

April 20, 2023

The regular monthly meeting of the Tyre Town Board was held Thursday, April 20, 2023 at 6:30 p.m. in the Tyre Municipal Building, 1082 Gravel Road, Seneca Falls, NY 13148, in the Town of Tyre.

Supervisor Partee called the meeting to order at 6:30 p.m.

### **Pledge of Allegiance**

**Roll Call:** Councilman Reginald Aceto – here; Councilman Jeffrey Bennett – here; Councilman Henry Bickel – here; Councilman Kenneth Sutterby – here; Supervisor Beth Partee – here

**Others Present:** Michael Gross, Bookkeeper; Eric Bush, Highway Superintendent; Ann Marie Heizmann, ZEO; Mark Travis; Dallyn Jenkins, Mike Reese; Dennis Stone; Pat Mahoney, Char Verkey; Renee Gigliotti; Michelle Barber; Rob Barber; Kathy Jans-Duffy; Jay Horning; Craig Bishop; Gary Bush; Rocco Delpapa; Susan Delpapa; Matt Lando; Anthony Marro; Gerald Ameele; Carl Nolt; Mary Nolt; Jada Konrad; Mary True; Ken Hauenstein; Timothy Bush; Marissa Wendt; Steven DeWall; Dan Compitello; Eileen Franco; Stephen Lawrence; Richard Bennett; Jolynn Worden; Faith Foulkrod; Charles Dove; Steve Bennett; Randall Dove; Gail Banks; Dick Banks; Jacob Martin; Jim Larson; Rod Verkey; Deb Geary; Maryann Young

**Open Privilege of the Floor:** Supervisor Partee stated that members of the public may address the Town Board on any matter during Open Privilege of the Floor. The subject matter to be addressed must be relevant to the Town and its interests. Speakers shall address their remarks to the Town Board and not to other members of the public in attendance. Finally, please be aware that the Town Board is not required to respond to your remarks during the course of the meeting.

Greg Guy from 1262 Gravel Road – Is speaking tonight in regards to the proposed solar farm for Gravel Road. If the proposed solar project by Delaware River Solar goes through, his family will be selling their home and moving. He doesn't deny farmers and landowners the right to do what they want with their own land, and

he understands that those select few will financially benefit from the solar farm. But he is adamantly opposed to filling our agricultural fields with metal, glass and plastic. He is adamantly opposed to having his home surrounded by solar panels. He is adamantly opposed to the destruction of wildlife habitats. He is adamantly opposed to receiving a pittance in energy savings that has been previously proposed by Delaware Rive Solar all while seeing the value of his property decrease significantly. Most importantly, he is very much opposed to the diminished quality of life that many of those that will be directly impacted will have here in Tyre. He's mad that NYS has eliminated any semblance of local municipality Home Rule. He is asking the Town Board to please make sure that mitigation is in place to lessen the impacts on the residents that are impacted by these installations. He requests that the Town Board 1) recognize that the majority of Tyre residents are absolutely against this project, and 2) to hold Delaware River Solar to its word - do not tolerate lies nor false promises – and to hold them accountable. He asked why we haven't heard anything in 19 months from a company that told the Town that we would have regular and open communication regarding this proposed project. Lastly, he asks the Town Board to search for, study, and support a class action lawsuit that is ongoing that seeks to remove the absolute authority from ORES and reinstate the concept of Home Rule to the solar siting process.

Shannon McDonald from 1236 Gravel Road (letter addressed and read to the Town Board by Greg Guy as she could not be here tonight) - Is asking the Town Board to stop this from happening and that she is strongly opposed to this solar farm as well. She was hoping to stay the remainder of her days in the Town and now she is questioning that. She enjoys the scenery and the fact that we are very close to Montezuma Wildlife Refuge and are blessed with many birds, wildlife and even bald eagles.

John Konrad from 1275 Gravel Road (letter addressed and read to the Town Board by Greg Guy as he could not be here tonight) – He fully supports the right of landowners to do what they wish with their property. However, this large scale solar project would adversely affect the environment, safety and aesthetics of the area. He is strongly opposed to the solar farm. Directly east is the 10,000 acre Montezuma National Wildlife Refuge, a stopping point on the Atlantic Flyway. Any loss of habitat affects migration. The light reflected from horizontal panels appears as water to overhead birds. This “lake effect” will cause waterfowl to collide with

panels as they try to land on this new 675-acre body of water that they see from the air. Chemicals used in construction of the panels include heavy metals cadmium and lead. Any potential leak will infiltrate the Black Brook and the drainage east of Gravel Road that crosses Lay Road. Both streams empty into the Montezuma Refuge. Solar panels have a surface life of approximately 25 years, after that time they become hazardous waste. Who then is responsible for the clean up of this area – possibly the Town or the landowners? If one looks at the much smaller solar project south of Route 318, you see the stone roadway, wooden posts and deer fence. All of that indicates a project that is only temporary in nature. Both Gravel Road and Middle Black Brook Road run North and South. At certain times of the day, panels would be tilted to the East or the West following the sun. There is a potential glare hazard that will affect drivers and resident homes in the area. Large scale solar projects do not harmonize with residential agricultural areas such as this. This project would be better suited for an industrial area or an abandoned site. This project would take 675 acres of productive viable farmland out of the Town of Tyre. Lastly, he asks the Town Board if a project of this size is in any way beneficial to or advantageous to a community. Why was all local Town Board or Planning Board control removed? This legislation was passed by individuals with no regard for consequences or effects on concerned individuals.

Kathy Jans-Duffy – Is strongly opposed to the solar farm as well. She is worried about the drainage and the loss of the hedgerows especially on Nearpass Road that would probably go to Black Brook which does take a lot of water when we have heavy rain. She was raised here, moved to CA, and came back because it was a nice rural area to live. She doesn't want to be surrounded by solar panels and realizes that they have a limited life span and questions what will happen when they are done. There are better places than here to do this solar farm.

### **Presentation:**

Supervisor Partee introduced Daniel Compitello from Delaware River Solar and Rita Kozak from Bergmann Associates. Mr. Compitello updated the project to date and stated that they definitely want to address all of the comments brought to the meeting tonight. He reported that the Gravel Road Solar Project is proposed to be a 128 megawatt system that would be largely along the areas along Gravel Road just south of the Town Hall going down to Route 318. It will connect to the Seneca

Falls power lines at a substation there and then hook into the national grid. Some of the power will stay locally and some will also be sent to Rochester and Syracuse. National Grid will own and maintain that substation. They passed their interconnection utility study and they have confirmation from National Grid that the project is suitable to connect to the Grid and that it will make improvements to the regional infrastructure here. They are in the beginning stage of understanding if NYSERDA will support the project. They bid into the NYSERDA RFP this year and expect to hear about it around July/August this year. They would like to have an open house community meeting to show all aspects of the project including a site plan, renderings of the project, sample solar panels, sheep to keep weeds down, etc. They definitely want to hear about people's concerns, especially about visual screening and buffering. He stated that there is a lot they can do in terms of planting trees. The project itself right now is in a conceptual site plan phase and there are changes they can make to adjusting parts of the project. They would like to have one meeting at the beginning of the summer and one at the end of the summer so people get a chance to learn about the project and give them their input. That would help them as they get ready to make their application to ORES which they hope to do in October/November this year. That would actually start the formal siting process for the state. Once the application for ORES is submitted, that is when the Town would receive the escrow funding to go towards the Town's consultants they can hire (engineering and legal consultants) to help review the project and inform the ORES process.

Ms. Kozak stated that there have been formal wetland delineations on every parcel that is involved in the project including every stream, puddle, etc. They have avoided wetlands almost entirely with this project as well as avoided all DEC regulated buffers, and areas that are sensitive as identified by DEC and ORES. They will have an on-site inspection with DEC, ORES and the Army Corp of Engineers to verify the boundaries. All wetlands and stream delineations are also taken into consideration. They have also conducted winter grassland raptor surveys that were wrapped up this month. They surveyed at 15 survey protection sites for state listed species/avian species that use the site during the winter. Starting May 15<sup>th</sup>, they will begin breeding bird surveys to survey what migratory birds are passing through – all state listed species and non-state listed species. Supervisor Partee asked if they had an estimate as to when the winter raptor report would be done. Mr. Compitello said that report will be submitted to the DEC in late May. He stated that that information cannot be released publicly in

case they spot certain species they don't want to identify where they are in order to prevent poaching. The breeding surveys will run from May to mid-July.

Mr. Compitello stated that the ORES permitting process relies on the Town codes and will look to the Town code first and apply that to the project and if any deviation is needed they will ask for permission from the Town but can overstep if needed. ORES will be in touch with the Town throughout the whole process. ORES will also administer the escrow funding. The whole process will take over a year. They anticipate starting construction mid 2025 and expect to have everything operational by 2026. It will take about a year or a year and a half to build. During the ORES process the Town and public will have input as how it applies to Town code. There will be meetings in the Town, there will be hearings, and there will also be a public docket online through the Department of Public Service webpage where people can post comments if they cannot attend a meeting. DRS will also have a website online soon, definitely by the Fall.

Public notices for this project will go out just like notices go out for public hearings at the Town Hall.

Supervisor Partee asked if Tyre residents will see any reduction in their NYSEG bills or any other tangible benefits that they can expect. Mr. Compitello stated that as part of the project, they have to offer reduced rate to customers in Tyre and Seneca Falls. He stated that there are also tax benefits that come with the project that are determined through the ORES process. It will generally follow where the standard approach is that the county IDA has in terms of their PILOTS with solar projects. Right now there is a standard "PILOT for Solar" in the county. Their other projects in the county have received that. There will also be a Host Community Benefit agreement paid to the Town. DRS will negotiate the PILOT agreement with the IDA and will negotiate the Host Community Benefit agreement directly with the Town.

Supervisor Partee stated it is her understanding that there are pre-application procedures that have to be followed as part of the ORES process and that part of that is a meeting with the municipality. She asked if any of the meetings DRS had with the previous Town administration in 2021 or if the meeting here tonight qualify as that meeting? Mr. Compitello stated that they both do. The pre-

application they plan to submit in the Fall and it would take 3-4 months to review that, so the real application would probably start in 2024.

Mr. Compitello stated that they would like to schedule an open house in early June and asked if the Town would like to have it at the Town Hall or somewhere else nearby. Supervisor Partee said the Town Board would discuss it and get back to them.

### **Open Privilege of the Floor after Delaware Rive Solar presentation -**

Jackie Konrad – Asked the Solar Company Representatives if they have solar panels in their backyard? She doesn't want solar panels in the fields surrounding her home. She doesn't want to supply Rochester/Syracuse with their energy as it doesn't save us anything and decreases the value of our properties. People will move from our community if this happens. This solar farm is not what we want.

Eileen Franco from 1528 Gravel Road – Stated she can't afford to move out of Tyre or she would also. She stated that once this application is submitted that there doesn't seem to be much we can do as it will be in the hands of the State. She asked if there is anything we can do to stop this before this application gets submitted?

Steven Waugh from 1290 Gravel Road – These solar panels will be right behind his house as well. There are a huge number of wildlife habitats that are going to be lost here with this project. It is unfortunate that money is what is driving this. We need to do a better job preserving our wildlife habitats.

Gary Bush – Stated that this sounds like this solar farm is already cut and dry already. If you put those panels up, where are the deer going to go?

Leonard Martin – Addressed the Board to warn people to be careful working with these companies. His son was doing work building fence for a solar company and he didn't even get paid for the work he completed.

Jacob Martin - Stated that he doesn't want to see this solar farm come in – he wants to see sunsets not solar panels.

Letter received from Lynn Barbuto – She is opposed to solar panels in our community and stated that we live in upstate New York and our area has “limited sun” and is not a prime area for solar. She stated that landfills will not take solar panels after they have expired. She also stated that it removes agricultural land from our community. She asked Delaware River Solar if they would like these panels in their community which will lower their land value and way of life? She asked the Town Board if the solar farm is allowed in our Town, when will they take more land? She does not want to live with a solar farm in Tyre especially knowing that Delaware River Solar is purchasing and supporting China where these panels come from.

**Approval of Meeting Minutes:** March 9, 2023 and March 16, 2023

Motion to dispense with the reading of the minutes and approve them as written made by Councilman Aceto and seconded by Councilman Bickel.

VOTE: Aye – 5; Nay – 0; Absent – 0; Abstain – 0

Motion carried

**Reports of Officers and Departments:**

Town Clerk: Nothing

Highway Superintendent: Superintendent Bush reported that the firehouses and cemeteries have all been mowed. Blacktopping will start soon for Black Brook Road and Dawson Road. A powerline was possibly taken down on Stevenson Road by a tree branch on a highway department truck. They are waiting for the insurance company to investigate and to see if insurance will cover the damages.

Dog Control Officer: There were a total of 47 animals that were brought in to the shelter in March. The Town of Tyre was quiet for the month of March. They are holding two spay and neuter clinics per month and right now are scheduling out until September for these clinics.

Fire Department: Chief Tavano reported that there were 15 calls in the Town of Tyre. Average response time from time of call to apparatus in route is 1 minute 56 seconds. Average arrival time from in route to arrival is 8 minutes and 31 seconds. Weekly webinars are ongoing. All OSHA Trainings have been completed. There will be a strut/air bag training coming up. There are 5 physicals that are left outstanding. SCBA quarterly evaluations will start in May. Bailout recerts will be held in June. Several members will be taking hazmat IC class in Waterloo on May 2<sup>nd</sup>. Training files are being audited and purged.

Assessor: Nothing

Planning Board/ZBA/Training Records: Nothing

Zoning Enforcement Officer: ZEO Heizmann had one complaint, two new permits and one permit revision. One permit was issued for a new home. It was determined that the Town has a clause in their zoning regulations that states that there are no manufactured homes allowed in the Town of Tyre. NYS Law supersedes Town Law – so a person may install a manufactured home as long as it follows zoning rules and regulations. Montezuma Winery permit has been approved and building has started.

Bookkeeper: Abstract of audited vouchers #3 uploaded to one drive along with cash receipts summary report. The auditors were here on 3/28 and 3/29 and he has been busy responding to their questions.

### **Reports of Committees:**

Highway Committee: Nothing

Building Committee: Band Hall water is turned back on.

Financial Management Committee:

Mengel Metzger Barr & Co. are currently finalizing the 2022 Financial and Justice Audits. We received the DRAFT financial statements and audit report on Tuesday this week and we are working on answering their questions on the variances between the 2021 and 2022 budgets.



The NYS Office of the State Comptroller reached out this week with questions/comments on our Town's 2022 Annual Update Document (AUD). Bookkeeper Gross and Supervisor Partee will respond to them by Tuesday (4/25/23) with answers to their questions.

A claim was submitted this week to our insurance company regarding an incident where a tree branch on a town truck possibly took down a power line.

#### Fire Protection Committee:

An intermunicipal agreement between the Town and the Galen-Clyde Fire District is in the works. They are developing a proposed framework for integrating our resources (the apparatus, the fire station building, as well as members of the new Tyre Fire Company) with Galen-Clyde. Supervisor Partee expects that this will be completed shortly and ready for discussion at next month's Town Board meeting.

Hose and ladder testing for Pumper #903 was completed on April 3, 2023. We need to complete the IMA before we can put the truck in service.

Review of DRAFT Articles of Incorporation. Councilman Bennett made a motion to table the review of the Article of Incorporation. There was no second to the motion so the Board reviewed the DRAFT Articles of Incorporation. Councilman Bickel questioned the Town Board's "authority" to approve elected or appointed members of the proposed Tyre Fire Company, Inc. Supervisor Partee and Councilman Aceto explained that approval by the Town Board is required by law (Not-for-Profit Corporation Law 1402). Supervisor Partee asked if there were any other comments or changes? None were given. Councilman Aceto asked what is the next step? Supervisor Partee stated that once by-laws and articles of incorporation are done, the next step is to create the application and then start recruiting. We also need to finalize the Inter-Municipal Agreement with Galen-Clyde.

Band Hall Committee: 4/29/23 will be another game night. The Band Hall Committee is looking for more ideas.

#### **Resolutions and Motions:**

**Resolution** of the Tyre Town Board to authorize the creation of the JCAP Fund (H1 Fund) and to adopt the JCAP Fund Budget for 2023.

The adoption of the foregoing Resolution was moved by Councilman Sutterby, seconded by Councilman Bennett, and duly put to a vote, which resulted as follows:

VOTE:       Aye – 5; Nay – 0; Abstain – 0; Absent – 0

The Resolution was duly adopted.

**Resolution** of the Tyre Town Board to increase the maximum amount authorized in total principal and accumulated earnings for the Building Reserve Fund.

The adoption of the foregoing Resolution was moved by Councilman Bennett, seconded by Councilman Aceto, and duly put to a vote, which resulted as follows:

VOTE:       Aye – 5; Nay – 0; Abstain – 0; Absent – 0

The Resolution was duly adopted.

**Resolution** of the Tyre Town Board to authorize an expenditure from the Tyre Bridge Repair Reserve Fund (subject to permissive referendum).

The adoption of the foregoing Resolution was moved by Councilman Sutterby, seconded by Councilman Aceto, and duly put to a vote, which resulted as follows:

VOTE:       Aye – 5; Nay – 0; Abstain – 0; Absent – 0

The Resolution was duly adopted.

**Unfinished Business:**

Kennel Law:       Nothing to report

## **New Business:**

USDA's European Cherry Fruit Fly and Box Tree Moth Programs reached out to request permission to survey/place sticky traps for European Cherry Fruit Flies on municipality-owned property in Tyre. Permission was granted for this last year, but they are required to request permission annually. If the Town Board agrees, can we grant them permission to all properties owned by the Town of Tyre? Town Board is in agreement with this request and Supervisor Partee will notify them.

Code of Ethics – General Municipal Law 806 requires towns to have an adopted Code of Ethics Policy. After a lot of research, it seems our Town's Codes of Ethics was adopted in December 1970 and hasn't been updated since. We found records from late 2016/early 2017 where Attorney Tom Blair drafted an updated Code of Ethics Policy, but it looks like it was never brought to the Board nor adopted. We also found additional records late 2019/early 2020 when the Board was working on the Employee Handbook and the same updated Code of Ethics Policy drafted by Tom Blair was discussed again. It looks like it fell through the cracks, and again it was never brought to the Board nor adopted. Supervisor Partee is going to review and edit the version Tom Blair drafted in 2016 and plans to have an updated policy for the Board to review next month.

Broadband Expansion – The Town received the agreement from Charter Communications to expand broadband access for all of Tyre. The first thing that needs to be done prior to accepting the agreement is to complete the SEQR process. Motion to declare the Town's intent to be lead agency for the broadband expansion project and direct the Town Supervisor to complete Part 1 of the Environmental Assessment Form made by Councilman Aceto and seconded by Councilman Bennett.

VOTE:       Aye – 5; Nay – 0; Abstain – 0; Absent – 0

Motion is carried.

Judge Jans-Duffy received notice that the JCAP Grant application was selected for funding for construction of the Clerk Payment Window. Per the Town's Procurement Policy, it is required to do an RFP and receive two written quotations from vendors/contractors. Motion to direct the Town Supervisor and the Town

Clerk to create and publicize the RFP for the Clerk Payment Window made by Councilman Bennett and seconded by Councilman Sutterby.

VOTE: Aye – 5; Nay – 0; Abstain – 0; Absent – 0

Motion is carried.

Supervisor Partee asked if the Town Board wants to look into finding an attorney to represent the Town that specializes in solar projects. Motion made by Councilman Aceto and seconded by Councilman Sutterby that the Town Board directs Supervisor Partee to find an attorney that specializes in solar.

VOTE: Aye – 5; Nay – 0; Abstain – 0; Absent – 0

Motion is carried.

### **Supervisor's Report/Correspondence:**

March 17, 2023 – from NYS Public Service Commission, in the matter of the Commission's Broadband Study and Mapping pursuant to the Broadband Connectivity Act, received Notice of Public Statement Hearings on March 21, 2023.

March 17, 2023 – from NYS Division of Professional and Court Services, Judge Kathy Jans-Duffy received notice that her 2022-23 Justice Court Assistance Program (JCAP) grant application was selected for funding for construction of the Clerk Payment Window.

March 21, 2023 – From the Office of the State Comptroller (OSC), via email, notice of the new Annual Financial Report (AFR) filing application that will be replacing the existing Annual Update Document (AUD) filing software beginning with filings ending for the fiscal year 2023.

March 24, 2023 – From Graff Law Office, received file copy of letter to NYS Dept of State forwarding Local Law #2 of 2023 to their office for filing with the Secretary of State.

March 24, 2023 – From Genesee/Finger Lakes Planning Council, notification received that registration is open for the May 18<sup>th</sup> Spring Local Government Workshop.

March 28, 2023 – From Montezuma Wildlife Refuge, Endangered Species Act Section 7 Evaluation received for the upcoming FLAP Project.

March 31, 2023 – From Seneca-Keuka Watershed Partnership, via email, Spring 2023 newsletter received.

March 31, 2023 – FOIL request received from the American Transparency (re: Vendor Payee Payments for fiscal year 2022). Formally responded to FOIL request with requested information on April 7, 2023.

April 4, 2023 – From NYS Association of Towns, via email, April 2023 newsletter received.

April 7, 2023 – Completed and submitted the WEP Public Body Management Certification Sheet to the USDA for the Rural Development Grant associated with Water District #1.

April 10, 2023 – From Eileen Franco via the Town website (re: Town of Tyre “Solar Farms”).

April 11, 2023 - From Genesee/Finger Lakes Regional Planning Council, via email, monthly newsletter received.

April 12, 2023 – From Delaware River Solar, via email, update on proposed Gravel Road Solar Project received.

April 17, 2023 – From Renae Lawson, via Town website (re: question regarding recycling).

April 18, 2023 – From Kathy Jans-Duffy, via Town website (re: solar panels)

**Executive Session:**

Motion to move into Executive Session under Public Officer's Law §105 (a) for a discuss of an item related to public safety made by Supervisor Partee, seconded by Councilman Sutterby. Entered into Executive Session at 7:42 p.m.

VOTE: Aye – 5; Nay – 0; Absent – 0; Abstain – 0

Motion is carried.

Councilman Aceto made a motion to end executive session at 7:54 p.m., seconded by Councilman Bennett.

VOTE: Aye – 5; Nay – 0; Absent – 0; Abstain – 0

Motion is carried.

**Bills:**

General Fund – Townwide: 107-108; 279-308

Highway Fund: 107-108; 279; 290; 613-619

Fire Protection District: none

Water District #1: 808-810

Water District #2: 809

Trust & Agency: 5-6

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

**Adjournment:**

Councilman Sutterby moved, seconded by Councilman Bennett that the meeting be adjourned at 8:05 p.m. VOTE: Aye – 5; Nay – 0; Abstain – 0; Absent – 0

Submitted by,

Carolyn Sosnowski  
Tyre Town Clerk