

March 8, 2023

The Town Board of the Town of Harpersfield held a regular meeting on March 8, 2023.

Present were: Lisa M. Driscoll, Town Supervisor  
Matthew J. Taylor, Councilmember  
Patrick F. Funk, Councilmember  
Erik R. Reeve, Councilmember  
Dwayne C. Hill, Councilmember

Also present: Russell Hatch, Supt. of Highways  
Linda E. Goss, Town Clerk

Others present: Elizabeth Page, Editor for The Mountain Eagle  
Joe Ferla  
Chris Ferla  
Marrianna Martino  
Rich Densberger  
Susan Fortier  
Skylah Bordinger-Northrop  
Jacob Joubert  
Edward Pick  
Carrie Sloan  
Kristin Basile  
Daniel Aldo Savatteri  
Mary Ann Krasinski  
John Miller

The meeting was called to order at 7:01 PM by Supervisor Lisa M. Driscoll.

Supervisor Driscoll led the Board and those in attendance in the Pledge of Allegiance to the Flag.

The Town Clerk had no correspondence for the Board.

Supervisor Driscoll recognized Joseph Ferla representing the Preserve Harpersfield group. Discussed was:

- Did the Town Board members receive the moratorium information? Supervisor Driscoll answered that the Town Board did receive that information. A question was asked why was this issue of a moratorium brought up now when there are two separate solar projects currently in the process of Site Plan application approval? The answer given was that this is a pretty important issue. The issue of a moratorium was brought up back when there was only one solar project in the process of Site Plan application approval. Preserve Harpersfield group feels that if the Town would put a moratorium in place and enact a solar facilities local law there would be guidelines for solar companies to follow. The Preserve Harpersfield group is not against solar. They have no problem with the proposed solar projects on Bruce Hill Road. The other project is located on a problematic piece of property. The Board reminded those present that a moratorium would affect all of the solar projects in the whole Town. As for guidelines the Planning Board is going through them all step by step. They are also dealing with other agencies who are going through these solar projects step by step. A moratorium at this time could bring litigation against the Town. The discussion continued. A question was asked what are you looking for in a solar local law that our Planning Board has not looked into? The answer given was guidelines. Setbacks, height restrictions etc..
- A statement was made about the Town losing it's ability to control where solar facilities are sited and losing the ability to assess these facilities. The State wants to become 100 % electric. They want to do away with all gas and oil. There will be no new infrastructure for gas and oil. All new construction must be set up to be 100 % electric along with a hook up or two for an electric vehicle or vehicles. The State wants no more gas stoves or anything that burns fossil fuels including wood stoves. All of the electric infrastructure in this area will not meet this demand. Solar power is not going to lower the cost of electric. It will double it. The State is trying to figure out how they are going to do all of this. They are relying on the private sector to pay for all of this. The State is not going to pay for this. Otsego County has now passed a law on solar. They went back to the State and said we are not giving you the right to tax solar facilities because they will not tax them. If the Board knew what the cost per kilowatt for solar is compared to normal generation of electricity they would ask what is the State thinking. Regular electric is generated from nuclear or hydro power. Eighty percent of the power in this area comes from hydro. Hydro power costs under \$.03 per kilowatt. The cheapest solar power that goes on to the system and goes on to the grid is \$.10 to \$.15 per kilowatt. That cost is passed down to all of us. Electric bills are not going to go down. With electric bills doubling and tripling how will people be able to afford to live here?

- A statement was made with these solar facilities taking up acres of property and the State taking away the Town's ability to tax them that will also raise everyone's assessment to cover the loss in tax revenue. The Town needs a certain amount of growth every year to keep taxes from increasing a lot. The products used in solar facilities are not even made in this Country. The reason I moved to this area is its beauty. That is why people choose to move here. That is the Town's tax base. Who is going to clean the site up when the solar facility is no longer functional? The Board responded that is what the Planning Board is currently working on. The statement was made that this is what should be in the local law. Just because the Town has been working on this for a long time does not mean that we have done anything right yet. Otsego County has finally passed a law that tells the State they can not do this. The discussion continued. The statement was made that none of these solar facilities are being built down State. The response was that solar systems are being installed on roof tops and where they can be. The discussion continued.
- A statement was made that if the Town adopts a solar law that will not stop solar facilities from being built. If the Town adopts a solar law it will be one size fits all. The solar companies will just comply with the solar law. The Town Planning Board is working with an engineer making sure that they are looking at all of these concerns. The Planning Board has the adequate tools to make sure that each site is following all of the laws. They are working to make sure that they are making the right decisions. The Planning Board is spending a lot of time working on these projects.
- A question was asked if the Town Assessor has been asked about the Town putting assessments on solar facilities? That information had not been received. The Supervisor will get this information for the next Town Board meeting.
- A statement was made that a solar law should include setbacks from homes. There is no law for that. NYS DEC does not regulate that. Does the Town care about all wetlands or just those that are regulated by NYS DEC? This problematic site is surrounded by wetlands and trees. There is just one NYS DEC regulated wetland on this property and the solar company is staying away from that. The Town's Comprehensive Plan talks about maintaining the rural character and protecting our natural resources. On this problematic piece of property the solar company wants to cut down twenty acres of trees that are connected to the wetlands. If you go to the NYS DEC website there are regulations but there are also recommendations that they make. They have a whole guidebook about conserving our natural resources. NYS DEC recommends a bigger buffer than what the regulations state. The NYS DEC regulations say a buffer of 100' for wetlands that are 12.4 acres or larger. It says nothing about wetlands that are less than 12.4 acres. Along with the 100' buffer it lists the minimum that to protect wildlife and the biodiversity of a wetlands the buffer should be 330'. There is a lot of science to back this up. If you are going with NYS DEC regulations the buffer will only be 100'. The trees are at the top of the property that they are going to

cut down. The property slopes down to the wetlands. It slopes down to houses. The NYS DEC says nothing about staying away from those houses. If the Town passes a solar law it does not say that you can't put solar on the property. The law would say we need to protect the people who live here. Here are the setbacks. If we want to protect our wetlands you will need to stay this distance away from them. If we want to protect forests the law can state something similar to only 10% of trees may be removed from the property. A response was made that there are ways for a property owner to get around the local law regarding cutting down trees. If a solar company is looking at a property there is no law stopping a property owner from cutting down trees before the solar facility is built to get around the local law. A discussion was had on the NY City watershed. This problematic piece of property is not located in the watershed.

- A statement was made about the concern of negative health effects on the residents living around the solar facility. A question was asked what kind of negative health effects? The answer given was electromagnetic hypersensitivity, chronic headaches, nausea and dizziness. A discussion was had.
- A statement was made on how the current electric infrastructure is meeting capacity today. With the addition of solar power the entire electric infrastructure will need a major upgrade. It will cost a million dollars just to get the transmission line to handle the generation of solar power when it is not in use. The power has to go somewhere. When it is not used it goes back to the grid. We are distribution out here not the grid. This is not an easy fix. This is a costly fix. The State is not giving the existing electric companies any money to upgrade the current system. What the State is looking at the end of the year is how many new solar facilities there are and how many megawatts are being put back into the system.
- A question was asked does the Town Board know how the electric companies control solar power in this State? The electric companies throttle back hydro power generated by Niagara Falls. That is how they buffer. On a day when there is too much solar power coming into the system they have to back something down. The electric companies also have to turn that power back up once it gets dark. The Town currently is at the peak winter load. Which means all of the electric companies power that is needed for this area is in the middle of winter. There is also a summer peak. The electric companies used to be able to control peaks. Now they can't control peaks. Peak electric usage is between 5:00 PM and 10:00 PM and first thing in the morning. The electric companies are at a point now where they are at capacity. The minute the electric companies go over their allotted power they have to buy off grid. That means they are paying three to ten times more per kilowatt than what they normally pay. These costs get passed down to the residents. Solar power is most available when we do not need it. All NYSEG customers are already paying monthly for the new transmission lines. All of that power is going down state and we are paying for it.

- A statement was made that the State's infrastructure for gas is very under sized. There is too much congestion in the lines on a cold day. One of the most efficient ways of making electricity is with gas. Because it is a two cycle system. It makes electricity by turning a gas motor, then they take the exhaust from the gas motor and make steam again which makes more power. Double the power out of the same amount of gas. The State wants to do away with all of this. Also think about all of the people who will be put out of work.
- A statement was made that the whole country is trying to deal with electric cars. When you look at the transformer that is on the end of the electric pole in front of your house it is a 10 kb or 15 kb transformer. If you have an electric vehicle with a fast charger the electric companies have to boost that transformer to a 25 kb to 40 kb. These 25 kb to 40 kb transformers are not available in this Country. The new infrastructure bill says any money that the electric companies use, has to be used and given to an American company. Most transformers are made in China. All of the hardware, insulators, and wire comes from China. The electric companies are not supposed to buy that. They are also having a hard time getting it. There were one thousand transformers available in the North East for residential use for distribution systems. Out of that one thousand there are forty five different styles of transformers due to size, and the voltage in the line. That is one thousand transformers for eleven States. Delaware County Electric Co-op (DCEC) usually uses twenty five brand new transformers every month. They are allotted five. Most of the time when they place an order they can not get five because they do not meet the configuration of what is needed to put on a pole. People are starting to give their electric vehicles back to the dealers because they can not charge them. DCEC have already had nine months of wait for a breaker box for a house with an electric vehicle.
- A statement was made that this issue of infrastructure, materials and cost is something that needs to be brought before the State Governor. The response given was that the electric companies have been there. Lobbied them. Testified before them. They have one mind set. The people in this Town and this County need to be aware that the Town Board is protecting them. You are the ones that have to go to the County meetings and say we need to put a stop on this until we get all of our ducks in order. The discussion continued.
- A question was asked that a moratorium is a halt on something for a time period to establish what? The answer given was to come up with laws. To establish proper laws for a Town. Then moving forward every time a solar company comes to Town we have guidelines. The discussion continued.

Supervisor Driscoll informed the Board of a resolution thanking the Department of Health for listening to the comments of the West of Hudson Communities and incorporating those comments in the Revised Filtration Avoidance Determination (FAD) and accepting the Revised FAD as a reasonable compromise to assure the continued protection of New York City's water supply while recognizing the needs of the Watershed Communities. The comments included lowering how many acres the NYC Watershed can purchase and if the NYC Watershed took

over a stream that they would not take it over forever etc.. It is now in the attorneys hands who are working out what the Revised FAD will look like.

RESOLUTION NO. 06 OF THE YEAR 2023

Councilmember Patrick F. Funk offered the following resolution and moved its adoption

TITLE: RESOLUTION OF THE TOWN OF HARPERSFIELD SUPPORTING THE DECEMBER 2022 REVISED FAD.

WHEREAS, in the Spring of 2022 the New York State Department of Health (DOH) released for comment a draft Revised Filtration Avoidance Determination (FAD) as part of the mid-term review of the 2017 FAD; and

WHEREAS, the West of the Hudson Communities (including but not limited to, the Coalition of Watershed Towns, Delaware, Greene and Schoharie Counties, the Towns of Windham, Ashland, Lexington, Prattsville, Jewett, Olive, Shandaken, Conesville, Gilboa, Roxbury, Middletown, Andes, Bovina, Stamford, Kortright, Tompkins, Harpersfield, Walton and Delhi) submitted Comments/Board Resolutions to DOH (the “West of the Hudson Communities Comments”) which focused on:

- (1) The need to end the core land acquisition program as recognized in the 2020 findings of the National Academies of Sciences, Engineering and Medicine (NASEM) of its study of the watershed protection program; and
- 2) The need to revise the Streamside Acquisition Program (SAP) to require local governments consent for participation in the program; and
- (3) Support for a community based streamside protection program in which the land owners are compensated for stewardship; and
- (4) A requirement that the Conservation Easement granted by the City to NYSDEC for all fee acquisitions be modified to incorporate the requirements and the objectives of the 1997 Memorandum of Agreement (“MOA”); and
- (5) Assure greater compliance by New York City with its MOA obligations as exemplified by the 2022 dispute regarding the acceptance of septage waste at City owned wastewater treatment plants and a sustainable contract administration process; and

WHEREAS, in December 2022 DOH issued the final Revised FAD (together with a Comment/Response Document) which directly incorporated and responded to the West of Hudson Comments and specifically stated as follows:

- (1) “NYSDOH agrees that strategic, well-reasoned acquisition of water quality protective parcels should be the focus of the LAP, while allowing future community growth to occur in a manner

that is consistent with the existing character and planning goals of each of the Watershed Communities.”

(2) “NYSDOH agrees that changes to core LAP are necessary in the West of Hudson Watershed, as guided by the recommendations of the NASEM expert panel. The program should be focused on the most sensitive areas for water quality protection, including flood plains, riparian areas, wetlands and steep slopes. NYSDOH agrees that both the Long-Term Land Acquisition Plan and the successor Water Supply Permit should be shaped by the NASEM Expert Panel recommendations and stakeholder input.”

(3) “The reduction in LAP solicitation goal from 300,000 acres to 200,000 acres through 2024 is based on recommendations of the NASEM Expert Panel as well as stakeholder input. Solicitation beyond 2024 is contingent upon reissue of a WSP authorizing continuation of the LAP beyond 2025.”

(4) NYSDOH understands that there are several areas of interest that stakeholders have regarding the current and future implementation of SAP, NYSDOH encourages stakeholders to engage in productive discussions with the City and CCCD to integrate common sense program modifications which will position SAP to operate with wide spread municipal support in the future. To encourage the resolution of these issues, the Revised 2017 FAD now includes a requirement for a dedicated SAP work group and a specific reporting requirement on the work group’s recommendations. While the determination for the expansion of the PILOT SAP to the remainder of the WHO watershed has not yet been made by NYSDEC, as described in Special Condition 29 paragraph (f), NYSDOH notes that paragraph (f) states that “Such written documentation shall include addressing NYCDEP recommendations.”

(5) “Under the Conservation Reserve Enhancement Program (CREP), administered by the US Department of Agriculture’s Farm Service Agency and the Watershed Agricultural Council, farmers can receive annual rental payments in exchange for removing environmentally sensitive land from production and installing conservation practices like vegetated streamside buffers, exclusion fencing and animal crossings. These rental agreements usually run for ten to fifteen years, unlike watershed conservation easements which run in perpetuity. The commenters are suggesting a similar program be explored as an option for owners of nonagricultural land. This potential program should be explored in the context of the stream side acquisition work group.

(6) “NYSDOH and the City acknowledge the existing conservation easement language may need to be revised in light of some recent conflicts with public benefit projects. The City agrees to work with the communities to explore potential language changes to future conservation easements which would allow for such activities to take place. The Revised 2017 FAD has been updated to reflect this new activity.”

(7) NYSDOH supports the recreational use of protected land in the Catskill/Delaware Watershed where such use does not threaten to have an adverse impact on NYC water quality. Paragraph

72 of the 1997 Memorandum of Agreement included mountain bicycling as a recreational activity not likely to be allowed on City land. The City has opened over 135,000 acres of watershed lands to other recreational opportunities, where it can be demonstrated that recreational use will not harm water quality. The City may consider requests to open specific City owned parcels to connect existing or planned trail networks where municipal and organizational partners have the capacity to effectively steward the activities and ensure no threats to water quality.

NOW, THEREFORE, LET IT BE RESOLVED, that the Town Board of the Town of Harpersfield hereby thanks the Department of Health for carefully considering the comments of the West of Hudson Communities and incorporating those comments in the Revised FAD and accepts the Revised FAD as a reasonable compromise to assure the continued protection of New York City's water supply while recognizing the needs of the watershed communities; and

LET IT BE FURTHER RESOLVED, that the Town of Harpersfield is committed to continuing work with other watershed stakeholders to develop a revised LAP and SAP that is consistent with the MOA, the NASEM findings, the Revised FAD and the evolving needs of the watershed communities.

Seconded by Councilmember Matthew J. Taylor with the vote as follows:

Adopted:	Supervisor	Lisa M. Driscoll	Aye.
	Councilmember	Matthew J. Taylor	Aye.
	Councilmember	Patrick F. Funk	Aye.
	Councilmember	Erick R. Reeve	Aye.
	Councilmember	Dwayne C. Hill	Aye.

Russell Hatch reported to the Board that the Town did not get the grant funds for the Reed Road and Gun House Hill Road projects. The representative from Delaware County Soil and Water will be looking into why the Town did not get these grant funds. That way in the future we may be able to submit a more acceptable grant application.

Russell Hatch informed the Board that the company that had trucks available was down to three trucks. That truck was not spec'd out the way that Russell wanted. So he called a truck company that he has dealt with before and he is happy with their trucks. Talking with that salesman, he could almost guarantee Russell a new truck within the first quarter of next year. Councilmember Funk asked what is the price? Russell answered that in June the salesman should find out the amount of trucks they are going to get. Then they will put a truck together and at that time Russell should have a price. Councilmember Funk asked what was the price on the other truck? Russell answered around \$240,000.00. He does want to use a different sander which is going to be more expensive. This sander puts the sand in front of the tires. That will raise the price approximately \$290,000.00. Councilmember Funk added that this



different sander will make the truck safer for the Highway employees to drive. Supervisor Driscoll added that she understand that but there also is the budget. Russell continued that there is \$26,000.00 in the Highway Capital line. He would like to see when the truck is put together what it will cost. The discussion continued.

Supervisor Driscoll reported to the Board that the County Board of Supervisors have passed a resolution waiving the Delaware Count tax on any fuel costing over \$2.00. This will begin in June 2023 and end in March 2024.

Councilmember Funk informed the Board that he had read in the County Board of Supervisor minutes that Delaware County has no debt.

Supervisor Driscoll reported to the Board that she has received a letter of resignation dated March 8, 2023 from Dwayne C. Hill as Town Historian. Councilmember Hill recommended Thomas Giaguzzi replace him as Town Historian. A motion to appoint Thomas Giaguzzi as Town Historian with a term of March 8, 2023 to December 31, 2023 was made by Matthew J. Taylor seconded by Erik R. Reeve. All voting Aye.

Supervisor Driscoll informed the Board that the Code Enforcement Officer's report was in their packet. A discussion was had.

The abstracts and vouchers for the months of January and February were presented to the Board. January vouchers for General Claims #001 to #029 in the amount of \$58,910.54; Highway Claims #001 to #025 in the amount of \$50,505.76 and Transfer Station Claims #001 to #007 in the amount of \$1,755.99. February vouchers for General Claims #030 to #051 in the amount of \$9,948.26; Highway Claims #026 to 041 in the amount of \$18,312.88 and Transfer Station Claims #008 to #011 in the amount of \$7,131.45. A motion to pay the vouchers as presented was made by Patrick F. Funk seconded by Dwayne C. Hill. All voting Aye.

The Supervisor's report for the month of December 2022 was issued to the Board.

A discussion was had on emailing minutes to the Town Board.

The meeting was adjourned at 8:46 PM.

The next regular meeting of the Board will be held on Wednesday, April 12, 2023 at 7:00 PM.

Linda E. Goss

Town Clerk