

A Town Board workshop was held on August 26, 2021 in the Town of Moreau Municipal building, 351 Reynolds Road, Moreau, New York for the purpose of discussing the proposed Solar Law.

The Supervisor opened the workshop at 6:11 p.m.

The Town Clerk called the roll.

Town Board Members Present

John Hogan	Councilmember
Kyle Noonan	Councilmember
John Donohue, Jr.	Councilmember
Alan VanTassel	Councilmember
Theodore T. Kusnierz, Jr.	Supervisor

Town Board Members Absent

None

Also present: Leeann McCabe, Town Clerk; Karla Buettner, Attorney for the Town; Town Historian, Brigid Martin; Town Residents: Mary Ellen Kusnierz, Pat Killian, Travis Smith, William Thomas, Rachel McDermott, Ed Smith, Darren Suarez

The Supervisor welcomed everyone to the Town Board workshop. He stated that they had already had a public comment period with regard to the draft solar law and now it's time for the Town Board to decide where they want to go from here. He stated that many individuals had spoken, and many comments were received. The Town Board needs to determine if they want to make changes to the draft law based on the comments received, leave as is, or table for further discussion. He stated, that after listening to the testimonies from the public twice, he has concerns with allowing tier 3 solar in the Ag District. He stated that it would be counter to the Moreau Farmland Protection Plan, that the Town spent between \$20,000.00 - \$25,000.00 to put in place. He stated that if any members of the Board had read the Plan, they would see what the primary findings are. If the Town of Moreau wants to have healthy and viable farmland in the community, they'll have to adopt new zoning requirements that are conducive to the information that's outlined in the Town's Farmland Protection Plan. He stated that there's a section in the 60-page document that talks about future generations and how important it is to have farmland available, so the future generations can continue to farm.

The Supervisor stated that he had a conversation with the Commissioner of Agriculture and Markets about 30-minutes ago. The Supervisor stated that he had received a correspondence yesterday morning from the agency and the Commissioner wasn't aware that it had gone out. The Supervisor stated that there is a conflict of interest because the person who had requested the determination is related to the Deputy Commissioner in charge of that department. He stated that he has concerns with the information that was transmitted to the Town. In his conversation with the Commissioner, he was told that the agency is committed to work with NYSERDA to come up with viable regulations to protect farmland in New York State. He stated that it's the agency's position to protect the top four tiers of farmland. Within those tiers are farmland with statewide importance and prime farmland. The Supervisor recommended to the Board members, that they hold off on any additional changes to the local law until they get direction from the Department of Agriculture & Markets, working in concert with NYSERDA, to assist the Town in insuring that there is an appropriate local law in place.

Councilmember VanTassel stated that he wasn't opposed to his recommendation. He stated that it has become confusing after reading the document received from Agriculture & Markets because they modeled their law from NYSERDA. He did state that there is additional dialogue he would like to have at this workshop regarding some other options. He asked specifically about an overlay district.

Attorney Buettner explained an overlay district. She stated that an overlay is a zoning district. It would require approval per project by the Town Board and then it would go to the Planning Board for any site plan review or approval. She stated that the Town Board could set up an overlay district over the entire Town or over certain portions of the Town where solar would be allowed, and not by a zoning district that's currently set up. With an overlay, if someone were to want a tier 3 solar array on farmland, they

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would have to come to the Town Board. The Town Board would have to make sure they meet the requirements of the overlay district. The Town Board would decide if that project meets the requirements to be in the district. It would then have to go to the Planning Board and meet all the other requirements. She stated that it would be similar to a PUD. If the Town Board created an overlay in certain areas of the Town, solar arrays wouldn't be allowed outside of those overlays.

Councilmember VanTassel asked Attorney Buettner, if creating an overlay, could it be in any zoning district. She replied that it could. She stated that an overlay allows for flexibility. She gave an example that if someone were in an R-3 district, where it currently isn't permitted, if that portion were in an overlay district, it could be permitted. Councilmember VanTassel asked Attorney Buettner if she had a chance to review the document that the Supervisor had mentioned. She stated that she had received it late last evening and has only had a chance to skim through it. From what she can see, it only identifies ideas. There are no directives. She stated that it was a little troubling that a state agency would come into a local municipal agency's discussion. Councilmember VanTassel stated that they worked closely with her on the draft law. Attorney Buettner stated that she had been working with NYSERDA, while they were creating their model law. She stated, that if there was anything different in this correspondence, from what she and NYSERDA have worked on, she would like to explore it further. She stated that she didn't know where the document came from.

Councilmember Donohue stated that the letter they were discussing had come through him. He stated that he was concerned with the tier 2 language in the current draft law. He stated that he researched it and sent e-mails to the Town Board. He stated that he was looking for an opinion to clean-up the language in the draft law and to avoid legal issues down the road. He stated that there are several items in the draft law that are in conflict with Agriculture & Markets. He stated that a resident contacted the Department of Agriculture & Markets on her own and received the response. She sent it to him last night. He stated that he sent the document to the Town Board members so they could be up to date with what was going on with Agriculture & Markets and their opinion. He stated that he would like to see the Board take out agriculture from section 149-98 (D)(1) and to follow the guidelines from Agriculture & Markets. He stated that it was pretty clear what their guidelines are for those type of arrays and suggested that they want to take down all the hurdles and to get things streamlined so farmers can get these in as soon as possible, so they can keep their operations running.

Councilmember VanTassel stated that the draft law was written with the guidance from NYSERDA and had concerns as well with the conflicted information. He too doesn't want to publish a law that isn't in line with Agriculture & Markets.

Attorney Buettner stated that she believed the whole Agriculture & Markets letter was in reference to the tier 2 systems. She recited a portion of the letter that stated they were asked to review various provisions of the proposed solar law. She stated that she didn't know what those provisions were.

Councilmember VanTassel agreed with Attorney Buettner in that she should get the entire story from Agriculture & Markets. He stated that they need to sort this out and find out what the discrepancies are.

Supervisor Kusnierz asked if it was the Town Board's intent to follow the Farmland Protection Plan.

Councilmember Hogan stated that he didn't know the entire Plan but commented that it was probably done before tier 3 solar was thought of. He stated that he recognized the importance of keeping farmland but also recognizes the importance of farmers being able to diversify. He stated that solar energy is clean energy that benefits the community as a whole. He stated that sometimes farmers need other ways to make money.

The Supervisor recommended, that anyone who hadn't had an opportunity to review the Farmland Protection Plan, to review it. He stated that it's more than just protecting the farmland. He stated that there are sections on soils and next generations. He stated that page #9, farmland soils, describes acreage and farmland of statewide importance. He stated that those characterizations weren't pulled out of thin air. He read the last sentence from the Plan and then encouraged any Board member, who has not had a chance to look at it, to read it.

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Councilmember VanTassel stated that he had read the Plan. He stated that there were a lot of taxpayers and Boards prior to this one, who put a lot of time into the Farmland Protection Plan. He stated that those people were just as passionate about that as people are passionate about the solar. He stated that it weighs heavy on him and doesn't want to lose sight of others. He asked if everyone was comfortable with having Counsel reach out to Agriculture & Markets regarding the tier 2 systems. Board members were in agreement.

Councilmember Donohue stated, regarding tier 3, that NYSEDA and the Planning Board both felt that the draft law is overly restricted. He stated that they've had a public hearing and believed that the Supervisor felt that most people were in favor of keeping the language as it was. He stated that he had done some research and found the opposite. At the public hearing 24 people were in favor of removing the language and 14 were against it. He stated that there were 30 emails sent to the Town Board and 28 asked to have the restrictions removed. He stated that there was also an on-line petition with over 300 signatures. He stated that 150 were from residents who were in favor of removing the language. He stated, that he thought after the last workshop, they were going to look at the whole picture and see what the public had to say. He stated that there has been an overwhelming response from the public, that they would like to see the language removed.

The Supervisor stated that he read the transcript and the documents that were provided as part of the testimony at the public hearing. He stated that he most cares about the individuals who reside in and the farmers who work in the R-5/Agriculture District. He stated that he puts a higher premium on those that are impacted by any change to the district, than those who aren't impacted. He commented that the on-line petition was signed by many individuals who weren't even from New York State.

The Supervisor spoke in relation to the petition that was signed. He asked Councilmember Donohue if he knew that it was illegal to use Town resources to launch a campaign. He then asked where the petition came from. Councilmember Donohue stated repeatedly, from a concerned resident. The Supervisor stated that he had evidence that the petition was found in the copier in his office. He stated that the only individual who was in the building at the time the copy was time stamped was Councilmember Donohue. Councilmember Donohue stated that he printed a copy. The Supervisor stated that he had printed several copies. The Supervisor asked Attorney Buettner if that was against the law. She stated, to use any Town resources (phone, email etc.) to further local laws, site plan approvals or zoning approvals is not permitted under Town Law.

The Supervisor stated, that after reviewing the testimony from those he puts the highest emphasis on, that Councilmember Donohue's facts are incorrect. He stated that most of the farmers who spoke oppose solar in the Ag District.

Councilmember Donohue stated that he respects the opinion of the farmers but didn't think that 2 or 3 landowners in a certain area should dictate what the others in that district do.

It was the Supervisor's position that he would like to hear and receive information from Agriculture & Markets as they work through the process and to work with NYSEDA on the top tiers.

Councilmember VanTassel agreed with that but asked if there was a timeline. The Supervisor replied that there wasn't.

Councilmember Donohue stated that he would like to look into the overlay district more and asked if they could work with the Zoning Administrator and Counsel to see exactly what they could do and see if it might be an option.

Supervisor Kusnierz stated that it would be premature to do that and that it would be a moot point depending on what Agriculture and Markets says. He stated that he would rather wait and get direction from the State.

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A motion was made by Councilmember VanTassel, seconded by Councilmember Noonan and carried to close the meeting 6:50 p.m.

Asked if all in favor, the following responses were given:

Councilmember Hogan	Aye
Councilmember Noonan	Aye
Councilmember Donohue	Aye
Councilmember VanTassel	Aye
Supervisor Kusnierz	Aye

Meeting adjourned.

Respectfully submitted,

Leeann McCabe
Town Clerk