

Present: Mayor: Brian Hemminger Trustee: BJ Hicks
Trustee: Howard Hughson Trustee: Joe DeBrock

Absent: Trustee: Michael Cheney

Also present: Clerk/Treasurer: Jill Seifert, DPW Superintendent: Josh Akin, Deputy Clerk/Treasurer: Melissa Lahr, Code Enforcement Officer: Jim Murphy, Fire Chief: Aaron Newton, Police Chief: John Storer & WWTP Operator: Adam Lotyczewski.

Public: Tim DeBaere, Brandon DeBaere, Gene Walters, Don Phillips, Brandon Frere, Keith Wise, Brian Walters, Christy Howard, William McNicholas, PCC Board President: Jonas Myhill.

Mayor Hemminger opened the meeting with the pledge of allegiance to the flag at 5:00 pm.

REPORTS:

Fire Department:

1. December report – No questions for Aaron on Matt’s last report as Chief.
2. 2023 Officers Appointment – Motion by Trustee Hughson, 2nd by Trustee DeBrock and carried approving Mayor Hemminger’s appointment of the following Line Officers for 2023:
 - Aaron Newton – Fire Chief
 - Brandon DeBaere – 1st Assistant Fire Chief
 - Gene Walters – 2nd Assistant Fire Chief
 - Tim DeBaere – Captain
 - Don Phillips – Lieutenant
 - Brandon Frere - Lieutenant
 - Keith Wise – Lieutenant
 - Nick Brown – Fire Police Captain
3. Volunteer Fire/EMS Property Tax Exemption –Received information from NYCOM regarding 10% tax exemption on property taxes now available. Per communication with the Town of Phelps, the volunteers would get a better benefit from taking the \$200.00 allowed deduction on their personal income tax. Aaron indicated that his understanding is the same as the Town’s. The Village will not proceed with the exemption as it is a one or the other situation.

With no further Fire Department business; the firemen left the meeting with the exception of Chief Newton. Mayor Hemminger temporarily suspended the Departmental Reports.

Brian invited Brian Walters to address the Board. Brian would like the Village Board to consider security cameras in the municipal parking lot on Exchange Street. He and his wife, Amanda own 116 Main Street which has parking at the back of the building; they have experienced vandalism to their vehicles. In addition, employees of the Phelps Hometown Pharmacy have had their cars broken into. Christy Howard interjected; they have locks on their rental units’ trash receptacles which have been cut off three times, they will be installing security cameras on their properties as well. Mayor Hemminger indicated that installing cameras would be a budget discussion and thanked Brian & Christy for the information. Brian also questioned the need for the fire siren; Mayor Hemminger informed him that the Village Board is approached regarding this with some regularity and that until the Fire Department deems is unnecessary, it will remain.

Mayor Hemminger reconvened the Departmental Reports.

DPW, WWTP & Water:

1. DPW – December report – The majority of the holiday decorations are down, will be doing the remainder with OTTC’s (bucket truck & operator) help tomorrow. Brian informed the Board that Jeff Guard has left the Village’s employment, effective 1/8/23; we will be looking for a replacement. Josh indicated that he and Gene have discussed snow removal while short staffed, sidewalks other than downtown & 8 Banta will be shuffled to the end of the route. Short closure at the Transfer Station on Saturday, January 7th, Gene and Josh were able to deal with a fuse issue pretty quickly.
2. WWTP – Adam reported that the plant weathered the “bomb cyclone” well as the water was still relatively warm at the time of the cold snap. The concrete steps continue to have age related damage. The disinfection process needs to move forward regardless of the additional upgrades planned for the plant; Adam will be discussing this with Peter.
3. WWTP Project – Administrative requirements; motion by Trustee Hughson, 2nd by Trustee Hicks:

RESOLUTION NO. 1 of 2023

Adopted: January 9, 2023

Resolution Determining that the Action to Conduct the Infiltration and Inflow Phase I Study Associated with NYS EFC Engineering Planning Grant No. 121249 is a Type II Action and No Further Action is Required Under SEQR

WHEREAS, the Village of Phelps has been awarded an Engineering Planning Grant (“EPG”) by the New York State Environmental Facilities Corporation (“EFC”), in the amount of \$50,000 to help pay for the initial planning of an eligible Clean Water State Revolving Fund (“CWSRF”) water quality project, and

WHEREAS, Title 6 of the New York Code of Rules and Regulations (6 NYCRR) Section 617.5 under the State Environmental Quality Review Act (“SEQR”) provides that certain actions identified in subdivision (c) of that section are not subject to environmental review under the Environmental Conservation Law; and

NOW, THEREFORE, BE IT RESOLVED, that the Village of Phelps hereby determines that the proposed Infiltration and Inflow Phase I Study – Environmental Planning Grant No. 121249 is a Type II action in accordance with 6 NYCRR Section 617.5(c) (27) conducting concurrent environmental, engineering, economic, feasibility and other studies and preliminary planning and budgetary processes necessary to the formulation of a proposal for action, provided those activities do not commit the agency to commence, engage in or approve such action and is therefore not subject to further review under 6 NYCRR Part 617.

I, Jill Seifert, Village Clerk of the Village of Phelps do hereby certify that the aforementioned resolution was adopted by the Board of Trustees of the Village of Phelps on January 9, 2023, by the following vote:

	<u>Aye</u>	<u>Nay</u>
Brian Hemminger	XX	
Howard Hughson	XX	
Joe DeBrock	XX	
Bette Hicks	XX	
Michael Cheney	absent	

Motion by Trustee DeBrock, 2nd by Trustee Hughson:

RESOLUTION NO. 2 of 2023
Adopted: January 9, 2023
Authorization for the Village Mayor to Execute Planning Grant Agreement No. 121249
with the NYS Environmental Facilities Corporation
and
Authorization and Appropriation of Local Match

WHEREAS, the Village of Phelps has been awarded an Engineering Planning Grant (“EPG”) by the New York State Environmental Facilities Corporation (“EFC”), in the amount of \$50,000 to help pay for the initial planning of an eligible Clean Water State Revolving Fund (“CWSRF”) water quality project (the “Project”), and

WHEREAS, the Village of Phelps is required to execute a Grant Agreement with NYS Environmental Facilities Corporation, and

WHEREAS, a local match of 20% of the grant award is required, and

NOW, THEREFORE, BE IT RESOLVED, the Mayor of the Village of Phelps is authorized to undertake the Project, and

BE IT FURTHER RESOLVED, that the Mayor of the Village of Phelps is authorized to execute a Grant Agreement with the NYS Environmental Facilities Corporation and any and all other contracts, documents, and instruments necessary to bring about the project and to fulfill the Village of Phelps obligations under the Engineering Planning Grant Agreement, and

BE IT FURTHER RESOLVED, that the Village of Phelps authorizes and appropriates a minimum twenty-percent (20%) local match as required by the Engineering Planning Grant Program for the Infiltration and Inflow Study Phase I - EPG No. 121249. Under the EPG program, this local match must be at least 20% of the EPG grant award of \$50,000. The source of the local match, and any amount in excess of the required match, shall be from a combination of Sewer Funds and local force accounts. The maximum local match shall not exceed \$10,000 based upon a total estimated maximum project cost of \$60,000. The Mayor of the Village of Phelps may increase this local match through the use of in-kind services without further approval from the Village Board of the Village of Phelps.

I, Jill Seifert, Village Clerk of the Village of Phelps do hereby certify that the aforementioned resolution was adopted by the Board of Trustees of the Village of Phelps on January 9, 2023, by the following vote:

	<u>Aye</u>	<u>Nay</u>
Brian Hemminger	XX	
Howard Hughson	XX	
Joe DeBrock	XX	
Bette Hicks	XX	
Michael Cheney	absent	

Motion by Trustee DeBrock, 2nd by Trustee Hicks and carried by the members present authorizing Mayor Hemminger to sign the NYS EFC WIIA Reply Form on the Village’s behalf.

- Police:
1.

December reports – available at the clerk’s office; quiet except for the parking lot issues previously discussed.

2. January schedule – available at the clerk’s office.

8 Banta Street: 1. Jonas reports that all is well; would like Jill to continue to pursue the automatic lock down of the front door.

Redfield Park: 1. Closed.

Crooked Bridge Park:

1. Nothing to report.

Code Enfmt: 1. December reports – No questions. Jim reported that he has completed the multiple dwellings inspections, 234 units/34 buildings.
 2. 4 Needham Avenue – provided a copy of Jill’s response letter of 12/15/22 and homeowners letter of 12/30 regarding their fence installation questions. Jim indicated that he has spoken to their contractor and that said contractor knows the requirements. Brian advised Jim to answer the homeowners 6 questions specifically and in writing, forwarding the letter to Brian for his review prior to sending to the homeowners.
 3. Annual report provided.

YP&R Comm: 1. Concerts in the Park – per the September 12, 2022 minutes, Jill contacted NYCOM regarding having a Village sponsored event held at an establishment that serves alcohol; per NYCOM there is no NYS Village Law preventing this. Per BJ, the American Legion, as a co-sponsor of this event, will schedule one of the concerts at their location and become the “rain” event location. In the past, Janie has reserved the gym at PCC for the Village’s use as the “rain” location; she is aware that this is no longer necessary.
 2. Jill reported that the YPR employees pay rates were increased due to the mandated NYS minimum wage guidelines.

Treasurer Rpt: 1. December report – No questions.

Minutes: 1. Minutes of the December 12, 2022 Regular Monthly Meeting – Motion by Trustee DeBrock, 2nd by Trustee Hicks and carried as presented.
 2. Minutes of the December 27, 2022 Planning Board Meeting – For Information Only.

Correspondence:

1. Charter Communications – programming update dated 12/16.
2. Ontario County Board of Supervisors – Resolution regarding Delinquent Village Taxes – For Information Only.
3. NYS Office of the State Comptroller – July Court fees \$50.00.
4. Ontario County Treasurer – Listing of Tax Foreclosures; 132 Main Street is the only Village property. Board requests that Jill contact Gary Baxter regarding this property.

New Discussion:

1. Volunteer Fire/EMS Property Tax Exemption – previously discussed Reports; Fire Department #3.
2. Local Law 1 – 2023 Moratorium on Large-Scale Solar Energy Systems – Motion by Trustee Hughson, 2nd by Trustee DeBrock:

RESOLUTION NO. 3 of 2023

RESOLUTION AUTHORIZING ADOPTION BY THE VILLAGE BOARD OF THE VILLAGE OF PHELPS OF LOCAL LAW NO. 1 OF 2023 ENTITLED

“A LOCAL LAW ESTABLISHING A MORATORIUM ON LARGE-SCALE SOLAR ENERGY SYSTEMS IN THE VILLAGE OF PHELPS”

WHEREAS, a resolution was duly adopted by the Village Board of the Village of Phelps for a public hearing to be held by said Village Board on December 12, 2022, at 5:00 p.m. at the Phelps Village Hall, 8 Banta Street in the Village of Phelps, New York, to hear all interested parties on a proposed Local Law entitled, “A Local Law Establishing a Moratorium on Large-Scale Solar Energy Systems in the Village of Phelps”; and

WHEREAS, notice of said public hearing was duly advertised in the official newspaper of the Village of Phelps, on December 1, 2022 and other notices required to be given by law were properly served, posted or given; and

WHEREAS, said public hearing was duly held on December 12, 2022, at 5:00 p.m. at the Phelps Village Hall, 8 Banta Street in the Village of Phelps, New York, and all parties in attendance were permitted an opportunity to speak on behalf of or in opposition to said Proposed Local Law, or any part thereof; and

WHEREAS, the Village Board of the Village of Phelps, after due deliberation, finds it in the best interest of the Village of Phelps to adopt said Local Law.

NOW, THEREFORE, BE IT RESOLVED, that the Village Board of the Village of Phelps hereby adopts said Local Law No. 1 of 2023, entitled “A Local Law Establishing a Moratorium on Large-Scale Solar Energy Systems in the Village of Phelps”, a copy of which is attached hereto and made a part of this resolution, and be it further

I, Jill Seifert, Village Clerk/Treasurer of the Village of Phelps do hereby certify that the Board of Trustees of the Village of Phelps adopted the aforementioned resolution on January 9, 2023, by the following vote:

Local Law No. 1 of the year 2023

Be it enacted by the **Village Board** (Name of Legislative Body)

Section 1. PURPOSE AND INTENT

Pursuant to the statutory and common law powers vested in the Village of Phelps (the "Village") to regulate and control land uses and to protect the health, safety and welfare of its residents, the Village Board of the Village hereby declares a temporary, six (6) month moratorium on the acceptance, processing or approval of applications for building permits, special use permits, variances, site plans, subdivisions or Planned Developments related to the undertaking, establishment, placement, development, excavation, enlargement, construction or erection of Large-Scale Solar Energy Systems in the Village.

On April 3, 2020, New York State passed the Accelerated Renewable Energy Growth and Community Benefit Act ("the Act"). This new law enacted significant changes to the approval, siting, and construction process for large-scale, renewable energy projects in New York State. The Village deems it necessary to enact this moratorium to permit the Village Board adequate time to investigate these changes to New York State law and to draft any additional legislation necessary to allow for the proper siting and development of Large-Scale Solar Energy Systems in the Village.

The objective of this moratorium is to allow the Village sufficient time to investigate and understand the Act, review the Village's existing laws pertaining to Large-Scale Solar Energy Systems, to recommend any necessary modifications to local laws and/or to recommend the adoption of any new local laws. During the moratorium, the Village Board will consider how to best permit such Large-Scale Solar Energy Systems so as to harmoniously integrate them with the existing communities. If the Village allows such development during that time, it could undermine or damage the stated goals of the Village of Phelps Zoning Law and/or the Village of Phelps Comprehensive Plan and related legislation to protect the Village.

Section 2. DEFINITIONS

- | | | |
|----|---------------------------|---|
| A. | VILLAGE: | Village of Phelps, Ontario County, New York |
| B. | VILLAGE BOARD: | Village of Phelps Village Board |
| C. | PLANNING BOARD: | Village of Phelps Planning Board |
| D. | ZONING BOARD OF APPEALS: | Village of Phelps Zoning Board of Appeals |
| E. | CODE ENFORCEMENT OFFICER: | Village of Phelps Code Enforcement Officer |

F. **BUILDING-INTEGRATED PHOTOVOLTAIC SYSTEM:**
A combination of photovoltaic building components integrated into any building envelope system such as vertical facades including glass and other facade material, semitransparent skylight system, roofing materials and shading over windows.

G. GROUND-MOUNTED SOLAR ENERGY SYSTEM:
A solar energy system that is anchored to the ground and attached to a pole or other mounting system, detached from any other structure, for the primary purpose of producing electricity for onsite consumption.

H. LARGE-SCALE SOLAR ENERGY SYSTEM:

A solar energy system that is ground-mounted and produces energy primarily for the purpose of offsite sale and/or consumption.

I. ROOF-MOUNTED SOLAR ENERGY SYSTEM:

A solar panel system located on the roof of any legally permitted building and or structure for the purpose of producing electricity for onsite and/or offsite consumption.

J. SOLAR ENERGY SYSTEM:

An electrical generating system composed of a combination of both solar panels and solar energy equipment.

K. SOLAR PANEL:

A photovoltaic device capable of collecting and converting solar energy into electrical energy.

Section 3. MORATORIUM

A. The Village Board hereby enacts a moratorium, which shall prohibit the review, approval, creation, undertaking, establishment, placement, development, excavation, relocation, construction, reconstruction, enlargement, modification or erection of any Large-Scale Solar Energy System anywhere within the Village.

B. This moratorium shall be in effect for a period of six (6) months from the effective date of this Local Law and shall expire on the earlier of (i) the date six (6) months from said effective date, unless renewed; or (ii) the enactment by the Village Board of a resolution indicating the Village Board is satisfied that the need for the moratorium no longer exists.

C. This moratorium shall apply to all zoning districts and all real property within the Village.

D. Pursuant to this moratorium, the Planning Board shall not review any applications for any Large-Scale Solar Energy System nor shall it grant any preliminary or final approval to any special use permit, site plan or subdivision application that includes a Large-Scale Solar Energy System as part of the application; except that reviews of existing special use permits that are required to come regularly before the Village for re-approval, may be reviewed and approved by the Village, provided such applications do not request any modifications to an existing Large-Scale Solar Energy Systems.

E. Pursuant to this moratorium, the Code Enforcement Officer shall not issue Building Permits or Certificates of Occupancy for any Large-Scale Solar Energy System anywhere within the Village, except that this moratorium shall not apply to certificates of occupancy for any and all construction pursuant to building permits issued prior to the effective date of this Local Law or the issuance of any building permit for the renovation or repair of any lawfully existing structure otherwise covered by this Local Law.

F. Pursuant to this moratorium, the Zoning Board of Appeals shall not review, process or grant any applications for variances that involve the creation, undertaking, establishment, placement, development, excavation, relocation, construction, reconstruction, enlargement, modification or erection of any Large-Scale Solar Energy System.

G. This moratorium shall not apply to Building-Integrated Photovoltaic Systems, Roof-Mounted Solar Energy Systems or Ground-Mounted Solar Energy Systems.

Section 4. VARIANCES

Any property owner affected by this moratorium may apply to the Zoning Board of Appeals and make use of the existing variance procedures under the Village of Phelps Zoning Law to seek relief from the restrictions of this local law.

Section 5. PENALTIES

Any person, firm, entity or corporation which shall violate the provisions of this Local Law, shall be subject to:

1. A penalty in the amount of \$250.00 for each day that such violation shall exist; and
2. Injunctive relief in favor of the Village to cease any and all such actions which conflict with this Local Law and, if necessary, to remove any construction or improvements which may have been built in violation of this Local Law.

It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Local Law.

Section 6. VALIDITY

If any clause, sentence, paragraph, section or part of this local law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been ordered.

Section 7. SUPERSEDING EFFECT

Pursuant to New York Municipal Home Rule Law, Section 22, the provisions of this law are to supersede any inconsistent provision of state or local law.

Section 8. EFFECTIVE DATE

This Local Law shall take effect immediately upon filing with the New York Department of State and shall remain in force and effect for a period of six (6) months from the date of such filing.

Old Discussion: None.

Transfers:

Motion by Trustee DeBrock, 2nd by Trustee Hicks and carried to make the following transfers:

To:	From:	Amount:
A1621.1	A5110.1	\$5,000.00
A8510.421	A8510.4	\$ 300.00
F9010.8	F8340.1	\$ 157.00
G9010.8	G8130.1	\$ 156.00

Vouchers:

BJ questioned a Sewer voucher for ground mats, Josh explained this was a split purchase between Streets, Water and Sewer for ground mats used when equipment is taken off asphalt or concrete to prevent becoming stuck or damaging yards etc. In addition, BJ questioned the photo eyes installed downtown; Josh explained there were a few that were not working properly on the decorative light poles; had them all replaced due to age while contractor was onsite. With no further questions, motion by Trustee DeBrock, 2nd by Trustee Hughson and carried to pay the following vouchers as presented.

Abstr#08	General	Ck #'s: 18187 – 18222	In the amount of:	\$ 26,037.89
Abstr#08	Water	Ck #'s: 11769 – 11777	In the amount of:	\$ 14,302.49
Abstr#08	Sewer	Ck #'s: 12866 – 12882	In the amount of:	\$ 6,708.77

The Board briefly discussed the need for an executive session to discuss personnel and contractual issues prior to the upcoming budget season; this meeting is scheduled for Tuesday, January 17th at 5 pm.

Adjournment: 5:48 PM: Motion by Trustee DeBrock, 2nd by Trustee Hughson and carried to adjourn the meeting.

Respectfully submitted,

Jill K. Seifert
Clerk/Treasurer