

BYRON TOWN BOARD MEETING

September 11, 2013

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

Supervisor.....	Robert Crnkovich
Councilmen.....	Jeff Thompson
	Jack Redick
	Scott Wooton
	Harold Austin
Highway Superintendent.....	George Heins
Assessor.....	Barry Flansburg
Town Clerk.....	Debra Buck-Leaton
Invited Guests.....	Town Attorney Paul Boylan

Public:

Vic DiGregorio.....	Warboys Road, Byron
Jim Cudney.....	Rte. 237, Byron
Brian Forsyth.....	Gillett Road, Byron
John Sackett.....	Townline Road, Byron
Pete Yasses.....	Rte. 237, Byron
Sue Fuller.....	Cockram Road, Byron
Angela Smathers.....	Cole Road, Byron
Ed Zietvogel.....	Cole Road, Byron
Tom Chapell.....	Swamp Road, Byron
Kelly Hallenbeck.....	Byron-Bergen Public Library
Rita and Joe Kuzma.....	Rte. 237, Byron
Vicky and Jim Southall.....	Stafford
Nancy Bailey.....	Byron-Bergen Public Library
Rita Reding.....	Freeman Road, S. Byron
Karen and Roger Jaczynski.....	Beaver Meadows Road, Byron
Corky and Pat Shaw.....	Rte. 262, Byron
Marilyn Weinert.....	Rte. 237, S. Byron
Gerald Birge.....	S. Byron
Bob and Beth Wilson.....	Mill Pond Road, Byron

PLEDGE TO THE FLAG:

Supervisor Crnkovich led the people in attendance in the Pledge of Allegiance and a moment of silence for all of those who lost their lives in the September 11, 2001 terrorist attacks.

ASSESSOR'S REPORT – Barry Flansburg:

All NYS homeowners receiving a Basic STAR property tax exemption must register with the NYS Tax Department in order to received the STAR exemption in 2014 and subsequent years. All

Basic STAR recipients will receive registration instructions by mail or they can go to www.tax.ny.gov to register. The registration deadline is December 31, 2013. This is part of an initiative to protect New Yorkers against the costs of inappropriate or fraudulent STAR exemptions. Senior citizens receiving Enhanced STAR benefits are not affected by the new registration requirements. In order to continue to receive Enhanced STAR, seniors must continue to apply annually with your Assessor and participate in the income verification program.

PUBLIC HEARING – ZONING LAW OF 2013:

A **motion** was made by Councilman Austin to open the Public Hearing for the Zoning Law of 2013 at 7:05 p.m. The motion was seconded by Councilman Thompson and carried with the following vote:

Vote: Ayes: 5 Nays: 0

LEGAL NOTICE PUBLIC HEARING TOWN OF BYRON

PLEASE TAKE NOTICE, that the Town Board of the Town of Byron will hold a Public Hearing on Wednesday, September 11, 2013 regarding a Local Law entitled, "Zoning Law of the Town of Byron" at 7:00 p.m. at the Byron Town Hall, 7028 Rte. 237, Byron, New York. A summary of the law is as follows:

ARTICLE I. PURPOSE: For the purpose of promoting the health, safety and general welfare of the people of the Town of Byron, this Local law is adopted pursuant to Article 16 of the Town law of the State of New York. Its purpose is to regulate and restrict: the height, number of stories, and size of buildings and other structures; the percentage of the lot that may be occupied; the size of yards, courts and other open space; the density of population and the location and use of buildings, structures and land for business, industry, agriculture, residence, or other purposes. Such Local Law and Zoning Map, which is a part of said Local Law, are designed to: lessen congestion in the streets; to secure safety from fire and other dangers; to provide adequate light and air; to provide for solar access and the implementation of solar energy systems; to prevent the overcrowding of land and to avoid undue concentration of population; to facilitate the efficient and adequate provision of public facilities and services; and to provide the maximum protection to residential areas from the encroachment of adverse environmental influences. Such local law and Zoning map were made after reasonable consideration, among other things, as to the Comprehensive Plan adopted by the Town. Consideration was also given as to the character of the Town and its peculiar suitability for particular uses and with a view to conserving property values and natural resources and encouraging the most appropriate use of land throughout the Town.

The full text of the Proposed Zoning Law of the Town of Byron is on file at the office of the Town Clerk and is available for inspection during regular office hours.

*Debra Buck-Leaton
Byron Town Clerk*

PUBLIC COMMENTS:

Attorney Paul Boylan: The only change from the Public Hearing in June is on pg. 55, Section 11.01(o): Compliance: Any Motor Vehicle Service station use existing at the time of the enactment of this section shall be a pre-existing, non-conforming use and exempt from the requirements of this section.

- There were no environmental concerns with regard to the amendment

A RESOLUTION DETERMINING THE ENVIRONMENTAL NON-SIGNIFICANCE UNDER THE STATE ENVIRONMENTAL QUALITY REVIEW ACT OF THE PROPOSED LOCAL LAW NO. 1 OF 2013 KNOWN AS THE TOWN OF BYRON ZONING LAW

RESOLUTION #59:

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

The Town Board of the Town of Byron, duly convened in regular session, does hereby resolve as follows:

Pursuant to, and in accordance with, the provisions of Section 617.6 (Initial Review of Actions and Establishing Lead Agency) of the New York State Environmental Quality Review Regulations (6 NYCRR Part 617) the Town Board of the Town of Byron hereby makes the following determinations and classifications with respect to the proposed Town of Byron Zoning Law (hereinafter referred to as the "Action").

1. The Town Board of the Town of Byron (hereinafter referred to as "Town Board") hereby determines that the Action is subject to SEQRA.

2. The Town board hereby determines that the Action does not involve a Federal agency, and does not involve other agencies.

3. The Town Board hereby makes a preliminary classification of the Action as a Type 1 Action.

4. The Town Board hereby finds and determines that: (a) it has considered the Action, reviewed the short environmental assessment form, reviewed the criteria set forth in 6 NYCRR Section 617.7(c), thoroughly analyzed the relevant areas of potential environmental concern, and has duly considered all of the potential environmental impacts and their magnitude in connection with the proposed Action; (b) the Action (to wit, the adoption of the Town of Byron Zoning Law will not result in any large and important environmental impacts, and, therefore, is one which will not have a significant impact on the environment; and (c) the reasons supporting this determination are set forth on the attached Notice of Determination of Non-Significance with respect to this project (a copy of which said form is on file in the Office of the Town Clerk of the Town of Byron).

5. The Town Board, as Lead Agency with reference to the above-described project, hereby: (a) adopts a negative declaration pursuant to 6 NYCRR Section 617.7 with respect to the project, (b) authorizes the Supervisor of the Town of Byron to sign a negative declaration determination of non-significance with respect to the project, and (c) authorizes the Town Clerk of the Town of Byron to forward a copy of said negative declaration determination of non-significance to the New York State Department of Environmental Conservation, Town of Byron Planning Board, Town of Byron Zoning Board of Appeals, Building and Code Inspector of the Town of Byron, Genesee County Department of Planning, New York State Commissioner of Agriculture and Markets, and New York State Office of Parks, Recreation and Historic Preservation.

6. This Resolution shall take effect immediately.

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

Vote: Ayes: 5 Nays: 0

A **motion** was made by Councilman Austin to close the Public Hearing at 7:11 p.m. The motion was seconded by Councilman Wooton and carried with the following vote:

Vote: Ayes: 5 Nays: 0

LOCAL LAW NO. 1 OF 2013 KNOWN AS THE TOWN OF BYRON ZONING LAW
RESOLUTION #60:

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

Be It Resolved, that the Town Board of the Town of Byron, does hereby approve the proposed Local Law No. 1 of 2013, known as the Town of Byron Zoning Law, as amended.

And Be It Further Resolved, that Local Law No. 1 of 2013 shall take affect upon filing with the Secretary of State.

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

Vote: Ayes: 5 Nays: 0

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

A **motion** was made by Councilman Redick to open the Public Hearing for the Dog Control Law of the Town of Byron at 7:11 p.m. The motion was seconded by Councilman Thompson and carried with the following vote:

Vote: Ayes: 5 Nays: 0

LEGAL NOTICE
PUBLIC HEARING
TOWN OF BYRON

PLEASE TAKE NOTICE, that the Town Board of the Town of Byron will hold a Public Hearing at 7:30 p.m. on Wednesday, September 11, 2013 at the Town Hall on Route 237 in the Town to hear all persons present regarding the proposed amendments to the Town of Byron Local Law No. 2-1993 known as “Dog Control Law of the Town of Byron” by expanding the definition of a Kennel to include any premises on which there are kept, boarded or harbored four (4) or more dogs and to include “dog sanctuaries” together with additions to Section 5 and Section 6 thereof regarding licensing requirements and fees for such facilities.

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

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

PUBLIC COMMENTS:

Gerry Birge: Complaint about Golden Oaks Kennels – dogs barking nonstop and law not being enforced.

Town Attorney Paul Boylan: This is an issue that needs to be addressed with the Sheriff’s Department and Genesee County Animal Control. The Town does not have a noise ordinance. This Amendment to the Local Law would force residents to get a kennel license if they are harboring 4 or more dogs. If a resident was not in compliance they would need to come into compliance by getting a Special Use Permit and/or Land Variance.

Beth Wilson: Should it be stated in the Local Law how old a dog needs to be in order to be considered part of the three dogs that can be harbored? What if your dog has puppies?

Town Clerk Debra Buck-Leaton: Any dog over 4 months old needs to be licensed with the Town Clerk.

Town Attorney Paul Boylan: He would advise that the Town Board change the wording in the Local Law to state that the definition of the word kennel shall read “A facility that constitutes a business for keeping dogs for hire, or the business of raising dogs for sale, and/or any property upon

which there is kept, boarded or harbored four (4) or more dogs over the age of four (4) months, including, but not limited to facilities known as dog sanctuaries.”

A **motion** was made by Councilman Thompson to close the Public Hearing at 7:38 p.m. The motion was seconded by Councilman Austin and carried with the following vote:

Vote: Ayes: 5 Nays: 0

A **motion** was made by Councilman Austin to amend Local Law No. 2 of 1993, known as the Dog Control Law of the Town of Byron to state that the definition of the word kennel shall read “A facility that constitutes a business for keeping dogs for hire, or the business of raising dogs for sale, and/or any property upon which there is kept, boarded or harbored four (4) or more dogs over the age of four (4) months, including, but not limited to facilities known as dog sanctuaries,” together with additions to Section 5 and Section 6 thereof regarding licensing requirements and fees for such facilities, and to hold another Public Hearing on October 9, 2013 at 7:00 p.m. The motion was seconded by Councilman Thompson and carried with the following vote:

Vote: Ayes: 5 Nays: 0

MINUTES:

A **motion** was made by Councilman Wooton to approve the Byron Town Board minutes of August 14, 2013 as written. The motion was seconded by Councilman and carried with the following vote:

Vote: Ayes: 5 Nays: 0

HIGHWAY SUPERINTENDENT’S REPORT – Highway Superintendent George Heins:

- Finishing summer work
- Money is about depleted

Pete Yasses: How is sewer? Any problems? Are levels fine?

Highway Superintendent Heins: Sewer is fine

Councilman Thompson: What is going to be done about the trailer park tanks since the Town did not receive the grant that they applied for?

Highway Superintendent Heins: It would be a huge burden for the sewer district to bear. Stu Brown is trying to find out why the Town didn’t qualify for a grant. He’s saving money in the budget for work that may need to be done in the district. He’s been saving about \$35,000 a year for future improvements. The estimate was about \$400,000 to do the trailer park tanks.

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

Vote: Ayes: 5 Nays: 0

CEO/ZEO REPORT:

- Number of Inspections: 12
- Number of Zoning/Building Permits Issued: 3
- Number of Land Separations: 1
- Number of Building C.O./C.C. Issued: 4
- Number of Zoning Complaints Filed: 0

Number of Zoning Complaints Resolved: 0

·Land separation for property on 6064 N. Byron Road was preliminarily approved by Planning Board.

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

·The committee is wondering if more keys for the gates are going to be made and given to the Sheriff and Port-A-Potty vendor?

·George Squires reported very few issues with people leaving Trestle Park at closing time. Two gentlemen were going to camp at the park, but left after being told camping was no longer allowed.

·The committee reported there were no major issues with vandalism at any of the parks so far this year.

·George Squires mentioned there has been a good amount of people fishing at Trestle Park this year.

·As of October the Park Committee will conduct their monthly meeting on the third Wednesday of the month.

ABSTRACTS

RESOLUTION #61:

Councilman Austin 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	#11	#202 - #222	\$15,792.14
Highway Fund	#9	#125 - #136	\$26,217.70
Sewer Fund	#9	#44 - #49	\$ 4,408.80
General Fund	PA#12	#57 - #58	\$ 468.19
Sewer Fund	PA#11	#11	\$ 483.46

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

Vote: Ayes: 4 Nays: 1 (Councilman Thompson)

TOWN CLERK'S REPORT:

Paid to the Byron Park Committee for Pavilion Rental.....	\$ 90.00
Paid to the NYS Ag and Markets for spay/neuter program.....	\$ 76.00
Paid to the DEC for hunting/fishing licenses.....	\$1,718.80
Paid to the NYS Dept. of Health for Marriage Licenses.....	\$ 67.50
Paid to the Town of Byron Supervisor.....	<u>\$2,778.70</u>
Total Disbursed for August 2013.....	<u>\$4,731.00</u>

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

Vote: Ayes: 5 Nays: 0

FINANCIAL REPORT:

·The Financial Report for August 2013 was reviewed. It was determined that the approval would wait until next month due to some corrections that need to be made to the highway financial report.

SUPERVISOR'S REPORT:

·Received Mercy EMS Response Time Report for July 2013.

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

Vote: Ayes: 5 Nays: 0

OTHER BUSINESS:

BYRON-BERGEN PUBLIC LIBRARY:

·Nancy Bailey from Byron-Bergen Public Library presented their 2014 budget request to the Town Board. The total number of people that used the library is 1,803, and 427 of those were from the Town of Byron.

WEST SHORE TRAIL:

Roger Jaczynski: Migrants are coming in from the city on their 4-wheelers and are leaving trash in the park and damaging his vehicles and property.

Councilman Thompson: The Town Board is working with the Town of Bergen to come up with a resolution, whether it be signage or permits, in order to better allow the Sheriff's Department to enforce rules.

COURTROOM RUG

RESOLUTION #62:

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

Resolved, that the Byron Town Board authorizes the purchase of carpeting for the courtroom from Affordable Floor Coverings in the amount of approximately \$3,364.89.

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

Vote: Ayes: 3 Nays: 2 (Councilman Wooton and Supervisor Crnkovich)

HYDRAULIC FRACKING:

Sue Fuller: Received signatures from residents of the Town that are interested in learning more about fracking in the Town.

Rita Kuzma: Gave a presentation with regard to hydraulic fracking. She would like the Town Board to form a committee to review the affects of fracking on the Town.

Councilman Thompson: How would a moratorium prevent other areas from bringing in brine?

Rita Kuzma: It's not tracked so it's not reported. Stafford is the only town in Genesee County to have a moratorium.

Town Attorney Paul Boylan: A moratorium can be a very useful tool to gather information. It has to be worded very carefully. Prohibiting brine in the Zoning Ordinance doesn't make sense since it has nothing to do with land use. Making a moratorium requires a very simple local law with a public hearing.

A **motion** was made by Councilman Redick that a committee would be established, with membership appointed by the Town Board, to study the possibility of establishing a local law, ordinance or regulation to control drilling of oil, gas and other natural resources, and the drilling of injection wells, including the possibility of an Ordinance, Local Law or regulation controlling the use of solid liquid or gaseous substances used in the process of drilling any of those wells for purposes of highway construction, maintenance or snow control. The motion was seconded by Councilman Austin and carried with the following vote:

Vote: Ayes: 5 Nays: 0

Any resident who is interested in becoming part of the committee is asked to contact Sue Fuller and she will give the Town Board the names, and the Town Board will appoint the committee.

SWAMP ROAD WATER DISTRICT

RESOLUTION #63:

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

Resolved, that the Byron Town Board approves the proposal from Stuart Brown Associates with regard to the preparation and filing of the initial application with Rural Development for public water extension projects, including the required SEQR/NEPA investigations and accounting in the amount of \$6,000.00.

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

Vote: Ayes: 5 Nays: 0

PUBLIC COMMENTS:

Corky Shaw: Has the Town Board taken a stance on the SAFE Act? He would like the Town to pass a resolution opposing it.

Councilman Thompson: This is the first time it has been brought up.

Town Clerk Debra Buck-Leaton: Will see what other towns have done for a resolution and the Town Board can discuss it next month.

ADJOURN:

A **motion** was by Councilman Austin to adjourn the Byron Town Board Meeting at 9:43 p.m. The motion was seconded by Councilman Wooton and carried with the following vote:

Vote: Ayes: 5 Nays: 0

Respectfully Submitted,

Debra M. Buck-Leaton
Byron Town Clerk