

BYRON TOWN BOARD MEETING

April 13, 2022

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

- Deputy Supervisor.....Jeff Thompson
- Councilmen.....Josh Kent
Tom Felton
- Highway Superintendent.....David Leaton
- CEO/ZEO.....Melissa Ierlan
- Town Clerk.....Debra Buck-Leaton
- Absent.....Supervisor Yasses
Councilman Zuber
- Invited Guest.....Town Attorney Paul Boylan

Public:

- John Durand Michelle Weatherell Ben Raccuia Heather Kent
- Barbie Starowitz Cheryl Thompson Candy Hensel

PLEDGE OF ALLEGIANCE:

The Pledge of Allegiance was led by Deputy Supervisor Thompson.

MINUTES:

A **motion** was made by Councilman Felton to approve the Byron Town Board minutes of March 9, 2022 as written. The motion was seconded by Councilman Kent and carried with the following vote:

Vote: Ayes: 3 Nays: 0

BYRON RESCUE SQUAD – Michelle Weatherell:

- Councilman Kent would like to have the slideshow emailed to him and also the quote they received.
- The new ambulance would be similar in size and setup to the current ambulance. It would cost \$160,000 if purchased by the end of 2022. There would be an increase in the price of \$20,000 per year based on available supplies.
- The rescue squad is requesting \$30,000 for 6 years and \$15,000 for 10 years thereafter. The rescue squad has no influx of regular money coming in so it's very hard to get a loan.
- The Rescue Squad spent approximately \$17,000 in the last 4 years for repairs to the ambulance.
- There are some grants in the new State budget that John Durand will look into.
- The Rescue Squad does not currently receive Town funding.
- Councilman Felton would like to review the current fire contracts before funding equipment purchase for one fire department and not for the other. He is concerned most about a business plan, legality, appearance to the public and continued request for the same thing moving forward.
- The rescue squad would have to annex itself from the fire department if they started billing residents.
- Councilman Kent and Councilman Felton would like to see both fire departments represented and working together.

CEMETERY ASSOCIATION:

The following is from the Town Attorney, Paul Boylan:

To the Town Board of Byron, New York, and the Byron Cemetery Association, Byron, New York
Ladies and Gentlemen:

Recently a very generous couple instructed The Rochester Area Community Foundation to make a very substantial contribution to The Byron Cemetery Association.

The Byron Cemetery Association is a not-for-profit organization and is qualified as tax exempt pursuant to IRS Code Section 501(c)(13). Unfortunately this does not qualify as a charitable organization under 501(c)(3) and the Rochester Foundation can only contribute to 501(c)(3) organizations whose contributors can then claim a charitable deduction for income tax purposes or through a municipality.

Financial sponsorship through a municipality will allow the funds to be eligible to be contributed to The Byron Cemetery Association by The Rochester Area Community Foundation.

In order to accomplish the purpose of the couple who wants to benefit The Byron Cemetery Association that Association is requesting that Town of Byron, New York, act as its Fiscal Sponsor.

The project would be the maintenance and upkeep of the cemetery and its records. By NYS law, if a cemetery association becomes financially unable to sustain itself, it is considered an abandoned Cemetery and the town must take over its maintenance and upkeep. This donation would help build the financial stability of the current cemetery association and allow for continued maintenance and upkeep by the association and prevent the possibility of the cemetery from being a burden on the Town Tax payers.

Therefore, The Byron Cemetery Association requests that the Town Board on behalf of the Town of Byron, New York, agree to become its Fiscal Sponsor and adopt a resolution to authorize its officers to sign the Fiscal Sponsor Agreement submitted to its meeting.

BYRON CEMETERY ASSOCIATION FISCAL SPONSOR

RESOLUTION #47:

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

WHEREAS, a very generous couple has requested that the Rochester Area Community Foundation make a gift for the purpose of which is the maintenance and upkeep of the cemetery, and

WHEREAS, it is not permissible for the Rochester Area Community Foundation to make a gift directly to a cemetery association, and

WHEREAS, in the event that the Byron Cemetery Association was unable to maintain the cemetery it would be deemed abandoned and therefore it would become the responsibility of the Town to maintain the cemetery with taxpayer funds.

NOW, THEREFORE, be it:

RESOLVED: That in order to prevent the Byron Cemetery Association from becoming a burden on the taxpayers of the Town of Byron, the Town of Byron does hereby agrees to act as the Fiscal Sponsor of the Byron Cemetery Association pursuant to the Agreement attached to this Resolution, on the express condition that any and all costs incurred by the Town directly or indirectly associated with said administration be reimbursed from any funds donated by the Rochester Area Community Foundation to the sponsored organization pursuant to the Agreement, and be it further

RESOLVED: That the Supervisor is hereby authorized and directed to execute the said Agreement in the name of the Town.

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

Vote: Ayes: 3 Nays: 0

SOLAR:

·On April 6, 2022 the Siting Board approved the 280 MW Excelsior Solar project.

Councilman Kent – He would like to have a new committee formed to be proactive in order to figure out what we can do for the Town with the solar money.

PLANNING BOARD REPORT – Councilman Kent:

- Discussion on Zoning and the Town of Darien’s Zoning.
- Discussion on Smart Growth areas. New maps will be sent to Genesee County Planning for review.
- Discussion regarding a rumor that Dollar General may be coming into the Town and what can possibly be done with its appearance.
- Councilman Felton – The Town Board and Planning Board received an email from a solar company regarding a project on Rte. 262 that they would like to do and he wondered if the Planning Board discussed the email.
- Councilman Kent – There was no discussion regarding the email at the Planning Board meeting. Only 10% of prime farmland can go into solar.

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

Vote: Ayes: 3 Nays: 0

HIGHWAY SUPERINTENDENT’S REPORT – David Leaton:

- Working to repair road shoulders
- Doing roadside cleanup and damage from plows
- Stocked the salt barn with salt prior to price going up

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

Vote: Ayes: 3 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:

- 3/1/22 – Responded to a stake out at 6843 Rte. 237.
- 3/3/22 – Responded to a backup at 6814 Mill Pond Road. Located a tripped breaker in home, not letting power to pump.
- 3/6/22 – Had a call out for a downed utility pole in Center Byron.
- 3/9/22 – Replaced pump at 6814 Mill Pond Road
- 3/11/22 – Dan Burns found a burnt splice in the main wire coming from the house to the pump at 6814 Mill Pond Road.
- 3/22/22 – Backup at 6818 Pauline Street. Tank was full and needed pumping. Contacted A.D. Calls to pump tank.
- 3/31/22 – Dealt with a homeowner in the trailer park with a septic issue.

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

Vote: Ayes: 3 Nays: 0

PROPOSAL FOR PROFESSIONAL SERVICES – TOWN OF BYRON MOBILE HOME COMMUNITY COLLECTION SYSTEM STUDY AND PRELIMINARY ENGINEERING REPORT FOR THE ENGINEERING PLANNING GRANT

RESOLUTION #48:

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

WHEREAS, the Town of Byron Town Board authorizes the Supervisor to sign the Proposal for Professional Services for the Town of Byron Mobile Home Community Collection System Study and Preliminary Engineering Report for the Engineering Planning Grant between the Town of Byron and MRB Group in the amount not to exceed \$24,900.00.

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

Vote: Ayes: 3 Nays: 0

CEO/ZEO REPORT – Melissa Ierlan:

- Issued several building permits and complaints. A report is on file in the CEO/ZEO office.
- Doing more fire inspections with the exception of the apartments as she has gotten no response from the landowners.
- She was not able to attend the Planning Board meeting this month as she had another obligation
- Working on completing paperwork for the County on applications that were reviewed by them before she began working at the Town. Debra and Sara Stockwell have been very helpful to her, locating information to complete the forms.
- She has submitted her mileage from January until April 14th. She records the miles driven for inspections and checking out complaints.

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

Vote: Ayes: 3 Nays: 0

PARK COMMITTEE REPORT – Councilman Felton:

- Biggest problem is that the Park Committee needs more members.
- Trees are coming in on April 23rd and the Boy Scouts will be helping put them in.
- They received 1 contract for the gatekeeper and 1 for the port-o-johns.
- John Durand – the parcel of land that the fire department owns on McElver and Rte. 262 has been sold.

A **motion** was made by Councilman Kent to approve the Park Committee report as given. The motion was seconded by Councilman Felton and carried with the following vote:

Vote: Ayes: 3 Nays: 0

CLEAN ENERGY RESOURCES INFORMATION COMMITTEE – Candy Hensel:

- NYSERDA has approved their first campaign
- Participated in the Genesee County Home Show with Pathstone. 15 people signed up for home energy audits.
- Next meeting is Monday at 6:30 p.m.

A **motion** was made by Councilman Felton to approve the Clean Energy Resources Information Committee report as given. The motion was seconded by Councilman Thompson and carried with the following vote:

Vote: Ayes: 3 Nays: 0

COMMUNITY BLOCK GRANT – Candace Hensel:

Reimbursement has been made to the Town in the amount of \$19,902.50 for the Community Block Grant and now the Town can reimburse Candy.

A **motion** was made by Councilman Kent to approve the Community Block Grant report as given. The motion was seconded by Councilman Felton and carried with the following vote:

Vote: Ayes: 3 Nays: 0

ABSTRACTS

RESOLUTION #49:

Councilman Kent 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	#83 - #101	\$10,788.17
Highway Fund	#4	#32- #48	\$261,120.12
Sewer Fund	#4	#11 - #15	\$4,461.19
Water Improv. Benefit Area #1	#3	#5	\$34,786.15
General Post Audit	#3	#14 - #21	\$1,744.52
Sewer Post Audit	#3	#6 - #7	\$969.34

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

Vote: Ayes: 3 Nays: 0

TOWN CLERK’S REPORT:

Paid to the NYS Ag and Markets for spay/neuter program.....	\$38.00
Paid to NYS DEC for hunting/fishing licenses.....	\$28.34
Paid to NYS Dept. of Health for Marriage Licenses.....	\$22.50
Paid to the Town of Byron Supervisor.....	\$3,989.01
Total Disbursed for March 2022.....	\$4,077.85

Returned taxes to the County. There were 46 tax bills that remain unpaid.

A **motion** was made by Councilman Kent to approve the Town Clerk’s Report as given for March, 2022. The motion was seconded by Councilman Felton and carried with the following vote:

Vote: Ayes: 3 Nays: 0

FINANCIAL REPORT:

The March 2022 Financial Report was reviewed.

A **motion** was made by Councilman Felton to approve the March 2022 Financial Reports. The motion was seconded by Councilman Kent and carried with the following vote:

Vote: Ayes: 3 Nays: 0

SUPERVISOR’S REPORT:

No report

OTHER BUSINESS:

WATER IMPROVEMENT BENEFIT AREA NO. 1:

·Still waiting for approval from Comptroller. Town Attorney Paul Boylan received a request from the Comptroller for 9 additional items from the Town for more information after doing preliminary review.

WATER IMPROVEMENT BENEFIT APPLICATION TO INCREASE THE MAXIMUM AMOUNT TO BE EXPENDED FOR AREA NO. 1

RESOLUTION #50:

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

WHEREAS, this Town Board did on the 10th day of November, 2021, adopted a resolution to Increase the Maximum Amount to be Expended for Water Improvement Benefit Area No. 1 in the Town of Byron and subject to approval for the New York State Comptroller and a permissive referendum.

NOW, BE IT RESOLVED, that the Application to the State Comptroller for an Increase in the Maximum Amount to be Expended was prepared at the direction of the Town Board of the Town of Byron, and

BE IT FURTHER RESOLVED, that this Town Board believes the contents of the Application to be accurate, and

BE IT FURTHER RESOLVED, that this Town Board has determined that the improvement district including the increase in the Maximum Amount to be Expended is in the public's interest,

BE IT FURTHER RESOLVED, that the cost will be assessed only on the benefited area and will not be an undue burden on the property or residents which will bear the cost thereof,

BE IT FURTHER RESOLVED, that all real property so assessed will be benefited by the improvements, and

BE IT FURTHER RESOLVED, that no benefitted property has been excluded from the benefit area.

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

Vote: Ayes: 3 Nays: 0

PUBLIC COMMENTS:

·John Durand – The Byron Fire Department is working on run cards for the fire department which requires listing all fire hydrants in the Town.

·Ben Raccuia – Is paperwork going to delay water further.

·Town Attorney Paul Boylan – He doesn't believe so.

·Heather Kent – She is attending the Town Board meeting on behalf of the Byron-Bergen Public Library. They're open to any ideas from the Town to get more residents to utilize the Library.

·Ben Raccuia – He would like the Town to consider pausing any increase in assessments for the next couple of years. There was an article regarding Irondequoit in which they paused any increase in town taxes for one year. He believes it is within the Town Board's power to do so.

·Councilman Kent - Everyone's assessment went up this year. He will have a discussion with the Assessor, Barry Flansburg, to see what the ramifications would be.

·Councilman Felton – GAM discussed various grants available for shared services for Towns and they're open to ideas. Green Genesee is in Phase II.

Candy Hensel – Funds are available to pursue shared services.

ADJOURN:

A **motion** was made by Councilman Felton to adjourn the Byron Town Board Meeting at 8:39 p.m. The motion was seconded by Councilman Kent and carried with the following vote:

Vote: Ayes: 3 Nays: 0

Respectfully Submitted,

A handwritten signature in cursive script, reading "Debra M. Buck-Leaton". The signature is written in black ink and is positioned above the printed name.

Debra M. Buck-Leaton
Byron Town Clerk

AGREEMENT

This Agreement made this 13th day of April, 2022, by and between the Byron Cemetery Association and the Town of Byron, New York, hereinafter called "Fiscal Sponsor", and

The Byron Cemetery Association, a not-for-profit organization organized pursuant to the New York Not-for-Profit Corporation law, hereinafter called "Sponsored Organization".

Whereas, the Sponsored Organization desires to undertake the maintenance and upkeep of the Byron Cemetery (the Project), and

Whereas, because the Byron Cemetery is located within the township of the Fiscal Sponsor and its maintenance will have a positive effect on the value and attractiveness of the Town of Byron and used by the Fiscal Sponsor; and

Whereas, the financial stability of the Cemetery Association is critical to its existence and preventing the cemetery from being determined to be abandoned.

Whereas, the Fiscal Sponsor has determined that the Project would be consistent with its goals preventing any future burden on the Town tax payers and wishes to make arrangements with the Sponsored Organization for the implementation and operation of the Project, and

Whereas, the Town Board of the Fiscal Sponsor had duly adopted a resolution to sponsor the Project;

NOW, THEREFORE, it is agreed as follows:

The Fiscal Sponsor has determined that sponsorship of the Project would be consistent with its goals, and wishes to make arrangements with the Sponsored Organization for the implementation and operation of the Project.

1. The Fiscal Sponsor hereby agrees to sponsor the Project and to assume administrative, programmatic, financial and legal responsibility for purposes of the requirements of funding organization. The Sponsored Organization agrees to implement and operate the Project, in accordance with the terms of this Agreement and with any requirements imposed by funding organizations.
2. The Project shall be operated in a manner consistent with the Fiscal Sponsor's tax-exempt status and as described in this Agreement. No material changes in the purposes or activities of the Project shall be made without prior written permission of the Fiscal Sponsor and in accordance with any requirements imposed by funding organization, nor shall the Sponsored Organization carry on activities or use funds in any way inconsistent with this Agreement.
3. The Sponsored Organization shall not, and shall not permit the Project to, attempt to influence legislation or participate or intervene in any political campaign on behalf (or in opposition to) any candidate for public office or otherwise engage in the carrying on of propaganda (within the meaning of section 501(c)(3) of the Internal Revenue Code of 1986).

4. The Sponsored Organization will provide the Fiscal Sponsor with reports describing programs and services of the Project annually.
5. The Sponsored Organization will provide all information and prepare all reports, including interim and final reports, required by funding organizations, with the Fiscal Sponsor's assistance and final approval.
6. On behalf of the Sponsored Organization, the Fiscal Sponsor will establish and operate for the use of the Project a designated account ("Account") segregated on the Fiscal Sponsor's books. All amounts deposited into a Project's Account will be used in its support, less administrative charges, if any, and subject other conditions set forth below.
7. The Fiscal Sponsor will disburse funds from the Account semi-annually. Disbursements will be restricted to the support and implementation of the Project only.
8. The Sponsored Organization designates its Treasurer to act as authorizing official. The authorizing official shall act as principal coordinator of the Project's daily business with the Fiscal Sponsor, and shall have authority to sign disbursement requests.
9. The Fiscal Sponsor and Sponsored Organization will maintain all financial records relating to the Project according to generally accepted accounting principles, retain records as long as required by law, and make records available to auditors as required by law.

10. The Fiscal Sponsor and the Sponsored Organization will reflect the activities of the Project, to the extent required, on their state and federal government tax returns and financial reports. All disbursements from an Account shall be treated as payments made to or on behalf of the Sponsored Organization to accomplish the purposes of the Project. The Sponsored Organization will provide the Fiscal Sponsor with proper documentation to accomplish this, including furnishing the Fiscal Sponsor with the Sponsored Organization's Federal Employer Identification Number.

11. In consideration of the Fiscal Sponsor's agreement to sponsor the Project, and to cover any and all of the Fiscal Sponsor's expenses in connection with the Project as outlined above, the Project will pay the following fees, charges and expenses:

- a. Accounting
- b. Attorney
- c. Filing and record keeping
- d. All other fees, expenses, charges and assessments necessary to maintain the cemetery in an orderly, clean, mowed, trimmed and attractive condition.
- e. All other fees, expenses, charges and assessments incurred by the Fiscal Sponsor in complying with any requirements of this Agreement.

12. This Agreement will be subject to review annually and will terminate if any of the following events occur:

- a. The Fiscal Sponsor requests that Sponsored Organization to cease activities that it deems might jeopardize its tax-exempt status and the Project fails to comply within a period of ten (10) days;
- b. The Sponsored Organization fails to perform or observe any other covenant of this Agreement, and this failure remains unremedied fifteen (15) days after notice in writing;
- c. Upon expiration of four (4) weeks after either the Sponsored Organization or the Fiscal Sponsor has given written notice of its intent to terminate this Agreement.

13. In the event this Agreement is terminated, the Fiscal Sponsor and Sponsored Organization will comply with any termination conditions imposed by funding Organizations.

In witness whereof, the parties hereto have executed this Agreement on the day and year first written above.

Accepted for the Fiscal Sponsor:


Town Supervisor

Date

April 13, 2022

For the Sponsored Organization


Authorized Signer

Date

April 13, 2022