

**SPECIAL BYRON TOWN BOARD MEETING**

**December 27, 2021**

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

Supervisor.....	Peter Yasses
Councilmen.....	Sue Fuller
	Jeff Thompson
	Josh Kent
	Eric Zuber
Highway Superintendent.....	David Leaton
Town Clerk.....	Debra Buck-Leaton

Public:

Candy Hensel	Jim Lamkin	Tom Felton
Kaitlyn Moucha	Laurel and Lloyd Smith	

**PLEDGE OF ALLEGIANCE:**

The Pledge of Allegiance was led by Supervisor Yasses.

A **motion** was made by Councilwoman Fuller to open the Public Hearing regarding the adoption of a Local Law known as Local Law No. 4 of 2021 titled Opt Out of Adult Use Cannabis/Marijuana Retail Dispensers and On-Site Consumption Sites at 7:05 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**

*PLEASE TAKE NOTICE that the Town Board of the Town of Byron will hold a Public Hearing at 7:00 p.m. on Monday, December 27, 2021, at the Byron Town Hall, 7028 Rte. 237, Byron, New York to hear all persons present regarding the proposed Local Law No. 4 of 2021 titled Opt Out of Adult Use Cannabis/Marijuana Retail Dispensers and On-Site Consumption Sites.*

*Copies of the proposed Local Law may be obtained from the Town Clerk during her regular business hours or on the Town's website at [www.byronny.com](http://www.byronny.com).*

**BY ORDER OF THE TOWN BOARD  
TOWN OF BYRON**

*Debra Buck-Leaton  
Town Clerk*

Public Comments:

**Jim Lamkin:** He served as Town Justice for 12 years and lost touch with youth and after serving on the bench the drug issues within the town were astonishing. The number of people involved in drugs in the BB school district and the Town of Byron blew him away and has to believe it's still going on today. Some were from Byron and some just passing through. A high percentage of cases were drug related. He is here to say that the Town shouldn't invite this opportunity and should opt out.

**Candy Hensel:** Why did the Town Board decide to opt out now? Has there been any discussion regarding why the Town is opting out?

**Supervisor Yasses:** As the Supervisor he decided to do some homework and called the Genesee County Sheriff, Bill Sheron, to get his view on the matter. Sheriff Sheron told him that when the law passed in Colorado crime went up tremendously. In his opinion it's a stepping stone to something more.

**Candy Hensel:** How do the rest of the Town Board members feel?

**Councilman Kent:** He went on the Colorado state website: Much like anything, depending on how you want the subject to be interpreted, when he researched the crime in Colorado, of course possession crimes will go away, arrests for marijuana, organized crime, plants seized, no significant change in usage, but the arrest rates went down because some things weren't illegal anymore. The legality of it is out of the Town's hands, the board needs to decide if they want the income and that's all. The revenue was \$387 million in Colorado.

**Supervisor Yasses:** It's not just about the money. The Town is not in any hurry to put the carriage before the horse. He doesn't want to jump into anything. He doesn't think licensing will be an issue in a couple of years because the state will change their minds and open up the permits because they want the revenue, so there is no hurry to opt in.

**Candy Hensel:** There are so many restrictions on it. When was this first discussed and when was it first on the agenda?

**Supervisor Yasses:** He talked to a lot of Supervisors and most of the towns have just made their decisions.

**Jim Lamkin:** If you decide to opt out you can choose at a later date to opt in.

**Councilman Kent:** Can be restricted through zoning

**Tom Felton:** The Town Board's responsibility is to act on the betterment of the community. He doesn't think the Town Board is at the point to make a decision to opt in,

**Supervisor Yasses:** The Planning Board and Town Board can decide where these facilities go, whether it's commercial or industrial, at a later date if need be. The Town needs a chance to regulate it and this is their opportunity. He would like to see how it plays out and how the dust settles.

**Councilwoman Fuller:** Believes the Town needs to have zoning in place before they opt in, just like Playmates. She is against opting in.

**Candy Hensel:** If the Town opts out who will keep up with it.

**Supervisor Yasses:** He will

**Laurel Smith:** She would like to hear from the other Town Board members how they feel.

**Councilman Thompson:** He personally doesn't think it would be good for the Town, but feels if it goes through the Board will have to look at where to put it before opting in.

**Kaitlyn Moucha:** A lot of people use marijuana for other reasons.

A **motion** was made by Councilman Thompson to close the Public Hearing regarding the adoption of a Local Law known as Local Law No. 4 of 2021 titled Opt Out of Adult Use Cannabis/Marijuana Retail Dispensers and On-Site Consumption Sites at 7:29 p.m. The motion was seconded by Councilman Kent and carried with the following vote:

Vote:                   Ayes: 5                   Nays: 0

**LOCAL LAW NO. 4 OF 2021 – OPT OUT OF ADULT USE  
CANNABIS/MARIJUANA RETAIL DISPENSERS AND ON-SITE CONSUMPTION  
SITES**

**RESOLUTION #103:**

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

**LOCAL LAW NO. 4 OF 2021  
OPT OUT OF ADULT USE CANNABIS/MARIJUANA RETAIL DISPENSERS  
AND ON-SITE CONSUMPTION SITES**

**BE IT ENACTED BY THE TOWN BOARD OF THE TOWN OF BYRON AS  
FOLLOWS:**

A local law to opt out of allowing cannabis retail dispensaries and on-site consumption sites as otherwise authorized under Article 4 of the Cannabis Law of the State of New York.

The Town Board of the Town of Byron hereby adopts a Local Law, entitled “Cannabis Regulation”, initially for the purpose of requesting that the N.Y.S. Cannabis Control Board prohibit the establishment of retail dispensary licenses and/or on-site consumption licenses contained in Article 4 of Chapter 7-a within the jurisdiction of the unincorporated areas of the Town of Byron as authorized by Article 6 thereof. As adopted, this Local Law shall read as follows:

**ARTICLE I Town Opt-Out**

**Section 1. Legislative Intent**

It is the intent of this local law to request the Cannabis Control Board of the State of New York (“Cannabis Control Board”), as established pursuant to the New York Cannabis Law, Chapter 7-a of the Consolidated Laws of the State of New York (“Cannabis Law”), to permit the Town of Byron (“Town”) to opt out of allowing cannabis retail dispensaries and

on-site cannabis consumption sites within the unincorporated areas of the Town of Byron, that would otherwise be allowed under Article 4 of the Cannabis Law.

The recently established Cannabis Law, Chapter 7-a, provided in Article 6, §131 that the licensure and establishment of a retail dispensary license and/or on-site consumption license under the provisions of Article Four of Chapter 7-a shall not be applicable to a town, which, after the effective date of the Cannabis Law, which was March 31, 2021, and before December 31, 2021, adopts a local law, subject to permissive referendum as governed by §24 of the Municipal Home Rule Law of the State of New York, requesting the Cannabis Control Board to prohibit the establishment of such retail dispensary licenses and/or on-site consumption licenses contained in Article Four of the Cannabis Law, within the jurisdiction of the town.

The Town Board finds that, at the current time, it is in the best interests of the residents of the Town of Byron to adopt a local law as per Cannabis Law §131 prohibiting and requesting the Cannabis Control Board to prohibit the establishment of retail dispensary licenses and on-site consumption licenses that would otherwise be allowed under Article 4 of the Cannabis Law. The Town Board finds that permitting such establishments without reviewing the unique and novel impact that the establishment of such businesses would have on the health, safety and welfare of the residents of the Town of Byron, given, among other things, the relative close proximity of commercial locations within which such establishments might be located to parks, school, churches and residential zones throughout the Town, coupled with as yet unresolved issues addressing enforcement of the new laws and guidelines related to cannabis use, would not be, at the current time, in the interests of Town residents. The Town adopts this local law in accordance with the timeframe and guidelines as set forth in Chapter 7-a, subsequent to March 31, 2021 and prior to December 31, 2021.

### Section 2. Authority

This local law is adopted pursuant to Cannabis Law § 131 which expressly authorizes a town board to adopt a local law requesting the Cannabis Control Board to prohibit the establishment of cannabis retail dispensary licenses and/or on-site consumption licenses within the jurisdiction of the town and is subject to a permissive referendum, the procedure of which is governed by Municipal Home Rule Law § 24.

### Section 3. Local Opt-Out

The Town Board of the Town of Byron hereby opts out from allowing the establishment of retail cannabis dispensaries and on-site cannabis consumption sites within the unincorporated areas of the Town and requests the Cannabis Control Board prohibit the licensing and establishment of such dispensaries and consumption sites within the unincorporated areas of Town of Byron.

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. Permissive Referendum

This local law is subject to a referendum on petition in accordance with Cannabis Law § 131 and the procedure outlined in Municipal Home Rule Law § 24.

Section 6. Effective date.

This local law shall take effect in accordance with Municipal Home Rule Law §24, namely, forty-five days after its adoption and upon filing with the Secretary of State within twenty days after the time period for filing a petition in accordance with Municipal Home Rule Law §24 has expired. In the event a valid petition protesting against this local law is filed within forty-five days after its adoption, then this local law shall not be effective until approved by the affirmative vote of a majority of the qualified electors of the Town of Byron voting on a proposition for its approval in accordance with the requirements of Municipal Home Rule Law §24.

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

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

***SPECIAL MEETING  
OF THE BYRON TOWN BOARD***

*The Byron Town Board will hold their last Town Board Meeting of 2021 on Monday, December 27, 2021 at 7:00 p.m. at the Byron Town Hall, 7028 Rte. 237, Byron, New York. The purpose of the Special Town Board meeting will be to pay year-end bills and to make year-end budget transfers.*

*Debra Buck-Leaton  
Byron Town Clerk*

**GENERAL FUND BUDGET TRANSFERS:**

**RESOLUTION #104:**

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

***Resolved***, that the Byron Town Board authorizes the following transfers:

<u>GENERAL FUND</u>				
<i>Transfer From:</i>				
	A1990.4	Contingency		\$5,184.00
		Unanticipated Revenue		
	A2770A	Solar Reimb.		\$70,550.00
			TOTAL:	<u>\$75,734.00</u>
<i>Transfer to:</i>				
	A1110.4B	Munic. Court, Contract. Grant		\$443.00
	A1420.4C	Law, Contr. Expend - Solar		\$70,550.00
	A1620.4	Building Contr.		\$4,271.00
	A7450.4	Museum – Art Gallery, Contr.		\$250.00
	A8020.1A	Planning Svc. – Consult Comp.		<u>\$220.00</u>
			TOTAL:	<u>\$75,734.00</u>

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

Vote:                      Ayes: 5                      Nays: 0

**HIGHWAY FUND BUDGET TRANSFERS:**

**RESOLUTION #105:**

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

***Resolved***, that the Byron Town Board authorizes the following transfers:

<u>HIGHWAY FUND</u>				
Unanticipated Revenue				
<i>Transfer From:</i>				
	DA2302	Snow Removal		\$1,669.00
			TOTAL:	\$1,669.00
<i>Transfer To:</i>				
	DA9010.8	State Retirement		\$1,479.00
	DA9089.8A	Clothing		\$190.00
			TOTAL:	<u>\$1,669.00</u>

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

Vote:                      Ayes: 5                      Nays: 0

**SEWER FUND BUDGET TRANSFERS:**

**RESOLUTION #106:**

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

***Resolved***, that the Byron Town Board authorizes the following transfers:

<u>SEWER FUND</u>				
<i>Transfer From:</i>				
	SSUB	Unexpended Balance		\$21,992.00
			TOTAL:	\$21,992.00
<i>Transfer To:</i>				
	SS1440.4	Sewer Engineering		\$12,417.00
	SS8120.2	Sewage Coll. System Equip.		\$6,444.00
	SS8120.4PT	Sewage Coll. System Contr.		\$1,975.00
	SS8130.4A	Electric Reimb.		\$189.00
	SS8130.4B	Additional Service		\$210.00
	SS8132.4	Sampling & Testing Contr		\$728.00
	SS9010.8	State Retirement		\$29.00
			TOTAL:	\$21,992.00

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

Vote:                      Ayes: 5                      Nays: 0

**ABSTRACTS**

**RESOLUTION #107:**

Councilman Kent 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	#13	#249 - #263	\$15,341.17
Highway Fund	#13	#179 - #203	\$67,848.69
Sewer Fund	#13	#60 - #61	\$605.92

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

Vote:                      Ayes: 5                      Nays: 0

**WATER IMPROVEMENT BENEFIT AREA NO. 1 AMENDED LEGAL SERVICES AGREEMENT**

**RESOLUTION #108:**

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

**Resolved**, that the Byron Town Board authorizes the Supervisor to sign the Amended Legal Services Agreement with Paul S. Boylan, Esq. with regard to Water Improvement Benefit Area No. 1. The fee for such work shall be One Hundred Fifty Thousand and 00/100 Dollars (\$150,000.00).

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

Vote:                      Ayes: 5                      Nays: 0

**EXTENSION OF SNOW AND ICE AGREEMENT**

**RESOLUTION #109:**

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

**WHEREAS**, the Town of Byron is under contract with the New York State Department of Transportation to provide snow and ice control on specified State roads within the Town, and

**WHEREAS**, the base agreement was extended for the 2021/2022 season by Resolution No. 103, dated November 13, 2019, setting an estimated total cost for the season at \$35,129.56, and

**WHEREAS**, due to the severity of the winter during 2020/2021, the total cost to perform this service is estimated at \$36,560.04.

**NOW, THEREFORE, BE IT RESOLVED**, to authorize the Town Supervisor to execute an Amendment to the present Agreement. Said Amendment would increase the estimated cost to perform snow and ice control for the 2021/2022 season by \$1,430.48.

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

Vote:                      Ayes: 5                      Nays: 0

**EXECUTIVE SESSION:**

A **motion** was made by Councilman Kent to go into executive session to discuss the medical, financial, credit or employment history of a particular person or corporation, or relating to the appointment, promotion, demotion, discipline or removal of a particular person at 7:41 p.m. The motion was seconded by Councilman Thompson and carried with the following vote:

Vote:                      Ayes: 5                      Nays: 0

A **motion** was made by Councilman Kent to come out of executive session at 8:11 pm. The motion was seconded by Councilman Thompson and carried with the following vote:

Vote:                      Ayes: 5                      Nays: 0

**ADJOURN:**

A **motion** was made by Councilman Thompson to adjourn the Special Meeting of the Byron Town Board at 8:21 p.m. The motion was seconded by Councilman Kent and carried with the following vote:

Vote:                      Ayes: 5                      Nays: 0

Respectfully Submitted,



Debra M. Buck-Leaton  
Byron Town Clerk