

TOWN OF BETHANY

REGULAR TOWN BOARD MEETING

11 FEBRUARY 2019

Supervisor Hyde opened the February 11, 2019 Regular Town Board Meeting at 7:00 p.m. with the Pledge of Allegiance followed by a prayer.

Town Officials in Attendance were:

Carl Hyde, Jr., Supervisor	Jeffrey Fluker, Councilman (7:20)
Timothy Embt, Councilman	Daniel Street, Councilman
Diane Fowler, Councilwoman	Debbie Douglas, Town Clerk
William Shea, Town Justice	
Barbara Czworka, Highway Superintendent	

Attendees to the Meeting were:

Greg Miller	Ann Miller
Phil Sortore	Ramon Cipriano
Don Frank	Tricia Fietz

FINANCES

Supervisor Hyde presented the finances for January 2019.

General Savings	\$1,112,465.26
Highway Savings	\$ 442,569.19
AP/PR Account	\$ 78,587.12
Trust & Agency Account	\$ 3,458.26
Highway Checking	\$ 2,710.39
Supervisor	\$ 41,647.96
Water District #2	\$ 30,897.47
Petty Cash	\$ 200.00
 Total	 \$ 1,712,535.65

Revenues Received	
Debbie Douglas, Tax Collector	\$ 502,412.00
Debbie Douglas, Tax Collector	\$ 30.00
Debbie Douglas, Town Clerk	\$ 1,678.78
Genesee County, 4 th Qtr. Sales Tax	\$ 151,730.89
DASNY	\$ 100,000.00
Village of Warsaw	\$ 363.00
David DiMatteo, Sale of Gravel Pit	\$ 18,060.16
US Post Office	\$ 100.00
Ambit Energy	\$ 10.04
William Shea, Town Justice	\$ 1,730.00
 Total Revenue	 \$ 776,114.87
Total Interest	\$ 95.53
Total Revenue	\$ 776,210.40

Town Clerk Report – Debbie Douglas

- Presented the Minutes of the January 14, 2019 Organizational and Regular Town Board meeting.

A motion was made by Councilwoman Fowler, duly seconded by Councilman Street, to approve the Minutes of the January 14, 2019 Organizational and Regular Town Board meeting as presented. Motion passed with All In Favor.

- Thank you notes for the Town Board and the Town Clerk were received from Linda and Don Schmidt for the retirement gift and assistance given while they were the Town Historians.
- Tax Collection is going well. The Town has been paid the full amount of the warrant in the amount of \$502,412.00.
- Windsong Radiology Group made a visit to the Clerk's office concerning the possibility of holding an outreach with their mobile 3D Mammography unit.
 - o They will be set up in the Town Hall & Community Center parking lot on Wednesday, June 26th from 10 am until 5 pm.
 - o They are trying to coordinate with other services such as the Red Cross, UB Dental, Cancer Services, etc. to be here on that day also.
 - o A second date will be held in November.
 - o More information will be coming.
- The Clerk's Monthly Report and Bank Statements for January were reviewed by the Town Board.

Highway Superintendent Report – Barbara Czworka

- Performed 33 plow runs, four salt/sand runs, cleaned up the bad spots three times and sent one truck around two times.
- Helped the Fire Department with lifting assistance twice.
- The Mack truck wouldn't start on January 24th so the starter was changed.
 - o There were electrical problems after that. Someone from the County Highway Department came out to look at it and couldn't find the problem.
 - o Marquart came to the shop to look at it but it needed to be put on the computer. The County Highway Department was able to transport the truck to Marquart's on February 4th. The wiring problem was fixed and the truck was picked up later in the week.
- A phone call was received from a person who had hit a pothole on Molasses Hill Road on January 7th. The person is claiming that it caused a flat tire and a bent rim resulting in \$500 in damages. This pothole has been filled several times and is being checked every four days.
- There is a problem with drainage on Jerico Road. The driveway culverts freeze and need to be opened. This problem will be addressed when the weather is better.
- There were complaints about the intersection of East Road and Route 20. The NYS DOT needs to be contacted for anything at this intersection or any other intersection on a state highway. They were advised of the situation and it was taken care of within an hour.
- There was also a complaint about East Road itself. The person said that it was impassable. This was unfounded; however, the road was cleaned up in response.
- Employees have to attend training for using any digging device for Dig Safe. It is difficult to find an open class but perhaps the County will offer one or one can be held here in town.
- There was an ice jamb in the creek and the DEC was contacted.
- The Highway Expenditure 284 form needs to be amended and updated as more roads are destroyed by the winter weather.
- One employee will be having shoulder surgery on February 13 and will be out for 6 – 10 weeks. Two part-time employees are being retrained to work during this time. This may also conflict with the Highway Superintendent working at the Transfer Station since she will need to check roads during weather situations.
- The CHIPS paperwork was filed improperly therefore the funds may not be received until April or May. Working on getting everything straightened out.

Town Justice Report – Justice McBride and Justice Shea

- January monthly reports for Justice Shea and Justice Mc Bride were presented to the Board.

Board Committee Reports**Councilman Fluker**

- The new ambulance has been delivered and loaded with supplies.
 - o The new power gurney and stair chair have also been delivered and personnel are being trained to use them.
 - o The ambulance will have a pre-inspection and a state inspection. When those are completed the ambulance will be put in service (hopefully in a week or so).
- The Fire Department's annual installation banquet was held this past Saturday at Batavia Downs and was reported to be very nice.
- Three new members have been recruited.

Supervisor Hyde

- Attended the GLOW meeting.
 - o Recyclables were again a topic of discussion. China is no longer taking recyclables and there is a shortage of storage space. The Governor has pulled the funding for e-waste collections. The cost has increased to \$.65 per pound at ARC.
 - o Solar farms were also discussed. Supervisor Hyde talked to officials from both Caledonia and Castile where solar farms of over 1000 acres have been installed. A decommissioning clause requiring a bond was written into the contract to protect the municipality and the land owner. These municipalities are also receiving electricity.
- The Governor is threatening to withhold the AIM funding for municipalities unless his budget is passed. This is about \$18,000 for the Town of Bethany.

OLD BUSINESS**Water District Update**

- The engineer and Rural Development are finishing the paperwork for districts 4 and 5.
- Water District 4 should go out to bid in March.
- Water District 5 should go to bid in June.

Transfer Station – Update

- Supervisor Hyde reported that the Transfer Station is at -\$386.44 to start the new year. This is not a surprise considering the weather.

DASNY – ADA Renovation

- The check from DASNY for the ADA renovation of the bathrooms and the parking lot has been received. This closes out that project.

Hiring of Prosecutor – Approval of

On **MOTION** of Supervisor Hyde, duly seconded by Councilwoman Fowler, Supervisor Hyde is hereby authorized to sign the Agreement For Town Prosecutor Services – Traffic Matters as stated below with the stipulation that the arrangement will be reviewed in six months.

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

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

Councilman Fluker – Yes
 Councilman Street – Yes

**AGREEMENT FOR TOWN PROSECUTOR
SERVICES – TRAFFIC MATTERS**

THIS AGREEMENT, made the 13 day of February, 2019, by and between the **TOWN OF BETHANY**, a Municipal Corporation of the State of New York, with offices located at 10510 Bethany Center Road, East Bethany, New York 14054 (hereinafter referred to as the “Town”), and **ROBERT R. ZICKL**, an attorney admitted to practice in the State of New York, with a business address of 17 Naramore Drive, Batavia, New York 14020 (hereinafter referred to individually as “Zickl” or “the attorney”).

WITNESSETH:

WHEREAS, the Town wishes to contract for prosecuting services for traffic matters as set forth below and the Attorney have agreed to provide these services.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, it is agreed as follows:

1. Zickl hereby accepts the appointment by the Town as Traffic Prosecutor.
2. The Attorney agrees to be responsible for the duties set forth herein, and will act on behalf of the Town as mutually agreed upon herein.
3. As Traffic Prosecutor, Zickl will provide the following legal services:
 - A. To take all steps necessary to prosecute all Uniform Traffic Tickets (hereinafter “UTTs”) issued for violations of the Vehicle and Traffic Law, excluding misdemeanors and felonies, and all UTTs issued for violations of the Transportation Law, excluding only felonies.
 - B. The Attorney will decide whether or not to offer plea reductions in his discretion, and will be provided with driving histories, UTTs, supporting depositions, MV-104 reports and all correspondence on each and every file by the Court to assist in this process.
 - C. The Attorney will review all pleas made by mail, and completely process this mail pleas by sending out plea reduction offers as he deems appropriate. Currently, the Court is having Defendants return the plea offers directly to the Court Clerks.
 - D. The Attorney will appear one time per month before Judge McBride (or any lawfully seated successor) and Judge Shea (or any lawfully seated successor) for disposition or trial of any and all UTTs (except as excluded in A, above) which have not been resolved by mail plea.
 - E. Prosecute all trials scheduled by the Court’s regularly scheduled date for Vehicle and Traffic Law and Transportation Law matters, and perform such legal research and trial preparation as deemed advisable by the attorneys in their discretion, and respond to pretrial motions and applications by defendants or their attorneys and subpoena trial witnesses where necessary.
4. As compensation for the services provided, the Town will pay the Attorneys the all-inclusive sum of \$250.00 per month for legal fees and services for calendar year 2019, which shall include any and all expense for secretarial services, postage, miscellaneous office supplies, etc.
5. The Attorneys will submit bills to the Town on Voucher Forms provided by the Town and the Town will process and make payment upon the same within thirty days

after receipt of the Voucher by regular mail, FAX or email. The total of said Voucher or Vouchers shall not exceed \$250.00 unless agreed to by the parties in writing.

6. The term of this Agreement will commence on January 1, 2019, and continue until December 31, 2019.
7. The Attorney agrees and acknowledges that he will be acting in his responsibility as Town Prosecutor as an independent contractor and not as employee of the Town. As an independent contractor, the Town will not be responsible to pay any benefits or additional compensation other than set forth herein.
8. The Attorneys hereby agree to indemnify and hold harmless the Town for all claims, losses, costs and damages awarded any other party arising out of any illegal or inappropriate actions of the Attorneys in executing their responsibilities under this Agreement, to include the cost of settling any action and reasonable attorney's fees actually incurred by the Town defending against such a claim. The Attorney's liability for any settlement amount short of an award by a court of competent jurisdiction would require their consent to the settlement amount, which would not be unreasonably withheld.
9. The Attorneys will be responsible to obtain any malpractice or other insurance coverage that they deem advisable, and the Town will not be responsible to pay for or provide any insurance coverage to benefit them.
10. The Town may terminate this Agreement and any responsibilities and liabilities thereunder, with or without cause, upon 30 days prior written notice to Zickl. The Town will be responsible to pay the full monthly amount for the Attorney's fees and services for any partial month of service brought about by said written notice given other than the final day of a calendar month.
11. This Agreement may not be assigned by either party in whole or part, without the prior consent of the other parties. Any assignment in violation for the foregoing shall be deemed void.

IN WITNESS WHEREOF the parties have signed this Agreement the day and year noted.

TOWN OF BETHANY

Carl L. Hyde, Supervisor

Robert R. Zickl, Esq.

RESOLUTION #13-2019 EXAMINATION OF JUSTICE COURT RECORDS

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

WHEREAS, an examination was conducted of the Town Justices records and dockets by the Town Supervisor; now, therefore, be it

RESOLVED, the Bethany Town Board acknowledges that the required annual examination of the Justice Court 2018 records was completed by Supervisor Hyde.

On **MOTION** by Councilman Street, duly seconded by Councilman Embt, Resolution #13-2019, Examination of Justice Court Records was 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 #14-2019 CONTRACT FOR FIRE PROTECTION – PUBLIC HEARING – SCHEDULING OF

On **MOTION** of Councilman Fluker, 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, March 11, 2019 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 #30-2016 AUTHORIZING SUPERVISOR TO SELL A HENDERSON FRONT PLOW

WHEREAS, after consulting with Highway Superintendent Czworka, Supervisor Hyde has determined that the Henderson plow (Model # OWPx40/63x11x304, Serial # OWP-08311) is no longer needed as the Highway Department as it is currently 6-7 years old and has never been used, and

WHEREAS, per the Town of Bethany Asset Tracking & Disposal Policy, Supervisor Hyde is seeking authorization from the Town Board to sell the plow to an interested party upon negotiation. Now on

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

RESOLVED that Supervisor Hyde is hereby authorized to sell the Henderson front plow (stated Model and Serial number) upon negotiation.

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

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

Public Comment

Ann Miller – asked the Board to look into the Veteran’s Exemption for town taxes.

Executive Session – Union Contract Negotiations

On **MOTION** made by Councilwoman Fowler, duly seconded by Councilman Street, the Board went into Executive Session at 8:00 p.m. to discuss Union contract negotiations.

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

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

The Board returned from Executive Session at 9:35 p.m.

Warrant

- The Board approved payment of the bills as follows:

	<u>Prepaid</u>	<u>Total</u>
General Fund	\$ 5,646.66	\$ 11,046.92
Highway Fund	\$ 0.00	\$ 35,181.06
Trust & Agency	\$ 0.00	\$ 0.00
Highway Capital Funds Project	\$ 0.00	\$ 0.00
Fire Protection Fund	\$ 0.00	\$ 0.00
Water Fund	\$ 0.00	\$ 3,371.15
Justice Fund	\$ 0.00	\$ 0.00

Adjournment

A **MOTION** was made by Councilman Fluker, duly seconded by Councilwoman Fowler to adjourn the meeting at 9:35 p.m. The motion **PASSED** with All In Favor.

BY ORDER OF THE
BETHANY TOWN BOARD
DATED: February 14, 2019

Respectfully Submitted,

Debbie L. Douglas, RMC
Bethany Town Clerk