

**TOWN OF NIAGARA
TOWN BOARD MEETING
7105 Lockport Road
Niagara Falls, NY 14305**

MINUTES

Tuesday, April 18, 2023

6:30 PM

PUBLIC HEARING

None

OPEN MEETING (Pledge, Prayer, Roll Call)

Supervisor Lee Wallace called the meeting to order with the Pledge of Allegiance.

Deputy Supervisor Teixeira recited a prayer. Attached is a Memorial Page of all the deceased Town residents who passed away recently.

Roll Call:

Present: Supervisor Lee S. Wallace, Charles F. Teixeira, Deputy Supervisor Councilman Richard A. Sirianni, Councilman Sam Gatto, Councilman Marc M. Carpenter

Absent: none

Excused: Also, present Sylvia Virtuoso, Town Clerk

PRIVILEGE OF THE FLOOR (Announce changes to agenda, if any)

(§50-3 Privilege of the floor. Only members of the public sector are allowed to speak at this time and may address any agenda or non-agenda item.

(3-minute limit)

No speakers.

APPROVAL OF MINUTES

1. Town Board Meeting of March 21, 2023

Motion to approve by Councilman Teixeira, second by Councilman Carpenter.

Ayes – Wallace, Teixeira, Sirianni, Gatto, Carpenter

Noes – none

Abstain – none

Motion carried.

PAYMENT OF BILLS

General Fund prepay vouchers [A] \$14,823.91

General Fund vouchers [A] \$77,251.32

Sewer Fund prepay vouchers [G] \$740,731.27

Sewer Fund vouchers [G] \$661.70

Water Fund vouchers [F] \$102,153.59

Water Fund vouchers prepay [F] \$8,771.83

Highway Fund vouchers [DA] 15,279.01

Highway Fund prepay vouchers [DA] \$320.91

Fire Protection prepay vouchers [SF]

Fire Protection [SF] \$45,507.22

Street Lighting vouchers [SL]

Street Lighting Pre-Pay vouchers [SL] \$18,721.02

Trust & Agency Pre-Pay vouchers [TA] \$2000.00

Trust & Agency vouchers [TA] \$5,433.75P

Capital Projects prepay vouchers [H]

Capital Projects vouchers [H] \$42,925.75

Motion to approve by Councilman Gatto, second by Councilman Teixeira.

Ayes – Wallace, Teixeira, Sirianni, Gatto, Carpenter

Noes – none

Abstain – none

Motion carried.

AGENDA

1. Resolution Issuing a Negative Declaration and Approving AC Power 15, LLC's Application for Site Plan Approval to Construct and Operate a Solar Facility in the Town of Niagara on six parcels located at the Republic Services Allied Waste Niagara Falls Landfill Complex in the Town of Niagara conditioned on the granting of a use variance by the Town of Niagara Zoning Board of Appeals.

Motion to approve by Councilman Gatto, second by Councilman Carpenter.

Ayes – Wallace, Teixeira, Sirianni, Gatto, Carpenter

Noes – none

Abstain – none

Motion carried.

2. Resolution to approve the following Junkyard License renewals:

Garlock's Auto Inc

Metalico Niagara

Kach's Auto Service

Satarian Auto Parts

Motion to approve by Councilman Teixeira, second by Councilman Sirianni.

Ayes – Wallace, Teixeira, Sirianni, Gatto, Carpenter

Noes – none

Abstain – none

Motion carried.

3. Resolution to approve the following budget amendment:

Decrease A2990.04 Contingent Purposes \$71,000.00

Increase A1356.4 Appraisal Contractual 1,000.00

A1620.4 Buildings Contractual \$70,000.00

Motion to approve by Councilman Teixeira, second by Councilman Gatto.

Ayes – Wallace, Teixeira, Sirianni, Gatto, Carpenter

Noes – none

Abstain – none

Motion carried.

4. Resolution to approve the request to send additional investment for Fireman's Service Award Program to SEI in the amount of \$45,372.00 as recommended by Penflex Actuarial Audit.. (Wallace)

Motion to approve by Councilman Gatto, second by Councilman Teixeira.

Ayes – Wallace, Teixeira, Sirianni, Gatto, Carpenter

Noes – none

Abstain – none

Motion carried.

5. Resolution to hire the following (3) temporary general laborers for the Parks Dept. Effective dates of employment April 24, 2023 through September 30, 2023.(Wallace)

Roger Spurbach
Bill Beckwith
Savino Gonzalez

Motion to approve by Councilman Gatto, second by Councilman Carpenter.

Ayes – Wallace, Teixeira, Sirianni, Gatto, Carpenter
Noes – none
Abstain – none

Motion carried.

6. Resolution to declare a negative declaration on the associated SEQR for the special use permit request of Dave Delagrange owner of Sturdi Built Shed. Tax Map. #145.15-1-37. (Haseley)

Motion to approve by Councilman Gatto, second by Councilman Sirianni.

Ayes – Wallace, Teixeira, Sirianni, Gatto, Carpenter
Noes – none
Abstain – none

Motion carried.

7. Resolution to approve the special use permit request of Dave Delagrange Owner of Sturdi-Built Sheds. Tax Map # 145.15-1-37. (Haseley)

Motion to approve by Councilman Gatto, second by Councilman Teixeira.

Ayes – Wallace, Teixeira, Sirianni, Gatto, Carpenter
Noes – none
Abstain – none

Motion carried.

8. Resolution to approve the conditional part time hiring of Riley MacKenzie pending all 2021 PPA Act requirements are met per State Guidelines. (Guiliani)

Motion to approve by Councilman Teixeira second by Councilman Gatto.

Ayes – Wallace, Teixeira, Sirianni, Gatto, Carpenter
Noes – none
Abstain – none

Motion carried.

TABLED

1. Resolution to declare a negative declaration on the associated SEQR of the final site plan request of Steves Heating at 3001 Military Road, Tax Map # 145.07-4-81. (Haseley)
2. Resolution to approve the final site plan request of Steves Heating at 3001 Military Tax Map #145.07-4-81. (Haseley)
3. Resolution to call for a public hearing on June 20, 2023 at 6:30 pm for the rezoning request of Kevin Kirk, RA Director of planning and design of Uniland Development Co. to rezone (16.34 acres +/-) of 25.50 acre (R-3) multiple family zoned parcel to a (L-1) Light industrial zoning designation 3401 Military Road. Tax Map #130.16-1-9. (Haseley)

COMMENTS

All congratulate new officer appointed. May meetings are different dates, Work Session is May 10 and the meeting is May 23.

Motion to adjourn by Councilman Carpenter, second by Councilman Teixeira. All in favor. Meeting adjourned at 6:45pm.

Respectfully submitted,

Sylvia Virtuoso

**Sylvia Virtuoso
Town Clerk**

THE MONTHLY AGENDA IS ON THE TOWN WEBSITE
www.townofniagara.com

IN MEMORIAM

Charles Bootes
Patricia Czaplak
Charles 'Jim' James Hoy
Carl F. Horst
Helen Livadi
Louise Lynch
Inez M. Mancini
Donald H. Marsden
Frank B. Martinez
Hilborn Duncan
Marian M. Lassman
Sue Bodemer
Vincenzo Perri
Patrick Vicki

TOWN BOARD OF THE TOWN OF NIAGARA

Resolution Issuing a Negative Declaration and Approving AC Power 15, LLC's Application for Site Plan Approval to Construct and Operate a Solar Facility in the Town of Niagara

WHEREAS, AC Power 15, LLC (the "Applicant") has submitted an application for site plan approval to construct and operate a solar facility within a portion of the approximately 385-acre Republic Services Allied Waste Niagara Falls Landfill complex (the "Project") in the Town of Niagara, New York (the "Application"); and

WHEREAS, the Project is proposed to be located on portions of six tax parcels including 160.07-1-5 (23.9 acres), 160.07-1-1 (25.4 acres), 145.19-1-3 (45.9 acres), 145.19-1-1 (82.0 acres), 145.19-1-4 (47.8 acres), and 145.15-1-1(74.3 acres) (the "Property"); and

WHEREAS, the Application Is a Type I action under the New York State Environmental Quality Review Act ("SEQRA"), thus a full Environmental Assessment Form ("EAF") was prepared as part of the Application; and

WHEREAS, pursuant to the Town of Niagara Code, the Application was referred to the Town Planning Board, which recommended approval; and

WHEREAS, pursuant to Section 239-m of the New York General Municipal Law, the Application was referred to the Niagara County Planning Board; and

WHEREAS, the Town Board previously declared its intent to be the SEQRA lead agency, and all other SEQRA involved agencies having consented or not objected; the Town Board has been established as the lead agency for the Project; and

WHEREAS, the Town Board has duly considered the Application, site plan, and accompanying materials, the EAF, the criteria for determining significance set forth in 6 N.Y.C.R.R. § 617.7(c) of the SEQRA regulations, the draft Negative Declaration, and such other information deemed appropriate; and

WHEREAS, the Town Board has identified the relevant areas of environmental concern, has taken a hard look at these areas, and has made a reasoned elaboration of the basis for its determination; and

NOW, THEREFORE, BE IT RESOLVED by the Town Board of the Town of Niagara that:

1. The Application will not result in any large and important impacts and, therefore, it is an action which will not have a significant adverse impact on the environment. The attached negative declaration (*see* Exhibit A), incorporated herein by reference, is hereby issued and adopted for the reasons stated in the attached negative declaration.

2. The Site Plan is hereby approved, conditioned on the granting of a use variance by the Town of Niagara Zoning Board of Appeals. The Application meets the criteria for site plan review as set forth in the Town Code. Further, the Board finds that the proposed use meets the Town's objectives of putting property into beneficial use that would not otherwise be

feasible. The proposed location will not create any significant adverse impacts on the community or neighborhood. The Board incorporates the rationale set forth in the Negative Declaration herein.

3. This resolution is effective immediately.

PASSED AND ADOPTED this 18th day of April 2023 by the Town Board of the Town of Niagara.

Exhibit A

**NEGATIVE DECLARATION
Determination of Non-Significance**

Lead Agency: **Town Board of the Town of Niagara**

Date: **April 18, 2023**

This notice is issued pursuant to Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act) of the Environmental Conservation Law.

The Town Board of the Town of Niagara (the “Board”), as Lead Agency, has reviewed the proposed project (“Action” or “Project”) and determined that it will not have a significant adverse environmental impact and that a Draft Environmental Impact Statement will not be prepared.

Name of Action: AC Power Packard Road/Pine Avenue Solar Facility

Location of Project Site:

The Proposed Project site is located within a portion of the approximately 385-acre Republic Services Allied Waste (the Parent Property) Niagara Falls Landfill complex. The Proposed Project site consists of portions of six tax parcels including 160.07-1-5 (23.9 acres), 160.07-1-1 (25.4 acres), 145.19-1-3 (45.9 acres), 145.19-1-1 (82.0 acres), 145.19-1-4 (47.8 acres), and 145.15-1-1(74.3 acres), all of which are located in the Town of Niagara; (the acreage noted is the total acreage per parcel). The Proposed Project site will be accessed from Packard Road, Town of Niagara, and Niagara County, New York. The landfill complex has a street address of 5600 Niagara Falls Blvd.

SEQRA Status: Type I

Description of Action:

AC Power 15, LLC (AC Power) is seeking Site Plan approval from the Town of Niagara Planning Board and use variance from the Zoning Board of Appeals for the proposed construction of the AC Power 15, LLC Solar Project at the Allied Waste Niagara Falls Landfill, commonly referred to as the Pine Avenue Landfill in the Town of Niagara, New York. The Proposed Project will consist of two approximately 5-megawatt alternating current (MWAC) solar photovoltaic (PV) arrays located on closed and capped portions of the landfill. AC Power proposes the development of approximately 42 acres of 385 +/-acre site zoned as Solid Waste (“SW”) with two ground-mounted (ballasted) solar PV generating Facilities.

Reasons Supporting this Determination:

The Board has identified the relevant areas of environmental concern and has taken a hard look at each of the identified areas as required by the State Environmental Quality Review Act (“SEQRA”). The Board compared the Action with the criteria for determining significance identified in 6 NYCRR § 617.7(c)(1) and in accordance with 6 NYCRR § 617.7(c)(2) and (3). As indicated below in the discussion of each criterion specified in 6 NYCRR § 617.7(c) (1), the Action will not have a significant adverse impact on the environment. As indicated below in the discussion

of each criterion specified in 6 NYCRR § 617.7(c) (1), the action will not have a significant adverse impact on the environment.

The Board has reviewed the Environmental Assessment Forms (EAF) and the criteria contained in 6 NYCRR §617.7, as well as the applications, and has determined that the Project will not have a significant impact on the environment for the following reasons:

The proposed solar facility will be constructed on existing closed and capped portions of the pine avenue landfill. The landfill caps in these areas are constructed with low permeability materials, including either geosynthetic liners or 2.0' thick clay layer. The addition of the solar panels on top of these caps will not increase storm water runoff, nor will it introduce any contaminants to runoff from the site. Additionally, due to the nature of the landfill cap, the proposed work will be conducted in a manner, which will minimize ground disturbance to the very limited areas where it will be required for completion of the project, such as the installation of the interconnection poles and equipment pads. All other work on the projects will be conducted above existing grade and will be performed using low-impact equipment.

(i) a substantial adverse change in existing air quality, ground or surface water quality or quantity, traffic or noise levels; a substantial increase in solid waste production; a substantial increase in potential for erosion, flooding, leaching or drainage problems;

The Project will not result in a substantial adverse change in existing air quality, ground or surface water quality or quantity, traffic or noise levels. Nor will the proposed use result in a substantial increase in solid waste production or the potential for erosion, flooding, leaching, or drainage problems. Short-term air impacts from construction, from vehicles, disturbing soils and storm water runoff, will be minimized by best management practices during construction.

a. Traffic Impacts

The Project will not result in a significant adverse change in traffic levels. This Action involves short-term traffic impacts from the construction and decommissioning period utilizing the existing road network, and there will be minimal traffic for maintenance during operations.

b. Noise Impacts

With the proposed work, there can be expected to be a slight increase in noise during daylight hours only for the duration of the project as a result of construction equipment; the extent of the increases will be contained to the interior of the property itself (385 +/-acre landfill complex) and are temporary in nature and similar in duration and intensity as other commercial construction activities. The Project will not result in a significant adverse change in noise levels.

b. Air Quality Impacts

The Project will not result in any significant adverse air quality impacts. The only impacts from the Action will occur short-term during construction and decommissioning.

c. Wetland Impacts

The proposed Project will not result in any adverse impact to wetland resources. The NYSDEC online Environmental Resource Mapper (ERM) did not identify any NYSDEC protected wetlands

present within the Subject Property or landfill complex. A National Wetland Inventory (NWI) freshwater pond was identified in the online mapper in the northern portion of the Subject Property. The pond, assigned classification code PUSC_x, is identified as a wetland basin or channel that was excavated by humans. In addition, a NWI riverine was identified in the southern portion of the Subject Property. The riverine, assigned classification code R4SBC, is identified as intermittent. A wetlands verification survey was completed at the Subject property on November 16, 2022 to verify the presence of the features identified by the NWI. No wetlands or waterbodies were identified within the Subject Property during the survey. It was clear from the wetlands survey that the wetland and riverine features identified in the NWI were no longer present at the site.

d. Groundwater

There will be a slight increase in impervious surfaces due to the construction of the solar arrays (e.g. ballasted foundations) and the concrete pads for the transformers; however, appropriate and required measures for storm water control will be incorporated into the project. Adequate vegetation will be preserved and/or maintained on the site to provide preliminary/natural filtration of storm water. The project area is within fully capped and closed portions of a solid waste landfill. The existing storm water management system will be utilized in accordance with New York State Department of Environmental Conservation (“NYS DEC”) requirements and subject to any associated permit requirements. Therefore, no substantial adverse change to groundwater is anticipated.

d. Erosion, Flooding and Drainage Impacts

There will be no significant adverse impacts resulting from erosion, flooding, or storm water drainage. There are no designated floodplains within the property. Proper erosion and storm water prevention controls will be put in place in accordance with a prepared SWPPP. The Project will comply with all applicable state and federal laws and regulations, including compliance with the Clean Water Act, and the NYS DEC requirement to obtain applicable permits for storm water discharges from construction activities.

e. Solid Waste Production

There will not be additional solid waste produced as a result of the Action.

(ii) the removal or destruction of large quantities of vegetation or fauna; substantial interference with the movement of any resident or migratory fish or wildlife species; impacts on a significant habitat area; substantial adverse impacts on a threatened or endangered species of animal or plant, or the habitat of such a species; or other significant adverse impacts to natural resources;

The Action will not result in the removal or destruction of large quantities of vegetation or fauna, or interfere with the movement of any resident or migratory fish or wildlife species. Project engineer consulted with the United States Department of the Interior Fish and Wildlife Service (USFWS) Information for Planning and Conservation (IPaC) official species list for the proposed Subject Property. The official species list indicated the potential presence of the monarch butterfly. No critical habitats were identified on-site; however, no critical habitats have been designated for the species. No further USFWS consultation is required for candidate species. In addition, the online NYSDEC ERM did not identify any state rare, threatened, or endangered species, or significant natural communities within the Subject Property or landfill complex. Given the industrial nature of the area, as well as the past and current landfilling use within the

complex, the expected species are likely more conducive to urbanized environments and there are other sufficient vegetated areas in the vicinity that exist. Should any potential habitat or species be observed during construction, the applicant will notify the Town immediately and appropriate action will be taken. For these reasons, no significant adverse environmental impacts to plants and animals are anticipated.

(iii) the impairment of the environmental characteristics of a Critical Environmental Area as designated pursuant to subdivision 617.14(g) of this Part;

There is no Critical Environmental Area within the Project area, thus there will be no significant adverse impacts.

(iv) the creation of a material conflict with a community's current plans or goals as officially approved or adopted;

There will be no material conflict with the Town's current plans or goals as officially approved or adopted.

(v) the impairment of the character or quality of important historical, archeological, architectural, or aesthetic resources or of existing community or neighborhood character;

The Action will not result in the impairment of the character or quality of important historical, archeological, architectural, or aesthetic resources. As part of the environmental review, consultation was undertaken with the New York State Office of Parks, Recreation, and Historic Preservation's (OPRHP) Cultural Resource Information System (CRIS) database to identify properties listed on the State and National Register of Historic Places (NRHP) on or in the vicinity of the Subject Property. As of January 5, 2023, CRIS shows no inventoried cultural resources at the Subject Property. Project engineer prepared visual cross sections from key vantage points, included in the civil plan set. On January 12, 2023, the OPRHP responded to the Project engineer, requesting that a Zone of Visual Impact and a Methodology/ Survey Work Plan be submitted to CRIS prior to undertaking any survey fieldwork. February 1, 2023, OPRHP stated that if the total array will be less than 50 acres, only providing information on adjacent properties is required. The landfill is not located in a culturally sensitive area; surrounding uses include industrial and commercial, as well as the I-190 highway corridor. In addition, the landfill operations use was previously permitted and would have included similar review and approval by the OPRHP.

The construction of a large-scale solar array is conducive to the industrial character of the area and will not result in significant impact in terms of aesthetics in comparison to other adjacent and surrounding uses. No landscaping will be necessary for the Subject Property. Aside from distance and topography, the existing landfill complex, as discussed, is surrounded by industrially and commercially zoned properties. Woody vegetation typically used for vegetated screening purposes is not permitted as the root structures of these plants would penetrate and damage the integrity of the landfill cap. Therefore, no significant adverse environmental impacts to aesthetic resources are anticipated.

(vi) a major change in the use of either the quantity or type of energy;

The intent of the project is to generate renewable energy (electricity) for the local utility grid, resulting in a net positive benefit in terms of energy impacts. Therefore, no significant adverse environmental impacts to energy are anticipated.

(vii) the creation of a hazard to human health;

The proposed Project is sited on capped and closed sections of a solid waste landfill regulated by the NYSDEC. Applicant has submitted to the NYSDEC a Post-Closure Use Modification Request and will obtain required approval for the proposed Project. The construction/installation and operation of a solar energy facility will not result in any activity that would create a hazard to human health. With regard to safety, Project Engineer used the Federal Aviation Administration (FAA) Notice Criteria Tool to determine if the proposed solar facility would require formal filing to the FAA. The FAA Notice Criteria Tool Report identified that the proposed project is in proximity to a navigation facility and requested that the project be formally filed. The Project was filed with the FAA and Determination of No Hazard to Air Navigation letters were received, requesting a filing of FAA Form 7460-2 "Notice of Actual Construction or Alteration be filed within 5 days after the construction reaches its greatest height.

In addition, the Project Engineer reviewed and evaluated the project site plan/layout and modeled the project for potential visual impacts due to glint/glare at nearby aviation facilities and surrounding roadways. The two-mile final approach paths and air traffic control tower (ATCT) for the Niagara Falls International Airport were analyzed as part of the study. As a result of the initial modeling, Applicant redesigned the proposed project array layouts to eliminate glare that could create visual impact at control towers at nearby aviation sites. Two analyses were completed and included: 1) proximal segments of nearby roads (I-190, the I-190 Bridge, Packard Road, US-182, US-265, and US-62); 2) eighteen nearby locations selected to represent observer views at neighboring properties. Overall, results indicated the proposed solar arrays will generate no significant visual impact due to glint/glare.

(viii) a substantial change in the use, or intensity of use, of land including agricultural, open space or recreational resources, or in its capacity to support existing uses;

The proposed Project does not represent a substantial change in the use or intensity of use of land from current law. The Proposed Project is sited on capped and closed portions of a solid waste landfill within an industrial area and, therefore, is not useable for recreational or public open space pursuits. For this reason, no significant adverse environmental impacts to open space and recreation are anticipated.

(ix) the encouraging or attracting of a large number of people to a place or places for more than a few days, compared to the number of people who would come to such place absent the action;

There will be no such impacts.

(x) the creation of a material demand for other actions that would result in one of the above consequences;

There will be no such impacts.

(xi) changes in two or more elements of the environment, no one of which has a significant impact on the environment, but when considered together result in a substantial adverse impact on the environment; or

There will be no such impacts.

(xii) two or more related actions undertaken, funded or approved by an agency, none of which has or would have a significant impact on the environment, but when considered cumulatively would meet one or more of the criteria in this subdivision.

There will be no such impacts. The Board specifically considered all components of the Action together to ensure that the entirety of impacts were reviewed.

For Further Information:

Contact Person: Robert Lannon, Town Engineer

Address: 7105 Lockport Rd., Niagara Falls, NY 14305

Telephone Number: 716-297-2150

