

TOWN OF BYRON BOARD MEETING

September 11, 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:** Jan Kent Reggie MacDonald Christopher Hilbert Theresa Hammer K. Doty Don Yaxley Shannon Thompson Barbie Starowitz Jim Lamkin Vic DiGregori Bob Mruzcek Laura Platt Diane Chupp Slyvanus Chupp Darla Barnum Rob Palmer John Durand Karen Jaczynski Pete Yasses Cheryl Thompson Melissa Ierlan Lori Ivison Frank Strock

**Moment of Silence Held in Remembrance of 9-11-2001**

**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: August 13, 2024, August 14, 2024, August 22, 2024, September 5, 2024

Councilman Dilcher seconds the motion and carried the following vote:

Vote: Ayes: 5 Nays: 0

**Sewer Report:**

-One sewer protest letter was received last week. In order for the board to adjust the resident's sewer bill from 2 units to 1 unit the sewer department will need to visit the residence to sign off on that. The sewer department and zoning code has been notified. A home visit will be scheduled to confirm. This will be reviewed at the next board meeting.

**Water Improvement Benefit Area #1 Update:**

**Contract A-** Finished working on restoration

**Resolution # 75**

Councilman Dilcher offered the following resolution and adoption:

**BE IT RESOLVED**, that the Byron Town Board hereby approves and authorizes the supervisor to sign the contractors "Application for Payment #11 to Pilon Construction Co. Inc, in the

amount of \$90,238.60 (Ninety Thousand Two Hundred Thirty Eight Dollars and Sixty Cents) for construction of Water Improvement Benefit #1, Contract A,

Councilman Knickerbocker 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

**Attorney Authorization to Issue Notice to Surety Bond Provider to WIBA#1 Contract B Resolution #76**

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

**WHEREAS**, the Town Engineer has submitted a Punch List of items which are either incomplete or need to be corrected in the execution of Contract B for the construction of Water Improvement Benefit Area No. 1, and

**WHEREAS**, the contractor, Rochester Pipeline, Inc. responded and disputed the accuracy of the Punch List, and

**WHEREAS**, Rochester Pipeline, Inc. has made no attempt to complete or correct its work, and

**WHEREAS**, the Town is the Owner which is indemnified by a certain Performance Bond dated January 18, 2023 whereby Selective Insurance Company of America is bound to provide such indemnification, and

**WHEREAS**, such Performance Bond provides in paragraph 3.1 of such Bond that in the event of a Contractor Default the Owner shall provide a Notice to the Surety that it is considering declaring a Contractor Default and require a conference among the Owner, Contractor and Surety within ten (10) days of the receipt of the Notice by the Surety.

**NOW THEREFORE BE IT**

**RESOLVED** that the attorney for the Town be, and he hereby is, authorized and directed to forthwith issue such Notice to the Surety requesting such a conference.

Councilman Knickerbocker 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

**Net Interest Resolution # 77**

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

**WHEREAS**, the Town of Byron Town Board (hereinafter referred to as Town Board) is installing water main for the Water Improvement Area No. 1; and

**WHEREAS**, the Town received funding from the USDA in the form of grant and loan. The USDA has issued a Letter of Conditions for the Town of Byron. The Town also borrowed funds from Greene County Commercial Bank (GCCB) to cover expenses for the loan portion of the project; and

**WHEREAS**, the net interest amount was initially projected to be \$140,000; however the final net interest amount due to GCCB for the interim financing was \$373,688.27; and

**WHEREAS**, in 2024, the Town collected \$210,637 from district residents for this project, which the Town utilized to pay for interim financing, reducing the interest expense to \$163,051.27.

**NOW, THEREFORE, BE IT RESOLVED**, that the Town Board accepts and approves the additional amount of net interest in the amount of \$23,051.27 to be moved from Project Contingency and to cover the additional interest expense. The total project costs will not change.

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

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

**Bond Services Amendment Authorization Resolution #78**

Councilman Dilcher offered the following resolution and adoption:

**WHEREAS**, the Town of Byron (hereinafter referred to as Town Board) is installing water main for the Water Improvement Area No. 1; and

**WHEREAS**, the Town received funding from USDA in the form of grant and loan. USDA has issued a Letter of Conditions for the Town of Byron. Part of the Letter of Conditions is to retain service of a Bond Attorney and enter into an Agreement. The Agreement is to provide a “not to exceed amount” to provide services related to the Water District; and

**WHEREAS**, the Bond Counsel, Orrick, Herrington & Sutcliffe LLP, estimated \$25,000 for bond services. However, the fees for the project have increased and are now \$40,000. The additional \$15,000 will be taken from the Contingency line and will not increase the total project costs.

**NOW, THEREFORE, BE IT RESOLVED**, that the Town Board accepts and approves

the revised amount from Orrick, Herrington & Sutcliffe LLP in the amount "not to exceed" of \$40,000 for Bond Services to the district.

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

**Auditing Services Amendment Authorization Resolution #79**

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

**WHEREAS**, the Town of Byron (hereinafter referred to as Town Board) is installing water main for the Water Improvement Area No. 1; and

**WHEREAS**, the Town received funding from USDA in the form of grant and loan. USDA has issued a Letter of Conditions for the Town of Byron. Part of the Letter of Conditions is to retain service for a Single Audit and enter into an Agreement. The Agreement is to provide a "not to exceed amount" to provide services related to the Water District; and

**WHEREAS**, the Auditor, MMB & Company estimated an amount of \$10,900 for a single audits however the fees for the project have increased and are now \$18,500. The additional funds of \$7,600 will be taken from the Contingency line and will not increase the total project costs.

**NOW, THEREFORE, BE IT RESOLVED**, that the Town Board accepts and approves Amendment from MMB & Company in the amount "not to exceed" of \$18,500 for Auditing Services to the district.

Councilman Klycek 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

**Legal Services Amendment Authorization Resolution#80**

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

**WHEREAS**, the Town of Byron (hereinafter referred to as Town Board) is installing water main for the Water Improvement Area No. 1; and

**WHEREAS**, the Town received funding from USDA in the form of grant and loan. USDA has issued a Letter of Conditions for the Town of Byron. Part of the Letter of Conditions is to retain service of an Attorney and enter into an Agreement. The Agreement is to provide a "not to exceed amount" to provide services related to the Water District; and

**WHEREAS**, the Attorney, Boylan Law Office estimated an amount of \$150,000 for legal services however the legal fees for the project have increased and are now \$175,000. The additional funds of \$25,000 will be taken from the Contingency line and will not increase the total project costs.

**NOW, THEREFORE, BE IT RESOLVED**, that the Town Board accepts and approves Amendment No. 2 from Boylan Law Office in the amount "not to exceed" of \$175,000 for Legal Services to the district.

Councilman Knickerbocker 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

**Monroe County Water Authority Approval of Aquisition Resolution #81**

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

APPROVAL OF ACQUISITION OF AN EASEMENT BY THE MONROE COUNTY WATER AUTHORITY PURSUANT TO §1096(6-a) OF NEW YORK'S PUBLIC AUTHORITIES LAW WHEREAS, The Monroe County Water Authority ("Authority") intends to provide public water service to 6951 North Bergen Road located in the Town of Byron; and WHEREAS, the property owner has elected to retain and maintain the private well water source(s) on the premises and maintain separation between the plumbing that contains the public water (the "public system") and the plumbing that contains the well water (the "private system"); and WHEREAS, the acquisition of the permanent irrevocable access easement is necessary to allow the Authority to inspect the public and private systems to make sure they are not interconnected as required by the New York State Sanitary Code; and WHEREAS, the permanent irrevocable access easement is located at 6951 North Bergen Road (Tax Acct. No. 12.0-1-3.2), which is owned by Ludwig Family Irrevocable Trust; and WHEREAS, §1096(6-a) of New York's Public Authorities Law requires the Authority to obtain the prior approval of the Town Board for the above-referenced acquisition; now therefore be it RESOLVED, that the Town hereby approves of the Authority's acquisition of the permanent irrevocable access easement located at 6951 North Bergen Road in accordance with §1096(6-a) of the New York Public Authorities Law and be it further RESOLVED that a copy of this resolution be provided to the Authority.

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

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

**Abstracts/Vouchers**

**Resolution # 82**

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

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

<b>Fund</b>	<b>Abstract</b>	<b>Vouchers</b>	<b>Amount</b>
General Fund	#9	# 197-217	\$7,711.82
Highway Fund	#9	#72-83	\$109,628.23
Sewer Fund	#9	# 56-59	\$27,427.01
Water Improv Benefit Area #1	#9	# 26-29	\$139,201.66
General Post Audit	#8	# 78-84	\$1,805.21
Sewer Post Audit	#8	# 34-35	\$ 442.24

Councilman Knickerbocker 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:**

-Nothing to report

**Town Clerk Report-Kristy Murphy:**

-Paid Ag & Market for the spay & neuter program.....\$73.00  
 - NYS Health Department ..... \$22.50  
 -Paid DEC .....\$892.85  
 -Town of Byron Supervisor ..... \$3,534.65  
 -Byron Park.....\$50.00  
 -Office is busy with hunting licenses  
 -School taxes have been sent. Reminder payments do not get paid here. They can be paid online or directly to the bank per Byron Bergen School website.

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

Vote: Ayes: 5      Nays: 0

**Supervisors Report- Candace Hensel:**

-Financials reviewed

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

Vote: Ayes: 5      Nays: 0

-22" Surveillance Monitor quotes discussed:

-Action Security- Equipment and Labor Quote- \$1315.00

-Doyle Security- Equipment and Labor Quote- \$1500.00

-Review Contract for the grant awarded from NYSEDA in the amount of \$15,000.00 for an energy audit in the amount of \$5,000.00. The remainder could be used towards a needed improvement that was found in the energy audit. Supervisor Hensel advised the Town Board there was a contract in order to receive this grant that needed to be signed. Discussion had regarding the contract. Councilman Thompson and Councilman Klycek discuss the contract being not written legibly. Supervisor Hensel states she skimmed the contract and didn't notice. Supervisor Hensel will contact who drafted the contract and get it corrected and resend for the boards review.

-Cell phone usage request was made by the Supervisor in the amount of \$45.00/month. Discussion was had by the board. It was stated that the board does not feel that a monthly stipend amount is necessary to do a two-step factor authentication.

-Supervisor will be getting quotes to get a new computer and will bring quotes next month

-Solar project hosting agreements discussed

-Path Stone has grant funds available for home repair program information available online and in the clerk's office.

-65 year of age or older program may be available for help in property tax deductions on a sliding scale was discussed. More information to come.

-Supervisor Hensel asked for two board members to volunteer to go through old records looking to see if money is owed from the Water District to the General Fund. Discussion had that the Town Clerk is available to research, as she is records management in the office. The Town Clerk asked for what information is needed and will research what is needed.

-Preliminary budget and health benefit review need to be scheduled. Dates discussed.

Councilman Thompson makes the **MOTION** to schedule a Special Meeting to review healthcare benefits and Preliminary Budget on September 25, 2025 at 6:00pm.

Councilman Knickerbocker seconded the motion and carried the following vote:

Vote: Ayes: 5      Nays: 0

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

Vote: Ayes: 5      Nays: 0

**Historical Society/Museum Report-Don Yaxley:**

- Mike Glazier trimmed trees today at the museum
- Joanna Spitzner volunteered her time to help digitize the records
- Kevin & Emily Curran donated a basket for raise money
- Speaker Lynn Bellucio coming to speak regarding quilts

Councilman Knickerbocker 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-:**

- Turtle Park needs trees
- Blue Algae has popped in trestle park pond again
- Camera at Trestle Park was vandalized
- Frank Strock was appointed a new member to the parks committee

Supervisor Hensel makes the **MOTION** to accept the appointment of the new member to the parks committee  
Councilman Dilcher seconded the motion and carried the following vote:

Vote: Ayes: 5      Nays: 0

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

Vote: Ayes: 5      Nays: 0

**Fire/EMS:**

- Meeting took place on September 10<sup>th</sup> at the Town Hall
- Enrollment is up in the fire department
- Councilman Klycek states that South Byron Fire Department's \$5,000.00 discrepancy needs to be taken care of. He needs to know what is being done to make the Fire Department whole. Discussion had regarding the discrepancy between the contract amount of \$105,000.00 and the minutes of December 27, 2023 in the amount of \$110,000.00. Supervisor Hensel explains that there was a budget modification of \$5,000.00 to cover the shortage on the tax bills. South Byron Fire Department was paid the amount that was listed in the contract. Councilman Klycek states the contract amount was written for \$105,000.00 in error.

**Resolution #83**

Councilman Klycek offered the following **MOTION** to accept the following resolution:

In accordance with the December 27, 2023 meeting minutes at which time the Town Board awarded South Byron Fire Department a contract in the amount of \$110,000.00. At this time South Byron Fire Department needs to be made whole by being paid the \$5,000.00 they were short per the meeting minutes.



Councilman Knickerbocker seconded the motion and carried the following polled vote:

Councilman Klycek- AYE  
Councilman Thompson- AYE  
Councilman Dilcher- AYE  
Councilman Knickerbocker- AYE  
Supervisor Hensel- NAY

Vote: Ayes: 4 Nays: 1

Supervisor Hensel states, let it be known that voting against this is purely out of principal.

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

Vote: Ayes: 5 Nays: 0

**CEO/ZEO Report- Melissa Ierlan:**

-Lawyer states per Town Law the following Resolution needs to be adopted to move forward  
-10 permits and 3 planning board applications

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

**Ordering Correction of Dangerous and Unsafe Conditions Resolution #84**

6538 BYRON HOLLEY ROAD

PURSUANT TO TOWN OF BYRON'S UNSAFE BUILDINGS CODE

WHEREAS, by referral from the Town of Byron Code Enforcement Officer dated August 14, 2024, the Town Board became aware of the unsafe and dangerous conditions at property known as 6538 Byron Holley Road, bearing tax lot no. 5.-2.19 (the "Property");

WHEREAS, the Code Enforcement Officer conducted an exterior inspection of the Property and provided a report from said inspection to the Town Board; and

WHEREAS, the Town of Byron Code Enforcement Officer affixed a notice to the Property of the numerous violations of the Building Code and unsafe conditions at the Property; and

NOW THEREFORE, upon consideration of the above referenced materials, the Town Board finds that the Property is in violation of Town of Byron Unsafe Buildings Law and the Uniform Construction Code;

AND THEREFORE, the Town Board orders that a notice be made in compliance with Byron Town Code and sets a hearing in compliance) to be held on 10/9 at 7:00 PM at the Town of Byron Town Hall.

Councilman Thompson seconded the resolution and carried the following vote polled:

Councilman Klycek- AYE  
Councilman Thompson- AYE  
Councilman Dilcher- AYE

Councilman Knickerbocker- AYE  
Supervisor Hensel- AYE  
Vote: Ayes: 5 Nays: 0

Councilman Knickerbocker 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:**

**Resolution #85**

Councilman Knickerbocker offered the following resolution and moved for its adoption:  
A six month moratorium be placed on battery energy storage law in the Town of Byron.  
Supervisor Hensel seconded the resolution and carried the following vote polled:

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

-Fire Protection was discussed regarding solar and battery storage energy

-Waiting on new zoning law maps

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

Vote: Ayes: 5 Nays: 0

**Communications Committee- Ben Raccuia**

-No Report

-Next meeting October 7<sup>th</sup> at 6:00pm

**Se-Supervisor Hensel:**

-EPG Grant for the Mobile Home Park will be getting reimbursed. MRB is helping to work on that

-RFQ needs to be worked on for engineering for the upcoming Sewer Project. MRB suggested that the Town of Byron reach out to Municipal Solutions for help in getting together what the Town needs to do to move forward.

**New Business:**

-Letter from a resident was read by Councilman Thompson that was sent to the Town Board

-Councilman Thompson states that the Supervisor has tried to gain access to electronic town records without permission using the town attorney. Town attorney states that she discussed with the town clerk that to move forward she recommends a policy to be documented regarding the towns usage of the Laserfiche electronic records. If assistance is needed the town clerk can reach out to the town attorney.

-Councilman Thompson requested an executive session take place after public comments

**PUBLIC COMMENTS:**

-Jan Kent makes the statement to the clerk that bringing the old town clerk back has not been of any help.

-Town Clerk states bringing the previous town clerk back has been very helpful and she has learned a lot

-Jan Kent offers to pay out of her own pocket for the supervisors surveillance monitor.

-Resident states that she works for the hospital and Verizon gives a discount to hospital employees. She questions why the town would not give a discount to an employee

-Councilman Knickerbocker states that if the hospital offers a discount that is their choice to do so as an employer. Councilman Thompson clarifies the cell phone provider gives the discount the company does not pay the employee that money

-John Durand questions why tax bills are still mailed by the county. He asked how is it decided what a full cemetery is worth?

-Theresa Maid asks the question if the Town Board is planning on changing their vote of no confidence. She states since the bookkeepers were here in June or July and stated the supervisor did not ask them to stop payment on the check for the clerk

-Councilman Knickerbocker stated for clarification there were no formal request to stop payment and no formal request to pay the clerk.

-Ben Raccuia states in speaking with town residents they have questions for the town board but they are not comfortable coming to the meeting and speaking up. He proceeds to ask the board if he could ask the board anonymously on behalf of those residents

-Councilman Knickerbocker responds that anyone is able to reach out to the board in any way to ask the questions they need answered

-Ben Raccuia asks how is the best way for someone to ask a question to the board

-Councilman Klycek states their emails are listed on the website

-Town attorney states questions or comments could be sent to the town clerk. Pending the nature of the comment and if it needs a discussion it could be part of the meeting

-Councilman Thompson states it will be up to the board member(s) if the comments will be responded to

-Ben Raccuia states after research the Superintendent's Oath was not signed in the current year. He wants to know what the town board is going to do about that. He asks the board if they are aware of the open meetings law. He asks what the town board and legal counsel to assure that is followed. He continues to ask about the millings pile in town special use permit fence being put up and what are the height restrictions for the milling pile.

-Barbie Starowitz asks when the planning board agendas should expect to be posted

-Resident states that she would request the board reconsider the surveillance monitor

-Pete Yasses states he never needed a cell phone and passwords to everything when he was supervisor.

### **Executive Session**

Councilman Thompson makes the motion to start the executive session regarding personnel issues. Councilman Knickerbocker seconded the motion which was carried by the following vote:

Vote: Ayes: 5      Nays: 0

### **ADJOURN:**

A **motion** was made by Councilman Thompson to adjourn the Byron Town Board meeting at 9:46pm. Councilman Knickerbocker seconded the motion which was carried by the following vote:

Vote: Ayes: 5      Nays: 0

Respectfully Submitted,

Kristy Murphy  
Town Clerk