

REGULAR MEETING, TOWN OF LIVONIA
October 21, 2021

A regular meeting of the Town Board of the Town of Livonia, County of Livingston and the State of New York was held at the Livonia Town Hall, 35 Commercial St. Livonia, NY on October 21, 2021.

PRESENT: Eric Gott, Supervisor
Joseph Breu, Councilmember
Peter Dougherty, Councilmember
Andy English, Councilmember
Matt Gascon, Councilmember
Hayley Anderson, Clerk
Jim Campbell, Attorney, Town of Livonia

OTHERS PRESENT: Several Residents

The Town Board meeting was called to order by Supervisor Gott at 7:00 PM. Paul Dwyer led the pledge.

PUBLIC HEARINGS – 2022 PROPOSED BUDGET / WATER & SEWER UNIT CHARGES

Supervisor Gott declared the public hearings open at 7:02 PM for the 2022 Proposed Budget, and the Water & Sewer Unit Charges.

Notices for both Public Hearings were duly published in the Livingston County News on October 7, with same being posted on the same date at the Town Hall and on the Town's web site. In addition, notices regarding the Public Hearing for the Hemlock Sewer and Cadyville Road Water unit charges were mailed to owners of property in said districts.

Attorney Campbell read the hearing notices for the record.

Supervisor Gott announced that the Proposed Budget fully funds the Town's obligations to employees, and includes wage increases for employees, improvements to Vitale Park, the purchase of 10 Wheel Dump Truck for the Highway Department, and the day-to-day operations of the Town. He also reported the reserve fund is strong at 4.52 per thousand, which is below where we were 16 years ago. Copies of the proposed budget were provided for the public. He asked if there were any questions or comments for either one of the Public Hearings.

Comments:

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RESOLUTION 140-2021

TOWN CLERK’S REPORT – SEPTEMBER 2021

Paid to Supervisor	\$5,220.93
Paid to County Treasurer for Dog Licenses	\$318.50
NYS Comptroller’s Office (Bingo and Games of Chance Licenses)	\$0
Paid to NYS Ag & Markets for the Spay/Neuter Program	\$139.00
Paid to NYS Environmental Conservation for Hunting/Fishing Licenses	\$11,226.75
State Health Department (marriage licenses)	\$67.50
TOTAL DISBURSEMENTS	\$16,972.68

On motion of Councilmember Breu seconded by Councilmember Gascon the following resolution was

ADOPTED Ayes - 5(Gott, English, Gascon, Breu, Dougherty)
Nays – 0

Resolved to approve Town Clerk’s report for September 2021.

RESOLUTION 141-2021

APPROVE 9/16/2021 MEETING MINUTES

On motion of Councilmember Dougherty seconded by Councilmember English the following resolution was

ADOPTED Ayes - 5 (Gott, English, Gascon, Breu, Dougherty)
Nays – 0

Resolved to approve the meeting minutes from 9/16/2021.

PRIVILEGE OF THE FLOOR

Supervisor Gott reported that the water and sewer authority has advised that Lima is still waiting on approval for questions on income survey from Albany, and they are two months ahead of our project. A call from engineer Eric Weis, who believes the interest survey should be sent out within the next week as to be conscious of time as the income survey is taking much longer than anticipated. The board agrees it is important to keep this rolling and do as much as we can to get the new water districts live.

A resident presented to the board and stated that he is trying to renovate an old dairy barn, and it came to his attention that agritourism is not allowed on property currently. He would like to amend zoning language to confirm the word agritourism is included. He plans to Renovate the dairy barn to include a culinary kitchen and event space. This

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will allow farm to table events, how to cook food, learn where it comes from, how it grows, and hope to put food on neighbor's table. The idea is this will bring other people into the town and community, bringing people onto the farms and teaching them how to utilize farmland. Attorney Campbell reported that the planning board has been dealing with another resident who has been wanting to update the code for farm to table ideas. There has been discussion about changing the language previously, but this would affect all agriculturally zoned properties in the area. Councilmember English asked if zoning is changed would that open resident's up to receiving grant money. The resident presenting reported he was already awarded a grant from Livingston County for the culinary kitchen. He suggested the language should still include active farming, not just any property. Councilmember English also asked if other communities are doing this. He stated that he's working with the farm bureau, and they are lobbying heavily to adjust definitions. Attorney Campbell reported that, in Avon they amended code to allow historic barns to be used for event centers. Councilmember Breu asked what his future are and when he would like to see this happen. He reported as soon as possible as the barn is needing repair and renovation, and he needs to preserve the structure. Without this change there is no use for the barn. English asked how old the barn is, and he said he believes early 40's and 50's it was re-built. Supervisor Gott asked if milk house would stay, and he reported he would like to keep as refrigerator. Supervisor Gott stated the options at this point are repurpose or lose them. Supervisor Gott stated he would like to take Attorney Campbell up on his offer for guidance and speaking with Adam. Attorney Campbell suggests a committee being put together to go over expectations and requests. The resident reported the conventional farming model is slowly developing into the need to diversify to sustain. Councilmember Dougherty volunteered to be the member of the Town Board to be on the committee to explore options.

Another resident asked about water districts. Attorney Campbell reiterated that it is extremely important for residents to fill out each survey they receive, both the interest and income surveys. Supervisor Gott asked engineer today to include Cleary road between Federal and Blank Road.

Councilmember Gascon said a resident contacted him advising that there has been an issue at hemlock park with dogs running free. Councilmember Breu suggested calling county to have LCSO go educate the residents on the posted leash laws.

RESOLUTION 142-2021

ANNUAL INTERFUND TRANSFER HEMLOCK SEWER FUND TO GENERAL FUND

19-00-0630	\$22,085	
19-57-9795.7	\$ 2,495	
19-00-0200		\$24,580

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01-00-0200	\$24,580
01-00-0391	\$22,085
01-00-2401	\$ 2,495

On motion of Councilmember English seconded by Councilmember Gascon the following resolution was

ADOPTED	Ayes -	5 (Gott, English, Gascon, Breu, Dougherty)
	Nays -	0

Resolved to authorize the annual interfund loan principal and interest payment and approve the transfer of funds from the Hemlock Sewer Fund to the General Fund as listed above.

RESOLUTION 143-2021

APPOINTMENT OF NEW PLANNING BOARD MEMBER ASHLEY BARANES

The Livonia Joint Planning Board recommends the appointment of Ashley Baranes to fulfill the 1/2019-12/2025 term vacated by Jack Sparling. The salary will be the same as other planning board members and will be pro-rated this year to pay for just 10/25 – 12/31 this year.

On motion of Councilmember Breu seconded by Councilmember Dougherty the following resolution was

ADOPTED	Ayes -	5 (Gott, English, Gascon, Breu, Dougherty)
	Nays -	0

Resolved to appoint Ashley Baranes as the village appointed member to fulfill the 1/2019-12/2025 term vacated by Jack Sparling.

RESOLUTION 144-2021

HIRE NEW LABORER EMPLOYEE, COLLIN WALDRON

On motion of Councilmember English seconded by Councilmember Gascon the following resolution was

ADOPTED	Ayes -	5 (Gott, English, Gascon, Breu, Dougherty)
	Nays -	0

Resolved to hire Collin Waldron as a laborer at a rate of pay of \$15.00 an hour effective September 25, 2021.

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RESOLUTION 145-2021

CORNELL COOPERATIVE AGREEMENT FUNDING

On motion of Councilmember Gascon seconded by Councilmember English the following resolution was

ADOPTED Ayes - 5 (Gott, English, Gascon, Breu, Dougherty)
Nays – 0

Resolved to approve the funding for Cornell Cooperative Extension in the amount of \$3,900.00 for the year 2022.

RESOLUTION 146-2021

INTER-MUNICIPAL COOPERATION AGREEMENT-SHARED USE AND MAINTENANCE OF THE TOWN OF LIVONIA FUEL DEPOT

On motion of Councilmember Breu seconded by Councilmember Dougherty the following resolution was

ADOPTED Ayes - 5(Gott, Dougherty, English, Gascon, Breu)
Nays – 0

Resolved to authorize Supervisor Gott to sign the shared use and maintenance of the Town of Livonia Fuel Depot Agreement.

RESOLUTION 147-2021

AUTHORIZE CONTRACT EXTENSION OF INTERMUNICIPAL AGREEMENT FOR MACHINERY, TOOLS, EQUIPMENT AND SERVICE SHARING

On motion of Councilmember English seconded by Councilmember Breu the following resolution was

ADOPTED Ayes - 5 (Gott, English, Gascon, Breu, Dougherty)
Nays – 0

Resolved to authorize Supervisor Gott to sign the Contract Extension which terminates 12/31/2022.

Supervisor Gott asked again for Public Hearing comment-no comment. Will keep Public hearing open for Budget review. The Public Hearing for the Water and Sewer Unit Charges closed at 8:03pm

RESOLUTION 148-2021

SPECIAL MEETING TO ADOPT BUDGET

On motion of Councilmember Breu seconded by Councilmember Gascon the following

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resolution was

ADOPTED Ayes - 5 (Gott, English, Gascon, Breu, Dougherty)
 Nays – 0

Resolved to schedule a special meeting to review the preliminary budget for 2022 on November 10th, 2021 at 6PM

RESOLUTION 149-2021

APPROPRIATE OTHER GOVERNMENT SUPPORT ACCOUNT 01-30-1989.4

Other Government Support will be provided as follows:

Little Lakes Community Center- \$3,000

Hemlock Fire District- \$10,000

School Resource Officer- \$10,000

Autumn in the Village-\$5,000

On motion of Councilmember Dougherty seconded by Councilmember Breu the following resolution was

ADOPTED Ayes - 5 (Gott, English, Gascon, Breu, Dougherty)
 Nays – 0

Resolved to adopt the above appropriations totaling \$28,000.

SOLAR AND BATTERY STORAGE LOCAL LAWS DISCUSSION

Received written comment from 2 residents after last meeting. Supervisor Gott asked what the pleasure of the town board is. Councilmember English asked Attorney Campbell how large the panels are on the solar farm in Avon. Attorney Campbell stated the panels are currently changing. Councilmember English asked if we have height and size restrictions. Attorney Campbell advised that current language in law states 15ft to the highest point on the panel. Councilmember Gascon asked what surrounding communities language on acreage coverage is, Attorney Campbell advised Avon allows 25 acres. He also stated in York there are none on prime agricultural soil. Attorney Campbell stated there is no mistaking there is a visual impact. Councilmember English brings up concerns that committee did not have adequate attention because of covid. Supervisor Gott stated we can adopt as is, place a moratorium, or adopt and enhance the language. Attorney Campbell advised a moratorium is tricky from a legal standpoint. Councilmember Breu suggested to table this.

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Supervisor Gott stated the Town of Lima allows nothing and has no solar currently. Councilmember Gascon asked if he can request what Lima’s law states to compare and adjust current draft. Councilmember Breu states that solar panels look ok on roofs, not in cornfields. Board members agree our community, is not going to benefit. The board reiterates the town and people do not want solar brought into our community.

RESOLUTION 150-2021

LOCAL LAW #1 – 2021 -ON SOLAR ENERGY SYSTEMS

On motion of Councilmember English seconded by Councilmember Gascon the following resolution was

ADOPTED Ayes - 5 (Gott, English, Gascon, Breu, Dougherty)
Nays – 0

Resolved to allow Jim Campbell to draft a local law that allows no large scale solar projects for the Town of Livonia.

RESOLUTION 151-2021

LOCAL LAW #2-2021 BATTERY ENERGY STORAGE

Attorney Campbell briefly explained the SEQR process to the Board.

Attorney Campbell explained that Part 1 of the Full Environmental Assessment Form (FEAF) is a description of the proposed action of adopting a local law to establish regulations for large scale battery energy storage systems.

Attorney Campbell then moved on to explaining the process for completing Part 2 of the FEAF, which would involve the Board being asked a series of questions. Attorney Campbell went through the series of questions on Part 2 of the FEAF and the Board answered all of them with “No or small impact.”

Following the Board answering those questions on Part 2, a Motion was made.

On motion of Councilmember Gascon seconded by Councilmember Dougherty the following resolution was

ADOPTED Ayes - 5 (Gott, English, Gascon, Breu, Dougherty)
Nays – 0

Resolved to adopt the specific findings for Part 2 of the FEAF.

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Attorney Campbell then proceeded to explain Part 3 of the FEAF, that being the determination of significance. Attorney Campbell further explained that because the Board answered “No” to all of the questions in Part 2, the next logical step for the Board would be to make a finding that no significant, negative environmental consequences will occur as a result of adoption of the proposed Local Law and to issue a Negative Declaration.

RESOLUTION 152-2021
DETERMINATION OF SIGNIFICANCE AND TO DECLARE A NEGATIVE DECLARATION

On motion of Councilmember English seconded by Councilmember Dougherty the following resolution was

ADOPTED Ayes - 5 (Gott, English, Gascon, Breu, Dougherty)
 Nays – 0

Resolved to declare a Negative Declaration for LL #1-2021.

RESOLUTION 153-2021
AUTHORIZE SUPERVISOR GOTT TO SIGN SEQR DOCUMENTS

On motion of Councilmember Breu seconded by Councilmember Gascon a Motion was made for Supervisor Gott to sign all SEQR documents.

ADOPTED Ayes - 5 (Gott, Dougherty, English, Gascon, Breu)
 Nays – 0

Resolved to authorize Supervisor Gott to sign all SEQR documents.

RESOLUTION 154-2021
AUTHORIZATION FOR TOWN CLERK ANDERSON TO FILE NEGATIVE DECLARATION WITH ENB

On motion of Councilmember English seconded by Councilmember Breu the following resolution was

ADOPTED Ayes - 5 (Gott, English, Gascon, Breu, Dougherty)
 Nays – 0

Resolved to authorize the Town Clerk to file the Negative Declaration with the Environmental Notice Bulletin.

RESOLUTION 155-2021

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ADOPTION OF PROPOSED LOCAL LAW #1-2021-BATTERY ENERGY STORAGE SYSTEMS

As the first Local law to be adopted in the year 2021, this will be Local Law #1-2021.

See end of minutes.

On motion of a roll call vote, the following resolution was

ADOPTED Ayes - 5 (Gott, English, Gascon, Breu, Dougherty)
 Nays – 0

Resolved adopt the proposed Local Law relating to Battery Energy Storage Systems, being Local Law # 1 of 2021.

RESOLUTION 156-2021

AUDIT OF CLAIMS

On motion of Councilmember English seconded by Councilmember Breu the following resolution was

ADOPTED Ayes - 5(Gott, Dougherty, English, Gascon, Breu)
 Nays – 0

Resolved to pay claims 793-801 dated 09/27/2021 in the amount of \$2,635.33

RESOLUTION 157-2021

AUDIT OF CLAIMS

On motion of Councilmember Dougherty seconded by Councilmember Gascon the following resolution was

ADOPTED Ayes - 5 (Gott,Dougherty, English, Gascon, Breu)
 Nays – 0

Resolved to pay claims 802-838 dated 10/7/2021 in the amount of \$73,834.54

RESOLUTION 158-2021

AUDIT OF CLAIMS

On motion of Councilmember Breu seconded by Councilmember English the following resolution was

ADOPTED Ayes - 5 (Gott,Dougherty, English, Gascon, Breu)
 Nays – 0

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Resolved to pay claims 839-842 dated 10/14/2021 in the amount of \$1,389.90

RESOLUTION 159-2021

AUDIT OF CLAIMS

On motion of Councilmember English seconded by Councilmember Dougherty the following resolution was

ADOPTED Ayes - 5 (Gott,Dougherty, English, Gascon, Breu)
Nays – 0

Resolved to pay claims 843-882 dated 10/21/2021 in the amount of \$62,043

TOWN OF LIVONIA
LOCAL LAW NO. 1 OF THE YEAR 2021

A Local Law Entitled “Adding Article XVIII of Chapter 150 of the Zoning Ordinance of the Town of Livonia.”

Be it enacted by the Town Board of the Town of Livonia as follows:

A new Article XVIII of Chapter 150 of the Zoning Ordinance of the Town of Livonia shall be established hereby and shall read as follows:

Article XVIII Battery Energy Storage Systems

§150-175. Authority and Legislative Intent.

The Town Board of the Town of Livonia states the following as its findings and legislative intent:

- A. This Local Law is adopted pursuant to New York State Town Law §§261, 263 and 264, which authorize the Town of Livonia to adopt zoning provisions that advance and protect the health, safety, and welfare of the community.

- B. This Local Law is a land use regulation and is intended and is hereby declared to address matters of local concern, and not matters of statewide concern. This Local Law is intended to act as and is hereby declared to exercise the permissive

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“incidental control” of a zoning law and land use law that is concerned with the broad area of land use planning and the physical use of land and property within the Town, including the physical externalities associated with certain land uses, such as potential negative impacts of such uses on a community.

§150-176. Definitions.

The following definitions shall apply to this Article:

Battery Energy Storage System - A rechargeable energy storage system consisting of one or more devices, including batteries, battery chargers, controls, power conditioning systems and associated electrical equipment, assembled together, capable of storing energy in order to provide electrical energy at a future time, not to include a stand-alone 12-volt car battery or an electric motor vehicle.

Large Scale Battery Energy Storage System Installation(s) - Any installation of a rechargeable Battery Energy Storage System having an aggregate energy capacity of 600kWh or more, consisting of electrochemical storage batteries or similar technology, battery chargers, controls, power conditioning systems, inverters, transformers, switchgears and associated electrical equipment designed to store electrical power received from a generating or transmission source and periodically discharging power from the Battery Energy Storage System into the power grid.

Non-commercial Battery Energy Storage Systems – A rechargeable Battery Energy Storage System typically used to provide standby or emergency power and/or an uninterruptable power supply, load shedding, load sharing, or similar capabilities relating to the energy consumed by a residence, farm operation or other business on site and having an aggregate energy capacity of less than 600kWh.

§150-177. Zoning districts where allowed.

Subject to the provisions of this Article, Battery Energy Storage Systems shall be allowed as follows:

- A. Non-commercial Battery Energy Storage Systems are allowed as accessory uses in all zoning districts upon issuance of a zoning permit (pursuant to §150-8 B.) based on special application materials supplied by the Town Building and Code Department.
 - (1) All applications for Non-commercial Battery Energy Storage Systems for business or farm, to the extent that the same require modification to the existing site of such business or farm, shall be subject to Site Plan review pursuant to

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Article XIV. Applications for Non-commercial Battery Energy Storage Systems for use on residential parcels may be subject to Site Plan review at the sole discretion of the Code Enforcement Officer.

- (a) Any application under this Section that requires Site Plan review shall meet substantive Site Plan requirements in §150-116 that, in the judgment of the Livonia Town Planning Board, are applicable to the Solar Energy System being proposed.
- (2) 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 powers related to the completion of a Non-commercial Battery Energy Storage System.

B. Large Scale Battery Energy Storage System Installation shall not be permitted in any zoning district within the Town of Livonia.

§150-178. General regulations.

The placement, construction and major modification of any permitted Battery Energy Storage System within the boundaries of the Town of Livonia shall be permitted only as follows:

- A. Any inconsistent provisions of the Code of the Town of Livonia which purport to or may be interpreted to allow Battery Energy Storage System (or similar technology as a permitted primary or accessory use) in other districts are hereby superseded.
- B. All Battery Energy Storage System existing on the effective date of this Article shall be “grand fathered” and allowed to continue 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 on pre-existing systems shall comply with the requirements of this Article.
- C. All new permitted Battery Energy Storage Systems and all additions and modifications to any pre-existing Battery Energy Storage 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, the NYS Energy Conservation Code and all local laws, codes, rules and regulations of the Town of Livonia.
- D. Any applications (including variance applications) pending for Battery Energy Storage Systems on the effective date of this article shall be

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subject to the provisions of this Article.

- E. This Article shall take precedence over any inconsistent provisions of the Zoning regulations contained within the Zoning Ordinance of the Town of Livonia.

§150-179. Interpretation; conflict with other law.

In its 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. This Article 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.

§150-180. 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.

§150-181.

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

§150-182 through §150-189 (Reserved).

With no further business, on a motion of Councilmember Gascon seconded by Councilmember Dougherty the meeting was adjourned at 8:16PM. Carried unanimously.

Respectfully Submitted,

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Hayley Anderson
Town Clerk