

BYRON TOWN BOARD MEETING

October 11, 2017

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

Supervisor.....Pete Yasses
Councilmen.....Sue Fuller
 Jim Cudney
 Fred Klycek
 Jeff Thompson
Highway Superintendent.....Brian Forsyth
Town Clerk.....Debra Buck-Leaton

Invited Guests:.....Town Attorney Paul Boylan

Public:

David Chupp.....	Tripp Road, Byron
Mickey Truax.....	Swamp Road, Byron
Vic Digregorio.....	Warboys Road, Byron
Bob and Beth Wilson.....	Mill Pond Road, Byron
Dean Bates.....	Batavia
Candace Hensel.....	Rte. 237, Byron
Bill and Barb Emerson.....	Terry Street, Byron

PLEDGE OF ALLEGIANCE:

The Pledge of Allegiance was led by Supervisor Yasses.

ORDER CALLING PUBLIC HEARING FOR AMENDMENTS TO THE TOWN OF BYRON ZONING LAW:

A **motion** was made by Councilman Cudney to open the Public Hearing regarding the proposed amendments to the Town of Byron Zoning Law at 8:10 p.m. The motion was seconded by Councilman Klycek and carried with the following vote:

Vote: Ayes: 5 Nays: 0

PUBLIC NOTICE

PUBLIC HEARING REGARDING AMENDMENTS TO THE TOWN OF BYRON ZONING LAW

PLEASE TAKE NOTICE that the Town Board of the Town of Byron will hold a Public Hearing at 7:30 p.m. on Wednesday, October 11, 2017, at the Town Hall on Route 237 in the Town to hear all persons present regarding a recommendation from the Town of Byron Planning Board to consider the following amendments to the Town of Byron Zoning Law.

1. To permit construction of Ponds in Agricultural-Residential Zones (A-R).
2. To allow manufactured homes to be located in Residential (R) and Agricultural-Residential (A-R) Zones subject only to the same regulations as conventionally built homes in conformity with New York Executive Law Article 21-B.
3. To regulate the number and location of unregistered and unlicensed motor vehicles in Residential (R), Agricultural (A) and Agricultural-Residential (A-R) Zones.

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

Dated: September 15, 2017

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

TOWN OF BYRON LOCAL LAW NO. 1 OF THE YEAR 2017

Be it enacted by the Town Board of the Town of Byron, Genesee County, New York, as follows:

A LOCAL LAW TO AMEND THE ZONING LAW OF THE TOWN OF BYRON

The Zoning Law of the Town of Byron is hereby amended as follows:

Section 1 Section 9.03 A-R Agricultural-Residential District.

(b) Permitted Principal uses in an A-R District

(vi) Ponds subject to approval from Genesee County Soil and Water District.

(1) No existing pond shall require such approval.

Section 2 Article II DEFINITIONS AND WORD USAGE

Section 2.01 Word Usage

Dwelling shall be amended to read as follows:

A room or connected room designed or used exclusively as living quarters for one or more families; the term shall not be deemed to include an automobile court, recreational vehicle, hotel/motel, boarding or rooming house, tourist home, bed and breakfast house or tent. It shall include manufactured housing provided the structure meets all the requirements of NY Executive Law Article 21-B Title 2 Sections 615 and 616 and the definition of MANUFACTURED HOUSING in Section 2.01 of this Local Law.

Section 3 Section 11.17 is hereby repealed in its entirety.

Section 4 This Local Law shall take effect upon the filing with the Secretary of State pursuant to Municipal Home Rule Law Section 27.2

TOWN OF BYRON LOCAL LAW NO. 2 OF THE YEAR 2017

Be it enacted by the Town Board of the Town of Byron, Genesee County, New York, as follows:
SECTION I.

The Zoning Ordinance of the Town of Byron is hereby amended to add Section _____ Unlicensed and Unregistered Vehicle Permits

(A) Definitions of Terms

As used in this Section, the below listed words shall have the following respective meaning:

1. “Special Purpose Vehicles” – Motor vehicles which are unregistered, uninsured and/or uninspected and are incapable of being legally operated on public highways but which are used by a resident of residential property for seasonal activities, restoration, recreation, or uses other than operation on public highways, but not including all-terrain vehicles as defined in Vehicle and Traffic Law Article 48-B.
2. “Owner” – any person, agent, firm or corporation defined as such in the Town of Byron Zoning Law.
3. “Town” – the “Town” as used herein shall mean any designated area within the boundary lines of the Town of Byron.
4. “Lot” – a parcel of land as defined in the Town of Byron Zoning Law (“Zoning Law”).
5. “Zoning Code Enforcement Officer” – the official appointed by the Town Board of the Town to such position.

(B) Permitting

1. Every owner of a Lot in a District zoned Agricultural, Agricultural-Residential or Residential is entitled to be issued one (1) Unregistered Vehicle Permit, provided no violations of the Zoning Law exist on the Lot.
2. Each such Lot shall be entitled to only one (1) permit, regardless of the number of residents or owners.
3. No permits shall be issued for any lot in any District other than those listed in subsection 1 above.
4. Agricultural Equipment and Vehicles located on a Farm as defined in the Zoning Law, are exempt from the provisions of this Law..
5. If the ownership of the Special Purpose Vehicle changes or it is removed from the Lot for a period of more than thirty (30) days or if the Vehicle is lost or stolen, it shall be the responsibility of the owner of the Lot to notify the Town Clerk within thirty (30) days of the event. the Town Clerk shall thereupon revoke the Permit.
6. Motorized vehicles designed for and used by handicapped individuals are exempt from the provisions of this Law.
7. Permits for Special Purpose Vehicles shall be obtained from the Town Clerk by completing an application form to be provided by her and then obtaining the endorsement on the application by the Officer that no violation of the Zoning Law exists on the Lot for which the owner of has applied for a permit.
8. Upon the issuance of the Permit, the owner shall be provided an adhesive emblem or tag which shall be affixed to the inside top left corner (driver’s side) of the front windshield.

(C) Regulations for Permit Holders

1. Permits shall be issued for a yearly fee of \$25.00.
2. All permits issued will be for a period of one (1) year.
3. Any permit that is not renewed within thirty (30) days from the date of expiration shall be subject to a \$10.00 late fee for every month that the renewal has not been issued.

4. The permitted vehicle shall be located on the lot in full compliance with the requirements of the Town of Byron Zoning Law pertaining to accessory buildings in Residential Districts, regardless of the District in which the lot is located.
5. The area beside, around and under the permitted vehicle shall be kept free of all vegetation over four inches (4”) in height.
6. The windows, doors, hoods and trunks of the vehicle shall be kept closed and locked at all times when it is not in use or being actively repaired.
7. Missing or lost tags may be replaced at a cost of \$5.00.

(D) Penalties

Any person convicted of a violation of this Local Law shall be liable for a penalty of:

- a. First offence: \$100.00
- b. Second Offense within one (1) year period: \$250.00
- c. Third and subsequent offenses within a one (1) year period: \$500.00

SECTION II. Separability

Each provision of this Local Law shall be deemed separate and independent of all other provisions and if any provisions shall be found invalid by a court of competent jurisdiction, all other provisions hereof shall remain valid and enforceable.

SECTION III. Repeal

This Local Law shall supersede all prior Local Laws, Ordinances, Rules and Regulations relative to the storing or parking of unlicensed vehicles within the Town of Byron and after the effective date, any such enactment in contradiction shall be null and void.

SECTION IV. Effective Date

This Local Law shall become effective after filing with the Secretary of State pursuant to MHRL Section 27.

PUBLIC COMMENTS: None

A **motion** was made by Councilwoman Fuller to close the Public Hearing regarding the proposed amendments to the Town of Byron Zoning Law at 8:20 p.m. The motion was seconded by Councilman Thompson and carried with the following vote:

Vote: Ayes: 5 Nays: 0

AMENDMENTS TO THE TOWN OF BYRON ZONING LAW REGARDING JUNK CARS, MANUFACTURED HOMES AND PONDS:

RESOLUTION #64:

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

Resolved, that the Byron Town Board hereby adopts the amendments to the Town of Byron Zoning Law as follows:

Section 1 Section 9.03 A-R Agricultural-Residential District.

(b) Permitted Principal uses in an A-R District

(vi) Ponds subject to approval from Genesee County Soil and Water District.

(1) No existing pond shall require such approval.

Section 2 Article II DEFINITIONS AND WORD USEAGE

Section 2.01 Word Usage

Dwelling shall be amended to read as follows:

A room or connected room designed or used exclusively as living quarters for one or more families; the term shall not be deemed to include an automobile court, recreational vehicle, hotel/motel, boarding or rooming house, tourist home, bed and breakfast house or tent. It shall include manufactured housing provided the structure meets all the requirements of NY Executive Law Article 21-B Title 2 Sections 615 and 616 and the definition of MANUFACTURED HOUSING in Section 2.01 of this Local Law.

Section 3 Section 11.17 is hereby repealed in its entirety.

Section 4 This Local Law shall take effect upon the filing with the Secretary of State pursuant to Municipal Home Rule Law Section 27.5

Councilwoman Fuller seconded the resolution which was adopted by the following vote:

Vote:

Ayes: 5

Nays: 0

AMENDMENTS TO THE TOWN OF BYRON ZONING LAW REGARDING JUNK CARS, MANUFACTURED HOMES AND PONDS:

RESOLUTION #65:

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

Resolved, that the Byron Town Board hereby adopts the amendments to the Town of Byron Zoning Law as follows:

SECTION I.

The Zoning Ordinance of the Town of Byron is hereby amended to add Section ____ Unlicensed and Unregistered Vehicle Permits

(A) Definitions of Terms

As used in this Section, the below listed words shall have the following respective meaning:

1. “Special Purpose Vehicles” – Motor vehicles which are unregistered, uninsured and/or uninspected and are incapable of being legally operated on public highways but which are used by a resident of residential property for seasonal activities, restoration, recreation, or uses other than operation on public highways, but not including all-terrain vehicles as defined in Vehicle and Traffic Law Article 48-B.
2. “Owner” – any person, agent, firm or corporation defined as such in the Town of Byron Zoning Law.

3. “Town” – the “Town” as used herein shall mean any designated area within the boundary lines of the Town of Byron.
4. “Lot” – a parcel of land as defined in the Town of Byron Zoning Law (“Zoning Law”).
5. “Zoning Code Enforcement Officer” – the official appointed by the Town Board of the Town to such position.

(B) Permitting

1. Every owner of a Lot in a District zoned Agricultural, Agricultural-Residential or Residential is entitled to be issued one (1) Unregistered Vehicle Permit, provided no violations of the Zoning Law exist on the Lot.
2. Each such Lot shall be entitled to only one (1) permit, regardless of the number of residents or owners.
3. No permits shall be issued for any lot in any District other than those listed in subsection 1 above.
4. Agricultural Equipment and Vehicles located on a Farm as defined in the Zoning Law, are exempt from the provisions of this Law..
5. If the ownership of the Special Purpose Vehicle changes or it is removed from the Lot for a period of more than thirty (30) days or if the Vehicle is lost or stolen, it shall be the responsibility of the owner of the Lot to notify the Town Clerk within thirty (30) days of the event. the Town Clerk shall thereupon revoke the Permit.
6. Motorized vehicles designed for and used by handicapped individuals are exempt from the provisions of this Law.
7. Permits for Special Purpose Vehicles shall be obtained from the Town Clerk by completing an application form to be provided by her and then obtaining the endorsement on the application by the Officer that no violation of the Zoning Law exists on the Lot for which the owner of has applied for a permit.
8. Upon the issuance of the Permit, the owner shall be provided an adhesive emblem or tag which shall be affixed to the inside top left corner (driver’s side) of the front windshield.

(C) Regulations for Permit Holders

1. Permits shall be issued for a yearly fee of \$25.00.
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3. Any permit that is not renewed within thirty (30) days from the date of expiration shall be subject to a \$10.00 late fee for every month that the renewal has not been issued.
4. The permitted vehicle shall be located on the lot in full compliance with the requirements of the Town of Byron Zoning Law pertaining to accessory buildings in Residential Districts, regardless of the District in which the lot is located.
5. The area beside, around and under the permitted vehicle shall be kept free of all vegetation over four inches (4”) in height.
6. The windows, doors, hoods and trunks of the vehicle shall be kept closed and locked at all times when it is not in use or being actively repaired.
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(D) Penalties

Any person convicted of a violation of this Local Law shall be liable for a penalty of:

- a. First offence: \$100.00
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SECTION II. Separability

Each provision of this Local Law shall be deemed separate and independent of all other provisions and if any provisions shall be found invalid by a court of competent jurisdiction, all other provisions hereof shall remain valid and enforceable.

SECTION III. Repeal

This Local Law shall supersede all prior Local Laws, Ordinances, Rules and Regulations relative to the storing or parking of unlicensed vehicles within the Town of Byron and after the effective date, any such enactment in contradiction shall be null and void.

SECTION IV. Effective Date

This Local Law shall become effective after filing with the Secretary of State pursuant to MHRL Section 27.

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

Vote: Ayes: 5 Nays: 0

MINUTES:

A **motion** was made by Councilwoman Fuller to approve the Byron Town Board minutes of September 13th and September 27, 2017 as written. The motion was seconded by Councilman Cudney and carried with the following vote:

Vote: Ayes: 5 Nays: 0

PLANNING BOARD REPORT – Councilman Cudney:

·No new business.

Vote: Ayes: 5 Nays: 0

A **motion** was made by Councilman Klycek to approve the Planning Board Report as given. The motion was seconded by Councilwoman Fuller and carried with the following vote:

Vote: Ayes: 5 Nays: 0

COMPREHENSIVE COMMITTEE REPORT:

·George Squires was not in attendance and no report was given.

SEWER REPORT:

Monthly:

·Checked and maintained all filter bed pumps (N,S+C)

·Keeping track of pump hours on all pumps including Old School House, Walkers Corners and McElver

Street lift station

·Took monthly samples

Other:

·Finished up pumping tanks in South Byron

·Pumped the Town Hall and Highway Garage septic tank

·Had a septic tank collapse at 7512 Mechanic Street, South Byron on October 9, 2017. Had A.D. Calls replace tank on October 11, 2017. It was an emergency situation.

Supervisor Yasses: He spoke with Shaun Dempsey from Camden about flushing tanks and Shaun said they tried it and that it's a waste of money, therefore, he would recommend that the Town doesn't do it. He would also like to talk to Shaun about inspecting manholes.

A **motion** was made by Councilwoman Fuller to approve the Sewer Report as written. The motion was seconded by Councilman Thompson and carried with the following vote:

Vote: Ayes: 5 Nays: 0

HIGHWAY SUPERINTENDENT'S REPORT – Brian Forsyth:

- Article about "helping neighbors"
- Helped the County do nova chip on Byron Road
- Helped the County do shoulders on Byron and North Byron Roads
- County mtg said paint dropped off this week probably roads striped after that
- Motor trouble 404 update
- Two new sets of leaf springs on 405
- One section (northwest) left of mowing and pushback til all crops off where needed
- Rainy days working on sanders...bearings, chains, hoses and whatever needed
- Sunny days started cutting brush...trying things over the road with work platform
- Upcoming: Load out more tvs and order some salt, get a load of cold patch in tray for winter and out of sand barn, Water District No. 8 being engineered helping with test holes, having trucks undercoated October 12 (tomorrow).
- Last but not least thanks to community service help

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

Vote: Ayes: 5 Nays: 0

CEO/ZEO REPORT – Mike Morris:

Number of Inspections: 20
Number of Zoning/Building Permits Issued: 3
Number of Land Separations: 0
Number of Special Use Permit Applications: 0
Number of Building C.O./C.C. Issued: 3
Number of Zoning Complaints Filed: 0
Number of Zoning Complaints Resolved: 0
Number of Stop Work Orders Issued: 0
Number of Violations Sent: 1
Number of Violations Resolved: 0

·Issued one appearance ticket for a pool fence that has not been completed for over two years. The case was adjourned until November 13, 2017.

·Still working to complete business and multiple dwelling inspections.

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

Vote: Ayes: 5 Nays: 0

PARK COMMITTEE REPORT – Councilman Cudney:

- Reviewed expenses
- Getting quotes on tennis court fence repairs

A **motion** was made by Councilwoman Fuller to approve the Park Committee Report as given. The motion was seconded by Councilman Klycek and carried with the following vote:

Vote: Ayes: 5 Nays: 0

MUSEUM REPORT –Councilwoman Fuller:

- Fall dinner is tomorrow at 6:00 p.m. at Byron Fire Dept.
- Bids for replacing back portion of museum roof:

Low-Key Construction: \$7,500 for architectural shingles, \$9,000 for metal roofing

Genesee County Roofing: \$9,600 for architectural shingles, same for metal roofing

Dan and D.J.'s Reasonable Contracting: \$9,314.80 for architectural shingles, \$10,114.80 for metal roofing

MUSEUM ROOF

RESOLUTION #66:

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

Resolved, that the Town of Byron Town Board approves the bid from Low-Key Construction for the complete tear off and installation of metal roofing on the addition portion of the museum at a cost not to exceed \$9,000.00 to be completed and invoiced prior to December 31, 2017.

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

Vote: Ayes: 5 Nays: 0

A **motion** was made by Councilman Thompson to approve the Museum Report as given. The motion was seconded by Councilman Cudney and carried with the following vote:

Vote: Ayes: 5 Nays: 0

ABSTRACTS

RESOLUTION #67:

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

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

<u>Fund:</u>	<u>Abstract:</u>	<u>Vouchers:</u>	<u>Amount:</u>
General Fund	#10	#241 - #263	\$39,800.42
Highway Fund	#10	#156 - #172	\$14,039.40
Sewer Fund	#10	#32 - #35	\$ 6,527.84
General Fund	PA#9	#51 - #55	\$ 1,699.58
Sewer Fund	PA#9	#22 - #24	\$ 898.14

Councilwoman Fuller seconded the resolution which was adopted by the following vote:

Vote: Ayes: 5 Nays: 0

TOWN CLERK'S REPORT:

Paid to the NYS Ag and Markets for spay/neuter program.....	\$ 76.00
Paid to NYS DEC.....	\$3,662.07
Paid to State Health Dept. for Marriage Licenses.....	\$ 22.50
Paid to NYS Comptroller for Games of Chance.....	\$ 15.00
Paid to the Town of Byron Supervisor.....	<u>\$4,092.93</u>
Total Disbursed for September 2017.....	\$7,868.50

A **motion** was made by Councilwoman Fuller to approve the Town Clerk's Report as given for September 2017. The motion was seconded by Councilman Thompson and carried with the following vote:

Vote: Ayes: 5 Nays: 0

FINANCIAL REPORT:

·The September 2017 Financial Report was reviewed.

A **motion** was made by Councilman Klycek to approve the September 2017 Financial Report. The motion was seconded by Councilman Thompson and carried with the following vote:

Vote: Ayes: 5 Nays: 0

SUPERVISOR'S REPORT:

Highway Garage:

·The Committee met and there is an Informational Meeting on Wednesday, October 18, 2017 at 7:00 p.m. at the South Byron Fire Hall. Paul Chatfield will be there to answer questions. November 1, 2017 is a Straw Poll Vote.

Court Clerks:

·Current Court Clerk resigned after maternity leave

·The 2 Stafford Court Clerks are willing to work for Byron for an unspecified period of time. The Judge asked that the Court Clerks be paid \$15.00 per hour. The Town Board agrees, but also stated that the Judges will need to stay within their allotted budget.

COURT CLERKS

RESOLUTION #68:

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

Resolved, that the Town of Byron Town Board hereby appoints Julie Scheuerlein and Teresa Maid as Court Clerks at a rate of \$15.00 per hour, not to exceed the budgeted amount as set forth in the 2017 budget.

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

Vote: Ayes: 5 Nays: 0

JCAP GRANT

RESOLUTION #69:

Councilwoman Fuller offered the following resolution and moved for its adoption:

WHEREAS, the Town Board of the Town of Byron hereby gives the Town Justice, Barbara Smith, approval to apply for a Justice Court Assistance (JCAP) Grant as follows:

·\$7,700.00 to reconfigure/enhancements to the Judge's bench

·\$2,900.00 for furniture for Court Clerk's and Judge's Offices

·\$14,980.00 for security fencing

Total requested is \$25,595.00, with the maximum allowed being \$30,000.00.

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

Vote: Ayes: 5 Nays: 0

WATER AGREEMENT WITH GENESEE COUNTY:

·.60 cent per thousand surcharge is no longer enough to cover bond owed to the Monroe County Water Authority by the County. If the County is going to upgrade the system they need to come up with an agreement with the Towns in the County with regard to sales tax or property taxes to cover the cost.

·The County Manager is willing to come to the Town to discuss the Agreement

A **motion** was made by Councilman Cudney 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:

WATER DISTRICT NO. 7:

**WATER DISTRICT NO. 7 LOAN RESOLUTION
RESOLUTION #70:**

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

LOAN RESOLUTION
(Public Bodies)

A RESOLUTION OF THE TOWN COUNCIL AUTHORIZING AND PROVIDING FOR THE INCURRENCE OF INDEBTEDNESS FOR THE PURPOSE OF PROVIDING A PORTION OF THE COST OF ACQUIRING, CONSTRUCTING, ENLARGING, IMPROVING, AND/OR EXTENDING ITS WATER FACILITY TO SERVE AN AREA LAWFULLY WITHIN ITS JURISDICTION TO SERVE.

WHEREAS, it is necessary for the Town of Byron (herein after called Association) to raise a portion of the cost of such undertaking by issuance of its bonds in the principal amount of One Million Eighty-Six Thousand & 00/100 pursuant to the provisions of Subject to New York State Municipal Finance Law ; and

WHEREAS, the Association intends to obtain assistance from the United States Department of Agriculture, (herein called the Government) acting under the provisions of the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) in the planning, financing, and supervision of such undertaking and the purchasing of bonds lawfully issued, in the event that no other acceptable purchaser for such bonds is found by the Association:

NOW THEREFORE, in consideration of the premises the Association hereby resolves:

1. To have prepared on its behalf and to adopt an ordinance or resolution for the issuance of its bonds containing such items and in such forms as are required by State statutes and as are agreeable and acceptable to the Government.

2. To refinance the unpaid balance, in whole or in part, of its bonds upon the request of the Government if at any time it shall appear to the Government that the Association is able to refinance its bonds by obtaining a loan for such purposes from responsible cooperative or private sources at reasonable rates and terms for loans for similar purposes and periods of time as required by section 333(c) of said Consolidated Farm and Rural Development Act (7 U.S.C. 1983(c)).
 3. To provide for, execute, and comply with Form RD 400-4, "Assurance Agreement," and Form RD 400-1, "Equal Opportunity Agreement," including an "Equal Opportunity Clause," which clause is to be incorporated in, or attached as a rider to, each construction contract and subcontract involving in excess of \$10,000.
 4. To indemnify the Government for any payments made or losses suffered by the Government on behalf of the Association. Such indemnification shall be payable from the same source of funds pledged to pay the bonds or any other legally permissible source.
 5. That upon default in the payments of any principal and accrued interest on the bonds or in the performance of any covenant or agreement contained herein or in the instruments incident to making or insuring the loan, the Government at its option may (a) declare the entire principal amount then outstanding and accrued interest immediately due and payable, (b) for the account of the Association (payable from the source of funds pledged to pay the bonds or any other legally permissible source), incur and pay reasonable expenses for repair, maintenance, and operation of the facility and such other reasonable expenses as may be necessary to cure the cause of default, and/or (c) take possession of the facility, repair, maintain, and operate or rent it. Default under the provisions of this resolution or any instrument incident to the making or insuring of the loan may be construed by the Government to constitute default under any other instrument held by the Government and executed or assumed by the Association, and default under any such instrument may be construed by the Government to constitute default hereunder.
 6. Not to sell, transfer, lease, or otherwise encumber the facility or any portion thereof, or interest therein, or permit others to do so, without the prior written consent of the Government.
 7. Not to defease the bonds, or to borrow money, enter into any contractor agreement, or otherwise incur any liabilities for any purpose in connection with the facility (exclusive of normal maintenance) without the prior written consent of the Government if such undertaking would involve the source of funds pledged to pay the bonds.
 8. To place the proceeds of the bonds on deposit in an account and in a manner approved by the Government. Funds may be deposited in institutions insured by the State or Federal Government or invested in readily marketable securities backed by the full faith and credit of the United States. Any income from these accounts will be considered as revenues of the system.
 9. To comply with all applicable State and Federal laws and regulations and to continually operate and maintain the facility in good condition.
 10. To provide for the receipt of adequate revenues to meet the requirements of debt service, operation and maintenance, and the establishment of adequate reserves. Revenue accumulated over and above that needed to pay operating and maintenance, debt service and reserves may only be retained or used to make prepayments on the loan. Revenue cannot be used to pay any expenses which are not directly incurred for the facility financed by USDA. No free service or use of the facility will be permitted.
- According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0572-0121. The time required to complete this information collection is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.*
11. To acquire and maintain such insurance and fidelity bond coverage as may be required by the Government.

12. To establish and maintain such books and records relating to the operation of the facility and its financial affairs and to provide for required audit thereof as required by the Government, to provide the Government a copy of each such audit without its request, and to forward to the Government such additional information and reports as it may from time to time require.
13. To provide the Government at all reasonable times access to all books and records relating to the facility and access to the property of the system so that the Government may ascertain that the Association is complying with the provisions hereof and of the instruments incident to the making or insuring of the loan.
14. That if the Government requires that a reserve account be established, disbursements from that account(s) may be used when necessary for payments due on the bond if sufficient funds are not otherwise available and prior approval of the Government is obtained. Also, with the prior written approval of the Government, funds may be withdrawn and used for such things as emergency maintenance, extensions to facilities and replacement of short lived assets.
15. To provide adequate service to all persons within the service area who can feasibly and legally be served and to obtain USDA's concurrence prior to refusing new or adequate services to such persons. Upon failure to provide services which are feasible and legal, such person shall have a direct right of action against the Association or public body.
16. To comply with the measures identified in the Government's environmental impact analysis for this facility for the purpose of avoiding or reducing the adverse environmental impacts of the facility's construction or operation.
17. To accept a grant in an amount not to exceed \$1,000,000.00 under the terms offered by the Government; that the Supervisor and Town Clerk of the Association are hereby authorized and empowered to take all action necessary or appropriate in the execution of all written instruments as may be required in regard to or as evidence of such grant; and to operate the facility under the terms offered in said grant agreement(s).

The provisions hereof and the provisions of all instruments incident to the making or the insuring of the loan, unless otherwise specifically provided by the terms of such instrument, shall be binding upon the Association as long as the bonds are held or insured by the Government or assignee. The provisions of sections 6 through 17 hereof may be provided for in more specific detail in the bond resolution or ordinance; to the extent that the provisions contained in such bond resolution or ordinance should be found to be inconsistent with the provisions hereof, these provisions shall be construed as controlling between the Association and the Government or assignee.

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

Vote: Ayes: 5 Nays: 0

WATER DISTRICT NO. 8:

·Waiting for Comptroller approval.

**WATER DISTRICT NO. 8 MAIN EXTENSION AGREEMENT
RESOLUTION #71:**

Councilwoman Fuller offered the following resolution and moved for its adoption:

Resolved, that the Supervisor of the Town of Byron is hereby authorized, as the official representative of the Town, to execute the Water District Main Extension Agreement for Water District No. 8 between the Town of Byron and the Monroe County Water Authority.

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

Vote: Ayes: 5 Nays: 0

WATER DISTRICT NO. 8 APPLICATION TO THE COMPTROLLER

RESOLUTION #72:

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

RESOLVED: That the attached application was prepared at the direction of the Town Board of the Town of Byron, that the board believes the contents of the application to be accurate, that the Board has determined that the formation of Water District No. 8 in the Town of Byron is in the public interest and will not constitute an undue burden on the property which will bear the cost thereof, and that the cost of the proposed district improvements will be assessed in whole against the benefited area, that the real property to be so assessed will be benefited by the proposed District and that no benefited property has been excluded from the District.

Councilwoman Fuller seconded the resolution which was adopted by the following vote:

Vote: Ayes: 5 Nays: 0

REVIEW OF 2018 BUDGET:

Proposed changes from September 27, 2017 Special Meeting have been made and Preliminary Budget is now ready for Public Hearing. Town Board must also override tax levy limit.

Local Law No. 3 of 2017

Town of Byron

County of Genesee

A Local Law to override the tax levy limit established in General Municipal Law 3-c

Section 1 Legislative Intent

It is the intent of this Local Law to override the limit on the amount of real property taxes that may be levied by the Town of Byron pursuant to General Municipal Law §3-c, and to allow the Town of Byron to adopt a budget for the fiscal year 2018 that requires a real property tax levy in excess of the “tax levy limit” as defined by General Municipal Law §3-c.

Section 2 Authority

This Local Law is adopted pursuant to subdivision 5 of General Municipal Law §3-c, which expressly authorizes the Town Board to override the tax levy limit by the adoption of a Local Law approved by vote of sixty percent (60%) of the Town Board.

Section 3 Tax Levy Limit Override

The Town Board of the Town of Byron, County of Genesee, is hereby authorized to adopt a budget for the fiscal year 2018 that requires a real property tax levy in excess of the amount otherwise proscribed in General Municipal Law §3-c.

Section 4 Severability

If any clause, sentence, paragraph, subdivision, or part of this Local Law or the application thereof to any person, firm or corporation, or circumstance, shall be adjusted by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, or part of this Local Law or in its application to the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

Section 5 Effective Date

This Local Law shall take effect immediately upon filing with the Secretary of State.

RESOLUTION TO INTRODUCE PROPOSED LOCAL LAW NO. 3 OF 2017 AND TO SCHEDULE A PUBLIC HEARING

RESOLUTION #73:

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

WHEREAS, the Town Board of the Town of Byron, New York desires to consider adopting legislation to override the limit on the amount of real property taxes that may be levied by the Town of Byron pursuant to General Municipal Law Section 3-c, and to allow the Town of Byron to adopt a town budget for fiscal year 2018 that requires a real property tax levy in excess of the tax levy limit, also known as Town of Byron Local Law No. 3 of 2017.

NOW, THEREFORE, BE IT RESOLVED by the Town Board of the Town of Byron, New York that proposed Local Law No. 3 of 2017 entitled “A Local Law to Override the Tax Levy Limit Established in General Municipal Law Section 3-c”, which proposed Local Law is now in its final form as appears by a copy thereof hereto attached, be and the same hereby is introduced for adoption; and

BE IT FURTHER RESOLVED that said proposed Local Law be laid upon the desks of the members of this Town Board on this date and remain there and a copy thereof be kept on file in the office of the Town Clerk until November 8, 2017, and that a Public Hearing be held before this Town Board on the 8th day of November, 2017, at 7:00 p.m. at the Byron Town Hall, 7028 Rte. 237, Byron, New York, on the advisability of enacting said proposed Local Law; and

BE IT FURTHER RESOLVED that a copy of said proposed local Law be mailed to each member of the Town Board not in attendance at this meeting in a postpaid, properly addressed and securely closed envelope in a post box within the Town of Byron, New York not less than ten (10) calendar days, exclusive of Sunday, prior to the date of said Public Hearing;

BE IT FURTHER RESOLVED that the Town Clerk shall cause notice of said Public Hearing to be published once in the Batavia Daily News at least five (5) days prior to the date of said Public Hearing, which notice shall contain the time and place of said hearing, the title and purpose thereof, as well as a statement that a copy of said proposed Local Law is on file in the Town Clerk’s Office.

Councilwoman Fuller seconded the resolution which was adopted by the following vote:

Vote: Ayes: 5 Nays: 0

PUBLIC HEARING – 2018 BUDGET:

A **motion** was made by Councilwoman Fuller to approve the 2018 Tentative Budget with the changes as discussed above, and to set the Public Hearing on the 2018 Preliminary Budget and Fire Protection Contracts for November 8, 2017 at 7:15 p.m. The motion was seconded by Councilman Klycek and carried with the following vote:

Vote: Ayes: 5 Nays: 0

PUBLIC COMMENTS:

NONE

ADJOURN:

A **motion** was made by Councilman Thompson to adjourn the Byron Town Board Meeting at 9:11 p.m. The motion was seconded by Councilman Klycek and carried with the following vote:

Vote: Ayes: 5 Nays: 0

Respectfully Submitted,

Debra M. Buck-Leaton
Byron Town Clerk