

TOWN HALL 3 EAST MAIN ROAD PERU, MA 01235

SELECT BOARD MEETING MINUTES: November 27, 2023, 6:00 P.M.

Town Hall Meeting Room

Verne Leach, Chair Selectman/ACO
Doug Haskins, Selectman/Finance Committee
Ed Munch, Selectman
Terry Walker, Town Administrator
Bruce Cullett-Police Chief
Sue Koziara, Assessor
Shana Lecours-Assessor
James Kenney – Historical Commission
Caryn Wendling-Treasurer/Tax Collector

Public Attendees: Don Perreault

Item 1: Call to order: 6:00 P.M.

Item 2: Roll Call: Chairman Leach present, Selectman Haskins present, Selectman Munch present

Item 3: State Recording status: N/A

Item 4: Pledge of Allegiance to the Flag: Led by Selectman Leach

Item 5: Review and Approve BOS Meeting Minutes for 11/14/2023

Selectman Leach motion to approve 11/14/2023 minutes, Selectman Munch second, 3-0

Item 6: Update of Departments:

Police Chief Cullett was concerned on how to approach the unregistered junk vehicle issue in town and wanted guidance from Board of Selectmen. He asked if he should prioritize notifying all individuals with the most visible junk vehicles first. Should he concentrate with the complaints on Main Road first? Should a letter be mailed to individuals so they can make arrangements with the Board of Selectmen or a fine will be enforced? Chief Cullett suggested the board needs a strategy and hopefully prioritize Middlefield Road and Route 143. The Board of Selectmen agreed that Route 143 and Middlefield Road should be prioritized.

Emergency Management Director Cullett mentioned that the EMPG grant is available in December. He will be meeting with a MEMA representative on Friday and a \$2,500 grant is available. He will circulate the list of things available and hopefully get ideas from Highway Superintendent Russell and Fire chief Pelkey for their input. In the past, the town has received GPS units, communication equipment, laptops, a weather station, and rescue gear which were all useful to the town.

Selectman Munch suggested TA Walker looking into possible grants for a new town hall.

James Kenney: 250th Celebration

Mr. Kenney asked the Board to make a decision on whether the time capsule will be going inside or outside. A container for the time capsule to be placed inside the town vault would cost around \$25.00. An Aluminum or stainless box to bury the time capsule outside would be more expensive. Selectmen Leach and Selectman Haskins felt that the time capsule should be placed inside town hall in the vault. Selectman Munch felt that it should be buried outside and

have a little celebration. Mr. Kenney mentioned that it has been over a year and a decision needs to be made. Police Chief Cullett mentioned that in 50 years the town hall may not be here or in the same form and that is something to think about. The Selectmen agreed the time capsule should be buried outside in a concrete vault. Selectman Leach suggested burying the time capsule at the town green, with a little ceremony and a plaque marking the spot. Mr. Kenney thanked TA Walker for emailing him a printout with the balance in the 250th Celebration. Since there is a balance of \$23,000 in the 250th account, Mr. Kenney was instructed to purchase a stainless-steel vault.

Assessor Update:

- Assessors Sue Koziara and Shana LeCours attended the BOS meeting: Ms. Koziara mentioned the following:
- Tax Rate: Final values were received, and the board will start working on the Recap Sheet. Ms. Koziara will find out from the DOR if the Classification Hearing can be held before the Special Town Meeting.
- Tax Bills: Ms. Koziara mentioned that tax bills will be mailed out sometime in January.
- Ms. Koziara mentioned that there is a charitable organization in town that is trying to get an exemption and they have an Airbnb listing. Selectman Leach instructed the Assessors to give the paperwork to TA Walker for town counsel review. The exemption for this charitable organization would be nearly \$13,000 although they may qualify without an Airbnb.
- Ms. Koziara mentioned that she will be on medical leave in January and asked the Selectboard if she could work from home. Ms. Koziara is also requesting a town computer to work from home. TA Walker mentioned that there is an extra laptop in her office. Selectboard gave Ms. Koziara permission work from home and to use a town computer. She explained that everything in the Assessor's office will be completed before she goes on leave and Assessor LeCours can take over on Monday nights. Ms. Koziara's recovery will be 4-6 weeks.
- The BOS clarified that Ms. Koziara's hours are Mondays and she is entitled to a paid holiday. Ms. Koziara explained that she worked the last 6 Monday holidays. She was instructed to write Holiday on her time sheet when she works on a holiday. Selectman Leach mentioned that Ms. Koziara does not have to work on a holiday.
- Medical leave: Ms. Koziara mentioned that for every 30 hours she believes she is entitled to 1 sick day so she should get compensated for 12 sick days. Selectman Leach asked TA Walker to review Personnel policy for next meeting.
- Overall Value has increased by \$13,000,000 and is calculated with new houses, garages and new construction.

Treasurer Wendling mentioned that she needs to borrow a Revenue Anticipation Note (RAN) because the tax bills will not be going out until January. Treasurer Wendling is also asking permission to borrow \$100,000 from the Stabilization Fund and will bring paperwork to the next Selectmen's meeting. Treasurer Wendling would rather send preliminary tax bills which would eliminate borrowing. Selectman Leach questioned why tax bills are so late and Treasurer Wendling felt that Patriots Properties was the hold things up. Treasurer Wendling also asked if all department could hold off on large unnecessary purchases, since the town has limited funds.

TA Walker mentioned she received an email from ZBA Chairman Sam Haupt making a request to pay the Solar Field payment of \$78,125 (Decommissioning Bond) and needs an account number to make payment. Treasurer Wendling stated that the money is in a trust account, and she would get TA Walker the account number.

Selectman Haskins inquired about the Highway Department taking a Friday Holiday when it was not a holiday. Selectman Leach explained that the Highway Department has a floating holiday and used it the day before Veteran's Day. Selectman Munch asked TA Walker to meet with Treasurer Wendling for an update on floating holidays for the Highway Department. Selectman Haskins mentioned that the Police Department does not have floating holidays.

Item 7: Review and possible vote to sign Special Town Meeting Warrant:

TA Walker emailed Special Town Meeting Warrant to Town Council, and it was approved. Selectman Leach motion to approve STM Warrant as written, Selectman Munch second, 3-0

Item 8: Review and Approve Accounts Payable, Treasury Warrant, Payroll Warrant: 24-11P, V11-2024

Item 9: Public Input: N/A

Item 10: Adjourn: Selectman Leach made motion to adjourn the 11/27/2023 BOS Meeting, Selectman Haskins second, Vote 3-0. The 11/27/2023 BOS Meeting adjourned at 7:31 P.M.

Articles used:

Minutes 11/14/2023

V11-2024, 24-11P

Vault photos for time capsule

Sunrise Solar Field Decommissioning Assurance Agreement

Special Town Meeting Warrant

Terry Walker

Town Administrator

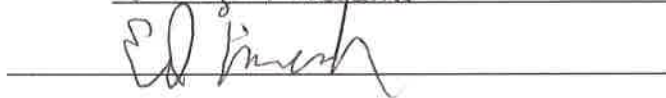
Verne Leach, Chairman



Doug Haskins, Selectman



Ed Munch, Selectman



Date Approved: 12-11-23

Received 12-18-2023 Kim Leach, Town Clerk

DECOMMISSIONING ASSURANCE AGREEMENT
(SECURED BY DECOMMISSIONING BOND)

THIS AGREEMENT (this "Agreement") is made and entered into on and as of the 14th day of November, 2023, by and between the Town of Peru, Massachusetts, a Massachusetts municipal corporation, with a mailing address 3 East Main Road, Peru, MA 01235 (the "Town") and Sunrise on West Main Road, LLC, a Delaware limited liability company, with an address of 109 W. 27th Street, 8th Floor, New York, NY 10001 ("Owner").

RECITALS

- A. WHEREAS, Owner leases land within the Town comprising a portion of the parcel located at 43 West Main Road (the "Property"), under the terms of a certain Ground Lease Agreement, dated April 2, 2019, by and between John P. Munch and Mary E. Kane, as Landlord ("Landlord"), and Owner, as Tenant (the "Lease");
- B. WHEREAS, Owner has constructed, owns, and operates a 4.2 MW (DC) solar facility (the "Project") on the Property and received a special permit in a decision dated September 24, 2018, from the Peru Zoning Board of Appeals in connection with the Project (the "Decision");
- C. WHEREAS, Sections 6.13 and 12 of the Town's Zoning Bylaws (the "Solar Bylaw") and the Decision require, among other things, that Owner shall, within the time set forth in the Solar Bylaw, decommission, remove and dispose of the Project, and stabilize or revegetate the Property, all in accordance with the Solar Bylaw and Owner's abandonment and decommissioning plan (such requirement, the "Removal Obligations"; and the Solar Bylaw, Decision, and Abandonment, and Decommissioning Plan, collectively referred to the "Applicable Requirements");
- D. WHEREAS, the conditions of the Decision include the requirement for the establishment of a surety bond in an amount and form satisfactory to Town Counsel that will secure the obligation to restore the site in the event of a decommissioning or abandonment of the Project;
- E. WHEREAS, the parties previously entered into that certain Decommissioning Assurance Agreement (Secured by Cash Deposit), dated January 27, 2020 (the "Prior Agreement"), in connection with which Owner provided funds to the Town in escrow to provide security for the Removal Obligations (the "Escrowed Funds"), and the parties now wish to replace the Prior Agreement with this Agreement and to replace the Escrowed Funds with a decommissioning bond issued by a surety.

NOW THEREFORE, in consideration of the above recitals, which the parties hereby ratify and confirm, and the promises exchanged herein and other consideration, the receipt and sufficiency of which are hereby acknowledged, the Town and Owner agree as follows:

- 1. Replacement of Prior Agreement. This Agreement replaces the Prior Agreement in its entirety. Upon execution of this Agreement by the parties and delivery by Owner of the Decommissioning Bond (as defined below) to the Town, the Escrowed Funds shall be released to Owner, and the Prior Agreement shall automatically terminate.
- 2. Decommissioning Bond. In order to secure the Removal Obligations, Owner shall deliver to the Treasurer of the Town a performance bond issued by a surety included on the U.S. Dept. of Treasury's Circular 570 and licensed to do business in Massachusetts, and which bond shall be in the dollar amount of \$78,125.00 (the "Decommissioning Bond"). Such Decommissioning Bond is given to secure the completion of the Removal Obligations.

3. Compliance with Solar Bylaw. Notwithstanding anything to the contrary herein, Owner shall comply with all requirements of the Solar Bylaw and Decision, including, but not limited to the Removal Obligations.
4. Release of Decommissioning Bond. Upon the Town's determination of the satisfactory and timely completion of the Removal Obligations, this Agreement shall terminate. The Owner may secure the Town's determination by sending to the Zoning Board of Appeals and the Town Clerk by certified mail a written statement that the Removal Obligations have been completed in accordance with the Applicable Requirements and this Agreement. Upon receipt of such written statement, the Zoning Board of Appeals may, in its discretion, cause its engineer to inspect the Property and provide a report. If the Zoning Board of Appeals agrees with the written statement, it shall either return the original Decommissioning Bond to the Owner or, in the event the original of the Decommissioning Bond cannot be located, written confirmation that the Decommissioning Bond is void. If the Zoning Board of Appeals determines, however, that the Removal Obligations have not been completed in accordance with the Applicable Requirements and this Agreement, it shall specify in a notice sent by certified mail to Owner, within ninety(90) days of receipt of the foregoing written statement of Owner, the reasons for such determination; provided that, notwithstanding the foregoing, neither the delivery of such notice nor any good faith failure to deliver such notice shall limit, waive, or preclude the Town from exercising its rights and remedies under the Solar Bylaw and Decommissioning Bond, including without limitation the right to make a claim on the Decommissioning Bond for Owner's failure to complete the Removal Obligations in accordance with the Applicable Requirements and this Agreement.
5. Recourse to Decommissioning Bond. The Town shall be the exclusive beneficiary to the Decommissioning Bond notwithstanding any transfer in title or lease, foreclosure, assignment, bankruptcy, or imposition of lien by or against the Owner.
6. Updated Removal Estimates. As of each five-year anniversary of the first operation date of the Project (i.e., May 3, 2021), the Decommissioning Bond shall be updated to reflect no less than 110% of an updated estimate of the cost of the Removal Obligations, taking into account inflation and other factors. At least three (3) months prior to each said five-year anniversary, the Owner shall, in accordance with the requirements of the Solar Bylaw, prepare and provide to the Zoning Board of Appeals for review and approval such updated estimate of the cost of the Removal Obligations. In the event that the estimate as approved by the Zoning Board of Appeals exceeds the amount of the then-existing Decommissioning Bond, the Owner shall provide a new Decommissioning Bond reflecting the updated estimate within 30 days of the Zoning Board of Appeals' approval of the estimate. In no event shall the amount of the Decommissioning Bond be reduced.
7. Notices. Any notice required by this Agreement must be in writing, signed by a duly authorized officer or representative of the Town or Owner, as the case may be, and shall be: (i) delivered by a nationally recognized overnight delivery service, or (ii) mailed by certified or registered mail, return receipt requested, postage prepaid, in each instance to the parties at the mailing addresses specified in this Agreement, or such other addresses as each may have specified to the other by such a notice previously.
8. Binding Effect. This Agreement shall be binding on the parties, their successors, and assigns and shall remain in full force and effect until the Removal Obligations have been completed by either the Owner or the Town, as the case may be, and the Decommissioning Bond released in accordance with the terms hereof. This Agreement, and any amendments thereto, shall not be assigned by either Party without the written consent of the other, and may not, in any event, be assigned by the Owner to a person who is not a permittee under the Decision; and shall be

binding on the parties hereto and their respective agents, successors, representatives, and assigns. Notwithstanding the binding effect of this Agreement and anything to the contrary herein, this Agreement is subordinate to the provisions of the Decision and the Zoning Bylaws, and nothing herein shall be construed as a waiver of the Owner's obligations, or of the Town's rights, remedies, and defenses, under the Decision and Zoning Bylaws, including without limitation the Town's right to seek a judicial enforcement or injunctive relief under the Decision or the Town's Zoning Bylaws; the Town may terminate this Agreement by written notice to the Owner if, in the reasonable discretion of the Zoning Board of Appeals as communicated to the Town, such termination is reasonably deemed necessary to facilitate enforcement of the Decision and Zoning Bylaws; and the Town shall not be subject to any liability for monetary loss or damages under this Agreement for alleged breach of contract, it being understood and agreed that if aggrieved the Owner shall be left to the statutory and/or common law remedies available to all other, similarly situated permittees.

9. Governing Law; Counterparts. This Agreement shall be governed by the laws of the Commonwealth of Massachusetts without reference to choice of law provisions and may be executed in multiple counterparts, each of which shall be deemed an original and all of which, together, shall constitute one and the same instrument.
10. The Town shall not be liable for any action taken by it in good faith and believed by it to be authorized or within the rights or powers conferred upon it by this Agreement.
11. Any amendments to this Agreement or to the form of the surety provided shall be agreed upon in writing and executed by all parties to this Agreement.

[Signature Page to Follow]


EXECUTED as a sealed instrument on the day and year below.

TOWN OF PERU,
By its Board of Selectmen:



Verne Leach, Chair

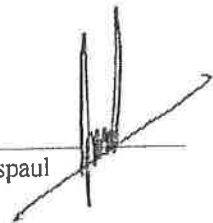
Edward Munch, Member


Doug Haskins, Member

DATE: 11-14-23

SUNRISE ON WEST MAIN ROAD, LLC

By: _____
Thibaut Delespaul
President



DATE: 31 October 2023

**ORDER OF BUSINESS
COMMONWEALTH OF MASSACHUSETTS
Berkshire, ss**

To either of the Constables of the Town of Peru, in said County.

GREETINGS:

In the name of the Commonwealth of Massachusetts, you are hereby required to notify and warn the inhabitants of the Town of Peru, qualified to vote in Town affairs, to meet in the Town Hall Meeting Room, 3 East Main Road Peru, MA for an Special Town Meeting on December 18, 2023 at 6:00 p.m., then and there to take action on the following articles, namely:

Article 1: To choose a Moderator for the Special Town Meeting if the elected Moderator is absent.

Article 2: To see if the Town will vote to Transfer from \$60,000 from Future Equipment & Vehicle Purchase Account to purchase a Fire Rescue Truck or take any other action relative thereto. The balance of \$47,135.00 will be transferred from American Rescue Plan Act. (ARPA).

Article 3: To see if the Town will vote to Raise and Appropriate \$2,102.60 to the following accounts to fund FY23 oversights or take any other action relative thereto.

Tax Collector	\$ 370.80 (up 3%)
Treasurer	\$ 370.80 (up 3%)
Assessor	\$ 971.00 (level fund from FY23)
Highway Department	\$ 355.00 (from FY23)
Highway Department	\$ 35.00 (from FY23)

ATTEST:

This is a true copy.

Kim A Leach

Kim Leach
Town Clerk

Certified: 12-2-23, 2023

You are directed to serve this warrant with your doing thereon to the Town Clerk or the Board of Selectmen at the time and place of said meeting.

Given under our hands this 2 day of December, 2023.

BOARD OF SELECTMEN

Verne Leach
Verne Leach, Chairman


Douglas Haskins
Douglas Haskins, Member

Edward Munch Jr
Edward Munch Jr, Member

I have served this Warrant as directed above.

Places of Posting: Bulletin Board/Town Hall/Transfer Station/Library/Community Center/Website: Townofperuma.com

ATTEST:

 12-2-23 1⁰⁰ pm

Constable Date Time

Posted: 12/2/23, 2023