

BYRON TOWN BOARD MEETING

August 12, 2020

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.....	Sue Fuller
	Jeff Thompson
	Josh Kent
	Eric Zuber
Highway Superintendent.....	David Leaton
Town Clerk.....	Debra Buck-Leaton
Invited Guests.....	Paul Boylan, Esq.
	Bridget O'Toole, Eq., The Zoghlin Group (Via Zoom)

Public (Via Zoom):

Gayla Starowitz	Jim Lamkin	Sara Stockwell
Victor DiGregorio	Kaitlyn Moucha	George Squires
Candy Hensel	Ben Raccuia	Barb Starowitz
Michelle Piasecki, Harris Beach		
Keddy Chandran, Nextera		

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 July 15 and July 22, 2020 as written. The motion was seconded by Councilman Thompson and carried with the following vote:

Vote: Ayes: 5 Nays: 0

PLANNING BOARD REPORT:

- Approved Land Separation for Thomas Ford on Mill Pond Road
- Land Separation for William Lynch on Ivison Road tabled until September
- Approved Special Use Permit for Blue Sky Towers

Councilman Thompson: He believes Joe Amico has begun work again on horse track on Townline Road and questioned whether he has received the necessary permits from DEC.

George Squires: Mr. Amico needs DEC approval and still has not come back before the Planning Board

Supervisor Yasses: He will ask the CEO/ZEO to follow up on this matter.

Solar Law:

·The Solar Committee (Councilman Kent, Councilman Zuber and Attorney Ben Wisniewski, Eq., The Zoghlin Group) met and discussed the proposed Solar Law. Some changes were made, but the Town Board has not had the opportunity to review them.

·There was a discussion regarding prime farmland, and what percentage is prime farmland.

·The reduction of property values was a concern and how to guarantee that there wouldn't be a reduction and what to do if there was. In order to prove that there was a reduction, an appraiser would need to be hired for a before and after comparison. Councilman Kent believes this would be hard to administer.

·The Solar Committee will make further revisions and the Town Board will hold a special meeting on August 26, 2020, if necessary, to review and discuss the changes.

Amendment to Zoning Law – Battery Energy Storage:

·Supervisor Yasses would like to complete the proposed Solar Law before reviewing the proposed Battery Energy Storage Law. If there is time on August 26th he would like to discuss it after reviewing the proposed Solar Law they can.

·The Battery Energy Storage Law would need to go to County Planning prior to holding a Public Hearing, and they meet the second Thursday of each month. The paperwork would need to be to County Planning at least a week before their scheduled meeting for review.

·Councilman Kent would like to suggest receiving questions from the public in writing prior to the Public Hearing.

Noise Ordinance:

·Attorney Paul Boylan is still working on the Noise Ordinance.

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

Vote: Ayes: 5 Nays: 0

SOLAR:

ZOGLIN GROUP INTERVENOR FUND VOUCHER APPROVAL:

RESOLUTION #72:

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

RESOLVED, that the Town Board of the Town of Byron hereby authorizes the Supervisor to sign the Standard Voucher No. 4 in the amount of \$3,037.50 for services rendered by The Zoghlin Group and payable from Intervenor Funds.

Councilman Zuber seconded the resolution which was adopted by 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

Supervisor Yasses: Some of the baffles are rotten on the tanks at the trailer park and need to be replaced. We have budgeted \$44,798 in 2020 in the sewer account to start replacing the tanks. The grant that MRB Group applied for on behalf of the Town is pretty much dead because there is no money available due to COVID. Supervisor Yasses would suggest taking \$35,000 or \$36,000 out to start replacing them. The average cost of a new tank is \$3,500. He would like to bid out tanks and see how many a bidder can do for \$35,000. Most of the extra water at the pump stations is coming from the leaky tanks at the trailer park and ending up in the filter beds, wearing them out prematurely.

A **motion** was made by Councilman Zuber to direct Shaun Dempsey, of Camden Group, to secure three (3) bids to replace as many tanks as possible for \$35,000.00. The motion was seconded by Councilman Thompson and carried with the following vote:

Vote: Ayes: 5 Nays: 0

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

Vote: Ayes: 5 Nays: 0

HIGHWAY SUPERINTENDENT'S REPORT – David Leaton:

- Working on shoulders
- Replaced culvert on Merrill Road
- Playing catch-up
- Finished second roadside mowing

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

Vote: Ayes: 5 Nays: 0

CEO/ZEO REPORT – Mike Morris:

- A copy of the report is on file with the CEO/ZEO
- The owners of the property at the corner of Walkers-Corners and Caswell Road have been to court and sentencing has been adjourned to August 31st for violation of NY property maintenance and a hearing on the contempt of court charge.

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

Vote: Ayes: 5 Nays: 0

PARK COMMITTEE REPORT – George Squires:

- Reviewed the West Shore Park Law and submitted comments.

- Planting a memorial tree in honor of Jim Cudney, former Town Board member and Park Committee liason.
- Stocked Trestle Park pond at no cost to the Town.
- Accepted bid for gatekeeper from George Squires (\$500 for the season)
- The Elba Boy Scouts would like to come back in August to tent camp and do more improvements to Trestle Park.

A **motion** was made by Councilman Thompson to allow the Elba Boy Scouts to camp at Trestle Park in August. The motion was seconded by Councilwoman Fuller and carried with the following vote:

Vote: Ayes: 5 Nays: 0

West Shore Park Law:

·Attorney Paul Boylan will put the West Shore Park Law and the Town of Byron Parks Law together to make one comprehensive law for the Town Board to review.

Town of Byron Parks Law:

·See above

A **motion** was made by Councilman Zuber 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 #73:

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	#8	#151 - #172	\$ 7,726.64
Highway Fund	#8	#115 - #133	\$127,276.41
Sewer Fund	#8	#36 - #40	\$ 9,743.03
General Post Audit	#7	#45 - #52	\$ 3,728.11
Sewer Post Audit	#7	#19 - #21	\$ 849.35
Celebrations	#3	#3	\$ 3,000.00

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

Vote: Ayes: 5 Nays: 0

TOWN CLERK'S REPORT:

Paid to the NYS Ag and Markets for spay/neuter program.....	\$ 65.00
Paid to the Town of Byron Supervisor.....	\$3,774.50
Total Disbursed for July 2020.....	\$3,839.50

A **motion** was made by Councilman Zuber to approve the Town Clerk's Report as given for July, 2020. The motion was seconded by Councilman Thompson and carried with the following vote:

Vote: Ayes: 5 Nays: 0

FINANCIAL REPORT:

·The July 2020 Financial Report was reviewed.

A **motion** was made by Councilwoman Fuller to approve the July 2020 Financial Reports. The motion was seconded by Councilman Zuber and carried with the following vote:

Vote: Ayes: 5 Nays: 0

SUPERVISOR'S REPORT:

·Received "Welcome Letter" from USDA Rural Development for Water Improvement Benefit Area

No. 1. There will be a grant of \$4.425 million and loan of \$5.550 million, interest rate is 1.875% for 40 years.

·Received \$52,228.00 in Sales Tax Distribution, the Town should have received \$184,000 this quarter. Supervisor Yasses has been in contact with Christian Yunker (Town of Byron representative on the Genesee County Legislature), Shelly Stein (Genesee County Legislature Chairwoman), and Matt Landers (Genesee County Manager) regarding the lack of sales tax distribution to the Town and has received no real answers.

·Supervisor Yasses received a complaint from Eric Richenberg regarding restoration of his property which is in Water District No. 7. The Supervisor met with Mr. Richenberg and Morsch has reditched the property in two locations. Supervisor Yasses left two messages for Mr. Richenberg to see if the reditching has helped and has not received a call back.

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

Vote: Ayes: 5 Nays: 0

OTHER BUSINESS:

WATER IMPROVEMENT BENEFIT AREA NO. 1:

·The Town Board needs to pass two resolutions to move forward.

PRELIMINARY NOTICE OF INTENT UNDER SECTION 305 OF THE NYS AGRICULTURE AND MARKETS LAW RELATING TO THE PROPOSED BYRON WATER IMPROVEMENT BENEFIT AREA NO. 1

RESOLUTION #74:

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

WHEREAS, pursuant to Article 12-C of the Town Law, the Town Board of the Town of Byron is considering construction of water improvements (water mains, fire hydrants, and all related equipment) in a portion of the Town of Byron, said area to be known as the Byron Water Improvement Benefit Area No. 1; and

WHEREAS, if said water improvement project is approved, the Town Board will authorize the construction of water improvements, consisting of water mains, valves, fire hydrants and related equipment, primarily installed within, or alongside of, the road right of ways within the proposed water improvement benefit area that do not have public water; and

WHEREAS, portions of the water improvement benefit area and the water improvements to be constructed therein are located within the Genesee County Agricultural Districts Nos. 2, 3 and 4; and

WHEREAS, under Section 305 of the New York Agriculture and Markets Law, the Town Board is required to file a Preliminary Notice of Intent with the Commissioner of the Department of Agriculture and Markets, and with the Genesee County Agricultural and Farmland Protection Board, regarding the construction of the proposed water facilities; and

WHEREAS, the Town Board has caused to be prepared the required Preliminary Notice of Intent, a complete copy of which will be on file in the Byron Town Clerk's Office;

NOW THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Byron hereby approves the Preliminary Notice of Intent relating to the construction of water improvements within the Genesee County Agricultural Districts Nos. 2, 3 and 4, and authorizes the Town Supervisor to sign the same on behalf of the Town of Byron and be it further

RESOLVED, that the Town Clerk of the Town of Byron shall cause said Preliminary Notice of Intent to be filed with the Commissioner of the Department of Agriculture and Markets, and with the Genesee County Agricultural and Farmland Protection Board, as required by Section 305 of the Agriculture and Markets Law of the State of New York; and be it further

RESOLVED, that the Town Engineer is hereby directed to prepare for review by the Town Board, the final Notice of Intent for the proposed project in accordance with the provisions of section 305(4)(c) of the Agriculture and Markets Law.

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

Vote: Ayes: 5 Nays: 0

ORDER CALLING PUBLIC HEARING FOR WATER IMPROVEMENT BENEFIT AREA NO. 1

RESOLUTION #75:

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

At a Regular Meeting of the Town Board of the Town of Byron in the County of Genesee, held at the Town Hall in the Town of Byron on the 12th day of August, 2020.

PRESENT:

Peter Yasses, Supervisor
Suzanne Fuller, Councilman
Eric Zuber, Councilman
Josh Kent, Councilman
Jeff Thompson, Councilman

In the Matter of the Establishment of Byron
Water Improvement Benefit Area No. 1 of the
Town of Byron, Genesee County, New York.

ORDER CALLING
PUBLIC HEARING

WHEREAS, the Town Board of the Town of Byron duly adopted a resolution directing the Town Engineer, MRB Group, P.C., to supervise the preparation of a general plan, report and map for providing water improvements (water mains, fire hydrants, and all related equipment) in portions of the Town of Byron, said area to be known as the Byron Water Improvement Benefit Area No. 1; and

WHEREAS, the boundaries of the proposed water improvement benefitted area are set forth in **Schedule A** attached hereto and made a part hereof; and

WHEREAS, the proposed water improvement will include approximately 145,815 linear feet of 6-12 inch diameter PVC pipe water main and will serve all residents not currently served with public water. Water services consisting of 1 inch minimum Type K copper tubing will be provided to improved residential and commercial properties at the road right of way line. The water distribution system will also include the normal appurtenances, such as line valves, fire hydrants, air release valves, blow-off valves and related items. The water distribution system will be constructed in one or more phases (or contracts) and will be installed within, or alongside of, the road right of ways within the proposed water improvement benefit area that do not have public water; and

WHEREAS, on October 30, 2019, the Town Engineer duly filed said plan, report and map in the Office of the Town Clerk of the Town of Byron; and

WHEREAS, the maximum amount proposed to be expended for such water improvement (including the cost of construction, easements, engineering fees, legal fees and financing fees) is Nine Million Nine Hundred Seventy-Five Thousand Dollars (\$9,975,000); and

WHEREAS, the cost of construction of the said water system shall be paid from the issuance of bonds, notes, certificates or other indebtedness of the Town of Byron for a period not to exceed forty (40) years; and from a grant from the United States Department of Agriculture in the amount of Four Million Four Hundred Twenty-Five Thousand Dollars (\$4,425,000).

WHEREAS, it is proposed that the costs of said water improvement be apportioned / paid as follows:

Upon final approval of the project and creation of the Byron Water Improvement Benefit Area No. 1, Five Million Five Hundred Fifty Thousand (\$5,550,000) by the issuance of a Serial Bond payable over a period of 40 years at an interest rate not to exceed One and Eight Hundred Seventy-Five Thousandth Percent (1.875%); and

WHEREAS, a map, plan and report describing such water improvement are on file in the Office of the Town Clerk of the Town of Byron, and available for public inspection during regular business hours and on the town website at www.byronny.com; and

WHEREAS, it is estimated that the annual cost to the typical one or two family home after the first year will be One thousand Two Hundred Thirty-one and 22/100 Dollars (\$1,231.22) and that the first year cost will be Two Thousand Eight Hundred Seventy-One and 22/100 Dollars (\$2,871.22) both of which estimates include debt repayment of principal and interest, the purchase of water and an amount to be paid into a repair reserve account;

NOW THEREFORE, IT IS HEREBY ORDERED that a meeting of the Town Board of the said Town of Byron shall be held at the parking lot of South Byron Fire Company located on Route 236. in the Town of Byron, New York on the 8th day of September 2020, at 6:30 in the evening of that day to consider the said water improvement and to hear all persons interested in the subject thereof and for such other action on the vote of said Town Board with relation to the said water improvement as may be proper or required by law; and it is further

ORDERED that the Town Clerk of the Town of Byron is hereby authorized and directed to publish a copy of this order in the official newspaper of the Town and post a copy of the same on the bulletin board in the Office of the Town Clerk, not less than ten (10) days, but not more than twenty (20) days, prior to the date set for said public hearing.

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

Vote: Ayes: 5 Nays: 0

PUBLIC COMMENTS:

Ben Raccuia: He would again like to have the Town Board reinstate open meetings at the Town Hall

Supervisor Yasses: The Town Board has decided to continue to use Zoom and keep the meeting via Zoom.

Jim Lamkin: He also would like to see open meetings at the Town Hall. He also believes that it's not fair to the residents of Byron that Nextera is not holding an open house to discuss the solar project, and he believes that Nextera is using COVID as a way of not having the open house.

· Councilman Zuber: Neither the Town nor BAAS have received intervenor funds yet.

· Keddy Chandran, Nextera: Nextera is not using COVID to their advantage, and are trying to keep residents safe.

· Michelle Piasecki, Harris Beach: Nextera has paid intervenor funds and they have reached out to the Department of Public Service to see what's going on with distribution of the funds. Nextera wants to hear the public's comments. The informational packet that went out in lieu of the open house was to answer questions and solicit feedback. Nextera would like to hold an open house in the future, but they need to follow the law due to COVID.

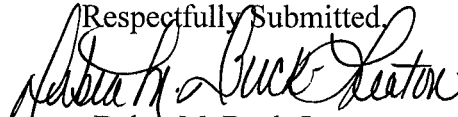
· Candy Hensel: She has emailed Councilman Kent information in relation to ongoing projects in the state, i.e. green energy.

ADJOURN:

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

Vote: Ayes: 5 Nays: 0

Respectfully Submitted,



Debra M. Buck-Leaton
Byron Town Clerk