

The Bergen Town Board convened in a regular session at 7:30 p.m. in the Town Hall with Supervisor Cunningham presiding.

PRESENT:

Supervisor Donald Cunningham
Councilman Barry Miller
Councilman Hugh McCartney
Councilman Joe Nenni

ALSO PRESENT:

Michele M. Smith, Town Clerk
David Roggow, Highway Superintendent
David Mason, ZEO/CEO

OTHER ATTENDEES:

Belinda Grant

PRAYER

PLEDGE OF ALLEGIANCE TO THE FLAG

MINUTES: *Councilman Nenni made a motion to approve the January 11, 2011 minutes; seconded by Councilman McCartney and it carried by a vote 3-0. Councilman Miller abstained*

COMMUNICATIONS:

Supervisors Report through December 31, 2010

Budget Report through December 31, 2010

December response times report from Mercy EMS

Letter of interest for Library Board vacancy from Michelle Read

Sample Resolution for Appointment of 3rd Justice Clerk

REPORTS:

HIGHWAY: Superintendent Roggow updated the board on the electrical inspection related to the insurance survey. He received the County Snow & Ice and mowing contract. Supervisor Cunningham will draft a disapproval letter to the County. *Councilman McCartney made a motion to authorize Superintendent Roggow to sign the County Snow & Ice Contract/ Mowing contract; seconded by Councilman Nenni and it carried by a vote 4-0.*

ZONING/CODE ENFORCEMENT: ZEO/CEO Mason reported there has been no reply from Mr. Ball on his Manufactured housing permit but has until February 8th. He has a Business Automation Service software video conference next week.

PARKS COMMITTEE: Councilman Nenni reported that Robins brook Rules and regulations are being updated, short term and long term goals for the park are being worked on, the committee would like input on the mowing contracts. Their next meeting is February 20th.

BUILDING COMMITTEE: Wilcox Building Councilman Nenni thinks that decisions should be made to move forward now that 17 S. Lake Ave. is vacant. Old Town Hall painting was completed by the prisoners.

SUPERVISORS REPORT *Councilman Nenni made a motion to file the December 2010 Supervisors report be filed, seconded by Councilman McCartney and it carried by a vote 4-0.*

OLD BUSINESS:

Change Local Law #2-2010 Town Clerk Smith reported that Town Attorney Dan Bryson requested a change to Local Law #2-2010, it should be changed to Local Law #1-2011 due NYS filing changes and the Law was not received until January 2011. *Councilman Nenni made a motion to rename Dog Control Local Law #2-2010 as Dog Control Local Law #1-2011 required by NYS; seconded by Councilman Miller and it carried by a vote 4-0.*

Peachey Road Water District Bond Resolution *Councilman McCartney offered Bond Resolution #5-2011 for the Peachey Road Water District; seconded by Councilman Nenni and it carried by a vote 4-0.*

**TOWN OF BERGEN
RESOLUTION #5-2011**

BOND RESOLUTION DATED JANUARY 25, 2011 AUTHORIZING GENERAL OBLIGATION BONDS OF THE TOWN OF BERGEN TO FINANCE WATER SYSTEM CAPITAL IMPROVEMENTS WITHIN THE TOWN, AUTHORIZING THE ISSUANCE OF BOND ANTICIPATION NOTES IN CONTEMPLATION THEREOF, THE EXPENDITURE OF SUMS FOR SUCH PURPOSE, AND DETERMINING OTHER MATTERS IN CONNECTION THEREWITH.

WHEREAS, the Town of Bergen Peachey Road Water District is a Water District of the Town of Bergen, New York, duly established by the Town Board pursuant to the Town Law;

WHEREAS, the Town, acting as lead agency under the State Environmental Quality Review Act and the applicable regulations promulgated thereunder (“SEQRA”), has completed its environmental review and, on February 9, 2010, has duly issued a negative declaration and has determined that the implementation of the type I action as proposed will not result in any significant adverse environmental impacts ; *now therefor, be it*

RESOLVED BY THE TOWN BOARD OF THE TOWN OF BERGEN, NEW YORK, (hereinafter referred to as the “Town”), by the favorable vote of not less than two-thirds of all of the members of such Board, as follows:

Section 1. The Town of Bergen shall undertake the acquisition and construction of water improvements for the Town of Bergen Peachey Road Water District, and the acquisition of land or rights in land necessary therefor, if any, and the acquisition of original furnishings, equipment, machinery or apparatus and other incidental improvements that may be required in connection therewith for such construction and district use (hereinafter referred to as “purpose”), and general obligation serial bonds in an aggregate principal amount not to exceed \$1,103,175 and bond anticipation notes in anticipation thereof (and renewals thereof) of the Town are hereby authorized to be issued to finance said purpose.

Section 2. The estimated aggregate maximum cost of said purpose, including preliminary costs and costs incidental thereto and costs of the financing thereof, is estimated to be \$1,103,175 and said amount is hereby appropriated therefor. The plan for financing of said purpose is to provide all of such maximum cost from USDA Rural Development loan to be evidenced by the issuance of bonds, as well as, bond anticipation notes in anticipation thereof as herein authorized.

Section 3. It is hereby determined and declared that (a) said purpose is one of the class of objects or purposes described in Subdivision 1 of Paragraph (a) of Section 11.00 of the Local Finance Law, and that the period of probable usefulness of said purpose is forty (40) years, (b) the proposed maximum maturity of said bonds authorized by this resolution will be in excess of five years, (c) current funds required to be provided prior to the issuance of the bonds or notes herein authorized, pursuant to Section 107.00 of the Local Finance Law, to the extent applicable, if any, will be provided, (d) the notes herein authorized are issued in anticipation of bonds for an assessable improvement, and (e) there are presently no outstanding bond anticipation notes issued in anticipation of the sale of said bonds.

Section 4. The bonds and notes authorized by this resolution shall contain the recital of validity prescribed in Section 52.00 of the Local Finance Law and such bonds and notes shall be general obligations of the Town and all the taxable real property in the Town is subject to the levy of *ad valorem* taxes to pay the principal thereof, and interest thereon, without limitation as to rate or amount.

Section 5. It is hereby determined and declared that the Town reasonably expects to reimburse the general fund, or such other fund as may be utilized, not to exceed the maximum amount authorized herein, from the proceeds of the obligations authorized hereby for expenditures, if any, from such fund that may be made for the purpose prior to the date of the issuance of such obligations. This is a declaration of official intent under Treasury Regulation §1.150-2.

Section 6. The power to further authorize the sale, issuance and delivery of said bonds and notes and to prescribe the terms, form and contents of said bonds and notes, including, without limitation, the power to contract and issue indebtedness pursuant to §169.00 of the Local Finance Law, the consolidation with other issues, the determination to issue bonds with substantially level or declining annual debt service, all contracts for, and determinations with respect to, credit or liquidity enhancements, if any, and to sell and deliver said bonds and notes, subject to the provisions of this resolution and the provisions of the Local Finance Law, is hereby delegated to the Town Supervisor, the Town’s chief fiscal officer. The Town Supervisor and the Town Clerk or Deputy Clerk are hereby authorized to sign by manual or facsimile signature and attest any bonds and notes issued pursuant to this resolution, and are hereby authorized to affix to such bonds and notes the corporate seal of the Town of Bergen.

Section 7. The faith and credit of the Town of Bergen, New York, are hereby irrevocably pledged for the payment of the principal of and interest on such bonds and notes as the same respectively become due and payable. Such bonds and notes shall be payable from a levy on real property in such district benefitted or user charges therefor, in the manner provided by law, but if not paid from such source, all the taxable real property within said Town shall be subject to the levy of an *ad valorem* tax, without limitation as to rate or amount, sufficient to pay the principal of and interest on said bonds and notes. An annual appropriation shall be made in each year sufficient to pay the principal of and interest on such obligations becoming due and payable in such year.

Section 8. This resolution, or a summary hereof, shall be published in full by the Town Clerk of the Town of Bergen together with a notice in substantially the form prescribed by Section 81.00 of said Local Finance Law, and such publication shall be in each official newspaper of the Town, in the manner prescribed by law. The validity of said bonds or of any bond anticipation notes issued in anticipation of the sale of said bonds may be contested only if such obligations are authorized for an object or purpose for which said Town is not authorized to expend money, or the provisions of law which should be complied with, at the date of publication of this resolution are not substantially complied with, and an action, suit or proceeding contesting such validity is commenced within twenty (20) days after the date of such publication; or if said obligations are authorized in violation of the provisions of the Constitution.

Section 9. This resolution shall take effect immediately upon its adoption.

The motion having been duly seconded, it was adopted and the following votes were cast:
Councilman Nenni aye, Councilman McCartney aye, Councilman Miller aye and Supervisor Cunningham aye

NEW BUSINESS:

Scrap Metal Policy: Solid Waste Coordinator Roggow suggested the policy should state that all surplus scrap goes to the Transfer Station recycle container.

Library Board Appointment *Councilman Nenni made a motion to appoint Michelle Read as a Library Board member; seconded by Councilman McCartney and it carried by a vote 4 -0.*

Town Historian Vera Denton has let Supervisor Cunningham know that her time is limited and will be exiting the position in the near future. She is also requesting volunteer help with the museum for lifting and moving items.

Third Justice Clerk Position *Councilman Nenni offered Resolution #6-2011 to authorize a third Justice Clerk Position with the Genesee County Personnel Department; seconded by Councilman Miller and it carried by a vote 4-0.*

**TOWN OF BERGEN
RESOLUTION #6-2011
AUTHORIZATION OF THIRD JUSTICE CLERK POSITION**

WHEREAS, the Bergen Court Justices seek authorization to appoint a third Justice Clerk to fulfill obligations and duties as needed in the department, and

WHEREAS, the Personnel Department of Genesee County requires resolution from the Bergen Town Board to add a third Justice Clerk to the town payroll,

NOW, THEREFORE BE IT RESOLVED, that the Town Board of the Town of Bergen authorizes the addition of a third Justice Clerk to the town's payroll at the compensation rate set forth in the salaries section of the annual budget for Justice Clerks.

The motion having been duly seconded, it was adopted and the following votes were cast:
Councilman Nenni aye, Councilman McCartney aye, Councilman Miller and Supervisor Cunningham aye

NEXT MEETING:

Town Board Candidate Interviews Saturday, January 29, 2011 at 8:30 am in the Courtroom

Regular Meeting – Tuesday, February 8, 2011 at 7:30 PM in the Courtroom with the audit of the bills at 7:15 p.m.

ADJOURNMENT *was at 8:20 pm on a motion by Councilman McCartney; seconded by Councilman Nenni and it carried by a vote 4-0.*

Respectfully submitted,

Michele M. Smith

Michele M. Smith,
Town Clerk