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Commission Board/Staff Retreat at Erwin Park in Boonville; Annual Dinner Cancelled; LGC Postponed

The board and staff of the Tug Hill Commission met outdoors for their annual retreat on August 17 in Boonville's Erwin Park. Using safety protocols of social distancing and face masks, it was the first in-person gathering for the group since January 2020. Much of the retreat was spent reflecting on COVID-19's impacts on commission operations and the region as a whole over the past several months, and brainstorming of how business will be done for the remainder of the year and into 2021.

Given restrictions on meeting sizes, consensus was to not hold the commission's annual dinner this fall. In lieu of the year-in-review presentation typically given at that meeting, a short video highlighting 2020 and capturing its challenges and accomplishments will be produced later this year and released on-line via the Tug Hill Commission website and YouTube channel.

Another topic of discussion was the annual Tug Hill Local Government Conference (LGC). Planning for the LGC begins in earnest every September for the event held at the end of March at Jefferson Community College (JCC). Based on a number of factors, including uncertainty on availability of the JCC venue, restrictions on travel by many presenters, and potential continuation of restrictions on meeting sizes, consensus was to postpone the event and regroup later in 2021 as the COVID-19 situation evolves.

ZBA Basics Workshop – Thursday October 1

Attorneys Jim Burrows and Dave Geurtsen from the Conboy Law Firm will be presenting "**ZBA Basics**" on Tuesday, October 1 from 7 p.m. to 9 p.m. at the West Carthage Community Room, 61 High Street, West Carthage, NY 13619. The course will increase understanding of the powers and duties of the zoning board of appeals, basic zoning concepts and functions, and statutory requirements that zoning boards of appeals must consider before granting use and area variances.

In-person attendance will be limited to the first 23 registrants, and all attendees will be required to socially distance, wear a mask, and answer questions about health and travel. Hand sanitizer will be available, and no walk-ins will be allowed. The training session will also be viewable live via Zoom. Both in-person and remote participants should use this link to register: us02web.zoom.us/webinar/register/WN_E-w57N3JTCe5olrMcQDmBA. Please pay special attention to the question regarding how you plan to attend.

Also, as a reminder, there's still time to register for the "**Evaluating and Amending Your Zoning Law**" workshop on Tuesday, September 29 from 7 p.m. to 9 p.m. at the Lowville Town Hall, 553 Bostwick Street, Lowville 13367. Both in-person and remote participants should use this link to register: us02web.zoom.us/webinar/register/WN_iZnAZ4fQSsaWyzLnP2bE4A. Again, please pay special attention to the question regarding how you plan to attend.

NY Climate Action Council Meets, Appoints Advisory Panel Members

The 2019 NY Climate Leadership and Community Protection Act (Climate Act) requires NY to reduce economy-wide greenhouse gas emissions 40% by 2030, and no less than 85% by 2050 from 1990 levels. The Climate Act also created a Climate Action Council (CAC), charged with developing a scoping plan of recommendations to meet these targets.

The CAC met on August 24 and took action to approve members of six advisory panels organized around the following sectors: agriculture and forestry; energy efficiency and housing; energy-intensive and trade-exposed industries; land use and local government; power generation; and transportation. The CAC also has two working groups: climate justice and just transition. Commission executive director Katie Malinowski was named to the land use and local government panel. Former commission executive director John Bartow, who currently serves as the executive director of the Empire State Forest Products Association, was named to the agriculture and forestry advisory panel. Advisory panels are tasked with identifying recommendations within each sector that would reduce emissions. Recommendations can include policies, programs or actions for consideration by the CAC.

For more information about the CAC, meeting materials, and more, see climate.ny.gov. Please contact Katie if you have questions or ideas for the land use and local government advisory panel.

SUEFC Hosting Flood Insurance Webinar September 22

Flooding in New York State is a frequent threat and a costly disaster for communities. Local governments, however, can protect their citizens by taking flood risk reduction measures – and reduce insurance premiums as well. Join Syracuse University’s Environmental Finance Center (SUEFC) on Tuesday, September 22 from 10:00 a.m. to 11:30 a.m. to learn about FEMA’s National Flood Insurance Program’s Community Rating System (CRS) program. FEMA’s voluntary CRS program credits community efforts beyond minimum floodplain management standards by reducing flood insurance premiums for the community’s property owners. This free 75-minute webinar will provide an introduction to FEMA’s CRS program, followed by a panel discussion where speakers will share their diverse experiences with the CRS program. Please join to find out if your community is a good fit for CRS. To learn more and register, visit: efc.syr.edu/webinar-community-rating-system/

This webinar is co-hosted with NYS Water Resources Institute and the NYS Floodplain and Stormwater Managers Association. Presenters include: John Gauthier, P.E., Associate Engineer, Town of Greece, Russell Houck, P.E., CFM, Facilities Engineer, City of Syracuse, Nathan Mitchell, Chair of the Piermont Waterfront Resiliency Commission, Village of Piermont, and Kristen Hychka, PhD, Research & Outreach Specialist, NYS Water Resources Institute.

NYS Committee on Open Government Advisory Opinion on Broadcasting Meetings and Hearings

The New York State Committee on Open Government (NYSCOOG) recently issued an advisory opinion pertaining to making meetings and hearings available to the public under the current set of operating conditions that local governments are operating under. Under a series of Executive Orders, conditions have been set on group size and meeting room occupancy, but local governments have also been granted the ability to conduct not-in-person meetings.

NYSCOOG notes that “The fundamental premise of the Open Meetings Law is that any person who is interested in the deliberations of a public body may be present to view and listen to such deliberations as they occur.”

With that in mind, it is the opinion of NYSCOOG that if a municipality does not have enough meeting space available to accommodate everyone who wants to attend a meeting or hearing in keeping with safe meeting standards, it must “provide a contemporaneous video or audio broadcast such that members of the public who cannot safely attend in person ‘ha[ve] the ability to view or listen to such proceeding and that such meetings are recorded and later transcribed.’ ”

It goes on to note that “The public body may not artificially limit attendance at its meetings –to do so would not be consistent with the requirements of the Open Meetings Law.”

The committee’s advisory opinion can be read in its entirety at www.dos.ny.gov/press/2020/Essential%20Meeting%20OML%20AO.pdf.

Solar Project Review Resources

Many towns and villages on Tug Hill are dealing with solar project proposals of various sizes. Here are some resources available to inform the local review process.

[*Planning for Offsite Solar Projects, February 2020*](#), a Tug Hill Commission issue paper that summarizes issues and considerations related to offsite, large scale solar development at the time of publication. Technology, installation, and siting considerations are quickly evolving. The paper describes the different scales of solar energy systems, where they are often sited, and land use considerations. Planning tools and financial considerations for municipalities are also discussed. Language and document examples and templates are provided for use in Tug Hill and other rural communities.

[*Siting Large/Utility Scale Solar Projects, April 22, 2020*](#), a video of a webinar organized by the Tug Hill Commission. Presenters from Barton & Loguidice and Costello, Cooney, & Fearon focused on the unique factors that should be thoroughly evaluated in the SEQRA, zoning and legal review processes. As solar energy becomes more viable, some municipalities have discovered their zoning codes do not address all the issues that may arise. The siting of a utility scale solar facility often requires that the solar developer apply for a zoning variance or a special use permit. In addition to engineering and environmental review, boards should consider the various legal aspects of such applications, including the necessity for decommissioning bonds and security, landowner authorizations, timing requirements and the sensitivities of neighboring property owners. Towns may also wish to explore the requirement of a Payment in Lieu of Tax Agreement (PILOT) for the various taxing jurisdictions.

Much of the webinar is reiterated in a recent blog post, found [here](#)

[*Solar Guidebook for Local Governments, July 2020*](#), by the New York State Energy Research and Development Authority (NYSERDA). The guidebook is a compilation of information, tools, and step-by-step instructions to support local governments with the development, installation, and maintenance of solar energy projects in their communities.

Office of the State Comptroller Fall 2020 Training Schedule

September 9, 2020, [20th Annual Town Finance School \(Virtual\)](#)

The Town Finance School is a 1-day educational event co-sponsored by the Association of Towns (AOT) and the OSC being held virtually, and featuring presentations from both OSC and AOT staff. For more information, please visit: www.nytowns.org

September 15, 2020, [The New Annual Financial Report – Financial Funds Overview](#)

This webinar will provide you a detailed walk through of the fund financial statements in the new Annual Financial Report (AFR) currently being developed by our staff at the Office of the State Comptroller (OSC).

September 17, 2020, [Fiscal Stress Monitoring System Briefing for Local Governments](#)

Presenters from the Office of the State Comptroller will provide you with the critical information regarding your fiscal score release in September. Please note that this score release is for 12/31 fiscal year-end local governments.

September 22 - 24, 2020, [65th Annual NYCOM Fall Training School \(Virtual\)](#)

The Office of the State Comptroller is proud to partner with the New York Conference of Mayors for their 2020 Fall Training School. OSC topics to be presented include Overview of Governmental Accounting, Managing Your Budget in Times of Fiscal Stress, Reserves and many others. For more information, please visit: www.nycom.org.

September 29 - 30, 2020, [Accounting Principles and Procedures \(Advanced Accounting School\)](#)

This two-day school is designed to familiarize participants with the basic concepts of governmental accounting and give them a working knowledge of basic bookkeeping procedures.

October 14 - 16, 2020, [Introduction to Governmental Accounting \(Basic Accounting School\)](#)

Participants will learn the basic concepts of governmental accounting and gain a working knowledge of basic bookkeeping procedures during this 2 1/2-day session.

Check out OSC training website here: www.osc.state.ny.us/local-government/academy.

You can also check out OSC previously recorded webinars here: www.osc.state.ny.us/local-government/academy/previous-webinars.

Difference Between Administration and Enforcement of Zoning PART 1

This article attempts to explain the difference between zoning administration and zoning enforcement. It was written by Attorney Scott Chatfield, a well-known land use attorney from the central New York area who spoke often on legal issues related to planning and zoning and who retired earlier this year and is now living in Florida.

Administration of zoning laws and enforcement of zoning laws are entirely separate activities. PART 1 of this article will discuss zoning administration and PART 2 will discuss zoning enforcement and will be featured in the next Tug Hill Times.

Administration of zoning laws involves advising people in advance of what is and what is not permitted pursuant to the zoning laws.

The primary responsibility for administration of zoning laws belongs to the zoning enforcement officer who is the first point of contact between the public and the municipality.

The public approaches the zoning enforcement officer with a question or a proposal and the zoning enforcement officer provides a ruling or determination as to the applicability of the zoning laws to the particular question or proposal.

That ruling or determination is the final say on the question or proposal unless the ruling or determination is appealed to the zoning board of appeals within 60 days.

The only way for that ruling or determination to be reversed or modified by anyone other than the zoning enforcement officer is by the zoning board of appeals affirmatively doing so within 62 days of the closure of its public hearing on the appeal of the ruling or determination.

If the zoning board of appeals fails to affirmatively overrule the zoning enforcement officer's ruling or determination by a majority vote within the 62 days, the ruling or determination is final and binding on all parties unless an appeal of the zoning board's failure to decide the matter is appealed to the Supreme Court within 30 days of the date of default by the zoning board of appeals.

When the zoning enforcement officer decides that a question or proposal is subject to review and/or approval by reason of the requirements for site plan, special use permit or subdivision approval, then and only then are the planning board and/or the zoning board of appeals given the authority and jurisdiction to apply the particular requirements of the site plan, special use permit or subdivision regulations to the particular question or proposal.

The failure of the zoning enforcement officer to rule or decide a question or proposal to the satisfaction of any party aggrieved by such failure is every bit as much of a ruling or determination as if the zoning enforcement officer had ruled the other way. The following is an example:

The zoning enforcement officer reviews a proposal and issues a building permit or certificate of zoning compliance without referring the matter to the planning board for site plan, special use permit or subdivision approval. Implicit in the act of issuing the building permit or certificate of zoning compliance is the zoning enforcement officer's determination that the given proposal is NOT subject to site plan, special use permit or subdivision review and approval. This "implicit" ruling is likewise final and binding on all parties unless an aggrieved party appeals within the required period.

Other agencies, individuals and/or boards within the town government itself are likewise bound by the finality of the zoning enforcement officer's decisions/rulings unless they, like the public, appeal in the same manner. Toward that end, the state zoning statutes specifically grant standing to appeal to any board, body, department, officer, or agency of the town which deems itself aggrieved.

Contact Us

NYS Tug Hill Commission
317 Washington Street
Watertown, NY 13601

Phone: 315-785-2380
Toll Free within the region:
1-888-785-2380
Email: tughill@tughill.org

Visit us at:

Web: www.tughill.org

Facebook: www.facebook.com/TugHillCommission

To request our newsletter electronically please email gwen@tughill.org or call

1-888-785-2380.

For upcoming trainings, grant deadlines, and meetings, view our [calendar](#).