

The Town of Bethel Town Board meeting of July 8, 2015 was called to order by Supervisor Daniel Sturm at 7:30 p.m. at the Dr. Duggan Community Center – Meeting Room.

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

The meeting was opened with the Pledge of Allegiance.

Audit of Bills

Motion by Mrs. Simpson to approve the monthly audit of bills, seconded by Mrs. Hendrickson, put to a vote and carried 5-0 as follows:

<u>Fund</u>	<u>Check Nos.</u>	<u>Amount</u>
General Fund	5304-5349	\$148,104.06
Highway Fund	3323-33988	\$133,932.51
KL Sewer District	2302-2324	\$ 27,538.65
KL Light District	1094	\$ 1,802.56
Planning & Zoning Escrow	1077-1078	\$ 995.00

Building Department Monthly Report

Building Department monthly report for June has been received.

2015 June Fees	\$5,213.
2014 June Fees	\$3,400.
2015 June Construction Total	\$532,800
2014 June Construction Total	\$443,200

Motion by Mrs. Hendrickson to receive and file, seconded by Mrs. Simpson, put to a vote and carried 5-0.

Town Clerk’s Monthly Report

Town Clerk’s monthly report for June has been received.

Total Fees	\$8,156.63
State Share	\$556.58
Town Share	\$7,600.05

Motion by Mrs. Hendrickson to receive and file, seconded by Mrs. Ryder, put to a vote and carried 5-0.

Noise Permit Application – Camp SHMA, Layman Road

Noise Permit application has been submitted by Camp SHMA (Mogen Avraham) for July 11th, 18th, 1st, 8th and 15th from dusk to 1 a.m. with no loud horns, whistles, instruments, etc. Motion by Mr. Cohen to approve, seconded by Mrs. Simpson, put to a vote and carried 5-0.

Correspondence from Swinging Bridge POA

Thank you letter has been received from Swinging Bridge Property Owner’s Association for use of the Dr. Duggan Community Center. They would like to make a \$100 donation to the Town of Bethel Youth. Motion by Mrs. Hendrickson to receive, file and send thank-you letter, seconded by Mrs. Simpson, put to a vote and carried 5-0.

Reed System invoice for liquid calcium chloride, tank, & installation

Mr. Sturm indicated he has met with Highway Superintendent Billy Crumley and hopefully be in an agreement as follows:

1. Continue to use for dusty roads only.
2. Any future expansion for snow removal usage will include proper procurement, discussions and approval from the Town Board as required and not before January 1, 2016 so not to impact this years budget adversely.
3. The town will be making sand.
4. Current tank stays and will be used as needed.
5. We will be having further discussions and education on this process going forward with the board, the highway superintendent, the public and staff.

Motion by Mrs. Hendrickson to approve Reed Systems payment, seconded by Mrs. Simpson, put to a vote and carried 5-0.

Technical Review Comments (McGoey Engineers) Boymelgreen 6/4

McGoey, Hauser & Edsall have submitted technical review comments for the Boymelgreen Septic Waiver application dated June 4, 2015 indicating there are discrepancies based on their review of the latest preliminary grading plan and report in the soil testing plan dated July 27, 2009. Their letter also noted that the criteria has been met for the septic waiver subject to resolution of the discrepancies noted. Motion by Mrs. Hendrickson to receive and file, seconded by Mrs. Simpson, put to a vote and carried 5-0.

Technical Review Comments (McGoey Engineers) Boymelgreen 6/26

McGoey, Hauser & Edsall have submitted technical review comments for the Boymelgreen Septic Waiver application dated June 26, 2015 indicating that the discrepancies based on between the soils testing completed in 2009 are correct on the revised plan Sheets 2 and 12 dated June 8, 2015. Motion by Mrs. Hendrickson to receive and file, seconded by Mr. Cohen, put to a vote and carried 5-0.

Public Hearing: 7:45 p.m. Local Law #1 – Solid Waste

Motion by Mrs. Ryder to open the public hearing at 7:45 p.m. for Proposed Local law #1 – Chapter 279 Solid Waste, seconded by Mr. Cohen, put to a vote and carried 5-0. Town Clerk read legal notice. Mr. McEwan briefly reviewed the proposed local law.

Mr. Sturm noted that there are several properties in town that have been a problem; one property is Taconic Trail with numerous vehicles; if it was garbage we could just go in and remove them, vehicles are a problem. If we pass the law we could go in and remove them and charge the property owner. This is a process.

Phil Jacobs, Bernhard Road, can you enumerate the specific places this law seeks to effect? Mr. Sturm - I am not going to enumerate each property but there are at least 3 or 4 that will be effected. Mr. Jacobs - Why don't you tell us. Mr. Sturm - I don't think it's right. Mr. Jacobs why not? Mr. McEwan - the application of the law is town wide, I want to know the most three. Mr. Sturm – Taconic Trail, Foster Road, those are two and one on 17B. Mr. Jacobs – so I would like to understand, the issue is that these facilities that you just mentioned and those similar to it, lack permits, or weren't originally required to have permits. Ms. Sturm – did you read the law? Mr. Jacobs – I am asking the questions. Mr. Sturm – these properties in questions do not have a permit to accumulate the amount of these vehicles. Mr. Jacobs – were they required to have a permit? Mr. Sturm – yes. Mr. Jacobs – were they notified? Mr. Sturm – yes, we have used enforcement mechanisms available to us for the last year. Mr. Jacobs – if they lacked permits and were required to have permits, why do we need another law? Mr. McEwan – the zoning code does not allow the operation of junkyards, but the enforcement tools were not well-enough defined to take the kind of action the town wants to take, that is why we are amending the code. Mr. Jacobs – I did not get the first part.

Mr. McEwan – the zoning code prohibits junkyards. Mr. Jacobs – so what is the penalty and the enforcement mechanism lacking this law seeks. Mr. McEwan - the prior penalty was a fine and brief incarceration, the new law provides the town to enter on the property and clean up the property. Mr. Jacobs - so this is an enforcement benefit, in addition to more tightly described the conditions that are (indecipherable). Mr. Jacobs – so what happens if somebody has a business and they did not have a permit, are you saying they have to go out of business, are you going to shut them down, is that the intent of the law? Mr. McEwan – what kind of business? Mr. Jacobs – junkyard. Mr. McEwan - if they have a junkyard business and they don't have a permit they can't operate. Mr. Jacobs - is there a mechanism to get a permit to get in compliance, or are you retroactively prohibiting that by saying you were in violation before and we are not going to contemplate as a right what you have been doing, let us say, what you have been doing for five years, ten years, you have been aware and have not shut them down.

Mr. McEwan – the junkyards that are pre-existing, non-conforming already have a permits. Mr. Jacobs - so there are no junkyards that don't have a permit? Mr. McEwan– no that's not true, there are some that are relatively new, and others have been operating under the margins of the law that don't have a permits. Mr. Jacobs – so there maybe a junkyard that has been in operation for five, ten years that you are aware of and you have not shut them down, and now you want to shut them down is that the intent, or bring them into conformance? Mr. McEwan – is it giving the town tools, what they do with the tools I can't answer. Mr. Jacobs – that is what I am asking, so you are not going to answer if you are shutting them down. Mr. Sturm – we are not intending to shut anybody down with the law other than properties that do not have a junkyard license. If you have a current permit, come back every year and get your permits. Cirino Bruno, Burr Road – I am not clear as to what you are saying and what Mr. McEwan is saying, is there a junkyard or more than one that has been in existence for more than 20 years that does not have a permit, if there is, what will happen to that junkyard? Mr. Sturm that will not effect this junkyard, this is the solid waste, junkyard is in two weeks. Mr. Bruno – you just amused me for fifteen minutes about junkyards and this gentlemen has a question. Mr. Sturm – we answered his question. Mr. Bruno– you did not answer accurately. Mr. Sturm – this is public comment, did you read the law? Mr. Bruno – yes, I have. Mr. Sturm – do you have a comment on chapter 279? Mr. Bruno – Mr. McEwan is misrepresenting, not intentionally. He does not seem to know there is a junkyard in existence that should have a permit that does not have a permit. Mr. Sturm – I suggest they get a permit. Mr. Bruno– they have been trying. Mr. Sturm - do what they are supposed to do and get a permit. Mrs. Simpson this law is not about junkyards.

Mr. McEwan – this law does have enforcement. Mr. Jacobs – we are talking about salvage not junkyards. I heard the word salvage. Mr. Sturm – no. Mr. Jacobs – solid waste. Mr. Jacobs - I have a right to ask this question, if a guy has a had a solid waste facility for five, ten years, and the town knows about it, preexisting, does not have permit would you shut them down as a result of this law, or give them an opportunity to get a permit? Mr. Sturm – we don't have any solid waste facilities in the town, except for the town one. Mr. Jacobs – if you don't have a solid waste facility why are we talking about this, or are you contemplating the future? Mr. Sturm – garbage rubbish, junk vehicles we have no intention of shutting anybody down except those properties that have excess vehicles that they are not supposed to have. This happens to be in the solid waste section of our code. Mr. Jacobs – is this retroactive? Mr. Sturm – this will allow us to clean up those few properties with excess vehicles without junkyard permits.

Mrs. Hendrickson – if my house has fifteen unregistered cars on my property, the town has the right to, not a junkyard, it is my house with too many vehicles, it's about solid waste, tires, garbage, vehicles. Mr. Jacobs – what is the difference between solid waste and junk vehicles? Mrs. Hendrickson– the town can remove the solid waste when they have no right of having these cars. Mr. Jacobs – so if you operating a junkyard as a business, you don't fall in (?). Mr. McEwan – no person shall use land in the town as a junkyard without holding a current junkyard permit. Mr. Jacobs - now we are jumping back to junkyards, thought it was solid waste. Mr. Jacobs - my fear is somebody can have a junkyard they have been operating for five, ten years and that is their source of livelihood, that it is their business and source of income, it is unfair, and against general zoning legal principals to apply retroactively, and not to give them a prospective opportunity to shut them down. Mr. Sturm – I agree, we are not shutting anybody down. Mr. Sturm - Most of these properties are not commercial properties, they are residential.

Sharon Wieser – a few of these properties are residential properties where no commercial business are allowed, they can't put a junkyard next to my house, its illegal. I don't know what junkyard you are talking about. These are private homes on residential properties. Mr. Jacobs – that makes a lot of sense.

Bob Barrett – there are properties with storing of materials, and that is what we should be talking about.

Motion by Mrs. Hendrickson to close the public hearing at 8:00 p.m., seconded by Mrs. Ryder, put to a vote and carried 5-0. Motion by Mrs. Hendrickson to rescind her motion to close the public hearing and to re-open, seconded by Mrs. Ryder, put to a vote and carried 5-0.

Mr. Sturm read the correspondence from Susan Brown-Otto regarding Proposed Local laws #1 and #2. Motion by Mrs. Hendrickson to receive and file, seconded by Mrs. Simpson, put to a vote and carried 5-0.

Mr. Jacobs – why is the letter mentioning junkyards, thought it was solid waste? Mrs. Simpson – at our planning board meeting – I told the members we had both laws on the agenda. Mr. Jacobs – originally it was junkyards and solid waste; now solid waste tonight, junkyards in two weeks. Mrs. Simpson – yes.

Motion by Mrs. Hendrickson to close the public hearing at 8:05 p.m. seconded by Mrs. Ryder, put to a vote and carried 5-0.

Mr. Sturm thanked everyone for their comments.

Resolution to declare application complete–Boymelgreen Septic Waiver

**RESOLUTION OF TOWN BOARD OF THE TOWN OF BETHEL
DEEMING COMPLETE AN APPLICATION FOR A WAIVER
SUBMITTED PURSUANT TO TOWN CODE §257-62(G)**

WHEREAS, the Town Board of the Town of Bethel (the “Town Board”) is in receipt of an application for a waiver submitted on behalf of Boymelgreen Developers (the “Developers”) pursuant to Town Code §257-62(G) in connection with a minor subdivision application pending before the Town of Bethel Planning Board (the “Planning Board”); and

WHEREAS, the waiver sought seeks relief from certain requirements of Chapter 257 of the Town Code that apply to on-site wastewater treatment systems; and

WHEREAS, the real property which is the subject of the minor subdivision application consists of approximately 28.3 acres located on Lakeview Drive in the Town of Bethel (the Project”); and

WHEREAS, the Town Board is in receipt of two pieces of relevant correspondence from Michael Weeks, PE of McGoey, Hauser and Edsall Consulting Engineers, D.P.C, (“MHE”) acting as engineers for the Town in connection with the Project.

NOW THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Bethel acts to receive and file correspondence received from Mr. Michael Weeks which correspondence is dated June 4, 2015 and June 26, 2015; and be it

FURTHER RESOLVED, that based upon the correspondence received from Mr. Weeks and upon its own review of the application, as modified by the Developers to address concerns previously raised by the Town Board, the Town Board determines that the application for a waiver submitted on behalf of the Developers is complete; and be it

FURTHER RESOLVED, that pursuant to the terms of Town Code §257-62(G)(3)(b) the Town Board hereby solicits any material comments from the Town Planning Board

with regard to the Project in general or to the alternate on-site wastewater treatment systems proposed by the Developers for the Project; and be it

FURTHER RESOLVED, that the Town Clerk shall forward this Resolution to the secretary for the Planning Board.

Motion by Town Board member Bernard Cohen, seconded by Town Board member Vicky Simpson, and adopted upon a roll call vote as follows:

		AYE	NAY
Bernie Cohen	Voting	x	
Lillian Hendrickson	Voting	x	
Dawn Ryder	Voting	x	
Vicky Simpson	Voting	x	
Daniel Sturm	Voting	x	

Duly adopted by 5 ayes, 0 nays the 8th day of July, 2015.

Certificate of Closing of Highway – CR 73

Certificate of Closing has been received from Sullivan County Dept. of Public Works for County Road 73 (Lt. Brender Highway) from July 14, 2015 through August 7th for replacement of county bridge 252. Motion by Mrs. Simpson to receive and file, seconded by Mrs. Ryder, put to a vote and carried 5-0.

Recommendation from Planning Board to fill alternate vacancy

The Town of Bethel Planning Board is recommending Robert Yakin to fill the alternate position. Motion by Mrs. Simpson to appoint Robert Yakin to the alternate position on the planning board for a term to expire December 31, 2017, seconded by Mrs. Hendrickson, put to a vote and carried 4-1 with Mrs. Ryder voting no due to her not wanting to lose him on the Zoning Board.

Resolution to declare Neg Dec for Proposed Local Law #1 (Solid Waste, Ch. 279)

Mr. McEwan reviewed section 1, 2 and 3 of the Short Form EAF.

**TOWN BOARD OF THE TOWN OF BETHEL
NEGATIVE DECLARATION UNDER SEQRA**

**RESOLUTION DETERMINING SIGNIFICANCE UNDER SEQRA WITH
RESPECT TO AMENDMENTS OF THE TOWN CODE
CHAPTER 279 (Solid Waste)**

WHEREAS, the Town Board of the Town of Bethel (“Town Board”) heretofore adopted a local law to regulate solid waste, which local law appears as Chapter 279 of the Town Code of the Town of Bethel (the “Town Code”); and

WHEREAS, the Town Board has determined that revisions to Town Code Chapter 279 (Solid Waste) are desirable and necessary; and

WHEREAS, on June 10, 2015, the Town Board introduced Local Law No. 1 of 2015 to amend the Town Code as heretofore indicated; and

WHEREAS, the Town Board, which declared itself to be lead agency under SEQRA by resolution dated June 10, 2015, determined that the revisions to the Town Code (hereafter, the “action”) are subject to the State Environmental Quality Review Act (ECL, Article 8) and its implementing regulations (6 NYCRR Part 617) (collectively, “SEQRA”) and determined further that the proposed action is an unlisted action under SEQRA; and

WHEREAS, the Town caused to be prepared a short Environmental Assessment Form (“EAF”) for the proposed action, which EAF has been fully reviewed by the Town Board.

NOW, THEREFORE BE IT RESOLVED that, pursuant to SEQRA, the Town Board of the Town of Bethel, based upon its review of the EAF, makes the determinations set forth below and as set forth in Part 3 of the EAF; and be it

FURTHER RESOLVED the Town Supervisor is authorized to execute the EAF on behalf of the lead agency; and be it

FURTHER RESOLVED the Town Board determines that according to its review of the EAF there will be no significant adverse impacts on the environment as measured against the criteria for determining significance under 6 NYCRR § 617.7(c); and be it

FURTHER RESOLVED, this resolution is a Negative Declaration under SEQRA and the information required by 6 NYCRR § 617.12(a) is attached hereto and incorporated herein; and be it

FURTHER RESOLVED, the Town Board hereby directs that a copy of this resolution be filed with (a) the Supervisor of the Town of Bethel, (b) the lead agency, (c) any involved agencies, and (d) any person who has requested a copy; and be it

FURTHER RESOLVED, this Resolution shall become effective when adopted. Motion by Town Board member Vicky Simpson, seconded by Town Board member Lillian Hendrickson, and adopted upon a roll call vote as follows:

		A YE	N AY
Bernie Cohen	Voting	X	
Lillian Hendrickson	Voting	X	
Dawn Ryder	Voting	X	
Vicky Simpson	Voting	X	
Daniel Sturm	Voting	X	

Duly adopted by 5 ayes, 0 nays the 8th day of July, 2015.

NEGATIVE DECLARATION

The Lead Agency:

TOWN OF BETHEL TOWN BOARD

3454 Route 55
PO Box 300
White Lake, New York 12786

Contact Person:

Daniel Sturm, Supervisor
3454 Route 55
PO Box 300
White Lake, New York 12786

Telephone Number: (845) 583-4350

A Description of the Action:

The action consists of an amendment to Chapter 279 (Solid Waste) of the Town Code. The Town Board believes that Chapter 279 needs amendment to revise the enforcement process to allow the Town to intervene and clean-up properties upon which rubbish is

discarded (or stored improperly) and to recognize the existence of permitted junkyards as exempt from some of the requirements of Chapter 279. The amendments, in coordination with new Chapter 199 (Junkyards), also extend the enforcement powers of the Town to junkyards operating without a permit issued by the Town.

SEORA Classification: Unlisted.

The Potential Environmental Impacts:

No potential significant environmental impacts are present and an environmental impact statement will not be prepared.

The Location of the Action:

As set forth in proposed Local Law No. 1 of 2015, which proposes amendments to the Chapter 279 (Solid Waste) of the Town Code, the regulation of the storage and disposal of solid waste will be affected on a Town-wide basis.

Resolution to Amend Proposed Local Law #1 (Chapter 279) Solid Waste

Mr. McEwan explained that due to Proposed Local Law #2 (Junkyards, Chapter 199) not being adopted tonight that the definitions from the Proposed Local Law #2 need to be incorporated into Proposed Local Law #1 (Solid Waste, Chapter 279). Proposed Local Law #1 references the section of Code in Proposed Local Law #2. Mr. McEwan read each definition that was being incorporated. There was some discussion on the enactment of this local law with the amendments. Mr. Bruno you can't adopt this law unless you define junkyard, so now if you store cards and car parts, and they don't have a current license, they will now be in violation and not eligible that they should be otherwise be grandfathered into and be able to obtain and the town will have all the enforcement, entering the property, shutting them down and putting them out of business. Mr. Jacobs suggested to wait two weeks.

Motion by Mrs. Simpson to amend proposed local law #1 by including the definitions read, seconded by Mr. Sturm, put to a roll call vote and carried 5-0 as follows:

		A YE	N AY
Bernie Cohen	Voting	X	
Lillian Hendrickson	Voting	X	
Dawn Ryder	Voting	X	
Vicky Simpson	Voting	X	
Daniel Sturm	Voting	X	

Resolution to Adopt Proposed Local Law #1 – Solid Waste (Chapter 279)

**RESOLUTION OF THE TOWN BOARD OF THE TOWN OF BETHEL
TO ENACT A LOCAL LAW TO AMEND
TOWN CODE CHAPTER 279**

WHEREAS, the Town Board of the Town of Bethel (“Town Board”) heretofore adopted a local law to regulate solid waste, which local law appears as Chapter 279 of the Town Code of the Town of Bethel (the “Town Code”); and

WHEREAS, on June 10, 2015, the Town Board introduced Local Law No. 1 of 2015 to amend Town Code Chapter 279 (Solid Waste); and

WHEREAS, the Town Board provided due notice of a public hearing for Local Law No. 1 of 2015 by publishing timely notice of the public hearing in a newspaper of general circulation in the Town of Bethel; and

WHEREAS, on July 8, 2015, the Town Board conducted a public hearing during which comments were presented and received in connection with the proposed amendment of Chapter 279 of the Town Code; and

WHEREAS, on July 8, 2015, the Town Board issued a negative declaration under SEQRA finding that there would be no significant adverse impacts on the environment as measured against the criteria for determining significance under 6 NYCRR § 617.7(c); and

NOW THEREFORE, BE IT RESOLVED, that Local Law No. 1 of 2015, amending Chapter 279 of the Town Code of the Town of Bethel is hereby enacted; and be it

FURTHER RESOLVED, this Resolution shall become effective when adopted.

Motion by Town Board member Vicky Simpson, seconded by Town Board member Daniel Sturm and adopted upon a roll call vote as follows:

		AYE	NAY
Bernie Cohen	Voting	X	
Lillian Hendrickson	Voting	X	
Dawn Ryder	Voting	X	
Vicky Simpson	Voting	X	
Daniel Sturm	Voting	X	

Duly adopted by 5 ayes, 0 nays the 8th day of July, 2015.

Resolution to set Public Hearing Proposed Local Law #2 (Junkyards)

Due to a publication error the public hearing needs to be reset for Proposed Local Law #2. Motion by Mrs. Hendrickson to set public hearing for July 22, 2015 at 7:45 p.m. at the Dr. Duggan Community Center, seconded by Mrs. Ryder put to a vote and carried 5-0.

Approve contract for attorney services to prosecute State Trooper tickets

Correspondence has been received from the Bethel Justices recommending Charles Olsen to prosecute NYS Police vehicle and traffic tickets for a stipend of \$5,000. A year. Motion by Mrs. Hendrickson to appoint Mr. Olsen, seconded by Mrs. Simpson, put to a vote and carried 5-0.

Correspondence Jeryl Abramson – Yasgur Road

Correspondence has been received from Jeryl Abramson thanking the Highway Superintendent William Crumley for the outstanding job of fixing Yasgur Road. Mrs. Abramson feels the liquid calcium chloride is aiding the reduction in dust and holding the road together when it rains. Motion by Mrs. Hendrickson to receive and file, seconded by Mrs. Simpson, put to a vote and carried 5-0.

Town Board Comments

Mrs. Hendrickson thanked the people of Bethel for all their letters, cards and prayers for her son who is returning from Afghanistan on Friday.

Mrs. Simpson announced that there are 155 kids in attendance at camp; new liner in pool.

Mr. Cohen suggested that the town get rid of trucks every five years, they keep breaking down, good maintenance program.

Toronto Dam Road

Bob Barrett noted that FERC has sent the property owners along shore of Toronto and Swinging Bridge Reservoirs that the public has the right to walk along the shore and asked that the letter be given to the Town Constables. Mr. Sturm asked Mr. Barrett to send a copy of the letter to Town Hall. Mr. Barrett also asked if there was any response from Eagle Creek to the letter the town sent in regards to the condition of Toronto Dam Road. He also mentioned he has pictures. Mr. Sturm indicated there was no response. Mr. Barrett suggested to resend the letter Certified Return Receipt. Mr. Sturm asked Mr. Barrett for the photos of the road.

Boymelgreen Septic Waiver

There was quite a bit of discussion by the property owners from Beechwoods regarding the size of the Boymelgreen homes, the downhill drainage, the condition of their road that they must repair by hand with large rock, the trucks that will be coming in and out.

James Bacon, attorney for Dan Silna, asked if the Town Board will be holding a public hearing after Planning Board review. Mr. Sturm indicated we have not made that determination.

Adjournment

There being no further business, Mrs. Ryder moved to adjourn the meeting, seconded by Mrs. Hendrickson, put to a vote and carried 5-0.

Respectfully submitted,

Rita J. Sheehan, Town Clerk