

TOWN BOARD MEETING
PORTLAND TOWN HALL
August 10, 2022 – 6:00 P.M.

BOARD MEMBERS PRESENT:

Richard Lewis	Supervisor
Dave McIntyre	Council
Tammy Thompson	Council
Patti Farrell	Council
Gary Miller	Council (phone conferenced)

OTHERS PRESENT:

Joel Seachrist	Attorney
Kenneth Becker	Highway Superintendent
Rich Carpenter	Deputy Dog Control
Barb Smith	Town Clerk
Peter McAuliffe	OYA Solar

1 member of the public

Meeting called to Order by Supervisor Lewis at 6:00 p.m. with the Pledge to the flag.

MINUTES

RESOLUTION 75-2022

On a motion of Council McIntyre, seconded by Council Thompson the following resolution was ADOPTED Aye 3 Lewis, McIntyre, Thompson

Nay 0

Absent 1 Farrell

Absent 1 Miller (phone conferenced)

RESOLVED The Portland Town Board approves the Minutes from the previous meeting as presented.

DEPARTMENTAL REPORTS

RESOLUTION 76-2022

On a motion of Council Thompson, seconded by Council McIntyre the following resolution was ADOPTED Aye 3 Lewis, McIntyre, Thompson

Nay 0

Absent 1 Farrell

Absent 1 Miller (phone conferenced)

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

Monthly reports received and filed:

- Town Clerk
- Code Office
- Assessor

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- Justice
- Dog Control

TREASURY REPORT:

RESOLUTION 77-2022

On a motion of Council Thompson, seconded by Council McIntyre the following resolution was ADOPTED Ayes 3 Lewis, McIntyre, Thompson

Nays 0

Absent 1 Farrell

Absent 1 Miller (phone conferenced)

RESOLVED The Portland Town Board approves the Treasury Report for July 2022 as presented by the Town Clerk.

CORRESPONDENCE:

Supervisor Lewis presented and reviewed the following correspondence:

- Letter from Clark, Patterson Lee, Town of Pomfret North End Water District Phase 2.
- Internal Revenue Service - received Town of Portland Tax-exempt bond form.
- State of NY Department of Taxation and Finance Office of Real Property Tax services - Certificate of Final Telecommunications Ceiling.
- Confirmation (Direct Deposit) of Mortgage tax payment from Accounts Payable Chautauqua County.
- Confirmation (Direct Deposit) of County Tax Payment from Accounts Payable Chautauqua County.

PUBLIC COMMENT:

No public comments.

OLD BUSINESS

CBI:

Supervisor Lewis stated not a lot to report. Supervisor Lewis said they decided on Badger water meters. We already have a lot of the Badger meters installed. Supervisor Lewis said we would need to add a cellular end point that uses cell towers to communicate. This would communicate back to the office and would eliminate a person driving around reading meters. CBI applied for a grant to replace meters in all five (5) districts. Waiting to see the response on the grant.

DOG CONTROL OFFICER:

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Supervisor Lewis received report from Ag & Markets. The report was on the Dog Control Officer. The report was unsatisfactory. The report for Town Of Portland on DCO was missing impound fees for two huskie-shepherd dogs. Supervisor Lewis had questions on report and contacted Ag & Markets. The representative from Ag and Markets stated there has to be impound fee whenever a dog is picked up. This is a law. Supervisor Lewis would like Council member Thompson and Farrell to have a meeting with DCO. Supervisor Lewis stated DCO would need to contact Town Clerk to bill any person that has their dog impounded per the law. Discussion was held on resolution of prior fees for the Town.

WD2: (Progress on easements)

Supervisor Lewis asked Town Clerk how many easements we have received. Town Clerk responded there are 41 received. Supervisor said 41 out of 101 total. Supervisor Lewis said there is going to be another special meeting held. Mr. Seachrist requested a Thursday. Supervisor Lewis said it will be Thursday, September 1, 2022, 4pm-7pm. Supervisor Lewis will get the notice to Greencrest Association and to their website. Town Clerk will put ad in the newspaper and post at Town Hall and on the Town's website. Supervisor Lewis stated we will close the easements on September 15th 2022. They will then go to final design with hopefully a final bid at December's Board Meeting. Town Clerk asked if she should reach out to residents? Town will go with what we have at this point.

GREENCREST/VAN BUREN POINT DRAINAGE:

Supervisor Lewis said Eric Wise from Clark, Patterson Lee (CPL) sent back report. Still waiting for final report. We are moving forward and it will depend on what we can afford. Council Thompson questioned what drainage issues there were? Discussion on drainage.

WATER EXTENTION - 21 BRIX, ONTHANK ROAD

Supervisor Lewis contacted Eric Wise, Clark, Patterson, Lee (CPL) for the Water District extension at 21 Brix. Eric Wise will be looking into that 21 Brix WD. Supervisor Lewis said Onthank Rd is completed except for chlorinating and testing it. Clark, Patterson, Lee (CPL) will need to observe testing. Superintendent Becker stated Town of Westfield has equipment to test water, he is trying to coordinate with Health Dept. and CPL.

MUSEUM:

Supervisor Lewis stated we received the report from Clark, Patterson, Lee (Engineers), did everyone get a chance to review report? Supervisor Lewis asked the Board their thoughts. Council Thompson did review and presented some items of change that Museum's curator Rob Pawlak's would like to see. There was a lengthy discussion on the actual museum building, the cost to fix building, move building etc. Council Thompson mentioned getting a grant to help with the cost to renovate museum. Council Thompson, and Council Farrell to meet with Rob Pawlak and come up with some kind of plan. This will be tabled at this time.

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SOLAR OMNI NAVITAS:

Supervisor Lewis asked Council Thompson to read SEQR Resolution for 7820 Felton Road Solar Array.

7820 FELTON ROAD SOLAR ARRAY SEQR

RESOLUTION 78-2022

On a motion of Council Thompson, seconded by Council McIntyre the following Resolution was

ADOPTED by:

Roll Call Vote

Council McIntyre - Aye

Council Farrell - Aye

Council Thompson - Aye

Supervisor Lewis - Aye

Absent 1 Miller (conference call)

Whereas, the Town of Portland received special use permit and solar overlay rezoning applications from Omni Portland Solar LLC to construct and operate a 5 MW Solar Energy system in the Town of Portland, Chautauqua County, NY at 7820 Felton Road; and

Whereas, the Portland Town Board has reviewed these applications and project at several meetings and held the required public hearing and received comments from the public and received input from the Town Planning Board, Chautauqua County (including completing the required Section 239 referral), other agencies and the Town Consultant; and

Whereas, the Portland Town Board in accordance with the New York State Environmental Quality Review Act (SEQRA), has conducted a coordinated SEQR process, reviewed part 1 of the FEA and completed parts 2 and 3 of the FEA, and has done a thorough review of the project and its potential impacts; and

Whereas, the Portland Town Board, in accordance with SEQRA, has determined that the proposed issuance of a special use permit, rezoning to the Town's solar overlay and the construction and operation of a 5 MW solar energy system at this location will not adversely affect the natural resources of the State and/or the health, safety and welfare of the public and is consistent with social and economic considerations.

Now, Therefore, Be It Resolved, that the Town Board through the coordinated SEQR process establishes the Town Board as SEQR Lead Agency, and hereby determines that the proposed issuance of a special use permit, rezoning to the Town's zoning overlay and the construction and operation of a 5 MW solar energy project at this location is not anticipated to result in any significant adverse environmental impact and that a Negative Declaration is hereby issued and that the Town of Portland Supervisor is authorized to sign the EAF, which will act as the

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Negative Declaration.

CERTIFICATION FORM

STATE OF NEW YORK)
COUNTY OF CHAUTAUQUA) ss.:

I, the undersigned Clerk of the Town of Portland, Chautauqua County, New York (the "Town"), DO HEREBY CERTIFY that I have compared the preceding Resolution #78-2022 of 2022 with the original thereof filed in the office of the Town Clerk on August 10, 2022 and that the same is a true, correct and complete copy of said original and of the whole thereof so far as the same relate to the subject matters referred to therein.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Town this 17th day of August 2022.

Barb Smith
Town of Portland Clerk

(CORPORATE SEAL)

**SPECIAL USE PERMIT #2022-3
& OVERLAY DISTRICT APPROVAL
RESOLUTION 79-2022**

On a motion of Council McIntyre, seconded by Council Thompson the following Resolution was ADOPTED by:

Roll Call Vote

Council Thompson - Aye
Council Farrell - Aye
Council McIntyre - Aye
Supervisor Lewis - Aye

Absent 1 Miller (conference call)

Action of the Board:

To consider the application of Omni Portland Solar LLC to construct and operate a 5 MW large-scale solar energy system on parcels located at 7820 Felton Road, which is designated on the Chautauqua County tax map as Section 194.00, Block 1, Lots 44 and 50.

WHEREAS, Omni Portland Solar LLC (hereinafter, the "Applicant") has requested the issuance of a Special Use Permit authorizing it to construct and operate a 5 MW large-scale solar energy system – i.e. a solar farm – on a parcel at 7820 Felton Rod, which is designated on the Chautauqua County tax map as Section 194.00, Block 1, Lots 44 and 50, and

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WHEREAS, the proposed site plan was the subject of public hearings held by the Town Planning Board, after publication of legal notice, at which time all persons having an interest in the application were heard, and on May 26, 2021, the Planning Board adopted a resolution granting site plan approval, recommending that the Town Board impose certain conditions on the approval, and referring the matter back to the Town Board, and

WHEREAS, the application was referred to the Chautauqua County Planning Department pursuant to Section 239-m of the General Municipal Law and the Department advised by letter dated August 9, 2022 that the matter was of local concern, and

WHEREAS, the issue of compliance with the State Environmental Quality Review Act has been addressed, and a Negative Declaration has been issued after examination of the record and a public hearing, and

WHEREAS, the Town Board has considered all the facts and papers before it, and has heard those wishing to be heard at a public hearing held July 13, 2022, and finds justification to approve the application for an overlay district and special use permit subject to the qualifications hereinafter set out,

NOW, THEREFORE, BE IT

RESOLVED, that the Town Board makes the following findings of fact:

1. The Applicant has obtained the necessary site plan approval from the Town Planning Board;
2. The application materials include all of the information this Board requires to take final action on both the Special Use Permit and re-zoning requests; and
3. The proposed project meets the development standards set out in Local Law No. 2 of 2019; and be it further

RESOLVED, that the application to construct and operate a Large-scale Solar Energy System be and hereby is authorized and approved, and this Special Use Permit and the Overlay District request shall be issued, subject to the conditions and requirements hereinafter set out:

1. The Overlay District shall be limited to the parcel currently designated on the official tax map of Chautauqua County as Section 194.00, Block 1, Lots 44 and 50;
2. The Applicant shall undertake the use in accordance with the plans, maps, and application submitted to the Town, except as hereinafter modified, and agrees to be bound by the terms of the application and the conditions of this permit.
3. The following conditions shall apply to the permit:
 - a. No solar arrays or appurtenant equipment or structures shall be placed on any soil identified as Chenango gravelly loam soil within the Overlay District.
 - b. The project will return to the Planning Board for final site plan approval.

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- c. The entire array must be enclosed by a 7' chain link fencing topped with outward angled (approx. 45 degrees) 12" barbed wire.
 - d. The applicant shall construct a hard aggregate road providing ambulance access that extends to both arrays from a public road/highway with sufficient turn-around space as determined by the Portland fire chief.
 - e. If, after construction, the existing vegetation (most located off-site) does not provide the screening as indicated in the visual analysis or if vegetation dies, the applicant will return to the Planning Board with a planting/screening mitigation plan to be approved by the Planning Board. If any current natural or man-made visual screening is removed, either through intentional, natural, or accidental means, the applicant shall make every reasonable attempt to replace or mitigate the loss of screening, preferably outside the perimeter fencing.
 - f. After one year of operation, the project shall return to the Planning Board and/or Town Board to review and ensure that the project is operating in conformance with this Special Use Permit.
 - g. Prior to the issuance of a building permit for the project, the applicant shall supply information documenting that the panels and anti-glare coatings do not contain any PFAS's or other hazardous materials.
 - h. Prior to the issuance of a building permit, the applicant shall submit a detailed decommissioning plan which will be reviewed by the Town to ensure that it meets the Town's requirements.
 - i. All of the other required materials, such as sureties, etc. shall be submitted and approved by the Town prior to issuing a building permit.
4. The terms, conditions, and requirements of this permit bind and obligate the Applicant, its successors, and assigns. This permit shall not be assigned or transferred, in whole or in part, without the prior written consent of the Town, except as otherwise herein noted.
 5. Any failure or omission on the part of the Applicant to carry out any condition or requirement herein or in accordance with the terms or requirements of any statute, local law, ordinance or regulation, may be deemed a violation of the Town of Portland Zoning Law and unless corrected in not more than 10 days following the service of written notice of such violation upon the Applicant, may subject them to the penalties therein. Continued violations after written notice may result in revocation of this Special Use Permit.

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6. This Special Use Permit shall become effective after the Applicant approves each and every provision hereof and agree to be bound by all of the terms herein contained in consideration of the granting of this Special Use Permit.

Dated: August 10, 2022

The Applicant, Omni Portland Solar LLC, agrees to abide by all the terms of this Special Use Permit.

Dated: August 10, 2022

OMNI PORTLAND SOLAR LLC

CERTIFICATION FORM

STATE OF NEW YORK)
COUNTY OF CHAUTAUQUA) ss.:

I, the undersigned Clerk of the Town of Portland, Chautauqua County, New York (the "Town"), DO HEREBY CERTIFY that I have compared the preceding Resolution #79-2022 of 2022 with the original thereof filed in the office of the Town Clerk on August 10, 2022 and that the same is a true, correct and complete copy of said original and of the whole thereof so far as the same relate to the subject matters referred to therein.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Town this 17th day of August 2022.

Barb Smith
Town of Portland Clerk

(CORPORATE SEAL)

Mr. Seachrist addressed a couple of conditions in the Special Use Permit. Mr. Seachrist stated the Special Use Permit is almost the same as previous permits submitted. Mr. Seachrist stated there was a community benefit agreement in package. This is a separate agreement with the developer to pay some monies to the Town, it is a thirty-year plan.

Peter McAuliffe, Senior Manager, Development, (OYA Solar) handed out maps to Supervisor, Board Members and Mr. Seachrist.

Council Thompson question if the solar company was now the owner of 7820 Felton Rd? Peter McAuliffe (OYA Solar) responded they just lease from owner.

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NEW BUSINESS:

ASSOCIATION OF TOWN DUES:

RESOLUTION 80-2022

On a motion of Council McIntyre, seconded by Council Farrell the following resolution was ADOPTED Aye 4 Lewis, McIntyre, Farrell, Thompson

Nay 0

Absent 1 Miller (phone conferenced)

RESOLVED The Portland Town Board approves to pay \$1,100.00 for the The Association of Town Dues for the year 2023.

BUILDING IMPROVEMENTS:

Supervisor Lewis obtained quotes to rekey the building locks from A Village Locksmith on 8/2/22.

RESOLUTION 81-2022

On a motion of Council McIntyre, seconded by Council Farrell the following resolution was ADOPTED Aye 4 Lewis, McIntyre, Farrell, Thompson

Nay 0

Absent 1 Miller (conference call)

RESOLVED the Portland Town Board approves to pay \$847.50 to A Village Locksmith to rekey doors at Town Hall per quote submitted on 8/2/22.

REPLACE AIR CONDITIONER UNITS:

Supervisor Lewis obtained quotes from Casale Plumbing, Heating & A/C and Vecchio Bros. Heating & Cooling Inc. tor replace Furnace and Air Conditioning Units for Building.

RESOLUTION 82-2022

On a motion of Council McIntyre, seconded by Council Farrell the following resolution was ADOPTED Aye 4 Lewis, McIntyre, Farrell, Thompson

Nay 0

Absent 1 Miller (conference call)

RESOLVED the Portland Town Board approves to replace all four (4) units in building, pending budget availability.

Supervisor Lewis is obtaining quotes for the Town's website. Supervisor Lewis is waiting to hear back from Techsulere (Town's internet support) for pricing. There was discussion on other options to update website. Council Thompson stated there might be concerns because we are a municipality there are security issues that would need to keep on top of.

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TOWN BOARD MEMBERS/TOWN CLERK:

Council Farrell thanks Superintendent Becker for taking care of flowers.

TOWN CLERK:

- nothing to report.

HIGHWAY DEPARTMENT:

Highway Superintendent Ken Becker is getting ready to pave Tastor Lane. There was a water leak at Tastor Lane and hopefully it is repaired. Superintendent Becker stated there are some overnight guest staying at Community Park. Not damage to report except some trash and personal items left in pavilions. Superintendent Becker has spoken with Sheriff Department a couple of times. Superintendent Becker would like Supervisor Lewis to make a call to Sheriff Department to have them patrol the park more frequently.

BILLS:

RESOLUTION 83-2022

On a motion of Council McIntyre, seconded by Council Farrell the following resolution was ADOPTED Aye Lewis, McIntyre, Farrell, Thompson

Nay 0

Absent 1 Miller (conference call)

RESOLVED the Portland Town Board approves the bills be paid for July 2022 as presented.

GENERAL FUND	\$ 26,447.75
TOWN OUTSIDE VILLAGE	\$ 401.81
HIGHWAY TOWNWIDE	\$ 62.80
HIGHWAY OUTSIDE VILLAGE	\$ 47,761.70
<u>STREET LIGHTING</u>	<u>\$ 434.32</u>
TOTAL	\$ 75,108.38

EXECUTIVE SESSION:

On a motion of Council Farrell, seconded by Council McIntyre the board moved into Executive Session at at 7:05 pm to discuss personnel issue.

On a motion of Council McIntyre, seconded by Council Farrell the Board returned to Regular Session at 7:15pm.

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With no further business, on a motion of Council Thompson, seconded by Council McIntyre the meeting adjourned at 7:16pm.

Respectfully Submitted by,

Barb Smith-Town Clerk