

NOVEMBER 23, 2010 BERGEN TOWN BOARD REGULAR 2nd MEETING

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

PRESENT:

Supervisor Donald Cunningham
Councilman Barry Miller (Arr. 7:33)
Councilman Hugh McCartney
Councilman Joe Nenni

ALSO PRESENT:

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

PRAYER

PLEDGE OF ALLEGIANCE TO THE FLAG

MINUTES: *Councilman Nenni made a motion to approve the minutes of November 9, 2010; Councilman McCartney seconded it and it carried by a vote 3 -0. Councilman Nenni made a motion to approve the minutes of October 12, 2010; Councilman McCartney seconded it and it carried by a vote 3-0.*

COMMUNICATIONS:

Proposal from Ryan Plumbing & Heating recommended dry sprinkler system service
Information from NYS BAR training & appointments
Forwarded email of Planning Board resignation notice from John Wise
Copy of Certificate of Occupancy for Town Office/ Court project
Notice of Genesee Co. Treasurers office Re: Railroad State Aid
Mercy EMS report for October 2010
Copy of leadership Genesee Application from Joe Nenni
Notice of Peachey Road Water District Application approval from NYS Comptroller
Notification and sample resolution from Assoc. of Towns Re: Chesapeake Bay TMDL
Sample resolution & exhibit A for filing Peachey Road Water District w/County Clerk
Sample resolution to allow Town Clerk appointment of third Deputy Clerk

REPORTS:

HIGHWAY: Superintendent Roggow had nothing to report.

Buildings Committee: Councilman Nenni updated the Board on the moving of the Historian to the Chappell Drew's House (15 S. lake Ave.) tentatively on December 11th with the help of the Genesee County Sherriff's Dept. work crew. An outside floodlight is on during the day and should be checked. There is a washer & dryer in the house that should be removed. Frontier is installing internet and phone on November 29th.

Town Hall Relocation: Certificate of Occupancy was received from the Village CEO. Court window is leaking in high winds, Tom Magill will be notified.

OLD BUSINESS:

Deputy ZEO/CEO *Councilman Nenni made a motion to appoint Robert Seils as Deputy ZEO/CEO for not more than 5 hours a week at \$10 an hour for the remainder of 2010; seconded by Councilman McCartney and it carried by a vote 4-0.*
Resolution #22-2010 to file Peachey Road Water District with County Clerk *Councilman Miller offered Resolution #22-2010 to file the Peachey Road Water District with Genesee County Clerk; seconded by Councilman McCartney and it carried by a vote 4 -0.*

WHEREAS, on or about March 24, 2009, the Town Board of the Town of Bergen (the "Town Board" and "Town" respectively) 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 (the "District"), and

WHEREAS, the Town Board has heretofore reviewed the map, plan and report regarding the proposed District prepared by Chatfield Engineering, an engineer duly licensed by the state of New York, in such detail as theretofore determined by the Town Board and filed in the Office of the Town Clerk of the Town for public inspection, providing for the establishment in the territory in the Town hereinafter described and the construction of a water system to serve the District, and

WHEREAS, on April 29, 2009, the Town Board determined to proceed with the proposed establishment of the District and the construction of such water system, and in pursuance thereof, adopted the order calling a public hearing reciting in general terms the preparation of such map, plan and report and the filing thereof on the Town Clerk's Office, a description of the boundaries of the District, the improvements proposed consisting of the construction of such water system, the maximum amount proposed to be expended for such improvements as stated in the petition, the proposed method of financing to be employed, the fact that a map and plan describing the same are on file in the Town Clerk's Office for public inspection and specifying April, 29, 2009, at 7:30 p.m. at the Bergen Fire Hall, in the Town, as the place where, the Town Board would meet to consider the establishment of the District and the construction of such water system therefore, including the environmental significance thereof and to hear all persons interested in the subject thereof concerning the same, and for such other action on the part of the Town Board as may be required by Law; and

WHEREAS, following publication and posting of certified copies of said order calling a public hearing pursuant to Article 12 of the Town Law and after a public hearing duly held by the Town Board on April 29, 2009, and continued on September 22, 2009, by resolution duly adopted September 22, 2009, the Town Board determined that the petition seeking to establish the District was duly signed and acknowledged as by law required and is otherwise sufficient, that all the property and property owners within the limits of the proposed District are benefited thereby, that all the property and property owners benefited are included within the limits of the proposed District, that the establishment of the District is in the public interest, that the expenses shall be assessed, levied and collected on a benefit basis from the several lots and parcels of land within said District and approved the establishment of the District and the construction of said water system therefore at a cost not to exceed \$1,103,175.00 and thereafter further, following review of a Long Form Environmental Assessment Form and after due deliberation thereon, the Town Board acting in the role of the Lead Agency, issued a Negative Declaration (Determination of Non-Significance), including a determination that the proposed action is a Type I pursuant to the provisions of Article 8 of the New York Environmental Conservation Law; and

WHEREAS, following submission of an application by the Town Board, the State Comptroller granted permission to establish the District, by Order dated November 12, 2010, which Order was duly filed with the Town Clerk of the Town and presented to the Town Board by said Town Clerk at the next meeting held after said Order was filed with said Town Clerk; Now, therefore be it

ORDERED, that the establishment of the District is hereby approved, and the District shall be designated and known as Peachey Road Water District, in the Town of Bergen, situate wholly outside of any incorporated village or city, and bounded and described pursuant to Exhibit "A" attached hereto. And be it further

ORDERED, that the water system hereinabove referred to shall be constructed as set forth in the said order calling a public hearing, at a cost not to exceed \$1,103,175.00, which is planned to be financed by the issuance of serial bonds of the Town, and the assessment, levy and collection of assessments upon the several lots and parcels of land within the District, which the Town Board shall determine and specify to be especially benefit conferred upon the same, to pay the principal of and interest on said bonds; and be it further

ORDERED, that within ten (10) days after adoption of this order, the Town Clerk shall record with the Clerk of the County of Genesee and file with the Office of the State Comptroller in Albany, New York, copies of this order, certified by said Town Clerk.

NEW BUSINESS:

Proposal from Ryan Plumbing and Heating for dry sprinkler system at Highway Garage *Councilman McCartney made a motion to accept the Proposal from Ryan Plumbing and Heating for \$1629.50; seconded by Councilman Nenni and it carried by a vote 4-0.*

Board of Assessment Review Appointment *Councilman Miller made a motion to appoint Gordon Seward to the Board of Assessment Review for a 5 year term; seconded by Councilman Nenni and it carried by a vote 4-0.*

Planning Board Vacancy *Councilman Nenni made a motion to appoint Alternate Scott Householder as Planning Board member; seconded by Councilman Miller and it carried by a vote 4-0.* The Town Board will advertise for 2 alternate Planning Board members.

Leadership Genesee Application for Joe Nenni *Councilman Miller made a motion for Joe Nenni to attend the 2011 Leadership Genesee for \$1950.00 splitting the payment with 2010 and 2011 Budgets; seconded by Councilman McCartney and it carried by a vote 3-0. Councilman Nenni abstained*

Association of Towns recommendation for Resolution *Councilman Miller offered Resolution #23-2010 for the Chesapeake Bay Total Maximum Daily Load seconded by Councilman Nenni and it carried by a vote 4-0.*

**Town of Bergen
Chesapeake Bay TMDL
Resolution #23-2010**

A resolution expressing opposition to the Chesapeake Bay Total Maximum Daily Load (TMDL) regulatory proposal by the United States Environmental Protection Agency (EPA) and raising serious concerns regarding the unattainable mandate and lack of parity represented in load allocations for the State of New York compared to other Bay states and watershed jurisdiction partners; and requesting intervention by our elected representatives in the United States Congress, New York State Senate and New York State Assembly in securing a moratorium on regulatory implementation of the Chesapeake Bay TMDL in New York until such objections and concerns are fully addressed.

WHEREAS, clean water and healthy watersheds are a priority for all New York local governments; and

WHEREAS, the U.S. Environmental Protection Agency Region 3 is implementing a Chesapeake Bay TMDL regulatory structure intended to limit nitrogen, phosphorous and sediment discharges into the Chesapeake Bay watershed; and

WHEREAS, New York State represents 10% of the Chesapeake Bay watershed area New York accounts for 10% of the total watershed area which is mostly forested (76%), is home to 4% of the total population in the watershed and includes 19 counties, 650,000 residents and 2,000 New York family farms; and

WHEREAS, NYS DEC projects the federally-designed TMDL program will cost New York State as much as \$250 million over the next 15 years, without being able to satisfy EPA's regulatory goal; and

WHEREAS, the best way to achieve the important public benefit of clean water at a regional level is through locally led conservation efforts, rather than a top-down federal, one-size-fits-all regulatory approach such as EPA's TMDL for the Chesapeake Bay watershed; and

WHEREAS, NYS, unlike the rest of its Chesapeake Bay watershed partners, has since 1985 been implementing programs and creating structures to achieve for its portion of the watershed water quality which meets the TMDL thresholds set for water entering Chesapeake Bay; and

WHEREAS, EPA's proposed TMDL regulation imposes disproportionately heavier restrictions for water quality in New York in order to help other states meet their overall TMDL goal, ignores New York's excellent record of environmental accomplishments over the past 25 years using state and local conservation efforts and thereby forces unrealistic costs on the businesses, governments and residents within the watershed area; and

WHEREAS, the EPA mandated TMDL allocations for NYS by 2025 are unattainable even with the elimination of animal agriculture and utilizing every best management practice available in the watershed area; and

WHEREAS, we oppose EPA's one size fits all federal regulatory control that usurps state and local jurisdiction and authority in order to impose their TMDL, instead of working collaboratively with State agriculture and environmental protection agencies, Soil and Water Conservation Districts and local communities to address Bay watershed water quality concerns;

NOW, THEREFORE, BE IT RESOLVED that while the Bergen Town Board fully supports responsible efforts to improve water quality in all watersheds including the Chesapeake Bay watershed and protect our State's environment and natural resources, we object to the unfair and unattainable mandate the Chesapeake Bay TMDL forces upon our local governments, local communities and family farms; and

BE IT FURTHER RESOLVED, that the Bergen Town Board urges its Congressional and State representatives to intercede with EPA, and enact superseding legislation if required, to delay implementation of the Chesapeake Bay TMDL and request that EPA report to them on their response and adaptations regarding the aforementioned concerns.

Third Deputy Town Clerk Resolution # 24-2010 Town Clerk Smith is requesting a third Deputy Town Clerk Position and is planning on appointing Susan Brownell as the third Deputy Town Clerk when the proper paperwork is filed with Genesee County. *Councilman Nenni offered resolution #23-2010 to create a third Deputy Town Clerk position with Genesee County; seconded by Councilman McCartney and it carried by a vote 4-0.*

**Town of Bergen
Authorization of Third Deputy Clerk Position
Resolution No. 24-2010**

WHEREAS, the Bergen Town Clerk seeks authorization to appoint a third Deputy Clerk, and

WHEREAS, New York State Law makes provision for the Town Clerk to appoint not more than three deputies, and

WHEREAS, the compensation, powers, and duties for Deputy Clerk must be approved by the town board, and

WHEREAS, the Personnel Department of Genesee County requires resolution from the Bergen Town Board to add a third Deputy 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 Deputy Clerk to the towns payroll at the compensation rate set forth in the salaries section of the annual budget for Deputy Clerks, and

BE IT FURTHER RESOLVED, the third Deputy Town Clerk will have the authority to act generally for and in place of the Bergen Town Clerk.

The following is a true and accurate record of votes cast for this resolution. Supervisor Donald Cunningham aye, Deputy Supervisor / Councilman Barry Miller aye, Councilman Hugh McCartney aye, Councilman Joseph Nenni aye

NEXT MEETING: Regular Meeting - Tuesday December 14, 2010 at 7:30 p.m. in the Courtroom with the audit of the bills at 7:15 p.m.

ADJOURNMENT was at 8:16 p.m. on a motion by Councilman Nenni; seconded by Councilman McCartney and it carried by a vote 4-0.

Respectfully submitted,

Michele M. Smith

Michele M. Smith,
Town Clerk