

**BOARD OF TRUSTEES
VILLAGE OF WARWICK
OCTOBER 16, 2023**

9800

The Regular Meeting of the Board of Trustees of the Village of Warwick was held on Monday, October 16, 2023, at 7:30 p.m. in Village Hall, 77 Main Street, Warwick, NY. Present was: Mayor, Michael J. Newhard, Trustees: Barry Cheney, Mary Collura, Carly Foster, and Tom McKnight. Also present was Village Clerk Raina Abramson, Building Inspector/Code Enforcement Officer, Boris Rudzinski, and Village Attorney, Stephen Gaba. DPW Supervisor Mike Moser was absent. Others present, Warwick Police Department Sergeant Alton Morley, Town of Warwick Supervisor, Michael Sweeton, Frank Genova, Donald Fletcher, Karen Clark, Scot Brown, Gail Hoffer-Loibl, Kate Siskel, and Vincent Galligan III.

The Mayor called the meeting to order and led in the Pledge of Allegiance.
The Village Clerk held the roll call.

Acceptance of Reports

A **MOTION** was made by Trustee Foster, seconded by Trustee McKnight and carried for the Acceptance of Reports – September 2023: Clerk’s Office, Tax Collection, and Justice Department.

The vote on the foregoing **motion** was as follows: **APPROVED**

Trustee Cheney Aye Trustee Foster Aye Trustee Collura Aye

Trustee McKnight Aye Mayor Newhard Aye

Authorization to Pay all Approved and Audited Claims

A **MOTION** was made by Trustee Cheney, seconded by Trustee Collura and carried for the Authorization to Pay all Approved and Audited Claims in the amount of \$208,791.19.

The vote on the foregoing **motion** was as follows: **APPROVED**

Trustee Cheney Aye Trustee Foster Aye Trustee Collura Aye

Trustee McKnight Aye Mayor Newhard Aye

Police Report

No report was made.

Presentations

1. Convergent – Battery Storage Update.

Frank Genova, Chief Operating & Financial Officer at Convergent and cofounder of business, provided the following prepared set of remarks -

‘I know everyone is eager to learn about the incidents at our two Warwick project locations. Before we get started, we want to apologize to the Warwick community and the Village of Warwick, in particular, for the disruption and uncertainty this has caused. We also want to once again thank the first responders and community that participated in responding to this event. We particularly appreciate the leadership of Chief Contaxis and the Warwick Fire District, Chief Rader and the Warwick Police Department and Orange County and Warwick Emergency Services, along with Mayor Newhard Supervisor Sweeton for their incredible management, responsiveness, and competence to ensure everyone’s safety. We also want to thank everyone here for their patience as the investigation was carried out and a report was produced. We want to make sure that we came before you with a meaningful update and look forward to providing that to you today.

Before we walk through what happened, we want to quickly clarify what these systems are and what they are doing for the community at large. All three battery storage systems that Convergent owns and operates are specifically designed to enhance Orange & Rockland’s utility infrastructure, improve the power grid’s reliability and prevent the community from experiencing power disruptions. In order to achieve this goal, the battery storage systems are required to be installed in specific locations which are dictated by the design of Orange & Rockland’s electricity system and the areas of load growth, which is where electricity is needed, is present. In other words, this community is using more electricity than the grid infrastructure can support and battery storage can cost effectively ensure the reliability of that grid.

Our three battery storage systems in Warwick have the potential to increase reliability for approximately 7,500 Orange & Rockland customers in this area and can also reduce electricity costs. These batteries, which are lithium ion, similar to the batteries that everyone has in their cellphones, store energy from the electric grid where there is a surplus of electricity and discharge it back onto the grid when it’s needed most. These systems are a resource for Orange & Rockland Utility to help meet the increasing demand for electricity in this area. In other words, battery storage is critical to the electrical infrastructure of this growing community, to keep costs low and power reliable. These systems are not, as some members of the media reported, warehouses to store batteries.

Systems like these are used safely in communities nationwide including ones that are owned and operated by Convergent. The battery systems are not manufactured by Convergent. We procure them from tier one suppliers and in this situation the manufacturer is a company called Powin.

Ok, let's get into what happened specifically.

Convergent developed and installed three battery storage systems across two locations in Warwick. Two are co-located behind the bus depot on County Road 1A, which we refer to as West Warwick 1 and West Warwick 2. And one is located behind the parking lot at the business center on Church Street, which we refer to as West Warwick 3.

West Warwick 2 and West Warwick 3 which used the Powin's Centipede model experienced issues that we are here to discuss with you tonight. West Warwick 1, which is a different model system, known as the Powin Stack 360 did not experience any issues. Both West Warwick 1, the Powin Stack 360 and West Warwick 2, the Powin Centipede are within the fence adjacent to the bus depot. The events at both sites coincided with heavy rains and high winds.

Starting with West Warwick 3 on County Road 1A, on the evening of June 26th heat and fire alarms were triggered. Fire suppression automatically deployed, and smoke was observed at the battery storage system at our Church Street location. Only one battery container containing the battery cells out of a total of 28 onsite was impacted and the event did not extend to any other container. Again, when we're talking about containers, we're talking about the big white boxes that the individual battery cells sit in. These containers house all equipment required to monitor, cool, heat, and control the batteries in addition to housing the batteries themselves'.

Trustee McKnight asked if Mr. Genova was still talking about the West Street location.

Mr. Genova replied that this is Church Street, West Warwick 3.

Mr. Genova continued his remarks -

'The findings of the root cause analysis indicate that a product related defect with these Powin Centipede Systems lead to the electrical fire, specifically under the weather conditions that evening, water infiltrated the containers where it shouldn't have causing an electrical short that sparked a brief electrical fire that was subsequently extinguished with the fire suppression system located within the container.

Moving out of West Warwick 2 at the school, early in the morning of June 27th, an audible alarm was reported. Upon conducting a visual inspection, elevated temperature and smoke damage was noted on one of the 14 Powin Centipede containers at the site, suggesting the presence of a thermal event occurring inside.

Approximately six hours later, smoke was observed in the same unit and a fire became visible. This fire eventually consumed the seven Powin Centipede containers in the lineup over approximately 36 hours before extinguishing. The fire did not spread beyond the effective lineup and remained contained within the perimeter of the cement pads on which the effect that containers rest.

Convergent staff was on site at both project locations, assisting emergency responders and monitoring these events starting within minutes of the first indication of trouble at West Warwick 3 which is the Church Street location. Powin staff arrived early the next morning to provide additional support.

We want to assure you that we take these events very seriously. This was the first fire we experienced in our company's 12-year history. The response to these events was coordinated. Convergent and Powin were actively on site throughout the duration of both incidents, supporting local first responders to the best of our ability and trying to determine what happened.

We built this site with safety in mind. And because of these design principles, the fire did not spread beyond the system's fence line. Most importantly, no one was injured in the event. And the air monitoring conducted at the bus depot location by the county's hazmat team during the incident revealed that the air was safe.

In addition to addressing your concerns in a few moments, we are here to share today the results of the independent investigation into what happened which is finally completed. At a very high level the root cause analysis allows Powin and Convergent to conclusively determine that the battery containers that are central to Powin's Centipede product were supposed to be watertight in accordance with the contractual specifications, and they were not.

The root cause analysis was led by third party industry leader DNV Energy USA with data provided by Powin. The root cause analysis was a thorough investigation led by experts with robust technical and forensic experience that conducted physical inspections as well as data analysis. The school district had an observer company accompany the process and Vertex and several insurance companies also participated, giving us confidence in the outcome.

The findings conclusively state that water infiltration is the common point of failure with the Powin Centipede Systems present at both sites. Again, the Powin Stack 360 had no issues.

Preventing water infiltration is critical because it presents a hazard when in contact with electrical equipment and batteries, no different than many other electrical products. It is believed that this product-related failure led to an electrical fire that cascaded into a battery fire at West Warwick 2. In other words, it has been concluded that a third-party product failure is concluded to be the root cause of the incidents we experienced in Warwick.

Our third system in Warwick, again West Warwick 1, is the Powin Stack 360 model, not the Centipede. The Powin Stack 360 did not experience any issues.

We know there was some discussion at previous at the previous board meeting about our choice of supplier, specifically Powin vs. GE. We want to address that with you directly. We originally planned to use GE systems at these sites but due to due to COVID related supply chain disruptions affecting GE's ability to supply its products in time to address Orange & Rockland's system needs, Convergent finalized the product design with Powin Systems which are functionally equivalent.

Powin, like GE, is another top tier battery system manufacturer that we have worked with in other locations for several years without incident. We are confident that our final selection is well within the envelope of the approved site plan for the project and it's functionally equivalent to the GE system. Furthermore, the construction permit issued in May of 2022 was specifically for the installation of these Powin systems, as communicated to the Building Department in great detail through the construction permit submittal process. We are also confident with the Building Inspector's approval for the project with the Powin Centipede System, that it was proper. We want to assure you that this was not a cost-cutting measure. Convergent paid more for the Powin Systems than it would have paid for the GE systems. Just before we take your questions, we want to assure you that we take these events very seriously and are currently working within our own business to identify opportunities for improvement, including collaboration with our vendors who are responsible for designing and manufacturing these battery systems.

As a leading provider of energy storage solutions in North America, we're constantly collecting data from our operating fleet to evaluate enhancements to our practices and our procedures. All of our systems are monitored 24/7, 365. This allowed us to activate emergency response protocols within minutes, so becoming aware of each incident and to be on site within minutes of both incidents at Warwick.

Meeting industry best practices on system design and operations has unfortunately not reduced all risks. We plan to get more involved in manufacturer testing in the future. And for any proposed solutions here. We met all the required safety standards and are now looking at ways to go beyond current industry requirements. Also, we are actively

reviewing our emergency response plans to address some of the information provided by the root cause analysis along with incorporating some feedback we received from the Warwick Fire Department.

You're likely wondering what the plan is for West Warwick 3 and 2 and motivated as we are to reduce any chance of future product issues. We want to be thoughtful and methodical and prioritize safety. We're in no rush, and Powin has work to do to address the lessons learned from the root cause analysis, fix their product issues and prove their suitability before we come back to these authorities. In terms of timing, a potential solution would most likely not be available until the second half of 2024'.

Mr. Genova thanked everyone for their time and stated that they were happy to answer any questions.

Trustee McKnight asked Mr. Genova how similar his remarks were to the School Board as to the Village Board. Mr. Genova said that the remarks were very similar and stated, 'As you're aware, the products that we have installed at both locations are similar but same product, the Centipede product, is exactly the same, and the root cause analysis has showed that the root cause of the issue is the same, which is water infiltration into those cabinets. And that's really at the heart of the information that we're trying to transfer to the agencies and to the community, the results of that analysis.'

Trustee McKnight asked how many Centipede units have been successfully deployed around the globe with the same model that Warwick has.

Mr. Genova replied, 'Convergent, as I noted in my kind of my established remarks, were purchasing these systems from Powin. The exact number of units that are in the field operational, it's not clear to us, to Convergent, since we're not selling those units directly.'

Trustee McKnight asked Mr. Genova if they had deployed any successfully in this area.

Mr. Genova replied that they have Powin systems throughout their portfolio.

Trustee McKnight asked if they had the Centipede model, specifically. Mr. Genova replied, 'Not the Centipede model specifically, no.'

Trustee McKnight said that it was his understanding that these were the first ones installed, of their kind and inquired if there was any validity to that.

Mr. Genova replied, 'So as a business, we obviously prioritize safety. As I noted, we've had Powin Systems in our portfolio for years, going back over the last 12 years of our business, and product evolution is a standard thing for every manufacturer. So, again, what we lean on, what we focus on, the partners that we work with, is the track record of the company. Powin has been around since the infancy of the battery storage sector, along with, the other tier one providers. So based on our operating history with them, the fact that we've been operating their systems in our portfolio for a number of years, that's what gave us confidence in procuring the Centipede product.'

Trustee McKnight inquired if Mr. Genova asked them if there were any other successful deployments of that Centipede product.

Mr. Genova said that it's not something you typically ask the manufacturer whether or not there were successful deployments, since what does successful mean per se.

Trustee McKnight said for example, not a fire and environmental hazard would be an easy definition.

Mr. Genova said that there weren't any and they knew that for sure.

Trustee Foster said that she thinks the question is whether or not these were pilots, that these were the first installation of the Centipedes.

Mr. Genova said that it was absolutely not a pilot and that this is a fully commercial product, not a beta version. He stated that this is a product that Powin is still pushing and selling to the broader market in the thousands; however, he doesn't know the exact number. Mr. Genova reiterated that this was a fully commercialized product that they purchased.

Trustee McKnight said that in September 2020, Convergent presented to the Planning Board, and one of the topics of conversation was the Convergent emergency response plan. Trustee McKnight stated that tonight, Mr. Genova addressed the Convergent's emergency plan, that GE was originally the designed manufacturer, and supply chain issues. He asked Mr. Genova that when they realized there were supply chain issues, and they couldn't presumably get the GE models and swapped it out for Powin, did Convergent update their emergency response plan and provide it to the village or the school board?

Mr. Genova said that he knows there were updates made to a number of documents that they submitted, including the construction permit, but specifically on the emergency response plan, he said he doesn't have that answer.

Trustee McKnight stated that he was on the Planning Board at the time, and thinks that the answer to that is, no. He said that he was looking at the emergency response plan and several times it's referenced that if there's a problem, that GE would be part of the Emergency Response Team, including photos of the GE units. Trustee McKnight added that he understands that Convergent swapped out the systems and inquired that if a portion of that emergency response plan is around a particular vendor, wouldn't it make sense that if you update the equipment, to also have the proper response teams also included in this.

Mr. Genova said that the response teams are Convergent, so that the emergency contacts are not the manufacturers directly. He said that as he noted in his prepared remarks, these are like for like systems, so the change of GE to Powin does not change anything associated with the emergency response plan. Mr. Genova said that they are both lithium-ion batteries, iron phosphate chemistry, containerization strategy and design is the same, and the way that a fire is dealt with is the same. He said that there would be no material changes to the emergency response plan by making that change. Mr. Genova stated that as he noted in his remarks, it's a like for like swap, there are no material differences whatsoever between the two products and that Powin and GE are both considered tier one vendors in the space as validated by Vertex who supporting the school district alongside of Convergent in the analysis.

Trustee Foster asked if the GE product was very similar to the Centipede. Mr. Genova replied that is very similar.

Mayor Newhard said that Powin was on site during the incident. Mr. Genova said that he was present alongside a large contingent from Convergent and Powin the first day that the events occurred.

Trustee Cheney asked what the basic differences were between the Centipede model and the model or the installation that was not affected by a fire.

Mr. Genova explained that there is a big difference visually, which is the way that the batteries are containerized, so the enclosure around it looks different. He added that as he stated in his remarks, the Powin Stack 360, which is located at West Warwick 1, was not affected and did not have any water infiltration, but the Powin Centipede systems did.

Mr. Genova said that one of the big differences is the way the batteries are containerized and wrapped and that there was a product failure in the weatherproofing of that container.

Trustee Cheney asked why there was there a mix in Warwick, with the Stack in the Centipedes. Mr. Genova replied that at that point in time, Powin was supporting both

product lines and the decision making that was done between GE and Powin was to support Orange & Rockland and their schedule, to manage load growth and some of the issues and reliability related concerns they have in the network. Mr. Genova said that they were prioritizing tier one vendors that they've worked with before and getting solutions in place to support their network.

Trustee Cheney asked why Convergent didn't go with three of the Stacked units and that it sounds to him like the Stacked units are older units, technology specific. Mr. Genova said that they're still supporting the product, but it was the previous version of the product. Mr. Genova added that part of it is due to site constraints and site layout and geometry and also getting systems online for Orange & Rockland, the schedule associated with Orange & Rockland's need was a big consideration in these decisions.

Trustee Cheney asked if Convergent has deployed the Centipede models elsewhere in New York at this point in time and asked if these were the first two that entered Convergent systems. Mr. Genova replied, 'Yes, so the Powin Centipede, yes, but the Powin product and brand in general, no.'

Trustee Cheney clarified that these were the first deployments of the Centipede product by Convergent anywhere in New York. Mr. Genova replied, 'correct.'

Mayor Newhard said that there are a number of fires in upstate New York and asked if they are related to Convergent, the Town of Lyme and Jefferson County.

Mr. Genova said that Town of Lyme, Chaumont, was another Convergent project that was a GE system that was a hybrid solar and battery storage project in Chaumont, New York and that since they are earlier in the root cause analysis process, he unfortunately didn't have answers. Mr. Genova explained that this was part of the reason why it took Convergent some time to present to the Village Board, because they wanted firm answers and data to share with the Board conclusively as to what the cause of the problem was. Mr. Genova stated that for that project in upstate New York, they're not there yet.

Mayor Newhard asked if they had a Centipede related product. Mr. Genova replied, 'No, not at all.'

Trustee Foster asked how many fires Convergent has had to respond to of their projects. Mr. Genova replied, 'Two.' He said he was considering one in West Warwick 3, West Warwick 2 and the one in Chaumont.

Trustee Collura said that one of the frustrations they've heard from the fire chief was that he felt like he and his team didn't have the proper training from Convergent in emergency

response but had the resources to get that training for his team. Trustee Collura asked Mr. Genova if that is something Convergent was supposed to offer.

Mr. Genova said that Convergent conducted a training session for Chief Contaxis and the fire department in the fall of 2022 in the earlier stages of project construction. He said that they were scheduled with the Chief to do the final training of the system the week that the events occurred. Mr. Genova said that they take this aspect of it very seriously and that there was an initial training done and then there was final training. He said that giving the fire department the opportunity to do that training on the finished system, with all the boxes in place and the site safe is a standard approach for Convergent.

Mayor Newhard said that West Warwick 1 and 2 were almost fully energized at the time of the fire and West Warwick 3 had just begun that process. He inquired if there was any difference in the findings in the report since there was greater energy storage in that product at that time and less than in the one on Church Street.

Mr. Genova said that it was certainly noted that that is indeed true, but the root cause, which was the focus of the report, for both situations was absolutely water infiltration into the containers and the root cause analysis did not highlight, the amount of energy that was being stored in batteries as a concern.

Trustee Cheney asked if the investigation report that Mr. Genova is referring to is going to be shared with the fire department, police and the municipalities. Mr. Genova said, yes, and explained that Convergent had their independent consultant work alongside Powin's independent consultant, along with the school districts consultant to have them collectively sign off on that report. He said that there is an abridged version that basically cuts to the heart of the of the issue, instead of going through 70 pages of technical jargon that Powin is interested in sharing with the group.

Mr. Genova said that what they've done with Dr. Leach and the school board, is set up a separate call with Powin to go through the process to get that shared with the Board.

Trustee Cheney asked if there is a timetable for that. Mr. Genova said that they have a call set up with Powin this week.

Trustee Foster asked if that is the full report, not just a summary. Mr. Genova said that it will be the abridged version of the report, which is not 70 pages of technical graphs and charts and all that.

Trustee Foster asked if the municipality could have the full report. Mr. Genova said that they can certainly talk to Powin who owns the report.

Trustee McKnight said that the idea of a fire and spill were brought forth in front of the Planning Board and the response that was provided was that if there's an actual fire, the fire protection will kick in, which is a gas that fills in container that turns into a foam when it hits air and puts out the fire and that all the containers are still rated for fire so there's not a major concern of it spreading beyond the containers themselves. Trustee McKnight said that when you come to the municipality and go to a Planning Board for site plan approval, the village has an attorney and an engineer present at most meetings, but the Board is made up of residents who aren't battery storage for fire experts, necessarily. Trustee McKnight said that when those questions are asked, it's really, on Convergent to address them; however, he gets the sense that any concerns were almost dismissed because Convergent was saying that there's no real concern for fire. Trustee McKnight added that he vividly recalls the conversation turned to everything else that goes into a site plan, such as lights so that part felt like it was quickly glossed over. Trustee McKnight asked Mr. Genova to speak to that in terms of how it is discussed, since it was in the context of an emergency response plan and fire prevention plan. Trustee McKnight stated that it seems like now that's not the case and that there may have been a gas that turns into foam inside the containers and that there are steel containers that are supposed to contain the fire, but we've seen otherwise. Trustee McKnight stated that the reason it's concerning is because it could put a lot of residents at risk and that's our that's our number one concern here.

Mr. Genova said that he was not at the meeting but can say that what Trustee McKnight just went over, every piece about that statement is true, these are steel enclosures, there is fire suppression inside of the containers. Mr. Genova said, 'Just based on the data, these are very, very low outlier situations statistically. So, I can't speak to how quickly the conversation advanced and move beyond the discussion of the ERP plan, or specifically about the suppression and fire suppression that's into containers, but what I can say is that all those statements that were made are true. But again, I can't speak to how quickly the conversation evolved in the meeting because I wasn't there.'

Trustee McKnight said that it's true from what seems like a technical perspective and that we have a board worried about fire, you can see how that would allay potential concerns if no one there is equipped to really pick apart that technical response, because there still was an event and that's why we're all talking about this.

Mr. Genova said that even going through the design of the Powin Centipede system and Vertex who was a consultant, the third-party expert, on behalf of the school board, said, Powin is absolutely a tier one manufacturer, they've been in the space since its inception and their product is extremely impressive, was a direct quote. Mr. Genova stated that when they look at the technical specifications of these systems, there's unfortunately from

a specification perspective, not a lot there, to say that these systems are not safe, but that he understands Trustee McKnight's concern.

Trustee McKnight asked if there is any state or federal oversight of how these are manufactured and deployed.

Mr. Genova said that UL provides standards and certifications for all different consumer products and that there are a number of UL certifications that manufacturers have to pass at the product level in order to receive the UL certifications to install their systems and that was a part of the filing, Powin has all those certifications.

Trustee McKnight asked Mr. Genova if since he mentioned there was a product defect with water infiltration, but they were UL rated, would that imply that they passed all of the requirements to be certified.

Mr. Genova said that they passed UL's test.

Trustee McKnight asked if that includes the water infiltration prevention as they might or should have had.

Mr. Genova replied that he is not familiar with these specific test details and the parameters, but the system as a whole is tested for safety. He said that they can certainly come back to the Board with details on what the UL 9540 A testing includes, specifically for the product itself. Mr. Genova explained that this is done at the product level, it's not done for every product that rolls off the manufacturing line.

Trustee McKnight said that there is a standard at the product level, but no real regulatory oversight on these pieces of equipment being deployed, federal, state, DEC, Department of Energy.

Mr. Genova said that there are product certifications that are provided by Underwriters Laboratory, which is common for electrical consumer products and then Convergent has a process that they go through with their consumers, where the systems are confirmed to be compliant with state and local claims.

Trustee Foster asked if Trustee McKnight was trying to understand whether or not these units were individually inspected. Trustee McKnight replied, yes, but also if there is anybody who is making sure that this is done correctly because it feels like protecting a unit from water that's going to live outside for decades, would make sense.

Trustee Foster said that she wasn't clear on what the answer was, to whether or not the units were individually inspected. Mr. Genova said that there are the preliminary product certifications that are passed at the product level and then no different than many other products, there's factory acceptance testing done on units that roll off the manufacturing line, and those were done by Powin for these units, yet still, there were there was water infiltration after that factory acceptance testing was done.

Trustee Foster stated that Powin does their own inspections. Mr. Genova replied, 'They do their own factory acceptance testing.' Trustee Foster asked what inspections Convergent does to ensure the quality of the product. Mr. Genova said that where these systems were manufactured, they had a consultant and we had representatives from Convergent down to the power manufacturing facility for the factory acceptance testing. He explained that as a buyer, they're not allowed into the facility to conduct the testing, but they are given the results, which is what they have to go off of.

Trustee Foster asked if Convergent is given the results of the tests that Powin does themselves and then Convergent has to accept them. She asked if Convergent is performing your own inspections. Mr. Genova said that they don't perform factory but do visual inspections when the equipment is delivered and Convergent goes through a conditioning process when they energize the systems, but they are not doing factory acceptance testing directly because they're not manufacturing the units.

Trustee Foster asked if the detailed report articulates how those defects would have been visible or how they would have been detected. Mr. Genova said that the process we're in right now is that the root cause analysis is intended to identify the specific issue, the component of the system. He said that the next phase of this would be, what are what are the alternatives? What was done incorrectly? Was it a bad specification on that component? Was it a manufacturing defect? And what are the potential solutions for that?

Trustee Foster asked what Convergent will do with that information moving forward. Mr. Genova said that both with Powin and all the third-party experts that have been a part of the root cause analysis thus far, are going to work together to allow, basically have Powin provide their intended solution and with that entire body, make a determination with ton of additional testing and analysis, make a determination as to whether or not we think it's acceptable.

Trustee Foster asked if Convergent is going to be conducting their own independent review of the assets moving forward or does Mr. Genova anticipate that they're going to be accepting their process moving forward. Mr. Genova replied, 'No, with our third-party experts, we will be very, very involved in the testing and factory acceptance testing, the subsequent testing of whatever the modified solution is, we will be intimately involved in

that moving forward.’ Trustee Foster asked if there will be a follow up report. Mr. Genova replied, ‘Yes. Absolutely.’

Trustee Foster said that Mr. Genova talked about the resilience of the grid and the fact that the systems are there to support our residents because we're using more power than the grid can handle. Trustee Foster asked Orange & Rockland Representative, Vincent Gallagin, what the resilience strategy moving forward for a resolution to all of this.

Mr. Gallagin said that Orange & Rockland will certainly serve the customers in this area, that territory, so customers will not be without energy. He said that they are working on a backup solution at the moment, not having this battery.

Trustee Foster asked what kinds of backup solutions are being considered. Mr. Gallagin said that this is supporting the Wisner substation and so they are working on a mobile substation that could be dispatched in the event of a failure of one of the two transformers at that station. Trustee Foster asked how quickly the mobile substations can be deployed. Mr. Gallagin replied that it depends on what the failure is. Trustee Foster asked what the circumstances are under which he would anticipate needing a mobile substation. Mr. Gallagin said that that would be a peak day, a summer day where it is very hot with lots of humidity. He continued, ‘There's about a dozen of those a year. This year we're fortunate there's only about six that we hit those timeframes and those are our worst-case scenario. So, there's a few hours where if one of those two banks failed in that substation, and we didn't have the battery system online, we'd have to look to a backup support. And we lose a number of customers for a small period of time.’

Trustee Foster asked if it's O&R's position that the battery systems are the long-term solution to the grid resilience.

Mr. Gallagin stated, ‘The battery solution is a project that's called a non-wire alternative project, so as opposed to rebuilding a substation, we were challenged by the state to pursue alternatives to serve the areas and so an alternative here is this battery solution. So, this battery solution will allow us to defer the substation for a period of five years, at which point then we will have to seek out other alternatives. Of course, it all depends on the size of the amount of energy needed to serve the area. So, a lot of what we do is constant forecasting as additional projects like hemp farms or things come online, these are giant energy needs. And so, they constantly change what we're having to serve.’

Trustee Foster asked what other alternatives Orange & Rockland would deploy. Mr. Gallagin replied, ‘So, this is the second non-wire alternative project that the utility has deployed. The first would be our Pomona battery system that is located in Rockland County.’

Trustee McKnight asked if Orange & Rockland pressured Convergent on the timeline to get units in the field and operational.

Mr. Galligan said, 'We had a timeline to have those units operational or to suit the needs of our system. We had never put any sort of pressure on Convergent to deliver any product that was going to be substandard to delivering a 100% safe product.'

Trustee McKnight asked what the timeline was that Orange & Rockland was operating on.

Mr. Galligan explained that this past summer the weather really cooperated, and they only hit their peak days in the September timeframe for the first week of school.

Trustee McKnight said that Mr. Genova mentioned in his prepared statement that Orange & Rockland was pressuring Convergent to get the unit installed sooner than later, which is the reason Convergent moved from GE to Powin. Trustee McKnight said that from O&R that pressure wasn't necessarily there.

Mr. Genova said that he didn't say 'pressuring us' but stated that Mr. Galligan noted, these solutions have a timeline and the team at O&R forecast load growth and they have a schedule for incorporating or implementing a solution to maintain reliability and that is tied to load and time. Mr. Genova explained that Convergent had a date in their contract with O&R that they had to get the system online by.

Trustee Foster asked how far in advance of installation did Powin manufacture the Centipedes because she believed what Trustee McKnight was getting at is whether or not the Centipedes were rushed, but that it presumably come out in the after-action report.

Mr. Genova stated, 'When Powin internalizes the results of the RCA fully and looks at the subcomponents of the system and what specifically failed, I think the group will have a much better understanding based on where that point of failure was why that happened. Again, was it a manufacturing defect? Was it a spec defect? That will be the next phase.'

Trustee McKnight said that according to Powin's website, they began mass production of the Centipede model, the end of Q1 2022, with first deliveries scheduled to take place in Q2 2022, including 2600 units being shipped to Australia. Trustee McKnight asked if Warwick was really the first one as a pilot and when did these units arrived in the village.

Mr. Genova said that he doesn't have the exact dates of when the deliveries happened, but it would have been early summer of 2022 but would have to go back and check schedules.

Trustee McKnight asked Village of Warwick Building Inspector, Boris Rudzinski, if he recalled if that was brought in in 2022. Mr. Rudzinski replied that he wasn't sure when the actual systems were delivered and arrived onsite.

Trustee McKnight said that he recalls that it was 2022, so if they were really the first deliveries scheduled to take place in Q2 2022, it seems like Warwick was part of the first wave.

Mr. Galligan said that the system was delivered in February 2023.

Trustee Foster asked the Board if the Village has any follow up meetings scheduled with Orange & Rockland to talk about the grid and power resilience and what that strategy is going to be.

Mayor Newhard said we can set it up and opened comments up to the floor.

Town of Warwick Supervisor, Michael Sweeton, said that there were a series of alarms at West Warwick 2, probably a month prior to the incident, and asked Convergent if they have anything in their investigation that tells why that happened and if it was related.

Mr. Genova said, 'Going through the commissioning process for systems, you're on site, testing components and early-stage alarms are common in the in the startup phase. The RCA report doesn't specifically speak to those alarms and that, Mr. Sweeton, but based on the conversations that we've had, and what those alarms were, there's no reason for us to believe that they were tied to the actual incident that occurred in July.'

Supervisor Sweeton asked how we get confident that that's true since they don't have the answer in the root cause analysis. He also asked if it's going to be addressed in the follow up.

Mr. Genova said that when the alarms were going off it was during the commissioning phase, and they had people on site during that period. He said that for them, what's important is that the root cause analysis specifically has identified what the cause of the fire was and the resulting process that they're going to move forward with is going to be to focus on that product related failure. Mr. Genova said that there are a number of alarms, supervisory alarms, but just start up related alarms that aren't fire related, that have to get worked through in a typical startup process. He said that in the analysis that was done, there's nothing that leads them to believe that those alarms specifically were an early indication of this problem.

Supervisor Sweeton asked if they knew exactly how the water infiltrated at this point since they know that it was water caused, and if the follow up report is going to explain how water got in. Mr. Genova said, yes, that the RCA has identified exactly where in the units that the water infiltrated. He said that the next question will be why. Was it something related to the manufacturing process for one bunch of these units or is it more product related, such as a specification of caulk or some type of sealant or gasketing. That's what the next phase of this process is.

Supervisor Sweeton asked if the follow up report try to understand why the fire suppression system worked in West Warwick 3 and not in 2.

Mr. Genova said, 'Yes, as we're looking at making these product related enhancements, and forcing the manufacturers to do these things, there's the water infiltration itself, there's the question around the fire suppressant inside of the container, and why there was a different result between West Warwick 2 and West Warwick 3 is supposed to be covered.'

Trustee Foster asked if there is a full understanding of the size of a possible conflagration from these batteries in the air, without it igniting something else, how large are we looking at and if it's documented somewhere and if we understand the full scale and magnitude of the risk of the batteries igniting.

Mr. Genova said that they know for certain why they ignited, which was water infiltration. Trustee Foster asked how bad it could get so they can understand for planning moving forward and asked if that is documented, assessed and available.

Mr. Genova said yes, that will certainly be one of the things, the silver lining in these situations, that the fire didn't spread beyond the pad that the units were located on. He said that they spend a lot of time upfront spacing out the sight, clearances between segments for those specific reasons and that they feel confident that what happened was not by chance, but by design. Mr. Genova said that he thinks that they did see what the worst-case scenario was for this system, especially at West Warwick 2, which was that entire lineup, the seven units, all isolated on one pad with clearances and spacing around those units, so he thinks that's a good model.

Trustee McKnight said that if there's a fire, you can't put it out and you must let it go out on its own, and then asked what if it did expand beyond the pad. Mr. Genova replied that there's nothing for it to expand since there's no combustible material outside of the pad, so it's not able to, which is why there are fundamental spacing requirements for how far away we are from adjacent structures from other battery containers. He said that if you put a large air gap in there, there's nothing for the fire to transfer across.

Trustee McKnight asked if that is a building code. Mr. Genova replied that it's part of the manufacturer's guidelines and that providing that spacing is both for maintenance and operations but also, it's in the manufacturer's guidelines.

Trustee McKnight said that it doesn't seem the manufacturer's guidelines, at least from what he's seen, seem all that credible. Mr. Genova replied that the results are helpful since they saw what happened over an extended period at West Warwick 2.

Trustee McKnight asked if there is any authority, any building department, anything in the state or federal that says if you have these lithium battery systems, that there shouldn't be anything combustible within X number of feet or is that just the manufacturer, Powin's own guidelines or whatever they feel is right.

Mr. Genova said that at this point in time there are no state guidelines, and the building code also doesn't speak to it.

Trustee McKnight asked if Mr. Genova has been out there since there's a lot of trees around it and it's adjacent to is adjacent to a park and there are a lot of combustible things outside. Mr. Genova said that he was there the first day the fire happened.

Trustee McKnight said that it's a good question in terms of how bad it could get since there's a fire you can't put out with combustible things around it, and you don't know what the minimum distance is other than what the manufacturer says themselves.

Trustee Foster said that she'd like to see whatever documents those decisions are based on such as what studies or at least understand what studies they did to determine that.

Trustee Foster said that she really appreciates Mr. Genova for coming tonight but feels that this is to be the first of multiple conversations because we need to understand the after-action report and what steps would be taken afterwards.

Mr. Genova said that they agree and that's 100% the intent and that this meeting is just to share the results of what happened and that they anticipate subsequent follow-ups and meetings and correspondence to chart a path forward.

Mayor Newhard asked if Mr. Rudzinski and Sgt. Morley had anything they wanted to ask and thanked Mr. Genova for attending the meeting.

2. Barton & Loguidice – Wastewater Treatment Plant Update.

Karen Clark provided the Village Board with an update on the status of the wastewater treatment plant upgrade project. She explained that the treatment plant currently includes rotating biological contractors, a fixed film treatment process, secondary treatment plants, tertiary filters which are a media bed that is an older technology, disinfection, and post aeration. Ms. Clark said that there's currently now a UV disinfection system, which was put in about two years ago as part of the first phase of this capital project.

Ms. Clark explained that in 2018, they started assessing the wastewater treatment plant in terms of future service life, things that might need to be included for upcoming future limits for phosphorus. She explained that with fixed film technologies, there's not a lot to do to them, they just run and you can't really make a lot of adjustments so it's hard to treat for ammonia, and impossible to treat for phosphorus for those and those are two of the constituents that were coming down from the from the DEC in terms of where the plant was going to have to go.

Ms. Clark said that they did a an upgrade analysis, a \$30,000 study to figure out the where we wanted to take the plant going into the future, and decided we were going to do a grit removal system, converting the RBCs to sequencing batch reactors, or a one tank configuration, with a smaller footprint than a conventional activated sludge and secondary clarifiers turning the current secondary tanks into equalization, and putting tertiary disc filters inside of the existing building in one of the bays of the existing tertiary filters. It was a way that they could keep the plant running use the RBCs, one clarifier, one bay, in the tertiary filters while the rest was built, and then sequence on to the next the next phase.

Ms. Clark said that at the time there were a few other things. They wanted to do a little bit of SCADA but didn't really have a clear plan for that but did have some budget estimates. At the time they did this, they had a preliminary 25% contingency. Ms. Clark said that throughout the presentation, they're going see that that number and how they advanced and what has happened to that amount.

Ms. Clark explained that the reason they did 25% was because they really don't know a lot of things since a \$30,000 study, didn't include Geotech investigations, any groundwater, the electrical wasn't investigated, including any other requests that might come up from the treatment plant operators or village along the way.

Trustee Foster asked if the preliminary engineering report included a level of design. Ms. Clark stated that it's a report so there's no design plans. Ms. Foster asked if Ms. Clark found the 25% contingency to be adequate for preliminary engineering reports. Ms. Clark explained that they usually use 20 to 30. She said that they did work with manufacturers to receive quotes and do a lot of treatment plants as a company, so they are familiar with

concrete tank construction. Ms. Clark also stated that each one of the process equipment pieces, which are probably 30 to 40% of the total cost, had detailed equipment quotes from manufacturers.

Trustee Foster inquired if it was escalated through the schedule that Barton & Loguidice expected for implementation as well. Ms. Clark said, yes, at the end, so that that 25% would slowly get used as the project evolved and would also include inflation over time.

Trustee McKnight stated that his understanding was that the design was going to be completed in 2022. Ms. Clark replied that it was intended to be completed and is underway.

Ms. Clark explained that the only thing done in 2018 was a \$27,000 study. Mayor Newhard said it was the first step in terms of EFC funding.

Ms. Clark explained that once that report was done, they then started applying for WQIP grants, WIIA grants in the fall of 2018 and into the following year. In mid-2019, the Village was awarded a WIIA grant, but not the WQIP. This was really the first funding avenue that the Village had for the treatment plant, so far. Since the Village has always been very fiscally aware and paid for its projects over very short periods of time, the Village could do things in their own mechanism. After receiving the grant in the summer of 2019, the first step was a 30% requirement for MWBE participation on the grant amount only, or about \$918,000. Usually, that money is used for the construction contractors which is lot easier for them to do that because they're buying multimillion dollar pieces of equipment from different suppliers. But the hurdle now was that the Village needed to redo the PER because we wanted to add in the Orchard Street pump station and tried to recoup the UV project that was already underway.

Ms. Clark continued that there were a couple iterations and back and forth with EFC, specifically with Orchard Street, and trying to get that project approved from a PER standpoint, which went on for quite a while. During COVID the EFC wasn't necessarily accessible. There were a lot of Zoom meetings and a lot of noncommunication, unfortunately.

Barton & Loguidice redid the PER and submitted it to EFC for approval and were just about at the endpoint with that, but the Orchard Street pump station did not include the MWBE or the EFC requirements in their construction contracts which turned into the next hurdle.

Ms. Clark said that they started working with Engineering & Surveying Properties, trying to help them negotiate with the contractor to try and add those requirements in. It

increased the cost so much that it really wasn't beneficial anymore, so it was removed from the report and then moved on from the EFC.

The report was fixed in March of 2021 and the Village received good news that they got above the funding line, which was good, but now the EFC changed the MWBE goals again. Instead of being 30% on just the grant, it was changed to 23% on the whole project, bringing it to \$2.8 million.

Ms. Clark explained that Barton & Loguidice was already underway, and Engineering & Surveying Properties was already underway with their project already out to bid, so there were a lot of hurdles that they tried to get through to try and make it all work out.

She stated that for the UV contractor, Barton & Loguidice did include the right requirements and they met the goals but the representative from the EFC decided that they did not want to approve it, even though they'd approve like for others of the same situation in other regions. Ms. Clark said that they went through approximately six months of back and forth until she had to get a letter saying that four other locations got approved by EFC in other portions of the state, and the next day, the Village pretty much had approval on that issue.

Trustee Cheney said that basically, the Village went from a situation where Barton & Loguidice as the Village's consultant, we're looking to bring in MWBE subcontractors to an amount of just under a million dollars to taking it up to \$2.8 million for the project as a whole.

Ms. Clark explained that it would be for everybody, including the UV contractor, the general and electrical contractors that are going to be working on the project.

She said that the EFC doesn't look at it from just the grant perspective. If they just stuck with the EFC grant, the entire 918 could have been put on the contract but now they look at each individual contract such as Engineering & Surveying Properties, Barton & Loguidice, the UV construction general contractor, the UV construction electrical contractor and each one of those firms had to meet those goals, or else the Village would either not get the funding or Barton & Loguidice would have to keep going back and going around on the waivers, which is basically what they had to do.

Trustee Foster asked for further explanation about the general contractor and asked if they were refusing to meet the goals of their contract. Ms. Clark said that they were not refusing but were asking an exorbitant amount of money to include the requirements which was determined to not be beneficial.

Trustee Foster asked if they remained with the same general contractor. Trustee Cheney explained that that it was in place already because it was work that was already underway, preceding the grants and they were trying to work it so the Village could get reimbursement for it, but in the end, it just didn't work out.

Ms. Clark explained that there was a general contractor for the pump station screening project, an electrical and general contractor for the UV project, and there will be an electrical general contractor for the upcoming wastewater treatment plant.

Trustee Foster clarified that the work was already underway with the one general contractor by the time the Village received the CWSRF funding and then we were having difficulty with them playing ball with the new requirements. Ms. Clark said that they didn't refuse to do it, but they already subbed out the work that they were going to sub out, so they would have had to change their subcontracts with the people that they had agreed to. Ms. Clark said that unfortunately with the MWBE programs, those firms typically do charge more than a regular firm.

Ms. Clark continued that in the fall of 2019 the EFC indicated that the Village was above the funding limit and asked us to submit a funding application which was done in January of 2020.

Ms. Clark said that the final approval was in May of 2023. She said that the approval ties into the PER, into B&L's MWBE plan, the general and electrical contractors for the UV, and initially the contractor for the for the screening.

Trustee Foster inquired that there was a three-year gap between submitting the application in January of 2020 and the approval in May and that it was an administrative issue on behalf of the state. Ms. Clark replied, yes, that that would be her interpretation since all of it was resubmission after resubmission of information at the EFC's request.

Trustee Foster asked if the EFC was clear about the information that they needed up front so that the Village could have received approval earlier. Ms. Clark said that she didn't feel they were clear based on all the emails.

Trustee Cheney said that to put it in a different perspective, the Village was asked to submit, and we submitted. And then we were asked to submit again, and we submitted. He said that the Village did everything within its power to give the EFC the answers they requested but it just seemed that there were either little nuances or things that they challenged and questioned that caused additional submittals or resubmittals. Ms. Clark added that the EFC also switched MWBE coordinators.

Donald Fletcher explained that if the Village Board is looking for all the reasons for the back and forth over the three-year window, the bullets listed on the report provided to the Board this evening describes those items such as the resubmission of a couple of PERs, the problem with the MWBE on the Orchard Street general contractor. Ms. Clark said that the EFC works in a very sequential matter so the first thing they want to do is approve the PER, so the back and forth from the PER with adding Orchard Street and removing it probably didn't help the situation. The next thing is for the project to go to the finance group, where they asked the Treasurer for information and once that hurdle is complete, then the EFC goes to the MWBE. She said for example, the geo firm that Barton & Loguidice hired to do the work, when they provided the Village with the proposal in 2020, they were a certified WBE firm by the time they got to the work the next year, they were purchased and were no longer a WBE firm so they were rejected by the EFC when it was looked at a year later.

Mayor Newhard stated that Barton & Loguidice works on a lot of projects throughout the country and asked they dealt with something like this previously. Ms. Clark said that unfortunately since COVID it is the new norm. Donald Fletcher added that he believes it's COVID but also the EFC's own labor shortage and challenges. He also stated that funds coming down from the Federal level is essentially going to the same agencies who have to administer that much more money and that much more programming which he believes is causing some significant delays from the middle of 2021 onward across the board.

Trustee McKnight inquired about the MWBE selection process. Ms. Clark explained the process and the issues faced during the project. Trustee Cheney explained that each one of the independent contractors that the Village has, Barton & Loguidice, Songer, the UV contractor, the general contractor who has not been selected yet, they have their own 23% goal so the contract will include specifications that they are required to come up with a plan that demonstrates that they are able to meet the 23% goal.

The Board continued to discuss the delays, funding, and decisions affecting the project timeline.

Ms. Clark continued that the previous contingency was 25% based on the \$30,000 study and now that they are starting the design, it's getting more formalized. She said they added in Orchard Street and at the time they didn't know there wasn't a pump station for the bathrooms at the wastewater treatment plant, but just a septic tank, and they needed a pump station for the grit system so that was something that had to get added in.

She said that these are just small things, but they started chipping away at the contingency and that's what it's there for since based on the study you don't know all

these small little things. Ms. Clark said that there are also a couple additions such as the plant water pump, which was a smart request from the staff to recycle water from the back end of the plant into the filter press, so we don't have to use potable water for that process, but it wasn't part of the 2018 study. She said they also discovered they have to upgrade the electrical services and at the time, concrete costs were still good and the SBR costs increased a little bit between 2018 and 2021 by \$80,000. Ms. Clark said they reduced the contingency from 2.3 down to 1.29 in 2021.

Trustee McKnight inquired if there has been any consideration to converting or leveraging the methane gas and converting it to electricity and having some sort of plant there to offset the energy consumption. He also asked if the new Wastewater Treatment Plant will consume more electricity than the current facility and if so, by how much, and can that be offset through harnessing methane gas conversion to electricity.

Ms. Clark said it will use more than the RBCs but there was no choice because the RBCs will not meet the ammonia and phosphorus levels going forward. Ms. Clark explained the process used to make the most cost effective and most energy efficient determinations. Ms. Clark and the Board discussed the waste sludge process.

Trustee McKnight inquired about the energy saving methods that have been explored and incorporated into this project. Ms. Clark said that they always do variable frequency drives for blowers and pumps so that they operate at the most opportune point and tertiary disk filters.

Donald Fletcher said that RBC is old technology but is less energy intensive so to meet today's environmental considerations for discharge of wastewater, the Village is going to a more up to date technology, but it takes more energy.

Further discussion ensued about State requirements, energy efficiency and cost effectiveness.

Trustee Foster asked if Barton & Loguidice understands how much more capacity this project will enable the Village to have. Ms. Clark said that there were predictions of population increase within a 30-year period.

Ms. Clark continued with the timeline of the project stating that as soon as they knew the Village was going to have funding and a way to construct the project, they started on the new SPDES discharge permit that was submitted in January of 2020. The final permit didn't arrive until July 5, 2022. Ms. Clark said that even if they didn't have the funding hurdles, they couldn't go out to bid before that permit was in hand and that the EFC would not move forward with releasing any money until that permit was secured.

Ms. Clark said that they then continued and did the Geotech wetland surveys and all the things that they could do. She explained that a 60% design plan was prepared in March of 2021 which was basically around the time where as a team, they decided to pause the project since they were having the hurdles with the EFC, and between the UV project, the screening project and the engineering cost to date because there was no BAN, they were hoping to be in the short term loan with EFC by that time, so they exhausted the amount of money that that could have been expended at the time.

Ms. Clark explained that short-term loan, stating that as soon as the EFC gives approval, they give you three years of short-term loan money at 0%, so you don't have to do BANS and pay interest and the Village is at that point since on May 15th everything was approved. Initial funds were released in June, which was paying the Village back for everything that it has paid on the UV project and all the engineering fees to date.

Trustee Foster expressed that regular updates would be helpful for the Village Board to understand what's going on with the project. Ms. Clark and Mr. Fletcher agreed.

Ms. Clark also said that there's a team meeting the first Friday of every month and that she's happy to include anyone that wants to listen to some of the decisions that are made. She said that they've been talking about scheduling issues with the EFC and construction costs.

Mr. Fletcher and the Village Board discussed the possibility of in-person and virtual updates, or monthly updates shared with the Board as part of the monthly agenda.

Ms. Clark continued to explain the project timeline. She stated that in the spring of 2021, funding was pretty much exhausted and the next major step in order to progress with the design, would be to hire the WBE electrical firm. As a team, they decided to wait until they could get through the financing aspects. Ms. Clark stated that Barton & Loguidice covered some of the costs for a period.

Mr. Fletcher explained that the EFC really encourages a short-term loan, especially if it's at 0% but they've really struggled timing wise being able to get projects to short term financing. He stated how do municipalities work on a project for 1-2 years and not have access to the money.

Trustee McKnight asked Ms. Clark how much of the funding did Barton & Loguidice carried. Ms. Clark said that the invoices when they had the whole team working were probably \$40,000 a month, which is why they stopped because they knew they had spent what the Village could do. And a few thousands of dollars a month when there were environmental questions with the EFC, but they couldn't carry that long-term.

Ms. Clark said that if they had known in 2020 that the short-term loan wasn't going to happen in the normal timeframe, they may have made a different decision to suggest getting a BAN, which is what other communities have had to do.

Ms. Clark continued that the funding came in June of this year, so they knew in May that they received the waiver approval and knew that once that happens the EFC is quick and knew the money would be coming within a month. Ms. Clark explained that they went to their subcontractor, Jay Stone Electrical Engineering Firm, and told them they had received the authorization so they could move forward. They were onsite in the middle of July and are actively working on the project with a projected November 15, 2023, completion date.

Trustee McKnight asked if they increased the price of a concrete tank by a million dollars. Ms. Clark replied that they did.

Trustee Foster asked if the \$750,000 contingency is enough to get the Village through 2025. Ms. Clark said that they went through a few iterations today, keeping a percentage. She said the percentage brings it to 1.6 million, but doesn't think we're really in that range because that would have made a large number to absorb at this moment, so they've reduced the contingency.

Ms. Clark explained that they've gone through and updated all the quotes based on estimates for 2024.

Ms. Clark said that the electrical firm started in July and unfortunate they just found out that they cannot put in numerous transformers to keep the existing 208-volt service in play going forward with the blowers, so they have to do a new service to the facility. She said that the rest of the processes will stay to 208 and everything that's new will be 480-volt. This increased the cost from about \$400,000 to a million dollars, a \$600,000 increase. It's not just to cost of the services, electrical panels in general are a lot more expensive than they were in 2019.

Mr. Fletcher explained how electrical work has really increased in cost since COVID.

Ms. Clark said that they've reduced the contingency because they're further along in the design, but the cost between the concrete tanks, electrical services, some of the equipment, keeping in the plant water pump it costs another 1.3 on top of where they thought they were going to be at 2.25.

Trustee McKnight asked what the long-term impact to how the Village finances this project. Trustee Cheney said that the Board will have to figure out how to go to the long-term financing.

Mayor Newhard stated that the payoff was 12-15%.

Discussion ensued regarding financing.

Trustee Cheney stated that several years ago the Village pierced the tax cap and began to save about \$500,000 a year. As a result, the Village banked approximately 3 or 4 million dollars and should be adding approximately another \$500,000 a year until converting to long-term financing.

He stated that the Village will be reducing the total cost by the 3 million the Village is receiving in the grant and another approximately four million that the Village has saved to date, so the financing will be about six or seven million dollars.

Ms. Clark said that their target is November 15, to get a set into the DEC to review.

The timeline including DEC review, final revisions, and bid process was discussed.

Trustee Foster clarified that April 2024 is the next milestone where the Village finds out where they are in terms of remaining contingency and budget and then during the construction phase, there may be change orders.

Trustee Cheney asked Ms. Clark if they include an allowance for change orders. Ms. Clark stated that that is what they did for the UV project, and she recommends it in this case.

Trustee Cheney explained that the document that's bid requires that the bidder include an allowance for change orders and the Village doesn't pay it unless it gets spent in change orders.

Trustee Foster asked if the cost estimate with the \$750,000 contingency includes allowances. Ms. Clark said that the allowances would be a part of that \$750,000. Ms. Clark said the filtration system will stay within the building as is designed right now, because unfortunately it would be \$800,000 or more for a specialty building. She said that they feel the building there, although not pristine, will work. They're using the existing concrete tank to put the dust filter in and they're probably going to do some small fan revisions, and small HVAC type things. Ms. Clark said that if for some reason down the road, the Village wants to take down that large structure, they could look at building a smaller building on top of the concrete structure that's there, that's housing the tertiary filter.

Trustee Foster asked if they identified the potential risks to the schedule, to the project moving forward within budget or any unforeseen circumstances, including what they are mitigating.

Mr. Fletcher said that they do that when we get through final QAQC such as what's the longest lead time? What's the most complicated thing to build? Where's the risk factor in terms of change order of where cost could come, and they typically do a memo on that that talks about it. He said it ties in an almost an asset management approach.

Ms. Clark said that all the construction is based on current estimates of the vendors and the lead times that they have in their proposals.

Mr. Fletcher said that one of the most difficult items since COVID is that there's not enough labor to build things and where that affects cost.

Ms. Clark explained the bid process.

The Village Board thanked Ms. Clark and Mr. Fletcher.

The Board discussed how to proceed with updates and agreed that they would like to receive quarterly updates until the project is in construction and then maybe one or two updates during the construction period. Also, when the monthly progress reports are received, they should be forwarded to the Board since it's such a large project.

Mr. Fletcher said that when they have meetings with the smaller team, they will take notes, and distribute the notes appropriately to the Board. If anything major comes up they will meet with the Board either in person or virtually to make sure everyone is well informed.

Announcement

1. Please take notice that on-street parking within the Village of Warwick is prohibited between the hours of 2:00 a.m. and 6:00 a.m. from November 1st through April 1st.
2. Paving and Improvements Project for State Route 94 and 17A in the Town of Goshen, Warwick, Village of Florida and the Village of Warwick Open House, Thursday, October 19, 2023, from 6:00 p.m. to 7:30 p.m. at Florida Village Hall, 33 South Street, Florida, NY. The project will improve drainage structures, pedestrian facilities, intersections and sections of pavement along various segments of Route 94 and Route 17A from the New Jersey state line to the Town of Goshen and along Route 17A from Warwick to Bellvale.

Correspondence

1. Village of Warwick Planning Board declaration of lead agency in coordinated SEQRA review for the special use permit and site plan approval application submitted by Warwick LLC in regard to the property located at 8 Forester Avenue.

Discussion

1. Battery Storage Moratorium.

Mayor Newhard stated that the discussion can occur during the motion on the agenda.

2. Community Choice Aggregation.

Village Attorney, Stephen Gaba, explained that it's a program allowed by the PSC that Board can enact which allows a bulk purchase of energy for all the residents in the Village. In order to affect the program, the Board must enact a local law with an opt-in and an opt-out provision, so the Board must decide if they want to opt-in or opt-out. Mr. Gaba said that most municipalities prefer the opt out provision. He explained that he will draft a local law and then the Village will have to hire an operator or agent who will go out and procure various contracts for the Village. Mr. Gaba said it would be considered professional services, but the Village should still put out a request for proposals to secure the best deal. He said that many municipalities like to partner with other municipalities since the more properties are involved, the greater the purchasing power but they can be added later so it doesn't have to hold the Village back.

Discussion ensued, including the CCA process, bid process, community outreach, cohorts, and energy consulting services.

The Village Attorney explained that the next steps would be to prepare a local law, introduce it, and hold a public hearing. If the local law is adopted, the Village would request proposals; however, the Village won't implement the program until the extensive CCA process is complete and how soon after that energy can be purchased, is hard to say. Trustee Foster said that she's spoken with Good Energy and Joule.

3. Climate Action Plan for Government Operations.

Mayor Newhard stated that the discussion can occur during the motion on the agenda.

4. Veterans Memorial Park Master Plan.

Trustee Foster stated that the final draft of the Memorial Park Master Plan includes comments from the public process, new survey information, and Instagram-like board, all of which is available on the Village's website as part of the agenda and at Village Hall as a paper copy. The next steps would be to have a discussion, followed by adoption of the plan in order to be able to move forward with implementation. Trustee Foster emphasized that this is a conceptual plan which means that the final designs could change as the Village progresses through implementation. A more detailed presentation will take place at the November 6, 2023, Village Board meeting.

Public Comment - Agenda Items Only

GUIDELINES FOR PUBLIC COMMENT

The public may speak only during the meeting's Public Comment period and at any other time a majority of the Board allows. Speakers must be recognized by the presiding officer, step to the front of the room/microphone, give their name, residency, and organization, if any. Speakers must limit their remarks to three minutes (this time limit may be changed to accommodate the number of speakers) and may not yield any remaining time they may have to another speaker. Board members may, with the permission of the mayor, interrupt a speaker during their remarks, but only for the purpose of clarification or information. The Village Board is not required to accept or respond to questions from the public at meetings but may request that inquiries be submitted in writing to be responded to at a later date. All remarks must be addressed to the Board as a body and not to individual Board members. Interested parties or their representatives may also address the Board by written communications.

Scot Brown:

Village resident, Scot Brown, explained that what he's been able to learn about Community Choice Aggregation, there's a mention of objectives of lowering costs and increasing use of green energy. He said that he hasn't been able to find based on the broad internet, prior Board presentations or information included on the agenda, how those objectives are balanced when they're in conflict. Mr. Brown said that it seems likely that green energy isn't always going to be less expensive. He said that there's a provision in the local law template for an advisory board, and that the Village Board brought up in the discussion relevant and really important items about how the choices get made and whether it's a mix of energy sources or one source for two years, whether there are conflicts among members of the cohort or just in general when green energy use and costs are in conflict with one another, who gets to decide how those are balanced.

Trustee Foster said that it's a great question and explained that the overall goal of CCA because of the collective bargaining power, the Village can receive a rate from their power provider that is lower than what someone would receive as an individual. She said her understanding is that the Village wouldn't move forward with any new source provider unless it was a guarantee of lower cost after comparing where the rate has been

and where it's going to make the best assessment that it's going to result in a much lower cost for residents and then the green energy piece is usually a little higher than the baseline; however that would still be ideally lower. Trustee Foster said that they need to understand flexibility and decision-making power.

Mr. Brown said that it raises some concern as the Village moves forward drafting a local law template that includes a provision for an advisory board but doesn't clarify what that board does or how much power the Village has a member of that cohort versus the agent that is going to make those choices for the Village.

Village Attorney, Stephen Gaba, said that the local law allows the Village to enact a program which the Board can activate when they are ready to do so. He also said that the Village would have a contract with the agent, where the terms can be varied. The local law will allow the Village to move forward but won't mandate the Board to do anything and the Board also can amend the local law if they don't agree with the terms of it.

Motions

Veterans Day Parade

A **MOTION** was made by Trustee Cheney, seconded by Trustee McKnight and carried to grant permission to the Veterans of Foreign Wars Post No. 4662 to hold a Veterans Day Parade Saturday, November 11, 2023, as per their facility use application and parade map received October 3, 2023. Parade lineup will take place on High Street at 10:30 a.m. with step-off beginning at 11:11 a.m. The parade will culminate with a ceremony at Veterans Memorial Park at approximately 12:00 p.m. The parade route has been approved by the Town of Warwick Police Department. Completed park permit, security deposit and proof of insurance have been received.

The vote on the foregoing **motion** was as follows: **APPROVED**

Trustee Cheney Aye Trustee Foster Aye Trustee Collura Aye

Trustee McKnight Aye Mayor Newhard Aye

Vacation Carry Over

A **MOTION** was made by Trustee Cheney, seconded by Trustee McKnight and carried to grant permission to Village of Warwick Employee, Chris Kane, to carry over 5 vacation days.

The vote on the foregoing **motion** was as follows: **APPROVED**

Trustee Cheney Aye Trustee Foster Aye Trustee Collura Aye

Trustee McKnight Aye Mayor Newhard Aye

Barton & Loguidice - Lead Service Line Inventory

A **MOTION** was made by Trustee Cheney, seconded by Trustee McKnight and carried to hire Barton & Loguidice to perform a Lead Service Line Inventory of the Village's Water Distribution System as part of the 2022 Bipartisan Infrastructure Law Lead Service Line Replacement (BIL-LSLR) funding through the Drinking Water State Revolving Fund (DWSRF). Two Statements of Qualifications were received.

The vote on the foregoing **motion** was as follows: **APPROVED**

Trustee Cheney Aye Trustee Foster Aye Trustee Collura Aye

Trustee McKnight Aye Mayor Newhard Aye

Discussion

Trustee Foster said that she wanted to carry forward some of the project management procedures that were discussed during the last presentation so that the consultant provides schedule updates and progress reports based on the Board's determination so that Board understands the outcomes of the assessment.

Executive Session

A **MOTION** was made by Trustee Collura, seconded by Trustee Cheney and carried to enter into Executive Session to seek confidential advice of counsel.

The vote on the foregoing **motion** was as follows: **APPROVED**

Trustee Cheney Aye Trustee Foster Aye Trustee Collura Aye

Trustee McKnight Aye Mayor Newhard Aye

In Executive Session

In Executive Session: Mayor Michael Newhard and Trustees Barry Cheney, Carly Foster, Mary Collura and Tom McKnight. Village Attorney, Stephen Gaba.

Exit Executive Session

A **MOTION** was made by Trustee Cheney, seconded by Trustee McKnight and carried to exit Executive Session and resume the regular meeting.

The vote on the foregoing **motion** was as follows: **APPROVED**

Trustee Cheney Aye Trustee Foster Aye Trustee Collura Aye

Trustee McKnight Aye Mayor Newhard Aye

Settlement of Claim

A **MOTION** was made by Trustee Cheney, seconded by Trustee Foster and carried to approve the proposed settlement of the copyright claim of Michael Briner for \$4,500 and to authorize the Mayor to execute the Settlement Agreement.

The vote on the foregoing **motion** was as follows: **APPROVED**

Trustee Cheney Aye Trustee Foster Aye Trustee Collura Aye

Trustee McKnight Nay Mayor Newhard Aye

**RESOLUTION SETTING A PUBLIC HEARING ON THE SPECIAL USE PERMIT
APPLICATION FOR 8 FORESTER AVENUE**

WHEREAS, the Village Board of the Village of Warwick has received an application from Warwick LLC for grant of a special use permit to convert existing office space on the first floor of the building at 8 Forester Avenue (Section 207, Block 3, Lot 3) into three one-bedroom apartments and to add a second floor with three additional one-bedroom apartments pursuant to Village Code §145-161, and

WHEREAS, under the Village Code it is necessary to hold a public hearing on the said application,

NOW, THEREFORE, BE IT RESOLVED as follows:

1. That a public hearing on the said application for a special use permit is set for November 6, 2023 at 7:30 o'clock p.m.; and
2. That the Village Clerk shall publish, post and provide notice of the public hearing as required by the Village Code; and
3. That the Village Clerk shall provide a referral to the Orange County Planning Department under General Municipal Law §239-m.

Trustee McKnight presented the foregoing resolution which was seconded by Trustee Cheney,

The vote on the foregoing resolution was as follows: **APPROVED**

Barry Cheney, Trustee, voting Aye

Carly Foster, Trustee, voting Aye

Thomas McKnight, Trustee, voting Aye

Mary Collura, Trustee, voting Aye

Michael Newhard, Mayor, voting Aye

Full-Time Secretary to the Planning Board – Kristin Bialosky

A **MOTION** was made by Trustee McKnight, seconded by Trustee Collura and carried to hire Kristin Bialosky to the position of Full-Time Secretary to the Planning Board in accordance with Civil Service requirements with a start date of November 6, 2023.

The vote on the foregoing **motion** was as follows: **APPROVED**

Trustee Cheney Aye Trustee Foster Aye Trustee Collura Aye

Trustee McKnight Aye Mayor Newhard Aye

Discussion

Trustee Foster said that she is very excited about this role. Mayor Newhard said that there have been multiple meetings with the Chairperson's of each Board, and they are very excited as well. He explained that in the interim, the bridge has been Village Clerk, Raina Abramson, and Deputy Clerk, Jennifer Mantee who have done a remarkable job unsnarling the Village code and trying to set things right so that when the new secretary comes on board, she'll have some very good teachers. Trustee Foster asked if there has been continued discussion about in the case that things are running smoothly if there's an opportunity to support with grants and special projects. Mayor Newhard said he thinks that there will be.

**RESOLUTION ACCEPTING AND ADOPTING THE DRAFT CLIMATE ACTION
PLAN FOR GOVERNMENT OPERATIONS**

WHEREAS, the Village Board of the Village of Warwick recognizes the risk that climate change poses to its community; and

WHEREAS, in order combat climate change, the Village of Warwick is committed to addressing greenhouse gas (GHG) emissions at the local level; and

WHEREAS, in furtherance of this goal, in 2019 the Village Board adopted a resolution committing to the Climate Smart Communities ("CSC") pledge to set reduction goals for GHG emissions; and

WHEREAS, in 2022 the Village Board formally established the Climate Smart Task Force ("CSTF") to, *inter alia*, facilitate the Villages' climate change-related actions and to provide guidance to Village officials on steps that can be taken to advance the Village's progress in environmental sustainability; and

WHEREAS, the CSTF has drafted and provided to the Village Board a draft Climate Action Plan For Government Operations ("CAP"), a copy of which is on file in the office of the Village Clerk; and

WHEREAS, the CAP proposes Overall Environmental Sustainability & Resilience Goals, both short-term and long-term, for the Village and provides recommendations for updating the Government Operations GHG Inventory and emissions reductions initiatives as well

as providing that the CSCTF will take on responsibilities of Climate Action Committee (“CAC”); and

WHEREAS, the Village Board wishes to approve and adopt the CAP, and undertake the recommendations and provisions therein going forward as circumstances and funding may allow;

NOW THEREFORE BE IT RESOLVED, that the Village Board hereby approves and adopts the draft Climate Action Plan For Government Operations.

Trustee McKnight presented the foregoing resolution which was seconded by
Trustee Foster,

The vote on the foregoing resolution was as follows: **APPROVED**

Barry Cheney, Trustee, voting Aye

Carly Foster, Trustee, voting Aye

Thomas McKnight, Trustee, voting Aye

Mary Collura, Trustee, voting Aye

Michael Newhard, Mayor, voting Aye

Discussion

Trustee Cheney asked for confirmation that the Village is not committing to do anything that would incur a cost until the Board knows exactly what it would be, since the document is general and broad. Trustee McKnight agreed and explained that within the Climate Smart Communities program, certain actions are weighted higher than others, with the Climate Action Plan highly weighted. He said that the whole purpose is to signal the intention, and to come up with ideas based on community input of what are some of the things that the Village can and should pursue in effort to reach some very vague and soft targets. Trustee McKnight stated that the Village is not committing themselves to anything, but the document says that the Village is taking a closer look. He said that this initiative benefited from coming on the heels of the Comprehensive Plan since it was one of the overall goals to consider based on resident input during that process. Trustee McKnight added that the Village has a Climate Smart Communities Task Force, which is made up of residents who have provided their input as well. He said that he took that input and created this greenhouse gas inventory for government operations plan targeting

a 15-20% reduction by 2028. Tangible actions, such as streetlight initiatives and potential vehicle fleet conversion, are highlighted. Some proposed actions involve studying aspects due to insufficient knowledge. Trustee McKnight stated that the overall plan takes a broad-strokes approach and is a document that is meant to be updated on an ongoing basis.

Trustee Cheney said that the document was very well written and asked Trustee McKnight how he arrived at the 15-20% reduction. Trustee McKnight said that it's less than the state's target but since the Village is still early in the process, he took a softer approach.

RESOLUTION INTRODUCING A PROPOSED LOCAL LAW
IMPOSING A ONE-YEAR MORATORIUM ON LAND USE APPROVALS
FOR DEVELOPMENT OF PUBLIC UTILITY FACILITIES INVOLVING
ENERGY STORAGE SYSTEMS

WHEREAS, the Village Board of the Village of Warwick has a local law before it entitled: "The Village of Warwick Temporary Moratorium on the Acceptance and Processing of Applications for Approval of Public Utility Facilities Involving Energy Storage Systems", and

WHEREAS, in order to enact the said local law it is necessary to formally introduce it and to hold a public hearing on it,

NOW, THEREFORE, BE IT RESOLVED as follows:

1. That the movant of this resolution does hereby introduce the proposed local law, and
2. That a public hearing on the proposed local law be set for November 6, 2023 at 7:30 o'clock p.m. and that due notice of the same is directed to be given by publication and posting.

Trustee McKnight presented the foregoing resolution which was seconded by

Trustee Foster,

The vote on the foregoing resolution was as follows: **APPROVED**

Barry Cheney, Trustee, voting Aye

Carly Foster, Trustee, voting Aye

Thomas McKnight, Trustee, voting Aye

Mary Collura, Trustee, voting Aye

Michael Newhard, Mayor, voting Aye

Discussion

Trustee Foster expressed concerns about the potential impact on the grid and the need for a conversation with Orange and Rockland. Mayor Newhard agreed that it's an important discussion to have because next summer may not be a good summer.

Trustee Cheney said that there is an exception for resident properties but raised the question about commercial properties that want to have a batter storage system that is associated with solar that is the same size as what you'd see at a residential property. He said he was wondering if the moratorium should be focused not so much on the type of use of the property as opposed to the size of the battery storage.

Village Attorney, Stephen Gaba, said that he did not see an exception in the Town of Warwick's moratorium for commercial uses. Trustee Cheney said that it seems to him that it's the size of the battery storage that should tip whether it's part of the moratorium or exempt as opposed to residential versus commercial.

Mayor Newhard said that there's a residential program that Orange & Rockland has been promoting but inquired if there's a commercial program as well. Trustee Cheney wasn't aware of any but stated that Orange and Rockland is trying to enhance their grid capabilities and thinks they may not care whether it was solar coming from a commercial property versus solar coming from a residential property as long as the size doesn't put it in a different category that makes it something that should not be exempted.

Trustee Foster asked if the Village should be considering requesting some kind of special inspections. Mayor Newhard said they are going through some pretty rigorous inspection

and fire safety at the residential level such as they can't be in a garage but must be in a fire safety area from what he's learned from the Building Inspector. Mayor Newhard explained that the Building Inspector has received a level of pushback since the Town doesn't go through that level of measure. Trustee Foster added that they're not as densely populated.

Stephen Gaba suggested noticing the public hearing, which may result in some changes in the wording, so the public hearing can be held open, make the changes, post them and then adopt a local law with the changes in it after the Board decides if it wants to go by size or put in other exemptions.

Trustee Cheney said that the moratorium didn't say anything with respect to modifying an existing permit for a facility and how that would be treated. He asked if by establishing a moratorium, is it just on new projects or is it also being established on projects that might have to come back to the Planning Board for revision.

Stephen Gaba explained that it says all land use approvals, so believes it would cover amendments, but it can be looked at for clarity.

Trustee Collura said that she would be interested in what other points are brought up at the public hearing which might change how the Board addresses the moratorium.

Authorization of Payment #4 to TAM Enterprises, Inc.

A **MOTION** was made by Trustee Cheney, seconded by Trustee McKnight and carried to authorize Payment #4 to TAM Enterprises, Inc. in the amount of \$108,570 for the South Street sidewalk replacement project as certified by Village Engineer David Getz of Engineering & Surveying Properties. Funds are appropriated in budget code A. 5110.4400 in the 2023-24 budget.

The vote on the foregoing **motion** was as follows: **APPROVED**

Trustee Cheney Aye Trustee Foster Aye Trustee Collura Aye

Trustee McKnight Aye Mayor Newhard Aye

Discussion

Trustee Foster asked if the Village has an updated date on when they're going to work on the next stretch. Trustee Cheney said no, but they're working to get that but the funding

that the Village has must be spent by the end of November and they're aware of that. Trustee Foster asked if there are any anticipated disruptions to the timeline. Trustee Cheney said there shouldn't be anything that stands in the way.

Reports

Trustee Cheney's Report:

Trustee Cheney provided an update on the Well #3 treatment plant project. He stated that Orange County Department of Health has approved the design, but it still needs to receive from the Village a survey that shows the Village's ownership in 100 foot radius of the Well and the Village's control over a 200 foot radius of the Well. The Village is awaiting that from the surveyor so that we can move ahead and get any additional easements. The Village knows they own the 100 feet, but the way the Well was situated within the 400 x 400 foot square that it's in was not in the center which caused some issues so they're going to have to work with the property owner to get an easement that takes that arc. Trustee Cheney said that the Village also needs to perform some water quality testing which since the Well has not been pumped, it will require a couple of days of pumping before performing the testing which is going to be scheduled within the next couple of weeks. The expectation is that it would be able to be bid late winter and construction would begin in spring of 2024.

Trustee Cheney also provided an update on the Maple Avene pump station relocation. He said that the foundation borings were finally completed which was a delayed item because it was an MWBE issue again. The geotechnical boring logs are expected by the end of the month, and they're expected to be submitted to Orange County Department of Health in mid-December. They have to finish the foundation design, looking for a bid opening in late March, releasing the bid documents sometime in mid-early to mid-February, awarding the contract in April and starting construction in May. The expectation is construction should take six to eight months but it's going to be dictated by the lead time on the delivery of the building and the equipment.

Trustee Foster's Report:

No report at this time.

Trustee Collura's Report:

Trustee Collura reported that this year there will be a Halloween candy donation drop off thanks to former Trustee Eileen Patterson at Track Seven, 3 Forester Avenue, so people can drop off donations by Friday, October 27th. Also, the Community Center is having a haunted house experience to benefit the Warwick Valley Community Center and the youth programs they have.

The event will take place this weekend from 6 p.m. to 9 p.m., admission is \$10, and more information can be found on their website.

Trustee Collura also reported that she and the mayor met with the Architectural Review Board at their last meeting to discuss items such as putting together a guidebook and a flowchart and just different things that will get the word out about what they do, how they function, and certain procedures. Trustee Collura stated that she's excited to get started on that to make things move a little smoother.

Trustee Collura said that the first inclusion task force meeting that took place about a month ago where they identified certain disconnects in the community and came up with some solutions. The next step will be inviting key players to work with the task force and move forward with those actions.

Trustee Collura concluded with an announcement that the next village newsletter will be in resident's mailboxes the first week in December, so the deadline for content would be November 17th.

Trustee McKnight's Report:

No report at this time.

Mayor Newhard's Report:

No report at this time.

Public Comment – Non-Agenda Items

No comments were made.

Final Comments from the Board

No comments were made.

Adjournment

A **MOTION** was made by Trustee Cheney, seconded by Trustee Foster and carried to adjourn the regular meeting at approximately 10:45 p.m.

The vote on the foregoing **motion** was as follows: **APPROVED**

Trustee Cheney Aye Trustee Foster Aye Trustee Collura Aye

Trustee McKnight Aye Mayor Newhard Aye

Raina M. Abramson, Village Clerk