THE TOWN OF MAMAKATING TOWN BOARD MEETING HELD ON TUESDAY, NOVEMBER 1, 2016 AT 6:00 P.M. IN THE TOWN HALL, 2948 ROUTE 209, WURTSBORO, NEW YORK.

Present:	William E. Herrmann- Supervisor
	Matt Taylor - Councilman
	Brenda Giraldi- Councilwoman
	Janet Lybolt - Councilwoman
	Christine Saward – Councilwoman
	J. Benjamin Gailey- Attorney for the Town
	Jean M. Dougherty- Town Clerk
Also present:	Robert Fiore – Deputy Supervisor
	Catherine Owens-Herrmann – Confidential Secretary to the Supervisor/Legislator
	JoAnn Salamone – Deputy Highway Superintendent
	Kerron Barnes – Interagency Coordinator
Absent:	Riley Platt III – Highway Superintendent

Worksession Items for Discussion

1. Budget Modification

CALL TO ORDER/PLEDGE OF ALLEGIANCE

- The November 1, 2016 meeting was called to order with the pledge to the flag.

PUBLIC HEARINGS

2017 Budget

A motion was made by J. Lybolt, seconded by M. Taylor to open the Public Hearing.

Public Comment

M. Smith – Percentage of taxes to Town?

C. Lesser – Why taking money from Highway to fund new equipment?

B. Goetschius - Lighting Districts?

A motion to close the Public Hearing was made by M. Taylor, seconded by C. Saward. All in favor.

A motion to adopt the 2017 Budget was made by C. Saward, seconded by M. Taylor. All in favor.

Solar Local Law

A motion was made by J. Lybolt, seconded by B. Giraldi to open the Public Hearing.

Public Comment

W. Herrmann asked the installers to discuss herbicides.

Anne Waling from Cypress Creek responded that there are mechanical means of controlling selective types of herbicides.

Marc Zurla from Empire Solar stated that it was not necessary to use herbicides.

Bill Goetschius added "more with less"

A discussion was held regarding the amount of property that can be utilized for a solar farm.

Anne Waling informed the board that there were a limited number of areas that would have good interconnection. Only 3 were found in Mamakating.

C. Herrmann asked if there are regulations on how far apart they can be.

Lisa King asked if this would impact her or is it more about farms being screened from view and the removal process.

Mr. Gailey stated that it must comply with setbacks/access to structure.

Marc stated that 2MW would save the equivalent of millions of trees.

It was decided to amend the law to state 50% of lot can be cut.

Jim Wolfe stated houses could go up with solar on roof.

C. Herrmann stated that most upset were the farmers.

Chris Lesser asked how many solar panels could go on roofs/ground.

Dave Lybolt Does the proposal address reflections from the panels and the noise.

Anne stated that a fan runs in the sunshine

Marc added that the systems are anti-reflective.

Ben stated that there is a maximum height on ground mounting

C. Saward asked about parking lot canopy mountings.

Anne responded that they are 10-15% lower than O&R.

C. Lesser is worried about the rush of solar applications and has a lot of questions.

M. Taylor spoke of page 4, Section 3B.

Letter from Planning Board approving the Local Law.

Planner's comment was to look into Solar Canopies.

A motion was made by J. Lybolt, seconded by C. Saward to close the public hearing. All in favor.

A negative declaration was declared for this type 1 action and a 3 page addendum addresses the 239M received.

A motion to adopt Local Law #3-16 was made by M. Taylor, seconded by J. Lybolt. All in favor.

TOWN OF MAMAKATING
INTRODUCTORY LOCAL LAW
REGULATION OF SOLAR ENERGY SYSTEMS

BE IT ENACTED by the Town Board 3of the Town of Mamakating, County of Sullivan, State of New York, as follows:

Section 1. Chapter 199, titled "Zoning," of the Code of the Town of Mamakating is amended by adding a new §199-21, titled "Solar energy systems," to read as follows:

§199-21. Solar energy systems.

A. Authority

This solar energy law systems zoning law is adopted pursuant to §§261-263 of the Town Law of the State of New York, which authorize the Town of Mamakating to adopt zoning provisions that advance and protect the health, safety, and welfare of the community, and to make provision for, so far as conditions may permit, the accommodation of solar energy systems and equipment and access to sunlight necessary therefor.

B. Statement of purpose.

(1) This local law is adopted to advance and protect the public health, safety, and welfare of the Town of Mamakating, including:

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

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

(c) Increasing employment and business development in the region by furthering the installation of solar energy systems.

C. Definitions

BUILDING INTEGRATED PHOTOVOLTAIC SYSTEM: 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 anchored to the ground or attached to a pole or other mounting system.

LARGE-SCALE SOLAR ENERGY SYSTEM: A solar energy system that is ground-mounted and produces energy primarily for the purpose of offsite sale or consumption.

QUALIFIED SOLAR INSTALLER: A person who possesses skills and knowledge related to the construction and operation of solar energy systems, equipment and installations and has received safety training on the hazards involved. Persons who are on the list of eligible solar installers maintained by the New York State Energy research and Development Authority (NYSERDA), or are certified as a solar installer by the North American Board of Certified Energy Practitioners (NABCEP), shall be deemed to be qualified solar installers for the purpose of this definition.

ROOF-MOUNTED SOLAR ENERGY SYSTEM: A solar panel system located on the roof of any legally permitted building or structure for the purpose of producing electricity for onsite or offsite consumption.

SMALL SCALE SOLAR ENERGY SYSTEM: A solar energy system that is ground mounted and produces energy primarily for the purpose of producing electricity for onsite consumption.

SOLAR ACCESS: Space open to the sun and clear of overhangs or shade so as to permit the use of a solar energy system.

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

SOLAR ENERGY SYSTEM: An electrical generating system composed of a combination of both solar panels and solar energy equipment.

SOLAR PANEL: A device for the direct conversion of solar energy into electrical energy.

D. Applicability

The requirements of this law shall apply to all solar energy systems installed or modified after its effective date, except this law shall not apply to building-integrated photovoltaic systems or to general maintenance and repair of solar energy systems.

E. General permit, inspection and operation requirements.

(1) Application for and issuance of a building permit shall be required prior to installation of a solar energy system.

(2) A solar energy system shall be designed and installed in accordance with all applicable laws, codes and regulations, including but not limited to the New York State Uniform Fire Prevention and Building Code and other State Code provisions.

(3) All solar energy system installations must be performed by a qualified solar installer.

(4) Prior to operation, electrical connections must be inspected by the Town building inspector and by a qualified electrical inspector acceptable to the Town. Any connection to the public utility grid must meet all applicable Town, State, Federal and public utility laws, rules and regulations.

(5) All solar energy systems shall be maintained in good working order.

F. Roof-mounted solar energy systems.

(1) Roof-mounted solar energy systems that use the electricity onsite or offsite are permitted as an accessory use in all zoning districts when attached to the roof of any lawfully permitted building or structure.

(2) Height. Roof-mounted solar energy systems shall not exceed the maximum height restrictions of the zoning district within which they are located and are provided the same height exemptions granted to building-mounted mechanical devices or equipment.

(3) A roof mounted system may be mounted on any legal principal or accessory building or structure.

(4) Aesthetics. Roof-mounted solar energy system installations shall incorporate the following design requirements:

(a) When feasible, as determined by the code enforcement officer, panels facing the front yard should be mounted at the same angle as the roof's surface with a maximum distance of 18 inches between the roof and highest edge of the system.

(5) Roof-mounted solar energy systems that use the energy onsite or offsite shall be exempt from site plan review.

(6) The applicant shall file a New York State Unified Solar Permit (USP) application and pay all fees to obtain a building permit.

G. Small scale solar energy systems.

(1) Small scale solar energy systems are permitted as accessory structures in all zoning districts subject to the requirements set forth in subsection (3) below.

(2) Small scale solar energy systems must obtain site plan approval from the Planning

Board, unless the code enforcement officer determines that the solar energy system will not be visible, due to year-round vegetation screening or topography, from a public or private road or from adjoining properties. If such determination is made, site plan approval is not required, and paragraph (3)(b) below shall not apply, but issuance of a building permit is required. The applicant shall file a New York State USP application, if applicable.

(3) The following requirement shall apply to all small scale solar energy systems:

(a) Height and setbacks. Small scale solar energy systems shall not exceed twelve (12) feet in height and shall meet the setback requirements of the zoning district for accessory structures.

(b) A small scale solar energy system shall not be placed in the front yard, or closer to the street line than the street wall of the principle structure, unless the applicant demonstrates to the satisfaction of the Planning Board that the proposed area is the only area where the solar energy system can reasonably function, and that appropriate screening from adjoining properties and from public and private roadways shall be provided. This paragraph shall not apply to a solar energy system permitted by the code enforcement officer pursuant to subsection G(2) above.

(c) The solar energy system and related equipment shall be substantially screened from view from adjoining properties and from public and private roadways.

(d) Removal of unused solar energy system and equipment. The applicant and property owner must agree, in writing, to remove the solar energy system and all associated equipment and structures if the solar energy system ceases to be used for its intended purpose for twelve consecutive months. Removal of such unused system, equipment and structures shall be completed within three months thereafter. If the solar energy system is not completely removed within three months, the Town shall have the right and authority to enter upon the property and remove and dispose of the system. All costs of such removal, including but not limited to reasonable attorney's fees, shall be charged to the property owner. If such costs are not paid, such charges shall be a lien upon the property and shall be assessed, levied and collected in the same manner as real property taxes.

(e) Lot coverage. The surface area covered by ground-mounted solar panels shall be included in total lot coverage for storm water management design purposes but not for development coverage purposes.

H. Large-scale solar energy systems.

(1) Large-scale solar energy systems are permitted as a special permit use in all zoning districts, except the Ridge and Valley Protection (RVP) district, subject to special use permit and site plan approval by the Planning Board and subject to the following special use permit requirements and conditions:

(2) Special use permit requirements and conditions. In addition to all other site plan and special use permit requirements, the following requirements and conditions shall apply:

(a) If the property of the proposed project is to be leased, legal consent between all parties, specifying the use(s) of the land for the duration of the project, including easements and other agreements, shall be submitted.

(b) The equipment specification sheets shall be documented and submitted for all photovoltaic panels, significant components, mounting systems, and inverters that are to be installed.

(c) Property operation and maintenance plan. Such plan shall describe continuing solar energy system repair and maintenance and property upkeep, such as mowing and trimming. The use of herbicides is prohibited.

(d) Decommissioning and removal plan. To ensure the proper removal of the solar energy system, a decommissioning plan shall be submitted as part of the application. Compliance with the approved decommissioning plan shall be a condition of a special permit authorized by the Planning Board. The decommissioning plan shall specify that after the solar energy system ceases operation for its intended purpose, the system shall be removed by the applicant or property owner, and by any subsequent owner/operator of the solar energy system or property owner. The plan shall demonstrate how the removal of the solar energy system and all related equipment and structures shall be conducted and how the remediation of soil and vegetation shall be conducted to return the property to substantially its condition prior to construction. The plan shall include a time line for execution. A cost estimate detailing the projected cost of executing the decommissioning plan shall be prepared by a professional engineer or contractor. Cost estimates shall take inflation into account. The decommissioning plan shall state the time period within which the solar energy system shall be removed and the property restored, which time period shall be no greater than six (6) months after the solar energy system ceases, for twelve (12) consecutive months, to be used for its intended purpose.

(e) Decommissioning and removal security.

[1] The applicant shall execute and file with the Town Clerk security in a form acceptable to the Town's attorney and Planning Board and in an amount sufficient to pay for the costs and expenses of removal of the solar energy system and related equipment and structures and the restoration of the site. The amount is subject to approval by the Planning Board's professional engineer and the Planning Board. The security may be in the form of cash, letter of credit, another instrument acceptable to the Town's attorney and the Town Board, or a combination thereof. The security shall remain in full force and effect until all solar energy system equipment, structures and materials have been properly removed and site restoration is complete.

[2] The amount of the security shall be sufficient, during the first five (5) years of operation, to cover: the costs to deconstruct and dispose of all equipment, structures and materials related to the solar energy system; costs to restore the site; and all fees, costs and expenses incurred by the Town to administer and enforce the decommissioning process. Such amount shall be re-evaluated every five (5) years thereafter and, if necessary, adjusted to reflect prevailing costs and expenses.

[3] If the amount of the security does not fully cover such fees, costs and expenses ("costs") or if the Town cannot recover adequate proceeds of the security, then the owner and operator of the solar energy system and the property owner shall be jointly and severally, and corporately and personally, liable for the costs not recovered. In addition, the Town may assess such costs against the property, which assessment shall constitute a lien on the property, and which amount may be collected in the same manner as real property taxes.

[4] Equipment and parts maintenance. Any damaged or unused equipment and parts shall be removed from the premises within 30 calendar days or kept in a secured, designated storage area. Maintenance equipment, spare parts and petroleum products shall be kept in a secured, designated storage area.

(f) Ownership changes. If the owner or operator of the solar energy system changes or the owner of the property changes, the special permit shall remain in effect, and all requirements of this §199-21 and all conditions and requirements of the special permit shall be binding upon each succeeding owner and operator. However, a change in owner or operator shall not affect the decommissioning security, although a new owner may substitute other security in accordance with this section. A new owner or operator of the solar energy system shall immediately notify the Town

code enforcement officer of such change in ownership or operator.

(g) Modifications. Any and all modifications, additions or deletions to the solar energy system, whether structural or not, shall be subject to prior site plan review and approval by the Planning Board, except routine repairs and maintenance shall not be subject to Planning Board review.

(h) The following dimensional requirements shall apply to large scale solar energy systems:

Lot width:	250 feet
Front yard setback:	100 feet
Side yard setback (each)	75 feet
Rear yard setback:	75 feet
Building height:	35 feet
Maximum height of solar collectors:	12 feet
Maximum height of fencing	8 feet

(i) The total area to be occupied by the solar energy system shall not exceed twenty (20) acres.

(j) No more than 50% of the existing trees within the lot containing the solar energy system may be removed to accommodate the solar energy system, with open fields preferred for installation sites. In addition, no more trees than necessary may be removed.

(k) All on-site power lines shall be installed underground unless the applicant demonstrates to the satisfaction of the Planning Board that such underground installation is not practicable given the particular characteristics of the site.

(l) All Large-Scale Solar Energy Systems shall be enclosed by perimeter fencing at a height of at least seven (7) feet to prevent unauthorized access. There shall be a six inch gap at the bottom of the fencing to allow small wildlife access to and from the site. Warning signs with the owner's contact information shall be placed on the entrance and perimeter of the fencing.

(m) Appropriate screening shall be provided, as determined by the Planning Board in its sole direction, to screen the solar energy system and fencing from residential properties, public roads, private roads and private rights-

of-way to the maximum extent practicable. The applicant shall provide a visual analysis to the Planning Board using line-of-sight profiles from public viewing locations determined by the Planning Board.

(n) Buildings and structures associated with the solar energy system shall, to the maximum extent practicable, use materials, colors and textures that will blend the facility into the existing environment.

(o) Solar panels and equipment shall be designed and sited so as to not reflect glare onto other properties, public roads or private roads or right-of-ways, and shall not interfere with traffic or create a safety hazard.

(p) Driveways servicing the site shall have safe sight distance and lawful and appropriate access for emergency vehicles and equipment. Access to the site shall be reviewed by the relevant emergency service provider(s).

(q) The identification of the manufacturer and installer, and appropriate warning signs, shall be posted at the site, be clearly visible and weather-resistant.

(r) The solar energy system and equipment shall be marked in order to provide emergency responders with appropriate warning and guidance with respect to isolating the solar electric system. Materials used for marking shall be weather- resistant. The markings shall be placed adjacent to the main service disconnect in a location clearly visible from where the power lever is located. If any of the standards in this subsection are more stringent than applicable provisions of the New York State Uniform Fire Prevention and Building Code (the State Code), these standards shall be deemed to be guidelines only, and the standards of the State Code shall apply.

(s) Any application under this Section shall meet any substantive provisions contained in local site plan requirements in the zoning code that, in the judgment of the Planning Board, are applicable to the system being proposed. If none of the site plan requirements are applicable, the Planning Board may waive the requirement for site plan review.

(t) The Planning Board may impose conditions on its approval of any special use permit 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).

Section 2. Chapter 199, titled “Zoning,” of the Code of the Town of Mamakating is amended by amending the Table of Use and Bulk Regulations by adding Roof-mounted solar energy systems and Small scale solar energy systems as accessory uses in all zoning districts,

and by adding Large scale solar energy systems as a special permit use in all zoning districts except the River and Valley Protection (RVP) district.

Section 3. Section199-6, titled "Word Usage and Definitions," of Chapter 199, titled "Zoning," of the Code of the Town of Mamakating is amended by adding a new term and definition to read as follows:

SOLAR ACCESS - Space open to the sun and clear of overhangs or shade so as to permit the use of a solar energy system to service a building or property.

Section 4. Subsection D of §199-48, titled "Site plan elements," of Chapter 199, titled "Zoning," of the Code of the Town of Mamakating is amended by adding a new paragraph (14) to read as follows:

(14) Buildings depicted on a site plan shall be located (i) to take advantage of solar access, including orientation of proposed buildings with respect to sun angles and the potential shading by existing and proposed vegetation on and off site, and (ii) to not detrimentally impact solar access of adjoining uses and property.

Section 6. Section 166-6, titled "Design standards," of Chapter 166, titled "Subdivision of Land," of the Code of the Town of Mamakating is amended by adding a new subsection H, titled "Solar access," to read as follows:

H. Solar access. Buildings depicted on a subdivision plat shall be located (i) to take advantage of solar access, including orientation of proposed buildings with respect to the proposed street layout, sun angles, and the potential shading by existing and proposed vegetation on and off site, and (ii) to not detrimentally impact solar access of adjoining buildings and property.

Section 7. If any clause, sentence, paragraph, section or other part of this local law shall be adjudged by any court of competent jurisdiction to be null, invalid, void or unconstitutional, such judgment shall not affect nor impair or invalidate the remainder thereof, and shall be confined in its operation to the clause, sentence, paragraph, section or other part of this law that is directly involved in the controversy in which such judgment was rendered and all other parts of the law shall remain valid and in full effect.

Section 8. This local law shall take effect immediately upon filing with the Secretary of the State.

HIGHWAY SUPERINTENDENT'S REPORT – JoAnn Salamone, Deputy Highway Superintendent

- Finishing Ferguson Roan
- Prepping for winter

RESOLUTIONS

TOWN OF MAMAKATING TOWN BOARD
UNSAFE BUILDING RESOLUTION AND ORDER
619 Roosa Gap Road-Tax Parcel 21-1-53

RESOLVED, that the following findings are made:

1. Stephen C. Sarosi died on May 29, 1987, and Letters Testamentary were issued by the Executor, Walter J. Rettig, on November 19, 1987, by the Surrogate of Sullivan County and a Decree was entered on November 19, 1987. Pursuant to the official tax records, Walter J. Rettig, Executor of the Estate of Stephen C. Sarosi, resides at 10 Carol Road, Monmouth Junction, New Jersey 08852, and tax bills for Tax Parcel 21-1-53 are mailed to him at that address.

2. Lanc & Tully Engineering & Surveying, P.C., professional engineers licensed in the State of New York, and the Town Building Inspector, performed an unsafe building inspection of the subject premises owned by the Estate of Stephen C. Sarosi, located at 619 Roosa Gap Road, Bloomingburg, in the Town of Mamakating, and identified as Town of Mamakating Tax Parcel No. 21-1-53.

3. Lanc & Tully issued its report, dated June 24, 2013, to the Town Board, which report finds, in conformance with §68-4 of the Town Code, that the building situate on the subject premises is unsafe and sets forth the reasons requiring demolition and removal of the building. The building conditions are also depicted in the photographs annexed to the report.

4. The Town Building Inspector issued a supplemental report, dated November 1,

2016, to the Town Board stating that the condition of the building has further deteriorated since the time of the Engineer's report. The Engineer's report and the Building Inspector's supplemental report are annexed hereto.

5. The Town Board has reviewed and considered the Engineer's report and the Building Inspector's supplemental report and finds that the building on the subject premises is dangerous and unsafe to the public and must be demolished and removed.

RESOLVED, that the following determinations and orders are made:

The Town Board accepts the findings and recommendations of the Engineer's report and the Building Inspector report and determines that the building situate on the subject premises is unsafe. The Town Board orders that this unsafe building shall be demolished and removed from the premises; all debris, rubble or parts of the building shall be removed from the premises; and the premises shall be made level and safe. Such demolition and removal work and other required work shall commence on or before December 15, 2016, and shall be completed on or before February 15, 2017, unless, for good cause shown, such time is extended by the Town Board.

A due process hearing shall be held in accordance with Chapter 68 of the Town Code on November 15, 2016, at 6:00 P.M., and the Town will attempt to notify the owner of the building or persons having an interest therein of this hearing, after which the Board will determine whether this Order to demolish and remove the building shall be affirmed or modified or vacated and, in the event of modification or affirmance, whether to assess all costs and expenses, including all legal expenses, incurred by the Town in the demolition and removal of the building against the property on which the building is located or, at the discretion of the Town Board, to institute a special proceeding against the property owner to collect the costs of demolition and removal, including all legal expenses incurred in connection therein.

On a motion by Councilperson Saward, seconded by Councilperson Taylor, the foregoing Resolution and Order was adopted on a vote of five Ayes, zero Nays.

BUDGET MODIFICATIONS

A motion was made by J. Lybolt, seconded by C. Saward to accept the budget modifications as presented. All in favor.

ABSTRACTS

A motion was made by J. Lybolt, seconded by C. Saward to approve the following abstract as presented:

Abstract #20- 2016 in the amount of $176,194.12 (Voucher #1647-1706)

a. AO FUND $102,514.74
b. BO FUND $10,375.09
c. DA FUND $6,054.73
d. DB FUND $21,937.90
e. SR FUND $5,900.66
f. HO FUND $29,411.00

MINUTES

A motion was made by J. Lybolt, seconded by B. Giraldi to accept the Minutes of October 18, 2016. All in favor.

EXECUTIVE SESSION

- A motion was made by C. Saward, seconded by M. Taylor to go into Executive Session at 7:40p.m. to discuss particular appointments to the Safety Committee, legal advice regarding highway negotiations. All in favor.
- A motion was made at 8:53 p.m. by C. Saward, seconded by J. Lybolt to come out of Executive Session. All in favor.

SAFETY COMMITTEE

The following people were appointed to the safety committee on a motion by W. Herrmann, seconded by B. Giraldi. All voting in favor.
Mary Grass, Brenda Giraldi, Jean Dougherty, Kurt Welsh, JoAnn Salamone, Robert Fiore, Amy Platt, Lou Tripido, Kerron Barnes, Donna Consolo and Merritt Simpson.

ADJOURNMENT

- A motion to adjourn the meeting was made by J. Lybolt, seconded by C. Saward. All in favor.

Respectfully Submitted;
Jean M. Dougherty, Town Clerk