

Town of Denmark

Minutes

August 21, 2017: August 21, 2017 Special Meeting

Body:

A special meeting of the Town of Denmark Town Board was held on Monday, August 21, 2017. Clerk Greene was notified of the meeting at 4:30pm on August 17, 2017. The media was provided notice via email on August 18th by Clerk Greene. Deputy Clerk Katrina Souva hung notices in the three post offices in the Town on the morning of August 21, 2017. Supervisor Fleming opened the meeting at 6:00pm with the Pledge of Allegiance.

Present were:

Councilman Der
Councilman Fazio
Supervisor Fleming
Councilman Jones
Clerk Prudence Greene

Councilman Fazio made a motion to accept the agenda prepared by Clerk Greene. The motion was seconded by Councilman Jones.

Vote recorded as follows:

Councilman Der	Aye
Councilman Fazio	Aye
Supervisor Fleming	Aye
Councilman Jones	Aye

The Town Clerk reported that she had been notified late Thursday afternoon that the proposed amendment to the Town of Denmark Zoning Law regarding the regulation of Solar Projects had been reviewed by Lewis County through the 239 L & M process and had been approved. She contacted Supervisor Fleming and he called for this meeting to consider it for possible adoption. The Public Hearing of the Law was held on August 14, 2017 and it had been tabled at that time pending the 239 L & M. After making certain that all Town Board members were contacted she notified the media (Watertown Daily Times, Lowville Journal & Republican and Linking Lewis County) via email and notices were hung in the three post offices located in the town.

After brief discussion and review of the 239 L&M Councilman Fazio offered Resolution 38-2017 as follows:

Resolution 38-2017: Adoption of Local Law 5-2017, Amendment of the Town of Denmark Zoning Law to include the Regulation of Solar Facilities

Article 1. - Statement of Authority. The Town Board of the Town of Denmark, pursuant to the authority granted it under Article 16 of the Town Law and Sections 10 and 20 of the Municipal Home Rule Law of the State of New York, hereby enacts as follows:

Article 2. - Statement of Purpose and Findings. The Town Board of the Town of Denmark hereby finds that there are growing demands for solar energy facilities to be located within the Town of Denmark. Currently the Town of Denmark Zoning law is silent in how to address these facilities. The Board feels that it is necessary to adopt regulations with respect to such facilities. It is the purpose of this local law to amend the Zoning Law to add such provision.

Article 3. - Enactment. The Town Board of the Town of Denmark does hereby amends the Town of Denmark Zoning Law as follows:

A. Article XI is hereby amended to include the following terms:

PRINCIPAL SOLAR ENERGY SYSTEM. A solar energy system consisting of one or more freestanding ground- or roof-mounted solar collector devices, solar-related equipment and other accessory structures and buildings. These devices include light reflectors, concentrators and heat exchangers, substations, electrical infrastructure, transmission lines and other related structures and facilities. Electricity produced by a principal solar system is primarily for offsite use. It is noted that any system with a nameplate generating capacity of 25 megawatts or more is subject to the requirements, terms, and conditions of Article 10 of the New York State Public Service Law.

SMALL SOLAR ENERGY SYSTEMS. Small solar energy systems are also known as "accessory solar energy systems". A solar collection system consisting of one or more roof- and/or ground- mounted related equipment, which is intended to primarily reduce on-site consumption of utility power. A system is considered a small solar energy system only if it supplies electrical or thermal energy solely for on-site use, except when a property upon which the facility is installed also receives electrical power supplied by a utility company and in such case, excess electrical power may be used by the utility company.

SOLAR ENERGY SYSTEM. Also known as a "solar collector system." A solar photovoltaic cell, panel, or array, or solar hot air or water collector device, which relies upon solar radiation as an energy source for collection, inversion, storage and distribution of solar energy for electricity generation or transfer of stored heat.

B. Article X is hereby amended to add a new Section 1035 Solar Energy Systems as follows:

A. Small Solar Energy systems shall be allowed in all zoning districts subject to these regulations.

Design and Installation

The solar energy system shall comply with all applicable building and construction codes and any local, state or federal law, rule, or regulation.

The design and installation of small solar energy systems shall conform to the existing industry standards, including those of the American National Standards Institute (ANSI), Underwriters Laboratory (UL), the American Society for Testing and Materials (ASTM), or other similar certifying organizations, and shall comply with the Uniform Building and Fire Code and with all other applicable fire and safety requirements. The manufacturer's specifications shall be submitted as part of the application.

All exterior electrical and/or plumbing lines must be buried below the surface of the ground and placed in a conduit, except for so called "plug and play" units, provided that they shall meet all requirements of the relevant building and electrical codes, or unless the panels for electrical or thermal are installed on a structure that is either the main structure or a structure attached to the main structure which is receiving the benefit from the panels.

No portion of a small solar energy system shall be located within any required setback of any property.

2. Height restrictions. Small solar energy systems must meet the following requirements:

building- or roof-mounted small solar energy systems shall not exceed the maximum allowed height in any zoning district. For purposes of height measurement, small solar energy systems other than building integrated systems are considered to be mechanical devices and are restricted consistent with other building-mounted mechanical devices.

Ground or pole mounted small solar energy systems shall not exceed fifteen (15) feet in height.

3. Compliance. The construction and operation of a small solar energy system shall comply with all applicable local, state, and national requirements. These requirements include but are not limited to all safety, construction, electrical, and communications regulations. All buildings and fixtures forming part of the system shall comply with the Uniform Building and Fire Code. No solar energy system shall be constructed without first obtaining a Zoning Permit. Small solar energy systems shall be designed and located in a manner to prevent reflective glare toward any inhabited structures on any adjacent properties as well as any public streets, roads, and highways.

4. Roof-mounted small solar systems. In addition to the building setback, the collector surface and mounting devices for roof-mounted small solar energy systems shall allow a 3 foot wide access from the roof peak and perimeter of the building on which the system is mounted or built.

1. Panels facing the front yard must be mounted at the same angle as the roof's surface with a maximum distance of 18 inches between the roof and the highest edge of the system components.

5. Ground-mounted small solar energy systems Ground-mounted small solar energy systems may not extend within the setback requirements for the zoning district when oriented at minimum design tilt. The ground mounted solar energy system shall be placed at a distance 1.5 times its height from neighboring property lines, public walkways, roads, and highways.

6. Plan applications Plan applications for small solar energy systems shall be accompanied by to-scale horizontal and vertical (elevation) drawings. The drawings must show the location of the system on the building or on the property for a ground-mounted system, including the property lines. Applicants must identify a qualified installer or provide proof that the system they propose to install has been designed as a so called "plug and play" system so that the applicant can plug the system into an existing PV circuit.

- a) Pitched roof-mounted small solar systems. For all roof-mounted systems, other than a flat roof, the elevation must show the highest finished slope of the solar collector and the slope of the finished roof surface on which it is mounted.
- b) Flat roof-mounted small solar systems. For flat-roof applications, a drawing shall be submitted showing the distance to the roof edge and any parapets on the building and shall identify the height of the building on the street frontage side, the shortest distance of the system from the street frontage edge of the building, and the highest finished height of the solar collector above the finished surface of the roof.

- c) No roof mounted small solar system shall be positioned where ice could fall on public or pedestrian walkways.

7. Utility notification. The owner of the small solar energy system shall provide written proof that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator and also that the utility approves of such connection. Off-grid systems shall be exempt from this requirement.

8. Any upgrades, modifications, or changes that materially alter the size or placement of an existing solar energy system, other than routine maintenance, shall comply with the provisions of this article and shall require a permit.

9. Fees. The Town Board may establish by resolution fees or a schedule of fees for any application or the administration of this article with regard to small solar energy systems. [2]

B. PRINCIPAL SOLAR ENERGY SYSTEMS

1. **Permitted use.** A principal solar energy system shall be permitted by special use permit in the industrial, commercial and agricultural zones.
2. **Area and Lot Coverage.** A proposed principal solar energy system may be installed on a total area that consists of at least five (5) acres but no more than twenty (20) acres. The total coverage of the system may not occupy more than 60% of any lot.
3. **Height and setback.** For purposes of determining compliance with setback and height restriction standards of the underlying zone, the total surface area of all ground-mounted and freestanding solar collectors, including photovoltaic cells, panels, arrays and solar hot air or water collector devices, shall be considered in the same fashion as impervious, provided, however, that road setbacks shall be double the requirement for the underlying district. Panels mounted on the roof of any building will be subject to the height requirements specified for the underlying zone, but in no event shall they stand more than eighteen (18) inches above the roof line of the building.
4. **Compliance.** The construction and operation of a principal solar energy system shall comply with all applicable local, state, and federal requirements, including but not limited to all safety, construction, electrical and communications requirements. All buildings and fixtures forming part of the system shall comply with the Uniform Building and Fire Code. No principal solar energy system shall be constructed without first obtaining a Zoning Permit. Solar energy systems shall be designed and located in a manner to prevent reflective glare toward any inhabited structure on any adjacent properties unless a waiver is received from the affected land owner. Prevention of glare on public streets, roads, and highways shall also be considered in the principal solar energy design.
5. **Fees.** The Town Board may establish by resolution fees or a schedule of fees for any application and for the administration of this article with regard to principal solar energy systems.

6. **Site plan review.** The application will be subject to site plan review prior to construction, installation or modification.
7. **Plans and maps.** All plans and maps shall be prepared and stamped by a professional engineer licensed in the State of New York.
8. **Application.** The applicant shall provide:
 - a) A site plan in conformance with Article VI of this law showing property lines and physical features, including roads; proposed changes to the landscaping of the site, grading, vegetation clearing and planting, exterior lighting, screening, vegetation or structures; blueprints or drawings of the proposed system signed by a New York licensed professional engineer showing the proposed layout of the system; electrical diagram detailing the solar photovoltaic installation, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and overcurrent devices; documentation of the major system components to be used.

Name and address of the proposed installer and contact information.

The Planning Board may waive certain documentary requirements as it deems appropriate.

The applicant may be required to post a sum to cover customary and reasonable review costs for the Planning Board, including, but not limited to engineering and attorney's fees.

The applicant must provide proof that it has consulted with the Fire Department and other emergency services about access to the site and any special concerns. The project shall be deemed to provide proper access for emergency services.

9. **Utility notification.** The applicant will provide proof that the local utility company has been informed of the system owner or operator's intent to install an interconnected system. Off-grid systems shall be exempt from this requirement.

10. **Signage.** The facility shall have a sign which provides a twenty-four-hour emergency contact telephone number placed at the entrance.

11. **Utility connections.** Where at all possible, utility connections and transmission lines shall be underground depending on soil conditions, topography, and requirements of the utility company permitting.

12. **Safety and environmental.**

The system owner or operator shall provide a copy of the project summary, electrical schematic, and site plan upon request to the local Fire Chief. Upon request, the owner or operator will cooperate with local emergency services to develop an emergency response plan. All means of shutting down the system will be clearly marked. At all times during the life of the project, the owner or operator shall identify a responsible person for inquiries.

Land clearing, soil erosion. Clearing of natural vegetation shall be limited to what is necessary for the construction and operation of the system or as otherwise governed by applicable law.

All Principal Solar Energy Systems shall be enclosed by fencing to prevent unauthorized access. Warning signs with the owner's and operator's contact information shall be placed on the entrance and perimeter of the enclosure. Contact information of the owner and operator shall be placed on file with 911 emergency system. The type of fence shall be determined by the Town of Denmark. The fence and the system may be further screened by landscaping as needed to avoid adverse aesthetic impacts.

13. **Monitoring and maintenance: system conditions.** The system owner or operator shall maintain all facilities in good condition. Maintenance shall include but not be limited to painting, structural repairs, and integrity of security measures. Site access shall be maintained in an acceptable manner to local fire and emergency services departments.

14. **Modifications.** All material modifications shall be subject to further site plan review.

15. **Abandonment or decommissioning.** Decommissioning Clause: At the time of decommissioning, (defined as obsolete technology, and/or inoperative for more than twelve (12) consecutive months) the current owner of the Principal Solar Energy System is responsible for all costs associated, but not limited to the removal of the Solar Energy System, any associated structures, etc., in addition to returning the affected property to its previous undisturbed condition including, but not limited to seeding of exposed soils. At the time of obtaining a special permit, the applicant must also provide a financial security bond or other security acceptable to the Town of Denmark Board for removal of the Principal Solar Energy Systems and property restoration, with the Town of Denmark Board as the assignee, in an amount approved by the Town of Denmark Board, but not less than \$20,000. On an annual basis, the financial security bond or other security shall be reviewed and renewed. The Town of Denmark Board may adjust the required amount of the financial security bond to adequately cover increases in the cost of removal of the Principal Solar Energy Systems and property restoration and road repair removal and / or replacement as the result of such activity.

16. **Financial surety.** Applicants shall provide prior to approval a form of surety through escrow account, bond, or otherwise in an amount sufficient to pay for removal of the installation and site remediation as set forth above in an amount and form determined to be reasonable by the Planning Board.

Article 4. - Repealer. Upon this law taking effect, the moratorium in place for Solar Energy Systems shall be considered rescinded and repealed.

Article 5. - Severability. If any part of this Chapter shall be found to be void, voidable, or unenforceable for any reason whatsoever, it shall not affect the validity or enforceability of any remaining section or provision of this Chapter.

Article 6. - Effective Date. This local law shall take effect immediately upon filing with the Secretary of State.

Councilman Der moved to second the resolution.

Vote recorded as follows:

Councilman Fazio	Aye
Councilman Der	Aye
Supervisor Fleming	Aye
Councilman Jones	Aye

Resolution 38-2017 adopted 8/21/2017

Discussion was held on bills from the July and August Water District Expansion Abstracts. Attorney Gebo's claims were approved pending moneys being received from EFC. After discussion of these claims Councilman Fazio made the following resolution:

Resolution 39-2017: Inter fund Transfer

It is hereby resolved by the Town of Denmark Town Board that authorization be given to Supervisor Fleming to make the following budget transfer:

From: A0911 Unaprop-Unreserved To: H5031 Capital Fund Water Amount of \$1600.00
Interfund Transfer

The resolution was seconded by Councilman Jones.

Vote recorded as follows:

Councilman Der	Aye
Councilman Fazio	Aye
Supervisor Fleming	Aye
Councilman Jones	Aye

Resolution 39-2017 adopted 8/21/2017

Discussion was held on the 2020 Federal Census and the boundary and annexation survey. Councilman Der offered the following resolution:

Resolution 40-2017- Town of Denmark and Lewis County Consolidated BAS (CBAS) Survey

WHEREAS, the U.S Census Bureau is in the midst of preparing information for the next federal census to be conducted in 2020; and
WHEREAS, part of this process is the response of municipalities to the Boundary and Annexation Survey (BAS); and
WHEREAS, the Town of Denmark is located within the County of Lewis, State of New York; and
WHEREAS, the County of Lewis has the ability to complete the Boundary and Annexation Survey (BAS) on behalf of the Town of Denmark as part of a Consolidated Boundary and Annexation Survey (CBAS); and
WHEREAS, a consolidated effort will reduce the burden on the Town of Denmark and lead to less duplication of efforts;
NOW THEREFORE BE IT RESOLVED, that the Town of Denmark enters into an agreement with Lewis County to allow Lewis County to respond to the BAS on behalf of the Town of Denmark for the purpose of providing the U.S. Census Bureau with the information necessary to complete the Boundary and Annexation Survey (BAS).

The resolution was seconded for adoption by Councilman Jones.

Vote recorded as follows:

Councilman Der	Aye
Councilman Fazio	Aye
Supervisor Fleming	Aye
Councilman Jones	Aye

Resolution 40-2017 is adopted 8/21/2017.

Discussion was held on the Host Agreement moneys for the Copenhagen Wind Project. Supervisor Fleming reported that the first payment in the amount of \$107,000.00 has been received. Discussion was held on possible uses for the money. No action taken.

Upcoming dates:

Bids for Water District 1 Expansion will be opened at 4:00pm on 8/31, 2017

Special meeting September 7, 2017 at 6:00pm

Regular monthly meeting September 11, 2017 at 6:00pm

Being as there was no more business before the Town Board Councilman Fazio made a motion to adjourn the meeting. His motion was seconded by Councilman Jones.

Vote recorded as follows:

Councilman Der	Aye
Councilman Fazio	Aye
Supervisor Fleming	Aye
Councilman Jones	Aye

Meeting adjourned at 6:12pm.

Prudence L. Greene

Town of Denmark Town Clerk

