

## **APPROVED**

At the REGULAR MEETING of the Town Board, Town of Clay, Onondaga County, held at the Town Hall, Clay, New York on June 1st, 2026, at 7:30 P.M., there were:

### **PRESENT:**

|                    |                                     |
|--------------------|-------------------------------------|
| Joseph Bick        | Deputy Supervisor/Councilor         |
| Eugene Young       | Councilor                           |
| David Capria       | Councilor                           |
| Edward Wisnowski   | Councilor                           |
| Ryan Russell       | Councilor                           |
| Courtney Gauthier  | Councilor                           |
| Jill Hageman-Clark | Town Clerk                          |
| Robert Germain     | Town Attorney                       |
| Ron DeTota         | Town Engineer                       |
| Brian Bender       | Commissioner Planning & Development |

### **ABSENT:**

|                  |            |
|------------------|------------|
| Damian Ulatowski | Supervisor |
|------------------|------------|

### **OTHERS PRESENT:**

Russ Mitchell, Hal Henty and Paul Graves, Planning Board Members.

The meeting was called to order by Deputy Supervisor Bick at 7:30 P.M. All present joined in the Pledge of Allegiance.

### **APPROVAL of MINUTES:**

Councilor Young made a motion to approve the minutes of the May 18<sup>th</sup>, 2026 Regular Town Board Meeting. Motion was seconded by Councilor Capria.

Ayes – 6 and Noes – 0. *Motion carried.*

### **CORRESPONDENCE:**

None

### **REQUESTS for ADJOURNMENTS:**

None

### **REGULAR MEETING**

**ZONE CHANGE (SEQR) – Town Board Case #1250 – LANDS of NELSON AMENDED:**

Councilor Young moved the adoption of a resolution that the application of Town Board Case #1250: **LANDS OF NELSON AMENDED** for a Zone Change from NC-1 Neighborhood Commercial District to HC-1 Highway Commercial District to allow for expansion of an existing parking lot to serve additional vehicle inventory for West Herr on land located at **3687 State Route 31, Tax Map No. 020.-01-06.1**, consisting of +/- .73 acres of land, is an unlisted action with a completed EAF and involves no other permit granting agency outside the Town. The proposed project will not have a significant effect on the environment and therefore does not require the preparation of an EIS. [The Town Board received a favorable referral from the Planning Board following its May 27<sup>th</sup> public hearing.](#) Motion was seconded by Councilor Wisnowski.

Ayes – 6 and Noes – 0. *Motion carried.*

**ZONE CHANGE (A/D) – Town Board Case #1250 – LANDS of NELSON AMENDED:**

Councilor Young moved the adoption of a resolution **approving** Town Board Case #1250: **LANDS OF NELSON AMENDED** for a Zone Change from NC-1 Neighborhood Commercial District to HC-1 Highway Commercial District to allow for expansion of an existing parking lot to serve additional vehicle inventory for West Herr on land located at **3687 State Route 31, Tax Map No. 020.-01-06.1**, consisting of +/- .73 acres of land. Motion was seconded by Councilor Capria.

Ayes – 6 and Noes – 0. *Motion carried.*

**SPECIAL PERMIT (CH) – Town Board Case # 1257 – AT&T MOBILITY:**

A public hearing to consider the application of Town Board Case #1257: **AT&T MOBILITY** for a Utility Substation Special Permit pursuant to Section 230-27 I.(2)(e)[1][g] – Utility Substation; Communication towers, radio and television towers, relay stations, or transmitting or booster antennas, to allow for installation and operations of an antenna and associated equipment cabinets and generator for AT&T's telecommunications network on property located at **7200 Henry Clay Blvd, Tax Map No. 106.-04-07.2**, consisting of +/- 3.61 acres of land. The property is located in the GOV-RA-100 District, was opened by the Deputy Supervisor. Proof of publication and posting was furnished by the Town Clerk.

Mark Fuentes, of Airosmith Development was present to speak on behalf of this request. He began by explaining the parcel is located at 7200 Henry Clay Boulevard, directly behind the Moyers Corners Fire Department and is zoned Gov-RA-100. They are proposing the installation of a 110-foot monopole with twelve antenna arrays and will be housed within a 80' by 80' fenced in area. The land will be leased from

the Fire Department and is in a wooded area behind it.

Deputy Supervisor Bick asked if it is the same height as the cell tower next to the water tower. Mr. Fuentes said they had contacted OCWA to inquire about placing the tower on top of the Water Tower, but it was not an option. He asked if MCFD owns the property and if they will receive rent? Mr. Fuentes said they do own it and they will receive a lease fee. Deputy Supervisor Bick suggested this will offset some of the costs for the fire department. Mr. Fuentes said he was unable to speak for them.

Mr. Fuentes said this application is proposed to remedy a service deficiency in and around the Town of Clay. Councilor Young said he did not see a reason for this because there are no areas with poor reception.

Councilor Capria asked if AT&T is renting out to other carriers. They are.

Councilor Gauthier asked if 110' is the standard height for cell towers. Mr. Fuentes said this is lower than normal because of the proximity to the airport. She asked if there would be much noise; he said there would not. Councilor Gauthier asked if there was a decommission plan required with the application. Commissioner Bender said the Town Board can require it. Councilor Capria asked if the board had required it in the past.

Councilor Russell asked how long AT&T has considered this area to be underserved and how many residents will it help? Mr. Fuentes said he has been working on it for four years. He concluded, he does not know how many people will be affected.

Beverly Gibbs, a resident asked what is on the land now. The applicant responded, trees. Will you take the trees down and will it affect wildlife? Mr. Fuentes said they plan to only remove trees for an access road.

Greg Hart of MCFD said this will help the fire department by offsetting costs by the lease fee they will receive.

Ralph Turner asked if this would create any jobs and if there will be any associated cables or antennas. Mr. Fuentes said the only cables /antennas will be for the equipment to improve service. No jobs will be created.

There being no more questions or comments, Deputy Supervisor Bick adjourned the public hearing and referred it to the Planning Board for review and recommendation. Councilor Young moved the adoption of a resolution to **adjourn the public hearing to July 20, 2026 at 7:35 PM.** Motion was seconded by Councilor Wisnowski.

Ayes – 6 and Noes – 0. *Motion carried.*

**LOCAL LAW No. 5 OF THE YEAR 2026, f/k/a Local Law No. 4 of the Year 2026 (PH/Adj.) – Creating a New Town Code Chapter 209 entitled “Town of Clay Battery Energy Storage System Law”:**

A public hearing to consider proposed **LOCAL LAW NO. 5 OF THE YEAR 2026** (f/k/a Local Law No. 4 of the year 2026) creating a new Town Code, Chapter 209 to be titled the “Town of Clay Battery Energy Storage System Law.” The Town recognizes battery storage systems represent a reliable and renewable energy storage system but also recognizes the technology is new and that we do not have a governing ordinance to address the use. The purpose of the new Chapter is to create guidelines to help the Town properly site battery energy storage systems and to balance protection of our environment and the health and safety of our residents with the promotion of safe battery energy system uses. The Town Board will consider revisions discussed at the April 20<sup>th</sup>, May 4<sup>th</sup>, May 16<sup>th</sup> & May 18<sup>th</sup> meetings. (Adjourned from the 04/20/2026, 05/04/2026 & 05/18/2026 Town Board meetings) was opened by the Deputy Supervisor.

Deputy Supervisor Bick said there were no new revisions since posting on the Town Website of the 5<sup>th</sup> Draft Version.

Lauren Hall of Carson Power thanked the Board for the working diligently to draft laws for the moratorium and taking the feedback from potential participants, adding she hopes to submit an application soon.

Olivia Sproviero from NexAmp began by thanking the Board. She explained she still would like to see a revision from 12 months to 24 months or the Special Permit to be valid. She said the 12-month time frame is too restrictive and there are too many things to coordinate, additionally she said the time frame for construction should be extended. Ms. Sproviero would also like to see the noise study and secondary containment revised stating their product has 3 times the space and should not require secondary containment.

Sara Yoon with Aurora Renewables said they submitted a letter and would like it to become part of the record (see attached). She thanked the Board. She said that instead of requiring approval from the DEC prior to approval she would like to see approval from the DEC prior to issuance of building permits.

Jim Hickey thanked the Town Board for protecting the Town.

Ralph Turner said asking for an exclusion for wetlands should not be allowed, wetlands should not be excluded.

Councilor Capria thanked Mr. Hickey and said the Town Board met to discuss this including a three-hour meeting on Saturday. He continued they have done due diligence and are looking out for the residents.

Janet Rathburn asked what changed, how many will be allowed in one spot. What about Industrial districts that abuts Residential districts. Deputy Supervisor Bick explained this law only gives framework and each application will be discussed, case by case. When the public hearings resume, questions (and comments) specific to the application(s) will be heard and it will be left to the Town Boards discretion.

Ms. Rathburn asked if there is a limit to the number of megawatts that a substation can support. The limit is 10 MW. She asked if there is a limit of substations Niagara Mohawk can power. Deputy Supervisor Bick said he will investigate it.

Mike Banks, a Cicero resident, said he is working with property in Cicero and they have to wait for upgrades to the substations (from Niagara Mohawk). Olivia Sproviero said NexAmp pays for those upgrades. Mike Banks asked how big the sites are; 5MW.

Deputy Supervisor Bick said they will not allow a ton of Battery Storage sites and each will be carefully reviewed. He concluded 4 public hearings with 5 revisions and said he would **close** the public hearing with the exception of the forthcoming comments from the fire departments and Niagara Mohawk

**SPECIAL PERMIT (CPH) – Town Board Case #1258 – CNY PULMONARY AND SLEEP MEDICINE:**

Councilor Gauthier moved the adoption of a resolution calling a public hearing on **June 15, 2026**, commencing at **7:47 P.M.**, local time to consider Town Board Case #1258: **CNY PULMONARY AND SLEEP MEDICINE** for a Special Permit pursuant to Section 230-15 B.(2)(e)[3] – Medical Office, to allow for a medical office on property located at **5232 Witz Drive, Tax Map No. 112.-06-13.5**, consisting of +/- 2 acres of land. The property is located in the O-2 Office District. Motion was seconded by Councilor Wisnowski.

Ayes – 6 and Noes – 0. *Motion carried.*

**Project/ Lighting (CPH) - MICHAEL'S FARM LIGHTING DISTRICT NO.1:**

Councilor Wisnowski moved the adoption of a resolution calling a public hearing on **June 15, 2026**, commencing at **7:50 P.M.**, local time to consider a Petition for a lighting district within the Town of Clay to be known as **“MICHAEL'S FARM LIGHTING DISTRICT NO.1”**. Motion was seconded by Councilor Young.

Ayes – 6 and Noes – 0. *Motion carried.*

**Project/ Drainage (CPH) - MICHAEL'S FARM DRAINAGE DISTRICT  
CONTRACT NO.1:**

Councilor Wisnowski moved the adoption of a resolution calling a public hearing on **June 15, 2026**, commencing at **7:53 P.M.**, local time to consider a Petition for a drainage district within the Town of Clay to be known as “**MICHAEL'S FARM DRAINAGE DISTRICT CONTRACT NO. 1**”. Motion was seconded by Councilor Capria.

Ayes – 6 and Noes – 0. *Motion carried.*

**Project/ Sewer (CPH) - MICHAEL'S FARM LIGHTING SEWER DISTRICT  
CONTRACT NO.1:**

Councilor Wisnowski moved the adoption of a resolution calling a public hearing on **June 15, 2026**, commencing at **7:56 P.M.**, local time to consider a Petition for a sewer district within the Town of Clay to be known as “**MICHAEL'S FARM SEWER DISTRICT CONTRACT NO. 1**”. Motion was seconded by Councilor Capria.

Ayes – 6 and Noes – 0. *Motion carried.*

**Project/ Water (CPH) - MICHAEL'S FARM WATER DISTRICT CONTRACT  
NO.1:**

Councilor Wisnowski moved the adoption of a resolution calling a public hearing on **June 15, 2026**, commencing at **7:59 P.M.**, local time to consider a Petition for a water supply district within the Town of Clay to be known as “**MICHAEL'S FARM WATER DISTRICT CONTRACT NO. 1**”. Motion was seconded by Councilor Gauthier.

Ayes – 6 and Noes – 0. *Motion carried.*

**LOCAL LAW NO. 6 OF THE YEAR 2026 (CPH) – adoption of a Temporary  
Moratorium prohibiting any zone change or Special Permit related to Data  
Centers AI computing facilities etc.:**

Councilor Bick moved the adoption of a resolution calling a public hearing on **June 15, 2026**, commencing at **8:02 P.M.**, local time, to consider proposed **LOCAL LAW NO. 6 OF THE YEAR 2026**, for the adoption of a Temporary Moratorium prohibiting any zone change or special permit applications related to the establishment of large-scale data centers, artificial intelligence (“AI”) computing facilities, cryptocurrency mining operations, and similar high-intensity computing uses and complexes in the Town of Clay pending a study on the subject and the potential adoption of a new Local Law governing related applications. The proposed

moratorium may be in effect for up to twelve months from the time of adoption. Motion was seconded by Councilor Young.

Ayes – 6 and Noes – 0. *Motion carried.*

### **ADDITIONAL AGENDA**

#### **Agreement (A) – PRACADEMIC PARTNERS:**

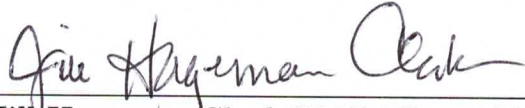
Deputy Supervisor moved the adoption of a resolution approving an agreement between the Town of Clay and Pracademic Partners (Dr. Ian M. Cole) to conduct two sessions of customer service and practical problem-solving training for Town of Clay employees. The cost of the training is \$2,500.00, and this resolution authorizes the corresponding expenditure of up to \$2,500.00. This resolution also authorizes the Deputy Supervisor to execute the agreement. Motion was seconded by Councilor Young.

Ayes – 6 and Noes – 0. *Motion carried.*

#### **Adjournment:**

The meeting was adjourned at 8:24 P.M. upon motion by Councilor Young and seconded by Councilor Capria.

Ayes – 6 and Noes – 0. *Motion carried.*

  
\_\_\_\_\_  
Jill Hageman Clark RMC / Town Clerk

Henry A. Zomerfeld  
Partner  
Direct Dial: 716.848.1370  
HZomerfe@hodgsonruss.com



May 29, 2026

*Via E-Mail ([supervisor@townofclayny.gov](mailto:supervisor@townofclayny.gov)) and Fed-Ex Overnight*

Town of Clay Town Board  
c/o Supervisor Damian M. Ulatowski  
4401 State Route 31  
Clay, New York 13041

Re: Proposed BESS Local Law

Dear Supervisor Ulatowski and Members of the Town Board:

As you know, this firm represents renewable energy developer Aurora Renewables Inc. and its subsidiaries and affiliates (collectively, "Aurora") in connection with its proposed development of several battery energy storage system ("BESS") projects (collectively, the "Projects") in the Town of Clay (the "Town"). Aurora previously submitted comment letters dated April 16, 2026 and May 14, 2026 (the "Initial Letters") addressing concerns with the initial drafts of the Town's proposed local law regulating BESS. We write now to provide supplemental comments on the fifth revised draft of the local law which the Town recently circulated (the "Revised Law"), while incorporating by reference any concerns that remain as addressed in the Initial Letters.

Aurora acknowledges and appreciates the Board's responsiveness to certain comments in the Initial Letters and recognizes that the Revised Law reflects an effort to refine the proposed regulatory framework. However, two significant concerns remain. As detailed below, the Revised Law's relegation of BESS to only industrial districts absent collocation with "solar farms" and significant permitting obstacles contingent on state and federal wetlands approvals prior to the issuance of any local approval continue to impose serious practical and legal obstacles to the siting of Tier 3 BESS within the Town.

*A. Restriction of Tier 3 BESS to Industrial Districts Absent Collocation with "Solar Farms" Is an Arbitrary Zoning Scheme.*

The Revised Law restricts BESS to the I-1 and I-2 Districts, with the addition of a carve-out provision in Revised Law § 209-5(F) which would permit Tier 2 & 3 BESS in Commercial Zoning Districts only on sites occupied by approved "solar farms". While Aurora appreciates the Board's openness to the siting of BESS in Commercial Zoning Districts, this provision as drafted is problematic and lacks a rational basis for several reasons.

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As a threshold issue, “solar farm” is not defined in the Revised Law, the Town Solar Law, or the Town Code. Aurora respectfully requests that this term either be defined or replaced with an appropriate defined term. More substantively, and as covered in additional detail in Aurora’s Initial Letters, The Town’s commercial zoning districts already permit, whether as of right or by special use permit, a range of uses which generate comparable or greater traffic, noise, visual impact, and emergency-response considerations than a BESS facility. There is no land use rationale for permitting these more intensive uses while excluding BESS from the same districts absent its pairing with another land use. Restriction of BESS to industrial zones only absent collocation would severely limit otherwise viable sites for BESS development.

Additionally, while BESS projects are frequently co-located with solar energy facilities, excluding standalone BESS from commercial districts while permitting collocated BESS in those same districts creates an irrational bifurcation of these uses which has the potential to frustrate responsible project planning and has no basis in the physical characteristics or land use impacts of the proposed use. A collocated BESS project shares the same potential safety, visual, and community character impacts to a standalone project. Thus, a standalone BESS should be allowed just the same in commercial districts.

Therefore, we respectfully urge the Board to add commercial districts to the list of eligible zoning districts for Tier 3 BESS, non-contingent on project collocation, consistent with the Town’s existing regulatory approach to Tier 3 solar.

*B. Prohibition on Issuance of All Local Approvals Pending State/Federal Wetland Permitting.*

Aurora notes that the Revised Law retains the updated set of wetlands provisions in § 209-13(A)(8), which requires that BESS proposals comply with all applicable federal and New York State freshwater wetland regulations. Aurora supports this revision, as it ensures that local requirements for BESS are aligned with those set by state and federal regulators. However, as raised in Aurora’s May 14, 2026 letter, the section’s requirement that a BESS applicant “obtain all required permits, approvals, and jurisdictional determinations from NYSDÈC prior to the issuance of **any local approval**, building permit, or commencement of construction” presents significant logistical and timing constraints for BESS projects. Federal and state approvals are often pursued in tandem with the local permitting process, and a prohibition on the Town’s issuance of **any** approval (including a SEQRA determination of significance, site plan approval, etc.) would hinder the timely and orderly administration of a BESS permitting regime. In fact, many BESS and other public utility applicants first obtain local approvals before receiving federal and state wetlands permits, which tend to have a significantly longer lead time.

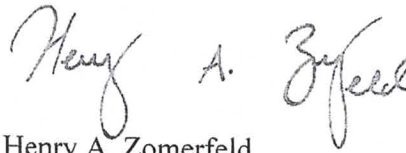
Aurora reiterates its recommendation that this language be further tailored to require that such wetlands permits, approvals, and jurisdictional determinations must be obtained prior to the issuance of a building permit and the commencement of construction on a BESS project, rather than precluding the issuance of any local approval.

*C. Conclusion.*

Aurora commends the Board for its continued engagement on these important issues and recognizes the progress reflected in the Revised Law. However, the concerns Aurora outlined continue to present obstacles which threaten to effectively preclude and hinder the development of Tier 3 BESS within the Town and raise the same legal concerns under *Hoffman* and its progeny identified in our Initial Letters. Thank you for your continued consideration of these comments. I again ask that this letter be included in the administrative record on the proposed law. As mentioned in Aurora's Initial Letters, Aurora is happy to both engage in further dialogue as well as connect the Town with the appropriate parties at NYSERDA to ensure that the proposed law protects the Town's interests while preserving a viable regulatory pathway for BESS development.

Thank you for your continued attention to this important matter.

Very truly yours,



Henry A. Zomerfeld

HAZ/mnb

cc: Jill Hageman-Clark, Town Clerk (via email: [townclerk@townofclayny.gov](mailto:townclerk@townofclayny.gov))  
Chelsea Clark, Assistant to the Supervisor (via email: [cclark@townofclayny.gov](mailto:cclark@townofclayny.gov))  
Michael N. Boncardo, Esq. (via email)  
Sera Yoon, Esq. (via email)