

TOWN OF BETHANY

REGULAR TOWN BOARD MEETING

09 MARCH 2020

Supervisor Hyde opened the March 9, 2020 Town Board Meeting at 7:01 p.m. with the Pledge of Allegiance followed by a prayer lead by Councilman Embt.

Town Officials in Attendance were:

Carl Hyde, Jr., Supervisor	Jeffrey Fluker, Councilman (7:08 pm)
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:

Bill Elsasser	Don Frank
Chris Krtanik	Ray Ladd

FINANCES

Supervisor Hyde presented the finances for February 2020.

General Fund	\$1,432,723.93	
Highway Fund	\$ 322,141.60	
AP/PR Account	\$ 75,029.35	
Trust & Agency Account	\$ 3,277.16	
Highway Checking	\$ 1,286.34	
Supervisor	\$ 126,626.91	
Water District #2	\$ 51,779.06	
Petty Cash	\$ 200.00	
Total		\$ 2,013,064.35

Revenues Received		
Debbie Douglas, Town Clerk	\$ 1,255.10	
Debbie Douglas, Tax Collector	\$ 355.08	
US Post Office	\$ 100.00	
William Shea, Justice	\$ 1,297.00	
Thomas McBride, Justice	\$ 986.00	
Total Revenue	\$ 3,993.13	
Total Interest	\$ 182.97	
Total Revenue		\$ 4,176.15

Guest Speaker – Guest Speaker, Kathy Saville of NYCLASS

- NYCLASS is an investment program for municipalities.
- Currently the rate is 1.38% on liquid funds. Liquid funds can be accessed within 24 hours if needed. There is no limit on transactions or sub accounts.
- It is a collective investment including all members of the fund.
- The Board is made up of participants in the program.
- Many entities in Genesee county have adopted the program.

PUBLIC HEARING – 2020-2021 FIRE PROTECTION CONTRACT

- Supervisor Hyde opened the public hearing at 7:21 p.m.
- No one spoke concerning the Fire Protection Contract.
- Supervisor Hyde noted that the Fire Company is in the process of changing its budget cycle to coincide with the Town's budget. They will proceed through the remainder of the year using the 2019-2020 budget. They will adopt a new budget to go into effect on January 1, 2021.
- Supervisor Hyde closed the public hearing at 7:29 p.m.

Town Clerk Report – Debbie Douglas

- Presented the Minutes of the February 10, 2020 Regular Town Board meeting.

A motion was made by February 10, 2020 Regular Town Board meeting as presented. Motion passed with All In Favor.

- Thank you note was received and read from Maple Lawn Cemetery Association.
- The Clerk's Monthly Report and Bank Statements for February 2020 were reviewed by the Town Board.

Highway Superintendent Report – Barbara Czworka

- Performed 20 plow runs.
- The bucket truck has been jointly purchased with the Town of Pavilion. The two towns have been getting it ready for tree trimming.
- Grease lines have been replaced on trucks 1201 and 1204.
- Have been patching potholes.
- Truck 1203 (Mack) is at Marquarts. There was an exhaust backup that was hot enough to melt the air lines. If it was caused by the turbo and only that part needs replacing, the cost is expected to be approximately \$2,000.00.
- Spectrum is replacing poles in the area.
- Will be looking at a new tractor with an arm mower. Working on truck quotes.

Town Justice Report – Justice McBride and Justice Shea

- Justice Shea noted that defendants are coming to court after being issued appearance tickets per the new bail reform law.
- February monthly reports for Justice Shea and Justice Mc Bride were presented to the Board.

Board Committee Reports**Councilman Street**

- The Planning Board met on March 5th and recommended approval for two area variance applications and a land separation.
- There was further discussion concerning solar.

Councilman Embt

- The Zoning Board of Appeals did not meet in February but has two applications for the scheduled March meeting.

Councilman Fluker

- Fire Department has been busy with EMS calls.
- The new fire truck has been ordered.
- There will be a fundraiser breakfast on Sunday, March 29.
- Some new members have joined.
- There will be the annual open house in April.

OLD BUSINESS**Water District #5 – Update**

- The DEC has been working on the environmental survey for approximately two years.

- The federal government has put all water funding and approval letters on hold.
- Must be able to move by September to keep current prices.

RESOLUTION #15-2020 AUTHORIZING SUPERVISOR TO SIGN 2020-2021 CONTRACT FOR FIRE PROTECTION BETWEEN THE TOWN OF BETHANY AND THE BETHANY VOLUNTEER FIRE COMPANY – APPROVAL OF

Contract For Fire Protection

THIS AGREEMENT, made the __ day of ____ 2020 between the Town of Bethany, Genesee County, State of New York, hereinafter called The Town, and the Bethany Volunteer Fire Company, Inc. of the Town of Bethany, Genesee County, and State of New York, hereinafter called The Fire Company.

WHEREAS, there has been duly established in the Town of Bethany, a fire prevention district known as The Bethany Fire Protection District, and such territory is more fully described in the resolution establishing such District, adopted by the Town Board of the Town of Bethany on April 13th, 1943; and

WHEREAS, following a Public Hearing duly called, the Town duly authorized this contract with The Fire Company for fire protection and emergency service to said District upon the terms and conditions hereinafter set forth; and

WHEREAS, this contract has also been duly authorized by The Fire Company; and

NOW THEREFORE, The Town does engage The Fire Company to furnish fire protection and emergency service to The Bethany Fire Protection District and The Fire Company agrees to furnish fire protection and emergency service as follows:

1. The Fire Company shall at all times during the period of this agreement be subject to call for attendance on any fire occurring in the District, and when notified by alarm or by telephone call, or other means, such Fire Company shall respond and attend upon the fire with suitable equipment and diligently proceed in every reasonable way to extinguish the fire and save lives and property in connection therewith.
2. The Fire Company shall furnish to the property and inhabitants of the Fire Protection District emergency service in the case of accidents, calamities or other emergencies in connection with which the services of firemen would be required.
3. The Fire Company shall at all times keep in full force and effect adequate public liability insurance coverage to protect itself and The Town, and furnish The Town an affidavit of such insurance coverage.
4. In consideration of furnishing fire protection and emergency service in accordance with this contract, The Town covenants and agrees, on behalf of The Bethany Fire Protection District, to pay to The Fire Company, the sum of Ninety Eight Thousand Dollars (\$98,000.00) for fire service to be paid upon the collection of taxes by the Town for said purpose on or before April 1st of each year.
5. This agreement shall run for a period of one year commencing on April 1, 2020 and terminating on April 1, 2021.

IN WITNESS WHEREOF, the parties have duly executed and delivered this agreement the day and year above mentioned.

TOWN OF BETHANY, GENESEE COUNTY, NEW YORK

BY: _____
Carl Hyde, Jr, Town Supervisor

BETHANY VOLUNTEER FIRE COMPANY, INC.

BY: _____
Daniel Adams, President

STATE OF NEW YORK)
COUNTY OF GENESEE) SS:

On this ___ day of _____ 20__, before me, the subscriber, personally appeared **Carl Hyde, Jr.**, who hereby certified to me that (s)he is the Town Supervisor for the Town of Bethany and known to me to be the same person described in and who executed the within instrument, and (s)he duly acknowledged to me that (s)he executed the same.

On this ___ day of _____ 20__, before me, the subscriber, personally appeared **Daniel Adams**, to me personally known, and being by me duly sworn did dispose and say that (s)he resides in The Town of Bethany, Genesee County, New York; that (s)he is the President of The Bethany Volunteer Fire Company, Inc., the corporation described in and which executed the above instrument; and that his/her signature is affixed by Order of the Board of Directors of said corporation, The Bethany Volunteer Fire Company, Inc.

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

RESOLVED that the Bethany Town Board hereby authorizes Supervisor Hyde to enter into the Contract for Fire Protection with the Bethany Volunteer Fire Company. The Fire Company will proceed through the remainder of the year in line with their 2019-2020 budget in order to adjust their budget cycle to commence at the beginning of each calendar year. A current list of Officers has been received and approved by the Town Board. A current certificate of insurance is on file with the Town Clerk.

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

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

RESOLUTION #16-2020 AUTHORIZING SUPERVISOR TO EXECUTE SHARED EQUIPMENT AGREEMENT BETWEEN THE TOWN OF BETHANY AND THE TOWN OF PAVILION FOR A JOINTLY OWNED 1995 FORD BUCKET TRUCK

WHEREAS, the Town Board approved the joint purchase of a 1995 Ford Bucket Truck with the Town of Pavilion, and

WHEREAS, the Town Board has been presented with a Shared Equipment Agreement between the Town of Bethany and the Town of Pavilion, now on

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

RESOLVED that Supervisor Hyde is hereby authorized to execute the Shared Equipment Agreement between the Town of Bethany and the Town of Pavilion.

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

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

RESOLUTION #17-2020 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, 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 a revised Inter- Municipal Agreement between the Town of Bethany and the Town of Batavia with alterations made at the discretion of Genesee County; and

WHEREAS, all members of the Town Board of the Town of Bethany have had an opportunity to review this Agreement and acknowledge the revisions from the agreement previously authorized by resolution in 2019; 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 Street, 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 Fluker – Yes |
| Councilman Embt – Yes | Councilman Street – Yes |
| Councilwoman Fowler – Yes | |

NEW BUSINESS

Resolution #18-2020 AUTHORIZING SUPERVISOR HYDE TO EXECUTE SETTLEMENT AGREEMENT AND COLLECTIVE BARGAINING AGREEMENT BETWEEN THE TOWN OF BETHANY AND THE INTERNATIONAL BROTHERHOOD OF TEAMSTERS LOCAL 264

WHEREAS, the International Brotherhood of Teamsters Local 264 (“Teamsters”) filed an improper practice charge with the New York State Public Employment Relations Board against the Town of Bethany (“Town”), and

WHEREAS, the Board has been presented with a Settlement Agreement resolving the improper practice charge and settling the outstanding Collective Bargaining Agreement between the Teamsters and the Town, and

WHEREAS, all members of the Town Board have had an opportunity to review the Settlement Agreement and Collective Bargaining Agreement, and

WHEREAS, the Board believes it is in the best interest of the Town of Bethany to authorize the Town Supervisor’s signature on said Settlement Agreement and Collective Bargaining Agreement on this day. Now on

MOTION of Councilman Fluker, 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 Settlement Agreement and Collective Bargaining

Agreement between the Town of Bethany and the International Brotherhood of Teamsters Local 264.

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

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

RESOLUTION #19-2020 2019 YEAR END BUDGET TRANSFERS

Supervisor Hyde presented the following resolution.

WHEREAS, the appropriated accounts in the 2019 Town of Bethany Budget listed below are insufficiently funded due to unanticipated events; and

WHEREAS, to enable these accounts to function in an effective manner, additional funding is required, therefore, be it

RESOLVED, that the following transfers be made:

GENERAL FUND

Transfer \$18,128.00 (Eighteen thousand one hundred twenty-eight dollars)

From A3001	State Aid Per Capita
To A2750	AIM Related Payments

Transfer \$558.00 (Five hundred fifty-eight dollars)

From A1990.4	Contingency
To A1355.4	Assessor - Contractual

Transfer \$1.00 (One dollars)

From A1990.4	Contingency
To A1355.41	Assessor – County Charges

Transfer \$625.00 (Six hundred twenty-five dollars)

From A1990.4	Contingency
To A1410.10	Town Clerk – Personal Services – Post Office

Transfer \$168.00 (One hundred sixty-eight dollars)

From A1990.4	Contingency
To A1410.4	Town Clerk - Contractual

Transfer \$4,280.00 (Four thousand two hundred eighty dollars)

From A1990.4	Contingency
To A1420.4	Attorney - Contractual

Transfer \$3,735.00 (Three thousand seven hundred thirty-five dollars)

From A1990.4	Contingency
To A1610.2	Central Service Admin. - Equipment for Server

Transfer \$2,603.00 (Two thousand six hundred three dollars)

From A1990.4	Contingency
To A1610.4	Central Service Admin - Contractual

Transfer \$1,712.00 (One thousand seven hundred twelve dollars)

From A1990.4	Contingency
To A1620.4	Building Town Hall - Contractual

Transfer \$800.00 (Eight hundred dollars)
 From A1990.4 Contingency
 To A1680.4 Central Data Processing - Contractual

Transfer \$677.00 (Six hundred seventy-seven dollars)
 From A1990.4 Contingency
 To A5010.4 Superintendent of Highways - Contractual

Transfer \$44.00 (Forty-four dollars)
 From A1990.4 Contingency
 To A9040.81 Workers Compensation (Fire District) – Employee Benefits

Transfer \$3,540.00 (Three thousand five hundred forty dollars)
 From A1990.4 Contingency
 To A8160.4 Refuse and Garbage - Contractual

HIGHWAY FUND

Transfer \$1,163.00 (One thousand One hundred sixty-three dollars)
 From DA5110.4 General Repairs - Contractual
 To DA5130.4 Machinery - Contractual

Transfer \$4,042.00 (Four thousand forty-two dollars)
 From DA5110.4 General Repairs - Contractual
 To DA5130.41 Machinery, Fiscal Agreement Fee Control

Transfer \$164.00 (One hundred sixty-four dollars)
 From DA5110.4 General Repairs - Contractual
 To DA9030.8 Social Security – Employee Benefits

On **MOTION** of Councilman Embt, duly seconded by Councilman Street, Supervisor Hyde is hereby authorized to make the noted budget transfers.

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

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

RESOLUTION #20-2019 MODIFY 2019 BUDGET – DA FUND

WHEREAS, the Town of Bethany received \$1,671.00 more in CHIPS (Consolidated Highway) funding than budgeted from New York State; now on

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

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

DA.510	Estimated Revenues	
Sub Account DA3501	State Aid, Consolidated Highway	\$1,671.00
DA.960	Appropriations	
Sub Account DA5112.2	Improvement – CHIPS	\$1,671.00

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

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

Councilman Fluker – Yes
Councilman Street – Yes

RESOLUTION #21-2020 REQUESTING THE WITHDRAWAL OF THE STATE BUDGET'S ENERGY SITING AMENDMENT

WHEREAS, NYS is a Home Rule State, which basically means that any and all powers of the State emanate from the people.

WHEREAS, per the NYS Constitution, Article IX, it is our statutory obligation to protect the health, safety and welfare of citizens of our community.

WHEREAS, on February 21, 2020, Governor Cuomo proposed a Budget Amendment “to dramatically speed up the permitting and construction of renewable energy projects”.

WHEREAS, this amendment could be passed with the Budget by April 1st, replacing the current Article 10 process with a radically new method for siting renewable energy projects.

WHEREAS, the stated purpose of this proposed far-reaching change is to enhance the execution of the *Climate Leadership and Community Protection Act (CLCPA)*.

WHEREAS, although the objectives of the CLCPA sound admirable, there is no empirical scientific proof that industrial wind energy (compared to Nuclear, Hydro or Gas) saves any consequential amount of Carbon Dioxide (CO₂).

WHEREAS, conversely, there is considerable scientific evidence that onshore industrial wind energy projects will likely be a *net economic liability* to NYS host communities. This will be particularly burdensome to social justice communities.

WHEREAS, there is extensive scientific evidence that onshore industrial wind energy projects will likely result in adverse health effects to some citizens of NYS host communities.

WHEREAS, there is substantial scientific evidence that industrial wind energy projects will likely cause extensive eco-system damage to onshore NYS host communities, or to marine locales where offshore wind projects are sited.

WHEREAS, this amendment will effectively remove any meaningful input from citizens, towns, counties, local environmental groups, and community businesses regarding the siting and regulation of renewable energy projects.

WHEREAS, the new process is structured such that scientific data, or testimony from qualified experts, will have little bearing regarding siting regulations and approval.

WHEREAS, once an application is submitted, the new Office of Renewable Energy Siting (ORES) has 60 days to review and determine if it is complete. If the ORES decision is **not** made in that time, the application is *automatically* deemed complete!

WHEREAS, once an application is determined to be complete, ORES has 12 months to approve the project. If the ORES decision is **not** made in that time, the application is *automatically* approved! There is no provision for extending this time limit.

WHEREAS, the Governor’s proposal also seems to indicate that the State might get into the ownership and/or operation of renewable energy generation. Such a profound change would also severely limit the ability of local communities to regulate such industrial projects.

WHEREAS, all of these proposed changes are not only in conflict with our Home Rule rights, but are also contrary to our obligation to protect the health, safety and welfare of our constituents.

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

RESOLVED the Town of Bethany, County of Genesee, formally requests that this Budget Amendment be withdrawn before the Budget is voted on. Additionally, we petition the State to respect our Home Rule rights, and to defend our authority to regulate renewable energy projects as the citizens of our community see fit.

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	\$ 3,677.30	\$ 16,977.94
Highway Fund	\$ 1,500.00	\$ 25,795.95
Trust & Agency	\$ 0.00	\$ 0.00
Highway Capital Funds Project	\$ 0.00	\$ 0.00
Fire Protection Fund	\$ 0.00	\$ 61.25
Water Fund	\$ 0.00	\$ 0.00
Justice Fund	\$ 0.00	\$ 0.00

Adjournment

A **MOTION** was made by Councilman Fluker, duly seconded by Councilman Embt, to adjourn the meeting at 8:20 p.m. The motion **PASSED** with All In Favor.

BY ORDER OF THE
BETHANY TOWN BOARD
DATED: March 14, 2020

Respectfully Submitted,

Debbie L. Douglas, RMC
Bethany Town Clerk