

**TOWN OF BETHANY****REGULAR TOWN BOARD MEETING****12 August 2019**

Supervisor Hyde opened the August 12, 2019 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
William Shea, Town Justice	Thomas Douglas, CEO/ZEO
Barbara Czworka, Highway Superintendent	

Attendees to the Meeting were:

Don Frank	Barb Pietrzykowski
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**FINANCES**

Supervisor Hyde presented the finances for July 2019.

General Savings	\$1,001,142.98	
Highway Savings	\$ 614,262.60	
AP/PR Account	\$ 62,490.47	
Trust & Agency Account	\$ 2,347.72	
Highway Checking	\$ 2,717.07	
Supervisor	\$ 128,005.65	
Water District #2	\$ 61,390.53	
Petty Cash	\$ 200.00	
Total		\$ 1,872,557.02

Revenues Received		
Debbie Douglas, Town Clerk	\$ 2,029.98	
Debbie Douglas, Tax Collector	\$ 2.27	
CINTAs	\$ 178.32	
County of Genesee – NP Sales Tax	\$ 151,123.38	
US Post Office	\$ 100.00	
William Shea, Town Justice	\$ 843.00	
Thomas McBride, Town Justice	\$ 2,239.00	
Total Revenue	\$ 156,515.95	
Total Interest	\$ 163.93	
Total Revenue		\$ 156,679.88

**Town Clerk Report – Debbie Douglas**

- Presented the Minutes of the July 8, 2019 Regular Town Board meeting.

On **MOTION** made by Councilman Fluker, duly seconded by Councilman Street, to approve the Minutes of the July 8, 2019 Regular Town Board meeting as presented. Motion passed with All In Favor.

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

**CEO/ZEO Report – Thomas Douglas**

- Reviewed reports provided to the Town Board concerning the violations that had been issued.
  - o Notices to remedy have been sent.
  - o Has seen a lot of compliance. Many of the worst violations are being taken care of.
  - o Another road review will be performed prior to the September meeting. At that point the Town Board will need to make some decisions pertaining to court, etc.
- The Stanton property has been cleaned up some. There will need to be a decision concerning the reissuance/revocation of their Special Use Permit.
  - o A special Town Board meeting was scheduled for Monday, August 26, 2019 at 6:30 p.m. Frank and Jamie Stanton will be notified of the meeting.
- Handed out fliers for the City of Batavia EMT Class that will begin on September 19, 2019 and will end in mid-February.

**Highway Superintendent Report – Barbara Czworka**

- The purchase of a warranty for the John Deere tractor was reviewed by Councilman Fluker, Councilman Embt and Highway Superintendent Czworka. The consensus was that the warranty would not cover anything that has already gone wrong with the tractor so it wouldn't make sense to purchase it.
- Truck 1202 Peterbilt was back in the shop for repair to the transmission, leveler, air conditioner, gas leak and air leak in the brake line. The total bill was \$10,890.11.
- Mill Road was re-profiled on July 17 & 18.
  - o #2 stone was laid on top of the road. The Teres rototiller was used to grind together the stone, the old road base, oil and calcium. The grader was used to smooth the rough edges and then the road was rolled. One rough spot had to be touched up later. A wet spot also developed so the spot was excavated and a drain pipe was placed. Chip sealing will be done this week to complete the project.
- The memorial stones have been moved from the Old Town Hall and the Community Center in preparation for installation of the new sidewalk at the Community Center. The stones will all be re-installed at the Community Center after the sidewalk is complete.
- Weeds were trimmed around the Community Center. Wood chips will be placed under the pine trees to help with weed control.
- 1201 and 1204 have had their annual coat of Ziebart.
- 1201 has a transmission leak. This truck just had a new transmission installed. The county highway department will truck it back to Fleet Maintenance when they have time.
- Mayne Road has been graded.
- Shared services for the month included:
  - o Help from Bergen (roller and man), Middlebury and Pavilion.
  - o We helped Middlebury, Batavia and Pavilion.
- The driveway culvert at 10269 West Bethany Road was replaced and a cracked pipe at 10750 Silver Road was repaired. A driveway culvert was replaced on Jerico Road and the ditch was cleaned.
- Salt is being delivered ahead of the September price increase.
- Empire Tractor repaired the 3-point hitch arms, air conditioning and the back and mower PTO on 6300 tractor.
- The DA5130.4 account may be depleted before the end of the year due to catching up with repairs.
  - o 1202 Peterbilt                   \$10,890.11
  - o 6300 Mower                   \$ unknown – bill not received yet
  - o Sander (built)               \$ 4,000.00

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

- June and July monthly reports for Justice McBride were presented to the Board.

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

- The Planning Board met to continue their work on zoning revisions. Industrial and commercial zones were discussed along with solar.
- Supervisor Hyde noted that solar and maintaining good farm land is an issue.

**Councilwoman Fowler**

- The Water Resource Agency met. Everything is going along fine.
- Genesee County will be able to get water from Erie County.
- The funding for Water District 5 is still earmarked.

**OLD BUSINESS****WATER DISTRICTS UPDATE****Water District #4**

- Prior to bid paperwork is being assembled.
- One easement still needs to be signed.

**RESOLUTION #31-2019 A RESOLUTION AUTHORIZING THE SUPERVISOR OF THE TOWN OF BETHANY TO ENTER INTO AN AGREEMENT WITH THE TOWN OF BATAVIA ACTING FOR AND ON BEHALF OF THE TOWN OF BETHANY WATER DISTRICT NO. 4**

**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 is in the process of forming a water district which shall be entitled "Water District No. 4"; and

**WHEREAS**, Water District No. 4 the project will generally consist of installing approximately 13,600 linear feet of 8" or 12" diameter PVC water main, and 2" water main or 8" water main along portions of Creek Road and Putnam Road and will serve approximately 30 units; and

**WHEREAS**, the said Water District is in close proximity to the Town of Batavia and is presently inhabited by numerous families; and

**WHEREAS**, it will be necessary to provide water for said Water District, and

**WHEREAS**, Town of Batavia has an excessive water supply and is willing and desirous of allowing Town of Bethany to extend this facility for the benefit and use of said Water District, upon the terms hereinafter stated; and

**WHEREAS**, the Town of Bethany has been presented with an Inter- Municipal Agreement between the Town of Bethany and the Town of Batavia and all members of the Town Board of the Town of Bethany have had an opportunity to review this Agreement; and

**WHEREAS**, the Town Board of the Town of Bethany believes it is in the best interest of the Town of Bethany to authorize the Town Supervisor's signature on said agreement on this day.

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

**BE IT RESOLVED**, that the Town Board of the Town of Bethany hereby authorizes and directs the Town Supervisor to execute said Inter-Municipal Agreement for Water District No. 4 of the Town of Bethany.

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

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

Councilman Fluker - Yes  
Councilman Street – Yes

**Transfer Station – Update**

- Supervisor Hyde reported that the Transfer Station is at -\$1,882.06 so far this year.

**NEW BUSINESS**

**RESOLUTION #32-2019 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 2019 Annual Assessment Administration Conference to be held in Lake Placid, NY from September 22 - 25, 2019 in order to fulfill this requirement, and

**WHEREAS** the cost of attending the conference will be divided between the two 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 Supervisor Hyde, seconded by Councilman Street, be it

**RESOLVED** that the Town Board approves the travel request of the Assessor to the 2019 Annual Assessment Administration Conference in Lake Placid, NY from September 22 - 25, 2019 with the cost to be divided equally between the towns of Darien and Bethany.

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

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

Councilman Fluker - Yes  
Councilman Street – Yes

**Investment & Deposit Policy Procedures**

- Supervisor Hyde read the proposed policy.
- He then explained that the Town has \$1,000,000 above what is required for day to day operations. This money is currently making .004% interest. He would like to invest it in CDs. He has researched interest rates and found them to be significantly higher. The best rate he found was 2.2% on a 90-day CD. The funds would be a 70/30 split between General Fund and Highway Fund. The CD’s would be callable without penalty should the funds be needed for any reason.

**RESOLUTION #33-2019 RESOLUTION OF THE TOWN BOARD REGARDING INVESTMENT AND DEPOSIT POLICY**

**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 is considering an Investment and Deposit Policy, attached hereto as **Exhibit A**; and

**WHEREAS**, the Town Board feels it is in the best interest of the Town of Bethany to approve and adopt the Investment and Deposit Policy.

**NOW, THEREFORE, ON MOTION** made by Councilman Fluker and duly seconded by Councilman Street, therefore, be it

**RESOLVED**, that the Town Board of the Town of Bethany hereby approves and adopts the Investment and Deposit Policy attached hereto as **Exhibit A**.

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

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

**EXHIBIT A**

**TOWN OF BETHANY**  
**INVESTMENT AND DEPOSIT POLICY PROCEDURES**

(Adopted August 12, 2019)

**SCOPE**

This investment policy applies to all moneys and other financial resources available for investment by the Town of Bethany (the “Town”) on its own behalf or on the behalf of any other entity or individual.

**OBJECTIVES**

The objectives of this investment and deposit policy and procedures are, in priority order:

Investments will conform to all applicable federal, state and other legal requirements

Investments and bank deposits (*hereafter collectively referred to as investment*) shall be made in a manner so as to safeguard the funds of the municipality.

Investments shall be sufficiently liquid so as to allow funds to be available as needed to meet the obligations of the municipality.

Funds shall be invested in such a way as to earn the maximum yield possible given the first two investment objectives.

**DELEGATION OF AUTHORITY**

The responsibility for administration of the Town’s investment program is delegated to the Town’s Chief Fiscal Officer, the Town Supervisor, who shall establish written procedures for the operation of the investment program consistent with these investment guidelines. Such procedures shall include an adequate internal control structure to provide a satisfactory level of accountability based on a database or reports incorporating description and amounts of investments, transaction dates and other relevant information presented to the Town Board on a regularly scheduled basis and provide for the regulation of the activities of subordinate employees.

**PRUDENCE**

All participants in the investment process shall seek to act responsibly as custodians of the public trust and shall avoid any transaction that might impair public confidence in the Town Board to govern effectively.

Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion, and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the safety of the principal as well as the probable income to be derived.

All participants involved in the investment process shall refrain from personal business activity that could conflict with proper execution of their investment program, or which could impair their ability to make impartial investment decisions.

### **DIVERSIFICATION**

It is the policy of the Town Board to diversify, to the best of its ability, deposits and investments by financial institution, by investment instrument, and by maturity scheduling.

### **INTERNAL CONTROLS**

It is the policy of the Town Board for all moneys collected by any officer or employee of the Town to transfer those funds to the Town Supervisor within two (2) days of deposit, or within the time period specified in law, whichever is shorter.

The Town Supervisor is responsible for establishing and maintaining an internal control structure to provide reasonable, but not absolute, assurance that deposits and investments are safeguarded against loss from unauthorized use or disposition, that transactions are executed in accordance with management's authorization and recorded properly and managed in compliance with applicable laws and regulations.

### **AUTHORIZATION**

The authority to deposit and invest funds delegated to the Chief Fiscal Officer of the municipality shall be performed in accordance with the applicable sections of the General Municipal Law of the State of New York. Authorized investments will include:

1. **Obligations of the State of New York.**
2. **Obligations of the U.S. Government** or any obligation for which principal and interest are fully guaranteed by the U.S. Government.
3. **Time deposit accounts** placed in a commercial bank authorized to do business in the State of New York <sup>1</sup>, providing the account is collateralized as described within this policy.
4. **Transaction accounts** (*demand deposits*) both interest bearing and non-interest bearing that do not require notice of withdrawal placed in a commercial bank authorized to do business in the State of New York <sup>1</sup>, providing the account is collateralized as described within this policy.
5. **Certificates of deposit** placed in a commercial bank authorized to do business in the State of New York, providing the certificates are collateralized as described within this policy.
6. **Securities purchased pursuant to a repurchase agreement** whereby one party purchases securities from a second party and the second party agrees to repurchase those same securities on a specific future date at an agreed upon rate of return (*interest rate*).

7. **Obligations issued pursuant to the LFL 24.00 or 25.00** (purchase of revenue or tax anticipation notes with the approval of the State Comptroller) by any municipality, school district or district corporation other than the Town of Bethany.
8. **Obligations of public authorities, public housing authorities, urban renewal agencies and industrial development agencies** where the general State Statutes governing such entities or whose specific enabling legislation authorizes such investments.
9. **Obligations of the Town of Bethany, but only with any moneys in a reserve fund established pursuant to GLM, 6-c, 6-d, 6-e, 6-g, 6-j, 6-k, 6-l, 6-m or 6-n.**

(1) New York State Banking Law, Section 1237(2) prohibits a savings bank from accepting a from a local government. This also applies to savings and loan associations.

### **DEPOSITS**

The municipality, upon the recommendation of the Chief Fiscal Officer, shall annually designate authorized depositories for funds of the municipality. These depositories shall only be commercial banks authorized to conduct business in the State of New York. Each authorized depository shall execute a security agreement, which will provide that collateral is being pledged by the bank as security for the municipality's deposits. Each authorized custodial bank or trust company shall execute a custodial agreement. This agreement must acknowledge that the pledged collateral is being held by the custodian bank or trust company as agent of and custodian for the municipality. The depository and custodian may be the same bank or trust company.

### **TERMS AND CONDITIONS OF INVESTMENTS**

#### **CERTIFICATES OF DEPOSIT:**

Investment in certificates of deposit shall be collateralized as described in the executed security/custodial agreement. The municipality shall take possession of the certificate and maintain it in safekeeping area.

**MINIMUM TERM – 7 DAYS**

**MAXIMUM TERM – 360 DAYS**

#### **REPURCHASE AGREEMENTS:**

**MINIMUM TERM – OVERNIGHT**

**MAXIMUM TERM – 15 DAYS**

**UNDERLYING SECURITIES – MATURITY CANNOT EXCEED ONE YEAR**

**UNDERLYING SECURITIES – MUST BE DIRECT U.S. OBLIGATION**

### **OPERATING PROCEDURES**

The Chief Fiscal Officer is responsible for the investment of the municipality's funds. Authorized finance department staff will make investments based upon projections or cash flow needs, so that investments shall mature at such time when funds are estimated to be needed for the orderly payment of the municipality's obligations.

Investments should be based upon competitive bids solicited by telephone by the finance department staff authorized by the Chief Fiscal Officer and shall be awarded to the highest bidder who is able to pledge according to this policy.

Funds will only be transferred between institutions in the name of the municipality by using the Federal Reserve Wire Transfer (Fed Wire) system, or by check and only by staff as authorized in writing by the Chief Fiscal Officer or his/her designee.

Funds may be transferred within the same institution only between accounts and by authorized staff.

A listing of authorized staff will be approved by the Town Board and maintained by the Supervisor. Said list will be forwarded to the authorized depositories.

If changes in staff or staff responsibilities occur, updated authorization letters will be forwarded to the depositories.

All investments shall be in the name of the municipality. The Town Supervisor will maintain an investment log detailing the specific information relative to each investment. All investment transactions will be promptly reported to the comptroller for entry into the accounting system.

Comparisons of the existing investments to those recorded in the accounting system will be performed routinely.

Monthly, a report of all existing investments will be prepared the Chief Fiscal Officer who will compare existing investments to those recorded in the accounting system.

### **INTERNAL CONTROLS**

The individual(s) responsible for the day-to-day activity of the cash investments must annually take at least one vacation of five (5) consecutive business days, and the day-to-day investment activities will be carried out by another member listed on the authorized staff list.

### **COLLATERAL**

All investments of the municipality, except repurchase agreements and direct purchases of obligations of the federal government, shall be secured (collateralized) by the pledging of eligible securities. All such investments shall first be secured by the Federal Deposit Insurance Corporation (FDIC) insurance coverage to the extent available. Collateral required in excess of FDIC Insurance coverage shall be pledged in accordance with Chapter 708 of the General Municipal Law and the executed security/custodial agreement.

### **FEDERAL DEPOSIT INSURANCE CORPORATION (FDIC) COVERAGE IS AS FOLLOWS:**

**\$250,000 TRANSACTION ACCOUNTS**  
**\$250,000 TIME DEPOSITS**

In accordance with the provisions of general municipal law, 10, all deposits of the Town of Bethany, including certificates of deposit and special time deposits, in excess of the amount insured under the provisions of the Federal Deposit Insurance Act shall be secured:

1. By a pledge of "eligible securities" with an aggregate "market value", or provided by general Municipal Law, 10, equal to 102% of the aggregate amount of deposits.

2. By an eligible “irrevocable letter of credit” issued by a qualified bank other than the bank with the deposits in favor of the Town of Bethany for a term not to exceed 90 days with an aggregate value equal to 140% of the aggregate amount of the deposits and the agreed upon interest, if any. A qualified bank is one whose commercial paper and other unsecured short-term debt obligations are rated in one of the three highest rating categories by at least one nationally recognized statistical rating organization or by a bank that is in compliance with applicable federal minimum risk based capital requirement.
3. By an eligible surety bond payable to the government, for an amount at least equal to 100% of the aggregate by an insurance authorized to do business in New York State, whose claims paying ability is rated in the highest rating category by at least two nationally recognized statistically rating organization.
4. By an “irrevocable letter of credit” issued in favor of the Town of Bethany by the federal home loan bank whose commercial paper and other unsecured short-term debt obligations are rated in the highest rating category by at least one nationally recognized statistical rating organization. Such letter of credit shall be payable to the Town of Bethany as security for payment of 100% of the aggregate amount of public deposits with the participating institution as provided by General Municipal Law section 10(3)(c)(ii).
5. Through the use of “reciprocal deposit” programs in accordance with General Municipal Law (GML) Section 10 and 11 as amended by Chapter 128 of the Laws of 2012. Said deposit placement program, which divides a local government’s deposits into multiple deposits, all under the FDIC \$250,000 limit, and then deposits in that account are made into other FDIC-insured banking institutions, thereby increasing the available FDIC coverage. At the same time, each of the banking institutions into which a piece of the original deposit was made makes a “reciprocal deposit” back into the bank or trust company that holds the local government’s original deposit. Such agreements must include the following provisions:
  - The local government’s depository bank or trust company must serve as custodian for the local government for the redeposited funds.
  - The local government funds held in the depository bank or trust company in excess of FDIC coverage, pending redeposit, must be properly secured in accordance with the GML.
  - The full amount of the redeposited funds, plus any accrued interest, must be covered by the FDIC.
  - At the same time of the redeposit, the local government’s depository bank or trust company must receive an amount at least equal to the amount of the local government’s funds deposited.

#### **SAFEKEEPING AND COLLATERIZATION**

Eligible securities used for collateralizing deposits shall be held by (the depository and/or a third party) bank or trust company subject to security and custodial agreements.

The security agreement shall provide that eligible securities are being pledged to secure local government deposits together with agreed upon interest, if any, and any costs or expenses arising out of the collection of such deposits upon default. It shall also provide the conditions under which the securities may be sold, presented for payment, substituted or released and the events, which will enable the local government to exercise its rights against the pledged securities. In the event that the securities are not registered or inscribed in the name of the local government, such securities shall be delivered in a form suitable for transfer or with an assignment in blank to the Town of Bethany or its custodial bank.

The custodial agreement shall provide that securities held by the bank or trust company, or agent of and custodian for, the local government, will be kept separate and apart from the general assts of the custodial bank or trust company, and will not, in any

circumstances, be commingled with or become part of the backing for any other deposit or other liabilities. The agreement should also describe that the custodian shall confirm the receipt, substitution or release of the securities. The agreement shall provide for the frequency of revaluation of eligible securities and for the substitution of securities when a change in the rating of a security may cause ineligibility. Such agreement shall include all provisions necessary to provide the local government a perfected interest in the securities.

**PURCHASED OBLIGATIONS**

When obligations of the U.S.A., or obligations guaranteed by the U.S.A. are purchased directly by the municipality, the municipality as owner shall be inscribed on the securities and they shall be delivered to the municipality, or its designated depository, for safekeeping. If in book entry form, such securities shall be registered in the name of the municipality.

**AUDIT AND CONTROL**

The Chief Fiscal Officer’s internal review and/or the Town’s independent certified public accountants shall, in conjunction with the municipality’s audit, annually review the investment policies and procedures used by the department of finance to be certain they are in conformance with all applicable laws and regulations.

The investments and deposits of the municipality will be made in accordance with the specifics as outlined in the above-noted resolutions.

Any participation in a cooperative investment program with another authorized governmental entity pursuant to Article 5G of the General Municipal Law will be reviewed by the Town’s Chief Fiscal Officer and/or the Town’s independent certified public accountants shall verify such program meets all the requirements set forth in the Office of the State Comptroller Opinion No. 88-46, and the specific program has been authorized by the governing board.

**Warrant**

- The Board approved payment of the bills as follows:

	<u>Prepaid</u>	<u>Total</u>
General Fund	\$ 15,270.07	\$ 21,134.51
Highway Fund	\$ 0.00	\$110,800.33
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	\$ 562.50
Justice Fund	\$ 0.00	\$ 0.00

**Adjournment**

A **MOTION** was made by Councilman Fluker, duly seconded by Councilwoman Fowler to adjourn the meeting at 8:03 p.m. The motion **PASSED** with All In Favor.

BY ORDER OF THE  
 BETHANY TOWN BOARD  
 DATED: August 15, 2019

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