

BYRON TOWN BOARD MEETING

April 8, 2009

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

Supervisor.....	Thomas Felton
Council Members.....	John Ivison
	Craig Ferguson
	Jeanne Freeman
	Jack Redick
Highway Superintendent.....	George Heins
Town Clerk.....	Debra Buck-Leaton

Public:

Mickey Truax.....	Swamp Road, Byron
David Chupp.....	Tripp Road, Byron
Brian Forsyth.....	Gillett Road, Byron
Brian Waldruff.....	Rte. 237, Byron
Jane Ivison.....	Townline Road, Byron
Martin Dilcher.....	Old State Road, Byron
Jim Cudney.....	Rte. 237, Byron
Pete Yasses.....	Rte. 237, Byron
Sue Fuller.....	Cockram Road, Byron
Jeff Thompson.....	Swamp Road, Byron

PLEDGE TO THE FLAG:

Supervisor Felton led the people in attendance in the Pledge of Allegiance.

MINUTES:

A **motion** was made by Councilman Ivison to approve the Byron Town Board Minutes of March 11, 2009 as written. The motion was seconded by Councilman Redick and carried with the following vote:

Vote: Ayes: 5 Nays: 0

PLANNING BOARD REPORT – Councilman Ivison:

·Reviewed a Land Separation application

COMPREHENSIVE PLAN UPDATE:

·Next meeting is April 21, 2009

PLANNING BOARD/ZBA SECRETARY:

·Received five resumes for consideration

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

Vote: Ayes: 5 Nays: 0

HIGHWAY SUPERINTENDENT’S REPORT – George Heins:

BUILDING COMMITTEE:

·Superintendent Heins left a message for Eric Wies and hasn’t heard back from him regarding the highway garage.

·Eric Wies contacted Supervisor Felton and Eric’s waiting to hear back from Morton before moving forward

LOADER BIDS: Three bids were opened on Tuesday, April 7th at 3:00 p.m.

Five Star Equipment (John Deere): New 2009 Front End Loader \$132,476; Trade Allowance: \$50,000; Net Trade, Delivered: \$82,476; Annual Hourly Trade Amount: \$10

George & Swede Sales & Service (Hyundai): New 2009 Front End Loader Hyundai HL757-7A Wheel Loader \$126,193; Trade Allowance: \$55,000; Net Trade, Delivered: \$71,193; Annual Hourly Trade Amount: \$10

Southworth-Milton, Inc. (Caterpillar): New 2009 Front End Loader: \$129,752; Trade Allowance: \$57,000; Net Trade, Delivered: \$72,752; Annual Hourly Trade Amount: \$10

·Superintendent Heins was concerned that the Hyundai had no bid specification sheets returned to explain exceptions or deviations. Some obvious literature deviations: Only one brake pedal – bid sheet specified two, 70 amp alternator – bid sheet specified 90 amp, two batteries – bid sheet specified four batteries, cannot decipher quick attach bid if even included. He would recommend an invalid bid for Hyundai.

·Supervisor Felton reviewed two scenarios – purchase of highway equipment with borrowed funds vs. purchasing equipment without borrowing funds for 2009-2020.

·Councilwoman Freeman, Councilman Ivison, Councilman Redick and Councilman Ferguson would all like to abide by the yearly replacement sheets with no borrowing of funds for highway purchases.

A **motion** was made by Councilman Ivison to reject all bids for the front end loader. The motion was seconded by Councilman Ferguson and carried with the following vote:

Vote: Ayes: 5 Nays: 0

ELECTED VS. APPOINTED TOWN CLERK, RECEIVER OF TAXES AND HIGHWAY SUPERINTENDENT POSITIONS:

Highway Superintendent Heins presented the Town Board with a resolution in opposition to changing the Town Clerk, Receiver of Taxes and Superintendent of Highway positions from elected to appointed positions.

A **motion** was made by Councilman Ivison to table, until next month, the resolution presented by the Highway Superintendent Heins in opposition to changing the Town Clerk, Receiver of Taxes and Superintendent of Highway positions from elected to appointed positions. The motion was seconded by Councilman Ferguson and carried with the following vote:

Vote: Ayes: 5 Nays: 0

A **motion** was made by Councilman Redick to approve the Highway Report as given. The motion was seconded by Councilman Ferguson and carried with the following vote:

Vote: Ayes: 5 Nays: 0

WASTE WATER REPORT:

Compliance

Passed all requirements

Finished Projects

- Took weekly samples
- Took monthly samples
- Monthly reports
- Called out to the center of Byron because of high flows, turned on third pump.
- Pumped out valve pits.
- Checked all pumps for operation
- Replaced house pump and plumbing in South Byron.
- Took meter readings
- Completed annual flow report for D.E.C.
- Exercised generators, checked oil and fluids.

Future Projects

- Inventory
- Replace pumps
- Continue preventative maintenance program
- Tried to install flow meter in manhole at trailer park. The meter would not fit in the pipe. Contacted dealer rep and came up with a solution. Meter will be installed this week.

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

Vote: Ayes: 5 Nays: 0

CEO/ZEO REPORT:

- Number of Inspections: 13
- Number of Zoning Permits: 7
- Number of Building Permits Issued: 3
- Number of Land Separations: 0
- Number of Building C.O./C.C. Issued: 1
- Number of Zoning Complaints Filed: 2
- Number of Zoning Complaints Resolved: 2
- Total Hours for the Month: 87

- Follow up on yearly fire and maintenance inspections for Assembly Group A
- Attended 24 hours of training
- Attended Planning Meeting
- Investigating new reported Property Maintenance Code violations
- Creating document safe deck building templates for inspections

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

Vote: Ayes: 5 Nays: 0

·Sue Fuller addressed the Town Board with regard to a notice she received from the CEO/ZEO regarding vehicles on her property. She would like to see only one letter sent instead of one regular mail, and the other certified mail, to save tax dollars. She would also have liked the CEO/ZEO to stop and talk to her versus sending letters.

- Supervisor Felton will discuss the situation with the CEO/ZEO
- Councilman Ivison stated the Town Board has asked the CEO/ZEO to look into the case of excessive unregistered vehicles in the center of the Town.

PARK COMMITTEE REPORT – Supervisor Felton:

- Park clean up will be on April 18th with a rain date of April 25th
- Trestle Park cleanup date on April 25th with a rain date of May 2nd
- Duck Race at 3:00 p.m. on Memorial Day
- Black Creek Watershed Map Guides are available at the Town Hall
- Did not have a large turnout for Volunteer Night
- Jim Renfrew and Supervisor Felton met to discuss a long-range plan for the Park Committee. The document will help the Committee and the Town Board prepare for the 2010 grant cycle.
- Laura Platt received a quote of \$8,980 from Becker Excavating and Construction for a baseball field at Fireman’s Park.

A **motion** was made by Councilwoman Freeman to appoint Shari Loewke as the Fire Department representative to the Park Committee. The motion was seconded by Councilman Ivison and carried with the following vote:

Vote: Ayes: 5 Nays: 0

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

Vote: Ayes: 5 Nays: 0

ABSTRACTS

RESOLUTION #42:

Councilwoman Freeman 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	#4	#81 - #94	\$ 29,572.41
Highway Fund	#4	#51 - #62	\$ 3,096.39
Sewer Fund	#4	#26 - #30	\$ 3,258.34
General Fund	#PA-4	#12 - #14	\$ 3,562.63
General Fund	#PA-5	#15 - #17	\$ 1,537.46
Sewer Fund	#PA-3	#5	\$ 852.48

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

Vote: Ayes: 5 Nays: 0

TOWN CLERK'S REPORT:

Paid to the Genesee County Treasurer for Dog Licenses.....	\$ 99.87
Paid to the NYS Ag and Markets for spay/neuter program.....	\$ 48.00
Paid to NYS Environmental Conservation.....	\$ 433.33
Paid to the Town of Byron Supervisor.....	<u>\$2,355.80</u>
Total Disbursed for March 2009.....	\$2,937.00

·Returned unpaid taxes and final tax payment to Genesee County Treasurer on April 7, 2009. \$2,778.29 collected in penalties and interest for February and March. There were 62 unpaid tax bills returned to Treasurer compared to 48 unpaid tax bills in 2008.

A **motion** was made by Councilwoman Freeman to approve the Town Clerk's Report as given for March 2009. The motion was seconded by Councilman Ferguson and carried with the following vote:

Vote: Ayes: 5 Nays: 0

FINANCIAL REPORT:

- The financial reports were reviewed for March 2009.
- The public also received a copy of a summary financial report.

A **motion** was made by Councilman Ferguson to approve the March 2009 Financial Reports as given. The motion was seconded by Councilwoman Freeman and carried with the following vote:

Vote: Ayes: 5 Nays: 0

OTHER BUSINESS:

CITY AMBULANCE:

·The Genesee County Ambulance Task Force has sent out an RFP to ambulance various ambulance services to get proposals for county wide ambulance coverage.

WATER DISTRICTS:

WATER DISTRICT NOS. 3 & 4:

- Moving forward with grant writer
- There are more grants available now with stimulus package
- Supervisor Felton is hopeful that grants will cover soft costs of water district

WATER DISTRICT NOS. 5 & 6:

Tabled WD#5, however with new grant opportunities 5 & 6 may make this a feasible project as one WD. Cockram Road east would also like to be included in a water district. Letters have also gone out to all residents for an Informational meeting on April 28th with Eric Wies from Clark Patterson.

COMPLAINT REGARDING 4 WHEELERS ON RTE. 237:

·Supervisor Felton received a complaint regarding 4 wheelers on Rte. 237. We have had the Sheriff's Office and DEC here in the past, but the Town does not have a noise ordinance. Waiting to receive feedback on this situation.

HSBC MUNICIPAL RESOLUTION:

RESOLUTION #43:

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

Supervisor Felton and Councilman Ivison are hereby authorized in opening a deposit account, and that they are duly authorized to act on behalf of the Town of Byron, and that the Town of Byron is a State of New York local government entity, duly organized and validly existing under the laws of the State of New York; and, if applicable, that the resolutions set forth below or provided separately to HSBC Bank USA, National Association have been duly adopted by the Town Board, at a meeting duly called and held on April 8, 2009, that each of such resolutions is in full force and effect and none has been rescinded, revoked, or modified; and that none of such resolutions nor any action pursuant thereto will violate any law, rule, regulation, charter, by-law or agreement by which the Town of Byron is governed, constituted or bound.

Resolved, that:

1. HSBC Bank USA, N.A., a New York Banking corporation, is hereby designated a depository for this entity (the "Depositor") and the offices or employees named above are hereby authorized to open one or more deposit accounts from time to time (each an "Account") on behalf of Depositor.
2. HSBC Bank USA, N.A. may purchase, give credit for, cash, accept, certify and pay from funds on deposit in the Account, without inquiry, all items signed, drawn, accepted or endorsed on behalf of Depositor, whether under a title, the words "Authorized Signature" or otherwise, with the purported actual or facsimile signature or anyone of the officials whose names, capacities and specimen, signatures appear above or on a Rider

hereto, or his or her successor in office (each an "Authorized Signer"), regardless of the circumstances under which the signature shall have become affixed if it resembles any actual or facsimile signature previously certified to HSBC Bank USA, N.A. Depositor shall indemnify HSBC Bank USA, N.A. against all claims, damages, liabilities, cost and expenses (including, but not limited to, attorneys' fees and disbursements) incurred by HSBC Bank USA, N.A. in connection with honoring any purported signature of any Authorized Signer or any refusal to honor the signature of any person who is not an Authorized Signer. Depositor acknowledges that dual signature requirements and restrictions impose no duty of enforcement on HSBC Bank USA, N.A.

3. Any Authorized Signer may, on behalf of Depositor, transact with and through HSBC Bank USA, N.A. all such business as he or she deems advisable upon such terms as he or she deems proper, including but not limited to, obtaining an undertaking and pledge of collateral for uninsured balances in the account, entering into custodial agreements concerning such collateral, obtaining such loans and other extensions of credit as may be consistent with applicable law, discounting, selling, assigning, delivering and negotiated items, guaranteeing the obligations of others pursuant to applicable law applying for electronic funds transfer, capital markets products, automated clearing house ("ACH") payments, cash management, trust and investment products and any other services or transactions; and, in compliance with all applicable law and procedures, pledging, hypothecating, assigning, mortgaging, encumbering, granting in connection with any such transaction of business do all acts or other things as he or she deem proper including but not limited to, signing, accepting, executing and delivering items, guarantees, assignments, pledges, hypothecations, receipts, waivers, releases and other instruments, agreements and documents, making and receiving delivery of Property, accepting receiving, withdrawing and waiving demands and notices and incurring and paying liabilities, costs and expenses.

4. In the event an Authorized Signer acting on behalf of Depositor shall apply to or contract with HSBC Bank USA, N.A. for any electronic funds transfer service that HSBC Bank USA, N.A. may make available to Depositor, including, but not limited to, any service that contemplates HSBC Bank USA, N.A. execution of payment orders initiated by Depositor for the wire or ACH transfer of funds to or from an Account of Depositor, such Authorized Signer shall be empowered on behalf of Depositor to designate one or more persons (who may, but need not be, Authorized Signers), each of whom, acting alone, shall be authorized on behalf of Depositor to transmit payment orders to HSBC Bank USA, N.A. for the transfer of funds to or from Depositor's Account.

5. Each person identified as an Authorized Signer, and each person or persons designated by an Authorized Signer to act on behalf of Depositor (who may, but need not be, Authorized Signers), shall have the power and authority to transact business and bind Depositor through electronic medium (e.g., the internet) and HSBC Bank USA, N.A. may rely on any of the following to the same extent as the actual signature and proof of identity of each such person to bind Depositor; and electronic signature or digital signature under applicable law, of such person; any identifier issued by HSBC Bank USA, N.A., it's affiliates or any other party (e.g., Personal Identification Number associated with ATM or other card or any access device) to such person; or any other criteria that HSBC Bank USA, N.A. may reasonably rely on which may serve as an indicator of authentication for such person.

I further certify that each person whose name appears above or on a Rider hereto opposite an office has been duly elected or appointed to an now holds such office of Depositor; that each other person whose name thus appears is acting for Depositor in the capacity opposite such other person's name; and that each signature on this certification or a Rider hereto is a true specimen of the signature of the person whose signature it purports to be.

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

Vote: Ayes: 5 Nays: 0

RESOLUTION TO CANCEL ACCOUNTS PAYABLE LIABILITY IN THE AMOUNT OF \$39,538.17 FROM WATER DISTRICT NO. 1:

RESOLUTION #44:

Councilman Ivison made the following resolution and moved for its adoption:

WHEREAS, the final payment to J.D. Northrup construction, Inc. for its' contract to construct the water mains and related facilities for Water District No. 1 was made pursuant to its' application for final payment in July of 2002, and such final payment was deemed proper by the engineer and attorney for Water District No. 1, and was made August 21, 2002, and

WHEREAS, no further application has been made, and

WHEREAS, more than six (6) years has passed since such final payment and the Statute of Limitations on claims pursuant to the contract has run, and

WHEREAS, Water District No. 1 reserved \$39,538.17 for possible claims by J.D. Northrup Construction, Inc. for restoration or other claims and claims by J.D. Northrup Construction, Inc. for restoration or other claims, and

WHEREAS, no such claims have been made, and

NOW THEREFORE, BE IT

RESOLVED that the elimination of the item accounts payable in the amount of \$39,538.17 in the financial statements of Water District No. 1 by the bookkeeper, upon the advice of the Town Attorney, in November of 2008 was proper and it is hereby ratified and confirmed.

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

Vote: Ayes: 5 Nays: 0

RURAL HOUSING LETTER OF SUPPORT:

A **motion** was made by Councilman Ivison to authorize Thomas Felton, Town of Byron Supervisor, to sign a letter of support on behalf of the Town of Byron for Rural Housing Opportunities Corporation, Inc. to the NYS Housing Trust Fund Corporation requesting additional HOME resources needed to continue their Homeownership Assistance program activities in Genesee County. The motion was seconded by Councilman Ferguson and carried with the following vote:

Vote: Ayes: 5 Nays: 0

DOG SHELTER AGREEMENT:

·Supervisor Felton received an annual contract from the Genesee County Sheriff’s Department for services with the County for the animal shelter. This is a requirement from NYS Agriculture and Markets whereby each town must contract out for these services. There is no cost to the Town.

A **motion** was made by Councilman Ferguson to authorize Thomas Felton, Town of Byron Supervisor, to sign the Agreement For Dog Shelter Services between the Town of Byron and Genesee County, which will provide dog control and shelter services pursuant to provisions of Article 7 of the Agriculture and Markets Law of the State of New York, at no cost to the Town of Byron. The motion was seconded by Councilman Redick and carried with the following vote:

Vote: Ayes: 5 Nays: 0

AUDIT:

·Councilwoman Freeman and Councilman Ferguson conducted an audit of the Town Clerk, Tax Collector, Town Justice and Town bank accounts.

A **motion** was made by Councilman Ivison to approve the audit report as written. The motion was seconded by Councilman Redick and carried with the following vote:

Vote: Ayes: 5 Nays: 0

WATER AND SEWER COMMITTEE MEETING:

·The Water and Sewer Committee held a meeting on March 25th and discussed the differences in the water and sewer districts. They also discussed the size of the water line going to a place of business as well as to a residential home.

·Reports were given out regarding the amount of water that was consumed by the various businesses and homes at a previous meeting and an update report will be given to members before the next meeting.

·Also discussed how this could affect the system and a farm watering animals and the size line needed.

·The next meeting will be held on Wednesday, April 22nd

A **motion** was made by Councilman Ferguson to approve the Water and Sewer Committee report as given. The motion was seconded by Councilman Ivison and carried with the following vote:

Vote: Ayes: 5 Nays: 0

PUBLIC COMMENTS:

Mickey Truax: Wondered if there was a noise ordinance in Byron.

Supervisor Felton: There is no noise ordinance in Byron, but the DEC has regulations that cover this issue.

SUPERVISOR’S REPORT:

- Next GAM meeting will be held in Oakfield on Thursday, April 16th
 - A letter went out to our state representatives regarding the high speed railway.
- Received a letter back from Mike Ranzenhofer
- Glow Hazardous Waste Dropoff, Rock Glen, Wyoming County, Saturday, May 19th
 - Assessor’s assessment changes have been mailed to Town residents
 - Met with a representative from American Farmland Trust – working with Genesee County with regard to agricultural preservation
 - Received annual installment for \$6,183.80 for state aid.
 - May 15th training at Burgundy Basin Inn
 - Received semi-annual Time Warner Franchise payment in the amount of \$7,466.09
 - Supervisor Felton and the Town Clerk attended a meeting at the Monroe County Water Authority and toured the facility.

A **motion** was made by Councilman Ferguson to accept the Supervisor’s Report as given. The motion was seconded by Councilwoman Freeman and carried with the following vote:

Vote: Ayes: 5 Nays: 0

ADJOURN:

A **motion** was made by Councilman Ferguson to adjourn the Byron Town Board Meeting at 8:35 p.m. The motion was seconded by Councilman Ivison and carried with the following vote:

Vote: Ayes: 5 Nays: 0

Respectfully Submitted,

Debra M. Buck-Leaton
Byron Town Clerk