

TOWN OF SAND LAKE TOWN BOARD MEETING
JULY 13, 2016

A meeting of the Sand Lake Town Board was held on July 13, 2016 at 7:30 P.M. at the Sand Lake Town Hall. After the Pledge of Allegiance, the following answered roll call:

PRESENT: Councilwoman Kronau
Councilman Turner
Councilwoman Glasser
Councilman Beebie
Supervisor Fasoldt
Town Attorney Scott Ely

RECORDING SECRETARY: Barbara A. Biittig, Town Clerk

OTHERS PRESENT: Neil Urbaetis, Mr. & Mrs. Jerry Aumond, Frank & Pam Maier, Robbie MacCue, Theresa Tomaszewska, Jim Gumaer, Monica Hardy, Ed Knapp, Bill Glasser, Tim Komdat, Ruth Goerold, Janice Hayward, Scott Blair, Bill Hoffay, Fred Erickson, Frank Lewandusky, Gail Moon, John Hill, Mike Moon, Stewart Nippes, Marie Johnson, Peter Lindley, Molly Lindley and others.

CALL TO ORDER

Supervisor Fasoldt opened the meeting at 7:30 pm.

APPROVAL OF MINUTES –

Supervisor Fasoldt moved to approve the minutes of June 8, 2016 Town Board Meeting. This was seconded by Councilman Beebie.

MOTION CARRIED = UNANIMOUS

Supervisor Fasoldt moved to approve the minutes of June 29, 2016 Workshop Meeting. This was seconded by Councilman Turner.

MOTION CARRIED = UNANIMOUS (Councilwoman Glasser abstained)

MONTHLY REPORTS: TOWN CLERK- Barbara A. Biittig

- Money paid to Supervisor for June 2016, \$28,311.92
- Money paid to NYS Ag & Markets for spay/neuter program \$59.00
- Money paid to NYS Health Dept. for Marriage Licenses \$112.50
- Money paid to NYS Conservation for June 2016 \$676.48

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Notice from the US Department of State with regard to passports. All Passports need to be renewed 6 months prior to expiration date. Using a passport too close to the renewal date can cause you to be denied access to travel. Passport day in the USA will be coming up soon.

Town Beach is open for the 2016 Season. New this year all passes including day passes must be issued in the Town Clerk's office. Residents are free and nonresidents the cost is \$25 per season. I have received a lot of positive comments on the beach this year. We have issued over 233 passes (family passes) so far. Swim lessons are on Sat. mornings. There are 5 more sessions. For more information call my office. Keith Hammond has done a great job this year with the beach. He works very hard on the Beach and the Park.

Reminder, use of Butler Park requires a permit. For more information please contact my office.

The Town Clerk's office is where you can get a certificate of residency for Hudson Valley. Students need to complete a form. Show proof of residency (driver's license, phone bill etc.)and I can notarize the form.

All dogs that live in the town require a dog license. This is a New York State Law. The town has a lease law. All dogs must be leashed when off your property. Licensing your dog also helps you to find a lost dog much easier. For further information regarding the town law go to the Town Website. *Town of Sand-lake.us*.

If you have any questions, concerns please feel free to contact me at 518-674-2026 ext. 22 or my home at 518-674-5721.

SUPERVISOR'S REPORT:

- Budget Preparation
- Negotiations with UPSEU
- Received DEC Modification Application for permit to Mine Rifenburg Construction – Hoffay Pit.
- Met NYS Police with Councilman Turner on the Memorandum of Understanding between the Town and the State Police that expires in 2017.
- DPW to start August 11, 2016 on the prep for Burden Lake Road
- Town resident Rudy Winkler is going to the Olympics for men's hammer competition.

COMMITTEE REPORTS:

YOUTH – Lindsay Marshall – None at this time.

PLANNING BOARD - On file in the Town Clerk's Office.

BUILDING/ZONING – On file in the Town Clerk's Office.

Fred Erickson – Planning oversight committee – On file in the Town Clerk's Office.

ENGINEER - Lindsay Kestner – None at this time.

BOARD MEMBERS REPORTS:

PUBLIC WORKS – On file in the Town Clerk's Office.

HIGHWAY – On file in the Town Clerk's Office.

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PLANNING OVERSIGHT/LINKAGE STUDY – On file in the Town Clerk’s Office.

CABLE – –None at this time.-

PLANNING & ECONOMIC DEVELOPMENT – Steve Beebie– On file in the Town Clerk’s Office.

PHYSICAL FACILITIES – Ray Turner– On file in the Town Clerk’s Office.

INTERNAL CONTROL – Ray Turner – On file in the Town Clerk’s Office.

PARKS AND RECREATION –Ray Turner – On file in the Town Clerk’s Office

BEACH – Ray Turner– On file in the Town Clerk’s Office

CULTURE AND ARTS - Christine Kronau – On file in the Town Clerk’s Office.

YOUTH – Christine Kronau – None at this time.

SENIORS/SENIOR VAN – Steve Beebie– On file in the Town Clerk’s Office.

ART, HISTORY & CULTURE- Christine Kronau – On file in the Town Clerk’s Office.

VETERANS – Barbara Glasser. On file in the Town Clerk’s Office.

AMBULANCE/PUBLIC SAFETY – Christine Kronau - On file in the Town Clerk’s Office.

DISASTER PREPAREDNESS/EMERGENCY SERVICES- Barbara Glasser – On file in the Town Clerk’s

COMMUNITY SUBSTANCE ABUSE AWARENESS – Barbara Glasser – On file in the Town Clerk’s

ANIMAL CONTROL – Barbara Glasser – On file in the Town Clerk’s

STREET LIGHTS –Ray Turner – On file in the Town Clerk’s

LIBRARY – Ray Turner- On file in the Town Clerk’s Office.

CONVENIENCE FACILITY – Ray Turner– On file in the Town Clerk’s Office.

ZONING UPDATE –Councilman Turner- None at this time.

COMMENTS FROM RESIDENTS:

1. Frank Lewandusky,
2. Tim Komdat
3. Karen Milkiewicz
4. Peter Lindley

*A complete accounting of all discussions on agenda is available for review on audio tape in the Town Clerk’s Office.

Introduction: Amendments to Chapter 28 of the Town Code – Investment Policy – Supervisor Fasoldt.

RESOLUTION#2016-07-82

Establishing Town Comprehensive Plan Committees

Supervisor Fasoldt moved and Councilwoman Kronau seconded the following resolution:

Whereas, in June of 2006, the Town of Sand Lake adopted a Comprehensive Plan as a tool to set a course for the future planning of our community, and

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Whereas, the Town of Sand Lake Comprehensive Plan outlines specific actions or policies the Town shall pursue to accomplish the shared vision of our Town; calling for certain objectives and recommendations to establish a framework for community-wide collaboration; and

Whereas, the Planning Oversight Committee has provided the Town Board with guidance and suggestions related to committee membership to further that vision; now therefore,

Be it Resolved, that the Town Board hereby establish the following committees and members:

Planning Oversight Committee

Fred Erickson
Russ Bennett
Monica Ryan
Rob Dressner
Laurie Leckonby
John McEvilly
Ed Patanian
Timothy O'Byrne
Bob Moore
Supervisor Flora Fasoldt – Liaison

Mining Advisory Committee

Thomas Hatcher
Edward Patanian
David Allegretta
Cindy LeFleur
Councilman Steve Beebie - Liaison

Environmental/Open Space/Recreation Committee

Alan Randall
John Sniezyk
Shannon DeCelle
John Bielawski
Peter Sanzen
Councilwoman Barbara Glasser - Liaison

And be it,

Further Resolved, that the volunteer members of the Planning Oversight Committee, Mining Advisory Committee and Environmental/Open Space/Recreation Committee shall serve a three-year term ending December 31, 2018.

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ADOPTED = AYES 5 NAYS 0

RESOLUTION#2016-07-83

Appointments – Summer Day Camp 2016

Supervisor Fasoldt moved and Councilwoman Kronau seconded the following resolution:

Be it Resolved, that the Town Board hereby appoints the following staff for the 2016 Summer Day Camp session:

<u>Name</u>	<u>Position</u>	<u>Hourly Rate</u>
Rebecca Re	Counselor 1	\$9.00
James Ely	Counselor 1	\$9.00

ADOPTED = AYES 5 NAYS 0

RESOLUTION#2016-07-84

Appointment – Cable TV Technician

Supervisor Fasoldt moved and Councilman Beebie seconded the following resolution:

Be it Resolved, that the Town Board hereby appoints Daminica Ryan as Cable TV Technician for the Town of Sand Lake to be compensated at a rate of \$28.00 per meeting as set forth in the 2016 Town of Sand Lake Budget.

ADOPTED = AYES 5 NAYS 0

RESOLUTION#2016-07-85

Amendment to Noise Ordinance – Chapter 170

Supervisor Fasoldt moved and Councilman Beebie seconded the following resolution:

Whereas, on March 17, 1999 a decision of the Court of the Town of Sand Lake declared Chapter 170.2 section (E) of the Noise Pollution Control Law of the Code of the Town of Sand Lake unconstitutional based on both the Federal and New York State Constitution; and,

Whereas, subsequent to the decision of the Court, the Town has had multiple widespread instances whereby Chapter 170 Noise Pollution Control Law of the Town of Sand Lake has not been enforceable causing increased conflicts between residents; and,

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Whereas, at a Town Board Meeting on May 11, 2016 amendments to Chapter 170 Noise Pollution Control Law of the Town of Sand Lake were introduced and a public hearing date set, and properly noticed and published by the Town Clerk for June 8, 2016; and,

Whereas, on June 8, 2016 the Town Board conducted a public hearing regarding the adoption of the amendments to Chapter 170 Noise Pollution Control Law, now therefore,

Be it Resolved, that Chapter 170 Noise as adopted by the Town Board of the Town of Sand Lake on October 11, 1978 by Local Law No. 1-1978 is hereby amended to read as follows:

Chapter 170

NOISE

§170-1. Title

§170-3. Penalties for offenses

§170-2. Prohibited noises

[HISTORY: Adopted by the Town Board of the Town of Sand Lake 10-11-1978 by L.L. No. 1-1978. Amendments noted where applicable.]

§170-1. Title.

This chapter shall be known as the “Noise Pollution Control Law of the Town of Sand Lake.”

§170-2. Prohibited noises.

A. General prohibition. It shall be unlawful for any person to make or cause to be made any loud or unreasonable noise. Noise shall be deemed to be unreasonable when it disturbs, injures or endangers the peace or health of another or when it endangers the health, safety or welfare of the community. Any such noise shall be considered to be a noise disturbance and a public nuisance.

B. Express prohibitions. The following acts, which enumeration shall not be deemed to be exclusive, are declared to be noise disturbances:

A (1) Continuous animal noises between the hours of 11:00 p.m. to 6:00 a.m.

B (2) Construction or demolition noises. Construction or demolition which emit such noises is prohibited between the hours of 11:00 p.m. and 6:00 a.m., except in the event of an emergency requiring immediate construction or demolition.

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C (3) Radios, televisions, record players, tape recorders, etc. Radios, televisions, record players, tape recorders, CDs, MP3 players and other like devices shall be so modulated as not to annoy or cause discomfort to surrounding neighbors.

D (4) Minibikes, snowmobiles, motorcycles, off-road and all-terrain vehicles. Between the hours of 10:00 p.m. and 7:00 a.m., minibikes, snowmobiles, motorcycles, off-road and all-terrain vehicles of any description designated for either on or off road use shall not be operated on private property closer than 200 feet to any residence except the residence of the owner or operator thereof or any residence to which the owner or operator may be invited; or in such a manner as to unreasonably interferes or disturbs the peace, quiet or comfort of the public.

F (5) Internal-combustion engines without an adequate muffler designed and manufactured to suppress exhaust noises to a minimum.

F (6) Parties and other social events. Notwithstanding Section 2.A, it shall be unlawful for any person who is participating in a party or other social event to actively make unreasonably loud noise. A party or other social event is defined as a gathering upon the premises of one or more persons not residing at the premises. Unreasonably loud noise is noise that unreasonably interferes with the peace or health of members of the public or is plainly audible between the hours of 10:00 p.m. and 7:00 a.m. through the walls between units within the same building, from another property or from the street. It shall also be unlawful for any resident of a premises to allow a party or other social event occurring in or about the premises to produce unreasonably loud noise. There is a rebuttable presumption that all residents of the premises have allowed such party or other social event to occur in or about the premises. All resident of the premises are responsible for such unreasonable noise made, each having joint and several liability.

§170-3. Penalties for offenses.

A violation of this chapter is an offense punishable by a fine of not less than \$50 nor more than \$100. Each day's violation shall constitute a separate offense.

ADOPTED = AYES 5 NAYS 0

RESOLUTION#2016-07-86

Intent to Enter into Successive Agreement – Town of Sand Lake & NYS Police

Supervisor Fasoldt moved and Councilman Turner seconded the following resolution:

Whereas, the Memorandum of Understanding between the New York State Division of State Police and the Town of Sand Lake is due to expire in October of 2017; and,

Whereas, it is the intent of both parties to maintain a New York State Police presence in the community at the Town of Sand Lake Municipal Center – New York State Police Satellite Office; now therefore,

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Be it Resolved, that the Town Board of the Town of Sand Lake authorizes the Supervisor, upon review of Counsel, to enter into a successive agreement for the provision of State Police satellite office space prior to the expiration of the current Memorandum of Understanding.

ADOPTED = AYES 5 NAYS 0

RESOLUTION#2016-07-87

Authorization – Commercial Ground Lease – Monolith Solar Associates, LLC

Supervisor Fasoldt moved and Councilman Turner seconded the following resolution:

Be it Resolved, that the Town Board of the Town of Sand Lake authorizes the Supervisor, upon review of Counsel, to enter into the attached Commercial Ground Lease Agreement between the Town of Sand Lake and Monolith Solar Associates, LLC.

EXHIBIT A

Commercial Ground Lease with Lessee to Construct Solar Project

This Commercial Ground Lease with Lessee to Construct Improvements (“Lease Agreement”) made on the 15th day of April, 2016, between Monolith Solar Associates, LLC, a limited liability company organized and existing under the laws of the state of New York, with its principal office located at 444 Washington Street, Rensselaer, New York 12144, referred to herein as Lessee, and Town of Sand Lake, a municipal corporation and political subdivision organized and existing under the laws of the state of New York, with its principal office located at 8428 Miller Hill Road, Sand Lake, New York 12153, referred to herein as Lessor.

Whereas, *Lessor* is the sole owner of 100 Eastern Union Turnpike, Town of Sand Lake, New York and more fully described herein, a portion of which it desires to lease to *Lessee*;

Whereas, *Lessor* and *Lessee* have entered into a Power Purchase Agreement signed by *Lessor* on May 26, 2015 (“PPA”) pursuant to which *Lessee* shall supply electricity to *Lessor* to be generated by a solar electric power generating system;

Whereas, *Lessee* desires and is empowered to lease said portion of property in order to develop, install and operate a solar electric power generating system;

Whereas, the parties desire to enter into a Lease Agreement to define their respective rights, duties, and liabilities concerning such Lease Agreement;

Now, therefore, for and in consideration of the mutual covenants contained in this agreement, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

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1. PPA. The terms and conditions of the PPA shall be incorporated into this Lease Agreement and shall have the full force and authority as if expressly provided herein.

2. Description of Premises and Purpose

Lessor hereby leases to *Lessee*, a portion of 100 Eastern Union Turnpike, Town of Sand Lake, New York (the **Premises**), and more particularly described in **Exhibit A**, which is attached to and made a part of this Lease Agreement. Said *Premises* is outlined and shown in **Exhibit A**. *Lessee* shall have the right to develop, permit, construct, reconstruct, finance, install, maintain, repair, replace, decommission, use, own, and operate a solar electric power generating system (the "Solar Project"), including ingress to and egress from, all electrical collection, transmission and interconnection facilities, and access and service roads related to the Solar Project on the *Premises* and other improvements necessary for the generation, storage, selling, and delivery of electrical power from the *Premises* to the local electricity distribution system and/or the local electrical transmission system. Such lease does not pertain to mineral rights associated with oil and gas development.

3. Term

The initial term of this Lease Agreement shall commence on date of its execution and expire after 20 years from the Commercial Operation Date. Commercial Operation Date means the date upon which the Solar Project is fully commissioned and operational and able to supply useable energy to *Lessee*. As used in this Lease Agreement, the expression *term of this Lease Agreement* refers to the initial term and to any renewal of this Lease Agreement. *Lessor* grants *Lessee* the right, privilege and option to extend the Lease Agreement for two (2) extension periods of five (5) years each, upon the same terms and conditions as contained in the Lease Agreement, with *Lessee's* notice in writing to *Lessor* at least ninety (90) days prior to the expiration of the term or preceding extension of the term.

Notwithstanding the foregoing, *Lessee* and *Lessor* acknowledge and agree that the date of expiration of all of the PPAs, or the effective date of termination of all of the PPAs in accordance with their respective terms shall be the last day of the Lease Term.

4. Consideration

Lessee agrees to pay and *Lessor* agrees to accept \$1.00 for and as the annual rent for the *Premises* commencing upon the Commercial Operation Date. Lease Payments pursuant to the provisions of this section are to be paid in advance of each year of the initial term.

5. Warranties of Title and Quiet Possession

Lessor covenants that *Lessor* is seized of the *Premises* in fee simple and has full right to make and enter into this Lease Agreement and that *Lessee* shall have quiet and peaceable possession of the *Premises* during the term of this Lease Agreement.

6. Delivery of Possession

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If *Lessor*, for any reason whatever, cannot deliver possession of the *Premises* to *Lessee* at the commencement of the *term of this Lease Agreement*, as specified above, this Lease Agreement shall not be void or voidable, nor shall *Lessor* be liable to *Lessee* for any loss or damage resulting from such nondelivery; but in that event, there shall be a proportionate reduction of rent covering the period between the commencement of the *term of this Lease Agreement* and the time when *Lessor* can deliver possession.

7. Waste and Nuisance Prohibited

During the term of this Lease Agreement, *Lessee* shall comply with all applicable laws affecting the *Premises*, the breach of which might result in any penalty on *Lessor* or forfeiture of *Lessor's* title to the *Premises*. *Lessee* shall not commit, or suffer to be committed, any waste on the *Premises*, any nuisance or encumber the title to the *Premises* in any way. Failure to do so shall be deemed a material breach of the Lease Agreement. During the Term of this Lease Agreement, *Lessee* shall ensure that *Lessor's* rights as owner and its access to the *Premises* are preserved and protected.

8. Lessor's Representations, Warranties, and Covenants

A. The parties represent and warrant to each other that it has the full power and authority to enter into this Lease and has obtained all required consents or approvals in connection therewith. This Lease constitutes a valid and binding agreement enforceable against *Lessor* in accordance with its terms.

B. *Lessor* represents and warrants to *Lessee* that: (a) the *Premises* is not encumbered by or the subject of any liens, mortgages, options, tax liens or other forms of encumbrance of any Person; (b) there are no existing use restrictions that prevent the construction, installation or operation of the Solar Project, and any equipment or personal property associated therewith on, under, or over the *Premises*; and (c) *Lessor* holds fee simple title to the Site and is the legal owner of the Site.

C. *Lessor* represents and warrants to *Lessee* that: (a) there is no pending or, to *Lessor's* Knowledge, threatened condemnation proceedings or other governmental, municipal, administrative or judicial proceedings affecting the Site; and (b) there are no agreements with any third parties (including, but not limited to, any other leases, use or occupancy agreements, easements, licenses or other rights of possession or use, or any option for any of the foregoing) that could interfere with, conflict with, prohibit or restrict *Lessee's* ability, or the ability of any *Lessee Access Parties* to enter upon and use the Site as contemplated by this Lease.

D. *Lessor* represents and warrants that there are no pending or threatened actions or legal proceedings affecting the *Premises*.

9. No Interference

A. As of the date of execution *Lessor* shall not enter into any agreements, leases (including any renewals thereof), easements, or any other arrangements for rights to or for the Site that could adversely affect the Operations, *Premises*, or the ownership or operation of the Solar Project, or the

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Transmission and Interconnection Facilities without the express prior written consent of *Lessee*. *Lessor's* activities and any grant of rights by *Lessor* to any third party shall not, now or in the future, interfere with any rights granted to *Lessee* under this Lease.

B. *Lessor* shall, before beginning any activity that could damage or interfere with any portion of the Solar Project, give *Lessee* at least ten (10) days prior written notice of the time and location of such activity and permit a representative of *Lessee* to be present. In the event of an emergency, *Lessor* shall provide telephone or email notice to *Lessee* prior to such activity as may be reasonably practicable under the circumstances presented so as to allow *Lessee* the opportunity to consult with *Lessor* incident to protecting *Lessee's* Improvements.

C. *Lessor* acknowledges and agrees that insolation (access to sunlight) is essential to the value to *Lessee* of the leasehold interest granted hereunder and is a material inducement to *Lessee* in entering into this Lease. Without limiting the foregoing, *Lessor* shall not: (a) construct or permit to be constructed any structure, exclusive of customary highway improvements; (b) plant or allow to be planted any trees or other vegetation. Notwithstanding, *Lessee* covenants to plant trees or other vegetation (to be agreed to by the parties) around the *Premises* in order to minimize the impact of the area's visual landscape caused by the installation of the solar panels; or (c) allow any other obstruction, in each case, on the *Premises* or adjacent to the *Premises*, that is reasonably expected to decrease the output or efficiency of the Project or adversely affect insolation levels. The parties agree that tree or vegetation planting is required to minimize the impact of the area's visual landscape caused by the installation of solar panels. *Lessor* has agreed to proceed with such planting in co-ordination with the *Lessee* so as to minimize the insolation impact to the Project. In the event *Lessor* does not notify *Lessee*, *Lessee* may remove any interfering structures (including, if such structure is not on the *Premises*) and *Lessor* shall, promptly upon demand, reimburse *Lessee* for the cost of such removal. *Lessee* may, at *Lessee's* sole cost and expense, cause trees, foliage and landscaping that interfere with insolation to be trimmed, pruned or otherwise controlled in a reasonable manner sufficient to eliminate such interference. *Lessee* will notify *Lessor* of any intended landscaping to be performed on the site that may substantially alter the site appearance. *Lessor* shall have the right to review and approve. Such review period shall not exceed 14 days from point of notification. Such approval shall not be unreasonably withheld. In the event *Lessor* does not notify *Lessee* of its decision, *Lessee* shall have the right to proceed with planned landscaping activity without explicit approval.

D. During the Term, *Lessor* agrees that *Lessee* shall quietly and peaceably hold, possess and enjoy the *Premises* pursuant to the terms of this Lease and for the initial term, without any hindrance or molestation caused by any party claiming by, through or under *Lessor*. *Lessor* shall defend title to the *Premises*, and the use and occupancy of the same, against the claims of all others, except those claiming by or through *Lessee*. *Lessor* shall not enter into or modify any documents, including any declarations, easements, restrictions or other similar instruments, which may materially affect the *Premises*, or the rights and/or obligations of *Lessee* hereunder, without first obtaining the prior written consent of *Lessee*. *Lessor* shall have reasonable access to the *Premises* without prior notification to the *Lessee*.

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E. Notwithstanding any other provision of this Lease Agreement, the *Lessee* shall be responsible for the full maintenance and upkeep (i.e. mowing of grass) of the *Premises*.

10. Encumbrance of Lessee's Leasehold Interest

A. *Lessee* may encumber by mortgage or deed of trust, or other proper instrument, its leasehold interest and estate in the *Premises*, together with all improvements placed by *Lessee* on the *Premises*, as security for any indebtedness of *Lessee*. The execution of any mortgage, or deed of trust, or other instrument, or the foreclosure of any mortgage, or deed of trust, or other instrument, or any sale, either by judicial proceedings or by virtue of any power reserved in a mortgage or deed of trust, or conveyance by *Lessee* to the holder of the indebtedness, or the exercising of any right, power, or privilege reserved in any mortgage or deed of trust, shall not be held as a violation of any of the terms or conditions of this Lease Agreement, or as an assumption by the holder of the indebtedness personally of the obligations of this Lease Agreement. No encumbrance, foreclosure, conveyance, or exercise of right shall relieve *Lessee* from its liability under this Lease Agreement.

B. If *Lessee* shall encumber its leasehold interest and estate in the *Premises* and if *Lessee* or the holder of the indebtedness secured by the encumbrance shall give notice to *Lessor* of the existence of the encumbrance and the address of the holder, then *Lessor* will mail or deliver to the holder, at such address, a duplicate copy of all notices in writing which *Lessor* may, from time to time, give to or serve on *Lessee* under and pursuant to the terms and provisions of this Lease Agreement. The copies shall be mailed or delivered to the holder at, or as near as possible to, the same time the notices are given to or served on *Lessee*. The holder may, at its option, at any time before the rights of *Lessee* shall be terminated as provided in this Lease Agreement, pay any of the rents due under this Lease Agreement, or pay any taxes and assessments, or do any other act or thing required of *Lessee* by the terms of this Lease Agreement, or do any act or thing that may be necessary and proper to be done in the observance of the covenants and conditions of this Lease Agreement or to prevent the termination of this Lease Agreement. All payments so made and all things so done and performed by the holder shall be as effective to prevent a foreclosure of the rights of *Lessee* as if done and performed by *Lessee*. At no time shall the encumbrance of *Lessee's* leasehold interest result in clouding *Lessor's* interest in maintaining clear title of the *Premises*.

11. Subletting and Assignment

Lessee may sublet the *Premises* in whole or in part without *Lessor's* consent, but the making of any sublease shall not release *Lessee* from, or otherwise affect in any manner, any of *Lessee's* obligations under this Lease Agreement or PPA. *Lessee* may assign or transfer this Lease Agreement, or any interest in this Lease Agreement, whole or in part without *Lessor's* consent. This Lease shall inure to the benefit of and be binding upon *Lessor* and *Lessee*, their heirs, successors and assigns (including each Assignee). *Lessor* agrees that the rights of *Lessee* under this Lease shall extend to agents, representatives, employees, contractors, subcontractors and other service providers of *Lessee*.

12. Notice

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A. All notices, demands, or other writings in this Lease Agreement provided to be given or made or sent, or which may be given or made or sent, by either party to the other, shall be deemed to have been fully given or made or sent when made in writing and deposited in the United States mail, registered and postage prepaid, and addressed as follows:

To *Lessor*: 8428 Miller Hill Road, Sand Lake, New York 12153

(street address, city, state, zip code)

To *Lessee*: 444 Washington Street, Rensselaer, New York, 12144

(street address, city, state, zip code)

B. The address to which any notice, demand, or other writing may be given or made or sent to any party as above provided may be changed by written notice given by the party as above provided.

12. Taxes and Assessments

A. Taxes due to Solar Project.

Lessee shall pay real and personal property taxes (including any payment obligations in lieu of such taxes ("PILOT") assessed or levied against the *Premises*, and any increases in real and personal property taxes or PILOT obligations accruing with respect to the *Premises* during the term of the Lease Agreement. *Lessor* shall pay all tax bills within fifteen (15) days of receipt. *Lessor* is responsible for all income tax from the Lease Payments.

B. Taxes excepted.

In spite of anything in this section to the contrary, *Lessee* shall not be required to pay any estate, gift, inheritance, succession, franchise, income, or excess profits taxes that may be payable by *Lessor* or *Lessor's* legal representative, successors, or assigns, nor shall *Lessee* be required to pay any tax that might become due on account of ownership of property.

C. Contesting taxes.

If *Lessee* shall, in good faith, desire to contest the validity or amount of any tax, assessment, levy, or other governmental charge agreed in this section to be paid by *Lessee*, *Lessee* shall be permitted to do so, and to defer payment of such tax or charge, the validity or amount of which *Lessee* is so contesting, until final determination of the contest, on giving to *Lessor* written notice prior to the commencement of any such contest, which shall be at least fifteen (15) days prior to delinquency, and on protecting *Lessor* on demand by a good and sufficient surety bond against any such tax, levy, assessment, rate, or governmental charge, and from any costs, liability, or damage arising out of any such contest.

14. Construction of Solar Project

A. Plans.

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Lessee shall consult with Lessor concerning its Solar Project development plan to ensure that the Solar Project does not materially interfere with *Lessor's* facilities or operations. *Lessee* shall use existing terrain features of the site to keep the project out of site from neighboring homes where possible and agrees to undertake the planting of trees or other agreed upon vegetation to mitigate any visual impact resulting from the installation of the solar panels

B. Permitting and zoning.

Lessee may commence taking any and all actions as may be necessary or proper for effectuating a change of zoning and/or permitting of the *Premises* to allow for the development of a Solar Project on the *Premises*. *Lessor* shall cooperate with *Lessee* in *Lessee's* efforts to effectuate the zoning and/or permitting of the *Premises* for solar power development, including, but not limited to, execution and return of any required documentation to *Lessee* within seven (7) business days of receipt without additional remuneration to do so; provided, however, all costs and expenses that may be incurred or assessed directly or indirectly with respect to effectuating the zoning change or the permitting shall be borne by *Lessee*.

C. Easements.

To the extent access to areas not included in the *Premises* is necessary for such purposes, and subject to any necessary federal approvals, *Lessor* shall grant to *Lessee* licenses and/or easements during the term of the Agreement for the benefit of the Solar Project, for uses by *Lessee*, its employees and agents including but not limited to ingress and egress, construction activities and the installation of transmission lines as are necessary to interconnect the Solar Project with the electrical collection system and the applicable electrical transmission distribution system. *Lessee* shall have the right, in common with *Lessor* and any others having rights therein, to use all existing rights-of-way, licenses and easements which provide *Lessor* access to the *Premises*, assuming such rights are assignable and transferable by *Lessor*. *Lessee* shall not do or suffer to be done any damage or interference to the rights and interests of the holder of said rights-of-way and easements. *Lessee* shall be responsible for all damages to property and repairs caused by *Lessee's* use of any such rights-of-way and easements.

D. Construction Liens

Lessee shall keep the *Premises* free and clear of all liens and claims of liens for labor and services performed on, and materials, supplies or equipment furnished to, the *Premises* in connection with *Lessee's* use of the *Premises* pursuant to this Lease Agreement. If a lien is placed upon the *Premises* as a result of *Lessee's* activities or the activities of any contractor or subcontractor of *Lessee*, *Lessee* shall, at *Lessee's* sole expense, within sixty (60) days after it receives notice of the filing of such lien, secure the complete release of such lien from the *Premises* by posting a bond to cover the amounts secured by such lien, or by such other means as may be authorized pursuant to applicable law, and shall hold *Lessor* and the *Premises* harmless from any and all costs or expenses associated with such lien or the removal thereof, including reasonable attorney's fees.

E. Insurance and Indemnification

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At all times during the term of the Lease Agreement, *Lessee* shall maintain and pay for liability insurance covering all risks arising directly or indirectly out of *Lessee's* activities on the *Premises*. *Lessee* shall maintain General Liability coverage of one million dollars (\$1,000,000) for each occurrence, and two million dollars (\$2,000,000) in the aggregate. *Lessee* shall maintain Umbrella Liability coverage of five million dollars (\$5,000,000). *Lessee* shall also have Worker's Compensation Insurance for the entirety of the installation process. *Lessee* represents, warrants and covenants to hold *Lessor* harmless from any and all claims arising from the negligent or intentional acts or omissions on the part of *Lessee*, its officers or agents and further agrees to defend and indemnify *Lessor* for any such claims.

F. Hazardous Materials

Neither party shall keep on the *Premises* any item of a dangerous, flammable, or explosive character that might unreasonably increase the danger of fire or explosion on the *Premises*, or that might be considered hazardous or extra hazardous by any responsible insurance company except as required by the *Lessor's* use or purpose of the *Premises*.

G. Title to Solar Project

Lessor shall have no rights in or to any Improvements, including without limitation, the Solar Project or any appurtenances thereto (including the Transmission and Interconnection Facilities), and the Project and all appurtenances thereto (including the Transmission and Interconnection Facilities) shall be solely the personal property of *Lessee*; provided that if any portion of the Transmission and Interconnection Facilities are owned by a third party, such portion of the Transmission and Interconnection Facilities shall be solely the personal property of such third party. At no time shall Improvements or any portion thereof be a fixture or be deemed a permanent improvement or any other character of property that would attach to the Site or give *Lessor* any rights thereto.

15. Force Majeure.

If performance of this Lease or of any obligation hereunder is prevented or substantially restricted or interfered with by reason of an event of Force Majeure, the affected party, upon giving notice to the other party, shall be excused from such performance to the extent of and for the duration of such prevention, restriction or interference. The affected Party shall use all reasonable efforts to avoid or remove such causes of nonperformance and shall resume or continue performance promptly upon the removal of such causes.

16. No Dedication

Nothing herein shall be construed as the dedication by either Party of the Solar Project to the public or any part thereof. Neither Party shall take any action that would subject the other Party, or the Solar Project, to the jurisdiction of any Governmental Authority or public utility or similar entity. Neither Party shall assert in any proceeding before a court or regulatory body that the other Party is a public utility by virtue of such other Party's performance under this Lease.

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17. Governing Law

This Lease Agreement shall be governed by, construed, and enforced in accordance with the laws of the State of New York.

18. Entire Agreement

This Lease Agreement and the PPA shall constitute the entire agreement between the parties. Any prior understanding or representation of any kind preceding the date of this Lease Agreement shall not be binding on either party except to the extent incorporated in this agreement.

19. Severability

In the event that any provisions of this Lease are held to be unenforceable or invalid by any court or regulatory agency of competent jurisdiction, the validity and enforceability of the remaining provisions hereof shall not be affected thereby.

20. Modification of Agreement

Any modification of this Lease Agreement or additional obligation assumed by either party in connection with this Lease Agreement shall be binding only if evidenced in a writing signed by each party or an authorized representative of each party.

21. Additional Documents

The parties agree to execute whatever papers and documents may be necessary to effectuate the terms of this Lease Agreement.

IN WITNESS WHEREOF, *Lessor* and *Lessee* have executed this Lease the day and date first above stated.

LESSEE

LESSOR

Monolith Solar Associates, LLC

Town of Sand Lake

By _____

By _____

Mark Fobare, President/CEO

(Name, Office in Company)

(Name, Office in Company)

EXHIBIT A

TOWN OF SAND LAKE TOWN BOARD MEETING
JULY 13, 2016

DESCRIPTION OF LAND



ADOPTED = AYES 5 NAYS 0

TOWN OF SAND LAKE TOWN BOARD MEETING
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RESOLUTION#2016-07-88

Set Public Hearing

Amendments to Chapter 28 of the Town Code - Investment Policy

Supervisor Fasoldt moved and Councilwoman Kronau seconded the following resolution:

Be it Resolved, that a Public Hearing be held at 7:30 pm on August 10, 2016 regarding the adoption of the attached amendment to Chapter 28 – Investment Policy of the Code of the Town of Sand Lake; and,

Be it Further Resolved, that the Town Clerk is hereby directed to properly publish notice of such hearing and a summary of the proposed ordinance in the Troy Record no later than ten days prior to such hearing.

Chapter 28: INVESTMENT POLICY

[HISTORY: Adopted by the Town Board of the Town of Sand Lake 2-8-1995. Amendments noted where applicable.]

28-1 Applicability.

This investment policy applies to all moneys and other financial resources available for investment on its own behalf or on behalf of any other entity or individual.

28-2 Objectives.

The primary objectives of the local government's investment activities are, in priority order:

- A. To conform with all applicable federal, state and other legal requirements (legal).
- B. To adequately safeguard principal (safety).
- C. To provide sufficient liquidity to meet all operating requirements (liquidity).
- D. To obtain a reasonable rate of return (yield).

28-3 Administration; procedures for operation.

The governing board's responsibility for administration of the investment program is delegated to the Town Supervisor

who shall establish procedures for the operation of the investment program consistent with these investment guidelines.

Such procedures shall include an adequate internal control structure to provide a satisfactory level of accountability based on a database or records incorporating description and amounts of investments, transaction dates and other relevant information and regulate the activities of subordinate employees.

28-4 Participants to act responsibly.

- A. All participants in the investment process shall seek to act responsibly as custodians of the public trust and

TOWN OF SAND LAKE TOWN BOARD MEETING
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shall avoid any transaction that might impair public confidence in the Town of Sand Lake to govern effectively.

- B. Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation but for investment, considering the safety of the principal as well as the probable income to be derived.
- C. All participants involved in the investment process shall refrain from personal business activity that could conflict with proper execution of the investment program or which could impair their ability to make impartial investment decisions.

28-5 Diversification.

It is the policy of the Town of Sand Lake to diversify its deposits and investments by financial institution ~~and by maturing scheduling~~, by investment instrument and by maturing scheduling.

28-6 Internal control structure.

- A. It is the policy of the Town of Sand Lake for all moneys collected by any officer or employee of the government to transfer those funds to the Town Supervisor (chief fiscal officer) within five working days of deposit or within the time period specified in law, whichever is shorter.
- B. The Town Supervisor is responsible for establishing and maintaining an internal control structure to provide reasonable, but not absolute, assurance that deposits and investments are safeguarded against loss from unauthorized use or disposition, that transactions are executed in accordance with management's authorization and recorded properly and are managed in compliance with applicable laws and regulations.

28-7 Designation of depositories.

The following institutions be and they hereby are designated depositories of all monies received:

Key Bank, ~~Fleet Bank~~, M & T Bank, Trustco Bank, MBIA, HSBC and Pioneer Commercial Bank

28-8 Collateralization of deposits.

In accordance with the provisions of General Municipal Law, § 10, all deposits of the Town of Sand Lake, including certificates of deposit and special time deposits, in excess of the amount insured under the provisions of the Federal Deposit Insurance Act shall be secured:

- A. By a pledge of eligible securities with an aggregate market value, as provided by General Municipal Law, § 10, equal to the aggregate amount of deposits from the categories designated in Appendix A to the policy.
- B. By an eligible irrevocable letter of credit issued by a qualified bank other than the bank with the deposits in favor of the government, for a term not to exceed 90 days, with an aggregate value equal to 140% of the aggregate amount of deposits and the agreed upon interest, if any. ~~A qualified bank is one~~ An irrevocable letter of credit issued in favor of the local government by a federal home loan bank, whose commercial paper and other unsecured short-term debt obligations are rated in ~~one of the three~~ the highest rating categories by at least one nationally recognized statistical rating organization, ~~or by a bank that is in compliance with applicable federal minimum risk based capital requirements~~ for the payment of 100 percent of the aggregate amount of public deposits and investments from the local government and agreed-upon interest, if any.

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- C. By an eligible surety bond payable to the government for an amount at least equal to 100% of the aggregate amount of deposits and the agreed upon interest, if any, executed by an insurance company authorized to do business in New York State, whose claims-paying ability is rated in the highest rating category by at least two nationally recognized statistical rating organizations.

§ 28-9 Safekeeping and collateralization.

- A. Eligible securities used for collateralizing deposits shall be held by the depository and/or a third party bank or trust company subject to security and custodial agreements.
- B. The security agreement shall provide that eligible securities are being pledged to secure local government deposits together with agreed upon interest, if any, and any costs or expenses arising out of the collection of such deposits upon default. It shall also provide the conditions under which the securities may be sold, presented for payment, substituted or released and the events which will enable the local government to exercise its rights against the pledged securities. In the event that the securities are not registered or inscribed in the name of the local government, such securities shall be delivered in a form suitable for transfer or with an assignment in blank to the Town of Sand Lake or its custodial bank.
- C. The custodial agreement shall provide that securities held by the bank or trust company or agent of and custodian for the local government will be kept separate and apart from the general assets of the custodial bank or trust company and will not, in any circumstances, be commingled with or become part of the backing for any other deposit or other liabilities. The agreement should also describe that the custodian shall confirm the receipt, substitution or release of the securities. The agreement shall provide for the frequency of revaluation of eligible securities and for the substitution of securities when a change in the rating of a security may cause ineligibility. Such agreement shall include all provisions necessary to provide the local government a perfected interest in the securities.

28-10 Permitted investments.

- A. As authorized by General Municipal Law, § 11, the Town of Sand Lake authorizes the Town Supervisor to invest moneys not required for immediate expenditure for terms not to exceed its projected cash-flow needs in the following types of investments:
- (1) Special time deposit accounts.
 - (2) Money Market Accounts
 - (3) Certificates of deposit.
 - (4) Letters of Credit
 - (5) Obligations of the United States of America.
 - (6) Obligations guaranteed by agencies of the United States of America where the payment of principal and interest are guaranteed by the United States of America.
 - (7) Obligations of the State of New York.
 - (8) Obligations issued pursuant to Local Finance Law § 24.00 or 25.00 (with approval of the State Comptroller) by any municipality, school district or district corporation other than the Town of Sand Lake.

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- (9) Obligations of public authorities, public housing authorities, urban renewal agencies and industrial development agencies where the general state statutes governing such entities or whose specific enabling legislation authorizes such investments.
 - (10) Certificates of Participation (COP'S) assured pursuant to General Municipal Law, § 109-b.
 - (11) Obligations of the local government, but only with any moneys in a reserve fund established pursuant to General Municipal Law, § 6-c, 6-d, 6-e, 6-g, 6-h, 6-j, 6-k, 6-l, 6-m or 6-n.
- B. All investment obligations shall be payable or redeemable at the option of the Town of Sand Lake within such times as the proceeds will be needed to meet expenditures for purposes for which the moneys were provided and, in the case of obligations purchased with the proceeds of bonds or notes, shall be payable or redeemable at the option of the Town of Sand Lake within two years of the date of purchase.

28-11 Authorized financial institutions and dealers.

The Town of Sand Lake shall maintain a list of financial institutions and dealers approved for investment purposes and establish appropriate limits to the amount of investments which can be made with each financial institution or dealer. All financial institutions with which the local government conducts business must be creditworthy. Banks shall provide their most recent consolidated report of condition (call report) at the request of the Town of Sand Lake. Security dealers not affiliated with a bank shall be required to be classified as reporting dealers affiliated with the New York Federal Reserve Bank as primary dealers. The Chief Fiscal Officer is responsible for evaluating the financial position and maintaining a listing of proposed depositories, trading partners and custodians. Such listing shall be evaluated at least annually.

28-12 Purchase of investments.

- A. The Town Supervisor is authorized to contract for the purchase of investments:
- (1) Directly from an authorized trading partner.
 - (2) By participation in a cooperative investment program with another authorized governmental entity pursuant to Article 5-G of the General Municipal Law where such program meets all the requirements set forth in the Office of the State Comptroller Opinion No. 88-46 and the specific program has been authorized by the governing board.
 - (3) By utilizing an ongoing investment program with an authorized trading partner pursuant to a contract authorized by the governing board.
- B. All purchased obligations, unless registered inscribed in the name of the local government, shall be purchased through, delivered to and held in the custody of a bank or trust company. Such obligations shall be purchased, sold or presented for redemption or payment by such bank or trust company only in accordance with prior written authorization from the officer authorized to make the investment. All such transactions shall be confirmed, in writing, to the Town of Sand Lake by the bank or trust company. Any obligation held in the custody of a bank or trust company shall be held pursuant to a written custodial agreement as described in General Municipal Law, § 10.

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- C. The custodial agreement shall provide that securities held by the bank or trust company, as agent of and custodian for the local government, will be kept separate and apart from the general assets of the custodial bank or trust company and will not, in any circumstances, be commingled with or become part of the backing for any other deposit or other liabilities. The agreement shall describe how the custodian shall confirm the receipt and release of the securities. Such agreement shall include all provisions necessary to provide the local government a perfected interest in the securities.

ADOPTED = AYES 5 NAYS 0

RESOLUTION#2016-07-89

Authorization – Amendment to the Sand Lake Ambulance Contract

Supervisor Fasoldt moved and Councilwoman Kronau seconded the following resolution:

Be it Resolved, that the Town Board of the Town of Sand Lake hereby authorizes the Supervisor, upon review of Counsel, to enter into the attached agreement amending the 2016 Agreement between the Town of Sand Lake and Sand Lake Ambulance, Inc. as follows:

AMENDMENT TO 2016 AGREEMENT

BETWEEN

TOWN OF SAND LAKE and

SAND LAKE AMBULANCE, INC.

THIS AMENDMENT, dated ___ day of July, 2016 to the 2016 emergency ambulance/medical service agreement (“Agreement”) by and between the Town of Sand Lake (“Town”) and the Sand Lake Ambulance, Inc. (“Ambulance”) is as follows:

WHEREAS, the Town and Ambulance entered into the Agreement for a one-year term beginning January 1, 2016 and ending December 31, 2016; and

WHEREAS, the Agreement provides that the Ambulance will provide the Town a staffed ambulance to serve the emergency medical transportation needs of persons within the boundary of the Town; and

WHEREAS, the Agreement further provides that the Ambulance may respond outside of the boundaries of the Town for other municipalities with whom there exists a Mutual Aid agreement and where said municipalities agree to provide for a reciprocal level of service within the boundaries of the Town; and

WHEREAS, the Town of Poestenkill does not have its own ambulance service nor does there exist a Mutual Aid Agreement in which Ambulance may serve this particular neighboring municipality; and

WHEREAS, the Town of Poestenkill hosts two schools where residents of the Town send their children; and

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WHEREAS, the Town and Ambulance now desire to amend the Agreement to permit Ambulance to respond to emergencies in the Town of Poestenkill, limited to the two schools within their jurisdiction and for a limited duration;

NOW THEREFORE, the parties agree to amend the Agreement as follows:

1. Ambulance is authorized to make itself available to respond to Algonquin Middle School and Poestenkill Elementary School when requested by Rensselaer County dispatch. It is understood that dispatch will first dispatch primary commercial agencies or other Poestenkill mutual aid EMS Partners and will only dispatch Ambulance when these units are unavailable or that the mutual aid dispatches will result in a delay in response time that constitutes a life threat.
2. Ambulance will provide the services set forth in paragraph 1 above up to and until December 31, 2016 or such time prior to that date should the Town of Poestenkill secure its own ambulatory services and agrees to provide Mutual Aid to the Town.
3. The temporary arrangement set forth herein shall not commit the Ambulance nor the Town with the obligation to respond to the two schools after December 31, 2016 and shall not serve as an agreement or understanding to serve these schools on a continuing basis.
4. This limited expansion of services shall not result in any increased cost to the Town and the sole source of compensation to Ambulance for undertaking such service shall be from User Fee revenue as defined in the Agreement.
5. All other terms and provision set forth in the Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have set their respective hands and seals as of the day and year first above written.

TOWN OF SAND LAKE

BY: _____

Flora Fasoldt, Supervisor

SAND LAKE AMBULANCE, INC.

BY: _____

Robbie MacCue, President

ADOPTED = AYES 5 NAYS 0

RESOLUTION#2016-07-90
Budget Transfers and Amendments

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Supervisor Fasoldt moved and Councilwoman Kronau seconded the following resolution:

Be It Resolved the following transfers are made to the 2016 Budget:

<u>From</u>	<u>To</u>	<u>Amount</u>
A 1990.4	A 7110.4999	\$ 5000.00
Contingency Cont.	Parks Contractual	

Budget Amendments

None at this time

ADOPTED = AYES 5 NAYS 0

COMMENTS FROM RESIDENTS:

- Ed Knapp
- Scott Blair
- Tim Komdat
- Terry Gumaer
- Fred Erickson
- Brian Hunt
- Neil Urbaetis
- Robbie MacCue – Sand Lake Ambulance President

*A complete accounting of all discussions on agenda is available for review on audio tape in the Town Clerk's Office

Supervisor Fasoldt moved to adjourn the meeting at 9:02PM. This was seconded by Councilwoman Kronau.

MOTION CARRIED = UNANIMOUS

A complete accounting of all discussions on agenda is available for review on audio tape in the Town Clerk's Office.

Respectfully submitted,

Barbara A. Biittig
Town Clerk

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