

BYRON TOWN BOARD MEETING

July 9, 2014

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

Supervisor.....Peter Yasses
Councilmen.....Jeff Thompson
 Harold Austin
 Sue Fuller
 Scott Wooton
Town Clerk.....Debra Buck-Leaton

Absent:

Highway Superintendent.....George Heins

Invited Guest:

Paul Boylan, Esq.....Town Attorney
Pat McCloskey.....Bene-Care, Inc.

Public:

Steven Lockner.....	Rte. 237, Byron
Shannon McCaffery.....	Swamp Road, Byron
Gerald Birge.....	Coward Road, Byron
Jeffrey Starowitz.....	Rte. 237, Stafford
Robert Wilson.....	Mill Pond Road, Byron
Holly Partridge.....	Rte. 237, S. Byron
David Cross.....	Bridge Road, Elba
David Starowitz.....	Caswell Road, Byron
Billy Kennett.....	Caswell Road, Byron
Brian Forsyth.....	Gillett Road, Byron
Brian Waldruff.....	Rte. 237, Byron
Chris Hilbert.....	Lyman Road, Byron

PLEDGE OF ALLEGIANCE:

The Pledge of Allegiance was led by Supervisor Yasses.

PUBLIC HEARING – AMENDMENT TO DOG CONTROL LAW:

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

Vote: Ayes: 5 Nays: 0

NOTICE OF PUBLIC HEARING
TOWN OF BYRON
WEDNESDAY, JULY 9, 2014

PLEASE TAKE NOTICE, that the Town Board of the Town of Byron, Genesee County, New York will hold a Public Hearing on Wednesday, July 9, 2014 at 7:00 p.m. at the Town Hall, 7028 Rte. 237 in the Town of Byron to hear all persons present regarding a proposed amended and revised Dog Control Law, which proposed Local Law places restrictions and penalties on the number of dogs which can be housed, kept or maintained on property in areas zoned R-1, and imposes penalties in the event the dogs create noise for certain periods of time, together with licensing requirements for kennels and persons conducting a business for the sale, breeding, kenneling or harboring of dogs.

Copies of the proposed Local Law are available at her office of the Town Clerk during her regular business hours.

BY ORDER OF THE TOWN BOARD
TOWN OF BYRON
Debra Buck-Leaton, Town Clerk

PUBLIC COMMENTS:

Holly Partridge: She is concerned about the pre-existing non-conforming paragraph in the proposed law, and if it will include her because she is in an R-1 district. She does not believe this is a true grandfather clause.

Paul Boylan: If a dog owner has more than 4 dogs, and are not selling the dogs, they would need to get a private kennel license. An owner would need to give the Town a sketch plan so the Town knows the owner does not expand the use. As soon as a dog owner becomes a business and starts taking in money they are a commercial kennel. Holly could also request the Planning Board change the zoning of her property since she is the last house in the R-1 district, but it would be up to the Planning Board to decide.

The Town Board discussed what fees should be imposed on Kennel Licenses, and it was determined that a fee would be set at a later date after further discussion.

A **motion** was made by Councilwoman Fuller to close the Public Hearing for the Amendment to the Town of Byron Dog Control Law at 7:41 p.m. The motion was seconded by Councilman Wooton and carried with the following vote:

Vote: Ayes: 5 Nays: 0

AMENDMENT TO TOWN OF BYRON DOG CONTROL LAW
RESOLUTION #61:

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

Resolved, that the Byron Town Board hereby approves the Amendment to the Town of Byron Dog Control Law, which places restrictions and penalties on the number of dogs which can be housed, kept or maintained on property in areas zoned R-1, and imposes penalties in the event the dogs create noise for certain periods of time, together with licensing requirements for kennels and persons conducting a business for the sale, breeding, kenneling or harboring of dogs, to be effective upon filing with the Secretary of State.

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

Vote: Ayes: 5 Nays: 0

BENE-CARE, INC.: - Pat McCloskey

·Due to the Affordable Care Act the Town's current MVP plan will be more expensive to the Town and employees. The Town is now looking at Univera Plus Silver 4. Once the deductible is reached Univera pays 50% of those expenses. Rates increase is reasonable.

Brian Forsyth: No concessions were taken by the union when the Town Board chose to change the insurance plan under Supervisor Felton mid contract. The union does like this plan and has made several concessions in the recent union negotiations. The union is asking the Town to absorb the difference between the current \$1,500 deductible and the new \$2,200 deductible (\$700 per employee).

HEALTH INSURANCE

RESOLUTION #62:

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

Resolved, that the Byron Town Board hereby approves the change of health insurance for all full time employees from MVP to Univera Plus Silver 4, with the total deductible of \$2,200.00 to be covered by the Town.

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

Vote: Ayes: 5 Nays: 0

MINUTES:

A **motion** was made by Councilman Austin to approve the Byron Town Board minutes of June 11, 2014 as written, however the date of the minutes need to be changed to June 11, 2014 instead of May 14, 2014. The motion was seconded by Councilwoman Fuller and carried with the following vote:

Vote: Ayes: 5 Nays: 0

PLANNING BOARD REPORT: - Councilwoman Sue Fuller

- Did land separation for Eric Zuber/Jeff Thompson
- Worked on Comprehensive Plan

A **motion** was made by Councilman Thompson to approve the Planning Board Report as given. The motion was seconded by Councilman Wooton 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:

- Called out after hours for a plugged septic tank (inlet).
- Checked on a few house pumps, general inspection.
- Replaced plumbing for both pumps at the lift station for the old school house and another resident.
- Changed valving at all three filter beds (exercising different portions of beds).
- Did a number of stake outs.

Supervisor Yasses: Need to start pumping tanks, but Camden Group would like extra money (\$3,000) to locate and uncover septic tanks. The present contract does not include them doing this.

SEWER TANK PUMPING BY CAMDEN GROUP

RESOLUTION #63:

Supervisor Yasses offered the following resolution and moved for its adoption:

Resolved, that the Byron Town Board hereby approves the payment to Camden Group of \$3,000 to locate the 75 septic tanks that need pumping in 2014.

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

Vote: Ayes: 5 Nays: 0

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

Vote: Ayes: 5 Nays: 0

HIGHWAY SUPERINTENDENT'S REPORT: – Superintendent Heins

·New bid for salt has increased \$3.72 per ton when two years ago it dropped 40 cents. Town's average usage will mean a minimum \$10,000 increase in budget. Fuel prices still remain strong to affect budget costs.

·Continuing road maintenance and working with other towns oiling and stoning when weather permits.

·Playgrounds have all been mulched and other insurance issues have been completed.

·The Highway Superintendent and Dave Chupp have been doing weed eating and trim work and repairs in parks, cemetery and sewer beds.

·Road center line painting bid was \$10 lower at \$308 per mile.

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

Vote: Ayes: 5 Nays: 0

CEO/ZEO REPORT:

Number of Inspections: 22

Number of Zoning/Building Permits Issued: 10

Number of Land Separations: 1

Number of Building C.O./C.C. Issued: 3

Number of Zoning Complaints Filed: 3

Number of Zoning Complaints Resolved: 3

·Application PBA-2014-020 Land Separation for Zuber Farms, LLC approved by Planning Board. Request was to separate 7 acres plus from a 92 acre parcel.

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

Vote: Ayes: 5 Nays: 0

PARK COMMITTEE REPORT: - Councilman Harold Austin

- Fixed tennis court fence.
- Will be doing more maintenance prior to the Heritage Festival

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

Vote: Ayes: 5 Nays: 0

ABSTRACTS

RESOLUTION #64:

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

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

<i>Fund:</i>	<i>Abstract:</i>	<i>Vouchers:</i>	<i>Amount:</i>
General Fund	#7	#159 - #178	\$ 13,027.13
Highway Fund	#7	#89 - #102	\$ 11,546.22
Sewer Fund	#7	#31- #33	\$ 2,570.24
General Fund	PA#6	#25 - #32	\$ 2,334.35
Sewer Fund	PA#6	#17 - #20	\$ 2,162.98

Councilman Wooton 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.....	\$ 80.00
Paid to the NYS Ag and Markets for spay/neuter program.....	\$ 63.00
Paid to the DEC for hunting/fishing licenses.....	\$ 884.12
Paid to the NYS Dept. of Health.....	\$ 22.50
Paid to the Town of Byron Supervisor.....	\$2,253.40
Total Disbursed for June 2014.....	\$3,303.02

A **motion** was made by Councilman Austin to approve the Town Clerk's Report as given for June, 2014. The motion was seconded by Councilwoman Fuller and carried with the following vote:

Vote: Ayes: 5 Nays: 0

FINANCIAL REPORT:

- The Financial Report for June 2014 was reviewed.

A **motion** was made by Councilman Austin to approve the June 2014 Financial Reports as written. The motion was seconded by Councilwoman Fuller and carried with the following vote:

Vote: Ayes: 5 Nays: 0

SUPERVISOR'S REPORT:

·On July 16th NYMIR will be hosting a seminar on Playground Equipment Inspection and Maintenance at the Brighton CSD in Rochester for anyone who would like to attend. Please contact the Town Clerk if you plan on attending.

·At the GAM meeting Tim Hens, the Genesee County Highway Superintendent, stated he would like each Town to pass a Resolution Opposing the Expansion of Federal Control Under the

Clean Water Act. Anything a resident does to culverts on their property that may affect streams and waterways would require a permit.

RESOLUTION OPPOSING EXPANSION OF FEDERAL CONTROL UNDER THE CLEAN WATER ACT

RESOLUTION #65:

Supervisor Yasses offered the following resolution and moved for its adoption:

WHEREAS, the U.S. Environmental Protection Agency (EPA) and the Army Corps of Engineers (Corps) have released a 371 proposed rulemaking defining the Waters of the U.S. under the Clean Water Act, and

WHEREAS, both agencies are seeking a rule change to give the federal government more authority by expanding the definition of "navigable waters" in the Clean Water Act, and

WHEREAS, the rule change proposed by the EPA and the Corps would subject almost all physical areas with a connection to downstream navigable waters, including features such as ditches, natural or man-made ponds, and flood plains, to the jurisdiction of the Clean Water Act, and

WHEREAS, the proposed rule change, if adopted, will cause significant economic harm to local farmers, stall the development of businesses, take control of land use for sustainable food production out of our local providers' hands, and negatively impact County-owned and maintained infrastructure such as roadside ditches and flood-control channels, and

WHEREAS, the cost to our farms, municipalities and taxpayers will be enormous, and

WHEREAS, the New York Farm Bureau opposes the proposed rule change, and

WHEREAS, it is impractical for the federal government to regulate every ditch, pond and rain puddle that may have some tenuous connection or "significant nexus", miles away, to a body of water currently defined as "navigable", now, therefore, be it

RESOLVED, that the Byron Town Board hereby strongly opposes the EPA and Corps proposed rulemaking that changes the Clean Water Act, as proposed, and be it further

RESOLVED, that the Town Clerk is hereby directed to forward a certified copy of this resolution to Senator Schumer, Senator Gillibrand, Congressman Collins, the Environmental Protection Agency, the U.S. Army Corps of Engineers, the National Association of Counties, State Senator Ranzenhoffer, State Assemblyman Hawley, the New York State Association of Counties, and the Western New York Inter-County Association.

Budget Impact: The expansion of federal jurisdiction will add significant cost to the replacement of culverts under county roadways and residential and commercial driveways throughout the county by adding a burdensome permitting process to routine maintenance items.

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

Vote: Ayes: 5 Nays: 0

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

Vote: Ayes: 5 Nays: 0

OTHER BUSINESS:

MERCY FLIGHT AGREEMENT:

RESOLUTION #66:

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 Agreement for Pre-Hospital Emergency Medical Service between the Town of Byron and Mercy Flight, Inc. d/b/a Mercy EMS for a term of five (5) years.

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

Vote: Ayes: 5 Nays: 0

ORRICK, HERRINGTON & SUTCLIFFE, LLP PROPOSAL FOR SERVICES FOR WATER DISTRICT NO. 5 – SWAMP ROAD:

RESOLUTION #67:

Councilman Austin 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 Proposal for Services between the Town of Byron and Orrick, Herrington & Sutcliffe, LLP. This Agreement authorizes Orrick, Herrington & Sutcliffe, LLP to assist the Town as Bond Counsel for the Swamp Road Water District. Orrick's fee for such work shall be \$3,500. Fees in connection with any bond anticipation notes will be billed based upon a base fee of \$1,000 plus \$.50 per thousand par amount.

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

Vote: Ayes: 5 Nays: 0

WATER AUDIT:

RESOLUTION #68:

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

RESOLVED, that the Byron Town Board hereby approves the Town of Byron Water Districts Audit for the year ended December 31, 2013 prepared by Raymond Wager, P.C., Certified Public Accountants.

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

Vote: Ayes: 5 Nays: 0

PUBLIC COMMENTS:

Councilwoman Fuller: Rita Kuzma asked her to tell the Town Board that the state passed the Home Rule Law regarding to hydraulic fracking.

CGR:

The fire departments have decided that they would be interested in a fire district. You can still have 2 fire companies in a fire district. There isn't enough time to form the fire district, and that the Town Board needs to rescind the current contract with the fire companies and have another one year contract to look into a fire district, and what it would take to form a fire district. If the current contract is not rescinded the Town Board will be forced to choose one fire district.

Attorney Boylan: The formation of a fire district would be subject to a referendum by all the residents. The Town Board would offer the proposition. It's up to the commissioners, not the Town Board, to determine all the particulars. The Town Board would need to have a public hearing to amend the contract.

Councilman Thompson: Need to negotiate with fire companies and get new budget in place prior to rescinding current contract. Councilman Thompson and Councilwoman Fuller are meeting in July with representatives from Byron and S. Byron Fire Departments.

Supervisor Yasses: Councilman Thompson and Councilwoman Fuller need to meet with the fire companies and bring their needs back to the Town Board.

Councilwoman Fuller: The steering committee believes their job is done now.

EXECUTIVE SESSION:

A **motion** was made by Councilman Austin to enter into Executive Session at 8:45 p.m. to discuss the medical, financial, credit or employment history of a particular person, corporation, or relating to the appointment, promotion, demotion, discipline or removal of a particular person. The motion was seconded by Councilwoman Fuller and carried with the following vote:

Vote: Ayes: 5 Nays: 0

A **motion** was made by Councilman Thompson to come out of executive session at 9:00 p.m. The motion was seconded by Councilman Austin and carried with the following vote:

Vote: Ayes: 5 Nays: 0

TERMINATION OF KRISTA GALDUN AS COURT CLERK:

RESOLUTION #69:

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

RESOLVED, that the Byron Town Board hereby terminates the employment of Krista Galdun as Court Clerk based on the recommendations of Justice Smith and Justice DiMatteo.

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

Vote: Ayes: 5 Nays: 0

APPOINTMENT OF MOLLIE AVERY AS COURT CLERK:

RESOLUTION #70:

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

RESOLVED, that the Byron Town Board hereby appoints Mollie Avery as Court Clerk based on the recommendations of Justice Smith and Justice DiMatteo.

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

Vote: Ayes: 5 Nays: 0

ADJOURN:

A **motion** was by Councilman Thompson to adjourn the Byron Town Board Meeting at 9:05 p.m. The motion was seconded by Councilman Austin and carried with the following vote:

Vote: Ayes: 5 Nays: 0

Respectfully Submitted,

Debra M. Buck-Leaton
Byron Town Clerk