

TOWN OF BETHANY

REGULAR TOWN BOARD MEETING

10 OCTOBER 2018

Supervisor Hyde opened the October 10, 2018 Regular Town Board Meeting at 7:00 p.m. with the Pledge of Allegiance followed by a prayer offered by Councilman Embt.

Town Officials in Attendance were:

Carl Hyde, Jr., Supervisor	Jeffrey Fluker, Councilman
Timothy Embt, Councilman	Daniel Street, Councilman
Diane Fowler, Councilwoman	Debbie Douglas, Town Clerk
Linda Schmidt, Historian	Don Schmidt, Deputy Historian

Attendees to the Meeting were:

Maelynn Hyde	Raymond Putnam
Phil LaFreniere	Jill Porter
Dave Porter	Bill Baskin
Eric Weis, Clark Patterson Lee	

FINANCES

Supervisor Hyde presented the finances for September 2018.

General Savings	\$	939,606.32
Highway Savings	\$	367,064.48
AP/PR Account	\$	73,622.01
Trust & Agency Account	\$	3,173.24
Highway Checking	\$	2,493.57
Supervisor	\$	748,871.43
Water District #2	\$	30,615.00
Petty Cash	\$	200.00
Total		\$ 2,165,646.05

Revenues Received

Debbie Douglas, Town Clerk	\$	3,028.89
NYS Dept. of Taxation & Finance	\$	18,128.00
Co. of Genesee – Mowing of Roads	\$	9,740.13
US Post Office	\$	100.00
William Shea, Justice	\$	993.00
Total Revenue	\$	31,990.02
Total Interest	\$	123.65
Total Revenue	\$	32,113.67

PUBLIC HEARING – SA18010 – SPECIAL USE PERMIT - LAFRENIERE POND

- Supervisor Hyde opened the Public Hearing for Special Use Permit application (SA18010) submitted by Phil LaFreniere for a pond on the property located at 4956 Linden Road (TMP #10.-1-26.1) at 7:02 pm.
- No one was present to speak for or against the application.
- Supervisor Hyde closed the Public Hearing at 7:17 p.m.

PUBLIC HEARING FOR THE ESTABLISHMENT OF TOWN OF BETHANY WATER DISTRICT NO. 4

- Supervisor Hyde opened the public hearing at 7:02 pm.
- One person asked if wetland and archeological studies would be done for the district. Eric Weis of Clark Patterson Lee replied that it would be part of the process.
- Supervisor Hyde closed the public hearing at 7:24 pm.

Town Clerk/Tax Collector Report – Debbie Douglas

- Presented the Minutes of the September 10, 2018 Regular Town Board meeting.

A **MOTION** was made by Councilman Fluker, duly seconded by Councilman Embt, to approve the Minutes of the September 10, 2018 Regular Town Board meeting as presented. The motion **PASSED** with All In Favor.

- Presented the minutes of the September 15, 2018 Joint Meeting of the Town Board, Planning Board and Zoning Board of Appeals concerning possible Zoning Map amendments.

A **MOTION** was made by Councilman Street, duly seconded by Councilman Fluker, to approve the Minutes of the September 15, 2018 Joint meeting as presented. The motion **PASSED** with All In Favor.

- Presented the minutes of the September 24, 2018 Town Board Budget Workshop meeting.

A **MOTION** was made by Councilman Fluker, duly seconded by Councilman Embt, to approve the Minutes of the September 24, 2018 Town Board Budget Workshop meeting as presented. The motion **PASSED** with All In Favor.

- The Clerk's Monthly Report and Bank Statements for September 2018 were reviewed by the Town Board.

Highway Superintendent Report – Michael Adams reported by Supervisor Hyde

- Finished with oil and stone applications.
- Mowing roadsides.
- Helping other municipalities with shared service projects.
- One wall of the salt shed has been repaired. Will be working on the other wall.
- Have been hauling salt and sand for winter.

Town Justice Report

- Justice McBride's reports for August and September were reviewed by the Board.

Town Historian Report – Linda Schmidt

- Attended conference in Salamanca on September 22.
- Attended the Genesee County Historians meeting.
- Noted that for the 100th anniversary of World War I there is a nationwide bell ringing planned that will take place on November 11 at 11:00 am.

Board Committee Reports

Councilman Fluker

- The ambulance was in an early morning accident on October 7, 2018.
 - o The driver has a broken bone in his foot. The medic has a cracked rib and the radio person has bumps and bruises. The driver of the other vehicle is deceased.

- o The ambulance will probably not be put back into service.
- o For the time being, the Fire Department will operate as a rescue squad with Mercy Ambulance transporting.

Councilman Street

- The Planning Board met on September 6th to review an area variance application submitted by Ronald Heywood. The Planning Board recommended approval to the Zoning Board of Appeals.
- There was also discussion concerning possible changes to the Zoning Map.

Councilman Embt

- The Zoning Board of Appeals will be meeting on October 11th for the continuation of the public hearings for the Maniace area and use variance applications.

Supervisor Hyde

- Attended the September 28, 2018 GLOW meeting.
 - o Edward Arnold, Jr. spoke concerning the status of recycling.
 - o China ceased purchasing of recyclable two years ago. This has caused a large backlog of recyclable products.
 - o The cost of getting rid of recyclables will be increasing significantly due to a reduction in storage availability. It may become more difficult to dispose of recyclables.

OLD BUSINESS

Water Districts – Update

- Genesee County will be increasing the water surcharge from \$.60 per 1,000 gallons to \$1.20 per 1,000 gallons beginning January 1st. These funds will be placed in a special fund to maintain the public water system.

Water District #2

- Progress meeting was held this morning. The contractor will be finished tomorrow.
- Waiting for certification from the Health Department.

RESOLUTION #49-2018 APPROVING CONTRACTOR’S APPLICATION FOR PAYMENT NO. 1 FOR WATER DISTRICT NO. 2

WHEREAS, Randsco Pipeline, Inc. has submitted Contractor’s Application for Payment No. 1 for Water District No. 2 in the amount of \$924,452.51 with the value of work installed at 90.3% of the total contract price of \$1,077,150.00, now

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

RESOLVED that payment of Contractor’s Application for Payment No. 1 for Water District No. 2 is hereby approved in the amount of \$924,452.51 to Randsco Pipeline, Inc.

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

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

RESOLUTION #50-2018 CHANGE ORDER NO. 1 RANDSCO PIPELINE, INC. – APPROVAL OF

WHEREAS, there will be approximately \$32,000.00 remaining from the grant funding for Water District No. 2, and

WHEREAS, it has been determined that five (5) residences in Water District No. 2 require installation of pumps in which the property owners would be required to pay for the installation of said pumps, now on

MOTION of Councilman Fluker seconded by Councilwoman Fowler, be it

RESOLVED, that the Town Board approves the Change Order No. 1 authorizing Randsco Pipeline, Inc. to pay for the installation of five (5) pumps required for the predetermined residences not to exceed \$32,000.00 contingent upon USDA – Rural Development approval.

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

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

Water District #4

RESOLUTION #51-2018 RESOLUTION AND ORDER FOR ESTABLISHMENT OF THE TOWN OF BETHANY WATER DISTRICT NO. 4

WHEREAS, the Town Board of the Town of Bethany duly adopted a Resolution directing the Supervisor of the Town of Bethany to file a map, plan and report as prepared by the Town’s engineer for providing the facilities, improvements or services in a portion of the Town of Bethany wherein a water district is proposed to be established as hereinafter described; and

WHEREAS, after said Supervisor duly filed the map, plan and report in the Office of the Town Clerk of the Town of Bethany on August 8, 2018, and said Town Board did on September 10, 2018, duly adopt an “Order for a Public Hearing on the Petition for Establishment of the Town of Bethany Water District No. 4” reciting a description of the boundaries of the proposed district, the maximum amount proposed to be expended for the improvement, the proposed method of financing to be employed, the fact that a map, plan and report describing the same is on file in the Town Clerk’s Office for public inspection and specifying that said Town Board shall meet at the Town of Bethany Town Hall on the 10th day of October, 2018 at 7:00 p.m. for the purpose of conducting a public hearing on such proposal to establish Water District No. 4 with the specified improvements and to hear all persons interested in the subject thereof concerning the same; and

WHEREAS, a “Petition to Request Water District” was filed in the Bethany Town Clerk’s Office on August 30th, 2018, signed by the required number of property owners within the proposed district, namely, pursuant to the latest completed assessment roll of the Town of Bethany, the owners of taxable real property located in the proposed Town of Bethany Water District No. 4 (also referred to herein as “Water District”) owning in the aggregate at least one-half (½) of the assessed valuation of all of the taxable real property of the proposed Water District; and also constituting the signatures of resident owners who own taxable real property aggregating at least one-half (½) of the assessed valuation of all of the taxable real property of the proposed Water District owned by residents, and

WHEREAS, the boundary of the proposed Town of Bethany Water District No. 4 shall have an exterior boundary described in **Appendix A**, attached hereto and incorporated herein by reference; and

WHEREAS, the project area has been identified through public interest and the proposed Water District will obtain its water supply from the Town of Batavia who has ample capacity available to provide water for this project; and

WHEREAS, the water system will be designed to provide 180 gallons of water per person per day for domestic and commercial use and to provide fire protection meeting Insurance Services Office (ISO) Standards and will serve approximately 30 residential units; and

WHEREAS, the debt service for the initial project costs are based on equivalent dwelling units and the Town of Bethany anticipates securing grants—from the USDA Rural Development to partially fund the project through grant, while the remaining share will be paid for by a USDA Rural Development Loan; and

WHEREAS, the project will generally consist of installing approximately 13,600 linear feet of 8” or 12” diameter water main along portions of Creek Road and Putnam Road and will serve approximately 30 units; and

WHEREAS, a typical average household uses 63,000 gallon of water per year and water rates for that usage shall be as follows:

1. 2018 Rates include an effective rate of \$5.36 per 1,000 gallons ($5.36 \times 63,000 = 337.68$); and

The total cost to homeowners for water would be \$750.00 per year; and

WHEREAS, the total Capital Cost for the Town of Bethany Water District No. 4 is \$1,177,000. It is projected that this project shall receive a USDA Rural Development grant in the amount of \$722,000; and

WHEREAS, Net local project costs are anticipated to be \$1,177,000 with an annual debt service including (38 years at 2.375% interest) of \$18,617 and the estimated Debt Service per Unit of \$409.16; and

WHEREAS, the payment of debt service will be made by levy and collection of special assessments from the several lots and proceeds of lands within the District which for the Town Board shall determine and specify to be specifically benefitted thereby, so much upon and from each as such shall be in just proportion of the amounts of benefit conferred upon the same, to pay the principal of and interest on said bonds, as same shall become due and payable; and

WHEREAS, the total annual cost for an average homeowner including debt service and water bill would be estimated to be \$750.00 per year, per household; and

WHEREAS, in addition each unit shall be responsible for several one-time costs, including a one-time meter fee (\$125.00), cost to hookup and connect to the Right of Way to interior plumbing, (approximately \$10.00 per linear foot) with an average of fifty (50) linear feet (approximate total cost of \$500.00 per unit) for pipe installation and well separation costs (approximately \$500.00 per unit); and

WHEREAS, the map, plan and report describing such improvements is on file in the office of the Town Clerk of the Town of Bethany and available for public inspection.

WHEREAS, copies of the aforesaid “Order for a Public Hearing on the Petition for of the Town of Bethany Water District No. 4” was duly published and posted according to law, and said Town Board did, at the time and place specified in said Order, duly meet and consider such proposal and heard all persons interested in the subject matter thereof, who appeared at such time and place, concerning the same; and

WHEREAS, the evidence offered at such hearing requires that the Town Board make the determinations hereinafter made.

ON MOTION OF Councilmember Fluker, which has been duly seconded by Councilmember Embt.

NOW, THEREFORE, BE IT RESOLVED, by the Town Board of the Town of Bethany, in the County of Genesee, duly convened on October 10, 2018, that it be and hereby determined as follows:

1. The aforesaid "Petition to Request Water District" was signed and acknowledged or proved or authenticated, as required by law and is otherwise sufficient.
2. The Notice of Hearing was published and posed as required by law and is otherwise sufficient.
3. That all property and property owners, within the proposed water district are benefited thereby.
4. That all of the property and property owners benefited are included within the proposed water district.
5. It is in the public interest to establish the proposed water district as herein after described as **Appendix A**, attached hereto and incorporated herein; and be it

FURTHER RESOLVED, that the Town Board does hereby approve the establishment of Water District No. 4 as described in **Appendix A**, attached hereto, to be known as Water District No. 4 of the Town of Bethany; and be it

FURTHER RESOLVED, the project area has been identified through public interest and the proposed Water District will obtain its water supply from the Town of Batavia who has ample capacity available to provide water for this project; and be it

FURTHER RESOLVED, the water system will be designed to provide 180 gallons of water per person per day for domestic and commercial use and to provide fire protection meeting Insurance Services Office (ISO) Standards and will serve approximately 30 residential units; and be it

FURTHER RESOLVED, the debt service for the initial project costs are based on equivalent dwelling units and the Town of Bethany anticipates securing grants—from the USDA Rural Development to partially fund the project through grant, while the remaining share will be paid for by a USDA Rural Development Loan; and be it

FURTHER RESOLVED, a typical average household uses 63,000 gallon of water per year and water rates for that usage shall be as follows:

1. 2018 Rates include an effective rate of \$5.36 per 1,000 gallons ($5.36 \times 63,000 = 337.68$); and

The total cost to homeowners for water would be \$750.00 per year; and be it

FURTHER RESOLVED, the total Capital Cost for the Town of Bethany Water District No. 4 is \$1,177,000. It is projected that this project shall receive a USDA Rural Development grant in the amount of \$722,000; and be it

FURTHER RESOLVED, Net local project costs are anticipated to be \$1,177,000 with an annual debt service including (38 years at 2.375% interest) of \$18,617 and the estimated Debt Service per Unit of \$409.16; and be it

FURTHER RESOLVED, the payment of debt service will be made by levy and collection of special assessments from the several lots and proceeds of lands within the District which for the Town Board shall determine and specify to be specifically benefitted thereby, so much upon and from each as such shall be in just proportion of the

amounts of benefit conferred upon the same, to pay the principal of and interest on said bonds, as same shall become due and payable; and be it

FURTHER RESOLVED, the total annual cost for an average homeowner including debt service and water bill would be estimated to be \$750.00 per year, per household and be it

FURTHER RESOLVED, in addition each unit shall be responsible for several one-time costs, including a one-time meter fee (\$125.00), cost to hookup and connect to the Right of Way to interior plumbing, (approximately \$10.00 per linear foot) with an average of fifty (50) linear feet (approximate total cost of \$500.00 per unit) for pipe installation and well separation costs (approximately \$500.00 per unit); and be it

FURTHER RESOLVED, that this Resolution and Order is NOT subject to permissive referendum; and be it

FURTHER RESOLVED, that the Town Clerk be and she hereby is authorized and directed, within ten (10) days hereof, to record a certified copy of this Resolution and Order with the Genesee County Clerk’s Office and submit duplicate certified copies of this Resolution and Order with the Office of the State Comptroller.

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

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

APPENDIX A
TOWN OF BETHANY
WATER DISTRICT No. 4
LEGAL DESCRIPTION

All that tract or parcel of land situate in the Town of Bethany, Genesee County, State of New York, being described as follows:

Beginning at a point being the intersection of the center line of Putnam Road (49.5 feet wide right-of-way) and the northerly Municipal Boundary line of the Town of Bethany; thence,

1. Easterly, along the northerly Municipal Boundary line of the Town of Bethany and the northerly line of tax account number 1.-1-34, a distance of 688 feet, more or less, to a point 500 feet southeasterly of and parallel to the center line of Putnam Road; thence,
2. Southwesterly, through the lands of tax account number 1.-1-34, along a line 500 feet southeasterly of and parallel to the center line of Putnam Road, a distance of 427 feet, more or less, to the southerly line of tax account number 1.-1-34; thence,
3. Westerly, along the southerly line of tax account number 1.-1-34, a distance of 254 feet, more or less, to the northeasterly corner of tax account number 1.-1-32; thence,
4. Southerly, along the easterly line of tax account number 1.-1-32, a distance of 240 feet, more or less, to the northerly line of tax account number 1.-1-30; thence,
5. Easterly, along the northerly line of tax account number 1.-1-30, a distance of 21 feet, more or less, to a point 500 feet southeasterly of and parallel to the center line of Putnam Road; thence,

6. Southwesterly, through the lands of tax account numbers 1.-1-30 and 1.-1-28.1, along a line 500 feet southeasterly of and parallel to the center line of Putnam Road, a distance of 1,205 feet, more or less, to the southerly line of tax account number 1.-1-28.1; thence,
7. Westerly, along the southerly line of tax account number 1.-1-28.1, a distance of 101 feet, more or less, to the northeasterly corner of tax account number 1.-1-27.21; thence,
8. Southeasterly, along the easterly line of tax account number 1.-1-27.21, a distance of 1,638 feet, more or less, to the southeasterly corner of tax account number 1.-1-27.21; thence,
9. Westerly, along the southerly lines of tax account numbers 1.-1-27.21 and 1.-1-26.1, a distance of 1,731 feet, more or less, to a point 500 feet southeasterly of and parallel to the center line of Putnam Road; thence,
10. Southwesterly, through the lands of tax account number 1.-1-25, along a line 500 feet southeasterly of and parallel to the center line of Putnam Road, a distance of 1,475 feet, more or less, to the southerly line of tax account number 1.-1-25; thence,
11. Easterly, along the southerly line of tax account number 1.-1-25, a distance of 865 feet, more or less, to the northeasterly corner of tax account number 1.-1-58.2; thence,
12. Southerly, along the easterly lines of tax account numbers 1.-1-58.2 and 1.-1-73, a distance of 770 feet, more or less, to the southeasterly corner of tax account number 1.-1-73; thence,
13. Westerly, along the southerly line of tax account number 1.-1-73, a distance of 2,120 feet, more or less to the southeasterly corner of tax account number 1.-1-16; thence,
14. Southerly, along the easterly line of tax account number 1.-1-62, a distance of 402 feet, more or less, to a point 500 feet southerly of and parallel to the center line of Putnam Road; thence,
15. Westerly, through the lands of tax account number 1.-1-62, along a line 500 feet southerly of and parallel to the center line of Putnam Road, a distance of 1,142 feet, more or less, to a point 500 feet southeasterly of and parallel to the center line of Creek Road (49.5 feet wide right-of-way); thence,
16. Southwesterly, through the lands of tax account number 1.-1-62, along a line 500 feet southeasterly of and parallel to the center line of Creek Road, a distance of 1,238 feet, more or less, to a point; thence,
17. Northwesterly, through the lands of tax account number 1.-1-62, across Creek Road, and through the lands of tax account number 1.-1-63.1, along a line perpendicular to the center line of Creek Road, a distance of 1,000 feet, more or less, to a point 500 feet northwesterly of and parallel to the center line of Creek Road; thence,
18. Northeasterly, through the lands of tax account number 1.-1-63.1, along a line 500 feet northwesterly of and parallel to the center line of Creek Road, a distance of 1,043 feet, more or less, to the northerly line of tax account number 1.-1-63.1; thence,
19. Westerly, along the northerly line of tax account number 1.-1-63.1, a distance of 2,073 feet, more or less, to a southwesterly corner of tax account number 1.-1-10.11; thence,

20. Northerly, along a westerly line of tax account number 1.-1-10.11, a distance of 2,168 feet, more or less, to a northwesterly corner of tax account number 1.-1-10.11; thence,
21. Easterly, along a northerly line of tax account number 1.-1-10.11, a distance of 1,748 feet, more or less to a southwesterly corner of tax account number 1.-1-10.11; thence,
22. Northerly, along the westerly lines of tax account numbers 1.-1-10.11, 1.-1-10.12, 1.-1-10.2, and 1.-1-7, a distance of 2,967 feet, more or less, to the north westerly corner of tax account number 1.-1-7; thence,
23. Northeasterly, along the northerly line of tax account number 1.-1-7, a distance of 123 feet, more or less, to a point 500 feet southwesterly of and parallel to the center line of Creek Road; thence,
24. Northwesterly, through the lands of tax account number 1.-1-3, along a line 500 feet southwesterly of and parallel to the center line of Creek Road, a distance of 300 feet, more or less, to the center line of Old Creek Road (49.5 feet wide right-of-way); thence,
25. Southwesterly, along the center line of Old Creek Road, a distance of 54 feet, more or less, to the southerly extension of the westerly line of tax account number 1.-1-2; thence,
26. Northerly, along the southerly extension of the westerly line of tax account number 1.-1-2 and the westerly line of tax account number 1.-1-2, a distance of 605 feet, more or less, to the northwesterly corner of tax account number 1.-1-2; thence,
27. Easterly, along the northerly line of tax account number 1.-1-2, a distance of 36 feet, more or less, to a point 500 feet westerly of and parallel to the center line of Creek Road; thence,
28. Northeasterly, through the lands of tax account number 1.-1-1.1, along a line 500 feet northwesterly of and parallel to the center line of Creek Road, a distance of 467 feet, more or less, to the northerly line of tax account number 1.-1-1.1 and the northerly Municipal Boundary line of the Town of Bethany; thence,
29. Easterly, along the northerly Municipal Boundary line of the Town of Bethany and the northerly line of tax account number 1.-1-1.1, across Creek Road, and along the northerly lines of tax account numbers 1.-1-16.2, 1.-1-18, and 1.-1-17, a distance of 6,124 feet, more or less, to the center line of Putnam Road and the Point of Beginning.

Town of Bethany Water District No. 4, as described above contains approximately 703.66 acres of land.

All as shown on a map prepared by Clark Patterson Lee, "Water District No. 4 – Proposed Water District Map", Drawing Number WD-04, dated November 10, 2016.

RESOLUTION #52-2018 LOAN RESOLUTION FOR WATER DISTRICT NO. 4

A RESOLUTION OF THE TOWN BOARD OF THE TOWN OF BETHANY AUTHORIZING AND PROVIDING FOR THE INCURRENCE OF INDEBTEDNESS FOR THE PURPOSE OF PROVIDING A PROTRION OF THE COST OF ACQUIRING, CONSTRUCTING, ENLARGING, IMPROVING, AND/OR EXTENDING ITS WATER FACILITY TO SERVE AN AREA LAWFULLY WITHIN ITS JURISDICTION TO SERVE.

WHEREAS, it is necessary for the Town of Bethany (herein after called Association) to raise a portion of the cost of such undertaking by issuance of its bonds in the principal amount of Four Hundred Forty-Eight Thousand & 00/100 pursuant to the provisions of Subject to New York State Municipal Finance Law, and

WHEREAS, the Association intends to obtain assistance from the United States Department of Agriculture, (herein called the Government) acting under the provisions of the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) in the planning, financing, and supervision of such undertaking and the purchasing of bonds lawfully issued, in the event that no other acceptable purchaser for such bonds is found by the Association:

NOW THEREFORE, in consideration of the premises the Association hereby resolves:

1. To have prepared on its behalf and to adopt an ordinance or resolution for the issuance of its bonds containing such items and in such forms as are required by the State statutes and as are agreeable and acceptable to the Government.
2. To refinance the unpaid balance, in whole or in part, of its bonds upon the request of the Government if at any time it shall appear to the Government that the Association is able to refinance its bonds by obtaining a loan for such purposes from responsible cooperative or private sources at reasonable rates and terms for loans for similar purposes and periods of time as requires by section 333(c) of said Consolidated Farm and Rural Development Act (7 U.S.C. 1983(c)).
3. To provide for, execute, and comply with Form RD 400-4, "Assurance Agreement," and Form RD 400-1, "Equal Opportunity Agreement," including an "Equal Opportunity Clause," which clause is to be incorporated in, or attached as a rider to, each construction contract and subcontract involving in excess of \$10,000.
4. To indemnify the Government for any payments made or losses suffered by the Government on behalf of the Association. Such indemnification shall be payable from the same source of funds pledged to pay the bonds or any other legally permissible source.
5. The upon default in the payments of any principal and accrued interest on the bonds or in the performance of any covenant or agreement contained herein or in the instruments incident to making or insuring the loan, the Government at its option may (a) declare the entire principal amount then outstanding and accrued interest immediately due and payable, (b) for the account of the Association (payable from the source of funds pledged to pay the bonds or any other legally permissible source), incur and pay reasonable expenses for repair, maintenance, and operation of the facility and such other reasonable expenses as may be necessary to cure the cause of default, and/or (c) take possession of the facility, repair, maintain, and operate or rent it. Default under the provisions of this resolution or any instrument incident to the making or insuring of the loan may be construed by the Government to constitute default under any other instrument held by the Government and executed or assumed by the Association, and default under any such instrument may be construed by the Government to constitute default hereunder.
6. Not to sell, transfer, lease, or otherwise encumber the facility or any portion thereof, or interest therein, or permit others to do so, without the prior written consent of the Government.
7. Not to defease the bonds, or to borrow money, enter into any contractor agreement, or otherwise incur any liabilities for any purpose in connection with the facility (exclusive of normal maintenance) without the prior written consent of the Government if such undertaking would involve the source of funds pledged to pay the bonds.
8. To place the proceeds of the bonds on deposit in an account and in a manner approved by the Government. Funds may be deposited in institutions insured by the State or Federal Government or invested in readily marketable

- securities backed by the full faith and credit of the United States. Any income from these accounts will be considered as revenues of the system.
9. To comply with all applicable State and Federal laws and regulations and to continually operate and maintain the facility in good condition.
 10. To provide for the receipt of adequate revenues to meet the requirements of debt service, operation and maintenance, and the establishment of adequate reserves. Revenue accumulated over and above that needed to pay operating and maintenance, debt service and reserves may only be retained or used to make prepayments on the loan. Revenue cannot be used to pay any expenses which are not directly incurred for the facility financed by USDA. No free service or use of the facility will be permitted.
 11. To acquire and maintain such insurance and fidelity bond coverage as may be required by the Government.
 12. To establish and maintain such books and records relating to the operation of the facility and its financial affairs and to provide for required audit thereof as required by the Government, to provide the Government a copy of each such audit without its request, and to forward to the Government such additional information and reports as it may from time to time require.
 13. To provide the Government at all reasonable times access to all books and records relating to the facility and access to the property of the system so that the Government may ascertain that the Association is complying with the provisions hereof and of the instruments incident to the making or insuring of the loan.
 14. That if the Government requires that a reserve account be established, disbursements from the account(s) may be used when necessary for payments due on the bond if sufficient funds are not otherwise available and prior approval of the Government is obtained. Also, with the prior written approval of the Government, funds may be withdrawn and used for such things as emergency maintenance, extensions to the facilities and replacement of short lived assets.
 15. To provide adequate service to all persons within the service area who can feasibly and legally be served and to obtain USDA's concurrence prior to refusing new or adequate services to such persons. Upon failure to provide services which are feasible and legal, such person shall have a direct right of action against the Association or public body.
 16. To comply with the measures identified in the Government's environmental impact analysis for this facility for the purpose of avoiding or reducing the adverse environmental impacts of the facility's construction or operation.
 17. To accept a grant in an amount not to exceed \$722,000.00 under the terms offered by the Government; that the Supervisor and Town Clerk of the Association are hereby authorized and empowered to take all action necessary or appropriate in the execution of all written instruments as may be required in regard to or as evidence of such grant; and to operate the facility under the terms offered in said grant agreement(s).

The provision hereof and the provisions of all instruments incident to the making or the insuring of the loan, unless otherwise specifically provided by the terms of such instrument, shall be binding upon the Association as long as the bonds are held or insured by the government or assignee. The provisions of sections 6 through 17 hereof may be provided for in more specific detail in the bond resolution or ordinance; to the extent that the provisions contained in such bond resolution or ordinance should be found to be inconsistent with the provision hereof, these provisions shall be construed as controlling between the Association and the Government or assignee.

On **MOTION** of Councilman Fluker, duly seconded by Councilman Embt, Resolution #52-2018 is adopted with the following Roll Call Vote:

Supervisor Hyde – Yes
Councilman Embt – Yes
Councilwoman Fowler – Yes

Councilman Fluker – Yes
Councilman Street – Yes

RESOLUTION #53-2018 AUTHORIZING THE ISSUANCE OF SERIAL BONDS FOR WATER DISTRICT NO. 4

The following resolution was offered by Councilman Fluker and seconded by Councilman Street, to wit;

A BOND RESOLUTION, DATED OCTOBER 10, 2018, OF THE TOWN BOARD OF THE TOWN OF BETHANY, GENESEE COUNTY, NEW YORK (THE “TOWN”), AUTHORIZING A CAPITAL IMPROVEMENTS PROJECT WITHIN THE TOWN OF BETHANY WATER DISTRICT NO. 4, AT AN ESTIMATED MAXIMUM COST OF \$1,177,000 AND AUTHORIZING THE ISSUANCE OF SERIAL BONDS IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$1,177,000, SUCH AMOUNT OF BONDS TO BE OFFSET BY ANY FEDERAL, STATE, COUNTY AND/OR LOCAL FUNDS RECEIVED BY THE TOWN, PURSUANT TO THE LOCAL FINANCE LAW TO FINANCE SAID PURPOSE AND DELEGATING THE POWER TO ISSUE BOND ANTICIPATION NOTES IN ANTICIPATION OF THE SALE OF SUCH BONDS TO THE TOWN SUPERVISOR.

WHEREAS, the Town Board of the Town of Bethany, Genesee County, New York (the “Town”), pursuant to Article 12 of the Town Law, created a water district designated and known as Water District No. 4 (the “District”); and

WHEREAS, the Town Board desires to undertake a water system capital improvements project (the “Project”) generally consisting of the construction of the infrastructure for the District; and

WHEREAS, by Resolutions the Town Board took the following actions with respect to the Project: (a) prepared maps, plans and reports and identified the boundaries for the District and the Project, (b) held public hearings with respect to the Project, (c) determined that the Project would not have a significant adverse effect on the environment under Article 8 of the Environmental Conservation Law and (d) determined that the requirements of Article 12 of the Town Law had been satisfied with respect to the Project and further determined to undertake the Project; and

WHEREAS, the Town Board desires to issue obligations of the Town to finance the costs of the Project;

NOW, THEREFORE, be it

RESOLVED, by the Town Board (by the favorable vote of not less than two-thirds of all the members of the Board) as follows:

SECTION 1. The Town is hereby authorized to undertake a certain water system capital improvements project generally consisting of, but not limited to, the installation of approximately 13,600 linear feet of water main along various roads in the Town including, but not limited to, Creek Road and Putnam Road, as well as other such improvements as more fully identified in (or contemplated by) such map, plan and report prepared in connection with such Project, together with all related right-of-way costs, site work and other ancillary work, including hydrants, valves, apparatus, and other improvements and costs incidental thereto and in connection with the financing thereof (collectively, the “Purpose”). The estimated maximum cost of the Purpose is \$1,177,000.

SECTION 2. The Town Board plans to finance the estimated maximum cost of said purpose by the issuance of serial bonds in an aggregate principal amount not to exceed \$1,177,000 said amount of bonds to be offset by the receipt of any federal, state, county and/or local funds received including, but not limited to, the application of approximately \$722,000 grant funds anticipated from the United States of America – Rural Development Agency, and unless paid from other sources or charges, the costs for the establishment of the District will be by the assessment, levy and collection of special assessments from the several lots and parcels of land within the District, which the Town Board shall determine to be especially benefited by said District, so much upon and from each as shall be in just proportion to the amount of benefit which the District shall confer upon the same, to pay the principal of and interest on said bonds as the same shall become due and payable, except as provided by law.

SECTION 3. It is hereby determined that said purpose is an object or purpose described in subdivision 1 of paragraph (a) of Section 11.00 of the Local Finance Law, and that the period of probable usefulness of said purpose is 40 years.

SECTION 4. Current funds are not required to be provided prior to the issuance of the bonds authorized by this resolution or any notes issued in anticipation of the sale of said bonds.

SECTION 5. It is hereby determined the proposed maturity of the obligations authorized by this resolution will be in excess of five years. SECTION 6. The faith and credit of the Town are hereby irrevocably pledged for the payment of the principal of and interest on such bonds (and any bond anticipation notes issued in anticipation of the sale of such bonds) as the same respectively become due and payable. An annual appropriation shall be made in each year sufficient to pay the principal of and interest on such bonds or notes becoming due and payable in such year. Unless paid from other sources or charges, the costs of said establishment of the District shall be paid by the assessment, levy and collection of special assessments from the several lots and parcels of land within the District which the Town Board shall determine and specify to be especially benefited thereby, so much upon and from each as shall be in just proportion to the amount of benefit conferred upon the same, to pay the principal of and interest on such bonds or notes as the same shall become due and payable, except as provided by law. Should the assessments upon benefited real property be insufficient to pay the principal of and interest on such bonds, there shall annually be levied on all the taxable real property of said Town a tax sufficient to pay the principal of and interest on such bonds or notes as the same become due and payable.

SECTION 7. Subject to the provisions of this resolution and of the Local Finance Law, and pursuant to the provisions of Section 21.00 relative to the authorization of the issuance of bonds with substantially level or declining annual debt service, Section 30.00 relative to the authorization of the issuance of bond anticipation notes and of Section 50.00, Sections 56.00 to 60.00, Section 62.00, Section 62.10, Section 63.00, and Section 164.00 of the Local Finance Law, the powers and duties of the Town Board pertaining or incidental to the sale and issuance of the obligations herein authorized, including but not limited to authorizing bond anticipation notes and prescribing the terms, form and contents and details as to the sale and issuance of the bonds herein authorized and of any bond anticipation notes issued in anticipation of said bonds, and the renewals of said notes, are hereby delegated to the Town Supervisor, the chief fiscal officer of the Town. Without in any way limiting the scope of the foregoing delegation of powers, the Town Supervisor, to the extent permitted by Section 58.00(f) of the Local Finance Law, is specifically authorized to accept bids submitted in electronic format for any bonds or notes of the Town.

SECTION 8. The temporary use of available funds of the Town, not immediately required for the purpose or purposes for which the same were borrowed, raised or otherwise created, is hereby authorized pursuant to Section 165.10 of the Local Finance Law, for the purpose or purposes described in Section 1 of this resolution. The Town then reasonably expects to reimburse any such expenditures (to the extent made after the date hereof or within 60 days prior to the earlier of (a) the date hereof or (b) the date of any earlier expression by the Town of its intent to reimburse such expenditures) with the proceeds of the bonds authorized by Section 2 of this resolution (or with the proceeds of any bond anticipation notes issued in anticipation of the sale of such bonds). This resolution shall constitute the declaration (or reaffirmation) of the Town's "official intent" to reimburse the expenditures authorized by Section 2 hereof with such bond or note proceeds, as required by United States Treasury Regulations Section 1.150-2.

SECTION 9. The Town Supervisor is further authorized to take such actions and execute such documents as may be necessary to ensure the continued status of the interest on the bonds authorized by this resolution, and any notes issued in anticipation thereof, as excludable from gross income for federal income tax purposes pursuant to Section 103 of the Internal Revenue Code of 1986, as amended (the "Code") and may designate the bonds authorized by this resolution, and any notes issued in anticipation thereof, as "qualified tax-exempt bonds" in accordance with Section 265(b)(3) of the Code.

SECTION 10. The Town Supervisor is further authorized to enter into a continuing disclosure agreement with the initial purchaser of the bonds or notes authorized by this resolution, containing provisions which are satisfactory to such purchaser in compliance with the provisions of Rule 15c2-12, promulgated by the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934.

SECTION 11. The Town has complied with applicable federal, state and local laws and regulations regarding environmental matters, including compliance with the New York State Environmental Quality Review Act ("SEQRA"), comprising Article 8 of the Environmental Conservation Law and, in connection therewith, duly issued a negative declaration and/or other applicable documentation, and therefore, no further action under SEQRA is necessary.

SECTION 12. In the absence or unavailability of the Town Supervisor, the Deputy Town Supervisor is hereby specifically authorized to exercise the powers delegated to the Town Supervisor in this resolution.

SECTION 13. The validity of said serial bonds or of any bond anticipation notes issued in anticipation of the sale of said serial bonds may be contested only if:

- (1) (a) such obligations are authorized for an object or purpose for which the Town is not authorized to expend money, or
- (b) the provisions of law which should be complied with at the date of publication of this resolution are not substantially complied with, and an action, suit or proceeding contesting such validity is commenced within 20 days after the date of such publication; or
- (2) such obligations are authorized in violation of the provisions of the Constitution of New York.

SECTION 14. The Town Clerk is hereby authorized and directed to publish this resolution, or a summary thereof, together with a notice in substantially the form provided by Section 81.00 of said Local Finance Law, in a newspaper having a general circulation in the Town and hereby designated as the official newspaper of the Town for such publication.

SECTION 15. This resolution is effective immediately.

The question of the adoption of the foregoing resolution was duly put to vote on a roll call, which resulted as follows:

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

Water District #5

- The informational meeting held on September 17, 2018 was well attended with a majority of the attendees in favor of forming a water district.
- The Median Household Income surveys are moving forward. Door-to-Door contact is being performed now. Reports are expected soon.

Transfer Station – Update

- As of the end of September, the Transfer Station is + \$1,323.14.

Street Light Replacement – Update

- National Grid is willing to pay \$2205.00 toward the street light replacement. This would bring the cost of the street light replacement to approximately \$1,000.

ADA Renovation – Update

RESOLUTION #54-2018 ADA RENOVATIONS CHANGE ORDER – APPROVAL OF

WHEREAS, during the construction of the ADA renovations it was discovered that two (2) new Diffusers, one in each bathroom, were required at the total cost of \$275.00, now on

MOTION of Councilman Fluker seconded by Councilman Street, be it

RESOLVED, that the Town Board approves the change order in the amount of \$275.00 bringing the total cost for the project from \$103,805.25 to \$104,080.25.

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

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

Possible Amendments to the Town of Bethany Zoning Map

- The next joint meeting of the Town Board, Planning Board, and Zoning Board of Appeals is scheduled for October 15 at 7:00 pm to discuss the possible Town of Bethany Zoning Map amendments.

Special Use Application – LaFreniere Pond – SA18010

RESOLUTION #55-2018 SA18010 – LAFRENIERE - SPECIAL USE – POND – 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 Fluker duly seconded by Councilman Street, be it

RESOLVED that the Town Board issues a Negative Declaration for SEQR for the Special Use Application (SA18010) submitted by Phil LaFreniere for the construction of a pond on the property located at 4956 Linden Road, East Bethany, NY (TMP#10.-1-26.1).

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

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

RESOLUTION #56-2018 – SUP – LAFRENIERE – POND – APPROVAL OF

WHEREAS, Phil LaFreniere has submitted a Special Use Application to the Town of Bethany for a pond, 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 and the Town Planning Board have 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 Street, duly seconded by Councilwoman Fowler, the Special Use Permit Application (SA18010) submitted by Phil LaFreniere for the construction of a pond on the property located at 4956 Linden Road in the Town of Bethany (TMP #10.-1-26.1) is approved.

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

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

NEW BUSINESS

RESOLUTION #57-2018 ADOPTION OF THE 2019 PRELIMINARY TOWN BUDGET

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

RESOLVED, the Bethany Town Board hereby adopts the Preliminary Town Budget for 2019; and be it

FURTHER RESOLVED, that the 2019 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 Fluker – Yes
Councilman Embt – Yes	Councilman Street – Yes
Councilwoman Fowler – Yes	

RESOLUTION #58-2018 PUBLIC HEARING ON THE 2019 PRELIMINARY TOWN BUDGET – SCHEDULING OF

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

RESOLVED, that the Bethany Town Board hereby authorizes and orders that a Public Hearing on the Preliminary Town Budget for 2019 be conducted at the Bethany Town Hall, 10510 Bethany Center Road, East Bethany, New York, beginning at 7:00 p.m. on Monday, November 12, 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 - Yes
Councilman Embt - Yes	Councilman Street – Yes
Councilwoman Fowler – Yes	

RESOLUTION #59-2018 SCHEDULING OF PUBLIC HEARING FOR PROPOSED LOCAL LAW TO OVERRIDE 2% TAX CAP

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, 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 Embt, which has been duly seconded by Councilman Fluker, 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 12th day of November 2018 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 Embt – Yes
- Councilwoman Fowler – Yes
- Councilman Fluker – Yes
- Councilman Street – Yes

RESOLUTION #60-2018 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.

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

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

RESOLUTION #61-2018 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 2018 Annual Assessment Administration Conference to be held in Binghamton, NY from September 30 - October 3, 2018 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 an application for New York State reimbursement funds will be submitted, and

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

MOTION of Councilman Embt, seconded by Councilwoman Fowler, be it

RESOLVED that the Town Board approves the travel request of the Assessor to the 2018 Annual Assessment Administration Conference in Binghamton, NY from September 30 - October 3, 2018 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 Embt – Yes
- Councilwoman Fowler – Yes
- Councilman Fluker – Yes
- Councilman Street – Yes

Warrant

- The Board approved payment of the bills as follows:

	<u>Prepaid</u>	<u>Total</u>
General Fund	\$ 1,954.36	\$ 21,837.87
Highway Fund	\$ 2,175.80	\$107,724.57
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	\$ 19,400.00
Justice Fund	\$ 0.00	\$ 0.00

Adjournment

A **MOTION** was made by Councilman Embt, duly seconded by Supervisor Hyde to adjourn the meeting at 8:18 p.m. The motion **PASSED** with All In Favor.

BY ORDER OF THE
BETHANY TOWN BOARD
DATED: October 15, 2018

Respectfully Submitted,

Debbie L. Douglas, RMC
Bethany Town Clerk