

TOWN OF BETHANY
REGULAR TOWN BOARD MEETING
11 AUGUST 2014

Supervisor Pietrzykowski opened the August 11, 2014 Regular Town Board Meeting at 7:03 p.m. with Councilman Fluker leading in the Pledge of Allegiance followed by prayer lead by Councilman Wenhold.

Town Officials in Attendance were:

Edward Pietrzykowski, Supervisor	Walter Wenhold, Councilman
Jeffrey Fluker, Councilman (7:18 p.m.)	Daniel Adams, Councilman
Debbie Douglas, Town Clerk	Bill Shea, Town Justice
David DiMatteo, Town Attorney	Tom Douglas, CEO/ZEO
Linda Schmidt, Town Historian	

Town Officials Absent were:

Susan Neer, Councilwoman
Paul Fleming, Highway Superintendent

Attendees to the Meeting were:

Don Schmidt	Carl Hyde Jr.
Maelynn Hyde	Bradley Polle
Sharon Coyle	Elaine Shell
Robert Reyes	Tom Foss
Barb Czworka	Frank Stanton
Gregg Torrey, Genesee County Legislature	

Finances

Supervisor Pietrzykowski presented the finances for July 2014.

General Savings	\$	683,289.04
915 Savings	\$	302,150.12
Highway Savings	\$	260,557.78
Highway Fund Misc. Savings	\$	859.76
Capital Project Highway	\$	69,454.10
AP/PR Account	\$	8,395.07
Trust & Agency Account	\$	4,302.41
Petty Cash	\$	250.00
Justice Savings	\$	31,518.77
Total		\$ 1,484,532.05
Revenues Received		
Debbie Douglas, Town Clerk	\$	2,410.20
US Gypsum	\$	29.28
Pavilion Community Chest	\$	1,500.00
NYS Municipal Ins. Reciprocal	\$	530.50
County of Genesee	\$	132,905.53
Bethany Justice – William Shea	\$	673.00
Bethany Justice – Thomas McBride	\$	2,313.00
Total Revenue	\$	140,361.51
Total Revenue & Interest	\$	140,463.89

Town Clerk Report – Debbie Douglas

- Presented the Minutes of the July 14, 2014 Regular Town Board Meeting.

A motion was made by Councilman Wenhold and seconded by Councilman Adams to approve the Minutes of the July 14, 2014 Regular Town Board Meeting as presented. The motion passed with All In Favor.

- The Town Clerk's monthly report and bank statements for July 2014 were presented for the Board's review.

ZEO/CEO Report – Tom Douglas

- Two permits issued. Accessory building on Bethany Center Road was in process of being built and was violated. Permit was issued. Permit issued for addition on East Road. Is now being revised due to change in window sizes.
- Violations
 - o Accessory building on Bethany Center Road was found during drive-by. Homeowner was contacted, permitting process was explained, voluntarily agreed to Stop Work Order. Filed Application and will relocate structure to be compliant and address carpentry issues.
 - o Received an anonymous phone complaint on July 16 concerning a pond filling issue. Drove by the site and verified action was taking place. Contacted NYSDEC and was informed that it is not a violation for the homeowner to fill a pond from the creek.
 - o Same anonymous caller complained of work being done (motor vehicle repair shop) at the same site. Drove by the property multiple times (10+) at various days and times. No activity nor different vehicles were spotted. Law enforcement was contacted and will keep me informed.
- Permitting reviews
 - o Inquiry about a new residence and permitting procedures. Issues with the foundation and engineered prints have arisen. Appears that construction will begin soon.
 - o Inquiry about another residence. Meet with property owner at the site. Discussed issues with an irregularly shaped lot and setbacks from the property lines, descending slope and footers with NYS Building Codes. Discussed locating the residence to a secondary site. Perk test will be performed and Building Permit application will be submitted after results are received.
- Attended the Planning Board meeting for Councilman Wenhold. Board finalized a land separation for Gary and Sandra DeVoe.
- ceobethanyny@yahoo.com was hacked. Issue has been resolved.

Highway Superintendent Report – Paul Fleming, Read by Clerk Douglas

- The Highway Department, with the help from other towns, paved 3200 feet of Jerico Road from Bethany Center Road to the Black Creek bridge.
- Our road salt supplier, American Rock Salt, is increasing the salt price by 8% for the 2014-2015 winter season. The town will pay \$2.96 increase per ton. Salt will be ordered prior to the increase using account balances in this year's budget.
- As weather allows, road patching will continue.
- The CHIP's report has been prepared and sent to NYS Department of Transportation. This also included a request for payment from the \$40 million Extreme Winter Recovery Appropriation.

- The 2002 Internation Truck was sent to Hillcrest Industries in Attica for an estimate on sand blasting an painting the frame and box. A quote of \$5,700.00 was received.
- The installation of the new baler from BE Equipment scheduled for August 7th was cancelled by BE Equipment. Installation has been rescheduled for August 25.

Board Committee Report

Councilman Wenhold

- Senior Meals going well.

Councilman Fluker

- Fire Department is in desprate need of volunteers.

OLD BUSINESS

Transfer Station – Update

- With the cancellation of the baler installation, plastics will be baled in the cardboard baler until the new baler arrives.
- Councilman Wenhold was contacted by the grant writer and needed to know whether the original building expansion was still in the plan for the grant application. It is.

Union Contract Negotiations – Update

- There has been no response to a letter sent to the union by both regular and certified mail on July 16. Attorney DiMatteo informed the board that the lack of a response to communication would constitute unfair practices set forth by the PERB law.

Comprehensive Plan – Update

- Attorney DiMatteo will have the Comprehensive Plan sent over to the Clerk as soon as possible.

Water District – Update

- The income survey is complete and has been forwarded to USDA Rural Development for approval. If approved, the Town of Stafford will be lead agency on the project.

County Radio System – Update

- Towers are still being completed and it is expected that 100% coverage will be obtained when finished.
- Human error in radio usage is also a problem and is being addressed.

Rolling Hills Asylum – PUD

- Rolling Hills (Sharon Coyle, Owner and Brad Polle) stated that there is no need to apply for a Special Use permit or update the PUD plan even though the usage at the property differs from the 1992 PUD.
- Mr. Polle presented the Board with documents that he felt would prove his case.
- The Board stated that in order to hold any concerts on the property several issues would need to be addressed and approved which would include parking, sanitation, water, protection of the neighboring Genesee County Park, etc. No such plan or application has been submitted to the Zoning Officer. Ms. Coyle stated that she submitted a plan to the Board at the February meeting however, no application has been submitted.
- Town Attorney DiMatteo drafted a letter to Ms. Coyle stating that (in summary) the original conceptual plan approved in 1992 was never realized or implemented and that the PUD to the best of his

knowledge was abandoned. Therefore, an application and a site plan would be necessary.

- Mr. Polle stated several times that he contacted the New York State Association of Towns attorney about this personal matter representing himself as a member of the Town of Bethany Planning Board. He was recently appointed as Planning Board Secretary/Alternate.
- Both Mr. Polle and Ms. Coyle opposed this determination and became hostile and abusive to the Town Board and the Town Attorney during the meeting. After using foul language, Mr. Polle was ejected from the meeting. Ms. Coyle stayed and continued to strongly disagree with the board and the attorney.
- Ms. Coyle was informed that concerts on her property are not an approved use at this time.
- It was stated by Mr. Polle prior to his ejection that illegal concerts would be held on the property.

Surplus Truck – Auction

- The 2003 Chevy pickup that was declared surplus equipment has been listed for sale on the Teitswoth website.

Kitchen Use Contract with Fire Department – Update

- Progress is being made and should be presented to the Board at the next meeting.

Annual Audit – Update

- The new bookkeeper has started working with the auditor.

Old Town Hall – Update

- A list of contacts for showing the Old Town Hall has been compiled and sent to the Land Mark Society.

NEW BUSINESS

Cease & Desist Order - Stanton

- On July 23, 2014 an order to cease and desist all “mudding”, truck pulling and camping on the property located at 9832 Bethany Center Road (S.B.L. No. 2.-1-82.112).
- Photos of events held prior to this date taken by ZEO Douglas were submitted to the Board.
- Mr. Stanton was “mudding” on July 27 after receiving the Cease and Desist Order. This has been verified by ZEO Douglas.
- Mr. Stanton stated to the Board that he has obtained a D.B.A (Doing Business As) for his business Pig Pen’s Waller.
- Mr. Stanton has a 2-day event planned for August 30th and 31st.
- He was informed that a Special Use Permit Application for an Outdoor Recreational Use must be filed and approved prior to any further events taking place. This process takes approximately 2 months depending on when the application is filed.
- The Town Attorney provided a resolution authorizing Zoning Officer Douglas to take legal action against Frank Stanton and Jamie Sauer.
- When asked if he would refrain from holding any more events until the Special Use Permit was approved to avoid legal action Mr. Stanton stated “I suppose that I should tell you yes.”

Resolution #27-2014 Authorizing the Zoning Officer to Institute Legal Action – Stanton/Sauer

WHEREAS, the Town Zoning Officer, Mr. Thomas Douglas, has received several complaints regarding “mud bogging” events at a property identified as 9832 Bethany Center Road, S.B.L. No. 2.-1-82.112 (herein the “Property”), which is located in an Agricultural-Residential zoning district; and

WHEREAS, the complaints are such that the “mud bogging” events unreasonably disrupt the quiet enjoyment of neighboring properties; and

WHEREAS, the Town Zoning Officer has found these “mud bogging” events involve the spectacle of racing/driving multiple vehicles through terrain specifically configured and prepared for such activity; and

WHEREAS, the Town Zoning Officer has found these “mud bogging” events have been advertised on Facebook as open to the public;

WHEREAS, the Town Zoning Officer has found that the Facebook advertising requests monetary donations from attendees; and

WHEREAS, the Town Zoning Officer has determined that the “mud bogging” events are an “outdoor recreation” under § 306-A of the Town of Bethany Zoning Code; and

WHEREAS, the operation of an “outdoor recreation” facility is not a legal use of property in an Agricultural-Residential district without a special use permit; and

WHEREAS, Zoning Officer Douglas has confirmed the owner of the Property is Frank L. Stanton and Jamie L. Sauer; and

WHEREAS, on July 23, 2014, Zoning Officer Douglas served Mr. Stanton and Ms. Sauer with a “Cease and Desist” letter advising him that the “mud bogging” events are an illegal use of the Property and directing him to apply for a special use permit should he wish to attempt continuation of the events; and

WHEREAS, Zoning Officer Douglas reports that notwithstanding the “Cease and Desist” letter, another illegal “mud bogging” event took place at the Property without the issuance of a special use permit; and

WHEREAS, the Town Board of the Town of Bethany finds it in the best interest of the Town to authorize Zoning Officer Douglas to take legal action against Frank Stanton and Jamie Sauer, to enforce compliance with the Town of Bethany Zoning Code; and

NOW ON MOTION OF Councilman Wenhold which has been duly seconded by Councilman Adams, be it

RESOLVED, that the Town Board of the Town of Bethany finds it in the best interest of the Town to authorize Zoning Officer Douglas to take legal action against Frank Stanton and Jamie Sauer, to enforce compliance with the Town of Bethany Zoning Code.

The motion passed with the following Roll Call Vote:

Supervisor Pietrzykowski – Yes	Councilman Wenhold – Yes
Councilwoman Neer – Absent	Councilman Adams – Yes
Councilman Fluker – Yes	

Clerk Injured

- At this point in the meeting, the Clerk left the meeting to speak with the Attorney. She tripped on the floor mat in the hall of the Community Center and had to be taken to the hospital. The Town

Supervisor took notes for the remainder of the meeting. Approximately 8:30 p.m.

Cleaning and Waxing of Community Center Floors

- Quotes will be obtained.

Resolution #28-2014 Requesting Funds From the 2014 Justice Court Assistance Program Grant Application

WHEREAS, the Bethany Town Board met in regular session on August 11, 2014 and the following resolution was submitted, and it was determined;

THEREFORE, to apply for funding under the 2014 New York State Justice Court Assistance Program Grant for the continued maintenance and upgrade of the Bethany Justice System and Court operations; and

WHEREAS, such funding would benefit the court system and the taxpayers of the Town of Bethany; now on

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

RESOLVED, that the Town Supervisor, Edward Pietrzykowski, submit such application for the request of such funds as determined by the Town Supervisor and Town Justices, with the full support and at the request of the Bethany Town Board.

The motion passed with the following Roll Call Vote:

Supervisor Pietrzykowski- Yes	Councilman Wenhold – Yes
Councilwoman Neer - Absent	Councilman Adams–Yes
Councilman Fluker - Yes	

Resolution #29-2014 Historical Artifacts to Remain in the Possession of the Town of Bethany

WHEREAS, the Town of Bethany has in it’s possession certain historical artifacts pertaining to the Town of Bethany history, and

WHEREAS, the Town of Bethany has no intention of allowing these precious artifacts to leave the control of the Town, now,

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

RESOLVED that the historical artifacts in the present and future possession of the Town of Bethany shall remain in the control of the Town of Bethany.

The motion passed with the following Roll Call Vote:

Supervisor Pietrzykowski- Yes	Councilman Wenhold – Yes
Councilwoman Neer - Absent	Councilman Adams–Yes
Councilman Fluker - Yes	

Resolution #30-2014 Authorizing the Highway Superintendent to Sign the 2014 Shared Services Agreement

WHEREAS, it is necessary, on occasion to exchange equipment and employees with other municipalities within Genesee County in order to complete projects and/or handle emergency situations; and

WHEREAS, this arrangement also helps to lessen the financial burden of each participating municipality; and

WHEREAS, it is in the best interest of the Town of Bethany, to renew the Highway Shared Services Agreement allowing the Highway Superintendent to exchange equipment and employees with other participating municipalities, now on

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

RESOLVED, that Highway Superintendent Fleming is hereby authorized to sign the Highway Shared Service Agreement.

Supervisor Pietrzykowski - Yes
Councilwoman Neer – Absent
Councilman Fluker - Yes

Councilman Wenhold – Yes
Councilman Adams - Yes

Warrant

- The Board approved payment of the bills as follows:

	<u>Prepaid</u>	<u>Total</u>
General Fund	\$ 1,504.68	\$ 10,420.24
Highway Fund	\$ 5,948.88	\$111,097.77
Fire Protection Fund	\$ 0.00	\$ 0.00
Water Fund	\$ 0.00	\$ 236.25
Justice Fund	\$ 0.00	\$ 2,171.00

Reading of the Minutes – Suspension of

A **motion** was made by Councilman Fluker and seconded by Councilman Wenhold to suspend the Reading of the Minutes. The motion passed with All In Favor.

Adjournment

A **motion** was made by Councilman Adams and seconded by Councilman Fluker to adjourn the meeting at 8:45 p.m. The motion passed with All In Favor.

BY ORDER OF THE
BETHANY TOWN BOARD
DATED: August 14, 2014

Respectfully Submitted,

Debbie L. Douglas
Bethany Town Clerk