

**TOWN OF BETHANY**

**REGULAR TOWN BOARD MEETING**

**11 April 2016**

Supervisor Hyde opened the April 11, 2016 Town Board Meeting at 7:03 p.m. with the Pledge of Allegiance followed by a prayer offered by Councilman Embt.

Town Officials in Attendance were:

- |                                    |                            |
|------------------------------------|----------------------------|
| Carl Hyde, Jr., Supervisor         | Daniel Adams, Councilman   |
| Susan Neer, Councilwoman           | Jeffrey Fluker, Councilman |
| Timothy Embt, Councilman           | Debbie Douglas, Town Clerk |
| Joel Merle, Highway Superintendent | William Shea, Town Justice |
| Thomas Douglas, CEO/ZEO            | Linda Schmidt, Historian   |
| Donald Schmidt, Deputy Historian   |                            |

Attendees to the Meeting were:

- |               |                                   |
|---------------|-----------------------------------|
| Gary Donnelly | Frank Stanton                     |
| Maelynn Hyde  | Joe Nowakowski                    |
| Ray Cipriano  | Gregg Torrey, Gen. Co. Legislator |

**FINANCES**

Supervisor Hyde presented the finances for March 2016.

General Savings	\$1,056,762.99
Highway Savings	\$ 354,661.63
Capital Project Highway	\$ 192,520.48
AP/PR Account	\$ 34,568.17
Trust & Agency Account	\$ 13,805.86
Highway Checking	\$ 7.00
Petty Cash	\$ 200.00
Total	\$ 1,652,526.13

Revenues Received	
Debbie Douglas, Town Clerk	\$ 1,537.65
Stanley Staba	\$ 169.10
Bethany Justice – William Shea	\$ 579.00
Bethany Justice – Thomas McBride	\$ 1,442.00
Total Revenue	\$ 3,727.75
Total Interest	\$ 47.17
Total Revenue	\$ 3,774.92

**Town Clerk Report – Debbie Douglas**

- Presented the Minutes of the March 10, 2016 Special Town Board meeting.

A motion was made by Councilman Adams and seconded by Councilwoman Neer to approve the Minutes of the March 10, 2016 Special Town Board meeting as presented. The motion passed with All In Favor.

- Presented the Minutes of the March 14, 2016 Regular Town Board meeting.

A motion was made by Councilman Fluker and seconded by Councilman Embt to approve the Minutes of the March 14, 2016 Regular Town Board meeting as presented. The motion passed with All In Favor.

- The Village Post Office officially opened on March 21<sup>st</sup>.
- The Clerk's Monthly Report and Bank Statements for March were reviewed by the Town Board.

#### **Highway Superintendent Report – Joel Merle**

- Approximately 1,400 feet of tile has been installed on Cacner Road. Will begin grading out potholes in the next couple of weeks.
- Snow fence removal is complete.
- Performed maintenance on salt shed.
- Repairing bent cylinder on grader.
- Working on removing dead trees along roads.
- Getting quotes for the rental of a wheeled excavator for ditch work.

#### **CEO/ZEO Report – Thomas Douglas**

- No new permits have been issued. One variance application is currently being processed.
- Pig Pen's Waller
  - o CEO Douglas and Supervisor Hyde met with Frank Stanton.
  - o Discussion included complaints concerning the extra vehicles, etc. around the property. Frank agreed to clean the property up and get rid of the extra vehicles.
  - o The first mudding event is scheduled for April 24<sup>th</sup>. There are a total of four events planned for the season.
  - o The pond now needs to be addressed including safety.

#### **Town Justice Report – Bill Shea & Tom McBride**

- Things are picking up a little.
- Justice McBride's Monthly report for March 2016 was reviewed by the Board.

#### **Historian Report – Linda Schmidt**

- Receiving photos in response to the request for the Veterans display in June.
- Will be attending training in Amherst this weekend and the Spring conference the following weekend.

#### **Board Committee Reports**

##### **Councilman Adams**

- Area Variance application has been submitted and will be reviewed by the Planning Board at the May meeting.

##### **Councilman Fluker**

- The last breakfast until fall was held this past Sunday with a great turnout.
- April 23 & 24 is FASNY Recruitment Weekend. There will be an open house at the truck garage.

##### **Councilwoman Neer**

- The Craddock's loan for the purchase of the Medical Building was approved.
- Waiting for the title search to be completed to close.

##### **Councilman Embt**

- ZBA met on March 23<sup>rd</sup> to review and approve an area variance application submitted by Nicholas and Holly Pelton.

**OLD BUSINESS**

**Old Town Hall – Update**

- A lady from Florida has shown interest in purchasing the Old Town Hall and is flying in on April 30<sup>th</sup> for a walk-thru.
- The trucking company that inquired about the building has not responded to Supervisor Hyde’s phone calls.

**Transfer Station – Update**

- Over the last 8 months the Transfer Station is running in the black by \$2,000.

**Water Districts – Update**

**RESOLUTION #19-2016 LATERAL RESTRICTIONS - WATER DISTRICT NO. 2**

WHEREAS, the Town Board of the Town of Bethany has created the Town of Bethany Water District No. 2 pursuant to Town Law for the express purpose of providing public water supply to residents along portions of East Bethany Leroy Road (Co Rd 2), Clipnock Road (Co Rd 28), Little Canada Road, and Torrey Road; and

WHEREAS, part of the land area within Water District No. 2 is also within Genesee County Agricultural District No. 1; and

WHEREAS, the Town Board has filed a Notice of Intent to Undertake an Action Within an Agricultural District to evaluate the impact of providing a source of public water supply within this area on lands within Agricultural District No. 1; and

WHEREAS, the New York State Department of Agriculture and Markets (“Department”) has expressed concern about the potential adverse impact that said public water supply is likely to have on agriculture within the Agricultural District,

NOW THEREFORE BE IT RESOLVED, that the Town Board, in recognition of the concerns that have been raised, hereby resolves to adopt the “Lateral Restriction - Conditions on Future Service” specified by the New York State Department of Agriculture and Markets as follows:

**Lateral Restriction - Conditions on Future Service**

The Town of Bethany imposes the following conditions, as warranted or recommended on the management of water/sewer lines located along the portions of East Bethany Leroy Road (Co Rd 2), Clipnock Road (Co Rd 28), Little Canada Road, and Torrey Road, included in Water District No. 2, within an agricultural district:

- (1) The only land and/or structures which will be allowed to connect to the proposed waterline or sewer within an agricultural district will be existing structures at the time of construction, further agricultural structures, and land and structures that have already been approved for development by the local governing body prior to the filing of the Final Notice of Intent by the municipality.

Land and structures that have been approved for development refer to those properties/structures that have been brought before a local governing body where approval (e.g., subdivision, site plan, and special permit) is needed to move forward with project plans and the governing body has approved the action. If no local approval is required for the subdivision of land and/or the construction of structures, the municipality accepts the limitation under Public Health Law §1115 that defines a “subdivision,” in part, as “any tract of land which is divided

into five or more parcels.” Water and/or sewer service will not be extended to the fifth and subsequent parcels where no local approval is required and the land is located within a county adopted, State certified agricultural district.

- (2) If a significant hardship can be shown by an existing resident, the lateral restriction to the resident’s property may be removed by the municipality upon approval by the Department. It is the responsibility of the resident landowner to demonstrate that a hardship exists relative to his or her existing water supply or septic system and clearly demonstrate the need for public water or sewer service. The municipality shall develop a hardship application to be filed with the municipality, approved by the County Department of Health, and agreed to by the Department of Agriculture and Markets.
- (3) If it can be demonstrated to the Department’s satisfaction that the landowner requested the county to remove his or her land from an agricultural district at the time of district review and the county legislative body refused to do so, lateral restrictions may be removed by the municipality if the Department determines that the removal of the restriction for the subject parcel(s) would not have an unreasonably adverse effect on the agricultural district.
- (4) If land is removed from a county adopted, State certified agricultural district and the district has been reviewed by the county legislative body and certified by the Commissioner for modification, lateral restrictions imposed by the municipality are no longer in effect for the parcels of land that have been removed from the agricultural district.

**MOTION** made by Councilman Adams, duly seconded by councilwoman Neer, approving Resolution #19-2016 Lateral Restrictions – Water District 2.

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

Supervisor Hyde – Yes	Deputy Supervisor Adams – Yes
Councilwoman Neer – Yes	Councilman Fluker – Yes
Councilman Embt – Yes	

**RESOLUTION #20-2016 LATERAL RESTRICTIONS - WATER DISTRICT NO. 3**

WHEREAS, the Town Board of the Town of Bethany has created the Town of Bethany Water District No. 3 pursuant to Town Law for the express purpose of providing public water supply to residents along portions of Transit Road; and

WHEREAS, part of the land area within Water District No. 3 is also within Genesee County Agricultural District No. 1; and

WHEREAS, the Town Board has filed a Notice of Intent to Undertake an Action Within an Agricultural District to evaluate the impact of providing a source of public water supply within this area on lands within Agricultural District No. 1; and

WHEREAS, the New York State Department of Agriculture and Markets (“Department”) has expressed concern about the potential adverse impact that said public water supply is likely to have on agriculture within the Agricultural District,

NOW THEREFORE BE IT RESOLVED, that the Town Board, in recognition of the concerns that have been raised, hereby resolves to adopt the “Lateral Restriction - Conditions on Future Service” specified by the New York State Department of Agriculture and Markets as follows:

**Lateral Restriction - Conditions on Future Service**

The Town of Bethany imposes the following conditions, as warranted or recommended on the management of water/sewer lines located along the portions of Transit Road, included in Water District No. 3, within an agricultural district:

- (1) The only land and/or structures which will be allowed to connect to the proposed waterline or sewer within an agricultural district will be existing structures at the time of construction, further agricultural structures, and land and structures that have already been approved for development by the local governing body prior to the filing of the Final Notice of Intent by the municipality.

Land and structures that have been approved for development refer to those properties/structures that have been brought before a local governing body where approval (e.g., subdivision, site plan, and special permit) is needed to move forward with project plans and the governing body has approved the action. If no local approval is required for the subdivision of land and/or the construction of structures, the municipality accepts the limitation under Public Health Law §1115 that defines a “subdivision,” in part, as “any tract of land which is divided into five or more parcels.” Water and/or sewer service will not be extended to the fifth and subsequent parcels where no local approval is required and the land is located within a county adopted, State certified agricultural district.

- (2) If a significant hardship can be shown by an existing resident, the lateral restriction to the resident’s property may be removed by the municipality upon approval by the Department. It is the responsibility of the resident landowner to demonstrate that a hardship exists relative to his or her existing water supply or septic system and clearly demonstrate the need for public water or sewer service. The municipality shall develop a hardship application to be filed with the municipality, approved by the County Department of Health, and agreed to by the Department of Agriculture and Markets.
- (5) If it can be demonstrated to the Department’s satisfaction that the landowner requested the county to remove his or her land from an agricultural district at the time of district review and the county legislative body refused to do so, lateral restrictions may be removed by the municipality if the Department determines that the removal of the restriction for the subject parcel(s) would not have an unreasonably adverse effect on the agricultural district.
- (6) If land is removed from a county adopted, State certified agricultural district and the district has been reviewed by the county legislative body and certified by the Commissioner for modification, lateral restrictions imposed by the municipality are no longer in effect for the parcels of land that have been removed from the agricultural district.

**MOTION** made by Councilman Embt, duly seconded by Councilman Fluker, approving Resolution #20-2016 Lateral Restrictions – Water District 3.

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

- |                         |                               |
|-------------------------|-------------------------------|
| Supervisor Hyde – Yes   | Deputy Supervisor Adams – Yes |
| Councilwoman Neer – Yes | Councilman Fluker – Yes       |
| Councilman Embt – Yes   |                               |

**RESOLUTION #21-2016 ACKNOWLEDGING THAT THE REQUIRED AUDIT OF THE COURT RECORDS AND DOCKETS WAS CONDUCTED**

**WHEREAS**, Section 2019-a of the Uniform Justice Court Act requires that Town Justices annually provide their court records and dockets to their respective Town Auditing Board, and that such records be audited and that the fact be entered into the minutes of the Board’s proceedings; and

**WHEREAS**, an audited was conducted of the Town Justices records and dockets by Councilman Timothy Embt, now

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

**RESOLVED**, the Bethany Town Board hereby acknowledges that the required audit of the Court Records and Dockets was conducted and hereby directs the Supervisor to forward a copy of the auditor’s report along with a copy of this resolution to Joan Casazza, Internal Control Liaison, NYS Office of Court Administration, 2500 Pond View, Suite LL01, Castleton-on-Hudson, NY 12033.

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

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

**NEW BUSINESS**

**Resolution #22-2016 Highway Superintendent Travel Request – Approval of**

**WHEREAS** the Highway Superintendent is requesting permission to attend the 2016 Highway Superintendent School to be held in Ithica, NY from June 5-8, 2016, and

**WHEREAS** the cost of attending the conference is approximately \$650.00, and

**WHEREAS** there are funds allocated in the Highway Superintendent’s budget to cover the cost of attending the conference, now on

**MOTION** of Councilman Adams seconded by Councilman Fluker, be it

**RESOLVED** that the Town Board approves the travel request of the Highway Superintendent to the 2016 Highway Superintendent’s School in Ithica, NY from June 5-8, 2016 at the cost of approximately \$650.00.

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

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

**Broadband Funding – Consolidated Funding Application Registration**

On **MOTION** of Councilman Adams, duly seconded by Councilwoman Neer, Ramon Cipriano is hereby authorized to submit the NYS Consolidated Funding Application Registration on behalf of the Town of Bethany. The project shall be titled “Town of Bethany Proposed Broadband”.

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

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

**Warrant**

- The Board approved payment of the bills as follows:

	<u>Prepaid</u>	<u>Total</u>
General Fund	\$ 98,225.46	\$ 103,316.87
Highway Fund	\$ 0.00	\$ 10,560.20
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	\$ 3,577.00
Justice Fund	\$ 0.00	\$ 0.00

**Adjournment**

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

BY ORDER OF THE  
BETHANY TOWN BOARD  
DATED: April 12, 2016

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