

**REGULAR TOWN BOARD MEETING**  
**14 DECEMBER 2015**

Supervisor Hyde opened the December 14, 2015 Regular Town Board Meeting at 7:03 p.m. with the Pledge of Allegiance followed by a prayer offered by Councilman Wenhold.

Town Officials in Attendance were:

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

Attendees to the Meeting were:

Paul Adair	John Brown
Maelynn Hyde	Adam Miller
Kevin Henning	Michelle Dills
Tom Dills	Shannon Ford
Dan Ford	Tim Embt
Doug Beattie	Sharon Beattie
Sandy Fluker	Gary Donnelly
Bonnie Berkemeier	Josh Adair
Jodi Hollwedel	Bob Hollwedel
Dave Graham	Don Schmidt
Linda Schmidt	Julie Merle
Joel Merle	Mark Heale
Michael Gaiser	Noreen Gaiser
Susan Feldman	Barb Czworka
Greg Miller	Carl Hyde
Cathy Hyde	Louis Lang
William Berkemeier	Jeff Lang
Bill Baskin	Mark George
Harold Barie	

**Public Comment Period**

- The concerns were voiced on the following topics followed by the Town Board's response:
  - o Wage reduction and lack of health benefits for Highway Superintendent position:
    - Supervisor and Council stated that wage reduction was done in anticipation of having a new Highway Superintendent with no experience.
    - The only employees of the town that receive health insurance benefits are the union employees. The town pays the Highway Superintendent a stipend that he may choose to use toward health insurance of his own choosing.
  - o Number of MEO's:
    - There are two MEO's in addition to the Highway Superintendent which is a working position.
  - o Clarity of the budget:

- The format of the budget is dictated by the New York State Comptroller's office and was prepared with the help of John Savash of Municipal Solutions. This is a company that professionally deals with municipal accounting.
- Increase in Supervisor Contractual line:
  - Because the budget was incorrectly coded in the past, some things that were coded to other lines have been moved to the correct budget line such as Payroll Processing and Town Hall/Community Center Maintenance which are now coded to the Supervisor's contractual line in accordance with the New York State Comptrollers Accounting and Reporting Manual.
- Purchase and financing of two new trucks and need for other equipment:
  - Two new trucks have been ordered.
  - A five year BAN at 2 % interest has been obtained for the purchase of the trucks and related equipment.
  - The financing will also help the town obtain a credit rating which it did not have before because there was no debt.
  - Other equipment can be borrowed from other Towns and is a common practice among smaller municipalities.
  - Purchase of a mower will be considered at a later date.
- Supervisor's experience and education was called into question. He was also questioned about his physical disability by Jeff Lang.
  - Supervisor Hyde stated that he had been a store manager.

#### **Annual Audit Findings – Presentation of – Randy Shepard, Bonadio Group**

- Mr. Shepard presented the Town Board with a draft of the 2014 audit findings.
  - It was noted that the audit went much more smoothly than the 2013 audit due to changes that have been implemented by Supervisor Hyde and John Savash of Municipal Solutions.
  - The only significant deficiency in Internal Control was the lack of a Capital Asset Listing.
  - Deficiencies were found in the following
    - The Town is encouraged to discontinue the use of QuickBooks, however, the Town has set up different "Companies" within QuickBooks to establish various funds making it possible for this inexpensive program to work.
    - The Town should adopt a formal Accounting Policy and Procedures Manual that would ensure continuity even if personnel should change.
  - It was recommended that the Board consider the following:
    - Remain apprised of GASB pronouncements and the effective dates of each so that policies are enacted in a timely manner.
    - Adoption of a formal Asset Disposition Policy for the disposal of property.
    - Establish a formal written investment and Deposit Policy.
    - More closely monitor expenditures by analyzing actual results to the budget at least quarterly.
    - Municipal Solutions and John Savash will be instrumental in helping to accomplish these results.

**Finances**

Supervisor Hyde presented the finances for November 2015.

General Savings	\$	691,137.01
Contingent Account	\$	302,325.49
Highway Savings	\$	63,227.04
Highway Fund Misc. Savings	\$	859.93
Capital Project Highway	\$	69,482.11
AP/PR Account	\$	38,661.86
Trust & Agency Account	\$	5,931.14
Petty Cash	\$	200.00
Justice Savings	\$	43,741.52
Total		\$ 1,215,566.10

Revenues Received		
Debbie Douglas, Town Clerk	\$	1,680.31
Stanley Stabba & Sons	\$	101.80
Genesee County Treasurer	\$	8,501.76
NYS Dept. of Taxation & Finance	\$	9,507.19
Bethany Justice – William Shea	\$	1,551.00
Bethany Justice – Thomas McBride	\$	3,088.00

Total Revenue	\$	24,430.06
Total Interest	\$	29.75
Total Revenue	\$	24,459.81

**Town Clerk Report – Debbie Douglas**

- Presented the Minutes of the November 9, 2015 Regular Town Board Meeting.

A **MOTION** was made by Councilman Fluker and seconded by Councilman Wenhold to approve the Minutes of the November 9, 2015 Regular Town Board meeting as presented.

The motion **PASSED** with All In Favor.

- The Clerk's Monthly Report and Bank Statements for November were reviewed by the Town Board.

**ZEO/CEO Report – Thomas Douglas**

- Projects on East Road and Francis Road are proceeding
- Unsafe Porch – Edward Christner – 5744 Ellicott Street Road
  - o Mr. Christner has not moved forward with the necessary repairs to his property.
  - o CEO Douglas has spoken with Attorney DiMatteo and is awaiting his recommendation.

**Highway Superintendent Report – Paul Fleming**

- 3 plow trucks are ready.
- The last two garage door openers should be installed by the end of the month.

**Justice Report – William Shea**

- Court has been very slow.
- The Justice McBride's monthly report and bank statement for November were reviewed by the Board.

**Historian Report – Linda Schmidt**

- Continuing World War II research.
- The Old Town Hall has been cleaned up and made ready for winter.

**Board Committee Reports****Councilman Wenhold**

- Senior Meals are going well. 14-16 people are in attendance each week.
- The Planning Board meet on December 3, 2015.
  - o Final approval was granted for a land separation submitted by Gordon Heineman.
  - o Final approval was granted for the Special Use Permit for upgrades to the cell tower on Broadway Road.

**Councilwoman Neer**

- The Intercommunity Medical Building Board met on November 22nd.
- Letters supporting the sale of the building are requested from each of the municipalities involved. Bethany and one other municipality have submitted their letters.
- The Building Board is having their attorney research the legalities involved in the sale of the building since it is a not-for-profit organization.
- The Craddock's are having a purchase contract drawn up for \$300,000. Net proceeds are estimated at \$290,000. The net proceeds would be divided according to the percentage of original investment from each municipality. The approximate return to Bethany would be \$31,500.

**Councilman Fluker**

- The first breakfast was held this past Sunday with a good turnout.
- Volunteers are still needed.

**OLD BUSINESS****Water Districts 2 & 3 – Update**

- SEQRA is being completed for the USRDA application.

**Creek/Putnam Road Water District – Update**

- Income surveys have gone out and door-to-door contact will begin soon.

**Fargo Road Water District – Update**

- Engineers and Monroe County Water Authority are working together on the map.

**Transfer Station Update**

- The Transfer Station broke even again last month.
- Holiday hours for Christmas and New Year's Eve
  - o The Transfer Station will be open on Wednesday, December 23 and 30 from 4 p.m. – 7 p.m. It will be closed on Saturday, December 26 and January 2 for the holidays.

**Security System**

- Supervisor Hyde is obtaining quotes for the installation of a security system that would encompass the Town Hall, Highway Department and Transfer Station. This is especially important as there has been a recent workplace violence incident.

**RESOLUTON #66-2016 FUEL BIDS – AWARD**

**WHEREAS**, two bids for propane were received and opened as follows:

	Supplier Price/Gal	Average Rack Price	Total
Reisdorf Oil & Propane (Locked in thru December 31, 2016)			\$1.049
Valley Energy Services (Rack Price will fluctuate with Rochester Daily Rack Price)	\$ .5725	\$ .4175	\$ .999

and,

**WHEREAS**, two bids for gas and diesel were received and opened as follows:

	Supplier Price/Gal	Average Rack Price	Total
Reisdorf Oil & Propane #2 Diesel-Low Sulfur On-Road Diesel	\$0.083	\$1.298	\$1.381
Unleaded Gasoline Min Octane 87	\$0.088	\$1.3612	\$1.4492
Valley Energy Services #2 Diesel-Low Sulfur On-Road Diesel	\$0.18	\$1.431	\$1.611
Unleaded Gasoline	\$0.20	\$1.422	\$1.622

**WHEREAS**, Valley Energy Services is the lowest bidder for propane, and

**WHEREAS**, Reisdorf Oil and Propane is the lowest bidder for diesel and gas, now

**ON MOTION** made by Councilwoman Neer, duly seconded by Councilman Adams, be it

**RESOLVED** that the 2016 propane bid is awarded to Valley Energy Services, and be it

**FURTHER RESOLVED** that the 2016 gas and diesel bid is awarded to Reisdorf Oil and Propane.

The motion **PASSED** with the following Roll Call Vote:

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

## **NEW BUSINESS**

### **Community Center/Town Hall Repairs**

- The gutter on the front of the Community Center is in need of repair along with the adjustment of the Justice's exit door. The cost is minimal and the work will be done shortly.

### **Comprehensive Plan**

- The Board has copies of the Comprehensive Plan and should start reviewing it to begin working on it after the first of the year.

### **RESOLUTION #67-2015 SCHEDULING PUBLIC HEARING LL#2-2015 REPEAL OF LL#1-2015 2% TAX CAP OVERRIDE**

**WHEREAS**, the Town Board of the Town of Bethany met at a regular board meeting at the Town Offices located at 10510 Bethany Center Road, Bethany, New York on the 14<sup>th</sup> day of December 2015, commencing at 7:00 p.m. at which time and place the following members were:

Present:	Supervisor	Hyde
	Council Member	Wenhold
	Council Member	Neer
	Council Member	Adams
	Council Member	Fluker

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**, Chapter 97 of the Laws of 2011 – “The Property Tax Cap” adds a new section 3-c to the General Municipal Law that provides that the amount of real property taxes that may be levied by or on behalf of any local government shall not exceed two percent (2%); and

**WHEREAS**, in order to adopt a budget that requires a tax levy that is greater than the tax levy limit for the coming fiscal year, the Town Board first enacts, by a vote of sixty percent (60%) of the total voting power, a local law to override such limit for such coming fiscal year only; and

**WHEREAS**, the Town Board of the Town of Bethany adopted Local Law No. 1 of 2015 entitled “Override the Tax Levy Limit as established in General Municipal Law §3-c”, on October 14, 2015, said Local Law was filed with the New York State Department of State on November 10, 2015; and

**WHEREAS**, the Town Board did not use their authority to enact the Tax Cap Override that they had previously adopted for the year 2016, therefore the Town Board wishes to repeal said law, in accordance with General Municipal Law §3-c; and

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

**NOW ON MOTION OF** Councilman Wenhold which has been duly seconded by councilwoman Neer, be it

**RESOLVED**, by the Town Board of the Town of Bethany will hold a public hearing on the proposed adoption of said local law on the 30<sup>th</sup> day of December 2015 at 7:00 p.m., at which time all interested parties and citizens for or against the proposed law 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 #68-2015 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 Councilman Adams, duly seconded by Councilman Fluker, be it

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

The motion **PASSED** with the following Roll Call Vote:

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

***FIRST AMENDED  
CODE  
ENFORCEMENT  
AGREEMENT***

**THIS AGREEMENT**, made this 14<sup>th</sup> day of December, 2015 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 January 1, 2016 through December 31, 2017.

**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 SS. GENESEE)**

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 #69-2015 LOCAL TRANSPORTATION FUNDING**

**WHEREAS**, a reliable transportation infrastructure is vital for the safety of New York’s traveling public and its economy; and

**WHEREAS**, 85 percent of New York’s roads and bridges are maintained by local governments; and

**WHEREAS**, despite well-timed and targeted preventative maintenance treatments, the age and condition of many of our locally-owned transportation assets means that they are beyond preservation and in need of much more costly rehabilitation and reconstruction; and

**WHEREAS**, estimates by the State Comptroller, DOT and independent studies show a large portion of road mileage is deteriorating and many bridges in the state are rated structurally deficient and functionally obsolete; and

**WHEREAS**, the State Comptroller estimates that there will be \$89 billion in unmet local infrastructure needs over the next 20 years; and

**WHEREAS**, the New York State Association of Town Superintendents of Highways commissioned its own fifteen year analysis that indicates an annual funding gap of \$1.3 billion for the local system (excluding NYC) alone; and

**WHEREAS**, funding for our local system has been far short of what is needed and we've fallen further and further behind in maintaining the vast and aging transportation infrastructure over this long period with severe consequences for conditions ratings; and

**WHEREAS**, the New York State Consolidated Local Street and Highway Program (CHIPS) provides essential funding for every municipality in the state and is part of the New York State Department of Transportation (NYSDOT) capital program; and

**WHEREAS**, early in the 1990's the Governor and Legislature created the Dedicated Highway and Bridge Trust Fund (DHBTF) to pay for the NYSDOT capital program and the Dedicated Mass Transit Trust Fund (DMTTF) to assist with the Metropolitan Transportation Authority (MTA) and other transit systems' capital programs; and

**WHEREAS**, when the DHBTF was created, it was agreed that the NYSDOT and MTA five-year capital programs would be similar in size and would be negotiated concurrently; and

**WHEREAS**, through 2005-09 both five-year capital programs were similar in size and adopted within months of each other; and

**WHEREAS**, in 2010 the Executive and Legislature broke traditional parity and enacted a five-year capital program for the MTA but not the DOT; now

On **MOTION** of Councilman Adams duly seconded by Councilman Fluker be it

**RESOLVED**, that the Town of Bethany calls upon the Governor and the state Legislature to make additional state funding and resources available at levels that accurately reflect the critical needs of local roads and bridges; and increase CHIPS funding in the 2016-2017 state budget; and be it further

**RESOLVED**, that the Town of Bethany calls upon the Governor, and members of the state Legislature to fully fund and submit a new NYSDOT five-year transportation capital plan; and be it further

**RESOLVED**, that the Town of Bethany calls upon the governor and members of the state Legislature to recognize the equality of roads, bridges and transit by restoring funding equality of roads, bridges and transit by restoring funding equality between the MTA and NYSDOT five-year programs and by voting on the plans simultaneously.

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

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

### **Executive Session**

A **MOTION** was made by Councilwoman Neer, duly seconded by Councilman Adams to go to Executive Session at 8:31 p.m. to discuss a recently submitted Work Place Violence Incident Report.

The motion **PASSED** with the following Roll Call Vote:

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

The Board returned from executive Session at 8:55 p.m.

### **Warrant**

- The Board approved payment of the bills as follows:

	<u>Prepaid</u>	<u>Total</u>
General Fund	\$ 31,392.56	\$ 40,274.60
Highway Fund	\$ 34,392.00	\$ 89,577.80
Trust & Agency	\$ 0.00	\$ 0.00
Highway Capital Funds Project	\$ 0.00	\$ 0.00
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 Councilman Wenhold, duly seconded by Councilwoman Neer to adjourn the meeting at 8:55 p.m. The motion **PASSED** with All In Favor.

BY ORDER OF THE  
BETHANY TOWN BOARD  
DATED: December 17, 2015

Respectfully Submitted,  
  
Debbie L. Douglas, RMC  
Bethany Town Clerk