

July 10, 2019 Work Session

6:30 PM

Supervisor Grant along with Council Members Mohun, Frounick, Gadd and Waite audited the Highway, General Fund and Special District claims. Discussion on Duke Energy project. Members had discussion with nearby residents. Atty. Spitzer came in to brief on progress, which wasn't anything this last month. Gave a resolution to close the public hearing and send back to County Planning Board. Superintendent Czworka received a sander he ordered, bill will be on the way. Graff Rd. is completed except for ditching. Working on Woodley Rd. now; ditching, stone and millings. They are also on Tinkham installing a culvert pipe for a new build. Discussion on new loader and pricing for an October delivery. The Clerk disbursed the Town Clerk Monthly report for the month of June to the Board members.

July 10, 2019

Regular Meeting

7:36pm

Supervisor Grant called the meeting to order and asked Council Member Gadd to lead the pledge to the flag. Present were Council Members Frounick, Gadd, Mohun and Waite.

Supervisor Grant re-opened the Public Hearing on Rezone and Special Permit Application – Duke Energy at 7:37pm.

Financial Matters

General Fund claims #135-161 totaling \$11,848.65 presented. Motion made by Gadd/Frounick to approve the General Fund claims presented. Voting all ayes, carried.

Highway Claims #105-116 totaling \$33,021.55 presented. Motion made by Mohun/Gadd to approve the Highway claims presented. Voting all ayes, carried.

Cowlesville Water District claims #39-44 totaling \$3,442.84 presented. Motion made by Frounick/Waite to approve the water district claims, voting all ayes, carried.

Cowlesville Street lighting claim #7 totaling \$653.68 presented. Motion made by Mohun/Waite to approve the lighting district claims, voting all ayes, carried.

Appropriation to Highway Fund:

Resolution 2019-7-7 Appropriation of Funds:

From General Fund Unassigned Reserve	\$100,000.00
To Highway Fund General Repairs Contractual DA5110.4	\$100,000.00

Motion: Mohun; Seconded by Gadd

Ayes: 5 Noes: 0 Abstain: 0 Absent: 0

Supervisor's Financial Statements presented for June 2019. Motion made by Mohun/Gadd to accept the Financial Reports, voting all ayes, carried.

Minutes: June Meeting

Supervisor Grant asked if there were any corrections/amendments to the minutes. Motion made by Mohun/Frounick to approve meeting minutes. Voting all ayes, carried.

Correspondence:

The Town Clerk received a guide book from Letchworth State Park for summer programs. This will be posted on the Clerk's official Bulletin Board for public viewing. The Town Assessor gave the Town Clerk the Assessors Roll for the 2020 Town and County Taxes. The Supervisor received an accounting of the mid-year Health reimbursement plan for the Town Highway Department. The Town Justice report was received by the Supervisor for the month of May.

Supervisor Grant opened the floor to hear public comment on the Duke Energy Project regarding the proposed re-zoning of parcels in Bennington along State Rd. 77 and County Route 354. Three representatives from Duke Energy were in attendance tonight to respond to the questions from last

month's meeting. They provided a color map with additional screening/landscaping. Have also added extra space from road (now 85ft from road). The Solar array will act as a snow fence along that area. Les Green concerned about his views. Vegetation was not added to South west corner of East side. Les will give permission if reps want to come onto his property. Att. Spitzer gave a resolution to the Board to close the hearing and submit back to the County Planning Board. Duke adjusted panels farther back from Hughes property. Sound is minimal so Duke doesn't feel that it would have a big impact. Will work with engineers as construction evolves. Total amount of time to fully construct the array will be 6-8 months. No herbicides will be used to maintain weeds. No studies have been published stating that solar project has decreased property values. Deb Huber feels that it's too close to property lines, would like it back and hidden/not visible. No referendum on zoning law. No electromagnetic fields are created by solar panels. Duke said do not want to clear trees as there shouldn't be disruption to the way the land is today Les Green asked about remediation if solar panels not used. There is a plan to take down and restore back to its current state. Close hearing at 8:28pm.

Resolution #2019-7-1 CLOSING PUBLIC HEARING AND REFERRING SPECIAL USE PERMIT AND SITE PLAN APPLICATIONS TO WYOMING COUNTY PLANNING BOARD

NIAGARA SOLAR ENERGY PROJECT

WHEREAS, on or about March 23, 2019, Duke Energy Renewables Solar, LLC (the "Applicant") submitted a Petition for a change of zone on two parcels of land (Tax Map Nos. 16.-1-43 and 16.-1-34.2) (the "Petition") owned by Wayne Peirick, located east and west of Allegany Road/SR 77, north of Clinton Street/SR 354 in the Town of Bennington, Wyoming County, New York (the "Property") to the Town Board of the Town of Bennington ("Town Board");

WHEREAS, on or about March 23, 2019, the Applicant submitted related applications for a Special Use Permit and Site Plan Approval (the "Applications") to construct and operate a ±20 MW solar energy facility to be known as the Niagara Solar Energy Project (the "Project") pursuant to the Town of Bennington Solar Law (Local Law No. 2 of 2017) on the Property;

WHEREAS, on or about May 8, 2019, the Town Board, having previously notified all involved agencies of its intent, declared itself as Lead Agency under the State Environmental Quality Review Act (ECL Article 8 and its implementing regulations at 6 NYCRR Part 617, collectively "SEQRA"), classified the Project as a Type 1 Action and began reviewing the Project in its role pursuant to SEQRA and the Town of Bennington Zoning and Solar Laws;

WHEREAS, on or about June 3, 2019, Wyoming County Planning Board, acted on a referral from the Town Board and recommended approval of the Petition and requested further information on the Applications for review and future action;

WHEREAS, on or about June 12, 2019, the Town Board held a public hearing on the zone change petition and the Applications and continued the public hearing to its July 10, 2019 meeting.

NOW, THEREFORE, be it hereby resolved by the Town Board of the Town of Bennington as follows:

1. that the public hearing is hereby closed; and
2. that the Special Counsel is hereby directed to refer the Applications including all materials submitted by the Applicant in support of the Applications, to the Wyoming County Planning Board for its August 1, 2019 meeting, including without limitation, the revised site plan, the Visual and Glare analysis prepared by ERM, the written responses to the public comments, the revised vegetative buffer concept plan and all other materials submitted in support of the Applications, which material, together with the

information previously provided to the Board, constitutes the full statement of such action

3. This Resolution is effective immediately.

Motion by Waite; seconded by Frounick

Ayes: 5 Noes: 0 Abstain: 0 Absent: 0

Public Concerns:

Zack Clark asked if there are other projects like Duke Solar in the Bennington area. Yes; another entity has approached the Board. The state would be involved in this due to the size of this project. Frank Weber asked what the financial benefit to the Town would be for a solar project. That is not known at this time.

Departments:

Town Clerk: The Clerk spoke about the possibility of a County Wide Dog Enumeration that was discussed by some of the Town Clerk's with the County Dog Warden.

Assessment: A report was submitted by Kandace Wittmeyer to the Board for work that was completed during the month of June. A letter was received from NYS Department of Tax and Finance regarding special franchises for National Fuel, NYSEG and Verizon.

Zoning/Planning: A report was submitted by Katie Nicole Marble to the Board for work that was completed during the month of June. Work performed included; property maintenance plans, attended continuing education session, property maintenance regarding zombie houses in the Town.

Highway Department:

Resolution #2019-7-2 Create Temporary Part-time Acting Highway Superintendent position.

Be it Resolved, that the Town Board hereby approves the creation of one Temporary, Part-time Acting Highway Superintendent position within the Highway Department, effective 7/1/19 through 12/31/19 at eight hours per week at a salary of \$23.77 per hour.

Motion by Waite; seconded by Gadd.

Ayes: 5 Noes: 0 Abstain: 0 Absent: 0

Parks/Recreation: Summer concert series begins tomorrow July 11th at the Museum.

Resolution #2019-7-3 Lawn Maintenance at Town Hall and Highway Department

Be it Resolved, that the Town Board hereby agrees to reimburse Carolyn Mruczyk, XXXX Graff Road Attica NY \$250 for lawn care at the Bennington Town Hall, said sum to be payable in October 2019; and

Be it Further Resolved, that the Town Board hereby agrees to reimburse Margaret Ayes, xxxx Old Alleghany Road, Attica NY \$200 for lawn care at the Bennington Highway Department, said sum to be payable in October 2019.

Motion by Frounick; seconded by Gadd.

Ayes: 5 Noes: 0 Abstain: 0 Absent: 0

Water District: Leak in the lines. County has been out locating.

Transfer Station: John, who has worked at the transfer station for the last 18-20 years will be retiring at the end of July. Jim will work to cover and Clerk was authorized to advertise the vacancy.

Resolution #2019-7-4 Fill Vacancy at Transfer Station

Be it Resolved, that the Town Clerk is hereby authorized to advertise to fill the vacancy of Transfer Station Operator at the Town Transfer Station, and

Be it Further Resolved, that the Town Board is hereby authorized to fill said vacancy effective 8/1/19.

Motion by Frounick; second by Gadd.

Ayes; 5

Noes: 0

Abstain: 0

Absent: 0

Future operations of the Transfer station. Motion by Councilman Frounick to table Resolution 2019-7-5. There being no second to the motion, not carried.

Resolution #2019-7-5 Solid Waste Management in Town of Bennington

Whereas, the Town Board has received information from the Transfer Station Advisory Committee on options for the management of solid waste within the Town, as well as information from residents, town officials, and industry representatives and has determined that changes are necessary to the disposal of solid wastes in the Town,

Now, Therefore, Be it Resolved, that the Town Board has determined that the best option for the future of the Town is to enter into the curbside collection of solid waste and recycling materials through the program managed and bid by the Wyoming County Planning Department, as outlined in Option A of the Transfer Station Advisory Committee's report, said program to be effective January 1, 2020.

Motion by Waite; seconded by Gadd.

Ayes: 4

Noes: 1

Abstain: 0

Absent: 0

Tires: Preivity's will be bringing a dumpster on 7/18/19 for us to load.

Old Business: Spectrum Franchise Agreement

Resolution #2019-7-6 Rescind June 12 2019 Motion Spectrum Franchise Agreement

Be It Resolved, that the motion made and adopted by this Board on June 12, 2019, is hereby rescinded; and

Be It Further Resolved, that a public hearing shall be held on the 14th day of August, 2019 at 7:30 p.m. at the Bennington Town Hall, to hear comments on the proposed agreement between the Town Board and Charter Communications/Spectrum; and

Be It Further Resolved, that the Town Clerk is hereby authorized and directed to advertise the same in the legal publication of this Town.

Motion by Mohun; seconded by Gadd.

Ayes: 5

Noes: 0

Abstain: 0

Absent: 0

New Business: None

County Business: Green light legislation regarding Drivers licenses to illegal aliens. Erie County Clerk filed a lawsuit against the State. Wyoming County is supportive of Erie County's lawsuit. Solar Energy loan assistance. County adopted program for individuals interested in solar energy. Project applications from County for loan programs will be available. Schoellkopf Rd. Bridge is in design phase right now. There is a year to a year and a half away yet from a start. Waite family has been working on upstairs hall since February. Paint/tiles/lights. Possibly hold our September meeting upstairs.

Any other Business to come before the Board

There being no further business, a motion was made by Mohun to adjourn. Meeting adjourned at 9:08pm.

Respectfully Submitted,

Carolyn Busch, Town Clerk