

A Town Board Agenda Meeting was held by the Town Board of the Town of Ballston on Tuesday evening, February 28, 2023, in the Meeting Room at Town Hall located at 323 Charlton Road, Ballston Spa, New York and on a Zoom webinar to only watch and listen.

PRESENT:	Eric Connolly	Supervisor
	Chuck Curtiss (via Zoom)	Councilman
	Kelly Jasinski	Councilwoman
	Rob Fendrick	Councilman
	Carol Gumienny	Town Clerk
	Bill Ryan	Counsel
	David Urkevich	Town Comptroller
ABSENT:	Mike Carota	Councilman
	Chuck Curtiss (in person)	Councilman

Supervisor Connolly called the meeting to order at 6:30 p.m. and the Pledge of Allegiance was recited.

The Supervisor introduced our new Animal Control Officer, Dave Brown. Mr. Brown stated that he started last year as Tom Shambo's backup for animal control; this year the roles have reversed. Mr. Brown has been doing animal control since 1991 with the Ballston Spa Police and since 2016 for the Town of Malta. He discussed with Mr. Shambo a couple of items that he thinks may benefit the Town and presented these to the Board. The first is a warning notice that he gives out in the Town of Malta to people who don't have their dog registered. The Town of Ballston has lost revenue from people who do not register their dog on an annual basis. This warning notice gives someone two weeks to comply; failure to do this would warrant going to court. The second item is that the Town may want to consider charging a surcharge fee on top of the annual license fee for any license not renewed within 30 days. This will hold people accountable to comply with the law. This has been successful in Malta. His phone number is on the website, and he will answer any calls. Councilman Fendrick stated that the timing of the introduction is perfect as he will be discussing a potential dog park and has been researching licensing for dog parks; he would like to speak to Mr. Brown at the end of the meeting.

Ballston Lake Sewer Update

Ed Hernandez, project engineer, stated that Environmental Facilities Corporation (EFC) has approved the change order to include the paving of Buell Heights except for a small section between William Street and Lake Hill Road; however, after speaking to Highway Superintendent Joe Whalen, this will be completed. He requested the paving for Lazur Road to be included as part of the change order and is waiting for a response. Construction of the project is complete. He is putting some punch list items together. Saratoga County Sewer District (SCSD) is reviewing all the tests performed and putting together their own punch list. Once completed, he will sit with the contractor to go over these punch list items. There is restoration work that needs to be done in the spring. Once done, approval for service will be given, possibly in May. Ms. Jasinski asked if the Town will be paving Lazur Road if it is approved by EFC. Mr. Hernandez stated that it would be done by the contractor; the work would not be done by the Town as it is not a Town road. Councilman Fendrick asked about sprucing up the area at the pump station with a change order. Mr. Hernandez stated that it is currently spruced as it can get. He could get a proposal from the contractor to submit to EFC but is doubtful after the hard time received for the paving of Buell Heights; however, he will try. Highway Superintendent Joe Whalen also suggested that the Rotary be contacted. They have a program called Town in Bloom where they plant flowers in various places to beautify areas. The Supervisor asked if there is a long list of restoration items to be done? Mr. Hernandez stated that there is because the work was done so late in the season. Grass, shrubs, and other work will be completed. Supervisor Connolly stated that at the last meeting it was discussed that there was a cracked pipe and SCSD would investigate. Mr. Hernandez stated that the pipe and other items were inspected. The contractor did the repair, and the County is satisfied.

Grants Update

Supervisor Connolly stated that the Bridge NY Grant has been submitted for the Finley Road bridge that needs replacement. Since we applied, New York State has changed the rules for the grant, receiving the grant is not looking to be in the Town's favor. One of the criteria is how many people drive over the Finley Road bridge, which is not highly travelled; this will result in a score lower than expected. The plan is to stay the course; the bridge is still operational. The Town will apply again for the grant if we don't receive it. The cost to replace the bridge is

approximately \$2 million. The Town has earmarked \$95,000 for the portion that the Town needs to match the grant, and the design work has been completed.

The New York Forward Grant is locally being called the Burnt Hills Forward effort. They held a pop-up event at the library during the mini golf event. 50-60 people completed a 9-question survey for feedback on what they want the Burnt Hills downtown area to look like. The grant will be submitted in September. Census data is being collected by the engineering firm. The next step for the group is to host a student forum at the Burnt Hills-Ballston Lake High School in March. There will be a survey and discussion tables. There will also be a community wide event at the high school at a date to be announced. The goal is to score high to receive some grant money. \$4.5 million and (2) two \$2.5 million grants are at stake.

The group is also working on a Burnt Hills business sewer district. Their goal is to find some funding to keep the cost per EDU down. Recently at the Association of Towns conference, Supervisor Connolly met a gentleman who runs a grant through the NYS Department of State; he is part of the Northern Border Regional Commission, consisting of 4-5 states. They look at projects that need funding for economic development. It was encouraged to apply for design and construction. It would be a 50-50 grant, splitting the cost in half. Supervisor Connolly is working with M.J. Engineering to stay focused on this, and a letter of intent will be drafted to apply for this grant in April or May. Councilwoman Jasinski asked how M.J. Engineering bills the Town for these services. The Supervisor stated that currently they have not done anything, only some discussions. There will be a point, if M.J. Engineering is involved in the application, when we need a price quote on what it will cost to help the Town apply for the grant and a resolution to the Board for their services. Ms. Jasinski asked if there is a possibility of having other engineering firms take an interest in this project? The Supervisor stated that we can go out to bid for anything.

The Supervisor also mentioned that Councilman Curtiss is with us tonight on Zoom; he may have some comments via text messages to put on the record which the Supervisor will read as the topics are discussed.

Parks and Recreation Committee Report

Councilman Fendrick stated that the committee met and went over three fence quotes that were obtained from reputable fence companies to create a dog park in Jenkins Park. Their recommendation to the Board is to approve one of the fence companies that the Committee unanimously agreed on. There will be a public hearing on this expense and then it may go in front of the Board to have the work done. The dog park is tentatively a three-phase project. Phase 1 will be fencing and signage which allows people to have an immediate solution to have a place to bring their dogs and physically get in and see how things will work. Phase 2 is a computer management software system that will manage the permits, the license, and the tickets. A colored tag will be issued for each dog for each new year. Phase 3 will be a scan tag system that allows access and entry to the gate to the dog park. It is important to go through a three-step process. It allows people to see how it works, it allows the Town to track how things work and allows the clerk's office to have a grasp on the how app and tracking works, and then have the scan tags. A lot of thought and effort has gone into this by the Committee. There is a power point presentation that he is prepared to present this evening. The actual presentation will be done during the public hearing on March 28th if the Board passes the scheduling of that this evening.

The Committee is also working on an unloading zone for the new pier/kayak launch on the lake. They have been in touch with Department of Environmental Conservation (DEC) and need to figure out the cost and property lines before making any recommendations. The Committee still needs an alternate member.

The Supervisor thanked the Committee for their effort and hard work on the dog park. Why have the dog park in three phases? He stated that if we were able to get to a place where we knew all the costs of the key fobs, the software, running any electrical wires and the electronics in the fence etc.; in talking with the Clerk, because she will manage a lot of this, why not just do one phase rather than three. There are some liability issues if the park is open without having a signed hold harmless agreement, which would be problematic for the Town and potential lawsuits; these need to be avoided at all costs. The Supervisor asked Councilman Fendrick why do it in three phases if we would be better off from a legal standpoint to do it as one? Councilman Fendrick stated that the first reason is that the key fob company will not give him a firm price until the fencing is in, secured and completed. He only has rough estimates which he can go over with the Supervisor after the meeting. The second reason is that he does not want to delay this fence any longer than we already have; the longer it takes to get the fence company a deposit. the longer we're going to fall back on

their list. He was given the estimate 2 or 3 weeks ago and we are pushing the fence company out 7 or 8 weeks already. If this is delayed one more meeting, installation will be mid-to late May. The longer this is delayed, the longer it's going to affect the folks that are anxiously waiting to have a place to bring their dogs. If it is thought through to get the fence in place, place a sign there and maybe don't put the gates in right away. Currently there are no gates on the fence there now. The Supervisor stated that the fence company knows that we want to install the fence; so, leave the gates off until we're ready with the electronics and the key fob. Then we put the signage up with the dog catcher's number with policies and rules in place for the dog park before we do any type of soft open.

Councilman Fendrick stated that he understands the Supervisor's point and he knew he'd probably be missing some information. The Supervisor stated that we want to get it done for the residents as quick as we can, but we must be cautious with doing any type of soft open, because if we do, we don't know what's going on. There could be a dog from anywhere without the proper vaccines. The computer programming can be done anytime. Councilman Fendrick stated that the cost for this is \$149 per month and an unlimited number of people can manage and participate in it. In addition, the purchasing of the key tags in a different color is approximately \$6 per tag if you buy them a 100 at a time. Supervisor Connolly stated that the other item that the Committee needs to discuss is who gets charged for the tag and what are is the charge? Are the Jenkins Park special district residents charged? They are already paying to maintain the park. A key fob will cost the Town \$5.95, the Village of Scotia charges \$10 for the fob, if you lose it the cost is \$20 to replace. They charge non-Village residents \$50 for the year. Councilman Fendrick thinks that we need to push forward with the fence first which is going to take the longest. The fence company needs a deposit. The rest of the items can be done in the meantime such as the signage, policies in place, and work with Bill (attorney) to get the hold harmless agreement in place. The Supervisor asked Animal Control Officer Dave Brown if he had any input on a dog park. Mr. Brown stated that he will support what the Board wants; however, it is very important to have the correct fence for a dog park. There are a lot of other laws in between the rules and policies. Each dog needs to have its own tag no matter how many dogs you have. He can discuss his thoughts with Councilman Fendrick after the meeting.

The Supervisor stated that he spoke with Highway Superintendent Joe Whalen and Building Jeff Stickles and there are two options: create an area for residents or to make it impossible to park at the pier. Councilman Fendrick stated that the Parks & Rec Committee's thought is to clear some trees at the base of the walking trail to the parking lot, make a 2-car lot and a one-way road. 15 minutes to unload. The Supervisor stated that this is very steep. Councilman Fendrick stated that if it is leveled out a little it is not that bad, the actual driveway may be steep up to the parking lot. He needs to know the property lines. He believes there is room to do this. Using a one lane road will prevent people from doing U-turns or backing into the main road. The Supervisor stated that this will cost some money but can combine this with possible guardrails being put up, as 5 cars have gone off the road this year into the ditch due to speed. If the guardrail is wrapped around near Lake Road and Outlet Road where people park, this will stop this. Councilman Fendrick wants to make sure that the snowmobile trail is not affected. The fishing pier will be installed regardless. Guardrails are possible in 2024.

Cell Phone Tower Sale

Attorney Bill Ryan is researching to see if the Town can legally sell the tower and he will have an answer at the next Board meeting. The Supervisor stated that if we sell, the money needs to stay in the Consolidated Water District. The sale will allow the completion of three water projects in the 10-year water plan: painting the interior and exterior of the McCrea Hill water tower, the purchase of a mixer for the water towers that mixes the water to prevent ice forming which helps with the longevity of the paint and update the technology for both water towers (McCrea Hill Road and Route 50). We have two offers and are waiting on a third. The highest current offer is \$1.637 million. Councilman Fendrick asked the Comptroller his thoughts on the sale. Mr. Urkevich stated that he is strongly in favor of the sale. The lump sum payment is great in net present value calculations and adjusts for time in lieu of the cash flow every year. It also mitigates the risk; we don't know what the future of technology will look like. From an operational standpoint, we can sell and cash out, if legal, or issue debt. There are no other options. Supervisor Connolly stated that the cost to do these three water projects is \$1.393 million. If we sell at \$1.6 million, this would pay for these three items with money left over in fund balance. The Water Superintendent stated that the 10-year plan was done last year, and everyone received a copy. It is a \$28 million plan which will increase yearly. He suggested to the Board to look at it.

Total Solar Acreage

Supervisor Connolly stated that currently the solar part of the zoning allows for 150 acres of total coverage. That is not the fence, it is the perimeter of the panels. There are 18 acres left after the four solar farms that were approved by the Planning Board. This is not enough to get a 5-megawatt system in. A resolution is on the agenda this evening to consider approving a host agreement at \$2,500 per megawatt over 15 years. This money goes to the Purchase of Development Rights (PDR) fund to permanently preserve open space and farmland in the rural district. Do we want to expand the 150 acres to 180 or 200, enough to let one more solar farm come in? If we do, we will open this up for 6 months to receive proposals for a commercial solar installation. During this time, the Planning Board would pick the one that is highly screened; this is the goal to keep the farm out of sight and still generate host agreement income for the PDR program. After 25 years, they will renew and renegotiate a new host agreement, or use the funds in escrow to decommission which becomes farmland again. He looked for the Boards thoughts. Councilman Fendrick asked how many acres are needed to do a 5 megawatt. The Supervisor stated 30 acres. Currently there are 18 acres. It is unlikely this land would be used. Councilwoman Jasinski stated that there are four approved solar projects, and we promised our residents that these would not be visible. There are three are on Middleline Road and she doesn't she how two of these won't be visible. She is not in favor of adding acreage until we see what we have built and the impact to the Town. The Supervisor stated that Councilman Curtiss texted that he agrees with Councilwoman Jasinski and that the Farmland Protection Committee would like to keep it at 150 acres max. The Supervisor stated that it may be wise to wait to see what kind of reaction we receive from our residents when the solar farms are completed. The zoning can be tweaked if the screening is not sufficient. Supervisor Connolly also stated that there is a list of items in our zoning that need tweaking which will be done soon.

Clean Energies Committee Name Change

Councilwoman Jasinski stated that the new members of the Committee would like to change the name of the Committee to Green Community Committee and expand the portfolio of the committee. This will attract more members. Their mission statement would also be changed. This would done by a Board resolution. They are meeting tomorrow to do grant research. The Town Board members agreed with this including Councilman Curtiss.

Library Legislation

Councilwoman Jasinski stated that the Town and the library need to come to an agreement by April. A resolution needs to be passed by the Town Board by the first meeting in April so the legislation can get a number. The legislation would be submitted with this number in May for the State's consideration to be heard this year. Attorney Bill Ryan described briefly how libraries are now created – by Charter, a legislative act, or the education law which was amended to allow a library to become special district by the Town or school district. He attended a Zoom meeting two weeks ago with representatives from the library and Town and at this time Mr. Ryan expressed his view of what should be considered by the Town such as when the election will take place, the levy, and the language pertaining to the Town issuing tax anticipation notes to help the library with offsetting their operating expenses until the taxes are paid and received by the Town and prior to the Town handling those proceeds. The library attorney sent proposed legislation to him to consider and before he responds he wants to discuss his observations set forth in the revised draft that he emailed. His redline version included that the time of the election should be consistent with hours that the polls are open; the notice of public meeting should be posted and he omitted language that the Board issue tax anticipation notes; the reason is that the library will be a special district and can issue tax anticipation notes; Article 4 of the proposed charter where the Town will have the power to issue bonds, again, the library can initiate bonds. There will be some negotiating on this language. The next step is that Mr. Ryan will reach out to the library's attorney.

NEW BUSINESS

Dog Park Project Jenkins Park

Supervisor Connolly stated that this was discussed prior. A presentation will be done on the 28th. There is some middle ground between how the committee is saying how to move forward and some of the discussions tonight. We can agree on an altered phase and a hard opening in place that makes the most sense. The presentation documents should be altered for the next meeting.

Commercial Purchase of Development Rights Fees

Supervisor Connolly stated that currently in certain districts our zoning allows up to 40,000 sq. ft (size of a Hannaford); by right you get 10,000 sq. ft. and then must purchase commercial Purchase of Development Rights (PDR) credits which are currently \$1 per sq. ft. If a developer wants to put a 20,000-sq. ft. building and the area allows it, they will have to purchase \$10,000 worth of PDR credits. This could be cut in half with doing green initiatives. We may be the first in the State of New York to have a green initiative point system in our zoning. Is \$1 too cheap, are we giving away our commercial area too easily without getting enough back in return to achieve our goals in the Comprehensive Plan regarding preserving our rural district? Councilwoman Jasinski stated that when the fees were set up the assistant building inspector stated that \$2 per sq. ft is adequate; at the time the thought was to be more encouraging to go with the \$1 amount, now that she sees this working, he was correct. The Town can raise the price by resolution. Do we want to leave the Burnt Hills area \$1 because it needs commercial? To date there are two commercial entities taking part in the PDR program, one was \$1,300 who took advantage of green initiatives, the other was \$1,000. Councilman Curtiss was in favor of the increase to \$2. Supervisor Connolly asked for feedback if the fee schedule amount should change for commercial PDR and if so, to what price. This can be discussed at the next meeting.

Economic Development Committee

Supervisor Connolly went to a conference that spoke about a Town Supervisor being involved in their Town's economic development. There are things that can be done to improve the economic development changes in Town. One item implemented was to have a single point person to contact for economic development on the website. A meeting will be set up with the committee if the Board chooses to; the committee will consist of himself, the comptroller, Jeff Stickles, and Matt Vaverchak of the Building Department and possibly Mike Pandolfo in the Assessor's office. The idea on the economic development web page is to list the address and parcel ID for parcels with high potential for development with the owner's name. You will be able to see how big the lot is, the image, who owns it, and what is allowed per our zoning. A developer can look at this on the website to see what the Town has in inventory, which will mostly be in the north end and south end of Town, to promote development and have everything in one spot. Thoughts? Councilman Fendrick stated that it is OK to explore this if we have the time and resources to manage it. Councilwoman Jasinski thought this would be a citizens committee and not a Town employee committee. She stated that we are not Malta or Clifton Park. We just put new zoning in place and are working on a grant to help the Burnt Hills hamlet area; she feels like the things we need in our Town are not necessarily big things. We don't even know if the business sewer district to the Hamlet can handle the capacity without the feasibility study completed. She asked doesn't this already happen with people going to the Building Department. We would be publicizing our Town for economic development opportunities when we don't have the infrastructure to support it yet. We are a small Town and have done an excellent job with PDR, and green initiatives and solar. Let's live with what we are doing with Burnt Hills hamlet and see how it goes. Supervisor Connolly stated that as far as timing goes, he has a different opinion than Ms. Jasinski. He feels that it is critical to start to work on the south end of Town now, as opposed to waiting, and promoting lots with high development potential. The school district is in a position that they do not have enough tax base to continue their current services. Maybe a committee isn't necessary, but there is a point of contact. His thought on the committee is that being a part time Supervisor he is not in the know or involved regarding development in Town. He still thinks we should do this for the southern end of Town. The timetable is faster than you think with the project. The study will be done by April 7th. Nothing will be advertised until the capacity is known. Councilman Curtiss stated (via text) to tap the brakes. The Supervisor stated that he does not like to tap the brakes, personally, if a developer wants to come here because of our two great school districts and they want to bring new services or a business to the north or south part of our Town, or an agriculture business in the middle of Town, and it is allowed in our zoning, then bring it.

Privilege of the floor ONLY on items for consideration and action this evening.

Carl Thurnau of Woodside Drive spoke on Resolution 23-48. He stated that he must be missing something. He is a resident of the Jenkins Park District and is a taxpayer; he was never aware that the Town was planning to put in a dog park in Jenkins Park. He realized that the Jenkins Park was undermanned. The Jenkins Parks Committee dissolved two years ago. He still pays taxes, and this dog park is news to him. He has no data on the park. Has there been a demand for a dog park? Councilman Fendrick stated that he has been at the park frequently and there are many people there walking their dogs, all of which are polite, with dogs on leashes and they picked up after their dogs.

Mr. Thurnau asked is there a need for a dog park when everyone is already there doing a good job now with their dog? It was answered that the Parks & Rec Committee believes that there is a sufficient need. Mr. Thurnau stated that it is time for him to come back to meetings.

Lynnette Ziskin, of Katherine Drive, stated that she lives across the street from Jenkins Park. She stated that the Supervisor was asking why the dog park was being done in phases. She stated that the Committee's mentality was that it would be more affordable and financially possible. The dollar amount in the resolution currently would not be ample to cover Phases 1, 2 and 3 and will need to be adjusted. Personally, she was in favor of phases because of working with Jenkins Park for so many years, we worked with a limited budget and piecemealed projects. She is in favor of a dog park. There is a lot of dog traffic, whether on the trails or in the park. There are between 22 and 24 dogs in the park per day.

NEW BUSINESS FOR CONSIDERATION AND ACTION THIS EVENING

Resolution 23-47

Approve the Town of Ballston's Host Community Benefit Agreement and authorize the Supervisor to execute any and all documents associated with the Agreement.

RESOLVED, the Town of Ballston Town Board approves the Host Community Benefit Agreement, a copy of which is attached hereto and made a part hereof, between the Town of Ballston and XXX LLC dated February 28, 2023; and it is further

RESOLVED, the supervisor is authorized to execute any and all documents associated with the aforesaid Host Community Benefit Agreement.

A motion was made by Councilwoman Jasinski and seconded by Councilman Fendrick. Discussion: Councilwoman Jasinski had questions on the document. Mr. Ryan stated that this is a matter that Attorney Deb Kaelin had been working on for solar developers. In reviewing the agreement, it provides for the installation of solar panels on a minimum of 60 acres according to zoning law. Under the provision of Town zoning law each developer would have to obtain a Special Use Permit and appear before the Planning Board. This agreement arises out of Section 487 of Real Property Tax law which is an attempt by the NYS Legislature to assess taxes on solar arrays. That legislation provides for a pilot agreement in the event that the real property in question is increasing in value by virtue of the installation of solar arrays. In this instance, there is no town tax, resulting in this host agreement. The developers prior with Planning Board approval and those who may come after will agree on a community host agreement fee that will go to the Town. Currently, Article 2, Section 2.2A of the host agreement provides for the host agreement benefit fee and there are two fees that can be paid; one is an annual fee, paid to the Town, in the amount of \$2,500 per megawatt AC which is alternating current times the capacity of the arrays commencing within 20 business days of the date that the Project achieves commercial operation and by each subsequent anniversary date for a period of 15 years. The second approach is to apay upfront fee within 20 days of the date the project achieves commercial operations. What happened over the last few weeks were discussions with an attorney of the developer who agreed that the four will be signing the agreement for the upfront fee which is based upon \$2500 per megawatt AC times the capacity times the 5% discount rate times 15 years. This will be the formula to determine the annual fee. This money will go to the Town. Each developer will sign a separate contract due to the different number of megawatts, but the agreement is essentially the same. Councilwoman Jasinski asked about Section 2.2 under the use of funds for public services she asked what does the wording "infrastructural improvement" mean? This does not have anything to do with solar. Mr. Ryan stated that he was not the draftsman, the sentence should be removed. The money is going into the PDR program. Ms. Jasinski also asked about where in the document does it state that after 35 years they need to reapply. Ms. Jasinski had a question on Section 2.3 Changing Capacity in which the fee can be adjusted up with more capacity; however it does not say that it should not be adjusted down. After a discussion, the resolution will be amended as follows:

Resolution amended to read:

RESOLUTION 23-47
APPROVE THE TOWN OF BALLSTON'S HOST COMMUNITY BENEFIT
AGREEMENT ALONG WITH THE FOLLOWING REVISIONS AS FOLLOWS AND

FURTHER AUTHORIZING THE SUPERVISOR TO EXECUTE ANY AND ALL DOCUMENTS ASSOCIATED WITH THE AGREEMENT.

1. SUBDIVISION 1 & 2 WILL PRESENTLY READ THE SAME EXCEPT SUBDIVISION 2 WILL READ “\$2500 PER MEGAWATT ALTERNATING CURRENT TIMES (X) THE CAPACITY TIMES (X) 15 YEARS TIMES (X) THE 5% DISCOUNT RATE.”

2. SUBDIVISION C OF THAT SAME SECTION 2.2 WILL HAVE THE LAST SENTENCE REMOVED THAT READS “THE REVENUES PAID BY THE COMPANY TO THE TOWN, WHICH SHALL BE UTILIZED AT THE SOLE AND ABSOLUTE DISCRETION OF THE TOWN, INCLUDING, BUT NOT LIMITED TO AS A SOURCE OF FUNDING FOR THE PROSPECTIVE COSTS AND EXPENSES ASSOCIATED WITH AND RELATED TO ANTICIPATED MUNICIPAL SERVICES AND ADDITIONAL INFRASTRUCTURAL IMPROVEMENTS TO BE PROVIDED AS A RESULT OF THE PROJECT’S PRESENCE WITHIN THE TOWN”.

3. ARTICLE 3 TERM AND TERMINATION THE TERM OF THIS AGREEMENT IS 15 YEARS; THIS IS SPELLED OUT IN SECTION 487 OF THE REAL PROPERTY TAX LAW. WE WILL ADD LANGUAGE AT THE END ‘TO BE CONSIST WITH SECTION 138 OF THE TOWN CODE THAT DEALS WITH SOLAR ORDINANCE. THE SITE PLAN APPROVAL IS GOOD FOR 35 YEARS AND UPON THE HAPPENING OF 35 YEARS OR DECOMMISSIONING OF THE SYSTEM THE COMPANY SHALL REAPPLY TO THE PLANNING BOARD TO OBTAIN A SPECIAL USE PERMIT TO OPERATE THE SOLAR ARRAY.

4. THERE WILL BE NO AMENDMENT DECREASING THE UPFRONT FEE IF THERE IS A DECREASE IN CAPACITY.

Attorney Ryan stated that each company that has come before the Planning Board will have its own agreement consistent with what is being adopted this evening.

Councilman Fendrick made a motion and Councilwoman Jasinski made a second to approve the amended resolution.

ADOPTED	Ayes	3	Councilman Fendrick, Councilwoman Jasinski, and Supervisor Connolly
	Nays	0	
	Absent	2	Councilman Curtiss and Councilman Carota

RESOLUTION 23-48

APPROVE TO SET A PUBLIC HEARING FOR MARCH 28, 2023, AT 6:15 P.M. FOR THE PURCHASE OF A FENCE IN THE AMOUNT OF \$19,750 FOR THE PURPOSE OF CREATING A DOG PARK IN JENKINS PARK.

ORDER FOR PUBLIC HEARING ON THE COST OF IMPROVEMENTS AND/OR THE COST TO RECONSTRUCT EXISTING FACILITIES AND APPURTENANCES FOR THE BENEFIT OF PARK DISTRICT NO. 1, IN THE TOWN OF BALLSTON, COUNTY OF SARATOGA, STATE OF NEW YORK, PURSUANT TO SECTION 202-b OF THE TOWN LAW OF THE STATE OF NEW YORK

WHEREAS, New York State Town Law Section 202-b establishes that whenever the Town Board shall determine it to be in the public interest, after a public hearing, the Town may construct additional improvements on behalf of a park district or other special districts; and

WHEREAS, the Town of Ballston Park District No. 1 was created by Town Board Order dated September 7, 1954; and

WHEREAS, Section 202-b 2 of the Town Law provides in part that “the town board may, on behalf of a park,.....district.....acquire additional apparatus and equipment and replace obsolete, inadequate, damaged, destroyed or worn out apparatus and equipment, and it may construct additional facilities and appurtenances thereto or reconstruct or replace obsolete, inadequate, damaged, destroyed or worn out facilities and appurtenances thereto;” and

WHEREAS, Park District No. 1 requires the removal of existing fencing and the installation of new fencing and other appurtenances for the creation of a dog park; and

WHEREAS, the aforesaid section of the Town Law does not require the preparation of a map, plan and report; and

WHEREAS, the cost to remove the existing fencing, the installation of new fencing and other appurtenances shall equal \$19,750.00; and

WHEREAS, approval of the New York State Comptroller is not required for approval of this project inasmuch as the real property in the Town of Ballston Park District No. 1 is not wholly or partly located within the Adirondack Park.

NOW, THEREFORE, IT IS ORDERED, that the Town Board of the Town of Ballston shall meet and hold a public hearing at the Town of Ballston Town Hall, 323 Charlton Road, Ballston Spa, New York 12020, in said Town, on the 28th day of March, 2023, at 6:15 p.m., local time, to consider the proposed improvements and to hear all persons interested in the subject thereof as is required or authorized by law.

A motion was made by Councilman Fendrick and seconded by Councilwoman Jasinski.
Discussion: The Supervisor stated that he listened carefully to Ms. Ziskin's comments; the big item that the Town needs to avoid is a big opening of any dog park until we are officially ready with rules, the process and legal paperwork. He is not opposed to this resolution; it will get us on the docket with the fence company to move the project forward. The Public Hearing could always be cancelled if more time is needed. We don't have prices on the key fob, this is something that we don't have to do but it is a measure of security, and it does mitigate any liability issue, but the budget is what it is, and we only have so much money. This fence purchase may wipe out the Jenkins Park fund and we won't have enough money for operation and maintenance to take care of the park for 2023. The Town Comptroller stated that the budget consists of \$20,000 which will cover operation and maintenance for 2023; on top of this is unrestricted fund balance which is not much more at this point. Any additional expenses such as key fob software, or a subscription to lock and unlock the gate would come from the residents of the Jenkins Park Special District every year. The money comes from taxes; property tax will increase. In perspective, \$149 per month for the software subscription is 10% of the Jenkins Park budget; this is one aspect. He needs an understanding of all costs; any new costs will be for the special district and property taxes will go up. Councilman Fendrick stated that even if they do, to put it in perspective, what was the property tax three years ago and what are the taxes now? When you say go up, they won't be what they were three years ago. The taxes have drastically decreased since COVID. Mr. Urkevich stated that we are running a few thousand dollars less post COVID. One thing that Mr. Urkevich wanted to mention when it comes to property taxes all the special districts are put together and measured on the property tax cap quote. Any investments like this are applied to bring us closer to overriding the tax cap which will cost taxpayers more over the year. There are tax ramifications and only 500 households are getting billed for this special park district. The Supervisor asked Mr. Urkevich what the intake is annually (taxes) from the district we levy. Mr. Urkevich believes that \$3,000 is from fund balance and the amount levied is \$17,000. He must look as it is a guess. Supervisor Connolly stated that if \$20,000 is allocated for the fence project it would wipe out the fund's balance of \$20,000. Mr. Urkevich stated that there are other priorities on the capital side that are past due. Our insurance company is calling for the Town for upgrades that are overdue and currently dangerous (playground equipment); this to him is a priority. It is not coming from him personally, it's what the insurance company is saying. He advises to listen to them as would the attorney. Councilman Fendrick stated that part of the reason to do the staggered plan is that he and Mr. Urkevich had an in-depth conversation about money and how money was appropriated and if we put this in the budget next year, we could afford these other extras in the future without dipping into other funds. We can afford the fence right now with the money now but nothing else. The scan system is \$3,500, and the software is \$150 per month. These were items to be considered for next year without dipping into other funds. The Supervisor stated that if you spend the money on the fence there is still operation and maintenance money for the rest of the year. Mr. Urkevich stated that there could be ways he could do this; however, there are many aspects to consider before moving forward. The Supervisor stated that some of the operation and maintenance costs could be used for removing the dangerous playground equipment that was cited by the insurance company at a minimal cost. Councilwoman Jasinski stated that at the annual Town conference she learned that if there are any grants out there for playground equipment or a dog park, and if you remove anything in bad shape, you get rid of the need and disqualify yourself from receiving the grant. Maybe someone can do some digging to receive some funds. It is a need to have the equipment removed. Supervisor Connolly stated that this is a tough call. We have an urgent need

that NYMIR has cited the equipment to be dangerous which means there is some liability issues with the playground. Do we handle that? Do we do a dog park? We cannot do both. He knows that the residents want a dog park now; however, playground equipment is \$80,000 or more. Councilman Fendrick stated that a dog park is a drop in the bucket looking at the big picture. Either way pushing forward with this does not hinder anything. Ms. Jasinski stated that you could always have the public hearing, it doesn't mean you have to follow through with spending the funds. She asked if there was a way to survey only the Jenkins Park special district residents and see what they find more important a dog park or a playground. This may help decide how to spend the money wisely. Councilman Fendrick stated that anything that is done this year will increase taxes more than they are now, but will they be more than what they were three years ago? If we kept the taxes the same as they were then we would not have to worry about it. Items were not budgeted properly in the past and the taxes went way down and now the money is not there. The Parks & Rec Committee did their due diligence and this is what we are asking for right now and he doesn't think that there is a reason to not push forward with a Public Hearing. The Supervisor agreed with moving forward with a public hearing. It could always be cancelled if we want to reprioritize. Mr. Ryan stated that this is a special district that was formed in 1954. He wrote 21/2 years ago about this special district and the need for the Town to consider some options. As a special district, the residents of the district pay for everything that is being discussed. Prior discussions were had about a Town wide park district because if you are talking about playgrounds and whatnot, it's going to be the residents of that district that pay for it. This is the issue. The resolution deals with the fence; the law allows to the Town to purchase it; however, it is subject to permissive referendum if it is adopted. The Clerk will publish it the newspaper and post on the bulletin board and website. A notice of the public hearing will be mailed to only the residents in the Jenkins Park Special District.

ADOPTED Ayes 3 Councilman Fendrick, Councilwoman Jasinski, and Supervisor Connolly

 Nays 0

 Absent 2 Councilman Curtiss and Councilman Carota

Privilege of the Floor on any topic

Rob Garrity, of Finlo Solar, wondered what is the right venue is to discuss the zoning permit fees? How do we get there? Supervisor Connolly stated that they are what they are, so there is no venue. Mr. Garrity stated that right now the zoning refers to commercial building and solar is not subject to that. The massive fees don't align with the cost of doing the inspections. He has paid the engineering fees, fees to go to the Planning Board, which is fine, he is not trying to get away with something; there is real cost to the Town. He is happy to be generous with those, but it's almost \$100,000 where there is not a precedent in other towns. He doesn't feel there should be another tax. Supervisor Connolly stated that this has been noted and that counsel is reviewing.

The Supervisor stated that the Board will enter Executive Session for a litigation matter with no expected action. A motion was made by Councilman Fendrick and seconded by Councilwoman Jasinski to enter into Executive Session. Executive Session began at 8:45 p.m.

A motion was made by Councilwoman Jasinski and seconded by Councilman Fendrick to return to regular session. No action was taken.

A motion was made by Councilwoman Jasinski and seconded by Councilman Fendrick to adjourn the meeting. All Board members were in favor. The meeting adjourned at 8:57 p.m.

Respectfully submitted,

Carol Gumienny
Town Clerk