

TOWN OF PENDLETON
Work Session
January 23, 2017

A work session of the Town Board of the Town of Pendleton was held at the Town Hall, 6570 Campbell Blvd., Pendleton, N.Y. on the 23rd day of January 2017. The meeting was scheduled for 7:00 P.M.

Supervisor Maerten opened the meeting at 7:03 P.M.

Supervisor Maerten, Councilman Fischer, Councilman Ostrowski, Councilman Leible., and Councilwoman Jarvis were present. Also present:

Terry Pienta – Town Clerk
Claude Joerg – Attorney
Kelli Coughlin – Assessor
Wolfgang Buechler – Board of Appeals
Jeff Stowell – Highway Superintendent
Joe McCaffrey – Planning Board Chairman
Dave Gerber & Tim Masters – Bldg Department
Wolfgang Buechler – Board of Appeals
Mark Walter – Fire Chief
Don Bergman – Budget Officer

There were approximately 18 residents and students in attendance.

AGENDA ITEMS

Supervisor Maerten explained that the DOT would like the Board to authorize the Supervisor to sign an amended agreement for the Trail project # D034821 for a total of \$75,191.00 for the Preliminary Engineering Design and Right of Way (ROW) Incidental phases. This amount is the total of Federal and Non Federal share. This agreement supersedes the original agreement by extending the contract end date and adding the ROW Incidental phase.

RESOLUTION 37 - 17

AUTHORIZATION FOR THE SUPERVISOR TO SIGN THE SUPPLEMENTAL #1 AGREEMENT FOR THE PENDLETON RECREATIONAL PATHWAY EXPANSION

Motion by Councilman Leible, seconded by Councilman Jarvis the following resolution was

ADOPTED Ayes 5 Maerten, Leible, Fischer, Jarvis, Ostrowski
 Nays 0

WHEREAS, a Project for the Pendleton Recreational Pathway Expansion, P.I.N. 5760.85 (the Project") is eligible for funding under Title 23 U.S. Code, as amended, that calls for the apportionment of the costs such program to be borne at the ratio of 80 % Federal funds and 20 % non-federal funds; and WHEREAS, the Town of Pendleton desires to advance the Project by making a commitment of 100% of the non-federal share of the costs of \$75,191.00, NOW, THEREFORE, the Town Board, duly convened does hereby RESOLVE, that the Town Board hereby approves the above-subject project; and it is hereby further RESOLVED, that the Town Board hereby authorizes the Supervisor to pay in the first instance 100% of the federal and non-federal share of the cost of the preliminary Engineering work for the Project or portions thereof; and it is further RESOLVED, that the sum of \$75,191.00 is hereby appropriated from and made available to cover the cost of participation in the above phase of the Project; and it is further RESOLVED, that in the event the full federal and non-federal share costs of the project exceeds the amount appropriated above, the Town Board shall convene as soon as possible to appropriate said excess amount immediately upon the notification by the Supervisor thereof, and it is further RESOLVED, that the Supervisor of the Town of Pendleton be and is hereby authorized to execute all necessary Agreements, certifications or reimbursement requests for Federal Aid and the Town of Pendleton with the New York State Department of Transportation in connection with the advancement or approval of the Project and providing for the administration of the Project and the municipality's first instance funding of project costs and permanent funding of the local share of federal-aid and state-aid eligible Project costs and all Project costs within appropriations therefore that are not so eligible, and it is further

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RESOLVED, that a certified copy of this resolution be filed with the New York State Commissioner of Transportation by attaching it to any necessary Agreement in connection with the Project. and it is further

RESOLVED, this Resolution shall take effect immediately

Supervisor Maerten announced that Pam Alecca from the office of the Highway Department has resigned, her last day will be February 3rd. The Highway Superintendent has been holding interviews and will be hiring Julie Wurzer for the opening that will be available with Peggy Giberson transferring to the Town Clerk's Office. He will have the second position filled within the next meeting or two.

RESOLUTION 38 – 17

HIRE CLERK FOR THE OFFICE IN THE HIGHWAY DEPARTMENT

Motion by Councilman Leible, seconded by Councilman Fischer the following resolution was

ADOPTED Ayes 5 Maerten, Leible, Fischer, Jarvis, Ostrowski
 Nays 0

Resolved to hire Julie Wurzer as clerk in the Highway Department Office effective immediately.

The Local Law 02 – 17 Discussion

The Town Board held a Public Hearing on January 9, 2017 to be added to the Town Code for Solar Energy Systems. After comments from the public it was determined that a section of the code was not clear regarding net metering for residential installations for minor systems. There were a few minor changes for clarification and it was determined that it was not necessary to schedule an additional Public Hearing.

RESOLUTION 39 – 17

LOCAL LAW 02 – 17 SOLAR ENERGY SYSTEMS

Motion by Councilman Fischer, seconded by Councilman Leible the following resolution was

ADOPTED Ayes 5 Maerten, Leible, Fischer, Jarvis, Ostrowski
 Nays 0

Resolved to add Article V111 C to the Zoning Chapter of the Code of the Town of Pendleton entitled “Solar Energy Systems” as follows:

§ 247 – 68.14 Title.

This Article shall be known and may be recited as the “Solar Energy Systems” Law of the Town of Pendleton.

§ 247 – 68.15 Findings.

The Town Board of the Town of Pendleton makes the following findings:

The Town Board of the Town of Pendleton recognizes that solar energy is a clean, readily available and renewable energy source and the Town of Pendleton intends to accommodate the use of solar systems.

However, the Town Board finds a growing need to properly site solar energy systems within the boundaries of the Town of Pendleton to protect residential, business areas and other land uses, to preserve the overall beauty, nature and character of the Town of Pendleton, to promote the effective and efficient use of solar energy resources, and to protect the health, safety and general welfare of the citizens of the Town of Pendleton.

Prior to the adoption of this article, no specific procedures existed to address the siting of solar energy systems. Accordingly, the Town Board finds that the promulgation of this article is necessary to direct the location and construction of these systems.

Solar energy systems need to be regulated for removal when no longer utilized.

§ 247 – 68.16 Purpose.

This zoning ordinance for solar energy is adopted to advance and protect the public, health, safety and welfare of the Town of Pendleton, including:

Taking advantage of a safe, abundant, renewable, and non-polluting energy resource;

Decreasing the cost of energy to owners of commercial and residential properties; including single-family houses; and

Increasing employment and business development in the region by furthering the installation of Solar Energy Systems.

§ 247 – 68.17 Definitions.

The following definitions shall apply to this Chapter:

APPLICANT – The person or entity filing an application and seeking an approval under this Article; the owner of a solar energy system or a proposed solar energy system project; the operator of solar

energy system or a proposed solar energy system project; any person acting on behalf of an applicant, solar energy system or proposed solar energy system. Whenever the term “applicant” or “owner” or “operator” are used in this Section, said term shall include any person acting as an applicant, owner or operator.

BUILDING-INTEGRATED SOLAR ENERGY SYSTEMS – A solar energy system that is a combination of photovoltaic building components integrated into any building envelope system such as vertical facades including glass and other facade material, semitransparent skylight systems, roofing materials, and shading over windows.

GROUND-MOUNTED SOLAR ENERGY SYSTEM – A solar energy system that is affixed to the ground either directly or by support structures or other mounting devices.

ROOFTOP-MOUNTED SOLAR ENERGY SYSTEM – Any solar energy system that is affixed to the roof of a building and wholly contained within the limits of the roof surface.

MINOR SOLAR ENERGY SYSTEM – Any solar energy system, which relies upon solar radiation as an energy source and distribution of solar energy for electricity generation or transfer of stored heat, secondary to the use of the premise.

LARGE-SCALE SOLAR ENERGY SYSTEM or SOLAR FARM– Any solar energy system that cumulatively on a lot is designed and intended to supply energy into a utility grid, primarily for sale to the general public.

§ 247 – 68.18 Use districts where allowed. Subject to the provisions of this Article, solar energy systems shall be permitted in all zoning districts in the Town.

§ 247 – 68.19 General regulations. The placement, construction, and major modification of all solar energy systems within the boundaries of the Town of Pendleton shall be permitted only as follows:

All solar energy systems shall adhere to all applicable federal, state, county and Town of Pendleton laws, regulations and building, plumbing, electrical, and fire codes.

Rooftop-mounted and building-integrated solar energy systems upon issuance of building permit based on the criteria set out at § 247 – 68.20 herein.

C. Ground-mounted solar energy systems upon issuance of building permit based on the criteria set out at § 247 – 68.20 herein.

D. Large-scale solar energy systems upon site plan approval issued by the Town of Pendleton Planning Board, and upon issuance of a building permit, shall be subject to all provisions of this article.

E. All solar energy systems existing on the effective date of this Article shall be allowed to continue usage as they presently exist. Routine maintenance (including replacement with a new system of like construction and size) shall be permitted on such existing systems. New construction other than routine maintenance shall comply with the requirements of this chapter.

F. No solar energy system shall hereafter be used, erected, moved, reconstructed, changed or altered except in conformity with these regulations.

G. Any applications (including variance applications) pending for solar energy systems on the effective date of this article shall be subject to the provisions of this article.

H. This article shall take precedence over any inconsistent provisions of the Zoning Law of the Town of Pendleton.

§ 247 – 68.20 Solar Installations for Minor Systems .

Rooftop-mounted solar energy systems shall be subject to the following requirements:

Shall not be more than three (3) feet higher than the finished flat roof to which it is mounted.

Shall be flush-mounted parallel to the pitched roof surface and no more than six (6) inches above the surface with an eighteen (18)-inch clearing at the roof ridge and an eighteen (18)-inch clearing path to the ridge.

The Building Inspector may require, in his sole discretion, at least a three (3) foot center walkway for safety access purposes.

The proposed solar installation shall be on the roof of a residential building or legal accessory structure with a single layer of roof covering. A waiver may be requested, in writing, from the Building Inspector for an installation on a second layer of roof covering.

The proposed solar installation shall create a gravity roof load of no more than five (5) pounds per square foot for photovoltaic (PV) system.

All equipment and systems must be in full compliance with all current National Electrical Code (NEC) and NYS Building Code requirements.

A professional engineer or registered architect must also certify the load bearing and wind load sufficiency of the proposed solar installation.

A new survey is not required, but if the solar energy system is proposed for an accessory structure on a residential property, the applicant shall provide an existing survey and demonstrate that the accessory structure is legal.

Building- integrated solar energy systems shall not be more than three (3) feet from the building wall and in no instance shall any part of the system extend beyond the roof line or parapet wall.

Ground-mounted solar energy systems shall be subject to the following requirements:

Setback Requirements:

(a) R1 and R2 Districts: One Hundred Twenty-Five (125) foot Front Yard, Thirty (30) foot Side Yard and Thirty (30) foot Back Yard.

(b) CO1, CO2, LI, and SLI Districts: See Sections 247-12 to 247-15 for the established setback (front yard, side yard and backyard) requirements in perspective Zoning Districts.

The location of said solar energy system shall be only located in the side or rear yard;

The orientation of said solar energy system shall not be pointed directly at any adjoining residential dwelling; and

The height of said solar energy system shall not exceed fifteen (15) feet when oriented at maximum tilt; and

The total surface area of said solar system on a lot which is two (2) acres or less shall not exceed six hundred (600) square feet; and

The total surface area of said solar energy system on a lot which is greater than two (2) acres shall not exceed two and one half (2.5) percent of the total square footage of the entire lot; and

The solar energy system shall be included and be subject to the maximum lot coverage allowable under the zoning district where it is located.

§ 247 – 68.21 Site Plan Requirements for large-scale solar energy systems.

Applicants for approval to place, construct, and make a major modification to a large-scale solar energy system within the boundaries of the Town of Pendleton shall submit an application for site plan review as provided in Section § 247 – 54 of the Town Zoning Code. In addition, the standard requirements in other articles of the Zoning Law, the following information shall be contained in the application:

Utility interconnection data and a copy of written notification to the utility of the proposed interconnection; and

One or three-line electrical diagram detailing the solar energy system installation, associated components, and electrical interconnection methods, with all disconnects and over-current devices; and Plans and drawings of the solar energy system installation signed by a professional engineer registered in New York State showing the proposed layout of the entire solar energy system along with a description of all components, whether on site or off site, existing vegetation and proposed clearing and grading of all sites involved, and utility lines, both above and below ground, on the site and adjacent to the site; and

Property lot lines and the location and dimensions of all existing structures and uses on site within five hundred (500) feet of the solar panels; and

Proposed fencing and/or screening for said project; and

A Decommissioning Plan to ensure the proper removal of large-scale solar energy systems. The Decommissioning Plan is to be submitted to the Building Department for approval and must specify that after the large-scale solar energy system is no longer in use (as determined by the owner/operator or the Building Inspector), it shall be removed by the applicant or any subsequent owner. The plan shall demonstrate how the removal of all infrastructure and restoration shall be conducted to return the parcel to its original state prior to construction. The plan shall also include an expected timeline for execution and a cost estimate for decommissioning prepared by a Professional Engineer or qualified Contractor. Cost estimates shall take inflation into consideration and be revised every five (5) years during operation of the system. Removal of the large-scale solar energy system must be completed in accordance with the approved Decommissioning Plan and the standards provided as follows:

All structures and foundations associated with the large-scale solar energy systems shall be removed to a depth of thirty-six (36) inches;

All disturbed ground surfaces shall be restored to original conditions including topsoil and seeding as necessary; and

All electrical systems shall be properly disconnected and all cables and wiring buried less than thirty-six (36) inches in depth shall be removed.

A bond or other approved security shall be provided to cover the cost of removal and restoration of the area impacted by the solar system. Security shall be in an amount equal to 150% of the construction estimate as presented in the approved Decommissioning Plan.

§ 247 – 68.22 Large-scale solar energy systems design criteria.

Design of large-scale solar energy systems shall meet the following conditions:

Setbacks: Any utility-scale solar energy system shall adhere to the following setbacks:

From any property lot lines: A minimum of two hundred (200) feet from any property lot line.

From buildings or structures not on the lot proposed for the solar energy system:

A minimum of two hundred and fifty (250) feet from any building or structure on any adjacent lot and;

A minimum of five hundred (500) feet from any dwelling.

From public roads and railroads:

A minimum of two hundred (200) feet from any public road or railroad (measured from the road right-of-way or property line); and,

From schools, public parks: A minimum of seven hundred and fifty (750) feet from all property lot lines bordering a school or public park.

Maximum overall height. The height of a large-scale solar energy system shall not exceed twenty (20) feet when oriented at maximum tilt.

Number of large-scale solar energy systems allowed per lot. There shall only be allowed one large-scale solar energy system per lot.

Minimum lot area shall be 15 acres

Maximum lot area shall be 100 acres

The solar energy system when located in CO1, CO2, L1, or SL1 shall be included and be subject to the maximum lot coverage allowable under the zoning district where it is located. The total surface area of a solar system situated in R1 and R2 shall not exceed ten (10) percent of the total square footage of the entire lot.

All structures and devices used to support solar collectors shall be non-reflective and/or painted a subtle or earth-tone color.

All transmission lines and wiring associated with a large-scale solar energy system shall be buried and include necessary encasements in accordance with the National Electric Code and Town requirements. The applicant is required to show the locations of all proposed overhead and underground electric utility lines, including substations and junction boxes and other electrical components for the project on the site plan.

After completion of a large-scale solar energy system, the applicant shall provide to the Building Inspector a post-construction certification from a professional engineer registered in New York State that the project complies with applicable codes and industry practices and has been constructed and is operating according to the design plans.

Compliance with regulatory agencies: The applicant is required to obtain all necessary regulatory approvals and permits from all federal, state, county, and local agencies having jurisdiction and approval related to the completion of a large-scale solar energy system.

§ 247 – 68.23 Maintenance, procedures, and fees.

Removal. All solar energy systems shall be dismantled and removed immediately from a lot when the solar energy system has been deemed inoperative or abandoned by the Building Inspector for a period of more than three hundred and sixty-five (365) days at the cost of the owner. If the owner does not dismantle and remove said solar energy system as required, the Town Board may, after a hearing at which the owner shall be given an opportunity to be heard and present evidence, dismantle and remove said facility and place the cost of removal to the security assigned to the project.

Determination of Abandonment or Inoperability. A determination of the abandonment or inoperability of a solar energy system shall be made by the Town Building Inspector, who shall provide the owner with written notice by personal service or certified mail. Any appeal by the owner of the Building Inspector's determination of abandonment or inoperability shall be filed with the Town of Pendleton Zoning Board of Appeals within thirty (30) days of the Building Inspector causing personal service or mailing certified mail his written determination and the Board shall hold a hearing on same. The filing of an appeal does not stay the following time frame unless the Zoning Board of Appeals or a court of competent jurisdiction grants a stay or reverses said determination. At the earlier of the three hundred and sixty-six (366) days from the date of determination of abandonment or inoperability without reactivation or upon completion of dismantling and removal, any approvals for the solar energy system shall automatically expire.

Application and annual fees.

Large-scale solar energy system. An applicant shall pay an initial application fee of Two Thousand Five Hundred (\$2,500) Dollars, or such other amount as the Planning Board may determine for site plan application to cover the cost of processing and reviewing the application.

One Hundred (\$100) Dollar Public Hearing fee applies.

Any changes or alterations post construction to a large-scale energy system shall be done only by application to amend the site plan approval subject to all requirements of this Code.

§ 247 – 68.24 Interpretation; conflict with other law.

In their interpretation and application, the provisions of this article shall be held to be minimum requirements, adopted for the promotion of the public health, safety and general welfare. It is not intended to interfere with, abrogate, or annul other rules, regulations or laws, provided that whenever the requirements of this article are at a variance with the requirements of any other lawfully adopted regulations, rules or laws, the most restrictive, or those which impose the highest standards, shall govern.

§ 247 – 68.25 Severability

If any section, subsection, phrase, sentence, or other portion of this article is for any reason held invalid, void, unconstitutional, or unenforceable by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

This Local Law shall take effect immediately upon filing with the Secretary of State of New York.

RESOLUTION 40 – 17

AUTHORIZATION TO SIGN SEQR FORM AND ISSUE A NEGATIVE DECLARATION

Motion by Councilman Fischer, seconded by Councilman Leible, the following resolution was

ADOPTED: Ayes 5 Maerten, Leible, Fischer, Jarvis, Ostrowski
Nays 0

Resolved that based upon the findings made for a Local Law 02 -17 Solar Energy Systems will not result in any adverse environmental impacts and to authorize Supervisor Maerten to sign and issue the Negative Declaration.

Clerk Pienta reported that she received a letter from the Health Department that they have inspected the Water Tower and approved the completed work that was done.

Councilman Ostrowski reported that the Recreation Committee asked about setting up an online payment for the registration for summer recreation. Clerk Pienta explained how it works for online taxes. It could be done but there would be details to be ironed out. If the Chairman is interested he will discuss it with Clerk Pienta.

Councilman Ostrowski asked if there was an area in the Town Hall for a desk and a computer for Councilman to be able to work in the Town Hall. This brought the subject of how the Town Hall does need more room and it should be discussed.

Motion by Councilman Leible, seconded by Councilman Fischer, at 7:40 P.M. to adjourn to Executive Session for Personnel reasons with Attorney Joerg. Motion carried.

Motion by Councilman Leible, seconded by Councilwoman Jarvis, to adjourn from the Executive Session and resume the Work Session at 7:52 P.M.

Councilwoman Jarvis left the meeting because of a conflict of interest for the following Executive Session.

Supervisor Maerten asked for a motion to adjourn to Executive Session for litigation with Attorney Joerg, Building Inspectors, Planning Board Chairman Joe McCaffrey and Fire Chief Marc Walter.

Motion by Councilman Leible, seconded by Councilman Fischer, at 7:55 P.M. to adjourn to Executive Session for Litigation. Motion carried.

Motion by Councilman Leible, seconded by Councilman Fischer to adjourn from Executive Session at 9:08 P.M. Motion carried.

RESOLUTION 41 – 17

APPROVE TEAMSTERS LOCAL 264 TENTATIVE AGREEMENT

Motion by Councilman Fischer, seconded by Councilman Leible, the following resolution was

ADOPTED: Ayes 4 Maerten, Leible, Fischer, Ostrowski
Nays 0

Resolved to approve the general tentative agreement with the Teamsters Union Local #264 along with a separate memorandum of agreement for the retirement health care.

Motion by Councilman Leible, seconded by Councilman Fischer to adjourn from the Work Session at 9:10 P.M. Motion carried.

Terry J. Pienta, Town Clerk