

REGULAR MEETING, TOWN OF LIVONIA
May 4, 2017

A regular meeting of the Town Board of the Town of Livonia, County of Livingston and the State of New York was held at Livonia Town Hall, 35 Commercial Street, Livonia on May 4, 2017.

PRESENT: Eric Gott, Supervisor
Andy English, Councilmember
Matt Gascon, Councilmember
Angela Grouse, Councilmember
Frank Seelos, Councilmember
Colleen West Hay, Clerk
Jim Campbell, Attorney, Town of Livonia

OTHERS PRESENT: Several Residents.

The Town Board meeting was called to order by Supervisor Gott at 7:03 PM. Councilmember Gascon led the pledge.

**OPEN PUBLIC HEARINGS ON LOCAL LAW #1-2017 – REZONING –
BRONSON HILL ROAD & LOCAL LAW #2-2017 – SOLAR MORATORIUM**

Following distribution of both proposed Local Laws to the Town Board members on April 6, 2017, Notices of said Public Hearings were duly published in the Livingston County News on April 27, 2017 with same being posted at the Town Hall, post office and web site. Referrals were also sent to the Livingston County Planning Board and notices were sent to adjacent municipalities.

Clerk Hay read the Notices of Hearing for the record.

Regarding proposed Local Law #1-2017 (Rezoning – Bronson Hill Road), Attorney Campbell shared that the Livingston County Planning Board recommends approval, but they did have advisory comments. They opined that we should be prepared to deal with Conesus Creek and associated flood plains, and complete the State Environmental Quality Review (SEQR) process before taking action on a specific project.

Regarding proposed Local Law #2-2017 (Solar Moratorium), Attorney Campbell shared that the Livingston County Planning Board again recommends approval, and they advised that the Town provide notice to bounding municipalities, which Clerk Hay has already done. The County Planning Board also suggested that as the Town Board contemplates regulations during the moratorium period, the importance of preserving of prime agriculture soils and agricultural uses should be considered.

REGULAR MEETING, TOWN OF LIVONIA
May 4, 2017

Supervisor Gott declared both Public Hearings open at 7:11 PM, and opened the floor for comment regarding either one.

Comments on Proposed Zoning Change:

A resident expressed concern about how the change of zoning from Mixed Use to Industrial might impact residential areas. He explained that set-backs for the Industrial District are substantial, and he was concerned that they were going to be changed with this law. Supervisor Gott explained that this law is not about changing setback requirements, it is only to change zoning for a particular area from Mixed Use to Industrial Development. The resident asked if there are any planned developments that might come to the board to ask for a setback change. Attorney Campbell answered that in theory, anyone could ask for a change, but nothing has been talked about. The resident then asked if the area was large enough to be developed with the setbacks the way they are currently. Attorney Campbell responded yes, in fact this zoning change will make it less likely that a developer would request a setback modification.

A resident asked how many parcels the Industrial Development area could be divided into. Supervisor Gott answered that it depends on how the proposals come. Attorney Campbell added that there is not a minimum acreage requirement.

Comments on Proposed Solar Moratorium

A resident asked if the proposed Solar Moratorium is a chance for the town to determine zoning and setback requirements in the case someone wants to develop their property for solar energy. Supervisor Gott answered that the moratorium does not apply to any home systems, and yes, we want to have regulations in place for large solar farms. Attorney Campbell added that the moratorium is not aimed at preventing solar development. It is so that the Town can give careful thought as to how large commercial solar farms should be regulated. The impact these projects have is larger because the projects are larger. Some items that they will consider are how to protect prime agricultural soils, what their proximity should they be to one another, how to handle glare issues, and sight distance for roads and intersections.

The resident remarked that she hopes the Town does not take an entire year to develop these regulations. She also asked how the Town will use the time during the moratorium to help local landowners. Attorney Campbell stated that the County Planning Board recommends we encourage people to meet with attorneys who are versed in this area before signing any leases. If people are not informed, they might enter into an agreement that does not benefit them in the long run. Maybe a sub-committee or group could work on that.

REGULAR MEETING, TOWN OF LIVONIA
May 4, 2017

Another resident stated that fertilizer run-off is a concern whenever you have agriculture near waterways. She suggested that we encourage solar farms to be placed in those areas instead.

A resident asked if the town is considering doing more with solar as a cooperative. Supervisor Gott answered no, not currently. Attorney Campbell interjected that most of what he has seen so far is power purchase agreements, where the developer builds on Town property, and it is structured so that the developer and financiers get guaranteed returns, but the municipalities do not. Also, the Town would have to pay up front.

A resident stated he is in favor of a moratorium. He would like to see the Town put solar panels on town property roofs to offset the energy costs for the Town buildings. He stated that costs have come down quite a bit. He also mentioned that there is a company in Ithaca that is doing a lot of big community based solar arrays.

No one else wished to speak on the proposed Local Laws. Supervisor Gott announced that the Public Hearing would remain open while the Board continues with the agenda.

PRIVILEGE OF THE FLOOR

Residents of South Livonia Road addressed the board regarding frequent motor vehicle accidents where cars end up in their front yard. They asked if a guard rail could be installed. Supervisor Gott remarked that South Livonia Rd is a state highway, and therefore the Town has no jurisdiction. He suggested that the owners contact the Lakeville office of the NYS DOT. In the meantime, Supervisor Gott offered to take their request to the Livingston County Traffic Safety Board (LCTSB). The LCTSB can make a recommendation to the NYS DOT, and that might help.

FUND BALANCE REPORT

Supervisor Gott reported that the Town's fund balances remain strong and have increased. Both the DA and the DB funds are in good shape. In total, the Town has nearly two million dollars in fund balance, while we continue to lower the tax rate.

CHURCH REQUESTS TO USE JACK EVANS COMMUNITY CENTER (JECC)

Supervisor Gott shared that he received a request this week from a church in Hemlock to use the JECC for an annual rummage sale. They do not need heat, and they intend to have a port-a-john. Supervisor Gott approved the request. He also explained that he is working with Senator Cathy Young to allow us to turn the building over to a non-profit. Assemblyman Errigo is also happy to turn it over. Supervisor Gott thinks it will be easy to get it done by the end of June.

REGULAR MEETING, TOWN OF LIVONIA
 May 4, 2017

Supervisor Gott also mentioned that he approved Mike Barnard to make minor repairs to the JECC because of the recent rain. The restoration for the new water valve is complete, and the trees down by the memorial have been removed because they were catching and tearing the flag. We will replace the trees with some shrubs.

GATEWAY ROAD

A resident asked if we had received financing for the Gateway Road. Supervisor Gott replied that we have received a \$2.3 million grant, and we will start the engineering now, and possibly some infrastructure. The total cost for the section of road from Route 15 to Bronson Hill Road is about \$20 million. A double span Railroad bridge is needed, which adds substantially to the cost.

A resident asked if there is money earmarked in the state for the project. Supervisor Gott replied that at one time we were promised \$5 million and one time \$3 million, but we never received either amount.

RESOLUTION 60-2017

APPROVE MEETING MINUTES FROM 4/6/2017

On motion of Councilmember Seelos seconded by Councilmember Grouse the following resolution was

ADOPTED Ayes - 5 (Gott, English, Gascon, Grouse, Seelos)
 Nays – 0

Resolved to approve the meeting minutes from April 6, 2017.

TOWN CLERK’S REPORT – APRIL 2017

Clerk Hay gave the following Financial Report:

<i>Paid To</i>	<i>Amount Remitted</i>
Supervisor (General Fund)	\$3,822.44
NYS Comptroller’s Office (Bingo and Games of Chance)	\$0.00
County Treasurer for Dog Licenses	\$269.50
NYS Ag & Mkts for Spay/neuter Program	\$109.00
NYS DECALS	\$453.53
State Health Department (Marriage Licenses)	\$22.50
Total Disbursements	\$4,676.97

REGULAR MEETING, TOWN OF LIVONIA
May 4, 2017

Town Clerk Updates

- **Records Management Grant**
 - Clerk Hay reported that Betty and Rhonda continue to work to put the Building and Zoning records back together.
 - We have received the electronic records from Image Data, but it is taking a long time to import them into Laserfiche because of the Optical Character Recognition (OCR) scan that is performed on every document.
 - We have 11 more boxes that have been prepped for scanning and we are working on a way to get them to Albany and back.
 - We have applied for an extension of time to complete the grant work because although Image Data included indexing in their original quote, they did not mean indexing in Laserfiche. We will have to do that part of the project ourselves.
- **Other Updates:**
 - Clerk Hay and Deputy Clerk Liesegang attended the NYS Town Clerks Association training conference in Rochester at the end of April. Clerk Hay reported that she received her Registered Municipal Clerk designation (RMC) at the conference, and she has been named District Director for District 8.
 - Deputy Clerk Liesegang will take the Notary exam next week.
 - Bulk Clean-up information has been added to the web site and tickets are ready in the Clerk's office. It will be advertised in the Livingston County News on May 17 and 31, and in the Genesee Valley Penny Saver (Livingston edition) on May 12 and 26.
 - Clerk Hay reported that she completed a Summer 2017 newsletter and it is now posted. She also brought hard copies.

RESOLUTION 61-2017

APPROVE LUNCH FOR TRAINING

Clerk Hay reported that Adam Backus and Lisa Bennett have questions regarding Freedom of Information Law, and would like to learn more about it. Clerk Hay has arranged for Bob Freeman, from the Committee on Open Government, to present on the topic June 7 from 12-2 PM at the Emergency Management Training facility on Gypsy Lane in Mt. Morris. The training will be open to all appointed and elected officials in Livingston and surrounding counties. Space is limited to 50 people, and Clerk Hay is asking for RSVPs. She also asked the Board if they would agree to sponsor the training by paying for lunch (3 sheet pizzas, pop and water).

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

REGULAR MEETING, TOWN OF LIVONIA
May 4, 2017

ADOPTED Ayes - 5 (Gott, English, Gascon, Grouse, Seelos)
 Nays – 0

Resolved to sponsor lunch for the Freedom of Information and Open Meetings Law training on June 7 at the Livingston County Office of Emergency Management.

RESOLUTION 62-2017

APPROVE TOWN CLERK REPORT

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

ADOPTED Ayes - 5 (Gott, English, Gascon, Grouse, Seelos)
 Nays – 0

Resolved to approve the Town Clerk Report for April 2017.

VITALE PARK UPDATES

- Supervisor Gott reports that the docks are in at Vitale Park, and we are ready for the fishing tournament this weekend.
- The foundation is done on the new building, and RG&E has relocated the gas line.

LIBRARY UPDATE

Supervisor Gott announced that the Library project continues to move quickly. The Town Board and Town Clerk toured the addition before this meeting. He reports that the project is on time and on budget. He is impressed with the crew that is working on it.

Councilmember Grouse reported that preliminary estimates for the furniture, fixtures and equipment were \$184,000 and \$150,000. (These are state bid prices.) GrassRoots offered a lower price and higher grade of materials than the other vendor. She hopes to have the documents ready for Town Board signatures in the next two weeks. She asked if the Board could meet to sign them, so that we don't have to wait until the next meeting. Supervisor Gott said that would not be a problem.

RESOLUTION 63-2017

AUTHORIZE PURCHASE OF HIGHWAY DEPARTMENT TRACTOR TRUCK

Supervisor Gott reported that he and Clerk Hay opened two tractor truck bids –from Caledonia Diesel and Utica General Peterbilt. Utica General's bid price was \$60,850 (after trade-in), for a Peterbilt truck with 498,000 miles. Caledonia Diesel's bid price for a 2007 Kenworth was \$46,000 (after trade-in). Highway Superintendent Dave Coty feels that the suspension, transmission and miles are preferable with the 2007 Kenworth, and it does have a wet line.

REGULAR MEETING, TOWN OF LIVONIA
May 4, 2017

Resolved to close both of the Public Hearings at 8:13 PM.

Supervisor Gott asked the Town Board if it was their pleasure to move forward on either or both of the proposed Local Laws. Board members indicated that it was their intent to move forward on both.

STATE ENVIRONMENTAL QUALITY REVIEW (SEQR) FOR LOCAL LAW #1-2017 – ZONING CHANGE

Attorney Campbell informed the Board that a zoning change is considered a Type 1 Action under SEQR and a Full Environmental Assessment Form (EAF) is required. The EAF consists of three parts:

Part 1 – Project and Setting. Attorney Campbell reviewed the project description with the Board.

Part 2 – Identification of Potential Project Impacts. Attorney Campbell read each of the 18 questions in Part 2 and asked the Board to answer yes or no to each. He reminded the Board that a zoning change is a legislative act, and as such there is no physical action taking place, so the process is not as complicated as when reviewing a particular project. The Town Board answered “No” to all 18 questions.

RESOLUTION 67-2017

MOTION TO ADOPT FINDINGS

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

ADOPTED Ayes - 5 (Gott, English, Gascon, Grouse, Seelos)
Nays – 0

Resolved to adopt the findings of the Long Form EAF.

RESOLUTION 68-2017

ISSUE NEGATIVE DECLARATION IN REGARDS TO REZONING ALONG BRONSON HILL ROAD

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

ADOPTED Ayes - 5 (Gott, English, Gascon, Grouse, Seelos)
Nays – 0

Whereas, the passage of Local Law #1-2017 (Rezoning - Bronson Hill Road) will result in no significant adverse impacts on the environment, and an environmental impact statement need not be prepared; now be it therefore

REGULAR MEETING, TOWN OF LIVONIA
May 4, 2017

Resolved to issue a negative declaration for this Type 1 Action.

RESOLUTION 69-2017

AUTHORIZE SUPERVISOR TO SIGN SEQR FORMS AND TOWN CLERK TO FILE WITH ENVIRONMENTAL NEWS BULLETIN (ENB)

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

ADOPTED Ayes - 5 (Gott, English, Gascon, Grouse, Seelos)
Nays – 0

Resolved to authorize Supervisor Gott to sign the long form Environmental Assessment Form for Local Law #1-2017 (Rezoning – Bronson Hill Road) ; and further

Resolved to authorize the Town Clerk to file this form with the Environmental News Bulletin.

RESOLUTION 70-2017

ADOPTION OF LOCAL LAW #1-2017 – REZONING – BRONSON HILL ROAD

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

ADOPTED BY ROLL CALL VOTE
Supervisor Gott Aye
Councilmember English Aye
Councilmember Gascon Aye
Councilmember Grouse Aye
Councilmember Seelos Aye

Resolved that the Town Board of the Town of Livonia does hereby adopt Local Law #1-2017 (Rezoning – Bronson Hill Road) as attached at the end of these minutes; and further

Resolved that a copy of this resolution be forwarded to General Code Publishers, and the Secretary of State.

SEQR REGARDING SOLAR MORATORIUM

Attorney Campbell informed the board that the Solar Moratorium is classified as a Type 2 action under SEQR, and therefore does not require any further review.

RESOLUTION 71-2017

ADOPTION OF LOCAL LAW #2-2017 – SOLAR MORATORIUM

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

REGULAR MEETING, TOWN OF LIVONIA
May 4, 2017

ADOPTED BY ROLL CALL VOTE
Supervisor Gott Aye
Councilmember English Aye
Councilmember Gascon Aye
Councilmember Grouse Aye
Councilmember Seelos Aye

Whereas, a Moratorium is classified as a Type 2 action under SEQR, and does not require any further review; now be it therefore

Resolved that the Town Board of the Town of Livonia does hereby adopt Local Law #2-2017 (Solar Moratorium) as attached at the end of these minutes; and further

Resolved that a copy of this resolution be forwarded to General Code Publishers, and the Secretary of State.

RESOLUTION 72-2017

AUDIT OF CLAIMS

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

ADOPTED Ayes - 5 (Gott, English, Gascon, Grouse, Seelos)
Nays - 0

Resolved to pay claims 289-334 in the amount of \$78,399.98 from the Abstract dated 4/21/2017.

RESOLUTION 73-2017

AUDIT OF CLAIMS

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

ADOPTED Ayes - 5 (Gott, English, Gascon, Grouse, Seelos)
Nays - 0

Resolved to pay claims 335-394 in the amount of \$398,183.81 from the Abstract dated 5/4/2017.

PRIVILEGE OF THE FLOOR

Supervisor Gott again opened privilege of the floor.

A resident commented that when the Highway Department expanded the parking area at Hemlock Lake Park, they oiled and stone the lot. Where they extended it, the parking

REGULAR MEETING, TOWN OF LIVONIA
May 4, 2017

area is heaving and buckling. He thought it would be better if the area was asphalted.

A resident reported that Blank Road between Harder and Rix Hill is buckling. He wondered if it was going to be looked at. Supervisor Gott replied that he will mention both of those things to Highway Superintendent Dave Coty.

With no further business, on a motion of Councilmember Grouse seconded by Councilmember Seelos the meeting was adjourned at 8:27 PM. Carried unanimously.

Respectfully Submitted,

Colleen West Hay, RMC
Town Clerk

LOCAL LAW NO. 1 OF THE YEAR 2017
OF THE TOWN OF LIVONIA

A local law to amend the boundaries of certain zoning districts within the Town of Livonia, Livingston County, New York, such districts being the Mixed Use District (MUD) and the Industrial District (I), changing such certain specified areas in the Mixed Used District to Industrial and certain areas in the Industrial District to Mixed Use.

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

SECTION 1. TITLE AND SCOPE

This local law shall be known as “A LOCAL LAW TO AMEND THE BOUNDARIES OF CERTAIN PROPERTY WITHIN THE MIXED USE DISTRICT AND INDUSTRIAL DISTRICT AND TO CHANGE THE ZONING DISTRICT CLASSIFICATION OF PORTIONS OF SUCH DISTRICTS, ALL WITHIN THE TOWN OF LIVONIA, LIVINGSTON COUNTY, NEW YORK.”

SECTION 2. PURPOSE.

The purpose of this local law is to modify the boundaries of the Mixed Use District and the Industrial zoning district within the Town, changing the zoning district classification of certain specified area within such districts.

SECTION 3. LOCATION OF MODIFIED ZONING DESIGNATION FROM MIXED USE DISTRICT TO INDUSTRIAL.

The area to be amended from Mixed Use District (MUD) to a new designation of Industrial District (I) is located on the west side of Bronson Hill Road, south of where it intersects with South Lima Road and being further described as follows:

ALL THAT TRACT OR PARCEL OF LAND, situate in Lot 2, Township 9, Range 6 of the Phelps & Gorham Purchase in the Town of Livonia, County of Livingston, State of New York, being shown as “Lands to be re-zoned from Mixed Use to Industrial” on a map entitled “Resubdivision Plan of a Portion of Lands of Leslie L. Cole, Jr. & Elma S. Cole Reed & Lands of Bulk Products Development Corp.”, prepared by Willey Land Surveying, PLLC, said map being filed at the Livingston County Clerk’s Office as Map No. A0 _____, and said lands being further bounded and described as follows:

Commencing at a Point in the centerline of Bronson Hill Road (County Road 62) at its intersection with the south line of Town Lot No. 2, being the north line of Town Lot No. 11; thence

A) North 89° 56' 07" West, along the south line of Town Lot 2, a distance of 680.00 feet to a capped iron pin set at the southwest corner of Parcel A-1 and the southeast corner of Parcel B-2R, as shown on the aforementioned resubdivision plan, said pin marking the Point of Beginning of lands to be re-zoned; thence

1) North 89° 56' 07" West, along the south line of Town Lot 2, a distance of 1742.58 feet to the southwest corner of said Lot; thence

2) North 00° 00' 39" East, along the west line of Town Lot 2, through lands conveyed to Leslie L. Cole, Jr. and Elma S. Cole by deed recorded in Liber 710 of Deeds at Page 127, a distance of 810.19 feet to a point on the south line of lands conveyed to Bulk Products Development Corp. (formerly known as Lakeville Transfer, Inc.) by deed recorded in Liber 865 of Deeds at Page 108; thence

3) North 85° 10' 03" East, along the south line of said lands of Bulk Products Development Corp., a distance of 1732.12 feet to a point on the west line of said subdivision Parcel A-1; thence

4) South 00° 59' 03" East, along the west line of Parcel A-1 distance of 958.22 feet to the Point of Beginning.

Comprising an area of 35.214 acres of land, being a portion of lands conveyed to Leslie L. Cole, Jr. and Elma S. Cole by deed recorded in Liber 710 of Deeds at Page 127.

The above described area being shown as "Lands to be re-zoned from Mixed Use to Industrial" on a map entitled "Resubdivision Plan of a Portion of Lands of Leslie L. Cole, Jr. & Elma S. Cole Reed & Lands of Bulk Products Development Corp.", prepared by Willey Land Surveying, PLLC, dated March 14, 2017 and designated as Job No.17-103, which said map is to be filed at the Office of the Livingston County Clerk.

Being a portion of Tax Identifier Map Parcel Number 65-1-16.111

SECTION 4. CHANGE IN ZONING DISTRICT CLASSIFICATION FROM MIXED USE DISTRICT TO INDUSTRIAL DISTRICT.

The totality of those lands described above and depicted as "Lands to be re-zoned from Mixed Use to Industrial" on a map entitled "Resubdivision Plan of a Portion of Lands of Leslie L. Cole, Jr. & Elma S. Cole Reed & Lands of Bulk Products Development Corp.", prepared by Willey Land Surveying, PLLC shall be modified from its present zoning classification of Mixed Use District (MUD) to Industrial District (I) and the official Zoning Map of the Town of Livonia shall be amended to reflect such reclassification (although not contemporaneously with the adoption of this Local Law).

SECTION 5. LOCATION OF MODIFIED ZONING DESIGNATION FROM INDUSTRIAL DISTRICT TO MIXED USE DISTRICT.

The area to be amended from Industrial District to a new designation of Mixed Use District (MUD) is located on the west side of Bronson Hill Road, south of where it intersects with South Lima Road and being further described as follows:

ALL THAT TRACT OR PARCEL OF LAND, situate in Lot 2, Township 9, Range 6 of the Phelps & Gorham Purchase in the Town of Livonia, County of Livingston, State of New York, being shown as “Lands to be re-zoned from Industrial to Mixed Use” on a map entitled “Resubdivision Plan of a Portion of Lands of Leslie L. Cole, Jr. & Elma S. Cole Reed & Lands of Bulk Products Development Corp.”, prepared by Willey Land Surveying, PLLC, said map being filed at the Livingston County Clerk’s Office as Map No. A0 _____, and said lands being further bounded and described as follows:

Commencing at a Point in the centerline of Bronson Hill Road (County Road 62) at its intersection with the south line of Town Lot No. 2, being the north line of Town Lot No. 11; thence

A) North 00° 59’ 03” West, along the centerline of Bronson Hill Road, a distance of 966.94 feet to a point on the southerly line of a highway appropriation, as shown and referenced on the aforementioned resubdivision plan; thence

B) South 88° 57’ 15” West, a distance of 48.00 feet to a capped iron pin marking the southwest corner of said highway appropriation; thence

C) North 01° 49’ 37” West, along the west line of said highway appropriation, a distance of 89.24 feet to a capped iron pin set on the south line of a proposed industrial road, known as Gateway Park, said pin marking the Point of Beginning of lands to be re-zoned, thence

1) South 01° 49’ 37: East, along said west highway boundary, a distance of 43.00 feet to a capped iron pin marking the southeast corner of lands conveyed to Bulk Products Development Corp. (formerly known as Lakeville Transfer, Inc.) by deed recorded in Liber 865 of Deeds at Page 108; thence

2) South 85° 10’ 03” West, along the south line of said lands of Bulk Products Development Corp., a distance of 632.63 feet to a point on the west line of Parcel A-1 of the aforementioned subdivision plan; thence

3) North 00° 59’ 03” West, along the west line of Parcel A-1, a distance of 84.78 feet to a capped iron pin set on the south line of said proposed industrial road, 80 feet wide, known as Gateway Park; thence

4) North 88° 57’ 15” East, along the south line of said proposed road, a distance of 630.57 feet to the Point of Beginning.

Comprising an area of 0.925 acre of land, being a portion of lands conveyed to Bulk Products Development Corp. (formerly known as Lakeville Transfer, Inc.) by deed recorded in Liber 865 of Deeds at Page 108.

The above described area being shown as “Lands to be re-zoned from Industrial to Mixed Use” on a map entitled “Resubdivision Plan of a Portion of Lands of Leslie L. Cole, Jr. & Elma S. Cole Reed & Lands of Bulk Products Development Corp.”, prepared by Willey Land Surveying, PLLC, dated March 14, 2017 and designated as Job No.17-103, which said map is to be filed at the Office of the Livingston County Clerk.

Being a portion of Tax Identifier Map Parcel Number 65-1-16.122

SECTION 6. CHANGE IN ZONING DISTRICT CLASSIFICATION FROM INDUSTRIAL DISTRICT TO MIXED USE DISTRICT.

The totality of those lands described above and depicted as “Lands to be re-zoned from Industrial to Mixed Use” on a map entitled “Resubdivision Plan of a Portion of Lands of Leslie L. Cole, Jr. & Elma S. Cole Reed & Lands of Bulk Products Development Corp.”, prepared by Willey Land Surveying, PLLC shall be modified from its present zoning classification of Industrial District (I) to Mixed Use District (MUD) and the official Zoning Map of the Town of Livonia shall be amended to reflect such reclassification (although not contemporaneously with the adoption of this Local Law).

SECTION 7. EFFECTIVE DATE.

This local law shall be effective immediately upon its filing with the Office of the Secretary of State.

TOWN OF LIVONIA LOCAL LAW NO. 2 of 2017

**A LOCAL LAW ESTABLISHING A TEMPORARY LAND USE
MORATORIUM PROHIBITING LARGE SCALE SOLAR
INSTALLATIONS WITHIN THE TOWN OF LIVONIA**

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

SECTION 1. TITLE

This Local Law shall be known as the “Moratorium on and Prohibition of Large Scale Solar Installations Within the Town of Livonia.”

SECTION 2. STATUTORY AUTHORITY; PURPOSE AND INTENT.

This Local Law is intended to be consistent with and is adopted pursuant to the authority granted to the Town Board of the Town of Livonia under the New York State Constitution, and the Laws of the State of New York, including but not limited to the following authorities: New York State Constitution Article IX, Section 2 (c)(ii)(6), (10); Municipal Home Rule Law § 10(1)(i); Municipal Home Rule Law § 10(1)(ii)(a)(6), (11), (12), and (14); Municipal Home Rule Law § 10(1)(ii)(d)(3); Municipal Home Rule Law § 10(2); Municipal Home Rule Law § 10(3); Municipal Home Rule Law § 10(4)(a), and (b); Statute of Local Governments §10(1), (6), and (7); Town Law § 64 (17-a); Town Law § 130(3) and (15); Town Law §135; Town Law Article 16 (Zoning & Planning) inclusive; Environmental Conservation Law §3-0301(1)(b), 3-0301(2)(m) and 8-0113 and 6 NYCRR Part 617, also known as the State Environmental Quality Review Act, as it pertains to applications that are neither excluded nor exempt from this local law.

This Local Law is a land use regulation. This Local Law is intended and is hereby declared to address matters of local concern, and it is declared that it is not the intention of the Town to address matters of statewide concern. This Local Law is intended to act as and is hereby declared to exercise the permissive “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.

This Local Law shall supercede and suspend those provisions of the Zoning Ordinance of the Town of Livonia and New York state law which require the Planning Board and/or the Town Code Enforcement officer to accept, process, and approve land use applications within certain statutory time periods.

This Local Law is intended to temporarily prohibit the creation or siting of large scale solar power installations (as herein later defined) within the Town of Livonia for a period of up to twelve (12) months, pending the development and adoption of local laws and/or ordinances designed to regulate and govern such installations.

The Town Board recognizes and acknowledges that the Town needs to study and analyze many considerations that affect the preparation of local legislation to regulate the future creation and siting of large scale solar installations. The Town Board has formally requested the Building and Zoning Department and the Planning Board of the Town of Livonia to identify and review local laws from other jurisdictions, and related information and source materials, in order to assist in developing the parameters of a local law to regulate large scale solar installations. The Town Board has directed the Town Attorney to assist in this endeavor.

The Town Board also recognizes the need to review and examine its existing ordinances, local laws and Zoning Ordinance provisions insofar as they may be affected by adoption of such local law(s) regulating the creation and/or siting of large scale solar power installations. It is deemed necessary to enact this moratorium in order to permit the Town adequate time in which to draft suitable legislation for this purpose. During the term of the moratorium the Town of Livonia shall work to prepare and eventually adopt new land use regulations to incorporate into the Town's existing Zoning Ordinance.

At this time, there are no pending applications for the location, development or site plan approval of a large scale solar installation.

During the pendency of the moratorium, the Town Board will consider how best to permit such installations so as to harmoniously integrate such installations with the existing agricultural community and landscape. At present, the Zoning Ordinance of the Town of Livonia may not adequately regulate such land use. If the community allows such development during that time, the goals of the Town Comprehensive Plan and its related legislation favoring the successful continuity of agricultural operations could be undermined or damaged. Moratoria are useful in controlling or temporarily inhibiting development until satisfactory final regulations are adopted.

For these reasons, the Town Board finds that temporary moratorium legislation is both advisable and necessary for a reasonable and defined period of time in order to develop and adopt necessary zoning and land use changes to the Zoning Ordinance of the Town of Livonia , thus protecting and furthering the public interest, health and safety.

SECTION 3. DEFINITIONS.

For purposes of this Local Law, the following terms shall have the meanings respectively set forth below:

Large Scale Solar Installation(s) - Any installation of solar panels, equipment and/or buildings or structures undertaken for commercial purposes with an intention of generating

power from the sun and converting such power into electricity for resale to or by a third party (which does not include any individual or business that directs such produced energy back into the public grid solely to off-set their own energy consumption). Large Scale Solar Installations specifically do not include any solar panel collection system or array undertaken by individual landowners, householders or farmers for their own personal use or the use of a business owned by them.

SECTION 4. TEMPORARY MORATORIUM and PROHIBITION.

- A. Unless permitted pursuant to Section 5 hereafter, from and after the date of this Local Law, no application for a permit, zoning permit, special permit, zoning variance, building permit, operating permit, site plan approval, subdivision approval, certificate of occupancy, certificate of compliance, temporary certificate, or other Town-level approval of any nature shall be accepted, processed, entertained, approved, approved conditionally, or issued by any board, employee, official or agent of the Town of Livonia, for the construction, establishment, or use or operation of any land, body of water, building, or other structure located within the Town of Livonia, for any Large Scale Solar Installation, as defined above.
- B. Unless permitted pursuant to Section 5 hereafter, from and after the date of this Local Law, no Person shall use, cause, or permit to be used, any land, body of water, building, or other structure located within the Town of Livonia for any Large Scale Solar Installation, as defined above.
- C. The prohibitions set forth above in Clauses A. and B. of this Section 4. are not intended, and shall not be construed, to prevent or prohibit the use and development of solar panel arrays or collections systems for any personal or individual use on or about any residence or place of business, or any farm operation, so long as such use does not produce energy for the purpose of resale to or by any third party. The term “resale to or by any third party” as used immediately above shall not be construed to include any individual or business that directs such produced energy back into the public grid solely to off-set their own energy consumption.
- D. This moratorium and prohibition shall be in effect beginning on the effective date of this Local Law and shall expire on the earlier of (i) that date which is twelve (12) months after said effective date; or (ii) the effective date of a Town Board resolution affirmatively stating the Town Board has determined that the need for this moratorium and prohibition no longer exists.
- E. This moratorium and prohibition shall apply to all real property within the Town of Livonia, and all land use applications for the siting or creation of Large Scale Solar Installations within the Town of Livonia.
- F. Under no circumstances shall the failure of the Town Board of the Town of Livonia, the Zoning Board of Appeals of the Town of Livonia, the Planning

Board of the Town of Livonia, or the Code Enforcement Officer for the Town of Livonia to take any action upon any application for a permit, zoning permit, special permit, zoning variance, building permit, operating permit, site plan approval, subdivision approval, certificate of occupancy, certificate of compliance, temporary certificate, or other Town-level approval constitute an approval by default or an approval by virtue of expiration of time to respond to such application.

SECTION 5. HARDSHIP VARIANCE RELIEF FROM APPLICABILITY OF MORATORIUM.

Applications for land use otherwise subject to this moratorium may be exempted from the provisions of this local law following a noticed public hearing before the Town Board, at which hearing the Town Board may consider:

- A. The proximity of applicant's premises or the subject of applicant's request for relief to natural resources, including but not limited to prime agricultural soils, wetland areas, conservation districts and other environmental concerns.
- B. The impact of the proposed application on the applicant's premises and upon the surrounding area.
- C. Compatibility of the proposed application with the existing land use and character of the area in general proximity to the subject of the application, and its effect upon aesthetic resources of the community.
- D. Compatibility of the proposed application with the recommendations of any administrative body charged with such review by the Town of Livonia.
- E. The written opinion of the Town of Livonia Planning Board and the Town of Livonia Code Enforcement Officer that such application may be jeopardized or made impractical by waiting until the moratorium is expired.
- F. Such other reasonable considerations and issues as may be raised by the Town Board.

In making a determination concerning a proposed exemption or grant of relief from application of the moratorium, the Town Board may obtain and consider reports and information from any source it deems to be consistent with review of said application. A grant of relief from application of the moratorium shall include a determination of unreasonable hardship upon the property owner which is unique to the property owner, and a finding that the grant of an exemption will be in harmony with, and will be consistent with the recommendations of the Comprehensive Plan.

An application for relief of application of the moratorium shall be accompanied by a fee of \$500, together with the applicant's written undertaking, in a form to be approved by the

Attorney for the Town, to pay all of the expenses of the Town Board and any agent or consultant retained by the Town Board to evaluate and consider the merits of such application, including but not limited to any fees incurred by the Town for services provided by the Attorney for the Town.

SECTION 6. PENALTIES.

- A. Failure to comply with any of the provisions of this Local Law shall be an unclassified misdemeanor as contemplated by Article 10 and Section 80.05 of the New York State Penal Law, and, upon conviction thereof, shall be punishable by a fine of not more than One Thousand Five Hundred Dollars (\$1,500) or imprisonment for not more than 10 days, or both for the first offense. Any subsequent offense within a three-month period shall be punishable by a fine of not more than Two Thousand Five Hundred Dollars (\$2,500) or imprisonment for a period of not more than 30 days, or both. For purposes of this Clause A., each day that a violation of this Local Law exists shall constitute a separate and distinct offense.
- B. Compliance with this Local Law may also be compelled and violations restrained by order or by injunction of a court of competent jurisdiction, in an action brought on behalf of the Town by the Town Board.
- C. In the event the Town is required to take legal action to enforce this Local Law, the violator will be responsible for any and all costs incurred by the Town relative thereto, including attorney's fees, and such amount shall be determined and assessed by the court. If such expense is not paid in full within 30 days from the date it is determined and assessed by the Court, such expense shall be charged to the propert(ies) within the Town on which the violation occurred, by including such expense in the next annual Town tax levy against such property, and such expense shall be a lien upon such property until paid.

SECTION 7. CONFLICTS.

For and during the stated term of this legislation, unless the stated term thereof shall be modified or abridged by the Town Board, this moratorium shall take precedence over and shall control over any contradictory local law, ordinance, regulation or Code provision.

SECTION 8. SEVERABILITY.

If any word, phrase, sentence, part, section, subsection, or other portion of this Local Law, or the application thereof to any person or to any circumstance, is adjudged or declared invalid or unenforceable by a court or other tribunal of competent jurisdiction, then, and in such event, such judgment or declaration shall be confined in its interpretation and operation only to the provision of this Local Law that is directly involved in the controversy in which such judgment or declaration is rendered, and such judgment or declaration of invalidity or

unenforceability shall not affect or impair the validity or enforceability of the remainder of this Local Law or the application hereof to any other persons or circumstances. If necessary as to such person or circumstances, such invalid or unenforceable provision shall be and be deemed severed here from, and the Town Board of the Town hereby declares that it would have enacted this Local Law, or the remainder thereof, even if, as to particular provisions and persons or circumstances, a portion hereof is severed or declared invalid or unenforceable.

SECTION 9. EFFECTIVE DATE.

The effective date of this Local Law shall be immediately upon its filing with the Secretary of State.

§617.5 Type II actions

(a) Actions or classes of actions identified in subdivision (c) of this section are not subject to review under this Part. These actions have been determined not to have a significant impact on the environment or are otherwise precluded from environmental review under Environmental Conservation Law, article 8. The actions identified in subdivision (c) of this section apply to all agencies.

(b) Each agency may adopt its own list of Type II actions to supplement the actions in subdivision (c) of this section. No agency is bound by an action on another agency's Type II list. An agency that identifies an action as not requiring any determination or procedure under this Part is not an involved agency. Each of the actions on an agency Type II list must:

(1) in no case, have a significant adverse impact on the environment based on the criteria contained in subdivision 617.7(c) of this Part; and

(2) not be a Type I action as defined in section 617.4 of this Part.

(c) The following actions are not subject to review under this Part:

(1) maintenance or repair involving no substantial changes in an existing structure or facility;

(2) replacement, rehabilitation or reconstruction of a structure or facility, in kind, on the same site, including upgrading buildings to meet building or fire codes, unless such action meets or exceeds any of the thresholds in section 617.4 of this Part;

(3) agricultural farm management practices, including construction, maintenance and repair of farm buildings and structures, and land use changes consistent with generally accepted principles of farming;

(4) repaving of existing highways not involving the addition of new travel lanes;

(5) street openings and right-of-way openings for the purpose of repair or maintenance of existing utility facilities;

(6) maintenance of existing landscaping or natural growth;

(7) construction or expansion of a primary or accessory/appurtenant, non-residential structure or facility involving less than 4,000 square feet of gross floor area and not involving a change in zoning or a use variance and consistent with local land use controls, but not radio communication or microwave transmission facilities;

(8) routine activities of educational institutions, including expansion of existing facilities by less than 10,000 square feet of gross floor area and school closings, but not changes in use related to such closings;

(9) construction or expansion of a single-family, a two-family or a three-family residence on an approved lot including provision of necessary utility connections as provided in paragraph (11) and the installation, maintenance and/or upgrade of a drinking water well and a septic system;

- (10) construction, expansion or placement of minor accessory/appurtenant residential structures, including garages, carports, patios, decks, swimming pools, tennis courts, satellite dishes, fences, barns, storage sheds or other buildings not changing land use or density;
- (11) extension of utility distribution facilities, including gas, electric, telephone, cable, water and sewer connections to render service in approved subdivisions or in connection with any action on this list;
- (12) granting of individual setback and lot line variances;
- (13) granting of an area variance(s) for a single-family, two-family or three-family residence;
- (14) public or private best forest management (silvicultural) practices on less than 10 acres of land, but not including waste disposal, land clearing not directly related to forest management, clear-cutting or the application of herbicides or pesticides;
- (15) minor temporary uses of land having negligible or no permanent impact on the environment;
- (16) installation of traffic control devices on existing streets, roads and highways;
- (17) mapping of existing roads, streets, highways, natural resources, land uses and ownership patterns;
- (18) information collection including basic data collection and research, water quality and pollution studies, traffic counts, engineering studies, surveys, subsurface investigations and soils studies that do not commit the agency to undertake, fund or approve any Type I or Unlisted action;
- (19) official acts of a ministerial nature involving no exercise of discretion, including building permits and historic preservation permits where issuance is predicated solely on the applicant's compliance or noncompliance with the relevant local building or preservation code(s);
- (20) routine or continuing agency administration and management, not including new programs or major reordering of priorities that may affect the environment;
- (21) conducting concurrent environmental, engineering, economic, feasibility and other studies and preliminary planning and budgetary processes necessary to the formulation of a proposal for action, provided those activities do not commit the agency to commence, engage in or approve such action;
- (22) collective bargaining activities;
- (23) investments by or on behalf of agencies or pension or retirement systems, or refinancing existing debt;
- (24) inspections and licensing activities relating to the qualifications of individuals or businesses to engage in their business or profession;

(25) purchase or sale of furnishings, equipment or supplies, including surplus government property, other than the following: land, radioactive material, pesticides, herbicides, or other hazardous materials;

(26) license, lease and permit renewals, or transfers of ownership thereof, where there will be no material change in permit conditions or the scope of permitted activities;

(27) adoption of regulations, policies, procedures and local legislative decisions in connection with any action on this list;

(28) engaging in review of any part of an application to determine compliance with technical requirements, provided that no such determination entitles or permits the project sponsor to commence the action unless and until all requirements of this Part have been fulfilled;

(29) civil or criminal enforcement proceedings, whether administrative or judicial, including a particular course of action specifically required to be undertaken pursuant to a judgment or order, or the exercise of prosecutorial discretion;



(30) adoption of a moratorium on land development or construction;

(31) interpreting an existing code, rule or regulation;

(32) designation of local landmarks or their inclusion within historic districts;

(33) emergency actions that are immediately necessary on a limited and temporary basis for the protection or preservation of life, health, property or natural resources, provided that such actions are directly related to the emergency and are performed to cause the least change or disturbance, practicable under the circumstances, to the environment. Any decision to fund, approve or directly undertake other activities after the emergency has expired is fully subject to the review procedures of this Part;

(34) actions undertaken, funded or approved prior to the effective dates set forth in SEQR (see chapters 228 of the Laws of 1976, 253 of the Laws of 1977 and 460 of the Laws of 1978), except in the case of an action where it is still practicable either to modify the action in such a way as to mitigate potentially adverse environmental impacts, or to choose a feasible or less environmentally damaging alternative, the commissioner may, at the request of any person, or on his own motion, require the preparation of an environmental impact statement; or, in the case of an action where the responsible agency proposed a modification of the action and the modification may result in a significant adverse impact on the environment, an environmental impact statement must be prepared with respect to such modification;

(35) actions requiring a certificate of environmental compatibility and public need under articles VII, VIII or X of the Public Service Law and the consideration of, granting or denial of any such certificate;

(36) actions subject to the class A or class B regional project jurisdiction of the Adirondack Park Agency or a local government pursuant to section 807, 808 and 809 of the Executive Law, except class B regional projects subject to review by local government pursuant to section 807 of the

Executive Law located within the Lake George Park as defined by subdivision one of section 43-0103 of the Environmental Conservation Law; and

(37) actions of the Legislature and the Governor of the State of New York or of any court, but not actions of local legislative bodies except those local legislative decisions such as rezoning where the local legislative body determines the action will not be entertained.

THE LIVINGSTON COUNTY NEWS
AFFIDAVIT OF PUBLICATION

LIVINGSTON COUNTY NEWS

TOWN OF LIVONIA
PO BOX 43
LIVONIA NY 14487-0043

REFERENCE: 104880
20380965 LEGAL NOTICE NOTICE

STATE OF NEW YORK }
 } ss.:
GENESEE COUNTY }

Jessie Taylor being duly sworn deposes and says that she is Legal billing clerk for "The Livingston County News," a newspaper published in Batavia, and that a Legal Notice, of which the annexed is a printed copy, was duly published in said Newspaper.

Jessie Taylor

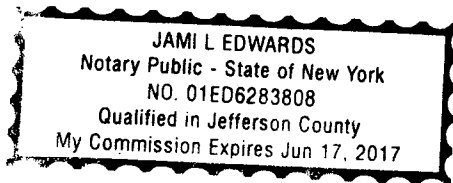
Jessie Taylor
Legal Clerk

PUBLISHED ON: 04/27

TOTAL COST: 41.98 AD SPACE: 82 LINE
FILED ON: 05/01/17

Sworn to and subscribed before me the }
3rd day of May, 2017 }

Jami L. Edwards



LEGAL NOTICE

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN, pursuant to the provisions of the Code of the Town of Livonia, and pursuant to the authority granted to the Town Board of the Town of Livonia under the New York State Constitution, and the Laws of the State of New York, including but not limited to the following authorities: New York State Constitution Article IX, Section 2 (c)(ii)(6), (10); Municipal Home Rule Law § 10(1)(f); Municipal Home Rule Law § 10(1)(ii)(a)(6), (11), (12), and (14); Municipal Home Rule Law § 10(1)(ii)(d)(3); Municipal Home Rule Law § 10(2); Municipal Home Rule Law § 10(3); Municipal Home Rule Law § 10 (4)(a), and (b); Statute of Local Governments § 10(1), (6), and (7); Town Law § 64 (17-a); Town Law §130(3) and (15); Town Law § 135; Town Law Article 16 (Zoning & Planning) inclusive; Environmental Conservation Law §3-0301(1)(b), 3-0301(2)(m) and 8-0113 and 6 NYCRR Part 617, also known as the State Environmental Quality Review Act, as it pertains to applications that are neither excluded nor exempt from this local law that a public hearing shall be held by the Town Board of the Town of Livonia at the Town Hall, located at 35 Commercial Street, Livonia, New York at 7:05 p.m. on Thursday, May 4, 2017, for the purpose of considering public opinion and comment about or concerning a proposed local law relating to the following:

This Local Law is intended to temporarily prohibit the creation or siting of large scale solar power installations within the Town of Livonia for a period of up to twelve (12) months, pending the development and adoption of local laws and/or ordinances designed to regulate and govern such installations.

A copy of the proposed local law is available for review by the public at the office of the Town Clerk during regular Town Clerk hours, or by visiting the Town web site at www.livoniany.org.

All interested persons are invited to appear and be heard at the aforesaid time and place.

Dated: April 13, 2017
By Order of the Town Board
of the Town of Livonia
Colleen West Hay,
Town Clerk

THE LIVINGSTON COUNTY NEWS
AFFIDAVIT OF PUBLICATION

LIVINGSTON COUNTY NEWS

TOWN OF LIVONIA
PO BOX 43
LIVONIA NY 14487-0043

REFERENCE: 104880
20380963 LEGAL NOTICE N

STATE OF NEW YORK }
 } ss.:
GENESEE COUNTY }

Jessie Taylor being duly sworn deposes and says that she is Legal billing clerk for "The Livingston County News," a newspaper published in Batavia, and that a Legal Notice, of which the annexed is a printed copy, was duly published in said Newspaper.

Jessie Taylor

Jessie Taylor
Legal Clerk

PUBLISHED ON: 04/27

TOTAL COST: 27.94 AD SPACE: 46 LINE
FILED ON: 05/01/17

Sworn to and subscribed before me the }
3rd day of May, 2017 }

Jami L. Edwards

