

May 20, 2021

The monthly meeting of the Tyre Town Board was held Thursday, May 20, 2021 at 6:30 p.m. in the Tyre Municipal Building, 1082 Gravel Road, Seneca Falls, NY 13148, in the Town of Tyre.

Pledge of Allegiance

Roll Call: Supervisor Ronald McGreevy – here; Councilman Reginald Aceto – here; Councilman James Rogers – here; Councilman Kenneth Sutterby – here; Councilman Thomas Thomson – here

Others Present: Administrative Assistant Karen Birch; Bookkeeper Michael Gross; ZEO Craig Reynolds; DCO Dallyn Jenkins; Melissa Sutterby; Pat Mahoney; Marjorie Fahrenholz; Karen Thomson; Kathy Jans-Duffy; Lorraine Mahoney; Henry Bickel; Dennis Stone; Beth Partee

Supervisor McGreevy – have had roll call – quorum present – meeting called to order at 6:30 p.m.

Minutes: Approval of Minutes of April 15, 2021– Councilman Sutterby moved, seconded by Councilman Aceto, to dispense with reading the minutes of the April 15, 2021 meeting and they be accepted as written.

VOTE: Yea – 5; No – 0; Abstain – 0; Absent – 0

Scheduled Speakers:

Supervisor McGreevy spoke to the background of the preliminary proposal for a large scale solar farm in the Town of Tyre. He stated that on 04-28-21, Delaware River Solar officials provided an introduction and conceptual plan for a “Tyre Solar Energy Center” comprising of 1,600 acres in the Town of Tyre. They stated that they have 932 acres currently leased and that the total target acreage is 1600 acres. Current landowners under “site control” include four property owners. As I understand, recently enacted New York State Law such as an Article 10/94-c greatly diminishes or removes altogether any review or approval of such projects by the affected local municipality per Governor Cuomo’s ORES (Office of Renewable Energy Siting) Board. It appears that other municipalities in neighboring Wayne and Cayuga Counties are also being targeted for similar projects. The Town of Conquest is facing a proposed Solar Farm project of 2,000 acres. As most of us here are aware, during the del Lago Resort & Casino approval process, the potential loss of 84 acres of farmland to construct that facility was of monumental concern. This proposed Delaware River project will not only remove 1,600 acres of valuable farmland from Tyre and Seneca County, but also impact many

nearby property owners and their residences. By a confirmed email, the name of this proposed project will be changed from “Tyre Solar Energy Center”, per our request. We have not been notified, as of yet, what the new name for this proposed project will be. We have had a recent discussion with Town of Waterloo Supervisor Don Trout in regard to the proposed Trelina Solar project in Waterloo which has been met with a great deal of local opposition. I have also reached out to Senator Chuck Schumer, Senator Pam Helming and Assemblyman Jeff Gallahan for any information, advice, and guidance that they may have on this issue. I have also contacted Montezuma Wildlife Refuge Manager Bill Stewart to make him aware of this proposal. On May 14th we had sent out a Townwide letter to our residents informing them of this proposed project. All that being said, we have invited Attorney Westfall here this evening to give us some additional background, advice, and guidance on this issue. Welcome Ms. Westfall.

Supervisor McGreevy called for Ms. Donna Aceto to speak as per her written request on the solar farm proposal. Councilman Aceto stated she was not in attendance.

Supervisor McGreevy called for Ms. Elizabeth Partee to speak as per her written request on the solar farm proposal. Ms. Partee provided her written document to the Councilmen and spoke.

Supervisor McGreevy called for Ms. Lorraine Mahoney as per her written request on the solar farm proposal. Ms. Mahoney spoke about the proposal.

Supervisor McGreevy requested that Attorney Melody Westfall provide the Town Board with her remarks on the new ORES Board that Governor Cuomo has established regarding the recent new law that was passed to review and permit large solar projects.

Councilman Aceto voiced concern that he was not given enough notice on this matter.

Attorney Charles Shaffer discussed the short period of time there has been between when Delaware River Solar approached the Town, on 04-28-21 and this evening’s meeting on 05-20-21. Attorney Shaffer explained how during this short time frame, the Town has accomplished a lot of work and has spoken to many officials regarding this matter and the new law that this process would go through. He stated that the Town needed to ascertain who the lead agency would be on this solar farm as well as home rule law. He stated that we needed to figure out how our current zoning and solar law would affect this proposal and how these would be considered by NYS. Attorney Shaffer stated that the Town reached out to Bond, Schoeneck and King for assistance and due to a conflict, they recommended Ms. Melody Westfall’s office in Syracuse, N.Y. Attorney Shaffer stated that it is important for the Town to have a seat or voice at the table in Albany, where this solar farm matter will appear to be decided rather than on a Town Board or Planning Board level. He also stated that a Town wide letter was sent out

and it was also placed on the website. Conversations with Assemblymen and Senators offices were had, as well as the Waterloo Supervisor, therefore a lot has been accomplished, as well as reaching out to Attorney Westfall, an environmental attorney in such matters. This all has been worked on by supervisor McGreevy in a noticeably short period of time. Attorney Shaffer also clarified that the regulations for a developer to approach the Town with such a proposal is for them to meet with the “Chief Financial Officer” only and not to have a “Public Hearing”.

Attorney Shaffer asked Attorney Westfall to speak to this matter regarding the new law that has been passed to review large solar farms. Ms. Westfall introduced her litigation attorney, Mr. Ryan McCarthy who was also in attendance at the Town Board Meeting. Ms. Westfall went through a brief background of her experience as an environmental attorney. Ms. Westfall stated that SEQR used to be the mechanism used on any development and that process went through the town channels, such as a Town Board and/or Town Planning Board. She stated that now, due to Governor Cuomo’s new energy policy, these projects fall under this new board, the ORES board, to review large solar projects and give permits to build. She stated that this new law was passed about a year ago. “The regulations are very new, and the ink is still wet”, she said.

Councilman Aceto interjected by looking up the rules and regulations on his phone by stating various items that the developer needs to abide by regarding meeting with the Town. He stated that there are 8 points to the project that a developer needs to discuss initially and he pontificated whether or not the developer had abided by those 8 points or not.

Attorney Westfall continued in her discussion regarding the developer having to meet with the Town Chief Financial Officer sixty days prior to them filing with the New York State board. She stated that she is unsure if their clock has started yet. She explained that in this initial meeting they have to address a lot of objectives and she did not believe they had done that yet. She also stated that the developers have to hold a meeting with the landowners who will be affected by their project prior to them filing their application. The Town is unaware if they have had such a meeting and they do not need to advise the Town of this meeting, according to Ms. Westfall. She stated that once their application has been filed, a public comment meeting would be scheduled and there would be a hearing as well. It is unsure where this public comment meeting or hearing would take place, as the Town would not be driving this project, NYS would. Ms. Westfall continued to explain that the role of the Town is unclear at this moment due to the newness of this law and its process. She stated that the developer reportedly has to read, listen to, and take into consideration all the laws of the Town on the books, specifically the zoning and solar laws currently in place. She stated that NYS has done an end-run around the local municipalities regarding large solar farms and the state has given itself the power instead of the municipalities. Ms. Westfall indicated that the developer could

ignore the local laws if they feel the Town Zoning and Solar Laws are substantially burdensome. She indicated that there is no definition to “substantially burdensome” and that no one has litigated this new law as of yet.

Councilman Sutterby asked if the Town could combat their application if they did not abide by the rules prior to their application being sent into NYS.

Attorney Westfall stated that there are Intervener Funds that NYS requires be deposited at a rate of \$1,000 per megawatt. She stated that the Solar Moratorium on the agenda to be introduced this evening cannot do any harm to the Town and further stated that it is unknown if it will be effective or not. As intended, it would allow the Town time to research this matter considering the new ORES law put into effect by Governor Cuomo.

Zoning Officer Reynolds stated that no one knows what is going on with this new law and he stated that no public hearing is required.

Attorney McCarthy stated that two meetings are required before the application is to be filed. He reiterated that the only requirement is for the developer to meet with the Chief Financial Officer. The Westfall office will fulfill their role to ensure that the Town has a voice and to stay informed with the process along the way. Ms. Westfall stated the economic benefits could be handled at some point during this process and their services would be paid for by the Intervener Funds as well.

Councilman Sutterby asked about farmers or landowners that have decided not to lease their land and asked Ms. Westfall if the developer could use eminent domain to take their land. Ms. Westfall stated that this would not be able to be used in such a matter.

Department Reports:

Town Clerk: Nothing to report

Highway Department: Highway Superintendent Eddington reported that they are working on rebuilding aging mowing equipment and also working on servicing equipment. Pavement projects will begin soon and residents have been notified of this. Chip sealing will begin next month. The Town recently auctioned an old truck for \$7,885.00 and Superintendent Eddington would like to put this money towards the purchase of a new mower. Board members were provided copies of a bid price quote for a new mower. Per the Board’s approval a proposal will be done for the new mower at the next Town Board Meeting.

Town Assessor: Grievance Day is scheduled for May 25, 2021 from 5-9 p.m.

Attorney: Nothing to report

Fire Department: Supervisor McGreevy stated that Chief Tavano could not be in attendance this evening due to a family emergency. He advised the Councilmen that once his monthly report was received, it would be emailed to them.

Zoning Enforcement Officer: ZEO Reynolds reported that he issued one permit since the last meeting. He has two permits that are sitting on his desk waiting to be picked up. There will be four permits that will be issued pending the planning board approval next Tuesday (Montezuma Winery; JEL Lawn Service; Bruce Smith; Glenwood). ZEO Reynolds had three complaints – two were sign complaints; and one was a fence complaint. Love's Project is underway. There are still some loose ends to wrap up and some safety concerns that were addressed. Sent an e-mail out to check on the status of Dunkin Donuts and is just waiting to hear back from them.

Planning/Website/Training: The monthly meeting of the planning board was held remotely on April 27, 2021. The following applications were accepted and will move forward:

Joshua Olschewske has applied for a sign package for his business, J.E.L. Lawn and Landscaping at 1439 State Route 414, Waterloo. Mr. Olschewske wants to place a free standing sign closer to the highway right-of-way than is permissible under the Tyre Zoning Law. Because his business is in the commercial zoning district, the Planning Board can consider a waiver for some sign restrictions if it is consistent with surrounding businesses. A public hearing is scheduled for May 25, 2021, after which the Planning Board will act upon the application.

Bruce Smith has had a pending application for a short-term rental of his property at 514 East Road, Savannah. The revised zoning law now allows short term rental for non-owner occupied properties. A public hearing is scheduled for May 25, 2021, after which the Planning Board will act upon the application.

Carl Martin has submitted a site plan to construct a 3200 square foot warehouse at Glenwood Foods at 2905 State Route 318, Seneca Falls. It is an unheated, dry storage building consisting of a canvas covered metal frame. A public hearing is scheduled for May 25, 2021, after which the Planning Board will act upon the application.

Montezuma Winery has submitted a site plan to construct a 2256 square foot wine storage warehouse at their winery. A public hearing is scheduled for May 25, 2021, after which the Planning Board will act upon the application.

Ithaca Neighborhood Housing Services has requested an extension of their approved subdivision and site plan for Pineview Circle Phase 2 (59 one and two bedroom apartments). A

modification of their operations plan is to have up to 20% of the apartments available for mental health or drug addiction special needs clients who are being supported by county and independent social service agencies. The Planning Board does not consider this to be a change in use of INHS's original application but has scheduled a public hearing to consider citizen comments about the project. After the hearing, the Planning Board will consider a resolution to extend the application approvals.

Dog Control Officer: DCO Jenkins reported that the shelter received a grant that they had been waiting on and the new building has been built. At this time they have 93 kittens at the shelter.

Bookkeeping: Bookkeeper Gross submitted handouts for abstract of audited vouchers #4; completed AUD for 2020 and e-filed it with NYS Section 284 Agreement. Bookkeeper Gross reported that the Town received the first quarter gaming revenue check. Supervisor McGreevy thanked Bookkeeper Gross for the 16+ hours he worked in preparing documents for a FOIL request.

Band Hall Committee: The Committee is hoping to have a meeting in June and would like to have an open house in October.

Building Committee: Councilman Aceto reported that there was conduit pre-built into the new town building in case the Town decides to install solar.

Highway Committee: Nothing to report

Old Business: None

New Business:

Resolution regarding Proposed Local Law #3 of 2021 and Scheduling a Public Hearing on Proposed Local Law #3 of 2021

Motion made by Councilman Rogers and seconded by Councilman Sutterby. Adopted by roll call vote as follows:

| | YEA | NAY | ABSTAIN | ABSENT |
|---------------------|-----|-----|---------|--------|
| Councilman Thomson | X | | | |
| Councilman Rogers | X | | | |
| Councilman Aceto | X | | | |
| Councilman Sutterby | X | | | |
| Supervisor McGreevy | X | | | |

Resolution duly adopted. Resolution follows.

Resolution regarding to Increase the Budget of Account DA5130.2 Machinery – Capital Outlay

Motion made by Councilman Sutterby and seconded by Councilman Thomson. Adopted by roll call vote as follows:

| | YEA | NAY | ABSTAIN | ABSENT |
|---------------------|-----|-----|---------|--------|
| Councilman Thomson | X | | | |
| Councilman Rogers | X | | | |
| Councilman Aceto | X | | | |
| Councilman Sutterby | X | | | |
| Supervisor McGreevy | X | | | |

Resolution duly adopted. Resolution follows.

Supervisor Correspondence/Report:

Letter dated 4/9/21 from Mr. David P. Smith, P.E. NYSDOT regarding Armitage Road Bridge closure

Discussions with Ms. Jackie Schillinger, NYS Canal Corp regarding proposed camping at Lock E-25 in Tyre/email dated 5/19/21 regarding canal opening schedule

Letter dated 4/20/21 from NYS Assistant Attorney General, Ms. Audrey Cooper regarding proposed dissolution of Magee Volunteer Fire Department, Inc.

E-mails dated 4/28/21, 4/30/21, and 5/5/21 from Ms. Lauren Kelly, Charter Communications regarding Spectrum Cable and internet service.

Letter from Seneca County Sheriff Luce regarding scams and fraud awareness.

Financial – Bills:

- General Fund – Town Wide – 109-110; 319-351
- Highway Fund – 109-110; 319; 515-517; 520-524
- Water District #1 – 810-814
- Water District #2 – 812
- Trust & Agency – 7-8

Councilman Sutterby moved, seconded by Councilman Aceto that the bills be approved for payment: VOTE: Yea – 5; Nay – 0; Abstain – 0; Absent – 0

Adjournment:

Councilman Aceto moved, seconded by Councilman Sutterby that the meeting be adjourned at 9:00 p.m. VOTE: Yea – 5; Nay – 0; Abstain – 0 Absent - 0

Submitted by,

Carolyn Sosnowski
Town Clerk