

**TOWN BOARD
TOWN OF SULLIVAN
REGULAR MEETING
NOVEMBER 20, 2019
9:00 A.M.**

A regular meeting of the Town Board of the Town of Sullivan was convened at the Town Office Building by Supervisor Becker at 9:00 A.M. on November 20, 2019.

Those in attendance for this meeting were: Supervisor John M. Becker; Councilors John Brzuszkiewicz; Jeff Martin, Kerry Ranger and Tom Kopp; Highway Superintendent Andy Busa, Comptroller Beth Ellis, Assistant Comptroller Mike Harvey; Attorney for the Town John R. Langey; and Secretary to the Supervisor Elaine Morgan.

Also, in attendance: Karen O'Connor from Parkitects, Jonathan Bergan from Clay, NY.

Meeting opened at 9:00 A.M.

Pledge to the flag was led by Supervisor Becker.

APPROVAL OF NOVEMBER 6, 2019 MEETING MINUTES

A motion was duly made by Councilor Brzuszkiewicz, seconded by Councilor Kopp and unanimously approved by the Board to approve the minutes from the November 9, 2019 Town Board Meeting.

MORATORIUM ON COMMERCIAL SOLAR FARMS

Supervisor Becker continued the discussion concerning a potential moratorium for commercial level solar facilities. Counselor Brzuszkiewicz explained that while material have been presented, more time is needed for the Town Board to investigate. Counselor Martin agreed that more time was needed for research. Thereafter, the following action occurred:

The following resolution was offered by Councilor Martin, who moved its adoption, seconded by Councilor Brzuszkiewicz, to wit:

WHEREAS, pursuant to the provisions of the Municipal Home Rule Law, proposed Local Law No. E-2019, titled "A Local Law Imposing a Twelve (12) Month Moratorium on Commercial Free-Standing Solar Photovoltaic (PV) Systems Within the Town of Sullivan," was presented and introduced at a regular meeting of the Town Board of the Town of Sullivan held on October 2, 2019; and

WHEREAS, a public hearing was held on such proposed local law on November 6, 2019, by the Town Board of the Town of Sullivan and proof of publication of notice of such public hearing, as required by law, having been submitted and filed, and all persons desiring to be heard in connection with said proposed local law having been heard, and said proposed local law having been in the possession of the members of the Town Board of the Town of Sullivan in its final form

in the manner required by Section 20 of the Municipal Home Rule Law of the State of New York; and

WHEREAS, based upon the public hearing held on November 6, 2019, the Town Board determined to further discuss the ramifications of proposed Local Law No. E of 2019 and on motion of Councilor Martin, seconded by Councilor Ranger, the Board unanimously approved tabling the decision on said Local Law until its November 20, 2019 meeting; and

WHEREAS, Volume 6 N.Y.C.R.R., Section 617 of the Regulations relating to Article 8 of the New York State Environmental Conservation Law of New York (SEQRA), requires that as early as possible in the consideration of a proposed action, an involved agency shall make a determination whether a given action is subject to the aforementioned law; and

WHEREAS, on October 2, 2019 the Town Board declared itself lead agency and determined that the enactment of proposed Local Law No. E-2019 is a Type II action and therefore will have no significant effect on the environment, thus concluding environmental review under State Environmental Quality Review Act; and

WHEREAS, the Town of Sullivan Town Board has now determined that it is in the public interest to enact said Proposed Local Law No. E-2019.

NOW, THEREFORE, it is

RESOLVED that the Town Board of the Town of Sullivan, Madison County, New York, does hereby enact Proposed Local Law No. E-2016 as Local Law No. 4-2019 as follows:

**“TOWN OF SULLIVAN
LOCAL LAW NO. 4-2019**

**A LOCAL LAW IMPOSING A TWELVE (12) MONTH MORATORIUM
ON COMMERCIAL FREE-STANDING SOLAR PHOTOVOLTAIC (PV)
SYSTEMS WITHIN THE TOWN OF SULLIVAN**

Be it enacted by the Town of Sullivan Town Board, as follows:

SECTION 1. AUTHORITY.

This Local Law is enacted pursuant to the New York State Constitution and New York Municipal Home Rule Law §10.

SECTION 2. INTENT.

It is the intent of the Town Board of the Town of Sullivan to impose a twelve (12) month moratorium on commercial free-standing solar photovoltaic (PV) systems within the Town of Sullivan.

SECTION 3. LEGISLATIVE PURPOSE.

The Town of Sullivan has in effect Chapter 275 (Zoning) of the Code of the Town of Sullivan, which addresses solar power uses within the Town. In recent months, the Town has become aware of a proliferation of larger scale solar energy system applications in the Town and surrounding areas, such that solar energy uses are becoming increasingly prevalent in the Town of Sullivan at a commercial scale. Based upon this, the Town Board is of the opinion that a period of time is necessary to determine whether additional regulation of commercial freestanding solar power energy systems is necessary in order to preserve and protect the health, safety and welfare of its residents. Commercial free-standing solar power energy are generally larger, more obtrusive and can pose a hazard and danger to residents by distraction, obstruction, and the power supply systems involved with such installations may pose a risk. This moratorium will enable town officials to review and comprehensively address the various issues involved with these commercial level systems.

The Town recognizes the potential benefits and desirability of solar power and renewable energy sources but determines that time and study is necessary in order to determine if and how to properly regulate such installations. The Town Board deems this moratorium emergent and immediately necessary for the Town.

SECTION 4. DEFINITIONS.

COMMERCIAL FREE STANDING SOLAR PHOTOVOLTAIC (PV) SYSTEMS

A free standing solar photovoltaic (PV) system and area of land principally used to convert solar energy to electricity with the primary purpose of supplying electricity to a utility grid for wholesale or retail sales of electricity to the general public or utility provider.

SECTION 5. MORATORIUM.

A. The Town Board hereby enacts a moratorium which shall prohibit the placement, construction or erection of a commercial free standing solar photovoltaic (PV) system within the Town of Sullivan and/or the processing or further processing of such applications.

B. This moratorium shall be in effect for a period of twelve (12) months from the effective date of this local law and shall expire on the earlier of: (i) the date twelve (12) months from said effective date of this local law, unless renewed; or (ii) the enactment by the Town Board of a resolution indicating the Town Board is satisfied that the need for the moratorium no longer exists.

C. This moratorium shall apply to all zoning districts and all real property within the Town.

D. Commercial free-standing solar photovoltaic (PV) systems which have previously been approved or are located on Town-owned property are hereby expressly excluded from this

moratorium. Those applications for such uses which have not received appropriate approvals from the Town's Zoning or Planning Boards are included in the moratorium.

SECTION 6. RELIEF FROM PROVISIONS OF THIS LOCAL LAW.

A. The Town Board reserves to itself the power to vary or adapt the strict application of the requirements of this Local Law in the case of unusual hardship which would deprive the owner of all reasonable use of the lands involved.

B. Application for relief shall be filed in triplicate with the Town Code Enforcement Officer together with a filing fee of \$250.00. The application shall specifically identify the property involved, recite the circumstances pursuant to which the relief is sought and the reasons for which the relief is claimed. Any costs, including expert consulting fees or attorney's fees, incurred by the Town, shall be reimbursed to the Town by the Applicant. The Town Board shall apply Use Variance criteria as set forth in the New York State Town Law, Section 267-b (2) in reviewing any application for relief.

C. The Town Board may refer any applications for relief herein to the Town Planning Board for its advice and recommendations, but all decisions on granting or denying such relief shall be made solely by the Town Board after determining whether or not the requested relief is compatible with any contemplated amendments to the Town Zoning Law. Unless completely satisfied that the proposed relief is compatible, the Town Board shall deny the application.

D. The Town Board shall conduct a public hearing on any request for relief within forty-five (45) days of receipt by the Town Code Enforcement Officer and shall issue its final decision on requests for relief within thirty (30) days from the date of the public hearing.

SECTION 7. PENALTIES.

Any person, who shall construct, reconstruct, relocate, enlarge or modify any site to be used for a commercial free-standing solar photovoltaic system in violation of the provisions of this local law, shall be subject to:

A. A fine not to exceed One Thousand and 00/100 Dollars (\$1,000.00) or imprisonment for a term not to exceed fifteen (15) days, or both. Each day a violation continues shall be considered a new violation.

B. A civil action inclusive of injunctive relief in favor of the Town to cease any and all such actions which conflict with this local law and, if necessary, to remove any constructions, improvements, or related items or byproducts which may have taken place in violation of this local law.

SECTION 8. ENFORCEMENT.

This local law shall be enforced by the Code Enforcement Office of the Town of Sullivan or such other zoning enforcement individual(s) as designated by the Town Board. It shall be the

duty of the enforcement individual(s) to advise the Town Board of all matters pertaining to the enforcement of this local law.

SECTION 9. VALIDITY & SEVERABILITY.

If any section or part of this local law is declared invalid or unconstitutional, it shall not be held to invalidate or impair the validity, force or affect any other section of this local law.

SECTION 10. EFFECTIVE DATE.

This local law shall take effect immediately upon passage and thereafter shall be filed with the New York State Department of State and shall remain in force and effect for a period of twelve (12) months from the date of passage.”

The question of the adoption of the foregoing resolution was duly put to a vote and upon roll call, the vote was as follows:

John E. Brzuszkiewicz	Councilor	Voted	Yes
Thomas J. Kopp Jr.	Councilor	Voted	Yes
Kerry Ranger	Councilor	Voted	Yes
Jeffrey Martin	Councilor	Voted	Yes
John M. Becker	Supervisor	Voted	Yes

The foregoing resolution was thereupon declared duly adopted.

DATED: November 20, 2019

CERTIFICATE

STATE OF NEW YORK)
COUNTY OF MADISON)

I, the undersigned Deputy Town Clerk of the Town of Sullivan, Madison County, New York, **DO HEREBY CERTIFY:**

That I have compared the foregoing Resolution with the original thereof on file in the Office of the Town Clerk of the Town of Sullivan, and that the same is a true and correct copy of said original and of the whole of said original so far as the same relates to the subject matters therein referred to.

I FURTHER CERTIFY that all members of said Board had due notice of said meeting and that, pursuant to Section 103 of the Public Officers Law, said meeting was open to the general public.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Town on November 20, 2019.

PAMELA BRIONES
Deputy Town Clerk

(SEAL)

PLAYGROUND PRESENTATION BY PARKITECTS

Karen O'Connor from Parkitects presented a concept for a playground to be located in Chittenango, NY. The presentation lasted 15-20 minutes including a slideshow as well as a general question and answer session. This conversation included company background, opportunities for fund raising/grant finding, potential building phases, accessibility, warranty for parts, and materials used. Ms. O'Connor also indicated that there is a third party which conducts an audit during and after construction to ensure reliability and stability of structures.

FUEL BID FOR HIGHWAY DEPARTMENT

One Fuel Bid was received and opened by Supervisor Becker at 9:30 A.M. Buell Fuels, LLC. Submits the following:

	Base	Differential	Fluctuating Net Price	Fixed Net Price
ULSD (Diesel)	1.9274	+.0900	2.0174	2.1009
ULSD Winer 60/40 With Additive	2.0124	+.0900	2.1024	2.1998
Gasoline	1.6689	+.1405	1.8099	N/A
Propane	.8800	+.1881	1.0681	1.1455

A motion was made by Counselor Ranger, seconded by Counselor Kopp and unanimously approved to accept the Buell Fuels, LLC bid for fuel for the 2019-2020 season at 9:46 A.M.

PROPOSAL FROM BARTON AND LOGUIDICE FOR ENGINEERING SERVICES:
SEWER

A proposal was received from Barton and Loguidice for engineering services for the previously discussed sewer projects. A motion was made by Counselor Martin, seconded by Counselor Kopp and unanimously approved by the Board, accepting the proposal.

**PROPOSAL FROM BARTON AND LOGUIDICE FOR ENGINEERING SERVICES:
WASTEWATER TREATMENT IMPROVEMENT**

Proposal received from Barton and Loguidice for engineering for previously discussed Wastewater Treatment Plant Improvement Projects. A motion was made by Counselor Martin, seconded by Counselor Brzuszkiewicz and unanimously approved by the Board, accepting the proposal.

**MOTION TO SET A PUBLIC HEARING: PROPOSED LOCAL LAW F-2019
(Amend Local Law No. 1 of 2019 - Special Events Law)**

Motion for a proposed local law to be presented for public hearing made by Counselor Brzuszkiewicz, seconded by Counselor Martin and unanimously approved by the Board, accepting the public hearing. Public Hearing for Proposed Local Law F-2019 is scheduled for the Town Board Meeting on Wednesday, December 4, 2019 at 7:00 P.M. This motion was carried. Thereafter, the following action occurred:

Councilor Brzuszkiewicz introduced proposed Local Law No. F-2019, “A Local Law to Amend Local Law No. 1 for the Year 2019 titled ‘A Local Law to Enact a Special Events Law in the Town of Sullivan’,” and made the following motion which was seconded by Councilor Martin:

WHEREAS, proposed Local Law F-2019 has been introduced and will be considered for enactment pursuant to the provisions of the Municipal Home Rule Law; and

WHEREAS, Volume 6 N.Y.C.R.R., Section 617 of the Regulations relating to Article 8 of the New York State Environmental Conservation Law, requires that as early as possible after submission of a completed application, an involved agency shall make a determination whether a given action is subject to the aforementioned law; and

WHEREAS, no other agency has the legal authority or jurisdiction to approve or directly undertake the enactment of a local law in the Town of Sullivan, such that there are no other involved agencies within the meaning of the New York State Environmental Quality Review Act (SEQRA) with respect to the proposed enactment of said proposed Local Law, with the result that the Town Board shall act as lead agency in this matter; and

WHEREAS, the adoption of said Local Law is an unlisted action for purposes of environmental review under SEQRA; and

WHEREAS, the Town Board has determined that a short environmental assessment form (EAF) shall be required in connection with this matter; and

WHEREAS, the said EAF has been prepared and has been reviewed by the Town Board; and

WHEREAS, the Town Board has considered the adoption of said Local Law, has considered the criteria contained in 6 N.Y.C.R.R. Part 617.7 and has compared the impacts which may be reasonably expected to result from the adoption of said Local Law against said criteria.

NOW, THEREFORE, BE IT RESOLVED that the Town Board has determined this action shall have no significant adverse impact on the environment; that, accordingly, an environmental impact statement (EIS) shall not be required; and that this resolution shall constitute a negative declaration under SEQRA; and it is further

RESOLVED that this proposed Local Law will be referred to the Madison County Planning Board pursuant to New York General Municipal Law §239; and it is further

RESOLVED that the Town Board shall conduct a public hearing as to the enactment of proposed Local Law No. F-2019 at the Town Hall located at 7507 Lakeport Road, Chittenango, New York on December 4, 2019 at 7:00 p.m., or as soon thereafter as the matter can be heard, at which time all persons interested in the subject shall be heard; and be it further

RESOLVED that notice of said public hearing shall be provided at least ten (10) days prior to the date of said public hearing in a newspaper of general circulation within the Town of Sullivan and to any affected municipalities described above.

The question of the adoption of the foregoing resolution was duly put to a vote and upon roll call, the vote was as follows:

John E. Brzuszkiewicz	Councilor	Voted	Yes
Thomas J. Kopp Jr.	Councilor	Voted	Yes
Kerry Ranger	Councilor	Voted	Yes
Jeffrey Martin	Councilor	Voted	Yes
John M. Becker	Supervisor	Voted	Yes

The foregoing resolution was thereupon declared duly adopted.

DATED: November 20, 2019

CERTIFICATE

STATE OF NEW YORK)
COUNTY OF MADISON)

I, the undersigned Deputy Town Clerk of the Town of Sullivan, Madison County, New York, **DO HEREBY CERTIFY:**

That I have compared the foregoing Resolution with the original thereof on file in the Office of the Town Clerk of the Town of Sullivan, and that the same is a true and correct copy of said original and of the whole of said original so far as the same relates to the subject matters therein referred to.

I FURTHER CERTIFY that all members of said Board had due notice of said meeting and that, pursuant to Section 103 of the Public Officers Law, said meeting was open to the general public.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Town on November 20, 2019.

PAMELA BRIONES
Deputy Town Clerk

(SEAL)

PROPOSAL FOR PREVENTATIVE MAINTENANCE: TOWN OF SULLIVAN
BUILDING GENERATOR MAINTENANCE

A proposal was received from Power Generation & Industrial Engines, Inc. regarding routine generator maintenance was reviewed by the Board. While the Board agrees maintenance is important and will be handled in a timely manner, the vendor has not been selected.

Counselor Martin interjected that he may have solutions for generator maintenance and will present concepts for this project soon.

A motion to continue the discussion on preventative maintenance for the Town's generators was made by Counselor Martin, seconded by Counselor Ranger and unanimously approved by the Board.

BUDGET MODIFICATIONS

Transferring \$6,000.00 from SM1990.4 Contingent to SM3410.2 Equipment. This is to pay for the Mobile containment fill station from Sherman Air Services for North Chittenango Fire Department. Additionally, Transferring 25,000.00 from A1990.4 Contingent to A1420.418 Outside Legal Fees. This is to pay outside Attorney's billings with respect to personnel matters.

Motion to support this transfer was made by Counselor Martin, seconded by Counselor Kopp and unanimously approved by the Board.

APPOINTMENT OR APPLICATION FOR MEMBERSHIP IN THE FIRE COMPANIES
COMPRISING THE SULLIVAN FIRE DISTRICT

The Town Board acting as the Board of Fire Commissioners, received applications from Dale Lamphear for North Chittenango Fire Department and Haley Boyce for Chittenango Fire Department.

A motion was duly made by Councilor Kopp, seconded by Councilor Brzuszkiewicz and unanimously approved by the Board, acting as the Board of Fire Commissioners, accepting both applicants as a member of the respective organizations.

OTHER MATTERS DISCUSSED

1. Supervisor Becker mentioned that Matthew Vincent from the Census Bureau sent a Thank You note and is looking forward to working with the Town of Sullivan in the upcoming months.
2. Jonathan Bergan from Clay, NY introduced himself as a future landowner of approximately 30 acres of land. Mr. Bergan expressed an interest in clearing trees and other material from this land in an effort to make this more desirable to potential buyers or for other uses. The Board recommended Mr. Bergan speak with Zoning and Codes regarding clearing this land and also advised Mr. Bergan of the curiosity neighbors may have for this area once the clearing process begins.

EXECUTIVE SESSION

A motion was duly made by Councilor Martin, seconded by Councilor Brzuszkiewicz and unanimously approved by the Board to enter into executive session at 9:50. A.M. concerning the employment history of a particular person.

A motion was duly made by Councilor Martin, seconded by Councilor Kopp and unanimously approved by the Board to exit executive session at 10:37 A.M.

ADJOURNMENT

A motion was duly made by Councilor Brzuszkiewicz, seconded by Councilor Ranger and unanimously approved by the Board to adjourn the Town Board Meeting at 10:38 A.M.

Respectfully Submitted,
Elaine Morgan, Secretary to Supervisor