

TOWN OF BYRON BOARD MEETING
October 9, 2024

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

Supervisor..... Candace Hensel
Councilman..... Martin Dilcher
Councilman..... Fred Klycek
Councilman..... Jeff Thompson
Councilman..... Nathan Knickerbocker

Highway Superintendent.....David Leaton
Town Clerk.....Kristy Murphy

Invited Guests..... Bridgette Cook, Town Attorney

Public: Eric Zuber Barbie Starowitz Pete Yasses Steven Hohn Jim Lamkin
Terry Maid Marilyn Weinert Ben Raccuia Jan Kent K Doty Rob Palmer
Shannon Thompson Vic Digregorio Bethany Berggren Frank Strock

Pledge of Allegiance:

The pledge of allegiance was led by Supervisor Hensel.

Approval of Minutes:

A motion was made by Councilman Klycek to approve the minutes from the following: September 11, 2024 and September 25, 2024

Councilman Knickerbocker seconds the motion and carried the following vote:

Vote: Ayes: 5 Nays: 0

Unsafe Structure Public Hearing:

A motion was made by Councilman Thompson to close the public hearing at 7:05pm regarding the unsafe property located at 6238 Byron Holley Road, Byron NY 14422 Tax Lot#5.-2-19

Councilman Knickerbocker seconds the motion and carried the following vote:

Vote: Ayes: 5 Nays: 0

Solar Escrow Account Resolution# 86

Councilman Knickerbocker offered the following resolution and adoption:

**TOWN OF BYRON TOWN BOARD RESOLUTION
TO ENTER INTO AN ESCROW AGREEMENT WITH BERGEN SWAMP, LLC TO
REIMBURSE THE TOWN FOR CERTAIN
EXPENSES RELATED TO THE REVIEW OF THE
PROPOSED NY BYRON ROUTE 262 D SOLAR PROJECT**

WHEREAS, Bergen Swamp, LLC seeks to construct a community solar project of up-to 2.4 Megawatts of AC power in the Town of Byron (the "Project"); and

WHEREAS, BERGEN SWAMP, LLC made an application for a special use permit and site plan approval for the Project dated August 12, 2024 (the “Application”); and

WHEREAS, BERGEN SWAMP, LLC has agreed to pay money into escrow to defray certain expenses related to the Professionals’ review of the Application up to \$50,000 upon entering into an escrow agreement between the Bergen Swamp, LLC and the Town of Byron (the “Agreement”); and

NOW, THEREFORE, Town Board of the Town of Byron hereby authorizes the Town Supervisor to execute the Agreement on behalf of the Town of Byron.

Councilman Klycek seconded the resolution an adopted by the following polled vote:

| | |
|---------------------------|-----|
| Councilman Klycek- | Aye |
| Councilman Thompson- | Aye |
| Councilman Dilcher- | Aye |
| Councilman Knickerbocker- | Aye |
| Supervisor Hensel- | Aye |

Vote: Ayes: 5 Nays: 0

Tax Cap Override

Local Law No. 1 of the year 2024 Town of Byron, County of Genesee
A local law to override the tax levy limit established in General Municipal Law §3-c.
Be it enacted by the town board of the Town of Byron as follows:

Section 1. Legislative Intent

It is the intent of this local law to override the limit on the amount of real property taxes that may be levied by the Town of Byron pursuant to General Municipal Law §3-c, and to allow the Town of Byron to adopt a budget for the fiscal year 2025 that requires a real property tax levy in excess of the “tax levy limit” as defined by General Municipal Law §3-c.

Section 2. Authority

This local law is adopted pursuant to subdivision 5 of General Municipal law §3-c, which expressly authorizes the town board to override the tax cap by the adoption of a local law approved by vote of sixty percent (60%) of the town board.

Section 3. Tax Levy Limit Override

The Town Board of the Town of Byron, County of Genesee is hereby authorized to adopt a budget for the fiscal year 2025 that requires a real property tax levy in excess of the amount otherwise proscribed in General Municipal Law §3-c.

Section 4. Severability

If any clause, sentence, paragraph, subdivision, or part of the 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. Effective Date

This local law shall take effect immediately upon filing with the Secretary of State

TOWN OF BYRON TOWN BOARD RESOLUTION #87 TO INTRODUCE THE TOWN OF BYRON PROPOSED LOCAL LAW ENTITLED

Councilman Knickerbocker offered the following resolution and adoption:

“Local Law Number 1 of 2024, Town of Byron Law Overriding the Tax Levy Limit”

WHEREAS, on October 9, 2024 the Town Board of the Town of Byron introduced a proposed local law entitled “Local Law Number 1 of 2024, Town of Byron Law Overriding the Tax Levy Limit,”

WHEREAS, the Town Board of the Town of Byron recognizes the need to override the limit on the amount of real property taxes that may be levied by the Town of Byron pursuant to General Municipal Law §3-c, and

WHEREAS, the Town of Byron’s current Code does not adequately meet the Town’s objectives, which include allowing the Town of Byron to adopt a budget for the fiscal year 2025 that requires a real property tax levy in excess of the “tax levy limit” as defined by General Municipal Law §3-c, and

WHEREAS, consideration is warranted of a proposed local law to allow for the need to override the limit on the amount of real property taxes that may be levied by the Town of Byron pursuant to General Municipal Law §3-c, and

WHEREAS, Section 20, subsection 4 of New York State’s Municipal Home Rule Law allows for the introduction of a proposed local law by a member of a Town Board, and

NOW, THEREFORE proposed “Local Law Number 1 of 2024, Town of Byron Law Overriding the Tax Levy Limit” is attached hereto and made a part hereof.

Councilman Klycek seconded the resolution an adopted by the following polled vote:

| | |
|---------------------------|-----|
| Councilman Klycek- | Aye |
| Councilman Thompson- | Aye |
| Councilman Dilcher- | Aye |
| Councilman Knickerbocker- | Aye |
| Supervisor Hensel- | Aye |

Vote: Ayes: 5 Nays: 0

TOWN OF BYRON TOWN BOARD RESOLUTION# 88 THAT ENACTMENT OF THE PROPOSED LOCAL LAW ENTITLED

Councilman Dilcher offered the following resolution and adoption:

“Local Law Number 1 of 2024, Town of Byron Law Overriding the Tax Levy Limit”

IS SUBJECT TO SEQRA AND CLASSIFYING CONSIDERATION OF THE PROPOSED LOCAL LAW AS AN UNLISTED ACTION UNDER SEQRA

WHEREAS, on October 9, 2024 the Town Board of the Town of Byron introduced a proposed local law entitled “Local Law Number 1 of 2024, Town of Byron Law Overriding the Tax Levy Limit,” and

WHEREAS, the adoption of the proposed local law is subject to SEQRA as it would involve the Town adopting a local law that may impact the environment, and

WHEREAS, on October 9, 2024, the Town Board of the Town of Byron prepared a Short Environmental Assessment Form for the proposed Action, and

NOW THEREFORE, the Town Board of the Town of Byron hereby declares itself lead agency for purposes of SEQRA review.

AND THEREFORE, the Town Board of the Town of Byron finds that the adoption of the current version of the proposed local law entitled “Local Law Number 1 of 2024, Town of Byron Law Overriding the Tax Levy Limit,” would qualify as an Unlisted action under SEQRA because it involves an action that does not fall under 6 NYCRR 617.4 or 6 NYCRR 617.5.

AND THEREFORE, the Town Board of the Town of Byron further resolves that the proposed action is classified as an Unlisted Action under SEQRA.

NOW THEREFORE, the Town Board of the Town of Byron further resolves that a public hearing on the proposed action shall be held on November 13, 2024 at 7:00 PM at the Town of Byron Town Hall.

Councilman Klycek seconded the resolution an adopted by the following polled vote:

| | |
|---------------------------|-----|
| Councilman Klycek- | Aye |
| Councilman Thompson- | Aye |
| Councilman Dilcher- | Aye |
| Councilman Knickerbocker- | Aye |
| Supervisor Hensel- | Aye |

Vote: Ayes: 5 Nays: 0

TOWN OF BYRON TOWN BOARD RESOLUTION #89 TO REFER THE TOWN OF BYRON PROPOSED LOCAL LAW ENTITLED

Councilman Knickerbocker offered the following resolution and adoption:

“Local Law Number 1 of 2024, Town of Byron Law Overriding the Tax Levy Limit”

TO THE GENESEE COUNTY PLANNING BOARD PURSUANT TO GML 239-M

WHEREAS, the Town Board of the Town of Byron has introduced a proposed local law entitled “Local Law Number 1 of 2024, Town of Byron Law Overriding the Tax Levy Limit”

WHEREAS, on October 9, 2024 the Town Board of the Town of Byron declared itself lead agency for purposes of SEQRA review of the proposed action and completed the Short Environmental Assessment Form, and

WHEREAS, the Town Board of the Town of Byron is required to refer any adoption or amendment of a zoning ordinance or local law to the County Planning Board pursuant to GML 239-m.

NOW, THEREFORE, Town Board of the Town of Byron hereby refers the proposed local law entitled “Local Law Number 1 of 2024, Town of Byron Law Overriding the Tax Levy Limit” to the Genesee County Planning Board for a report and recommendation thereon, a copy of which is attached hereto and made a part thereof.

AND IT IS FURTHER RESOLVED, that the Town Clerk shall transmit a copy of this resolution and the completed portions of the Short Environmental Assessment Form to the Genesee County Planning Board.

AND IT IS FURTHER RESOLVED, that failure of the Genesee County Planning Board to provide said report and recommendation to the Town Board within thirty (30) days after receipt of the referral by the Town Board shall be deemed approval of the proposed local law

Councilman Klycek seconded the resolution an adopted by the following polled vote:

| | |
|---------------------------|-----|
| Councilman Klycek- | Aye |
| Councilman Thompson- | Aye |
| Councilman Dilcher- | Aye |
| Councilman Knickerbocker- | Aye |
| Supervisor Hensel- | Aye |

Vote: Ayes: 5 Nays: 0

Town of Stafford SEORA Lead Agency Agreement for Solar Installation Resolution #90

Supervisor Hensel offered the following resolution and adoption:

The Byron Town Board authorizes the Supervisor to sign the contract designating the Town of Stafford Town Board as lead agency for the NY CDG Genesee 5 LLC and NY CDG Genesee 6 LLC solar energy facility proposed on Batavia Stafford Town line Road in the Town of Stafford.

Councilman Dilcher seconded the resolution an adopted by the following polled vote:

| | | | |
|---------------------------|---------|---------|--|
| Councilman Klycek- | Aye | | |
| Councilman Thompson- | Aye | | |
| Councilman Dilcher- | Aye | | |
| Councilman Knickerbocker- | Aye | | |
| Supervisor Hensel- | Aye | | |
| Vote: | Ayes: 5 | Nays: 0 | |

2025 Tentative Budget Scheduling Discussion

Special Meeting discussed and scheduled on October 23, 2024 at 6pm. Fire Department Budget and Town Budget immediately following. Town Clerk will discuss with Town Attorney if Special Meeting Agendas can state “and all other town business”

Budget Modifications:

Councilman Klycek asks Supervisor Hensel why the \$5,000.00 dollar transfer is being taken out as a loan not being taken out as the previous \$5,000.00 was moved in June. Discussion had regarding how to transfer the money.

Resolution #91

Councilman Klycek offered the following resolution and moved for its adoption. That the \$5,000.00 payment being made to South Byron Fire Dept be made in the same manner the June transfer was made.

Councilman Knickerbocker seconded the resolution and adopted by the following polled vote:

| | | | |
|---------------------------|---------|---------|--|
| Councilman Klycek- | Aye | | |
| Councilman Thompson- | Aye | | |
| Councilman Dilcher- | Aye | | |
| Councilman Knickerbocker- | Aye | | |
| Supervisor Hensel- | Aye | | |
| Vote: | Ayes: 5 | Nays: 0 | |

Resolution #92

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

BE IT RESOLVED, that the Byron Town Board authorizes the following transfers:

GENERAL FUND - TOWNWIDE

| | | Unanticipated Revenue | |
|-----------------------|--------|-------------------------------------|----------------------------|
| <i>Transfer From:</i> | A2401U | Interest - Gen Unrestricted Savings | \$ 18,000.00 |
| | | | TOTAL: \$ 18,000.00 |

| | | | |
|---------------------|----------|------------------------|----------------------------|
| <i>Transfer To:</i> | A1110.1C | Court Clerk Svc | \$ 8,000.00 |
| | A1420.4 | Law, Contr Expend | \$ 5,000.00 |
| | A9901.9 | Transfers, Other Funds | \$ 5,000.00 |
| | | | TOTAL: \$ 18,000.00 |

FIRE DISTRICTS

| | | | |
|-----------------------|--------|---------------------|--------------------|
| <i>Transfer From:</i> | SF5031 | Interfund Transfers | \$ 5,000.00 |
| | | | \$ 5,000.00 |

| | | | |
|---------------------|-----------|-------------------------------|--------------------|
| <i>Transfer To:</i> | SF-3410.4 | Fire Protection, Contr Expend | \$ 5,000.00 |
| | | | \$ 5,000.00 |

Councilman Dilcher seconded the resolution which was adopted by the following polled vote:

| | |
|---------------------------|---------|
| Councilman Klycek- | Aye |
| Councilman Thompson- | Aye |
| Councilman Dilcher- | Aye |
| Councilman Knickerbocker- | Aye |
| Supervisor Hensel- | Aye |
| Vote: Ayes: 5 | Nays: 0 |

Abstracts/Vouchers

Resolution # 93

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

BE IT RESOLVED, that the Byron Town Board pay the following abstracts:

| Fund | Abstract | Vouchers | Amount |
|------------------------------|-----------------|-----------------|---------------|
| General Fund | #10 | #222-236 | \$19,208.08 |
| Highway Fund | #10 | #85-95 | \$91,548.21 |
| Sewer Fund | #10 | #62-66 | \$8,912.06 |
| Fire Fund | #10 | #4 | \$5,000.00 |
| Water Improv Benefit Area #1 | #10 | #30 | \$12,764.59 |
| General Post Audit | #9 | #218-221 | \$722.63 |
| Sewer Post Audit | #9 | #60-61 | \$518.65 |

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

| | | |
|---------------------------|---------|---------|
| Councilman Klycek- | Aye | |
| Councilman Thompson- | Aye | |
| Councilman Dilcher- | Aye | |
| Councilman Knickerbocker- | Aye | |
| Supervisor Hensel- | Aye | |
| Vote: | Ayes: 5 | Nays: 0 |

REPORTS:

Highway Superintendent Report- David Leaton:

- State Truck stopped working
- Picking up ash trees
- Finished up blacktop
- Received Salt in for the winter

Councilman Dilcher makes the **MOTION** to accept the Highway Superintendent report.
Councilman Thompson seconds the motion and carried the following vote:

Vote: Ayes: 5 Nays: 0

Town Clerk Report-Kristy Murphy:

- Paid Ag & Market spay & neuter program..... \$69.00
- Paid DEC \$1,008.13
- Town of Byron Supervisor \$2,874.47

Councilman Knickerbocker makes the **MOTION** to accept the clerk report. Councilman Dilcher seconds the motion and carried the following vote:

Vote: Ayes: 5 Nays: 0

Supervisors Report- Candace Hensel:

- Financials were reviewed

Councilman Dilcher makes the **MOTION** to accept the Supervisors Financials.
Councilman Klycek seconds the motion and carried the following vote:

Vote: Ayes: 5 Nays: 0

- November 13th public hearing will be scheduled to finalize the 2025 Budget
- Resignation was received from George Squires from the Park Committee.

Councilman Klycek makes the **MOTION** to accept George Squire's resignation from the Park Committee. Councilman Thompson seconds the motion and carried the following vote:

Vote: Ayes: 5 Nays: 0

-Councilman Knickerbocker states on behalf of the Board and the Town Georges service to the Town is much appreciated and will be greatly missed

Councilman Klycek makes the **MOTION** to accept the supervisor report
Councilman Thompson seconded the motion and carried the following vote:

Vote: Ayes: 5 Nays: 0

Historical Society/Museum Report- Jan Kent:

-DE accessioning of a collection of law books dated from 1806 through early 1900's needs to be addressed. The Historical Society would like the Boards approval to donate this collection to the Genesee County Department of History Information will be given to the Town Board to review and discuss at a later date.

-The Historical Society's fall dinner, basket raffle and auction will take place on October 22, 2024 at 6:00pm. The dinner will be held at the Byron Fire Department. The event is open to public.

Councilman Klycek makes the **MOTION** to accept the historical society report.
Councilman Thompson seconded the motion and carried the following vote:

Vote: Ayes: 5 Nays: 0

Parks Report Bethany Berggren:

-The park meetings for the winter will be held at the Byron Hotel the first Thursday of each month at 7:00pm.

Councilman Klycek makes the **MOTION** to accept the parks committee report
Councilman Thompson seconded the motion and carried the following vote:

Vote: Ayes: 5 Nays: 0

Fire/EMS:

-No Report

CEO/ZEO Report- Melissa Ierlan:

- Sewer Protest- October 4th, I did an inspection at 6377 Mill Pond Road. The owners purchased the house as a double in 2021. Since then, they have removed the separation wall between the two units and made this a single-family home. A walk through was done and verified that this is in fact a single-family home and recommend that the town board rescind one of the sewer charges from the tax bill.

Councilman Knickerbocker makes the **MOTION** to change the sewer units billed from two units to one unit at the property address of 6377 Mill Pond Road, Byron NY 14422
Councilman Thompson seconded the motion and carried the following vote:

Vote: Ayes: 5 Nays: 0

Permit Monthly Report

09/01/2024 - 10/07/2024.

| Permit # | Issue Date | Owner | Permit Type | Property Location |
|-----------------------|------------|--------------------------------|-------------|--|
| September 2024 | | | | |
| 23-24 | 09/01/2024 | Jason Sando | building | 5678 Walkers Corners Rd SBL#: 8-1-25.12 |
| 24-24 | 09/03/2024 | Thomas Schelemanow | building | 6558 Route 237 SBL#: 5-2-16.2 |
| 25-24 | 09/03/2024 | Byron Holley Self-Storage, LLC | Fence | 6782 Route 237 SBL#: 5-1-100 |
| 26-24 | 09/05/2024 | Pamela Crosby | Fence | 6625 Cockram Rd SBL#: 7-1-57.2 |

September 2024

| | | | | |
|---------------------|------------|----------------|-----------|---------------|
| October 2024 | | | | |
| 28-24 | 10/06/2024 | Anthony Ridder | Pole Barn | 5629 Shelr Rd |

Open Projects Report

09/01/2024 - 10/31/2024

For Project Type: < All >

| Project Identifier | Applicant | Parcel Location | Project Type |
|--|-----------------------|--------------------|------------------|
| PBA-2024-070 | Gerald Bateman | 6903 Lyman Rd | Land Separations |
| subdivide house and 31 acres and 10 acres of vacant land | | | |
| ZBA-2024-019 | Roger V. Rouse | 7030 Lyman Rd | Land Separations |
| subdivide portion of tax map 10.-2-78 | | | |
| PBA-2024-071 | Star Growers Land LLC | Walkers Corners Rd | Land Separations |

Councilman Thompson makes the **MOTION** to accept the CEO/ZEO report
Councilman Dilcher seconded the motion and carried the following vote:

Vote: Ayes: 5 Nays: 0

Planning/ZBA Nathan Knickerbocker:

-Updated maps are being worked on

Councilman Thompson makes the **MOTION** to accept the planning board report
Councilman Klycek seconded the motion and carried the following vote:

Vote: Ayes: 5 Nays: 0

Communications Committee- Ben Raccuia

-Discussed the need for new computers next year for the Town Hall

-Town newsletter was discussed and wondering what the status of one coming out was

Councilman Knickerbocker makes the **MOTION** to accept the communications report
Councilman Dilcher seconded the motion and carried the following vote:

Vote: Ayes: 5 Nays: 0

Sewer Report Candace Hensel:

-RFQ for sewer engineering was written by Municipal Solutions and placed in the Batavia Daily News, on the town website, placed on the board at the town hall and on the NYS website

Councilman Knickerbocker makes the **MOTION** to accept the sewer report
Councilman Dilcher seconded the motion and carried the following vote:

Vote: Ayes: 5 Nays: 0

Old Business:

-Moratorium regarding the Battery Energy Storage System

Councilman Knickerbocker makes the **MOTION** to rescind the resolution that passed on September 11, 2024 regarding the moratorium for the Battery Energy Storage System Law
Councilman Thompson seconded the motion and carried the following vote:

Vote: Ayes: 5 Nays: 0

New Business:

-Supervisor Hensel read a letter from a resident regarding town resolutions, agendas and when they get put on the website. The supervisor attempts to read additional comments by the resident. Councilman Klycek states he feels the statement is campaigning and that should not be allowed at a town board meeting.

-Councilman Knickerbocker reminds everyone Imagination Library is always looking for donations for its reading program for children

Public Comments:

-Resident wants to confirm what the next steps are with the unsafe structure

-Steve Hohn comments that he has concerns with the Tax Cap Over Ride possibility

-Ben Raccuia reads the letter he submitted to the board that Councilman Klycek asked the supervisor not to read previously in the meeting because he stated it was campaigning

-Shannon Thompson comments on the previous meeting regarding the in lieu of benefit comments that were made.

-Pete Yasses comments "A true leader doesn't create separation; a true leader brings people together"

ADJOURN:

A **motion** was made by Supervisor Hensel to adjourn the Byron Town Board meeting at 8:45pm.
Councilman Thompson seconded the motion which was carried by the following vote:

Vote: Ayes: 5 Nays: 0

Respectfully Submitted,

Kristy Murphy, Town Clerk