

**TOWN OF MALONE
REGULAR MEETING
February 28, 2024**

A regular meeting of the Town Board of the Town of Malone, County of Franklin and State of New York was held at the Town Offices, 27 Airport Road, Malone, NY on the 28th day of February 2024 at 6:00 p.m.

PRESENT:

Andrea Stewart, Supervisor
Jody Johnston, Councilor
Terrence Maguire, Deputy Supervisor
Brian Taylor, Councilor

ALSO PRESENT:

Abby Monica, Town Clerk
Michael Andrews, Highway Superintendent
Denice Hudson, Budget Officer
John Manley, Deputy Highway Superintendent
Bruce Burditt, Airport Manager
Alex Violo, Malone Telegram

CALL TO ORDER: Supervisor Stewart called the Regular Meeting to order at 6:00 PM with the Pledge of Allegiance.

MINUTES: For review and approval

RESOLUTION 57-2024 – Minutes

Upon motion by Councilor Johnston, second by Deputy Maguire the following resolution was ADOPTED Ayes 4 Johnston, Stewart, Taylor, Maguire

Nays 0

Approval of February 14, 2024 Regular Meeting Minutes.

Reports:

RESOLUTION 58-2024- Report

Upon motion by Councilor Taylor, second by Deputy Maguire the following resolution was ADOPTED Ayes 4 Stewart, Taylor, Johnston, Walbridge, Maguire

Nays 0

Resolved to approve the following report

January Tax Report 2024

OLD BUSINESS:

RESOLUTION 59 -2024- IFE Proposals Perimeter Fence, Phase 2 Design

Upon motion by Deputy Maguire, second by Councilor Johnston the following resolution was ADOPTED Ayes 4 Stewart, Taylor, Johnston, Maguire

Nays 0

Approval to accept the quote from MRB Group.

SUPERVISORS REPORTS:

RESOLUTION 60 -2024- MCF Physicals

Upon motion made by Deputy Maguire seconded by Councilor Johnston the following resolution was ADOPTED Ayes 4 Stewart, Maguire, Johnston, Taylor

Nays 0

Permission for Supervisor Stewart to sign MCF Physicals for Scott Fairchild, Michael Maneely, Gary Spinner, E. Phillip Delarm and Brian Gokey, and add them to the Franklin County Self Insurance Plan.

Fee for Adopting Dogs.

2023 Annual Monitoring Former Town of Malone Landfill

RESOLUTION 61 -2024- American Legion Post 219 Bleacher Project

Upon motion made by Councilor Johnston seconded by Deputy Maguire the following resolution was ADOPTED Ayes 4 Stewart, Maguire, Johnston, Taylor

Nays 0

Permission for Supervisor Stewart to sign the Preliminary Grant Application for American Legion Post 219 Bleacher Project.

TOWN OF MALONE
REGULAR MEETING
February 28, 2024

BOARD MEMBER/COMMITTEE ITEMS:

Councilor Johnston stated speaking of the Border Hounds team we have a new member on our committee, Mike Andrews. The committee and I are very excited for you to be on our team.

SUPERINTENDENT OF HIGHWAY REPORTS:

Superintendent Andrews stated he would like to post all Town highways will be closed starting Monday March 4, 2024. Andrews states the Bloomer Road Project will be out on hold as all dirt roads are in rough shape currently. He states he attended the Franklin County Safety and Traffic Meeting, and they are currently looking into the road safety on Main Street and are looking into this more. The Village Police Department plans on sending in video surveillance from Main Street to the Department of Transportation and hope they come to the Franklin County Safety and Control meeting on March 27, 2024.

RESOLUTION 62 -2024- Highway Road Closing

Upon motion made by Deputy Maguire seconded by Councilor Johnston the following resolution was

ADOPTED Ayes 4 Stewart, Maguire, Johnston, Taylor

Nays 0

Approval for all Town of Malone highways will be closed and posted beginning March 4,2024 for all vehicles over 6 tons including load. Per article 11 section 1660 highway law.

CORRESPONDENCE:

RESOLUTION 63 -2024- Thomas Hill Solar Farm Project Lead

Upon motion made by Councilor Johnston seconded by Deputy Maguire the following resolution was

ADOPTED Ayes 4 Stewart, Maguire, Johnston, Taylor

Nays 0

WHEREAS, Quantum DPI Group Inc., submitted an application to the Village of Malone for a 5.0 MW solar farm at 189 Fort Covington Street, Malone, NY 12953, and

WHEREAS, Quantum DPI Group In., an application that is currently incomplete, to the

Town of Malone for a 4.5 MW solar farm at 189 For Covington Street, Malone, NY 12953, and **WHEREAS**, on or about February 14, 2024 the Village of Malone declared its intent to

claim lead agency for purposes of the State Environmental Review Act (“SEORA”) on the Thomas Hill Village of Malone Solar Farm Project, and

WHEREAS, SEORA prefers related actions to be reviewed together and considering only part of an action is contrary to the intent of SEORA, and

WHEREAS, the Thomas Hill Village of Malone Solar Project and the Thomas Hill

Town of Malone Solar Project will have similar environmental impacts because they are located at the same address and the construction and operation schedules of the projects are identical, and

WHEREAS, the Town Board of the Town of Malone believes the SEQR process for both projects should be combined so there is not improper segmentation, and

WHEREAS, the Town Board of the Town of Malone has the capability and resources to be lead agency of the combined SEORA review, and

NOW THEREFORE, the Town Board resolves to object to the Village of Malone’s declaration of lead agency of the Thomas Hill Village of Malone Solar Project.

AND THEREFORE, the Town Clerk is hereby directed to enter this resolution and the attached letter to the Village providing written notification of the Town of Malone’s objection in the minutes of this meeting.

AND THEREFORE, the Town Clerk is hereby directed to send this resolution and the attached letter to the Village providing written notification of the Town of Malone’s objection to their declaration of lead agency of the Thomas Hill Village of Malone Solar Project.
Dear Mayor Dumas, Village Trustees, Village Clerk and Village Code Officer:

The Town of Malone objects to the Village of Malone taking lead agency for the Thomas Hill Village of Malone Solar Farm Project. There are two proposed solar projects on a contiguous parcel of land both proposed by Quantum DPI Group Inc. but one is in the Town and one is just

TOWN OF MALONE
REGULAR MEETING
February 28, 2024

over the border in the Village. The Town of Malone believes State Environmental Quality Review (“SEQR”) of both projects should be combined.

A single integrated environmental review is necessary for the Thomas Hill Town of Malone Solar Project (“Town Project”) and the Thomas Hill Village of Malone Solar Project (“Village Project”) (or combined “Thomas Hill Projects”) because they are essentially one large project and have identical, or similar environmental impacts.

SEQRA strongly prefers related actions to be reviewed together. Considering only part or segment of an action contradicts the intent of SEQR.¹ Lead agencies must consider the cumulative effect of other simultaneous or subsequent actions, and reasonably related long-term, short-term, and cumulative effects must be considered with related actions.² An action is improperly segmented “whenever an agency fails to consider the overall environmental impact of actions that are related by (i) virtue of being components of the same long-range plan, (ii) cause and effect or (iii) the dependency of one action on the occurrence of another.”³ Combining SEQR review for these projects will ensure there is not improper segmentation and ensure the intent of SEQR is being followed.

Environmental impacts of these projects will be virtually identical, and the full environmental impact may not be sufficiently analyzed if review is not combined. These are a non-exhaustive list of examples of the similarities in the proposed Thomas Hill Projects and their potential impacts:

- Both projects are located on the same parcel of land. The address of both projects is 189 Fort Covington St, Malone, NY 12953 for the solar facility and associated electrical appurtenances.
- According to the owner consents, the land parcel has the same landowner.
- The projects have the same applicant, Quantum DPI Group Inc.
- The entirety of both projects will have one singular fence around the Thomas Hill Projects.
- The maintenance plan for these projects is identical.
- The expected timeframes and construction/decommissioning schedule is identical.
- There will be similar glare concerns and concerns about the impact on the Malone-Dufort Airport.
- There will be identical threatened and endangered species concerns.
- There will be similar visual impact concerns.
- There will be similar stormwater prevention concerns.

The Town hopes that the Village will accept the Town’s objection to lead agency and combine SEQRA review of the Thomas Hill Projects. If lead agency cannot be solved, the criteria for the DEC commissioner to determine lead agency is 617.6(b)(5)(v):

- Primary location of an action’s impacts;
- The agency that has the broadest governmental powers for investigating the impacts; and
- The agency that has the greatest capability for the most thorough environmental assessment of the action.

¹ *Sum Co. (R & M) v. City of Syracuse Indus. Dev. Agency*, 209 A.D.2d 34, 46–47 (1995).

² *Matter of Long Is. Pine Barrens Socy. v. Planning Bd. of Town of Brookhaven*, 80 N.Y.2d 500, 512–513; *Matter of Village of Westbury v. Department of Transp. of State of N.Y.*, 75 N.Y.2d 62, 68–71; *Matter of Save the Pine Bush v. City of Albany*, 70 N.Y.2d 193, 205–207; *Oronodaga Landfill Sys. v. Flacke*, 81 A.D.2d 1022.

³ § 4:8. Segmented review is generally prohibited—When related activities are a single SEQRA action, 9 N.Y.Prac., Environmental Law and Regulation in New York § 4:8 (2d ed.)

TOWN OF MALONE
REGULAR MEETING
FEBRUARY 28, 2024

The primary location of the impacts are both the Village and the Town because the location of the Thomas Hill Projects are on the border of the Village and Town. Notably, whereas the Village of Malone does not have a solar law, the Town does have a solar law to assist the Town with environmental review. The Town has also performed SEQR with a solar project before. Further, the Town has the greatest capability for thorough environmental assessment because it has consultants to aid them through the SEQRA process.

The Village would still be an involved agency throughout the combined SEQR process. Involved agencies are part of coordinated review which means they provide the lead agency with observations and concerns about the proposed action and its potential environmental impact. If a positive declaration is made, involved agencies also participate in scoping, assist the lead agency in reviewing the draft environmental impact statement, provide formal comments during the public review period, and assist the lead agency in substantive comments on the final environmental impact statement.⁴

Therefore, in conforming with SEQRA, review must be combined for the Thomas Hill Projects and the Town objects to the Village declaring lead agency of the Thomas Hill Village of Malone Solar Farm Project. The Town of Malone should be lead agency of the combined environmental review with the Village as an involved agency.

RESOLUTION 64 -2024- NYSTCA

Upon motion made by Supervisor Stewart seconded by Deputy Maguire the following resolution was

ADOPTED Ayes 4 Stewart, Maguire, Johnston, Taylor

Nays 0

Permission for Town Clerk Monica to attend NYS Town Clerk Association Conference in Albany.

From Friends of the North Country: NYS Office of Community Renewal 2021 Housing Grant Update (689HR305-21).

From Carla Gerber: Webster Street Road.

From Charter Communications: Change to Channel Lineup.

NEW BUSINESS:

RESOLUTION 65 -2024- Gerry Cahill Rec Commission

Upon motion made by Councilor Johnston seconded by Deputy Maguire the following resolution was

ADOPTED Ayes 4 Stewart, Maguire, Johnston, Taylor

Nays 0

Approval to reappoint Gerald Cahill for a seven-year term on the Joint Recreation Commission.

BILLS FOR AUDIT & PAYMENT:

Batch No. 1376

Voucher Nos. 166-202

<i>General Fund (A)</i>	<i>\$10,302.77</i>
<i>Part Town General Fund (B)</i>	<i>31.24</i>
<i>Highway Outside (DB)</i>	<i>6,313.26</i>
<i>Highway Town Wide (DA)</i>	<i>3,164.79</i>
<i>Trust & Agency (T)</i>	<i>1,869.89</i>
<i>Community Development(CD)</i>	<i>34,705.99</i>
<i>Airport Capital Projects (H4)</i>	<i>43,519.60</i>
<i>Landfill Capital Project (H7)</i>	<i>1,035.00</i>
<i>West Water (FW)</i>	<i>12,500.00</i>
<i>East Water (FE)</i>	<i>15,00.00</i>

GRAND TOTAL **\$128,442.54**

TOWN OF MALONE
REGULAR MEETING
February 28, 2024

RESOLUTION 66 -2024 Bills

Upon Motion by Deputy Maguire, second by Councilor Johnston the following resolution was.

ADOPTED Ayes 4 Stewart, Johnston, Taylor, Maguire

Nays 0

Resolved to pay the bills listed.

RESOLUTION 67 -2024 Adjourn

Upon Motion of Deputy Maguire and seconded by Councilor Johnston the following resolution
Was ADOPTED Ayes 4 Stewart, Johnston, Taylor, Maguire

Nays 0

The next Regular Board Meeting will be March 13, 2024 at 6:00 p.m., preceded by IDA Meeting
at 5:45 p.m. at 27 Airport Rd. Malone, NY 12953.

RESPECTFULLY SUBMITTED,



Abby Monica, Town Clerk