Members of the board present: Doug Shelmidine, Don Goodnough, Joel Bovee, Kurt Gehrke, Mike Hubbard

Member of the board absent:

Others present: Debbie Payne, Bob Corron, Cindy Shaw

Public: (per sign in sheet): Terrance McGraw, Lynn Shaw, Frank & Cheri Spallane, Tim Dillon, Arlene Bauer

Regular Meeting called to order in the meeting room of the Town Hall at 7:00 pm by Supervisor Shelmidine.

Kurt Gehrke made a motion to accept the minutes from the previous meeting, Mike Hubbard seconded, and all board members present voted in favor –Shelmidine, Goodnough, Bovee, Gehrke, Hubbard (5-ayes)

Supervisor, Town Clerk and Tax Collector’s monthly reports were submitted to the board for review.

Floor opened to the public:

No public comment, floor closed.

Proposed Water District: Supervisor gave update on information received from the Engineers. The next step would be district formation, including map plan report and description of district. Part 2 and Part 3 of the SEQR need completing as well. The majority of the Board agreed to accept the report and not to authorize any further expenditures to move forward on the map plan at this time.

Building Infrastructure:

* Heating system is working good.
* Quote from Lynn Bertram to construct a cover over the outside condenser unit was reviewed.

Kurt Gehrke made a motion to accept the quote and have Lynn Bertram start construction on the cover for the outside condenser unit for the heating system. Don Goodnough seconded and all board members present voted in favor–Shelmidine, Goodnough, Bovee, Gehrke, Hubbard (5-ayes)

* Creg Systems is now up and running for tech services. They have more items to address.

**Resolution # 13**

WHEREAS, the Village of Ellisburg has submitted a purchase offer to the Town; and

WHEREAS, the purchase offer is for parcel # 117.83-1-38 of which the Town of Ellisburg is the owner; and

WHEREAS, the purchase offer is for consideration of $1.00 (one dollar) and the Village would assume all costs and fees associated with the sale and transfer of the property.

THEREFORE, BE IT RESOLVED, the Town of Ellisburg hereby accepts the Village of Ellisburg purchase offer for parcel #117.83-1-38 and agrees to sell the parcel to the Village of Ellisburg.

Offered by: Mike Hubbard

Seconded by: Don Goodnough

Voting aye: Gehrke, Hubbard, Shelmidine, Goodnough, Bovee

Voting nay:

Absent:

Abstained:

Town Board reviewed a quote from Williamson Law Book for Water billing with the options of email billing and online payment processing. After discussion, Joel Bovee made a motion to purchase the new software from Williamson with the add-on options for water billing. Mike Hubbard seconded and all board members present voted in favor –Shelmidine, Goodnough, Bovee, Gehrke, Hubbard (5-ayes)

The Town Board reviewed the proposed Local Law entitled “Prior Written Notice/Notification of Defects Local Law”. Mike Hubbard introduced the following and Kurt Gehrke seconded:

**Prior Written Notice/**

**Notification of Defects Local Law**

**Section 1.**

It is the intention of the Town Board to protect the health and safety of the community by requiring actual written notice of defective and hazardous conditions existing on Town owned, or maintained, properties. The receipt of actual written notice will enhance the Town's ability to remedy dangerous conditions on all properties under the management and care of Town personnel in an expeditious and safe manner. This Law is enacted pursuant to Authority of NY Town Law §65-a and Municipal Home Rule Law §10.

**Section 2.**

Be it enacted by the Town Board of Ellisburg that no civil action shall be maintained against the Town or any Town Official or Town Superintendent of Highways for damages or injuries to person or property sustained by reason of any highway, street, crosswalk, bridge, culvert being defective, out of repair, unsafe, dangerous or obstructed unless written notice of such defective, unsafe dangerous or obstructed condition of such highway, street, crosswalk, bridge or culvert was actually given to the Town Clerk or Town Superintendent of Highways, and that there was a failure or neglect within a reasonable time after the giving of such notice to repair or remove the defect, danger or obstruction complained of; nor shall such action be maintained for damages or injuries to person or property sustained solely in consequence of the existence of snow or ice upon any highway, street, crosswalk, bridge or culvert, unless written notice thereof, specifying the particular place, was actually given to the Town Clerk or Town Superintendent of Highways and there was a failure or neglect to cause such snow or ice to be removed, or to make the place otherwise reasonably safe within a reasonable time after the receipt of such notice.

**Section 3.**

No civil action shall be maintained against the Town, or any Town Official or Town Superintendent of Highways for damages or injuries to person or property sustained by reason of any defect in its sidewalks or in consequence of the existence of snow or ice upon any of its sidewalks, unless such sidewalks have been constructed or are maintained by the Town or the Superintendent of Highways of the Town pursuant to statute, nor shall any action be maintained for damages or injuries to person or property sustained by reason of such defect or in consequence of such existence of snow or ice unless written notice thereof, specifying the particular place, was actually given to the Town Clerk or to the Town Superintendent of Highways, and there was a failure or neglect to cause such defect to be remedied, such snow or ice to be removed, or to make the place otherwise reasonably safe within a reasonable time after the receipt of such notice.

**Section 4.**

The Town Superintendent of Highways shall transmit in writing to the Town Clerk within ten (10) days after the receipt thereof all written notices received by him/her pursuant to this **section**.

**Section 5.**

The Town Clerk shall keep an indexed record, in a separate book, of all written notices which he/she shall receive of the existence of a defective, unsafe, dangerous **or** obstructed condition in or upon; or of an accumulation of ice or snow upon any Town highway, street, crosswalk, bridge, culvert or sidewalk, which record shall state the date of receipt of the notice, the nature and location of the condition stated to exist, and the name and address of the person from whom the notice is received. All such written notices shall be indexed according to the location of the alleged defective, unsafe, dangerous or obstructed condition, or the location of accumulated snow or ice. The record of each notice shall be preserved for a period of five (5) years after the date it is received.

**Section 6.**

**It** is the intent of the Town Board, pursuant to the Municipal Home Rule Law of the State of New York, to adopt provisions more restrictive than §65-a of the Town Law of the State of New York.

**Section *7*.**

This Local Law shall take effect immediately upon its filing in the office of the Secretary of State.

Motion made by Mike Hubbard to set public notice on Local Law #1 of 2023 for May 4, 2023 at 7:10pm. Seconded by Kurt Gehrke and all board members present voted in favor –Shelmidine, Goodnough, Bovee, Gehrke, Hubbard (5-ayes)

The Town Board reviewed the proposed Local Law entitled “Regulation of Solar Energy Systems in the Town of Ellisburg”. Joel Bovee introduced the following and Don Goodnough seconded:

## Local Law 2 of 2023

Regulation of Solar Energy Systems in the Town of Ellisburg

### Article X Regulation of Solar Energy Systems

This Article shall be known and cited as "Regulation of Solar Energy Systems" being Local Law Number 2 of 2023.

1 . Authority

This amendment to the Town Zoning Law is adopted pursuant to Sections 261-263 of the Town Law and Section 20 of the Municipal Home Rule Law of the State of New York, which authorize the Town to adopt zoning provisions that advance and protect the health, safety and welfare of the community, and, in accordance with Town Law of New York State, "to make provision for, so far as conditions may permit, the accommodation of solar energy systems and equipment and access to sunlight necessary therefore."

2. Amendment

The Zoning Laws of the Town of Ellisburg are hereby amended to add Article X, Regulation of Solar Energy Systems as follows:

1. Purpose

This Article is adopted to advance and protect the public health, safety, and welfare of the Town by creating regulations for the installation and use of solar energy generating systems and equipment, with the following objectives:

* 1. To take advantage of a safe, abundant, renewable and non-polluting energy resource;
  2. To decrease the cost of electricity to the owners of residential and commercial properties, including single-family houses;
  3. To mitigate the impacts of Solar Energy Systems on environmental resources such as important agricultural lands, forests, wildlife, aesthetic, historical, cultural, and other protected resources, and adjacent properties;
  4. To create synergy between solar and other stated goals of the community pursuant to comprehensive and long range plans.

1. Definitions

BUILDING-INTEGRATED SOLAR ENERGY SYSTEM: A combination of Solar Panels and Solar Energy Equipment integrated into any building envelope system such as vertical facades, semitransparent skylight systems, roofing materials, or shading over windows, which produce electricity for onsite consumption.

FARMLAND OF STATEWIDE IMPORTANCE: Land, designated as "Farmland of Statewide Importance" in the U.S. Department of Agriculture Natural Resources Conservation Service (NRCS)'s Soil Survey Geographic (SSURGO) Database on Web Soil Survey that is of state wide importance for the production of food, feed, fiber, forage, and oilseed crops as determined by the appropriate state agency or agencies. Farmland of Statewide Importance may include tracts of land that have been designated for agriculture by state law.

GLARE: The effect by reflections of light with intensity sufficient as determined in a commercially reasonable manner to cause annoyance, discomfort, or loss in visual performance and visibility in any material respects.

GROUND-MOUNTED SOLAR ENERGY SYSTEM: A Solar Energy System that is anchored to the ground via a pole or other mounting system, detached from any other structure that generates electricity for onsite or offsite consumption.

LARGE-SCALE SOLAR ENERGY SYSTEM: A Solar Energy System that produces energy primarily for supplying more than 200 kW of electrical energy into a utility grid for wholesale or retail offsite sale or consumption.

NATIVE PERENNIAL VEGETATION: native wildflowers, forbs, and grasses that serve as habitat, forage, and migratory way stations for pollinators and shall not include any prohibited or regulated invasive species as determined by the New York State Department of Environmental Conservation.

ON-SITE GROUND-MOUNTED SOLAR ENERGY SYSTEM: A Solar Energy System that is anchored to the ground via a pole or other mounting system, detached from any other structure, that generates electricity for onsite consumption only with a system capacity that generate no more than 110 % of the electricity consumed on the site over the previous 12 months

POLLINATOR: bees, birds, bats, and other insects or wildlife that pollinate flowering plants, and includes both wild and managed insects.

PRIME FARMLAND: Land, designated as "Prime Farmland" in the U.S. Department of Agriculture Natural Resources Conservation Service (NRCS)'s Soil Survey Geographic (SSURGO) Database on Web Soil Survey, which has the best combination of physical and chemical characteristics for producing food, feed, forage, fiber, and oilseed crops and is also available for these land uses.

ROOF-MOUNTED SOLAR ENERGY SYSTEM: A Solar Energy System located on the roof of any legally permitted building or structure that produces electricity for onsite or offsite consumption.

SOLAR ACCESS: Space open to the sun and clear of overhangs or shade so as to permit the use of active and/or passive Solar Energy Systems on individual properties.

SOLAR ENERGY EQUIPMENT: Electrical material, hardware, inverters, conduit, storage devices, or other electrical and photovoltaic equipment associated with the production of electricity.

SOLAR ENERGY SYSTEM: The components and subsystems required to convert solar energy into electric energy suitable for use. The term includes, but is not limited to, Solar Panels and Solar Energy Equipment. The area of a Solar Energy System includes all the land inside the perimeter of the Solar Energy System, which extends to any interconnection equipment.

SOLAR PANEL: A photovoltaic device capable of collecting and converting solar energy into electricity.

STORAGE BATTERY: A device that stores energy and makes it available in an electrical form.

1. Applicability
   1. . The requirements of this Article shall apply to all Solar Energy Systems permitted, installed, or modified in the Town after the effective date of this Article, excluding general maintenance and repair.
   2. Solar Energy Systems constructed or installed prior to the effective date of this Article shall not be required to meet the requirements of this Article.
   3. Modifications to an existing Solar Energy System that increase the Solar Energy System ground contact and/or surface collection area by more than of the original area of the Solar Energy System (exclusive of moving any fencing) shall be subject to this Article.
   4. All Solar Energy Systems shall be designed, erected, and installed in accordance with all applicable codes, regulations, and industry standards as referenced in the NYS Uniform Fire Prevention and Building Code ("Building Code"), the National Fire Protection Association (NFPA) codes and standards, the National Electric Code (NEC), the NYS Energy Conservation Code ("Energy Code"), and the Town Code.
   5. Application Fees, Review Costs, and Development Agreement
      * 1. All applicants are required to pay an application fee to cover the administration expenses of the Town. The application fees are set by resolution of the Town Board. Failure to pay the application fee shall constitute an incomplete application.
        2. The Board may, in cases of large developments or developments that pose possible negative environmental impacts, seek the assistance of consultants, engineers, or attorneys. When this is necessary the Board shall require a Development Agreement with escrow account be established to cover these expenses. The Board shall, as reasonably necessary, obtain an estimate of expenses for the consultant, engineer or attorney prior to setting the amount of the escrow account.
        3. The Board may require additional security for the Town's review expenses, in accordance with the provisions of this section, in the event that the Town's potential liability for such expenses exceeds the initial amount deposited.
        4. All unused funds or proceeds from the escrow account shall be refunded to the applicant upon completion of the following:

i. Final approval, or rejection of, any application; or ii. Final approval of any and all completed improvements and submission of all final bills to the Town for its review expenses incurred as a result of the applicant's proposed plan.

1. General Requirements
   1. . A Zoning permit shall be required for installation of all Solar Energy Systems. Additionally, all Large Scale Solar Energy Systems shall require a Special Use Permit.
   2. Local land use boards are encouraged to condition their approval of proposed developments on sites adjacent to existing Solar Energy Systems so as to protect their access to sufficient sunlight to remain economically feasible over time.
   3. The Town Zoning Board of Appeals shall include review pursuant to the State Environmental Quality Review Act [ECL Article 8 and its implementing regulations at 6 NYCRR Part 617 ("SEQRA")].
2. Building-Integrated Solar Energy Systems
   1. . Shall be shown on the plans submitted for the building permit application for the building containing the system.
   2. Shall be required to obtain a building permit from the Jefferson County Building Code Department prior to placement and operation of such system, unless the Town exempts farm structures from the building permit requirements. System shall also meet all other Town Zoning requirements pertaining to accessory structures.
3. Roof-Mounted Solar Energy

All Roof-Mounted Solar Energy Systems shall be permitted in all zoning districts and shall be exempt from special use permit requirements under the local zoning code or other land use regulations, subject to a Building Permit issued by the Jefferson County Building Code Department, as well as the following conditions for each type of Solar Energy System:

* 1. Roof-Mounted Solar Energy Systems
     1. Roof-Mounted Solar Energy Systems shall incorporate, when feasible, the following design requirements:
        1. Solar Panels on pitched roofs shall be mounted with a maximum distance of 18 inches between the roof surface the highest edge of the system.
        2. Solar Panels on pitched roofs shall be installed parallel to the roof surface on which they are mounted or attached.
        3. Solar Panels on pitched roofs shall not extend higher than the highest point of the roof surface on which they are mounted or attached.

Solar Panels on flat roofs shall not extend above the top of the surrounding parapet, or more than 24 inches above the flat surface of the roof, whichever is higher.

* + 1. Glare: All Solar Panels shall have anti-reflective coating(s)
    2. Height: All Roof-Mounted Solar Energy Systems shall be subject to the maximum height regulations specified for principal and accessory buildings within the underlying zoning district.

1. Permitting Requirements for On Site Ground Mounted Solar Energy Systems

On Site Ground Mounted Solar Energy Systems shall be permitted in all zoning districts as accessory structures and shall be exempt from special use permit requirements under the local zoning code or other land use regulations, subject to the following conditions:

* 1. . All solar collectors must be located in compliance with NYS Department of Environmental Conservation (DEC) and Federal Flood Plain regulations as they pertain to waterways, waterbodies, and designated wetlands.
  2. Glare: All Solar Panels shall have anti-reflective coating(s). Where sited, any glare or heat that is perceptible beyond subject property lines shall be prevented. Particular attention shall be paid to orientation with regard to airport runway locations, and airplane flyover/approach patterns to minimize glare impact on airplane pilots.
  3. Setbacks: On Site Ground Mounted Solar Energy Systems shall be subject to the setback regulations specified for the accessory structures within the underlying zoning district. All On Site Ground Mounted Solar Energy Systems shall be installed in side or rear yards with the minimum setback for accessory structures in the underlying zoning district. In Resort zoning district, parcels must be a minimum of 5 acres and waterfront parcels shall be considered to have two front yards, one on the side of the building fronting the water, and one fronting any common access road. Therefore, in Resort zoning district, SESs must comply with the front yard setbacks required for both front-yards.
  4. Height: On Site Ground Mounted Solar Energy Systems shall be subject to the height regulations specified within the underlying zoning district for an accessory structure
  5. Screening and Visibility

Solar Energy Equipment shall be located in a manner to reasonably avoid and/or minimize blocking of views from surrounding properties and shading of property to the north, while still providing adequate solar access.

1. Permitting requirements for Large Scale Solar Energy Systems

Large Scale Solar Energy Systems are only permitted within the Agricultural and Rural Residence and Industrial zoning districts after the issuance of a Special Use Permit, and are subject to the following application requirements.

1 . A site plan shall be provided with the following information•

1. Map showing existing structures, property lines and physical features, including public and private access roads for the project site, utility lines, easements and rights of way, Prime Farmland and Farmland of Statewide Importance, and zoning district boundaries
2. Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, and screening vegetation or structures
3. A one or three-line electrical diagram detailing the Solar Energy System layout, solar collector installation, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and other current devices.
4. A preliminary equipment specification sheet that documents all proposed solar panels, significant components, mounting systems, and inverters that are to be installed. A final equipment specification sheet shall be submitted prior to the issuance of building permit.
5. Name, address, and contact information of proposed or potential system installer and the owner and/or operator of the Solar Energy System. Such information of the final system installer shall be submitted prior to the issuance of building permit.
6. Name, address, phone number, and signature of the project applicant, as well as all the property owners, demonstrating their ownership of the subject parcel(s), and consent to the application and the use of the property for the Solar Energy System.
7. Zoning district boundaries and designation for the parcel(s) of land comprising the project site.
8. Property Operation and Maintenance Plan. Such plan shall describe continuing photovoltaic maintenance and property upkeep, such as grazing, weed control, mowing and trimming.

Erosion and sediment control and storm water management plans prepared to New York State Department of Environmental Conservation standards, if applicable, and to such standards as may be established by the Zoning Board of Appeals and this Zoning law.

1. If the property of the proposed project is to be leased, legal consent between all parties, specifying the use(s) of land for the duration of the project, including easements and other legally binding agreements, shall be submitted as part of application.
2. Prior to the issuance of the building permit or final approval by the Town Zoning Board of Appeals, but not required as part of the application, maps and engineering documents must be signed and sealed by a New York State (NYS) Licensed Surveyor and Professional Engineer or NYS Registered Architect.

2. Review Criteria.

a. Setbacks

The Large Scale Solar Energy Systems shall comply with the setback requirements of the underlying zoning district for principal structures.

1. Contiguous Parcels. If two or more parcels under the same ownership are contiguous and developed for a singular Large Scale Solar Energy system than a O' foot setback may be maintained between contiguous parcel lines in that system.
2. Lot coverage
   1. Large Scale Solar Energy Systems that are ground-mounted shall not exceed 75 percent lot coverage of the said lot. Only surface area covered by the Solar Energy System Solar Panels shall be included in the calculation of total lot coverage.
   2. Fencing Requirements. All mechanical equipment, including any structure for storage batteries, shall be enclosed by a 7-foot-high fence, as required by NEC, with a self-locking gate to prevent unauthorized access.
   3. Ground Clearance. The distance between ground level and any part of the solar panel must be a minimum of 24 inches, regardless of the position of any moveable panel/array.
3. Screening and Visibility.
   1. Solar Energy Systems smaller than 10 acres shall be screened using natural vegetation, landscaping or man-made structures to minimize visibility from adjacent properties as determined by the Town Zoning Board of Appeals based on site specific conditions, including natural topography, current and permitted uses of adjacent parcels, structures and roadways. Reasonable efforts shall be made to minimize visual impact to abutting residential properties, public roads, and from public sites known to include important vistas or view sheds, but screening should minimize the shading of solar collectors using architectural features, earth berms, landscaping, or other screening methods that will harmonize with the character of the property and surrounding area, while preserving natural vegetation, and providing landscaping.
   2. Solar Energy Systems larger than 10 acres shall be required to:

I. Conduct a visual assessment of the visual impacts of the Solar Energy System on public roadways and adjacent properties. At a minimum, a line-of-sight profile analysis shall be provided. Depending upon the scope and potential significance of the visual impacts, additional impact analyses, including for example a digital view shed report, shall be required to be submitted by the applicant.

 Submit a screening & landscaping plan to show adequate measures to screen through landscaping, grading, or other means so that views of Solar Panels and Solar Energy Equipment shall be minimized as reasonably practical from public roadways and adjacent properties.

The screening & landscaping plan shall specify the locations, elevations, height, plant species, and/or materials that will comprise the structures, landscaping, natural vegetation, and/or grading used to screen and/or mitigate any adverse aesthetic effects of the system.

1. Agricultural Resources. For projects located on agricultural lands:

Any Large Scale Solar Energy System proposed to be located on parcels that contain Prime Farmland or Farmland of Statewide Importance shall be constructed on NOT more than 50 % of the area of Prime Farmland or Farmland of Statewide Importance on the original tax parcel.

* 1. The site plan shall depict the location and extent of prime soils, prime soils if drained, soils of statewide importance, and indicate whether the parcel(s) is/are receiving agricultural tax valuation. The site plan shall depict the location of active agricultural uses on site, the location of diversions and ditches, and areas where tile drainage has been installed.
  2. To the maximum extent practicable, Large Scale Solar Energy Systems located on Prime Farmland shall be constructed in accordance with the construction requirements of the New York State Department of Agriculture and Markets.
  3. Large Scale Solar Energy System owners shall develop, implement, and maintain native vegetation to the extent practicable pursuant to a vegetation management plan by providing native perennial vegetation and foraging habitat beneficial to game birds, songbirds, and pollinators. To the extent practicable, when establishing perennial vegetation and beneficial foraging habitat, the owners shall use native plant species and seed mixes.

1. Non-interference. These solar energy systems shall not be installed in any location where the solar system operation will, or similar systems have been demonstrated to, interfere with existing or planned fixed broadcast, relay or reception antennae for radio, television, wireless, broadband, or microwave communications, or the operations of airfields radar or weather forecasting facilities, including those at Fort Drum or Watertown International Airport. The applicant shall notify Watertown International Airport and Fort Drum Plans, Analysis, and Integration Office as soon as possible to determine potential impacts on airfield and training operations. The applicant must provide the Town with copies of all correspondence from Watertown International Airport and Fort Drum, confirming no interference with their operations before any building permit is issued for a SES.
2. Underground Requirements. All on-site utility lines shall be placed underground to the extent feasible and as permitted by the serving utility, with the exception of the main service connection at the utility company right-of-way and any new interconnection equipment, including without limitation any poles, with new easements and right-of way.
3. Vehicular Paths. Vehicular paths within the site shall be designed to minimize the extent of impervious materials and soil compaction, and to allow for access by emergency vehicles. Highway/Roadway access permit will be required from the proper agency.
4. Signage.
   1. No signage or graphic content shall be displayed on the Solar Energy Systems except the manufacturer's name, equipment specification information, safety information, and 24-hour emergency contact information. Said information shall be depicted within an area no more than [8] square feet.
   2. As required by National Electric Code (NEC), disconnect and other emergency shutoff information shall be clearly displayed on a light reflective surface. A clearly visible warning sign concerning voltage shall be placed at the base of all padmounted transformers and substations.
5. Glare: Solar panels shall be placed and arranged such that reflected solar radiation or glare shall not be directed onto adjacent buildings, properties, or roadways. Exterior surfaces of all collectors and related equipment shall have a non-reflective finish. A Glare Hazard Analysis is required to determine potential glint and glare impacts to pilots operating in or around Watertown International Airport and/or Wheeler-Sack Army Airfield". Particular attention shall be paid to panel orientation with regard to airport runway locations, airplane flyover/approach patterns, and emergency helicopter landing areas to minimize potential glare impacts on pilots.
6. Lighting. Lighting of the Solar Energy Systems shall be limited to that minimally required for safety and operational purposes and shall be reasonably shielded and downcast from abutting properties.
7. Tree-cutting. Removal of existing trees larger than 6 inches in diameter should be minimized to the extent possible.
8. Appropriate Fire Inspection and review of the facility per State and Local codes is required.
9. Decommissioning.

To ensure the proper removal of Large Scale Solar Energy Systems, a Decommissioning Plan shall be submitted as part of the application. Compliance with this Decommissioning Plan (DP) shall be made a condition of the approval under this Section. The Decommissioning Plan must specify that after the Large Scale Solar Energy System can no longer be used, it shall be removed by the applicant, lessee, or any subsequent owner. The Decommissioning Plan must shall also include:

a A letter of intent committing the owner, lessee and their successors to notify the Zoning Officer within 30 days of the cessation of operation of the solar system, to be filed with the Town Board and Zoning Board of Appeals prior to issuance of any building permit;

1. Provisions describing the triggering events for decommissioning of the solar energy facility; at minimum, if the LSSES is non-operational for a continuous period of 6 months or more, the owner shall submit a written statement confirming whether resumption of operation is expected, and if resumption is not planned, shall set forth the timetable for decommissioning. If operation is planned to resume, owner may have another 6 months to do so, but if operations do not resume in that period, decommissioning according to the DP shall begin immediately.
2. Provisions for the removal of structures, debris and cabling, including those below the soil surface;

d Provisions for the removal of all infrastructure and the remediation of soli and vegetation shall be conducted to return the parcel to its original state prior to construction.

1. A timetable approved by the Planning Board for site restoration;
2. An estimate of the decommissioning costs certified by a Professional Engineer or Contractor. Cost estimations shall be consider inflation. Removal of Large Scale Solar Energy Systems must be completed in accordance with the Decommissioning Plan.
3. Financial Assurance, in the form of a letter of credit, reclamation bond or escrow fund, secured by the Owner or Operator, for the purpose of adequately performing decommissioning, in an amount approved by the Town's professional engineer, and in a form approved by the Town's attorney, shall be filed with the Town Clerk. The financial assurance shall be reviewed by the Town Attorney annually to ensure the Owner or Operator maintains the necessary assurances for decommissioning;
4. Identification of and procedures for Town of Ellisburg to access Financial Assurances will be provided.
5. A provision that the terms of the Decommissioning Plan shall be binding upon the Owner or Operator or any of their successors, assigns, or heirs;
6. A provision that the Town of Ellisburg, its officials, employees, agents, or  contractors, shall have the right of access to the site, pursuant to reasonable notice, to effectuate or complete removal and decommissioning;
7. Removal of machinery, equipment, tower, and all other materials related to the project is to be completed within one year of decommissioning. If the Large Scale Solar Energy System is not decommissioned after being considered abandoned, the municipality may remove the system and restore the property and impose a lien on the property to cover these costs to the municipality;

 A timeline for execution, and confirmation that failure to comply with the DP shall be a violation of this Article and the Town Zoning Regulations.

* 1. 1 . Ownership Changes. If the owner or operator of the Solar Energy System changes or the owner of the property changes, the special use permit shall remain in effect, provided that the successor owner or operator assumes in writing all of the obligations of the special use permit, site plan approval, and decommissioning plan. A new owner or operator of the Solar Energy System shall notify the zoning enforcement officer and Zoning Board of Appeals of such change in ownership or operator within [60] days before the ownership change.

Safety and Inspection.

1 . Solar Energy Systems and Solar Energy Equipment shall be certified under the applicable electrical and/or building codes as required.

* 1. Solar Energy Systems shall be maintained in good working order and in accordance with industry standards. Site access shall be maintained, including snow removal at a level acceptable to the local fire department and, if the Large Scale Solar Energy System is located in an ambulance district, the local ambulance corps.
  2. If Storage Batteries are included as part of the Solar Energy System, they shall meet the requirements of any applicable fire prevention and building code when in use and, when no longer used, shall be disposed of in accordance with the laws and regulations of the Town and any applicable federal, state, or county laws or regulations.
  3. The Town reserves for itself or its authorized agents the right to inspect SES's for Compliance with building, safety and fire codes. If inspection determines that a safety, fire or building code violation exists, or that the system poses any other threat to the safety of persons or property, the Town may order the owner of the subject property or the system operator to repair or remove the system, within a reasonable time.

1. Permit Time Frame and Abandonment
   1. . Special Use Permit for a Solar Energy System shall be valid for a period of 18 months, provided that a building permit is issued for construction [or] construction is commenced. In the event construction is not completed in accordance with the final site plan, as may have been amended and approved, as required by the Town ZBA, within 18 months after approval, the applicant or the Town may extend the time to complete construction for 180 days. If the owner and/or operator fails to perform substantial construction after 24 months, the approvals shall expire.
   2. Upon cessation of electricity generation of a Solar Energy System on a continuous basis for 12 months, the Town may notify and instruct the owner and/or operator of the Solar Energy System to implement the decommissioning plan. The decommissioning plan must be completed within 360 days of notification.
   3. If the owner and/or operator fails to comply with decommissioning upon any abandonment, the Town may, at its discretion, utilize the bond and/or security for the removal of the Solar Energy System and restoration of the site in accordance with the decommissioning plan.
2. Enforcement

Any violation of this Solar Energy Law, including failure to comply with the terms of any Special Permit issued hereunder, any conditions of said Special Permit, including the terms of any Decommissioning Plan shall be deemed a violation of this Article and of the Zoning Law, and thus shall be subject to the same enforcement requirements, including the civil and criminal penalties, provided for in the zoning or land use regulations of Town.

Failure to comply with any Special Permit or Decommissioning Plan terms and conditions, or safety violation order shall further entitle the Town to enter the subject property, undertake the work to comply with said terms and conditions or order, and to levy the cost thereof, including reasonable attorney's fees, court costs, and interest as allowed by law, as a tax lien upon the real property improved by the solar energy system.

1. Severability

The invalidity or unenforceability of any section, subsection, paragraph, word, sentence, clause, provision, or phrase of the aforementioned sections, as declared by the valid judgment of any court of competent jurisdiction to be unconstitutional, void, or invalid for any reason, shall not affect the validity or enforceability of any other section, subsection, paragraph, word, sentence, clause, provision, or phrase, or the proscribed application thereof, shall be severable, and all applications thereof not having been declared void, unconstitutional or invalid, shall remain in full force and effect.

M. Effective Date

This Local Law shall become effective upon filing with the New York State Secretary of State.

Motion made by Joel Bovee to set public notice on Local Law #2 of 2023 for May 4, 2023 at 7:20pm. Seconded by Don Goodnough and all board members present voted in favor –Shelmidine, Goodnough, Bovee, Gehrke, Hubbard (5-ayes)

Supervisor’s Report:

* Supervisor gave an update on the Solar farm, part of which is in Town of Ellisburg, and Town of Adams will be Lead Agency for the project.
* Reviewed various correspondences.

Highway Superintendent Report:

* Town has three roads to pave this year; Balch Road, McDonald Road and Hagen Road. Baldwin Road needs to be rebuilt.
* Gravel Bids next month
* Guys have been cleaning roadsides of brush and garbage.
* Monday will be starting summer hours
* Salt shed needs attention. Board discussed options.
* A belly mower won’t work on the roadside mower. Gave quote to board for 3-point hitch mower of $39500.

Assessor Report:

* The county is tearing down the old Ontario Tire building on Vanwormer Road and disposing of the tires.
* The Assessor and various Zoning board members went down to Parsons Road to review for the CEHA process in regards to the proposed water district.

The board audited and signed the prepared vouchers for:

Abstract No. 2023-4

Voucher # 158-195 $169759.64

With nothing further, Councilman Hubbard made a motion to adjourn at 8:10 pm. Seconded by Councilman Goodnough, all those present voting in favor-Shelmidine, Goodnough, Bovee, Gehrke, Hubbard (5 ayes)

Respectfully submitted,

Debbie Payne

Debbie Payne, Town Clerk