

SPECIAL BYRON TOWN BOARD MEETING

March 8, 2010

The Public Hearing was called to order by Deputy Supervisor George Heins at 3:05 p.m. with the following people present:

Deputy Supervisor.....George Heins
Council Members.....Jack Redick
Jeanne Freeman
Jeff Thompson
Absent.....Councilman Ivison
Town Clerk.....Debra Buck-Leaton

Invited Guests:

Paul Boylan.....Town of Byron Attorney

Public:

Sue Fuller.....Cockram Road, Byron
Jim Cudney.....Rte 237, Byron

PLEDGE TO THE FLAG:

Deputy Supervisor Heins led the people in attendance in the Pledge of Allegiance.

PUBLIC HEARING – ORDER CALLING PUBLIC HEARING ON WATER DISTRICT NO. 4 PETITION FOR AN INCREASE IN THE MAXIMUM AMOUNT TO BE EXPENDED:

A **motion** was made by Councilwoman Freeman to open the Public Hearing on the Order for an increase in the maximum amount to be expended for Water District No. 4 at 3:05 p.m. The motion was seconded by Councilman Redick and carried with the following vote:

Vote: Ayes: 3 Nays: 0

·Attorney Boylan read the following Legal Notice which was published in the *Batavia Daily News* on February 24, 2010:

At a special meeting of the Town Board of the Town of Byron in the County of Genesee, New York, was held at the Town Hall, in said Town, on the 23rd day of February, 2010.

PRESENT:

*Gerald Heins, Deputy Supervisor
Jeanne Freeman, Councilwoman
John Ivison, Councilman
Jack Redick, Councilman*

*In the Matter
of the
Petition for an Increase in Maximum Amount to be
Expended in Water District No. 4 (Cockram Road)
in the Town of Byron in Genesee County, New York
pursuant to Town Law §202-d.*

**ORDER CALLING
PUBLIC HEARING**

WHEREAS, a written Petition, dated February 12, 2010 in due form and containing the required signatures has been presented to and filed with the Town Board of the Town of Byron, Genesee County, New York, for an increase in the maximum amount to be expended in Water District No. 4, in the said Town, which is bounded and described as follows:

All that tract or parcel of land situated in the Town of Byron, County of Genesee, State of New York, described as follows:

ALL THAT TRACT OR PARCEL OF LAND situated in the Town of Byron, County of Genesee, State of New York, described as follows:

Beginning at a point at the intersection of the centerlines of Cockram Road (49.5 feet wide right-of-way) and Caswell Road (49.5 feet wide right-of-way); thence,

1. Northerly, along the centerline of Caswell Road, a distance of 705 feet, more or less, to a point; thence,
2. Easterly, along the northerly lines of tax account numbers 7-1-93, 7-1-94, and 7-1-95.2, a distance of 1225 feet, more or less, to the northeasterly corner of tax account number 7-1-95.2; thence,
3. Northerly, along the westerly line of tax account number 7-1-86.121, a distance of 600 feet, to the northwesterly corner of tax account number 7-1-86.121; thence,
4. Easterly, along the northerly line of tax account number 7-1-86.121, a distance of 795.69 feet, to the northeasterly corner of tax account number 7-1-86.121 and a westerly line of the Town of Byron Existing Water District No. 2 (the existing water district); thence,
5. Southeasterly, along the easterly line of tax account number 7-1-86.121, and a westerly line of the existing water district, a distance of 1070.81 feet, to the northerly line of tax account number 7-1-86.111 and a northeasterly corner of the existing water district; thence,
6. Westerly, along the northerly line of tax account number 7-1-86.111 and the existing water district, a distance of 73.59 feet, to the northwesterly corner of tax account number 7-1-86.111 and the existing water district; thence,
7. Southerly, along the westerly line of tax account number 7-1-86.111 and the existing water district, a distance of 440 feet, more or less, to a point on the centerline of Cockram Road and the existing water district; thence,
8. Easterly, along the centerline of Cockram Road and the existing water district, a distance of 8 feet, more or less, to a point on the centerline of Cockram Road and the existing water district at the intersection of the northerly extension of the westerly line of tax account number 7-1-83; thence,
9. Southerly, along the westerly line of tax account numbers 7-1-83 and through the lands of tax account number 7-1-76.1, a distance of 500 feet, more or less, to a point 500 feet southerly of the centerline of Cockram Road; thence,
10. Westerly, along a line 500 feet southerly of and parallel to the centerline of Cockram Road, through the lands of tax account number 7-1-76.1, a distance of 750 feet, to the point of intersection with the southerly extension of the easterly line of tax account number 7-1-77; thence,
11. Northerly, along the southerly extension of the easterly line of tax account number 7-1-77, through the lands of tax account number 7-1-76.1, a distance of 270 feet, more or less, to the southeasterly corner of tax account number 7-1-77; thence,
12. Westerly, along the southerly line of tax account number 7-1-77, a distance of 109.7 feet, to the southwestly corner of tax account number 7-1-77; thence,
13. Southerly, along the southerly extension of the westerly line of tax account number 7-1-77, through the lands of tax account number 7-1-76.1, a distance of 270 feet, more or less, to a point 500 feet southerly of the centerline of Cockram Road; thence,

14. *Westerly, along a line 500 feet southerly of and parallel to the centerline of Cockram Road, through the lands of tax account number 7-1-76.1, a distance of 1324 feet, more or less, to the centerline of Caswell Road; thence,*
15. *Northerly, along the centerline of Caswell Road, a distance of 500 feet, more or less, to the intersection of the centerlines of Cockram Road and Caswell Road, and the point of beginning.*

All as shown on a map prepared by Clark Patterson Lee entitled, "Town of Byron Water District Map, Cockram Road Water District", Drawing Number WD-01, dated May 29, 2007.

Water District as described above contains approximately 71.17 acres of land.

WHEREAS, the said Petition requests that the maximum amount to be expended be increased for the construction of a water system including water mains, hydrants, and other structures from \$156,000 to \$183,500, the source of such funds will be a grant from the United States Department of Agriculture, Rural Development in the amount of \$59,800 and a loan from the same Department in the amount of \$121,000, which loan will bear interest at an estimated rate of 4.375%; and

WHEREAS, the annual cost to a typical resident for debt service, operation, maintenance and water use is estimated to be \$723.00, and

WHEREAS, the cost to hook up to the water system is estimated between \$10 and \$15 per lineal foot of pipe to be installed from the highway right of way to the basement wall, plus the cost of any interior plumbing the owner wishes to install, it is hereby

ORDERED, that in accordance with the provisions of Section 202-d of the Town Law, a public hearing before the Town Board of the Town of Byron shall be held at the Town Hall in the Town of Byron, New York on the 8th day of March, 2010 at 3:00 p.m. to consider an increase in the maximum amount to be expended for said improvement of facilities of the District as set forth above, and to hear all persons interested in the subject thereof concerning the same, and for such other action on the part of said Town Board with relation thereto as may be required by law, and it is

FURTHER ORDERED, that the Town Clerk publish at least once in The Daily News, a newspaper published in Batavia, New York, and hereby designated as the official newspaper of the Town for such publication, and posted on the sign board of the Town maintained pursuant to subdivision 6 of section 30 of the Town Law, a copy of this order, certified by said Town Clerk, the first publication thereof and said posting to be not less than ten (10) nor more than twenty (20) days before the date of such public hearing.

Dated: February 23, 2010

Town Board of the Town of Byron

A **motion** was made by Councilwoman Freeman to close the Public Hearing on the Order for an increase in the maximum amount to be expended for Water District No. 4 at 3:30 p.m. The motion was seconded by Councilman Redick and carried with the following vote:

Vote: Ayes: 3 Nays: 0

PUBLIC COMMENTS:

Sue Fuller: Reiterated the importance of getting municipal water for residents on Cockram Road due to quality of water.

**RESOLUTION AND ORDER AFTER PUBLIC HEARING FOR WATER DISTRICT NO. 4
(COCKRAM ROAD)**

RESOLUTION #51:

A special meeting of the Town Board of the Town of Byron in the County of Genesee, New York, was held at the Town Hall, in said Town, on the 8th day of March, 2010.

PRESENT:

George Heins, Deputy Supervisor
Jeanne Freeman, Councilwoman
Jack Redick, Councilman
Jeff Thompson, Councilman

In the Matter	:	
of the	:	RESOLUTION AND ORDER
Increase in Maximum Amount to Be Expended for	:	AFTER PUBLIC HEARING
Improvement of Facilities of Water District No. 4	:	
(Cockram Road) in the Town of Byron in Genesee County,	:	
New York, Pursuant to Section 202-d of the Town Law	:	
.	:	

WHEREAS, after a public hearing duly called and held on May 14, 2008, the Town Board of the Town of Byron (the "Town Board" and the "Town," respectively), in the County of Genesee, New York, duly adopted a resolution and order determining that it is in the public interest to increase and improve the facilities of Water District No. 4 (Cockram Road) in the Town (the "District"), consisting of the installation of 2,150 lineal feet of water mains and eleven (11) lateral connections on Cockram Road in the Town of Byron and including land or rights in land, furnishings, equipment, machinery and apparatus required therefor, and ordering that the facilities of the District be so increased and improved at an estimated maximum cost of \$156,000.00, and
WHEREAS, on January 22, 2010 the Comptroller of the State of New York duly approved the formation of Water District No.4 in the Town Of Byron Genesee County, and

WHEREAS, due to generally increased costs of labor and materials, the maximum amount now proposed to be expended for said improvement of the water system is \$183,500.00, being an increase of \$27,500.00, and

WHEREAS, on February 23, 2010, the Town Board of the Town adopted an order describing in general terms said increase and improvement of facilities at the revised estimated maximum cost of \$183,500.00 and stating that the Town Board would meet to hear all persons interested in said increase and improvement of facilities at said revised estimated maximum cost on March 8, 2010, at 3:00 p.m. at the Town Hall;

WHEREAS, copies of said order certified by the Town Clerk were duly published and posted pursuant to the provisions of article 12 of the Town Law;

WHEREAS, such further public hearing was duly held, after a copy of such order certified by the Town Clerk was duly published and posted, at the time and place as stated in such order and considerable discussion on the matter having been had and all persons desiring to be heard having been heard in favor of and in opposition to said increase and improvements of facilities at the revised estimated maximum cost; now, therefore, upon the evidence given at such hearing, it is hereby

RESOLVED AND DETERMINED, that it is in the public interest to increase and improve the facilities of the District as hereinabove described and referred to, and it is hereby ORDERED, the facilities of the District shall be so increased and improved at a cost not to exceed \$183,500.00, the amount stated in the notice of hearing as the revised estimated cost of such increase and improvement of facilities; and it is further

ORDERED, that the expense of said increase and improvement of facilities shall be assessed, levied and collected from the several lands or parcels of land within the District, so much upon and from each as shall be in just proportion to the amount of benefit which the Town Board determines said increase and improvement of the facilities shall confer upon the same, and any amounts received from grants of federal and state funds shall be applied to the cost of said increase and improvement of facilities, or toward redemption of any bonds issued therefor or budgeted as an offset to assessments for payment of the principal and interest thereon, and it is further

ORDERED, that the Town Clerk record a certified copy of this resolution and order after public hearing in the office of the Clerk of Genesee County within ten (10) days after adoption thereof, and it is further

ORDERED, that because the annual cost to a typical resident of \$723.00 will exceed the threshold of the average annual cost for water districts established by the Office of State Comptroller that this resolution and order shall not be effective unless and until permission is received from the Office of the State Comptroller.

Vote:	Councilwoman Freeman	Aye
	Councilman Redick	Aye
	Councilman Thompson	Aye

WATER DISTRICT NO. 4 – APPLICATION TO THE COMPTROLLER FOR PERMISSION TO INCREASE MAXIMUM AMOUNT TO BE EXPENDED

RESOLUTION #52:

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

RESOLVED, that:

- a) The Board is duly authorized and directed to make application for permission to increase the maximum amount to be expended in Water District No. 4 (Cockram Road) from \$156,000 to \$183,500, pursuant to section 202-d of the Town Law of the State of New York;
- b) The Board has reviewed the contents of said application and believes them to be accurate;

c) The Board has determined that the increase in the improvement and expenditures for which permission is sought is in the public interest and will not constitute an undue burden on the property which will bear the costs thereof.

d) The increase on the cost of the proposed improvements is to be addressed in whole or in part against a benefited area, that all real property to be so assessed will be benefited by the proposed improvements and that no benefited property has been excluded.

e) Subsequent to said authorization the Rural Development Office of the Department of Agriculture modified the proposed budget by reducing the “contingency” item and thereby reducing the Total Budget to \$183,500 and increasing the proposed and obligated grant amounts to a total of \$59,800 which maintains the estimated first year cost to the typical homeowner of \$723.00.

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

Vote:	Councilwoman Freeman	Aye
	Councilman Redick	Aye
	Councilman Thompson	Aye

ADJOURN:

A motion was made by Councilwoman Freeman to adjourn the Public Hearing at 3:40 p.m. The motion was seconded by Councilman Redick and carried with the following vote:

Vote:	Ayes: 3	Nays: 0
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Respectfully Submitted,

Debra M. Buck-Leaton
Byron Town Clerk