

**TOWN OF BETHANY**

**REGULAR TOWN BOARD MEETING**

**12 MARCH 2018**

Supervisor Hyde opened the March 12, 2018 Regular Town Board Meeting at 6:59 p.m. with the Pledge of Allegiance followed by a prayer offered by Councilman Embt.

Town Officials in Attendance were:

- |                                  |                                   |
|----------------------------------|-----------------------------------|
| Carl Hyde, Jr., Supervisor       | Timothy Embt, Councilman          |
| Daniel Street, Councilman        | Diane Fowler, Councilwoman        |
| Debbie Douglas, Town Clerk       | William Shea, Town Justice        |
| Thomas McBride, Town Justice     | Mark Heale, Deputy Highway Super. |
| Thomas Douglas, CEO/ZEO          | Linda Schmidt, Historian          |
| Donald Schmidt, Deputy Historian |                                   |

Town Officials Absent were:

- Jeffrey Fluker, Councilman

Attendees to the Meeting were:

There were approximately 20 people in attendance.

**FINANCES**

Supervisor Hyde presented the finances for February 2018.

General Savings	\$1,222,404.93
Highway Savings	\$ 455,796.07
AP/PR Account	\$ 76,816.54
Trust & Agency Account	\$ 4,154.30
Highway Checking	\$ 2,025.38
Supervisor	\$ 26,976.83
Petty Cash	\$ 200.00
 Total	 \$ 1,788,374.05

Revenues Received	
Debbie Douglas, Town Clerk	\$ 1,883.00
Debbie Douglas, Tax Collector	\$ 599.69
Debbie Douglas, Tax Collector	\$ 15.00
NY Municipal Insurance	\$ 73.00
Dadd & Nelson	\$ 109.00
County of Genesee–Shared Services	\$ 54,965.28
US Post Office	\$ 100.00
William Shea, Justice	\$ 2,684.00
Thomas McBride, Justice	\$ 1,979.00
 Total Revenue	 \$ 62,470.97
Total Interest	\$ 58.01
Total Revenue	\$ 62,465.98

**Town Clerk/Tax Collector Report – Debbie Douglas**

- Presented the Minutes of the February 12, 2018 Regular Town Board meeting.

A motion was made by Councilman Street, duly seconded by Councilwoman Fowler, to approve the Minutes of the February 12, 2018 Regular Town Board meeting as presented. The motion passed with All In Favor.

- Collected \$76,711.32 in tax payments from February 2 – 28, 2018. Second notices have been mailed.
- The Annual Update Document has been filed in the Clerk's Office and with the New York State Comptroller. The filing has been advertised.
- The New York State Comptroller's Audit of the Town Clerk Fees has been filed in the Town Clerk's Office. The filing has been advertised. The final report has been presented to the Town Board.
  - o Supervisor Hyde noted the key findings of the audit were that the Clerk did not deposit \$1995 in a timely manner and duplicate receipts for collections totaling \$533 were not issued. It also stated that the Town Board failed to perform an annual audit of the Town Clerk as required. A corrective action plan has been filed with the Comptroller's Office.
- The Clerk's Monthly Report and Bank Statements for February 2018 were reviewed by the Town Board.

**CEO/ZEO Report – Thomas Douglas**

- Permits are slow.
- The Fire Department is in the process of completing an area variance application for an accessory structure that would be too close to the side and rear property lines.

**Highway Superintendent Report – Deputy Superintendent Mark Heale**

- Have performed ten plow and sand runs along with one salt/sanding run.
- Still keeping an eye on the troublesome pipe on Conway Road.
- The plow for 1204 is repaired and back in the shop. The new metal has been painted. Currently working on the plow frame.
- Potholes have been filled two times this year and keep reappearing.
- A new plow light has been installed on Truck 1210.

**Town Justice Report – Justice McBride and Justice Shea**

- Tickets are still down.
- Justice McBride has received the new credit card machine however there is a glitch in the program so he has not been able to start using it yet.
- Justice Shea's report for the month of February was reviewed by the Board.

**Historian Report – Linda Schmidt**

- Has received two requests. One concerns the migrant camps and another concerning the Linden murders.

**Board Committee Reports****Councilman Street**

- The Planning Board did not meet as it had no applications to review

**Councilman Emt**

- The Zoning Board of Appeals did not meet in February.

**Councilwoman Fowler**

- The Water Agency has not met as they are waiting for four water agreements with municipalities to be returned.

**OLD BUSINESS**

**Water Districts – Update**

- Water District #2 – Monroe County Water Authority is working on two easements for creek crossings on Little Canada Road and Torrey Road.
- Water District #3 – Installation will begin in April.
- Water District #4 – Working on a funding package.
- Water District #5 – Waiting for signed water agreements from the towns of Batavia, Darien, Pembroke, Bergen and the Village of Corfu. Genesee County Legislature is doing what they can to move the project forward.

**Transfer Station – Update**

- Supervisor Hyde and Attorney David DiMatteo met with a DEC representative and their attorney after a resident called the DEC to complain about the method of trash removal at the Transfer Station.
  - o The Transfer Station was never registered with the DEC and has been in violation since 1992.
  - o Supervisor Hyde with authorization from the Board is required to submit the registration, site plan and program for the Transfer Station to the DEC by the end of March in order to keep the Transfer Station operating.

On **MOTION** of Councilman Embt, duly seconded by Councilman Street, Supervisor Hyde is hereby authorized to complete the necessary registration, site plan and program development to submit to the DEC.

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

Supervisor Hyde – Yes	Councilman Fluker – Absent
Councilman Embt – Yes	Councilman Street – Yes
Councilwoman Fowler – Yes	

- Because the Town does not generate 50 tons of waste in a single day, it cannot be sent to COVANTA.
  - o Supervisor Hyde has met with the representative from Republic concerning this issue.
  - o Republic is willing to construct two 30 yard dumpsters for the collection of recyclables. The Town will be charged \$479 per haul for the removal of recyclables. If it is found that trash has been thrown in the recyclable dumpster the recyclables will be considered contaminated and the cost for the haul will be \$479 plus \$79 per ton.
  - o It will be required that recyclables be bagged. The cost per bag of recyclables will be \$4.00.
  - o If it is found that the price per bag can be lowered, it will be.
- Tires cannot be stored for more than 30 days. They must be cut in half so that they do not collect water.
  - o Supervisor Hyde has contacted Parmenter Tires in Batavia. They will take the tires at the cost of \$2.00/car tire, \$4.00/truck tire and \$10/semi tire. Tractor tires are not accepted.
- Supervisor Hyde has spoken with Peggy Grayson of GLOW.
  - o She receives any changes and updates from the DEC and will be passing them on to him.
  - o Supervisor Hyde is the direct contact for GLOW until he appoints someone else to do it.

- Reports that are filed with GLOW have no weight with the DEC. Reports must be filed with the DEC.
- GLOW is open 6 days per week and accepts trash at \$.15/pound.
- Supervisor Hyde has tracked expenses for the Transfer Station for 3 years.
  - At the end of last year, there was a loss of \$4,700.
  - \$4,000 of that total was labor and fuel cost for delivering recyclables to Wyoming Correctional Facility.
  - Supervisor Hyde stated that he would not add the Transfer Station as a tax on the property tax bill as it would be unfair to the people who do not wish to use the facility.

**RESOLUTION #15-2018 APPOINTMENT TO VACANT HIGHWAY SUPERINTENDENT POSITION**

**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**, the resignation of Joel Merle created a vacancy in office as defined by § 30 of the Public Officer's Law; and

**WHEREAS**, in accordance with § 64 of Town Law, whenever a vacancy occurs, the Town Board or a majority of the members thereof may appoint a qualified person to fill the vacancy; and

**WHEREAS**, in accordance with § 38 of Public Officers Law, if the vacancy occurs in an elective office, the officer appointed shall fill the vacancy until the commencement of the political year next succeeding the first annual election after the happening of the vacancy; and

**WHEREAS**, the position of Town of Bethany Highway Superintendent directly affects the health, safety, and welfare of all persons residing in and traveling thru the town, the Town Board request the following from the appointee:

- Perform the duties of Highway Superintendent per New York Consolidated Laws, Highway law – HAY § 140 General Powers and Duties of Town Superintendent, in a fair and professional manner.
- The appointee should attend "Highway" school to learn Federal and NYS mandatory rules, regulations and guidelines as soon as possible after being appointed.
- Prepare payroll, budgets, and approve bills for payment.
- Direct and oversee the daily operations and employees of the Town of Bethany Highway Department in a fair and professional manner.
- Prepare and present monthly Highway Department reports to the Town Board.
- Recognizing that elected officials act independent of the Town Board and are not restricted or regulated in the time devoted to their duties, however, as this is a "working" position, all Board members request that a reasonable amount of consistent hours be maintained to effectively performed the duties of Highway Superintendent and that the Town Board will be made aware of planned time off and ensured of proper coverage and supervision of employees during this period.

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

**RESOLVED**, by the Town Board of the Town of Bethany, hereby appoints Michael Adams as Highway Superintendent of the Town of Bethany until the commencement

of the calendar year next succeeding the first annual election at which the vacancy may be filled.

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

- Supervisor Hyde – Yes
- Councilman Embt – Yes
- Councilwoman Fowler – Yes
- Councilman Fluker – Absent
- Councilman Street – Yes

**Swearing in of Highway Superintendent Adams**

- Highway Superintendent Adams was sworn in by Justice Shea.
- Thomas Douglas, Chairman of the Bethany Republican Committee, thanked the Town Board for their diligence and consideration in making the appointment.
- Supervisor Hyde in turn thanked the Committee for the effort put forth in interviewing and presenting a candidate for the position.

**RESOLUTION #16-2018 ACCEPTING THE BID RECEIVED FROM WHITNEY EAST, INC. FOR ADA RENOVATIONS**

**WHEREAS**, the Town of Bethany advertised for bids for construction work for the Town Hall ADA Renovation, and

**WHEREAS**, three bids were submitted and opened on Wednesday, February 14, 2018 as follows:

Whitney East, Inc.	\$ 97,900.00
Erie Contracting	\$105,112.40
Willett Builders, Inc.	\$136,000.00

And,

**WHEREAS**, the engineers, Clark Patterson Lee, feel that the bid from Whitney East, Inc. is a true representation of the costs to complete this project, and that Whitney East, Inc. is qualified to complete the contract. Now, on

**MOTION** of Councilman Street, duly seconded by Councilwoman Fowler, be it

**RESOLVED** that the bid is awarded to Whitney East, Inc. in the amount of \$97,900.00.

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

- Supervisor Hyde – Yes
- Councilman Embt – Yes
- Councilwoman Fowler – Yes
- Councilman Fluker – Absent
- Councilman Street – Yes

**Renovation of Foyer and Sidewalk – Update**

- Bids were received and opened on Wednesday, February 14, 2018.
- The bids were much higher than expected and were rejected by Supervisor Hyde.
- The engineer from Clark Patterson Lee is reworking the specifications and the project will be rebid.

**RESOLUTION #17-2018 AUTHORIZING SUPERVISOR TO CONTRACT FOR REMOVAL OF UNDERGROUND FUEL TANK AND INSTALLATION OF NEW ABOVEGROUND TANK**

**WHEREAS**, the Town has been advised that the underground fuel tank at the Highway Department is reaching the end of its usefulness and may not pass future inspections, and

**WHEREAS**, Supervisor Hyde has obtained the following quotes (2), a third quote was sought but was not submitted by the contractor, for removal of the underground tank and installation of a new aboveground fuel tank at the Highway Department:

KBH Environmental, LLC	\$14,500.00
SMAC CO.	\$26,900.00

And,

**WHEREAS**, the cost of purchasing a new aboveground tank is reduced by 20% if the Town purchases it directly at the following price,

Lancaster Tanks and Steel Products	\$ 6,263.54
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Now on **MOTION** of Councilman Embt, duly seconded by Councilwoman Fowler, be it

**RESOLVED** that Supervisor Hyde is hereby authorized to contract with KBH Environmental, LLC in the amount of \$14,500.00 for removal and disposal of the underground fuel tank and installation of a new aboveground fuel tank, and be it

**FURTHER RESOLVED** that Supervisor Hyde is hereby authorized to purchase a new aboveground fuel tank in the amount of \$6,263.54 from Lancaster Tanks and Steel Products.

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

Supervisor Hyde – Yes	Councilman Fluker – Absent
Councilman Embt – Yes	Councilman Street – Yes
Councilwoman Fowler – Yes	

**Old Truck Garage – Tear Down – Update**

- As discussed during previous meeting, the old Fire Truck Garage needs a new roof, has foundation and drainage problems.
- The town and the fire department have been removing items that they have stored in the building in preparation for the demolition.
- Supervisor Hyde has received quotes from ranging from \$4500 to \$8500 for the demolition.
- Another option may be to have the Highway employees do the demolition. Supervisor Hyde will meet with the new Highway Superintendent discuss this option.

**RESOLUTION #18-2018 2017 YEAR END BUDGET TRANSFERS (RESCINDING RESOLUTION #14-2018)**

Supervisor Hyde presented the following resolution which will rescind Resolution #14-2018 dated February 12, 2018.

**WHEREAS**, the appropriated accounts in the 2017 Town of Bethany Budget listed below are insufficiently funded due to unanticipated events; and  
**WHEREAS**, to enable these accounts to function in an effective manner, additional funding is required, therefore, be it

**RESOLVED**, that the following transfers be made:

GENERAL FUND

Transfer \$8,113.00 (Eight thousand one hundred thirteen dollars)

From A1220.4 Supervisor Contractual  
 To A1420.4 Attorney Contractual

Transfer \$1.00 (One dollar)

From A1110.4 Justices Contractual  
 To A1110.11 Justices Personal Services (Court Clerks)

Transfer \$550.00 (Five hundred fifty dollars)

From A1220.2 Supervisor Equipment  
 To A1220.12 Financial Clerk/Typist (Bookkeeper Personal Services)

Transfer \$225.00 (Two hundred twenty five dollars\_

From A5132.4 Garage Contractual  
 To A1330.4 Tax Collector Contractual

Transfer \$2,403.00 (Two thousand four hundred three dollars)

From A5132.4 Garage Contractual  
 To A1355.4 Assessors Contractual

Transfer \$2,414.00 (Two thousand four hundred fourteen dollars)

From A5132.4 Garage Contractual  
 To A1410.4 Town Clerk Contractual

Transfer \$207.00 (Two hundred seven dollars)

From A5132.4 Garage Contractual  
 To A5010.4 Highway Superintendent Contractual

Transfer \$26.00 (Twenty six dollars)

From A5132.4 Garage Contractual  
 To A7510.4 Historian

Transfer \$16,000.00 (Sixteen thousand dollars)

From A9030.8 Social Security Employee Benefits  
 To A9010.8 State Retirement System

Transfer \$3,396.00 (Three thousand three hundred ninety six dollars)

From A9901.9 Transfers to Other Funds  
 To A9010.8 State Retirement System

Transfer \$77.00 (Seventy seven dollars)

From A9901.9 Transfers to Other Funds  
 To A8389.4 Other Water Contractual

HIGHWAY FUND

Transfer \$1,201 (One thousand two hundred one dollars)  
From DA9010.8 State Retirement System  
To DA5110.4 General Repairs Contractual

Transfer \$17.00 (Seventeen dollars)  
From DA9010.8 State Retirement System  
To DA5130.2 Machinery Equipment

Transfer \$2,340.00 (Two thousand three hundred forty dollars)  
From DA9010.8 State Retirement System  
To DA9040.8 Workers Compensation Employees Benefits

On **MOTION** of Councilman Embt, duly seconded by Councilman Street, Supervisor Hyde is hereby authorized to make the noted budget transfers.

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

Supervisor Hyde – Yes	Councilman Fluker – Absent
Councilman Embt – Yes	Councilman Street – Yes
Councilwoman Fowler – Yes	

**RESOLUTION #19-2018 ACCEPTING NATIONAL GRID’S CHARGES FOR REPLACEMENT OF STREET LIGHTING**

**WHEREAS**, there are currently street lights in the Town of Bethany which are obsolete and need replacement, and

**WHEREAS**, the lights would be replaced with more efficient LED lights at \$146.97 per light and each light would pay for itself in approximately ten years, and

**WHEREAS**, there is a total of 30 street lights in town that would eventually need replacement, now on

**MOTION** of Councilman Street, duly seconded by Councilman Embt, be it

**RESOLVED** that the Town Board accepts National Grid’s charges for converting the existing 30 street lights to LED for a total of \$4,409.08 (\$146.97 per light). And be it

**FURTHER RESOLVED** that Supervisor Hyde be authorized to pursue any possible grant funding for the replacement of the street lights.

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

Supervisor Hyde – Yes	Councilman Fluker – Absent
Councilman Embt – Yes	Councilman Street – Yes
Councilwoman Fowler – Yes	

**Request for Re-Zone – 10553 Bethany Center Road**

- CEO Douglas presented a request from Gino and Lynn Maniace to re-zone a portion of their property from Residential to Agricultural-Residential. A portion of their property is zoned Residential and a portion is zoned

Agricultural. They would like to be able to stable their horses and construct an accessory building at their address.

- This issue was discussed during the February Town Board meeting. Even if their property was to be re-zoned, they would not be able to stable their horses on the property because they would be within 500' of a residentially zoned property.

**MOTION** by Supervisor Hyde, duly seconded by Councilman Embt, to look at rezoning the property located at 10553 Bethany Center Road from Residential to Agricultural-Residential.

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

- |                          |                            |
|--------------------------|----------------------------|
| Supervisor Hyde – No     | Councilman Fluker – Absent |
| Councilman Embt – Yes    | Councilman Street – Yes    |
| Councilwoman Fowler – No |                            |

**Broadband Internet – Update**

- HughesNet has been awarded \$12,000 to provide internet to a portion of Bethany.
- Supervisor Hyde has obtained a map of the proposed coverage area.

**NEW BUSINESS**

**Shared Service Agreement with New York State Department of Transportation**

- Questions arose concerning insurance coverage when working with the DOT. Supervisor Hyde will contact the town’s insurance company to clarify and report to the Board.

**Increase in Umbrella Coverage**

- Supervisor Hyde meet with Tompkins Insurance to review the Town’s assets and insurance coverage. The Town currently carries a \$1 million umbrella. Supervisor Hyde would like to increase the coverage to \$3 million.

**RESOLUTION #20-2018 CONTRACT FOR FIRE PROTECTION – PUBLIC HEARING – SCHEDULING OF**

On **MOTION** of Councilwoman Fowler, duly seconded by Councilman Embt, now, be it **RESOLVED**, that the Bethany Town Board hereby authorizes and orders that a Public Hearing on the Fire Protection Contract between the Town of Bethany and the Bethany Volunteer Fire Company to be conducted at the Bethany Town Hall, 10510 Bethany Center Road, East Bethany, New York, beginning at 7:00 p.m. on Monday, April 9, 2018 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 Fluker - Absent |
| Councilman Embt – Yes     | Councilman Street – Yes    |
| Councilwoman Fowler – Yes |                            |

**RESOLUTION #21-2018 CONTRACT FOR FIRE PROTECTION – EXTENSION OF 2017-2018 CONTRACT**

**WHEREAS**, the 2017-2018 Fire Protection Contract between the Town of Bethany and the Bethany Volunteer Fire Company will expire on April 1, 2018, and

**WHEREAS**, the Bethany Town Board has scheduled a public hearing to be held on Monday, April 9, 2018 at 7:00 p.m., now on

**MOTION** of Councilman Embt duly seconded by Councilman Street, be it

**RESOLVED** that the Bethany Town Board hereby extends the 2017-2018 Contract for Fire Protection until such time as the new contract is signed by the Town of Bethany and the Bethany Volunteer Fire Company.

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

- |                           |                            |
|---------------------------|----------------------------|
| Supervisor Hyde - Yes     | Councilman Fluker - Absent |
| Councilman Embt - Yes     | Councilman Street – Yes    |
| Councilwoman Fowler – Yes |                            |

**RESOLUTION #22-2018 AUTHORIZING THE TOWN BOARD OF THE TOWN OF BETHANY TO HOLD A PUBLIC HEARING ON A PROPOSED LOCAL LAW – COLD WAR EXEMPTION**

**WHEREAS**, the Town Board is considering removing the ten year limitation for real property tax exemptions for Cold War veterans and reviewing Town maximum exemption amounts; and

**WHEREAS**, the Town Board of Bethany finds it in the best interest of the Town of Bethany to hold a public hearing on the adoption of said local laws; and

**NOW, THEREFORE, ON MOTION** made by Councilwoman Fowler and duly seconded by Councilman Embt, therefore, be it

**RESOLVED**, that the Town Board of the Town of Bethany will hold a public hearing on the 9th day of April, 2018, commencing at 7:00 p.m., at which time all interested parties and citizens for or against the proposed law will be heard.

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

- |                           |                            |
|---------------------------|----------------------------|
| Supervisor Hyde - Yes     | Councilman Fluker - Absent |
| Councilman Embt - Yes     | Councilman Street – Yes    |
| Councilwoman Fowler – Yes |                            |

**RESOLUTION #23-2018 AUTHORIZING THE TOWN BOARD OF THE TOWN OF BETHANY TO HOLD A PUBLIC HEARING ON A PROPOSED LOCAL LAW**

**WHEREAS**, Section 487 of the New York State Real Property Tax Law allows for an exemption of any increase in value due to the construction of a solar, wind, or farm waste, micro-hydroelectric energy systems, fuel cell generating systems, micro-combined heat and power generating equipment systems and, electric energy storage equipment and systems and to date, County Assessment has found that the installation of small-scale residential and commercial solar systems has not had any effect of property value upon resale; and

**WHEREAS**, New York State does not make provision for the Town to distinguish between small-scale residential and large-scale commercial power generation facilities for the purpose of this exemption, and while the Town wishes to encourage the

development of clean, alternative means of producing energy on a large scale, it recognizes that this priority must be balanced with the pressing fiscal needs of local governments and schools; and

**WHEREAS**, a decision to opt-out of the Section 487 exemption may be reconsidered and the exemption restored by the Town at its discretion at any time in the future; and

**WHEREAS**, the Town Board of the Town of Bethany, feels it is in the best interest of the Town of Bethany to hold a public hearing to consider the proposed local law.

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

**RESOLVED**, that Town Board of the Town of Bethany will hold a public hearing on the proposed Local Law on the 9 day of April, 2018 at 7:00 p.m., at which time all interested parties and citizens for or against the proposed project will be heard.

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

Supervisor Hyde - Yes	Councilman Fluker - Absent
Councilman Embt - Yes	Councilman Street – Yes
Councilwoman Fowler – Yes	

**Warrant**

- The Board approved payment of the bills as follows:

	<u>Prepaid</u>	<u>Total</u>
General Fund	\$ 2,840.31	\$ 42,495.50
Highway Fund	\$ 0.00	\$ 8,342.42
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	\$ 1,297.00

**Adjournment**

A **MOTION** was made by Councilwoman Fowler, duly seconded by Councilman Street to adjourn the meeting at 8:40 p.m. The motion **PASSED** with All In Favor.

BY ORDER OF THE  
BETHANY TOWN BOARD  
DATED: March 19, 2018

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