

TOWN OF POMPEY TOWN BOARD MINUTES

The Town Board of the Town of Pompey held its Regular Meeting on Wednesday, September 7, 2022 at 6:30 p.m. The meeting was held in-person and was also livestreamed via Zoom platform. In attendance were: Supervisor Renee Rotondo, Councilors Ann Christmas, Dave Angello, Bill Lipe, James Loomis; Town Clerk Nikki Reid; Accountant Tom Chartrand; Town Attorney Tim Frateschi. Along with 14 residents.

Supervisor Rotondo called the meeting to order at 6:30 p.m. followed by the Pledge of Allegiance. Town Clerk Reid called the roll: Supervisor Rotondo, Councilor Christmas, Council Lipe, Councilor Loomis, Councilor Angello, Highway Superintendent Way.

Supervisor Rotondo congratulated Councilor Christmas and her husband; their daughter got married over the weekend.

TOWN FINANCES:

Town Accountant Tom Chartrand gave his monthly report. Franchise fees came in better than expected. It was a good month for Town Clerk fees; almost \$2,500.00. NYCLASS interest is up to about 2%. The first set of funds for the Main Street Grant have been received.

General Fund: Spending at 64%; Revenue at 88%
 Highway Fund: Spending at 34%; Revenue at 86%

R-154-22 Motion by Christmas, seconded by Loomis to accept the Supervisor's Monthly Report for August 2022. All in favor. Motion carried.

R-155-22 Motion by Christmas, seconded by Lipe, to approve the following transfer:

CAPITAL DEVELOPMENT FUND

From:	H510 H510 H4089	Estimated Revenue Estimated Revenue Federal Aid Other	County Grant Transfer from Drainage District ARPA	\$200,000.00 \$74,000.00 <u>\$24,000.00</u>
			TOTAL	\$298,000.00
To:	H8120.2	Preserve Drainage	Capital Improvements	<u>\$298,000.00</u>
			TOTAL	\$298,000.00

GENERAL FUND

From:	A1991.4 A7310.1	Contingent Youth Program	Contractual Personal Services	\$10,000.00 <u>\$3,000.00</u>
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			TOTAL	\$13,000.00
To:	A1620.2	Buildings	Equipment	\$10,000.00
	A7310.4	Youth Program	Contractual	<u>\$3,000.00</u>
			TOTAL	\$13,000.00

All in favor. Motion carried.

R-156-22 Motion by Angello, seconded by Christmas to accept the August 2022 Bank Reconciliation Reports for Supervisor, Town Clerk, and Tax Collector Accounts. All in favor. Motion carried.

R-157-22 Motion by Loomis, seconded by Christmas to approve General Fund Abstract Nos. 308-339, totaling \$34,911.40; Highway Abstract Nos. 136-153, totaling \$417,853.29; Special District Nos. 21-22, totaling \$505.54. All in favor. Motion carried.

PIVOT ENERGY TIER 3 SOLAR PROJECT:

Supervisor Rotondo gave an update on the Pivot Energy Tier 3 Solar Project and what has transpired this month. The Town Board Members delayed the vote until they could meet with Onondaga County Industrial Development Agency. Supervisor Rotondo spoke with them and they stated that they are not comfortable with holding a public hearing but would be willing to speak with Town Officials. Supervisor Rotondo made a counteroffer to Pivot Energy asking them to consider doubling the host benefit agreement, increasing the escrow account from \$10,000.00 to \$25,000.00 for legal and engineering fees, making a one-time contribution to a future town project that benefits the community, establish a scholarship fund for a Fabius-Pompey student. Pivot Energy responded that they are not willing to change the host agreement benefits but are open to discussion related to taxation and assessment on this project. They are willing to increase the escrow account and willing to support a community project and a scholarship fund. Councilor Christmas thanked Supervisor Rotondo and agreed that Pivot Energy came back with a really good offer and that the scholarship is great. She also stated that the homeowner currently pays \$197 in property taxes, and over the course of the next 25 years, Pivot Energy would be paying way more than that. Pompey needs to start thinking about the future. Councilor Loomis stated that he still feels the way he did before. The location in encroaching on the

neighbors and this project would be on farmland. Town Attorney Tim Frateschi discussed the options that the Town Board Members have. Supervisor Rotondo doesn't agree with some of the contents of the memorandum. Councilor Angello stated that the vote was postponed last month so the Town Board Members could be advised by OCIDA, unfortunately they were not able to do that in a public forum or a private forum.

Town Attorney Tim Frateschi read through the Memorandum and Supervisor Rotondo had objections with some of the language. She stated that the Memorandum does not accurately reflect the new offer that was made.

R-158-22 Motion by Loomis, seconded by Lipe to pass the following Resolution and Memorandum. A Roll Call Vote was taken:

Supervisor Rotondo	NO
Councilor Christmas	NO
Councilor Lipe	YES
Councilor Loomis	YES
Councilor Angello	YES

Motion carried.

IN THE MATTER

Of

Resolution 2022 -3

**ZONE CHANGE REQUEST BY PIVOT ENERGY FOR THE
SOLAR ENERGY SYSTEM OVERLAY DISTRICT**

The **TOWN BOARD OF THE TOWN OF POMPEY**, in the County of Onondaga, State of New York, met in regular session at the Town Hall in the Town of Pompey, located at 8354 U.S. Route 20, Manlius, NY, County of Onondaga, State of New York, on the 7th day of September 2022, at 6:30 p.m. The meeting was called to order by Renee Rotondo, Supervisor, and the following were present, namely:

Renee Rotondo	Supervisor
Ann Christmas	Councilor
Bill Lipe	Councilor
James Loomis	Councilor

David Angello

Councilor

The following resolution was moved, seconded and adopted:

WHEREAS, Pivot Energy (the “Applicant”), by letter to the Pompey Town Board dated January 3 2022, proposed the construction of a 4.25-megawatt (MW) AC community solar project (the “Project”) on a 95.5 acre vacant parcel of land roughly bounded by Sweet Road to the east, County Route 31 approximately .5 mile to the west and Pratts Falls Road approximately .5 mile to the south (Tax Map # 12.-01-3.1 – the “Property”);

WHEREAS, the existing zoning for the Property is Farming;

WHEREAS, pursuant to Section 165-16.2 (Solar Energy Systems) and Section 165-9.2 (Solar Energy System Overlay District) of the Pompey Town Code, the Planning Board, at its December 20, 2021 meeting considered the Application and a majority of the Planning Board recommended against changing the zoning of the Property from Farming to Solar Energy System Overlay District “SESO”), the rationale and findings of the Planning Board are set forth in Exhibit A of the February 21, 2022 Planning Board Minutes (the “Planning Board Negative Recommendation”);

WHEREAS, pursuant to Section 165-16.2 (Solar Energy Systems) and Section 165-9.2 (Solar Energy System Overlay District) of the Pompey Town Code, on May 19, 2022 the Town of Pompey Environmental Conservation Commission (the “ECC”) considered the Application and identified the following concerns: (i) Wetland setback requirements; (ii) Viewshed assessment; (iii) Vegetative buffers; (iv) Fencing, (v) Solar Panel Maintenance. The rationale and findings of the EEC are set forth more fully in the May 19, 2022 minutes of the EEC (the “EEC’s Concerns”);

WHEREAS, the Town Board members, at the July 6, 2022 meeting expressed their opinion of whether a zone change to SESO was in the best interest of the Town;

WHEREAS, it was clear from those public comments by the Board members that a majority of the Board does not support the zone change;

WHEREAS, the Town Board has been advised that the zone change application is a legislative act that is solely within the discretion of the Town Board;

WHEREAS, the majority of the Board desires to take the Application off of the Town Board Agenda for future consideration;

NOW, THEREFORE BE IT RESOLVED, that the Town Board adopts the attached Memorandum outlining the rationale for the lack of majority support for the Local Law which is attached as Exhibit A; and be it further

RESOLVED, that the Application shall be removed from the Town Board’s future agenda unless a majority of the Board determines that it be re-considered as is or as modified; and be it further

RESOLVED, that the Clerk is directed to place the attached Memorandum in the Application file.

I, **NICOLE REID**, Secretary of the Town Board, **DO HEREBY CERTIFY** that the preceding Resolution was duly adopted by the Town Board of the Town of Pompey at a regular meeting of the Board duly called and held on the 7th day of September, 2022 that said Resolution was entered in the minutes of said meeting; that I have compared the foregoing copy with the original thereof now on file in my office; and that the same is a true and correct transcript of said Resolution and of the whole thereof.

I HEREBY CERTIFY that all members of said Board had due notice of said meeting.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Town of Pompey, this 7th day of September, 2022.

DATED: September 7, 2022
Pompey, New York

Nicole Reid
Town Clerk
Town Board of the Town of Pompey
Onondaga County, New York

MEMORANDUM

August 1, 2022

This Memorandum outlines the thoughts of the majority of the Pompey Town Board in relation to the lack of support for the proposed zone change Local Law, attached hereto as Exhibit A (the “Local Law”). The Local Law was drafted in response to Pivot Energy, Inc’s. application (the “Applicant”) to the Town Board for a Solar Energy System Overlay (“SESO”) for the 96 acres vacant parcel situated between Sevier Road and Pratts Falls Road identified as tax map no. 012-01-03.1 (the “Property”) and specifically identified in the Local Law.

On July 6, 2022, at its regular monthly meeting, the Town Board discussed the Local Law and each member expressed their opinion on whether the zone change was in the best interest of the Town. The Town Attorney explained that unlike a site plan, special permit or subdivision application, a zone change is in the sole discretion of the Town Board since it is a legislative action.

Notwithstanding the discretion vested in the Town Board to approve or decline to approve local laws,

the Town Board believes it is important to close the record on the Application by setting forth its rationale for declining to support the zone change.

The following reasons were cited by the majority of the Town Board for declining to support the proposed Local Law:

1. The land upon which the proposed zone change application applies is classified within the soil group 1 through 4 of the NYS Land Classification System. The Pompey Comprehensive Plan and the Town Board place a high value on the agricultural resources of the Town and it is the opinion of a majority of the Board that such high quality agricultural land should be the last option for large scale commercial solar energy systems. Efforts should be made by applicants seeking a SESO to show the Town Board that other, less valuable agricultural lands were considered.

2. The panoramic view surrounding the site and the residential properties directly adjacent to the proposed large scale commercial solar energy system will suffer a significant detrimental visual impact and Pivot Energy, Inc. has not provided sufficient information that would show how the view shed impacts would be mitigated.

3. While the majority of the Board understands that the risk of fire at large scale commercial solar energy systems is not high, there was a recent example of such a fire at that was spoken about at the public hearing, and it is questionable if the Town of Pompey volunteer fire departments have the equipment, training and personnel needed to address a fire at such a site.

4. A majority of the Town Board does not believe Pivot Energy, Inc. has made the case that the Economic benefits of the proposed large scale commercial energy system to the Town outweigh the potential risks. Indeed, while Pivot Energy, Inc. has made some offers of certain payments to the Town, it estimates that a payment in lieu of tax ("PILOT") to the Town would be approximately \$2,500 per year with a modest escalation in future years. A majority of the Town Board believes the exposure to Town resources (i.e. fire, environmental, code enforcement, legal, engineering), the visual impacts of the Project and the removal of prime agricultural land from active use far outweighs the estimated PILOT payments proposed by the Applicant.

5. As an adjunct to 4. above, the majority of the Town Board notes that under New York State Law, the Project would be wholly exempt from property taxes. The PILOT proposed by the Applicant is far below what the Town would be entitled to receive in taxes if the Project was to be fully assessed. To consider a zone change for a SESO, the majority of the Town Board believes that any PILOT payments should reflect a more accurate assessment of the property on which a commercial solar energy system is located, which should include the income-based approach to assessing properties for businesses.

Based on the above, there is not sufficient support from the majority of Town Board members to pass the attached Local Law. In the event the Applicant, or any other applicant, decides to pursue a SESO for

the substantially the same Property, the Town Board will require a new application and a full hearing of the issues shall take place, pursuant to the requirements of the Town Code.

TOWN CLERK'S REPORT:

R-159-22 Motion by Rotondo, seconded by Angello to accept the August 1, 2022 Meeting minutes. All in favor. Motion carried.

HIGHWAY SUPERINTENDENT'S REPORT:

R-160-22 Motion by Christmas, seconded by Loomis to appoint Bill Lipe as the Town Board liaison to Highway Department. All in favor. Motion carried.

Highway Superintendent Way updated that the new payloader has been delivered. The previous payloader was sold at Auctions International for \$84,100.00, which was almost \$20,000.00 more than they offered for trade-in value. He updated that the Grade-All has arrived in Syracuse and needs to be inspected; the Highway Department should see it by the end of September. 4 miles of oil and stone was just completed with Midland. Two-thirds of a job has been completed with Suit Kote, just the micro surfacing needs to be finished.

CODES OFFICER REPORT:

Codes Officer Tim Bearup was not able to attend the meeting; however, he did supply the Town Board with a written report for the month of August. Supervisor Rotondo gave a brief overview; 6 building permits were issued, 8 completed projects, and 5 stop-work-orders.

TOWN ATTORNEY REPORT:

Town Attorney Tim Frateschi gave an update on the agreement for the collection of school taxes for Fayetteville-Manlius. Town Clerk Nikki Reid will continue to do daily deposits and will make the allocations to the school district every Thursday.

R-161-22 Motion by Christmas, seconded by Loomis to authorize Supervisor Rotondo to sign the Intermunicipal Agreement between the Fayetteville-Manlius Central School District and the Town of Pompey for Tax Collection Services. All in favor. Motion carried.

COUNCILORS REPORT:

Councilor Christmas gave an update on the short-term rental committee work. The committee has identified three major issues to start: definition, codes/safety, and ownership. Councilor Loomis stated that the Town is not trying to prohibit short-term rentals in the Town of Pompey, rather ensure that there are appropriate guidelines. Supervisor Rotondo agreed and added that safety is very important as well as making sure there aren't any neighborhood disturbances.

SUPERVISOR'S REPORT:

Supervisor Rotondo gave an update on the letter to Governor Hochul regarding the Holiday Hunt. She stated that this letter to the Governor was only to ask her to sign the legislation that has already been passed by the Legislature. The Town of Pompey does not have the authority to opt-out. The County would have that ability.

R-162-22 Motion by Angello, seconded by Christmas to authorize Supervisor Rotondo to send a letter of request to Governor Hochul's office regarding the Holiday Hunt Legislation. All in favor. Motion carried.

Supervisor Rotondo stated that she and Town Clerk Nikki Reid conducted interviews to fulfill the vacancy for Secretary to the Planning Board and Zoning Board of Appeals. They have agreed to offer Sarah LoGiudice who resides in Saddle Ridge the position.

R-163-22 Motion by Rotondo, seconded by Christmas to appoint Sarah LoGiudice as Secretary to the Planning Board and Zoning Board of Appeals, to be compensated at an hourly rate of \$15.00 per hour. All in favor. Motion carried.

R-164-22 Motion by Loomis, seconded by Angello to authorize the Town Justices to apply for the JCAP Grant and to authorize the Supervisor and Town Justices to sign any applications. All in favor. Motion carried.

Supervisor Rotondo discussed the Preserve Drainage project, which has been a

lingering issue. It was bid out through the County's contracting system. The Sewer Lease Consolidation Agreement gave the Town \$200,000.00 that could be spent on a green infrastructure project, but it had to be in one of the special districts where the sewers are. The Preserve Drainage project is the perfect fit. The Town has been working closely with County Water and Environmental Protection to get this project done. This project should be completed by mid-November.

Councilor Christmas remarked that this project has been long overdue and is in favor of having Supervisor Rotondo sign the contract. Councilor Angello, who lives in The Preserves, stated that he appreciates this so much as do the taxpayers who live in the northern end of town. The way the drainage was designed hasn't worked for 22 years. He thanked the board for this accomplishment.

R-165-22 Motion by Rotondo, seconded by Christmas to authorize Supervisor Rotondo to execute the contract for The Preserve drainage project. All in favor. Motion carried.

R-166-22 Motion by Christmas, seconded by Loomis to hold a public hearing on October 3, 2022 at 6:35 p.m. regarding the Adoption of Local Law 2022-2 Amending Chapter 157 Entitled "Vehicles & Traffic" of the Code of the Town of Pompey. All in favor. Motion carried.

PUBLIC COMMENT:

Barbara Stacer, Sweet Road. She wanted to thank Councilors Lipe, Loomis, and Angello for bringing forward the Resolution. She also stated that she would be more than happy to join the short-term rental committee; especially on the insurance end of things.

Gordon Woodcock, Pivot Energy. Expressed disappointment for the loss of opportunity for the town. This project would have produced enough electricity for over 800 homes in the Town of Pompey. The farmland had reverted to forest until the landowner cleared it for his own use. The solar farm was going to be dual used; providing both electricity and grazing sheep. Regarding the PILOT; they offered market rate and then added even more to that to make it more appealing and beneficial to the Town. Supervisor Rotondo commended Mr. Woodcock for

the way he's handled himself, especially the amount of times he's been put to the test and never lost his cool.

R-167-22 Motion by Rotondo, seconded by Christmas to enter into Executive Session at 7:50 p.m. to discuss the medical, financial credit or employment history of a particular person or corporation, or matters leading to the appointment, employment, promotion, demotion, suspension, dismissal or removal of a particular person or corporation. All in favor. Motion carried.

R-168-22 Motion by Rotondo, seconded by Christmas to exit Executive Session at 8:36 p.m. All in favor. Motion carried.

R-169-22 Motion to adjourn at 8:39 p.m. All in favor. Motion carried.

Respectfully submitted,

Nikki Reid
Pompey Town Clerk