

BYRON TOWN BOARD MEETING

December 9, 2009

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

Supervisor.....Thomas Felton
Councilmen.....John Ivison
Jeanne Freeman
Craig Ferguson
Jack Redick
Town Clerk.....Debra Buck-Leaton
Highway Superintendent.....George Heins

Invited Guests:

Attorney Paul Boylan

Public:

Jim and Barb Cudney.....Rte. 237, Byron
Don Liles.....Mechanic Street, S. Byron
Robert Crnkovich.....7431 Rte. 237, Byron
Sue Fuller.....Cockram Road, Byron

PLEDGE TO THE FLAG:

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

MINUTES:

A **motion** was made by Councilman Ivison to approve the Byron Town Board minutes of November 10th and November 29, 2009 as written. The motion was seconded by Councilman Ferguson and carried with the following vote:

Vote: Ayes: 5 Nays: 0

PUBLIC HEARING – REMOVAL OF YASSES PROPERTY FROM SEWER DISTRICT:

A **motion** was made by Councilman Ferguson to open the Public Hearing to remove property owned by Peter and Michelle Yasses from the Byron Sewer District pursuant to Town Law Section 202-c, subdivision 7 as amended by Chapter 373 of the Laws of 2009 at 7:00 p.m. The motion was seconded by Councilman Ivison and carried with the following vote:

Vote: Ayes: 5 Nays: 0

LEGAL NOTICE

*NOTICE OF PUBLIC HEARING
BYRON SEWER DISTRICT*

PLEASE TAKE NOTICE that the Town Board of Town of Byron shall hold a Public Hearing on Wednesday, December 9, 2009 at 7:00 p.m. in the Byron Town Hall at 7028 Route 237, Byron, New York pursuant to Town Law Section 202-c, subdivision 7 as amended by Chapter 373 of the Laws of 2009 regarding a proposed resolution to diminish the territory included in the said District by deleting therefrom the lands described in subdivision 7(B) of said section 202-c belonging to Peter N. and Michelle R. Yasses.

Any such Yasses resolution to diminish the said Sewer District, if adopted, is subject to a permissive referendum pursuant to said Section 202-c(7).

Dated: November 11, 2009

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

A **motion** was made by Councilwoman Freeman to close the Public Hearing at 7:01 p.m. The motion was seconded by Councilman Ferguson and carried with the following vote:

Vote: Ayes: 5 Nays: 0

REMOVAL OF PROPERTY OWNED BY PETER N. YASSES and MICHELLE R. YASSES FROM THE TOWN OF BYRON SEWER DISTRICT

RESOLUTION #72:

WHEREAS, on November 11, 2009, the Town Board of the Town of Byron duly adopted a resolution calling a Public Hearing to be held on December 9, 2009, and

WHEREAS, a Notice of Public Hearing was duly published in the Batavia Daily News on the 25th day of November, 2009, and said Notice was duly posted on the Town Clerk's Sign Board on the 16th day of November, 2009, and

WHEREAS, the Town Board of the Town of Byron duly called and held said Public Hearing on December 9, 2009 pursuant to said notice, and

WHEREAS, no one appeared in opposition to the withdrawal of the lands owned by Peter and Michelle Yasses as described in said notice,

NOW THEREFORE, it is Ordered

1. That the land described in Section 202-c(7B) of the Town Law owned by Peter and Michelle Yasses be and it hereby is removed, withdrawn and eliminated from the Byron Sewer District, and

2. That pursuant to said Town Law 202-c(7), this order is subject to a Permissive Referendum pursuant to Article 7 of the Town Law.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call, which resulted as follows:

Supervisor Felton:	Aye
Councilwoman Freeman:	Aye
Councilman Ferguson:	Aye
Councilman Redick:	Aye
Councilman Ivison:	Aye

The resolution was thereupon declared duly adopted.

PLANNING BOARD REPORT – Councilman Ivison & Councilman Redick:

- Reviewed a land separation which needed to have a corrected deed
- The CEO/ZEO was present at the Planning Board meeting to discuss open building permits and zoning questions regarding building use for businesses/residential use.

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

Vote: Ayes: 5 Nays: 0

HIGHWAY SUPERINTENDENT’S REPORT – George Heins:

- Street lighting on the corner of N. Bergen Road and Bird Road (\$125/year) and street lighting on the corner of Caswell Road and Rte. 262 (\$166/year)
 - spoke with Lori from National Grid and would like the Town Board to pass a resolution for both.

INSTALLATION OF STREET LIGHTING AT THE CORNER OF CASWELL ROAD AND RTE. 262 & N. BERGEN ROAD AND BIRD ROAD

Councilwoman Freeman offered the following resolution and moved for its adoption:
Resolved, National Grid is hereby authorized and directed to do the following work in the Town of Byron, CSS Reference No. 27938-81108.

Install: One-150 whps on Pole 6203 at Caswell & Route 262

Estimated Annual Cost: \$166

Contingent upon the Town Board receiving written request from residents for Caswell Road and Rte. 262 intersection.

Be if Further Resolved, National Grid is hereby authorized and directed to do the following work in the Town of Byron, CSS Reference No. 27938-81108.

Install: One-100 whps on Pole 6391 at N. Bergen and Bird Road

Estimated Annual Cost: \$125

There was no second, and therefore the resolution was not carried.

A **motion** was made by Councilman Ivison to approve the Highway Report as given. The motion was seconded by Councilman Redick and carried with the following vote:

Vote: Ayes: 5 Nays: 0

ASSESSOR’S REPORT:

•Reviewed the assessment growth in the Town of Byron since 2006. 10% of taxable value of town is in state valued property that has not grown since 2006. Of the remaining 90%, residential makes up 80% of that number. Town has seen slow but steady growth. Rural towns will not see great increases in value from one year to the next. Policies should keep the rural aspect intake and values will hold in the future.

•Annual aid payments for assessment purposes have been cut by the Governor by 14.5% so far. Byron was to receive assessment aid and consolidation aid with Oakfield for 2009 totaling \$12.00 per parcel. That will now be \$10.26 per parcel if it is paid at all. Earliest 2009 aid may arrive is March 2010. Byron is one of 19 municipalities in New York that has done annual reassessment since 1999 and has received over \$50,000 in aid over that

time. Anne Sapienza started the process that I am continuing. Future of state funding will be in question for the future. Many costs will be at town expense with no state funding.

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

Vote: Ayes: 5 Nays: 0

WASTE WATER REPORT:

Compliance

Passed all requirements

Finished Projects

- Took weekly samples
- Took monthly samples
- Monthly reports
- Gathered info on flow meters
- Change float at house in South Byron
- Switched filter bed valving
- Checked all pumps for operation
- Took meter readings
- Exercised generators, checked fluids.

Future Projects

- Replace pumps
- Continue preventative maintenance program
- Replace pump in South Byron

A **motion** was made by Councilman Ferguson to approve the Waste Water Report as written. The motion was seconded by Councilman Ivison and carried with the following vote:

Vote: Ayes: 5 Nays: 0

A **motion** was made by Councilman Ivison to relevy all 2009 unpaid sewer bills onto the 2010 Town/County tax bills. The motion was seconded by Councilman Ferguson and carried with the following vote:

Vote: Ayes: 5 Nays: 0

FLOW METERS:

Supervisor Felton presented the Town Board with two quotes for a new flow meter for the sewer district.

PURCHASE OF FLOW METER

RESOLUTION #73:

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

RESOLVED: That the Byron Town Board authorizes the purchase of a demo unit flow meter from Pertech with attachments for a total cost of \$3,342.00.

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

Vote: Ayes: 5 Nays: 0

CEO/ZEO REPORT:

Number of Inspections: 14
Number of Zoning Permits: 0
Number of Building Permits Issued: 4
Number of Land Separations: 1
Number of Building C.O./C.C. Issued: 2
Number of Zoning Complaints Filed: 2
Number of Zoning Complaints Resolved: 2
Total Hours for the Month: 99

- A2
- Fire and maintenance inspections for Mercantile, Multi-Family Dwellings and Group
 - Continue to see new applications for new construction

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

Vote: Ayes: 5 Nays: 0

PARK COMMITTEE REPORT – Councilman Redick:

- Councilman Redick and Councilwoman Freeman met with the Park Committee.
- They would like to have budgeted money not used in one year rolled over to the following year.
- Concerned that eliminating camping at Trestle Park would mean they would get less money to do needed projects.
- Concerned regarding decisions made by Town Board without them present
- They will attend a Board meeting in February with a list of concerns.
- Supervisor Felton believes camping would be contradictory to keeping vandalism down after dark. Sheriff's Dept. would not be able to enforce curfew and violators.

A **motion** was made by Councilman Ivison to approve the Park Committee report as given. The motion was seconded by Councilman Ferguson and carried with the following vote:

Vote: Ayes: 5 Nays: 0

ABSTRACTS

RESOLUTION #74:

Councilman Ivison 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	#12	#252 - #271	\$18,630.60
Highway Fund	#12	#159 - #169	\$49,792.10

Sewer Fund	#12	#75 - #85	\$ 7,151.93
General Fund	#PA-17	#68 - #71	\$ 3,511.29
Sewer Fund	#PA-12	#23 - #24	\$ 567.17

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

Vote: Ayes: 5 Nays: 0

TOWN CLERK'S REPORT:

Paid to the Genesee County Treasurer for Dog Licenses.....	\$ 114.62
Paid to the NYS Ag and Markets for spay/neuter program.....	\$ 207.00
Paid to NYS Environmental Conservation.....	\$1,161.78
Paid to the Town of Byron Supervisor.....	<u>\$2,695.76</u>
Total Disbursed for November 2009.....	<u>\$4,179.16</u>

A **motion** was made by Councilman Ivison to approve the Town Clerk's Report as given for November 2009. The motion was seconded by Councilwoman Freeman and carried with the following vote:

Vote: Ayes: 5 Nays: 0

APPROVAL OF OFFICIAL UNDERTAKING FOR TAX COLLECTOR **RESOLUTION #75:**

Approval of the Byron Town Board

We, the undersigned members of the Town Board of the Town of Byron, County of Genesee, State of New York, do hereby approve the attached undertaking or bond as to its form, manner of execution, amount and sufficiency thereof, and to the sureties named thereon. Said undertaking or bond shall be conditioned that the collector of the taxes shall well and truly keep, pay over and account for all moneys and property coming into her/his hands as such collector.

Vote: Ayes: 5 Nays: 0

FINANCIAL REPORT:

- The financial reports were reviewed for November 2009
- The public also received a copy of a summary financial report

A **motion** was made by Councilman Redick to approve the November 2009 Financial Reports as given. The motion was seconded by Councilman Ferguson and carried with the following vote:

Vote: Ayes: 5 Nays: 0

OTHER BUSINESS:

WATER DISTRICTS:

WATER DISTRICT NOS. 3 & 4:

- Received verbal from USDA that they are willing to increase funding. Resubmitting figures to Comptroller. Dropping contingency from 10% to 5%.

WATER DISTRICT NO. 4:

**APPLICATION TO COMPTROLLER FOR PERMISSION TO INCREASE
MAXIMUM AMOUNT**

RESOLUTION #76:

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

RESOLVED: That the Town Clerk and the Town Attorney are hereby authorized and directed to prepare an application to the State Comptroller for permission to increase the maximum amount to be expended in Water District No. 4 (Cockram Road) from \$156,000 to \$191,000.

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

Vote: Ayes: 5 Nays: 0

A regular meeting of the Town Board of the Town of Byron in the County of Genesee, New York, was held at the Town Hall, in said Town, on the 9th day of December, 2009.

PRESENT:

Thomas Felton, Supervisor
Jeanne Freeman, Councilwoman
Craig Ferguson, Councilman
Jack Redick, Councilman
John Ivison, Councilman

In the Matter	:	RESOLUTION AND
of the		ORDER
Increase in Maximum Amount to Be Expended for	:	AFTER PUBLIC
Improvement of Facilities of Water District No. 4		HEARING
(Cockram Road) in the Town of Byron in Genesee County,	:	
New York, Pursuant to Section 202-b of the Town Law		
.	:	

WHEREAS, after a public hearing duly called and held on May 14, 2008, the Town Board of the Town of Byron (the "Town Board" and the "Town," respectively), in the County of Genesee, New York, duly adopted a resolution and order determining that it is in the public interest to increase and improve the facilities of Water District No. 4 (Cockram Road) in the Town (the "District"), consisting of the installation of 2,150 lineal feet of water mains and eleven (11) lateral connections on Cockram Road in the Town of Byron and including land or rights in land, furnishings, equipment, machinery and apparatus required

therefor, and ordering that the facilities of the District be so increased and improved at an estimated maximum cost of \$156,000.00, and

WHEREAS, due to generally increased costs of labor and materials, the maximum amount now proposed to be expended for said improvement of the water system is \$191,000.00, being an increase of \$35,000.00, and

WHEREAS, on November 11, 2009, the Town Board of the Town adopted an order describing in general terms said increase and improvement of facilities at the revised estimated maximum cost of \$191,000.00 and stating that the Town Board would meet to hear all persons interested in said increase and improvement of facilities at said revised estimated maximum cost on November 24, 2009, at 7:00 p.m. at the Town Hall;

WHEREAS, copies of said order certified by the Town Clerk were duly published and posted pursuant to the provisions of article 12 of the Town Law;

WHEREAS, such further public hearing was duly held, after a copy of such order certified by the Town Clerk was duly published and posted, at the time and place as stated in such order and considerable discussion on the matter having been had and all persons desiring to be heard having been heard in favor of and in opposition to said increase and improvements of facilities at the revised estimated maximum cost; now, therefore, upon the evidence given at such hearing, it is hereby

RESOLVED AND DETERMINED, that it is in the public interest to increase and improve the facilities of the District as hereinabove described and referred to, and it is hereby

ORDERED, the facilities of the District shall be so increased and improved at a cost not to exceed \$191,000.00, the amount stated in the notice of hearing as the revised estimated cost of such increase and improvement of facilities; and it is further

ORDERED, that the expense of said increase and improvement of facilities shall be assessed, levied and collected from the several lands or parcels of land within the District, so much upon and from each as shall be in just proportion to the amount of benefit which the Town Board determines said increase and improvement of the facilities shall confer upon the same, and any amounts received from grants of federal and state funds shall be applied to the cost of said increase and improvement of facilities, or toward redemption of any bonds issued therefor or budgeted as an offset to assessments for payment of the principal and interest thereon, and it is further

ORDERED, that the Town Clerk record a certified copy of this resolution and order after public hearing in the office of the Clerk of Genesee County within ten (10) days after adoption thereof, and it is further

ORDERED, that because the cost to a typical resident will exceed the threshold of the average cost for water districts established by the Office of State Comptroller that this resolution and order shall not be effective unless and until permission is received from the Office of the State Comptroller.

Dated: December 9, 2009

Town Board of the Town of Byron

WATER DISTRICT NO. 5 (Cockram Road East):

·Waiting to hear from USDA

WATER DISTRICT NO. 6 (Pumpkin Hill):

·Bergen would like to increase district to include N. Bergen and Warboys Road to include W. Sweden Road. Cost would be approximately \$950 according to Eric Wies. Bergen will have a Public Hearing in January to determine interest.

MORTGAGE TAX:

·Received check from Genesee County Treasurer for \$11,944.57

STATE AID:

·Received State Aid check from NYS for Gillam-Grant for \$2,311.46

END-OF-YEAR MEETING:

A **motion** was made by Councilman Ivison to hold a special meeting on December 30, 2009 at 4:00 p.m. to handle end-of-the-year business. The motion was seconded by Councilman Redick and carried with the following vote:

Vote: Ayes: 5 Nays: 0

ORGANIZATIONAL MEETING:

A **motion** was made by Councilman Ferguson to hold the 2010 Organizational Meeting on January 6, 2010 at 7:00 p.m. The motion was seconded by Councilwoman Freeman and carried with the following vote:

Vote: Ayes: 5 Nays: 0

RESOLUTION SUPPORTING LEGISLATION TO RESCIND NYSDEC OPEN BURN LAWS

RESOLUTION #77:

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

WHEREAS, on October 14, 2009 new legislation on “Open Burn” went into effect; and

WHEREAS, prior to this new legislation, open burning of garbage, refuse and rubbish in rural communities was a longstanding means of eliminating waste material, as many rural communities do not have waste management facilities and/or apparatus to transport waste material to such facilities; and

WHEREAS, under the current law the DEC adopted regulations banning open burn and removing the previous exemption for Towns with populations of 20,000 or less; and

WHEREAS, rescinding the recently adopted legislation would significantly help the rural residents and communities during this difficult financial time.

NOW, THEREFORE, BE IT

RESOLVED, the Byron Town Board hereby supports any Assembly bill to rescind the Open Burning Law; and be it

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

Vote: Ayes: 5 Nays: 0

TOMPKINS INSURANCE:

·Councilman Redick and Councilman Ferguson met with Tim Spezzano from Tompkins Insurance regarding the Town of Byron's insurance policy and changes to coverage.

BYRON-BERGEN PUBLIC LIBRARY:

·The Town Board would need to give the Library Board one year notice to discontinue the Agreement with them. The Town will need to appoint three people to the Board.

RESOLUTION TO TERMINATE AGREEMENT WITH BYRON-BERGEN PUBLIC LIBRARY

RESOLUTION #78:

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

RESOLVED: That the Byron Town Board would like to terminate the Agreement with the Byron-Bergen Public Library, and therefore is giving the Library notice of said discontinuance.

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

Vote: Ayes: 5 Nays: 0

PUBLIC COMMENTS:

Sue Fuller – Has had inspection of hardware store, Fullerino's and apartment buildings. She was told by the CEO that Byron Repair would be done next week. The CEO told Roger that he didn't want Sue there when he did the repair shop.

Barb Cudney – Would like to thank Supervisor Felton for all of his hard work.

Attorney Paul Boylan – He has been in discussion with two attorneys for potential buyer and seller of trailer park next to post office regarding zoning. He advised them to go to the Board of Appeals.

SUPERVISOR'S REPORT:

·Received letter from Gloria Marro regarding fire on Rte. 262 praising the fire department.

·Received email regarding shared services from Comptroller

·Received report from Mercy EMS

·Received letter from GVRPC regarding home rehabilitation in Genesee County

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

Vote: Ayes: 5 Nays: 0

ADJOURN:

A **motion** was made by Councilman Ivison to adjourn the Byron Town Board Meeting at 9:13 p.m. The motion was seconded by Councilman Redick and carried with the following vote:

Vote: Ayes: 5 Nays: 0

Respectfully Submitted,

Debra M. Buck-Leaton
Byron Town Clerk