

**TOWN OF SCHUYLER ZONING BOARD OF APPEALS**  
**SPECIAL MEETING**  
**November 19, 2019 – 6:00 PM**

**WATKINS ROAD SOLAR FARM APPLICATION**

Chairman Ronald J. Beach, Jr. called the meeting to order at 6:00 PM at the Schuyler Town Office, 2090 State Route 5, Utica, NY. Other ZBA members present were: Christine Proulx, Jo Ann Mammone, Robert Wasyleski and Alternate Member David M. Pasick. Absent was Joseph Aiello, IV.

Other Town officials present were Supervisor Anthony J. Lucenti, Codes Officer Philip Green, and Bette Szesny, who served as Recording Secretary.

Also present were Kevin Murphy, Esq. (Wadas Law Firm) who is serving as legal counsel for the Town of Schuyler/ZBA for this project; Chris Biamonte, Esq., (Assistant to Attorney Kevin Murphy, Esq.); Nancy Vlahos, TRC Project Manager; Mike Bechner (Vice President of Sun East Development, the applicant); Ken Collis (Town of Herkimer Codes/Zoning Officer); and Town residents Ricky Proulx and Craig Treen.

Chairman Beach led the assembled persons in the Pledge of Allegiance to the Flag.

Chairman Beach stated the purpose of tonight's meeting is to discuss the ZBA's assumption of Lead Agency Status for the Watkins Road Solar Farm project submitted by SunEast Development. He asked for a motion from the ZBA membership to enter into Executive Session for the purpose of discussing this proposed action in further detail with the Board's legal counsel for this project, Kevin Murphy, Esq.

Motion by JoAnn Mammone, seconded by Christine Proulx to enter into Executive Session; all in favor as polled by voice vote. Motion carried. The ZBA convened into Executive Session at 6:02 PM.

Executive Session was declared closed at 6:25 PM on a motion by Robert Wasyleski, which was seconded by David Pasick; all in favor as polled by voice vote. Motion carried. The Board then resumed their order of business in open session.

Mr. Beach then read aloud the Resolution for the ZBA's acceptance of Lead Agency status for the Watkins Road Solar Farm project submitted by SunEast Development. The text of this resolution states this application represents a Type 1 Action under SEQR; the project is located in the Towns of Schuyler and Herkimer; and the Town of Schuyler has agreed to accept Lead Agency Status. The full text of this Resolution is attached to these minutes.

Motion by Christine Proulx, seconded by David Pasick to adopt the Resolution declaring the Town of Schuyler ZBA to serve as Lead Agency for this Project, with Kevin Murphy, Esq., Wladas Law Firm to represent the Schuyler ZBA in the SEQR process. Mr. Murphy will provide written notification to all involved agencies of the ZBA's intent to declare Lead Agency Status, and he will record all responses which will be due in by noon on December 31, 2019.

All members voted affirmatively as polled by voice vote. Motion carried.

The complete text of this resolution is attached to these minutes, and is available for public access upon request.

Motion by JoAnn Mammone, seconded by Robert Wasyleski to consider approval of the \$10,000 invoice submitted by Wladas Law Firm for legal services rendered to the ZBA by Kevin Murphy, Esq. in connection with the SunEast application (described above), and to approve partial payment for same in

the amount of \$9,500. All members voted affirmatively, as polled by voice vote; motion carried.

Attorney Kevin Murphy stated his notifications to involved agencies will represent the Town of Schuyler ZBA's intent to assume lead agency status, with all responses required to be received on or before December 31, 2019, at which time the ZBA will be officially declared Lead Agency for this project, providing no valid objections have been received.

Attorney Murphy then suggested the date of the next meeting be set for Tuesday, January 21, 2020; however, there is a possibility a meeting before that time could be scheduled for December 17th for a review by the Engineering firm.

#### **MINUTES: OCTOBER 15, 2019 – RE: GREEN WAVE RECYCLING**

**Discussion:** Ms. Mammone stated she has issues with the fencing at this recycling business. She stated she also has concerns about the unsightly mess at the facility. She said there has been a lot of complaints, and she would prefer them to install a different type of fencing, as the fence they have been in the process of installing is already falling down, revealing the numerous recyclable materials on the property, which is very unattractive.

Mr. Green stated he has spoken to the owners, and they anticipate having new fencing delivered by Thursday. However, he suggested a resolution to this issue with this along with many others, which involve businesses that are not in compliance with the terms of their permits issued by the ZBA, might be to incorporate an operating permit policy, whereby all conditions of the permit would need to be met in advance of the date when the business would become operational. All agreed this policy should be implemented. The idea will be discussed with the Town Board and the Town's attorney, in an effort to establish guidelines for enacting the new permitting policy. It was suggested the Planning Board may be the appropriate entity to develop this policy that would include specific restrictions on "allowed use" applications. He said the permitting process would be applicable to all "special use" permits; development of the ordinance might well be undertaken by the Planning Board. The Town attorney will be contacted to assist in orchestrating this policy.

Motion by Robert Wasyleski, seconded by JoAnn Mammone to accept the minutes of the January meet as presented all in favor. Motion carried.

Supervisor Lucenti then asked Mr. Green if Green Wave had indicated any specific date when the installation of the fence would be completed. Mr. Lucenti pointed out that their agreement was to restrict their work area to 200 feet, but this has not been the case, creating a host of complaints by residents. He said although we welcome new businesses, when negative situations such as this occur, it is troublesome.

Mr. Green stated the owners had indicated the materials would be delivered on Thursday, and they planned to start working on it immediately. He said if nothing has been accomplished by Monday, the Town's attorney should be contacted, with a letter generated to put them on notice, to include a time line and deadline for completion of the installation, which if not met, would require another appearance before the ZBA.

Mr. Lucenti stated he has received numerous complaints on a weekly basis. He has spoken to the owners and suggested a chain link fence would be his recommendation, and that the owners had agreed they would be amenable this solution.

Mr. Beach stated he has already spoken to the attorney to discuss the required steps that would need to be undertaken in the event of continued noncompliance, that would enable the ZBA to pull their permit.

All agreed the appearance of the business site is extremely unattractive and unacceptable.

Mr. Lucenti stated the term "completed fence" needs to be defined.

Mr. Beach stated the owners had originally stated that as a recycling entity, their business activity would be operated on an "in and out" basis; however, there seems to be no "out" with regard to removal of the massive amount of materials at this business location.

#### **ADJOURNMENT**

There was no further business to come before the ZBA; therefore, Chairman Beach adjourned the meeting at 6:45 PM on a motion offered by Robert Wasyleski, which was seconded by Christine Proulx.

*– Bette Szesny, Recording Secretary*