

TOWN OF BETHANY
REGULAR TOWN BOARD MEETING

13 October 2021

Supervisor Hyde opened the October 2021, Regular Town Board Meeting at 7:00 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, Deputy Supervisor
Timothy Embt, Councilman	Daniel Street, Councilman
Diane Fowler, Councilwoman	Darin Loft, Town CEO & ZEO
Barbara Czworka, Highway Superintendent	
Ruth A. Bodkins, Town Clerk/Tax Collector	

Attendees to the Meeting were:

Thomas Foss	Tina and Don Frank
Joe Nowakowski	Bill Elsasser
Tom Douglas	

FINANCES

Monthly Statements of Accounts and Revenue:

General Fund	\$	1,082,386.96
Highway Fund	\$	628,375.13
AP/PR Account	\$	70,504.55
Trust & Agency Account	\$	2,592.90
Highway Checking	\$	2239.78
Capitol Projects - Supervisor	\$	303,411.13
Water District #2	\$	51573.85
Water District #4	\$	10,171.02
Water District #5	\$	00.00
Petty Cash	\$	200.00
Total		\$2,151,455.32

Revenues Received

State of NY-Dept of Tax	\$	0.00
USDA	\$	0.00
Dept of Transportation	\$	0.00
Verizon Refund	\$	0.00
NYS Dept of Labor	\$	0.00
Ruth A. Bodkins, Town Clerk	\$	817.90
County of Genesee – Voluntary Distribution	\$	0.00
Genesee County /Mowing of Rd	\$	0.00
US POST OFFICE	\$	100.00
Village of Warsaw	\$	0.00
Ruth A. Bodkins, Tax Collector	\$	0.00
Nicholas Falcone, Justice	\$	3,470.00
Total Revenue	\$	4,387.90
Total Interest	\$	156.87
Total Revenue	\$	4,544.77

Town Clerk Report – Ruth A. Bodkins

- Presented the Minutes of the September 13, 2021, Regular Town Board meeting.

A Motion was made by Councilman Street, duly **Seconded** by Councilwomen Fowler, to approve the Minutes of the September 13, 2021, Regular Town Board meeting as presented. Motion passed with All in Favor.

Motion Passed with the following Roll Call votes:

Ayes: 5

Nays: 0

Quorum Present: Yes

- The Clerk's Monthly Report for August and September that included all bank statements for August and September 2021, were reviewed by the Town Board.
- The Clerk attended a Proposed Shared Service Records Grant Application meeting in Batavia on 22 September to learn and prepare the Town of Bethany for the 2021-2022 or 2022-2023 joint effort to apply for the annual Local Government Records Management Improvement Funds (LGRIMF) grant.
- The Town Clerk presented the annual Resolution to the Town Board regarding the Bonding of the Town of Bethany Tax Collector.

RESOLUTION #32-2021 BONDING OF THE TOWN OF BETHANY TAX COLLECTOR

WHEREAS, the Town is required by law to file a bond on the Tax Collector with the County Clerk prior to tax rolls and bills being picked up, and

WHEREAS, the Town is required by law to bond the Tax Collector for the money in the control of the Tax Collector,

NOW, THEREFORE, BE IT RESOLVED that the Tax Collector shall have no more than \$500,000.00 in her control at any time, and

BE IT FURTHER RESOLVED that the Tax Collector shall be bonded by the Town in the amount of \$500,000.00.

THEREFORE, be it **RESOLVED**; the Town Board approves the bonding of the Tax Collector on this 13th day of October 2021.

A Motion was made by Supervisor Hyde, and duly Seconded by Deputy Supervisor Fluker to approve The Bonding of the Town of Bethany Tax Collector with all in favor

Motion Passed with the following Roll Call vote:

Ayes: 5

Nays: 0

Quorum Present: Yes

CEO/ZEO – Darin Loft

Transactions from 8/9/21 – 9/13/21

Permits: Zoning 6, Building 3, Inspections 3, Calls 8

Transactions from 9/13/21-10/13/21

Permits: Zoning 4, Building 3, Inspections 4, Calls for Info 7

Highway Superintendent Report – Barbara Czworka

- Changed 2 culverts on Marsh rd. as part of the preparation for paving next year.
 - Cleaned up the metal pile at the Town compactor and took the metal to Scofield's.
 - Streetlights have been checked and all them are in working order.
 - We helped the County pave.
 - Received the Snow and Ice Contract from the County. When this is done it is based off snow fall from the Buffalo. This number is dropping compared to past years.
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- Clean up has been done around the Town Community Center. For example: removal of signs and post from what the bridge crew left behind. Trimming of trees and shrubs in front of the building and weed whacking.
 - Mark and Adam took vacation this month.
 - We mowed around the Putnam Rd. Cemetery.
 - On 4th October we had a lot of water running over several Town roads. Pipes ran to capacity causing the heavy flow of water over the roads. The weather persisted for about an hour and let up. We cleaned out the pipe to the West on Smith Rd. and removed tree stumps and branches. Several roads were broomed to remove debris.
 - Preventive maintenance was done on the overhead door. We changed and oiled hinges and rollers on the doors.
 - Removed more deer carcasses around the town.
 - We took the Snow and Ice course offered by the New York Municipal Insurance Reciprocal (NYMIR) our insurance company.
 - Letter of Intent was written to the Town Board requesting approval to transfer \$30,000.00 from DA5142.4 and put it in the DA5110.4 for ordering more pipes and stock piling material. Dated 13th October 2021.

The Highway Superintendent presented a Intermunicipal Agreement between Genesee County and Town of Bethany for the Provision of Snow Removal and Ice Control Services & Roadside Mowing.

RESOLUTION #33-2021 INTERMUNICIPAL AGREEMENT BETWEEN GENESEE COUNTY AND TOWN OF BETHANY FOR THE PROVISION OF SNOW AND ICE CONTROL SERVICES & ROADSIDE MOWING

a **Motion** was made by Supervisor Hyde Jr. and duly **Seconded** by Councilwomen Fowler, to Table the Intermunicipal Agreement, with all in favor.

THEREFORE, be it **RESOLVED**; the Town Board approves to Table the INTERMUNICIPAL AGREEMENT BETWEEN GENESEE COUNTY AND TOWN OF BETHANY FOR THE PROVISION OF SNOW AND ICE CONTROL SERVICES & ROADSIDE MOWING until the next Town Board meeting which will be held on 8 November 2021.

Motion Passed with the following Roll Call vote:

Ayes: 5

Nays: 0

Quorum Present: Yes

Board Committee Reports

Councilman Fluker

The Fire Department gained a new, young volunteer who is currently training. The need for additional volunteers is still there so please, apply if you have interest.

Twelve calls have come into the Fire Department so far in September and October.

Councilman Street

Two Land Separation Packages came in for the Planning Board this month.

Councilman Embt

No report to give this month.

Councilwomen Fowler

County met to talk about formal process regarding Phase II/III. They are approximately 6 months to 1 year behind the contractors. USDA is getting a little more lenient.

Supervisor Hyde

Supervisor Hyde, Presented the following: Old and New Business, Water district updates, Resolution regarding the Water Infrastructure Improvement Act (WIIA) grant funds from the New York State Environmental Facilities Corporation (EFC), Preliminary Budget for 2022 and the Resolutions to approve the Local Law establishing the CANNABIS OPT OUT for the Town of Bethany.

A Motion was made by Supervisor Hyde, to approve the Preliminary Budget for 2022, and duly Seconded by Deputy Supervisor Fluker. The Motion Passed with All in Favor.

A copy of the Preliminary Budget for 2022 can be found in the office of the Town Clerk.

OLD BUSINESS

Water District #4: This district is complete.

Water District #5: The paperwork remains in the office of the State Comptroller; however, the Water Infrastructure Improvement Act (WIIA) grant was approved. These funds come from the New York State Environmental Facilities Corporation (EFC). This is good news for residents as it means less out of pocket cost.

NEW BUSINESS

RESOLUTION #34-2021 WITH REFERENCE TO THE PROPOSED TOWN OF BETHANY, GENESEE COUNTY, NY WATER DISTRICT NO.5

WHEREAS, the Town of Bethany engaged Clark Patterson Lee Engineers to complete an engineering report for the Town's water distribution system identifying the current system shortcomings, the proposed infrastructure improvements necessary to improve performance, and the projected costs for residents of the district; and

WHEREAS, affordability for Town residents and property owners is a significant concern in advancement of the proposed project; and

WHEREAS, the Town is eligible for Water Infrastructure Improvement Act (WIIA) funding and must now submit a competitive application to obtain WIIA funding; now

THEREFORE, be it **RESOLVED** as follows:

1. The Town Board authorizes Municipal Solutions, Inc. to prepare an application for Water Infrastructure Improvement Act grants funds from the NYS Environmental Facilities Corporation (EFC).

2. The Town Board authorizes Supervisor Carl Hyde Jr., and Ruth Bodkins in her role as Town Clerk to execute the application for Water Infrastructure Improvement Act grant funds from the NYS Environmental Facilities Corporation (EFC).
3. This resolution shall take effect immediately.

Dated: 13 October 2021

A Motion was made by Supervisor Hyde and duly Seconded by Councilwomen Fowler, with all in favor.

Motion passed with the following Roll Call Vote:

Ayes: 5

Nays: 0

Quorum Present: Yes

PUBLIC HEARING

A MOTION WAS MADE BY SUPERVISOR HYDE, TO OPEN A PUBLIC HEARING, AND DULY SECONDED BY DEPUTY SUPERVISOR, FLUKER REGARDING THE ADOPTION OF LOCAL LAW ENTITLED "CANNABIS LOCAL LAW OPTING OUT OF RETAIL SALES AND ON-SITE CONSUMPTION ESTABLISHMENTS", WITH ALL IN FAVOR.

RESOLUTION #35-2021 FOR A PUBLIC HEARING ON PROPOSED LOCAL LAW, "CANNABIS LOCAL LAW OPTING OUT OF RETAIL SALES AND ON-SITE CONSUMPTION ESTABLISHMENTS" SUBJECT TO PERMISSIVE REFERENDUM

WHEREAS, ALL BOARD MEMBERS, HAVING DUE NOTICE OF SAID MEETING, AND THAT PURSUANT TO ARTICLE 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, FORMER GOVERNOR, ANDREW CUOMO SIGNED INTO LAW THE MARIJUANA REGULATION AND TAXATION ACT (MRTA) ON MARCH 31, 2021; AND

WHEREAS, THE TOWN BOARD OF THE TOWN OF BETHANY HAS CONSIDERED A PROPOSED LOCAL LAW KNOWN AS "CANNABIS LOCAL LAW OPTING OUT OF RETAIL SALES AND ON-SITE CONSUMPTION ESTABLISHMENTS", WHICH WOULD PROHIBIT RETAIL DISPENSARIES OF ON-SITE CONSUMPTION ESTABLISHMENTS WITHIN THE BOUNDARIES OF THE TOWN OF BETHANY; AND

WHEREAS, TAX LAW 493(c) PLACES A 4% LOCAL TAX ON THE RETAIL SALE OF ADULT-USE CANNABIS. IF THE TOWN OF BETHANY ADOPTS THE PROPOSED LOCAL LAW TO OPT-OUT OF THE RETAIL SALES AND ON-SITE CONSUMPTION ESTABLISHMENTS OF CANNABIS, THE TOWN OF BETHANY WILL NOT RECEIVE 3% OF THE 4% OF THE IMPLEMENTED LOCAL TAX; AND

WHEREAS, LOCAL GOVERNMENTS, SUCH AS THE TOWN BOARD OF THE TOWN OF BETHANY MUST ADOPT A LOCAL LAW SUBJECT TO PERMISSIVE REFERENDUM TO OPT-OUT OF THE RETAIL SALES AND ON-SITE CONSUMPTION ESTABLISHMENTS OF CANNABIS ON OR BEFORE DECEMBER 31, 2021. NO LAWS OPTING OUT OF RETAIL SALES AND ON-SITE ESTABLISHMENTS OF CANNABIS ARE ELIGIBLE TO BE ADOPTED AFTER DECEMBER 31, 2021; AND

WHEREAS, THE TOWN BOARD OF THE TOWN OF BETHANY FINDS IT IN THE BEST INTEREST OF THE TOWN OF BETHANY TO HOLD A PUBLIC HEARING ON THE ADOPTION OF SAID LOCAL LAW, WHICH IS SUBJECT TO PERMISSIVE REFERENDUM.

NOW ON MOTION OF COUNCILMAN EMBT, WHICH HAS BEEN DULY SECONDED BY DEPUTY SUPERVISOR FLUKER, IT IS RESOLVED, BY THE TOWN BOARD OF THE TOWN OF BETHANY WILL HOLD A PUBLIC HEARING ON THE PROPOSED LOCAL LAW ON THE 13TH DAY OF OCTOBER 2021 AT 7:30 P.M., AT WHICH TIME AND PLACE ALL INTERESTED PARTIES AND CITIZENS FOR OR AGAINST THE PROPOSED LAW WILL BE HEARD.

AYES: 5

NAYS: 0

QUORUM PRESENT: YES

RESOLUTION #36-2021 ADOPTING LOCAL LAW ENTITLED, "CANNABIS LOCAL LAW OPTING OUT OF RETAIL SALES AND ON-SITE CONSUMPTION ESTABLISHMENTS" SUBJECT TO PERMISSIVE REFERENDUM

WHEREAS, THE TOWN BOARD OF THE TOWN OF BETHANY HELD A SOCIALLY DISTANCED PUBLIC HEARING DUE TO THE COVID-19 REGULATIONS ON THE PROPOSED ADOPTION OF SAID LOCAL LAW ON THE 13TH DAY OF OCTOBER, 2021 AT 7:30 P.M., AT WHICH TIME ALL INTERESTED PARTIES AND CITIZENS FOR OR AGAINST THE PROPOSED LAW WERE HEARD; AND

WHEREAS, FORMER GOVERNOR, ANDREW CUOMO SIGNED INTO LAW THE MARIJUANA REGULATION AND TAXATION ACT (MRTA) ON MARCH 31, 2021; AND

WHEREAS, THE TOWN BOARD OF THE TOWN OF BETHANY HAS CONSIDERED A PROPOSED LOCAL LAW KNOWN AS "CANNABIS LOCAL LAW OPTING OUT OF RETAIL SALES AND ON-SITE CONSUMPTION ESTABLISHMENTS", WHICH WOULD PROHIBIT RETAIL DISPENSARIES AND ON-SITE CONSUMPTION ESTABLISHMENTS WITHIN THE BOUNDARIES OF THE TOWN OF BETHANY; AND

WHEREAS, TAX LAW 493(c) PLACES A 4% LOCAL TAX ON THE RETAIL SALE OF ADULT-USE CANNABIS. IF THE TOWN OF BETHANY ADOPTS THE PROPOSED LOCAL LAW TO OPT-OUT OF THE RETAIL SALES AND ON-SITE CONSUMPTION ESTABLISHMENTS OF CANNABIS, THE TOWN OF BETHANY WILL NOT RECEIVE 3% OF THE 4% OF THE IMPLEMENTED LOCAL TAX; AND

WHEREAS, LOCAL GOVERNMENTS, SUCH AS THE TOWN BOARD OF THE TOWN OF BETHANY MUST ADOPT A LOCAL LAW SUBJECT TO PERMISSIVE REFERENDUM TO OPT-OUT OF THE RETAIL SALES AND ON-SITE CONSUMPTION ESTABLISHMENTS OF CANNABIS ON OR BEFORE DECEMBER 31, 2021. NO LAWS OPTING OUT OF RETAIL SALES AND ON-SITE ESTABLISHMENTS OF CANNABIS ARE ELIGIBLE TO BE ADOPTED AFTER DECEMBER 31, 2021; AND

WHEREAS, IN A EFFORT TO COMBAT DRUG USE IN THE COUNTY OF GENSEE, THE TOWN BOARD OF THE TOWN OF BETHANY BELIEVES IT TO BE WISE TO PROHIBIT CANNABIS RETAIL DISPENSARIES AND ON-SITE CONSUMPTION ESTABLISHMENTS WITHIN THE TOWN OF BETHANY. WITH THAT BEING SAID, THE TOWN BOARD OF THE TOWN OF BETHANY FINDS IN THE BEST INTEREST OF THE TOWN OF BETHANY TO ADOPT THE PROPOSED LOCAL LAW ENTITLED, "CANNABIS LOCAL LAW OPTING OUT OF RETAIL SALES AND ON-SITE CONSUMPTION ESTABLISHMENTS", AND

NOW THEREFORE, BE IT RESOLVED, THE TOWN BOARD OF THE TOWN OF BETHANY HEREBY ADOPTS THE LOCAL LAW ENTITLED, "CANNABIS LOCAL LAW OPTING OUT OF

RETAIL SALES AND ON-SITE CONSUMPTION ESTABLISHMENTS”, SUBJECT TO A PERMISSIVE REFERENDUM AS PERMITTED BY LAW.

A MOTION WAS MADE BY COUNCILMAN STREET, AND DULY SECONDED BY COUNCILMAN EMBT TO APPROVE THE LOCAL LAW ENTITLED, “CANNABIS LOCAL LAW OPTING OUT OF RETAIL SALES AND ON-SITE CONSUMPTION ESTABLISHMENTS” WITH ALL IN FAVOR.

AYES: 5

NAYS: 0

QUORUM PRESENT: YES

Executive Session

A Motion was made at 7:53 p.m. to enter Executive Session by Supervisor Hyde and duly Seconded by Councilwomen Fowler, with all in favor.

Town Board Members present are as follows: Supervisor Carl Hyde Jr., Deputy Supervisor Jeffrey Fluker, Councilman Daniel Street, Councilman Tim Embt and Councilwomen Diane Fowler.

Requested guest to the meeting are as follows: Highway Superintendent Barb Czworka

Subject: Employee Issue

A Motion to adjourn the Executive Session was made at 8:34 p.m. by Councilwomen Fowler and duly Seconded by Deputy Supervisor Fluker, The Motion Passed with All in Favor.

Town Board Meeting

Warrant #10

- The Board approved payment of the bills as follows:

	Prepaid	Total
General Fund	\$ 3,880.38	\$ 33,551.30
Highway Fund	\$ 1,464.06	\$ 32,120.19
Capital Project	\$ 0.00	\$ 0.00
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 Supervisor Hyde, at 8:36 p.m. and duly seconded by Councilman Street, The Motion Passed with All in Favor.

BY ORDER OF THE
BETHANY TOWN BOARD
DATED: 13 October 2021

Respectfully Submitted,

Ruth A. Bodkins
Town Clerk/Tax Collector