

TOWN OF CLARKSON
TOWN BOARD MEETING
September 12, 2023

The Town Board of the Town of Clarkson held their regular meeting on Tuesday, September 12, 2023 at the Clarkson Town Hall, 3710 Lake Road, Clarkson, NY at 6:00 P.M.

PRESENT:

Christa Filipowicz	Supervisor
Nick D'Amuro	Councilperson
John Culhane	Councilperson
**Tom Guarino	Councilperson
Leslie Zink	Councilperson
Susan Henshaw	Town Clerk
Robert Viscardi	Highway Superintendent
Keith O'Toole	Attorney
Kevin Moore	Building Inspector

** excused

Supervisor Filipowicz opened the meeting. She led everyone in the Pledge of Allegiance. A moment of silence was observed for our service men and women, first responders and veterans, particularly those who have paid the ultimate price. Tonight, to the Grady family for their recent loss.

OPEN FORUM -

Martha Clasquin, 34 Sherwood Drive, wanted some clarification on Local Law #5-2023 and the possible changes to the zoning map and codes. Ms. Clasquin hopes to have better understanding of the law at the Public Hearing scheduled for September 26. Supervisor Filipowicz advised information from the Comprehensive Plan completed last year, which offered direction and future vision of the town. The committee is working on developing a code to match that vision, along with defining specific hamlet areas. The committee is comprised of Councilperson Zink, Code Enforcement Officer Kevin Moore, two Planning Board and two Zoning Board members and the consultants.

Harold Mundy was recognized for his many years of dedicated service to our town and community, most directly involving our support boards. His knowledge and expertise on very complex issues, especially the solar laws, are immense and greatly appreciated.

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PUBLIC HEARING -

Local Law #6-2023 – Battery Energy Storage System Law was read by Supervisor Filipowicz, with mention of its purpose which is to adopt, advance and protect the public health, safety, welfare and quality of life of the town by creating regulations for the installation and use of battery energy storage systems. Keith O’Toole discussed that the proposal divides the law into 2 categories. One is for use on site, such as solar panels for storage to be used at your house, farm, or small business. This cannot be exported to the second use which is a national power grid. **See Attached**

RESOLUTION #247

MOTION TO CLOSE PUBLIC HEARING ON LOCAL LAW #6-2023 BATTERY ENERGY STORAGE SYSTEM LAW

Introduced by Councilperson Zink

Seconded by Councilperson D’Amuro

Motion to close public hearing on Local Law #6-2023 Battery Energy Storage System Law.

VOTE OF THE BOARD

AYES: Supervisor Filipowicz, Councilpersons Culhane, D’Amuro and Zink

NAYES: None

ABSENT: Guarino

RESOLUTION #248

MOTION TO APPROVE LOCAL LAW #6-2023 BATTERY ENERGY STORAGE SYSTEM LAW

Introduced by Councilperson Zink

Seconded by Councilperson Culhane

Motion to approve Local Law #6-2023 Battery Energy Storage System Law.

VOTE OF THE BOARD

AYES: Supervisor Filipowicz, Councilpersons Culhane, D’Amuro and Zink

NAYES: None

ABSENT: Guarino

Local Law #7-Solar Energy Facilities Law-was read by Supervisor Filipowicz, it is to amend the Town of Clarkson’s Local Law #2-2019 of the Town of Clarkson. Councilperson Zink mentioned she is happy with the law as presented. Comments sent in by former solar committee member Shawn Lessord were read by Supervisor Filipowicz, and they include hedge slates, electronic means of communications, submitting of documents, setbacks, overlay districts as well as solar battery storage. Discussion ensued regarding all the above regarding the proposal of Local Law #7-2023 in detail. Keith O’Toole added some thoughts and ideas. Councilperson D’Amuro mentioned the need to revisit this law often for possible changes that could come about regarding battery laws. Harold Mundy discussed the need for possible battery back-up, similar to a generator, in

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case of failure. Kevin Moore discussed RS10 and RS20 zoning districts regarding this particular proposed law.

Harold Mundy mentioned wind law and turbines and limits to RS20. There was continued discussion regarding specific details and changes to the proposed law. Due to these significant changes, there is need for a re-draft of Local Law #7-2023 by town attorney Keith O'Toole.

NEW BUSINESS

Solidago Solar Project – Bernardo Urdaneta with Cypress Creek, spoke regarding the application and special use permit for this project. He shared site plan drawings with the board and discussed preliminary details about the project. This facility is located at 3070 Lake Road North, owned by Steve LeChardello and is zoned RS20. It is a 111 acre heavily wooded site. This project would be 30 acres and the setbacks are 160 feet on the north side, 500 feet on the south, 340 feet on the east, 230 feet on the west side and 800 feet from the road where it is not visible from the road or the homes on Woodstock Lane. The existing vegetation would serve as a buffer from the project. Special use permit and site plans will be submitted later this month. He will continue communication with Kevin Moore.

RESOLUTION #249

**MOTION TO APPROVE EMPLOYEE PERFORMANCE MERIT INCREASE
FOR BUILDING AND CODE ENFORCER KEVIN MOORE**

Introduced by Councilperson Zink

Seconded by Councilperson Culhane

Motion to approve employee performance merit increase for Building and Code Enforcer Kevin Moore from \$32.95 per/hr to \$33.94 per/hr effective September 3, 2023.

VOTE OF THE BOARD

AYES: Supervisor Filipowicz, Councilpersons Culhane, D'Amuro and Zink

NAYES: None

ABSENT: Guarino

RESOLUTION #250

**MOTION TO APPROVE MERIT INCREASE FOR HIGHWAY EMPLOYEE
JESSE CROSS**

Introduced by Councilperson Culhane

Seconded by Councilperson D'Amuro

Motion to approve employee merit increase for highway employee Jesse Cross from step 15, \$30.27 per/hr to step 17, \$31.20 per/hr. effective September 25, 2023.

VOTE OF THE BOARD

AYES: Supervisor Filipowicz, Councilpersons Culhane, D'Amuro and Zink

NAYES: None

ABSENT: Guarino

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Tentative 2024 Budget – Supervisor Filipowicz and Superintendent Viscardi worked with Shelby from EFPR to create a draft and will present it at the next town board meeting.

RESOLUTION #251

**AUTHORIZING FIREWORKS DISPLAY FOR SKYLIGHTERS OF NEW YORK
AT CPM GOLF LLC, dba DEERFIELD COUNTRY CLUB**

Introduced by Councilperson Zink

Seconded by Councilperson D'Amuro

To authorize Skylighters of New York, LLC to hold a firework's display on September 29, 2023 at CPM Golf LLC; dba Deerfield Country Club at 100 Craig Hill Drive, Clarkson, NY. A Certificate of Liability Insurance for Skylighters of New York, LLC was provided and is on file with the Town of Clarkson. The Town of Clarkson is aware of Article 405 regarding firework permits.

VOTE OF THE BOARD

AYES: Supervisor Filipowicz, Councilpersons Culhane, D'Amuro and Zink

NAYES: None

ABSENT: Guarino

Whitehall Mansion – Jerry Goldman of Woods, Oviatt and Gilman, LLP representing Russell and Arthur Wood and Cynthia Payne who are looking to develop and restore the mansion. A letter of intent has been sent to all for review. The property is currently zoned RS20 but are proposing incentive zoning on the property. They are requesting public and private use of this property. Upper levels will be for private use and lower for community events. This proposal encompasses an addition of a 4500-foot center to allow for event usage. Parking would be provided on site. Mr. Goldman reviewed the process of board review and SEQR. Their goal is to restore the mansion as a showcase home. Town board would be acting as lead agency for SEQR review. An environmental assessment form has been submitted to Marathon Engineering. Supervisor Filipowicz mentioned the boards' excitement for the project on this long time jewel of the town.

RESOLUTION #252

**MOTION TO REFER WHITEHALL MANSION PROJECT TO THE PLANNING
BOARD**

Introduced by Councilperson Culhane

Seconded by Councilperson D'Amuro

Motion to refer Whitehall Mansion project to the Planning board.

VOTE OF THE BOARD

AYES: Supervisor Filipowicz, Councilpersons Culhane, D'Amuro and Zink

NAYES: None

ABSENT: Guarino

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RESOLUTION #253
MOTION TO APPOINT TAMMY BLANCHARD AS ASSISTANT TO THE
SUPERVISOR

Introduced by Councilperson D'Amuro

Seconded by Councilperson Culhane

Motion to appoint Tammy Blanchard as Assistant to the Supervisor at a rate of \$23,00 per/hr effective September 12, 2023.

VOTE OF THE BOARD

AYES: Supervisor Filipowicz, Councilpersons Culhane, D'Amuro and Zink

NAYES: None

ABSENT: Guarino

RESOLUTION #254
MOTION TO APPROVE INTERFUND ARPA TRANSFERS AS
RECOMMENDED FROM EFPR

Introduced by Councilperson Zink

Seconded by Councilperson D'Amuro

To approve interfund ARPA transfers as recommended from EFPR. **See attachment.**

VOTE OF THE BOARD

AYES: Supervisor Filipowicz, Councilpersons Culhane, D'Amuro and Zink

NAYES: None

ABSENT: Guarino

OLD BUSINESS

RESOLUTION #255
APPOINT BOARD MEMBERS TO:
TOWN OF CLARKSON HISTORIC DISTRICT

BE IT RESOLVED AS FOLLOWS:

Section 1. That Local Law #2 of 2023 was enacted creating the Town of Clarkson Historic Preservation Commission ("Commission") and the Town Board wishes to make appointments to the Commission.

Section 2. That Local Law #2 of 2023 requires that initial appointments to the Commission be made in a staggered manner.

Section 3. That the Town Board makes the following appointments to the Town of Clarkson Historic Commission to terms commencing immediately and ending upon dates as specified:

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1. Daniel Maier is appointed to a term that ends on December 31, 2023;
2. Matthew Hennard is appointed to a term that ends on December 31, 2024;
3. Allan Hoy is appointed to a term that ends on December 31, 2025;
4. Leanna Hale is appointed to a term that ends on December 31, 2026;
5. John Linenfelser is appointed to a term that ends on December 31, 2027.

VOTE OF THE BOARD

AYES: Supervisor Filipowicz, Councilpersons Culhane, D'Amuro and Zink

NAYES: None

ABSENT: Guarino

Supervisors Report –

2024 Budget – Mentioned work is being done to prepare the upcoming budget.

Good Neighbor Day – Thanks to Councilperson Zink and the highway department for their effort towards the event.

Safety Coordinator – Thanks to Kelly Sprague from highway for her coordination in preparing CPR and AED training for the entire staff.

Town Board Reports -

Tree Program – Councilperson Culhane is working with Kathy from Sara's Farm Market for pricing on trees.

Town Hall – Councilperson Culhane inquired about the replacement windows at town hall. Supervisor Filipowicz mentioned Rochester Colonial expects mid-October for the install of the windows. Plans for the vault rooms and water line should take place end of September. The chimney will need repair and an estimate is forthcoming.

Good Neighbor Day - Councilperson Zink mentioned the event was still a success with participation even though weather was not preferable. Thank you to the highway for their assistance with parking.

Zoning Committee – was postponed last evening and there is continuing progress with plans.

Historic Commission - Councilperson D'Amuro advised he met with a representative at the State Preservation Office to discuss the submitted paperwork. A further meeting is scheduled end of this week.

Town Clerk Report – Susan Henshaw discussed tax season and the error discovered in the initial tax bill sent to our residents. A secondary bill was sent, shortly after the first, advising of the proper STAR tax credit and a corrected amount.

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Building Department – Kevin Moore wished to thank Harold Mundy for his service to the town. He mentioned the volume of phone calls regarding the proposed moratorium law.

Highway Report – Superintendent Viscardi mentioned the continued East Avenue project with the Town of Sweden. They have assisted for approximately one month. It should be completed in a few more weeks. End of September they plan to mill and pave Sherwood, Valley View and Crescent Drives as long as black top prices remain the same.

RESOLUTION #256

APPROVE MINUTES 8-08-2023

Introduced by Councilperson D'Amuro

Seconded by Councilperson Culhane

To approve minutes from 8-08-2023.

VOTE OF THE BOARD

AYES: Supervisor Filipowicz, Councilpersons Culhane, D'Amuro and Zink

NAYES: None

ABSENT: Guarino

RESOLUTION #257

APPROVE MINUTES 8-15-2023

Introduced by Councilperson Culhane

Seconded by Councilperson D'Amuro

To approve minutes from 8-15-2023.

VOTE OF THE BOARD

AYES: Supervisor Filipowicz, Councilpersons Culhane, D'Amuro and Zink

NAYES: None

ABSENT: Guarino

RESOLUTION #258

APPROVE MINUTES 8-22-2023

Introduced by Councilperson D'Amuro

Seconded by Councilperson Zink

To approve minutes from 8-22-2023.

VOTE OF THE BOARD

AYES: Supervisor Filipowicz, Councilpersons Culhane, D'Amuro and Zink

NAYES: None

ABSENT: Guarino

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RESOLUTION #259
APPROVE MINUTES 3-22-2023

Introduced by Councilperson Zink
Seconded by Councilperson Culhane
To approve minutes from 3-22-2023.

VOTE OF THE BOARD

AYES: Supervisor Filipowicz, Councilpersons Culhane, D'Amuro and Zink
NAYES: None
ABSENT: Guarino

RESOLUTION #260
AUDIT 9-12-2023

Introduced by Councilperson Zink
Seconded by Councilperson D'Amuro
To authorize payment of audit 9-12-2023 totaling \$72,294.26. AA General \$14,003.60, BB General- Outside Village \$398.35, DA Highway - Town Wide \$51,254.46, DA-Highway-Outside Village \$2,811.85, SL-Lighting \$3,718.66, SS-Sewer \$107.34 and Distribution of checks: Joint Checking #0003751-0003793.

VOTE OF THE BOARD

AYES: Supervisor Filipowicz, Councilpersons Culhane, D'Amuro and Zink
NAYES: None
ABSENT: Guarino

RESOLUTION #261
MOTION TO ENTER INTO EXECUTIVE SESSION

Introduced by Councilperson Zink
Seconded by Councilperson Culhane
Motion to go into executive session for discussions relating to proposed, pending or current litigation. Matters relating to collective negotiations under Taylor Law. Matters relating to medical, financial, credit or employment history of a particular person or corporation. Matters related to the appointment, promotion, demotion, discipline or removal of a particular person or corporation.
That the Town Board enter into a private session with its attorney to discuss legal matters at 6:51 PM

VOTE OF THE BOARD

AYES: Supervisor Filipowicz, Councilpersons Culhane, D'Amuro and Zink
NAYES: None
ABSENT: Guarino

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RESOLUTION #262
MOTION TO EXIT OUT OF EXECUTIVE SESSION

Introduced by Councilperson D'Amuro
Seconded by Councilperson Culhane
Motion to exit out of executive session at 7:20 PM.

VOTE OF THE BOARD

AYES: Supervisor Filipowicz, Councilpersons Culhane, D'Amuro and Zink
NAYES: None
ABSENT: Guarino

RESOLUTION #263
MOTION TO ADJOURN

Introduced by Councilperson Culhane
Seconded by Councilperson D'Amuro
Motion to adjourn at 7:21 PM.

VOTE OF THE BOARD

AYES: Supervisor Filipowicz, Councilpersons Culhane, D'Amuro and Zink
NAYES: None
ABSENT: Guarino

Respectfully submitted,

Susan Henshaw
Town Clerk

Approved 9-26-2023

Battery Energy Storage System Law

Introductory Local Law #6-2023

A local law to amend the Town of Clarkson's "Local Law No. 1-1973 of the Town of Clarkson".

Be it enacted by the Town Board of the Town of Clarkson.

Section 1, **New Matter**, Chapter 140 of the Code of the Town of Clarkson entitled "Local Law No. 1-1973 of the Town of Clarkson" is amended by adding the following:

§140-_____. BATTERY ENERGY STORAGE SYSTEMS

A. Authority

This is adopted pursuant to Article IX of the New York State Constitution, §2(c)(6) and (10), New York Statute of Local Governments, §10(1) and (7); §§ 261-263 of the Town Law and §10 of the Municipal Home Rule Law of the State of New York, which authorize the Town to adopt zoning provisions that advance and protect the health, safety and welfare of the community.

B. Statement of Purpose

This Battery Energy Storage System Law is adopted to advance and protect the public health, safety, welfare, and quality of life of the Town by creating regulations for the installation and use of battery energy storage systems, with the following objectives:

- (1) To provide a regulatory scheme for the designation of properties suitable for the location, construction and operation of battery energy storage systems;
- (2) To ensure compatible land uses in the vicinity of the areas affected by battery energy storage systems;
- (3) To mitigate the impacts of battery energy storage systems on environmental resources such as important agricultural lands, forests, wildlife and other protected resources; and
- (4) To advance the goals of the Comprehensive Plan.

C. Definitions

As used in this Article, the following terms shall have the meanings indicated:

ANSI: American National Standards Institute

BATTERY(IES): A single cell or a group of cells connected together electrically in series, in parallel, or a combination of both, which can charge, discharge, and store energy electrochemically. For the purposes of this law, batteries utilized in consumer products are excluded from these requirements.

BATTERY ENERGY STORAGE MANAGEMENT SYSTEM: An electronic system that protects energy storage systems from operating outside their safe operating parameters and disconnects electrical power to the energy storage system or places it in a safe condition if potentially hazardous temperatures or other conditions are detected.

BATTERY ENERGY STORAGE SYSTEM: One or more devices, assembled together, capable of storing energy in order to supply electrical energy at a future time, not to include a stand-alone 12-volt car battery or an electric motor vehicle. A battery energy storage system is classified as follows:

- (1) Off-Grid Battery Energy Storage System – A rechargeable Battery Energy Storage System typically used to provide standby or emergency power and/or an uninterruptible power supply, load shedding, load sharing, or similar capabilities relating to the energy consumed by a residence, farm operation or other business on site and having an aggregate energy capacity of less than 600kWh. All energy is consumed on site. No energy is transmitted or discharged to a power grid.
- (2) On-Grid Battery Energy Storage System- Any installation of a rechargeable Battery Energy Storage System having an aggregate energy capacity of 600kWh or more, consisting of electrochemical storage batteries or similar technology, battery chargers, controls, power conditioning systems, inverters, transformers, switchgears and associated electrical equipment designed to store electrical power received from a generating or transmission source and periodically discharging power from the Battery Energy Storage System into the power grid.

CELL: The basic electrochemical unit, characterized by an anode and a cathode, used to receive, store, and deliver electrical energy.

ENERGY CODE: The New York State Energy Conservation Construction Code adopted pursuant to Article 11 of the Energy Law, as currently in effect and as hereafter amended from time to time.

FIRE CODE: The fire code section of the New York State Uniform Fire Prevention and Building Code adopted pursuant to Article 18 of the Executive Law, as currently in effect and as hereafter amended from time to time.

NATIONALLY RECOGNIZED TESTING LABORATORY (NRTL): A U.S. Department of Labor designation recognizing a private sector organization to perform certification for certain products to ensure that they meet the requirements of both the construction and general industry OSHA electrical standards.

NEC: National Electric Code.

NFPA: National Fire Protection Association.

UNIFORM CODE: the New York State Uniform Fire Prevention and Building Code adopted pursuant to Article 18 of the Executive Law, as currently in effect and as hereafter amended from time to time.

D. Applicability

- (1) The requirements of this Local Law shall apply to all battery energy storage systems permitted, installed, or modified in the Town after the effective date of this Local Law, excluding general maintenance and repair.
- (2) Battery energy storage systems constructed or installed prior to the effective date of this Local Law shall not be required to meet the requirements of this Local Law.
- (3) Modifications to, retrofits or replacements of an existing battery energy storage system that increase the total battery energy storage system designed discharge duration or power rating shall be subject to this Local Law.

E. General Requirements

- (1) A building permit and an electrical permit shall be required for installation of all battery energy storage systems.
- (2) Issuance of permits and approvals by the Planning Board shall include review pursuant to the State Environmental Quality Review Act.
- (3) All battery energy storage systems, and all buildings or structures that (1) contain or are otherwise associated with a battery energy storage system and (2) subject to the Uniform Code and/or the Energy Code shall be designed, erected, and installed in accordance with all applicable provisions of the Uniform Code, all applicable provisions of the Energy Code, and all applicable provisions of the codes, regulations, and industry standards as referenced in the Uniform Code, the Energy Code, and the Town Code.

F. Permitting Requirements for Off-Grid Battery Energy Storage Systems

- (1) Use. Off-Grid Battery Energy Storage Systems shall be permitted as accessory uses in all zoning districts, subject to the Uniform Code.
- (2) Site Plan.
 - (a) Residential. All applications for Off-Grid Battery Energy Storage Systems for a residence, shall be exempt from site plan review.
 - (b) Business or Farm. All applications for Off-Grid Battery Energy Storage Systems for business or farm, to the extent that the same require modification to the existing site of such business or farm, shall be subject to Site Plan review pursuant to Chapter 116.

G. Permitting Requirements for On-Grid Battery Energy Storage Systems

On-Grid Battery Energy Storage Systems are prohibited in all zoning districts within the Town.

H. Safety

- (1) System Certification. Battery energy storage systems and equipment shall be listed by a Nationally Recognized Testing Laboratory to UL 9540 (Standard for battery energy storage systems and Equipment) or approved equivalent, with subcomponents meeting each of the following standards as applicable:
 - (a) UL 1973 (Standard for Batteries for Use in Stationary, Vehicle Auxiliary Power and Light Electric Rail Applications),
 - (b) UL 1642 (Standard for Lithium Batteries),
 - (c) UL 1741 or UL 62109 (Inverters and Power Converters),
 - (d) Certified under the applicable electrical, building, and fire prevention codes as required.
 - (e) Alternatively, field evaluation by an approved testing laboratory for compliance with UL 9540 (or approved equivalent) and applicable codes, regulations and safety standards may be used to meet system certification requirements.
- (2) Site Access. Battery energy storage systems shall be maintained in good working order and in accordance with industry standards. Site access shall be maintained, including snow removal at a level acceptable to the local fire department and, if the Battery Energy Storage System is located in an ambulance district, the local ambulance corps.
- (3) Battery energy storage systems, components, and associated ancillary equipment shall have required working space clearances, and electrical circuitry shall be within weatherproof enclosures marked with the environmental rating suitable for the type of exposure in compliance with NFPA 70.

I. Permit Time Frame and Abandonment

- (1) The Site Plan approval for a battery energy storage system shall be valid for a period of 24 months, provided that a building permit is issued for construction and construction is commenced. In the event construction is not completed in accordance with the final site plan, as may have been amended and approved, as required by the Planning Board, within 24 months after approval, the approvals shall expire.
- (2) The battery energy storage system shall be considered abandoned when it ceases to operate consistently for more than one year.

J. Severability

The invalidity or unenforceability of any section, subsection, paragraph, sentence, clause, provision, or phrase of the aforementioned sections, as declared by the valid judgment of any court of competent jurisdiction to be unconstitutional, shall not affect the validity or enforceability of any other section, subsection, paragraph, sentence, clause, provision, or phrase, which shall remain in full force and effect.

Section 2. Effective Date.

This local law shall take effect immediately.

TOWN OF CLARKSON
PLEASE APPROVE THE FOLLOWING INTERFUND TRANSFERS
AT YOUR MEETING ON SEPTEMBER 12, 2023 **ARPA**

TO:
DB.5031.000 Interfund Transfer \$ 230,000.00

FROM:
BB.9901.900 Interfund Transfer \$ 230,000.00

APPROVED NOT APPROVED

9.12.23 
DATE SIGNATURE - SUPERVISOR

9/12/23 
DATE SIGNATURE - COUNCILPERSON

9-12-23 
DATE SIGNATURE - COUNCILPERSON

9-12-23 
DATE SIGNATURE - COUNCILPERSON

DATE SIGNATURE - COUNCILPERSON