

**MINUTES OF THE REGULAR TOWN BOARD MEETING**

**Tuesday, February 13, 2018**

**AT 7:00 PM**

**PERSONS PRESENT**

**TOWN BOARD**

Supervisor, Merilee Walker  
Councilperson, William Mann  
Councilperson, Michael Hillier  
Councilperson, Jim Forrester  
Councilperson, Randall Morris

**RECORDING CLERK**

Cheyenne DeMarco

**PERSONNEL**

CEO, Mark Mullikin  
Hwy. Supt., Rick Moran  
Historian, Valerie Griffing  
Assessor, Brian Knapp

**VISITORS**

Barbara Adams, John Adams, Terry  
Lowell, Tom Byrnes, Alex Peirce,  
Lois Wood, Christine Sramcik,  
Rachel Clar

**CALL TO ORDER**

Supervisor Walker called the meeting to order at 7:00 PM. Roll call was taken with all councilpersons present.

**PLEDGE TO THE FLAG**

All persons stood as Jim Forrester led the pledge.

**ADOPTION OF MINUTES**

A motion was made to adopt the Planning Board Minutes from 1/02/2018, Regular Town Board Minutes of 01/09/2018, Planning Board Minutes from 1/16/18 and Special Town Board Minutes from 2/3/18. The motion was made by Mike Hillier seconded by Bill Mann and carried 5-0.

**OPEN PUBLIC HEARING**

Supervisor Walker opened the public hearing at 7:01 PM for Local Law 1 of 2018 - "A Local Law to Allow Cold War Veterans A Limited Town Tax Exemption Pursuant to Section 458-B of the Real Property Tax Law."

**PRIVILEGE OF THE FLOOR**

Tom Byrnes

Tom asked for details in regards to the Local Law. Supervisor Walker explained that the current local law has a temporary 10-year period for the cold war exemption, they're amending it to a permanent exemption. Tom asked who you would file this exemption application with? The answer was the Assessor. Brian stated that with the application, a copy of service records is also needed. If a person is already exempted with the prior law, it carries over into the new law.

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Alex Peirce

Alex stated that of the 164 Nunda service men and women that are involved in the veteran organizations:

95% from Vietnam era, putting the average age over 65.

28% combat time.

45% service time.

10% rated with disabilities.

17% fall in other veteran categories.

It was asked if the cold war is considered combat time? Alex answered yes, "combat time" is determined by serving in the war period in the war zone.

Rachel Clar

SunCommon/

Bugman & Sons

Mark Mullikan introduced Rachel Clar to the board stating she is a representative from Sun Common, the company working with the local company Bugman & Sons Inc on a proposed community solar array in Dalton. The application materials were given to the planning and zoning boards to review in November 2017. The planning board has held two meetings with Rachel previously on 12/05/2017 and 1/2/2018, specifically reviewing this site plan application.

Rachel addressed the board stating Sun Common and Bugman and Sons Inc have created an agreement to lease land for the purpose to install and maintain a 10-acre solar array equivalent to 10 megawatts. Rachel stated her role with Sun Common is finding community solar or commercial solar opportunities. The Bugman and Sons project is in pre-development as a community solar array with RG&E.

RG&E will be the delivery system and controller of the grid.

Randy asked who came up with the Bugman & Sons site for solar arrays? Rachel answered she did, she reached out to a number of land owners in Nunda with an array proposal.

Randy asked how Rachel develops choosing a site?

Rachel answered that its a number of factors she has to balance, such as, is the community willing to have you? Is there enough land to comply with setback regulations? Favorable topography and soil quality? Does it avoid cutting down trees to get more direct sunlight? Is it on a main street or an overly intrusive area to its community? Many layers are involved to find the right site.

Supervisor Walker asked where they have other arrays? Rachel answered, they have a number in Monroe County, several in Webster but none are in Livingston County yet, although solar projects are under development in Mount Morris.

Barbara Adams asked Rachel how far do you have to live from the solar array site to be a customer of its energy? Rachel answered anywhere within the RG & E footprint. Barbara clarified that you do not need to be in the Town of Nunda, adjacent towns can hook up to it? Rachel answered yes.

Rachel continued to say they are currently in a backlog of customers, some from outside this community that will be given spots to hook up to the array, but SunCommon reserves space for the local municipality to claim.

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Mike asked how much does the average household save to tie in? Rachel answered 10% discount ultimately.

Is there an initial fee to hook up? No.

Terry Lowell asked within the 50-acre lot, where will the 10-acre array be installed? Rachel answered toward Dalton at the angle between the railroad and Route 70. Rachel stated the spot was chosen to be best suited because it is downhill toward the railroad and it is encouraged to congregate visual impacts. Also, they want to put the array near the edge of the parcel lot as to not waste Bugman and Sons farmland. There are wetlands near the barrier of the railroad along with setback requirements which prevent Sun Common from squaring the array right next to the railroad.

Rachel provided a map of the parcel lot on State Route 70, Dalton, 14836, Tax Map No. 208.-1-22.1 and described the location plans to the board and visitors to view.

Mike stated that the public would only see the array while on Route 70 on the right away or on the incline when crossing the railroad tracks.

Terry asked if they will expand the array over time? Rachel answered no, they will not expand due to RG&E & NYSERTA rules.

Mike asked what happens in 10 years if the solar arrays become an abandoned asset?

Rachel stated that she wouldn't foresee anyone abandoning these arrays, not only because the Sun Common business is continually growing but also for the fact that the liquidation of the steel on the arrays alone is very valuable.

Jim stated they have a governance responsibility to look out for the community so as to not end up with an abandoned project that is a burden to the community. The responsibility essentially falls back on the land owner to enforce their property rights if something were to happen to the Sun Common company.

Rachel stated that it doesn't fall just on the land owner, there is also a financier with Sun Common that have strict rules not to leave behind assets to the company. Rachel stated she can submit the maintenance and decommissioning plan to the municipality.

Jim asked does Sun Common have contractual obligation of maintaining the property as well as decommissioning it? Rachel answered yes, both are covered in the lease.

Rachel stated during the installation of this project there would be 50 workers all together employed, not all would be on shift at the same time but rotated during the installation. While they are here they will buy local as best they can and be interactive with the community. Rachel also stated that applications are welcome for any locals to gain employment with this project as well.

Solar Local Law

Mark readdressed the complication with the current Nunda Town and Village Zoning Law and Regulations that do not provide solar regulations or provisions. This leaves Bugman & Sons to get a use variance. Mark stated that use variances are rarely granted because it is significantly hard to achieve all the requirements to obtain one.

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Planning Board Chairman, Alex Pierce stated that if this goes before the planning board for a use variance it will be extensively problematic for the project to get approval. There is a list of four requirements in the Nunda Zoning law where all have to be accredited to the applicant in order to be given approval.

*Nunda Zoning Laws and Regulations*

*Section 1-17 - Powers and duties of Zoning Board of Appeals:*

- (a) *An application for the approval of a variance shall be made, by an owner of an interest in the lot, to the Code Enforcement or Zoning Officer on forms available therefrom, accompanied by the necessary fees and documents as provided in this chapter and the regulations issued hereunder.*
- (b) *The application shall be accompanied by a map drawn to an appropriate scale and showing all existing and proposed characteristics of the site and adjacent properties necessary for consideration of the variance request. For applications where site plan approval is also required, a preliminary site plan in accordance with Article XIV of this chapter shall be required.*
- (c) *An application for a use variance in or within 500 feet of an agricultural operation in a county agricultural district shall be accompanied by an agricultural data statement.*
- (d) *The application for a use variance shall be accompanied by an affidavit by the applicant explaining that application of zoning regulations has caused unnecessary hardship. For a use variance, the affidavit must prove each of the following:*
  - [1] The applicant cannot realize a reasonable return, provided that lack of return is substantial, as demonstrated by competent financial evidence.*
  - [2] That the alleged hardship relating to the property in question is unique and does not apply to a substantial portion of the district or neighborhood.*
  - [3] That the requested use variance, if granted, will not alter the essential character of the neighborhood.*
  - [4] That the alleged hardship has not been self-created.*

Mark states that every single listed credential needs to be met to get approval.

Alex Pierce stated that other municipalities in the county are in a common solar situation that have chosen to go with a limited moratorium so as to not prohibit a project from taking place but also allow the town fact finding time to get all the details together. Alex goes on to say this development is the biggest green project in the county, and the current Nunda comprehensive plan is in support of a project like this. As a planning board they have looked into concerns about the property and Rachel has accommodated answers to all their concerns and the Planning Board are in support of the project since their last meeting on the topic in January.

Bill asked if there are any other Town's with a local law or specific regulation that also covers maintenance and decommissioning? Rachel answered that Groveland, Mount Morris, Webster and Caledonia addressed solar codes with both maintenance and decommissioning.

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Jim stated that his concern with switching from a use variance to a local law is the change in boards. The planning and zoning boards have trained and knowledgeable members to review zoning regulations and applications but with a local law it goes to a town board that does not have the same training. Who will advise the town board besides the attorney on this local law? Alex answered the County Planning Board would help oversee this.

Jim asked if a local law versus a use variance affects the Agricultural (AG) tax credit or exemption for Bugman and Sons land? Rachel answered no, even if it did, their policy states that if there is a loss of AG exemption Sun Common covers that loss as apart of their lease.

Jim asked if they would be forcing due diligence on zoning if the town board proceeded with a solar local law? Mark answered no, the due diligence would be the same whether it is a use variance or local law. Sooner or later, this energy efficient-“green” regulations need to be put in place.

A solar code with public hearings and local law procedures will be at least a five-month procedure and would still include all the same notices to the Nunda-Dalton public and allow them time to voice their opinions to the board about the project. Jim asked if Sun Common would work with that timeline? Rachel answered that their business wants to be here, and they are willing to wait for the Town to be ready for them.

With no more questions at this time from the board or guests, the board thanked Rachel for being at tonight’s meeting.

*Rachel Clar, Barbara Adams, John Adams, Terry Lowell, Lois Wood and Christine Sramcik left meeting at 7:48 PM*

Mark asked the board if they agreed to go with the solar local law so Mark may start preparing the law and contacting sources to get it going? The board agreed to proceed with the provisions of a solar local law.

Brian Knapp reminded the board that if Bugman and Sons are interested, there is a solar project exemption available (RP487) that would provide an increase of assessment for the land with exemption of solar panel value for 15 years. A Payment in lieu of taxes (PILOT) agreement can be made and revenues for the Town are possible. Mount Morris is currently doing this.

Alex Pierce

Alex addressed the board stating that the Nunda Comprehensive Plan has been discussed for the last six months. Alex spoke with Village board last night, requesting a resolution to designate either a special board or the Nunda planning board to update the current comprehensive plan. Alex goes on to say the designated board does not exclude anybody from participating in its creation. The Village board acted favorably to designating the Planning board, would the Town board be willing to do the same?

Resolution No. 1 of 2018 – Designating Planning Board as lead agent to the Comprehensive Plan Update

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Motion was made to make Resolution Number 1 of 2018, where the town board hereby designates the Joint Village and Town Planning Board the responsibility to update the Nunda Town and Village Comprehensive Plan as lead agent. Motion was made by Bill Mann, seconded by Mike Hillier and carried 5-0.

Jim asked how long Alex expected the update to the comprehensive plan to take? Alex stated 9 months is to be expected at least, could potentially be done before this calendar year.

**CEO**

Mark submitted his January 2018 written report.

March has an annual building official's conference; this seminar will provide Mark the required annual training updates per the State of New York.

Mark met with Sue Meyers in regards to the fire inspection of the Tri-County Medical Center. Mark deemed that there needs to be a crash bar on the rear exit door leading from the exam room to the rear utility area of the building, as this door is an emergency exit and currently is only secured by a dead bolt and door knob.

Attended Code Official Meeting in Geneseo on January 19<sup>th</sup> to speak with county department heads and state representatives.

Met with Heather Ferrero from the County Planning Department, Bob Piper, Alex Peirce and Cheyenne DeMarco to create flow charts for processes relating to applications that must go through the planning and zoning boards.

**ASSESSOR REPORT**

Brian stated that the deadline to turn in tax exemption applications is March 1<sup>st</sup>, reminder letters have been sent out. Most values for the assessment roll are done, Brian is still waiting on a few from the county's report of sales. Notices will be sent out the first week of March for the assessment roll update. Brian will start scheduling appointments with residents that will carry out through the first part of April.

**HISTORIAN**

Val submitted her written report to the board, stating that she is continuing to extract information from copies of school registers from 1808-1939 for one room schools in Nunda. Child's name, parent/guardian name, teacher's name and other statistical information is of interest. As she mentioned previously, the historical society has many more she hopes to be able to reference. Val stated her hope is to compile available information on each one room school in the present Keshequa Central School district. Dalton school centralized in 1939.

It is Val's hope that this will help with genealogy, to track a person at a certain age and where they were.

The board thanked Val.

**COMMUNICATIONS**

Supervisor Walker reviewed the following communications:

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- i.) *Local Law 1 of 2018 - "A Local Law to Allow Cold War Veterans A Limited Town Tax Exemption Pursuant to Section 458-B of the Real Property Tax Law."*

**Section 1. Purpose.**

The purpose of this local law is to authorize a limited exemption from real property taxes for residential real property owned by veterans and their surviving spouses who rendered military service to the United States during the "Cold War" pursuant to Section 458-b of the Real Property Tax Law.

**Section 2. Cold War Exemption.**

- (a) Pursuant to subsection 2(a) of Section 458-b of the Real Property Tax Law of the State of New York, and subject to the definitions, limitations and requirements of said Section 458-b, the Town of Nunda hereby adopts the qualifying residential real property exemption under subsection 2(a)(i) of Section 458-b of the Real Property Tax Law of the State of New York, that is, an exemption in the amount of fifteen percent (15%) of the assessed value of such property, provided however, that such exemption, as permitted by subsection 2(c)(iii), shall not exceed twelve thousand dollars or the product of twelve thousand dollars multiplied by the latest state equalization rate of such property's assessing unit, or, in the case of a special assessing unit, the latest class ratio, whichever is less.
- (b) Pursuant to subsection 2(b) of Section 458-b of the Real Property Tax Law of the State of New York, and subject to the definitions, limitations and requirements of said Section 458-b, the Town of Nunda hereby adopts the qualifying residential real property exemption under subsection 2(b) of Section 458-b of the Real Property Tax Law of the State of New York, that is, an exemption in the amount equal to the extent of the product of the assessed value of such property, multiplied by fifty percent (50%) of the Cold War veteran disability rating; provided, however, that such exemption, as permitted by subsection 2(c)(iii), shall not exceed forty thousand dollars or the product of forty thousand dollars multiplied by the latest state equalization rate for the assessing unit, or, in the case of a special assessing unit, the latest class ratio, whichever is less.
- (c) Pursuant to subsection 2(c)(iii) of Section 458-b of the NYS Real Property Tax Law, the exemption authorized

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shall apply to qualifying owners of qualifying real property for as long as they remain qualifying owners, without regard to such ten-year limitation.

**Section 3. Repeal of Local Law No. 1 of 2008.**

This local law repeals Local Law No. 1 of 2008 in its entirety.

**Section 4. Severability.**

If any clause, sentence, paragraph, subdivision, or part of this Local Law or the application thereof to any person, firm or corporation, or circumstance, shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision or part of this Local Law or in its application to the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

**Section 5. Effective Date.**

This local law shall take effect immediately upon its filing with the Secretary of State pursuant to Section 27 of the Municipal Home Rule Law and shall be applicable to all assessment rolls prepared pursuant to the first taxable status date occurring on or after the effective date of this local law.

Motion adopt by Randy Morris, seconded by Mike Hillier and carried 5-0.

**CLOSE PUBLIC HEARING**

Motion was to close the public hearing. Motion was made by Jim Forrester, seconded by Mike Hillier and carried 5-0. Public hearing was closed at 8:25 PM

**COMMUNICATIONS CONTINUED**

ii.) *Keshequa Resource Officer.* A letter addressed to the Town Board from the Keshequa Superintendent, Tom Kopp, was reviewed regarding Keshequa's School Resource Officer (SRO). The village board received their letter and reviewed it in their January board meeting.

Mr. Kopp's letter addresses that their current resource officer, Deputy Gerace from Livingston County Sherriff's department was placed in Keshequa Central School (KCS) three years ago when the school received grant funding to pay for his full



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salary and benefits package. The grant will end this school year.

The school is looking for financial partnering from the Town and Village board. Supervisor Walker stated they did not budget for this in their recently adopted 2018 budget and questions if town is legally allowed to provide this funding. Supervisor Walker will reach out to Association of Towns for advice.

Bill suggested another tri-board meeting with the town, village and school boards to review shared services before March 1<sup>st</sup>. Bill will reach out to Todd Galton to set a date.

Jim stated as their three-year grant comes due this school year, it is unknown if the school has done any financial planning in preparation of this. The School is actively working on their budget as is the Village, it would have been more beneficial to have brought this to the town board before passing theirs. Regardless, they need to review this situation sooner than later.

*iii.) Coffee with the County.* Supervisor Walker stated that Ian Coyle wants to hold a meet and greet with the public at the Town Hall on April 10<sup>th</sup>, 8:30 A.M.

*iv.) Tom Byrnes* stated that he and several others from Nunda did their first walk around the village with Be Well in Livingston tour of historical spots. The signs were put up throughout the community and the walk took about an hour to finish. The continuing to perfect the project for Spring.

*Tom Byrne's left meeting at 8:37 PM*

**BUDGET REPORT &**

**SUPERVISORS STATEMENT** Payment in lieu of taxes (PILOT) payment from OANB was received in January.

CD came due and was renewed for 3 months.

In this month's General and Police abstracts, the combined figure is the complete town insurance payment for 2018 coverage.

**AUDIT BILLS**

There was a motion to approve the Abstracts for the month of February, 2018. These abstracts include;

*General Fund* Claim number, 29-57, in the amount of \$105,133.06, as set forth in abstract No. G-2, dated 02/13/2018. General Voucher 28 - \$8,363.00 approved pre-pay.

*Highway Fund* Claim number 16-51, in the amount of \$62, 801.82, as set forth in abstract No. H-2, dated 02/13/2018. Prepay of \$127.00 voucher 16.

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*Police Fund* Claim number, 8-16, in the amount of \$5,743.12, set forth in abstract No. P-2, dated 02/13/2018.

A motion was made to approve the audited abstracts. Motion was made by Bill Mann, seconded by Jim Forrester and carried 5-0.

**POLICE**

Mike reported the Nunda Police Department statistics for January 2018, in addition to that report, Chief Wilcox submitted a report that logs the KCS community policing which displays which officer was at which event and stayed for how long.

Two officers are currently not working, Officer Bauers is starting a new position at SUNY Buffalo and Officer Boorman broke his wrist.

Randy asked Mark how the violation affidavits with the PD are working? Mark answered that the problem is getting the affidavits back to him, he eventually gets emails of the affidavits rather than the hard copy delivered. Mark stated he is fine with e-mail copies, he just wants them ASAP instead of having to request them and Mark would like to eventually have the original affidavit turned in to him for litigation reasons. Mike stated this was discussed at this month's Commissioners meeting.

Darren Snyder built a new drop box at the police station so there will be more room for mail and paper work to be dropped off when the office is closed. It was asked of Chief Wilcox to reiterate with the officers to check the box daily.

**IT REPORT**

It was agreed to have Hurricane Technologies be our new web host for the Town of Nunda official Website. Jim will reach out to Tom Burt to get the website credentials.

Quotes for phone replacements are being collected.

**COMMERCE REPORT**

None.

**BUILDING/ZONING REPORT**

Bill stated Mike, Mark and himself had a Saturday building committee meeting in regards to replacing the Tri-County door. A quote was supplied by Moran's glass which is at a figure of \$2,248.00, but the quote does not include a crash bar.

Motion was made to accept Moran's Glass door quote with the stipulation that it is to not exceed \$3,000.00 with the addition of a crash bar. Motion was made by Jim Forrester, seconded by Mike Hillier and carried 5-0.

**HIGHWAY**

Rick stated he was going to Albany in March to lobby for CHIPS. Looking to find at least three engineers for application process. Spoke with Bob Striker, in working with water distribution on Kendall Road.

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- ONE MOTION                         A motion was made to accept all reports given on 02/13/18. Motion was made by Jim Forrester and seconded by Bill Mann and carried 5-0.
- OLD BUSINESS                    New highway building was discussed. Hark Homes has prepared drawings of the new highway building. The drawings need to go before the attorney in Buffalo who specializes in request for proposals (RFP), get specs configured and engineers picked. A timeline is needed. Supervisor Walker stated she would bring it back up at the next county supervisor’s meeting.
- NEW BUSINESS                    Teenage Recognition Award ceremony is April 25<sup>th</sup>, Randy has submitted two nominations on behalf of our school district.
- CLERK REPORTS                 Cheyenne submitted her January 2018 Town Clerk Report of total state, county and local revenues and the January 2018 Justice Report to the Nunda Town Board.
- A motion was made to approve the audited Town Clerk and Justice reports for the month of January 2018. The motion was made by Bill Mann, seconded by, Mike Hillier and carried 5-0.
- ADJOURNMENT                    Being that there was no further business, there was a motion to adjourn. The motion was made by Mike Hillier, seconded by Jim Forrester, and carried 5-0.
- The meeting adjourned at 9:08 PM.

RESPECTFULLY SUBMITTED,

CHEYENNE DEMARCO  
NUNDA TOWN CLERK