

July 18, 2017

State of New York
County of Fulton
Town of Oppenheim

Minutes of the Oppenheim Regular Board meeting held on July 18, 2017 at the Oppenheim Town Hall located at 110 Route 331, St. Johnsville, NY 13452.

Present

Cynthia Breh	--	Supervisor
Patricia Haberek	--	Councilwoman
John Houle	--	Councilman
Stephanie Gray	--	Councilwoman
Gloria Brys	--	Town Clerk
Brian Miller	-	Assistant Highway Superintendent

Absent

Billie Jo Getman	--	Dog Control Officer
Joanne Capek-Young	--	Bookkeeper
Cheryl Lynch	--	Councilwoman
Scott DeNinno	--	Highway Superintendent
Scott DeNinno	--	Codes Enforcement Officer

Supervisor Cynthia Breh called the meeting to order at 6:30 pm with the Pledge to the Flag.

Public Hearing

Supervisor Breh opened the public hearing at 6:30 p.m. for the Borrego Solar Energy Project South

**Notice of Public Hearing
FOR THE TOWN BOARD OF THE TOWN OF OPPENHEIM
BORREGO SOLAR ENERGY PROJECT - SOUTH**

PLEASE TAKE NOTICE that the Town Board of the Town of Oppenheim will hold a Public Hearing on **July 18, 2017 at 6:30 pm at the Oppenheim Town Offices, 110 State Route 331, St. Johnsville, New York 12078** to hear all comments for and against a variance request for the Borrego Solar Energy Project – South to be constructed on a portion of the lands at 519 County Route 151, Oppenheim NY 13452 (Tax Map ID 125-1-19.1) from the height limitation for the solar panels as set forth in the Town’s Solar Law.

The Application and other project information are available for public review at the Oppenheim Town Offices located at 110 State Route 331, St. Johnsville, New York 12078.

July 18, 2017 (cont)

Borrego Solar Energy Project

David Albright from the Borrego Company was present to discuss the variance needed for the South project. He stated that the North Project will not have any solar panels mounted in the excess of 8 feet in height. For the South Project, Borrego has requested a waiver from the height requirement to allow for the installation of solar panels to a height of 9 feet 6 inches.

Supervisor Breh wanted to know who measures the land to make sure the lines are correct.

Mr. Albright said that they have a survey of the property done and the survey will be sent to the town.

Mr. Albright stated that the project will start around August 1st because it has to be mechanically done by December 31st.

Motion made by Patricia Haberek and seconded by John Houle to accept the Amended Solar Farm Permit North which is as follows

**TOWN OF OPPENHEIM
Amended Solar Farm Permit**

ISSUED TO: **Oppenheim Solar North, LLC**

DATED: July 18, 2017

THIS AMENDED SOLAR FARM PERMIT is hereby GRANTED to OPPENHEIM SOLAR NORTH, LLC for the construction and operation of a ±1.94 MW (AC) Solar Farm containing solar panels, racks and supports, associated inverters, transformers, data systems and switch gear, electric lines to interconnect with the local electric grid, an access road and other utility infrastructure ("North Project") pursuant to a resolution of the Oppenheim Town Board dated July 18, 2017, which determined that the requirements of Section 6 of the Town of Oppenheim Solar Farm Law (Local Law No. 1 of 2017) had been met, issued necessary waivers from certain requirements thereof and directed the issuance of this Amended Solar Farm Permit.

The location of said Solar Farm is depicted on the approved amended site plan located at the Oppenheim Town Hall as Exhibit A.

Dated: July 18, 2017

TOWN OF OPPENHEIM
TOWN CLERK



Gloria Brys

Approved

Ayes – 4 - Haberek, Houle, Gray, Breh

Absent – 1 – Lynch

July 18, 2017 (cont)

Motion made by John Houle and seconded by Stephanie Gray to accept the Amended Solar Farm Permit South which is as follows:

**TOWN OF OPPENHEIM
Amended Solar Farm Permit**

ISSUED TO: **Oppenheim Solar South, LLC**

DATED: July 18, 2017

THIS AMENDED SOLAR FARM PERMIT is hereby GRANTED to OPPENHEIM SOLAR SOUTH, LLC for the construction and operation of a \pm 2.31 MW (Ae) Solar Farm containing solar panels, racks and supports, associated inverters, transformers, data systems and switch gear, electric lines to interconnect with the local electric grid, an access road and other utility infrastructure ("South Project") pursuant to a resolution of the Oppenheim Town Board dated July 18, 2017, which determined that the requirements of Section 6 of the Town of Oppenheim Solar Farm Law (Local Law No.1 of 2017) had been met, issued necessary waivers from certain requirements thereof and directed the issuance of this Amended Solar Farm Permit.

The location of said Solar Farm is depicted on the approved amended site plan located at the Oppenheim Town Hall as Exhibit A

Dated: July 18, 2017

Town of Oppenheim
Town Clerk

A handwritten signature in cursive script, appearing to read "Gloria J. Brys", is written over a horizontal line. To the right of the signature, there is a faint circular stamp with illegible text.

Adopted

Ayes – 4 Houle, Gray, Haberek, Breh

Absent- 1 – Lynch

Motion made by Patricia Haberek and seconded by John Houle to accept the Negative Declaration which is as follows:

**TOWN OF OPPENHEIM TOWN BOARD RESOLUTION
ISSUING A NEGATIVE DECLARATION UNDER SEQRA, GRANTING WAIVERS,
APPROVING AMENDED SITE PLANS AND ISSUING AMENDED SOLAR FARM
PERMITS PURSUANT TO LOCAL LAW NO.1 OF 2017
FOR THE BORREGO SOLAR ENERGY - NORTH PROJECT AND SOUTH PROJECT**

July 18, 2017

WHEREAS, on or about March 30, 2017, PV Engineers, P.C. (c/o Borrego Solar Systems, Inc.) (Borrego") applied to the Town of Oppenheim Town Board (Town Board") for a Solar Farm Permit pursuant to the Town of Oppenheim Local Law No.1 of 2017, entitled "A Local Law Establishing Regulations for Solar Farm Permits Within the Town of Oppenheim" ("Solar Farm law") for a 1.366 MW (AC) Solar Energy Project ("North Project") to be located at 519 County Route 151 in the Town of Oppenheim, Fulton County, New York on the lands owned by Holly Marie Handy, (Tax Map ID -1-19.1) (Property");

WHEREAS, on or about March 30, 2017, Borrego applied to the Town Board a Solar Farm Permit pursuant to the Solar Farm law for a ±2.0 MW (AC) Solar Energy Project ("South Project") to be located at the Property;

WHEREAS, the two projects, while designed to be entirely separate systems with separate permit holders with separate off-takers for the electricity produced, the Town Board determined to review the applications for each project together to evaluate the potential environmental impacts under the State Environmental Quality Review Act [ECL Article 8 and its implementing regulations at 6 NYCRR Part 617, collectively referred to as "SEQRA");

WHEREAS, on April 25, 2017, the Town Board held a duly noticed public hearing to hear all comments on both the North Project and the South Project and adopted a resolution issuing a Negative Declaration under SEQRA, granted waivers for each project as requested by the Applicant, approved the site plans for the North and South projects and issued Solar Farm Permits for the North and South projects;

WHEREAS, in June 2017, the Applicant submitted amended application for site plan approval and an amended Solar Farm Permit for the North Project, which utilized the same project area but used a different solar panel with minor changes to the layout of the solar array; and

WHEREAS, in June 2017, the Applicant also submitted an amended application for the South Project which included a request for a waiver/variance from the height requirement for the solar panels, amended site plan approval and an amended Solar Farm Permit;

WHEREAS, due to the minor changes to the previously approved projects, the Fulton County Planning Department advised no further review under GML § 239-m was required; and

WHEREAS, the Town Board held a duly noticed public hearing on July 18, 2017 at 6:30 pm at the Town of Oppenheim Offices located at 110 State Route 331, St. Johnsville, NY as required under the Solar Law to hear all persons for and against the amended applications for the North and South Projects.

NOW, THEREFORE, BE IT RESOLVED, by the Town Board as follows:

1. That, after reviewing the documentation submitted by the applicant including the Amended Applications and site plans and reviewing the Full EAFs for each project, and reviewing the potential impacts of both projects together hereby determine that there will be no significant adverse environmental impacts associated with the North Project, the South Project and from both projects cumulatively and nothing in the amended Applications for the North and South projects raises any impacts different in nature or scope from those previously analyzed by the Lead Agency. Accordingly, the Town Board therefore issues this negative declaration of significance under SEQRA for the reasons set forth in the Negative Declaration dated April 25, 2017 (attached to the April 25, 2017 resolution as Exhibit A) which is incorporated herein by reference.

2. That Town Board reaffirms its previous findings set forth in the April 25 resolution which demonstrate the proposed construction of the North Project and the South Project, each a separate Solar Farm, at the Property satisfies the requirements of the Solar Farm Permit Law:
 - a. The Projects meet the applicable requirements of the Town of Oppenheim Solar Farm Permit Law, §§ 6 (A) except for the requested waivers discussed below;
 - b. The North Project will not have any solar panels mounted in excess of 8' in height as required under Solar Law § 6(A)(4);
 - c. For the South Project, in its amended application Borrego has requested a waiver from the height requirement to allow for the installation of solar panels to a height of 9'6" in excess of the 8' limitation required under Solar Law § 6(A)(4).
 - i. The Town Board hereby finds that the additional height will create no additional visual impacts due the slope of the ground away from Route 151 and changing the lowest elevation of the solar panels from 30" above ground could cause lost production due to snow cover and changing the tile of the panels would also decrease production.
 - ii. The Town Board therefore grants the requested waiver from the 8' height limitation under Solar Law § 6(A)(4) for the South Project.

3. All waivers previously granted by the Town Board remain in full force and effect for both the North and the South Project except as noted in Paragraph 2(c) and 2 (d) above.

4. All conditions previously imposed by the Town Board and accepted by the Applicant remain in full force and effect, including visual mitigation and the delivery of a decommissioning bond for each project as set forth in the Decommissioning Plan to the Town of Oppenheim Town Clerk to be held in escrow, prior to commencement of the construction; and
5. The amended site plans demonstrate that the North Project and South Project:
 - a. are designed and located to layout ensure that the solar panels will not reflect solar radiation or glare onto any habitable buildings or adjacent roads and that the solar panels include a non-glare coating and is designed to absorb the maximum amount of solar rays such that it will not misdirect or reflect solar rays onto such habitable buildings or adjacent roads in excess of that which already exists as required under Solar Law § 6(A)(7);
 - b. all transmission/interconnection lines on the North Project and South Project shall be underground and within necessary easements and in compliance with applicable electrical and town codes as required under Solar Law § 6(A)(8) as shown on C-100 dated March 1, 2017;
 - c. the solar farm modular panels will not contain hazardous materials as required under Solar Law § 6(A)(10);
 - d. the requirements of Solar Law § 6(A)(11) have been met;
 - e. no artificial lighting is proposed in accordance with Solar Law § 6(A)(12);
 - f. that any signage will be in accordance with the applicable town requirements and the manufacturers and/or installers identification and appropriate warning signage shall be posted as required under Solar Law § 6(A)(13);
 - g. the North Project and the South Project each provide sufficient off-street parking as required under Solar Law § 6(A)(14);
6. The requirements of Solar Law § 6(B) have been met;
 - a. Borrego has provided the site plans and project summary to the local fire department and will cooperate with the department in developing and updating its emergency response plan;
 - b. Borrego will identify a contact person for the life of the project and update the contact with the Town Clerk as needed;
 - c. Borrego submitted the required documentation to demonstrate the utility has approved the interconnections of the North and South Projects;
 - d. Borrego shall maintain the North and South Projects in good condition, maintain its access road and coordinate access for emergency services
7. That the Town Clerk is hereby directed and shall issue an Amended Solar Farm Permit for the North Project and an Amended Solar Farm Permit for the South Project; and
8. That this resolution shall be filed in the office of the Town Clerk and take effect immediately.

PASSED AND ADOPTED by the Town Board of the Town of Oppenheim on the 18th day of July, 2017

3.

<u>Roll Call Vote:</u>	<u>Yes</u>	<u>No</u>	<u>Abstain/Absent</u>
Supervisor Cynthia Breh	X		
Councilwoman Patricia Haberek	X		
Councilwoman Stephanie Gray	X		
Councilwoman Cheryl Lynch			X
Councilman John Houle	X		



Motion made by John Houle and seconded by Patricia Haberek to close the public hearing
At 7:20 p.m. and Stephanie Gray and Supervisor Breh were in favor.

C & J Heating – Eric Watson

Mr. Watson was present to discuss the boiler replacement. He said that he doesn't think the town needs to replace the boiler. He stated that it is operational and has no cracks or leaks. He said that if a new boiler were put in it would only be 86% efficiently and our boiler is 82%. His suggestion was to insulate the building by using spray foam.

Mary Mosher-resident of the town

She stated that the junkyard on Route 29 needs to be cleaned up because it is a health factor and the Codes Enforcement Officer should do something about it. They keep bringing cars in and none ever come back out.

It was stated that it is considered a repair shop so they can have cars for parts.

She also stated that she thinks that if someone has a job then they should show up for work. She said that the Superintendent of Highways is not showing up for work as much as he should

Stephanie Gray stated that the Superintendent is an elected position so the board cannot tell him when he has to show up for work.

Bookkeeper Report

Joanne Capek-Young was absent but had a written report for the board members. Supervisor Breh stated what a good job Joanne is doing because everything is up to date. Stephanie Gray made a motion to accept the Bookkeepers report and Patricia Haberek seconded it and all board members were in favor.

Dog Control Officers Report

Billie-Jo Getman was absent but had a report for the board members. She was really busy this month issuing a lot of tickets for residents who do not have licenses for their dogs.

Stephanie Gray made a motion to accept the Dog Control Officers report and Patricia Haberek seconded it and all board members were in favor.

July 18, 2017 (cont)

Codes Enforcement Officer

Scott DeNinno was absent but had a report for the board members. He issued 4 new permits and 2 renewal permits and collected \$325.00. He stated that he received 2 more inquiries regarding solar farms.

Stephanie Gray made a motion to accept the Codes Enforcement Officers Report and Patricia Haberek seconded it and all board members were in favor.

Highway Report

Brian Miller Assistant Superintendent of Highways was present. He stated that the Mill Road is complete. The mowing for the County is finished. On the North Road they are waiting for the pipe and they need the DEC permit.

He stated that the excavator is still broke and they need to try and find a 2005 hydraulic drive motor. The county excavator is way too big for what they need to do now but they can use it for the North road.

Stephanie Gray made a motion to accept the Highway report and Patricia Haberek seconded it and all board members were in favor.

Town Clerks Report

Town Clerk Brys gave the board members a monthly report.

Stephanie Gray made a motion to accept the Town Clerks report and Patricia Haberek seconded it and all board members were in favor.

Speed Limit Signs

Supervisor Breh said that the speed limit signs on Route 29 are up.

Sweet Hill Road

Patricia Haberek said a resident on Sweet Hill road called her requesting more patrol on the road. Mrs. Haberek called the Sheriff Department and they said they would patrol more.

Reports from the Fire companies

The Hilltop Fire company gave a written report of the calls that they had in June and stated that they had one person take the fire police training. The report also had a list of all the members

As for the Oppenheim Volunteer Fire company, they sent a letter stating that they are denying the towns request for a written report. They feel it should have been negotiated and included in the contract.

Executive Session

Patricia Haberek made a motion to have an executive session at 8:30 pm on personnel and legal matters and Stephanie Gray seconded it and John Houle and Supervisor Breh were in favor.

July 18, 2017 (cont0

Supervisor Breh called the meeting back to order at 9:10 p.m.

Shared Services

Supervisor Breh said that the County is looking into having the towns do Shared Services. Assessment cannot be part of the shared services because the Assessors are elected.

Approval of Minutes

Motion made by John Houle and seconded by Patricia Haberek to approve the minutes of June 20, 2017

Adopted

Ayes - 4 Houle, Haberek, Gray and Breh

Absent – 1 - Lynch

Motion made by Stephanie Gray and seconded by John Houle to authorize payment of the vouchers

Adopted

Ayes – 4 Gray, Houle, Haberek, Breh

Absent – 1 - Lynch

With no further business on a motion by Councilwoman Haberek and seconded by Councilman Houle, the meeting was adjourned at 9:15 pm

Respectfully submitted,
Gloria J. Brys, Town Clerk