

Town Board Meeting July 12, 2021

Supv. Crossen called the monthly meeting of the Alabama Town Board to order at 7:00 p.m. Roll Call was taken, Councilperson Fisher, LaGrou, Klotzbach, Veazey and Supv. Crossen were present. Also present were Supt. Covell, Mark Masse, Dave Bencic, Attorney Boylan, Robert Klavoon, Jean Taradena, Frank Taradena, Cheryl Sundown and Rita Sage. Present via zoom: Jeremy DeLyser.

Privilege of the Floor

Dave Bencic – noticed that the wind turbine on Ledge Road is not operating, it hasn't been for a while. Zoning law says after 12 months of not operating it has to be taken down. Supv. Crossen will notify the CEO/ZEO.

Highway – Supt. Covell gave an update:

- Second round of roadside mowing is being done.
- Working with Oakfield and Pembroke, Shared Services.
- Restoration on Knowlesville Road being done.
- Cleaned up around the old transfer station on Maple Rd.
- Would like to sell the old trailer, new one has been delivered.
- Currently four properties that need the lawn mowed, asked what the process is. Disc. held.

MOTION by Councilperson LaGrou, seconded by Councilperson Klotzbach to allow Supt. Covell to advertise for sealed bids to sell the old trailer with a reserve of \$5,500.00. Approved by roll call vote:
C. Fisher – yes C. LaGrou – yes C. Klotzbach – yes C. Veazey – abstained Supv. Crossen – yes

Appointment

MOTION by Councilperson Veazey, seconded by Councilperson Fisher to appoint Anthony Mudrzynski as bingo inspector with a salary of \$200.00. Approved by roll call vote:
C. Fisher – yes C. LaGrou – yes C. Klotzbach – yes C. Veazey – yes Supv. Crossen – yes

Alabama Cemetery Price List Amendment

MOTION by Councilperson Veazey, seconded by Councilperson Fisher to amend the headstone foundations up to 419 sq/in to \$300.00 minimum. Approved by roll call vote:
C. Fisher – yes C. LaGrou – yes C. Klotzbach – yes C. Veazey – yes Supv. Crossen – yes

Genesee County Revenue Sharing

Matt Landers and Shelly Stein met with Town/Village Supervisors and Mayors to discuss the revenue sharing by the County. Alabama has already agreed to the water supply agreement with the County, there is nothing more for us to do. Disc. held.

STAMP – Mark Masse gave update:

There are presently five (5) companies looking at the site. The EDC has responded to three of the companies requests, no response back from the companies yet. The 4th and 5th companies are showing interest.

The Pembroke line is almost complete, will have to dedicate Alabama's portion to the Town. Will require an acceptance from the Town in the next few months.

Design and engineering of large scale infrastructure is almost complete.

Water District 2 – Jeremy DeLyser gave an update:

Phase 4 water main installed, waiting on permanent meter vault.
Filling pipes on Kenyon.
Morsch has a few punch list items to finish up.
There are a few items on Macomber Road to be taken care of.

Supv. Crossen spoke with the Pembroke Supervisor. There are two residents showing interest in hooking up as out-of-district users. He will reach out to them.

WATER DISTRICT #2 PROJECT BUDGET MODIFICATIONS

Councilperson Fisher offered the following resolution:

WHEREAS, the Town of Alabama has received funding from Rural Development for their Water District #2 (“Project”); and

WHEREAS, the Town Board wishes to adjust project budget items to more accurately reflect actual costs and;

WHEREAS, Rural Development requires the Town Board to authorize all changes to the Administrative Budget as shown on the Form E; NOW, therefore be it

RESOLVED, that the Town Board of the Town of Alabama authorizes the following Budget modifications for the Project:

Fiscal Advisor (MSI)	Increase of	\$14,000.00
Industrial Asset Appraisal	Increase of	5,000.00

Councilperson Klotzbach seconded the resolution which was approved by roll call vote:

C. Fisher – yes C. LaGrou – yes C. Klotzbach – yes C. Veazey – yes Supv. Crossen – yes

COVID-19

Supv. Crossen said this should be the last month it’s on the agenda. He will check to make sure we are in compliance. Zoom meetings are winding down, it may only be offered for out-of-town guest speakers.

Court – nothing new.

Town Hall – nothing new.

Executive Session

MOTION by Councilperson Fisher, seconded by Councilperson Veazey to go into executive session at 7:25 p.m. to discuss matters leading to the appointment, employment, promotion, demotion, discipline, suspension, dismissal or removal of a particular person or corporation; and/or Negotiations and updates subject to NDAs regarding the IZA; and/or Negotiations regarding the Teamsters Contract with Mark Masse, Robert Klavoon and Attorney Boylan. Approved by roll call vote:

C. Fisher – yes C. LaGrou – yes C. Klotzbach – yes C. Veazey – yes Supv. Crossen – yes

MOTION by Councilperson LaGrou, seconded by Councilperson Klotzbach to come out of executive session at 8:22 p.m. and reconvene the regular meeting. Approved by roll call vote:

C. Fisher – yes C. LaGrou – yes C. Klotzbach – yes C. Veazey – yes Supv. Crossen – yes

ESCROW AGREEMENT FOR THE PAYMENT OF MUNICIPAL CONSULTANT AND LEGAL EXPENSES

THIS AGREEMENT dated _____, 2021 by and between the Town of Alabama, a municipal corporation with its principal office located at 2218 Judge Road, Oakfield, NY 14125, (the “Town”) and Alabama Solar Park LLC, with its principal place of business located at 1501 McKinney, Suite 1300, Houston, TX 77010 (“Alabama Solar”), with regard to the Alabama Solar Park Project.

WHEREAS, Alabama Solar is proposing to construct and operate the Alabama Solar Park, a 130-MWac solar powered electric generating facility, to be located in the Town of Alabama and a portion in the Towns of Oakfield and Pembroke, Genesee County, NY (the “Project”);

WHEREAS, New York has passed the Accelerated Renewable Energy Growth and Community Benefit Act, which adds a new Section 94-c to the Executive Law. Section 94-c establishes an expedited review process with uniform standards and conditions for renewable energy facilities with a nameplate generating capacity of 25 megawatts or more, such as the Project,

WHEREAS, Alabama Solar is required to obtain a siting permit from the State Office of Renewable Energy Siting pursuant to Section 94-c;

WHEREAS, the 94-c permitting process does not provide for pre-application phase intervenor funding, however it requires certain specific consultations between the Town of Alabama and Alabama Solar;

WHEREAS, Alabama Solar has offered, and the Town has accepted Alabama Solar’s offer, to reimburse the Town for certain out-of-pocket expenses related to the pre-application consultations under 94-c; and

NOW, THEREFORE, in consideration of the mutual promises herein, the Town and Alabama Solar agree that the terms and conditions of this Agreement are the following:

1. Alabama Solar shall reimburse the Town for certain out-of-pocket professional expenses and legal fees up to \$50,000.00. The out-of-pocket expenses include the legal and consultant review of the Project and involvement in ongoing consultations required by 94-c and negotiation or consideration of host community or PILOT agreements. The legal fees and consultant review fees for which reimbursement is provided hereunder shall be incurred at hourly rates with such rate not to exceed \$210.00 for legal services and \$____ for Town Engineering fees per hour in addition to any other professional consulting expenses required by the Town. Alabama Solar shall not be required to reimburse the Town for any legal or professional fees associated with any litigation involving Alabama Solar as an adverse party to the Town.
2. Within fifteen (15) days of the execution of this Agreement, Alabama Solar shall deposit the sum of \$50,000.00 with the Town who shall hold the funds in escrow to be used to pay the professional and legal fees incurred by the Town in the review and work related to the Project and subject to this agreement.
3. Current invoices for professional and legal services as well as those invoices previously paid to date by the Town of Alabama will be submitted to Alabama Solar for review and approval prior to disbursement of any sums from escrow. Such invoices shall be reasonably detailed, showing the total professional and legal fees incurred, date, description of services, rate, time spent, and any billed costs. Upon approval by Alabama Solar and the Town, the Town will thereafter disburse funds from the escrow account to pay the invoices. Copies of all invoices

shall be provided to Alabama Solar through its attorney, except for any privileged portions of legal billings. Invoices not acted upon by Alabama Solar within 30 business days of receipt shall be deemed approved.

4. The reimbursement of consultant and legal costs, fees and expenses shall be for work related to the Project. In no event is Alabama Solar required to reimburse the Town for costs, fees or expenses incurred by its consultants in an amount greater than \$50,000.00 unless otherwise mutually agreed to by amendment to this agreement.
5. The professionals and attorneys retained by the Town to assist them shall work for the Town and shall not have any obligation or fiduciary relationship to Alabama Solar.
6. The services provided by the professionals and attorneys subject to reimbursement hereunder shall be limited to those services necessary to assist the Town in its Section 94-c pre-consultations regarding the Project and negotiation of the host community and PILOT agreements. The rates charged by the professionals and attorneys shall not exceed those rates customary within the community for similar services.
7. Upon the filing of the 94-c Application by Alabama Solar, the Town's involvement with respect to the pre-application review of the Project will be considered complete, and any monies remaining in the escrow account, after paying all outstanding professional and attorney costs, fees and expenses, shall be returned to Alabama Solar.
8. Alabama Solar may terminate this agreement upon receipt by the Town of ten (10) days written notice. Upon such termination, Alabama Solar shall no longer be responsible for costs related hereto. If Alabama Solar terminates this agreement, Alabama Solar shall be responsible to pay all outstanding costs, fees and expenses incurred by the Town from the escrow established pursuant to this agreement up to ten (10) days subsequent to the date of receipt of the ten (10) day Notice of Termination. In this event the Town shall have no further obligations regarding the Project, Alabama Solar or any subsidiary of Alabama Solar Park LLC or EDP Renewables North America LLC
9. There are no other agreements between the Town and Alabama Solar or any subsidiary of Alabama Solar Park LLC or EDP Renewables North America LLC at this time.
10. By execution of this agreement and receipt of funds from Alabama Solar pursuant hereto, the Town of Alabama makes no commitment of support to the Project and no commitment to consent to the Project. Any consent shall be based solely upon the benefits and/or detriments of the proposed Project to the Town.
11. All correspondence, including notices where required in this agreement, shall be made to the following representatives for the parties:

Young/Sommer LLC
Attorneys for Alabama Solar Park LLC
Attn: James A. Muscato II
Executive Woods
5 Palisades Drive, Suite 300
Albany, NY 12205
Phone: (518) 438-9907

Boylan Law Office, LLP
Attorneys for the Town of Alabama
Attn: Mark S. Boylan Esq.
45 West Main Street/P.O. Box 307
LeRoy, NY 14482
Phone: (585) 768-8148
mboylan@boylanlawoffice.com

jmuscato@youngsommer.com

With Copy To:

By FedEx, UPS, courier and personal delivery:
Alabama Solar Park LLC
c/o EDP Renewables North America LLC
1501 McKinney, Suite 1300
Houston, Texas 77010
Attention: General Counsel

By U.S. Postal Service:
Alabama Solar Park LLC
c/o EDP Renewables North America LLC
P.O. Box 3827
Houston, Texas 77253
Attention: General Counsel

12. This Agreement shall be governed by and interpreted in accordance with the laws of the State of New York, without given effect to the principles of conflict of laws.
13. This Agreement may be executed with counterpart signature pages and in duplicate originals, each of which shall be deemed an original, and all of which shall collectively constitute a single instrument.
14. This Agreement may not be modified or amended except by a writing signed by both parties.
15. Should any provision of this Agreement be held to be invalid, void or unenforceable, the remaining provisions hereof shall remain in full force and effect, unimpaired by such holding.
16. The Town and Alabama Solar hereby represent and warrant to each other that each person or entity signing this Agreement is authorized to do so and has the unrestricted right, power and authority to enter into and perform its obligations under this Agreement.
17. Upon an uncured default by a party under this Agreement, the non-defaulting party shall have and shall be entitled to exercise any and all remedies available to it at law or in equity, all of which remedies shall be cumulative.

Alabama Solar Park LLC

Town of Alabama

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

MOTION by Councilperson Fisher, seconded by Councilperson LaGrou to accept the escrow agreement with Alabama Solar Park LLC, and have Supv. Crossen sign it. Approved by roll call vote:

C. Fisher – yes C. LaGrou – yes C. Klotzbach – yes C. Veazey – yes Supv. Crossen – yes

Union Contract – Supv. Crossen just received a response from the Union on Friday. He will meet with Councilperson LaGrou to review the Union’s response.

Approval of Minutes

6/14/21 Board Meeting – MOTION by Councilperson Veazey, seconded by Councilperson Fisher to accept minutes as presented. Approved by roll call vote:

C. Fisher – yes C. LaGrou – yes C. Klotzbach – yes C. Veazey – yes Supv. Crossen – yes

Supervisors Report

7/5/21 -- MOTION by Councilperson Klotzbach, seconded by Councilperson Veazey to accept report as written. Approved by Roll Call Vote:

C. Fisher – yes C. LaGrou – yes C. Klotzbach – yes C. Veazey – yes Supv. Crossen – yes

Audit Bills

MOTION by Councilperson LaGrou, seconded by Councilperson Fisher to accept Abstract #007-2021 and pay bills in the amount of \$37,630.08 vouchers 141 to 158 General Fund; \$160,312.44 vouchers 93 to 106 Highway Fund; \$272,884.33 vouchers 25 to 28 Water District 2; \$501.60 vouchers 19 and 20 Water District 1. Approved by Roll Call Vote:

C. Fisher – yes C. LaGrou – yes C. Klotzbach – yes C. Veazey – yes Supv. Crossen – yes

Williamson Law Books Contract

MOTION By Councilperson Fisher, seconded by Councilperson Klotzbach to accept the support contract from Williamson Law Books for the Municipal Accounting & Budget Preparation Software and have Supv. Crossen sign it. Approved by roll call vote:

C. Fisher – yes C. LaGrou – yes C. Klotzbach – yes C. Veazey – yes Supv. Crossen – yes

Transfers

MOTION by Councilperson Fisher, seconded by Councilperson LaGrou to transfer funds as listed:

\$74.16 from A8664.42 to A8010.42

\$430.64 from DA5130.4 to DA600

\$19,782.20 from DA5130.2 to DA600

Approved by roll call vote:

C. Fisher – yes C. LaGrou – yes C. Klotzbach – yes C. Veazey – yes Supv. Crossen – yes

Town Clerk’s Report

June 2021 -- MOTION by Councilperson Klotzbach, seconded by Councilperson Veazey to accept report as written. Approved by Roll Call Vote:

C. Fisher – yes C. LaGrou – yes C. Klotzbach – yes C. Veazey – yes Supv. Crossen – yes

Assessor’s Report

May 2021 Transfers -- MOTION by Councilperson Fisher, seconded by Councilperson LaGrou to accept report as written. Approved by Roll Call Vote:

C. Fisher – yes C. LaGrou – yes C. Klotzbach – yes C. Veazey – yes Supv. Crossen – yes

CEO/ZEO Report

June 2021 -- MOTION by Councilperson Fisher, seconded by Councilperson LaGrou to accept report as written. Approved by Roll Call Vote:

C. Fisher – yes C. LaGrou – yes C. Klotzbach – yes C. Veazey – yes Supv. Crossen – yes

Mike Morris sent letters to six property owners, this past week, for violation of the Property Maintenance law.

2021 Budget – nothing new. Supv. Crossen received budget worksheets for the 2022 budget.

Supv. Crossen applied for the ARPA Coronavirus Local Fiscal Recovery Fund. The Town could receive up to \$177,327, receiving half this summer and the remainder in the Summer of 2022.

Audit update – the appraisal company was out and started work.

Website – Councilperson Klotzbach is working on it.

Supv. Crossen asked board members to pencil in Aug. 23, 2021 as a possible second meeting date for August.

MOTION by Councilperson Klotzbach, seconded by Councilperson Fisher to adjourn meeting at 8:46 p.m. Approved by roll call vote:

C. Fisher – yes C. LaGrou – yes C. Klotzbach – yes C. Veazey – yes Supv. Crossen – yes

Respectfully Submitted,

Rebecca L. Borkholder
Town Clerk