

MINUTES OF A REGULAR MEETING OF THE MAYOR AND COUNCIL OF THE BOROUGH OF MADISON

March 9, 2020 - 7 p.m.

CALL TO ORDER

The Regular Meeting of the Mayor and Council of the Borough of Madison was held on the 9th day of March, 2020. Mayor Conley called the meeting to order at 7:00 p.m. in the Committee Room of the Hartley Dodge Memorial, Kings Road, in the Borough of Madison.

STATEMENT IN COMPLIANCE WITH THE OPEN PUBLIC MEETINGS ACT

The Borough Clerk read the statement pursuant to the Open Public Meetings Act:

“In compliance with the Open Public Meetings Act, adequate notice of this meeting of the Council was provided by transmitting a copy of the meeting notice to the Madison Eagle and Morris County Daily Record, posting a copy on the bulletin board at the main entrance of the Hartley Dodge Memorial, and filing a copy in the office of the Clerk, all on January 10, 2020. This Notice was made available to members of the general public.”

ROLL CALL

The Borough Clerk called the roll and the following acknowledged their presence:

Mayor Robert H. Conley

Council Members:

Astri J. Baillie
Maureen Byrne
John F. Hoover
Debra J. Coen
Rachel F. Ehrlich
Absent: Carmela Vitale, excused

Also Present:

Raymond M. Codey, Borough Administrator
James E. Burnet, Assistant Borough Administrator
Elizabeth Osborne, Borough Clerk
Matthew J. Giacobbe, Esq. Borough Attorney

AGENDA REVIEW

There was approval of the Regular and Executive Agenda.

READING OF CLOSED SESSION RESOLUTION

Ms. Baillie moved:

RESOLVED, that the meeting be adjourned to an Executive Session to consider the following matters:

MINUTES FOR APPROVAL (1)

None

Date of public disclosure 60 days after conclusion, if disclosure required.

CONTRACT MATTERS (3)

AFFORDABLE HOUSING UPDATE

POLICE FIRE ARMS TRAINING FACILITY

OPEN SPACE TRUST FUND

Date of public disclosure 60 days after conclusion, if disclosure required.

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Seconded: Ms. Byrne
Vote: Approved by voice vote

RECONVENE IN COUNCIL CHAMBER

Mayor Conley reconvened the Regular Meeting at 8 p.m. in the Council Chamber with all members present. The Pledge of Allegiance, led by the Girl Scouts present, was recited by all. Mayor Conley asked for a moment of silence for the passing of Madison High School Football Coach and lifelong resident Ted Monica.

APPROVAL OF MINUTES

None

GREETINGS TO PUBLIC

Mayor Conley made the following comments:

Mayor Conley noted meeting with Madison first responders and Health Department Staff and reminder residents that information regarding the COVID-19 pandemic is available on the Borough website.

PROCLAMATION:

Present Girl Scout Day Proclamation to Madison-Harding Service Unit Girl Scouts.

*Proclamation
of the
Borough of Madison
Proclaiming
Girl Scout Day
March 12, 2020*

WHEREAS, Girl Scout Day commemorates the day in 1912 when Juliette Gordon Low founded the first ever Girl Scout troop meeting in Savannah, Georgia with 18 girl members; and

WHEREAS, March 12th is also known as the birthday of Girl Scouts; and

WHEREAS, in addition to organizing the first Girl Scout troop, Juliette Gordon Low also organized enrichment programs, service projects and outdoor activities and adventures for this troop; and

WHEREAS, originally named Girl Guides of America, Girl Scouts has grown to over three million members, building girls of courage, confidence and character who become responsible citizens and make the world a better place; and

WHEREAS, Girl Scouting has always been an organization run by women, for women and it has been estimated that since its inception, 50 million girls and women have been members of this organization; and

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WHEREAS, the Madison-Harding Service Unit of the Girl Scouts of Northern New Jersey is proud to have a total of 44 troops in kindergarten through 12th grade, consisting of 527 girls with approximately 90 leaders;

NOW, THEREFORE, I, Robert H. Conley, Mayor of the Borough of Madison, on behalf of the governing body, do hereby proclaim March 12, 2020 as **Girl Scout Day** and extend thanks and appreciation to the Girl Scouts for their service to our community.

Robert H. Conley, Mayor

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EMPLOYEE OF THE MONTH FOR MARCH:

Linda Sawyer, Purchasing/Personnel Director, has been selected as the Employee of the Month for March for competently and efficiently handling her many duties as Qualified Purchasing Agent while consistently saving the Borough money; and for maintaining an “open door” policy as Personnel Director and promptly addressing questions and personnel issues for Borough employees.

ANNIVERSARY FOR THE MONTH FOR MARCH:

Lt. Brian Tappen of the Madison Fire Department – 20th Anniversary on March 6th.

REPORTS OF COMMITTEES

Finance and Borough Clerk

Mrs. Vitale, Chair of the Committee, absent

Public Safety

Ms. Baillie, Chair of the Committee, made the following comments:

The Planning Board has approved the Open Space Element of the Master Plan. This helps the Open Space Committee obtain grants and for guidance in planning. The Police Department reports Wednesday March 4, 2020 Sergeant Lisa Esposito officially retired from the Madison Police Department. Sergeant Esposito was appointed as badge number 116 on July 17, 1995; she began her career following her graduation from the Morris County Police Academy. During her career she was instrumental in starting several community service programs like the Senior Snow Shoveling Program, Ride Safe Bicycle Helmet Program and Project Lifesaver. A passionate DARE officer for many years, Lisa also served as the department DARE coordinator for the past 6 years. Sgt. Esposito has the distinct honor of being the first women to hold the rank of Sergeant in the history of the agency. During the month of February, the Fire Department responded to seventeen general alarms, 16 still alarms, 15 investigations and 25 EMS calls for a total of 73 for the month. Fifty-six Fire Prevention inspections were also performed. On March 3rd, at approximately 10:45pm, the Fire Dept. responded to a mutual aid call in Cedar Knolls for a working residential structure fire. There were no injuries. The fire was accidental in nature and started when the metal chimney flue pipe for a first floor wood burning stove failed. The Fire Dept., Police Dept. and Ambulance Squad are monitoring the Corona virus and have plans in place to deal with responses to such a calls that will best protect our 1st responders while dealing with a suspected infected patient. These response procedures are based on the CDC guidelines for 1st responders.

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Public Works and Engineering

Ms. Byrne, Chair of the Committee, made the following comments:

The 2020 CDBG Project, Highland Avenue Water Main Replacement was advertised February 14th. The Bid Opening is scheduled for April 2nd. The 2020 Road Improvements (Albright Circle and Beverly Road) was advertised January 30th with scheduled bid opening March 19th. Glenwild Road (NJDOT Local Aid) also advertised January 30th with scheduled bid opening March 19th. And Burnet Road is awaiting Local Aid grant agreement. Yard waste pickup has begun for the season. From the Finance Department the proposed municipal budget will be introduced at the March 30th Council Meeting with a hearing date set for April 27th. In anticipation of the June 2nd Primary Election, the filing Deadline for Nomination Petitions for County Committee Member as well as Municipal Office is March 30, 2020. Voter Registration forms (as well as Mail in Ballot applications) are also available in the Borough Clerk's office or on line at morriselections.org. The deadline for new voter registration before the June primary is May 12th. A Reminder that Pet licenses were due before February 29th. The \$15 annual fee, plus a \$10 late fee and up to date rabies vaccine information are required to obtain a license. All elected and appointed Borough officials are required to file an annual Financial Disclosure Statement with the State of New Jersey, before April 30th each year. Information regarding filing will be emailed to all required to file.

Community Affairs

Mr. Hoover, Chair of the Committee, made the following comments:

May Day in Madison is scheduled for Saturday, May 2nd. Donation envelopes will be included in the March utility bills. The T-shirt art contest information will be distributed to the schools this week. The Farmers Market will return on Thursdays beginning May 21st and run through November 19th. The Market is relocating to the Dodge Field. The hours will remain the same, 2:00 pm - 7:00 pm. Planning for the DDC sponsored Rose City Summerfest event is underway. It will be held from 12-6:00 pm on Saturday, May 30th. For the Chamber of Commerce, the Taste of Madison is Monday, March 23 at Brooklake Country Club. Tickets are currently on sale at TasteofMadison.org or at Gary's Wine & Marketplace. Easter Fun Fest is Saturday, April 4th. The pre-summer concert series is slated to open on Friday, May 1st from 6:00 pm to 8:00 pm outside on the outdoor stage. The first artist will be the Chatham Big Band. Madison Arts and Culture's annual fundraiser will be on Saturday, September 19th. Date pending approval by school district. The Museum of Early Trades & Crafts will complete remediation in the public areas in April. The Museum will expand to 23 Main Street for school class trip groups. The interior historic restoration continues.

Health

Ms. Coen, Chair of the Committee, made the following comments:

The recently enacted Plastic Bag ban ordinance is going well. The COVID-19 health crisis is consistently being monitored by the Health Department with no confirmed cases in Madison. Residents are reminded to wash their hands and refrain from touching their faces. Please stay at home to avoid spread of the virus.

Utilities

Ms. Ehrlich, Chair of the Committee, made the following comments:

The Electric Department reports that there were no emergency call outs during the last two weeks. During this time, the department made continued progress on utility pole transfers and replacements, including from storm and tornado damage. The Electric Department also assisted with the installation of the first four smart meter "gatekeepers" last week. These units are the 'collectors' that automatically

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read the advanced electric meters and water modules that have been installed by our electric and water departments. Three of the gatekeeper units transmit the collected data via the Borough's fiber network, and one unit communicates via cellular network. Together they can read all of the 2,500-plus electric smart meters and the 500 or so water meter modules that have been installed. As our meter readers' decrease their time spent driving around reading meters, they can spend more time installing new smart meters, which will speed up full deployment in the Borough. This, in turn, will move us closer to rolling out a new electric rate structure with advanced capabilities to help customers cut their electric costs and reduce their carbon footprint. Special thanks to Electric Dep't head Jim Mattina and his crew for their help in installing the new gatekeepers and helping us take this critical next step in the deployment of our advanced metering infrastructure. Thanks also to Chief Lou DeRosa, Russ Brown, Jim Sanderson, and Jim Trimble for their help in reaching this important milestone for our utilities. From the Water Department: the department installed a new 1-1/2" water service to a newly subdivided property on Woodland Road. Provisions have been made at the new dog park for the installation of a new barrier-free water fountain and bottle filler with dog bowl.

COMMUNICATIONS AND PETITIONS

The Borough Clerk announced receipt of the following communications:

Email dated February 28, 2020 from Victoria Kosubalova, 26 Elm Street, regarding the electric utility dividend.

INVITATION FOR DISCUSSION (1 of 2)

Mayor Conley opened the meeting to the public for their opportunity to ask questions and make comments on those items listed on the Agenda only. Mayor asked that, upon recognition by the Chair, the person shall proceed to the lectern and give his/her name and address in an audible tone of voice, and print the same on the sheet provided for the record. **He/she shall limit his/her statement to three (3) minutes or less.**

Since no member of the public wished to be heard, the invitation for discussion was closed.

AGENDA DISCUSSIONS- None

ADVERTISED HEARINGS

The Clerk made the following statement:

Ordinances scheduled for hearing tonight were submitted in writing at a Regular meeting of the Mayor and Council held on February 24, 2020, were introduced by title and passed on first reading, were published in the Madison Eagle and made available to members of the general public requesting same.

Mayor Conley called up Ordinances for second reading and asked the Clerk to read said ordinances by title:

**ORDINANCE 6-2020
ORDINANCE OF THE BOROUGH OF MADISON ESTABLISHING
CHAPTER 195-36.1 OF THE MADISON LAND DEVELOPMENT
ORDINANCE, ENTITLED "SOLAR ENERGY SYSTEMS"**

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WHEREAS, the Borough of Madison Planning Board has recommended that the Madison Land Development Ordinance Section 195-36.1 be established to regulate solar energy facilities and structures; and

WHEREAS, the Borough Council has determined to adopt such amendment.

NOW, THEREFORE, BE IT ORDAINED by the Council of the Borough of Madison, in the County of Morris and State of New Jersey, that:

SECTION 1: Chapter 195 of the Madison Land Development Ordinance, entitled “Land Development”, Section 195-36.1 entitled “Solar Energy Systems” is hereby established as follows:

§ 195-36.1 Purpose; Add new section 195-36.1. Solar Energy Systems.

A. The purpose of this ordinance is:

- 1) To amend and supplement the Land Development Code of the Borough of Madison to regulate solar photovoltaic energy facilities and structures and balance the objective of providing reasonable opportunities for on-site solar or photovoltaic electric generation for on-site electricity consumption with protection of the natural and built environment.
- 2) To promote the conservation of energy through the use of planning policies and practices designed to reduce energy consumption and to provide for utilization of renewable energy sources accessory to and directly supportive of a use permitted by Madison Land Development Ordinance.

B. Definitions.

- 1) Solar Photovoltaic Energy System, Accessory. A system of solar photovoltaic modules, panels or arrays for the collection, storage, and distribution of solar energy for space heating or cooling, for water heating (including heat exchange systems with exterior panels), or for electricity, that:
 - a) Is located on the electric consumer’s premises;
 - b) Is designed and intended to offset part of the electric consumer’s on-site electric energy consumption; and
 - c) Is accessory, subordinate and incidental to the electric consumer’s principal use of the premises for other lawful purpose(s).
- 2) Building-Integrated Solar Energy Systems. A solar energy system that is an integral part of a principal or accessory building, rather than a separate mechanical device, replacing or substituting for an architectural or structural component of the building. Building-integrated systems shall include photovoltaic or hot water solar energy systems that are contained within roofing materials, windows, and skylights that do not visually differ from conventional building materials.
- 3) Ground Mounted Solar Energy System. Systems which are not mounted on existing structures. This does not include parking canopy systems.

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- 4) Public View. The view by the public of a building from any point on a street or walkway which is used as a public thoroughfare, either vehicular or pedestrian.
 - 5) Roof Mounted Solar Energy System. A solar energy system consisting of solar collectors that are installed directly on the roof of a home, commercial building, and/or a permitted accessory structure, such as a garage, pergola, and/or shed.
 - 6) Solar Collector. A device, structure or a part of a device or structure for which the primary purpose is to transform solar radiant energy into thermal, mechanical or electrical energy.
 - 7) Solar Collector Surface. Any part of a solar collector that absorbs solar energy for use in the collector's energy transformation process. Collector surface does not include frames, supports and mounting hardware.
 - 8) Solar Mounting Device. Racking, frames or other devices that allow the mounting of a solar collector onto a roof surface or the ground.
- C. Applicability. This section applies to solar energy systems to be installed and constructed after the effective date of the ordinance. Solar energy systems constructed prior to the effective date of this ordinance shall not be required to meet the requirement of this section, provided however, that any upgrades, modifications, or changes that alter the size or placement of existing solar energy systems shall comply with the provisions of this section.
- D. Permitted Accessory Use. Solar energy systems shall be allowed as an accessory use, subject to the requirements set forth within this section.
- E. General Regulations.
- 1) In order to maintain a desirable visual environment throughout Madison by preserving and promoting the small town and historical characteristics of the Borough, it is the intention of this section that the installation of solar photovoltaic energy systems be installed in as inconspicuous and unobtrusive a manner as reasonably possible.
 - 2) The design of solar systems shall conform to all applicable local, state and national solar codes and standards. A building permit review by department staff shall be obtained and all design and installation work shall comply with all applicable provisions in the National Electric Code (NEC), the International Residential Code (IRC), International Commercial Building Code, State Fire Code, and any additional requirements set forth by the local utility for grid-connected systems.
 - 3) Electrical wiring connecting solar panel arrays, system transformers, inverters, and utility service shall be installed as flush as possible on structures upon which panels are mounted or installed underground.
 - 4) All connections from solar systems to the grid shall be underground where existing electric service is underground.
 - 5) Panels shall be darkish blue, grey or other neutral color and may not include any integrated graphics.
 - 6) A power disconnect and system shut-down device accessible to emergency services personnel shall be installed and marked conspicuously with a sign, which shall identify an emergency contact person and an emergency contact telephone number. The property owner shall make the property available to local emergency first responders for annual training on power disconnect and system shut down procedures

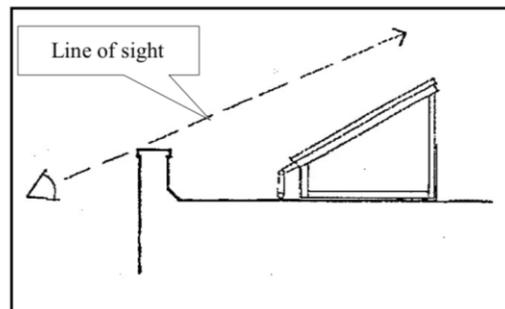
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that may be required in the case of an emergency. System diagrams shall be provided to local emergency first responders upon installation and updated when alterations to the system are completed.

- 7) Installations proposed within the Bottle Hill Historic District and Civic Commercial Historic District shall be subject to the following provisions:
 - a) Solar panels shall not alter a historic site's character defining features.
 - b) All modifications to a historic site must be entirely reversible, allowing alterations to be removed or undone to reveal the original appearance of the site.
 - c) Exposed solar energy equipment must be consistent with the color scheme of the underlying structure.
 - d) Solar installations in these historic districts shall be subject to review by the Historic Preservation Commission.
 - 8) All solar photovoltaic equipment, except for roof-mounted solar photovoltaic panels as permitted herein, shall be effectively screened from public rights-of-way, with indigenous deer resistant evergreen plantings, and, to the greatest extent feasible, shall blend with the immediately surrounding area.
 - 9) Building integrated solar energy systems may be visible from the public view and are subject only to the screening and setback requirements for supporting equipment.
 - 10) Solar collectors shall be oriented and/or screened so that any glare is directed away from any adjoining properties and streets.
 - 11) All supporting equipment shall not be located any closer than twenty feet (20') to any other building or structure, except as permitted herein.
 - 12) Solar energy systems shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the system. No such signs shall exceed one square foot in area. In no case shall any identification be visible from the property line.
 - 13) No solar energy system shall be lit. Parking lots under solar canopy systems may be lighted in accordance with Borough lighting regulations.
- F. Roof mounted solar photovoltaic energy systems. Installation or construction of roof mounted solar photovoltaic energy systems shall be subject to the following requirements:
- 1) A roof mounted solar photovoltaic energy system may not be placed on any lot which does not contain a permitted principal structure. A roof mounted system may be installed upon permitted principal and accessory buildings.
 - 2) A roof mounted solar photovoltaic energy system shall serve only the lot where it is located. All supporting ancillary equipment not attached to the structure housing solar arrays shall be located in the rear yard unless evidence is provided from a solar entity that such equipment cannot be feasibly located in the rear yard location (conforming to rear yard setback as noted herein), the applicant may then place supporting equipment in alternative areas, as follows:
 - a) Fifty percent of the actual rear yard setback or a minimum of twenty (20) feet, whichever is greater.

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- b) Side yard with a minimum setback that is equal to the respective minimum zone requirements or fifty (50%) percent of the actual setback line; whichever is greater.
- 3) Roof mounted solar photovoltaic energy system panels shall not extend above the existing height of the roof: more than 12” on structures with pitched roofs with 3% slope or greater; or from 24” to a maximum of 48” on structures with flat roofs (flat roof shall be defined as a roof pitch less than 3% slope) provided a minimum four-foot perimeter setback is provided. Roof-mounted solar energy systems shall not exceed the maximum permitted height in the zone district for the structure or building on which they are mounted. For roof-mounted solar energy systems installed on a sloped roof, the system must be installed at the same angle as the roof on which it is installed with a maximum distance, measured perpendicular to the roof, of 12 inches between the roof and highest edge or surface of the system. In no instance shall it extend above the ridge of a peaked roof.
- 4) Panels shall not overhang or otherwise extend beyond any rooftop structure.
- 5) Exterior piping associated with the roof-mounted solar energy system shall be allowed to extend beyond the perimeter of the building on any facade of an accessory structure. Where exterior cables or piping are visible from any public right-of-way, they shall be treated architecturally to blend in with the building color and materials.
- 6) No system shall cover more than 80% of the entire roof area.
- 7) No system shall be mounted to a fence.
- 8) Where parapets are in place and rooftop orientation allows, solar collectors mounted on flat roofs shall be mounted behind a building parapet, below the line of sight from the nearest edge of the right-of-way(s) adjacent to front- and street-side yards (see below Illustration).



- G. Parking lot roof canopy mounted solar photovoltaic energy systems. Installation or construction of roof canopy mounted solar photovoltaic energy systems shall be subject to the following requirements:
- 1) Site plan approval is required
 - 2) An applicant for a parking lot roof canopy mounted solar photovoltaic energy system shall obtain all permits required by the Uniform Construction Code.
 - 3) Parking lot roof canopy mounted solar photovoltaic energy systems shall be constructed above parking spaces and shall not be located in a front

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yard or any area between the front façade of a principal building and the street.

- 4) A minimum 10-foot wide buffer, consisting of plantings, fencing, berming or some combination thereof, shall be required adjacent to any residential property line to serve as a year-round buffer.
- 5) The maximum permitted height of the system shall be twenty-two feet, as measured from the grade plane to the highest point of the mounting equipment, structure and/or panels, whichever is greatest.
- 6) The parking lot roof canopy mounted solar photovoltaic energy system shall serve only the lot upon which it is located and may not serve any other lot either in common ownership or otherwise. All supporting equipment, such as transformers, inverters, power line interconnections, etc. shall be installed only in the rear or side yard area of any lot.
- 7) The proposed location for all supporting equipment shall conform to the rear yard and side yard setback requirements for an accessory building or the requirements for parking setback in the zone (whichever is greater) in which the property is located (and in no case shall be located in the front yard).

H. Ground-mounted solar photovoltaic energy systems. Where permitted, a ground-mounted solar photovoltaic energy system may be installed subject to the following requirements:

- 1) Accessory to principal permitted use.
- 2) A ground-mounted solar photovoltaic energy system shall not be constructed on any lot which does not contain a permitted principal structure.
- 3) A ground-mounted solar photovoltaic energy system shall serve only the permitted principal structure and permitted accessory buildings located on the tax lot upon which the energy system is located.
- 4) Ground mounted solar photovoltaic energy systems shall require site plan approval.
- 5) Ground-mounted systems shall be designed to minimize impacts on critical habitat areas, especially habitats of threatened and endangered species.
- 6) Issuance of a construction permit. An applicant for a ground-mounted solar or photovoltaic energy system permit shall obtain all permits required by the Uniform Construction Code (UCC).
- 7) Access. No new driveway access shall be created. Access shall be provided utilizing existing driveways. Any interior access road required between and among ground-mounted solar photovoltaic energy system arrays and components shall be designed as grassed roadways to minimize the extent of soil disturbance, water runoff and soil compaction.
- 8) Maximum height. The maximum height of solar panel arrays from existing ground level shall not exceed 8 (eight) feet. System components shall not exceed the maximum permitted height for an accessory structure in the zone in which located.
- 9) Ground mounted systems shall not be counted in the calculation of maximum impervious coverage unless the area under the panels, excluding any footings, consists of an impervious material.

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- 10) Ground mounted systems shall not exceed five (5)% of the total land area of the tract on which it is located. The area of the system shall be measured by the aggregate of all land on which the system is located, excluding transmission lines and subsurface elements.
- 11) Yard placement & visual buffering. All components of a ground-mounted solar photovoltaic energy system (solar panel arrays, supporting equipment including transformers, inverters, electric utility line connections, etc.) shall be installed only in yards not facing public rights-of-way and shall not be located closer to the side property line than the existing side yard/perimeter setback (whichever is greater) of the principal building upon the lot, subject to the following visual compatibility, placement and design standards.
 - a) The ground mounted system and its components shall be shielded by a minimum ten-foot wide landscaped buffer of plantings and/or plantings and berming around the perimeter of the facility. The buffer shall screen the system from view from adjoining residences, preserved open space, the public traveled way, including public rights-of-way, roads and publicly accessible trails.
 - b) Perimeter landscaped screen buffer. Landscaped screen buffer plantings shall be indigenous evergreen species for year-round screening, which shall grow to sufficient height within five (5) years to completely screen the system from off-site view. The landscaped screen buffer plantings shall be continually maintained to provide a permanent visual screen of the facility.
 - c) Where existing features may effectively serve to shield portions of the installation and its components from view, such features may be substituted for portions of the required perimeter landscaped buffer. Such features include, but are not limited to:
 - [1] Existing hedgerows or forested areas, which may be supplemented with additional plantings to achieve year-round effective visual screening of the installation and its components;
 - [2] Existing buildings, such as barns, garages, greenhouses, outbuildings, etc;
 - [3] Existing topographic features or structures such changes in elevation, ridgelines, retaining walls and similar features.
 - d) Where any of the above features may be substituted for the required perimeter landscaped buffer, such features shall be maintained for as long as ground-mounted solar or photovoltaic energy system remains on site. Where such features may be removed over time by will or act of God, the required perimeter landscaped buffer shall be provided within either two (2) months of the removal of such features.
- 12) Solar panel array ground mounting. To minimize land disturbance and facilitate future site rehabilitation, solar panel arrays shall be mounted to the ground through the use of earth screws, auger driven piers or a similar system that does not require the use of bituminous or concrete material.

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- 13) Grading. The ground-mounted system and its components should be designed to follow the natural topography to the greatest extent possible to minimize the disturbance of soils.
 - 14) Soil erosion control, soil stabilization. All ground areas occupied by the ground-mounted solar photovoltaic energy system shall be planted and maintained with shade tolerant grasses for the purpose of soil stabilization. A seed mixture of native, non-invasive shade tolerant grasses shall be utilized to promote biodiversity and natural habitat.
- I. Review process.
- 1) No installation of solar energy systems shall be permitted without a zoning permit.
 - 2) For site plans, the Zoning Officer shall issue a denial of zoning permit and shall refer the application to the Planning Board for review.
 - 3) In the event that an application is made pursuant to the terms of this article for premises that are located in the Bottle Hill or Civic Commercial Historic District, approval must be obtained from the Madison Historic Preservation Commission (HPC). Applicants shall submit plans to the Zoning Officer for review, and, if appropriate, a zoning permit may be issued, conditioned upon HPC review and approval.
- J. Decommissioning, removal, restoration. All ground mount or parking lot canopy solar photovoltaic energy systems shall be maintained in continuous operation. A decommissioning plan shall accompany all applications for ground-mounted or parking canopy systems.
- 1) Solar photovoltaic energy facilities and structures (roof or ground) which have not been in active and continuous service for a period of eighteen (18) months shall be decommissioned and removed from the property to a place of safe and legal disposal.
 - 2) Upon cessation of activity and as part of decommissioning any ground-mount or parking lot canopy system, the Applicant shall submit a performance bond in a form and manner satisfactory to the Borough Engineer to ensure availability of adequate funds to restore the site to a useful condition. The Applicant shall further:
 - a) Deactivate, disconnect and remove all structures, unless otherwise noted herein.
 - b) Restore the surface grade and soil after removal of aboveground structures and equipment, including but not limited to removal of all components of the system including footings.
 - c) Replace soil, as necessary, within the top 12 inches of the soil profile, which shall be comprised of topsoil meeting the texture of loam as described in the USDA soil classification system, and the pH shall be in the range of 6.5 to seven. Tests shall be reviewed and approved by the Borough.
 - d) Decompact land where necessary to promote healthy plant growth prior to installation of topsoil and vegetation. Tests shall be reviewed and approved by the Borough.
 - e) Restore soil areas with native grasses, agricultural crops or plant species suitable to the area and which do not include any invasive species.

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- f) Provide quantity takeoffs, unit prices and overall cost estimates for decommissioning in current dollars.
 - g) Provide for the retention of buffers and plantings.
 - h) Restore parking areas and their surfaces for any parking under decommissioned canopy solar installations.
- 3) If the property owner fails to remove the system and restore the system in accordance with the decommissioning plan, the Borough may perform the work in place of the owner. All costs incurred by the Borough in connection with the same shall be a lien on the property upon which the work is performed. In the event that the Borough incurs any additional costs in enforcing the lien or collecting the money owed, the owner shall be obligated to reimburse the Borough for the additional costs and expenses, including reasonable attorneys' fees.
- 4) The Borough of Madison expressly reserves the right to require the removal of any solar energy system, or portion thereof, which is improperly constructed or maintained or which poses an imminent safety hazard. In the event that the Borough incurs any additional costs in enforcing the lien or collecting the money owed, the owner shall be obligated to reimburse the Borough for the additional costs and expenses, including reasonable attorneys' fees.
- K. Permitted Accessory Solar Energy Systems.
- 1) Building integrated systems are permitted as accessory uses in all zoning districts.
 - 2) Roof mounted systems are permitted as accessory uses in all zoning districts.
 - 3) Parking lot canopy systems are permitted accessory uses in the following districts in the rear yard only as regulated herein:
 - a) R-5 District
 - b) R-5A District
 - c) CC District
 - d) OR District
 - e) PCD-O District
 - f) Gateway District
 - g) P District
 - h) OSGU District
 - i) University District
 - 4) Ground mounted systems shall be permitted as accessory uses only in the PCD-O and OSGU Districts, upon finding by the reviewing Board that rooftop and/or parking lot canopy systems are not reasonably feasible due to specific site/building conditions.
 - 5) Additional Submission Requirements. In addition to the application requirements in all applicable construction codes and the Borough Land Use Ordinance, all applications for solar energy systems shall be accompanied by a property survey showing the proposed location or locations of the solar energy system and distance from property lines. In addition, photographs showing the property from the public view, and the location of the proposed solar energy system, must be submitted so as to determine compliance with the visibility and other provisions of this ordinance.

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L. Abandonment.

- 1) Where a solar energy system is out of service for a continuous eighteen-month period, there shall be a rebuttable presumption that the system has been abandoned.
- 2) The Borough may issue a notice of abandonment to the owner of a renewable energy system that is deemed to have been abandoned. The notice shall be sent return receipt requested.
- 3) The owner shall have the right to respond to the notice of abandonment within 30 days from notice receipt date.
- 4) If the owner provides information that demonstrates the renewable energy system has not been abandoned, the Borough shall withdraw the notice of abandonment and notify the owner that the notice has been withdrawn.
- 5) If the Borough determines that the renewable energy system has been abandoned, the owner of the renewable energy system shall remove the renewable energy system and properly dispose of the components at the owner's sole expense within six months after the owner receives the notice of abandonment.
- 6) In the event that the owner fails to remove the renewable energy system, the Borough or its employees or contractors may enter the property to remove the renewable energy system (but shall not be obligated to remove the same), and in the event that the Borough performs the removal, all costs of such removal shall be reimbursed to the Borough by the owner. In the event the owner fails to reimburse the Borough, the Borough may place a lien on the property in the amount of the costs of said removal. In the event that the Borough incurs any additional costs in enforcing the lien or collecting the money owed, the owner shall be obligated to reimburse the Borough for the additional costs and expenses, including reasonable attorneys' fees.

SECTION 2: This ordinance shall take effect as provided by

law.

Mayor Conley opened up the public hearing on Ordinance 6-2020. Since no member of the public wished to be heard, the public hearing was closed.

Ms. Baillie moved that Ordinance 6-2020, which was read by title, be tabled, as the Planning Board has not met to reviewed, as required. Ms. Byrne seconded the motion.

Yeas: Ms. Baillie, Ms. Byrne, Mr. Hoover, Ms. Coen, Mrs. Ehrlich

Nays: None

Absent: Mrs. Vitale

Mayor Conley declared Ordinance 6-2020 adopted and finally passed and ordered the Clerk to publish the notice thereof in the newspaper and to record the ordinance as required by law.

INVITATION FOR DISCUSSION (2 of 2)

Mayor opened the meeting to the public for their opportunity to ask questions and make comments on any subject. Mayor asked that, upon recognition by the Chair,

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give his/her name and address in an audible tone of voice, for the record. **He/she shall limit his/her statement to three (3) minutes or less.**

Since no member of the public wished to be heard, the invitation for discussion was closed.

INTRODUCTION OF ORDINANCES

The Clerk made the following statement:

Ordinances scheduled for introduction and first reading tonight will have a hearing during the meeting of March 30, 2020 in the 2nd Floor Council Chamber of the Hartley Dodge Memorial Building, Kings Road, in the Borough of Madison at 8 p.m., or as soon thereafter as practical, for further consideration and final adoption. Said ordinances will be published in the Madison Eagle, be posted at the main entrance to the Borough offices and be made available to members of the public requesting same, as required by law.

Mayor Conley called up Ordinances for first reading and asked the Clerk to read said ordinance by title:

ORDINANCE 7-2020 ORDINANCE OF THE BOROUGH OF MADISON
AMENDING CHAPTER 15 OF THE MADISON BOROUGH CODE ENTITLED
“DOWNTOWN DEVELOPMENT COMMISSION”

WHEREAS, the Madison Downtown Development Commission has recommended revision of Chapter 15 of the Borough Code Entitled: “Downtown Development Commission”; and

WHEREAS the Borough Council has determined to revise Chapter 15 of the Borough Code.

NOW, THEREFORE, BE IT ORDAINED by the Council of the Borough of Madison, in the County of Morris and State of New Jersey, as follows:

SECTION 1: Chapter 15 of the Borough Code entitled “Downtown Development Commission” is hereby amended as follows:

§15-2 A. Numbers of Members. Membership shall consist of sixteen (16) regular members and two (2) ex-officio member.

§15-2 B(5)(d). Corporate Representative; one (1) representative who shall be an employee of a large (200 or more employees) corporate entity located in Madison.

§15-2 B(5)(g). Arts Representative: one (1) representative who shall be a member of an arts related organization based in the Madison area.

§15-2 B(7) *eliminate*

§15-2 B(8) Ex-officio members; one (1) member who shall be the Borough Director of Business Development an one (1) member who shall be the Communications and Technology Coordinator.

§15-2 C The Mayor, Council Liaison and all regular members of the Commission, except the ex-officio member shall exercise voting power (16 members). ~~The advisory member may participate in discussions but may not vote except in the absence of or disqualification of a regular member~~

§15-2 D Appointment. Appointments of all regular ~~and advisory~~ members shall be made by the Mayor with the advice and consent of the Borough Council. ~~In the event that the Mayor fails to make a nomination at least 15~~

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~~days prior to the date of the second regular public meeting of the Council after a position becomes vacant or the Borough Council fails to confirm a nomination, then the appointment shall be made by the Borough Council by the vote of a majority of the members present at the meeting, provided that at least three affirmative votes shall be required, with the Mayor to have no vote thereon except in case of a tie.~~

SECTION 2: This Ordinance shall take effect as provided by law.

Mr. Hoover moved that Ordinance 7-2020, which the Borough Clerk read by title, be adopted. Ms. Coen seconded the motion. There was no Council discussion, and the motion passed with the following roll call vote recorded:

Yeas: Ms. Baillie, Ms. Byrne, Mr. Hoover, Ms. Coen, Mrs. Ehrlich

Nays: None

Absent: Mrs. Vitale

ORDINANCE 8-2020 ORDINANCE OF THE BOROUGH OF MADISON
APPROPRIATING \$300,000.00 FROM THE GENERAL CAPITAL IMPROVEMENT
FUND FOR THE PURCHASE OF A STREET SWEEPER AND ACCESSORIES
FOR THE DEPARTMENT OF PUBLIC WORKS

WHEREAS, the Director of Public Works has recommended that the Borough purchase a new street sweeper; and

WHEREAS, the Chief Financial Officer has attested to the availability of the funds in the General Capital Improvement Fund in an amount not to exceed \$300,000.00 for this purpose; and

WHEREAS, the Borough Council has determined that the Borough should appropriate \$300,000.00 from the General Capital Improvement Fund for the purchase of a new street sweeper and accessories for the Department of Public Works.

NOW, THEREFORE, BE IT ORDAINED by the Council of the Borough of Madison, in the County of Morris and State of New Jersey, as follows:

SECTION 1: The amount of \$300,000.00 is hereby appropriated from the General Capital Improvement Fund for the purchase of a new street sweeper and accessories for the Department of Public Works.

SECTION 2: The budget of the Borough is hereby amended to conform with the provisions of this Ordinance.

SECTION 3: This Ordinance shall take effect as provided by law.

Ms. Byrne moved that Ordinance 8-2020, which the Borough Clerk read by title, be adopted. Mr. Hoover seconded the motion. There was no Council discussion, and the motion passed with the following roll call vote recorded:

Yeas: Ms. Baillie, Ms. Byrne, Mr. Hoover, Ms. Coen, Mrs. Ehrlich

Nays: None

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Absent: Mrs. Vitale

ORDINANCE 9-2020 ORDINANCE OF THE BOROUGH OF MADISON
ESTABLISHING CHAPTER 195-36.1 OF THE MADISON LAND DEVELOPMENT
ORDINANCE, ENTITLED “SOLAR ENERGY SYSTEMS”

WHEREAS, the Borough of Madison Planning Board has recommended that the Madison Land Development Ordinance Section 195-36.1 be established to regulate solar energy facilities and structures; and

WHEREAS, the Borough Council has determined to adopt such amendment.

NOW, THEREFORE, BE IT ORDAINED by the Council of the Borough of Madison, in the County of Morris and State of New Jersey, that:

SECTION 1: Chapter 195 of the Madison Land Development Ordinance, entitled “Land Development”, Section 195-36.1 entitled “Solar Energy Systems” is hereby established as follows:

I. ADD NEW SECTION 195-37. SOLAR ENERGY SYSTEMS.

M. The purpose of this ordinance is:

- 1) To amend and supplement the Land Development Code of the Borough of Madison to regulate solar photovoltaic energy facilities and structures and balance the objective of providing reasonable opportunities for on-site solar or photovoltaic electric generation for on-site electricity consumption with protection of the natural and built environment.
- 2) To promote the conservation of energy through the use of planning policies and practices designed to reduce energy consumption and to provide for utilization of renewable energy sources accessory to and directly supportive of a use permitted by Madison Land Development Ordinance.

N. Definitions.

- 1) Solar Photovoltaic Energy System, Accessory. A system of solar photovoltaic modules, panels or arrays for the collection, storage, and distribution of solar energy for space heating or cooling, for water heating (including heat exchange systems with exterior panels), or for electricity, that:
 - a) Is located on the electric consumer’s premises;
 - b) Is designed and intended to offset part of the electric consumer’s on-site electric energy consumption; and
 - c) Is accessory, subordinate and incidental to the electric consumer’s principal use of the premises for other lawful purpose(s).
- 2) Building-Integrated Solar Energy Systems. A solar energy system that is an integral part of a principal or accessory building, rather than a separate mechanical device, replacing or substituting for an architectural or structural component of the building. Building-integrated systems shall include photovoltaic or hot water solar energy systems that are contained

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within roofing materials, windows, and skylights that do not visually differ from conventional building materials.

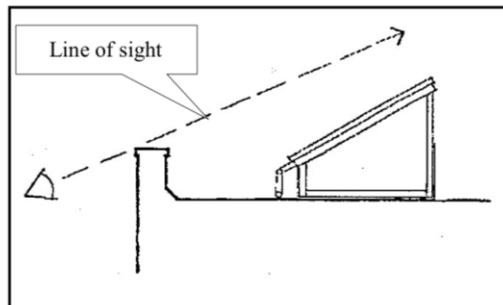
- 3) Community Solar System. Local solar facilities shared by multiple community subscribers who receive credit on their electricity bills for their share of the power produced.
 - 4) Ground Mounted Solar Energy System. Systems which are not mounted on existing structures. This does not include parking canopy systems.
 - 5) Public View. The view by the public of a building from any point on a street or walkway which is used as a public thoroughfare, either vehicular or pedestrian.
 - 6) Roof Mounted Solar Energy System. A solar energy system consisting of solar collectors that are installed directly on the roof of a home, commercial building, and/or a permitted accessory structure, such as a garage, pergola, and/or shed.
 - 7) Solar Collector. A device, structure or a part of a device or structure for which the primary purpose is to transform solar radiant energy into thermal, mechanical or electrical energy.
 - 8) Solar Collector Surface. Any part of a solar collector that absorbs solar energy for use in the collector's energy transformation process. Collector surface does not include frames, supports and mounting hardware.
 - 9) Solar Mounting Device. Racking, frames or other devices that allow the mounting of a solar collector onto a roof surface or the ground.
- O. Applicability. This section applies to solar energy systems to be installed and constructed after the effective date of the ordinance. Solar energy systems constructed prior to the effective date of this ordinance shall not be required to meet the requirement of this section, provided however, that any upgrades, modifications, or changes that alter the size or placement of existing solar energy systems shall comply with the provisions of this section. Community solar systems operated by the Borough of Madison or a third party contracted by the Borough of Madison are not subject to this ordinance.
- P. Permitted Accessory Use. Solar energy systems shall be allowed as an accessory use, subject to the requirements set forth within this section.
- Q. General Regulations.
- 1) In order to maintain a desirable visual environment throughout Madison by preserving and promoting the small town and historical characteristics of the Borough, it is the intention of this section that the installation of solar photovoltaic energy systems be installed in as inconspicuous and unobtrusive a manner as reasonably possible.
 - 2) The design of solar systems shall conform to all applicable local, state and national solar codes and standards. A building permit review by department staff shall be obtained and all design and installation work shall comply with all applicable provisions in the National Electric Code (NEC), the International Residential Code (IRC), International Commercial Building Code, State Fire Code, and any additional requirements set forth by the local utility for grid-connected systems.
 - 3) Electrical wiring connecting solar panel arrays, system transformers, inverters, and utility service shall be installed as flush as possible on structures upon which panels are mounted or installed underground.

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- 4) All connections from solar systems to the grid shall be underground where existing electric service is underground.
 - 5) Panels shall be darkish blue, grey or other neutral color and may not include any integrated graphics.
 - 6) A power disconnect and system shut-down device accessible to emergency services personnel shall be installed and marked conspicuously with a sign, which shall identify an emergency contact person and an emergency contact telephone number. The property owner shall make the property available to local emergency first responders for annual training on power disconnect and system shut down procedures that may be required in the case of an emergency. System diagrams shall be provided to local emergency first responders upon installation and updated when alterations to the system are completed.
 - 7) Installations proposed within the Bottle Hill Historic District and Civic Commercial Historic District shall be subject to the following provisions:
 - a) Solar panels shall not alter a historic site's character defining features.
 - b) All modifications to a historic site must be entirely reversible, allowing alterations to be removed or undone to reveal the original appearance of the site.
 - c) Exposed solar energy equipment must be consistent with the color scheme of the underlying structure.
 - d) Solar installations in these historic districts shall be subject to review by the Historic Preservation Commission.
 - 8) All solar photovoltaic equipment, except for roof-mounted solar photovoltaic panels as permitted herein, shall be effectively screened from public rights-of-way, with indigenous deer resistant evergreen plantings, and, to the greatest extent feasible, shall blend with the immediately surrounding area.
 - 9) Building integrated solar energy systems may be visible from the public view and are subject only to the screening and setback requirements for supporting equipment.
 - 10) Solar collectors shall be oriented and/or screened so that any glare is directed away from any adjoining properties and streets.
 - 11) All supporting equipment shall not be located any closer than twenty feet (20') to any other building or structure, except as permitted herein.
 - 12) Solar energy systems shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the system. No such signs shall exceed one square foot in area. In no case shall any identification be visible from the property line.
 - 13) No solar energy system shall be lit. Parking lots under solar canopy systems may be lighted in accordance with Borough lighting regulations.
- R. Roof mounted solar photovoltaic energy systems. Installation or construction of roof mounted solar photovoltaic energy systems shall be subject to the following requirements:
- 1) A roof mounted solar photovoltaic energy system may not be placed on any lot which does not contain a permitted principal structure. A roof mounted system may be installed upon permitted principal and accessory buildings.

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- 2) A roof mounted solar photovoltaic energy system shall serve only the lot where it is located. All supporting ancillary equipment not attached to the structure housing solar arrays shall be located in the rear yard unless evidence is provided from a solar entity that such equipment cannot be feasibly located in the rear yard location (conforming to rear yard setback as noted herein), the applicant may then place supporting equipment in alternative areas, as follows:
 - a) Fifty percent of the actual rear yard setback or a minimum of twenty (20) feet, whichever is greater.
 - b) Side yard with a minimum setback that is equal to the respective minimum zone requirements or fifty (50%) percent of the actual setback line; whichever is greater.
- 3) Roof mounted solar photovoltaic energy system panels shall not extend above the existing height of the roof: more than 12” on structures with pitched roofs with 3% slope or greater; or from 24” to a maximum of 48” on structures with flat roofs (flat roof shall be defined as a roof pitch less than 3% slope) provided a minimum four-foot perimeter setback is provided. Roof-mounted solar energy systems shall not exceed the maximum permitted height in the zone district for the structure or building on which they are mounted. For roof-mounted solar energy systems installed on a sloped roof, the system must be installed at the same angle as the roof on which it is installed with a maximum distance, measured perpendicular to the roof, of 12 inches between the roof and highest edge or surface of the system. In no instance shall it extend above the ridge of a peaked roof.
- 4) Panels shall not overhang or otherwise extend beyond any rooftop structure.
- 5) Exterior piping associated with the roof-mounted solar energy system shall be allowed to extend beyond the perimeter of the building on any facade of an accessory structure. Where exterior cables or piping are visible from any public right-of-way, they shall be treated architecturally to blend in with the building color and materials.
- 6) No system shall cover more than 80% of the entire roof area.
- 7) No system shall be mounted to a fence.
- 8) Where parapets are in place and rooftop orientation allows, solar collectors mounted on flat roofs shall be mounted behind a building parapet, below the line of sight from the nearest edge of the right-of-way(s) adjacent to front- and street-side yards (see below Illustration).



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- S. Parking lot roof canopy mounted solar photovoltaic energy systems. Installation or construction of roof canopy mounted solar photovoltaic energy systems shall be subject to the following requirements:
- 1) Site plan approval is required
 - 2) An applicant for a parking lot roof canopy mounted solar photovoltaic energy system shall obtain all permits required by the Uniform Construction Code.
 - 3) Parking lot roof canopy mounted solar photovoltaic energy systems shall be constructed above parking spaces and shall not be located in a front yard or any area between the front façade of a principal building and the street.
 - 4) A minimum 10-foot wide buffer, consisting of plantings, fencing, berming or some combination thereof, shall be required adjacent to any residential property line to serve as a year-round buffer.
 - 5) The maximum permitted height of the system shall be twenty-two feet, as measured from the grade plane to the highest point of the mounting equipment, structure and/or panels, whichever is greatest.
 - 6) The parking lot roof canopy mounted solar photovoltaic energy system shall serve only the lot upon which it is located and may not serve any other lot either in common ownership or otherwise. All supporting equipment, such as transformers, inverters, power line interconnections, etc. shall be installed only in the rear or side yard area of any lot.
 - 7) The proposed location for all supporting equipment shall conform to the rear yard and side yard setback requirements for an accessory building or the requirements for parking setback in the zone (whichever is greater) in which the property is located (and in no case shall be located in the front yard).
- T. Ground-mounted solar photovoltaic energy systems. Where permitted, a ground-mounted solar photovoltaic energy system may be installed subject to the following requirements:
- 1) Accessory to principal permitted use.
 - 2) A ground-mounted solar photovoltaic energy system shall not be constructed on any lot which does not contain a permitted principal structure.
 - 3) A ground-mounted solar photovoltaic energy system shall serve only the permitted principal structure and permitted accessory buildings located on the tax lot upon which the energy system is located.
 - 4) Ground mounted solar photovoltaic energy systems shall require site plan approval.
 - 5) Ground-mounted systems shall be designed to minimize impacts on critical habitat areas, especially habitats of threatened and endangered species.
 - 6) Issuance of a construction permit. An applicant for a ground-mounted solar or photovoltaic energy system permit shall obtain all permits required by the Uniform Construction Code (UCC).
 - 7) Access. No new driveway access shall be created. Access shall be provided utilizing existing driveways. Any interior access road required between and among ground-mounted solar photovoltaic energy system

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- arrays and components shall be designed as grassed roadways to minimize the extent of soil disturbance, water runoff and soil compaction.
- 8) Maximum height. The maximum height of solar panel arrays from existing ground level shall not exceed 8 (eight) feet. System components shall not exceed the maximum permitted height for an accessory structure in the zone in which located.
 - 9) Ground mounted systems shall not be counted in the calculation of maximum impervious coverage unless the area under the panels, excluding any footings, consists of an impervious material.
 - 10) Ground mounted systems shall not exceed five (5)% of the total land area of the tract on which it is located. The area of the system shall be measured by the aggregate of all land on which the system is located, excluding transmission lines and subsurface elements.
 - 11) Yard placement & visual buffering. All components of a ground-mounted solar photovoltaic energy system (solar panel arrays, supporting equipment including transformers, inverters, electric utility line connections, etc.) shall be installed only in yards not facing public rights-of-way and shall not be located closer to the side property line than the existing side yard/perimeter setback (whichever is greater) of the principal building upon the lot, subject to the following visual compatibility, placement and design standards.
 - a) The ground mounted system and its components shall be shielded by a minimum ten-foot wide landscaped buffer of plantings and/or plantings and berming around the perimeter of the facility. The buffer shall screen the system from view from adjoining residences, preserved open space, the public traveled way, including public rights-of-way, roads and publicly accessible trails.
 - b) Perimeter landscaped screen buffer. Landscaped screen buffer plantings shall be indigenous evergreen species for year-round screening, which shall grow to sufficient height within five (5) years to completely screen the system from off-site view. The landscaped screen buffer plantings shall be continually maintained to provide a permanent visual screen of the facility.
 - c) Where existing features may effectively serve to shield portions of the installation and its components from view, such features may be substituted for portions of the required perimeter landscaped buffer. Such features include, but are not limited to:
 - [1] Existing hedgerows or forested areas, which may be supplemented with additional plantings to achieve year-round effective visual screening of the installation and its components;
 - [2] Existing buildings, such as barns, garages, greenhouses, outbuildings, etc;
 - [3] Existing topographic features or structures such changes in elevation, ridgelines, retaining walls and similar features.
 - d) Where any of the above features may be substituted for the required perimeter landscaped buffer, such features shall be maintained for as long as ground-mounted solar or photovoltaic

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energy system remains on site. Where such features may be removed over time by will or act of God, the required perimeter landscaped buffer shall be provided within either two (2) months of the removal of such features.

- 12) Solar panel array ground mounting. To minimize land disturbance and facilitate future site rehabilitation, solar panel arrays shall be mounted to the ground through the use of earth screws, auger driven piers or a similar system that does not require the use of bituminous or concrete material.
- 13) Grading. The ground-mounted system and its components should be designed to follow the natural topography to the greatest extent possible to minimize the disturbance of soils.
- 14) Soil erosion control, soil stabilization. All ground areas occupied by the ground-mounted solar photovoltaic energy system shall be planted and maintained with shade tolerant grasses for the purpose of soil stabilization. A seed mixture of native, non-invasive shade tolerant grasses shall be utilized to promote biodiversity and natural habitat.

U. Review process.

- 1) No installation of solar energy systems shall be permitted without a zoning permit.
- 2) For site plans, the Zoning Officer shall issue a denial of zoning permit and shall refer the application to the Planning Board for review.
- 3) In the event that an application is made pursuant to the terms of this article for premises that are located in the Bottle Hill or Civic Commercial Historic District, approval must be obtained from the Madison Historic Preservation Commission (HPC). Applicants shall submit plans to the Zoning Officer for review, and, if appropriate, a zoning permit may be issued, conditioned upon HPC review and approval.

V. Decommissioning, removal, restoration. All ground mount or parking lot canopy solar photovoltaic energy systems shall be maintained in continuous operation. A decommissioning plan shall accompany all applications for ground-mounted or parking canopy systems.

- 1) Solar photovoltaic energy facilities and structures (roof or ground) which have not been in active and continuous service for a period of eighteen (18) months shall be decommissioned and removed from the property to a place of safe and legal disposal.
- 2) Upon cessation of activity and as part of decommissioning any ground-mount or parking lot canopy system, the Applicant shall submit a performance bond in a form and manner satisfactory to the Borough Engineer to ensure availability of adequate funds to restore the site to a useful condition. The Applicant shall further:
 - a) Deactivate, disconnect and remove all structures, unless otherwise noted herein.
 - b) Restore the surface grade and soil after removal of aboveground structures and equipment, including but not limited to removal of all components of the system including footings.
 - c) Replace soil, as necessary, within the top 12 inches of the soil profile, which shall be comprised of topsoil meeting the texture of loam as described in the USDA soil classification system, and the

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- pH shall be in the range of 6.5 to seven. Tests shall be reviewed and approved by the Borough.
- d) Decomact land where necessary to promote healthy plant growth prior to installation of topsoil and vegetation. Tests shall be reviewed and approved by the Borough.
 - e) Restore soil areas with native grasses, agricultural crops or plant species suitable to the area and which do not include any invasive species.
 - f) Provide quantity takeoffs, unit prices and overall cost estimates for decommissioning in current dollars.
 - g) Provide for the retention of buffers and plantings.
 - h) Restore parking areas and their surfaces for any parking under decommissioned canopy solar installations.
- 3) If the property owner fails to remove the system and restore the system in accordance with the decommissioning plan, the Borough may perform the work in place of the owner. All costs incurred by the Borough in connection with the same shall be a lien on the property upon which the work is performed. In the event that the Borough incurs any additional costs in enforcing the lien or collecting the money owed, the owner shall be obligated to reimburse the Borough for the additional costs and expenses, including reasonable attorneys' fees.
- 4) The Borough of Madison expressly reserves the right to require the removal of any solar energy system, or portion thereof, which is improperly constructed or maintained or which poses an imminent safety hazard. In the event that the Borough incurs any additional costs in enforcing the lien or collecting the money owed, the owner shall be obligated to reimburse the Borough for the additional costs and expenses, including reasonable attorneys' fees.

W. Permitted Accessory Solar Energy Systems.

- 1) Building integrated systems are permitted as accessory uses in all zoning districts.
- 2) Roof mounted systems are permitted as accessory uses in all zoning districts.
- 3) Parking lot canopy systems are permitted accessory uses in the following districts in the rear yard only as regulated herein:
 - a) R-5 District
 - b) R-5A District
 - c) CC District
 - d) OR District
 - e) PCD-O District
 - f) Gateway District
 - g) P District
 - h) OSGU District
 - i) University District
- 4) Ground mounted systems shall be permitted as accessory uses only in the PCD-O and OSGU Districts, upon finding by the reviewing Board that rooftop and/or parking lot canopy systems are not reasonably feasible due to specific site/building conditions. Community solar systems operated by

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the Borough of Madison or a third party contracted by the Borough of Madison are not subject to the 5% land area cap.

- 5) Additional Submission Requirements. In addition to the application requirements in all applicable construction codes and the Borough Land Use Ordinance, all applications for solar energy systems shall be accompanied by a property survey showing the proposed location or locations of the solar energy system and distance from property lines. In addition, photographs showing the property from the public view, and the location of the proposed solar energy system, must be submitted so as to determine compliance with the visibility and other provisions of this ordinance.

X. Abandonment.

- 1) Where a solar energy system is out of service for a continuous eighteen-month period, there shall be a rebuttable presumption that the system has been abandoned.
- 2) The Borough may issue a notice of abandonment to the owner of a renewable energy system that is deemed to have been abandoned. The notice shall be sent return receipt requested.
- 3) The owner shall have the right to respond to the notice of abandonment within 30 days from notice receipt date.
- 4) If the owner provides information that demonstrates the renewable energy system has not been abandoned, the Borough shall withdraw the notice of abandonment and notify the owner that the notice has been withdrawn.
- 5) If the Borough determines that the renewable energy system has been abandoned, the owner of the renewable energy system shall remove the renewable energy system and properly dispose of the components at the owner's sole expense within six months after the owner receives the notice of abandonment.
- 6) In the event that the owner fails to remove the renewable energy system, the Borough or its employees or contractors may enter the property to remove the renewable energy system (but shall not be obligated to remove the same), and in the event that the Borough performs the removal, all costs of such removal shall be reimbursed to the Borough by the owner. In the event the owner fails to reimburse the Borough, the Borough may place a lien on the property in the amount of the costs of said removal. In the event that the Borough incurs any additional costs in enforcing the lien or collecting the money owed, the owner shall be obligated to reimburse the Borough for the additional costs and expenses, including reasonable attorneys' fees.

Ms. Baillie moved that Ordinance 9-2020, which the Borough Clerk read by title, be adopted. Ms. Byrne seconded the motion. There was no Council discussion, and the motion passed with the following roll call vote recorded:

Yeas: Ms. Baillie, Ms. Byrne, Mr. Hoover, Ms. Coen, Mrs. Ehrlich

Nays: None

Absent: Mrs. Vitale

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CONSENT AGENDA RESOLUTIONS

The Clerk made the following statement:

Consent Agenda Resolutions will be enacted with a single motion; any Resolution requiring expenditure is supported by a Certification of Availability of Funds; any Resolution requiring discussion will be removed from the Consent Agenda; all Resolutions will be reflected in full in the minutes.

Ms. Baillie moved adoption of the Resolutions listed on the Consent Agenda. Ms. Byrne seconded the motion. There was no Council discussion and the motion passed with the following roll call vote recorded:

Yeas: Ms. Baillie, Ms. Byrne, Mr. Hoover, Ms. Coen, Mrs. Ehrlich

Nays: None

Absent: Mrs. Vitale

R 92-2020 RESOLUTION OF THE BOROUGH OF MADISON REJECTING ALL BIDS FOR THE MADISON POLICE FIRE ARMS TRAINING FACILITY PROJECT AND AUTHORIZING REBID

WHEREAS, the Borough of Madison publicly advertised for bids for the Madison Police Fire Arms Training Facility project in accordance with Local Public Contracts Law N.J.S.A. 40A:11-1 et seq.; and

WHEREAS, seven (7) bids were received and opened on Thursday, February 27, 2020. All bids substantially exceeded the cost estimate for this project; and

WHEREAS, the Qualified Purchasing Agent/Personnel Officer and Borough Attorney have recommended that the bids be rejected pursuant to N.J.S.A. 40A:11-13.2(a) and rebid;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the Borough of Madison in the County of Morris and State of New Jersey that all bids received on February 27, 2020 for the Madison Police Fire Arms Training Facility project are hereby rejected for the reasons set forth herein and the Borough Administrator is authorized to solicit new bids.

R 93-2020 RESOLUTION OF THE BOROUGH OF MADISON REQUESTING THE HONORABLE GOVERNOR PHIL MURPHY TO PRESERVE DAYTOP MENDHAM, ADOLESCENT SUBSTANCE ABUSE TREATMENT CENTER

WHEREAS, Daytop Mendham, is a 70-bed adolescent substance abuse treatment center; and

WHEREAS, for close to 30 years, Daytop Mendham has enabled thousands of children to transform their lives by leaving drug addiction behind to become productive adolescents and young adults. Numerous Counties, including Morris County, have throughout this time partnered with Daytop providing both

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funding and facilities to maximize the lifesaving services that were provided by Daytop. Each of these Counties understood that the treatment, education, and social structure provided by Daytop was significantly more beneficial than warehousing children in Juvenile Detention or placing youth in out-of-school suspension; and

WHEREAS, in 2014, the State of New Jersey made a decision to transfer the adolescent substance use disorder treatment providers, who until that time were managed within the State's Department of Human Services, Division of Mental Health & Addiction Services (DMHAS), into the Department of Children & Families (DCF)/Children's System of Care (CSOC). As such, effective July 1, 2014, adolescent residential services at Daytop, Integrity House, Newark Renaissance House, New Hope Integrated Behavioral Healthcare, Straight and Narrow and the Lighthouse began operating under the DCF/CSOC; and

WHEREAS, in 2016, DCF implemented policy changes that resulted in a significant reduction of referrals to New Jersey's state-funded, long-term specialty treatment programs for youth with substance use disorders. While clearly certain specific aspects of these policy changes were constructive, they have in effect resulted in the closing of five of the original six residential substance abuse disorder treatment facilities in our State. Now Daytop Mendham has become the very last remaining option for addiction specialty long-term residential care services available to this at-risk population and is in imminent danger of closing in the spring of 2020; and

WHEREAS, the Borough Council of the Borough of Madison believes that the solution to saving this critical resource and valued treasure is to have DCF recognize Daytop as a Specialty Adolescent Residential Treatment Provider and to permit the blending of funds inclusive of a combination of cost-based and fee for service.

NOW, THEREFORE, BE IT RESOLVED, that the Borough Council of the Borough of Madison, County of Morris, State of New Jersey, respectfully asks the State of New Jersey Office of the Governor's intervention to help preserve Daytop Mendham and encourages Legislators serving Morris County and Morris County Mayors to contact the Governor's Office and express their support of the

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Governor's Office intervention so that these life-saving services to our youth do not disappear.

BE IT FURTHER RESOLVED, that certified copies of this resolution be forwarded to all Morris County Mayors and local state representatives, to the Board of the Morris County Freeholders and to the Honorable Governor of the State of New Jersey, Phil Murphy.

R 94-2020 RESOLUTION OF THE BOROUGH OF MADISON URGING THE MORRIS COUNTY BOARD OF CHOSEN FREEHOLDERS TO REDUCE THE POSTED SPEED LIMIT ON GREEN VILLAGE ROAD IN THE BOROUGH OF MADISON FROM 35 MPH TO 30 MPH

WHEREAS, Green Village Road is a major County roadway in the Borough of Madison; and

WHEREAS, the existing speed limit on Green Village Road is 35 mph within the Borough of Madison; and

WHEREAS, the Madison Police have recorded a number of vehicular accidents and pedestrian injuries throughout the years at this location, including a pedestrian fatality in 2019; and

WHEREAS, a number of public and private educational facilities are located on or in close proximity to Green Village Road.

NOW, THEREFORE, BE IT RESOLVED, that the Council of the Borough of Madison requests the Morris County Board of Chosen Freeholders to reduce the posted speed limit along Green Village Road in the Borough of Madison from thirty-five (35) miles per hour to thirty (30) miles per hour and to take all required action to secure approval for said action from the New Jersey Department of Transportation.

BE IT FURTHER RESOLVED, that traffic calming measures be included in any future reconstruction or paving of Green Village Road, such as narrowing the roadway with striping and chevrons and safety measures approaching crosswalks.

BE IT FURTHER RESOLVED, that a copy of this Resolution be forwarded to the governing bodies of Borough of Chatham, Township of Morris and the Township of Chatham and our State legislative delegation.

R 95-2020 RESOLUTION OF THE BOROUGH OF MADISON AUTHORIZING A "CHANGE FUND" FOR USE BY THE BOROUGH CLERK'S OFFICE

WHEREAS, the Chief Financial Officer has advised that a "Change Fund" is necessary for the purpose of making change for cash payments in the Borough Clerk's Office; and

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WHEREAS, said Change Fund will be used for the sole purpose of making change and not for the purpose of paying bills.

NOW, THEREFORE IT BE RESOLVED by the Borough Council of the Borough of Madison, County of Morris, State of New Jersey, that a Change Fund is hereby established in the amount of \$50.00 for the Borough Clerk's Office.

R 96-2020 RESOLUTION OF THE BOROUGH OF MADISON AUTHORIZING SETTLEMENT AGREEMENT WITH THE FAIR SHARE HOUSING CENTER

WHEREAS, the Borough of Madison and the Fair Share Housing Center ("FSHC") have previously engaged in negotiations and both parties have executed a conceptual agreement on various substantive provisions, terms and conditions delineated in a Memorandum of Agreement ("MOU"); and

WHEREAS, the Borough wishes to enter into a fully developed Settlement Agreement incorporating the provisions of the MOU with the Fair Share Housing Center to resolve all outstanding affordable housing issues and maintain the Borough's immunity; and

WHEREAS, the final settlement agreement will provide a realistic opportunity for the development of affordable housing and be consistent with the terms of the MOU and the previous Settlement Agreement circulated and discussed between the parties including member of the governing body; and

WHEREAS, the Borough Council will be requested to ratify the Settlement Agreement after execution by Fair Share Housing Center.

NOW, THEREFORE BE IT RESOLVED, by the Borough Council of the Borough of Madison, County of Morris, State of New Jersey, as follows:

The Borough hereby authorizes the Mayor, Borough Administrator and Special Legal Counsel to finalize the Settlement Agreement and Release, in a form acceptable to the Borough Attorney and Special Legal Counsel for ratification by the governing body at the first Council Meeting after execution of the Settlement Agreement by Fair Share Housing Center.

R 97-2020 RESOLUTION OF THE BOROUGH OF MADISON AUTHORIZING 2020 GRANT APPLICATION BY THE MADISON FREE PUBLIC LIBRARY PURSUANT TO THE NEW JERSEY LIBRARY CONSTRUCTION BOND ACT

WHEREAS, the Madison Free Public Library intends to submit a 2020 New Jersey Library Construction Bond Act Application for funding to enhance and expand the use of the Madison Free Public Library and bridge the digital divide; and

WHEREAS, the application documents will include schematic design plans and cost estimates by Acari-Iovino Architects reviewed and recommended by the Library Board of Trustees; and

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WHEREAS, the grant application requires a fifty (50%) per cent match; and

WHEREAS, the estimated project cost is \$2,894,400.00 and the grant application amount is \$1,447,200.00; and

WHEREAS, the Borough will provide up to \$900,000.00 from the General Capital Improvement Fund contingent upon full funding of the grant request with the Library contributing \$547,200.00 and any additional fund required to complete the project

NOW, THEREFORE, BE IT RESOLVED by the Council of the Borough of Madison in the County of Morris and State of New Jersey, that the Council formally supports the grant application for the above stated project.

BE IT FURTHER RESOLVED that the Madison Free Public Library is hereby authorized to submit an electronic funding application to the State of New Jersey on behalf of the Borough of Madison and agree with the terms and conditions of the funding agreement subject to further clarifications and details by the State.

R 98-2020 RESOLUTION OF THE BOROUGH OF MADISON APPROVING RAFFLE LICENSE APPLICATION SUBMITTED BY PTSO MADISON HIGH SCHOOL

BE IT RESOLVED by the Council of the Borough of Madison, County of Morris, State of New Jersey, that the following application for Raffle License, to be held as listed below, be and the same is hereby approved:

PTSO MADISON HIGH SCHOOL
I.D. NO. 274-5-33795
R.A. No. 1501 Off-premise 50/50
May 6, 2020

UNFINISHED BUSINESS - None

APPROVAL OF VOUCHERS

On motion by Mrs. Vitale, seconded by Ms. Baillie and carried, the following vouchers of the Borough of Madison were approved for payment, and the supporting documentation of said vouchers was made part of the Supplemental Minute Book.

Current Fund	\$436,480.45
General Capital Fund	327,087.71
Electric Operating Fund	130,730.17
Electric Capital Fund	0.00
Water Operating Fund	24,907.78
Water Capital Fund	51,859.82
Trusts	<u>19,039.41</u>
Total	<u>\$990,105.34</u>

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The following roll call vote was recorded approving the aforementioned vouchers:

Yeas: Ms. Baillie, Ms. Byrne, Mr. Hoover, Ms. Coen, Mrs. Ehrlich

Nays: None

Absent: Mrs. Vitale

NEW BUSINESS

Mayor Conley announces the following appointments made at the reorganization meeting by title, now requiring names and requests Council confirmation:

LOCAL EMERGENCY PLANNING COUNCIL

Sarah Fisher, Board of Education Rep, one-year term through December 31, 2020.

SUSTAINABLE MADISON ADVISORY COMMITTEE

Steve Tindall, Board of Education Rep, one-year term through December 31, 2020.

Ms. Baillie moved confirmation of the foregoing appointments. Ms. Byrne seconded the motion, which passed with a unanimous voice call vote recorded.

ADJOURN

There being no further business to come before the Council, the meeting was adjourned at 8:40 p.m.

Respectfully submitted,

Elizabeth Osborne
Borough Clerk
Approved April 13, 2020 (EO)