

REGULAR TOWN BOARD MEETING

11 MAY 2015

Supervisor Hyde opened the May 11, 2015 Regular Town Board Meeting at 7:00 p.m.

Town Officials in Attendance were:

Carl Hyde, Jr., Supervisor	Daniel Adams, Councilman
Walter Wenhold, Councilman	Susan Neer, Councilwoman
Jeffrey Fluker, Councilman	Debbie Douglas, Town Clerk
Linda Schmidt, Historian	William Shea, Town Justice
Paul Fleming, Highway Superintendent	

Attendees to the Meeting were:

Jim Phillips, BVFD President	Maelynn Hyde
Linda Jackett	Pat Pietrzykowski
Barb Czworka	Cathy Hyde
Glenda Bangs	Sandy Fluker
Don Schmidt	Joe Nowakowski
Bill Gick	Tim Embt
Tom Douglas	

Finances

Supervisor Hyde presented the finances for April 2015.

General Savings	\$	867,787.61
Contingent Account	\$	302,264.87
Highway Savings	\$	164,299.61
Highway Fund Misc. Savings	\$	859.87
Capital Project Highway	\$	69,472.83
AP/PR Account	\$	41,466.14
Trust & Agency Account	\$	5,437.17
Petty Cash	\$	200.00
Justice Savings	\$	38,287.84
Total		\$ 1,490,075.94

Revenues Received		
Debbie Douglas, Town Clerk	\$	2,073.19
Debbie Douglas, Tax Collector	\$	1,537.01
Time Warner	\$	6,413.50
County of Genesee	\$	119,019.69
Genesee County Treasurer	\$	50,026.79
NY Municipal Insurance	\$	2,771.67
Bethany Justice – William Shea	\$	446.00
Bethany Justice – Thomas McBride	\$	2,049.00
Total Revenue	\$	184,336.85
Total Interest	\$	34.34
Total Revenue		\$ 184,371.19

Town Clerk Report – Debbie Douglas

- Presented the Minutes of the April 13, 2015 Regular Town Board Meeting.

A **MOTION** was made by Councilman Fluker and seconded by Councilman Wenhold to approve the Minutes of the April 13, 2015 Regular Town Board meeting as presented. The motion **PASSED** with All In Favor.

Resolution #22-2015 Fran Brunner – Acceptance of Resignation

WHEREAS Francis Brunner has tendered his resignation from the Town of Bethany Board of Assessment Review because he is moving from town, and now on

MOTION of Councilwoman Neer duly seconded by Councilman Fluker, be it

RESOLVED that the Bethany Town Board accepts, with regret, the resignation of Francis Brunner from the Town of Bethany Board of Assessment Review.

Motion **PASSED** with the following Roll Call Vote:

Supervisor Hyde - Yes	Councilman Adams - Yes
Councilman Wenhold - Yes	Councilwoman Neer – Yes
Councilman Fluker – Yes	

- A second Notice of Claim has been filed with the Clerk concerning the accident at the Molasses Hill Road and Route 20 intersection this past winter and has been forwarded to the Town’s insurance company. NYMIR provides attorney services at no charge for these claims.
- The Clerk’s Monthly Report and Bank Statements for February were reviewed by the Town Board.

ZEO/CEO Report – Debbie Douglas

- CEO/ZEO Tom Douglas has taken a leave of absence due to an injury sustained at his full-time job as City of Batavia Fire Fighter. He is hoping to be able to return to work by the end of May.
- Provided the Board with a report of permits issued.
 - o Building Permit issued for reconstruction of a roof on Bethany Center Road.
 - o Fireworks Permit issued for Lei-Ti Campgrounds.
 - o Denied permit for accessory building at the corner of Little Canada and Torrey Roads. The proposed site was too close to the right-of-way.
 - o Denied a permit for the installation of a swimming pool on Skates Hill Road. Location drawings looked like the pool would be located in the front yard. After speaking with the property owner this afternoon, it was discovered that it is actually located in the side yard and is allowable. The permit will be issued for the construction of the pool.
 - o Two applications were received for Special Use Permits. Both of these applications also require variances.
 - SUP1502 is for the installation of a small WEC at 10290 Bethany Center Road. A variance is required because the required collapse zone infringes on the neighbor’s property. The proposed setback for collapse from the side yard is 163’ (230’ is required).
 - SUP1503 is for the construction of a pond at 10204 Transit Road. A variance is required because the location of the pond would be 45’ from the side yard line (100’ is required).
 - o Also working on a building permit for an accessory building collapsed on Fargo Road
 - o Frank Stanton contacted the Town requesting inspection for the May 7th mudding event as per his Special Use Permit/Operating

Permit. Councilmen Adams and Fluker will handle the inspection.

Highway Superintendent Report – Paul Fleming

- Have been patching Cacner Road.
- Have started hauling material for the West Bethany and Paul Road projects. Cost of these projects are projected at \$80-83,000 for Paul Road and \$83,474 for West Bethany Road.
- Highway Superintendent Fleming and Supervisor Hyde have met with Tom Lichtenthal, Town of Batavia Highway Superintendent for help in establishing a program for financing and replacing equipment.
- With the severe constraints in the Highway Department Budget, it will most likely be necessary for the Town to get a bond or ban for replacing the truck and tractor that are needed.
- The Highway Superintendent and Supervisor have been diligently working to find a way to stay within the 2015 Budget in order to meet the requirements necessary to obtain a bond or ban.

Town Justice Report – William Shea

- Court is a little busier.
- The order for the chairs financed by a portion of the JCAP grant has been confirmed. The cost of the chairs is \$1,986.76.

Historian Report – Linda Schmidt

- Has been working on research requests, one being from the family of Lt. Leonard Fuller.

Board Committee Reports

Councilman Adams

- The Zoning Board of Appeals met and granted approval with modifications of an Area Variance Application submitted by Douglas & Morgan Sicheri for the construction of a 40'x50'x13' within 6' of the right-of-way (75' required).
 - o The modifications were as follows:
 - A set back from the right-of-way of at least 50' from the right-of-way.
 - Turning the front of the building so that garage door openings did not face the road so that vehicles exiting the building would not be exiting directly onto the roadway.

Councilman Wenhold

- Read a letter from Phyllis Minihan, Group Leader, Bethany Senior Group, expressing appreciation for the Town's donation to the program. The funds are used for activities and educational programs.
- The Planning Board did not meet this month as there were no applications for review.

Councilman Fluker

- The Fire Department held their annual Recruitment Open House on May 26th. They did receive one application for a new member who is interested in being a member of the Fire Police.

Councilwoman Neer

- Still waiting for a copy of the Recreation Schedule for Pavilion.
- The next meeting for the Intercommunity Medical Building will be held on May 26.

OLD BUSINESS

Proposed Water District – Little Canada, Torrey, East Bethany-LeRoy & Clipnock Roads – Update

- Nothing New to report.

Proposed Water District – Creek & Putnam Roads – Update

- The second batch of income surveys have been sent out. There are 16 surveys that have not been returned.

Union Contract Negotiations – Update

- Two Board members and the attorney met with the Union representative. A proposal was drafted. The Board is waiting to hear from the representative, Brian Dickman.

Outdoor Condensing Unit for Community Center Air Conditioners Damage – Update

- A check has been received from the insurance company for damage to the condensing unit.

Installation of Furnace/Air Conditioning Unit in Kitchen Storage Area – Update

- Furnace and air conditioning unit were installed today.

Old Town Hall – Update

- A meeting took place today, May 11, 2015, which included Supervisor Hyde, Councilman Wenhold, Bill Gick, Russ Romano, Realtor, and Caitlin Meives, Preservation Planner and Larry Francer, Associate Director of Preservation from the Landmark Society of Western New York.
 - o The topic of the meeting was the old Town Hall and possible scenarios for the building: renewing the contract with the Landmark Society, adding more land to the parcel to make it more attractive, etc.
- Supervisor Hyde is scheduling an informational meeting to be held in early July to present the financial logistics of keeping or selling the building.
- He noted that the Old Town Hall group has worked very hard to market and sell the building.

NEW BUSINESS

Budgeting & Clerical Errors

- In working with John Savash from Municipal Solutions to complete the 2014 AUD for the New York State Comptroller, many budgeting and clerical errors have been discovered.
- The AUD's filed for the past 5 years are incorrect.
- The 2013 independent audit that was performed is incorrect. \$55,000 was moved from one account to another with no explanation and no notation of what the money was used for.
- The funds noted in the Justice account is incorrect. The account shows money being deposited but no money being taken out.
- According to Mr. Savash's findings, the Town has enough funds to operate through October.

- Projecting the Highway Department Budget:
 - o The 2015 Highway Budgeted amount \$698,000
 - o Amount spent in January – April, 2015 \$242,600
 - o Projected expenses for 2015 \$727,000
- \$727,000 is reached by multiplying the total spent in the first four months of the year by 3 to project the total expenses for the year.
- At this point in time the following projects are expected:
 - o Brake jobs for 3 10 wheel trucks at \$4,000 each \$ 12,000
 - o Road projects (6) \$303,000
 - o Projected snow removal in the 4th quarter \$103,000
 - Snow removal figure is based on a 3 year average.
- The Town will be well over budget if cuts are not made immediately.
- The Supervisor is recommending that one full-time MEO position be eliminated, saving the Town approximately \$100,000 per year, due to budget constraints with possibly more cuts to follow.

RESOLUTION #23-2015 ELIMINATION OF ONE (1) FULL-TIME MOTOR EQUIPMENT OPERATOR (MEO)

WHEREAS, it has been determined by the Town Supervisor, Chief Financial Officer, of the Town of Bethany, that the Town's Budget and financial status is dire, and

WHEREAS, the Town Supervisor has recommended that one (1) Full-time Motor Equipment Operator (MEO) position should be eliminated, saving the Town approximately \$100,000 per year to help offset the projected overages in the Highway Department budget, now

On **MOTION** of Councilman Adams, duly seconded by Councilman Wenhold, be it

RESOLVED that the Bethany Town Board hereby authorizes the elimination of one (1) Motor Equipment Operator position in the Bethany Highway Department.

Motion **PASSED** with the following Roll Call Vote:

Supervisor Hyde - Yes	Councilman Adams - Yes
Councilman Wenhold - Yes	Councilwoman Neer – Yes
Councilman Fluker – Yes	

Replacement of Truck & Tractor – Bonding/Banning

- The following equipment purchases are necessary:
 - o Plow Truck (Current vehicle is 1996) \$215,000
 - o Tractor (2 are no longer running) \$ 93,000
- A Ban or Bond will be necessary to make these purchases.
 - o In order to qualify for either of these, the Town must show that they have money in order to get money.
 - o A Ban for \$300,000 would require an \$80,000 payment per year for 5 years.
 - o The plan is to be able to replace another truck in 2 years.
 - o After that the Town should replace a truck every 7 years.

Paving of Community Center Parking Lot and Other Small Projects

- Due to budget constraints, the parking lot will not be paved this year.
- All other small projects have been put on hold.

RESOLUTION #24-2015 JOINT MUTUAL CODE ENFORCEMENT AGREEMENT BETWEEN THE TOWN OF BETHANY AND THE TOWN OF BATAVIA

WHEREAS, the Town of Bethany and the Town of Batavia wish to enter into a Code Enforcement Officer Agreement; and

WHEREAS, the agreement addresses the need for the Town of Bethany to have its Codes enforced in the absence of the Town of Bethany's Code Enforcement Official, now,

On **MOTION** of Councilwoman Neer, duly seconded by Councilman Fluker, be it

RESOLVED that the Bethany Town Supervisor is hereby authorized to execute the aforementioned agreement.

Motion **PASSED** with the following Roll Call Vote:

Supervisor Hyde - Yes	Councilman Adams - Yes
Councilman Wenhold - Yes	Councilwoman Neer - Yes
Councilman Fluker - Yes	

CODE ENFORCEMENT AGREEMENT

THIS AGREEMENT, made this ____ day of ____, ____ by and between the **Town of Bethany**, a municipal corporation with offices at 10510 Bethany Center Road, Bethany, NY 14054 ("Bethany"), and the **Town of Batavia**, a municipal corporation with offices at 3833 West Main Street Road, Batavia, NY 14020 ("Batavia"),

WHEREAS, both parties employ Code Enforcement Officers to enforce Zoning Code, Fire and Building Codes and other various codes and regulations, and

WHEREAS, each party has identified a need to have its Codes enforced during periods when its Enforcement Officers are unavailable due to illness, vacation and other absences,

NOW THEREFORE, BE IT RESOLVED, pursuant to Article 5-G of the General Municipal Law, it is agreed as follows:

First: That Bethany shall appoint the Code Enforcement Officer of the Town of Batavia as its Deputy Code Enforcement Officer.

Second: That Batavia shall appoint the Code Enforcement Officer of the Town of Bethany as one of its Deputy Code Enforcement Officers.

Third: That each party shall establish an hourly rate at which it shall be reimbursed for such times as its Code Enforcement Officer is performing duties in the other Town and the Town receiving such services shall and hereby does agree to pay for such services at said rate. Each party shall also reimburse the other for any expenses paid by the other, including mileage for vehicle use by the officer while in the other party's Town, or reimburse the officer directly for the use of his personal vehicle in those instances when he uses it for either party's purposes with prior authorization.

Fourth: The rate shall include the hourly cost to the Town for the Code Enforcement Officer's wages, health insurance, retirement fund contribution, and any other fringe benefits, and shall not exceed such hourly costs.

Fifth: Each Town Supervisor shall notify the other Town Supervisor as soon as it becomes known that the services of the Deputy will be necessary, but in no event shall such notice be given less than 72 hours prior to the time when the Deputy is needed. In the event that one of the officers becomes injured, ill or otherwise suddenly incapacitated, the Town supplying the Deputy shall do so as soon as practical, but shall not be required to do so any sooner than 72 hours after notification. It is further understood that each municipality may have or currently has similar agreements with other municipalities and, therefore it is understood that the Deputy may not be available due to services

being provided to those other municipalities. In this event the Deputy will be provided on a first come first serve basis.

Sixth: Each Town shall indemnify the other against any negligent act and shall name the other as an additional insured on any and all liability insurance policies. Each town shall be responsible for the acts of the deputy enforcement officer when working in its Town and the other shall not be so responsible.

Seventh: This agreement shall take effect upon the adoption of resolutions by Town Board agreeing hereto and the authorizing of the respective Supervisors to execute this Agreement and shall be in effect until December 31, 2015.

Eighth: This agreement may be terminated by either party by giving the other party ninety (90) days notice of intention to terminate and shall become effective on the first day of the month following the expiration of the ninety (90) day period.

Ninth: All notices shall be sent to the respective Towns at their addresses as set forth above.

IN WITNESS WHEREOF, the Towns have caused this Agreement to be signed by the Supervisors and the Town Seal attached on the date first set forth above.

TOWN OF BETHANY

TOWN OF BATAVIA

Carl Hyde, Jr., Supervisor

Gregory H. Post, Supervisor

**STATE OF NEW YORK)
COUNTY OF GENESEE) SS.**

On the day of _____, 201__ before me, the undersigned, a Notary Public in and for said State, personally appeared **Carl Hyde, Jr.**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

**STATE OF NEW YORK)
COUNTY OF GENESEE) SS.**

On the day of _____, 20__ before me, the undersigned, a Notary Public in and for said State, personally appeared **Gregory H. Post**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

RESOLUTION #25-2015 SCHEDULE PUBLIC HEARING FOR SPECIAL USE PERMIT (SUP1502)

WHEREAS, all Town Board Members, having due notice of said meeting, and that pursuant to Section 94 of the Public Officers Law (Public Meetings 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 Bethany has received an application for a Special Use Permit (SUP1502) from David Wood requesting permission to erect a small WEC on the property located at 10290 Bethany Center Road (TMP# 5.-1-63); and

WHEREAS, Town of Bethany Zoning Law (II, 210, C) requires that the Town Board hold a public hearing as part of the special use permit process and that

such public hearing shall be held within sixty-two (62) days from the date of the application is received by the Town; now on

MOTION of Councilman Wenhold duly seconded by Councilman Adams, now therefore be it

RESOLVED, that Town Board of the Town of Bethany will hold a public hearing on the special use permit application submitted by David Wood (SUP1502) on the 13th day of July 2015 at 7:30 p.m., at which time all interested parties and citizens for or against the Special Use Permit will be heard.

The motion passed with the following Roll Call Vote:

Supervisor Hyde - Yes	Councilman Adams - Yes
Councilman Wenhold - Yes	Councilwoman Neer - Yes
Councilman Fluker - Yes	

RESOLUTION #26-2015 SCHEDULE PUBLIC HEARING FOR SPECIAL USE PERMIT (SUP1503)

WHEREAS, all Town Board Members, having due notice of said meeting, and that pursuant to Section 94 of the Public Officers Law (Public Meetings 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 Bethany has received an application for a Special Use Permit (SUP1503) from Edward & Thomas Stringham requesting permission to erect pond on the property located at 10204 Transit Road (TMP# 6.-1-30); and

WHEREAS, Town of Bethany Zoning Law (II, 210, C) requires that the Town Board hold a public hearing as part of the special use permit process and that such public hearing shall be held within sixty-two (62) days from the date of the application is received by the Town; now on

MOTION of Councilman Fluker duly seconded by Councilwoman Neer, now therefore be it

RESOLVED, that Town Board of the Town of Bethany will hold a public hearing on the special use permit application submitted by Edward & Thomas Stringham (SUP1503) on the 13th day of July 2015 at 7:30 p.m., at which time all interested parties and citizens for or against the Special Use Permit will be heard.

The motion passed with the following Roll Call Vote:

Supervisor Hyde - Yes	Councilman Adams - Yes
Councilman Wenhold - Yes	Councilwoman Neer - Yes
Councilman Fluker - Yes	

Fire Department Attorney – Jim Phillips, President, Bethany Volunteer Fire Company

- Jim Phillips informed the Board that the Fire Company now has Dadd, Nelson, Wilkinson & Wujcik of Attica as their attorney.

Transfer Station Holiday Closings

- The Transfer Station will close at noon on Saturday, May 23, for Memorial Day.
- The Transfer Station will be closed on Saturday, July 4th and Saturday, September 5th for the Fourth of July and Labor Day respectively.

Warrant

- The Board approved payment of the bills as follows:

	<u>Prepaid</u>	<u>Total</u>
General Fund	\$ 4,582.66	\$ 10,304.91
Highway Fund	\$ 0.00	\$ 10,342.82
Fire Protection Fund	\$ 0.00	\$ 0.00
Water Fund	\$ 0.00	\$ 0.00
Justice Fund	\$ 0.00	\$ 0.00

Adjournment

A **MOTION** was made by Councilwoman Neer duly seconded by Councilman Fluker to adjourn the meeting at 8:00 p.m. The motion **PASSED** with All In Favor.

BY ORDER OF THE
BETHANY TOWN BOARD
DATED: May 13, 2015

Respectfully Submitted,

Debbie L. Douglas, RMC
Bethany Town Clerk