

January 2, 2019

Work Session

7:00 PM

Supervisor Grant along with Council Members Mohun, Frounick, Waite and Gadd audited the Highway, General Fund and Special District claims.

Discussion was held on door/window solution for Court Clerk's office.

January 2, 2019

2019 Organizational Meeting

7:34pm

Supervisor Grant called the meeting to order and asked Council Member Gadd led the pledge to the flag.

Present were Council Members Mohun, Frounick, Waite and Gadd.

Supervisor Grant opened the 2019 Organizational meeting for the town at 7:35pm. The Supervisor read through the hourly wages and salaries for all employees of the town along with the schedule for Zoning fees, and other fees.

**A. Set Salaries, Fees & Financial Matters:**

**2019 Town Salaries as per the adopted 2019 budget:**

Supervisor	\$ 5,300.00/year
Town Council Members 4@	1,944.00/Year
Town Justice 2@	5,400.00/year
Highway Superintendent	49,450.00/Year
Town Clerk/Collector	16,000.00/Year
Dep. Town Clerk	13.50/hour
Budget Director	550.00/Year
Town Assessor (sole)	21,800.00/Year
Zoning Officer/Fair Housing Officer	15.00/hour
Dep. Zoning Officer	13.25/hour
Office Clerk	13.25/hour
Planning Bd/Zoning Bd of Appeals Members	15.25/Mtg.
Planning Bd/ZBA Chair	20.00/Mtg.
Planning Bd/ZBA Asses. Review Secretary	11.10/hour
Bd of Assessment Review Members	11.10/hour
Court Clerk	7,050.00/Year
Town Bookkeeper	4,700.00/Year
Town Custodian	1,850.00/year
Transfer Station Operator	5,000.00/Year
Town Historian	235.00/year
Attorney for the Town of Bennington	as per voucher
Town Park Maintenance Person	5,250.00/Year
Transfer Station Assistant	11.10/hour
Prosecutor	3,900.00/year
Dog Enumerator	1.50 per dog
Motor Equipment Operator (PT Seasonal)	12.00/hour
Water System Operator	16.00/hour
Asst. Water System Operator	14.25/hour
WSO/Assist WSO Emerg. Call Out	3.00/hr. premium
Water Clerk	600.00/year
Swim Instructors	11.75/hour
Lifeguards	11.10/hour
Youth Recreation Director	500.00/year

**Zoning Fees:**

Variance	\$125.00
Special Use Permit	\$125.00
Special Use Permit renewals	10.00/year
Special Use Permit for Meteorological Towers:	
Installation for a term not to exceed two (2) years	25.00
Each additional year thereafter	25.00
Zoning Permits under 400 sq. ft.	25.00
Zoning Permits over 400 sq. ft.	50.00
Zoning Permits – Ponds	25.00
Home Occupation Permits	50.00
Home Occupation Permits – yearly renewal	10.00
Sale of Zoning Books	25.00
Application to re-zone	500.00
Tower Special Use Permit Fee	\$2,000.00

**Building Permit Fees for Towers;**

First 100 feet	\$1,000.00
Next 100 feet (or part thereof)...	600.00
Each 100 feet thereafter or part thereof	400.00
Co-location Application fee	1,000.00
Co-location Building Permit fee	1,000.00

**Other fees:**

Park Rental	50.00
Park Security Deposit	50.00
Copies of official documents	.25/page
Transfer Station Fees:	
Resident Stickers	15.00/1 <sup>st</sup> vehicle
Resident Stickers	5.00/2 <sup>nd</sup> vehicle
Punch Cards	40.00
Tires-Passenger 13"-17"	5.00
-Light Truck 16"-19"	12.00
-Large Truck	20.00
Rimmed tires	10.00 Extra per tire
Air Conditioners	10.00
Furnaces	10.00
Washer or Dryer (each)	10.00
Refrigerator	15.00
Stove	15.00
Freezer	15.00
Hot Water Tank	10.00

If Freon is not removed from Appliances, additional 15.00

Tag/Sticker must be attached in order to waive Freon charge.

Bulk Items will be priced accordingly by TSO

**Official Rate for Mileage while on Town Business: .45/mile**

**Banking Accounts:**

General Fund Checking	Five Star Bank
Highway Fund Checking	Five Star Bank
Trust & Agency Account	Five Star Bank
Town Clerk Account	Alden State Bank
Tax Collector Account	Five Star Bank
Justice Court Funds	Five Star Bank
Cowlesville Water District	Five Star Bank
Certificates of Deposit	Banks with the best interest rate



## Section C: Appointments

Motion made by Mohun/Frounick to approve Section C. Appointments, voting all ayes, carried.  
2019 Organizational Meeting closed at 7:48 pm.

## Financial Matters

General Fund claims #1– 17 totaling \$6,461.21 presented. Motion made by Gadd/Frounick to approve the General Fund claims presented. Voting all ayes, carried.

Highway Claims #1-13 totaling \$42,666.45 presented. Motion made by Mohun/Waite to approve the Highway claims presented. Voting all ayes, carried.

Cowlesville Water District claims #1-3 totaling \$2,021.77 presented. Motion made by Frounick/Gadd to approve Water claims presented. Voting all ayes, carried.

Supervisor's Financial Statements for December: Supervisor Grant explained the decrease in the water fund balance was due to amounts owed to the General Fund before the end of the year.

Motion made by Waite/Mohun to accept the Financial Reports for December, voting all ayes, carried.

Minutes: December 12<sup>th</sup> Regular Meeting:

Motion made by Mohun/Gadd to approve the minutes, voting all ayes, carried.

The first order of business was to present a contract from Williamson Law Book for the annual service contract to aid in Tax Collection for the annual fee of \$424.

Motion made by Mohun/Waite to approve the contract, voting all ayes, carried.

## Correspondence:

The Town Clerk received a save the date for the NY Assoc. of Town's Annual Conference to be held 2/17-2/20/19.

The Town Clerk received the monthly water quality report from Biotrax.

The Town Clerk received a copy of Local Law #1 for the 2019 year from the Town of Marilla regarding zoning code amendments.

A letter was received from the Varysburg Fire District regarding the election of their Fire Commissioner Scott Almeter for a five year term.

A letter and survey was received from the US Dept. of Labor notifying the Town of mandatory participation in a yearlong survey of Occupational injuries and illnesses.

## Public Concerns:

Question from Mr. Aldridge on whether the Clerk's office hours will be changing now that transfer station punch cards will not be sold at Kadd's or the Bennington Lanes. The Clerk's office hours will not be changing since her office is open the same days and virtually the same times as the Transfer station. He feels the price increase was a severe change. Ms. Storch said assessments were raised a lot this year; wants to know why. He was directed to speak with the Town Assessor. Ms. Storch asked why residents can't buy bags to dispose of garbage. Rick Storch asked about 2% tax cap rate. Is the Town going to 100% rate? The Town is evaluating a revaluation of properties as one has not been done since the 80's. The Supervisor said that her goal is to have the budget be the same year over year so residents don't see a major change.

## Departments:

Clerk: Tax bills went out 12/28 to all Town residents and books weren't received until 12/31.

The Town Clerk will have the yearend report at the next meeting for the Board's review.

Assessment:

Zoning/Planning: A Special Use Permit renewal was received by Burnison's. Frounick made a motion to approve the renewal and Councilman Gadd seconded. Voting all ayes, carried.

Highway Department: Superintendent Czworka presented the Town Board with a letter of resignation effective 3/15/19. The Board will appoint a candidate to serve out the remainder of his term. Will seek an applicant to run for office and will advertise the opening soon as none of the current highway workers are interested in the position.

Parks/Recreation: The Town will advertise for a Youth Recreation committee. The Clerk was contacted again by an individual interested in using the Babe Ruth field at Pine Tree Park for a Men's baseball league for the summer.

Water District: Adopted an out of district agreement with Highland Glen at the yearend meeting.

Transfer Station: There was a large influx of transfer station tickets the last week of December due to the impending price increase. The sales were limited to two per person.

Old Business:

The Town received letters of intent from 10 residents interested in an appointment to the Transfer Station Advisory Committee. The Board decided to appoint all interested people that applied. Councilman Mohun explained what they will be doing on this committee. Decisions on the Transfer station will not go to a referendum; it will be decided by your elected officials.

New Business:

Upper Hall Renovations: Councilman Waite offered to replace lights and ceiling tiles free of charge with the Town supplying the necessary supplies. His wife offered to paint the upper hall in February.

Agreement with Wyoming County HR Department for investigating sexual harassment claims: Investigations will be at no cost to the Town unless the case went to trial; then the Town would have to pay a negotiated rate. Motion made by Mohun/Frounick to utilize the County's HR department when a sexual harassment claim comes under investigation. Norb Fuest offered to do the required training of the Town officials for Sexual Harassment training.

Randy Hayes was contacted by the Supervisor to fix some electrical issues including the light outside the entrance door.

Senator Gallivan and Sheriff Rudolph recognized the individual that came to the Sheriff's aid last month at the Board of Supervisor's meeting. This gentleman was presented the Liberty Medal for his heroism.

Motion made by Mohun to adjourn; Meeting adjourned 8:47pm.

Respectfully Submitted,

Carolyn Busch, Town Clerk

Town of Bennington  
January 15, 2019

Workshop Session: Present: Supervisor Grant, Councilmen Mohun and Waite, Clerk Busch. Audit of bills for January and time sheets were done by those present.

Supervisor Grant opened the Special Session at 7:05 p.m. Present: Supervisor Grant, Councilmen Mohun, Waite and Frounick, Clerk Busch, Assessor Wittmeyer, Zoning Officer Marble, as well as attorney Meaghan McGinnis from DiMatteo & Roach, and resident Frank Aldridge.

Houtan Moveni from NYSERDA introduced himself and his assistant Kendra Kosta, to the group and then presented a Power Point session on solar energy projects, municipality responsibilities and NYSERDA's role in assisting local governments in developing regulations, taxing and assessing structures for projects and Payment In Lieu Of Taxes (PILOT) agreements. He reviewed zoning and land use processes, the need to have either legally defenseable PILOT laws or an opt-out law. He also reviewed Community Choice Aggregation projects and utilizing economy of scale as the Town could select one utility to serve the community. A shipment of guides for municipalities has been sent to the town to use for any future projects. They can provide models of the renewable energy project zoning laws, PILOT laws and templates for PILOT agreements.

Following the presentation, Councilman Frounick, Clerk Busch and Assessor Wittmeyer were excused.

Motion was made and seconded (Mohun/Waite) to set the date of February 13, 2019 at 7:30 p.m. for a Public Hearing for the purpose of adopting Local Law #1, Year 2019, A Local Law to Adopt Renewable Energy PILOT Guidelines for the Town of Bennington, and to direct the Town Clerk to advertise the same in the legal publication of the Town. Ayes: 3, Grant, Mohun, Waite. Noes: 0 Absent: Gadd & Frounick.

Motion was made and seconded (Mohun/Waite) to approve for payment the vouchers that were audited prior to the meeting. Ayes: 3, Grant, Mohun, Waite. Noes: 0 Absent: Gadd & Frounick.

Motion was made and seconded (Waite/Mohun) to approve the Supervisor's travel to annual conference of the Association of Towns and designate her to serve as delegate to vote on matters at the Annual Business Session February 20<sup>th</sup>. Ayes: 3, Grant, Mohun, Waite. Noes: 0 Absent: Gadd & Frounick.

Motion was made (Mohun) to adjourn. Meeting adjourned.

Respectfully Submitted,  
Ellen Grant – Town of Bennington Supervisor

February 13, 2019

Work Session

6:50 PM

Supervisor Grant along with Council Members Mohun, Frounick audited the Highway, General Fund and Special District claims. Councilman Gadd and Waite called and are running late due to weather, but will be in attendance for the meeting. Discussion held on Solar Pilot program.

February 13, 2019

Regular Meeting

7:35pm

Supervisor Grant called the meeting to order and asked Council Member Waite to lead the pledge to the flag.

Present were Council Members Frounick, Gadd, Mohun and Waite.

Supervisor Grant opened the public hearing on Local Law #1, 2019 - Pilot Agreements for Energy projects at 7:36pm.

Supervisor Grant presented the renewal of a service agreement from Williamson Law Books for support of the Accounting Software for 2019.

Supervisor Grant asked for a motion to approve the service agreements. Motion made by Mohun/Frounick. Voting all ayes, motion carried.

#### Financial Matters

General Fund claims #18-52 totaling \$33,193.50 presented. Motion made by Frounick/Gadd to approve the General Fund claims presented. Voting all ayes, carried.

Highway Claims #14-36 totaling \$113,946.75 presented. Motion made by Mohun/Waite to approve the Highway claims presented. Voting all ayes, carried.

Cowlesville Water District claims #4-14 totaling \$3,420.19 presented. Motion made by Frounick/Waite to approve the water district claims, voting all ayes, carried.

Cowlesville Street lighting claim #1-2 totaling \$479.46 presented. Motion made by Mohun/Gadd to approve the lighting district claims, voting all ayes, carried.

Bennington Fire #1 totaling \$25,000.00 presented. Motion made by Mohun/Waite to approve the Fire District claim, voting all ayes, carried.

Supervisor's Financial Statements presented for Dec. 2018 and January 2019. The next one will reflect that the Town has received all of the tax monies. Harris Corners has a negative due to the amounts levied not being sufficient to pay the total. The contract was paid, but will need to make it up. Motion made by Gadd/Mohun to accept the Financial Reports, voting all ayes, carried.

#### Minutes: January 2<sup>nd</sup> Regular Meeting:

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

Minutes from the meeting held 1/15/19 will be shared at next month's meeting.

#### Correspondence:

Press release received from The Western New York Law Center notifying the Town of an expansion of program services with regard to Consumer Debt Defense Legal Clinics in Wyoming County. The Clerk received a NYS Volunteer Firefighter Cancer Benefit Program contract from the Bennington Fire Company. Supervisor Grant received a report from the Bennington Seniors for their 2018 activities. Information on the Pride of Wyoming County on 3/2/19 if any Board Members were interested in attending. Senator Gallivan sent a letter regarding Governors State Fund Program Resolution. He opposes this reduction. The Town of Bennington receives from this AIM funding \$16K annually. It has been removed from this year's budget, but not sure if it will be restored. This payment usually comes to the Town in the summer; may impact tax cap adherence. Don Przybyl completed the Town's audit and will address the Town Board at the March meeting. A letter was received from Senator Gallivan that Mark Reiner retired, Eileen Hopkins is the new contact for Wyoming County. She will have hours in Warsaw on Tuesday's. Supervisor Grant received contact information from the seniors, the Town Clerk's

January and 2018 Yearly reports and the Town Court's report from November and December. Reserve Gas sent after hour's emergency list. Phone numbers will be posted in hall and highway department.

Departments:

Town Clerk: Town Clerk Busch gave an update on 2019 Tax Collection. She also discussed the yearly report that was handed out to the Board members.

Assessment: Assessor Whittmeyer is working with STAR applicants. Residents have till 3/1/19 to get their information in.

Zoning/Planning: Discussion was held on the PILOT law tonight that NYSERDA came into speak about on 1/15/19.

Highway Department: A letter of intent to resign was received from Ken Czworka effective 3/15/19. Supervisor Grant is preparing the job scope. We are still accepting letters of intent from Town residents. The Town has posted two ads in the Penny Saver, but would also like the job to be posted on the Town Facebook and Websites. A motion was made by Mohun/Frounick to advertise again in the Penny Saver. A letter was received from resident Dolan on Friedman Rd. about the road conditions.

Parks/Recreation: Nothing at this time.

Water District: A meeting was held this past Monday morning with Engineers and lawyers. There were questions on wording in the contract, so adjustments were made. Copies were distributed to the Board members. The user fees were clarified along with where the meter is located.

**RESOLUTION #2019-2-1      AUTHORIZE THE SUPERVISOR TO SIGN AN AMENDED AGREEMENT WITH HIGHLAND GLENS, INC., FOR OUT-OF-DISTRICT USE OF PUBLIC WATER**

Be it Resolved, that the Town Supervisor is hereby directed to sign an amended agreement for Out-Of-District use of public water through the Cowlesville Water District, as revised and amended by agreement of the Town Attorney, Town Engineer, Town Supervisor and Highland Glens, Inc.

Motion by Mohun; Seconded by Gadd

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

Transfer Station: Advisory committee has been meeting every Saturday to discuss options, improve services, and gathering information. On Saturday the group will go to the Elma Transfer station to see how that is ran. They are preparing to brief the Board with their findings at the regularly scheduled April Board Meeting.

Comments on Local Law #1-2019

NYSERDA provided a model law to the Town. The Town does have a local renewable energy law on the books now. A resident from the floor; Les Green said he had been contacted by a company asking for 20 acres. Discussion was held on what PILOT means and how taxes for owner would be divided out. Ed Aldridge said that Wyoming County has an IDA, would this supersede? No, we would not use them. Negotiation with the attorney's is what is in the best interest for the Town. Our attorney has advised to wait to sign the PILOT until a contract comes in. We would negotiate pricing at that time. If project came up, we would have to have a public hearing.

Motion made to close the Public Hearing by Mohun/Frounick at 8:25pm. Voting all ayes, carried.

Motion made by Gadd/Frounick to table voting on Local Law #1-2019. Voting all ayes, carried.

Public Concerns: Ed Aldridge from Sinn Rd. asked if he needed to send a letter to request the culvert replacement. Advised him to send to Supervisor and Superintendent.

**RESOLUTION #2019-2-2 DECLARE TOWN BOARD LEAD AGENCY FOR RENEWABLE/SOLAR PILOT LOCAL LAW #1, YEAR 2019**

Be It Resolved, that the Bennington Town Board hereby declares that it will serve as Lead Agency for the purposes of completing the State Environmental Quality Review for Local Law #1, Year 2019 Renewal Energy Payment In Lieu of Taxes (PILOT) Agreements between the Town and any applicants.

Motion by Mohun; Second by Gadd

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

New Business:

**RESOLUTION #2019-2-3              CREATE THE POSITION OF OFFICE CLERK, PT**

Be it Resolved, that a position of Office Clerk, to be assigned to assist the offices of the Town Officials is hereby created effective January 1, 2019 at a rate of \$13.25 per hour for a maximum of 250 hours per year.

Motion by Mohun; Second by Waite

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

**RESOLUTION #2019-2-4              USE OF TOWN HALL FOR ATTICA SCHOOL FUNCTIONS**

Be it Resolved, that the Town Board hereby grants permission to the Attica Central School District for use of the Town Hall on Thursday May 2, 2019 at 7pm for Budget Presentation and on May 21 from 1pm to 9pm for a School Budget vote.

Motion by Frounick; Second by Gadd

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

**RESOLUTION #2019-2-5              AUTHORIZE THE TOWN SUPERVISOR TO SIGN AGREEMENT BETWEEN THE TOWN AND DANIEL SPITZER, ESQ, OF HODGSON RUSS, LLP FOR LEGAL COUNSEL IN MATTERS RELATING TO RENEWAL ENERGY PROJECTS.**

Be it Resolved, that the Town Supervisor is hereby authorized by the Town Board to sign an agreement with Daniel Spitzer, of Hodgson Russ, LLP, to serve as legal counsel to the Town in matters pertaining to renewable energy in the event of conflicts of interested with the use of the Town Attorney in such matters, or as needed. If a project comes before the Board, applicant will be responsible for the legal fees.

Motion by Mohun; Seconded by Gadd

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

**RESOLUTION #2019-2-6              AUTHORIZE THE SUPERVISOR TO SIGN GRIEVANCE SETTLEMENT AND CARRY OUT THE TERMS THEREOF**

Be it Resolved, the Town Board hereby authorizes the Town Supervisor to sign the settlement to Teamsters Local #264 grievance against the Town in the matter of Alan Fox and

to carry out the terms of said agreement upon the receipt of a fully executed agreement and review of the Town Attorney.

Supervisor Grant gave an emergency contact list out to the Board members and will post in the office for any afterhours water emergencies in the Town.

Any other Business to come before the Board:

There being no further business, a motion was made by Mohun to adjourn. Meeting adjourned at 8:39pm.

Respectfully Submitted,

Carolyn Busch, Town Clerk

March 13, 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. The Board members asked the Assessor about completing a re-valuation this year. She would need to know very soon and would need \$60K. Discussion on roads as residents will be coming in tonight. May schedule a separate meeting to discuss roads situation, budget, costs, etc. Ken briefed the Board on a new Slide in sander, let them know that a trade in on the pick up would be due and that he is getting the last batch of road salt for the season this week. Discussion on interim Superintendent search. Don Przybyl gave out audit of Books for Town Supervisor, Town Clerk, Tax Collector, Water Clerk and Town Justices.

March 13, 2019

Regular Meeting

7:35pm

Supervisor Grant called the meeting to order and asked Council Member Waite to lead the pledge to the flag.

Present were Council Members Frounick, Gadd, Mohun and Waite.

#### Financial Matters

General Fund claims #53-77 totaling \$60,807.40 presented. Motion made by Mohun/Waite to approve the General Fund claims presented. Voting all ayes, carried.

Highway Claims #37-57 totaling \$67,637.43 presented. Motion made by Gadd/Frounick to approve the Highway claims presented. Voting all ayes, carried.

Cowlesville Water District claims #15-21 totaling \$4,025.77 presented. Motion made by Frounick/Mohun to approve the water district claims, voting all ayes, carried.

Cowlesville Street lighting claim #3 totaling \$197.81 presented. Motion made by Waite/Gadd to approve the lighting district claims, voting all ayes, carried.

Harris Corners Fire #1 totaling \$30,400.49, Cowlesville Fire #1 totaling \$79,590.60 and Varysburg Fire #1 totaling \$9,866.39 presented. Motion made by Mohun/Waite to approve the Fire District claims, voting all ayes, carried.

Supervisor's Financial Statements presented for February 2019. Recorded all tax levy income that has come in for 2019. Motion made by Mohun/Frounick to accept the Financial Reports, voting all ayes, carried.

Transfer of Funds will be postponed till later in the meeting.

#### Minutes: February Regular Meeting:

Supervisor Grant asked if there were any corrections/amendments to the minutes. Motion made by Frounick to postpone till next meeting to approve the minutes as presented, Mohun Seconded, voting all ayes, carried.

#### Correspondence:

The Town Clerk received a letter of gratitude from the Folsomdale Trailblazers. The Town Clerk received a Notice of Public hearing from the Town of Alden regarding Local Law #1-2019 creating the position of Town Constable. Received the monthly Certificate of Analysis from Biotrax. Received the Erie County Water Authority's 2018 Annual Water Quality Report. The Supervisor received the Justice Court activity for the month of January. Press release from Wyoming County Debt Clinic. Southern Tier West Government Conference to be held at Houghton College on May 9<sup>th</sup>. National Fuel projects that could impact gas lines. A certificate of Insurance received from CIR Construction Corp. for work that is to be done in the Town.

Public Concerns: Supervisor Grant received a dozen letters from residents and the Board is well versed on problems with road conditions. The Board will set up a separate meeting on March 27<sup>th</sup> regarding constraints on money that the Town deals with. Several residents were in attendance to voice their concerns over the road conditions of Woodley and Gadd Rd. Voicing their concerns were; Claire Kroh, Pat Baer, Patrick Meyer, Ted Lacki, Shane Becker, Bill Shanahan, Jeff Gadd and Peter Haynes from

Burrough Rd. Supervisor Grant will advertise a special meeting and provide budget and financing to borrow for improvements. Claire Kroh questioned who is set to replace Ken Czworka, but only one person has submitted a letter of interest. The Board may have to temporarily appoint Ken back. Had short discussion on contracting out for Highway services. Motion made by Mohun/Waite to advertise the meeting.

Supervisor Grant presented the renewal of a service agreement from Williamson Law Books for support of the Town Clerk (\$578) and Water/Sewer (\$1059) for 2019.

Supervisor Grant asked for a motion to approve the service agreements. Motion made by Mohun/Frounick. Voting all ayes, motion carried

Departments:

Town Clerk: Town Clerk Busch gave an update on 2019 Tax Collection. She also discussed home occupation renewals that were sent out and will be due to approve at next month's meeting.

Assessment: Assessor Whittmeyer is processing exemptions, extended through Saturday due to storm. Councilman Mohun asked about her presenting a re-valuation. Could look to schedule for the April Meeting.

Zoning/Planning:

Highway Department: A letter was received from the County Superintendent stating that we may be able to seek an out of Town resident to fill the position of Town Superintendent. Councilman Gadd asked if we could choose to hire someone for that position rather than have it be an elected position. Supervisor said it could, but it would have to pass a referendum. The Superintendent would have to be out of his position a minimum of 24 hours before the Town could appoint him as the acting Highway Superintendent. Councilman Gadd offered to cover for the 24 hours on March 16<sup>th</sup>. Motion made by Mohun to appoint Ken Czworka to the acting Highway Superintendent effective March 17<sup>th</sup> at same payroll rate for three months ending June 30, 2019. Seconded by Frounick; voting all ayes, carried. Ken would like the F550 Salter. Motion to authorize purchase through Valley Fab not to exceed \$8074 made by Gadd, seconded by Mohun. Voting all ayes, carried.

Parks/Recreation: Nothing at this time.

Water District: Nothing at this time.

Transfer Station: Registration was renewed for five years by the DEC. Committee moving ahead, meeting every Saturday. Proposed to submit findings by the end of April. The County sent a letter to encourage state to do more about recycling.

Old Business:

**RESOLUTION #2019-3-1      Tabling of the adoption of Local Law #1, Year 2019**

Be it Resolved that the Town Board hereby tables adoption and action on Local Law #1, Year 2019 Adoption of Renewal Energy Payment in Lieu of Taxes (PILOT) Agreements until further negotiation and completion of SEQR.

Motion: Mohun; Second: Frounick

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

New Business:

**RESOLUTION #2019-3-2      Audit of 2018 Financial Records**

Whereas, the Bennington Town Board, by law is required to audit the fiscal records of all the towns financial record yearly, and

Whereas, the Bennington Town Board retained an independent audit to be performed by a retired municipal accountant on the financial records of the Town Supervisor, Town Clerk, Tax Collector, Town Court and Water Collector's records for 2018;

Now, Therefore, Be It Resolved, that the Bennington Town Board, at a duly held meeting on March 13, 2019, accepted Donald E. Pryzbyl's audit report, which concludes all of the Town's records to be in compliance, as per a motion made by Councilman Mohun, and seconded by Councilman Waite.

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

**RESOLUTION #2019-3-3                      Restoration and Digitizing of Vital Records**

Be it Resolved that the Town Board hereby authorizes the restoration and digitizing of vital records book(s) containing historic documents of the Town of Bennington in an amount not to exceed \$2,500 for 2019 through Kofile Preservation, 1 Allen Martin Dr., Essex Vermont.

Motion by Gadd; Second by Frounick

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

**RESOLUTION #2019-3-4                      Arbitration Settlement**

Be it Resolved, that the Town Board hereby accepts and approves the arbitration settlement between the Town of Bennington and Teamsters Local #264 and authorizes the payment of funds agreed upon in the amount of \$852.80, highway voucher #57.

Motion by Waite Second by Mohun

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

Any other Business to come before the Board: Councilman Gadd will not be at the meeting on 27<sup>th</sup>, Councilman Frounick will be late.

County Planner has been looking over changing over lights to LED in the hamlet at a cost of \$24,968.77. Saving would be realized in 12 years. Financing would be \$5K, Supervisor Grant will look at it later in the year. Councilman Waite has worked on upstairs meeting room; removed ceiling tiles that were painted in. Still working to change these out, paint and replace lighting. Supervisor Grant thanked him for the work he and his wife have done so far.

There being no further business, a motion was made by Mohun to adjourn. Meeting adjourned at 9:14 pm.

Respectfully Submitted,

Carolyn Busch, Town Clerk

April 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. Councilman Mohun drove down some of the town roads that were discussed at last month's meeting and questioned Superintendent Czworka about some of them. The Highway department has worked on a number of roads the last couple of weeks grading and stoning. Discussed CHIPS funding and the changes that are coming to the program. The Superintendent received the following estimates.

**Woodley Rd.** +-\$79,000 to include 6" crusher, 4" millings, oil and stone. May need extra funds for paving of millings (\$3,100)

**Gadd Rd.** +-\$69,742 to include 6" crusher, 4" millings, oil and stone. May need extra funds for paving of millings (\$3,100)

**Maxon Rd. (Rt. 354 to Eck)** +-\$60K to oil and stone.

A presentation was made to the Board from ConnectGEN, who are working on solar development of a utility scale project in the Town.

April 10, 2019

Regular Meeting

7:37pm

Supervisor Grant called the meeting to order and asked Council Member Frounick to lead the pledge to the flag.

Present were Council Members Frounick, Gadd, Mohun and Waite.

#### Financial Matters

Approve Annual Software Support Contract from Williamson Law Book for Payroll in the amount of \$775. Motion made by Waite/Frounick to approve. Voting all ayes, carried.

Approve payment of Bond interest in the amount of \$12,003.80 to Chase Bank for Cowlesville Water District and Highway Truck. Motion made by Mohun/Gadd to approve. Voting all ayes, carried.

General Fund claims #78-94 totaling \$8,048.97 presented. Motion made by Mohun/Frounick to approve the General Fund claims presented. Voting all ayes, carried.

Highway Claims #58-75 totaling \$81,984.98 presented. Motion made by Waite/Gadd to approve the Highway claims presented. Voting all ayes, carried.

Cowlesville Water District claims #22-26 totaling \$2,216.74 presented. Motion made by Mohun/Waite to approve the water district claims, voting all ayes, carried.

Cowlesville Street lighting claim #4 totaling \$197.81 presented. Motion made by Mohun/Frounick to approve the lighting district claims, voting all ayes, carried.

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

Transfer of Funds from highway to general fund in the amount of \$150K. This money had to be moved to the Highway funds for emergency repairs that were needed after the July 2018 flood. Motion made by Mohun/Frounick to approve the transfer. Voting all ayes, carried.

#### Minutes: February & March Regular Meeting:

Supervisor Grant asked if there were any corrections/amendments to the minutes. Edits were received from the Supervisor, the Town Clerk will make the changes. Motion made by Waite/Gadd to approve meeting minutes. Voting all ayes, carried.

#### Correspondence:

The Town Clerk received a Notice of Public hearing from the Town of Alden regarding Local Law #2-2019 amending the Local Law on current Town Flood Damage Prevention. Received the monthly Certificate of Analysis from Biotrax. Received an email from a resident on Friedman Rd. Received a report from the DEC regarding gas well output of wells in the Town. Received from NYS Parks and Recreation, the spring program guide for Letchworth State Park. A copy will be posted on the Clerk's Bulletin Board. An email was received from US Dept. of Justice on a program for National Prescription Take Back Day on 4/27. A

collection point will be at the Wyoming County Sheriff's office in Warsaw from 10am-2pm. The Supervisor received the Justice Court activity for the month of February. On 4/29 the Alzheimer's Association will offer a class in Attica on understanding dementia. A thank you letter was received from the Bennington Seniors for funding received from the Town. A letter was received from residents of Coyle Rd. regarding road conditions. A seminar will be offered by Suit Kote Corp regarding emulsions used on roadways. The Highway workers will attend. A certificate of Insurance received from Hojnowski Transport for work that is to be done in the Town. A letter from Mr. Roberts sent a letter resigning his position as Bennington representative for the County Office of the aging. Councilman Mohun received a letter from Mr. Mummert on Blood Rd requesting a form letter for residents to send into lawmakers. Supervisor Grant received a draft letter from Mr. Napieralski and forwarded it to Mr. Mummert.

Public Concerns: Mr. Albano from Friedman Rd. asked if public can attend the Suit Kote class. Mr. Napieralski asked if Graff Rd. will get worked on. Ms. Fugle wanted to thank the Highway Department for addressing road conditions on her road. Mr. Ezzo spoke on Transfer station as he attempted to contract pick up services, but none of the companies would come down Geise Rd.

#### Departments:

Town Clerk: Town Clerk Busch gave an update on 2019 Tax Collection. Taxes have been settled at the County. The Clerk will transfer the remaining funds to the Supervisor for the collection of late fees and interest. The Tax Collector was informed by the County Treasurer, that this was a Foreclosure year and a number of parcels in the Town will be going up for Public Auction on properties that have not been paid in the last three years. Residents have until July to become current, before the auctions take place.

#### Assessment:

Zoning/Planning: Motion made by Frounick/Gadd to approve the Home Occupation Renewals and Special Use Permit Renewals that were presented. Voting all ayes, carried.

Highway Department: Update from Superintendent Czworka given at the Work Session earlier. The Highway department have been working on the North East side of the Town. They still have to get to Eck, South Burrough and Coyle. The stone has been hauled in. Annual Agreement with County; Councilman Mohun asked that it be tabled until the end of the meeting. Supervisor Grant said that the Highway department is planning on doing ditching later this year. Councilman Mohun contacted Gallivan's office regarding funds for roads. She has a spreadsheet of what we get from CHIPS funding. Extreme winter recovery in the amount of \$32K may not be coming to the Town this year.

Parks/Recreation: A town-wide Easter Egg Hunt will take place this weekend, April 13<sup>th</sup> at the Bennington Fire Hall at 11AM.

Water District: Further adjustments are being made to the Highland Glen Water Agreement. Highland Glen wants the Town to pay for meter pits. Councilman Waite said we should not be paying the legal fees that have been generated from this project. Questions came from the public on why the Town is paying for this. Supervisor Grant addressed and said this was set up at the State level and there is nothing that the Town can do. Highland Glens will pay 1.5 times the rate.

Transfer Station: Mr. Germain gave a presentation to the Board regarding the progress that the Transfer Station Committee has made. Supervisor Grant reported that First quarter 2018 was a \$4,000 shortfall and this First quarter 2019 was an \$8,000 shortfall for revenue vs. expense.

A motion was made by Councilman Waite to instruct the Clerk to purchase new 2019 Transfer Station permits that will run from May 1, 2019 to December 31, 2019. This is a change from current stickers that were a May 1 to April 30 period, thus changing them to yearly renewals at the beginning of the year. Rates for stickers will be \$15/first vehicle and \$5/second vehicle per residence. Councilman Mohun seconded the motion, voting all ayes, carried.

#### Old Business:

**Duke Energy Solar Project** - The Town will act as lead agency on the EIF and complete reviews and findings of Parts 2&3; and will send to the Engineering Firm for their review. Supervisor Grant sent to the County Planning Board for their review as well. The Town will schedule a separate meeting to review this information on May 1<sup>st</sup> at 7:30pm. There will be a work session for the applicant, legal team and Energy Company. The public can come, but not participate. Motion made by Mohun/Frounick to declare the Town Lead Agency. Voting all ayes, motion carried.

New Business:

**RESOLUTION #2019-4-1      Create Temporary Positions within the Highway Department**

Be it resolved, that the Town Board hereby creates the following temporary positions within the Highway Department:

Acting Superintendent, for a period from 3/17/19 to 6/30/19 at an annual salary of \$49,450 per year;

Heavy Equipment Operator (2) for a period of 4/15/19 to 9/27/19 at a salary of range of \$19.75 to \$20.75/hr.; and

Laborer (2) for a period 6/3/19 to 9/27/19 at a salary range of \$12.00 to \$14.00/hr.

Motion by Mohun; Second by Waite

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

**RESOLUTION #2019-4-2      Agreement to Spend Highway Funds**

Be it resolved, that pursuant to the provisions of Section 284 of the Highway Law, the Bennington Town Board agrees that moneys levied and collected for the repair and improvement of highways, and received from the state for the repair and improvements of highways shall be expended as follows for General Repairs, Improvements and Benefits: The sum of \$808,100 may be expended for general repairs and improvements upon 65.58 miles of town highways, including sluices, culverts and bridges having a span less than five feet and boardwalks or the renewals thereof.

Motion: Mohun; Second: Waite

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

There are vacancies on the Office of the Aging Board and County Planning Board for a representative from the Town of Bennington. Motion made by Frounick/Gadd to have the Clerk advertise the openings. Voting all ayes, carried.

The water pump is in need of replacement at the Town Hall. Motion made by Frounick/Waite to replace at no greater cost than \$800. Voting all ayes, carried.

Cemeteries Assistance – If a cemetery becomes insolvent, the Town must take over the responsibility for their care. Supervisor Grant spoke about helping out annually to make sure that don't become insolvent. There are five or six small cemeteries in the Town now that may be in need. Private religious cemeteries are not eligible for grants. Local cemetery committees should come to the Board and ask for assistance as needed and they will be considered on a case by case basis.

ConnectGEN – A brief presentation was given to the Board during work session. This company had a meeting with individuals at Harris Corners Fire Hall that would be impacted by the proposed solar project. ConnectGEN will apply for funding through NYSERDA in June. This project would constitute an Article 10 process, so NY State would be the Lead Agency in the SEQR process.

Road Committee Appointees – Supervisor Grant presented and read a list of residents that were at the Roads meeting held on March 27<sup>th</sup>, and interested in appointment to a Roads Committee. Councilman Gadd suggested that the applicants come in on May 1<sup>st</sup> and interview at 6:30pm for the appointment. This will not be advertised. If they cannot come in, they can send in a letter.

Any other Business to come before the Board.

There being no further business, a motion was made by Mohun to adjourn. Meeting adjourned at 9:44 pm.

Respectfully Submitted,

Carolyn Busch, Town Clerk

May 8, 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. Todd Gadd will be attending tonight's meeting to discuss the Schoellkopf Rd. Bridge. Attorney Dan Spitzer will be bringing resolutions tonight for Lead Agency status and to set dates for a public hearing. Dan Spitzer addressed the Board to give them an update on the Duke Energy project. He also commented on the LED project for the Town's lighting district.

May 8, 2019

Regular Meeting

7:33pm

Supervisor Grant called the meeting to order and asked Council Member Mohun to lead the pledge to the flag.

Present were Council Members Frounick, Gadd, Mohun and Waite.

#### Financial Matters

General Fund claims #95-111 totaling \$8,426.49 presented. Motion made by Mohun/Frounick to approve the General Fund claims presented. Voting all ayes, carried.

Highway Claims #76-89 totaling \$83,582.40 presented. Motion made by Waite/Gadd to approve the Highway claims presented. Voting all ayes, carried.

Cowlesville Water District claims #27-32 totaling \$2,369.72 presented. Motion made by Mohun/Gadd to approve the water district claims, voting all ayes, carried.

Cowlesville Street lighting claim #5 totaling \$197.81 presented. Motion made by Waite/Mohun to approve the lighting district claims, voting all ayes, carried.

Schoellkopf Rd. Bridge Project presentation was given by Todd Gadd. Currently single lane posted with height and weight restrictions. Federal funds for design are currently available. Tonight Todd and members from the State departments were here to get feedback from residents on process and ideas. Another meeting will be held when they are closer to proposing specific plans. An in-depth inspection was completed and weight restriction was lowered to 8 ton due to this evaluation. The goal is to have a larger vehicle (25ton) pass on this bridge. Chris from cultural research at the State, said its historical due to age and uniqueness. Eligibility for historic and National registry are one and the same. Mrs. Fox would like a two lane bridge and maybe re-purpose the bridge. This is possible. No approval for construction funds, rough time frame would be 2021 before any work would be started. The bridge gets inspected every year and more to maintain safety to residents. The Bennington Historical Society trustees don't view it as historical and would rather have a useful safe bridge for residents. Possibly 6 months before another meeting will be held.

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

#### Minutes: April Meeting

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

#### Correspondence:

The Town Clerk received a Notice of Public hearing from the Town of Darien regarding proposed changes to the Town of Darien Zoning Law on May 1, 2019. Received the monthly testing report from Biotrax. Received information regarding hazardous waste collection sites in the GLOW region.

Information is posted at the Town Hall and on the Town website and Facebook site. The Supervisor received a letter from La Bella Design Engineers regarding funding applications for programs for NYS. No eligibility on these for the Town of Bennington. Charter communications, formerly Spectrum sent in a franchise agreement along with a check for \$43,000 to the Town.

Public Concerns: Mrs. DeYoung asked for clarification on fees being charged for Tax Preparation services from the County. It actually would up saving the Town a couple of hundred dollars and a lot of time to have this agency prepare the Tax bills. A resident asked about road committee appointees. Mr. Mally questioned the franchise agreement from Charter. Have any applicants come forward to apply for the opening for the Highway Superintendent? Applicants have applied, but they do not have a lot of experience. Mr. Czworka is still in this position.

Departments:

Town Clerk: The Clerk has transferred the remaining funds to the Supervisor for the collection of late fees and interest. The Town Clerk distributed the Monthly Clerk's report for April during the work session. Transfer station permits are now on sale at the office, have had 64 residents register so far.

Assessment:

Zoning/Planning: Motion made by Frounick/Gadd to approve the Home Occupation Renewals and Special Use Permit Renewals that were presented. Voting all ayes, carried. Advanced Finishing is no longer in need of a Home Occupation permit.

Highway Department: Update from Superintendent Czworka given at the Work Session earlier. The highway crew has been working on Sinn Rd, Blood Rd, N. Tinkham, digging on Graff Rd with grading in between; ditching on Woodley; oil and stone on Maxon. Weather permitting they will assist the village of Attica in repayment for a shared service when Attica's sweeper came through Cowlesville.

**Resolution #2019-5-1 Appoint Members to Road Advisory Committee**

Be it resolved that the following shall be appointed to the Town of Bennington Roads Advisory Committee to study and report to the Town financial options for road improvements, necessary road improvements and any other matters related to improving the conditions of town roadways within the Town of Bennington:

Karen DeYoung	Cindy Craig	Ron Janish	Shane Becker	Virginia Fugle
Jeff Napieralski	Victor Albano	Mark Craig	Chris Domes	

Motion made by: Mohun; Seconded: Frounick

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

Parks/Recreation: Pine Tree Park and museum grounds to be sprayed by a Gainesville man for poison ivy.

**Resolution #2019-5-2 Appoint Parks Maintenance Staff**

Be It Resolved, that John Perl, 2 Bullis Road, Alden NY, is hereby appointed Parks Maintenance Staff, effective 5/1/19 through 10/20/19 at a salary of \$150 per week.

Motion by: Mohun; Seconded: Gadd

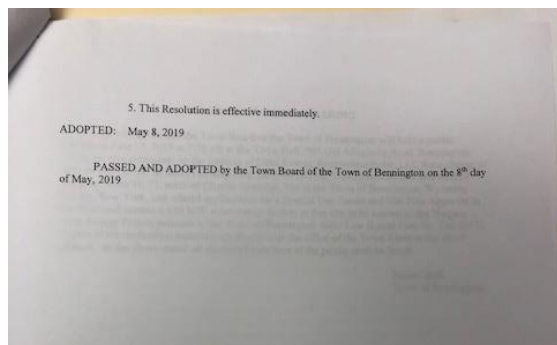
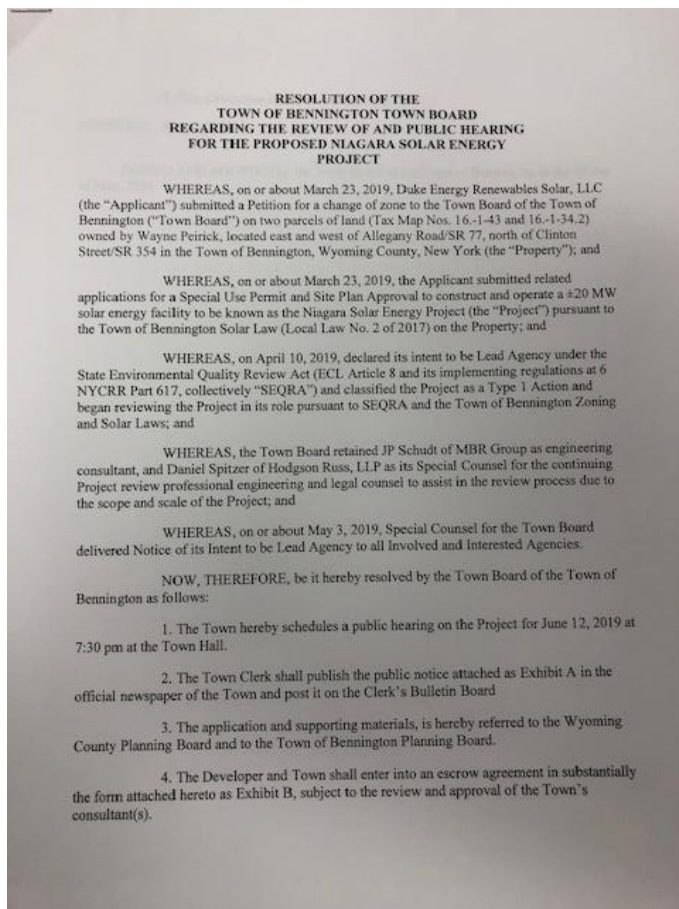
Ayes: 5      Noes: 0      Abstain: 0      Absent: 0

Water District: Annual report going out to all users in the district. Town will send out a report to the County. Meter reading equipment is not working properly all of the time. We may be able to have a service come in and take reading and send electronically. Steve Perkins to get info to Judy and Ellen to discuss.

Transfer Station: Councilman Frounick would like the scrap tires removed from the Transfer Station. Councilman Waite offered to take some a no charge. Transfer station committee her tonight, working on a final presentation for the June meeting. Supervisor Grant can meet with the group on Saturday.

Old Business: Duke Energy Solar Project - Supervisor Grant read aloud the resolution prepared by Atty. Spitzer.

### Resolution #2019-5-3



New Business:

### Resolution #2019-5-4 PROPOSED LOCAL LAW #1 OF 2019 "A LOCAL LAW ESTABLISHING THE RESIDENCY REQUIREMENTS FOR THE OFFICE OF HIGHWAY SUPERINTENDENT"

**WHEREAS**, the Town Board is considering adopting a proposed local law, entitled "A Local Law Establishing the Residency Requirements for the Office of Highway Superintendent," which would provide that the person elected to and holding the office of Superintendent of Highways of the Town of Bennington need not be a resident or elector of the Town of Bennington, provided that such person is a resident of the County of Wyoming, State of New York, or an adjoining County within the State of New York; and

**WHEREAS**, the Town Board of the Town of Bennington finds it in the best interest of the Town to hold a public hearing to consider the adoption of said local law.

**NOW BE IT RESOLVED**, by the Town Board of the Town of Bennington will hold a public hearing on the proposed adoption of said local law on the 12th day of June 2019 at 7:30 p.m., at which time all interested parties and citizens for or against the proposed law will be heard.

Motion by: Mohun Seconded by: Frounick

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

LED Street Light Conversion: Numerous types of lights in the Town currently. NYSEG would like to pull all the heads of the fixtures and replace with LED. This would save the Town \$200/yr. We would need to spend \$500 to pay off the lease. NYSEG would still service and we will still lease. Savings would be \$1800/year.

### RESOLUTION #2019-5-5 AGREEMENT TO PARTICIPATE IN STREET LIGHTING CONVERSION

**BE IT RESOLVED**, the that Town Board of the Town of Bennington finds it in the best interests of the residents of the Town to participate in the conversion of street lighting throughout the Town, including but not limited to the Cowlesville Light District, to LED lighting,

and hereby authorizes and directs the Supervisor to sign any such related agreements with New York State Electric and Gas, upon review by the Town Attorney.

Motion by: Mohun Second by: Waite

Ayes: 5

Noes: 0

Abstain: 0

Absent: 0

Spectrum Franchise Agreement: Atty. DiMatteo has a couple of edits he would like included in the agreement. Board will not sign off tonight, possibly next month.

Any other Business to come before the Board

Councilman Gadd discussed vote in November. Highway Superintendent position is an elected position. He suggested we move this position to an appointment for 4-6 year term with an adjustment of salary. Any person could apply for the position. The Town needs a qualified individual and this works against us. Supervisor Grant said it would have to go to a referendum on the November ballot and would not take effect until 2022. Councilman Gadd made a motion and Councilman Mohun seconded it. Voting all ayes, carried. This will go to a referendum contingent on any legalities.

There being no further business, a motion was made by Mohun to adjourn. Meeting adjourned at 9:19 pm.

Respectfully Submitted,

Carolyn Busch, Town Clerk

June 12, 2019

Work Session

6:45 PM

Supervisor Grant along with Council Members Mohun, Frounick, Gadd and Waite audited the Highway, General Fund and Special District claims. Discussion of limited hours the Highway Superintendent can work through July. Attorney Spitzer addressed the Board on the status of the Duke Energy Project. Recommends that we table the SEQR & Re-Zone. He asked the Board to pass a resolution on an Escrow Agreement. The Highway Superintendent said the pickup is due for a replacement. The Town of Darien will be seeking bids on a truck and he is interested in purchasing it. The Highway department will receive millings from the State. Product will be going up on Friedman Rd.

June 12, 2019

Regular Meeting

7:34pm

Supervisor Grant called the meeting to order and asked Council Member Waite to lead the pledge to the flag.

Present were Council Members Frounick, Gadd, Mohun and Waite.

Supervisor Grant opened the Public Hearing on Local Law #1-2019, Residency Requirement for Highway Superintendent.

Supervisor Grant opened the Public Hearing on Rezone and Special Permit Application – Duke Energy

Financial Matters

General Fund claims #112-134 totaling \$19,390.47 presented. Motion made by Mohun/Gadd to approve the General Fund claims presented. Voting all ayes, carried.

Highway Claims #90-104 totaling \$198,755.69 presented. Motion made by Mohun/Gadd to approve the Highway claims presented. Voting all ayes, carried.

Cowlesville Water District claims #33-38 totaling \$2,466.50 presented. Motion made by Frounick/Waite to approve the water district claims, voting all ayes, carried.

Cowlesville Street lighting claim #6 totaling \$197.81 presented. Motion made by Gadd/Frounick to approve the lighting district claims, voting all ayes, carried.

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

Minutes: May Meeting

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

Correspondence:

The Town Clerk received a Disclosure Statement from the Town's Assessor Kandace Wittmeyer. Supervisor Grant received the Wyoming County Profile 2017 Census of Agriculture. Wyoming County is the top agricultural county in the State. Minutes were received from the Highland Glens meeting regarding the Water District. New York State Tax and Finance State Equalization Rate is at 41%. Town Justice Brandon's report from last month was received by the Supervisor. Wyoming County Planning shared services available to municipalities.

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. The impact study was just received by the Town the day prior (6/11/19) to this Board meeting. Consultant prepared a study last week regarding the visual impact. Solar Law in the Town only allows solar projects on agriculture parcels. Duke is seeking a re-zone from residential and commercial. Application was submitted to the Town in March on the 20 megawatt project covering 78 acres. Tyler presented study including setback of 50ft along with planting of shrubs and trees along the fence line that borders State Rd. 77. Trees will grow to 12-15ft at full maturity and will be replaced should they die when alerted by the Town. Councilman Gadd questioned the setback, if this was the recommendation of the County Highway Dept. Should we consult? Atty.

Spitzer addressed added verbiage to contract regarding ongoing care of trees. Donna Baker from Clinton Street questioned where the energy was going. Electricity will go to the grid. Beth Hughes from Clinton Street concerned about upsetting her horses while installation is going on. Bob Plewa from State Rd. 77 concerned on setback. Beth Hughes asked Supervisor Grant what the process will be and she was given that information. The County Planning Board approved the Rezone, but held back on the rest pending additional information. The Town Board will vote whether to proceed with the project. The Board will work with Duke and come up with the best plan and make sure questions are addressed. Deb Huber from Clinton Street asked if there will be any flashing lights or humming; answered no. This project will help mitigate the blowing snow per their study. Asked if Town would benefit financially? Duke would pay taxes on that portion and work on Pilot program with the IDA. Bonnie Warner asked if there would be a reduction of speed; the state sets the speed limit, not the Town. Maria Walczak from Rt. 77 concerned on glare and the numerous accidents on that road. The study concludes no public nuisance. They are black, therefore they absorb not reflect. Dan Reiner from Clinton Street wants to know if we will see wires. No they will be run underground. Les Green from Old Alleghany wanted to know how tall the fence will be; 7ft plus a foot of barbed wire. He also asked how much the landowner would get for the lease of his property from Duke Energy; that is private and between the landowner and Duke. Bob Plewa asked what will happen if there is a problem with glare. Again, report states there will be no glare. Mrs. Walczak wanted to know why Bennington was chosen; criteria was flat land, good access to transmission, good road access, no environmental concerns. This site satisfied the criteria. Construction would take place five days a week. Duke will maintain mowing of property; no full-time employees will be based on site. Duke would hire local experts to install the panels. Jason Conrad from Clinton Street concerned on effects of construction and how it will affect his farmland. All water runoff will be contained in their retention pond. Duke is held to adhere to not making a change to current conditions. Councilman Mohun asked if project could shrink to less than 78 acres; too early at this point. Jim Schlick from Church Rd. asked if the Board accept written statements from residents; yes please submit. Duke Energy will contact and meet with them directly. Zoning Officer Marble said that residents could submit via the Town website [www.benningtonny.com](http://www.benningtonny.com).

Councilman Waite asked if the Town can purchase electricity at a cheaper rate from this project; commercial solar projects are 5 megawatts, so this would not qualify. No legal way to make this happen. Town should be purchasing a co-op pricing which is reduces pricing. Duke has been in business for over 100 years. Will the Board notify residents of the money that comes in for this project; yes, budget is always available to residents. Duke is not looking at additional projects in the Town. Atty. Spitzer explained the power leads that the energy services deal with and the precarious balancing act that they must adhere to. Karen DeYoung from Bailey Rd. asked about the height of fence, said deer can jump 7 and a half feet. Height is standard at 7ft plus the foot of barbed wire. Ed Aldrich from Bailey Rd. concerned about deer. Atty. Spitzer recommended to the Board to keep the public hearing open and asked to approve the escrow agreement.

Motion made at 9:04 to adjourn the public hearing and sign the escrow agreement by Councilman Frounck, seconded by Councilman Mohun. Voting all ayes; carried.

Supervisor Grant asked if there were any public comments regarding Local Law #1-2019 at 9:07pm. Superintendent Czworka will retire and the Board has difficulty finding qualified individuals in the Town. County advised that other municipalities have adopted local laws to open residency requirements outside their Towns. Mr. Plewa asked if the Highway Superintendent is required to come to Town meetings; no he is available anytime and can be contacted via phone/email. Board members can be contacted if satisfaction is not received. Karen DeYoung asked if the salary can be raised; Councilman Gadd said it is being addressed. Question asked from a resident that sent in a resume, but had not been contacted. Board will be contacting those people next week. Councilman Waite asked if an out of County resident was elected, but did not show up for work, could the Board fire him; no, the Board cannot fire an elected official. Motion made at 9:17pm by Councilman Mohun to close the public hearing, seconded by Gadd; voting all ayes, carried.

**Resolution #2019-6-2                      Local Law #1, Year 2019**

Whereas the Town Board of the Town of Bennington held a duly publicized public hearing on this date at the Town Hall in Bennington Center, now

Therefore Be it Resolved, that the Town Board hereby approves the adoption of Local Law #1, year 2019 A Local Law Establishing Residency Requirements for the Office of Highway Superintendent; and

Be it Further Resolved, that the Town Clerk is hereby directed to file said Local Law with the Secretary of State of the State of New York.

Motion by Frounick, seconded by Waite

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

Public Concerns: Mr. Plewa asked what the process for the solar project would be going forward.

Departments:

Town Clerk: The Clerk is appointing Denise Kless as Deputy Town Clerk. The Town Clerk handed out her monthly report for May to the Board Members during work session.

Assessment:

Zoning/Planning:

Highway Department: Design work for the Aldridge property is moving along.

Parks/Recreation: Swim contract with Byrncliff Resort.

**Resolution #2019-6-1                      Contract with Byrncliff Resort for Youth Swim Program**

Be it Resolved, that the Town of Bennington enters into an agreement with Byrncliff Golf Resort & Banquets, 2357 Humphrey Road, Varysburg, New York for use of facilities for the Town’s Youth Recreation Swim and Crafts Program, beginning July 9, 2019 through August 15, 2019 for a total of 66 hours, in the amount of \$1,650.00.

Motion by Waite, seconded by Frounick.

Ayes: 5                      Noes:                      Abstain:                      Absent:

Water District: The water attendants are aware of a leak in the mainline of the water supply coming into the Town of Cowlesville and are working with Erie County to pinpoint the location with some of their equipment.

Transfer Station: The transfer station committee gave a written presentation to the Board. They proposed two options that the Board can look at. Option A was for a County Wide Curbside pickup program. All residents of the Town would receive weekly pickup up to 5 bags, all recyclables and one large item. Currently this is a \$246 charge that would get put onto the County/Town tax bill. Option B would include putting up to \$60,000 worth of improvements into the current Transfer station, annually charging every household residence in the Town between \$84-\$159 to dispose of up to 5 bags of trash per visit. Businesses in the Town would not have access to use the Transfer Station and no attendants would be able to assist in putting garbage into the compactor. This charge would also go on their County/Town tax bill. Councilman Waite asked what option the committee was most in favor of; Members were divided. Councilman Gadd asked for specific pricing of leased equipment, Councilman Mohun asked if a survey went out, what questions would be asked; Councilman Gadd thanked all members for their time and effort working on this project.

Old Business:

Spectrum Franchise Agreement was emailed to the Board members after some amendments were made by the Town Attorney. Motion was made by Councilman Mohun to approve the signing of the Franchise agreement and seconded by Councilman Gadd. Voting all ayes; carried.

**Resolution #2019-6-4 Agreement with New York State Electric & Gas to convert local street lights to LED lighting.**

Whereas, the Town of Bennington has confirmed the need for continued street lighting on Folsomdale Road in the area of Line #716, Pole #112,

Now, therefore, Be it Resolved, that the Town Board hereby approves the installation of a new LED 4500 lumen street light on Folsomdale Road by NYSEG on Line #716, Pole #112, and that such lighting shall be billed to town-wide street lighting account #1001-2714-456.

Motion by Mohun, seconded by Waite

Ayes: 5                      Noes:                      Abstain:                      Absent:

**Resolution #2019-6-5 Amend Investment Policy of the Town of Bennington**

Be it Resolved, that the Investment Policy of the Town of Bennington be hereby amended to designate depositories in Section VII and Appendix B as hereby attached.

Motion by Mohun, seconded by Gadd

Ayes: 5                      Noes:                      Abstain:                      Absent:

**Investment Policy  
Town of Bennington**

(replace) VII. DESIGNATION OF DEPOSITORIES

The banks and trust companies authorized for the deposit of monies up to the maximum amounts are:

<u>Depository</u>	<u>Maximum Amount</u>	<u>Officer</u>
Five Star Bank	See Attached Appendix B	
Alden State Bank	See Attached Appendix B	
Bank of Castile	See Attached Appendix B	
HSBC Bank	See Attached Appendix B	

**APPENDIX B  
INVESTMENT POLICY  
TOWN OF BENNINGTON**

(REPLACE) VII. DESIGNATION OF DEPOSITORIES

Depository Name	Maximum Amount	Officer
FIVE STAR BANK		
General Fund Checking;		
Highway Fund Checking;		
Cowlesville Water District Fund Checking	\$500,000.00	Supervisor
Justice Accounts/Bail Account	\$ 8,000.00	Justice
General Fund Certificate of Deposit	\$500,000.00	Supervisor
Highway Fund Certificate of Deposit	\$500,000.00	Supervisor
Cowlesville Water District Certificate of Deposit	\$500,000.00	Supervisor
Tax Collection Accounts	\$900,000.00	Town Clerk/Collector

ALDEN STATE BANK

Town Clerk Accounts	\$ 25,000.00	Town Clerk
General Funding Certificate of Deposit	\$250,000.00	Supervisor
Highway Fund Certificate of Deposit	\$250,000.00	Supervisor

BANK OF CASTILE

General Funding Certificate of Deposit	\$250,000.00	Supervisor
Highway Fund Certificate of Deposit	\$250,000.00	Supervisor

HSBC BANK

General Funding Certificate of Deposit	\$250,000.00	Supervisor
Highway Fund Certificate of Deposit	\$250,000.00	Supervisor

A motion was made by Councilman Mohun to repair the upstairs front doors at a cost not to exceed \$1,000 and seconded by Councilman Waite. Voting all ayes; carried. We will also look into long term future of these doors.

A motion was made by Councilman Gadd to approve a stipend for the acting Deputy Highway Superintendent of \$10,000 till 12/31/19 paid bi-weekly, and seconded by Councilman Waite. Voting all ayes; carried.

Any other Business to come before the Board

There being no further business, a motion was made by Mohun to adjourn. Meeting adjourned at 10:23 pm.

Respectfully Submitted,

Carolyn Busch, Town Clerk

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:**

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

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 11<sup>th</sup> 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 14<sup>th</sup> 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

# TOWN OF BENNINGTON

## Town Board Meeting Agenda

August 14, 2019

Work session 6:30pm

Waite, Mohun and Gadd audited bills. Councilman Frounick is excused from the meeting tonight. Czworka briefed the members on projects he is working on. Spoke on a trade with the current loader as discussed at last month's meeting. Ellen asked about supplies for winter; salt and sand. Will start hauling out over the next month or two. Using 6" of millings on Woodley Rd. along with ditching within the next 3 weeks. Clerk spoke about complaints on Friedman Rd. Ken will go out this week to look at. Ellen briefed the Board on Spectrum and said that the Town Attorney will be in attendance tonight. Information was given from the Town Attorney on the legalities of the resolution on seceding from NYS. Gentleman coming from Duke Energy tonight, in negotiation with County IDA for the PILOT program. Joyce updated the Board members on some of the Road Committee's meetings and the progress they are making. Atty DiMatteo came in to brief the Board on the Spectrum agreement.

7:34pm Call meeting to order; Councilman Mohun led the pledge

Open Public Hearing on Spectrum/Charter Communications franchise agreement at 7:35Pm

Financial Matters

General Fund vouchers # 162 to # 189 totaling \$ 15,035.71 Mohun;Gadd

Highway Fund vouchers # 117 to # 128 totaling \$ 30,503.77 Waite;Gadd

Cowlesville Water vouchers # 45 to # 52 totaling \$ 3,104.22 Mohun;Waite

Cowlesville Light vouchers # 8 totaling \$ 197.81 Gadd;Waite

Financial Reports Mohun;Gadd

Minutes of previous Town Board Meeting Motion to approve Waite;Mohun

Correspondence – The Town Clerk received information about a GLOW electronics Collection in Batavia on 9/21/19 from 9am till Noon along with a Household Hazardous Waste/Pharmaceutical Collection on 9/14/19 in Batavia from 9am till 1pm. These will be posted on the Town's Facebook page as well as posted on the Town Clerk's official board at the Town Hall. The Town Clerk received a letter from the NYSDEC regarding free fishing through Labor Day on Lake Ontario and the St. Lawrence River. The Supervisor received reports from town justice court for June. Clerks reports for July and a final report Benn 2019 taxes paid to supervisor on balance of interest paid to the Supervisor.

Hear Public Concerns & Petitions

Leonard Roberto Pastor of Folsomdale Church spoke on the secession request and resolution that he presented to the Board members. He voiced his concern regarding illegal immigration, along with infanticide laws that have been passed in NYS. He has put together a primary challenge to separate upper NY State from downstate. He would like the Board to consider a

petition and the Town Board to consider submitting a resolution for this separation. He presented the Board with a petition containing signatures from residents of Bennington requesting that the Town of Bennington sign this resolution. Board cannot take action; our Town Attorney will look into this further. David Berg from Graff Rd. asking about the closure of the Transfer station. Ellen said that it is operating at a loss over the course of many years. Committee met to discuss options. Merlyn Bissel spoke that all members were in agreement on keeping the station open. Karen DeYoung spoke about some of the information that came out of their meetings. Councilman Mohun asked the Clerk how many people use the station and that number is 200. Total residences are 1300 and this is a small fraction of the users. Mr. Bissell asked for a change to the decision that the Board made last month. Mohun challenged the second recommendation and the information/figures that were given which were all based on assumption of use. Dave Dombrowski from Folsomdale Rd asked why the Town did not put it out for bid. Mr. Plewa from 77 asked how many people we have asked about their thoughts on the Transfer committee. Gadd believed that the \$60K was not enough to cover improvements. There was no factoring of costs to cover an additional employee's hours and wages in the Advisory Committee's proposal. Jim Germain the committee chairman stated that 11 of the 16 towns in the County have contracted with the County and Arcade has a direct contract that is almost identical to the County program. He believes that the Board did look at the proposal closely and Jim had people thanking him for his work on getting a contract in place. Mary Gadd from Gadd rd. stated that all residents on her road have Waste Management. She will pay \$50 less for pickup with the Town contracting with the County. They are happy with the service and do not want to cart the garbage to the Town. Margaret Germain from Folsomdale Rd. spoke for neighbors that are happy that the Town is going to a contract. Mr. Beeman asked about damage to the roads. He was told trucks from 3 different companies are already on the roads. Using the County Contract would limit the trucks to one day a week. Cathy Forgnone, a resident from Graff Rd., asked about transfer station permits and why they aren't checking for them when they are dropping off their trash. Les Green from Clinton Street asked if there is something coming out of taxes now for shortfall. Supervisor Grant spoke and said that she and the Board read the reports multiple times when presented at the June meeting. She spoke with other communities on their stations along with community members. The Board used all of this information to come up with the decision made at July's open Board meeting. She commends the committee on looking at all of the options and putting together a report and the many hours they put into this project. John Brandon asked why the committee was not informed of the Board's decision. Ellen apologized for that oversight. Mr. Dellapenta asked that the Board rescind their decision to sign. Ellen informed that the Town had already signed a contract with the County after the decision was made at last month's Board meeting. Jim Schlick asked about option #2; \$158 for five bags of trash and large items. Are we arguing about \$90? The residents that are upset are the ones aren't paying now. A County wide program is the best way to make sure there isn't illegal dumping and burning going on. Mr. Dombrowski asking about cans and bins; who will supply. The Town is looking at purchasing bins if they aren't provided. Ron Goudy from Burrough Rd. asked about WM providing totes. Mark Wright has a WM tote and has had no animals get into it. Mr. Mally said that garbage should go into totes. Denise Bissel asked if the town had to make a decision based on time. Ellen said yes, as the county needed to know for tax preparation for 2020. Jim from Tooley Rd. asked if State representatives were asked to help financially regarding recycling centers. Dave

Best from Clinton asked if petition gets submitted, will the Board look at putting it to a vote? Councilman Mohun stated that the majority of the Town has pickup. She has been on the Board for several years and we are losing money on the transfer station and can't fix our roads. We would be under contract for 2 years, but can opt out if warranted after that. We have no guarantee on pricing. We also have no idea what future pricing for garbage will cost the Town if we kept the Transfer Station.

Hear Comments – Spectrum/Charter Communications Franchise Agreement

We have not had an agreement for years with Spectrum. They are supposed to be updating the area to expand coverage, but haven't been specific in the agreement. Attorney is advising the Town Board not sign the agreement as they have stated that they will provide 100% coverage, but haven't provided a map of that. Woodley rd. is not currently serviced per resident in attendance. Mr. Mally asked if Spectrum is still paying; answered yes.

Closed public hearing on Spectrum at 9:19 Waite/Mohun

Departments:

Clerk – No updates

Assessor - Reappointment of Assessor

**Resolution #2019-8-1 Reappointment of Assessor**

Be It Resolved, that Kandace Wittmeyer, 11474 Stolle Road, East Aurora NY 14052, is hereby reappointed to the position of Town Assessor for the period October 1, 2019 through September 30, 2025.

Motion by Mohun; Seconded by Gadd

Ayes: 4

Noes: 0

Abstain: 0

Absent: 1

Zoning/Planning – DMR Towing applied for a renewal on their Special Use permit. Gadd/Waite Highway – Working ditching on Woodley rd., next week they are doing shared services with other Towns in the area. After that, they will be working on Woodley for several weeks. Sinn Rd. replacing pipe after that. Discussion was held on buyback program for loader, looking at \$45k for new loader with program. Motion made by Mohun, seconded by Gadd to enter into agreement to get a new loader under the buyback program. Voting all ayes; carried.

Mohun has attended Road committee meeting and gave the Board updates. Would like information broke down by roads and creating project files on work that was done on roads. Also suggested hiring an office clerk to create files and keep track of the work being done. Town is currently going through an audit; auditor is looking at efficiencies to the Highway department.

Park/Recreation – Nothing to report

Water District – Out of District Agreement – SEQR Town will be getting feedback from the Health Department.

**Resolution #2019-8-2 Highland Glen Out of District Agreement – SEQR**

Whereas, in accordance with the New York State Environmental Quality Review (SEQR) procedures, the Town Board of the Town of Bennington hereby expresses its intent to serve as Lead Agency to comply with SEQR; and

Whereas, the purpose of this project is to provide a back-up water supply to the Highland Glens, Inc. residential development from the Town of Bennington Cowlesville Water District.

Therefore, Be It Resolved, that the Town Board hereby accepts Parts 2 and 3 of the Short Environmental Assessment Form for this project, prepared by MRB Group; and

Be It Further Resolved, that the project is an Unlisted Action and the Town will complete an Uncoordinated Review in accordance with Section 617.6 of SEQR; and

Be It Further Resolved, that the Town Board declares that, based on the Environmental Assessment, it finds that the project will result in no significant adverse impacts to the environment. Therefore, the Town Board does not anticipate the preparation of an Environmental Impact Statement for the project. Further, the Town Board herewith states its intent to issue a Negative Declaration under SEQR for the project.

Motion by Mohun, seconded by Gadd

Ayes: 4                      Noes: 0                      Abstain: 0                      Absent: 1

Transfer Station –

One applicant has asked to be an assistant at the Transfer station due to a retirement.

Old Business:

Niagara Solar Project/Duke Energy

**Resolution #2019-8-4 Niagara Solar Energy Project**

Motion to table any decisions related to the Niagara Solar Energy Project until the September 11, 2019 Town Board Meeting and set the date and time of a workshop meeting for the Town, its' representatives; and Duke Energy to review the SEQR and financial agreements.

Date: August 27<sup>th</sup> Time: 7pm                      Location: Town Hall 905 Old Alleghany Rd. Attica, NY

A motion was made by Mohun and seconded by Gadd. Voting all ayes; carried.

Will table any action till the Sept. Board meeting.

Spectrum/Charter Communications Franchise Agreement

**Resolution #2019-8-5 Spectrum Franchise**

TABLE

Motion by Gadd, seconded by Waite

Ayes: 4                      Noes: 0                      Abstain: 0                      Absent: 0

New Business:                      Abolish various vacant positions and create various positions

**Resolution #2019-8-6                      Abolish Various Town Positions**

Be It Resolved, that the following Civil Service positions are hereby abolished in the Town of Bennington, effective immediately:

#03.003.021 Motor Equipment Operator positions #03.003.021, #03.006.021, #03.009.021, #03.023.021, #03.027.021, #03.033.021,

#03.034.021, #03.035.021, #03.038.021, and #03.040.021;  
#03.036.503 Constable;  
#03.015.502 Voting Machine Custodian;  
#03.029.002 Elected Assessor positions #03,029.002, #03.030.002 and  
#03.039.002;  
#03.012.502 Tax Collector;  
#03.002.502 Town Clerk;  
#03.025.502 Councilman;  
#03.043.072 Water Treatment Plant Operator;

And Be It Further Resolved, that the following part-time Civil Service positions are hereby created:

Town Clerk/Tax Collector  
Water System Operator  
Assistant Water System Operator  
Water Clerk  
Councilman  
Member, Board of Assessment Review (3)  
Deputy Town Clerk  
Office Clerk  
Parks Maintenance Worker  
Planning Board Member (6)  
Planning Board Chair  
Zoning Board Member (6)  
Zoning Board Chair  
Secretary to Planning Board  
Secretary to Zoning Board  
Secretary to Board of Assessment Review

Motion by Waite second by Mohun

Ayes: 4

Noes: 0

Abstain: 0

Absent: 0

Assessment Update

**Resolution #2019-8-7 Revaluation of Real Property within the Town of Bennington**

Be it Resolved, that the Town Board hereby authorizes and directs the Town Assessor to conduct a revaluation of all real property within the Town of Bennington for the 2021 tax roll, and be it

Further Resolved, that the Assessor shall prepare a budget for the costs associated with the project, including, but not limited to postage, contracted services, office supplies, travel and telephone and shall present the estimated budget to the Budget Director by September 10, 2019.

Motion by Mohun, seconded by Gadd

Ayes: 4

Noes: 0

Abstain: 0

Absent: 0

#### All Hazard Mitigation Plan Update

A letter went out to the Towns asking for a renewal of the Wyoming County Hazard Mitigation Plan. This is a letter of intent that the Town of Bennington will participate with the County. The County will be working with Finger Lakes Planning Council. A letter was submitted to the Town Clerk for the Superintendent to sign. Supervisor Grant and the Highway Superintendent will provide information on behalf of the Town. Motion by Mohun seconded by Gadd to approve participation. All Ayes, carried.

Sexual Harassment training: The Clerk has some training certificates that were turned into the Office. The County has offered their services to provide training.

Public Hearing for Bennington Fire Company on Sept. 11 at 7:30pm. Clerk directed to advertise. Copies of the tentative contract will be in the Clerk's office. Motion made by Gadd and seconded by Waite. All ayes, carried.

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

Adjournment by Waite at 9:54pm.

Respectfully Submitted,

Carolyn Busch  
Town Clerk

# TOWN OF BENNINGTON

## Town Board Meeting Agenda

September 11, 2019

Work session - 6:50pm The Town Board audited the bills. All members were present. The Town Clerk updated the Board on receipt of a Cease and Desist letter from a Sovereign Citizen. The Clerk will send a copy to the Town Attorney. Communication was received from the Town Attorney on his findings of the Petition to Secede from NY State. The Town Clerk apprised the Board of the large deposit from the two weeks that she was on vacation. Councilman Mohun asked that she make a note for the Auditor in explanation. Councilman Mohun would like the Assessor to give a presentation to the Board on Re-valuation. Superintendent Czworka is working on Woodley Rd. Should be another week working before completion. Estimate was \$79,000 plus the oil and stone cost, and project is currently at \$109,000. He has work on Graff and Dersam Rd. He plans on going through and grading after Woodley is completed. He is still waiting to receive estimates. The loader should be traded in by the end of September as we have gone over the amount of hours allowed. Supervisor met with Mr. Aldridge and County to plan out replacement of culvert pipe on Sinn Rd. Roughly \$17K will be needed for this project. This will be paid by a combination of Town, homeowners and Soil & Water. Atty. Spitzer briefed updates on Duke Energy. He recommends passing SEQR tonight and not do the Site Plan. Local Law was not received for the Town to adopt. Next meeting would be able to adopt a Local Law if paperwork is in and IDA completes their work.

Call meeting to order at 7:36 PM. Supervisor Grant asked that Councilman Waite lead the pledge. Asked for a moment of silence after that to honor 9/11 Memorial date.

Open Public Hearing on Bennington Vol. Fire Co. contract 2020 at 7:38 PM

Financial Matters      General Fund vouchers #190 to #\_\_\_\_ totaling \$10,053.71 Waite/Mohun  
Highway Fund vouchers #129 to #136 totaling \$14,718.38

Mohun/Frounick

Cowlesville Water vouchers #53 to #55 totaling \$2,216.83 Frounick/Gadd

Cowlesville Light vouchers #9 totaling \$197.81 Waite/Frounick

Councilman Waite will contact NYSEG regarding switch over to LED.

Financial Reports Mohun/Gadd

Minutes of previous Town Board Meeting – Updates were given by Councilman Mohun and updated. Motion to approve by Waite/Gadd.

Correspondence – My Folder. Gen Region workshop to be held on Nov. 15<sup>th</sup> in Batavia. COI from Renewal by Anderson. Info from State Retirement system held in Depew on 10/23. WY County zoning department regarding services they can provide to municipalities. Letter from ACS contracted with consultant on future enrollment at the district. We may be contacted from the consultant. Brown & Brown COI received.

Hear Public Concerns & Petitions: Mr. Dellapenta spoke on Transfer station decision. Ellen stated that no decision will be made to rescind their contract. Ellen said that there is a signed contract on file. He has a petition that he would like to submit that contains 35 signatures, he would like the contract rescinded. Asked if it could go to a public vote; no. John Brandon stated that they made a recommendation to fix the transfer station. Felt their recommendation was ignored. Would like to send out a survey asking residents what they wanted. Said that the residents are being told that the Committee gave the recommendation to go with the County. He feels that is untrue. Ellen said that she has explained to residents that the Committee came out with two recommendations over the course of the months that they met. The Board looked at both very closely – County-wide and an option to improve the center and push more residents to use the transfer station. He felt that the questionnaire should have been sent out. Dellapenta feels that other bids should be sought out before we go with the County contract. Resident said that Board didn't want people not using the transfer station to have to pay. Making a decision to go with the County took that option away. Resident asked if they will be



Be it Resolved, that the Town Board hereby instructs the Town Supervisor to sign the 2020-2021 Snow and Ice Control Contract with Wyoming County for \$7,092.00 per centerline mile for 14.44 miles of County roads within the Town of Bennington for a total expenditure of \$102,408.48; and

Be it Further Resolved that said contract may be adjusted due to varying intensity and severity of the winter season, utilizing the New York State Department of Transportation's index factor for Wyoming County.

Motion Frounick; Second Gadd

Ayes: 5

Noes: 0

Absent: 0

Abstain: 0

Sinn Rd. – Met to discuss project at Aldridge home. Soil and Water along with Superintendent Czworka and Supervisor Grant. Project cost will be \$17K, \$10-12 will be the Town's responsibility. The rest will be paid by Soil & Water, the County and resident. Resident is happy that this problem is being addressed and will be taken care of in the near future.

Old Business:

Niagara Solar Project/Duke Energy:

Supervisor Grant asked that we Amend agenda to discuss Duke Energy.

Atty. Spitzer handed out a resolution for a negative SEQRA declaration. JP addressed the Board. Asked for the Board's opinion on the environmental impact of this project. He talked through the SEQRA as he had prepared part II and III. Ellen was cross referencing part I with the presentation and felt it was very thorough. Superintendent read the Resolution that asked for a determination of non-significance.

## **RESOLUTION OF THE TOWN OF BENNINGTON TOWN BOARD**

### **FOR A SEQRA NEGATIVE DECLARATION**

#### **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; and

WHEREAS, on or about August 5, 2019, the Wyoming County Planning Board, acted on a referral from the Town Board on the Applications and recommended approval of the applications and consideration of comments on the site plan.

WHEREAS, the Town Board coordinated the review of the of the Application with a number of agencies including the Town of Bennington Planning Board, NYSDEC, NYSDOT, Wyoming County Planning Department and US Army Corps of Engineers;

WHEREAS, the Town Board's consultants, MRB Group, has reviewed the Applications, the supporting material submitted by the Applicant including a revised site plan, Viewshed and Glare analysis, photo simulations, responses to public comments and advised the Town Board that it finds no significant adverse impacts to the environment will result from the action as proposed;

WHEREAS, the Town Board has received the advice from its consultants and has given its consideration to the criteria for determining significance as set forth in 6 NYCRR § 617.7(c) (1) and the information contained in the Full Environmental Assessment Form Part 1;

WHEREAS, the Town Board has reviewed Part 1 of the FEAF and has completed Part 2 and Part 3 of the FEAF; and

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

1. Reasonably concludes the following impacts are expected to result from the proposed Action, when compared against the criteria in Section 617.7 (c):
  - a. there will not be a substantial adverse change in existing air quality, ground or surface water quality or quantity, traffic noise levels; a substantial increase in solid waste production; a substantial increase in potential for erosion, flooding, leaching or drainage problems;
  - b. there will not be large quantities of vegetation or fauna removed from the site or destroyed as the result of the proposed Action; there will not be substantial interference with the movement of any resident or migratory fish or wildlife species as the result of the proposed Action; there will not be a significant impact upon habitat areas on the site; there are no known threatened or endangered species of animal or plant, or the habitat of such species; or, are there any other significant adverse impacts to natural resources on the site;
  - c. there are no known Critical Environmental Area(s) on the site which will be impaired as the result of the proposed Action;
  - d. the overall density of the site is consistent with the Town's Comprehensive Plan land use recommendations;
  - e. there will be no significant adverse impacts to any known important historical, archeological, architectural, or aesthetic resources on the site according to the State Office of Parks, Recreation and Historic Preservation (SHPO) and the Phase 1a Cultural Resource Survey prepared by ERM for the project, or will the proposed Action impair the existing community or neighborhood character;
  - f. there will not be an increase in the use of either the quantity or type of energy resulting from the proposed Action;
  - g. there will not be any hazard created to human health;
  - h. there will not be an irreversible change in the use of active agricultural lands that receive an agricultural use tax exemption or that will ultimately result in the loss of ten acres of such productive farmland;
  - i. there will not be a larger number of persons attracted to the site for more than a few days when compared to the number of persons who would come to the site absent the Action;
  - j. there will not be created a material demand for other Actions that would result in one of the above consequences;
  - k. there will not be changes in two or more of the elements of the environment that when considered together result in a substantial adverse impact; and
  - l. there are not two or more related Actions which would have a significant impact on the environment.
2. Based upon the information and analysis above and the supporting documentation

referenced above, determines the proposed Action **WILL NOT** result in any significant adverse environmental impacts.

3. Makes a Determination of Non-Significance on the proposed Action, and the Supervisor is hereby directed to sign the Full Environmental Assessment Form Part 3 and issue the Negative Declaration as evidence of the Town Board's determination,
4. Concludes that this Determination of Non-Significance has been prepared in accordance with SEQRA and the Town Board directs Town Clerk to file, publish and distribute pursuant to 6 NYCRR § 617.12 (a)(1),
5. State that the Lead Agency Contact is:

Ellen Grant, Supervisor  
Town of Bennington Town Board  
905 Old Alleghany Road  
Bennington, NY 14011

6. This resolution shall take effect immediately.

ADOPTED: September 11, 2019

PASSED AND ADOPTED by the Town Board of the Town of Bennington on the 11<sup>th</sup> day of September, 2019

#### ROLL CALL

Supervisor Grant - Yea  
Councilmember Frounck - Yea  
Councilmember Gadd - Yea  
Councilmember Mohun - Yea  
Councilmember Waite - Yea

Supervisor Grant asked for a motion to issue the negative declaration; Motion made by Waite and seconded by Frounck. Roll call vote – Waite/Aye, Mohun/Aye, Gadd/Aye, Frounck/Aye, Supervisor Grant/Aye. Atty. Spitzer said next step would be to approve a local law for the re-zone to approve the project. That will be presented at October's meeting.

#### Petition to Secede:

Last month the Board was presented with a petition to secede based on concerns with the way the Town of Bennington is being serviced by the State. Pastor Roberto met with the Town Attorney to discuss privately after last month's meeting. Ellen received his review of the issue and he has recommended that the Town not vote on this issue due to the constitutionality. Pastor Roberto said only three people would need to be replaced; all other infrastructure would remain the same as now. Funding abortions, giving driver license to illegal immigrants, giving free college education to illegal immigrants are not acceptable to their group of residents. He stated that it just takes courage to stand up to NY city. Councilman Gadd asked to vote. Councilman Mohun said that no vote will be taken tonight. Concerned with taking over the State roads as we cannot manage the roads we have now in the Town. If we seceded the funding from the State would stop. Supervisor Grant stated that there is a lot of frustration with the state that does not reflect our needs and values. The size of NY is off balance by down state and laws are generated based on that area. Conservative voices in the Legislature are not being heard and that is unfortunate. Our attorney has reviewed and his findings are that the US Constitution takes precedence and if we take action, it would be treasonous. Resident feels that no repercussions would be given. He lives on 77 and helped to get petitions signed. Not one person was reluctant to sign the petition. He suggested that it go to a referendum and let the citizens of Bennington decide. Ellen would pose this question to our attorney. Councilman Gadd asked questions of Pastor Roberto and said that we wouldn't want to be the first Town in the State to secede. Pastor Roberto would be open to speaking with any one individually. No action was taken tonight.

Park/Recreation – Swim Instructors wage rate

**Resolution #2019-9-3                      2019 Wage Rate for Recreation Program Swim Instructors**

Be it Resolved, that the 2019 wage rate for swim instructors for the Town Youth Recreation Program is hereby set at \$11.75 per hour, effective July 1, 2019.

Motion Mohun; Second Frounick

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

Water District – Water Resource Agency meeting. We have been having some problems with the meter reader. Judy had a phone meeting and this agency can come out and do the reads and provide us with a thumb drive of the information to give the Town for billing. Our Williamson Lawbook software is very expensive, so we are looking to see if billing could be provided as well.

Transfer Station – Assistant TSO. Town received one applicant who has worked PT in the Highway department. Motion made by Frounick/Gadd to hire Tim Fuest to be a PT assistant at the transfer station.

New Business:

Set date of Public Hearing/Lead Agency – Verizon application to Co-locate ATC tower

**Resolution #2019-9-5                      Verizon Special Permit Application for Co-Location**

Whereas, the Town has received a complete application from Bell Atlantic Mobile Systems of Allentown, Inc. (Verizon Wireless) for a Special Use Permit for the installation of wireless communications signal equipment within the Town, in addition to an application for co-location of said equipment on an existing 215’ self-supporting wireless telecommunications tower owned by American Tower (ATC) at 580 Ortner Road;

Now, therefore, be it resolved, that the Town Board hereby declares itself as Lead Agency for the purposes of SEQR review and approval of said applications; and

Be it further resolved, that the Town Board hereby schedules a public hearing on said special permit application for the 9<sup>th</sup> day of October, 2019 at 7:30 p.m. at the Bennington Town Hall, and hereby authorizes and directs the Town Clerk to advertise the same in the legal publication of this town.

Motion Waite; Second Frounick

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

2020 Budget – workshop session

**Resolution #2019 – 9-6                      Set date of 2020 Town Budget Workshop Session**

Be it Resolved, that the Town Board hereby sets the date of the 2020 Town Budget Workshop Session as the 2nd day of October, 2019 at 7:30PM at the Bennington Town Hall, and hereby authorizes and directs the Town Clerk to advertise the same in the legal publication of this town.

Motion Frounick; Second Mohun

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

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

Mr. Aldridge spoke about his property and would like the project moved up to this year and not Spring as mentioned earlier in the meeting.

Sexual Harassment training to be held in the Town on October 6<sup>th</sup> for Town employees.

County approved salt and sand bids for Gernatt for sand and American for Salt.

Supervisor Grant welcomed Councilman Frounick back after his medical leave.

Councilman Gadd will not be at the October meeting.

Adjournment by Mohun at 9:39 PM

Respectfully Submitted,

Carolyn Busch

Town Clerk

# TOWN OF BENNINGTON

## Town Board Meeting Agenda

October 9, 2019

Work Session: 6:50pm Board members Mohun, Frounick and Waite audited the bills. Councilman Gadd was excused for tonight. An Eagle Scout candidate will be coming in to present a project. He would like to do some work at the Historical Society. The Town would like to purchase a new mower for mowing Pine Tree Park and the Historical Society. Money may be coming in to reimburse the Town for work done to the roof of the Town Hall and Highway shed. Discussion held on Duke Solar Energy project. Twenty people came to the Town Employee Sexual Harassment training.

Presentation of Eagle Scout Project for Board Approval – Steven Keicher from Troop 474 would like to do his Eagle Project at the Historical Society. Project will include a sanding of the gazebo with staining along with wire brushing the benches to be completed by November 7th. He would be able to purchase materials at Attica Hardware on the Town Account to minimize out of pocket expenses. He will have family members and fellow Scouts help on the project. Project not to exceed \$500.

Meeting called order at 7:38pm. Councilman Frounick was asked to lead the Pledge to the Flag.

Open Public Hearing on Verizon application to Co-locate Telecommunications Equipment at 7:39pm.

Motion by Waite/Frounick to approve the Eagle Scout project that was presented at Work Session; Voting all Ayes, carried.

### Financial Matters

#### Resolution #2019-10-1      Transfer within accounts

From: A1620.2 Buildings/Equipment	1,000.00
A7110.2 Parks/Equipment	500.00
To: A1440.4 Engineer/Contractual	1,000.00
A7110.4 Parks/Contractual	500.00

Motion by Mohun; Seconded by Waite. Ayes: 4    Absent: 1, Gadd. Motion carried.

#### Resolution #2019-10-2      Appropriation of Reserve

		Debit	Credit
A9901.0	General Fund Reserve	100,000	
A391			100,000
DA630	Highway Fund		100,000
DA5031		100,000	

Motion by Mohun; Seconded by Waite Ayes: 4 Absent: 1, Gadd. Motion carried.

General Fund vouchers #209 to #233 totaling \$14,635.73  
Motion by Frounick/Mohun; all ayes carried  
Highway Fund vouchers #138 to #146 totaling \$198,021.88  
Motion by Waite/Mohun; all ayes carried  
Cowlesville Water vouchers #56 to #62 totaling \$3,871.02  
Motion by Mohun/Waite; all ayes carried  
Cowlesville Light vouchers #10 totaling \$197.81  
Motion by Frounick/Waite; all ayes carried  
Financial Reports  
Motion by Waite/Mohun; all ayes carried

Minutes of previous Town Board Meeting - Motion by Mohun/Waite; voting all ayes carried.

Correspondence – The Town Clerk received a letter from Harris Corners Fire Department requesting a 2% increase for Fire and Rescue services for a period of two years. Two resolutions were received from the County Clerk regarding the Confinement of Dogs in Wyoming County and an order of protection for Deer. These Resolutions will be posted on the Clerk’s official bulletin board. The Town Clerk received an email from the Attica Central School District requesting use of the Town Hall on 1/23/20. The Clerk received a pamphlet on autumn programs at Letchworth State Park. This is posted on the Clerk’s official bulletin board at the Town Hall. A letter of gratitude was received from the Folsom Trailblazers. A certificate of Analysis was received from Biotrax for monthly testing along with the yearly full water quality report. The Supervisor received contact info in case of Emergency from National Fuel Gas. Susan Westfall from NYSEG was contacted by Councilman Waite. She said that eight towns have finished the conversion of LED street lights and the Town of Bennington will be worked on next. This project will be completed by the end of this year.

Hear Public Concerns & Petitions: Daniel Brennan from Nixon Peabody spoke regarding the Verizon Tower co-location project at 580 Ortner Rd. Will construct equipment to co-locate at this existing Tower. Exhibit E – This project is about capacity, not filling gaps in service. This project is about providing additional bandwidth to existing internet service. Exhibit J – photo simulations of the project. Before and after what it will look like after the project. They believe in best interest in the Town, this is a good place for the equipment. The Tower is 215 ft and this equipment will only be 10ft total. There is more space available for other projects. Ed Aldridge asked for an update on his Sinn Rd. property project. Supervisor Grant said that phone calls have been made, but waiting for feedback. Mr. Aldridge feels that the Town has gross negligence in neighboring property and should not have approved the project at his neighboring property. He will take action if his pool is flooded out. Councilman Mohun suggested that he install a berm next to his pool to prevent this from happening in the future.

Hear Comments – Verizon application; close Public Hearing at 8:06PM and vote on applications. Motion by Mohun/Frounick; all ayes carried.

Town Engineer J.P. Schepp from MRB asked that a couple changes be made to the SEQR. Motion by Mohun/Frounick; Voting all Ayes carried

#### **Resolution #2019-10-3Verizon Special Permit Application for Co-Location – SEQR**

Whereas, in accordance with the New York State Environmental Quality Review (SEQR) procedures, the Town Board of the Town of Bennington hereby expresses its intent to serve as Lead Agency to comply with SEQR; and

Whereas, the purpose of this project is to collocate cellular telephone facilities on an existing tower;

Be it Resolved that the Town Board hereby accepts Parts 2 and 3 of the Short Environmental Assessment Form for this project, prepared by MRB Group; and

Be it Further Resolved, that the project is an Unlisted Action and the Town will complete an Uncoordinated Review in accordance with Section 617.6 of SEQR; and

Be it Further Resolved, that the Town Board declares that, based on the Environmental Assessment, it finds that the project will result in no significant adverse impacts to the environment. Therefore, the Town Board does not anticipate the preparation of an Environmental Impact Statement for the project. Further, the Town Board herewith states its intent to issue a Negative Declaration under SEQR for the project.

Motion by Mohun, seconded by Frounick. Ayes: 4 Absent: 1, Gadd. Motion carried.

#### **Resolution #2019-10-4Verizon Special Permit Application for Co-Location**

Whereas, the Town has received a complete application from Bell Atlantic Mobile Systems of Allentown, Inc. (Verizon Wireless) for a Special Use Permit for the installation of wireless communications signal equipment within the Town, in addition to an application for co-

location of said equipment on an existing 215' self-supporting wireless telecommunications tower owned by American Tower (ATC) at 580 Ortner Road; and

Whereas, the Town has held a duly advertised public hearing on the above applications on this 9<sup>th</sup> day of October 2019 at the Bennington Town Hall for the purpose of hearing comments from residents on the proposed project; and

Whereas, the Town Board declared itself as Lead Agency for the purposes of SEQR review and has completed the review and has issued a Negative Declaration of any significant impacts;

Now, therefore be it resolved, that the Town Board finds it in the best interests of the residents of this town to approve said applications, and hereby approves the application by Bell Atlantic Mobile Systems of Allentown Inc. (Verizon Wireless) for a Special Use Permit to install wireless communications signal equipment within the Town and also approves the application to co-locate said equipment on the existing American Tower located on Ortner Road.

Motion by Waite, seconded by Frounick. Ayes: 4 Absent: 1, Gadd. Motion carried.

#### Departments:

Clerk – Dog Enumeration was completed and will be worked on over the next few weeks. No Clerk's report was given tonight for the month of September. Will provide at the November meeting.

Assessor – Assessor gave her report for the month of September. Included attending continuing educations and working on variances. She will do a presentation on 10/30 regarding re-valuation.

Zoning/Planning – Nothing to report.

Highway – The Superintendent is buying salt and sand for the winter. The new loader has been delivered. Several projects are going on around the Town.

Park/Recreation – Discussion held on purchasing a new mower for the park. The Town will go out to bid after the first of the year. We will shut down restrooms at the Park and winterize.

Water District – JP (Town Engineer) to discuss Highland Glens Water project. Received plans and they are in the process of reviewing. SEQR was read by Supervisor Grant to the audience. Highland Glen SEQR Review- Motion to approve SEQR prepared by MRB Group and declare a negative impact by Mohun, Second Frounick; voting all ayes carried.

Transfer Station – Supervisor Grant spoke with rep from Waste Management. They should be sending information that they can pass on to the Town residents on the new pickup service. She would like to get it out by end of next week.

Old Business: Niagara Solar Project/Duke Energy – Local Law #2 and Special Permit

**RESOLUTION OF THE TOWN OF BENNINGTON TOWN BOARD  
ADOPTING A LOCAL LAW GRANTING A ZONE CHANGE  
AND ISSUING OF A SPECIAL USE PERMIT FOR THE  
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 (the "Petition") owned by Wayne Peirick, (Tax Map No. 16.-1-43 located west of Alleghany Road/SR 77, north of Clinton Street/SR 354 and Tax Map No. 16.-1-34.2 located east of Alleghany 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 Petition and the Applications and continued the public hearing to its July 10, 2019 meeting; and

WHEREAS, on or about August 5, 2019, the Wyoming County Planning Board, acted on a referral from the Town Board on the Applications and recommended approval of the Applications and consideration of comments on the site plan; and

WHEREAS, the Town Planning Board acted on a referral from the Town Board on the Applications and recommended approval of the Applications; and

WHEREAS, the Town Board coordinated the review of the of the Applications with several involved and interested agencies including the Town of Bennington Planning Board, NYSDEC, NYSDOT, Wyoming County Industrial Development Agency (“WCIDA”), Wyoming County Planning Department and US Army Corps of Engineers; and

WHEREAS, the Town Board’s consultants, MRB Group, reviewed the Applications, the supporting material submitted by the Applicant including a revised site plan, View shed and Glare analysis, photo simulations, responses to public comments and advised the Town Board that no significant adverse impacts to the environment will result from the action as proposed;

WHEREAS, on or about September 11, 2019, the Town Board considered the opinion of its Consultant, the criteria for determining significance as set forth in 6 NYCRR § 617.7(c) (1) and the information contained in the Full Environmental Assessment Form Part 1, and completed Part 2 and Part 3 of the Full Environmental Assessment Form and issued a Negative Declaration under SEQRA.

NOW, THEREFORE, BE IT RESOLVED the Town Board does hereby determine as follows:

1. That Local Law No. 2 of 2019, entitled “A local law amending the Town of Bennington Zoning Law and Official Zoning Map to re-zone two parcels of land designated therein to Agricultural-Residential (A-R) to allow for the development of a solar energy facility”, a copy of which is attached hereto as Exhibit A, is hereby adopted (a) changing the zoning designation for Tax Map Parcels Nos. 16.-1-43 and 16.-1-34.2 to Agricultural-Residential (A-R) and (b) amending the Town of Bennington Official Zoning Map to reflect said change;
2. That a Special Use Permit is hereby granted as the Applicant demonstrated that the Project meets the requirements of Section 13 (4) of the Town of Bennington Solar Law (Local Law No. 2 of 2017), Article III Section 4 of the Town of Bennington Zoning Law;
3. That the proposed Site Plan is hereby deemed acceptable as a Concept Plan. The Applicant shall submit a Site Plan pursuant to Article V Section 3 of the Town of Bennington Zoning Law and Section 13(4) of the Town of Bennington Solar Law (Local Law 2 of 2017) for review and approval by the Town Board;
4. That as a condition of these approvals, the Applicant shall submit to the Zoning Officer prior to the issuance of any building permit(s):
  - a. A copy of a resolution or approval from the Town Board granting Site Plan Approval of the Project;
  - b. An executed Host Community Agreement (“HCA”) between the Applicant and the Town Board for the Project in a form subject to the reasonable approval of the Town’s Special Counsel, which shall include: (i) an annual payment by Applicant to the Town of \$2,800 per megawatt AC of installed capacity, (ii) an annual payment increase of 1.5% annually, and (iii) a term of thirty-five (35) years unless otherwise earlier terminated.
    - i. Notwithstanding the above paragraph 4(b), the Town shall receive payments equal to the higher of the amount in paragraph 4.b or 80% of the total of the payments made by the Applicant pursuant to this HCA and any payment made by the Applicant pursuant to a Payment-in-Lieu-of-Taxes Agreement (“PILOT”) with the Wyoming County Industrial Development

Agency (“WCIDA”);

- c. Copies of equipment specification sheets for the photovoltaic panels, mounting systems, inverters and all other significant system components pursuant to the requirements of Section 13(4)(A)(3) of the Solar Law;
  - d. A copy of the property operation and maintenance plan pursuant to the requirements of Section 13(4)(A)(4) of the Solar Law;
  - e. A Decommissioning Plan that will be implemented upon abandonment and/or in conjunction with the removal of the facility, which Decommissioning Plan shall be reviewed by the Town’s consultant and determined to comply with the requirements of Section 13(4)(A)(5);
  - f. A bond to cover the costs of decommissioning subject to the reasonable approval of the Town’s Special Counsel and Consultant as to form and amount pursuant to the requirements of Section 13(4)(A)(6) of the Solar Law;
  - g. A copy of any utility company approval or agreement evidencing that the project has been approved for interconnection pursuant to the requirements of Section 13(4)(B)(10) of the Solar Law; and
  - h. Provide a copy of any permits obtained from NYSDOT for curb cuts, if any.
5. That the Board shall file a report of its final action with the Wyoming County Planning Board within thirty (30) days of this resolution.
  6. This resolution shall take effect immediately.

Motion by Waite, second by Frounick to approve.

ROLL CALL	Yea	Nay	Abstain	Absent
Supervisor Grant	X			
Councilmember Frounick	X			
Councilmember Gadd				X
Councilmember Mohun	X			
Councilmember Waite	X			

**PASSED AND ADOPTED BY THE TOWN OF BENNINGTON TOWN BOARD** on October 9th, 2019

EXHIBIT A

LOCAL LAW NO. 2 OF 2019

**A LOCAL LAW AMENDING THE TOWN OF BENNINGTON ZONING LAW AND OFFICIAL ZONING MAP TO RE-ZONE TWO PARCELS OF LAND DESIGNATED THEREIN TO AGRICULTURAL-RESIDENTIAL (A/R) TO ALLOW FOR THE DEVELOPMENT OF A SOLAR ENERGY FACILITY**

IT IS HEREBY RESOLVED BY THE TOWN BOARD OF THE TOWN OF BENNINGTON as follows:

- A. that it is consistent with the purpose of the Zoning Law of the Town of Bennington to re-zone the following two (2) parcels of land owned by Wayne Peirick to Agricultural Residential (A-R) to allow for the development of a solar energy facility:
  - (i) Tax Map Parcel 16.-1-43 which is located north of Clinton Street/SR Route 354 and west of Alleghany Road/SR 77 and is currently zoned Business (B), and

- (ii) Tax Map Parcel 16.-1-34.2 which is located north of Clinton Street/SR Route 354 and east of Alleghany Road/SR 77 which is currently zoned Residential-Multiple (R-M);
- B. that the Zoning Law of the Town of Bennington is hereby amended to change the zoning designation of the following two (2) parcels of land owned by Wayne Peirick to Agricultural-Residential (A-R) to allow for the development of a solar energy facility:
  - (i) Tax Map Parcel 16.-1-43 which is located north of Clinton Street/SR Route 354 and west of Alleghany Road/SR 77, and
  - (ii) Tax Map Parcel 16.-1-34.2 which is located north of Clinton Street/SR Route 354 and east of Alleghany Road/SR 77; and
- C. that the Official Zoning Map of the Town of Bennington shall be amended to reflect said change of the zoning designation of Tax Map Parcel 16.-1-43 from Business to Agricultural-Residential and Tax Map Parcel 16.-1-34.2 from Residential-Multiple to Agricultural-Residential.
- D. that this Local Law shall take effect upon filing with the Secretary of State of the State of New York.

**New Business:**

**Resolution #2019-10-6 SEQR Review on Highland Glen Application for Out of District Connection to Cowlesville Water District**

Whereas, in accordance with the New York State Environmental Quality Review (SEQR) procedures, the Town Board of the Town of Bennington hereby expresses its intent to serve as Lead Agency to comply with SEQR; and

Whereas, the purpose of this project is to provide a back-up water supply to the Highland Glens, Inc., residential development from the Town of Bennington Cowlesville Water District.

Now, Therefore, Be it Resolved, that the Town Board hereby accepts Parts 2 and 3 of the Short Environmental Assessment Form for this project, prepared by MRB Group; and

Be it Further Resolved, that the project is an Unlisted Action and the Town will complete an Uncoordinated Review in accordance with Section 617.6 of SEQR; and

Be it Further Resolved, that the Town Board declares that, based on the Environmental Assessment, it finds that the project will result in no significant adverse impacts to the environment. Therefore, the Town Board does not anticipate the preparation of an Environmental Impact Statement for the project. Further, the Town Board herewith states its intent to issue a Negative Declaration under SEQR.

Motion by Mohun, second by Frounick. Ayes – 4 Absent – 1, Gadd. Motion carried.

**Resolution #2019 -10-7 Set date of Public Hearing Local Law # 3 Year 2019 “A Local Law providing for a 2020 Tax Cap Override”**

Be It Resolved, that the Town Board of the Town of Bennington hereby sets the date of the Public Hearing to hear comments on the proposed Local Law #3, Year 2019, a Local Law Authorizing the Town Board to Exceed the NYS Property Tax Cap for the 2020 Town Budget, to occur at 7:30 p.m. on the 6<sup>th</sup> day of November, 2019; and

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

Motion by Mohun, second by Waite. Ayes: 4 Absent: 1, Gadd. Motion carried.

**Resolution #2019- 10 - 8 2020 Contract with Harris Corners Fire Company Public Hearing**

Be it Resolved, that the Town Board hereby will hold a Public Hearing on the proposed 2020 Fire Services Contract with Harris Corners Fire Company on the 6<sup>th</sup> day of November, 2019

at 7:30 p.m. at the Bennington Town Hall, and hereby authorizes and directs the Town Clerk to advertise the same in the legal publication of this town.

Motion by Mohun, second by Waite. Ayes: 4 Absent: 1, Gadd. Motion carried.

**Resolution #2019-10-9 Sets Date of Public Hearing – 2020 Town Budget**

Be it Resolved, that the Town Board will hold a Public Hearing on the proposed 2020 Town Budget on the 6th day of November, 2019 at 7:30 p.m. at the Bennington Town Hall, and hereby authorizes and directs the Town Clerk to advertise the same in the legal publication of this town.

Motion by Mohun, second by Waite. Ayes: 4 Absent: 1, Gadd. Motion carried.

**Resolution #2019-10-10 Change the date of the November Town Board Meeting**

Be it Resolved, that the November Regular Board Meeting of the Bennington Town Board shall be held on the 6th day of November at 7:30 p.m. at the Bennington Town Hall, with workshop session beginning at 6:30 p.m. on the same date; and

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

Motion by Mohun, second by Waite. Ayes: 4 Absent: 1, Gadd. Motion carried.

**Resolution #2019-10-11 Authorizes use of the Town Hall by Attica Central School**

Be it Resolved, that the Town Board hereby grants permission to the Attica Central School District to hold a Board of Education meeting on the premises on Thursday January 23, 2020 at 7:00 p.m.

Motion by Frounick, second by Mohun. Ayes: 4 Absent: 1, Gadd. Motion carried.

**Resolution #2019-10-12 Halloween Date and Hours**

Be it Resolved, that the Town Board sets the period for Trick or Treating within the Town of Bennington from 5 p.m. to 8 p.m. on Thursday, October 31, 2019 and hereby authorizes the Clerk to advertise the same in the Attica Pennysaver.

Motion by Frounick, second by Mohun. Ayes: 4 Absent: 1, Gadd. Motion carried.

Any other Business to come before the Board/County Matters: Employee training was held and had about 22 employees attend.

Question from Mr. Dellapenta about corrections to the meeting minutes.

Adjournment by Mohun at 8:41PM

Respectfully Submitted,

Carolyn Busch – Bennington Town Clerk

## TOWN OF BENNINGTON

November 6, 2019

### Workshop Session 7:01pm

Councilmembers Mohun, Frounick, Waite and Gadd audited the bills. Superintendent Czworka attended to update the Board on various projects. Received salt and sand the last couple of weeks and the plows have been put on the trucks. Did some grading, then patch work on Urf rd., Burrough Hill rd., and Graff rd. Supervisor Grant briefed the Board on the various hearings that will take place tonight. Local Law #3 is due to the revaluation project that will be going on next year. The County has offered to head up this project. We have the SEQR to consider a negative declaration for the Highland Glens hookup. Supervisor Grant updated the Board on the water meters. Our equipment is not able to read all meters in the Town, we are looking at joining a grant for new equipment. Supervisor Grant would like approval to pay Alden Advertiser for a printing project. She would like this to be paid when it comes in rather than wait till the next Board Meeting. All members were in agreement.

### Town Board Meeting Agenda

November 6, 2019

Call meeting to order at 7:38pm

Supervisor Grant asked Councilman Waite to lead the pledge to the flag.

Open Public Hearing on the 2020 Contract with Harris Corners Fire Company at 7:38PM

Open Public Hearing on Local Law #3 Over-ride the Property Tax Cap for the 2020 Town Budget at 7:38PM

Open Public Hearing on the 2020 Town Budget at 7:39PM

#### Financial Matters:

General Fund vouchers #234 to #254 totaling \$15,757.07 Motion Mohun/Gadd, all ayes carried.

Highway Fund vouchers #147 to #162 totaling \$48,446.45 Motion Frounick/Waite, all ayes carried.

Cowlesville Water vouchers #63 to #70 totaling \$2,959.92 Motion Gadd/Mohun, all ayes carried.

Cowlesville Light vouchers #11 totaling \$197.81 Motion by Waite/Frounick, all ayes carried.

Financial Reports; Motion by Mohun/Waite, all ayes carried.

Minutes of previous Town Board Meeting held on 10/9/19 as well as minutes from the Budget workshop held on 10/30/19; Motion to approve by Mohun/Gadd, all ayes carried.

Correspondence: The Clerk received the 2020 Varysburg Fire District Budget, a certificate of analysis from Biotrax, a letter from The Department of State verifying the receipt and filing of Local Law #2 2019. A letter and some emails from town residents were received by the Town Clerk regarding the new trash roadside pickup service. The Town Clerk received an announcement from the NYS Town Clerks association regarding legislation that Governor Cuomo enacted on November 6<sup>th</sup>. Effective 11/6/19, all death certificates must now specify if an opioid was specifically involved in the death. The Town Supervisor received current balances on Health Reimbursement Accounts for Town employees. Robert Gadd submitted a letter confirming that the Town Planning Board is aware of the Connect Gen Project in the Town. They attended a presentation on the project and Connect Gen is hoping to gain an award from NYSERDA for the Big Tree Solar project that the State will oversee. Copies of the presentation are available in the Clerk's office for review. Information regarding products from the Bank of Greene County. Renewals are due for insurance on 2020. The Supervisor received Info from Attorney DiMatteo regarding Local gross receipts. Municipal bookkeeping service flyer came in from a local company for services. Emails received from residents on washouts from various roads, these emails were passed on to the Highway Superintendent. NY Local Bridges calendar was received which featured the Schad Rd. Bridge.

**Hear Comments – 2020 Contract with Harris Corners Fire Co.**

Supervisor Grant opened the hearing for comments at 7:57pm. The Fire Department is seeking a 2% increase for the next two years. Councilman Mohun asked if they covered the insurance that was mandated, yes, they covered this expense from their funds. There are 7-8 members that are on this insurance plan because they are interior firefighters. Motion by Frounick/Gadd to close the Public Hearing at 8:02pm.

### **Resolution 2019-11-3 2020 Contract with Harris Corners Fire Company**

Whereas, the Town of Bennington has held a duly advertised hearing of all parties regarding the 2019 Contract between the Town and the Harris Corners Fire Company for fire and rescue squad service within the Harris Corners Fire Protection District in the Town of Bennington on this 6<sup>th</sup> day of November, 2020 at the Bennington Town Hall;

Now, Therefore, Be It Resolved, that following consideration of any and all comments regarding said Contract, the Town Board hereby approves said 2020 Contract in the amount of \$31,008.50, said amount to be levied upon the 2020 Town and County tax bills for parcels located within said District.

Motion by Waite; Seconded by Frounick

Ayes; 5

Noes: 0

Abstain: 0

Absent: 0

Supervisor Grant will sign the contracts and send out.

### **Hear Comments – Local Law #3 – Property Tax Cap Over-ride**

Supervisor Grant opened the hearing for comments at 8:04pm. Mr. Aldridge asked what that amount is; It is \$28,000 and is based on funding needed for the revaluation project that will be done in 2020. We will not be eligible for the tax relief rebate checks this year since the Town will go over the tax cap. Motion by Mohun/Gadd to close the public hearing at 8:08pm. All ayes, carried.

### **Hear Comments – 2020 Town Budget**

Supervisor Grant opened the hearing for comments at 8:09pm. Supervisor Grant reviewed some of the changes to this year's budget. Tentative budget was received by the Town Clerk on September 30<sup>th</sup> and then a budget workshop was held by the Town Board for additional input. After the additional changes, the preliminary budget was presented. Councilman Mohun asked if funding was put in for a copier for the Zoning Officer. Karen DeYoung referred to page 6 regarding what the contingent account is. Supervisor Grant answered this is an emergency fund if something comes up that was not budgeted for at the beginning of the year. Asked also about revenues from interest, felt that was low. Supervisor Grant explained that the reserve is not part of the budget, but is a percentage of the budget. Ms. DeYoung asked where the money is that was set aside for the Transfer station improvements. This is part of the contingency line. These funds may be used for an electronics pickup sometime next year. Mr. Aldridge had questions about the Transfer station line items. Some have been zeroed out due to its closing, but needed to keep some funds there for a dumpster for the Town building's trash. Supervisor Grant explained to the Board that there have been increases made to the Court lines due to State mandates that will take place on 1/1/20. Tax rate per thousand is \$9.33. Karen DeYoung asked about debt service, that is paying for the infrastructure from the set up of the water district. Question about how Highland Glen will affect this, they won't pay toward the debt service but will instead pay 1 and a half the rate on usage. Motion made by Mohun/Gadd to close the hearing at 8:38pm, all ayes carried.

Public Concerns: Ed Aldridge asked whether his culvert will get repaired this year. No answer from Superintendent via email. Materials have been purchased, not sure when this will take place. Karen DeYoung said that there is a tree hanging into the road on South side of Sinn rd., believes it is in the right of way. Supervisor Grant will speak to the Highway Superintendent.

### **Departments:**

Clerk – The Town Clerk explained her September report and the reporting on Decals. The Clerk was presented a certificate for selling the most Habitat stamps last year in Wyoming County.

Assessor – Revaluation project was presented by the Assessor on the October 30<sup>th</sup>. There was a nice turnout and a lot of questions were asked. Comment was made that the notice wasn't put out on Social Media sites.

Zoning/Planning – Variance hearings are being held now.

Highway – The Clerk read the notes and updates that the Highway Superintendent gave during the work session. Councilman Mohun would like to contact Alfred College to see about an intern come in to do some clerical work in the Highway offices. Motion by Mohun/Waite to support seeking an intern for support. Voting all ayes, carried.

Park/Recreation – Done for the year.

Water District – Highland Glens Water Connection SEQR; WRA grant/proposal

### **Resolution #2019-11-1 Highland Glen Water Connection SEQR**

Whereas, in accordance with the New York State Environmental Quality Review (SEQR) procedures, the Town Board of the Town of Bennington hereby expresses its intent to serve as Lead Agency to comply with SEQR; and

Whereas, the purpose of this project is to permit an out of district connection between the Cowlesville Water District and Highland Glen; therefore

Be it Resolved that the Town Board hereby accepts Parts 2 and 3 of the Short Environmental Assessment Form for this project, prepared by MRB Group; and

Be it Further Resolved, that the project is an Unlisted Action and the Town will complete an Uncoordinated Review in accordance with Section 617.6 of SEQR; and

Be it Further Resolved, that the Town Board declares that, based on the Environmental Assessment, it finds that the project will result in no significant adverse impacts to the environment. Therefore, the Town Board does not anticipate the preparation of an Environmental Impact Statement for the project. Further, the Town Board herewith states its intent to issue a Negative Declaration under SEQR for the project.

Motion by Mohun; Seconded by Gadd

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

### **Resolution #2019-11-2 Agreement to participate and provide letter of support for Wyoming County Water Resource Agency grant application for equipment and services for water systems within the County**

Be it Resolved, that the Bennington Town Board hereby agrees to participate with the grant application by the Wyoming County Water Resource Agency for state funding for purchases of equipment and services by the WRA and participation municipal water districts within the County and provide related information and a letter of support for said application.

Motion by Waite; Seconded by Frounick

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

Transfer Station – Sending letters out explaining the new program to our residents.

### **Old Business:**

Local Law #3 Year 2019 Over-ride the Property Tax Cap

### **Resolution #2019-11-4 Local Law #3, Year 2019 OVERRIDE THE TAX LEVY LIMIT ESTABLISHED IN GENERAL MUNICIPAL LAW §3-c.”**

The Town Board of the Town of Bennington met at a special session at the Town Offices of the Town of Bennington located at 905 Old Allegany Road, in the Town of Bennington, New York on the 6th day of November 2019 commencing at 7:30 p.m., and thereafter a public hearing was held at 7:30 p.m. at which time and place the following members were:

<u>Present:</u>	Supervisor Grant	Councilman Mohun
	Councilman Waite	Councilman Frounick
	Councilman Gadd	

**WHEREAS**, all Board Members, having due notice of said meeting, and that pursuant to Article 7, §104 of the Public Officers Law, said meeting was open to the general public and due and proper notice of the time and place whereof was given as required by law; and

**WHEREAS**, Chapter 97 of the Laws of 2011 – “The Property Tax Cap” add a new section 3-c. to the General Municipal Law that provides that the amount of real property taxes that may be levied by or on behalf of any local government shall not exceed two percent (2%); and

**WHEREAS**, in order to adopt a budget that requires a tax levy that is greater than the tax levy limit for the coming fiscal year, only if the Town Board first enacts, by a vote of sixty percent (60%) of the total voting power, a local law to override such limit for such coming fiscal year only; and

**WHEREAS**, a Notice of Public Hearing was duly published in the Town’s official newspaper and said public hearing was held on November 6, 2019 at which time all parties in attendance were provided an opportunity to speak or provided written comment in favor of or in opposition to the proposed local law; and

**WHEREAS**, that the Town Board of the Town of Bennington feels it is in the best interests of the Town of Bennington to adopt said law.

**NOW ON MOTION OF** Councilman Mohun, which has been duly seconded by Councilman Gadd, therefore, be it

**RESOLVED**, that the Town Board of the Town of Bennington feels it is in the best interests of the Town of Bennington to adopt Local Law No. 3 of 2019 entitled, “Override the Tax Levy Limit Established in General Municipal Law §3-c.” and be it

**FURTHER RESOLVED**, that the Town Clerk be and she hereby is directed to enter the adoption of said local law in the minutes of this meeting and give due notice of the adoption of said local law to the Secretary of the State of New York.

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

2020 Town Budget

**Resolution #2019-11-5 Adopt 2020 Town Budget**

Be it Resolved, that, following a duly advertised Public Hearing held on the 6th day of November 2019, the Bennington Town Board hereby adopts the Proposed 2020 Town of Bennington Budget with a total levy of \$1,354,802.45, and authorizes the amounts therein to be levied upon the real property within the Town of Bennington on the 2020 Town and County tax bills.

Motion by Gadd; Seconded by: Frounick

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

New Business:

Winter Parking Ban on Town Roads/ Designate Season Roads for purpose of winter maintenance

**Resolution #2019-11-6 Authorize the Clerk to advertise Seasonal Maintenance Roads within the Town and Season and Winter Parking Restrictions on Town Roads**

Be it Resolved, that the Bennington Town Clerk is hereby authorized and directed to advertise in local publications that certain roads (namely Geise Road between Clinton and Stedman, Hodge Road and Graff Road between Poland Hill and Hodge) within the Town of Bennington are designated seasonal maintenance during the months of November 1 and April 30, as posted; and be it

Further Resolved, that the Bennington Town Clerk is hereby authorized and directed to advertise in local publications that there is a legal parking restriction on all roads in the Town of Bennington during winter months November 1 through April 30, from 2:00 a.m. to 7:00 a.m. as per Local Law No. 1, Year 1978.

Motion by Gadd; Seconded Frounick:

Ayes: 5

Noes: 0

Abstain: 0

Absent: 0

Designate OFA Advisory Council Representative

**Resolution #2019-11-7 Designate Town Representative to Wyoming County Office for the Aging Advisory Council**

Be it Resolved, that the Bennington Town Board hereby designates Faith McQueen, 693 Lapp Road, Alden NY 14004 as the Town Representative to the Wyoming County Office for the Aging Advisor Council effective December 10, 2019 until the completion of the unexpired term.

Motion by Mohun: Seconded Frounick:

Ayes: 5

Noes: 0

Abstain: 0

Absent: 0

Set date for public hearing, Local Law #4 – Moratorium on burials on private property

**Resolution #2019-11-8**

**RESOLUTION REGARDING PROPOSED LOCAL LAW #4 OF 2019, “A LOCAL LAW ESTABLISHING A TEMPORARY MORATORIUM PROHIBITING PRIVATE PROPERTY BURIALS WITHIN THE TOWN OF BENNINGTON”**

**WHEREAS**, the Town Board of the Town of Bennington met at a regular board meeting at the Town Offices of the Town of Bennington, on the 19th day of November, 2019, commencing at 6:30 p.m. at which time and place the following members were:

<u>Present:</u>	Supervisor	Grant
	Councilman	Mohun
	Councilman	Waite
	Councilman	Frounick
	Councilman	Gadd
<u>Absent:</u>	_____	_____

**WHEREAS**, all Board Members, having due notice of said meeting, and that pursuant to Article 7, §104 of the Public Officers Law, said meeting was open to the general public and due and proper notice of the time and place whereof was given as required by law; and

**WHEREAS**, the Town Board is considering adopting a proposed local law, entitled, “A Local Law Establishing A Temporary Land Use Moratorium Prohibiting Private Property Burials Within The Town Of Bennington”; and

**WHEREAS**, the purpose of the proposed local law is to temporarily halt private property burials, for a period of up to six (6) months, while the Town considers the enactment of regulations to specifically address the burial of human remains or to establish burial grounds on privately owned property within the Town; and

**WHEREAS**, pursuant to section 239 l-m of the General Municipal Law, said local law with all supporting documents is to be submitted to the Wyoming County Planning Board for its comments; and

**WHEREAS**, the Town Board of the Town of Bennington finds it in the best interest of the Town to hold a public hearing to consider the adoption of said local law.

**NOW ON MOTION OF** Frounick which has been duly seconded by Mohun, be it

**RESOLVED**, the Town Board of the Town of Bennington will refer said local law with all supporting documents to the Wyoming County Planning Board for its comments; and

**RESOLVED**, the Town Board of the Town of Bennington will hold a public hearing on the proposed adoption of said local law on the 19th day of November 2019 at 6:30 p.m., at which time all interested parties and citizens for or against the proposed law will be heard.

Ayes: 5 Nays: 0

Absent/Abstain: 0

Quorum Present: X Yes No

**Any other Business to come before the Board/County Matters:**

Councilman Mohun asked that a mission statement be created for the Road Committee.

Motion made for Adjournment by Mohun at 9:23pm.

Respectfully submitted,

Carolyn Busch  
Bennington Town Clerk

## TOWN OF BENNINGTON

December 11, 2019

Work session started at 6:40pm. Board members in attendance were Frounick, Mohun, Waite and Gadd. The Board members audited the vouchers. Discussion held on Folsomdale Rd. shoulders. Meeting will be held at the Town Hall regarding the Schoellkopf Rd. bridge. An ad will be put into the Pennysaver with details. Supervisor Grant said that Ken wouldn't be able to attend tonight due to inclement weather, but he had discussed topics with her prior to the meeting and suggested trading in the pickup. Discussed an article that was in the Town Topics concerning a program Cornell offers to assist municipalities with solutions to road maintenance.

Supervisor Grant called the meeting to order at 7:34 pm.

Pledge to the flag led by Councilman Waite

Financial Matters      General Fund vouchers #255 to #283 totaling \$11,468.14  
                                 Highway Fund vouchers #163 to #185 totaling \$82,767.88  
                                 Cowlesville Water vouchers #71 to #77 totaling \$2,913.65  
                                 Cowlesville Light vouchers #12 totaling \$197.81

Motion to approve by Waite/Frounick to approve claims. Voting all ayes; carried.

Financial Reports – Chips payment will be coming in next week increasing the Highway fund balance. Councilman Frounick had a question regarding the amount remaining in the Cowlesville Fire account. That will balance out.

Motion to approve by Mohun/Frounick to approve the Financial Report. Voting all ayes; carried.

Minutes of previous Town Board Meeting – Motion to approve by Waite/Gadd. Voting all ayes; carried.

Correspondence – The Clerk received a letter from NY Office of the Comptroller seeking updates for their Justice files. The Clerk received a letter from the NY Department of State regarding their receipt of the Town of Bennington Local Law #3-2019 received on 11/20/19. A Certificate of Insurance was received from Direct Energy. The Town Clerk received a resolution from the Town of Alden regarding a Local Law amending the number of Town of Alden Planning Board members. A monthly Certificate of Analysis was received from Biotrax. Supervisor Grant received email and letter from the NY Board on Electric Generation Siting regarding the Connect Gen Solar Project. The Town Supervisor will nominate 4 people from our Town to sit on the Board, but only one will be selected to serve. This needs to be completed by February. Supervisor Grant asked the Board members to think about potential nominees. A notice was received regarding an open house that was held 12/3 at Byrncliff regarding the Big Tree Solar Project. The Town will be receiving \$16,796 from NY for AIM funding. Justice Court report received by Supervisor Grant from Justice Lindsey. Received a packet from the Dormitory Authority regarding payment for the salt shed project. Town Attorney will complete this paperwork to complete the packet. A letter regarding Natural Gas Safety information was received from United States Gypsum. Councilman Waite received phone calls and texts from Bob Miller concerning millings on Folsomdale Rd. He asked to attend the next road committee meeting. The next ones will be on 1/9 and 1/23.

Hear Public Concerns & Petitions – Mr. Spencer wants to know what will be done about unused dump cards. He is asking that money be returned for unused punches. Supervisor Grant stated that the Town is not refunding money. The money collected has been audited by the State at this time and we cannot ethically refund that money back. This money has already been allocated.

Departments:

**Clerk/Collector** – The Town Clerk disbursed her monthly report to the Board members. The Town Clerk attended a seminar that was put on by the County Treasurer and Total Collections Software. She briefed the Board on the Software program that she would like to use for 2020 Tax collection. This is zero cost to the Town vs. the Williamson program that we paid \$424 last year for maintenance. All residents would be able to see real time information on tax payments made to their properties.

**Assessor** – Create and Fill Deputy Assessor, PT/Temp position

**Zoning/Planning** – Accept resignation of ZBA Secretary; advertise for Secretary and Board Member/Alternate; advertise for PB Member/Alternate. Schedule Zoning Presentation by Wyo. Co. Zoning Department

**Resolution #2019-12-1 Deputy Assessor, Part-Time, Temporary Created & Filled**

Be it Resolved, that the Town Board hereby creates the position of Deputy Assessor, Part-Time/Temporary effective December 12, 2019, not to exceed 2 hours per week, at a rate of \$40 per week, to expire January 31, 2020. Said compensation to be inclusive of travel expenses and payable upon submission of vouchers; and

Be it Further Resolved, that Tina McQuillen, 3325 East Main Street, Attica NY 14011 is hereby appointed to the above position effective December 12, 2019.

Motion by Mohun; Seconded by Gadd

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

Revaluation project - The County would assist on some of the preliminary work on the revaluation project. It will cost the Town around \$60K and take about 14 months to complete this project. The Town budgeted \$48K for this in the 2020. Looking to have a resolution at the year-end meeting.

**Resolution #2019-12-2 Accept the resignation of the ZBA Secretary and authorize advertisement for ZBA Secretary, ZBA Member/Alternate and Planning Board Member/Alternate.**

Be it Resolved, that the Town Board hereby accepts the letter of resignation of Jennifer Howley, Zoning Board of Appeals Secretary effective January 1, 2020 and directs the Supervisor to send Ms. Howley a letter of appreciation for her service; and

Be it Further Resolved, that the Town Clerk is hereby directed to advertise to fill the vacant ZBA Secretary position, as well as to fill vacancies on the Zoning Board of Appeals and Planning Board.

Motion by Mohun; Seconded by Gadd

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

Received a letter from the County Zoning Enforcement Officer regarding a grant program that they received pertaining to promoting a uniform Code Enforcement across Wyoming County. They would like to present a brief presentation to the Board to participate. Supervisor Grant would like them to come to the January meeting.

Supervisor Grant received information from the Town Atty. regarding quorum for action taken on the Zoning Board of Appeals. Information was shared with the ZBA, but needs to be shared with the Planning Board.

**Highway** – Crews out today. On 12/19 there will be a meeting on the Schoellkopf bridge project at 7pm. Information will be put out in the Pennysaver.

**Park/Recreation** – Nothing

**Water District** – Getting quotes from construction to do underground boring for the hookup to Highland Glen. Would like done over the winter.

**Transfer Station** – Nothing

Old Business:

**Resolution 2019-12-3 2020 Duke Energy Host Community Agreement**

Be it Resolved, that the Host Community Agreement between Duke Energy/Niagara Solar Project and the Town of Bennington, consistent with the terms set forth in the October 9, 2019 resolution of this Board approving the Niagara Solar Project, and upon final review and approval by the Special Counsel engaged by the Town, is hereby approved, and that the Supervisor is hereby authorized and directed to execute said agreement.

Motion by Frounick; Seconded by Gadd

Authorize signature of the Host Community Agreement w/ Duke Energy.

HOST COMMUNITY AGREEMENT

This HOST COMMUNITY AGREEMENT, is made as of the 11th day of December, 2019 (this “Agreement”) by and between DUKE ENERGY RENEWABLES SOLAR, LLC, a limited liability company duly organized and existing under the laws of the State of Delaware, and having an address of 526 South Church Street, Mailcode EC13K, Charlotte, North Carolina 28202 (the “Company”), and the TOWN OF BENNINGTON, a municipal corporation duly organized and existing under the laws of the State of New York and having its offices at 905 Old Alleghany Road, Bennington, NY 14011 (the “Town”). The Company and the Town may sometimes be referred to herein, individually, as a “Party” and, collectively, as the “Parties”.

WHEREAS, the Company has submitted to the Town and other involved agencies permit applications to construct an ±20 megawatt (“MW”) AC solar photo-voltaic electric generating facility in the Town and the Town of Bennington (the “Project”) comprised of solar panel arrays, electrical substation improvements (“Interconnection Facilities”), and associated appurtenances, equipment, facilities, and improvements including without limitation, land and easement rights, access roads, power collection lines, including overhead (if reasonably necessary) and underground transmission lines, operations and maintenance buildings, storage buildings, and devices (“Ancillary Facilities”); and

WHEREAS, on or about September 11, 2019, the Town issued a Negative Declaration pursuant to SEQRA finding no significant adverse environmental impact will result from the Project; and

WHEREAS, on or about October 9, 2019, the Town has adopted a local law changing the zoning classification of the Property and issuing a Special Permit and Concept Site Plan approval for the Project; and

WHEREAS, the Company has applied to the Wyoming County Industrial Development Agency for certain exemptions from sales tax and for a Payment-in-Lieu-of-Taxes Agreement; and

WHEREAS, the Parties believe that their mutual interests will be served by the execution of this Agreement which specifies their respective rights, interests, and obligations relative to the construction, operation, and decommissioning of the Project, subject to the conditions, if any, attached to any approvals that may be issued by the Town; and

NOW, THEREFORE, in consideration of the mutual promises hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

**Article I**

**REPRESENTATIONS AND WARRANTIES**

**Section 1.1 Town Representations and Warranties.**

The Town represents, warrants, and agrees as follows:

(a) **Existence and Good Standing.** The Town is a validly existing political subdivision of the State of New York.

(b) **Approval and Authorization.** The Town has full power and authority to enter into this Agreement and to fully perform all of its duties and obligations hereunder. The Town Board has duly authorized the execution and delivery of this Agreement and the Town’s performance of all of its duties and obligations contained herein, and this Agreement constitutes a valid and legally binding obligation of the Town, enforceable in accordance with its terms. A copy of the Town Board’s resolution approving this Agreement and authorizing its execution by the Town supervisor (the “Town Supervisor”) is attached hereto as Exhibit A.

(c) **Signatory.** The Town represents and warrants that the Town Supervisor has executed this Agreement pursuant to a resolution adopted by the Town Board, at a meeting thereof, and the Town Supervisor, whose signature appears hereafter, is both duly authorized and empowered to execute and enter into this Agreement on behalf of the Town.

(d) **All Statements True.** No statement, information, representation or warranty of the Town contained in this Agreement or furnished by or on behalf of the Town in connection with the transactions contemplated contains any untrue statements of a material fact or omits to state a material fact necessary in order to make a statement contained herein not misleading.

## **Section 1.2 Company Representations and Warranties.**

The Company represents, warrants, and agrees as follows:

(a) **Existence and Good Standing.** The Company is, and will continue to be throughout the term hereof, validly existing as a limited liability company authorized to do business within the State of New York.

(b) **Approval, Authorization and Enforcement.** The Company has full power and authority to enter into this Agreement and to fully perform all of its duties and obligations hereunder. The Company is duly authorized to execute and deliver this Agreement and perform all of its duties and obligations contained herein.

(c) **Signatory.** The Company represents and warrants that its signatory, whose signature appears hereafter, is both duly authorized and empowered to execute and enter into this Agreement on behalf of the Company.

(d) **All Statements True.** No statement, information, representation or warranty of the Company contained in this Agreement or furnished by or on behalf of the Company in connection with the transactions contemplated contains any untrue statements of a material fact or omits to state a material fact necessary in order to make a statement contained herein not misleading.

## **Article II**

### **TERM**

#### **Section 2.1 Term.**

Owner agrees to make annual payments (the “Annual Payments”) to the Town for a period of thirty-five (35) consecutive fiscal tax years. Such thirty-five (35)-year term shall commence on the first taxable status date following the date when the Project is mechanically complete and Owner has commenced production of electricity (the “Completion Date”), and shall end the thirty-fifth fiscal year following the Completion Date.

## **Article III**

### **HOST COMMUNITY PAYMENTS**

#### **Section 3.1 Annual Host Fee.**

(a) **Payment Rate.** The Company shall pay the Town a host community fee (the “Host Fee”) in an amount of three thousand five hundred and 00/100 dollars (\$3500.00) per Megawatt AC of Capacity (the “Annual Payment”), less the amount of the Wyoming County Industrial Development Agency PILOT payment made by the Owner to all taxing jurisdictions.

(b) **Inflation Adjustment to Payment Rate.** Starting with the second annual Host Fee payment, the Host Fee shall be adjusted annually by a rate of one and one-half percent (1.5%).

(c) **Due Date.** Host Fee payments shall commence on January 15, 2022 and be due on or each subsequent January 15<sup>th</sup> for the Term of this Agreement.

(d) **Payment Collection.** Payments for the Town shall be made payable to the Town of Bennington and mailed to the Town of Bennington, c/o the Town of Bennington Supervisor’s Office, located at 905 Old Alleghany Road, Bennington, NY 14011 and are due no later than January 15<sup>th</sup> of each year.

(e) **All late payments shall accrue interest at the statutory rate for late tax payments under New York Law.** Company shall pay the reasonable attorney fees, court and other costs incurred by the Taxing Jurisdiction in the collection of the unpaid amounts. All payments by the Company hereunder shall be paid in lawful money of the United States of America.

## **Article IV**

### **COMPLIANCE WITH LAW**

#### **Section 4.1 Compliance with Laws.**

The Company agrees that the Project shall be constructed and operated in compliance with

all applicable State and federal laws, rules, and regulations, and in compliance with all permits and other authorizations issued by the Town or the State with respect to the site and the documents identified in the Town Permits, including Negative Declaration, a copy of which is on file at the Town offices.

## Article V

### NOTICES

#### Section 5.1 Notices.

All notices, demands, requests, consents, or other communications provided for or permitted to be given pursuant to this Agreement shall be in writing and shall be mailed, communicated by electronic mail, or delivered to the Parties at the respective address set forth below:

(a) Notices to the Town:

Town of Bennington  
Attn: Town Clerk  
905 Old Alleghany Road  
Bennington, NY 14011  
E-mail: [Benn-Clerk@rochester.rr.com](mailto:Benn-Clerk@rochester.rr.com)

With a copy to:

Town of Bennington  
Attn: Town Supervisor  
905 Old Alleghany Road  
Bennington, NY 14011  
E-mail: [Benn-Supervisor@rochester.rr.com](mailto:Benn-Supervisor@rochester.rr.com)

(b) Notices to the Company:

Duke Energy Renewables Solar LLC  
Attn: General Counsel

\_\_\_\_\_  
\_\_\_\_\_

With a copy to:

Duke Energy Renewables Solar, LLC  
Attn: General Counsel

\_\_\_\_\_  
\_\_\_\_\_

All such notices, demands, requests, consents, or other communications shall be deemed to have been duly given when transmitted by electronic copy or personally delivered or, in the case of a mailed notice, upon receipt, in each case addressed as aforesaid. Each of the Parties may from time to time change its address for notices by providing notice of such change to the other Parties given in accordance with this Section.

## Article VI

### MISCELLANEOUS

#### **Section 6.1 No Waiver.**

The failure of any Party to insist on the strict performance of any term or provision hereof will not be deemed a waiver of the right to insist on strict performance of any other term or provision, nor will it be deemed a waiver of any subsequent breach. Unless specifically stated, the selection of any specific remedy hereunder or under the Local Law by either Party shall not be deemed an election of remedies limiting either Party's right to seek any other remedy otherwise allowed by this Agreement or the Local Law.

#### **Section 6.2 Applicable Law and Venue.**

This Agreement will be governed by the laws of the State of New York. Venue for any dispute arising under this Agreement and not settled by mediation shall be solely in the New York State Supreme Court for Chautauqua County.

#### **Section 6.3 No Recourse.**

All obligations of the Parties contained in this Agreement shall be deemed to be the corporate obligations of the respective Parties and not obligations of any member, officer, director, official, agent, servant, employee, or affiliate of the Parties. No recourse upon any obligation contained in this Agreement, or otherwise based on or in respect of this Agreement, shall be had against any past, present, or future member, officer, director, official, agent, servant, employee, or affiliate of the Parties.

#### **Section 6.4 Entire Agreement.**

Unless supplemented or otherwise amended in writing by the Town and the Company in accordance with the laws of the State, this Agreement constitutes the Parties' entire agreement with respect to the subject set forth herein, and no other agreements, written or unwritten, implied or express, will be deemed effective.

#### **Section 6.5 Amendment.**

No amendment, modification or alteration of the terms or provisions of this Agreement shall be binding unless the same shall be in a writing that specifically references this Agreement and that is duly executed by the Parties.

#### **Section 6.6 Binding Effect.**

This Agreement shall inure to the benefit of and shall be binding upon each of the Parties and, as permitted by this Agreement, their respective successors and permitted assigns.

#### **Section 6.7 Headings.**

The headings of sections and paragraphs of this Agreement are inserted for convenience only and shall not be deemed to constitute a part of this Agreement or to affect the construction hereof.

#### **Section 6.8 Assignment by Town.**

Except in the context of financing or securitizing revenues from the Project under this Agreement, the Town may not transfer or assign any of its rights or obligations under this Agreement without the prior written consent of the Company and any such transfer or assignment shall be null and void and of no force and effect. The Company shall cooperate with the Town from time to time, including, without limitation, by entering into a consent and assignment or other agreements with the Town and the financing parties involved with any such financing or securitization in connection with any collateral assignment on such terms as may be customary under the circumstances and shall reasonably be required by the involved financing parties.

#### **Section 6.9 Assignment by Company.**

(a) The Company may, without the consent of the Town: (i) assign this Agreement to any (ii) purchaser or successor in and to the Project, (iii) affiliate or subsidiary of the Company that is controlled by, controlling or under common control with the Company, or (iv) persons or

entities providing financing for the Project (“Lender”, and such purchaser, affiliate, and Lender are collectively defined as a “Successor”), provided such Successor assumes and agrees to be bound by this Agreement by executing and submitting to the Town a notice of assignment and assumption of this Agreement, and pledge, encumber, hypothecate, mortgage, grant a security interest in and collaterally assign this Agreement to any to any Lender as security for the repayment of any indebtedness and/or the performance of any obligation whether or not such obligation is related to any indebtedness (a “Lender’s Lien”). A Lender shall have the absolute right to: (a) assign its Lender’s Lien; (b) take possession of and operate the Property or any portion thereof in accordance with this Agreement and perform any obligations to be performed by Company or a Successor hereunder; or (c) exercise any rights of Company hereunder. The Town shall cooperate with the Company, its affiliates, any Successor from time to time, including, without limitation, by entering into a consent and assignment or other agreements with such Successor and the Company in connection with any collateral assignment on such terms as may be customary under the circumstances and shall reasonably be required by such Successor, including execution of a consent to the assignment of this Agreement. In the event this Agreement is assigned to a Successor, the Company shall have no further obligations hereunder, except for any obligations outstanding on the date of the transfer. Nothing herein shall limit in any way the right of the owners of the Company to sell or otherwise transfer (including by merger or consolidation with any other entity) all or a portion of their ownership interests in the Company.

#### **Section 6.10 Counterparts.**

This Agreement may be executed in any number of counterparts each of which shall be deemed an original and all of which taken together shall constitute one and the same instrument.

#### **Section 6.11 Filing With Town Clerk.**

The Town shall file and maintain a copy of this Agreement in the office of the Town Clerk.

#### **Section 6.12 Force Majeure.**

Notwithstanding any other provision of this Agreement, if a Party’s performance of this Agreement or of any obligation hereunder is interfered with, delayed, restricted or prevented, in whole or in part, by reason of an event of Force Majeure (as defined below), then that Party, upon giving notice to other Party, shall be excused from such performance (but not from its financial obligations due prior to such Force Majeure event, or said financial obligations for that portion of the Project continuing to operate, if any, after the Force Majeure event) to the extent and for the duration of such interference, delay, restriction or prevention, and the term and any other time periods set forth herein shall continue and be extended for a like period of time. “Force Majeure” means any act or condition beyond the reasonable control of either Party, whether or not similar to the matters or conditions herein specifically enumerated, and includes: acts of God or the elements (including fire, earthquake, explosion, flood, high winds, ice, epidemic or any other casualty or accident related to weather conditions), strikes, lock-outs or other labor disputes, delays in transportation, inability to secure labor or materials in the open market, transmission system power failure or power surge, war, terrorism, sabotage, civil strife or other violence, the failure of any governmental authority to issue any permit, entitlement, approval or authorization within a reasonable period of time after an application for the same has been submitted, the effect of any law, proclamation, action, demand or requirement of any government agency or utility, or litigation contesting all or any portion of the right, title and interest of the Town in the Roads and/or the Road Structures, and/or of the Company in the Project or Town Permits for the Project.

#### **Section 6.13 Statement of Good Faith.**

The Parties agree that the payment obligations established by this Agreement have been negotiated in good faith in recognition of and with due consideration of the full and fair taxable value of the Project.

#### **Section 6.14 Additional Documentation and Actions.**

Subject to applicable laws and regulations, each Party will, from time to time hereafter, execute and deliver or cause to be executed and delivered, such reasonable additional instruments and documents as the other Party reasonably requests for the purpose of implementing or effectuating the provisions of this Agreement.

#### **Section 6.15 Termination Rights of Taxing Jurisdiction.**

Notwithstanding anything to the contrary in this Agreement, the Town may terminate this Agreement on thirty (30) days written notice to Company if:

(a) Company fails to make timely payments required under this Agreement, unless such payment is received by the Town within the 30-day notice period with interest as stated in this Agreement; or

(b) Company has filed, or has had filed against it, a petition in Bankruptcy, or is otherwise insolvent.

**Section 6.16 Remedies; Waiver And Notice.**

(a) No Remedy Exclusive. No remedy herein conferred upon or reserved to Party is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity or by statute.

(b) Delay. No delay or omission in exercising any right or power accruing upon the occurrence of any breach of an obligation hereunder shall impair any such right or power or shall be construed to be a waiver thereof, but any such right or power may be exercised from time to time and as often as may be deemed expedient.

(c) No Waiver. In the event any provision contained in this Agreement should be breached by any party and thereafter duly waived by the other party so empowered to act, such waiver shall be limited to the particular breach so waived and shall not be deemed to be a waiver of any other breach hereunder. No waiver, amendment, release or modification of this Agreement shall be established by conduct, custom or course of dealing.

**Section 6.17 No Third-Party Beneficiaries.**

The Parties state that there are no third-party beneficiaries to this Agreement.

**Section 6.18. Severability.**

If any article, section, subdivision, paragraph, sentence, clause, phrase, provision or portion of this Agreement shall for any reason be held or adjudged to be invalid or illegal or unenforceable by any court of competent jurisdiction, such article, section, subdivision, paragraph, sentence, clause, phrase, provision or portion so adjudged invalid, illegal or unenforceable shall be deemed separate, distinct and independent and the remainder of this Agreement shall be and remain in full force and effect and shall not be invalidated or rendered illegal or unenforceable or otherwise affected by such holding or adjudication.

***[SIGNATURE PAGE FOLLOWS]***

**IN WITNESS WHEREOF**, the Parties hereto have executed this Agreement on the date and year above written.

**DUKE ENERGY RENEWABLES SOLAR, LLC**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**TOWN OF BENNINGTON**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**Local Law #4** – Moratorium on burials on private property; Lead Agency Status and Adoption Planning Board has approved, but have not received the hard copy with their comments. The Board reviewed the SEQR on this proposed Local Law #4. Motion by Mohun/Waite to approve the SEQR. Voting all ayes; carried.

**• TABLE ACTION TILL YEAR END MEETING**

**Resolution #2019-12-4 Local Law #4, Year 2019 A Local Law Establishing a Temporary Land Use Moratorium Prohibiting Private Property Burials within the Town of Bennington.**

Whereas, the Bennington Town Board presented and heard comment at a duly advertised public hearing held on the 6th day of November, 2019 at 6:30 p.m. at the Town Hall, Bennington Center, NY on Local Law #4; and

Whereas, Local Law #4 has been submitted for review to the Bennington Planning Board and the Wyoming County Planning Board, with no disapproval of the proposed action made; and

Whereas, the Bennington Town Board hereby declares itself to serve as Lead Agency for the purposes of NYS State Environmental Quality Review, and that said review has reached a determination of no significant impact for the adoption of said Local Law #4;

Now, Therefore, Be it Resolved, that the Town Board hereby adopts Local Law #4, Year 2019 and authorizes and directs the Town Clerk to file said law with the Secretary of State of the State of New York and also directs the Clerk to notify area funeral directors and the Wyoming County Health Department of the adoption of this moratorium.

Motion by \_\_\_\_\_; Seconded by \_\_\_\_\_

Ayes:                      Noes:                      Abstain:                      Absent:

**New Business:**

Approve Supervisor attendance at Assoc. of Towns 2020 training school & as voting delegate to annual meeting.

**Resolution #2019-12-5 Annual Association of Towns Meeting & Training School**

Be it Resolved, that the Town Supervisor is hereby authorized to attend the 2020 Training School offered by the NYS Association of Towns, and will be reimbursed for one-half of the registration and lodging fees, and that the Supervisor is hereby authorized to attend the Annual Meeting of the NYSAT and serve as a voting delegate representing the Town of Bennington.

Motion by Frounick; Seconded by: Mohun

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

Set date of Year End meeting and 2020 Organizational meeting and Regular meeting

**Resolution #2019-11-6 2019 Year End Meeting and 2020 Organizational Meeting and Regular January Meeting Dates**

Be it Resolved, that the Year End Meeting of the Bennington Town Board, for the purposes of approving final 2019 accounts payables payments and any other business as may come before the Board is hereby scheduled for 6:30 p.m. December 30, 2019 at the Bennington Town Hall; and

Be it Further Resolved that the 2020 Organization Meeting and Regular January Town Board Meeting shall be held on January 8, 2020 at 7pm, with workshop session to be held at 6:30pm.; and

Be it Further Resolved that the Town Clerk shall advertise said meetings dates and times and post such on the Town Clerk's Bulletin Board.

Motion by: Waite      Seconded: Frounick

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

Contract with Don Pryzbyl to provide audit services on the 2019 financial records

**Resolution #2019-12-7 Audit of 2019 Town Financial Records**

Be It Resolved that the Bennington Town Board is hereby authorized to contract with Don Pryzbyl, 312 Townline Road, Lancaster New York 14086 for the purpose of conducting an audit of the 2019 financial records of the Town Supervisor, Town Clerk/Collector, Water Clerk and Town Justice Court, and to present any and all findings to this Board.

Motion by Gadd:      Seconded: Waite

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

**Any other Business to come before the Board/County Matters:** Councilman Frounick said to drive down Church Rd as Ron Phillips has a very nice display this year. The Ladies Auxiliary and Firemen will go caroling in the Town on Sunday, December 15<sup>th</sup> in the evening. Kirk McWhorter will also have a concert at the Town Hall that afternoon and we will serve punch and cookies. Councilman Waite asked that Supervisor Grant contact the Hardware store to get the last of the light fixtures in for the upstairs hall.

Adjournment at 8:26: pm by Councilman Mohun

Respectfully submitted by

Carolyn Busch – Town Clerk

**TOWN OF BENNINGTON**  
**Town Board Meeting Agenda**  
**December 30, 2019**

Meeting was called to order at 6:49 pm by Supervisor Grant. All Board members were present for tonight's meeting.

Supervisor Grant asked June Spencer to lead the pledge to the flag.

Financial Matters

Transfers and Appropriations to Funds/Accounts

Transfers within Accounts:

Cowlesville Water District:

From:	SW1-8310.4	Admin – Contractual	\$1,300.00
	SW1-8340.4	Transm & Distrib. – Contr.	\$2,000.00
	SW1-9730.6	BAN	\$2,050.00
To:	SW1-8320.4	Source of Supply – Contr.	\$5,350.00

General Fund:

From:	A1330.1	Tax Collection – Pers Serv	\$2,450.00
	A1430.1	Personnel – Pers. Serv	\$2,000.00
	A1910.4	Unallocated Ins. – Cont.	\$1,000.00
	A5010.1	Hwy Admin – Pers Serv	\$3,600.00
	A7110.1	Parks – Pers Serv	\$ 125.00
	A7510.4	Historian – Contr.	\$ 25.00
	A1990.4	Contingent Account	\$6,400.00
To:	A1410.1	Town Clerk – Pers Serv	\$4,450.00
	A1420.1	Law – Contractual	\$2,700.00
	A1440.4	Engineer – Cont.	\$3,700.00
	A1650.4	Cent. Commun. – Cont.	\$1,000.00
	A5010.4	Hwy Admin – Cont.	\$3,600.00
	A7110.4	Parks – Contractual	\$ 125.00
	A7520.4	Historical Prop – Cont.	\$ 25.00

Appropriate to 2019 Highway Budget:

To:	DA5130.4	Machinery	\$76,300.00
	DA5110.4	General Repairs - Cont	14,100.00
	DA5142.4	Snow Removal – Cont	59,200.00
	DA9730.7	BAN – Interest	5,800.00
		Total	\$155,400.00

Motion made by Mohun /seconded by Waite to transfer and appropriate funds as noted above.

Voting all ayes, carried.

Supervisor Grant asked the Town Clerk to further explain the Cowlesville Lighting bills. The lights were all replaced with LED's, but our last two month's bills were still the same amount. The Clerk looked into this and the Town is on balanced billing. Right now there is a credit on our account

and we will see the cost saving when we renew the balanced billing in January. One of the lights on Folsomdale Rd. was not part of the original array and this should be added in January.

General Fund vouchers # 284 to # 300 totaling \$6,735.15

Highway Fund vouchers #186 to #195 totaling \$25,737.02

Cowlesville Water vouchers #78 to #81 totaling \$2,433.12

Motion made by Mohun; seconded by Gadd voting all ayes, carried.

Old Business:

Local Law #4 – Moratorium on burials on private property - Adoption

**Resolution #2019-12-4 Local Law #4, Year 2019 A Local Law Establishing a Temporary Land Use Moratorium Prohibiting Private Property Burials within the Town of Bennington.**

Whereas, the Bennington Town Board presented and heard comment at a duly advertised public hearing held on the 6th day of November, 2019 at 6:30 p.m. at the Town Hall, Bennington Center, NY on Local Law #4; and

Whereas, Local Law #4 has been submitted for review to the Bennington Planning Board and the Wyoming County Planning Board, with no disapproval of the proposed action made; and

Whereas, the Bennington Town Board declared itself to serve as Lead Agency for the purposes of NYS State Environmental Quality Review, and that said review took place on December 11, 2019 with a determination of no significant impact for the adoption of said Local Law #4;

Now, Therefore, Be it Resolved, that the Town Board on the 30<sup>th</sup> day of December hereby adopts Local Law #4, Year 2019 and authorizes and directs the Town Clerk to file said law with the Secretary of State of the State of New York and also directs the Clerk to notify area funeral directors and the Wyoming County Health Department of the adoption of this moratorium.

Motion by Gadd; Seconded by Frounick

Ayes: 5

Noes: 0

Abstain: 0

Absent: 0

Assessor status; The assessor will be able to return to work in mid-January, but we will continue to use the Deputy as needed through the Spring. The Assessor will be submitting a resignation in January due to retirement from another position. She will also submit a letter of intent to be re-appointed a day later as she would like to remain the Assessor for the Town of Bennington.

Revaluation – Will be using a shared services agreement with the County along with our local Assessor for this project.

New Business:

The Highway Superintendent for the County, Todd Gadd presented a meeting here at the Town Hall regarding the Schoellkopf Rd. Bridge. There are two options, both of which will still be a single lane. The new bridge will be four feet wider than the existing one. One would be an open format and another would be a covered option. The County will be submitting these options to the State for approval. The County will be responsible for the maintenance of this bridge. Expected longevity of the bridge will be 75 years for the standard format and 100 for the covered version. Construction would start in 2021 if timely approvals are made by the state.

There was also some discussion about re-purposing the old bridge. Possibility of it going to the County fairgrounds in Pike.

Zoning – Supervisor Grant asked the County to come in to give their presentation in January. We may have to move this presentation to February. Discussion held on seeking out a Deputy for the Zoning officer.

Planning for 2020:

New mower for the Town Park

Lighting fixtures for the upstairs hall at the Town Hall

Flags for the upstairs at the Town Hall

New Chairs and Tables for the Hall

New Dutch door for the Court offices or a half window to make their payments.

Training for Planning and Zoning Boards.

Training for Highway workers.

Comprehensive Plan review/update this year.

New Pickup Truck for the Highway Department.

Extending Cable service in the Town.

Daniel Czelusta from the Water Department resigned from his position. We have an additional worker that was recommended by our Water Supervisor.

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

Adjournment by Mohun at 7:33pm

Respectfully submitted by Carolyn Busch, Town Clerk