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John Robortella <john.robortella@gmail.com>

FW: Planning Board Meeting Agenda & Resolutions for April 15, 2020

1 message

Peter Ingalsbe <pingalsbe@farmingtonny.org>

Wed, Apr 15, 2020 at 12:07 PM

To: "john.robortella@gmail.com" <john.robortella@gmail.com>

Cc: Ron Brand Gmail <rblplans@gmail.com>, "Brabant, Lance" <Lance.Brabant@mrbgroup.com>, Sarah Mitchell <smitchell@farmingtonny.org>, Dan Delpriore <ddelpriore@farmingtonny.org>, "Ed Hemminger (edhemminger@gmail.com)" <edhemminger@gmail.com>, Marcy Daniels <mdaniels@farmingtonny.org>

John, please add to the DRS abstract yesterdays email and attachments and my response today to Dan Compitello. Thanks

Peter Ingalsbe

From: Daniel Compitello <daniel.compitello@delawariversolar.com>**Sent:** Tuesday, April 14, 2020 5:47 PM**To:** Peter Ingalsbe <pingalsbe@farmingtonny.org>; Ed Hemminger <edhemminger@gmail.com>**Cc:** Peter Dolgos <peter.dolgos@delawariversolar.com>; Dave J Plante <dplante@bergmannpc.com>; David Matt <dmatt@schultzpc.com>; Brabant, Lance <Lance.Brabant@mrbgroup.com>; Donald Young <dyoung@boylancode.com>; Terence Robinson <trobenson@mmrlegal.com>; Thomas F. Puchner <tpuchner@phillipslytle.com>; Latimer, Ian (NYSERDA) <Ian.Latimer@nyserda.ny.gov>**Subject:** Fwd: Planning Board Meeting Agenda & Resolutions for April 15, 2020

Peter and Ed,

I hope you are staying safe and healthy.

As you know, Delaware River Solar currently has two applications ("Applications") pending before the Town of Farmington Planning Board ("Planning Board"), which were scheduled for a public hearing on May 6. We received the proposed agenda and resolutions for the upcoming Planning Board meeting, scheduled for April 15, and were dismayed to find that the Planning Board was considering continuing the public hearings on the Applications "to an unspecified date and time." I write today to express our concern about this proposal and to encourage the Planning Board to hold public hearings on the Applications on May 6 as planned.

This email has been prepared by myself and DRS counsel including Thomas Puchner of Phillips Lytle, and Donald Young, of counsel to Boylan Code, both of whom have renowned municipal law experience, and have examined the Governors Executive Orders recently issued that expressly permit Towns to conduct remote public hearings, among other essential business, in light of the Covid-19 pandemic.

As a preliminary matter, let me start by expressing my appreciation for the Town's hard work during the review of the Applications. Delaware River Solar has been working with the Town on this endeavor since May 2018, and we value the town's input and cooperation throughout the process.

Turning to the substance of my concern, I understand that further review of the applications will take additional time and effort, particularly in light of the ongoing COVID-19 pandemic, but we believe that the Town is well-equipped to make the accommodations necessary to continue its review of the Applications. To this end, I want to call particular attention to two recent Executive Orders, issued by Governor Cuomo, that encourage local governments to utilize technology to facilitate public meetings and hearings while in-person gatherings are restricted. We understand the Town has reviewed these Orders, and that the Farmington Town Attorney has advised that all public hearings are suspended indefinitely until these Orders are lifted. However, postponing hearings indefinitely is a severe action, and instead, it is within the rights of the Town, granted by the State, to continue to hold public hearings.

- The first, Executive Order 202.1, was issued on March 13, 2020 and suspended Article 7 of the Public Officers Law, otherwise known as the Open Meetings Law, to permit public meetings and public hearings to proceed telephonically. This option to proceed telephonically is in addition to the ordinary requirements of the Open Meetings Law, which permits public meetings and public hearings both in person and by videoconferencing.
- The second Executive Order, 202.15, was issued on April 9, 2020 and went so far as to encourage local governments to proceed telephonically with public meetings and public hearings. Although Executive Order 202.15 did give local governments the option to postpone any public meeting or public hearing until June 1, 2020, it expressly allowed for any local government to hold such public hearing by remote access if the municipality has the capability to do so.

The Farmington Planning Board successfully held a public meeting on April 1, which included public participation. Myself and others provided comments directly during the meeting and these comments were clearly responded to by the Planning Board and Town Staff in real time during that meeting. This shows that the Planning Board is more than capable of proceeding with remote access public hearings in accordance with Executive Orders 202.1 and 202.15.

We understand that moving forward remotely, as specifically allowed under Executive Orders 202.1 and 202.15, requires special accommodations to facilitate and promote public involvement. Many jurisdictions are already successfully holding remote access meetings and hearings and I want to highlight the things others have done to foster open and robust public involvement. Here are some examples:

1. **Town of New Castle** - On March 17, 2020, the Town of New Castle Planning Board held a public hearing on an application for Subdivision approval. The hearing was streamed live over YouTube and public comments were accepted in real time via YouTube's live chat function.
 - New Castle also has very clear, and easy to follow public hearing instructions, listed on their website for Town Board hearings as well:
 - <https://www.mynewcastle.org/CivicAlerts.aspx?AID=269&ARC=583>
2. **Village of Trumansburg** - On April 13, 2020, the Village of Trumansburg held a public hearing on its budget. The hearing was conducted via Zoom and public comments were accepted via email ahead of the meeting.
3. **New York City Council** - Earlier this month the New York City Council announced its intention to hold public hearings on the City budget remotely. The hearings will be streamed live through their website.

These are just a few of many examples of municipalities utilizing technology to facilitate public participation and

evinces the many options for doing so. Bergmann Associates is able to assist with coordinating such meetings if you would like. Additionally, Ian Latimore at NYSERDA, has identified several resources the Town may use to consider how to hold effective public meetings and hearings. I've included a few of the resources below, but please feel free to write Ian directly if you would like - he is copied on this email.

- [Capital District Regional Planning Commission - How to Hold Public Meetings During COVID-19](#)
 - This describes how the Town of Colonie conducts public meetings using Zoom.
 - Here is a recording of their last meeting on YouTube: <https://www.youtube.com/watch?v=tey2L4G4KCY&feature=youtu.be>
 - Please note how the meeting was led and moderated.
 - At minute 1:45:15, note the discussion of the Board to set future meetings, and make Covid-19 adjustments
- [New York Conference Of Mayors - Conducting Meetings and Public Hearings During the COVID-19 Pandemic - Updated April 10, 2020](#)
 - This latest guidance includes a review of EO 202.1 and EO 202.15
 - Several options are given for how Towns can hold public meetings and hearings
 - See the guidance attached, and at this [link](#)
- [New York Conference of Mayors - Teleconference Resource list](#)
 - This lists several applications that can host teleconference and video-conference meetings
 - [MRB Groups' join.me platform](#) is not listed as a teleconference resource by NYCOM, but it is clearly useful given how well the April 1 Planning Board meeting was conducted.

We understand and appreciate the work involved in making accommodations to continue functioning during the Covid-19 emergency. To date, the Towns, IDAs and County Planning Boards that Delaware River Solar works with have not cancelled any meetings and instead, are working to adapt their practices to meet the needs of their residents. We encourage the Town of Farmington to do so as well and we believe that making efforts to meet remotely are a sound, long-term strategy for the Town because no one knows how long Covid-19 precautions will alter our ability to safely meet in person. These efforts will have great value now, and will better prepare the Town to operate during other emergencies in the future.

Thank you for your consideration of this matter.

Best,

Daniel Compitello
Project Developer



130 North Winton Road #415

Rochester, NY 14610

t - 347.765.4271

daniel.compitello@delawareriversolar.com
www.delawareriversolar.com

----- Forwarded message -----

From: **Sarah Mitchell** <smitchell@farmingtonny.org>

Date: Mon, Apr 13, 2020 at 2:24 PM

Subject: Planning Board Meeting Agenda & Resolutions for April 15, 2020

To: Daniel Compitello <daniel.compitello@delawareriversolar.com>

Cc: Dan Delpriore <ddelpriore@farmingtonny.org>, John Robortella <john.robortella@gmail.com>

Hi Dan,

Attached is the Agenda and Resolutions for the April 15, 2020 Planning Board Meeting.

Thank you,

Sarah Mitchell

Building Department

Town of Farmington

1000 County Road 8

Farmington, NY 14425

Ph: (315) 986-8100 option 3

5 attachments

 **PB 1004-18 DRS Prelim Site Plan. Recall Resol for May 6th Public Hearing. April 15 2020**

Meeting_.doc

49K


 **PB 1006-18 DRS Special Use Permit. Recall Resol for May 6th Public Hearing. April 15 2020**

Meeting_.doc

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 **PB April 15, 2020 Agenda.doc**

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 **COVID-19_NYCOM_Guidance_-_Meetings_and_Public_Hearings_-_April_10_2020 (1).pdf**
265K

 **Response to DRS 4 15 2020.pdf**
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