

APRIL 13, 2010

BERGEN TOWN BOARD

REGULAR MEETING

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 Hugh McCartney
Councilman Barry Miller
Councilwoman Rachael Millsbaugh
Councilman Joe Nenni

ALSO PRESENT:

Michele M. Smith, Town Clerk
Dave Roggow, Highway Superintendent
Chad Roggow, Deputy Highway Superintendent
Lori Nelson, Bookkeeper
Bob Patterson, ZEO/CEO
Rob Swapceinski, Town Justice

OTHER ATTENDEES:

Bob Fox
Anna Marie Barclay
David Barclay

PRAYER

PLEDGE OF ALLEGIANCE TO THE FLAG

Bob Fox of EFP Rotenberg presented and explained the Audit & AUD Reports and also reviewed and summarized with the Town Board the 2009 accounting records of the Court Justices. *Councilman Miller made a motion authorizing Supervisor Cunningham to sign the Management Representation letter to finalize the Audit; seconded by Councilman Nenni and carried by a vote 5-0.*

Rob Swapceinski discussed constables and court security issues

Anna Marie Barclay presented invitations to the board members to visit their property next to the Wilcox building.

MINUTES: *Councilman Nenni made a motion to approve the minutes of March 23, 2010; seconded by Councilman Miller and it carried by a vote 5 -0.*

COMMUNICATIONS:

Budget March Report
Supervisors March Report
Town Clerk's March Report
Laura Smith's letter of interest for Planning/Zoning Board Secretary
March 2010 ZEO/CEO Log Sheet
Bid Summary for pickup
Letter from NYS Dept. of Ag & Markets/Lake Rd. Water
Copy of emails Re: Geese on Rt. 33
Letter from USDA Re: Peachey/Lake Rd. Water
Letter from NYS Dept. of Trans. & sample Resolution Re: Snow & Ice Amendment
Letter from Stu Brown Assoc. & sample Resolution Re: Peachey/Lake Rd
Copy of Gift donation to the town from Grace Gallivan
NYS Public Service Commission Notice of Conference Re: National Grid Transmission line
Copy of Stu Brown Assoc. Outline of Management Services
Mercy EMS Response Times Report for March 2010
Copy of ORPS Memorandum of Understanding
Copy of Bond Claim from Builders Hardware & Specialty Co. Inc
Bid summary for Mowing

REPORTS:

HIGHWAY: Ford F150 Bid Two bids were received for the purchase of new F150 from Vision Ford for \$16,511.00 with \$8,500 trade in; Van Bortel Ford \$14,252.00 with \$11,525.00 trade in with . *Councilman McCartney made a motion to purchase the Ford F150 for \$14,252.00 from Van Bortel Ford; seconded by Councilman Nenni and it carried by a vote 5-0.* **Fire Equipment inspections** *Councilman Miller made a motion to approve the expenditure of \$695 from Ryan Plumbing, Heating and Fire Protection for Fire Equipment Inspections; seconded by Councilman McCartney and it carried by a vote 5-0.* **Amendment B to Snow & Ice Agreement** *Councilman Miller made a motion authorizing Supervisor Cunningham to sign amendment B to the State Snow & Ice Agreement amendment B; seconded by Councilwoman Millspaugh and it carried by a vote 5-0.*

**THE TOWN OF BERGEN
AMENDMENT B TO STATE SNOW & ICE AGREEMENT
RESOLUTION #7**

WHEREAS, the Town of Bergen is under contract with the New York State Department of Transportation to provide snow & ice control specified State Roads within the Town and,

WHEREAS, the base agreement was extended for the 2006/2007 season by Resolution #5-2006, dated (May 23, 2006), setting an estimated total cost for the season at \$53,217.51, and

WHEREAS, due to the severity of the winter and the high cost of fuel during 2006/2007, the total cost to perform this service is estimated at \$66,096.15.

NOW, THEREFORE, BE IT RESOLVED, to authorize Supervisor Cunningham to execute an Amendment to the present Agreement. Said Amendment would increase the estimated cost to perform snow and ice control for the 2006/2007 season by \$12,878.64.

ZEO/CEO: Bob has completed training and gave an update

SUPERVISOR'S AND TOWN CLERK'S MARCH 2010 REPORTS: *Councilman McCartney made a motion to file the Supervisor's and Town Clerk's March 2010 reports; seconded by Councilman Nenni and it carried by a vote 5 -0.*

BUILDING COMMITTEE: Councilman Miller updated the board and is waiting for answer from the Village on a request to temporarily move Historian into the rear of the Tulley Building.

NEW TOWN HALL: Supervisor Cunningham gave an update of items that need to be completed on the project.

NEW BUSINESS:

Mowing Bids: There were ten mowing bids submitted for the 2010 mowing season: Boon & Sons \$25,927.00, Chucks Landscaping \$7,200.00, Cooks Landscaping \$21,320.00, James Palmer \$12,345.00, Harry Radley \$11,960.00 , Randy White's Landscaping \$8,500.00, Scalia's Landscape \$44,700.00, Four Seasons Services \$7,900.00, First Class Lawn Care \$10,025.00 and Gardenville Landscape \$27,500.00. *Councilman Miller made a motion to award the 2010 Mowing Contract to Chuck's Landscaping for \$7,200.00; seconded by Councilwoman Millspaugh and it carried by a vote 5-0.*

OLD BUSINESS:

Planning/Zoning Board Secretary *Councilman McCartney made a motion to appoint Laura Smith as Planning/Zoning Board Secretary; seconded by Councilman Nenni and it carried by a vote 4-0.* Supervisor Cunningham abstained.

Town Hall Signs Highway Superintendant Roggow will check with the County on signs

Peachey Road Water District Lateral Restrictions Resolution *Councilwoman Millspaugh offered the Peachey Road Water District Lateral Restrictions Resolution # 8-2010; seconded by Councilman McCartney and it carried by a vote 5-0.*

**TOWN OF BERGEN
PEACHEY ROAD WATER DISTRICT
LATERAL RESTRICTIONS RESOLUTION #8-2010**

WHEREAS, the Town Board of the Town of Bergen has created the Town of Bergen Peachey Road Water District pursuant to Town Law for the express purpose of providing public water supply to residents along portions of North Lake Road (NYS Route 19) and Peachey Road; and

WHEREAS, part of the land area within the Peachey Road Water District is also within Genesee County Agricultural District No. 4; and

WHEREAS, the Town Board has filed a Notice of Intent to Undertake an Action Within an Agricultural District to evaluate the impact of providing a source of public water supply within this area on lands within Agricultural District No. 4; and

WHEREAS, the New York State Department of Agriculture and Markets ("Department") has expressed concern about the potential adverse impact that said public water supply is likely to have on agriculture within the Agricultural District,

NOW THEREFORE BE IT RESOLVED, that the Town Board, in recognition of the concerns that have been raised, hereby resolves to adopt the "Lateral Restriction - Conditions on Future Service" specified by the New York State Department of Agriculture and Markets as follows:

Lateral Restriction - Conditions on Future Service

The Town of Bergen imposes the following conditions, as warranted or recommended on the management of water/sewer lines located along the portions of North Lake Road (NYS Route 19) and Peachey Road included in the Peachey Road Water District, within an agricultural district:

- (1) The only land and/or structures which will be allowed to connect to the proposed waterline or sewer within an agricultural district will be existing structures at the time of construction, further agricultural structures, and land and structures that have already been approved for development by the local governing body prior to the filing of the Final Notice of Intent by the municipality.

Land and structures that have been approved for development refer to those properties/structures that have been brought before a local governing body where approval (e.g., subdivision, site plan, and special permit) is needed to move forward with project plans and the governing body has approved the action. If no local approval is required for the subdivision of land and/or the construction of structures, the municipality accepts the limitation under Public Health Law §1115 that defines a "subdivision," in part, as "any tract of land which is divided into five or more parcels." Water and/or sewer service will not be extended to the fifth and subsequent parcels where no local approval is required and the land is located within a county adopted, State certified agricultural district.

- (2) If a significant hardship can be shown by an existing resident, the lateral restriction to the resident's property may be removed by the municipality upon approval by the Department. It is the responsibility of the resident landowner to demonstrate that a hardship exists relative to his or her existing water supply or septic system and clearly demonstrate the need for public water or sewer service. The

municipality shall develop a hardship application to be filed with the municipality, approved by the County Department of Health, and agreed to by the Department of Agriculture and Markets.

(3) If it can be demonstrated to the Department's satisfaction that the landowner requested the county to remove his or her land from an agricultural district at the time of district review and the county legislative body refused to do so, lateral restrictions may be removed by the municipality if the Department determines that the removal of the restriction for the subject parcel(s) would not have an unreasonably adverse effect on the agricultural district.

(4) If land is removed from a county adopted, State certified agricultural district and the district has been reviewed by the county legislative body and certified by the Commissioner for modification, lateral restrictions imposed by the municipality are no longer in effect for the parcels of land that have been removed from the agricultural district.

Councilwoman Millspaugh offered Resolution # 9-2010 to establish the Town of Bergen Peachey Road Water District; seconded by Councilman McCartney and it carried by a vote 4-1. The votes were as follows Councilwoman Millspaugh – aye, Councilman Miller – nay, Supervisor Cunningham – aye, Councilman McCartney – aye, Councilman Nenni - aye

**IN THE MATTER OF THE ESTABLISHMENT OF THE PEACHEY
ROAD WATER DISTRICT IN THE TOWN OF BERGEN, IN THE
COUNTY OF GENESEE, IN THE STATE OF NEW YORK
RESOLUTION # 9-2010**

WHEREAS, on or about March 24, 2009 the Town Board was presented with a petition relating to the establishment of a proposed water district, to be known and designated as the Peachey Road Water District in the Town of Bergen (the "District"), and

WHEREAS, the Town Board did conduct a public hearing on April 29, 2009; continued on September 22, 2009 regarding the proposal to establish the District and after hearing all persons interested in the subject thereof concerning the same resolved to establish the District, and,

WHEREAS, based upon the projected average cost to the typical property the formation of the District is subject to the approval of the State Comptroller's Office, and

WHEREAS, the Town Board did direct the Town Attorney to prepare an application to the State Comptroller, a copy of which is attached hereto as Exhibit "A", and

WHEREAS, the Town Board has duly reviewed such application and believes the content of the application to be true and accurate;

NOW, THEREFORE, BE IT RESOLVED, by the Town Board of the Town of Bergen, in the County of Genesee, that it be and hereby is determined as follows:

1. It is in the public interest to establish the proposed District;
2. The expenditures for which permission is sought will not constitute an undue burden on the properties which will bear the expense;
3. All of the property and property owners within the proposed District are benefited thereby;
4. All of the property and property owners benefited are included within the proposed District and no benefited property has been excluded; and

FURTHER, RESOLVED, that the Supervisor is authorized to execute the application seeking the approval of the State Comptroller to form the District and any other documents necessary to effectuate the consideration of said application.

BILLS: The bills were presented for audit and totaled General A Fund \$21,932.43 vouchers #100-133, General B Fund \$1,314.67 vouchers #21-27, Highway DB \$9,523.29 vouchers #34-48, Town Hall Relocation \$4585.00 voucher #9, PA-A3 \$989.08 vouchers # 6 & 7, PA-A4 \$1,519.94 vouchers # 8 & 9 and PA-DB2 \$5478.65 voucher #2. *Councilwoman Millspaugh made a motion to pay the April bills; seconded by Councilman Miller and it carried by a vote 5 -0.*

REGULAR MEETING – Tuesday, April 27, 2010 -Joint meeting with the Village of Bergen, Sheriff's Department and GCEDC at 7:30 PM in the Courtroom

EXECUTIVE SESSION *Councilman Nenni made a motion to go into Executive Session at 9:35 to discuss labor negotiations with Highway Superintendant and Town Clerk Smith in attendance; seconded by Councilwoman Millspaugh and it carried by a vote 5-0. Councilman McCartney made a motion to come out of executive session at 10:13; seconded by Councilman Nenni and it carried by a vote 5 -0.*

ADJOURNMENT *was at 10:15 p.m. on a motion by Councilman McCartney; seconded by Councilman Millspaugh and carried by a vote 5-0.*

Respectfully submitted

Michele M. Smith

Michele M. Smith,
Town Clerk