

TOWN OF BETHANY

REGULAR TOWN BOARD MEETING

10 June 2019

Supervisor Hyde opened the June 10, 2019 Regular Town Board Meeting at 7:01 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
William Shea, Town Justice	Thomas Douglas, CEO/ZEO (8:00)
Barbara Czworka, Highway Superintendent	

Attendees to the Meeting were:

Maelynn Hyde	Jeremy Kramer
Phillip Kramer	Pat Pietrzykowski
Barb Pietrzykowski	Joe Nowakowski
Don Frank	Tricia Fietz
Ray Cipriano	Bill Elsasser

FINANCES

Supervisor Hyde presented the finances for May 2019.

General Savings	\$1,038,392.07	
Highway Savings	\$ 554,631.92	
AP/PR Account	\$ 73,853.89	
Trust & Agency Account	\$ 4,490.66	
Highway Checking	\$ 3,309.22	
Supervisor	\$ 14,771.08	
Water District #2	\$ 112,795.90	
Petty Cash	\$ 200.00	
Total		\$ 1,802,444.74

Revenues Received		
Debbie Douglas, Town Clerk	\$ 1,195.79	
US Post Office	\$ 100.00	
William Shea, Town Justice	\$ 914.00	
Total Revenue	\$ 2,209.79	
Total Interest	\$ 195.12	
Total Revenue		\$ 2,404.91

Town Clerk Report – Debbie Douglas

- Presented the Minutes of the May 13, 2019 Regular Town Board meeting.

On **MOTION** made by Councilwoman Fowler, duly seconded by Councilman Street, to approve the Minutes of the May 13, 2019 Regular Town Board meeting as presented. Motion passed with All In Favor.

- Windsong Radiology Group will have their mobile mammography unit at the Bethany Town Hall on Wednesday, June 26, 2019 from 10 am – 5pm. The Red Cross will also be coming for the day.

- Walter Wenhold sent in a report about the Senior Meal Site at the Presbyterian Church. The group is doing well. About 10-11 attend each week. The group took an enjoyable trip to Fredonia College to see a play and stop to eat.
- The Clerk's Monthly Report and Bank Statements for May were reviewed by the Town Board.

CEO/ZEO Report – Thomas Douglas

- Some permits have been issued for small projects. Patriot Towers has been given a permit for maintenance work on the tower located near Route 20.
- Approximately 50 violation letters were sent out. The second round of road review has been started. A few more violations have been discovered and a few of the original violations have been taken care of.
- CEO Douglas provided the Town Board with a list of the violations that have been issued to date along with a progress report for each violation.
- These reports were reviewed with the Board. Specific cases were discussed as they are more serious violations and may require more attention from the Board.
- Again, the procedures of enforcement were discussed – 1) Violation issued. 2) Order to Remedy issued. 3) Board decision as to whether to proceed to local court or Supreme Court.
- Some of the property owners have been in contact and have discussed an action plan. CEO Douglas would like to continue working with them unless progress stops or they do not stick to the agreement.
- Supervisor Hyde asked CEO Douglas to provide more history in his reports if possible. Are these violations the same year after year or are they a first-time offence? If the violations repeat year after year, they may be handled differently than first-time offenders.
- The Board is in agreement that CEO Douglas should continue to work with each of the property owners to negotiate compliance for the time being. Once a history is established it will allow the Board to make more informed decisions as to how to proceed with each violation. If there are cases where no progress is being made, the Board will decide whether or not to take court action.
- Bill Elsasser noted that the 2020 census will be starting. It would be prudent to inform census takers of unsafe structures, etc. Supervisor Hyde will pass the information along.

Highway Superintendent Report – Barbara Czworka

- Mill Road is progressing smoothly.
 - o 5 of the 6 culvert pipes have been replaced with plastic.
 - o One of the pipes was undermining the road. Large rocks and gravel were put in place along with extending the pipe by 11 feet so that any drainage will fall further from the shoulder of the road.
 - o Core samples were taken by 2 different companies. The base of the road contains a lot of sand in the gravel requiring the road base to be built up. This will begin once all of the culvert pipes have been replaced.
 - o The Towns of Batavia and Pavilion have been great help with this project.
- Transit Road has been grader patched and is ready to chip seal.
- Bumps on Cacner Road and Chaddock Road have been repaired.
- Helped the Towns of Stafford and Alexander chip seal.
- All mailboxes have been repaired. Some were moved to better spots to avoid damage from plowing.
- All of the cardboard bales at the Transfer Station have been taken care of. The baler will need new fuses so that it works before being sold.
- The John Deere mower is still having problems. The mower won't operate once it has been turned off. The repair technician from Land Pro has agreed to follow the mowing tractor the next time it goes out so that when it stops working, he can look at it right away. Once the machine has cooled off, he is unable to find the problem. John Deere is arguing that the machine is out of warranty. This is a 2-year warranty. The Town took delivery of the mower in late June of 2017. Supervisor Hyde is working on this.
- Even though the mower is not working properly, an attempt to mow roadsides is being made.

- Attended Highway School in Ithaca. This was very informative and educational. Thanked the Board approving attendance.

Town Justice Report – Justice McBride and Justice Shea

- Judge Shea has spoken to the Sherriff's Department about getting more patrols however they are short-handed and very busy.
- Tricia Fietz has sent in the application to become a court interpreter but has not heard anything as of yet. This would negate the need to pay for someone to come from Buffalo when and interpreter is needed savings time and money for the court.
- May monthly report for Justice Shea was presented to the Board.

Board Committee Reports

Councilman Fluker

- Things have been quiet at the Fire Department.

Councilman Street

- The Planning Board met for a work session on June 6 to review of the Town's Zoning Law.
- Felipe Oltramari attended the meeting and discussed regulating solar with the Board.

OLD BUSINESS

Old Town Hall – Update

- Tricia Fietz addressed the Board concerning her intentions of purchasing the Old Town Hall.
- She had a perk test done and a raised septic system will be required.
- The inspector that looked at the building has never provided her with a report so she will have to find another inspector. Once she gets a sound report she will be able to make an offer on the building.
- She will be opening in the rear of Oliver's in Batavia and is planning to be there for approximately two years. This will allow her to work on the building as she can with money from the business. It will also allow time for public water to come to the property avoiding the necessity of installing a commercial water system which is very expensive.

WATER DISTRICTS UPDATE

Water District #2

RESOLUTION #25-2019 AUTHORIZING THE EXECUTION OF THE AMENDED LEGAL SERVICES AGREEMENT FOR TOWN OF BETHANY WATER DISTRICT NO. 2

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 of Bethany has previously entered into a Legal Services Agreement in regard to Water District No. 2 (the "Project") in the Town of Bethany, dated June 19, 2017, with Town Attorney Mr. DiMatteo, attached hereto as EXHIBIT A; and

WHEREAS, the Legal Services Agreement does state, "FULL AMOUNT NOT TO EXCEED \$10,000.00"; and

WHEREAS, the Town of Bethany has accumulated bills in excess of that amount it is in the best interest of the town to amend the Legal Services agreement to state "FULL AMOUNT NOT TO EXCEED \$15,500.00"; and

WHEREAS, the Town of Bethany is in the process of requesting the final draw to Rural Development for the cost of attorney fees related to the Project; and

WHEREAS, the Town Board of the Town of Bethany finds it in the best interest of the Town of Bethany to enter into the Amended Legal Services Agreement attached hereto as EXHIBIT B in order to be reimbursed for the total amount of attorney fees related to the Project.

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

RESOLVED, by the Town Board of the Town of Bethany to authorize and empower Carl Hyde, Jr., Supervisor of the Town of Bethany, to execute the Amended Legal Services Agreement.

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

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

Councilman Fluker – Yes
Councilman Street – Yes

EXHIBIT A

RUS Bulletin 1780-7

UNITED STATES DEPARTMENT OF AGRICULTURE
Rural Utilities Service

LEGAL SERVICES AGREEMENT

This agreement made this _____ day of _____, _____ between The Town Board of the Town of Bethany hereinafter referred to as "Owners," and David M. DiMatteo Esq., attorney at law, of The Town of Bethany, hereinafter referred to as "Attorney":

WHEREAS, Owners have formed a Public Service District, a Municipal Corporation in Genesee County New York under the provisions of SECTION 198 under which applicant will be organized; and

WHEREAS, the Attorney agrees to perform all legal services necessary to organize and incorporate said Public Service District under the provisions of said statutes and to perform all other customary legal services necessary to the organization, financing, construction, and initial operation of a Water District System.

WITNESSETH:

That for and in consideration of the mutual covenants and promises between the parties hereto, it is hereby agreed:

SECTION A - LEGAL SERVICES

That the Attorney will perform such services as are necessary to accomplish the above recited objectives including, but not limited to, the following:

1. Preparation and filing of petition for incorporation and supervision and assistance in the taking of such other actions as may be necessary or incidental to cause the Owners to become duly organized and incorporated and to be authorized to undertake the proposed system.
2. Furnish advice and assistance to the governing body of the duly incorporated association in connection with (a) the notice for and conduct of meetings; (b) the preparation of minutes of meetings; (c) the preparation and enactment of such resolutions as may be necessary in connection with the authorization, financing, construction, and initial operation of the system; (d) the preparation of such affidavits, publication notices, ballots, reports, certifications, and other instruments and advice as may be needed in the conduct of such bond elections as may be necessary; (e) the preparation and completion of such bonds or other obligations as may

be necessary to finance the system; (f) the completion and execution of documents for obtaining a loan made or insured or a grant made by the United States of America, acting through the Rural Utilities Service, U. S. Department of Agriculture; (g) entering into construction contracts; (h) preparation and adoption of By-Laws, Rules and Regulations, and rate schedules; (i) such other corporate action as may be necessary in connection with the financing, construction, and initial operation of the system.

- 3. Review of construction contracts, bid-letting procedure, and surety and contractual bonds in connection therewith.
- 4. Preparation, negotiation, or review of contract with a city or other source of water supply when necessary.
- 5. Preparation, where necessary, and review of deeds, easements and other rights-of-way documents, and other instruments for sites for source of water supply, pumping stations, treatment plants, and other facilities necessary to the system and to provide continuous rights-of-way therefor; rendering title opinions with reference thereto; and providing for the recordation thereof.
- 6. Obtain necessary permits and certificates from county and municipal bodies, from State regulatory agencies, and from other public or private sources with respect to the approval of the system, the construction and operation thereof, pipeline crossings, and the like.
- 7. Cooperate with the engineer employed by Owners in connection with preparation of tract sheets, easements, and other necessary title documents, construction contracts, water supply contracts, health permits, crossing permits, and other instruments.
- 8. When applicable, secure assistance of and cooperate with recognized bond counsel in the preparation of the documents necessary for the financing aspects of the system. The attorney shall pay all bond counsel in perfecting the financing aspects, e.g., assessment procedures and completion of documents. Where bond counsel is retained, the Attorney will not be responsible for the preparation and approval of those documents pertaining to the issuance of the Owner's obligations.

SECTION B - COMPENSATION

- 1. Owners will pay to the Attorney for professional services rendered in accordance herewith, fees as follows:

RETAINER LETTER - \$175.00 PER HOUR OUTSIDE GENERAL RETAINER.

FULL AMOUNT NOT TO EXCEED \$ 15,500.00

Said fees to be payable in the following manner and at the following times:

HOURLY TO BE BILLED EVERY 30 DAYS.

SECTION C - OTHER PROVISIONS

NOT APPLICABLE.

Attorney:

David M. DiMatteo, Attorney for the Town of Bethany

Owners:

Carl Hyde, Jr., Town of Bethany Supervisor

Rural Development:

RESOLUTION #26-2019 WATER DISTRICT NO. 2 PROJECT BUDGET MODIFICATIONS

WHEREAS, the Town of Bethany has received funding from Rural Development for their Water District No. 2 Project (“Project”); and

WHEREAS, the Town Board wishes to adjust project budget items to more accurately reflect final costs and;

WHEREAS, Rural Development requires the Town Board to authorize all changes to the Administrative Budget as shown on the Form E; now

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

RESOLVED, that the Town Board of the Town of Bethany authorizes the following Budget modifications for the project:

Legal	Increase of \$ 5,225.75
Bond Counsel	Decrease of \$ 3,500.00
Net Interest	Increase of \$ 4,323.47
Fiscal Coordination	Decrease of \$19,471.40
Miscellaneous	Decrease of \$ 4,968.37

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

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

Stanton Special Use Permit – Review – Update

RESOLUTION #27-2019 SCHEDULING OF PUBLIC HEARING FOR REVIEW OF SPECIAL USE PERMIT – STANTON – SUP1401

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 did grant Frank and Jamie Stanton a Special Use Permit on December 8, 2014, for the property located at 9832 Bethany Center Road, tax map parcel #2.-1-82.112 for the operation of outdoor mud bogging events which is attached hereto as **EXHIBIT A**; and

WHEREAS, the Town Board of Bethany did approve the Special Use Permit with Conditions, Requirements and Modifications listed on said Special Use Permit; and

WHEREAS, the Town Board would like to hold a Public Hearing in order to review said Special Use Permit and consider whether the Special Use Conditions, Requirements and Modifications are being met.

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

RESOLVED, that the Town Board of the Town of Bethany will hold a public hearing on the 24th day of June, 2019, commencing at 6:30 p.m., at which time the Town Board will review said Special Use Permit and consider if all Conditions, Requirements and Modifications of the Special Use Permit granted to Frank and Jamie Stanton are being met.

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

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

Councilman Fluker – Yes
Councilman Street – Yes

EXHIBIT A



Town of Bethany
10510 Bethany Center Rd.
E. Bethany NY 14054
Telephone: 585-343-1399
Fax: 585-343-3805

SPECIAL USE PERMIT

Permit Number: SUP-14-01

Applicant Information:

Frank L. and Jamie L. Stanton
9832 Bethany Ctr. Rd.
East Bethany NY 14054

Land Owner Information:

Frank L. and Jamie L. Stanton
9832 Bethany Center Rd.
East Bethany NY 14054

Location Information:

Parcel ID: S.B.L. # 2-1-82.112
9832 Bethany Center Rd.
East Bethany NY 14054

Zoning District: Agricultural-Residential (A-R)

Zoning Law: III, 306, B, 3. Outdoor recreation facility

Nature of Special Use Permit: Operate "outdoor mudding events"

Application Date: 8/15/2014

Issue Date: 12/8/2014

Valid Date: Upon site inspection and approval by ZEO/CEO Douglas. Thirty (30) days prior to initial scheduled event, notice shall be given to ZEO/CEO to facilitate said inspection.

Expiration: Valid until abandonment or revocation as per Town of Bethany Zoning Law

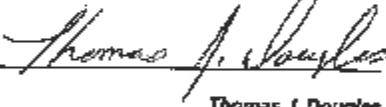
Conditions, Requirements and Modifications

- Maximum of five (5) events to be scheduled
- Events shall be scheduled between April and September
- ZEO shall be notified fifteen (15) days prior to each event to allow compliance inspection
- Actual mudding in the bogs and/or pulling shall be held between 12:00 p.m. and 8:30 p.m. (not include loading and unloading of vehicles)
- One (1) two (2)-day camping event may be held per year.
- A New York State operating Permit for Outdoor Events shall be maintained (copy to be filed with Bethany Town Clerk)

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- Special Use Permit shall be reviewed annually. Any further modification may be considered at that time
- An Insurance umbrella of a minimum of one million dollars (\$1,000,000) shall be maintained (Proof of Insurance to be filed with Bethany Town Clerk)
- Children's activities shall be planned
- A designated safety person shall be on duty for each event
- A noise barrier shall be actively pursued (i.e. berm, planting of trees, etc.)
- A barrier shall be established between the spectator area and the mud bogs. Existing ditch maybe modified to provide such barrier
- On event days signs shall be placed roadside warning of the possibility of vehicles entering the highway. Signs shall be placed several hundred feet from location of the event on each side of said property.
- Entrances shall be as per final site plan
- Emergency access roads shall be created and maintained as per final site plan. Said emergency access roads shall be kept free of all obstructions during any event.
- There shall be no amplified or broadcast music.
- Parking shall be on-site in areas as shown in final site plan. There shall be no roadside parking.
- Two (2) Porta-johns shall be provided for any event.

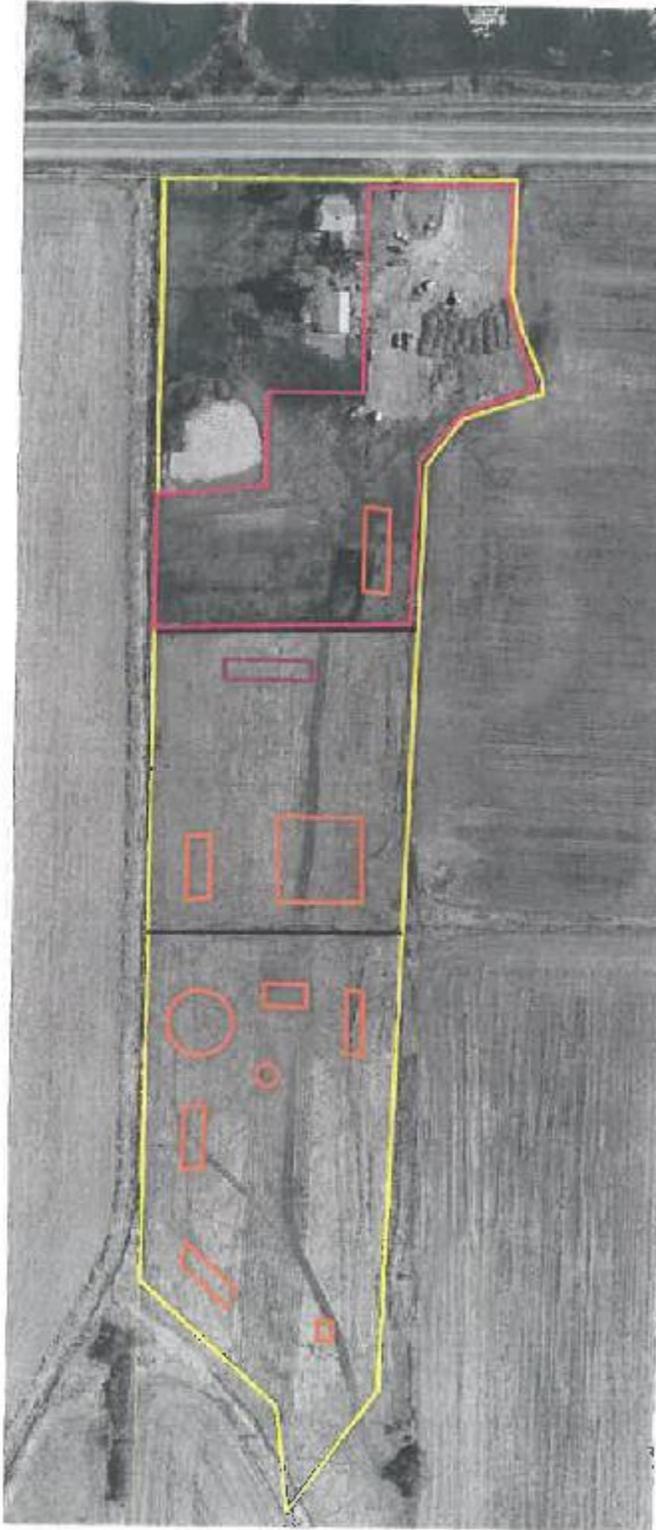
This permit is issued in accordance with the Town of Bethany Zoning Law as adopted June 18th, 1985 and amended thereafter. Applicant agrees to conform to all applicable Federal, State and Municipal Laws, Regulations and Ordinances. Applicant further agrees to permit access at any reasonable hour to the Zoning and/or Code Enforcement Officer or his designee for the purpose of determining that the actions undertaken conform to said Laws, Regulations, and Ordinances.

BY: 
 Thomas J. Douglas
 Zoning and Code Enforcement Officer
 Town of Bethany

FRANK + JAMIE STANTON SUP - 1401
9832 B.C. RD. SBC # 2 - 1 - 82.112

[Handwritten signature]
7/23/2019

REFERENCE ONLY

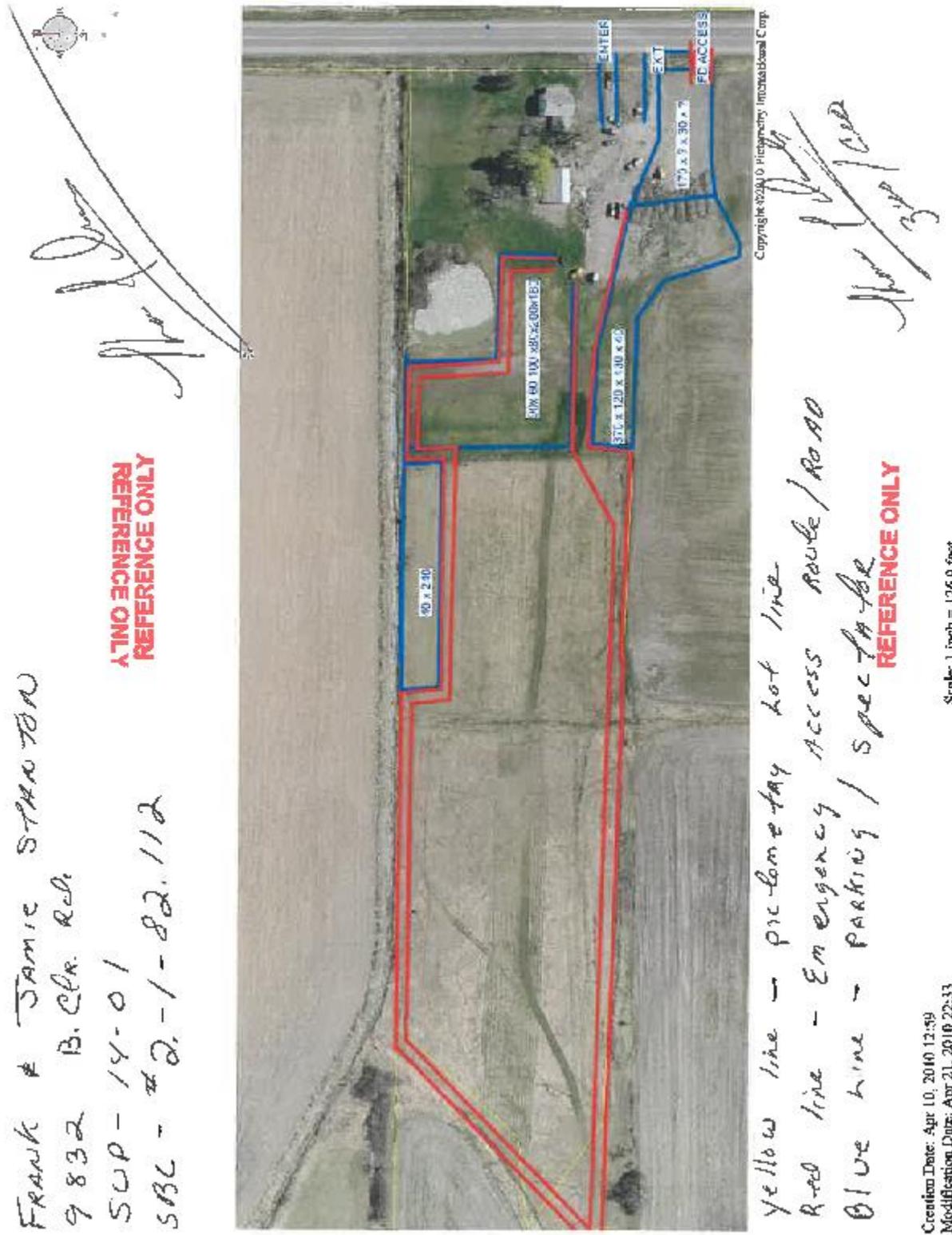


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Black line - Reference line
Yellow line - Property line
Pink line - Parking Area Perimeter
Orange line - Boys/girls
Purple line - Cement pulling pad.

Creation Date: Apr 10, 2010 12:59
Modification Date: Apr 21, 2010 22:03

Scale: 1 inch = 137.3 feet



NEW BUSINESS

RESOLUTION #28-2019 MODIFY 2019 BUDGET -A/DA

WHEREAS, the Town of Bethany decided to transfer money to the DA Fund for some additional paving and decided to take money out of Unassigned Fund Balance; now on

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

RESOLVED, the Supervisor is hereby authorized to modify the 2019 Budget in the following manner:

A Fund

A-599 Appropriated Fund Balance	\$40,000.00
A-960 Appropriations	
Sub Account A9901.9 Transfers to Other Funds	\$40,000.00

DA Fund

DA-510 Estimated Revenues	
Sub Account DA5031 Interfund Transfers	\$40,000.00
DA-960 Appropriations	
Sub Account DA5110.4 General Repairs, Contractual	\$40,000.00

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

Supervisor Hyde – Yes	Councilman Fluker – Yes
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	\$ 3,890.81	\$ 21,930.69
Highway Fund	\$ 0.00	\$ 23,844.11
Trust & Agency	\$ 0.00	\$ 35,956.21
Highway Capital Funds Project	\$ 0.00	\$ 0.00
Fire Protection Fund	\$ 0.00	\$ 0.00
Water Fund	\$ 0.00	\$ 0.00
Justice Fund	\$ 0.00	\$ 0.00

Adjournment

A **MOTION** was made by Councilman Fluker, duly seconded by Councilman Street to adjourn the meeting at 8:31 p.m. The motion **PASSED** with All In Favor.

BY ORDER OF THE
BETHANY TOWN BOARD
DATED: June 12, 2019

Respectfully Submitted,

Debbie L. Douglas, RMC
Bethany Town Clerk