

**Special Meeting**  
**Public Hearing Local Law No. 2 for 2021**  
**Caledonia Town Board**  
**June 7, 2021**  
**5:00 P.M.**

A Special Meeting of the Town Board of the Town of Caledonia was held on Monday, June 7, 2021, at 5:00 P.M., at the Town Hall.

Supervisor Pangrazio called the meeting to order at 5:00 P.M. and led in the Pledge of Allegiance.

Supervisor Pangrazio opened the Public Hearing for Local Law No. 2 for 2021 – Chapter 106 – Solar Energy and Battery Storage Systems.

Supervisor Pangrazio stated that the notice of this public hearing for the Town of Caledonia was duly published in the Livingston County News on May 27<sup>th</sup> and June 3<sup>rd</sup> with the same being posted at the Caledonia Town Hall and on the Town website. In addition, neighboring municipalities were also notified per Town Law §264.

Town Clerk Seth Graham read the legal notice that was published in the paper.

<b><u>PRESENT:</u></b>	Supervisor	Daniel Pangrazio
	Councilwoman	Pamela Rychlicki
	Councilman	Todd Bickford
	Councilman	Mark Rothrock
	Councilman	John Pike II
	Town Clerk	Seth Graham

**OTHERS:** Attorney Dwight Kanyuck, JP Schepp, Mark Callan, Joan Crunden, Henry Zomerfeld, Kevin Keenan

**ATTORNEY DWIGHT KANYUCK**

Attorney Dwight Kanyuck explained the purpose of the proposed Local Law and reviewed comments received from the Livingston County Planning Board. Attorney Kanyuck explained that the Solar Review Team spent several meetings and hours on this Local Law.

Supervisor Pangrazio asked those in attendance for comments on the proposed Local Law. No one present spoke.

Supervisor Pangrazio discussed the proposed Local Law and comments from the Livingston County Planning Board.

Supervisor Pangrazio and Attorney Dwight Kanyuck answered questions from the Board. Supervisor Pangrazio discussed things that are in the Local Law including: setbacks from adjacent property owner, setback from highways, property owner views, fencing types, screening of solar panels and etc....

Supervisor Pangrazio asked once again if anyone from the public had any comments on the proposed Local Law.

**HENRY ZOMERFELD, HODGSON RUSS**

Henry Zomerfeld submitted comments on behalf of Kate Millar. Comments were submitted via email to the Town Clerk.

Supervisor Pangrazio said he received a letter from a resident. The Town Board has received copies of the letter to review.

**JOAN CRUNDEN**

Joan Crunden talked about the amount of time and work that went into the new proposed Local Law.

Supervisor Pangrazio asked if the Board would like to move forward with adoption of the proposed Local Law No. 2 for 2021.

**RESOLUTION 81-2021**

**LOCAL LAW No. 2 FOR 2021 – TYPE 1 ACTION UNDER SEQR**

On motion of Councilman Bickford seconded by Councilman Pike the following resolution was ADOPTED – Aye- Pangrazio, Rothrock, Rychlicki, Bickford, Pike      Nay- 0  
RESOLVED, that Local Law No. 2 for 2021 is a Type 1 Action Under SEQR.

**RESOLUTION 82-2021**

**ADOPT SEQR ANSWERS FOR LOCAL LAW 2 OF 2021 AS OFFICIAL FINDINGS**

On motion of Councilwoman Rychlicki seconded by Councilman Pike the following resolution was ADOPTED – Aye- Pangrazio, Rothrock, Rychlicki, Bickford, Pike      Nay- 0  
RESOLVED, that the answers for SEQR official findings be adopted for Local Law No. 2 of 2021.

**RESOLUTION 83-2021**

**NEGATIVE DECLARATION FOR LOCAL LAW 2**

On motion of Councilman Bickford seconded by Councilwoman Rychlicki the following resolution was ADOPTED – Aye- Pangrazio, Rothrock, Rychlicki, Bickford, Pike      Nay- 0  
RESOLVED, to make a Negative Declaration for Local Law No. 2 for 2021.

**RESOLUTION 84-2021**

**SUPERVISOR SIGN NEGATIVE DECLARATION FOR LOCAL LAW**

On motion of Councilman Pike seconded by Councilwoman Rychlicki the following resolution was ADOPTED – Aye- Pangrazio, Rothrock, Rychlicki, Bickford, Pike      Nay- 0  
RESOLVED, that Supervisor Pangrazio may sign the negative declaration for Local Law No. 2 for 2021.

**RESOLUTION 85-2021**

**ATTORNEY FILE SEQR DOCUMENTS FOR LOCAL LAW WITH ENVIRONMENTAL NEWS BULLETIN**

On motion of Councilman Bickford seconded by Councilman Pike the following resolution was ADOPTED – Aye- Pangrazio, Rothrock, Rychlicki, Bickford, Pike      Nay- 0  
RESOLVED, that Attorney Kanyuck may file the SEQR documents for Local Law No. 2 for 2021 with the Environmental News Bulletin.

**RESOLUTION 86-2021**

**ADOPTION OF LOCAL LAW No. 2 FOR 2021**

**WHEREAS**, the Town of Caledonia (“Town”) is a community that takes great pride in and assigns great value to its rural residential character, small-town atmosphere, fine agricultural lands, Genesee River access, trails, and cultural, recreational, scenic and other natural resources; and

**WHEREAS**, preservation of the Town’s irreplaceable recreational and scenic sites, high-quality agricultural land, air quality and water quality, and priceless and unique character, is of significant value to the inhabitants of the Town and to the people who visit the Town; and

**WHEREAS**, the Town’s rich natural environment is a valuable asset that creates a sense of identity and well-being for residents of the area. Preserving and protecting the scenic, recreational, other natural resources and aesthetics of the Town is important for both a healthy environment and vibrant economy; and

**WHEREAS**, solar energy is abundant, non-polluting and does not emit greenhouse gases responsible for global warming. New York State has adopted policy and law to promote the installation of solar energy on residential, commercial, and municipal buildings, and ground-mounted large commercial generating systems; and.

**WHEREAS**, as renewable power sources like wind and solar provide a larger portion of New York’s electricity, energy storage systems will allow clean energy to be available when and where it is most needed and better use existing resources more efficiently and with fewer emissions. New York State has adopted policy and law to promote the installation of energy storage systems to be integrated into solar and wind energy projects and in critical locations within the electrical distribution and transmission grid; and

**WHEREAS**, the Town supports the use of solar energy and energy storage systems with appropriate regulations to promote and preserve the health, safety and welfare of the Town and its citizens, minimize adverse impacts of solar energy systems to adjacent properties, and conserve high quality agricultural land; and

**WHEREAS**, to meet the renewable energy goals of New York State will necessitate that large solar energy systems located on large tracks of land for offsite energy consumption; and

**WHEREAS**, the Town currently regulates Solar Farms pursuant to Article 1 of Chapter 106 of the Town Code, adopted November 10, 2016 (the “Existing Solar Law”); and

**WHEREAS**, since enactment of the Existing Solar Law, several solar energy systems have been approved or are formally under review by the Town or the New York State Public Service Commission (collectively, the “Current Solar Projects”), including a 2 megawatt/8 acre project proposed by Valley Sand & Gravel, a 2 megawatt/10 acre project proposed by Livingston Solar, and 180 megawatt solar project proposed by Horseshoe Solar Energy LLC in the Town and the Town of Rush that is currently estimated to require approximately 1,260 acres of land, of which approximately 80% is proposed to be located in the Town; and

**WHEREAS**, the Town has also received inquiries from other solar energy system developers for future commercial projects because the Town is economically attractive for solar energy system development due to its proximity to high voltage transmission lines that traverse the northern and eastern Town boundaries and traverse north-south through the center of the Town; and

**WHEREAS**, while the Existing Solar Farm Code provides requirements for protecting adjacent properties and limiting the impacts of solar energy systems within the Town, it currently allows solar energy systems in all zoning districts and may not fully contemplate the cumulative impacts of the Current Solar Projects and the Future Projects on community character and the scenic, recreational, other natural resources and aesthetics of the Town; and

**WHEREAS**, large Battery Energy Storage Systems are battery energy storage systems that are usually integrated with solar energy systems or connected directly into the electrical distribution or transmission grid; and

**WHEREAS**, while battery energy storage systems (“BESSs”) are regulated by the New York State Uniform Fire Prevention and Building Code, the Town does not currently have regulations for the siting and installation of large BESSs; and

**WHEREAS**, on February 13, 2020, the Town Board enacted Local Law No. 1 of 2020, known as the Moratorium on Solar Farms and Large Battery Energy Storage Systems, which prohibited the permitting of large solar energy systems and BESSs for a period of twelve months (the “Moratorium”); and

**WHEREAS**, the Moratorium was extended to August 2021 by Local Law No. 1 of 2021; and

**WHEREAS**, during the Moratorium, the Town Board commissioned a team consisting of members of the Town Board, Planning Board, County Planning Board, code enforcement, Town engineer, and attorneys for the Town, (the “Solar Law Review Team”), to review and propose revisions to the existing local law regulating solar energy systems, known as Local Law No. 2 of 2016 (the “Existing Solar Law”), and develop regulations for battery energy storage systems (“BESSs”); and

**WHEREAS**, the Solar Law Review Team developed proposed Local Law No. 2 of 2021 (the “Proposed Local Law”) to amend and restate Chapter 106 of the Town Code to revise the existing regulations for solar energy systems and provide regulations for BESSs; and

**WHEREAS**, the regulations developed by the Solar Law Review Team in the Proposed Local Law balance the various competing objectives of accommodating the New York State renewable energy goals and protecting the property rights of landowners, while preserving the community character, health, safety and welfare of the Town and its citizens, minimizing adverse impacts of solar energy systems and BESSs to adjacent properties, and conserving high quality agricultural land; and

**WHEREAS**, the substantive changes to meet these competing objectives, as compared to the Existing Solar Law, in the Proposed Local Law include the following:

1. Replacement of the two-tier system of “solar farms” with three size classifications of solar energy systems:
  - a. Small solar energy systems, which have a nameplate capacity up to and including 25 kilowatts (KW) and are permitted in all zoning district with a building permit.
  - b. Medium solar energy systems, which have a nameplate capacity of greater than 25 KW up to 7.5 megawatts (MW) and are permitted with site plan approval from the Town Planning Board in R-R, R-1, I-1, I-2, P-D, and L-C zoning districts.
  - c. Large solar energy systems, which have a nameplate capacity of greater than 7.5 MW and less than 25 MW and are permitted with site plan approval from the Planning Board and Special Use Permit approval from the Town Board in ROR, I-1, I-2, and L-C zoning districts.
2. To mitigate adverse impact to adjacent properties, limitations on solar energy systems permitted in the B-3 zoning district to small building and ground mounted small solar farms and limiting the size of solar energy systems in R-1 and P-D zoning districts to medium solar energy systems.
3. Creation of a category of solar energy systems referred to as On-Farm Solar Energy Systems, which provide lightened regulation for solar energy systems installed on agricultural land that are sized to solely support the farm operation.
4. Requirement that all medium and large solar energy system and Tier 2 BESS applications be referred to the Livingston County Planning Board pursuant to General Municipal Law 239-m.
5. Provisions to mitigate impacts to agricultural resources by limiting the solar energy system and Tier 2 BESS coverage and requiring construction and restoration consistent with the NYS Agriculture and Markets Solar Energy Project Guidance on parcels containing prime farmland or farmland of statewide importance.

6. Enhanced site plan and special permit design standards and approval requirements to minimize adverse impacts to residences, adjacent properties, and community character from medium and large solar energy systems and Tier 2 BESSs, including:
  - a. Enhanced setbacks from public highways, adjacent properties, adjacent residential property, and adjacent residences, with provisions for reduced setbacks to account for topography and existing vegetative buffers.
  - b. Application and ongoing maintenance requirements related to landscape screening and visual impacts.
  - c. Noise standards.
7. Financial security to ensure the availability of funds to the Town for decommissioning and site restoration in the event of the failure of the solar energy system or BESS operator to do so; and

**WHEREAS**, maps of lands in the Town not excluded from solar energy development based on zoning classification and setbacks from public roads and adjacent properties in the Proposed Local Law were prepared by the Livingston County Planning Department, which demonstrated available land for potential solar energy system and BESS development throughout the Town; and

**WHEREAS**, notice of a Public Hearing on the Proposed Local Law was published in the *Livingston County News* on May 27, 2021, and the Town Clerk also caused a copy of that Notice to be posted on the sign board of the Town maintained pursuant to Town Law §30(6) on May 27, 2021; and

**WHEREAS**, pursuant to Town Law § 264, on May 13, 2021 written notice of the Proposed Local Law was mailed or personally delivered to the Town Clerks of the Towns of Wheatland, Rush, Avon, LeRoy, York and Pavilion, the Village Clerks of the Villages of Avon and Caledonia, the Genesee Region, NYS Parks Commission, the Clerk of the Genesee County Board of Supervisors, and the Clerk of the Monroe County Legislature; and

**WHEREAS**, the Proposed Local Law, Part 1 of an Environmental Assessment Form, and the Existing Solar Law were referred to the Livingston County Planning Board for review pursuant to General Municipal Law § 239-m; and

**WHEREAS**, on May 20, 2021 the Livingston County Planning Board approved the Proposed Local Law with advisory comments; and

**WHEREAS**, based on the comments of the Livingston County Planning Board suggested revisions were made to the Proposed Local Law (the "Revised Proposed Local Law"), as shown in the redlined Proposed Local Law annexed hereto as Exhibit A and incorporated herein, including:

1. The Tier 2 BESS regulations were updated to include standard approval conditions similar to those provided for solar energy systems, including the requirement for a road use permit for Tier 2 BESSs.
2. A preference for agricultural integration plans on Designated Farmland has been made explicit.

3. The Town Engineer, acting on behalf of the Town, was explicitly identified as the responsible party to confirm that the decommissioning plan has been fully implemented.
4. A provision has been added for inspections of damaged solar panels and remedial requirements for related soil contamination.
5. A definition of portable solar arrays has been added.
6. The term “maximum tilt” has been eliminated and the height requirement revised for clarity.
7. The annual solar system training for emergency responders has been clarified to require that the training be site specific.
8. The solar panel height limitation has been reduced from 20 feet to 17 feet to address viewshed concerns from adjacent properties.

**WHEREAS**, the Revised Proposed Local Law has been on the desks of all Town Board members since May 27, 2021; and

**WHEREAS**, Parts 1, 2, and 3 of an Environmental Assessment Form (“EAF”) were prepared for the Revised Proposed Local Law, which the Town Board has reviewed; and

**WHEREAS**, adoption of proposed Local Law No. 2 of 2021 is a Type I action under the State Environmental Quality Review Act, pursuant to 6 N.Y.C.R.R. §617.4(b)(2); and

**WHEREAS**, a public hearing was duly held on that proposed Local Law on June 7, 2021 at 5:00 PM before the Town Board at the Caledonia Town Hall, and all persons desiring to speak were heard; and

**WHEREAS**, in consideration of the comments from the Town Board and the public made at the public hearing, the following additional revisions were made to the Revised Proposed Local Law as posted and published:

**NOW THEREFORE, IT IS RESOLVED**, that the Town Board has considered the Local Law and its potential for environmental impacts; reviewed and considered the EAF, the criteria contained in 6 N.Y.C.R.R. §617.7(c), and other supporting information to identify the relevant areas of environmental concern; and thoroughly analyzed the identified relevant areas of environmental concern to determine if the Proposed Local Law may have a significant adverse impact on the environment, and finds that the Local Law would not have a significant impact on the environment, because:

1. New York State has adopted policy and set goals into law to promote the installation of solar energy systems and BESSs on residential and municipal buildings, and for large commercial and utility-scale generating systems.
2. The Town of Caledonia recognizes that solar energy is a clean, readily available and renewable energy source and that BESSs are necessary to expand the use of renewable energy and meet the renewable energy goals of the State of New York.
3. The Proposed Local Law accommodates the goals of the State of New York to expand the use of solar energy systems and BESSs by regulating these systems to mitigate potential adverse impacts, including requirements necessary to promote and uphold

the public health, safety and welfare, conserve farmland, and to ensure that these systems will not have a significant adverse impact on residences, adjacent properties, public roads, and the aesthetic qualities and character of the Town.

4. Project specific impacts will be assessed under a separate environmental review as part of the project application approval process.

**IT IS FURTHER RESOLVED**, that pursuant to the State Environmental Quality Review Act, a Negative Declaration shall be made and duly filed, and an environmental impact statement need not be prepared; and it is

**RESOLVED** that, pursuant to the Municipal Home Rule Law, proposed Local Law No. 2 of 2021 is hereby enacted, and shall be filed with the Secretary of State; and it is

**RESOLVED** that Local Law No. 1 of 2021, known as the Extension of the Moratorium on Solar Farms and Large Battery Energy Storage Systems, and Local Law No. 1 of 2020, known as Moratorium on Solar Farms and Large Battery Energy Storage Systems, are hereby repealed and the moratorium on the permitting of solar farms and large battery energy storage systems is hereby terminated; and it is

**RESOLVED** that, pursuant to Town Law § 264, a summary of the Proposed Local Law shall be published in the *Livingston County News* and the affidavit of such publication shall be filed with the Town Clerk.

On motion of Councilman Bickford seconded by Councilman Pike the following resolution was

ADOPTED – Aye- Pangrazio, Rothrock, Rychlicki, Bickford, Pike      Nay- 0

RESOLVED, that Local Law No. 2 for 2021 be adopted.

On motion to adjourn by Councilman Pike seconded by Councilwoman Rychlicki and carried by all, the board meeting was adjourned.

Respectfully Submitted,

Seth Graham  
Town Clerk