

# ***BYRON TOWN BOARD MEETING***

October 9, 2013

The Byron Town Board Meeting was called to order by Supervisor Crnkovich at 7:00 p.m. with the following people present:

Supervisor.....	Robert Crnkovich
Councilmen.....	Jeff Thompson
	Jack Redick
	Scott Wooton
	Harold Austin
Highway Superintendent.....	George Heins
Town Clerk.....	Debra Buck-Leaton

Public:

Jim and Barb Cudney.....	Rte. 237, Byron
Beth and Bob Wilson.....	Mill Pond Road, Byron
Dick Glazier.....	Byron Road, Byron
Jeanne Freeman.....	Hessenthaler Road, Byron
Brian Forsyth.....	Freeman Road, Byron
Pete and Michelle Yasses.....	Rte. 237, Byron
Don Jack.....	Coward Road, Byron
Eric Toal.....	Warboys Road, Byron
Sue Fuller.....	Cockram Road, Byron
Holley Partridge.....	Byron-Holley Road, Byron
Tom Chapell.....	Swamp Road, Byron
Carrie Capostagno.....	Caswell Road, Byron

## PLEDGE TO THE FLAG:

Supervisor Crnkovich led the people in attendance in the Pledge of Allegiance.

**PUBLIC HEARING – DOG CONTROL LAW OF THE TOWN OF BYRON:**

A **motion** was made by Councilman Thompson to open the Public Hearing for the Dog Control Law of the Town of Byron at 7:01 p.m. The motion was seconded by Councilman Austin and carried with the following vote:

Vote:           Ayes: 5           Nays: 0

**LEGAL NOTICE  
PUBLIC HEARING  
TOWN OF BYRON**

***PLEASE TAKE NOTICE***, that the Town Board of the Town of Byron will hold a Public Hearing at 7:00 p.m. on Wednesday, October 9, 2013 at the Town Hall on Route 237 in the Town to hear all persons present regarding the proposed amendments to the Town of Byron Local Law No. 2-1993 known as “Dog Control Law of the Town of Byron” by expanding the definition of a Kennel to include any premises on which there are kept, boarded or harbored four (4) or more dogs over the age of four (4) months, and to include “dog sanctuaries” together with additions to Section 5 and Section 6 thereof regarding licensing requirements and fees for such facilities.

*Copies of the proposed amendments may be obtained from the Town Clerk during her regular business hours.*

*By Order of the Town Board of the Town of Byron  
Debra Buck-Leaton  
Byron Town Clerk*

## **PUBLIC COMMENTS:**

Holley Partridge: How will the new provisions in the Dog Control Law affect existing owners who have more than 3 dogs and do not have a Special Use Permits for a kennel?

Town Clerk Debra Buck-Leaton: According to the proposed Dog Control Law they have until December 31, 2013 to come into compliance. If a homeowner has more than 3 dogs they would be required to go before the Planning Board to get a Special Use Permit for a kennel and then come back to the Town Clerk to have the dogs licensed with a Kennel License.

There were more concerns regarding the new Zoning Law and proposed amendments to the Dog Control Law, so the Town Board decided to table the discussion until next month when the Code/Zoning Officer and the Town Attorney could be present.

A **motion** was made by Councilman Wooton to table the proposed amendments to the Town of Byron Local Law No. 2-1993 known as "Dog Control Law of the Town of Byron" until the November 13, 2013 meeting at which time a Public Hearing will be held at 7:00 p.m. to discuss the proposed amendments. The motion was seconded by Councilman Thompson and carried with the following vote:

Vote:                      Ayes: 5                      Nays: 0

A **motion** was made by Councilman Thompson to close the Public Hearing at 7:16 p.m. The motion was seconded by Councilman Wooton and carried with the following vote:

Vote:                      Ayes: 5                      Nays: 0

## **MINUTES:**

A **motion** was made by Councilman Austin to approve the Byron Town Board minutes of September 11, 2013 as written. The motion was seconded by Councilman Wooton and carried with the following vote:

Vote:                      Ayes: 5                      Nays: 0

## **HIGHWAY SUPERINTENDENT'S REPORT – Highway Superintendent George Heins:**

- Replaced culvert on Beaver Meadows Road
- Getting trucks ready for NYS inspections
- Helping the County and other towns do road work
- Getting ready to put snow equipment on

A **motion** was made by Councilman Wooton to approve the Highway Superintendent's Report as given. The motion was seconded by Councilman Austin and carried with the following vote:

Vote:                      Ayes: 5                      Nays: 0

## **CEO/ZEO REPORT:**

Number of Inspections: 10  
Number of Zoning/Building Permits Issued: 4  
Number of Land Separations: 2

Number of Building C.O./C.C. Issued: 3  
Number of Zoning Complaints Filed: 1  
Number of Zoning Complaints Resolved: 1

A **motion** was made by Councilman Austin to approve the CEO/ZEO Report as written. The motion was seconded by Councilman Redick and carried with the following vote:

Vote: Ayes: 5 Nays: 0

**PARK COMMITTEE REPORT – Councilman Redick:**

·Will hold their meetings on the third Wednesday of each month from now on, so there is no report this month.

**ABSTRACTS**

**RESOLUTION #64:**

Councilman Austin offered the following resolution and moved for its adoption:

***Resolved,*** that the Byron Town Board pay the following abstracts:

<b><i>Fund:</i></b>	<b><i>Abstract:</i></b>	<b><i>Vouchers:</i></b>	<b><i>Amount:</i></b>
General Fund	#12	#223 - #242	\$12,238.82
Highway Fund	#10	#137 - #145	\$19,998.40
Sewer Fund	#10	#50 - #55	\$ 5,054.26
General Fund	PA#13	#59 - #63	\$ 2,013.62
General Fund	PA#14	#64 - #68	\$ 4,404.14
Sewer Fund	PA#12	#12	\$ 457.36

Councilman Thompson seconded the resolution which was adopted by the following vote:

Vote: Ayes: 5 Nays: 0

**TOWN CLERK'S REPORT:**

Paid to the Byron Park Committee for Pavilion Rental.....	\$ 60.00
Paid to the NYS Ag and Markets for spay/neuter program.....	\$ 63.00
Paid to the DEC for hunting/fishing licenses.....	\$4,983.15
Paid to the NYS Dept. of Health for Marriage Licenses.....	\$ 22.50
Paid to the Town of Byron Supervisor.....	<u>\$2,399.05</u>
Total Disbursed for September 2013.....	<u>\$7,527.70</u>

·The Town of Byron Zoning Law of 2013 has been filed with the NYS Department of State and is now in force.

A **motion** was made by Councilman Austin to approve the Town Clerk's Report as given for September, 2013. The motion was seconded by Councilman Thompson and carried with the following vote:

Vote: Ayes: 5 Nays: 0

**NYS DEC LICENSE ISSUING AGENT AGREEMENT**

**RESOLUTION #65:**

Councilman Redick offered the following resolution and moved for its adoption:

***WHEREAS,*** the Town Clerk's Office is an agent authorized by New York State Department of Environmental Conservation (NYSDEC) to issue licenses for the privilege of hunting and fishing in New York State; and

**WHEREAS**, the NYSDEC is in the process of using a new electronic issuing system; and  
**WHEREAS**, each authorized licensing agent is required to enter into a NYSDEC License Issuing Agent Agreement.

**NOW, THEREFORE, BE IT RESOLVED**, that the Byron Town Board hereby authorizes the Town Clerk to execute the License Issuing Agent Agreement between the NYSDEC and the Town of Byron, a copy of which is annexed hereto and made a part of the Town Board Minutes.

Councilman Austin seconded the resolution which was adopted by the following vote:

Vote:                      Ayes: 5                      Nays: 0

#### **FINANCIAL REPORT:**

·The revised August 2013 and September 2013 Financial Reports were reviewed.

A **motion** was made by Councilman Wooton to approve the revised August and September 2013 Financial Reports as given. The motion was seconded by Councilman Thompson carried with the following vote:

Vote:                      Ayes: 5                      Nays: 0

#### **SUPERVISOR'S REPORT:**

- Received Mercy EMS Response Time Report for August 2013.
- Received check in the amount of \$9,020.70 from Time Warner Cable for franchise taxes.

A **motion** was made by Councilman Wooton to approve the Supervisor's Report as given. The motion was seconded by Councilman Thompson and carried with the following vote:

Vote:                      Ayes: 5                      Nays: 0

#### **OTHER BUSINESS:**

##### **HISTORICAL SOCIETY – Jeanne Freeman and Dick Glazier:**

·Items in the Historical Society collection have deteriorated and can no longer be put on display. The Historical Society would recommend that these items be disposed of, but in order to do so, the Town Board needs to authorize the Historical Society to remove these items from its collection. The Town Board would like to wait to make a motion until there is a full listing of items to be disposed of to include with the Town Board minutes.

##### **HYDRAULIC FRACKING COMMITTEE-Sue Fuller:**

·There are six people, including herself, that would like to be on the Hydraulic Fracking Study Committee, but they would like to have a moratorium established by the Town Board in order to research it.

·There was discussion on whether there should be a moratorium before the committee begins its research.

·Councilman Redick read the September 11, 2013 Town Board minutes which stated, "A motion was made by Councilman Redick that a committee would be established, with membership appointed by the Town Board, to study the possibility of establishing a local law, ordinance or regulation to control drilling of oil, gas and other natural resources, and the drilling of injection wells, including the possibility of an Ordinance, Local Law or regulation controlling the use of solid liquid or gaseous substances used in the process of drilling any of those wells for purposes of highway construction, maintenance or snow control." The motion makes no mention of a moratorium being done.

A **motion** was made by Councilman Thompson to form a Hydraulic Fracking Study Committee to consist of the following people: Sue Fuller, Rita Kuzma, George Squires, John Sackett, Michelle Yasses and Carrie Capostagno. Said Committee is hereby established to study the possibility of establishing a Local Law, Ordinance or regulation to control drilling of oil, gas and other natural resources, and the drilling of injection wells, including the possibility of an Ordinance, Local Law or regulation controlling the use of solid liquid or gaseous substances used in the process of drilling any of those wells for purposes of highway construction, maintenance or snow control. The motion was seconded by Councilman Austin and carried with the following vote:

Vote:                   Ayes: 5                   Nays: 0

**SWAMP ROAD WATER DISTRICT:**

Petitions for the Swamp Road water district have been returned with the following:

- There are 86 signatures, which is 73% of the total
- \$4,121,900 property value, which is 78% of the total district
- 90% of the resident house values have signed the petition.

A **motion** was made by Councilman Austin to approve the Swamp Road Water District Petitions as presented. The motion was seconded by Councilman Wooton and carried with the following vote:

Vote:                   Ayes: 5                   Nays: 0

A **motion** was made by Councilman Wooton to hold a Public Hearing on November 6, 2013 at 7:00 p.m. at the South Byron Fire Hall to create the Swamp Road Water District. The motion was seconded by Councilman Thompson and carried with the following vote:

Vote:                   Ayes: 5                   Nays: 0

**SWAMP ROAD WATER DISTRICT SEQR - INTENT TO DECLARE LEAD AGENCY STATUS**

**RESOLUTION #66:**

Councilman Thompson offered the following resolution and moved for its adoption:

***RESOLVED***, that in accordance with the New York State Environmental Quality Review regulations, the Town Board of the Town of Byron hereby announces its intent to serve as Lead Agency to conduct an environmental review of the construction of public water supply improvements to serve the Town of Byron Swamp Road Water District. Approximately 19,700 linear feet of waterline will be installed along portions of Swamp, Cole, and Hessenthaler Roads in the Town of Byron. The project will provide public water to properties that are currently dependent upon individual groundwater supplies that historically have produced very low yields of poor quality water.

***FURTHER RESOLVED***, the Town Board has determined that, as portions of the project are located within a Genesee County Agricultural District, the proposed action is a Type I action as defined under SEQR; and, be it

***FURTHER RESOLVED***, the Town Board acknowledges that Part 1 of the Environmental Assessment Form has been prepared for this project by Stuart I. Brown Associates, Inc., and signed by the Town Supervisor, and be it

***FURTHER RESOLVED***, the Town Board will notify the Involved Agencies of its intention to act as Lead Agency for this project and will provide them with a copy of Part 1 of the full Environmental Assessment Form for review during the 30-day comment period.

Councilman Wooton seconded the resolution which was adopted by the following vote:

Vote:                   Ayes: 5                   Nays: 0

**SPECIAL BUDGET MEETING:**

A **motion** was made by Councilman Wooton to hold a Special Meeting to discuss the 2014 budget on Wednesday, October 16, 2013 at 7:00 p.m. at the Town Hall. The motion was seconded by Councilman Austin and carried with the following vote:

Vote:                      Ayes: 5                      Nays: 0

**RESOLUTION OPPOSING THE PROCESS OF ENACTMENT AND CERTAIN PROVISIONS CONTAINED WITHIN THE NEW YORK SAFE ACT**

**RESOLUTION #67:**

Councilman Redick offered the following resolution and moved for its adoption:

**WHEREAS**, The right of the people to keep and bear arms is guaranteed as an individual right under the Second Amendment to the United States Constitution; and

**WHEREAS**, The right of the people to keep and bear arms for defense of life, liberty and property is regarded as an inalienable right of the people of the Town of Byron;

**WHEREAS**, The lawful ownership of firearms is, and has been, a valued tradition in the Town of Byron, and the rights protected by the Second Amendment to the United States Constitution are exercised by many of its residents; and

**WHEREAS**, The people of the Town of Byron derive economic and environmental benefits from all safe forms of recreation involving firearms, including, but not limited to, hunting and target shooting while utilizing all types of firearms available under the Constitution of the United States; and

**WHEREAS**, Members of the Town Board of the Town of Byron, being elected to represent the people of the Town of Byron, are duly sworn by their oath of office to uphold the Constitution of the United States; and

**WHEREAS**, Members of the New York State Assembly and the New York Senate, being elected by the people of New York State, are duly sworn by their oath of office to uphold the Constitution of the United States; and

**WHEREAS**, The enactment of the NY SAFE Act (chapter 1 of the Laws of 2013) has engendered significant controversy over both the process by which it was enacted and certain provisions contained within it; and

**WHEREAS**, It is our understanding that many State Legislators had less than an hour to read the legislation, which contained approximately twenty-five thousand words, before being forced to vote on it; and

**WHEREAS**, Having reviewed the legislation and time constraints, it our conclusion that there is no possible way any individual could have read the entire bill and understood its full implications prior to voting on it; and

**WHEREAS**, Our State Legislators most certainly could not have had the time to request, and receive, the input of their constituents regarding this matter; and

**WHEREAS**, Seeking and considering, such public input is a standard to which we hold ourselves as the Town Board of the Town of Byron; and

**WHEREAS**, This legislation has 60 sections, of which only three take effect immediately, and

**WHEREAS**, In our opinion, there was no reason for the Governor to use a message of necessity to bring this bill to vote immediately and bypass the three day maturing process for all legislation; and

**WHEREAS**, The mishandling of the process in crafting the NY SAFE Act resulted in complex policy changes, many of which have been left to interpretation, and are confusing even to the State Legislators who voted on them, and the law enforcement officials who are required to enforce and explain them; and

**WHEREAS,** Requiring law-abiding gun owners to verify ownership of certain types of firearms every five years, in addition to registering them on their permits, which now also must be renewed every 5 years, does not increase the safety of the public and is unnecessarily burdensome to the law abiding residents of New York State; and

**WHEREAS,** This legislation prohibits the sale of firearm magazines with a capacity larger than seven rounds; and

**WHEREAS,** Those firearm magazines with a capacity larger than seven rounds, which are authorized to be retained by existing owners, may only be loaded with seven rounds and eventually must be permanently altered to only accept seven rounds or be disposed of, thus constituting a seizure of legally owned personal property with no provision for compensation; and

**WHEREAS,** Few or no low capacity (7 rounds or less) magazines currently exist for many of the firearms commonly possessed by law-abiding residents of New York State; and

**WHEREAS,** Limiting the number of rounds to seven versus ten is arbitrary and capricious, has no correlation to public safety, unfairly burdens law-abiding gun owners, and puts an undue burden on gun manufacturers to retool their manufacturing plants; and

**WHEREAS,** The only persons who will comply with the new high-capacity magazine ban are law-abiding citizens, leaving the same high-capacity magazine in the hands of those who choose not to obey the law; and

**WHEREAS,** Requiring documentation of all ammunition sales in New York State, as provided for in this legislation, is a significant unfunded mandate on business; and

**WHEREAS,** The New York State Combined Ballistic Identification System, which wasted \$44 million in taxpayer money and resulted in zero convictions, illustrates the propensity of government to waste taxpayer resources when legislation is not properly reviewed; and

**WHEREAS,** Governor Cuomo has proposed spending \$36 million dollars in his 2013-2014 Executive budget for the implementation of the NY SAFE Act at a time when New York State residents are crying out for tax relief; and

**WHEREAS,** This legislation severely impacts the possession and use of firearms now permitted by the residents of the Town of Byron for defense of life, liberty and property; and

**WHEREAS,** This legislation severely impacts the possession and use of firearms now permitted for safe forms of recreation including, but not limited to, hunting and target shooting; and

**WHEREAS,** While there are some areas of the legislation that the Town of Byron Town Board finds encouraging, such as addressing glaring shortcomings in the mental health system, the strengthening of Kendra's Law and Mark's Law, as well as privacy protections for certain pistol permit holders, by-and-large, we find the legislation does little more than negatively impact lawful gun ownership; and

**WHEREAS,** This legislation fails to offer any meaningful solutions to gun violence and places increased burdens where they do not belong, squarely on the backs of law-abiding citizens; and

**WHEREAS,** This legislation effectively turns countless New York State law-abiding gun owners into criminals; and

**WHEREAS,** The manner in which this legislation was brought forward for vote in the State Legislature is deeply disturbing to the Town Board of the Town of Byron; now therefore

**BE IT RESOLVED,** That the Town Board of the Town of Byron does hereby oppose and request the repeal of any legislation, including the sections within the NY SAFE Act (Chapter 1 of the Laws of 2013), which infringe upon the right of the people to keep and bear arms; and be it

**FURTHER RESOLVED,** that the Town Board of the Town of Byron considers such laws to be an egregious violation of the 2<sup>nd</sup> Amendment Constitutional Rights, onerous and burdensome to the citizens and the County in their implementation, and beyond lawful legislative authority granted to our State representatives; and be it up

**FURTHER RESOLVED**, that the Town Board of the Town of Byron strongly encourages members of the New York State Legislature to hold public hearings to address the issue of gun violence in a way that will produce meaningful results; and be it

**FURTHER RESOLVED**, that the Town Board of the Town of Byron requests the members of the New York State Senate and Assembly who represent all of the Town of Byron to reply, in writing, with their views on, and actions taken, in support of, or opposition to, the NY SAFE Act; and be it

**FURTHER RESOLVED**, that a copy of this resolution be sent to President Barack Obama, Vice President Joseph Biden, Governor Andrew Cuomo, United States Senators Charles Schumer, Kirsten Gillibrand, Congressman Chris Collins, New York State Senator Michael Ranzenhofer, Assembly Speaker Sheldon Silver, New York State Assemblyman Stephen Hawley and the Association of Towns of New York State.

Councilman Thompson seconded the resolution which was adopted by the following vote:

Vote:                      Ayes: 5                      Nays: 0

**PUBLIC COMMENTS:**

Councilman Thompson: Who drafted letter regarding sewer system, and who attended the meeting?

Superintendent Heins: It was written by the Camden Group. They believe the high phosphorus readings are from manure and not the sewer system. Additional testing will be done and results monitored by the DEC.

**ADJOURN:**

A **motion** was by Councilman Wooton to adjourn the Byron Town Board Meeting at 8:05 p.m. The motion was seconded by Councilman Thompson and carried with the following vote:

Vote:                      Ayes: 5                      Nays: 0

Respectfully Submitted,

Debra M. Buck-Leaton  
Byron Town Clerk