

TOWN OF BETHANY

REGULAR TOWN BOARD MEETING

10 DECEMBER 2018

Supervisor Hyde opened the December 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	Timothy Embt, Councilman
Daniel Street, Councilman	Diane Fowler, Councilwoman
Debbie Douglas, Town Clerk	William Shea, Town Justice
Thomas McBride, Town Justice	Linda Schmidt, Historian
Don Schmidt, Deputy Historian	

Town Officials Absent were:

Jeffrey Fluker, Councilman

Attendees to the Meeting were:

Gregg Torrey, Genesee County Legislator	Phil Sortore
Gregg Miller	Gary Donnelly
Barb Czworka	Teri McBride
Don Frank	

FINANCES

Supervisor Hyde presented the finances for November 2018.

General Savings	\$	986,399.26
Highway Savings	\$	297,533.92
AP/PR Account	\$	75,659.81
Trust & Agency Account	\$	2,025.47
Highway Checking	\$	2,057.37
Supervisor	\$	34,914.26
Water District #2	\$	30,827.17
Petty Cash	\$	200.00
 Total		 \$ 1,429,617.26

Revenues Received

Debbie Douglas, Town Clerk	\$	1,615.92
Genesee Co. Treasurer – Mort. Tax	\$	7,141.82
US Post Office	\$	100.00
William Shea, Justice	\$	1,442.00
Thomas McBride, Justice	\$	1,366.00
 Total Revenue	\$	 11,665.74
Total Interest	\$	98.53
Total Revenue	\$	11,764.27

GUEST SPEAKER – GENESEE COUNTY LEGISLATOR GREGG TORREY – SALES TAX DISTRIBUTION

- Sales tax revenue will be distributed at the 2018 rate for 2019.
- In 2020, a revenue sharing plan will be implemented. The revenue sharing plan required a name change for legal reasons (some municipalities did not sign on).
- The only way for the County to raise funds for the state mandated jail and heavy highway construction projects is through sales tax revenue. The County cannot raise these funds through property tax because of the penalties that would be incurred by overriding the 2% tax cap.
- The plan is to cap sales tax revenue to the municipalities outside the city at the 2018 rate. Any sales tax revenue growth will stay with the county.
- The flat rate of shared revenue may be revisited and/or increased at a later date.

Town Clerk/Tax Collector Report – Debbie Douglas

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

A **MOTION** was made by Councilman Embt, duly seconded by Councilman Street, to approve the Minutes of the November 12, 2018 Regular Town Board meeting as presented. The motion **PASSED** with All In Favor.

- Presented the minutes of the November 19, 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 Councilwoman Fowler, to approve the Minutes of the November 19, 2018 Joint meeting as presented. The motion **PASSED** with All In Favor.

- Notification has been received that funding requests submitted on behalf of the town by Genesee County Highway Superintendent Tim Hens were denied. This included two culverts on Paul Road and road over the Little Tonawanda on Silver Road.
- The Clerk's Monthly Report and Bank Statements for November 2018 were reviewed by the Town Board.

Town Justice Report

- Justice Shea's report for November was reviewed by the Board.
- Justice McBride's report for October was reviewed by the Board.
- Supervisor Hyde will be scheduling the annual audit for the justices.

Town Historian Report – Linda Schmidt

- Boxes of the historical records and other items have been moved to the Town Hall.
- The December County Historians meeting was cancelled.
- Supervisor Hyde spoke to the one applicant for the Historian position. The gentleman has not been back in touch.

Board Committee Reports

Councilman Street

- The Planning Board has not had any applications to review but has been meeting to discuss the possible zoning map amendments.

Supervisor Hyde

- The Bethany Fire Company is looking at new ambulance to replace the one that was damaged in the accident. It is a 2018 demonstrator that is similar to the old ambulance.

OLD BUSINESS

Water Districts - Update

Water District #2

- This district is 98% complete.
- The booster pumps have been delivered and are available at the Highway Garage as soon as the contractors installing them receive approval of their quotes for the installation work.

Water District #4

- Working on bonding.
- Hoping to go to bid after the first of the year.

Water District #5

- Median Household Income (MHI) Survey has been approved by Rural Development.
- Possibly going to bid in June or July.

Transfer Station - Update

- For November the Transfer Station was +\$199.72 bringing the eleven month balance for 2018 to +\$1,125.00.

Possible Amendments to the Town of Bethany Zoning

- The next joint meeting of the Town Board, Planning Board, and Zoning Board of Appeals is scheduled for December 17 at 6:30 pm to discuss the possible Town of Bethany Zoning amendments.

RESOLUTION #66-2018 TOWN BOARD OF THE TOWN OF BETHANY DECLARING LAND NO LONGER NEEDED FOR MUNICIPAL PURPOSES AND IS SURPLUS PROPERTY SUBJECT TO PERMISSIVE REFERENDUM

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 Town Board of the Town Bethany, pursuant to New York State Town Law, Article 4, §64, is authorized to, upon the adoption of a resolution, convey or lease real property in the name of the Town, which resolution shall be subject to a permissive referendum; and

WHEREAS, the Town Board of the Town of Bethany was previously advised by the Highway Superintendent of the Town of Bethany that a certain parcel of land known as SBL # 8-1-28, consisting of 16.8 acres, was no longer necessary for the uses of the Highway Superintendent as a gravel pit; and

WHEREAS, pursuant to the Resolution adopted on August 14th, 2017 by the Town Board of the Town of Bethany, the Town Board confirmed that the property owned by the Town of Bethany known as SBL #: 8.-1-28, consisting of 16.8 acres, which formerly served as the gravel pit used by the Highway Superintendent and more fully described below, was no longer needed for municipal purposes –

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Bethany, County of Genesee and State of New York, being part of lot No. 28, Township 11, Range 1 of the Holland Land company survey (so-called) bounded and described as follows:

BEGINNING, at a point on the east bounds of the Bethany Center Road (so-called) at a distance of 10 chains and 57 links (697.62 feet) southerly measured along the said line from the south-west corner of a 2.5 acre parcel of land conveyed to Ralph M. and Ann M. Leaton by deed recorded in the Genesee county clerk's Office in Liber 307 of deeds at Page 252.

RUNNING THENCE easterly along the south line of said Leaton lands a distance of 3 chains and 43 links (226.38 feet) to the southeast corner of the said 2.5 acre parcel conveyed to the said Leaton.

RUNNING THENCE south 84 degrees east along the south line of lands previously owned by Jabez Warren a distance of 30 chains and 19 links (1992.54 feet) to a point.

RUNNING THENCE south 2 degrees 30 minutes west along the west line of lands previously owned by D.R. Prindle a distance of 4 chains and 92 links (324.72 feet) to a point.

RUNNING THENCE north 86 degrees west a distance of 33 chains and 58 links (2216.28 feet) to a point on the east line of the Bethany Center Road which is 5 chains and 86 links (386.76 feet) southerly measured along the east line of the Bethany Center Road from the point of beginning.

RUNNING THENCE northerly along the east line of the Bethany Center Road a distance of 5 chains and 86 links (386.76 feet) to the point or place of beginning;

EXCEPTING therefrom a 2.5 acre parcel of land lying in the southwest corner of the above described premises.

ALSO EXCEPTING that part of the above described premises conveyed to Raymond and Mary Walker by deed recorded in the Genesee County clerk's Office in Liber 247 of Deeds at Page 96. Parcel being conveyed contains 15.5 acres be the same more or less. Intending by the above description to describe a portion of the property described in two deeds to Fred Leaton both recorded in the Genesee county clerk's Office, one in Liber 238 of Deeds at Page 37 and the other in Liber 237 of Deeds at Page 129.

ALSO, ALL THAT OTHER TRACT OR PARCEL OF LAND situate in the Town of Bethany, county of Genesee, State of new York and being a part of Lot 28, Township 11, Range 1 of the Holland Land Company survey (so-called_ bounded and described as follows:

BEGINNING at a point on the east bounds of the Bethany Center Road (so-called) at a distance of 10 chains and 57 links (697.62 feet) southerly measured along the said line from the south-west corner of a parcel of land previously owned by Hobart Leavenworth, said point of beginning being also the south-west corner of a 2.5 acre parcel of land conveyed to Ralph M. and Ann M. Leaton by deed recorded in the Genesee County Clerk's office in Liber 307 of deeds at Page 252.

RUNNING THENCE easterly along the south line of said Leaton lands a distance of 3 chains and 43 links (226.38 feet) to the south-east corner of the said 2.5 acre parcel conveyed to the said Leaton.

RUNNING THENCE northerly along the east line of the said Leaton lands a distance of 30 feet to a point.

RUNNING THENCE westerly and parallel to the first described boundary a distance of 220.84 feet to the east line of Bethany Center Road.

RUNNING THENCE southerly along the east line of the Bethany Center Road a distance of 30 feet to the point or place of begging; containing .152 acres be the same more or less.

BEING AND INTENDED TO BE a 30 foot Right of Way along the south bounds of the 2.5 acre parcel referred to above.
and;

WHEREAS, pursuant to the Resolution adopted by the Town Board of the Town of Bethany on August 14th, 2017, the Town Board declared the 16.8 acres of land previously used as a gravel pit by the Highway Superintendent of the Town of Bethany as excess property no longer needed for municipal purposes; and

WHEREAS, the Town Board of the Town of Bethany found it in the best interest of the Town of Bethany to authorize the sale of said property; and

WHEREAS, the Town Board of the Town of Bethany resolved at said meeting on August 14th, 2017 that the excess municipal property would be surveyed, an abstract for the property would be updated, the Town would look into viable options to sell the property and, once those tasks were completed, make a Resolution subject to a Permissive Referendum to sell said property.

NOW ON MOTION OF Councilwoman Fowler which has been duly seconded by Councilman Street, now therefore

BE IT RESOLVED, that the Town Board of the Town of Bethany authorizes the Supervisor of the Town of Bethany to, contingent upon the passage of the permissive referendum period required under law without a petition for a permissive referendum, to execute all documents necessary to sell said property; and be it further

RESOLVED, that the Clerk be and she hereby is directed to publish an abstract of this resolution concisely stating the purpose and effect thereof in the Town’s official newspaper within ten (10) days after the date of the adoption; and be it further

RESOLVED, that said resolution shall not take effect until thirty (30) days after its adoption or until approved by the affirmative vote of a majority of the qualified electors of the Town of Bethany.

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

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

NEW BUSINESS

RESOLUTION #67-2018 AUTHORIZING THE HIGHWAY SUPERINTENDENT TO SIGN THE 2019 SNOW & ICE REMOVAL AND MOWING CONTRACT WITH GENESEE COUNTY

This Agreement made this 10th day of December, 2018, by and between the County of Genesee acting through the Superintendent of Highways of said County and the **Town of Bethany** acting through the Superintendent of said Town as follows:

WHEREAS, Section 135-A of the Highway Law provides that the County Superintendent of Highways may contract with the Town Superintendent for the control of ice and snow on county highways and the cutting of noxious weeds within

the bounds of the county highways subject to the approval of each of the Legislative bodies of said County and Town, and

WHEREAS, the Town is willing to perform the work of such control of ice and snow and the cutting of weeds upon such terms, rules and regulations as are contained herein and deemed by the County Superintendent of Highways to be for the best interests of the people of Genesee County.

NOW, THEREFORE, in consideration of the mutual covenants and agreements between the parties hereto; Witnessed:

1. The term of this **Agreement shall be for two (2) years** commencing January 1, 2019. At the expiration of each year of the term specified herein, as such term may be extended as herein provided, the Town shall notify the County Superintendent either
 - a. That it requests, with the approval of the County Superintendent that the term of the Agreement be extended for one year, or
 - b. That it intends not to extend the agreement, in which case, the Agreement shall expire at the end of the two-year term. If the Town fails to notify the County Superintendent as herein provided, it shall be deemed that the Town intends not to extend the term of the Agreement.
2. The Town shall provide all the labor, materials and equipment necessary for the control of snow and ice on such county highways as designated by the County Superintendent to the extent that the County Superintendent deems necessary to provide reasonable passage and movement of vehicles over said highways and shall include clearing of the pavement and pushing the snow as near the ditch line as practicable to provide room for future storms and ensure that it melts down to the ditches, together with sanding of hills, curves and intersections and such other places as may cause dangerous driving conditions.
3. The Town shall provide all the labor, materials and equipment necessary for the mowing of weeds on such county highways as designated by the County Highway Superintendent. County Highways shall be mowed to the standard of that to which Town Highways are mowed and maintained. It is the intent of these specifications that only areas accessible to tractor mowers shall be mowed.
4. The County Superintendent shall furnish the Town with a suitable map of such municipality which shall delineate the county highways within the boundaries of the town and shall show distinctively the county highways or parts thereof that are affected by this agreement. For each year of the term of the agreement, or for any extended term thereof, the map shall be modified to show the changes, if any, to the county highways affected by this agreement. Any such modification to such map, shall be agreed upon in writing by the County Superintendent and the Town.
5. In consideration of the performance of the Town for **control of snow and ice** on county roads, the County agrees to pay one-half the sums due on or before March 20 and the remainder on or before May 20, for the control of ice and snow on **21.79 miles** of county roads at the **rate of \$5,432.00 per mile** and **0 miles** of state touring roads (county roads) at the **rate of \$8,148.00 per mile** or the total cost of **\$118,363.28** for the year **2019**.

- 6. In consideration of the performance of the Town for **mowing** of county roads, the County agrees to pay on or before October 15, for the mowing of weeds on **21.79 miles** of county roads at the **rate of \$456.00 per mile** or a total cost of **\$9,936.24** for the year **2019**.
- 7. Both parties agree that due to the instability of economic conditions, the rate per mile for the year 2004 and each year thereafter, may be open to negotiations prior to the beginning of each year.
- 8. The county will indemnify, hold harmless and defend the town for any and all claims, actions, damages, loss and/or liability arising out of services performed pursuant to the terms of this contract on county roads by the town on behalf of the county, except under circumstances due solely and exclusively to the failure of the Town to perform its responsibilities under the contracts.

This agreement shall bind the successors assigned and representatives of the parties hereto.

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

RESOLVED, that Highway Superintendent Adams is hereby authorized to sign the Joint Agreement of Snow & Ice and Mowing on County Roads.

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

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

RESOLUTION #68-2018 REQUEST FOR FUEL BIDS - 2019

WHEREAS, the Superintendent of Highways feels it is in the best interest of the taxpayers of the Town of Bethany to request bids for delivery of fuel (i.e. gasoline, diesel, and propane) for each calendar year, and

WHEREAS, the Superintendent has requested to advertise for such bids,

Now on **MOTION** of Street duly seconded by Fowler, be it

RESOLVED that the Superintendent of Highways is hereby authorized to advertise for fuel bids for the Town of Bethany for the year 2019, and be it

FURTHER RESOLVED that propane will be bid separately from gasoline and diesel, and be it

FURTHER RESOLVED that bids must be submitted to the Town Clerk or the Superintendent of Highways no later than 3:00 p.m. Thursday, December 27, 2018 marked “Sealed Bid Propane” or “Sealed Bid Gas & Diesel”, and be it

FURTHER RESOLVED that bids will be opened during the Town Board meeting on Thursday, December 27, 2018 at 7:00 p.m.

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

Supervisor Hyde - Yes	Councilman Fluker – Absent
Councilwoman 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	\$ 21,381.29	\$ 27,264.74
Highway Fund	\$ 24,036.65	\$ 88,709.64
Trust & Agency	\$198,504.49	\$198,504.49
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 Councilwoman Fowler, duly seconded by Supervisor Hyde to adjourn the meeting at 7:53 p.m. The motion **PASSED** with All In Favor.

BY ORDER OF THE
BETHANY TOWN BOARD
DATED: December 12, 2018

Respectfully Submitted,

Debbie L. Douglas, RMC
Bethany Town Clerk