bids have gone out for the repair of the garage floor. Bids will be opened at the Town Hall on August 22nd at 10:00 a.m.

CHADWICK BAY/NORTH COUNTY WATER PROJECTS:

The next meeting for both will be held on August 22nd, 4:30 at the Fireside Restaurant. The grant application on a sewer district has been submitted. Supervisor Schrantz thanked the Superintendent Becker and his crew for the help they gave in finding the water leak CBI water had. Council Miller asked about the money Pomfret owes the Town for water usage before CBI water took over.

GREENCREST/VAN BUREN POINT DRAINAGE:

Supervisor Schrantz told board members Paul Parker of Urban Engineers and himself meant with some residents of VBP. Toured the drainage issues of where VBP pumps water into the lake and looked at the Gabion Walls. The Gabion Walls are in poor condition, Mr. Parker will be reviewing this issue.

WATER DISTRICT 2:

Supervisor Schrantz stated the engineer and himself meant with residents of VBP, reviewed the project and easements that are needed.

WATER DISTRICT 8:

The water line will be starting mid-September.

STREET LIGHTING:

All the paperwork has been submitted to change all street lighting to LED, installation should start anytime.

COMPREHENSIVE PLAN:

Supervisor Schrantz stated he will be scheduling a meeting with the committee in the fall.

AUDITS:

Supervisors audit still needs to be done.

NEW BUSINESS:

BATTERY ENERGY STORAGE SYSTEMS:

Attorney Seachrist will be reviewing.

IRS TAX EXEMPT

67-19

On a motion of Council Manzella, seconded by Council Boltz the following resolution was ADOPTED Ayes 5 Schrantz, Boltz, Miller, Farrell, Manzella

Nays 0

RESOLUTION, DATED August 14, 2019, OF THE TOWN BOARD OF THE TOWN OF PORTLAND, CHAUTAUQUA COUNTY, NEW YORK (THE "TOWN") ADOPTING POST-ISSUANCE TAX COMPLIANCE PROCEDURES

WHEREAS, the Internal Revenue Service has issued regulations requiring issuers of tax-exempt obligations to certify on various forms that they actively monitor compliance with federal tax rules following the issuance of such obligations; and

WHEREAS, the Town is a periodic issuer of tax-exempt obligations and thus is subject to the aforementioned compliance requirements which are critical for the preservation of the preferential tax status of those obligations; and

WHEREAS, it is therefore in the best interest of the Town to adopt formal written procedures to ensure such compliance and to designate an official responsible for ensuring that such procedures are followed; and

WHEREAS, Hodgson Russ LLP, as bond counsel to the Town, has prepared (and has recommended that the Town adopt) post-issuance tax compliance procedures;

NOW THEREFORE, BE IT RESOLVED, that the Town hereby adopts the post-issuance tax compliance procedures that are identified below as "Schedule A" and resolves to be governed thereby; and be it further

RESOLVED, that the below Schedule A will be placed in its entirety in the official records, files, and minutes of the Town and adhered to going forward; and be it further

RESOLVED, that this resolution shall take effect immediately upon its adoption.

Schedule A

**TOWN OF PORTLAND,
CHAUTAUQUA COUNTY, NEW YORK**

**Post-Issuance Tax Compliance Procedures
for Tax-Exempt Bonds and Notes**

Statement of Purpose

These Post-Issuance Tax Compliance Procedures (the “Procedures”) set forth specific procedures of the **Town of Portland, Chautauqua County, New York** (the “Issuer”) designed to monitor, and ensure compliance with, certain requirements of the Internal Revenue Code of 1986, as amended (the “Code”) and the related Treasury regulations, promulgated thereunder (the “Treasury Regulations”) in connection with the Issuer’s issuance of tax-exempt bonds and notes (“Obligations”).

These Procedures describe various systems designed to identify, on a timely basis, facts relevant to demonstrating compliance with the requirements that must be satisfied subsequent to the issuance of Obligations to ensure that the interest on such Obligations is eligible for exclusion from gross income for federal income tax purposes. The federal tax law requirements applicable to the Obligations will be described in the tax questionnaire and/or tax certificate prepared by bond counsel and signed by officials of the Issuer. These Procedures establish a permanent, ongoing structure of practices that will facilitate compliance with the requirements for individual borrowings.

To ensure compliance with applicable federal tax requirements, the Issuer must monitor the various direct and indirect uses of proceeds of the obligation and the investment of such proceeds, including but not limited to:

- (1) Monitoring the use of financed property over the life of the obligation.
- (2) Determining the sources of debt service payments and security for the obligation.
- (3) Calculating the percentage of any nonqualified use of the financed property.
- (4) Calculating the yield on investments of proceeds.
- (5) Determining appropriate restrictions on investments.
- (6) Determining the amount of any arbitrage on the investments.
- (7) Calculating any arbitrage rebate payments that must be paid to the U.S. Treasury.

The Issuer recognizes that compliance with the pertinent law is an on-going process, necessary during the entire term of the Obligations. Accordingly, the implementation of the Procedures will require on-going monitoring and consultation with bond counsel and the Issuer's accountants and municipal advisor.

General Procedures

The following procedures relate to monitoring post-issuance tax compliance generally.

- A. The **Town Supervisor (currently, Daniel Schrantz)** (the "Compliance Officer") shall be responsible for monitoring post-issuance tax compliance issues.
- B. The Compliance Officer will coordinate procedures for record retention and review of such records.
- C. All documents and other records relating to Obligations must be maintained by or at the direction of the Compliance Officer. In maintaining such documents and records, the Compliance Officer will comply with applicable Internal Revenue Service ("IRS") requirements, such as those contained in Revenue Procedure 97-22 (see the reference materials presented herewith, referred to herein as "Reference Materials").
- D. The Compliance Officer shall be aware of remedial actions under Section 1.141-12 of the Treasury Regulations (see Reference Materials) and the Treasury's Tax-Exempt Bonds Voluntary Closing Agreement Program (VCAP) and take such corrective action when necessary and appropriate.
- E. The Compliance Officer will review post-issuance tax compliance procedures and systems on a periodic basis, but not less than annually.
- F. The Compliance Officer will be responsible for training any designated officer or employee who is delegated any responsibility for monitoring compliance pursuant to this procedure. To the extent the Compliance Officer needs training or has any questions with respect to any item in this procedure, he or she should contact bond counsel and/or Issuer's accountants and advisors. The IRS recognizes that the Compliance Officer and any delegated individual are not expected to act as lawyers who know the proper response to all compliance situations that may arise, but they should be familiar enough with federal tax issues that they know when to ask for legal or other compliance advice.

Issuance of Obligations: Documents and Records

With respect to each issue of Obligations, the Compliance Officer will:

- A. Obtain and store a closing binder and/or CD or other electronic copy of the relevant and customary transaction documents (the "Transcript").

- B. Confirm that the applicable information reports (e.g., Form 8038 series) for such issue are filed timely with the IRS. Issuer should consult with their accountants and/or bond counsel with questions regarding the filing of such forms.
- C. Coordinate receipt and retention of relevant books and records with respect to the investment and expenditure of the proceeds of such Obligations.

Arbitrage

The following procedures relate to the monitoring and calculating of arbitrage and compliance with specific arbitrage rules and regulations.

The Compliance Officer will:

- A. Confirm that a certification of the initial offering prices of the Obligations with such supporting data, if any, required by bond counsel, is included in the Transcript.
- B. Confirm that a computation of the yield on such issue from the Issuer's municipal advisor or bond counsel (or an outside arbitrage rebate specialist) is contained in the Transcript.
- C. Maintain a system for tracking investment earnings on the proceeds of the Obligations.
- D. Coordinate the tracking of expenditures, including the expenditure of any investment earnings. If the project(s) to be financed with the proceeds of the Obligations will be funded with multiple sources of funds, confirm that the Issuer has adopted an accounting methodology that maintains each source of financing separately and monitors the actual expenditure of proceeds of the Obligations.
- E. Maintain a procedure for the allocation of proceeds of the issue and investment earnings to expenditures, including the reimbursement of pre-issuance expenditures. This procedure shall include an examination of the expenditures made with proceeds of the Obligations within 18 months after each project financed by the Obligations is placed in service and, if necessary, a reallocation of expenditures in accordance with Section 1.148-6(d) of the Treasury Regulations (see Reference Materials).
- F. Monitor compliance with the applicable "temporary period" (as defined in the Code and Treasury Regulations) exceptions for the expenditure of proceeds of the issue and provide for yield restriction on the investment of such proceeds if such exceptions are not satisfied.
- G. Ensure that investments acquired with proceeds of such issue are purchased at fair market value. In determining whether an investment is purchased at fair market value, any applicable Treasury Regulation safe harbor may be used.

- H. Avoid formal or informal creation of funds reasonably expected to be used to pay debt service on such issue without determining in advance whether such funds must be invested at a restricted yield.
- I. Consult with bond counsel prior to engaging in any post-issuance credit enhancement transactions or investments in guaranteed investment contracts.
- J. Identify situations in which compliance with applicable yield restrictions depends upon later investments and monitor implementation of any such restrictions.
- K. Monitor compliance with six-month, 18-month or 2-year spending exceptions to the rebate requirement, as applicable.
- L. Procure a timely computation of any rebate liability and, if rebate is due, to file a Form 8038-T and to arrange for payment of such rebate liability.
- M. Arrange for timely computation and payment of "yield reduction payments" (as such term is defined in the Code and Treasury Regulations), if applicable.

Private Activity: Use of Proceeds

The following procedures relate to the monitoring and tracking of private uses and private payments with respect to facilities financed with the Obligations.

The Compliance Officer will:

- A. Maintain records for determining and tracking facilities financed with specific Obligations and the amount of proceeds spent on each facility.
- B. Maintain records, which should be consistent with those used for arbitrage purposes, to allocate the proceeds of an issue and investment earnings to expenditures, including the reimbursement of pre-issuance expenditures.
- C. Maintain records allocating to a project financed with Obligations any funds from other sources that will be used for otherwise non-qualifying costs.
- D. Monitor the expenditure of proceeds of an issue and investment earnings for qualifying costs.
- E. Monitor private use of financed facilities to ensure compliance with applicable limitations on such use. Examples of potential private use include:
 - 1. Sale of the facilities, including sale of capacity rights;
 - 2. Lease or sub-lease of the facilities (including leases, easements or use arrangements for areas outside the four walls, e.g., hosting of cell phone towers) or leasehold improvement contracts;

3. Management contracts (in which the Issuer authorizes a third party to operate a facility, e.g., cafeteria) and research contracts;
4. Preference arrangements (in which the Issuer permits a third-party preference, such as parking in a public parking lot);
5. Joint-ventures, limited liability companies or partnership arrangements;
6. Output contracts or other contracts for use of utility facilities (including contracts with large utility users);
7. Development agreements which provide for guaranteed payments or property values from a developer;
8. Grants or loans made to private entities, including special assessment agreements; and
9. Naming rights arrangements.

Monitoring of private use should include the following:

1. Procedures to review the amount of existing private use on a periodic basis but not less than annually; and
2. Procedures for identifying in advance any new sale, lease or license, management contract, sponsored research arrangement, output or utility contract, development agreement or other arrangement involving private use of financed facilities and for obtaining copies of any sale agreement, lease, license, management contract, research arrangement or other arrangement for review by bond counsel.

If the Compliance Officer identifies private use of facilities financed with tax-exempt debt, the Compliance Officer will consult with bond counsel to determine whether private use will adversely affect the tax status of the issue and if so, what remedial action is appropriate. The Compliance Officer should retain all documents related to any of the above potential private uses.

Reissuance

The following procedures relate to compliance with rules and regulations regarding the reissuance of Obligations for federal law purposes.

The Compliance Officer will identify and consult with bond counsel regarding any post-issuance change to any terms of an issue of Obligations which could potentially be treated as a reissuance for federal tax purposes.

Record Retention

The following procedures relate to retention of records relating to the Obligations issued.

The Compliance Officer will:

- A. Coordinate with staff regarding the records to be maintained by the Issuer to establish and ensure that an issue remains in compliance with applicable federal tax requirements for the life of such issue.
- B. Coordinate with staff to comply with provisions imposing specific recordkeeping requirements and cause compliance with such provisions, where applicable.
- C. Coordinate with staff to generally maintain the following:
 - 1. The Transcript relating to the transaction (including any arbitrage or other tax questionnaire, tax regulatory agreement, and the bond counsel opinion);
 - 2. Documentation evidencing expenditure of proceeds of the issue;
 - 3. Documentation regarding the types of facilities financed with the proceeds of an issue, including, but not limited to, whether such facilities are land, buildings or equipment, economic life calculations and information regarding depreciation;
 - 4. Documentation evidencing use of financed property by public and private entities (e.g., copies of leases, management contracts, utility user agreements, developer agreements and research agreements);
 - 5. Documentation evidencing all sources of payment or security for the issue; and
 - 6. Documentation pertaining to any investment of proceeds of the issue (including the purchase and sale of securities, yield calculations for each class of investments, actual investment income received by the investment of proceeds, guaranteed investment contracts, and rebate calculations).
- D. Coordinate the retention of all records in a manner that ensures their complete access to the IRS.
- E. Keep all material records for so long as the issue is outstanding (including any refunding), plus seven years.

* * *

The question of the adoption of the foregoing resolution was duly put to a vote, which resulted as follows:

AYES: 5
Schrantz, Miller, Boltz, Farrell,
Manzella

NOES: 0

ABSENT:

The resolution was thereupon declared duly adopted.

**STANDARD WORKDAY AND REPORTING RESOLUTION
68-19**

On a motion of Council Boltz, seconded by Council Miller the following resolution was ADOPTED Ayes 5 Schrantz, Boltz, Miller, Farrell, Manzella

Nays 0

BE IT RESOLVED, that the Town of Portland, Location Code 30217 hereby establishes the following as standard work days for elected and appointed officials and will report the following days worked to the New York State and Local Employees' Retirement System based on record of activities maintained and submitted by these officials to the clerk of this body:

ELECTED OFFICIALS	NAME	STANDARD WORKDAY	TERM	DAYS/MONTHS Based on record of Activities
Town Clerk Highway Superintendent Tax Collector	Roxane Sobecki Kenneth Becker Susan Hindman	6 8 6	1/1/18-12/31/21 1/1/18-12/31/21 1/1/18-12/31/21	20.23 21.67 4.5
APPOINTED OFFICIALS				
Dog Control Officer Deputy Dog Control Officer Cleaner Assessor	Clarence Grover Diane Grover Roxane Sobecki Darlene Fox	6 6 6 6	1/1/19-12/31/19 1/1/19-12/31/19 1/1/19-12/31/19 1/1/19-9/30/19	.78 .89 2.37 17.67

On this 14 day of August 2019

Signature: _____ Date enacted: August 14, 2019

I, Roxane Sobecki, Clerk of the governing board of the Town of Portland, of the State of New York, do hereby certify that I have compared the foregoing with the original resolution passed by such board, at a legally convened meeting on August 14, 2019, on file as part of the minutes of such meeting, and that same is a true copy thereof and the whole of such original

BUDGET TRANSFERS AND MODIFICATIONS

69-19

On a motion of Council Miller, seconded by Council Boltz the following resolution was

ADOPTED Ayes 5 Schrantz, Boltz, Miller, Farrell, Manzella

Nays 0

General Fund Townwide

\$5,000	From	A1990.4	Contingent Account
	To	A1620.2	Building-Equipment

For cost of new telephone system

\$4,000	From	A1990.4	Contingent Account
	To	A1420.4	Attorney Contractual

For cost of bond counsel on plow truck financing

Highway Fund Outside Village:

Modify 2019 Adopted Budget by increasing Revenue line DB3501 CHIPS funding by \$60,026 and increasing expenditure line DB5112.2 Improvements Capital Outlay by \$60,026 for actual 2019 CHIPS, EWR, & Pave NY funding.

BOARD OF ASSESSMENT AND REVIEW:

The board discussed the appointment coming up is September, the term is currently held by Mark Rand.

MARMADUKE COMMITTEE:

Council Boltz stated the statue has been well attended. Council Farrell told the board Brad Anderson's family donated a bench that was used by the Brand Anderson's father. His daughter Christen will be writing the history of the bench to be put in the Museum.

BOARD MEMBERS:

Councilman Miller discussed with the board the three EMS districts and possibly creating one district. He has been in contact with the NYS Department of Health, which said this could be done. The only expense would be legal fees. After some discussion Councilman Miller will be setting up a workshop with the Department of Health, Village/Town boards, and representatives from Brocton and Portland fire departments.

HIGHWAY:

Highway Superintendent Becker told the board the paving and patching of road is done for the year. He asked the board about the purchasing of a new ten-wheeler truck. The board reviewed the NJPA bid.

PURCHASE TRUCK

70-19

On a motion of Council Miller, seconded by Council Farrell the following resolution was

ADOPTED Ayes 5 Schrantz, Boltz, Miller, Farrell, Manzella

Nays 0

RESOLVED the Portland Town Board authorizes the Highway Superintendent to purchase a 2020 Kenworth T800 Conventional Full Truck and Plow with a six-year 100,000-mile engine warranty at a total cost of \$230,496.00.

Superintendent Becker told the board the bathrooms at the park have been vandalized.

Discussed repair of sidewalks in the Hamlet of Portland.

PAY BILLS

71-19

On a motion of Council Boltz, seconded by Council Farrell the following resolution was

ADOPTED Ayes 5 Schrantz, Boltz, Miller, Farrell, Manzella

Nays 0

GENERAL FUND	\$13,639.98
TOWN OUTSIDE VILLAGE	\$126.00
HIGHWAY TOWNWIDE	\$946.10
HIGHWAY OUTSIDE VILLAGE	\$179,437.63
LIGHT	\$481.44
CAPITAL PROJECTS	\$10,800.00

EXECUTIVE SESSION:

On a motion of Council Farrell, seconded by Council Boltz the Board moved into Executive Session at 8:40 pm to discuss personal regarding the Board of Assessment and Review.

On a motion of Council Miller, seconded by Council Manzella the Board returned to Regular Session at 9:10 p.m.

With no further business, on a motion of Council Manzella, seconded by Council Farrell the meeting adjourned at 9:12 p.m. Carried unanimously.

Respectfully Submitted by,

TOWN OF PORTLAND BOARD MEETING
PORTLAND TOWN HALL
AUGUST 14, 2019 - 7:00 P.M.