

BYRON TOWN BOARD MEETING

July 13, 2016

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
Assessor.....	Barry Flansburg
Town Clerk.....	Debra Buck-Leaton

Public:

Bill and Barb Emerson.....	Terry Street, Byron
Chip Blair.....	Byron-Holley Road, Byron
David Starowitz.....	Caswell Road, Byron
David Cross.....	Elba
Candace Hensel.....	Byron-Holley Road, Byron
George Squires.....	McElver Street, Byron
David Chupp.....	Tripp Road, Byron
Mickey Truax.....	Swamp Road, Byron
Bill Hawken.....	Byron-Holley Road, Byron
Vic Digregorio.....	Warboys Road, Byron
Dean Ivison.....	Coward Road, Byron
John Sackett.....	Townline Road, Byron

PLEDGE OF ALLEGIANCE:

The Pledge of Allegiance was led by Supervisor Yasses.

MINUTES:

A **motion** was made by Councilwoman Fuller to approve the Byron Town Board minutes of June 8 and June 15, 2016 as written. The motion was seconded by Councilman Klycek and carried with the following vote:

Vote: Ayes: 5 Nays: 0

PLANNING BOARD REPORT – Councilman Cudney:

·No new business came before the Planning Board

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

Vote: Ayes: 5 Nays: 0

COMPREHENSIVE COMMITTEE REPORT – Chairman George Squires:

·Received contract from Wendell which contained language Chairman Squires didn't agree with. He was told by Wendell that it was boilerplate language and they were going to rewrite or eliminate the section he concerned about. Supervisor Yasses will give the contract to the Town Attorney for review and have him talk to Wendell, or their attorneys, to discuss the wording in question.

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

Vote: Ayes: 5 Nays: 0

MUSEUM REPORT – Councilwoman Fuller:

·The Historical Society would like to purchase a shed, with their own money, and have it put on the museum property in order to place museum items into.

·Byron Historical Society will not continue with the application for an Absolute Charter at this time. The Byron Historical Society will continue with the status quo of the current Provisional Charter and will readdress in 2018 when Provisional Charter expires. Byron Historical Society currently has an up to date 501(c)3, which renews every May.

·Chip Blair spoke about the Building Permit which was presented to the Town Board for the shed. The shed will be a temporary structure, and it will be used to place items into from the museum. The Historical Society figures it will take about 3 years to clean and reorganize the museum

·Supervisor Yasses stated that the only concern that the CEO/ZEO had was that perhaps gutters should be placed on the shed.

A **motion** was made by Supervisor Yasses to approve the placement of a 12' x 24' shed, purchased by the Historical Society, on the museum property, and that all required fees shall be waived. The motion was seconded by Councilman Thompson and carried with the following vote:

Vote: Ayes: 5 Nays: 0

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

Vote: Ayes: 5 Nays: 0

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:

·Switched valving in filter beds.

·Had odor complaint from a homeowner on Mill Pond Road. Replaced mustic on the lid of his house pump.

Bergen Waste Water Treatment Plant Email to Supervisor:

·The Supervisor received an email from the Village of Bergen Supervisor inquiring whether the Town would like the Village of Bergen to assist them in the treatment of grey water.

·The Town Board would like to know what the intentions of the Village of Bergen are. The Supervisor will contact Mayor Barclay to see what their intentions were.

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

Vote: Ayes: 5 Nays: 0

HIGHWAY SUPERINTENDENT’S REPORT – Brian Forsyth:

- Doritex clothing contract extended
- Finished painting 403 (International ten wheeler) box and frame
- Helped Bethany blacktop Cackner Road
- Helped Stafford blacktop Sweetland Road
- Helped Elba blacktop Batavia Oakfield Townline Road
- Byron paved Chapell Road – intersection June 28 road June 29
- Attended Drive Safely seminar from NYMIR in Batavia
- Are tentatively scheduled to finish oil and stone July 13
- Byron finished with oil and stone helping LeRoy and Alexander
- Ordered pickup a “real challenge” according to salesman
- Painted sign in front flowerbed
- Cemetery trailer has been sold

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

Vote: Ayes: 5 Nays: 0

CEO/ZEO REPORT:

- Number of Inspections: 16
- Number of Zoning/Building Permits Issued: 10
- Number of Land Separations: 0
- Number of Building C.O./C.C. Issued: 4
- Number of Zoning Complaints Filed: 2
- Number of Zoning Complaints Resolved: 2
- Number of Stop Work Orders Issued: 0

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

Vote: Ayes: 5 Nays: 0

PARK COMMITTEE REPORT – Councilman Cudney:

- Auditors did not like the separate account that the Park Committee has and they will be looking at different ways for the Park Committee to keep the money they have collected.
- Firemen will be fixing tennis net
- Staining fencing along driveway

·Ash Trees in Trestle Park are dying, which is a common problem with Ash Trees

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

Vote: Ayes: 5 Nays: 0

ABSTRACTS

RESOLUTION #56:

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	#7	#139 - #168	\$23,019.78
Highway Fund	#7	#79 - #98	\$74,680.20
Sewer Fund	#7	#22 - #23	\$ 3,169.75
General Fund	PA#6	#29 - #37	\$ 8,224.85
Sewer Fund	PA#6	#17 - #18	\$ 557.92
Water District No. 6	#7	#10 - #12	\$81,563.63

Councilman Cudney 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.....	\$ 110.00
Paid to the NYS Ag and Markets for spay/neuter program.....	\$ 61.00
Paid to NYS DEC.....	\$ 85.02
Paid to the Town of Byron Supervisor.....	<u>\$2,949.48</u>
Total Disbursed for June 2016.....	\$3,228.00

A **motion** was made by Councilwoman Fuller to approve the Town Clerk's Report as given for June, 2016. The motion was seconded by Councilman Thompson and carried with the following vote:

Vote: Ayes: 5 Nays: 0

FINANCIAL REPORT:

·The June 2016 Financial Report was reviewed.

A **motion** was made by Councilman Klycek to approve the June 2016 Financial Reports. The motion was seconded by Councilwoman Fuller and carried with the following vote:

Vote: Ayes: 5 Nays: 0

SUPERVISOR'S REPORT:

·Received Mortgage Tax Payment in the amount of \$13,757.94, which is \$3,757.94 more than was budgeted for 2016

·Games of Chance Law – need to set up a Public Hearing for August to do Local Law and then it will be put on the November General Election ballot for a vote.

A **motion** was made by Councilwoman Fuller to call a Public Hearing on Wednesday, August 10, 2016 at 7:00 p.m. to establish Local Law No. 2 of 2016 authorizing Games of Chance by

authorized organizations within the Town of Byron. The motion was seconded by Councilman Klycek and carried with the following vote:

Vote: Ayes: 5 Nays: 0

·Sales Tax Allocation Agreement with the County – a committee has been formed by the County in order to review the current agreement and the County’s options with the Towns in Genesee County. Original Agreement was between the County and the City of Batavia.

·Workers Compensation Rate Increase – spoke with Lawley and they do not have any numbers for a premium until later this week.

·Health Insurance – the Supervisor met with a representative from Bene-Care and was told that the Town’s current coverage Univera ValUcare Plus Silver 4 is no longer available, and that the Town would need to look at different options. After speaking with the Highway Department employees, it was decided they would switch to BCBS of WNY Gold PPO 7100 HSAQ, and that \$1,750 would be put into their HSA account (\$1,300 annual deductible for a single plan). It has to be decided prior to Friday.

·The Highway Superintendent also spoke with the Highway Department employees and they are not in agreement with the \$1,750.00 for their HSAs now. He believes the Town will be in violation of the Taylor Law if they put a dollar amount on the HSA because it would be a change in the current union contract without approval from the union employees.

·After some discussion, it was decided that at this time the Town Board would agree to not put a dollar figure on the HSAs until the amount is negotiated with the union employees.

A **motion** was made by Councilman Klycek to change the health insurance coverage for Town employees from Univera ValUcare Plus Silver 4 to BCBS of WNY Gold PPO 7100 HSAQ. The motion was seconded by Councilwoman Fuller and carried with the following vote:

Vote: Ayes: 5 Nays: 0

A **motion** was made by Councilman Klycek to approve the Supervisor’s Report. The motion was seconded by Councilwoman Fuller and carried with the following vote:

Vote: Ayes: 5 Nays: 0

OTHER BUSINESS:

WATER DISTRICT NO. 5 & 6:

·The Town Board needs to pass a resolution increasing the legal services budget items for Water District Nos. 5 and 6. There were extra legal fees required by the Town Attorney for problems that arose in the districts. It will not cost the users any more money because the money will come out of the grant funds.

·Councilwoman Fuller will not agree to pay the Town Attorney more money because it should have been included in the original agreement.

·The Supervisor will ask Mr. Boylan to submit a detailed bill.

The Agreement for Water District No. 5 states attorney fees will be \$190/hr., not to exceed \$13,000. The Agreement for Water District No. 6 states attorney fees will be \$200/hr. with no not to exceed clause.

A **motion** was made by Councilwoman Fuller to remove the two (2) bills from the abstracts made payable to Boylan Law Office for further review. The motion was seconded by Councilman Thompson and carried with the following vote:

Vote: Ayes: 5 Nays: 0

WATER DISTRICT NO. 7:

**WATER DISTRICT NO. 7 – SEQR RESOLUTION - NEGATIVE DECLARATION
RESOLUTION #57:**

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

WHEREAS,

- 1) In accordance with the New York State Environmental Quality Review regulations (SEQR), the Town Board of the Town of Byron announced its intent to serve as Lead Agency on May 11, 2016, to conduct an environmental review of public water supply improvements within the Water District No. 7 service area. The project will ensure a safe and reliable potable water supply and fire protection for area residents and businesses.
- 2) The Town Board has determined that the proposed action is a Type I action as defined under SEQR, as portions of the project are located in a Genesee County Agricultural District.
- 3) The Town Board, in its capacity of Lead Agency, has caused to be prepared an environmental assessment of the significance of and potential environmental impact of the action described above.
- 4) On May 19, 2016, the Town Board notified the Involved and Interested Agencies of its intention to act as Lead Agency for this project and circulated Part 1 of the full Environmental Assessment Form. None of the Involved Agencies objected to the Byron Town Board serving as Lead Agency for this project. The Town will obtain all necessary permits and approvals from Involved Agencies and will comply with agency requirements.
- 5) The Town Board has considered the Environmental Record prepared for this action, including any comments received from the Involved Agencies, and the proposed Negative Declaration.

NOW THEREFORE BE IT RESOLVED,

The Town Board of the Town of Byron declares that it will serve as Lead Agency for the water system improvements proposed in Water District No. 7; and,

The Town Board declares that, based on the Environmental Record which has been prepared, the project will not result in any large and important impacts, and therefore, will not have a significant adverse impact on the environment. A Negative Declaration under SEQR is therefore issued for this project, and the Town Supervisor is hereby authorized and directed to prepare and issue, on behalf of the Town, the form entitled “Negative Declaration Notice of Determination of Non-Significance.”

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

Vote: Ayes: 5 Nays: 0

**WATER DISTRICT NO. 7 – LATERAL RESTRICTIONS RESOLUTION
RESOLUTION #58:**

Councilman offered the following resolution and moved for its adoption:

WHEREAS, the Town Board of the Town of Byron has created the Town of Byron Water District No. 7 pursuant to Town Law for the express purpose of providing public water supply to residents along portions of Byron Elba Road (State Hwy 262), Caswell Road, Walkers Corner Road (Co Rd 19), Batavia Byron Road (Co Rd 19A), and Cockram Road; and

WHEREAS, part of the land area within Water District No. 7 is also within Genesee County Agricultural District No. 4; and

WHEREAS, the Town Board has filed a Notice of Intent to Undertake an Action Within an Agricultural District to evaluate the impact of providing a source of public water supply within this area on lands within Agricultural District No. 4; and

WHEREAS, the New York State Department of Agriculture and Markets (“Department”) has expressed concern about the potential adverse impact that said public water supply is likely to have on agriculture within the Agricultural District,

NOW THEREFORE BE IT RESOLVED, that the Town Board, in recognition of the concerns that have been raised, hereby resolves to adopt the “Lateral Restriction - Conditions on Future Service” specified by the New York State Department of Agriculture and Markets as follows:

Lateral Restriction - Conditions on Future Service

The Town of Byron imposes the following conditions, as warranted or recommended on the management of water/sewer lines located along the portions of Byron Elba Road (State Hwy 262), Caswell Road, Walkers Corner Road (Co Rd 19), Batavia Byron Road (Co Rd 19A), and Cockram Road, included in Water District No. 7, within an agricultural district:

- (1) The only land and/or structures which will be allowed to connect to the proposed waterline or sewer within an agricultural district will be existing structures at the time of construction, further agricultural structures, and land and structures that have already been approved for development by the local governing body prior to the filing of the Final Notice of Intent by the municipality.

Land and structures that have been approved for development refer to those properties/structures that have been brought before a local governing body where approval (e.g., subdivision, site plan, and special permit) is needed to move forward with project plans and the governing body has approved the action. If no local approval is required for the subdivision of land and/or the construction of structures, the municipality accepts the limitation under Public Health Law §1115 that defines a “subdivision,” in part, as “any tract of land which is divided into five or more parcels.” Water and/or sewer service will not be extended to the fifth and subsequent parcels where no local approval is required and the land is located within a county adopted, State certified agricultural district.

- (2) If a significant hardship can be shown by an existing resident, the lateral restriction to the resident’s property may be removed by the municipality upon approval by the Department. It is the responsibility of the resident landowner to demonstrate that a hardship exists relative to his or her existing water supply or septic system and clearly demonstrate the need for public water or sewer service. The municipality shall develop a hardship application to be filed with

the municipality, approved by the County Department of Health, and agreed to by the Department of Agriculture and Markets.

- (3) If it can be demonstrated to the Department's satisfaction that the landowner requested the county to remove his or her land from an agricultural district at the time of district review and the county legislative body refused to do so, lateral restrictions may be removed by the municipality if the Department determines that the removal of the restriction for the subject parcel(s) would not have an unreasonably adverse effect on the agricultural district.
- (4) If land is removed from a county adopted, State certified agricultural district and the district has been reviewed by the county legislative body and certified by the Commissioner for modification, lateral restrictions imposed by the municipality are no longer in effect for the parcels of land that have been removed from the agricultural district.

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

Vote:

Ayes: 5

Nays: 0

FUTURE WATER DISTRICTS:

·Received an email from LaBella on Water District No. 8 and they received 75 responses to the income surveys, and they needed 9 more income surveys. The district is eligible for intermediate funding thus far. Roger Rouse is going to try to get the 9 additional income surveys from residents and have them sent to LaBella.

·Just received the approval to do income surveys for Water District Nos. 9 and 10 from USDA.

AUDIT:

·Councilman Klycek will do a summary of the financial portion of the audit for the Town Board meeting in August.

PUBLIC COMMENTS:

Councilwoman Fuller – met with fire departments again and there were several in-kind service questions that came up (parking lot paving, garbage receptacles).

ADJOURN:

A **motion** was made by Councilman Thompson to adjourn the Byron Town Board Meeting at 9:36 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