

**BYRON TOWN BOARD MEETING**

July 10, 2019

The Byron Town Board Meeting was called to order by Supervisor Rouse at 7:00 p.m. with the following people present:

- Supervisor.....Roger Rouse
- Councilmen.....Sue Fuller
- Fred Klycek
- Jim Cudney
- Jeff Thompson
- Town Clerk.....Debra Buck-Leaton
- Highway Superintendent.....Brian Forsyth
  
- Invited Guests.....Scott Mattison, MRB Group
- Benjamin Wisniewski, Esq. and Bridget O’Toole, Esq., The Zoughlin Group
  
- Public:
- Pete Yasses.....Rte. 237, Byron
- Mickey Truax.....Swamp Road, Byron
- Vic Digregorio.....Warboys Road, Byron
- Jim Lamkin.....Ivison Road, Byron
- David Leaton.....Byron Road, Byron
- Candy Hensel.....Swamp Road, Byron
- Karen Goodwin.....Cockram Road, Byron
- Ben Raccuia.....Warboys Road, Byron

**PLEDGE OF ALLEGIANCE:**

The Pledge of Allegiance was led by Supervisor Rouse.

**SOLAR:**

The Town received a letter from NYSERDA regarding the the Artilce 10 process and appointment of two ad hoc members from the community (a copy of the letter and attachments are attached to these minutes).

**SOLAR – The Zoghlin Group:**

Benjamin Wisniewski, Esq. and Bridget O’Toole, Esq. from the Zoughlin Group represent public entities with regard to the Article 10 process, in which the state sites large power plants, anything larger than 25 megawatts.

Supervisor Rouse and Jay Gsell received letter from NYSERDA regarding ad hoc members for solar project. Two people (ad hocs) from the Town are appointed to be on the siting board

The Town is at the pre-application stage. Excelsior is getting landowners on board and Public Involvement Plan (PIP) is filed, giving the Town notice of what is going on. There is a 150 day waiting period, the Town has no standing to object at this point. In the near future Excelsior should be holding Town Hall meetings, sending out mailings, etc. to educate the Town. A Preliminary Scoping Statement is then filed listing all the studies that will be done that will impact the land.

Public participation in the process then occurs. Intervenor Fund is set up to help fund expenses incurred by the Town during this process, 50% is reserved for the Town. Public interest groups can ask for some of this money.

In September negotiations will likely start, but the Town must opt in. Negotiations are confidential and can last 2 months to 2 years. Final application will then be filed. Earliest it can be filed is around Christmas (90 days). More intervenor funding is released, then there is a court case and administrative law judges make a decision and decision goes to siting board and they make their decision regarding the proposed solar project. The Town can participate by deciding if they want the project and adjust Local Laws, and act as a party in the administrative hearings and express their views. There are benefits to the Town – job increases, PILOT Agreements, Host Agreements. If there's no agreement the applicant would have to pay taxes based on increase of value of the land.

Article 10 takes away final decision of the Town.

Memorandum of Leases should be filed with Clerk. They will not show how much the lease was for, but who it is leased with.

### **MINUTES:**

A **motion** was made by Councilman Thompson to approve the Byron Town Board minutes of June 12, 2019 as written. The motion was seconded by Councilman Klycek and carried with the following vote:

Vote:                      Ayes: 3                      Nays: 2 (Councilman Cudney and Councilwoman Fuller)

### **PLANNING BOARD REPORT – Councilwoman Fuller:**

Kristen Mueller was approved for a Special Use Permit, but needs an Area Variance for a dog kennel

David Kent was at the meeting representing Gwendolyn Shepard for land separation on Byron Road, removing farmable land from parcel

A **motion** was made by Councilman Klycek to approve the Planning Board Report as given. The motion was seconded by Councilwoman Fuller and carried with the following vote:

Vote:                      Ayes: 5                      Nays: 0

### **YASSES STORAGE UNITS:**

### **SEQR RESOLUTION – NEGATIVE DECLARATION**

#### **RESOLUTION #65:**

Councilman Klycek offered the following resolution and moved for its adoption:

#### ***WHEREAS,***

- 1) In accordance with the New York State Environmental Quality Review Regulations (SEQR), the Town Board of the Town of Byron announced on May 8, 2019 its intent to serve as Lead Agency and to conduct an environmental review of the proposed Revised Comprehensive Plan which will serve as a vehicle by which planning and development of the Town will be guided.
- 2) The Town Board has determined that the proposed action only requires action by the Genesee County Planning Department.
- 3) The Byron Town Board in its capacity as Lead Agency has caused to be prepared an environmental assessment of the significance of and potential environmental impact of the action described above.
- 4) On May 10, 2019 the Byron Town Board notified the Involved Agencies of its intention to act as Lead Agency for this project and circulated Part 1 of the full Environmental Assessment Form. None of the Involved Agencies objected to the Byron Town Board acting as Lead Agency.

***NOW, THEREFORE, BE IT RESOLVED,*** that the Town Board of the Town of Byron declares that it will serve as Lead Agency for the adoption of the proposed Revised Comprehensive Plan; and

The Town Board declares that based on the Full Environmental Assessment Form which has been prepared, the adoption of the Revised Comprehensive Plan will not result in any large and important impacts, and therefore will not have a significant adverse impact on the environment. A Negative Declaration under SEQR is therefore hereby issued for this project and no environmental impact statement need be prepared; and

**BE IT FURTHER RESOVED**, that the Supervisor is hereby authorized and directed to sign said Form and file with the Town Clerk.

Councilman Cudney seconded the resolution which was adopted by the following vote:

Vote:           Ayes: 5           Nays: 0

**LOCAL LAW NO. 1 OF 2019 – AMENDING SECTIONS 2.02 AND 9.06 OF THE TOWN OF BYRON ZONING LAW REGARDING STORAGE UNIT BUILDINGS**

**RESOLUTION #66:**

Councilman Klycek offered the following resolution and moved for its adoption:

**TOWN OF BYRON  
LOCAL LAW NO. 1 OF 2019**

**Title: A Local Law to Amend Sections 2.02 and 9.06 of the Town of Byron Zoning Law.**

***Now, Therefore, Be It Enacted*** by the Town Board of the Town of Byron as follows:

- I. Section 2.02 of the Byron Zoning Law shall be amended to add the following definition:  
**Storage Unit Building.** A building which contains therein separate areas the access to which is limited to the lessees thereof and into which areas the lessees are permitted to store personal property subject to the rules and regulations of the lessor.
- II. Section 9.06 General Commercial District shall be amended by adding thereto:
  - (b) Permitted Uses in a C-2 District
    - ii. Storage Unit Buildings
      - (1) No storage shall take place outside the storage unit building.
- III. This Local Law shall take effect upon filing with the Secretary of State pursuant to Section 27 of the Municipal Home Rule Law.

Councilman Fuller seconded the resolution which was adopted by the following vote:

Vote:           Ayes: 5           Nays: 0

**SEWER REPORT:**

***Monthly:***

- Checked and maintained all filter bed pumps (N,S+C)
- Keeping track of pump hours on all pumps including Old School House, Walkers Corners and McElver Street lift station
- Took monthly samples

***Other:***

- High level alarm 615 Mill Pond Road. Replaced burned out pump and float
- Call out at 6403 Mill Pond Road. Replaced both floats
- High level alarm at 6421 Mill Pond Road. Replaced float

A **motion** was made by Councilwoman Fuller to approve the Sewer Report as written. The motion was seconded by Councilman Cudney and carried with the following vote:

Vote:           Ayes: 5           Nays: 0

**Scott Mattison, MRB Group** – Grant application going out on Friday.

**HIGHWAY SUPERINTENDENT’S REPORT:**

- Took dock out of Trestle Park
- Mowed
- Regraded railroad bed
- Did sign work on Chapel Road
- CSX crossing on Ivison and Caswell will be closing at some point for repairs
- Oiled and stoned some roads
- Status on old plow trucks: There are 2 plow trucks, 1 truck needs new clutch.

A **motion** was made by Councilman Cudney to approve the Highway Superintendent Report as given. The motion was seconded by Councilman Klycek and carried with the following vote:

Vote:           Ayes: 5           Nays: 0

**CEO/ZEO REPORT – Mike Morris:**

- A copy of the report is on file with the CEO/ZEO

A **motion** was made by Councilman Cudney to approve the CEO/ZEO Report as given. The motion was seconded by Councilman Thompson and carried with the following vote:

Vote:           Ayes: 5           Nays: 0

**PARK COMMITTEE REPORT – Jim Cudney:**

- Meeting tomorrow night.

**HISTORICAL SOCIETY REPORT – Laurel Smith:**

- No meeting in June
- She has contacted DiAngelo’s to install heating and air conditioning

A **motion** was made by Councilwoman Fuller to approve the Historical Society Report as given. The motion was seconded by Councilman Thompson and carried with the following vote:

Vote:           Ayes: 5           Nays: 0

**FIRE DEPARTMENT REPORT – Councilwoman Fuller:**

- Met and went over financials. They would like Byron’s checks put in numerical order. Next meeting is August 26<sup>th</sup>.
- Discussed park lease

A **motion** was made by Councilman Klycek to approve the Fire Department Report as given. The motion was seconded by Councilman Cudney and carried with the following vote:

Vote:           Ayes: 5           Nays: 0

**ASSESSOR'S REPORT – Councilwoman Fuller:**

The 2019 Assessment Roll is completed and available to be seen on the Town website. The State of New York has certified the roll at 100% for 2019. The equalization rate final roll numbers from the State showed residential properties still too low by 5% but overall values combined for 100%. For the 2009 Assessment Roll the Towns of Byron and Oakfield entered into an agreement to become a Coordinated Assessment Program (CAP). The agreement stated that updates would be done at the same time using the same assessor. The State of New York paid the Town of Byron over \$7,000 for this agreement with the condition that the agreement was for 10 years. If the agreement was broken before the 2019 roll, a percentage of the money would have to be paid back to the State. The period to pay back is now over and the State is no longer paying Towns for this program. The Town of Oakfield passed a similar resolution at their July 9<sup>th</sup> meeting. Nothing changes with the assessment process. I would ask the Town of Byron to pass the following resolution.

**DISCONTINUANCE OF THE COORDINATED ASSESSMENT PRORAM (CAP)**

**RESOLUTION #67:**

Councilman Thompson offered the following resolution and moved for its adoption:

**WHEREAS**, the Town Board of the Town of Byron hereby agrees to discontinue the Coordinated Assessment Program (CAP) with the Town of Oakfield.

Councilman Klycek seconded the resolution which was adopted by the following vote:

Vote:                   Ayes: 5                   Nays: 0

A **motion** was made by Councilman Thompson to approve the Assessor's Report as given. The motion was seconded by Councilwoman Fuller and carried with the following vote:

Vote:                   Ayes: 5                   Nays: 0

**JUSTICE REPORT:**

Justice Smith is requesting approval to solicit three quotes for the following work (in whole or in part) for the 2020 JCAP Grant:

2 double hung windows – one in Judge's Office and one in Clerk's Office. These would be written up as a safety/security cost to allow escape in the event of fire or active shooter scenario.

1 pass through opening with glass partition between Clerk and Judge's Office. This will promote easier access for both of us to work together.

A **motion** was made by Councilman Cudney to allow Judge Smith to obtain three quotes for the above noted work for the 2020 JCAP Grant. The motion was seconded by Councilwoman Fuller and carried with the following vote:

Vote:                   Ayes: 5                   Nays: 0

**ABSTRACTS**

**RESOLUTION #68:**

Councilman Thompson offered the following resolution and moved for its adoption:

**Resolved**, that the Byron Town Board pay the following abstracts:

<b><u>Fund:</u></b>	<b><u>Abstract:</u></b>	<b><u>Vouchers:</u></b>	<b><u>Amount:</u></b>
General Fund	#7	#160 - #177	\$ 16,739.52
Highway Fund	#7	#97 - #114	\$ 81,159.78
Sewer Fund	#7	#35 - #40	\$ 6,194.09
General Fund Post Audit	#5	#16 - #24	\$ 4,034.37
Sewer Post Audit	#5	#9 - #10	\$ 600.31
Water District No. 7	#3	#7 - #8	\$159,274.79
Water District No. 8	#4	#7 - #8	\$156,961.47

Councilman seconded the resolution which was adopted by the following vote:

Vote:           Ayes: 4                   Nays: 0           Abstain: 1 (Councilman Klycek)

**TOWN CLERK'S REPORT:**

Paid to the NYS Ag and Markets for spay/neuter program.....	\$ 104.00
Paid to the Park Committee for Pavilion Rental.....	\$ 30.00
Paid to DEC for Hunting and Fishing Licenses.....	\$ 233.37
Paid to the Town of Byron Supervisor.....	<u>\$3,503.63</u>
Total Disbursed for June 2019.....	\$3,871.00

**Youth Recreation:** There were 24 kids on the first day 36 on the 2<sup>nd</sup> day and 33 on the 3<sup>rd</sup> day. We currently have 2 paid employees and 1 employee through job development that the County pays for. If the number of kids continues to grow we may need to hire an additional aide.

**Records Management Grant:** The Town of Byron, Batavia and Alexander received a records management grant in the amount of \$111,456.00

**Heritage Festival:** Will be held on July 27<sup>th</sup>.

A **motion** was made by Councilman Thompson to approve the Town Clerk's Report as given for June, 2019. The motion was seconded by Councilwoman Fuller and carried with the following vote:

Vote:           Ayes: 5                   Nays: 0

**FINANCIAL REPORT:**

·The June 2019 Financial Report was reviewed.

A **motion** was made by Councilwoman Fuller to approve the June 2019 Financial Reports. The motion was seconded by Councilman Klycek and carried with the following vote:

Vote:           Ayes: 5                   Nays: 0

**SUPERVISOR'S REPORT:**

- Attended GAM meeting – discussion from Landmark Society
- Received Mortgage Tax check in the amount of \$17,092.85

A **motion** was made by Councilman Thompson to approve the Supervisor's Report as given. The motion was seconded by Councilman Klycek and carried with the following vote:

Vote:           Ayes: 5                   Nays: 0

**OTHER BUSINESS:**

**WATER DISTRICT NO. 7:**

·95% complete. Contractors are essentially done, but may have to come back to reseed, there is a one year warranty. All complaints will be looked at.

**CONTRACTOR'S APPLICATION FOR PAYMENT NO. 2**

**RESOLUTION #69:**

Councilwoman Fuller offered the following resolution and moved for its adoption:

**WHEREAS**, the Town Board of the Town of Byron hereby authorizes the Supervisor to sign the Contractor's Application for Morsch Pipeline, Inc.'s for Payment No. 2 in the amount of \$142,715.78. Councilman Thompson seconded the resolution which was adopted by the following vote:

Vote:           Ayes: 5           Nays: 0

**WATER DISTRICT NO. 8**

·Work is complete

**CONTRACTOR'S APPLICATION FOR PAYMENT NO. 4**

**RESOLUTION #70:**

Councilwoman Fuller offered the following resolution and moved for its adoption:

**WHEREAS**, the Town Board of the Town of Byron hereby authorizes the Supervisor to sign the Contractor's Application for Randsco Pipeline, Inc.'s for Payment No. 4 in the amount of \$150,978.30. Councilman Cudney seconded the resolution which was adopted by the following vote:

Vote:           Ayes: 5           Nays: 0

**FUTURE WATER DISTRICTS:**

·**Water Improvement Benefit Area No. 1:** Both Water Improvement Benefit Areas will be combined into 1 area, which will be called Water Improvement Benefit Area No. 1, qualifies for intermediate funding.

**Transit Road:** The Town of Byron and the Town of Elba will have to agree that the residents on Transit Road and Cockram Road can hook into water line in the Town of Elba. Eric Zuber would like to tap into line at Edgerton Road. The people on Cockram Road will also be able to tap in. It will affect the proposed water district (WIBA No. 1) in that it will go from 280 EDUs to approximately 240 EDUs.

**AMENDMENT #1 TO PROPOSAL FOR PROFESSIONAL SERVICES BY MRB GROUP FOR WATER IMPROVEMENT BENEFIT AREA NO. 1**

**RESOLUTION #71:**

Councilwoman Fuller offered the following resolution and moved for its adoption:

**WHEREAS**, the Town Board of the Town of Byron hereby authorizes the Supervisor to sign the Amendment #1 with MRB Group in the amount of \$3,500.00 for professional services for the RD Funding Application and Environmental Report for Water Improvement Benefit Area No. 1. Councilman Cudney seconded the resolution which was adopted by the following vote:

Vote:           Ayes: 5           Nays: 0

A **motion** was made by Councilman Thompson to hold a Special Meeting on Wednesday, July 17, 2019, and August 21, 2019 at 7:00 p.m. at the Byron Town Hall to review the Amended Full Environmental Assessment Form (EAF) Part 1, and to approve the SEQR Resolution "Intent to be Lead Agency". The motion was seconded by Councilwoman Fuller and carried with the following vote:

Vote:           Ayes: 5           Nays: 0

**SURPLUS CABINETS:**

·The following items have been declared surplus:

- 1 four drawer, letter size, gray filing cabinet
- 1 three drawer, letter size, gray filing cabinet

- 1 two drawer, putty lateral, legal size filing cabinet
- 2 three shelf, putty, metal filing cabinets

A **motion** was made by Councilwoman Fuller to allow the Town Clerk to advertise for bid the above-mentioned surplus items. The motion was seconded by Councilman Thompson and carried with the following vote:

Vote:                   Ayes: 5                   Nays: 0

**PUBLIC COMMENTS:**

·Discussion regarding solar

**ADJOURN:**

A **motion** was made by Councilman Thompson to adjourn the Byron Town Board Meeting at 10:12 p.m. The motion was seconded by Councilman Klycek and carried with the following vote:

Vote:                   Ayes: 5                   Nays: 0

Respectfully Submitted,



Debra M. Buck-Leaton  
Byron Town Clerk





**Board on Electric  
Generation Siting  
and the Environment**

**John B. Rhodes**  
Chair

**Howard Zemsky**  
**Basil Seggos**  
**Richard L. Kauffman**  
**Howard A. Zucker, M.D., J.D.**  
Members

**John J. Sipos**  
Acting General Counsel  
**Kathleen H. Burgess**  
Secretary

Three Empire State Plaza, Albany, NY 12223-1350  
[www.dps.ny.gov/SitingBoard](http://www.dps.ny.gov/SitingBoard)

June 24, 2019

*Via U.S. & Electronic Mail*

Honorable Roger V.V. Rouse  
Town Supervisor, Town of Byron  
P.O. Box 9, 7028 Byron Holley Road  
Byron, NY 14422  
[supervisor@byronny.com](mailto:supervisor@byronny.com)

RE: Case 19-F-0299 – Application of Excelsior Energy Center, LLC for a Certificate of Environmental Compatibility and Public Need Pursuant to Article 10 of the Public Service Law for Construction of a Solar Electric Generating Facility in the Town of Byron, Genesee County.

Dear Supervisor Rouse:

Article 10 of the Public Service Law empowers the New York State Board on Electric Generation Siting and the Environment (Siting Board) to issue Certificates of Environmental Compatibility and Public Need authorizing the construction and operation of major electric generating facilities.

The Siting Board has opened Case 19-F-0299 to track a possible future application by Excelsior Energy Center, LLC for a certificate to construct and operate a 280-megawatt (MW) solar generation facility in the Town of Byron, Genesee County, New York. If the application is submitted, two ad hoc public members will be appointed to the Siting Board for the purpose of providing a local voice in the review of the project and a vote on the final decision on the application.

Article 10 requires you, as the Town Supervisor of the Town of Byron, to nominate four candidates to serve as the ad hoc public members. A similar letter has been addressed to the County Manager of Genesee County, the host county within the proposed project area. Nominations are to be made after an applicant has filed a Preliminary Scoping Statement (PSS) with the Siting Board. If the project proceeds, you will receive notice from Excelsior Energy Center, LLC of that filing. Public Service Law §161(2) requires you to submit your nominations

Honorable Roger V.V. Rouse

June 24, 2019

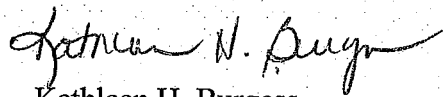
to the President Pro Tem of the Senate and the Speaker of the Assembly within fifteen days of your receipt of that notification.

While no action is required of you at this time, you may wish to familiarize yourself with the nomination process and begin considering candidates, so that you will be prepared to act within the fifteen-day time period if and when Excelsior Energy Center, LLC files a PSS. Based on the Article 10 regulations, an applicant must wait a minimum of 150 days after filing its Public Involvement Plan before it may submit a PSS. In this case, the earliest date Excelsior Energy Center, LLC could file a PSS is September 23, 2019.

Attached to this letter is a fact sheet about the Siting Board and the ad hoc public members, including the required qualifications and restrictions on holding securities in an electric utility corporation operating in the state or proposed for operation in the state, that may appear before the Siting Board. Additional information about the Siting Board and Case 19-F-0299 is available by clicking on these links or searching the Department's website: [www.dps.ny.gov](http://www.dps.ny.gov).

Please contact me by email at [kathleen.burgess@dps.ny.gov](mailto:kathleen.burgess@dps.ny.gov), or by phone at 518-474-6530, if you require further assistance.

Sincerely,



Kathleen H. Burgess  
Secretary

## SITING BOARD FACT SHEET

**Q. What is Article 10?**

A. "Article 10" was enacted in 2011 to be a portion of the New York State Public Service Law. It is a general state law that is applicable in all of New York State. Article 10 empowers the New York State Board on Electric Generation Siting and the Environment (Siting Board) to issue Certificates of Environmental Compatibility and Public Need (Certificate) authorizing the construction and operation of major electric generating facilities.

**Q. What is the "Siting Board"?**

A. The Siting Board is a governmental entity of New York State organized within the Department of Public Service. The Siting Board was established primarily to review applications and to issue certificates authorizing the construction and operation of major electric generating facilities. When the Siting Board is reviewing an original application for a certificate, it consists of five permanent members and two ad hoc public members. The five permanent members of the Siting Board also have additional responsibilities to promulgate regulations for the implementation of Article 10, and they have jurisdiction with respect to the amendment, suspension or revocation of a certificate.

**Q. Who are the permanent members of the Siting Board?**

A. The five permanent members of the Siting Board are the Chair of the Department of Public Service who serves as chair of the Siting Board; the Commissioner of the Department of Environmental Conservation; the Commissioner of the Department of Health; the Chair of the New York State Energy Research and Development Authority; and the Commissioner of Economic Development. The permanent members may designate an alternate to serve instead of the member with respect to all proceedings provided that such designation is in writing and filed with the chairperson.

**Q. What is meant by the term "ad hoc"?**

A. "Ad hoc" is a Latin term meaning "for this special purpose." Two ad hoc members will be appointed for the special purpose of providing a local voice in each proceeding conducted to consider specific individual applications for certificates. Each facility application will have its own unique ad hoc members and therefore its own unique Siting Board.

**Q. How is the list of ad hoc public member candidates established?**

A. There is a different procedure depending on whether the facility is proposed to be located (a) in the City of New York; (b) in a town outside of any villages or in a city other than the City of New York; or (c) in a village.

**Q. How is the list of candidates established in the City of New York?**

A. If such facility is proposed to be located in the City of New York, the chair person of the community board, the borough president, and the mayor shall each nominate four candidates for consideration.

**Q. How is the list of candidates established in a town outside of any villages or in a city other than the City of New York?**

A. If such facility is proposed to be located in a town outside of any villages or in a city other than the City of New York, the chief executive officer representing the municipality shall nominate four candidates and the chief executive officer representing the county shall nominate four candidates for consideration.

**Q. How is the list of candidates established in a village?**

A. If such facility is proposed to be located in a village, the chief executive officer representing the town shall nominate four candidates, the chief executive officer representing the county shall nominate four candidates, and the chief executive officer representing the village shall nominate four candidates for consideration.

**Q. What resources are available to assist the Siting Board?**

A. The chairperson shall provide such personnel, hearing examiners, subordinates and employees and such legal, technological, scientific, engineering and other services and such meeting rooms, hearing rooms and other facilities as may be required in proceedings under this article. The Department of Environmental Conservation shall provide associate hearing examiners. The Secretary and the General Counsel to the Public Service Commission serve as Secretary and the General Counsel to the Siting Board.