

Bennington Town Board
September 18, 2024

Workshop Session 6:30 p.m.
Audit of bills; review Board meeting agenda

In attendance: Town of Bennington Supervisor Ellen Grant, Council Members Chris Domes, Bernard Frounick, Joyce Mohun, Town Attorney David DiMatteo, Clerk Joanne Rosenthal.
Absent: Council Member Michael Gadd, Highway Superintendent Jake Jensen

Regular Board Meeting 7:30 p.m.

**Supervisor Grant Called Meeting to Order 7:35 pm; pledge of allegiance led by B. Frounick.
Open Public Hearing Local Law #4 Extending Moratorium on Solar Project Applications.**

**Set Agenda - Reschedule Public Hearing on Local Law Extending Moratorium on Solar
Project Applications.**

Report of Conflict of Interest - no conflicts.

Financial Matters	General Fund vouchers	#101 - 106, 184-199.	\$ 10,197.32.
	Highway Fund vouchers	#200 - 218, 271.	\$ 66,049.80.
	Cowlesville Water vouchers	# 39 to # 43.	\$ 10,148.56.
	Cowlesville Light vouchers	# 9.	\$ 149.89.
	Financial Reports		

Motion by J. Mohun, seconded by C. Domes to approve vouchers for payment.

Ayes: All (4). Noes: 0. Abstain: 0. Absent: 1 (M. Gadd)

Financial Reports Supervisor Grant presented the Monthly Report of Supervisor.

**Motion by C. Domes, seconded by B. Frounick to approve the Financial Reports ending August
31 2024.**

Ayes: All (4). Noes: 0. Abstain: 0. Absent: 1 (M. Gadd)

Unfinished Business

Hear Comments on Proposed Local Law #4 Extending the Moratorium on Solar Project Applications
Close Public Hearing - RESCHEDULED UNTIL OCTOBER 22, 2024.

The Town Board meeting originally scheduled for 9/11/24 to hold this public hearing could not be held due to unavailable quorum. The public hearing was rescheduled for 9/18/24; however, there was not the required 10 day notice to allow the rescheduling. Therefore, the new date for the public hearing for the Solar Moratorium is now scheduled for October 22, 2024 at 6:00 pm.

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Resolution #2024-9-1 A Local Law Extending Establishing a Second Temporary Land Use Moratorium Prohibiting the Development of New Solar Energy Projects within the Town of Bennington.

**Town of Bennington Resolution to Hold Public Hearing
Adopted: September 18, 2024**

The Town Board of the Town of Bennington met at a regular board meeting at the Town Offices of the Town of Bennington located at 905 Old Alleghany Rd., Attica, in the Town of Bennington, NY on the 18th day of September 2024, commencing at 7:30 pm; at which time and place the following members were present: Supervisor Ellen Grant, Council Members Chris Domes, Bernard Frounick, Joyce Mohun. Absent: Council Member Michael Gadd.

WHEREAS, all Board Members, have due notice of said meeting, and that pursuant to Article 7, Section 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 of the Town of Bennington has considered a proposed local law known as “Establishing a Second Temporary Land Use Moratorium Prohibiting the Development of New Solar Energy Projects with the Town of Bennington,” to temporarily halt development of solar installations, for an additional period of up to 6 months, while the Town considers comprehensive zoning changes and the enactment of zoning measures to specifically address the matters of community concern; and

WHEREAS, the Town Board of the Town of Bennington has made meaningful and reasonable efforts to update and amend its zoning ordinance and local legislation during the initial six (6) month moratorium by multiple Municipal Attorneys, reviewed New York State of Act Solar Laws, consulted with NYSERDA, county planner, multiple open meetings with public input, 7# of committee, ZBA, Planning Board and Town Board, February to June; and

WHEREAS, pursuant to section 239 1-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 recognizes that this local law is a Type II Action under SEQR, and therefore SEQR review will not be required as there are no adverse environmental impacts; and

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

NOW ON MOTION OF Joyce Mohun which has been duly seconded by **Chris Domes**, be it

RESOLVED, by the Town Board of the Town of Bennington will hold a public hearing on the proposed local law on the 22nd day of October 2024, at 6:15 pm., at which time and place all interested parties and citizens for or against the proposed law will be heard.

Ayes: All (4). Noes: 0. Abstain: 0. Absent: 1 (M. Gadd)
Quorum Present: Yes.

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New Business

Resolution #2024-9-2 Appoint Parks Maintenance Worker

Be it Resolved, that John Perl, 2 Bullis Road, Alden NY 14004 is hereby appointed as Parks Maintenance Worker effective September 12, 2024 through December 31, 2024 at an annual salary of \$6,000.

Motion: J. Mohun. Second: B. Frounick

Ayes: All (4). Noes: 0. Abstain: 0. Absent: 1 (M. Gadd)

Resolution #2024-9-3 Attica Central School Board of Education Meeting

Be it Resolved, that the Town Board hereby grants the use of the Bennington Town Hall to the Attica Central School District for the purpose of holding their regular monthly meeting of the Board of Education during the evening of Thursday, October 10, 2024 - 7 pm.

Motion: J. Mohun. Second: C. Domes

Ayes: All (4). Noes: 0. Abstain: 0. Absent: 1 (M. Gadd)

Resolution #2024-9-4 Set Date of 2025 Budget Workshop Session

Be it Resolved, the Bennington Town Board will meet on October 2, 2024 at 8:45 pm. at the Town Hall, 905 Old Alleghany Road, Attica NY 14011 to review and make changes to the tentative 2025 Town Budget; and

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

Motion: C. Domes. Second: B. Frounick.

Ayes: All (4). Noes: 0. Abstain: 0. Absent: 1 (M. Gadd)

**Resolution #2024-9-5 Set Date for Public Hearing on Proposed Local Law #5 Year
2024 to extend a Moratorium for Eight (8) months on the
acceptance of applications for Wind Energy Conversion
Projects 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 located at 905 Old Alleghany Road, Attica, in the Town of Bennington, New York on the 18th day of September, 2024, commencing at 7:30 p.m., at which time and place the following members were present: Supervisor Ellen Grant, Councilmembers: Chris Domes, Bernard Frounick, Joyce Mohun; Absent: Councilmember Michael Gadd.

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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 of the Town of Bennington has considered a proposed local law known as “Extending the Moratorium on Applications, Approvals, and/or Construction or Installation of Wind Energy Systems for an Eight (8) Month Period” to temporarily halt development of wind installations, for an additional period of up to 8 months, while the Town considers comprehensive zoning changes and the enactment of zoning measures to specifically address the matters of community concern; 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 recognizes that this local law is a Type II Action under SEQR, and therefore SEQR review will not be required as there are no adverse environmental impacts; and

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

NOW ON MOTION OF Chris Domes which has been duly seconded by **Bernard Frounick**, be it

RESOLVED, by the Town Board of the Town of Bennington will hold a public hearing on the proposed local law on the 22nd day of October, 2024, at 6:15 p.m., at which time and place all interested parties and citizens for or against the proposed law will be heard.

Ayes: All (4). Noes: 0. Abstain: 0. Absent: 1 (M. Gadd)

Resolution #2024-9-6 Set Date of Public Hearing on the 2025 Bennington Fire Co. Contract.

Be it Resolved, that the Bennington Town Board will hold a Public Hearing on October 2, 2024 at 6:30 pm at the Bennington Town Hall, 905 Old Alleghany Rd., Attica, NY 14011, on the proposed 2025 Bennington Fire Co. fire and emergency medical services contract in the amount of \$112,500, and

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

Motion by: J. Mohun. Seconded by B. Frounick.

Ayes: All (4). Noes: 0. Abstain: 0. Absent: 1 (M. Gadd).

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Communications

Minutes of Previous Meetings: August 14, 2024 minutes approved as submitted with the following amendment. Under section Petitions and Public Concerns on page 11, Cowlesville Historical Society is changed to Bennington Historical Society.

Supervisor Grant

1. Received from the former Town Attorney's office of Dadd & Nelson, multiple boxes of old records to be added to the Town Clerk's inventory records' room.
2. Presented Town of Bennington Justice Court report for August 2024.
3. NYSEG will be updating electric meters at the Town Offices and Highway Department.
3. Folsomdale TrailBlazers letter to acknowledge and thank landowners.
4. NYSDOT Regional Office now has a dedicated email box for SEQR (State Environmental Quality Review Lead Agency Request.) SEQR_R4@dot.ny.gov
5. Wake Up New York, a bimonthly series hosted by the Empire Center to provide a platform for effective governance discussion, idea sharing, and exploration of market-oriented solutions at the local level.

Board Members - no additional comments.

Clerk Rosenthal

1. Certificates of Insurance submitted from the following: Erie Insurance for Renewal by Anderson, new, revised general liability & automobile policy from Stately Builders. Renewed certificate of workers compensation insurance from KCM Custom Built Garages.
2. Notification of Public Hearings held in the Town of Alden on August 19, 2024; Local Law #1. Override of Tax Cap. September 3, 2024; Local Law #2. Rezoning of Real Property on Broadway & Zoning Map Amendment. Copies available at Alden Town Clerk office.

Departments

Highway

1. Sierk Rd. paving projects.
2. Folsomdale Rd. will be closed for three weeks, beginning Monday September 23rd, between Clinton St. and Schoellkopf Rd. Work being done on culvert.
3. CHIPS claim monies for the 2024 third quarter have been received.
4. Paving project on Tinkham is complete; positive comments received.

Town Clerk/Tax Collector

1. Presented Town Clerk's monthly report for August 2024.
2. Vital Statistics 2024 YTD. Births 0. Marriage Permits issued 7. Deaths 10.
3. Presented Wyoming County Zoning Depart. monthly report for July 2024.

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4. Wyoming County Property Maintenance Reports are not available from the Building Dept. due to new staffing that is not yet up to speed on monthly processes.
5. Presented Wyoming Co. Curbside Collection Billing Policy. Copies made available.
6. Bennington Volunteer Fire Dept. - consider ordering a reflective address marker. Order sheets made available.

Zoning/Planning

1. **Approve Special Use Permit requests for three (3) year renewal.**
Submitted by:
Jasen Meyers, 377 Bear Rd., Cowlesville, NY. J. Meyers Contracting.
Approval letter mailed 9/19/2024.
2. **Michael Woods, 979 Clinton St., Attica, NY. Woodsway Motor Vehicle Repair.**
No complaints have been received from area residents.
Approval letter mail 9/19/2024.
3. **Approve Home Occupation Permit request for one (1) year renewal.** Submitted by:
Ed Duda, 1901 Folsomdale Rd., Cowlesville, NY. Duda Woodworks.
No complaints have been received from area residents.
Approval letter mailed 9/19/2024.

Motion by: B. Frounick. Seconded by: J. Mohun.
Ayes: All (4). Noes: 0. Abstain: 0. Absent: 1 (M. Gadd)

Assessor

Expect at a later date in 2024 a Public Hearing regarding a modification to the existing property tax exemption for Senior Citizens.

Recreation - No report

Water District

Repaired earlier in September, a water main leak at Bullis and Sargent St. in Cowlesville.

Petitions and public concerns

Petitions - None presented or received.

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Public Concerns

1. Wyoming County Zoning Report reported no high weed violations. A resident requested confirmation of meaning; doesn't mean there aren't high weeds along roadways or yards, it means that no complaints have been issued complaining about high weeds.
2. Confirmed the Batavia Daily News is the official paper of the Town when legal ads are placed.
3. A resident requested further information regarding the Town's Comprehensive Plan that was originally completed in 1997. What are the revision plans and what is the timeline for updated amendments. The Comprehensive Plan has been updated with Green Energy; Supervisor Grant to review and update the website. The Bennington Planning Board has funds allocated to hire a consultant and also to work with Wyoming County James Bragg to update the plan and then review every two years.
4. Inquiries involving solar laws as how do Overlays work? Overlays ignore all other laws and show areas where solar and wind projects would work; like properties, like interests that would welcome certain types of development; group properties. Overlays have not yet been created.
5. How changeable are solar laws? Very changeable; written comments appreciated beforehand.
6. Can laws be created separately for wind and solar? Ultimately NYS determines laws for big wind and solar.
7. Can battery storage be prohibited? Probably not, per Town Attorney David DiMatteo. NYS has a goal by the year 2030 that a certain amount of renewable energy will be generated from solar and wind. If local laws are too restrictive, NYS will take over and determine laws. Landowners determine the final outcome by saying no to developers. The community should decide issues most important.
8. Can the Town Board say no to solar? Applications for projects must follow the solar laws adopted.

Joe Kirisits, Project Developer, Sun East introduced Lori Lynn Kunert, Manager, Development, Cordelio Power the long term owner/operator of the solar project on Rt. 77.

Any other Business to Come before the Board/County Matters

A jury trial is scheduled for mid-October, so there will be a considerable number of vehicles at the Town Hall for jury selection and trial that month.

**Adjourn - Motion by J. Mohun. 8:54 pm.
in attendance 18-20 people.**