A Public Hearing of the Town of Malone was held on September 26, 2018 at the Town Offices, 27 Airport Road, Malone, New York. The hearing began at 5:30PM.

PRESENT: Supervisor Andrea Stewart  
Deputy Supervisor Maguire  
Councilor Candy Gadway  
Councilor Ed Lockwood  
Councilor Louise Taylor

ALSO PRESENT: Jean Marlow, Town Clerk  
Denice Hudson, Budget Officer  
Bruce Mallette, Superintendent of Highways  
Josh Davis, Malone Telegram  
Brent Stewart, Malone  
Mike Fournier, Malone  
Anne Britton, Brandon  
Calvin Martin, Malone  
Craig Peters, Brandon-Bangor  
Tim Tallman, Bangor  
Bruce Burditt, Malone

The Public Hearing began at 5:30.

The following notice was published Friday, September 14, 2018 in the Malone Telegram:

**TOWN OF MALONE**

**NOTICE OF PUBLIC HEARING ON A PROPOSED LOCAL LAW OF THE TOWN OF MALONE, AS SET FORTH HEREIN**

**LEGAL NOTICE IS HEREBY GIVEN** that pursuant to Section 20 of the Municipal Home Rule Law of the State of New York, and pursuant to a resolution of the Town Board of the Town of Malone, adopted September 11, 2018, the Town Board of the Town of Malone will hold a public hearing at 27 Airport Road, Town of Malone, State of New York on the 26th day of September, 2018 at 5:30 P.M. to hear all interested parties and citizens regarding the adoption of Local Law No. 2 of 2018. The proposed local law would amend the Zoning Ordinance of the Town of Malone to establish a Solar Law to plan for well-sited solar projects in order to protect and promote the health, safety, and welfare of the community (the “Solar Law”). The proposed Solar Law would allow for the use of solar energy generation while meeting the objectives of the Town and its residents.

Any resident of the Town of Malone is entitled to be heard upon said proposed Local Law at such public hearing. Said hearing may be adjourned from time to time as necessary.

Comments may be submitted, and further information may be obtained (including access to a copy of said Solar Law), at 27 Airport Road, located at the Town of Malone, State of New York.

PLEASE TAKE FURTHER NOTICE that the environmental significance of the proposed Local Law will be reviewed at said public hearing.

By order of the Town Board of the Town of Malone, dated September 12, 2018.

Supervisor Stewart opened the meeting for comments.

The following comments were made:
Town of Malone
Public Hearing &
Regular Board Meeting
September 26, 2018

Mike Fournier – F.A.R.M.: This is a well thought out law and he and his group stands in full support of it.
Calvin Martin: Outstanding law, very well done. Thank you to the board and all who had a part in making this happen.
Anne Britton: Supports the law as it stands.

The Public Hearing ended at 6:00PM and immediately following the Regular Town Board meeting began.

REGULAR BOARD MEETING:

CALL TO ORDER:
Supervisor Stewart called the Regular Board Meeting to order with the pledge of allegiance to the flag.

MINUTES:
RESOLUTION 273-2018 - Minutes
On a motion of Councilor Gadway, seconded by Councilor Taylor, the following resolution was ADOPTED
 Ayes 4 Stewart, Gadway, Lockwood, Taylor
 Nays 0
Resolved to approve the minutes from the August 15, 2018 Regular Meeting.

RESOLUTION 274-2018 - Minutes
On a motion of Councilor Lockwood, seconded by Supervisor Stewart, the following resolution was ADOPTED
 Ayes 4 Stewart, Lockwood, Maguire, Taylor
 Nays 0
Resolved to approve the minutes from the August 28, 2018 Special Meeting.

RESOLUTION 275-2018 - Minutes
On a motion of Deputy Supervisor Maguire, seconded by Councilor Gadway, the following resolution was ADOPTED
 Ayes 3 Stewart, Gadway, Maguire,
 Nays 0
Resolved to approve the minutes from the September 12, 2018 Regular Meeting.

RESOLUTION 276-2018 - Minutes
On a motion of Deputy Supervisor Maguire, seconded by Councilor Lockwood, the following resolution was ADOPTED
 Ayes 4 Stewart, Lockwood, Maguire, Taylor
 Nays 0
Resolved to approve the minutes from the September 21, 2018 Special Meeting.

REPORTS:
RESOLUTION 277-2018 - Minutes
On a motion of Councilor Taylor, seconded by Deputy Supervisor Maguire, the following resolution was ADOPTED
 Ayes 5 Stewart, Gadway, Lockwood, Maguire, Taylor
 Nays 0
Resolved to approve the following reports:

Justices Gardner and Robert – August 2018
Assessor’s Office – September 24, 2018

OLD BUSINESS:
EV Connect is operation and ready for use.
Mr. Mastry checked in to see what the status of the culvert for his road. Superintendent Mallette stated it is on order. He will call to check on it.

Auctions International auction is closed. After going through each item, Superintendent Mallette would like to put in a counter offer on 4 items. All items totaled $54,250.00
Councilor Maguire thanked Supt. Mallette for all the work he and his department did on this project. The following resolution was made:

**RESOLUTION 278-2018**
On a motion of Supervisor Stewart, seconded by Councilor Lockwood, the following resolution was

ADOPTED  Ayes 5  Stewart, Gadway, Lockwood, Maguire, Taylor
Nays 0

Resolved to accept the bids on items posted on Auctions International, with the exception of items 2,12,14 and 43, counter offers will be put in on items 2,12 & 14. A separate bid will be put out for item 43.

**Bid Results – Asbestos Abatement for the Highway Garage.**

Results were as follows:

- JT Abatement $43,000.00
- United Safety $49,700.00

The decision to award this bid has been put on hold to get answers and clarification on questions that were brought up.

**SUPERVISOR REPORTS:**

**RESOLUTION 279-2018 – Resolution Adopting a Negative Declaration of Environmental Significance for the Proposed Solar Law Under SEQRA**

On a motion of Councilor Lockwood, seconded by Councilor Taylor, the following resolution was

ADOPTED  Ayes 5  Stewart, Gadway, Lockwood, Maguire, Taylor
Nays 0


Resolved to accept the following Resolution:

**ADOPTION BY THE TOWN BOARD OF THE TOWN OF MALONE OF A RESOLUTION ADOPTING A NEGATIVE DECLARATION OF ENVIRONMENTAL SIGNIFICANCE FOR THE PROPOSED SOLAR LAW UNDER SEQRA**

WHEREAS, on August 15, 2018 the Town Board of the Town of Malone introduced the proposed Solar Law, and

WHEREAS, the Town Board for the Town of Malone prepared a Full Environmental Assessment Form (“FEAF”) dated August 15, 2018, and

WHEREAS, the Town Board referred the proposed Solar Law to the Town Planning Board and the regional planning agency for review and comment, and

WHEREAS, The Town Bard has considered the content of the proposed Solar Law, the FEAF, communications from the Planning Board, and communications from the County of Franklin Industrial Development Agency, and

WHEREAS, The Town Board has considered any relevant public input, and

WHEREAS, The Town Board has identified the relevant areas of environmental concern discussed more thoroughly in the attached negative declaration of environmental significance, and
WHEREAS, the Town Board has thoroughly analyzed the relevant concerns discussed in more detail in the attached negative declaration of environmental significance, and
WHEREAS, the Town Board has provided a reasoned elaboration for why the environmental concerns that were identified and analyzed will not be significant, and
NOW, THEREFORE, the Town Board of the Town of Malone hereby finds that enactment of the proposed Solar Law will not have any significant adverse impacts on the environment.
AND THEREFORE, the Town Board of the Town of Malone further resolves to adopt a negative declaration of environmental significance with respect to the adoption of the proposed Solar Law.
AND THEREFORE, the Town Board of the Town of Malone hereby adopts the attached negative declaration of environmental significance and incorporates it herein.
AND THEREFORE, the Town Clerk is hereby directed to enter this resolution and the attached negative declaration of environmental significance in the minutes of this meeting.
AND THEREFORE, the Town Clerk is hereby directed to transmit this negative declaration and resolution to the appropriate agencies in accordance with the requirements of 6 NYCRR 617.12(b).
AND THEREFORE, the Town Clerk is hereby directed to transmit this negative declaration and resolution for publication in the Environmental Notice Bulletin (“ENB”) as required under SEQRA, either by email at ENB@DEC.NY.GOV or by regular mail to ENB, NYS Department of Environmental Conservation, 624 Broadway, 4th Floor, Albany, New York 12233-1750.

RESOLUTION 280-2018 – Approval of Local Law #2-2018
On a motion of Deputy Supervisor Maguire, seconded by Councilor Gadway, the following resolution was
ADOPTED  Ayes  5 Stewart, Gadway, Lockwood, Maguire, Taylor
Nays  0
Resolved to approve the following Local Law #2-2018

Local Law Number #2 of 2018
Town of Malone Solar Energy Law
1. Authority
This Solar Energy Law is adopted pursuant to New York State Municipal Home Rule section 10(iii)(a)(12) which authorizes the Town of Malone (“Malone” or the “Town”) to adopt and amend local laws that are not inconsistent with the State Constitution nor general law and that are related to the government, protection, order, conduct, safety, health, and well-being of persons or property of the Town.
In the alternative, this Solar Energy Law is adopted pursuant to the general power to enact local laws relating to the government, protection, order, conduct, safety, health, and well-being of persons or property within a municipality granted directly to local governments by the People of the State of New York through Article IX, Sections 1(a) and 2(c) of the New York State Constitution. The law is also adopted pursuant to the supersession authority granted by New York Municipal Home Rule Law, § 10, Subdivision(1)(iii)(d)(3).

2. Purpose
The purpose of this Solar Energy Law is to plan for well-sited solar projects to protect and promote the health, safety, and welfare of the community. The objectives include:
A. To protect and promote the farmland and agricultural economy and culture.
B. To ensure farmland and agricultural land are put to their highest and best use.
C. To protect and promote scenic and environmental resources by minimizing Solar Energy Systems’ impacts on Malone’s scenic and environmental resources such as the Adirondack Scenic Byway, flood plains, historic sites, conservation easements, trails, parklands, wetlands, wildlife and scenery, and areas for recreational and outdoor activities.

D. To protect public resources by minimizing Solar Energy Systems’ impacts on airports and other government lands.

E. To allow local residents, farms, businesses, and government to take advantage of a safe, abundant, renewable, and non-polluting energy resource in a way that is consistent with the nature and character of the Town.

3. Definitions

A. Applicant – The individual/individuals or entity/entities that apply for any state or local government permit or permission for the installation of a Large-Scale Solar Energy System.

B. Building Integrated Solar Energy System – A combination of Solar Panels and Solar Energy Equipment integrated into any building envelope system such as vertical facades, semitransparent skylight systems, roofing material, or shading over windows.

C. Farmland of Statewide Importance – Land designated as “Farmland of Statewide Importance” in the U.S. Department of Agricultural Natural Resources Conservation Service (NRCS)’s Soil Survey Geographic (SSURGO) Database on Web Soil Survey. Farmland of Statewide Importance is of statewide importance for the production of food, feed, fiber, forage, and oilseed crops as determined by the appropriate state agency or agencies. Farmland of Statewide Importance may include tracts of land that have been designated for agriculture by state law.


E. Large-Scale Solar Energy System – Any Ground-Mounted Solar Energy System with more than 2,000 square feet of Solar Panel surface area.

F. Non-designated Farmland – Land used for agricultural purposes but not designated as Farmland of Statewide Importance, Prime Farmland, or Town Agricultural Land.

G. Prime Farmland – Land designated as “Prime Farmland” in the U.S. Department of Agricultural Natural Resources Conservation Service (NRCS)’s Soil Survey Geographic (SSURGO) Database on Web Soil Survey. Prime Farmland has the best combination of physical and chemical characteristics for producing food, feed, forage, fiber, and oilseed crops and is also available for these land uses.

H. Roof-Mounted Solar Energy System – A Solar Energy System located on the roof of any legally permitted building or structure where the Solar Panels are wholly contained on the rooftop of the building or structure.

I. Size – The name plate generating capacity of a Solar Energy System.

J. Solar Energy Equipment – Electrical material, hardware, inverters, conduit, storage devices, or any other equipment associated with the production, storage, or transmission of electricity produced from solar energy.

K. Solar Panel – A device capable of collecting and converting solar energy into electricity.


M. Project Site – The physical area needed for a Solar Energy System including any setbacks, buffers, fencing, roads, screening, support facilities, and Solar Energy Equipment.


4. Applicability

A. This law shall apply to all Solar Energy Systems installed or modified after this law’s effective date.

B. Any modifications to existing Solar Energy Systems that increase the Project Site shall be subject to this Local Law.
C. This law does not apply to general maintenance or repair of existing Solar Energy Systems, or to Building Integrated Solar Energy Systems.
D. The procedural and substantive components of this law shall apply regardless of any contract, easement, or license that may exist between the Applicant and any other landowner in the Town.

5. Special Requirements for Large-Scale Solar Energy Systems
A. All Large-Scale Solar Energy Systems, regardless of size, and regardless of whether siting approval is granted by the Town or State government, shall be subject to the following requirements:
   1. Setback. Large-Scale Solar Energy Systems shall comply with the setback requirements set forth in the underlying zoning district.
   2. Height. Large-Scale Solar Energy Systems shall not exceed a height – from the highest natural grade below each Solar Panel – of 10 feet in Residential Districts or 15 feet in all other Districts.
   3. Location. Large-Scale Solar Energy Systems shall not be located in the following areas:
      a. Prime Farmland, Farmland of Statewide Importance, and/or Town Agricultural Land.
      c. Areas including flood plains, historic sites, airports, government lands, conservation easements, trails, parklands, and wetlands as identified by the New York State Department of Environmental Conservation or the United States Army Corps of Engineers.
      d. On slopes greater than fifteen percent (15%), unless the Applicant can demonstrate through engineering studies and to the satisfaction of the Town Engineer that the proposed development will cause no adverse environmental impact that will not be satisfactorily mitigated.
   4. Sound. No Large-Scale Solar Energy System shall produce average daytime sound levels at the exterior wall of any residence or occupied structure greater than 35 dBA Leq, or average nighttime sound levels greater than 25 dBA Leq, or maximum sound level of 45 dBA (LfMax) measured using 1/8th second samples. If audible tones are present a 5 db penalty shall be applied to all sound measurements.

5. Lighting. Any outdoor lighting shall be designed to minimize the effect on any person, property, structure, road, vehicle, business, leisure activity, agriculture, parkland, sensitive resource, commercial or transportation activity, or any other entity or activity identified by the Town Board. Motion-activated or staff-activated security lighting on or around the Project Site or accessory structure entrance shall not project off the Project Site and shall only be activated when the fenced perimeter has been entered.

6. Parking. For sites where the Large-Scale Solar Energy System is the primary use, equipment and vehicles not used in direct support, renovations, addition, or repair of the Large-Scale Solar Energy System shall not be stored or parked on the site.

7. Access. A locked gate at the intersection of the access way and a public road shall be required to prevent unauthorized vehicle entry. Such gate shall be located entirely upon the lot and not on the public right-of-way. Adequate emergency access shall be provided, as determined by the Town Board after consultation with the Applicant, relevant law enforcement, and first responder agencies.

8. Fencing. Large-Scale Solar Energy Systems shall be surrounded by a fence sufficient to protect the public and prevent unauthorized access, and high enough to be visible in deep snow cover. Fencing shall have warning signs with the owner’s or operator’s name and emergency contact information, which shall be placed on
any Project Site access point and on the perimeter fencing as deemed appropriate by the Town Board.

9. Screening. Large-Scale Solar Energy Systems shall be surrounded by vegetative, native, noninvasive screening and landscaping, even if screening results in the shading of Solar Panels.

10. Project Site maintenance. the Project Site shall be maintained in a safe, neat and orderly condition. Grass and other vegetation shall be mowed and trimmed to prevent the appearance of overgrowth, and snow shall be removed from all access ways both to and within the Project Site to facilitate emergency access.

11. Minimal Visual Impacts. Large-Scale Solar Energy Systems shall be designed and constructed in a manner which preserves natural vegetation and has the least visual effect practicable on the environment, as determined by the Town Board based on site specific conditions, including topography, use of contiguous properties, location of structures, proximity to vehicles on or off the road, visibility to air traffic, and use of adjacent land by other possible impacted entities.

12. Other Visual and Safety Requirements for Large-Scale Solar Energy Systems:
   a. Electrical transmission lines and cables shall be buried underground.
   b. No new utility poles shall be erected.
   c. Any glare produced shall not impair or make unsafe the use of contiguous properties and their structures, vehicles on or off the road, air traffic, or uses by other possible impacted entities as determined by the Town Board.
   d. Guy wires shall not be used to support any component of any Solar Energy System.

13. Additional standards. Large-Scale Solar Energy Systems shall:
   a. Conform with all federal and state laws and all applicable rules and regulations promulgated by any federal or state agencies having jurisdiction.
   b. Comply with all other requirements of the Town of Malone Zoning Law and applicable guidelines unless expressly superseded by this law.
   c. Conform with all adopted plans of the Town of Malone.
   d. Be built, operated, and maintained to acceptable industry standards, including the most recent, applicable standards of the Institute of Electric and Electronic Engineers (“IEEE”) and the American National Standards Institute (“ANSI”).

14. Reimbursement for review of Application for a Certificate of Environmental Compatibility and Public Need Pursuant to Article 10 Public Service Law. The Applicant shall reimburse the Town for any fee or expense incurred in hiring subject matter experts and attorneys to review whether a Solar Energy System proposed for siting pursuant to Article 10 of the New York Public Service Law complies with this law’s substantive provisions.

6. Permitting Requirements and Additional Requirements for Solar Energy Systems

A. This section is intended to provide substantive requirements for the Town to review applications for permits for Solar Energy Systems less than 25 megawatts (“MW”) in Size, as well as to provide additional substantive requirements for siting Solar Energy Systems of all Sizes, whether or not the Town has final siting approval authority.

B. Zoning Permit Required. A Zoning Permit issued by the Town of Malone shall be required prior to the installation of any Solar Energy System less than 25 MW in Size.

C. Special Use Permit Required. In addition to a Zoning Permit, a Special Use Permit shall be required prior to the installation of a Large-Scale Solar Energy System less than 25 MW in Size.

D. Roof-Mounted Solar Energy Systems attached to any lawfully permitted building or structure shall be permitted as an accessory use in all zoning districts and exempt from site plan review under the local zoning code or other land use regulation, so long as the Roof-Mounted Solar Energy System complies with the following design requirements:

2. Height. Roof-Mounted Solar Energy Systems shall have no more than 8 inches between the surface of the roof on which it is mounted and the highest edge of the system.

3. Installation. Roof-Mounted Solar Energy Systems installed on a:
   a. sloping roof shall be mounted at the same angle as the roof’s surface (i.e. parallel to the roof surface on which they are mounted or attached).
   b. flat or near flat roof there shall be a perimeter area around the edges of the roof for emergency access and maintenance work. The Enforcement Officer may require larger buildings to have internal walkways to equipment, access hatches, stairways, ladders, and other roof penetrations or equipment.

4. Screening. Panels installed on a flat or near flat roof shall be screened by a parapet wall or other screening materials approved by the Enforcement Officer, which is at an equal height as the top of the panels.

E. Ground-Mounted Solar Energy Systems with a total surface area of all Solar Panels 2,000 square feet or less shall be permitted in all zoning districts as accessory structures and shall be exempt from site plan review under the local zoning code or other land use regulations, so long as it complies with the following design requirements:

1. Setback. Such Solar Energy System shall adhere to the setback restrictions of the underlying zoning district.

2. Height. Such Solar Energy System’s height—from the highest natural grade below each solar panel—shall not exceed 10 feet in Residential Districts or 15 feet in all other Districts.

3. Yard Location. Such Solar Energy System in Residential Districts shall be installed in the side or rear yards.

4. Lot Coverage. Such Solar Energy System Project Sites shall not exceed 20% of their lot.

5. Screening. Such Solar Energy System shall be located in a way that the Enforcement Officer approves as reasonably avoiding and/or minimizing impacts of views from surrounding properties and reasonably minimizing changes in shading for adjoining properties.

6. Location. Such Solar Energy System shall not be located in the following areas:
   a. Prime Farmland, Farmland of Statewide Importance, and/or Town Agricultural Land.
   c. Areas including flood plains, historic sites, airports, government lands, conservation easements, trails, parklands, and wetlands as identified by the New York State Department of Environmental Conservation or the United States Army Corps of Engineers.
   d. On slopes greater than fifteen percent (15%), unless the Applicant can demonstrate through engineering studies and to the satisfaction of the Town Engineer that the proposed development will cause no adverse environmental impact that will not be satisfactorily mitigated.

F. Large-Scale Solar Energy systems with Solar Panel surface area larger than 7000 Square Feet are inconsistent with the community character and land-use plan of the Town of Malone and are not a permitted use in any zoning district within the Town.

G. Large-Scale Solar Energy Systems with a Solar Panel surface area less than 7000 Square Feet are permitted as principal and accessory uses through the issuance of a Special Use Permit as approved by the Town Board with prior review and recommendations on the Site Plan by the Planning Board.

H. In addition to complying with all other requirements applicable to Large-Scale Solar Energy Systems, such systems requiring a Special Use Permit shall also meet the following requirements:
   1. Applications for installing a Large-Scale Solar Energy System shall be reviewed by the Zoning Officer and referred, with comments, to the Town Planning Board for
its review and recommendation. The Town Planning Board’s recommendations, along with the Zoning Officer’s comments, shall be referred to the Town Board for its review and action.

2. Any new Solar Energy System proposed as an extension or addition of an existing Solar Energy System shall require de novo review of all projects as a single new project. The standards set forth in this law shall apply to the combined attributes of an existing and any proposed associated Solar Energy System.

3. No Special Use Permit, Special Use Permit renewal, or Special Use Permit amendment relating to a Large-Scale Solar Energy System shall be granted by the Town Board unless the Applicant demonstrates that the Large-Scale Solar Energy System meets the requirements set forth in this Law.

4. An application for a Special Use Permit for a Large-Scale Solar Energy System shall be a Type I action under the State Environmental Quality Review Act (“SEQRA”).

5. The Town, at the expense of the Applicant, may employ its own technical consultant(s) and attorneys to examine the application and related documentation and make recommendations as to whether the criteria for granting the Special Use Permit have been met, including whether the Applicant’s conclusions regarding safety analysis, visual analysis, structural inspection, and stormwater management aspects are valid and supported by generally accepted and reliable engineering and technical data and standards.

I. Special Use Permit Application Requirements. For a Special Use Permit application, the Applicant shall submit the following:

1. A completed project application form in such detail and containing such information as the Town Board may require.

2. A Full Environmental Assessment Form (“EAF”) for the proposed Large-Scale Solar Energy System, which the Town Board shall require in fulfillment of the State Environmental Quality Review Act (“SEQRA”). The Town Board shall also require the submission of a more detailed visual impact analysis to be provided with the completed Full EAF.

3. Evidence that each of the requirement in this law’s Special Requirements for Large-Scale Solar Energy Systems section will be met.

4. A site plan that includes:
   a. Name, address, and phone number of the person preparing the reports.
   b. Postal address and Tax Map parcel number of the property or properties.
   c. Zoning district(s) in which the property is situated.
   d. Exact location including geographic coordinates of the proposed Large-Scale Solar Energy System including any Solar Panels, Solar Energy Equipment, and extensions to any interconnection equipment if applicable.
   e. Onsite and adjacent areas, containing Farmland of State Importance, Prime Farmland, Town Agricultural Land, Non-designated Farmland, Adirondack Scenic Byway, slopes greater than 15%, flood plains, historic sites, and sites or structures eligible for listing on the state or national registry, airports, other government lands, conservation easements, trails, parkland, cemeteries, schools, assisted living facilities or nursing homes, hospitals, and wetlands as identified by the New York State Department of Environmental Conservation, or the United States Army Corps of Engineers. For the purposes of this section “onsite and adjacent areas” shall mean any area on the lot(s) where a Project Site is located, and any area on any lot from which any component of the Solar Energy System is visible.
   f. Location of all structures, whether inhabited by people or not, and located on the lot(s) where a Project Site is located, or on any lot from which any Solar Energy Equipment is visible.

5. Details of the Large-Scale Solar Energy System including:
   b. An equipment specification sheets for all Solar Panels, Solar Energy Equipment, interconnection equipment and extensions thereto, mounting systems, and any other significant components to be installed.
   c. The size in acres and square feet of the Project Site.
   d. The total nameplate generation capacity of the Solar Energy System.
e. Location, type, and intensity of any lighting on the site.
f. Information concerning the property boundaries and names of all adjacent landowners, including any adjacent landowners who may have entered into any agreement with respect to the proposed Solar Energy System or project.
g. Documentary evidence of the legal consent of every property owner who has a contractual interest in the proposed project, including copies of easements, lease agreements, licenses, and other written agreements.
h. A description of how emergency access to the Project Site will be accommodated, which and including a description of the vehicle size limitations, access ways for vehicles and helicopters, firefighting capabilities, and other prominent features.
i. A maintenance plan providing for property upkeep such as snow removal, mowing and trimming.

j. Location, nature, and extent of any proposed:

i. Fencing, landscaping, and screening.
ii. Utility easements, access roads, or drives.

k. Glare assessment and any mitigation efforts that may be utilized to minimize glare.
l. A plan for clearing and/or grading the site and a Stormwater Pollution Prevention Plan (SWPPP) for the site.
m. Blueprints and site plan for the Large-Scale Solar Energy System, which shall bear the seal of an engineer licensed to practice in New York State.
n. The Town Board may require additional information, such as line-of-sight drawings, detailed elevation maps, visual simulations, before and after renderings, and alternate designs to more clearly identify adverse impacts for the purpose of their mitigation.
o. Decommissioning plan as set forth in this law.

J. The Town Board may impose conditions on its approval of any Special Use Permit under this section to enforce the standards of this Local Law or to discharge the Town Board’s obligations under SEQRA.

K. Upon review of the application, the Town Board may approve, approve on conditions, or deny the application.

7. Abandonment and Decommissioning

A. Decommissioning Plan and Cost Estimate. The Applicant shall include with its application a detailed written plan with an estimate, in current dollars, of the cost of hiring a third party to decommission the Large-Scale Energy System.

1. At a minimum, the decommissioning plan and cost estimate shall include the cost to load, transport, and dispose of the Large-Scale Energy System components from the Project Site, and a planned timeframe for each of these steps. Cost estimates shall also include or reflect the design, materials, equipment, labor, administration, and quality assurance for decommissioning.

2. The decommissioning cost estimate shall not incorporate any salvage value that may be realized with the sale of materials, facility structures or equipment, land, or other assets associated with the Large-Scale Solar Energy System at the time of decommissioning.

3. The total decommissioning cost estimate shall be increased by a contingency factor of 25%.

4. The supporting documentation used to substantiate the cost estimates shall be submitted with the cost estimates to the Town Board for review and approval.

B. Letter of Credit.

1. No Large-Scale Solar Energy System shall be built unless the Applicant has obtained and submitted to the Town of Malone an irrevocable letter of credit for decommissioning the Large-Scale Energy System, which conforms to the requirements of this Local Law. The letter of credit shall be effective no later than the date the building permit for the Large-Scale Solar Energy System is issued.
The issuing institution shall be an entity that has the authority to issue letters of credit. The original letter of credit shall be submitted to the Town Board for review and approval along with evidence or a certification by the issuing institution that the institution meets the requirements of this Local Law.

2. The letter of credit shall name the Town of Malone, New York, as the sole beneficiary.

3. The letter of credit shall be accompanied by a letter from the Applicant referring to the letter of credit by number, issuing institution, and date, and providing the following information: name and address of the Solar Energy System and the amount of funds.

4. The letter of credit shall be irrevocable and issued for a term greater than or equal to a period of at least one year in an amount at least equal to 125% of the current cost estimate for decommissioning the Large-Scale Solar Energy System.

5. The letter of credit shall provide that the expiration date will be automatically extended for a period of at least one year unless the issuing institution has cancelled the letter of credit in accordance with the conditions for cancellation set forth in this Local Law.

6. The letter of credit shall be renewed each year until the project is decommissioned in accordance with this law.

7. Any notice of cancellation, reinstatement, or any other changes to the letter of credit shall clearly identify each owner or operator for which the letter of credit provides financial assurance, including the name and address of the owner or operator, and the name, address, and amount assured for the Large-Scale Solar Energy System.

8. If the issuing institution cancels a letter of credit, or decides not to extend the letter of credit beyond the expiration date, then the following process is required:
   a. The issuing institution shall send a notice of cancellation by certified mail to the owner or operator and to the Town Board 120 days in advance of cancellation.
   b. The owner or operator shall obtain a new letter of credit and submit it, along with other documentation required by this Law to be submitted along with a letter of credit, to the Town Board within 90 days after both the Town Board and the owner or operator receive the notice of cancellation from the issuing institution.
   c. Town Board shall review the letter of credit and accompanying documentation and determine whether to grant written approval of the new letter of credit. If the Town Board does not approve of the letter of credit, the owner operator shall obtain a new letter of credit that complies with the requirements of this law, and new letter of credit shall remain subject to the approval of the Town Board.

9. The letter of credit may only be cancelled under the following conditions:
   a. The Town Board authorizes cancellation in advance and in writing and the owner or operator substitutes a new letter of credit in compliance with this law; or
   b. The owner or operator is no longer required to demonstrate financial assurance because the project has already been decommissioned and the project site has been adequately remediated to its pre-project condition.

10. The letter of credit may be drawn upon under the following conditions:
    a. Following a Town Board determination that the owner or operator has failed to perform decommissioning according to the decommissioning plan or provisions of this law, the Town Board may draw on the letter of credit and restore the site in accordance with the decommissioning plan or the condition of the property as it existed before the Large Solar Energy System was installed.
    b. The Town Board will draw on the letter of credit if, within 90 days of receiving a notice of cancellation from the issuing institution, the owner and operator has failed to obtain a new letter of credit and written Town Board approval in accordance with this Local Law. The Town Board may delay the drawing if the issuing institution grants an extension of the term of credit. During the last 30 days of any extension the Town Board will draw on the letter of credit if the owner or operator has failed to obtain a new letter of credit and written approval of the assurance from the Town Board.
c. Payments made under the terms of the letter of credit will be deposited as directed by the Town Board. Payments from the letter of credit proceeds shall be approved in advance by the Town Board in writing.

C. Upon cessation of electricity generation or maintenance of any Solar Energy System for 6 continuous months, the Town may notify and instruct the owner and/or operator of the Solar Energy System shall implement the decommissioning plan. The decommissioning plan shall be completed within 180 days of notification.

8. Fees and Deposits
A. The fees for a Special Use Permit, Site Plan Review, and Zoning Permit for a Solar Energy System shall be set from time to time by Town Board resolution.
B. The Applicant for either state or local siting approval shall deliver to the Town Board, along with its application if local approval is sought, and concurrent with the filing of an Article 10 Application, if applicable, an amount equal to one percent (1%) of the estimated cost of the project (the “Initial Deposit”). This sum shall be held by the Town in a non-interest-bearing account, and these funds shall be available to the Town to pay consultants and attorneys engaged by the Town to assist in application review if a local permit is sought, and to pay consultants and attorneys engaged by the Town to assist in review of an Article 10 Application should awarded intervenor funds be insufficient to fully participate in the Article 10 Process, or should intervenor funds be otherwise exhausted. Following the grant or denial of the state or local application, the Town shall return to the Applicant any excess remaining in escrow. If the escrow account has been depleted prior to grant or denial of the application, the Applicant shall deposit such funds necessary for the Town to pay any outstanding fees to said consultants.

9. Zoning Permits and Special Use Permits
A. A holder of a Zoning Permit and/or Special Use Permit from the Town Board for a Solar Energy System shall obtain, at its own expense, all permits and licenses required by applicable law, rule, regulation or code and shall maintain the same, in full force and effect, until the Solar Energy System is decommissioned.
B. A holder of a Zoning Permit and/or Special Use Permit from the Town Board for a Solar Energy System shall construct, operate, maintain, repair, provide for removal of, modify, or restore the permitted Solar Energy System in strict compliance with all applicable technical, safety, and safety-related codes adopted by the Town, County, State, or United States, including the most recent editions of the National Electrical Safety Code and the National Electrical Code, as well as accepted and responsible workmanlike industry practices and recommended practices. The codes referred to are codes that include, but are not limited to, construction, building, electrical, fire, safety, health, and land use codes. In the event of a conflict between or among any of the preceding, the more stringent shall apply.
C. Unless waived by the Town Board, there shall be a pre-application meeting for the Zoning Permit application for a Solar Energy System that requires a Special Use Permit or Site Plan review. The purpose of the pre-application meeting will be to address issues which will help expedite the review and permitting process. The pre-application meeting may also include a site visit at the Town Board’s discretion. Costs of the Town’s consultants to prepare for and attend the pre-application meeting will be borne by the Applicant.
D. The Applicant shall furnish written certification that the Solar Energy System is designed and will be constructed (“as built”) to meet all local, county, state, and federal structural requirements for loads, including wind and snow loads. If the Solar Energy System is subsequently approved and constructed, similar as-built certification indicating that it has been constructed in accordance with all standards shall be furnished prior to the Town issuance of any certificate of occupancy or compliance.
E. After construction and prior to receiving a certificate of occupancy or compliance, the Applicant shall furnish written certification that the Solar Energy
System is grounded and bonded to protect persons and property and installed with appropriate surge protectors by a certified and approved NYS Licensed Electrical Inspector.

10. Right to Inspect
A. In order to verify that the Solar Energy System’s owner or operator and any and all lessees, renters and/or operators of the Solar Energy System place, construct, modify, and maintain the Solar Energy System in accordance with all applicable technical, safety, fire, building, and zoning codes, laws, ordinances, regulations, and other applicable requirements, the Town may inspect all facets of the Solar Energy System’s placement, construction, modification, and maintenance.

B. Any inspections required by the Town that are beyond the Town’s technical expertise or ability shall be conducted by third parties the expense of the Applicant.

11. Effective Date
This Local Law shall take effect upon filing in the office of the Secretary of State.

12. Severability
If any section, subsection, paragraph, sentence, clause, provision, or phrase of this Local Law is declared by the valid judgement of any court or administrative body of competent jurisdiction, to be unconstitutional, void, waived, preempted, or not applied, such declaration or judgment shall not affect the validity or enforcement of this law as a whole or any other part thereof, which shall remain in full force and effect.

13. Prior Local Law.
This Local Law shall supersede or repeal any prior inconsistent Local Solar Energy Law enacted by the Town.

Irrevocable Letter of Credit
[Name and address of banking establishment]
[Date]

Town Supervisor
Town of Malone
27 Airport Road
Malone, New York 12953

Re: Letter of Credit No. ____________________

Dear Town of Malone Supervisor:

We hereby establish and open our Irrevocable Letter of Credit No. ________ in your favor, at the request and for the account of [owner’s or operator’s name and address] up to the aggregate amount of [insert amount of dollars in words] U.S. dollars ($), available upon presentation of:

(1) your sight draft, bearing reference to this Letter of Credit No. __________, and

(2) your signed statement reading as follows: “I certify that the amount of the draft is payable pursuant to regulations issued under authority of the Town of Malone Solar Energy Law.”

This letter of credit covers decommissioning at the following [facility or facilities]: [identify each of the owner’s or operator’s facilities by name and address, and the amount for each].

This letter of credit is effective as of [date] and shall expire on [date at least 1 year later], but such expiration date shall be automatically extended for a period of [at least one year] on [date] and on each successive expiration date thereafter, unless, at least 120 days before the current expiration date, we notify both you and [owner’s or operator’s name] by certified mail, return receipt requested, that we have decided not to extend this letter of credit beyond the current expiration date. In the event you are so notified, any unused portion of the credit shall be available upon presentation of your sight draft and the above-referred-to signed statement for 120 days after the date of receipt by both you and (owner’s or operator’s name), as shown on the signed return receipts.

The [insert name of bank issuing letter of credit] agrees that whenever this letter of credit is drawn on, under and in compliance with the terms of this letter of credit,
that [insert name of bank issuing letter of credit] shall duly honor such draft upon presentation to [insert name of bank issuing letter of credit] and the [insert name of bank issuing letter of credit] shall deposit the amount of the draft into the standby trust fund of [owner's or operator's name] or the amount will be otherwise disbursed in compliance with the Town of Malone's instructions. We certify that the wording of this letter of credit is identical to the wording identified in the Town of Malone Solar Energy Law.

Very truly yours,
[Insert name of bank issuing credit]

By: _________________________
[insert name and Title of authorized employee or officer of bank issuing letter of credit.]

Date: _________________________

This credit is subject to the most recent edition of the Uniform Commercial Code of the State of New York.

SUPERVISOR REPORTS (continued):

- Appraiser from our Insurance Company came this week to review all of our building to be sure values are current. We will receive a report on that within a month.

- Receipt of Sewer Monies approx. $16,350.00

- National Grid Fine Monies approx. $95,000.00. Receiving that money soon, it will go to the Sediment Study.

- NYSERDA Grant was submitted yesterday for LED Lights and insulating the garage.

BOARD MEMBERS/COMMITTEE ITEMS:

Deputy Supervisor Maguire: He and Ed attended Rec Park meeting. Tennis courts are done. There has been a proposal for disc golf. Supervisor Maguire would like to have the joint rec park agreement reviewed. Supervisor Stewart stated there will be a meeting between the Town and Village in the near future.

Court: 2 new clerks have been hired.

SUPERINTENDENT OF HIGHWAYS:

Paving starting Monday weather permitting. Met with State Police at Traffic Safety Board meeting. They are going to help by patrolling until next Monday to keep the road in shape before paving. Dave Warner talked to him about the Elephant Head Trail to see if that is something the Town could plow to make it safer because cars park on the road. If we decide to do this Supt. Mallette suggested, we get an agreement in writing from the DEC. On rainy days they have been hauling sand. Continue to work on Equipment.

AIRPORT MANAGER:

Overseeing the Runway Crack repair/sealing project. Runways will be closed Thursday morning thru Saturday at 3PM.

CORRESPONDENCE:

- We received a renewed mining permit for Crestline Sand & Gravel from NYS Department of Environmental Conservation.
- Letter from charter Communication to start the franchise renewal agreement process. That has been forwarded to our Town Attorney to begin that process.
- From NYMIR about Seminar October 16, 2018, for snow and ice removal operations.
NEW BUSINESS:

RESOLUTION 281-2018 – *Request from Code Officer to attend Local Government Conference*
On a motion of Councilor Taylor, seconded by Deputy Supervisor Maguire, the following resolution was

ADOPTED  Ayes  5 Stewart, Gadway, Lockwood, Maguire, Taylor
          Nays  0

Resolved to give permission to the Code Officer to attend the 2018 Local Government Conference on October 9, 2018 in Potsdam, all expenses paid for by the Town.

Supervisor Stewart has scheduled a Special Meeting on October 4, 2018 at 9:15AM. for the purpose of to enter in to Executive Session with Town Attorney for attorney client privilege and followed by open session for the presentation of the 2049 Tentative Budget by the Budget Officer.

RESOLUTION 282-2018 – *Enter in to Executive Session*
On a motion of Councilor Gadway, seconded by Councilor Lockwood, the following resolution was

ADOPTED  Ayes  5 Stewart, Gadway, Lockwood, Maguire, Taylor
          Nays  0

Resolved to go in to Executive Session at 6:40PM to discuss the employment of a particular person. To include all Board Members.

RESOLUTION 283-2018 – *Return from Executive Session*
On a motion of Supervisor Stewart, seconded by Councilor Gadway, the following resolution was

ADOPTED  Ayes  5 Stewart, Gadway, Lockwood, Maguire, Taylor
          Nays  0

Resolved to return from Executive Session at 6:51PM. No action taken in Executive Session.

RESOLUTION 284-2018 –
On a motion of Deputy Supervisor Maguire, seconded by Councilor Lockwood, the following resolution was

ADOPTED  Ayes  5 Stewart, Gadway, Lockwood, Maguire, Taylor
          Nays  0

Resolved to prorate Jean Marlow’s salary to include an addition $750 to correct an error in regards to the former Town Clerk having additional vacation time instead of the $750 raise. It was a matter of interpretation; no one is at fault.

RESOLUTION 285-2018- *Bills for Audit & Payment*
On a motion of Councilor Lockwood, seconded by Deputy Supervisor Maguire, the following resolution was

ADOPTED  Ayes  5 Stewart, Gadway, Lockwood, Taylor
          Nays  0

Resolved that the following bills have been audited and approved for payment:

<table>
<thead>
<tr>
<th>Voucher Nos. 865-889 (No 886) Batch Nos. 28</th>
</tr>
</thead>
<tbody>
<tr>
<td>General Fund (A)</td>
</tr>
<tr>
<td>Part Town (B)</td>
</tr>
<tr>
<td>Highway Townwide (DA)</td>
</tr>
<tr>
<td>Highway Outside (DB)</td>
</tr>
<tr>
<td>Trust &amp; Agency (T)</td>
</tr>
<tr>
<td>East Side Water (FE)</td>
</tr>
<tr>
<td><strong>Subtotal:</strong></td>
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Additional Payments:

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
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</thead>
<tbody>
<tr>
<td>Community Development Block</td>
<td>$12,024.43</td>
</tr>
<tr>
<td>Grant (CDBG)</td>
<td></td>
</tr>
<tr>
<td>Airport Capital Project Fund</td>
<td>$39,862.08</td>
</tr>
<tr>
<td>(H4)</td>
<td></td>
</tr>
<tr>
<td><strong>Subtotal</strong></td>
<td><strong>$51,886.51</strong></td>
</tr>
</tbody>
</table>

**GRAND TOTAL**  $116,332.45

ADJOURN:
RESOLUTION 286-2018
On a motion of Councilor Taylor, seconded by Deputy Supervisor Maguire, the following resolution was

ADOPTED  Ayes  5  Stewart, Gadway, Lockwood, Maguire, Taylor
Nays  0

Resolved to adjourn the meeting at 7:00PM.

With no further business to be brought before the board the meeting was adjourned at 7:00PM. There is a Special Meeting scheduled for October 4, 2018 at 9:15AM. The next Regular Meeting is scheduled for October 10, 2018 at 6:00PM.

RESPECTFULLY SUBMITTED,

JEAN MARLOW, TOWN CLERK