

**Town of Malone  
Regular Board Meeting  
July 11, 2018**

A Regular Meeting of the Town of Malone was held on July 11, 2018 at the Town Offices, 27 Airport Road, Malone, New York. The meeting began at 6:00PM.

PRESENT: Supervisor Andrea Stewart  
Deputy Supervisor Maguire  
Councilor Ed Lockwood  
Councilor Louise Taylor

ABSENT: Councilor Candy Gadway

ALSO PRESENT: Jean Marlow, Town Clerk  
Denice Hudson, Budget Officer  
Bruce Mallette, Superintendent of Highways  
Brett Hastings, Bliss, NY, Geronimo Energy  
Dana Rockhill, Brushton, NY  
Diane Rockhill, Brushton, NY  
Brookie Danussi, Louisville, NY  
Michael Mastry, Malone  
Josh Davis, Malone Telegram  
Chelsea Kasper, Malone

**CALL TO ORDER:**

Supervisor Stewart called the meeting to order with a pledge of allegiance to the flag.

*Resident Dana Rockhill: Wanted to inquire about purchasing the light tower. Deputy Highway Superintendent Bruce Mallette let him know it would be posted on Auctions International website soon.*

*Resident Michael Mastry: Talked to the board about an issue with a culvert near his home. The Highway Department has patched it as necessary. It was determined that there is a need for replacement, instead of repairing after each rain storm. The following Resolution was passed as a result:*

**RESOLUTION 202-2018 – Replace Culvert Pipe on McCabe Road**

On a motion of Supervisor Stewart, seconded by Councilor Lockwood, the following resolution was

ADOPTED Ayes 4 Stewart, Maguire, Lockwood, Taylor  
Nays 0

Resolved to give permission to the Highway Department to replace Culvert Pipe on the McCabe Road.

*Brett Hastings with Geronimo Energy came in to speak regarding the proposed Solar Project. The past project was planned at 150 megawatts; they are considering taking it down to a third of the size of the original proposal. This will leave more room for buffering at roadways. They want to give the town ability to embrace renewable energy in a more manageable fashion. They would also, possibly, build a kiosk for tourist and school field trip.*

*Supervisor Stewart wanted to note the irony in the timing of this visit as we have a proposed solar law on the agenda. She also commented that even at a third of the size of the original proposal it would still be the largest proposed solar project in New York State.*

*When asked if this proposal would replace the existing proposal of 150 megawatts. Mr. Hastings said that yes this proposal would be in place of the original plan.*

**MINUTES:**

**RESOLUTION 203-2018 – Meeting Minutes from June 27, 2018 and Special Meeting Minutes from July 3, 2018**

On a motion of Deputy Supervisor Maguire, seconded by Councilor Taylor, the following resolution was

ADOPTED Ayes 4 Stewart, Maguire, Lockwood, Taylor  
Nays 0

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Resolved to approve the minutes from the Regular Meeting June 27, 2018 and The Special Meeting minutes from July 3, 2018.

**REPORTS:**

**RESOLUTION 204-2018 - Reports**

On a motion of Councilor Lockwood, seconded by Deputy Supervisor Maguire, the following resolution was

ADOPTED Ayes 4 Stewart, Maguire, Lockwood, Taylor  
Nays 0

Resolved to approve the following reports:

*Town Clerk* – June 2018  
*Airport Service Worker* – June 2018  
*Supervisor's Report* – June 2018  
*Budget to Actual* – to June 2018

**OLD BUSINESS:**

**Runway 5-23 Re bid:** Bids have been reviewed and submitted to the FAA. We received 2 bids. This information has been reviewed and submitted to the FAA. We should be able to approve at the next board meeting.

**SUPERVISOR REPORTS:**

**NYSERDA Grant Extension Letter.** We received a 2-month extension on this grant application. We are waiting for numbers from National Grid in order to determine the cost for transferring all street lights to LED and we are also waiting on numbers for some additional projects that we hope to include in this grant application.

**August Meeting Schedule**

**RESOLUTION 205-2018** – On a motion of Councilor Lockwood, seconded by Councilor Taylor, the following resolution was

ADOPTED Ayes 4 Stewart, Maguire, Lockwood, Taylor  
Nays 0

Resolved to approve changing the August meeting schedule to one meeting on August 15, 2018.

**BOARD MEMBERS/COMMITTEE ITEMS:** None

**SUPERINTENDENT OF HIGHWAYS:**

Working on roads. Gravel, grading and dust control.

Some equipment issues.

Whitten Road: Plan to get back to this project next week. Needed to tend to other roads, safe roads take priority.

Councilor Lockwood asked about the 3 Town roads that were identified during Road Inspections that leads to only one house, with no through traffic. Officially on our records they are considered town roads. Is there a way to downgrade them and not provide services. The roads in question are Mattimore, Brockway and Cunningham. This will be referred to the Town Attorney to see what options we have regarding these streets.

Deputy Supervisor Maguire asked about the personal fuel tanks at the airport that need to be removed and how do we get this process started. The removal is the owners' responsibility, although there is a specific set of rules set forth by DEC for this removal process. This issue will be referred to the Town Attorney.

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**NEW BUSINESS:**

**RESOLUTION 207-2018- Introduction of a Proposed Solar Law**

On a motion of Deputy Supervisor Maguire, seconded by Councilor Lockwood, the following resolution was

ADOPTED Ayes 4 Stewart, Maguire, Lockwood, Taylor  
Nays 0

Resolved to adopt the following:

**ADOPTION BY THE TOWN BOARD  
OF THE TOWN OF MALONE  
OF A RESOLUTION TO INTRODUCE  
A PROPOSED SOLAR LAW**

**WHEREAS**, the Town Board of the Town of Malone recognizes the emergence and growing use of solar energy as a renewable energy resource, and

**WHEREAS**, the Town of Malone's current Solar Energy Law does not adequately meet the Town's objectives, which include:

- A. To protect and promote the farmland and agricultural economy and culture.
- B. To protect and promote scenic and environmental resources by minimizing Solar Energy Systems' siting impacts on Malone's scenic and environmental resources such as the Adirondack Scenic Byway, flood plains, historic sites, conservation easements, trails, parklands, wetlands, wildlife and scenery, and areas for recreational and outdoor activities.
- C. To protect public resources by minimizing Solar Energy Systems' siting impacts on airports and other government lands.
- D. To take advantage of a safe, abundant, renewable and non-polluting energy resource in a way that is consistent with the nature and character of the Town, and

**WHEREAS**, an amendment to the Town of Malone's current zoning ordinance may be necessary to allow for the use of solar energy generation while meeting the objectives of the Town and its residents, and

**WHEREAS**, consideration is warranted of a proposed local law to amend the current zoning ordinance of the Town of Malone to establish a Solar Law to plan for well-sited solar projects in order to protect and promote the health, safety, and welfare of the community, and

**WHEREAS**, Section 20, Subsection 4 of New York State's Municipal Home Rule Law allows for the introduction of a proposed Local Law by a member of a Town Board, and

**WHEREAS**, the Town Board of the Town of Malone finds it in the best interest of the Town to consider and introduce said Local Law,

**NOW, THEREFORE**, the Town Board of the Town of Malone hereby introduces the proposed "Town of Malone Solar Law," a copy of which is attached hereto and made a part hereof, and the Town Clerk is hereby directed to enter said proposed Local Law in the minutes of this meeting.

**\*DRAFT\***

**Local Law Number \_\_\_ of 2018  
Town of Malone Solar Energy Law**

**1. Authority**

This Solar Energy Law is adopted pursuant to New York State Municipal Home Rule section 10(1)(ii)(d)(3), which authorizes the Town of Malone (“Malone” or the “Town”) to adopt and amend local laws that are not inconsistent with the constitution nor general law.

**2. Purpose** A. To protect and promote the farmland and agricultural economy and culture.

B. To protect and promote scenic and environmental resources by minimizing Solar Energy Systems’ siting impacts on Malone’s scenic and environmental resources such as the Adirondack Scenic Byway, flood plains, historic sites, conservation easements, trails, parklands, wetlands, wildlife and scenery, and areas for recreational and outdoor activities;

C. To protect public resources by minimizing Solar Energy Systems’ siting impacts on airports and other government lands.

D. To take advantage of a safe, abundant, renewable and non-polluting energy resource in a way that is consistent with the nature and character of the Town.

A. Building Integrated Solar Energy System – A combination of Solar Panels and Solar Energy Equipment integrated into any building envelope system such as vertical facades, semitransparent skylight systems, roofing material, or shading over windows.

B. Farmland of Statewide Importance – Land designated as “Farmland of Statewide Importance” in the U.S. Department of Agricultural Natural Resources Conservation Service (NRCS)’s Soil Survey Geographic (SSURGO) Database on Web Soil Survey. Farmland of Statewide Importance is of statewide importance for the production of food, feed, fiber, forage, and oilseed crops as determined by the appropriate state agency or agencies. Farmland of Statewide

The purpose of this Solar Energy Law is to plan for well-sited solar projects in order to protect and promote the health, safety, and welfare of the community. The objectives include:

**3. Definitions**

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Importance may include tracts of land that have been designated for agriculture by state law.

C. Ground-Mounted Solar Energy System – A Solar Energy System that is directly installed in the ground and is not attached or affixed to an existing structure.

D. Large-Scale Solar Energy System – Any Ground-Mounted Solar Energy System with an area of more than 2,000 square feet of Solar Panel surfaces.

E. Prime Farmland – Land designated as “Prime Farmland” in the U.S. Department of Agricultural Natural Resources Conservation Service (NRCS)’s Soil Survey Geographic (SSURGO) Database on Web Soil Survey. Prime Farmland has the best combination of physical and chemical characteristics for producing food, feed, forage, and fiber and oilseed crops and is also available for these land uses.

F. Roof-Mounted Solar Energy System – A Solar Energy System located on the roof of any legally permitted building or structure where the Solar Panels are wholly contained on the rooftop of the building or structure.

G. Solar Energy Applicant – The individual/individuals or entity/entities that applies for the installation of a Large-Scale Solar Energy System.

H. Solar Energy Equipment – Electrical material, hardware, inverters, conduit, storage devices, or other electrical and photovoltaic equipment associated with the production of electricity.

I. Solar Panel – A photovoltaic device capable of collecting and converting solar energy into electricity.

J. Solar Energy System – The components and subsystems required to convert solar energy into electric energy suitable for use. The term includes, but is not limited to, Solar Panels and Solar Energy Equipment. The area of a Solar Energy System includes all the land inside the perimeter of the Solar Energy System.

K. Town Agricultural Land – Land identified as actual or proposed “Agricultural Properties” in “Town of Malone Land Use Plan Map,” *available at*, [http://www.malonetown.com/PDF/Planning%20&%20Zoning/maps\\_malonetown\\_plan\\_may2007.pdf](http://www.malonetown.com/PDF/Planning%20&%20Zoning/maps_malonetown_plan_may2007.pdf)

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**4. Applicability** A. This law shall apply to all Solar Energy Systems installed or modified after this law's effective date.

B. Modifications to existing Solar Energy Systems that increase the Project Site by more than 5% of the original Project Site area (exclusive of moving any fencing) shall be subject to this Local Law.

C. This law does not apply to general maintenance, repair, and Building Integrated Solar Energy Systems.

**5. Permitting Requirements** A. A Zoning Permit shall be required prior to the installation of a Solar Energy System. In addition, a Special Use Permit shall be required prior to the installation of a Large-Scale Solar Energy System.

B. Roof-Mounted Solar Energy Systems attached to any lawfully permitted building or structure shall be permitted as an accessory use in all zoning districts and exempt from site plan review under the local zoning code or other land use regulation, so long as the Roof-Mounted Solar Energy System complies with the following design requirements: 1) Setback. Roof-Mounted Solar Energy Systems shall adhere to the setback restrictions of the underlying zoning district.

2) Height. Roof-Mounted Solar Energy Systems shall have no more than 8 inches between the surface of the roof on which it is mounted and the highest edge of the system.

3) Panels installed on a sloping roof must be mounted at the same angle as the roof's surface (i.e. parallel to the roof surface on which they are mounted or attached).

4) Where panels are installed on a flat or near flat roof there must be a perimeter area around the edges of the roof for emergency access and maintenance work. The Enforcement Officer may require larger buildings to have internal walkways to equipment, access hatches, stairways, ladders, and other roof penetrations or equipment.

5) Screening. Panels installed on a flat or near flat roof shall be screened by a parapet wall or other screening materials approved by the Enforcement Officer, which is at an equal height as the top of the panels.

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C. Ground-Mounted Solar Energy Systems with a total surface area of all Solar Panels 2,000 square feet or less shall be permitted in all zoning districts as accessory structures and shall be exempt from site plan review under the local zoning code or other land use regulations, so long as the Ground-Mounted Solar Energy System complies with the following design requirements: 1) Setback. Ground-Mounted Solar Energy Systems shall adhere to the setback restrictions of the underlying zoning district.

2) Height. A Ground-Mounted Solar Energy System height—from the highest natural grade below each solar panel—must not exceed 10 feet in Residential Districts or 15 feet in all other Districts.

3) Yard Location. Ground-Mounted Solar Energy Systems in residential districts shall be installed in the side or rear yards.

4) Lot Coverage. A Ground-Mounted Solar Energy System shall not exceed 20% of its lot.

5) Screening. Ground-Mounted Systems shall be located in a way that the Enforcement Officer approves as reasonably avoiding and/or minimizing impacts of views from surrounding properties and reasonably minimizing changes in shading for adjoining properties.

6) Ground-Mounted Scale Solar Energy Systems shall not be located in the following areas:

a. Prime Farmland, Farmland of Statewide Importance, and/or Town Agricultural Land.

b. The Adirondack Scenic Byway area as designated by the Scenic Corridor area on the “Town of Malone Land Use Plan Map,” *available at*, [http://www.malonetown.com/PDF/Planning%20&%20Zoning/maps\\_malonetown\\_plan\\_may2007.pdf](http://www.malonetown.com/PDF/Planning%20&%20Zoning/maps_malonetown_plan_may2007.pdf)

c. Areas including flood plains, historic sites, airports, government lands, conservation easements, trails, parklands, and wetlands as identified by the New York State Department of Environmental Conservation or the United States Army Corps of Engineers.

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d. On slopes greater than fifteen percent (15%), unless the Solar Energy Applicant can demonstrate through engineering studies and to the satisfaction of the Town Engineer that the proposed development will cause no adverse environmental impact that will not be satisfactorily mitigated.

D. Large-Scale Solar Energy Systems are permitted as principal and accessory uses through the issuance of a Special Use Permit as approved by the Town Board with prior review and recommendations on the Site Plan by the Planning Board, subject to the following requirements:

1) Applications for the installation of a Large-Scale Solar Energy System shall be reviewed by the Zoning Officer and referred, with comments, to the Town Planning Board for its review and recommendation. The Town Planning Board's recommendations, along with the Zoning Officer's comments, shall be referred to the Town Board for its review and action.

2) No Special Use Permit or renewal thereof or amendment of a current Special Use Permit relating to a Large-Scale Solar Energy System shall be granted by the Town Board unless the Solar Energy Applicant demonstrates that the Large-Scale Solar Energy System:

a. Conforms with all federal and state laws and all applicable rules and regulations promulgated by any federal or state agencies having jurisdiction.

b. Is designed and constructed in a manner which minimizes visual impact to the extent practical.

c. Complies with all other requirements of the Town of Malone Zoning Law and applicable guidelines unless expressly superseded herein.

d. Conforms with all adopted plans of the Town of Malone.

e. Complies with the setback requirements set forth in the underlying zoning district.

f. The height, from the highest natural grade below each Solar Panel, does not exceed 10 feet in Residential Districts or 15 feet in all other Districts.

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g. The Large-Scale Solar Energy System must accommodate emergency access.

3) An application for a Special Permit for a Large-Scale Solar Energy System shall be a Type I action under the State Environmental Quality Review Act ("SEQRA").

4) Special Use Permit Application Requirements. For a Special Use Permit application, the Solar Energy Applicant must submit the following: a. A completed project application form in such detail and containing such information as the Town Board may require.

b. A Full Environmental Assessment Form ("EAF") for the proposed Large-Scale Solar Energy System, which the Town Board shall require in fulfillment of the State Environmental Quality Review Act ("SEQRA"). The Town Board shall also require the submission of a more detailed visual analysis based on the information in or analysis of the EAF.

b c. A site plan in accordance with the requirements of this section including, without limitation: i. Name, address, and phone number of the person preparing the reports.

b ii. Postal address and Tax Map parcel number of the property.

b iii. Zoning district in which the property is situated.

b iv. Exact location including geographic coordinates of the proposed Large-Scale Solar Energy System including any Solar Panels, Solar Energy Equipment, and extensions to any interconnection equipment if applicable.

b v. Identification on site plans of areas including onsite or nearby Farmland of State Importance, Prime Farmland, Town Agricultural Land, the Adirondack Scenic Byway, slopes greater than 15%, flood plains, historic sites, airports, other government lands, conservation easements, trails, parkland, and wetlands as identified by

b  
b

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a the New York State Department of Environmental Conservation, or the United States Army Corps of Engineers.

a vi. Maximum height of the proposed Solar Energy System, including all appurtenances.

vii. Details of the Solar Energy System including but not limited to: a. An equipment specification sheets for all Solar Panels, Solar Energy Equipment, interconnection equipment and extensions thereto, mounting systems, and any other significant components that are to be installed;

b. The Solar Energy System's proposed solar energy production capacity;  
and

c. The basis for the calculations of the Solar Energy System's capacity.

viii. Location, type, and intensity of any lighting on the site.

ix. Property boundaries and names of all adjacent landowners.

x. If real property for the proposed project is to be leased, then the legal consent between all parties, specifying the use(s) of the land, including easements and other agreements, must be submitted. Additionally, a document must be submitted that clearly delineates the party responsible for decommissioning including if the owner or operator of the Solar Energy System abandons it for any reason. Examples of such a document are a Lease, Memorandum of Lease, or Letter of Agreement.

xi. Location of all other structures on the property.

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a xii. Design details of how the Large-Scale Solar Energy System will accommodate emergency access. The details may include, but not be limited to, items such as the height, access ways for vehicles, firefighting capabilities, and other prominent features.

a xiii. Blueprints and a site plan showing the layout of the Large-Scale Solar Energy System, which must bear the seal of a design professional licensed to practice in New York State.

a xiv. Description of continuing Large-Scale Solar Energy System maintenance as well as property upkeep such as mowing and trimming.

a xv. Location, nature, and extent of any proposed fencing, landscaping, and screening.

a xvi. Location, nature, and extent of any proposed utility easements, access roads, or drives.

a xvii. Glare assessment and any mitigation efforts that may be utilized to minimize glare.

xviii. Decommissioning plan as set forth in the section titled "Abandonment and Decommissioning." d. A Solar Energy Applicant must also submit a plan for clearing and or grading of the site and a Stormwater Pollution Prevention Plan (SWPPP) for the site.

5) Special Use Permit Standards.

a. Appearance and Buffering:

i. The Large-Scale Solar Energy System shall have the least visual effect practical on the environment, as determined by the Town Board. Based on site specific conditions, including topography, the use of contiguous properties and their structures, any vehicles on or off the road, any airplanes, or uses by other possible impacted entities, reasonable efforts shall be made to minimize visual impacts by preserving

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i natural vegetation, and providing landscape screening to abutting residential properties and roads, but screening should minimize the shading of Solar Panels.

i ii. Any glare produced by the Solar Energy System shall not impair or make unsafe the use of contiguous properties and their structures, any vehicles on or off the road, any airplanes, or uses by other possible impacted entities as determined by the Town Board.

i iii. Any exterior lighting installed shall have the least visual effect practical on the contiguous properties and their structures, any vehicles on or off the road, any airplanes, or uses by other possible impacted entities and shall be approved by the Town Board.

i iv. The Town Board may require additional information, such as line-of-sight drawings, detailed elevation maps, visual simulations, before and after renderings, and alternate designs to more clearly identify adverse impacts for the purpose of their mitigation.

i v. For sites where the Solar Energy System is the primary use, equipment and vehicles not used in direct support, renovations, addition, or repair of the Large-Scale Solar Energy System shall not be stored or parked on the site.

b. Access and Parking:

i vi. Large-Scale Solar Energy Systems must be enclosed by fencing to prevent unauthorized access. Warning signs with the owner's or operator's name and emergency contact information must be placed on any access point to the Solar Energy System and on the perimeter of the fencing as deemed appropriate by the Town Board. The fencing and the system shall be further screened by any landscaping or decorative fencing needed to avoid adverse

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i aesthetic impacts as approved by the Town Board.

i vii. Motion-activated or staff-activated security lighting around the Project Site or accessory structure entrance may be installed provided that such lighting does not project off the Project Site. Such lighting should only be activated when the area within the fenced perimeters has been entered.

i viii. A locked gate at the intersection of the access way and a public road may be required to obstruct entry by unauthorized vehicles. Such gate must be located entirely upon the lot and not on the public right-of-way.

c. Engineering and Maintenance:

i ix. Large-Scale Solar Energy Systems shall be built, operated, and maintained to acceptable industry standards, including but not limited to the most recent, applicable standards of the Institute of Electric and Electronic Engineers (“IEEE”) and the American National Standards Institute (“ANSI”).

i x. The Town, at the expense of the Solar Energy Applicant, may employ its own consultant(s) to examine the application and related documentation and make recommendations as to whether the criteria for granting the Special Use Permit have been met, including whether the Solar Energy Applicant’s conclusions regarding safety analysis, visual analysis, structural inspection, and stormwater management aspects are valid and supported by generally accepted and reliable engineering and technical data and standards.

i xi. Any Solar Energy System shall not exceed 20% of its lot.

i xii. The Town Board may impose conditions on its approval of any Special Use Permit under this

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i section to enforce the standards referred to in this Local Law or to discharge its obligations under SEQRA.

6) Upon review of the application, the Town Board may approve, approve on conditions, or deny the application.

**6. Abandonment and Decommissioning** A. Decommissioning Plan and Cost Estimate. The Solar Energy Applicant must include with its application a detailed written plan with an estimate, in current dollars, of the cost of hiring a third party to decommission the Large-Scale Energy System. At a minimum, the decommissioning plan and cost estimate must include the cost to load, transport, and dispose of the Large-Scale Energy System components from the Project Site, and a planned timeframe for each of these steps. Cost estimates must also include or reflect the design, materials, equipment, labor, administration, and quality assurance for decommissioning. The decommissioning cost estimate must not incorporate any salvage value that may be realized with the sale of materials, facility structures or equipment, land, or other assets associated with the Large-Scale Solar Energy System at the time of decommissioning. The total decommissioning cost estimate must be increased by a contingency factor of 25%. The supporting documentation used to substantiate the cost estimates must be submitted with the cost estimates to the Town Board for review and approval.

B. Letter of Credit. 1) A Solar Energy Applicant must obtain an irrevocable letter of credit for decommissioning the Large-Scale Energy System, which conforms to the requirements of this Local Law. The letter of credit must be effective no later than the date the building permit for the project is issued. The issuing institution must be an entity that has the authority to issue letters of credit. The original letter of credit must be submitted to the Town Board for review and approval along with evidence or a certification by the issuing institution that the institution meets the requirements of this Local Law.

2) The letter of credit must be accompanied by a letter from the Solar Energy Applicant referring to the letter of credit by number, issuing institution, and date, and providing the

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following information: name and address of the Solar Energy System and the amount of funds.

3) The letter of credit must be irrevocable and issued for a period of at least one year in an amount at least equal to 125% of the current cost estimate for decommissioning the Large-Scale Solar Energy System. The letter of credit must provide that the expiration date will be automatically extended for a period of at least one year unless the issuing institution has cancelled the letter of credit in accordance with the conditions for cancellation set forth in this Local Law.

4) Any notice of cancellation, reinstatement, or any other changes to the letter of credit must clearly identify each owner or operator for which the letter of credit provides financial assurance, including the name and address of the owner or operator, and the name, address, and amount assured for the Large-Scale Solare Energy System.

5) If the issuing institution cancels a letter of credit, including if the issuing institution decides not to extend the letter of credit beyond its expiration date, then the following process is required: a. The issuing institution must send a notice of cancellation by certified mail to the owner or operator and to the Town Board 120 days in advance of cancellation.

b. The owner or operator must obtain a new letter of credit and submit it, along with other documentation required by this Law to be submitted along with a letter of credit, to the Town Board within 90 days after both the Town Board and the owner or operator receive the notice of cancellation from the issuing institution

c. Town Board must review the letter of credit and accompanying documentation and determine whether to grant written approval of the new letter of credit.

6) The letter of credit may only be cancelled under the following conditions:

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a. The Town Board authorizes cancellation in advance and in writing and the owner or operator substitutes alternate financial assurance that provides for continuous financial assurance in effect until the owner or operator is no longer required to demonstrate financial assurance; or

b. The owner or operator is no longer required to demonstrate financial assurance.

7) The letter of credit must be in the form of Attachment "1" to this Local Law.

8) The letter of credit may be drawn upon under the following conditions: a. Following a Town Board determination that the owner or operator has failed to perform decommissioning according to the decommissioning plan or provisions of this law, the Town Board may draw on the letter of credit and restore the site in accordance with the decommissioning plan.

b. The Town Board will draw on the letter of credit if, within 90 days of receiving a notice of cancellation from the issuing institution, the owner and operator has failed to obtain a new letter of credit and written Town Board approval in accordance with this Local Law. The Town Board may delay the drawing if the issuing institution grants an extension of the term of credit. During the last 30 days of any extension the Town Board will draw on the letter of credit if the owner or operator has failed to obtain a new letter of credit and written approval of the assurance from the Town Board.

c. Payments made under the terms of the letter of credit will be deposited as directed by the Town Board. Payments from the letter of credit proceeds must be approved in advance by the Town Board in writing.

C. Upon cessation of electricity generation or maintenance of a Solar Energy System on a continuous basis for 12 months, the Town may notify and instruct the owner and/or operator of the Solar Energy System to implement the decommissioning plan. The

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decommissioning plan must be completed within 180 days of notification.

**7. Fees and Deposits.** A. The fees for a Special Use Permit, Site Plan Review, and Zoning Permit for a Solar Energy System shall be set from time to time by Town Board resolution.

B. The Solar Energy Applicant shall deliver to the Town Board, along with its application, an amount equal to one percent (1%) of the estimated cost of the project (the "Initial Deposit"). This sum shall be held by the Town in a non-interest-bearing account, and these funds shall be available to the Town to pay consultants engaged by the Town to assist in application review. Following the grant or denial of the application, the Town shall return to the Solar Energy Applicant any excess remaining in escrow. If the escrow account has been depleted prior to grant or denial of the application, the Solar Energy Applicant shall deposit such funds necessary for the Town to pay any outstanding fees to said consultants.

**8. Zoning Permits and Special Use Permits.** A. A holder of a Zoning Permit and/or Special Use Permit from the Town Board for a Solar Energy System shall obtain, at its own expense, all permits and licenses required by applicable law, rule, regulation or code and must maintain the same, in full force and effect, until the Solar Energy System is decommissioned.

B. A holder of a Zoning Permit and/or Special Use Permit from the Town Board for a Solar Energy System shall construct, operate, maintain, repair, provide for removal of, modify, or restore the permitted Solar Energy System in strict compliance with all applicable technical, safety, and safety-related codes adopted by the Town, County, State, or United States, including but not limited to the most recent editions of the National Electrical Safety Code and the National Electrical Code, as well as accepted and responsible workmanlike industry practices and recommended practices. The codes referred to are codes that include, but are not limited to, construction, building, electrical, fire, safety, health, and land use codes. In the event of a conflict between or among any of the preceding, the more stringent shall apply.

C. Unless waived by the Town Board, there shall be a pre-application meeting for the Zoning Permit application for a Solar Energy System that requires a Special Use Permit or Site Plan review. The

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purpose of the pre-application meeting will be to address issues which will help expedite the review and permitting process. The pre-application meeting may also include a site visit at the Town Board's discretion. Costs of the Town's consultants to prepare for and attend the pre-application meeting will be borne by the Solar Energy Applicant.

D. The Solar Energy Applicant shall furnish written certification that the Solar Energy System is designed and will be constructed ("as built") to meet all local, county, state, and federal structural requirements for loads, including wind and snow loads. If the Solar Energy System is subsequently approved and constructed, similar as-built certification indicating that it has been constructed in accordance with all standards shall be furnished prior to the Town issuance of any certificate of occupancy or compliance.

E. After construction and prior to receiving a certificate of occupancy or compliance, the Solar Energy Applicant shall furnish written certification that the Solar Energy System is grounded and bonded so as to protect persons and property and installed with appropriate surge protectors by a certified and approved NYS Licensed Electrical Inspector.

A. In order to verify that the Solar Energy System's owner or operator and any and all lessees, renters and/or operators of the Solar Energy System place, construct, modify, and maintain the Solar Energy System in accordance with all applicable technical, safety, fire, building, and zoning codes, laws, ordinances, regulations, and other applicable requirements, the Town may inspect all facets of the Solar Energy System's placement, construction, modification, and maintenance.

B. Any inspections required by the Town that are beyond the Town's scope or ability shall be at the expense of the Solar Energy Applicant.

**9. Right to Inspect.**

**10. Effective Date.**

This Local Law shall take effect upon filing in the office of the Secretary of State.

**11. Severability.**

The invalidity or unenforceability of any section, subsection, paragraph, sentence, clause, provision, or phrase of this Local Law as declared by Revised 7/11/18, page 16 of 18

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the valid judgement of any court of competent jurisdiction to be unconstitutional shall not affect the validity or enforcement of any other section, subsection, paragraph, sentence, clause, provision, or phrase, which shall remain in full force and effect.

**12. Prior Local Law.**

This Local Law shall supersede or repeal any prior inconsistent Local Law. Revised 7/11/18, page 17 of 18

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Irrevocable Letter of Credit

[Name and address of banking establishment]

[Date]

Town Supervisor

Town of Malone

27 Airport Road

Malone, New York 12953

Re: Letter of Credit No. \_\_\_\_\_

Dear Town of Malone Supervisor:

We hereby establish and open our Irrevocable Letter of Credit No. \_\_\_\_\_ in your favor, at the request and for the account of [owner's or operator's name and address] up to the aggregate amount of [insert amount of dollars in words] U.S. dollars (\$), available upon presentation of:

(1) your sight draft, bearing reference to this Letter of Credit No. \_\_\_\_\_, and  
(2) your signed statement reading as follows: "I certify that the amount of the draft is payable pursuant to regulations issued under authority of the Town of Malone Solar Energy Law."

This letter of credit covers decommissioning at the following [facility or facilities]: [identify each of the owner's or operator's facilities by name and address, and the amount for each].

This letter of credit is effective as of [date] and shall expire on [date at least 1 year later], but such expiration date shall be automatically extended for a period of [at least one year] on [date] and on each successive expiration date thereafter, unless, at least 120 days before the current expiration date, we notify both you and [owner's or operator's name] by certified mail, return receipt requested, that we have decided not to extend this letter of credit beyond the current expiration date. In the event you are so notified, any unused portion of the credit shall be available upon presentation of your sight draft and the above-referred-to signed statement for 120 days after the date of Revised 7/11/18, page 18 of 18

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receipt by both you and (owner's or operator's name), as shown on the signed return receipts.

The [insert name of bank issuing letter of credit] agrees that whenever this letter of credit is drawn on, under and in compliance with the terms of this letter of credit, that [insert name of bank issuing letter of credit] shall duly honor such draft upon presentation to [insert name of bank issuing letter of credit] and the [insert name of bank issuing letter of credit] shall deposit the amount of the draft into the standby trust fund of [owner's or operator's name] or the amount will be otherwise disbursed in compliance with the Town of Malone's instructions.

We certify that the wording of this letter of credit is identical to the wording identified in the Town of Malone Solar Energy Law.

Very truly yours,

[Insert name of bank issuing credit]

By: \_\_\_\_\_

[insert name and Title of authorized employee or officer of bank issuing letter of credit.]

Date: \_\_\_\_\_

This credit is subject to the most recent edition of the Uniform Commercial Code of the State of New York.

**RESOLUTION 208-2018- Referral of Proposed Solar Law to the Planning Board**

On a motion of Councilor Taylor, seconded by Supervisor Stewart, the following resolution was ADOPTED Ayes 4 Stewart, Maguire, Lockwood, Taylor

Nays 0

Resolved to adopt the following:

**ADOPTION BY THE TOWN BOARD  
OF THE TOWN OF MALONE  
OF A RESOLUTION TO REFER THE PROPOSED  
TOWN OF MALONE SOLAR LAW  
TO THE TOWN OF MALONE PLANNING BOARD  
FOR A REPORT AND RECOMMENDATION THEREON**

**WHEREAS**, the Town Board of the Town of Malone has introduced a proposed local law — entitled the “Town of Malone Solar Law” — to amend the current zoning ordinance, and

**WHEREAS**, Section 79-22(B) of the Code of the Town of Malone requires that all proposed amendments to zoning regulations be referred to the Town Planning Board for a report and recommendation thereon, and

**WHEREAS**, the Town Board of the Town of Malone finds it in the best interest of the Town to refer the proposed Town of Malone Solar Law to the Town of Malone Planning Board for a report and recommendation thereon,

**NOW, THEREFORE**, the Town Board of the Town of Malone hereby refers the proposed Town of Malone Solar Law to the Town of Malone Planning Board for a report and recommendation thereon, a copy of which is attached hereto and made a part hereof, and the Town Clerk is hereby directed to enter this resolution in the minutes of this meeting.

**AND IT IS FURTHER RESOLVED**, that the Town Clerk is directed to transmit a copy of this resolution to the Town of Malone Planning Board.

**AND IT IS FURTHER RESOLVED**, that the Town Planning Board is directed to prepare and transmit a report and recommendation on the Proposed Town of Malone Solar Law to the Town Board within thirty (30) days after receiving said referral.

**AND IT IS FURTHER RESOLVED**, that failure to provide said report and recommendation on the proposed Town of Malone Solar Law to the Town Board within thirty (30) days after receipt of the

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referral by the Town Planning Board shall be deemed to be approval of the proposed amendment to the current zoning ordinance.

**RESOLUTION 209-2018- Journal Entries - Attorney**

On a motion of Councilor Lockwood, seconded by Deputy Supervisor Maguire, the following resolution was

ADOPTED Ayes 4 Stewart, Maguire, Lockwood, Taylor  
Nays 0

Resolved to give permission for the Budget Officer to make the following Journal Entry: A1420.1 (Attorney Personal Services) to A1420.4 (Attorney Contractual) \$22,000.00.

**RESOLUTION 210-2018- Journal Entries – Justice Court**

On a motion of Deputy Supervisor Maguire, seconded by Councilor Lockwood, the following resolution was

ADOPTED Ayes 4 Stewart, Maguire, Lockwood, Taylor  
Nays 0

Resolved to give permission for the Budget Officer to make the following Journal Entry for Justice Court Grant Purchase: A1990.4 (Contingency) to A1110.4 (Justice Court Contractual) \$860.71.

**RESOLUTION 211-2018- Permissive Referendum – Highway Equipment Reserve**

On a motion of Councilor Lockwood, seconded by Councilor Taylor, the following resolution was

ADOPTED Ayes 4 Stewart, Maguire, Lockwood, Taylor  
Nays 0

Resolved to and subject to 30 day permissive referendum, the Town of Malone will withdraw \$20,131.31 from the Highway Equipment Reserve Fund, to make the lease payment to Ford Motor Credit, as per Lease-Purchase Agreement made between the Town of Malone and Ford Motor Credit and Town Board 2018 budgetary decisions.

**EXECUTIVE SESSION:**

**RESOLUTION 212-2018- To enter in to Executive Session**

On a motion of Deputy Supervisor Maguire, seconded by Councilor Lockwood, the following resolution was

ADOPTED Ayes 4 Stewart, Maguire, Lockwood, Taylor  
Nays 0

Resolved to enter in to Executive Session, with the board members to discussing the hiring of a particular person

**RESOLUTION 213-2018- To return from Executive Session**

On a motion of Deputy Supervisor Maguire, seconded by Councilor Lockwood, the following resolution was

ADOPTED Ayes 4 Stewart, Maguire, Lockwood, Taylor  
Nays 0

Resolved to return from Executive Session, with the board members to discuss a personnel matter.

**RESOLUTION 214-2018- To hire for Deputy Clerk/Floater**

On a motion of Deputy Supervisor Maguire, seconded by Councilor Taylor, the following resolution was

ADOPTED Ayes 4 Stewart, Maguire, Lockwood, Taylor  
Nays 0

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Resolved to hire Hannah Pixley as the Deputy Clerk/Floater, starting August 1, 2018 at a prorated salary of \$24,500.00.

**RESOLUTION 215-2018- Bills for Audit and Payment**

On a motion of Councilor Lockwood, seconded by Deputy Supervisor Maguire, the following resolution was

ADOPTED Ayes 4 Stewart, Maguire, Lockwood, Taylor  
Nays 0

Resolved that the following bills have been audited and approved for payment. Voucher # 634-677

<i>General Fund (A) – Abstract #14</i>	\$ 12,448.32
<i>Part Town (B) – Abstract #10</i>	152.55
<i>Highway Outside (DB) – Abstract #13</i>	25,032.06
<i>Airport Capital Project (H4) – Abstract #9</i>	24,143.00
<i>Trust &amp; Agency (T) – Abstract #27</i>	2,092.27

**GRAND TOTAL \$ 63,868.20**

**ADJOURN:**

**RESOLUTION 216-2018**

With no further business to be brought before the Board and on a motion of Deputy Supervisor Maguire, seconded by Supervisor Stewart, the meeting was adjourned at 6:40 p.m. The next Regular Meeting is scheduled for July 25, 2018 at 6:00PM.

**RESPECTFULLY SUBMITTED,**

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**JEAN MARLOW, TOWN CLERK**