

The Bergen Town Board convened in a regular session at 7:00 p.m. in the Town Hall with Supervisor Cunningham presiding.

PRESENT:

Supervisor Donald Cunningham
Councilman Joe Nenni
Councilman Brian Stone
Councilwoman Belinda Grant
Councilman Hugh McCartney

ALSO PRESENT:

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

OTHER ATTENDEES:

Steven Sharpe
John Murray
Jenny Long
Katherine Springsteen
Rachael Kobel
Brook Lamarca
Kevin Donovan
Mark Gerhardy
Lisa Gerhardy

PRAYER

PLEDGE OF ALLEGIANCE TO THE FLAG

Public Hearing for Local Law #1-2013 for Residential Property Exemptions *Councilman Nenni made a motion to open the Public Hearing for Local Law #1-2013 for Residential Property Exemptions at 7:00 pm; seconded by Councilman McCartney and it carried by a vote 5-0. Councilman Nenni made a motion to close the Public Hearing at 7:20 for Local Law #1-2013; seconded by Councilman Stone and it carried by a vote 5-0.*

MINUTES: *Councilman Nenni made a motion to approve the February 12, 2013 minutes; seconded by Councilman Stone and it carried by a vote 4-0. Councilman McCartney abstained*

COMMUNICATIONS:

Proposed Wednesday evening summer Schedule for the Transfer Station
Letter & Payment Application #1 details for Peachey Road Water District
Letter from NYS Dept. of Labor, Re: Amendment to Section 27-a Labor Law
Black Creek Watershed Coalition 2012 Annual Report
Mercy EMS Report for January 2013
Notification from Stuart Brown Associates, Re: 2013 Grants
Travel Request from Deputy Town Clerk Susan Brownell
Sample Resolution Opposing the New York State Safe Act
Sample Resolution for Peachey Road Address Changes
Revised quote from Falcone Electric to convert remaining fixtures at 13 S. Lake Ave.

REPORTS:

HIGHWAY/SOLID WASTE: New truck in service; New pick up was ordered; labor negotiations committee should be formed; ARC has trash collection with a mobile transfer station

ZONING/CODE ENFORCEMENT: Dave met with Ryan Plumbing for inspection of Highway Garage; 7-Eleven was approved by Zoning Board for Area Variance; Metalico is interested in demolition of house on property with the Fire Dept. using for practice.

COMMITTEES:

BUILDING COMMITTEE: Councilman Stone has received 2 proposals so far for the Roof at 15 S. Lake.

Councilman Nenni made a motion to accept the quote from Falcone Electric for remaining fixtures for 13 S. Lake Ave. for \$1696.38 with a rebate of \$880; seconded by Councilman Stone and carried by a vote 5-0.

HIGHWAY/PARKS COMMITTEE: Next meeting scheduled for March 5th at the Gillam Grant.

VILLAGE RELATIONS COMMITTEE: Next meeting scheduled for April 2nd at 6:00 pm.

OLD BUSINESS:

Peachey Rd. Water District work has progressed North of Peachey Road along Rt. 19; next project meeting scheduled for March 1st at 8:30 am. **Payment Application #1 for the Peachey Road Water District** *Councilman Stone made a motion to approve Payment Application #1 of \$98,813.32 to Mar-Wall Construction for the Peachey Road Water District; seconded by Councilwoman Grant and carried by a vote 5-0.*

Local Law #1-2013 for Residential Property Exemptions *Councilman Stone made a motion to adopt Local Law #1-2013 for Residential Property Exemptions; seconded by Councilman Nenni and it carried by a vote 5-0.*

NYS DOT Undertaking *Councilman Nenni made a motion to approve Supervisor Cunningham to sign the NYS DOT Undertaking; seconded by Councilman McCartney and it carried by a vote 5 -0.*

Summer Transfer Station Hours *Councilman Stone made a motion for Summer Transfer Station hours beginning Wednesdays, July 10th – August 28th from 6-8pm; seconded by Councilman McCartney and carried by a vote 5-0.*

NEW BUSINESS:

Travel Request *Councilman Nenni made a motion to approve the Travel request for Deputy Town Clerk Susan Brownell to attend the NYS Town Clerk's Conference on April 30th not to exceed \$100; seconded by Councilwoman Grant and it carried by a vote 5-0.*

Resolution Opposing the NYS Safe Act *Supervisor Cunningham offered Resolution # 6-2013 Opposing the NYS Safe Act; seconded by Councilwoman Grant and it carried by a vote 5-0.*

RESOLUTION NO. 6-2013

**OPPOSING THE PROCESS OF ENACTMENT AND CERTAIN PROVISIONS
CONTAINED WITHIN THE NEW YORK SAFE ACT**

WHEREAS, The right of the people to keep and bear arms is guaranteed as an individual right under the Second Amendment to the United States Constitution; and

WHEREAS, The right of the people to keep and bear arms for defense of life, liberty, and property is regarded as an inalienable right of the people of Town of Bergen; and

WHEREAS, The lawful ownership of firearms is, and has been, a valued tradition in Town of Bergen, and the rights protected by the Second Amendment to the United States Constitution are exercised by many of its residents; and

WHEREAS, The people of Town of Bergen derive economic and environmental benefits from all safe forms of recreation involving firearms, including, but not limited to, hunting and target shooting while utilizing all types of firearms available under the Constitution of the United States; and

WHEREAS, Members of the Town of Bergen Town Board, being elected to represent the people of the Town of Bergen, are duly sworn by their oath of office to uphold the Constitution of the United States; and

WHEREAS, Members of the New York State Assembly and the New York State Senate, being elected by the people of New York State, are duly sworn by their oath of office to uphold the Constitution of the United States; and

WHEREAS, The enactment of the NY SAFE Act (Chapter 1 of the Laws of 2013) has engendered significant controversy over both the process by which it was enacted and certain provisions contained within it; and

WHEREAS, It is our understanding that many State Legislators had less than an hour to read the legislation, which contained approximately twenty-five thousand words, before being forced to vote on it; and

WHEREAS, Having reviewed the legislation and time constraints, it is our conclusion that there is no possible way any individual could have read the entire bill and understood its full implications prior to voting on it; and

WHEREAS, Our State Legislators most certainly could not have had the time to request, and receive, the input of their constituents regarding this matter; and

WHEREAS, Seeking, and considering, such public input is a standard to which we hold ourselves as the Town of Bergen Town Board; and

WHEREAS, This legislation has 60 sections, of which only three take effect immediately; and

WHEREAS, In our opinion, there was no reason for the Governor to use a message of necessity to bring this bill to vote immediately and bypass the three day maturing process for all legislation; and

WHEREAS, The mishandling of the process in crafting the NY SAFE Act resulted in complex policy changes, many of which have been left to interpretation, and are confusing even to the State Legislators who voted on them, and the law enforcement officials who are required to enforce and explain them; and

WHEREAS, Requiring law-abiding gun owners to verify ownership of certain types of firearms every five years, in addition to registering them on their permits, which now also must be renewed every 5 years, does not increase the safety of the public and is unnecessarily burdensome to the law abiding residents of New York State; and

WHEREAS, This legislation prohibits the sale of firearm magazines with a capacity larger than seven rounds; and

WHEREAS, Those firearm magazines with a capacity larger than seven rounds, which are authorized to be retained by existing owners, may only be loaded with seven rounds and eventually must be permanently altered to only accept seven rounds or be disposed of, thus constituting a seizure of legally owned personal property with no provision for compensation; and

WHEREAS, Few or no low capacity (7 rounds or less) magazines currently exist for many of the firearms commonly possessed by law-abiding residents of New York State; and

WHEREAS, Limiting the number of rounds to seven versus ten is arbitrary and capricious, has no correlation to public safety, unfairly burdens law-abiding gun owners, and puts an undue burden on gun manufacturers to retool their manufacturing plants; and

WHEREAS, The only persons who will comply with the new high-capacity magazine ban are law-abiding citizens, leaving the same high-capacity magazines in the hands of those who choose not to obey the law; and

WHEREAS, Requiring documentation of all ammunition sales in New York State, as provided for in this legislation, is a significant unfunded mandate on business; and

WHEREAS, The New York State Combined Ballistic Identification System, which wasted \$44 million in taxpayer money and resulted in zero convictions, illustrates the propensity of government to waste taxpayer resources when legislation is not properly reviewed; and

WHEREAS, Governor Cuomo has proposed spending \$36 million dollars in his 2013-2014 Executive budget for the implementation of the NY SAFE Act at a time when New York State residents are crying out for tax relief; and

WHEREAS, This legislation severely impacts the possession and use of firearms now permitted by the residents of Town of Bergen for defense of life, liberty, and property; and

WHEREAS, This legislation severely impacts the possession and use of firearms now permitted for safe forms of recreation including, but not limited to, hunting and target shooting; and

WHEREAS, While there are some areas of the legislation that the Town of Bergen Town Board finds encouraging, such as addressing glaring shortcomings in the mental health system, the strengthening of Kendra’s Law and Mark’s law, as well as privacy protections for certain pistol permit holders, by-and-large, we find the legislation does little more than negatively impact lawful gun ownership; and

WHEREAS, This legislation fails to offer any meaningful solutions to gun violence and places increased burdens where they do not belong, squarely on the backs of law-abiding citizens; and

WHEREAS, This legislation effectively turns countless New York State law-abiding gun owners into criminals; and

WHEREAS, The manner in which this legislation was brought forward for vote in the State Legislature is deeply disturbing to the Town of Bergen Town Board; now therefore

BE IT RESOLVED, That the Town of Bergen Town Board does hereby oppose, and request the repeal of, any legislation, including the sections within the NY SAFE Act (Chapter1 of the Laws of 2013), which infringe upon the right of the people to keep and bear arms; and be it

FURTHER RESOLVED, that the Town of Bergen Town Board considers such laws to be an egregious violation of 2nd Amendment Constitutional Rights, onerous, and burdensome to the citizens and the County in their implementation, and beyond lawful legislative authority granted to our State representatives; and be it

FURTHER RESOLVED, that the Town of Bergen Town Board strongly encourages members of the New York State Legislature to hold public hearings to address the issue of gun violence in a way that will produce meaningful results; and be it

FURTHER RESOLVED, that the Town of Bergen Town Board requests the members of the New York State Senate and Assembly who represent all of Town of Bergen to reply, in writing, with their views on, and actions taken, in support of, or opposition to, the NY SAFE Act; and be it

FURTHER RESOLVED, that a copy of this resolution be sent to President Barack Obama, Vice President Joseph Biden, Governor Andrew Cuomo, United States Senators Charles Schumer, and Kirsten Gillibrand, Congressman Chris Collins, New York State Senator Michael Ranzano, Assembly Speaker Sheldon Silver, New York State Assemblyman Steven Hawley, and the Association of Towns of New York State.

The following is a true and accurate record of votes cast for this resolution.

Supervisor Donald Cunningham	<u>Aye</u>
Deputy Supervisor/Councilman Joseph Nenni	<u>Aye</u>
Councilman Hugh McCartney	<u>Aye</u>
Councilman Brian Stone	<u>Aye</u>
Councilwoman Belinda Grant	<u>Aye</u>

Peachey Road Address Changes Resolution Councilman McCartney was contacted by Gerald Fulmer who is wintering in Florida doesn’t think that his address should be changed. Address 1500 Kendall Rd will be 8550 Peachey Rd. Churchville, NY 14428. *Supervisor Cunningham offered Resolution #7 -2013 for Peachey Road Address Changes; seconded by Councilman Stone and it carried by a vote 5-0.*

RESOLUTION #7-2013
PROPOSING ADDRESS CHANGES FOR
PEACHEY ROAD, TOWN OF BERGEN

WHEREAS, the Town of Bergen Town Board has identified numerous addresses on Peachey Road as out of sequence or inaccurate, and

WHEREAS, the Town of Bergen Board recognizes the risk associated with response time for any law enforcement, fire, or emergency medical service along Peachey Road, and

WHEREAS, the Town of Bergen Board has requested assistance of the Director of Emergency Communications through the Genesee County Sheriff’s Office to propose an outline of corrected addresses, and

WHEREAS, a spreadsheet showing current and recommended corrected addresses has been provided, and

WHEREAS, the Town of Bergen Town Board finds it in the best interest of the Town of Bergen and the residents of Peachey Road to implement address changes, and

WHEREAS, the Town of Bergen Town Board finds the recommendations acceptable as modified and provided and attached as Appendix A **NOW, THEREFORE BE IT**

RESOLVED, that the Town Board of the Town of Bergen authorizes the reassignment of addresses on Peachey Road in the Town of Bergen as outlined in Appendix A.

The following is a true and accurate record of votes cast for this resolution.

Supervisor Donald Cunningham Aye
Deputy Supervisor/Councilman Joseph Nenni Aye
Councilman Hugh McCartney Aye
Councilman Brian Stone Aye
Councilwoman Belinda Grant Aye

NEXT MEETING:

Regular Meeting – Tuesday, March 12, 2013 at 7:00 PM in the Courtroom with the audit of the bills at 6:45 p.m.

ADJOURNMENT was at 7:38 pm on a motion by Councilman Nenni; seconded by Councilman McCartney and it carried by a vote 5-0.

Respectfully submitted,

Michele M. Smith

Michele M. Smith,
Town Clerk