

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

PRESENT:

Councilman Donald Cunningham
Councilman Hugh McCartney
Councilman Barry Miller
Councilwoman Rachael Millspaugh

ALSO PRESENT:

Michele M. Smith, Town Clerk
David Roggow, Highway Superintendent
Constance Kaufman, Deputy Town Clerk
Bob Patterson, ZEO/CEO
Lori Nelson, Bookkeeper

OTHER ATTENDEES:

Bob Fox

PRAYER

PLEDGE OF ALLEGIANCE TO THE FLAG

Bob Fox from Eldridge, Fox and Porretti, LLP presented the draft of the 2008 Financial Statements.

MINUTES: *Councilman Cunningham made a motion to approve the minutes of the March 24, 2009 and April 1, 2009 as revised; seconded by Councilwoman Millspaugh and it carried by a vote 4 -0. Supervisor Specht abstained.*

COMMUNICATIONS:

Comments and recommendations derived from audit procedure

Budget Report thru March

Checklist for establishing water district

Advisement to delay Fire Hall Renovation Contract Awarding until May 12, 2009

Mowing bids summary

Court Activity Summary thru February

Highway Superintendent permission to advertise for bids on fuel products road materials

Certified Peachey Road Water District Petition from Anne Sapienza

Resolution to oppose change in Town Clerk and Superintendent of Highways from elected to appointed

Draft resolution for public hearing for Peachey Road Water District

REPORTS:

HIGHWAY: Superintendent Roggow made a request to advertise for bid on fuel products and may need to bid some road materials. *Councilman Cunningham made a motion for Superintendent Roggow to advertise for bid for fuel products and highway materials as necessary, seconded by Councilwoman Millspaugh and it carried by a vote 5-0.* Dave received a complaint from Sleds of Stafford that the West Shore gates need replaced. *Councilman Cunningham made a motion for Superintendent Roggow to replace the gates as needed; seconded by Councilman McCartney and it carried by a vote 5-0.*

ZEO/CEO: Bob let the Board know that new code books will be coming out, the cost will come back to the Town due to the new State Budget. Bill Tower is working a full time job during the day and is doing inspections weeknights and Saturdays. Bob has to do mandatory 1203 inspections of Town buildings, Councilman McCartney will work with Bob. Bob informed the Board that the Manure Ponding issue that that was dropped by the Planning Board and he thinks it should be in the Zoning Law with a special use permit.

UNION CONTRACT: Councilman Miller had nothing new.

SUPERVISOR AND TOWN CLERK'S MARCH 2009 REPORT *Councilman McCartney made a motion to file the Supervisor's and Town Clerk's March 2009 reports; seconded by Councilwoman Millspaugh and it carried by a vote 5 -0.*

NEW BUSINESS:

Mowing Bids: There were six mowing bids submitted for the 2009 mowing season: Ground FX Landscaping \$10,800, Harry Radley \$8463.63, James Palmer \$10,500, G& S Services \$7,900, One Way Landscaping \$6,800 and The Landscaping Expert \$25,872. *Councilman McCartney made a motion to award the 2009 Mowing Contract to One Way Landscaping for \$6,800; seconded by Councilman Cunningham and it carried by a vote 5-0.*

Request for 2009 Baseball season Mark Miraglia is requesting a ten wheeler load of diamond dirt and 3,000 pounds of diamond clay for Robins Brook Park. *Councilman McCartney made a motion for the purchase of diamond dirt and clay not to exceed \$750; seconded by Councilman Miller and it carried by a vote 5-0.*

Soccer Field Request Jeff Maurer is requesting \$2,500 for seed and fertilizer for the soccer fields at Robins Brook Park. *Councilman McCartney made a motion for Jeff Maurer to purchase seed and fertilizer for \$2500 for maintenance of soccer fields; seconded by Councilman Cunningham and it carried by a vote 5-0.*

Peachey Road Water District hearing *Councilman McCartney offered resolution #10-2009 for the order calling for a Public Hearing for establishment of the Water District on Wednesday April 29, 2009 at 7:30 PM; seconded by Councilman Miller and it carried by a vote 5-0. A roll call vote as follows: John Specht, Supervisor – aye, Donald Cunningham, Councilman – aye, Hugh McCartney, Councilman – aye, Barry Miller, Councilman – aye, Rachael Millspaugh, Councilwoman - aye*

**Resolution #10-2009
Order calling for Public Hearing for
Establishment of the Peachey
Road Water District**

WHEREAS, the Town Board of the Town of Bergen previously adopted a Resolution directing Chatfield Engineers, P.C. (“Chatfield”) to supervise in the preparation of a map, plan and report for providing the facilities, improvements or services in a portion of the Town of Bergen, wherein a water district is proposed to be established, and

WHEREAS, on or about November 11, 2008, Chatfield duly filed said map, plan and report in the Office of the Town Clerk of the Town of Bergen, and

WHEREAS, on or about March 24, 2009 the Town Board was presented with a petition for the establishment of said water district, and

WHEREAS, the boundaries of the proposed water district are more particularly described upon Exhibit “A” attached hereto, and

WHEREAS, the improvements proposed consist of the installation of approximately 12,600 linear feet of 12” class 51 ductile iron water main, valves, hydrants, services and appurtenances along Lake Road, and 3,200 linear feet of 8” class 51 ductile iron water main, valves, hydrants, services and appurtenances along Peachey Road as set forth and described in a certain map and plan now on file in the Office of the Town Clerk of the Town, and

WHEREAS, the maximum amount to be expended for the construction of said water service by the Peachey Road Water District shall be hereafter contracted by the Bergen Town Board acting for and on behalf of said water district, and the maximum amount proposed to be expended for such improvements is \$1,103,175.04, which will be borne by the properties within the district on a benefit basis, and

WHEREAS, the total annual cost for a typical user of the proposed Peachey Road Water District is estimated to be approximately \$861.60, and as such, the formation of the Water District will be subject to the approval of the Office of State Comptroller, and

WHEREAS, the proposed method to be employed for financing such improvement is as follows: The cost of the construction would be paid through a benefit based tax against the properties within the proposed Water District. It is anticipated that the project cost will be financed by the issuance of one or more bonds of the Town, to be paid over 38 years at an interest rate of 4.125% per annum, and,

WHEREAS, the total first year cost for the typical user is estimated at approximately \$1,951.60, broken down as follows: Installation of Water Service \$800.00; Internal Plumbing Changes \$100.00; Repayment of Bonds \$597.80; Annual Meter Fee \$43.80; Initial Account/Meter Fee \$210.00; Purchase of Water (80,000 gal./yr. x \$2.50/1,000 gal.) \$200.00, and

WHEREAS, the map, plan and report describing such improvements are on file in the Office of the Town Clerk of the Town of Bergen for public inspection;

NOW, THEREFORE, BE IT ORDERED, that the Town Board of the Town of Bergen shall meet at the Bergen Fire Hall, Bergen, New York, 11 Hunter Street on the 29th day of April, 2009 at 7:30 p.m., for the purpose of conducting a public hearing on the proposal to establish said sewer district with improvements specified above, at which time all persons interested in the subject thereof may be heard concerning the same, and it is further

ORDERED, that the environmental significance of said proposed water district will be reviewed by the Bergen Town Board, incident to and as part of the aforementioned public hearing and all persons interested may be heard concerning this issue, and it is further

ORDERED, that the Town Clerk of the Town of Bergen is hereby authorized and directed to publish a copy of this Order in the Town's official newspaper, and post a copy of the same on the signboard of the Town of Bergen in the time and manner required by law.

Resolution to oppose change Town Clerk, Receiver of Taxes and Superintendent of Highway from elected to appointed *Councilwoman Millspaugh offered resolution #11-2009 Opposition to change the Town Clerk, Receiver of Taxes and Superintendent of Highway positions from elected to appointed; seconded by Councilman Cunningham and it carried by a vote 5-0.*

Resolution #11-2009

RESOLUTION OF THE TOWN BOARD OF THE TOWN OF BERGEN, GENESEE COUNTY, NEW YORK IN OPPOSITION TO CHANGE THE TOWN CLERK, RECEIVER OF TAXES AND SUPERINTENDENT OF HIGHWAYS POSITIONS FROM ELECTED TO APPOINTED

WHEREAS, the Offices of Town Clerk, Receiver of Taxes and Superintendent of Highways in New York State are elective offices pursuant to Section 20 of Town Law of the State of New York, and

WHEREAS, legislation has been introduced in New York State Legislature, Senate bill 56-A and Assembly Bill A.156, which has been included in the Budget Bill under Part NN, Sections 26-28, amending Town Law to permit towns to make the offices of Town Clerk, Receiver of Taxes and Highway Superintendent appointive positions subject only to a permissive referendum rather than a mandatory referendum, and

WHEREAS, Municipal Home Rule Law 23(2) (e) already provides that a town may adopt a local law changing the office of Town Clerk, Receiver of Taxes and Superintendent of Highways from elected to appointed positions, with said law requiring a mandatory referendum, thereby allowing all of the voting residents of the Town of Bergen their very important right to vote for or against such a proposal before any change could occur, and

WHEREAS, the Town Board of the Town of Bergen goes on record as supporting the Town Clerk, Receiver of Taxes and Superintendent of Highways remain as elected positions.

WHEREAS, there would be no financial benefit or savings to the Town in making these changes from elective to appointive offices, and

WHEREAS, the election process helps to maintain the independent nature of the Town Clerk, Receiver of Taxes and Highway Superintendent's offices and creates additional checks and balances in local government.

NOW, THEREFORE BE IT RESOLVED that the Town Board of the Town of Bergen, Genesee County, New York does hereby go on record as *opposing* any change in the existing New York State Statutes, specifically Senate bill 56-A and Assembly Bill A.156, which have been included in the Budget Bill under Part NN, Section 26-28, providing for a change in the positions of Town Clerk, Receiver of Taxes and Highway Superintendent in the Town of Bergen, New York State from an elected to an appointed position through the process of a permissive referendum, thereby avoiding a mandatory referendum taking away the very important rights of the electorate in Bergen to vote on this matter before a change can occur, and

BE IT FURTHER, RESOLVED, that a copy of this Resolution be transmitted to the Governor, the Attorney General, the Senate Majority Leader, the Speaker of the Assembly, the Majority Leader of the Assembly, the Minority Leader of the Senate, the Minority Leader of the Assembly, and the Chairpersons of the Senate and Assembly Local Government Committees, Senator Michael Ranzenhofer 61st District Assemblyman Stephen Hawley, 139th Assembly District.

OLD BUSINESS:

Update on Truck Route: No documentation has been found for the Truck Route of July 1986, the Daily news did a search for an affidavit of publication and nothing was found. *Councilman McCartney made a motion to create a local law to establish a system of Truck Routes in the Town of Bergen on the following roads: a) County Road #6, known as Swamp Road and W. Sweden Road; b) County Road #13, known as Townline Road; c) County Road #14, known as Reed Road and N. Bergen Road; d) County Road #19A, known as Creamery Road and Warboys Road; and e) County Road #31 known as W. Bergen Road; seconded by Councilman Miller and it carried by a vote 5-0.*

Mill Stone: Councilman Miller will look into it.

Town Hall/Barn Roof Dan Bryson made changes in the wording and are awaiting a new contract.

Town Hall/Court relocation: Councilman Miller has been working with Paetec and Relcomm for phone services at the Fire Hall and the offices that are staying at the present Town Hall.

BILLS: The bills were presented for audit and totaled General A Fund \$22,653.91 vouchers #90-122, General B Fund \$101,762.29 vouchers #23-31, Highway DB \$5,771.63 vouchers #40-54, Post Audit A-3 \$5,716.40 Voucher # 4 & 5. *Councilwoman Millspaugh made a motion to pay the April bills; seconded by Councilman Miller and it carried by a vote 5-0.*

NEXT MEETING: Tuesday, April 28, 2009 at 7:30 PM in the Courtroom

ADJOURNMENT was at 10:20 p.m. on a motion by Councilman Miller, seconded by Councilwoman Millspaugh and it carried by a vote 5 -0.

Respectfully submitted,

Michele M. Smith,
Town Clerk