

Bennington Town Board Meeting
February 12, 2020

Work session began at 6:45pm with all Board members present. Supervisor Grant went over the agenda for tonight's meeting. Board members Mohun, Frounick, Waite and Gadd audited the vouchers. The IDA will have a public meeting at the Town Hall on Tuesday, February 18th at 3pm regarding the Niagara Solar Project. Ken reported on issues with the Gradall, sent to Advantage Equipment. Will cost \$3,200 to fix the cylinder. Another piece of track equipment needs repair as well, estimating \$12,000 for this repair and it will be out of commission for a month. The Superintendent is continuing to purchase sand/salt for the roads due to icy conditions. He also wanted to have discussion about the pickup on whether to trade it in or keep it. Would like to turn in this ½ ton for a 1 ton. The Board asked that he get estimates.

Supervisor Grant called the meeting to Order at 7:32 PM
Supervisor Grant asked Councilman Gadd to lead the pledge of allegiance.

Financial Matters: General Fund vouchers #12 to #33 \$58,059.91.
 Highway Fund vouchers #10 to #30 \$63,692.24
 Cowlesville Water vouchers #4 to #7 \$2,272.13
 Cowlesville Light vouchers #1 to #2 \$221.82.
 Fire Department vouchers Benn. Fire #1 \$30,000.

Motion made by Mohun/Frounick; voting all ayes, carried.

Financial Reports – Supervisor gave the monthly report for January. This does not include all payments that came in from taxes for January.

Supervisor Grant asked for a motion to approve. Motion made by Waite/Gadd; voting all ayes, carried.

Minutes of previous Town Board Meetings – Year End dated 12/30/2019 and 2020 Organizational/Regular meeting on 1/8/2020. Motion made by Mohun/Waite to approve; voting all ayes, carried

Correspondence: Letters were received from residents that came with tax payments regarding garbage service. Correspondence received by Supervisor Grant from Association of Towns meetings and their proposed 2020 legislative programs. Certificate of Insurance received from Hojnowski Transport. Copies requested by Office of the State Courts asking for a copy of the independent audit report from the Court Clerk.

Departments:

Clerk – The Clerk gave the Board members a copy of the 2019 Town Clerk's Annual report along with January 2020 monthly report. The Clerk reported on the status of Tax

NOTE: This is a draft version and pending approval by the Town Board.

Collection in the Town. 85% of the payments have come in. The Tax Collector has paid the Supervisor the Town's portion of the collection in full, totaling \$1,365,052.64.

Assessor – Nothing

Zoning/Planning –Presentation by Wyo. Co. Zoning Dept; advertise for members/alternates/ZBA secretary/Dep. Zoning Officer.

Alyssa Cutcliffe gave a presentation to the Board on the services that the Wyoming County Zoning Department can offer to our Town. There was a grant written in 2016 and a program was created in 2017 in which two municipalities turned Zoning services over to the County. In 2018 six more municipalities have gone to the County program. Currently they have 11 municipalities that they work with throughout the County. Their grant requires them to come to the Municipalities in Wyoming County and let the Board's know what they can offer. Their offices are open Monday through Friday 8am to 4pm and take care of permits, enforce zoning laws for the various Towns and attend zoning board meetings. Their cost to the Town of Bennington would be \$2.72/parcel or \$5,856.16 annually. They estimate a savings to the Town of Bennington of \$1,986.16 annually based on current salary of the Zoning Officer and the permit revenues. They are also certified to give training to the ZBA and Planning Boards. This is contingent on the Board signing up with this program.

Special Permit renewals: Two Special Use permit renewals for Marchewka. Motion made by Mohun/Gadd to approve; voting all ayes carried.

One Special permit renewal for Kaminski. Motion to approve by Frounick/Waite; voting all ayes carried.

Supervisor Grant asked that the Clerk advertise for open positions on ZBA and Deputy Zoning officer. Motion to approve by Mohun/Frounick; voting all ayes carried.

Highway –Chris Domes from the Roads Advisory Committee handed out a summary to the Board members. Karen DeYoung stated that the summary are actually questions from the committee for information that they need from the Board to help them make recommendations. She asked that the Town advertise the meetings on the Town's website. The Clerk will give the dates and times to the Webmaster for input. Supervisor Grant would like an intern from Cornell come to work with the Highway Superintendent and assist in looking at our revenues and expenditures to make recommendations for repair to the Town roads. Supervisor Grant advised the audience that they intend to put forth a referendum changing the position of the Highway Superintendent from a two-year elected term to a Board appointed position. The Town would vote on this referendum in November. The Roads Committee would like responses back for their next meeting on the 21st.

Park/Recreation – Supervisor Grant asked Councilman Gadd to develop specs for a mower purchase. He will have for the next meeting.

Water District – Highland Glen Project – NYS DOT undertaking agreement

Resolution #2020-2-1

NYS DOT Undertaking Agreement for Highland Glen water line installation and future highway projects.

NOTE: This is a draft version and pending approval by the Town Board.

WHEREAS, the Town of Bennington, (hereinafter referred to as "Permittee"), from time to time receives permits from the New York State Department of Transportation (hereinafter referred to as the "NYSDOT") and otherwise conducts activities and operations upon highways and/or within right-of-way controlled by the State of New York for such purposes as the obstruction, installation, construction, maintenance and/or operation of facilities; and

WHEREAS, Permittee's access and operation upon state right-of-way is conditioned upon compliance with Highway Law Sections 52, 103, 203 and/or 234, including the conditions that Permittee assume all responsibility for (a) the temporary control of all modes of traffic (including motorized and non-motorized travel) affected by Permittee's operations, (b) complete restoration of state facilities to their condition prior to permitted use or activity, and (c) all claims, damages, losses and expenses,

NOW, THEREFORE, in relation to all operations and/or actions undertaken within state right-of-way, Permittee hereby agrees to the following terms and conditions:

1. Permit Applications. Excepting only activities undertaken to protect public safety because of emergency conditions or incidents, Permittee shall provide timely written notice to NYSDOT of operations or activities affecting state right-of-way. Under normal circumstances, a minimum of five business days' notice shall be provided. Notification of emergency activities shall be provided to NYSDOT as soon as practicable after the activity. The Permittee shall apply for project-specific permits for activities not allowed under any existing annual permit. Such application shall identify proposed project locations, desired dates/hours, proposed work/activities, traffic control, and site restoration

2. Applicable Rules, Regulations & Conditions. Permittee shall comply with all of the laws, rules and regulations applicable to construction, maintenance activities and operations and shall further comply with such terms and conditions that may be imposed by NYSDOT in connection with permitted activity or operations. Temporary Traffic Control, highway safety appurtenances, and restoration of state facilities shall be completed in accordance with NYSDOT regulations and standards.

3. Site Restoration. Permittee shall, at its own expense, promptly complete the work allowed under each permit and, within a reasonable time, restore State property damaged by its work/activities to substantially the same or equivalent condition as existed before such work was begun as determined by the Commissioner or his/her designee. In the event that the Permittee fails to so restore damaged State property within what the Commissioner deems to be a reasonable time, the Commissioner, after giving written notice to the Permittee, may restore the property to substantially the same or equivalent condition as existed before the Permittee's work/activities, in which case, Permittee agrees to reimburse the reasonable expenses in connection therewith.

4. Payment & Release of Liens. Permittee shall be responsible for the payment of all costs and materials relating to its work in the public right-of-way, and agrees to defend and save harmless NYSDOT against any and all lien claims made by persons supplying services or materials to Permittee in connection with Permittee's work.

5. Indemnity. In addition to the protection afforded to NYSDOT under any available insurance, NYSDOT shall not be liable for any damage or injury to the

NOTE: This is a draft version and pending approval by the Town Board.

Permittee, its agents, employees, or to any other person, or to any property, occurring on the site or in any way associated with Permittee's activities or operations, whether undertaken by Permittee's own forces or by contractors or other agents working on Permittee's behalf. To the fullest extent permitted by law, the Permittee agrees to defend, indemnify and hold harmless the State of New York, NYSDOT, and their agents from and against all claims, damages, losses and expenses, including but not limited to, claims for personal injuries, property damage, wrongful death, and/or environmental claims and attorney fees arising out of any such claim, that are in any way associated with the Permittee's, activities or operations under any and all permits issued using this Undertaking.

FURTHERMORE, Permittee hereby warrants that the obligations of this Undertaking are backed by the full faith and credit of Permittee. Permittee may insure or bond any of the obligations set forth herein, or may rely upon self-insurance, budgeted funds, or funds for general operations.

This Undertaking shall be applicable to all permitted activities and operations undertaken after the date of execution and work initiated while this Undertaking is in effect. This Undertaking may be revoked by the Permittee or rejected by NYSDOT upon thirty days written notice but will continue to apply to all permitted activities/operations that were permitted by virtue of this Undertaking. Unless terminated for the purpose of future activities/operations, this Undertaking shall have a term of twenty (20) years and shall be kept on file to facilitate the issuance of future permits to which it will apply.

Motion made by Mohun: Seconded by Waite:

Ayes: 5

Noes: 0

Abstain: 0

Absent: 0

Hear Public Concerns & Petitions: Karen DeYoung asked that the Board consider the presentation given by Wyoming County Zoning Department and convert the Zoning responsibilities over to the County to manage. Bob Padak asked what the Roads Advisory Committee were working on.

Old Business:

ConnectGEN is the Solar project being planned for Bennington and Sheldon. Information was received from the NYS Board on Electric Generation Siting and the Environment, letting the Town know that they will oversee this project (Case #19-F-0591) pursuant to Article 10. The Town Supervisor is required to nominate 4 candidates to serve as ad hoc public members. The Town Supervisor from Sheldon along with the Chairman of the County Board of Supervisors will also select 4 candidates each. From this pool, two people will be appointed by the President Pro Tem of the NYS Senate and one will be appointed by the Speaker of the NYS Assembly to serve on this committee. Supervisor Grant asked Board members to submit names to her over the next week.

NOTE: This is a draft version and pending approval by the Town Board.

Audit draft – State Comptroller sent their draft audit and Supervisor Grant had an exit interview with them today. The Board has till March to submit a response to them. When they receive, they will respond within 90 days with the final audit.

DEC/GLOW Annual Reports – Copies were distributed to the Board members on operations of the Transfer station for 2019. The Town had 132.93 tons of solid waste collected, 51 tons of recyclable material. GLOW will receive a report from the Town showing income and expenditures of the transfer station for 2019.

Cowlesville Fire Co. truck purchase – The company will schedule a public hearing on the proposed financing of a new fire truck.

Resolution #2020-2-2 Cowlesville Fire Company Truck Purchase

Pursuant to Section 147(f) of the Internal Revenue Code of 1986, as amended (the “code”), the Town of Bennington hereby approves the entering into by Cowlesville Fire Company, Inc. of an Agreement in an aggregate principal amount not to exceed \$356,534.00 to finance equipment consisting of one (1) new Rosenthal Pumper which will be located at the fire house of the Cowlesville Fire Company, Inc. This approval does not in any way constitute any financial involvement or obligation of the Town of Bennington.

Furthermore, the Town of Bennington acknowledges that for consideration, the receipt and sufficiency of which are hereby acknowledged, the Cowlesville Fire Company, Inc., hereby agrees to meet the requirement to continue to provide firefighting and other services to the Town of Bennington.

Motion made by Mohun: Seconded by Waite:

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

Councilman Frounick asked that we make arrangements to get the junk tires picked up. Councilman Mohun and Gadd discussed the positions of a highway department intern and whether this should be a secretarial role or an advisory role and whether we would be paying someone to complete this work.

New Business:

Results of building inspection: An inspection was completed for the Town Hall and the Highway department on February 5th. The emergency lights are not operational at this time. Discussion on whether a generator should be purchased to eliminate this problem.

Duke Energy – WYCO IDA has scheduled a public Hearing on Tuesday, February 18th at 3pm. They will discuss the PILOT agreement at this time.

Set dates for Holiday closures:

NOTE: This is a draft version and pending approval by the Town Board.

Resolution #2020-2-3 Town Office Closures:

Be it Resolved, that the Town Board hereby approves the following office closures during 2020 and authorizes the Town Clerk to advertise the same:

1/20	Martin Luther King Jr. Day	Town Court
2/17	President's Day	Town Court & Town Clerk's Office
4/13	Easter (Observed)	Town Court
5/25	Memorial Day	Town Court & Town Clerk's Office
7/4	Independence Day	Town Court & Town Clerk's Office
9/7	Labor Day	Town Court & Town Clerk's Office
10/12	Columbus Day	Town Court & Town Clerk's Office
11/11	Veteran's Day	Town Court & Town Clerk's Office
12/26	Christmas Observance	Town Clerk's Office

The Town Clerk's office will be closed May 23 through May 29th.

Motion made by Waite: Seconded by Frounick:

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

Any other Business to Come before the Board/County Matters:

Motion to Adjourn made by Councilman Mohun at 8:55 pm

NOTE: This is a draft version and pending approval by the Town Board.