

TOWN OF BETHANY

REGULAR TOWN BOARD MEETING

12 OCTOBER 2016

Supervisor Hyde opened the October 12, 2016 Town Board Meeting at 6:58 p.m. with a prayer offered by Councilman Embt followed by the Pledge of Allegiance.

Town Officials in Attendance were:

Carl Hyde, Jr., Supervisor	Daniel Adams, Councilman
Timothy Embt, Councilman	Daniel Street Councilman
Debbie Douglas, Town Clerk	Thomas Douglas, CEO/ZEO
William Shea, Town Justice	

Town Officials Absent were:

Jeffrey Fluker, Councilman	Joel Merle, Highway Superintendent
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Attendees to the Meeting were:

Maelynn Hyde	Barb Czworka
Paul Harris	Debbie Harris
Gary Donnelly	Deb Donnelly
Meghan Gaffney, United Wind	Pat Pietrzykowski
John Speidel	Jim Phillips
Vicki Wolak	Jeff Wolak

FINANCES

Supervisor Hyde presented the finances for September 2016.

General Savings	\$1,145,139.40
Highway Savings	\$ 133,702.92
Highway Reserve Savings	\$ 535.78
AP/PR Account	\$ 31,591.13
Trust & Agency Account	\$ 5,362.18
Highway Checking	\$ 1,995.70
Petty Cash	\$ 200.00

Total	\$ 1,318,527.11
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Revenues Received	
Debbie Douglas, Town Clerk	\$ 2,166.11
NY Tax-Aid & Incentive To Munic.	\$ 18,128.00
County of Genesee	\$ 9,366.65
US Post Office	\$ 200.00

Total Revenue	\$ 29,760.76
Total Interest	\$ 35.18
Total Revenue	\$ 29,760.76

PUBLIC HEARING - SUP1602 - HARRIS - WEC

- Supervisor Hyde opened the public hearing at 7:00 p.m.

- One person visited the Clerk's office to review the application and the siting of the tower. Upon seeing where the tower would be sited he had no problem with the application.
- No one was present to speak concerning the special use application.
- Meghan Gaffney from United Wind presented a revised site plan. The original site plan showed the collapse zone extending 8' into the neighboring property. The revised site plan moved the location of the WEC 8' which made the collapse zone entirely within the boundaries of the Harris's property.
- Supervisor Hyde closed the public hearing at 7:21 p.m.

PUBLIC HEARING – PROPOSED LOCAL LAW – 2% TAX CAP OVERRIDE

- Supervisor Hyde opened the public hearing at 7:03 p.m.
- John Speidel voiced concern about an increase in taxes and asked the Board to carefully consider any increase.
- Supervisor Hyde explained the 2% tax cap with the cap being .6% this year.
- Supervisor Hyde closed the public hearing at 7:29 p.m.

Town Clerk Report – Debbie Douglas

- Presented the Minutes of the September 12, 2016 Regular Town Board meeting.

A **MOTION** was made by Councilman Adams and seconded by Councilman Street to approve the Minutes of the September 12, 2016 Regular Town Board meeting as presented. The motion **PASSED** with All In Favor.

- Presented the Minutes of the September 21, 2016 Town Board workshop meeting.

A **MOTION** was made by Supervisor Hyde and seconded by Councilman Embt to approve the Minutes of the September 21, 2016 Town Board workshop meeting as presented. The motion **PASSED** with All In Favor.

- The Town Clerk's Monthly Report and bank statements for September 2016 were reviewed by the Town Board.

Highway Superintendent Report – Joel Merle read by Town Clerk Douglas

- Department personnel attended chainsaw safety training provided by NYMIR. The class was informative and hands-on.
- Truck 1200 passed inspection with new front brakes and 2 lock hubs.
- Worked with Byron paving and Alexander putting shoulders on the roads that they paved this summer.
- Truck 1204 went to auction and was sold for \$11,250.00 with the town receiving \$10,125.00 after commission.
- Installed drainage pipe on Tapp Road.
- Requested paperwork for DEC concerning tank inspections has been submitted. This reporting is required tri-annually. Some of the paperwork requested is missing, waiting to hear if there will be a fine or if they will let it go until next inspection.
- Barb and Adam satisfactorily completed online DEC training for underground tank testing.
- Arm mower 1209 is out as much as possible working on mowing back roadsides before snow falls.

Town Justice Report – Bill Shea

- Had a chance to speak with the road patrol Sargent. There are several officers graduating, allowing for additional patrols.

CEO Report – Tom Douglas

- Complaints – 9453 Francis Road – uninhabitable house
 - o CEO Douglas visited the property and took pictures which were provided to the Town Board. The pictures showed a large limb on and through the house, broken windows and assorted debris and dilapidated buildings.
 - o No one was home at the time of his visit. He left his card in the door.
 - o A gentleman who identified himself as the manager of the property called CEO Douglas back and told him not to enter the property again.
 - The gentleman also stated that he has been harassed before, CEO Douglas has not been in contact with this gentleman or the property owner in 10 years so this is not harassment.
 - Code Enforcement has the right to enter the property on an initial visit but if told not to return, he cannot enter the property again without invitation.
 - o He was upset that the complaint was from an anonymous source. And then proceeded to file a complaint about another property in town. CEO Douglas will be addressing this complaint also.
 - o He mentioned that he wanted to contact the fire department about burning the house. CEO Douglas gave him the contact information.
 - o By law, the property owner must be given 30 days to rectify or present a plan to remedy the situation.
 - o CEO Douglas will be contacting Town Attorney DiMatteo concerning this property.
 - o If the Town orders the demolition of the property, the town is responsible for the cost. It can be levied on the town tax bill, however.
 - o Per the property maintenance code, placards can be placed on the building warning that it is an unsafe structure and more than likely not inhabited. This would warn any fire departments responding to an incident at the property. Fire dispatch would also have this information so that they could disseminate it to any responding departments.
- The ZBA met with 2 applications to review.
 - o Debbie Hartman submitted and received approval for an area variance application (AV1603) for the construction of an accessory building in front of the primary structure on the property located at 4624 Chaddock Road (TMP# 10.-1-77.112).
 - o Patrick and Cleo Elmore submitted and received approval for an area variance application (AV1604) for the construction of an accessory building 17' from the rear lot line (35' is required) on the property located at 6009 East Bethany-LeRoy Road (TMP# 3.-1-32.21).

Board Committee Reports**Councilman Adams**

- Planning Board met and approved a Site Plan Review application (SPR1602) submitted by Lor-Rob Associates, LLC III to place a fourth farmworker housing unit on the property located at 10218 Bethany Center Road (TMP# 5.-1-67).
 - o The approval was granted with the following stipulations:
 - Each unit must have 911 numbering
 - Health department approval of the septic system(s)
 - Occupancy limits
 - These units are not agriculture exempt under the NYS Building Code.

Councilman Street

- o The Black Creek Watershed Coalition meeting was cancelled.
- o Councilman Street was unable to attend the Tonawanda Creek Watershed meeting but the minutes will be sent to him so that he can provide an update next month.

OLD BUSINESS

Water District Updates

- Creek/Putnam Road – working on the hydraulic planning.
- Water District #2 – Rural Development grant paperwork is in.
- Water District #3 – submission is in final stages.
- Bethany Center Road – A survey to determine interest in the formation of a water district is being performed. Hoping that the County will help with the cost of the necessary pump station and tower.

Legal Services Agreement – WD#3

- It is necessary for the application process to bring current the legal services agreement with Town Attorney David DiMatteo that was signed in 2012. The terms and rates remain the same.
 - o Hourly billing at \$175.00 per hour for attorney time and support staff at \$75.00 per hour.
 - o Attorney fees are capped at \$6,000.00.

On **MOTION** of Councilman Adams which was duly seconded by Councilman Embt Supervisor Hyde is hereby authorized to sign the Legal Services Agreement with Attorney David DiMatteo.

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

Supervisor Hyde – Yes	Councilman Adams – Yes
Councilman Fluker – Absent	Councilman Embt – Yes
Councilman Street – Yes	

Fire Siren Controls

- Pat Pietrzykowski presented a proposal from the Fire Department concerning moving the controls for the siren from the old truck garage to the Highway Department garage. He estimates that the cost of the materials would be \$1,200. The Fire Department has agreed to pay \$600 of the cost with the Town being responsible for the remainder of the final cost.
- CEO Douglas visited the building when it was raining and found no leaking in the roof or water in the building.
- Supervisor Hyde has contacted some contractors to look at the roof and possible solutions for the building.
- The issue will be revisited after Supervisor Hyde gets more information and ideas.

RESOLUTION #52-2015 SUP1602 – PAUL & DEBBIE HARRIS – WEC – NEGATIVE DECLARATION

WHEREAS, the Bethany Town Board, as lead agency, is required to perform SEQR for any Special Use Permit, and

WHEREAS, the Bethany Town Board did perform SEQR and found no negative impacts were present, now

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

RESOLVED that the Town Board issues a Negative Declaration for SEQR for the Special Use Application (SUP1602) submitted by Paul & Debbie Harris for the construction of an agricultural WEC 153.8’ on the property located at 10986 Marsh Road, East Bethany, NY (TMP#10.-1-24).

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

Supervisor Hyde – Yes	Councilman Adams – Yes
Councilman Fluker – Absent	Councilman Embt – Yes
Councilman Street – Yes	

RESOLUTION #53-2016 SUP1602 – PAUL & DEBBIE HARRIS– AGRICULTURAL WEC – APPROVAL OF

WHEREAS, Paul & Debbie Harris have submitted a Special Use Application to the Town of Bethany for an agricultural WEC 153’ 8” in height, and

WHEREAS, such application was submitted in its entirety to the Genesee County Planning Board and the Town of Bethany Planning Board, and

WHEREAS, the Genesee County Planning Board has recommended approval of the Special Use Application, and

WHEREAS, in accordance with Town of Bethany Zoning Law Article 210, Section C the Bethany Town Board did hold a public hearing where any interested parties for or against were heard, and

WHEREAS, the Bethany Town Board did perform SEQR review issuing a Negative Declaration, now

On **MOTION** of Councilman Adams duly seconded by Councilman Street the Special Use Permit Application (SUP1602) submitted by Paul & Debbie Harris for the construction of an agricultural WEC on the property located at 10986 Marsh Road (TMP #10.-1-24) is approved.

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

Supervisor Hyde – Yes	Councilman Adams – Yes
Councilman Fluker – Absent	Councilman Embt - Yes
Councilman Street – Yes	

RESOLUTION #54-2016 ADOPTING LOCAL LAW NO. 1-2016 OVERRIDING THE TAX LEVY LIMIT ESTABLISHED BY GENERAL MUNICIPAL LAW §3-c

The Town Board of the Town of Bethany met at a regular board meeting at the Town Offices of the Town of Bethany located at 10510 Bethany Center Road, in the Town of Bethany, New York on the 12th day of October 2016 commencing at 7:00 p.m., and thereafter a public hearing was held at 7:00 p.m. at which time and place the following members were:

<u>Present:</u>	Supervisor	Carl Hyde
	Councilman	Daniel Adams
	Councilman	Timothy Embt
	Councilman	Daniel Street
<u>Absent:</u>	Councilman	Jeffrey Fluker

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” add 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, only if 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, a Notice of Public Hearing was duly published in the Town’s official newspaper and said public hearing was held on October 12 , 2016 at which time all parties in attendance were provided an opportunity to speak or provided written comment in favor of or in opposition to the proposed local law; and

WHEREAS, that the Town Board of the Town of Bethany feels it is in the best interests of the Town of Bethany to adopt said law.

NOW ON MOTION OF Councilman Embt, which has been duly seconded by Councilman Street, therefore, be it

RESOLVED, that the Town Board of the Town of Bethany feels it is in the best interests of the Town of Bethany to adopt Local Law No. 1 of 2016 entitled, “Override the Tax Levy Limit Established in General Municipal Law §3-c.” and be it

FURTHER RESOLVED, that the Town Clerk be and she hereby is directed to enter the adoption of said local law in the minutes of this meeting and give due notice of the adoption of said local law to the Secretary of the State of New York.

Ayes: 4

Nays: 1

Absent/Abstain:

Quorum Present: x Yes No

2017 Budget – Supervisor Comments

- The budget is extremely tight.
- Genesee Count has notified the towns in the county that they will be cutting the amount that they pay for control of ice and snow and mowing. The cut is attributed to the lower gas and salt prices. However, Supervisor Hyde noted that the cost of labor, maintenance and workers compensation has gone up. The town cannot afford this cut.

RESOLUTION #55-2016 ADOPTION OF THE 2017 PRELIMINARY TOWN BUDGET

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

RESOLVED, the Bethany Town Board hereby adopts the Preliminary Town Budget for 2017; and be it

FURTHER RESOLVED, that the 2017 Preliminary Town budget hereby be filed in the Office of the Bethany Town Clerk.

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

Supervisor Hyde – Yes	Councilman Adams – Yes
Councilman Fluker – Absent	Councilman Embt – Yes
Councilman Street – Yes	

RESOLUTION #56-2016 PUBLIC HEARING ON THE 2017 PRELIMINARY TOWN BUDGET – SCHEDULING OF

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

RESOLVED, that the Bethany Town Board hereby authorizes and orders that a Public Hearing on the Preliminary Town Budget for 2017 be conducted at the Bethany Town Hall, 10510 Bethany Center Road, East Bethany, New York, beginning at 7:00 p.m. on Monday, November 14, 2016 at which time and place all interested persons will be heard; and be it further

RESOLVED, that the Town Clerk is hereby authorized and directed to publish such public notice of the subject Public Hearing as required by law.

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

Supervisor Hyde - Yes	Councilman Adams - Yes
Councilman Fluker - Absent	Councilman Embt – Yes
Councilman Street – Yes	

Truck – Sale of

- Funds received from the sale of the truck will be placed in the equipment fund.

NEW BUSINESS

RESOLUTION #57-2016 BONDING OF TOWN OF BETHANY TAX COLLECTOR

WHEREAS, the Town is required by law to file a bond on the Tax Collector with the County Clerk prior to tax rolls and bills being picked up, and

WHEREAS, the Town is required by law to bond the Tax Collector for the money in the control of the Tax Collector,

NOW, THEREFORE, BE IT RESOLVED that the Tax Collector shall have no more than \$500,000.00 in her control at any time, and

BE IT FURTHER RESOLVED that the Tax Collector shall be bonded by the Town in the amount of \$500,000.00.

PASSED with the following Roll Call Vote:

Supervisor Hyde - Yes	Councilman Adams - Yes
Councilman Fluker - Absent	Councilman Embt – Yes
Councilman Street – Yes	

RESOLUTION #58-2016 ASSESSOR TRAVEL REQUEST – APPROVAL OF

WHEREAS the Assessor is required to obtain 12 continuing education credits for Assessors each year, and

WHEREAS the Assessor is requesting permission to attend the the 2016 Annual Assessment Administration Conference to be held in Lake George, NY from September 18-21, 2016 in order to fulfill this requirement, and

WHEREAS the cost of attending the conference will be divided between the three towns that the Assessor serves in, and

WHEREAS there are funds in the Assessor’s budget to cover the cost of attending the conference, now on

MOTION of Councilman Street seconded by Councilman Embt, be it

RESOLVED that the Town Board approves the travel request of the Assessor to the 2016 Annual Assessment Administration Conference in Lake George, NY from September 18-21, 2016 with the cost to be divided equally between the towns of Darien, Pembroke and Bethany.

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

- | | |
|----------------------------|------------------------|
| Supervisor Hyde – Yes | Councilman Adams – Yes |
| Councilman Fluker – Absent | Councilman Embt – Yes |
| Councilman Street – Yes | |

RESOLUTION #59-2016 – ADJUST 2016 BUDGET – DA5140.1 (BRUSH & WEEDS – PERSONAL SERVICES)

WHEREAS, Highway Superintendent Merle has requested an adjustment to the 2016 Budget;

Now on **MOTION** of Councilman Embt duly seconded by Councilman Adams, be it

RESOLVED, the Supervisor is hereby authorized to adjust the 2016 Budget in the following manner:

Transfer \$4,000.00 from DA5140.1 to DA5140.4

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

- | | |
|----------------------------|------------------------|
| Supervisor Hyde – Yes | Councilman Adams – Yes |
| Councilman Fluker - Absent | Councilman Embt – Yes |
| Councilman Street – Yes | |

Tractor – Information

- The Highway Superintendent and Supervisor have been researching tractors to replace the John Deere tractor. Supervisor Hyde distributed information regarding the two models they are considering for the board to review.

Executive Session

- Supervisor Hyde asked the board to go into executive session to discuss a problem with a specific employee.

On **MOTION** of Councilman Street, which was duly seconded by Councilman Embt, the board enter executive session at 8:20 p.m. to discuss a problem with a specific employee.

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

Supervisor Hyde – Yes	Councilman Adams – Yes
Councilman Fluker - Absent	Councilman Embt – Yes
Councilman Street – Yes	

- The Board returned from executive session at 8:51 p.m.

Warrant

- The Board approved payment of the bills as follows:

	<u>Prepaid</u>	<u>Total</u>
General Fund	\$ 3,518.72	\$ 37,489.74
Highway Fund	\$ 0.00	\$ 26,580.70
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 Adams, duly seconded by Councilman Street, to adjourn the meeting at 8:52 p.m. The motion **PASSED** with All In Favor.

BY ORDER OF THE
BETHANY TOWN BOARD
DATED: October 14, 2016

Respectfully Submitted,

Debbie L. Douglas, RMC
Bethany Town Clerk