

**REGULAR MEETING OF THE TOWN OF DARIEN**

**APRIL 7, 2021**

MINUTES OF THE DARIEN TOWN BOARD: Supervisor Stephen Ferry Jr, Council Members Michael Grant, David Krzemien, Timothy Benten, Michael Fix and Town Clerk Alice Calmes.

A regular meeting of the Darien Town Board, County of Genesee and State of New York was held at the Town Hall, 10569 Allegany Road, Darien Center, NY on April 7, 2021

PRESENT:	Stephen Ferry Jr	Supervisor
	Timothy Benten	Councilman
	Michael Fix	Councilman
	Michael Grant	Councilman
	David Krzemien	Councilman
	Alice Calmes	Town Clerk

ABSENT:

OTHERS PRESENT: In Person – Neil Marzolf – Highway Superintendent; Jerome Yoder – ZEO

At 7:34PM the Supervisor called the meeting to order and recited the Pledge to the Flag.

RESOLUTION #57

**MEETING MINUTES**

Councilman Grant offered a resolution to accept the meeting minutes from the February 16, 2021 Special meeting as read; second by Councilman Krzemien.

AYES 5	Grant, Krzemien, Benten, Fix and Ferry	NAYS 0
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RESOLUTION #58

**MEETING MINUTES**

Councilman Fix offered a resolution to accept the meeting minutes from the March 3, 2021 meeting as read; second by Councilman Benten.

AYES 5	Fix, Benten, Krzemien, Grant and Ferry	NAYS 0
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RESOLUTION #59

**MEETING MINUTES**

Councilman Fix offered a resolution to accept the meeting minutes from the April 5, 2021 work session as read; second by Councilman Krzemien.

AYES 5	Fix, Krzemien, Grant, Benten and Ferry	NAYS 0
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Supervisor Ferry announced the cancellation of the Zoning Law updates public hearing previously scheduled for tonight. Completed Parts I & II of the EAF.

RESOLUTION #60

**EAF PART I**

Supervisor Ferry offered a resolution to authorize the Supervisor to sign Part I of the EAF; second by Councilman Fix.

AYES 5	Ferry, Fix, Benten, Krzemien and Grant	NAYS 0
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RESOLUTION #61

**TOWN OF DARIEN  
RESOLUTION RELATING TO THE PROPOSED  
LOCAL LAW ENTITLED “2021 UPDATES TO THE TOWN ZONING LAW”  
ADDED TO THE TOWN OF DARIEN ZONING LAW**

Adopted: April 7, 2021

The Town Board of the Town of Darien met at a regular board meeting at the Town Offices of the Town of Darien on the 7<sup>th</sup> day of April 2021, commencing at 7:30 p.m., at which time and place the following members were:

<u>Present:</u>	Supervisor	Stephen Ferry Jr.
	Councilman	Timothy Benten
	Councilman	Michael Fix
	Councilman	Michael Grant
	Councilman	David Krzemien
 Absent:	_____	_____

**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**, pursuant to Governor Andrew Cuomo’s Executive Orders put in place in consideration of the COVID-19 pandemic and the guidelines put in place during Phase IV of New York Forward, said meeting was held in accordance with social distancing protocol and face coverings were worn by all Board Members and public attendees; and

**WHEREAS**, The Town of Darien has determined that updated regulations are needed regarding Battery Energy Storage Systems provisions of the Town Zoning Law and Removal of the Elderly Cottage Housing (ECHO) provision of the Town Zoning Law, and;

**WHEREAS**, the Town of Darien recognizes that battery energy storage systems are becoming an integral component to alternative energy sources; and

**WHEREAS**, the Town Board of the Town of Darien believes it is most appropriate for the Town to seek lead agency under State Environment Quality Review Law; and

**WHEREAS**, the proposed Local Law is classified as a Type I Action under Section 617.4 of the New York State Environmental Quality Review Regulations, (6 NYCRR part 617); and

**WHEREAS**, pursuant to and in accordance with the provision of Section 617.6 (Initial Review of Actions and Establishing Lead Agency) of the New York State Environmental Quality Review Regulations, (6 NYCRR part 617) the Town Board of the Town of Darien declares its intention to seek lead agency status for purposes of SEQRA review and has reviewed the proposed law and will take a “hard look” at all potential adverse environmental impacts pursuant to SEQRA by completing Part I of the Long Form EAF and shall advise all other involved and/or interested agencies as follows:

1. Genesee County Planning Board
2. Genesee County Agricultural Land Protection Board
3. Town of Darien Planning Board
4. Commissioner, Department of Environmental Conservation, Albany
5. Commissioner, Department of Environmental Conservation, Buffalo
6. Town Board of the Town of Alexander
7. Town Board of the Town of Pembroke
8. Town Board of the Town of Batavia
9. Town Board of the Town of Alden
10. Town Board of the Town of Attica
11. Town Board of the Town of Marilla
12. Town Board of the Town of Bennington
13. Town Board of the Town of Middlebury
14. Erie County Planner

- 15. Wyoming County Planning Board
- 16. Genesee County Legislature
- 17. New York State Department of Agriculture and Markets
- 18.
- 19.
- 20.

; and

**WHEREAS**, pursuant to sections 239-1 and 239-m of the General Municipal Law, said local law and all supporting documentation, including Part 1 of the Full Environmental Assessment Form (FEAF) shall be submitted to the Genesee County Planning Department for their review and recommendations; and

**WHEREAS**, the Town Board of the Town of Darien finds it in the best interest of the Town of Darien to hold a public hearing to consider said proposed local law, at which time and place all interested parties and citizens for or against the proposed law will be heard and comments will be taken on the potential environmental impacts of the proposed law.

**NOW ON MOTION OF** Stephen Ferry Jr. which has been duly seconded by Michael Fix, be it

**RESOLVED**, the Town Board of the Town of Darien will seek lead agency; and be it further

**RESOLVED**, by the Town Board of the Town of Darien that the proposed local law being considered by the Town Board, in its current form, can be used to begin review under the State Environmental Quality Review Act, also known as SEQRA and the Town Board shall advise all other involved and/or interested agencies as follows:

- 1. Genesee County Planning Board
- 2. Genesee County Agricultural Land Protection Board
- 3. Town of Darien Planning Board
- 4. Commissioner, Department of Environmental Conservation, Albany
- 5. Commissioner, Department of Environmental Conservation, Buffalo
- 6. Town Board of the Town of Alexander
- 7. Town Board of the Town of Pembroke
- 8. Town Board of the Town of Batavia
- 9. Town Board of the Town of Alden
- 10. Town Board of the Town of Attica
- 11. Town Board of the Town of Marilla
- 12. Town Board of the Town of Bennington
- 13. Town Board of the Town of Middlebury
- 14. Erie County Planner
- 15. Wyoming County Planning Board
- 16. Genesee County Legislature
- 17. New York State Department of Agriculture and Markets
- 18.
- 19.
- 20.

; and be it further

**RESOLVED**, that pursuant to §239-1 and 239-m of the General Municipal Law, said local law has been submitted to the Genesee County Planning Board for their review on March 11, 2021 and recommended Approval; and be it further

**RESOLVED**, the Town Board of the Town of Darien will hold a public hearing on the proposed adoption of said local law on the 5th day of May 2021 at 7:45 p.m., at which time and place all interested parties and citizens for or against the proposed law will be heard and the environmental significance of said law will be determined.



**REGULAR TOWN BOARD MEETING**

**APRIL 7, 2021**

AYES 4 Grant, Fix, Benten and Ferry

NAYS 1 Krzemien

RESOLUTION #65

**CLOSE PUBLIC HEARING**

Supervisor Ferry offered a resolution at 8:50PM to close the public hearing for the Water Improvement Area Darien-Alexander Townline and Broadway Roads; second by Councilman Krzemien.

AYES 5 Ferry, Krzemien, Grant, Fix and Benten

NAYS 0

RESOLUTION #66

The following resolution was offered by Supervisor Ferry and seconded by Councilman Fix.

**ORDER AFTER A PUBLIC HEARING  
TOWN OF DARIEN  
WATER IMPROVEMENT AREA DARIEN-ALEXANDER  
TOWNLIN AND BROADWAY ROADS**

At a regular meeting of the Town Board of the Town of Darien, in the County of Genesee, New York, held on April 7, 2021 at the Darien Town Hall, located at 10569 Alleghany Road, Darien Center, New York, at which time and place the following members were:

Present:	Supervisor	Stephen Ferry Jr.
	Councilman	Timothy Benten
	Councilman	Michael Fix
	Councilman	Michael Grant
	Councilman	David Krzemien

Absent: \_\_\_\_\_

**WHEREAS**, the Town Board of the Town of Darien, New York, has duly adopted a resolution directing the Supervisor of the Town of Darien to file a map, plan and report for an improvement of facilities to the Water Improvement Area in the Town of Darien, and sign said map, plan and report dated November 2020 has been filed in the office of the Town Clerk of the Town of Darien on January 9, 2021 for said increase and improvements of facilities of the District and has been estimated maximum cost thereof to be \$255,000.00; and

**WHEREAS**, the Town Board of the Town of Darien adopted an order calling a public hearing thereon and caused a notice of such hearing to be published and posted in the matter provided in Section 193 of the Town Law of the State of New York, describing in general terms the proposed improvements, being a 0.5-million-gallon water storage tank being constructed on Broadway Road will provide the water storage needs for this proposed Improvement Area. No additional storage is required for this service area. A pump station constructed on Broadway Road as part of the Town of Alexander Water District No. 5 will serve this area.

**WHEREAS**, the boundary of the Improvement Area includes all that tract or parcel of land situated in the Town of Darien, County of Genesee, State of New York, being described as follows:

Beginning at the centerline intersection point of Broadway Road US 20 and Townline Road which is also a point on a common Municipal Boundary Line between the Town of Darien and Alexander; thence,

1. Southerly, along the common Municipal Boundary Line further described as the Westerly Boundary line of Alexander Water District No. 5, to the intersection point of the Southern Genesee County Boundary Line, distance of 11,978 feet more or less; thence,

2. Westerly across Townline Road “Church Street” along the Genesee County line and southern property lines of Tax Parcel 16.-1-34 and 16.-1-33.12 distance of 2,815 feet, more or less; thence,
3. Northerly, along the westerly property line of Tax Parcel 16.-1-33.12 to intersection point of Tax Parcel 16.-1-32.11, total distance of 4,214 feet, more or less; thence,
4. Northerly, across 16.-1-32.11 to the centerline of Attica Road Right of Way width 49.5 feet, 261 feet more or less westerly from the intersection of Townline Road “Church Street”, a distance of 375 feet, more or less; thence
5. Westerly along centerline of Attica Road to the perpendicular intersection of the westerly property line of Tax Parcel number 16.-1-31.1, distance of 68 feet more or less; thence,
6. Northerly across Attica Road and along the westerly boundary line of Tax Parcel numbers 16.-1-31.1 distance of 309 feet, more or less; thence,
7. Westerly, across Tax Parcel number 16.-1-31.211 to a point 330 feet more or less from the common Municipal Line and centerline of Townline Road, distance of 166 feet, more or less; thence
8. Northerly 330 feet more or less parallel from common Municipal Line and centerline of Townline Road across Tax Parcel numbers 16.-1-31.211, 16.-1-52, 16.-1-28 across Old Buffalo Road a 49.5 feet, to a point on the Southerly Boundary Line on Tax Parcel number 16.-1-26.12 and 55 feet west of Tax Parcel number 16.-1-27, distance of 1,796 feet, more or less; thence,
9. Northerly along the property lines of Tax Parcel numbers 16.-1-26.12, 16.-1-26.2, 16.-1- 21.2, 16.-1- 21.111, 16.-1-22, 12.-1-33.113, 12.-1-34.2 to the centerline of Broadway Road US Route 20, distance 10,628 feet more or less; thence
10. Westerly along the centerline of Broadway Road to perpendicular point of westerly property line of Tax Parcel number 12.-1-32.1, distance 676 feet more or less; thence
11. Northerly along the property line of Tax Parcel number 12.-1-32.1, to intersection of common Municipal Line of Town of Darien and Alexander and north east corner of Tax Parcel number 12.-1-32.1, distance of 5,451 feet, more or less; thence,
12. Southerly along the parcel and common line across Broadway Road, distance of 3,971 feet, more or less to the point of beginning.

All as shown on the maps prepared by the Mountain Engineering entitled, “Town of Alexander-Darien Townline and Broadway Roads Water Improvement Area as described above, contains approximately 507 acres, more or less of land.

**WHEREAS**, a public hearing was held on the 7th day of April, 2021 at the Darien Town Hall, located at 10569 Alleghany Road, Darien Center, New York, in the matter described at which all persons interested in the subject matter were given an opportunity to be heard.

**NOW THEREFORE**, upon the evidence given at the public hearing described herein, it is hereby determined as follows:

1. The Notice of the Public Hearing described in the preambles hereof was posted and published as required by law and is in all respects satisfactory;
2. The construction of the improvements hereinabove described is in the public interest, in such that it will:
  - a. Provide affordable water to the residents;
  - b. Allow for the future establishment of further Water Districts or Improvement Areas; and
  - c. Due to the Town of Alexander Water District No. 5 in this area, the Town of Darien Water Improvement Area can be completed at an affordable cost.

- 3. Preparatory to solicitation of competitive bids relative to such construction, the Town’s engineer is hereby directed to prepare definite plans and specifications and to make a careful estimate of the expense of the aforesaid improvements and, with the assistance of the Town Attorney, to prepare a proposed contract for the execution the work; and
- 4. The Town Clerk shall record a copy of this Order in the Office of the County Clerk of the County of Genesee as required under Section 195 of the Town Law of the State of New York.
- 5. This Order shall take effect immediately.

DATED: April 7, 2021

Town Board of the Town of Darien

\_\_\_\_\_  
Supervisor – Stephen Ferry Jr.

\_\_\_\_\_  
Councilperson – Timothy Benten

\_\_\_\_\_  
Councilperson – Michael Fix

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Councilperson – Michael Grant

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Councilperson – David Krzemien

Approved on Roll Call as follows:

Supervisor	Stephen Ferry Jr.	<u>  x  </u>	Yes	<u>  </u>	No	<u>  </u>	Abstain	<u>  </u>	Absent
Councilmember	Timothy Benten	<u>  x  </u>	Yes	<u>  </u>	No	<u>  </u>	Abstain	<u>  </u>	Absent
Councilmember	Michael Fix	<u>  x  </u>	Yes	<u>  </u>	No	<u>  </u>	Abstain	<u>  </u>	Absent
Councilmember	Michael Grant	<u>  x  </u>	Yes	<u>  </u>	No	<u>  </u>	Abstain	<u>  </u>	Absent
Councilmember	David Krzemien	<u>  x  </u>	Yes	<u>  </u>	No	<u>  </u>	Abstain	<u>  </u>	Absent

STATE OF NEW YORK :  
COUNTY OF GENESEE : ss:

I, Alice Calmes, Town Clerk of the Town of Darien, in the County of Genesee, New York, DO HEREBY CERTIFY that I have compared the preceding Order with the original thereof filed in my office on April 7, 2021, and that the same is a true and correct copy of said original and of the whole thereof so far as the same relate to the subject matters referred to therein.





**REGULAR TOWN BOARD MEETING**

**APRIL 7, 2021**

Councilman Krzemien offered a resolution to accept the audit report of Sewer District #1 as read; second by Councilman Benten.

AYES 5 Krzemien, Benten, Fix, Grant, and Ferry

NAYS 0

Councilman Benten informed the board that he is working with Charter Communications to identify who has cable access and who doesn't in town. Charter made it sound like the stimulus package will pay them to do the build out and not the municipalities.

**RESOLUTION #71**

**ABSTRACT**

Councilman Fix offered a resolution to pay the bills in accordance with the abstract; second by Councilman Krzemien. General Fund 62 – 92 for \$21,511.24; Highway Fund 27 – 41 for \$14,591.74; Sewer District #1 for \$1,660.69; and Water District #5 for \$720.00

AYES 5 Fix, Krzemien, Grant, Benten and Ferry

NAYS 0

**RESOLUTION #72**

**ADJOURN**

At 9:30PM, Supervisor Ferry offered a resolution to adjourn; second by Councilman Benten.

AYES 5 Ferry, Benten, Fix, Grant and Krzemien

NAYS 0

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Alice E. Calmes, Town Clerk