

The February 12, 2020 Town of Bethel regular Town Board meeting was called to order by Supervisor Daniel Sturm at 7:30 p.m. at the Dr. Duggan Community Center meeting room.

Council members present: Vicky Simpson
Dawn Ryder
Lillian Hendrickson
Bernie Cohen

The meeting was opened with the Pledge of Allegiance.

Audit of Bills

Motion by Mrs. Simpson to approve the audit of bills.
Seconded by Mr. Cohen, Put to a vote and carried 5-0.

<u>Fund</u>	<u>Amount</u>	<u>Check No.</u>
General Fund	\$4,312,876.999	9050; 9092-9109; 9111-9186; 9189
Highway Fund	\$1,314,218.90	2429; 2450-2495
Kauneonga Lake Sewer Dist.	\$ 70,419.52	1917-1961
Ksunronga Lake Light Dist.	\$ 2,214.21	1045
Planning & Zoning	\$ 1,936.84	1211-1212
Sewer Rehab	\$ 87,583.25	1001-1002
Capital Special Projects - Town Hall	\$ 7,250.00	91

Supervisor’s Monthly Report

Mr. Sturm gave his supervisor’s monthly report as follows -

General Fund - even though it is early in the year the income is 3% higher. Expenses is a 15% decrease. The Town paid off a \$35,000 bond in 2019.

Highway Fund is 18% better than last year and has spent 12.5% of the budget. Contractual, snow removal, machinery, etc. is early in the year. Last year 14.1% of the budget was spent at this time compared to only 11.8% in 2020.

Building Department Monthly Report.

January 2020 Fees	\$ 4,165
January Fees	\$ 4,064
January 2020 Construction Totals	\$477,500
January 2019 Construction Totals	\$ 97,200

Mr. Sturm stated construction costs for 2020 are way up and an increase of 2.5% in fees and fines.

Motion by Mrs. Simpson to receive and file Building Department monthly report as submitted. Seconded by Mrs. Hendrickson, put to a vote and carried 5-0.

Request to purchase 2020 Freightliner Cab-Chassis with plow

Mr. Cohen – this is the same specs as the last truck the Town purchased. It is a dual purpose truck (sand, plow, etc.) cab, chassis body and plow.

Mr. Bonnaci, Highway Superintendent stated - this the third new truck in over the past three years. It will be replacing a twenty-five year old truck. The new trucks are more efficient to run, fuel wise, etc. It is a multi-purpose truck.

Mr. Sturm said we are looking towards a “green fleet”. The Town is purchasing this on the Oneida County bid list #2025. The cost of the new truck is \$241,286.00. Let us order the truck and in six months decide how to pay for it; either bond or operating budget or using available fund balance. We will be retiring bonds in 2020, 2021, and 2022.

Motion by Mr. Cohen to purchase the 2020 Freightliner 114DS 6 x 4 w/standard Henderson Plow and bond it needed. Seconded by Mrs. Simpson, put to a vote and carried 5-0.

Add Items to Online Surplus Auction

Motion by Mrs. Hendrickson to add the following items to the Town of Bethel online auction list for surplus vehicles and equipment starting 2/11/2020 through 2/25/2020 with Auctions International:

Item #7	1995 Case mower	VIN: RNCJJE0904765
Item #8	Wolfpack Roller	VIN: 312005247
Item #9	Roller	
Item #10	10-yard dump body	
Item #11	Monroe Sander	Serial # 98-01-7172
Item #12	2011 Dodge Dump	VIN: 3D6WU7EL3BG503346
Item #13	Systematics Arc Welder	
Item #14	Bat wing flare mower	
Item #15	Rear flare mower	

Seconded by Mrs. Simpson, put to a vote and carried 5-0.

Town Clerk’s Monthly Report

Total fees for January 2020	\$6,801.99
State share	\$ 270.21
Town share	\$6,531.78

Motion by Mrs. Simpson to receive and file town clerk’s monthly report as submitted. Seconded by Mrs. Hendrickson, put to a vote and carried 5-0.

Request to attend 38th Annual NYS Town Clerk’s Association Conference

Motion by Mrs. Ryder to approve request from Rita Sheehan to attend the 38th Annual NYS Clerk’s Association Conference on 04/27/2020 through 04/29/2020. Registration and lodging is \$639. Ms. Sheehan is applying for a \$250 scholarship towards the cost and will be rooming with Town of Delaware Town Clerk. Seconded by Mr. Cohen, put to a vote and carried 5-0.

CARE Shelter Contract

Motion by Mrs. Simpson to approve the contract for Municipal dog care/sheltering surrender between the Town of Bethel and the Town of Liberty starting 1/27/2020. Seconded by Mrs. Hendrickson, put to a vote and carried 5-0.

Junkyard License Renewals

Mr. Sturm, said we will handle the six junkyard license renewal applications received in the Town Clerk’s office.

Motion by Mr. Cohen to receive, file and forward to the Building Department-Shapiro, Ross, Lindenbaum, Seven-X Motors, Hendrickson and Lema for inspection of their junkyards and report back to the Town Board. Seconded by Mrs. Hendrickson, put to a vote and carried.

9 Thompson Place (Hafner) SBL #41.-25-18

Per Mr. Sturm this property is still in disrepair. We have the engineering report and because of the condition of the property and cannot enter; it is being handled as having asbestos. Mr. Sturm recommends setting a new public hearing.

Motion by Mr. Cohen to set a public hearing for March 11, 2020 at 7:45 p.m. Seconded by Mrs. Simpson, put to a vote and carried 5-0.

96 E. Thompson Place (Leventures, LLC) SBL #43.-6-28

Per Mr. Sturm the Town Board held public hearings in 2018 and 2019. We have the engineering report and asbestos report. To date, no response from the owner.

Motion by Mrs. Hendrickson for the Town to seek sealed bids for the removal of the unsafe structure, tax map SBL#43.-6-28. Seconded by Mrs. Simpson, put to a vote and carried 5-0.

192 Lee Cole Road (Lee Cole Home Corp.) SBL #9.-1-4

Per Mr. Sturm this property is still in disrepair. We have the engineering reports. Mr. Sturm recommends that we set a new public hearing.

Motion by Mrs. Hendrickson to set a public hearing for March 11, 2020 at 8 p.m. Seconded by Mrs. Simpson, put to a vote and carried 5-0.

Appoint Members to the Forest Reserve Committee

Mr. Sturm - since 2016 we have made a commitment to developing the Forest Reserve at Smallwood into a multi-use facility that will benefit the entire town. We have installed walking trails, an exercise loop, a dog park and other amenities.

As part of this commitment we are creating a volunteer committee if interested citizens who will advise the town board on projects and suggest ideas for new ways increase usage and enhance the property.

Volunteer committee members are:

Denise Frangipane, Jamie Noeth, Heather Brown, Caroline Akt, Lillian Hendrickson, Dan Sturm and Daniel Cunningham.

Motion by Mrs. Simpson to receive, file, and approve the above seven (7) volunteers appointed to the Forest Reserve. Seconded by Mrs. Hendrickson, put to a vote and carried.

DASNY Grant Award

DASNY is the administrative agency that handles the paperwork for the \$100,000 grant from Jen Metzger. The Town of Bethel will do a match of \$75,000 towards the comfort station, kiosk, etc. (in-kind match).

E-mail from Elijah Pore, Grant Program Assistant/DASNY regarding the Town of Bethel application regarding the Town's SAM grant. The following documentation must be completed/submitted in connection with the SAM grant.

1. Completed Grantee Certification signed by two (2) authorized officers
2. Completed Project Certification signed by an authorized officer
3. Completed and signed W-9 with correct legal organization name and Tax

ID number filled in

4. Completed Grantee Questionnaire signed by two (2) authorized officers and Notarized

5. Evidence of Site Control
6. Financial documentation
7. SEQRA documentation

Appoint Members to the Heritage Trail Committee

Mr. Sturm – read the Heritage Trail Committee Mission Statement:

In 2018, a Woodstock Committee was formed to recommend projects for the commemoration of the 50th Anniversary of Woodstock in the Town of Bethel. One of these projects was a Woodstock theme “Heritage Trail”. Nine iconic sites associated with the original festival were identified and informational/interpretive signage was installed. The Heritage Trail has been well received and is definitely a long-term asset for the town. Going forward in 2020 we want to continue the progress of the Heritage Trail and identify ideas to upgrade the sites with appropriate landscaping and other improvements as necessary. Additional directional signage might be in order. We have developed a small marketing piece for the trail, but we believe that a larger and more detailed marketing plan for the trail should be looked at. Additional ideas for the trail should be explored. With this in mind, we want to create a Heritage Trail Volunteer Committee to work on these proposals. Committee members: Rita Sheehan, Moreen Lerner, BBA Representative, Jim Killilia, Vicky Simpson, Michael Shleiffer, Tom Wasserman, and Dina Sturm.

Motion by Mrs. Hendrickson to receive, file and approve the recommendations for the Heritage Trail Volunteer Committee. Seconded by Mr. Cohen, put to a vote and carried 5-0.

Review of Agreed Upon Procedures – Special Audit Report of Tax Collector Activities 1/1/2019-8/30/2019

Mr. Sturm distributed to the Town Board “Agreed-Upon Procedures Report Tax Collector Activities - January 1, 2019 through August 30, 2019”.

Mr. Sturm read the following prepared statement:

I think I speak for all of us when I say that 2019 was a tough year in regards to the tax collector’s office. Ms. Gabriel held the position of tax collector for eighteen (18) years and developed many close personal relationships. However, the majority of the board has seen clearly that the interests of the taxpayers must take precedence over any personal loyalties.

We have reached a point tonight where we can review in detail what has been revealed by the special audit of the tax collector’s office. This was a limited review authorized by the board focusing on: the application of penalties for mail-in payments received during the period of February 1st through the 15th, 2019; and 2 specific complaints from taxpayers out of the many we received in 2019.

In the interest of transparency I want to lay it all out for the board and the public so there are no questions as to what has been going on and the steps we have taken to date. I am going to read the report word-for-word in just a minute, but first I want to go over some history.

Over several years, town audits had noted serious deficiencies in the tax collector’s office. Proper procedures for the handling of cash, the documentation of deposits, reconciliations of payments, and other recommended practices were not followed. Mrs. Gabriel was well aware of these findings but chose to ignore them. As an independently elected official, she was not under the direct supervision of the town supervisor and board.

Things did not improve in 2018. \$2,694.75 was missing from the 2017 collection cycle of which \$1,517.00 was cash and for which no explanation was ever found.

According to the auditor, Ms. Gabriel's response on this missing cash was "the money may have gotten set in a pile of papers that were discarded in the waste paper basket."

We agreed to give Ms. Gabriel the benefit of the doubt when it came to this situation but it did raise our level of concern. It was decided that going into 2019, if things did not improve some action would have to be taken.

Unfortunately, 2019 did not improve, in fact, it was the worst I have ever seen. People who came to pay their taxes in cash during normal business hours were turned away and told they had to come on Saturdays during a very small window of time. According to the NYS Association of Towns this practice is illegal. When people come in to pay their taxes at the appropriate times, they cannot be turned away.

Over the course of 2019 the behavior of the tax collector was not easy to predict. At one point she was running for re-election, then she was retiring, then she was running again and demanding to be re-appointed to her position. Finally, after she was re-elected and took her oath of office, she resigned the night before she was to start her new term. Things seemed to change from week to week and we were often at a loss as to what was really going on.

She actually cleaned out her office and un-installed the tax collector computer program (Win Tax) from the computer in the tax collector's office. The town had to re-install the software, incurring a charge to do so. There was no logical reason for Ms. Gabriel to do this. Was there something in the computer that she wanted to hide? We know now!!

Activities took place that did not make sense. Payments were not processed in a timely manner and many citizens who paid their taxes on time were subsequently charged significant penalties. Required reconciliations of accounts, payments, and deposits were not done in a timely manner. Unexplained balances were left in bank accounts at year's end.

The town board received numerous specific complaints from taxpayers. As we received these complaints, we discussed them in an open and transparent manner as the meeting minutes will show. We asked the tax collector numerous times to explain things. Her responses, when we got any, were simply inadequate. Seeing this situation, any reasonable person would have acted as the board did in authorizing a special review of specific complaints in the tax collector's office using an independent accounting firm, Cooper and Arias.

I will now read the report. When I am finished, I will ask the board members if they would like to comment, beginning with the deputy supervisor, Ms. Simpson.

Cooper and Arias Report

INDEPENDENT ACCOUNTANTS' REPORT ON APPLYING AGREED- UPON PROCEDURES

We have performed the procedures enumerated below, which were agreed to by

the Town Board of the Town of Bethel ("Town") (the specified party), related to the Town of Bethel Tax Collector receipts during the period from January 1, 2019 through August 30, 2019. The Town of Bethel is the responsible party. The sufficiency of the procedures is solely the responsibility of those parties specified

in the report. Consequently, we make no representation regarding the sufficiency of the procedures described below either for the purpose for which this report has been requested or for any other purpose.

The procedures and the associated findings are as follows:

PROCEDURE 1

We reviewed all tax collections from February 1, 2019 through February 15, 2019 to determine whether the proper penalties were assessed and collected. We determined whether the proper penalties were collected by reviewing supporting documentation for all receipts deposited after January 31, 2019 and not charged a penalty, to determine whether the payments were postmarked or physically delivered to the Tax Collector on or before January 31, 2019. The period reviewed included batches 304-375, which comprised a total of 1,186 individual collections. All batches were traced to the corresponding deposit in the bank statement.

FINDINGS

We noted the following related to these transactions:

- 1) Of the 1,186 total collections during this period we noted the following:
 - a. 140 collections were assessed the correct penalty.
 - b. 614 collections were not assessed a penalty but had supporting documentation indicating that the payments were mailed or processed prior to February 1, 2019.
 - c. 432 collections were not assessed a penalty and had no supporting documentation indicating that the payments were mailed or received prior to February 1, 2019. These collections totaled \$684,279.46, which would amount to \$6,842.79 in penalties. We noted 74 envelopes that had no name or other identifying information on the envelope to indicate which payment was received in the envelope. It is possible that some of these collections were received in these envelopes.

- d. Although not required, the NYS Comptroller recommends retaining the postmarked envelopes for any payments mailed prior to, but received after, the penalty cut-off date, to document the reason for not assessing the penalty. The lack of supporting documentation for collections received after January 31st has been noted as part of the Town's annual audit in each of the past 5 years.

PROCEDURE 2

We reviewed the tax collection transactions that occurred related to SBL 38.B-1-36 on January 25, 2019 to determine whether the amount paid by the taxpayer was properly credited to their account and, if not, where the amount was credited.

FINDINGS

We noted the following activities related to this transaction:

- 1) The taxpayer made a payment of \$5,374.88 on January 25, 2019 to pay the taxes on eight different parcels in the Town of Bethel. The Tax Collector only credited seven of the taxpayer's parcels totaling \$5,278.66, omitting the \$96.22 paid for parcel 38.B-1-3.6. The deposit into the bank was \$96.22 more than the amounts credited because of the omission. This error could have been identified and corrected in a timely manner if the Tax Collector had been preparing bank reconciliations on a monthly basis. The lack of formal bank reconciliations has been noted as part of the Town's annual audit in each of the past 5 years.
- 2) Parcel 38.B-1-3.6 was noted as unpaid when the Tax Collector records were turned over to the Sullivan County Treasurer at the end of the tax collection period, and the Sullivan County Treasurer subsequently notified the taxpayer. The taxpayer then provided documentation of payment.
- 3) Based on the documentation provided by the taxpayer, the Town Board authorized payment of \$96.22 to the Sullivan County Treasurer to reimburse the County for the amount previously paid to the Town as unpaid taxes.
- 4) The excess deposit of \$96.22 is likely part of the unaccounted balance in the Tax Collector's bank account as of August 30, 2019, as described in Procedure 4.

PROCEDURE 3

We reviewed the tax collection transactions that occurred related to SBL 38-2-29.8 on January 26, 2019 to determine whether the amount paid by the taxpayer was properly credited to their account and, if not, where the amounts was credited

We noted the following activities related to this transaction:

- 1) The taxpayer claims he made a cash payment of \$4,335.67 on January 26, 2019. After the taxpayer left the office, the tax collector claims to have noticed that she had counted incorrectly and there was only \$3,335.67 received, leaving a deficit of \$1,000. She noted this discovery, and the subsequent phone conversation she claims to have had with the taxpayer, in an undated hand written note in her file.
- 2) The Tax Collector received a letter from the Town Supervisor, dated February 5, 2019, indicating that he, as well as the Town Board, were aware of the situation regarding the Tax Collector's claim of \$1,000 being missing from the January 26, 2019 payment, as noted in # 1 above. In the letter, the Supervisor requested that the Tax Collector's office either resolve the issue or, if she believes the money was stolen, it would be reported to the New York State Police.
- 3) The Tax Collector received a letter from the taxpayer's attorney, dated February 7, 2019, indicating that the taxpayer claims to have made the full payment as required, and included a date stamped receipt indicating that the Tax Collector received a cash payment of \$4,335.67 on January 26, 2019.
- 4) On February 14, 2019, the Tax Collector sent a letter to the taxpayer's attorney indicating that she would "honor my word, as I stamped the bill paid". She enclosed copies of the cash received, which she claims totaled \$3,335.67.
- 5) On February 14, 2019 the total amount of \$4,335.67 was credited to the taxpayer's account with no penalty charged. However, there is no corresponding bank deposit for this amount when the taxpayer's account is credited and, therefore, the amount that was actually paid to the Tax Collector on January 26, 2019 does not appear to have been deposited into the bank. Additionally, the Batch Report indicates that the payment was received via "Mail" when the previous correspondence, as noted above, indicates that this payment was received in person at the Tax Collector's office.
- 6) On April 2, 2019 the Tax Collector made a deposit of \$4,335.00 and attached the receiver's stub for parcel SBL 38-2-29.8 with the deposit slip. This deposit appears to be the amount previously credited to the taxpayer's account on February 14, 2019, as noted in #4 above, with no corresponding deposit. The deposit of \$4,335.00 was 67 cents less than the original taxes due of \$4,335.67, as noted in #1 above.
- 7) The April 2, 2019 deposit consisted of \$2,735 in cash and a personal check from the Tax Collector in the amount of \$1,600. However, the Tax Collector initially claimed that she received 3,335.67 in cash, as noted in #1 and #4 above, which is \$600.67 more than the cash deposited on April 2, 2019.

PROCEDURE 4

We reviewed the amount remaining in the Tax Collector's account upon her resignation on August 30, 2019 to determine the source of these funds.

The balance **in** the account appears to be made up of numerous small differences and includes variances carried over from previous years. The balance **in** the Tax Collector account of \$92.07 as of August 30, 2019 is made up of \$35.65 from previous years and \$56.42 from the current tax collection period.

This agreed-upon procedures engagement was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants. We were not engaged to, and did not conduct an examination or review, the objective of which would be the expression of an opinion or conclusion. Accordingly, we do not express such an opinion or conclusion. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you.

This report is intended solely for the information and use of the Town of Bethel and is not intended to be and should not be used by anyone other than those specified parties.

End of Report

Town Board Comments

Mrs. Simpson - Basic procedures were not followed. Tax payment envelopes were not saved. Approximately 36% of the envelopes were not kept.

Mrs. Hendrickson - Why \$1,600 dollars, when only \$1,000 was short. What about the \$600.

Mr. Cohen – sorry this had to happen but you do not mess with municipal/taxpayer money.

Mrs. Ryder – waste of taxpayer's money for audit and attorney's time.

Mr. Sturm - In conclusion, I want to make it clear that the board was totally justified in authorizing this review. The issues are serious, involving the mishandling of taxpayer dollars in all facets of the tax collector's office over a number of years. We only asked Cooper and Arias to look at a short window of time as has been noted. If we had expanded the scope for review, I have no doubt that more problems would have been exposed.

Just in the small snapshot of time that was reviewed, the problems are sobering, to say the least. Significant revenue to the town was potentially lost and in an era of tight budgets we cannot afford to lose money like that. Taxpayers were charged large penalties inappropriately and suffered stress and hardship unnecessarily.

Most troubling for me is that cash disappeared and still cannot be accounted for, and this was not the first time this happened. To simply write a check for the missing money and expect that the issue will go away is no way to manage an office with such responsibilities.

I also want to make it clear once again that every effort was made to work with Ms. Gabriel to try and solve the problems in the tax collector's office. Instead of working with us, as soon as questions stated to be asked, she made allegations against others in the town hall who had assisted her over the years. This behavior was un-called for and un-professional to say the least.

In November, a new person will be elected to that office and with this report in hand we will work with the new tax collector to make sure the office works the way it is supposed to. We have already seen how the staff from the County Treasurer's Office are following proper procedures and things are working smoothly and efficiently for a change.

This report has been sent to the NYS Comptroller's Office for their review. It may ultimately be the case that given the seriousness of the findings, that other agencies will be asked to review it as well.

Motion by Mrs. Hendrickson to receive and file the Town of Bethel "Agreed-upon Procedures Report Tax Collector Activities January 1, 2019 through August 30, 2019" the independent accountants' report by Cooper Arias, LLP. Seconded by Mrs. Simpson, put to a vote and carried 5-0.

Town Board Comments

Mrs. Ryder - Thank you all for coming.

Mrs. Simpson – Job applications for Bethel summer camp start February 24, 2020.

Mr. Cohen - The new truck will be an added asset to the highway department.

Public Comment

Brian Harrell - Complained about the quality of the sand the highway department is mining and using on the town roads, it is like mud. Mr. Harrell had a small bag of mud from road. Dirtiest town in tri-county area. Why is it considered high quality? Saved \$100,000 but whose expense? The LED lighting is forward thinking. The liquid salt was forward thinking but it was shut down, give the taxpayers a say. One person's salary in town is being lowered, is this punitive, where we overpaying all along? What was the reasoning?

Dan Sturm – In 2011 sand borings came back as "high quality sand", highest in the county. Issue last year with mining last year, went a little too deep and was loamy. Quality they are retrieving. Mix of sand salt. I have reports from the borings that show the quality.

Dan Gabriel – said at the beginning back in August would like to see the comptroller's office review, bring in the State. Buying the mine then charging back for mining? You bought land and charging yourself to mine it? Are we charging back for Dog Park? Why doesn't Fred Michel come to the BLDC meetings?

Larry Schick – how do you rate the quality of sand? What is considered quality sand for the roads. BLDC – why are lots part of tax map? The subdivision still shows on the tax map.

Dan Sturm - 200 acres purchased, complex, long financial transactions. Has benefited the town, highway, taxpayers. BLDC purchased the property. Next to BLDC property is the "bird lots" that the BLDC does not own and was subdivided many years ago.

Garrett Gabriel – Thanked Mrs. Ryder for continued support of his mother. No new information came out here, looking forward to sending it to the comptroller's office.

Donna Schick – Does not normally attend Town Board meetings. Social worker by training. Reaching out to all the people in the room to try and heal the wounds that have been opened with this whole situation. Can offer that this was a wonderful close-knit town and something happened, I want to encourage you all to fix it.

Adjournment

There being no further items on the agenda, motion by Mrs. Hendrickson to adjourn the meeting. Seconded by Mr. Cohen, put to a vote and carried 5-0.

Respectfully submitted,

Rita J. Sheehan, Town Clerk