

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 Joe Nenni
Councilman Brian Stone

ALSO PRESENT:

Michele M. Smith, Town Clerk
Dave Roggow, Highway Superintendent

ABSENT:

Councilman Barry Miller

OTHER ATTENDEES:

Bob Fox
Grace Gallivan

PRAYER

PLEDGE OF ALLEGIANCE TO THE FLAG

Bob Fox Presented the 2010 Audit Report

MINUTES: *Councilman Stone made a motion to approve the minutes of May 24, 2011; seconded by Councilman McCartney and it carried by a vote 4 -0.*

COMMUNICATIONS:

Supervisors Report for May 2011
Town Clerk's Report for May 2011
Memo Re: Environmental Protection Fund Grant from Stu Brown
Registration form for 2011 Planning & Zoning School from Assoc. of Towns
Letter from Lisa Teremy, Re: Request for speed reduction on Rt. 19
Letter from Vera Denton
Zoning & Code Enforcement Log Sheet for May 17 – May 31, 2011
Notice of Tentative State Equalization Rate for 2011 Assessment Roll
Municipal Snow & Ice Extension Contract & Resolution for 2011/2013 from NYS DOT
Sample Resolution for Water District Easement acquisition
Amendment No. 1 to lease with the Bergen Fire Department
Email notice from Deputy County Treasurer Re: Early Elimination of Railroad Aid
Sample Resolution for Non-Resident Water User Agreement for Merriman Road

REPORTS:

HIGHWAY: Parking lot paving was discussed for Town Hall/Fire Hall Snow & Ice Extension *Councilman McCartney offer Resolution #12 to extend the indexed lump sum Municipal Snow and Ice Agreement; seconded by Councilman Stone and carried by a vote 3-0. Councilman Nenni abstained*

RESOLUTION #12-2011

**AGREEMENT TO EXTEND INDEXED LUMP SUM MUNICIPAL
SNOW AND ICE AGREEMENT**

WHEREAS, the Town Board of the Town of Bergen on June 14, 2011 makes a resolution to approve the Snow & Ice Contract No. D009590 between the State of New York and the Town of Bergen for snow and ice control which will expire on June 30, 2013 unless further extended. The contract will be for \$79,529.51.

PARKS COMMITTEE: Councilman Nenni shared the information from Smoke Free Now who would like a resolution for voluntary compliance for town parks and will be discussed at the next committee meeting.

TOWN CLERK'S AND SUPERVISORS MAY 2011 REPORTS *Councilman McCartney made a motion to file the Town Clerk's and Supervisor's May 2011 reports; seconded by Councilman Nenni and it carried by a vote 4-0.*

BUILDING COMMITTEE: Step at 15 S. Lake Ave. needs repaired

OLD BUSINESS:

Peachey Road Water District- Acquisition of Easements Resolution *Councilman Stone offered Resolution #13-2011 acquisition of the Easements as described in Attachment "A" to this Resolution, and any other easements that become necessary for the Project; seconded by Councilman McCartney and it carried by a vote 4-0.*

**Town of Bergen
RESOLUTION #13-2011**

WHEREAS, the Town of Bergen (the "Town") is forming a Water District consisting of the installation of approximately 12,600 linear feet of 12" diameter water main along Lake Road (NYS Route 19) from 6630 North Lake Road to approximately 1,300 linear feet north of Creamery Road; and approximately 3,200 linear feet of 8" diameter water main easterly from North Lake Road along Peachey Road to bring the Monroe County Water Authority's (the "Authority") potable water supply and fire protection to the residents of Genesee County, New York, and the Town of Bergen (the "Project"); and

WHEREAS, the acquisition of nine (9) permanent easements and one (1) temporary easement (the "Easements") from nine (9) property owners along the Project is necessary for the construction, installation, operation, and maintenance of the Project; and

WHEREAS, the Easements are described on Attachment "A" to this Resolution; and

WHEREAS, Section 1096 (6-a) of the New York Public Authority's Law mandates the Authority obtain prior approval for the acquisition of the Easements by resolution of the Town Council of the Town of Bergen, New York.

NOW THEREFORE BE IT RESOLVED, that the Town Council of the Town of Bergen, New York, hereby approves the acquisition of the Easements as described in Attachment "A" to this Resolution, and any other easements that become necessary for the Project, in accordance with Section 1096 (6-a) of the New York Public Authorities Law.

ATTACHMENT "A"

**1. N/F Luke Giannone, his Successors and Assigns
6520 North Lake Road, Bergen (006.000-1-46.2)**

A 10 foot wide Permanent Easement approximately 102 feet in length along the easterly property line as shown on the attached drawing entitled "PE 1".

**2. N/F Michael & Kathleen Hammerl, their Successors and Assigns
6512 North Lake Road, Bergen (006.000-1-46.11)**

A 10 foot wide Permanent Easement approximately 42 feet in length along the easterly property line as shown on the attached drawing entitled "PE 2".

**3. N/F Gary & Kathleen Fink, their Successors and Assigns
6466 North Lake Road, Bergen (006.000-1-47)**

A Permanent Easement of varying width approximately 668 feet in length along the easterly property line as shown on the attached drawing entitled "PE 3".

**4. N/F Herbert C. Brew, Jr., his Successors and Assigns
6370 North Lake Road, Bergen (006.000-1-5.2)**

A 20 foot wide Permanent Easement approximately 485 feet in length along the easterly property line as shown on the attached drawing entitled "PE 4".

**5. N/F Nathan & Julie Stephens, their Successors and Assigns
6258 North Lake Road, Bergen (006.000-1-6.2)**

A Permanent Easement in the northwesterly property corner as shown on the attached drawing entitled "PE 5".

**6. N/F Roger & Shirley Buda, their Successors and Assigns
8289 Sackett Road, Bergen (008.000-1-21.111)**

A Permanent Easement in the southwesterly property corner as shown on the attached drawing entitled "PE 6".

**7. N/F Donald Read, his Successors and Assigns
6175 North Lake Road, Bergen (007.000-1-10)**

A Permanent Easement of varying width along the northerly property line as shown on the attached drawing entitled "PE 7".

**8. N/F Thomas J. & Bonnie J. Martin, their Successors and Assigns
8260 Peachey Road, Bergen (007.000-1-11.1)**

A 15 foot wide Permanent Easement approximately 389 feet in length along the northerly property line as shown on the attached drawing entitled "PE 8".

**9. N/F David R. & Beverly Loiacono, their Successors and Assigns
6104 North Lake Road, Bergen (008.000-1-15)**

A 37 foot wide Permanent Easement approximately 373 feet in length along the easterly property line as shown on the attached drawing entitled "PE 9".

**10. N/F Roger & Shirley Buda, their Successors and Assigns
6104 North Lake Road, Bergen (008.000-1-21.112)**

A 75 foot wide Temporary Easement approximately 152 feet in length along the easterly property line as shown on the attached drawing entitled "TE 1".

NEW BUSINESS:

Letter from Lisa Teremy Supervisor Cunningham will respond to Lisa's letter notifying her that the Board is taking it under consideration and let her know the Town's past experience with requests for speed reductions.

Historian Resignation A resignation letter must be sent to the Town Clerk

Amendment No. 1 to the Lease Agreement with Bergen Fire Dept. *Councilman Nenni made a motion to approve and for Supervisor Cunningham to sign Amendment No.1 to the Lease Agreement with the Bergen Fire Dept.; seconded by Councilman Stone and carried by a vote 3-0. Councilman McCartney abstained.*

Non-Resident Water User Resolution for Merriman Road *Councilman McCartney offered Resolution #14-2011 to approve Non-Resident Water User Resolution for Merriman Road; seconded by Councilman Nenni and it carried by a vote 4-0.*

Resolution #14-2011

NON-RESIDENT WATER USER AGREEMENT FOR MERRIMAN ROAD

WHEREAS, the Town of Riga has approved the creation of the Riga Water Improvement Benefit Area #1 (“Benefit Area”) and the construction of water mains and other related equipment therein; and

WHEREAS, residents of the Town of Bergen who own residential property located on Merriman Road have requested that they be permitted to hook up to the water main to be constructed in that area as part of the Riga Water Improvement Benefit Area #1 water project; and

WHEREAS, residents of the Ogden who own residential property located on Westside Drive and/or Bunny Run have also requested that they be permitted to hook up to the water main to be constructed in that area as part of the Riga Water Improvement Benefit Area #1 water project;

WHEREAS, representatives of the Town Board have met with the officials of the Town of Bergen and the Town of Ogden to explore various methods of providing water service to the Bergen and Ogden residents whose residential properties border the Riga Water Improvement Benefit Area #1; and

WHEREAS, the Riga Town Board is desirous of allowing said Ogden and Bergen residents to hook-up to the water mains to be constructed within Riga Water Improvement Benefit Area #1 provided that said Ogden and Bergen residents contribute to the annual debt service payments for the project in the same manner as Riga property owners within the Benefit Area, and well as in accordance with the other terms set forth below;

NOW, THEREFORE BE IT RESOLVED that the Supervisor of the Town of Riga is hereby authorized to execute, on behalf of the Riga Town Board, Non-Resident Water User Agreements with the owners of Bergen and Ogden residential properties (hereinafter referred to as “non-resident water users”) which border the Riga Water Improvement Benefit Area #1 on the following terms and conditions:

1. The Bergen non-resident water user and the Bergen Town Supervisor, under the direction and authority of the Bergen Town Board, shall execute a Non-Resident Water User Agreement for Merriman Road, which has been reviewed and approved by an attorney for the Town of Riga; and

2. The Ogden non-resident water user and the Ogden Town Supervisor, under the direction and authority of the Ogden Town Board, shall execute a Non-Resident Water User Agreement which has been reviewed and approved by an attorney for the Town of Riga; and

3. Said Non-Resident Water User Agreement shall contain the following basic terms:

A. The Town Board of Riga agrees that the non-resident water user may tie into the water mains to be constructed by the Town of Riga in the Riga Water Improvement Benefit Area #1; and

B. The Ogden Town Board or the Bergen Town Board, as the case may be, agrees that its resident may tie into water mains to be constructed by the Town of Riga within the Riga Water Improvement Benefit Area #1; and

C. The non-resident water user shall pay a onetime connection fee to the Town of Riga in the amount of \$500 upon the execution of the Non-Resident Water User Agreement; and

D. The non-resident water user shall pay annually to the Town of Riga a debt service fee which is calculated in the same manner as the formula used to calculate the annual special assessments on residential property owners within the Riga Water Improvement Benefit Area #1, as follows: 40% of the annual debt service shall be based on a unit charge with each residential dwelling considered one (1) unit, and 60% of the annual debt service charge shall be based on the assessed valuation of the property. If there is a difference between the equalization rates of the Town of Riga and the Town of Bergen, or the Town of Riga and the Town of Ogden, the annual debt service fee will be adjusted accordingly. The annual debt service fee will be billed to the non-resident user at their residential property address and the payment will be due within thirty (30) days of the date of the bill. A Two Percent (2%) late fee will be added for each month the annual fee is late, and all unpaid fees shall be liens against the property. The Town of Riga shall reserve the right to request that the Monroe County Water Authority (MCWA) turn off water service to any non-resident water user that is more than three (3) months delinquent in paying the annual debt service fee; and

E. The Non-Resident Water User Agreement shall be recorded, at the non-resident water user's expense, in the County Clerk's Office for the county in which the non-resident water user's property is located; and

F. The non-resident water user shall be responsible for paying any fees or charges associated with making the connection to the water main with the Monroe County Water Authority, including the initial account fee, meter fee, MCWA connection fee, and other costs associated with the installation of the water service. The Town of Riga will not be installing water services to the residents of the Town of Bergen or the Town of Ogden as part of the Riga Water Improvement Benefit Area #1 water project; and

G. The Non-Resident Water User Agreement shall be binding on the non-resident property owners' heirs, successors and assigns, and any transferee of the non-resident water user's property shall be obligated to inform the Riga Town Clerk of the change of ownership within thirty (30) days of the date the deed of conveyance is recorded in the County Clerk's Office.

BILLS: The bills were presented for audit and totaled General A Fund \$43,420.08 vouchers #165-195, General B Fund \$4,074.85 vouchers #41-57, Highway DB \$ 20,514.86 vouchers #43-53, H5-Peachey Rd. Water District \$1,325.20 vouchers # 1 & 2, PA-A5 \$137.40 voucher #8, PA-A6 \$778.51 voucher #9, and PA-B1 \$32.92 voucher #1. *Councilman Nenni made a motion to pay the June bills; seconded by Councilman McCartney and it carried by a vote 4-0.*

REGULAR MEETING – Tuesday, June 28, 2011 at 7:30 PM in the Courtroom

ADJOURNMENT was at 9:06 p.m. 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