

A workshop of the Town Board of the Town of Moreau was held on November 18, 2020 in the Town of Moreau Municipal building, 351 Reynolds Road, Moreau, New York, for the purpose of discussing the draft Solar Law.

Supervisor Kusnierz called the workshop to order at 5:33 p.m.

Town Board Member Present

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

Town Board Members Absent

None

Also Present: Jill Bennett, Deputy Town Clerk; Karla Buettner, Attorney for the Town

Supervisor Kusnierz welcomed everyone to the workshop for the Town of Moreau's proposed solar law. The Town Board has had several workshops regarding the proposed solar law and their goal is to wrap it up and get it out to the public for comment. The Supervisor asked Ms. Buettner, Town Attorney, to give everyone a recap of where the Board left off at the last workshop.

Ms. Buettner said at the last workshop the Board focused on Tier 3 solar systems and after much discussion they were able to get through Section 149-99 subsection B1 through B5. The Town Board was not able to reach an agreement regarding wording in Subsection A, of 149-99, regarding prime farmlands, and USDA lands in Tier 3. Subsection B6 is the Decommissioning plan and the next subsection is the Site Plan review standards. Her hope was that the Board could get through 149-99 Tier 3 in tonight's workshop.

Supervisor Kusnierz asked Ms. Buettner to explain information she emailed to Town Board members regarding overlay districts. She explained that an overlay district is exactly as it sounds. It's a district that lays over one or more zoning districts within the Town. The Town Board has the authority to decide the parameters if they decide to create an overlay district. There are many types of overlay districts but in this case, it would be a Solar Overlay District. Ms. Buettner gave an example of a property owner requesting to install a large solar farm on their land. Their property is not located in the approved R-5, M-1 or M-2 Zoning Districts but they want the Town to consider allowing the project. If the Town Board were to create a Solar Overlay District and the property is located under that overlay, they could choose to send the project to the Planning Board for review. The Planning Board would conduct their review and make sure all established criteria are met. The Planning Board would make a recommendation to the Town Board saying they believe this is a proper project for this property. The Planning Board would request the Town Board to make this parcel ok for commercial solar. The Town Board would review and approve, then send it back to the Planning Board to complete their normal review procedures. Another benefit of the overlay district is the Town Board would retain some control over large projects. Without the overlay district the Town Board would create the law then it would be up to the Planning Board to make sure projects follow the law as it's written. Ms. Buettner said there are pros for using the overlay for both the Town and its landowners.

There was a discussion regarding benefits the Town would receive for approving projects brought to the Town Board by solar companies. Ms. Buettner said the Town Board could put wording in the Solar Law regarding benefits.

The Supervisor asked Ms. Buettner to explain the difference between an Overlay Zone verses a PUD. Ms. Buettner explained that a PUD is used to create a benefit for the Town. The benefit could be something that would benefit the economy, create jobs, or create additional housing within the Town. Because solar only benefits the landowner, not the Town, it wouldn't be handled as a PUD. An Overlay District would

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accommodate zoning issues, such as commercial solar. There are properties outside of the Tier 3 approved Zoning Districts R-5, M-1, and M-2 that meet all the criteria for a commercial solar project, except for the zoning. The Overlay District creates a process that might allow approval of their project.

After some discussion the Town Board decided to table the Overlay District decision at this time. They wanted to hear what the public's feelings are before making a final decision.

The discussion moved to the draft law. At the last workshop the Town Board was working on the wording in section 149-99 Standards for Tier 3 Large-Scale Solar PV Systems. They bypassed Subsection A and moved on to Subsection B. They worked through subsection B1 through B5. Ms. Buettner said the goal for tonight's workshop was to complete 149-99.

Supervisor Kusnierz asked Ms. Buettner to read the definition of a Tier 3 large scale solar system. She replied that it's solar arrays not mounted on a roof or building integrated. The solar arrays are larger than 4,000 sq. ft. and generate up to 110 percent of the electricity used over the last 12 months.

Supervisor Kusnierz started with 149-99 Subsection A. He read Subsection A out loud. Ms. Buettner said there's additional language in Subsection A that generated a great deal of discussion in the last workshop. She read the portion she was referring to: Large scale solar energy systems shall not be permitted to be constructed on Prime Farmland, farmland of statewide importance, farmland of local importance, of unique soils as defined by the US Department of Agriculture (USDA), New York State Department of Environmental Conservation (DEC), the US Army Corps of Engineers or local governing body. Some of the Town Board members wanted this wording left in subsection A and some wanted the wording removed. After a lengthy discussion among the Town Board members a decision was made to leave the wording in subsection A so the public could read it and give their opinion.

In the last workshop the Town Board reviewed 149-99 subsection B1 through B5. Tonight's conversation started with B6 Decommissioning plan. Supervisor Kusnierz read the Decommissioning Plan subsection. The discussion in this section centered around the decommissioning and removal of solar PV systems that are left not working or are abandoned. If the property owner does not remove the solar PV system, the Town would hire a company to remove it from the property and restore the property according to the decommissioning plan. The decommissioning plan needs to be worked out prior to installing the solar PV system, a legal form needs to be signed and an amount of money to fully cover the cost of decommissioning, including inflation, will be collected and put into a cash escrow account or have a letter of credit. The Town Board agreed on the wording in Subsection B6-a through B6-i.

The discussion moved to 149-99 Subsection C, Site plan review standards. Supervisor Kusnierz read the section. After a discussion the Board decided to leave Subsection C2, Lot size, at 10 acres. Under Subsection C3-a there was a discussion about lot coverage in the M-1 and M-2 Zoning Districts. Originally it was written as 60 percent. There was a discussion about lowering that percentage. The decision was made to reduce lot coverage to 40 percent. Subsection C3-b covers the lot coverage percentage in the R-5 Zoning District. The original amount was 10 percent. There was a discussion about raising the percentage. Councilmember VanTassel asked for review of the definition of lot coverage when talking percentages of lot size. Ms. Buettner read the definition as the area covered by a solar panel or array that's measured on a horizontal plane projected from the perimeter of said panel or array vertically to the ground. After a discussion the Town Board decided to use lot coverage for the R-5 Zoning District as 40 percent for the draft solar law and they want to hear the public's input. Under Subsection C5 the Board left the language as is. There was a discussion regarding the wording used in the Model Law relating to Subsection C6, screening. Ms. Buettner made the comment that the language the Board is questioning is already written in for the R-5 Zoning District under 149-99, Subsection B4. She asked if the Board wanted her to include that wording for the M-1 and M-2 Zoning Districts? The Board decided they want the wording to be the same in the M-1 and M-2 Zoning Districts. The Town Board members decided to leave it up to the Planning Board's discretion as to what type and how many trees and other natural vegetation that needs to be used to conceal the arrays. Under Subsection C7 the Board decided no changes were needed. The Board decided to change the wording in the first sentence in Subsection C8 to read: Existing access roads

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are permitted to be utilized. New access roads are to be located along the edge of agricultural fields in areas next to hedgerows and field boundaries and in the nonagricultural portions of the site. Under Subsection C9 the Board decided the wording is ok. Under Subsection C10 the wording was changed to: The Planning Board may impose conditions on its approval of any site plan under this section in order to enforce the standards referred to in this section or in order to discharge its obligations under the State Environmental Quality Review Act (SEQRA). The Board decided to remove Subsection D.

Ms. Buettner explained the PILOT Agreement regarding taxes and solar panels. Solar panels are exempt from property taxes unless the local municipality decides to opt out. The local town has not opted out. If the Town hasn't opted out, you will not get tax revenue from solar projects. You can have a requirement to submit to a PILOT. What we do is instead of taxing them you submit them to a PILOT which allows you to set the amount per megawatt or negotiate. NYSEDA has a percentage on their website. They say you should set an amount per megawatt. Saratoga County already does this, at \$1,000 per megawatt. The Assessor and Ms. Buettner suggest that Town Board members decide to implement a property loss setting. Then the Board can say we're going to exempt you from the taxes, but you've got to give us the PILOT. We have properties that get an AG exemption but once the solar panels go on, they will no longer get the AG exemption. The Board decided to go with the PILOT.

Supervisor Kusnierz asked Ms. Buettner what is left to go over before the Planning Board and Zoning Board. She replied that there are a couple more sections to look at. One is Section 100 is Abandonment Decommissioning. Planning Board meets on December 21, 2020 and Zoning Board meets on December 23, 2020. So they need the draft by December 7, 2020 in order to discuss it at their meeting. Ms. Buettner suggested the Town Board members read through Section 100, 101 and 102 for the next workshop.

Supervisor Kusnierz needed a motion to close the meeting.

Councilmember Donohue: Motion to close.

Councilmember VanTassel: Seconded.

Supervisor Kusnierz: All in favor? Aye (simultaneously).

The workshop adjourned at 7:18 p.m.

Respectfully submitted,

Jill Bennett, Deputy Town Clerk