

# **TOWN OF STARK**

County of Herkimer

State of New York

703 Elwood Road

Fort Plain, NY 13339

## **TOWN OF STARK BOARD MEETING MINUTES FOR APRIL 9, 2024 (REVIEWED AND APPROVED MAY 14, 2024)**

The town of Stark Board meeting was held on April 9, 2024 at the Town of Stark Justice Court building. Supervisor Richard Bronner called the meeting to order at 7:00 PM. Councilman John Voght led us in the pledge of allegiance to the flag.

Roll Call was as follows: Supervisor Richard Bronner-present, councilman Tony Grescheck-present, Councilman Emil Ziaja-present, Councilman John Voght-present, Councilman Joseph Hubiak-present, Highway Superintendent David Hajczewski-present, Town Clerk Eleanor Smith-present. Also in attendance was Special Counsel Bernard Melewski and the attached listing of people.

Town Clerk Eleanor Smith read the minutes from the March 12, 2024 meeting. Supervisor Bronner asked for a motion to approve the minutes as read. Councilman John Voght made a motion to accept and Councilman Ziaja seconded. All approved.

Supervisor Bronner advised that there would not be a public portion to start the meeting as has been the case in most meetings. There is an item that the Town Board wishes to take care of in front of the public. The item is adoption of a moratorium to give the Town Board an opportunity to review any items the Board would like to address in the Land Use Regulations for the Town of Stark and determine if they need to make changes to the regulations. The Land Use Regulations are over 20 years old. The Board would like to adopt the 9-month moratorium to put a hold on the permitting of any new commercial wind farm and commercial solar farm applications. Supervisor Bronner asked for a motion to adopt the 9-month moratorium. Councilman Grescheck made the motion to adopt and Councilman Joseph Hubiak Seconded. No vote was taken. Councilman Ziaja made a motion to delay the vote due to not fully understanding what the moratorium would do to the Town of Stark. Councilman Voght seconded the motion. No vote was taken. At this point, a member of the public asked if the Town Board had any knowledge of a water supply that may have been contaminated due to test drilling last summer. This person had talked with Town Attorney Gerard Snyder and was advised he had discussed with Special

Counsel Bernard Melewski. They received a call back from Town Attorney Snyder and advised he had discussed with Special Counsel Melewski about the possibility of putting together a moratorium, which the Town is trying to do. His words were that if the Town Board did not approve of the project, if something they did not think should go through, would it be accurate to say this is what the moratorium is about. Supervisor Bronner said that is exactly what the Town is trying to do. Special Counsel Melewski arrived at the meeting and Supervisor Bronner advised him the Board had a motion and a second to table the vote until a better understanding of the moratorium was accomplished but no vote had been taken. A public question was asked about the language used referring to items and what those items were. Supervisor Bronner didn't remember what "items" referred to or the context they were used. Special Counsel Melewski explained the purpose of the moratorium. It freezes any application for commercial wind or commercial solar projects, once the local laws are adopted, after a public hearing, for a period of up to 9-months, which can also be extended an additional 3 months, if needed. This allows the Town Board time to review its comprehensive plan, wind ordinance and solar ordinance, all of which are pretty dated. No application for a permit for commercial wind or solar projects could go forward before a completion of review for making any changes to the local ordinances. Councilman Ziaja questioned any listing of laws or anything that had already been processed-is that they want to control, is that what they want changed. Special Counsel Melewski advised the Town has 2 local laws. A local law for wind from 2006 and a local law for solar from 2020, both of which amends the Land Use Regulations of the Town of Stark. The purpose of this is for the Town to have an opportunity to catch up with development at the state level, to examine if your laws are up to date, and you can adequately provide for the public safety and security for the people of the Town of Stark. Local laws currently permit commercial wind and commercial solar projects. This local Law, if adopted would freeze those laws in place and no permit applications would be considered, giving the Town an opportunity to see if they want to revise the current local law and the provisions that could prevent commercial wind or solar. The Town could also simply up-date the existing provisions. For example, the state level for sound is 40 dcb and the Town uses 50 dcb as the maximum noise level. Changing that could make the local law compliant. Right now the Town local laws provide for commercial wind and solar and the moratorium would freeze any future applications from going forward until you can consider whether you want to continue to allow them in the Town. Question was asked whether the moratorium would apply to New Leaf Energy. Special Counsel stated that New Leaf is under the wire and at the very end of the process, so it would not apply to them, as they are within a month or 2 of the final decision. Question was asked if during this moratorium, if the town board is considering changing the laws in the books, how would this be communicated to the public and where will the information be sent to voice their opinions. Special Counsel stated the Town Board itself. If the resolution is adopted, there will be a public hearing for the people to weigh in with their comments on the substance of the moratorium and then any future changes to the local laws would be subject to the same process a discussion by the Town Board, motion to move forward to a public hearing. Question asked does the decision of any revised or amended land use, planning or

permitting left solely with the Town Board or does the changes to the landscape process require public approval. Special Council advised one group cannot say they are amending wind ordinances without public approval in the form of a public hearing. It would not be voted on by the public, but by the Town Board. It would be up to the Town Board who drafts these new local laws. A request was made for a project like this going forward a more frequent and thorough update be put on the Town website. Special Counsel read the moratorium to the public. Questions asked if there is any specific language in the document about what parts of the land use regulations or certain things that are under consideration. Special Counsel advised it would be up to the Town Board. His opinion that local laws can be improved and options given to localities protects specific natural resources that exist in the Town of Stark which are not currently protected. The moratorium was written by the Town Attorney with Special Counsel. Councilman Ziaja asked if these rules and regulations that are listed, who would be responsible to make changes to them. Special Council advised the Town Board could hire a consultant to give to give recommendations or by forming a commission, but the Town Board has complete control. Town Council discussed approving the moratorium. Councilman Voght removed his seconded motion to delay. The vote for the original motion to adopt the moratorium followed by Roll Call. Councilman Voght-Aye, Councilman Hubiak-Aye, Councilman Grescheck-Aye, Supervisor Bronner-Aye Councilman Ziaja-Nay. 4-ayes, 1-Nay. Motion approved. Supervisor Bronner proposed a public hearing for April-30, 2024 at the ODY School Auditorium beginning at 7:00 PM. Councilman Grescheck made a motion. Councilman Hubiak seconded. All approved. There were additional questions and comments. All were answered by Special Counsel Melewski and were recorded by Town Clerk Smith. Public Session closed at 8:00 PM.

There was a discussion Herkimer County Hazard Mitigation plan. The Town has been Certified for the membership. It puts us in line for FEMA money earlier. Councilman Voght made a motion to accept and Councilman Hubiak seconded. All approved. Supervisor Bronner received a permit approval for trout stream work for Mathew Brubaker from DEC and the Town Board Had a discussion.

Dumpster Day will be Saturday May 11, 2024 from 9 AM to 1 PM.

Judges books are due to be audited. Councilman Grescheck and Councilman Hubiak volunteered to audit the books Thursday at 6:30 PM.

Highway Superintendent Hajczewski obtained information for the extended warranty for the new 1-year old tractor. Councilman Grescheck made a motion to accept. Councilman Hubiak seconded. All approved.

Supervisor's report was reviewed. Councilman Grescheck made a motion. Councilman Hubiak seconded. All approved.

The Town Board reviewed the Clerks report. Councilman Grescheck made a motion. Seconded by Councilman Hubiak. All approved.

The Board reviewed the the General fund vouchers and Highway fund vouchers. Councilman Voght made a motion to pay the bills. Councilman Ziaja seconded. All approved.

There will be a public hearing on April 30, 2024 at 7:00 PM at the ODY school auditorium for local law #1 2024.

The next Board meeting will be held on May 14, 2024. Meeting was closed to discuss the moratorium and the new leaf project. Councilman Grescheck made a motion to adjourn Seconded by Councilman Hubiak. All approved. Meeting adjourned at 9:06 PM.