

**Town Board Meeting  
Town of Bergen  
March 12, 2013**

**I Audit of the bills 6:45pm, Call to Order 7:00pm.**

**Prayer** Almighty God, grant us wisdom that we may remember as we work, that we are servants of our constituency and all our decisions should be in the best interests of the Town and its citizens, entirely unblemished by any thoughts of personal benefit. Bless us with tolerance and understanding for opinions differing from our own and help us keep an open mind in gathering information before voting on all issues. Help us overcome any ignorance of our duties and enable us to learn more of the intricacies of the roles we have assumed. May we rest assured to know You are with us and will guide us through all we do. Amen.

**Pledge to the flag**

**II Privilege of the Floor** - Robert Fox, CPA, EFP Rotenberg. Summary review of 2012 Town Financials.

**III Approval of Meeting Minutes for** – February 26th, 2013

**IV Communications:**

1. Supervisors Report for January, February 2013 - Delayed
2. January, February 2013 Summary Spreadsheet - Delayed
3. Town Clerks Report for February 2013
4. Zoning & Code Enforcement Log Sheet for February 2013
5. Dog Control Inspection Report from NYS Dept. of Ag & Markets
6. Copy of annual retainer agreement from Lacy Katzen LLP.
7. Copy of letter from Assemblyman Hawley, Re: Resolution Opposing NYS Safe Act
8. Letter & Payment Application #2 details for Peachey Road Water District
9. Notice from Stuart Brown Assoc., Re: Local Seminar
10. Resolution for Road Closure during Bicentennial Ceremony
11. Parks Survey sample

**V Board Members' items for addition to the agenda**

**VI Reports:**

- Zoning / Code Enforcement
- Highway
  - Discussion / Action on Resolution for Road Closure during Bicentennial Ceremony

**-Committees**

- Highway & Parks (next meeting March 5<sup>th</sup>)
  - Discussion / Approval of Parks Survey
- Buildings – Briefing on Roof Bids
  - Discussion / Action on bids for replacement roof at 15 So. Lake.
- Village Relations – Next meeting April 2<sup>nd</sup>.

**VII Old Business:**

- Peachey Rd. Water District
  - Work progressed to Creamery Road along with boring under creek.
  - Project meeting scheduled for March 13.

**VIII New Business:**

- Discussion / Approval of Payment Application #2 for Peachey Road Water District
- Discussion / Approval of annual retainer agreement from Lacy Katzen.
- Discussion / Approval of Resolution for Bicentennial road closure.

**IX Reports & Bills:**

- Action to file Town Clerks reports
- Approve payment of the bills.

**X Next Meeting Day:** Next meeting Tuesday 03/26/13, Joint Session with the Village of Bergen at **6:30 pm** in the courtroom.

**XI Request for Executive Session of the Town Board to discuss employment history of a particular person**

**XII Adjournment**

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Supervisors Report for  
January & February 2013  
Delayed for 2012  
Fiscal Year Closeout.

January & February 2013  
Summary Spreadsheet  
Delayed for 2012  
Fiscal Year Closeout.







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STATE OF NEW YORK  
DEPARTMENT OF AGRICULTURE & MARKETS  
10B AIRLINE DRIVE  
ALBANY, NEW YORK 12235  
<http://www.agmkt.state.ny.us>

March 1, 2013

Michele Smith  
Town Clerk - Town of Bergen  
PO Box 249  
Bergen, NY 14416

**COPY**

Enclosed is the **Dog Control Officer Inspection Report** completed on **02/26/2013**. This inspection relates to Agriculture and Markets Laws and Regulations which may be viewed on the website above.

As the report indicates, DCO services were rated "Satisfactory". Please make note of any comments listed on the report.

Dog control officer services are subject to inspection by this agency on a regular basis.

Please notify this office within 30 days of any changes in DCO services.

If you have any questions regarding this inspection, please call me.

Patricia Famiglietti  
Animal Health Inspector  
(585) 261-5844

## DOG CONTROL OFFICER INSPECTION REPORT - DL-89

Rating: Satisfactory365

Purpose: Inspection

DATE/TOA: 2/26/13 11:35 am

GENESEE COUNTY SHERIFF  
3841 W MAIN ST ROAD  
BATAVIA NY 14020

Inspector: Patricia Famiglietti

Inspector #: 56

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 These are the findings of an inspection of your facility on the date(s) indicated above:
 

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
- |   |     |
|---|-----|
| <b>1. Equipment is available for proper capture and holding</b>   | Yes |
| <b>2. Dogs are held and transported safely</b>  | Yes |
| <b>3. Equipment maintained in clean and sanitary condition</b>  | Yes |
| <b>4. Veterinary care is provided when necessary</b>  | Yes |
| <i>Batavia Animal Hospital, State Street Animal Hospital and veterinarians on staff at Genesee Community College (in an agreement established with the county) provided services.</i>   |     |
| <b>5. Dogs are euthanized humanely</b>  | Yes |
| <i>Batavia Animal Hospital or veterinarians on staff at Genesee Community College (in an agreement established with the county) provided this service.</i>  |     |
| <b>6. Complete seizure and disposition records are maintained for all seized dogs</b>   | Yes |
| <b>7. Dogs transferred for purposes of adoption in compliance with Article 7</b>  | Yes |
| <b>8. Redemption period is observed before adoption, euthanasia or transfer</b>   | Yes |
| <i>One dog was euthanized the same day it was seized due to health issues that required extensive medical care in order to make the dog comfortable. The examining veterinarian's report detailing the findings and warranting such action be taken is on file.</i> |     |
| <b>9. Owners of identified dogs are properly notified</b>   | Yes |
| <b>10. Redeemed dogs are licensed before release</b>  | Yes |
| <b>11. Proper impoundment fees paid before dogs are released</b>  | Yes |

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**Town - City - Village Information for Inspection:**

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<b>TCV CODE</b>	<b>TCV NAME</b>
1801	Town of Alabama
1802	Town of Alexander
1803	Town of Batavia
1804	Town of Bergen
1805	Town of Bethany
1806	Town of Byron
1807	Town of Darien
1808	Town of Elba
1809	Town of Le Roy
1810	Town of Oakfield
1811	Town of Pavilion
1812	Town of Pembroke
1813	Town of Stafford



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**Additional Information for Inspection:**

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**Number of Dogs Seized:**

Number of dogs seized since previous inspection: 363

**REMARKS:****REPRESENTATIVE PRESENT FOR INSPECTION: Ann Marie Brade**  
**TITLE: DCO****REVIEWED BY: David Phillips**  
**REVIEWED DATE: 02/28/2013**



February 27, 2013

Honorable Donald Cunningham  
Town of Bergen Supervisor  
10 Hunter Street  
Bergen, New York 14416

Dear Supervisor Cunningham:

This letter will set forth the terms of our annual retainer as attorneys for the Town of Bergen for the year 2013. The present amount of that annual retainer is \$2,800.00 which is paid by the Town quarterly and includes work for the Town of Bergen, the Town Planning Board and the Town Zoning Board of Appeals.

The services covered by the retainer include any and all matters pertaining to general municipal law and/or town law with respect to the operation of the Town. This includes the preparation of local laws and ordinances, responding to requests from Planning Board and Zoning Board of Appeals, occasional attendance as needed and requested at Town Board Meetings, Zoning Board Meetings and Planning Board Meetings, telephonic communications and written communications between Town officers, Board members or employees and our law firm with respect to advice on questions of municipal law or town law, and research in connection with any of all aforementioned matters.

Services not covered by the retainer: any matters of civil or criminal litigation either commenced on behalf of the Town or defended on behalf of the Town, the negotiation of contracts (other than routine contracts provided for by the town law), financing matters such as bond anticipation notes or bonds and other specific matters which occur on a nonrecurring basis.

Additionally, the Town is responsible for any disbursements for any matters, whether covered by this retainer or not. Examples of disbursements are long distance telephone calls, court filing fees, copying charges, transcript charges, travel costs (other than between our offices and the Town of Bergen) and monies paid to other individuals for professional services outside of our law firm such as accountants and appraisers.

I trust that this agreement is consistent with your understanding of our retainer over the years. In the event that you are in agreement with it, kindly sign the enclosed copy and return it to me. In the event that you have any questions or believe that modifications should be made, please do not hesitate to contact me.

Very Truly Yours,

LACY KATZEN ZLP



Daniel S. Bryson

DSB/clj  
Enclosure

I, Donald Cunningham, Town Supervisor on behalf of the Town of Bergen, do hereby agree with the terms as set forth above.

Date: \_\_\_\_\_



COPY

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THE ASSEMBLY  
STATE OF NEW YORK  
ALBANY

**STEVE HAWLEY**  
MINORITY WHIP  
Assemblyman 139<sup>th</sup> District  
Genesee, Orleans, and Monroe Counties

March 1, 2013

Hon. Michelle Smith, Town Clerk  
Town of Bergen  
P.O. Box 249, 10 Hunter Street  
Bergen, NY 14416

Dear Town Clerk Smith:

*Michelle:*

Thank you for forwarding the Town of Bergen's resolution opposing the process of enactment and certain provisions contained within the New York Safe Act.

I want to thank you for the information you have provided on this law. In light of recent tragedies in places like Webster and Newtown, I too share our community's desire to ensure that New York's laws provide the public safety protections that our families need and deserve.

However, the hurried passage of this critical legislation is an example of government dysfunction at its worst. Instead of hastily infringing upon the Second Amendment rights of New Yorkers, we should have engaged in a measured debate that truly protects our children and families from dangerous criminals and those unfit to bear arms. My vote on this bill was a resounding "NO"! Enforcing our current gun laws, competent and thorough background checks and mental health care efforts would have been a great alternative to this widely-controversial piece of legislation.

I currently have a petition to repeal the law and approximately 48 hours after its launch, I have received over 700 signatures. I will continue the fight to uphold our Second Amendment right to the United States Constitution!

Your voice has great value and makes it possible for me to represent you accurately. Please do not hesitate contacting me if you have any further concerns or questions.

Sincerely,

STEVE HAWLEY  
Member NYS Assembly

SMH:esb

03/04/13  
DSC



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**CHATFIELD ENGINEERS, P.C.** • 2800 Dewey Avenue • Rochester, New York 14616  
(585) 227-6040 • Fax (585) 227-4233

February 28, 2013

CE #07-823

Supervisor Donald Cunningham  
And Town Board Members  
Town of Bergen  
10 Hunter Street, PO Box 249  
Bergen, NY 14416

RE: Town of Bergen Peachey Road Water District  
Pay Application No. 2

Dear Don and Town Board Members:

We have enclosed for your review and approval (1) copy of Pay Application No. 2 for the above referenced Project.

**The Total Amount Payable for this Application is \$61,089.56.** This Contract is 19% complete as of February 27, 2013.

Upon your review, should you have any questions, please do not hesitate to call me.

Sincerely,

Scott D. Mattison

Enc.

cc. (by email only):

Michele Smith, Town Clerk (w/ Enc.)  
Kathy Dear, Stuart I. Brown Assoc. (w/ Enc.)  
Steve Davis, USDA RD (w/ Enc.)  
Dawn Kuras, USDA RD (w/ Enc.)



Contract for Construction  
Town of Bergen  
Peashey Road Water District  
Water Main Installation

Owner:  
Town of Bergen  
10 Hamer Street  
Bergen, NY 14416

Pay Application No. 2  
Period of Application  
February 12, 2013 to February 27, 2013

Contractor:  
Mac-Wal Construction Co. Inc.  
440 Gould Avenue  
Depew, NY 14043

Base Bid Part 1 (Lake Road & Boring at Peashey Road)

Item #	Description	Qty	Unit	Unit Price	Amount	This Period		Total To Date		
						Quantity	Amount	Quantity	% Payable	
01105	Maintenance & Protection of Traffic	1	LS	\$20,000.00	\$20,000.00	0	\$0.00	0	0%	
02229	Rock Removal	115	CY	\$0.91	\$111.15	0	\$0.00	0	0%	
02230	Sheet Pile	1520	CY	\$3.75	\$5,700.00	0	\$0.00	0	0%	
02518	Test Assembly	2	EA	\$1,500.00	\$3,000.00	0	\$0.00	0	0%	
02612A	8" DR-14 PVC Water Main	200	LF	\$4.00	\$800.00	0	\$0.00	0	0%	
02612B	10" DR-14 PVC Water Main	12,200	LF	\$25.50	\$311,100.00	2,108	\$53,754.00	2,108	75%	
02612C	Pipe Bedding for PVC Pipe	12,400	LF	\$5.00	\$62,000.00	33	\$165.00	33	100%	
02631B	1" Corporation Stop, Tap & Saddle	54	EA	\$118.00	\$6,372.00	2	\$236.00	2	100%	
02632A	1" Short Side Service	280	LF	\$5.00	\$1,400.00	0	\$0.00	0	0%	
02632B	1" Long Side Service	1,830	LF	\$5.50	\$10,065.00	0	\$0.00	0	0%	
02633	1" Curb Stop and Box	54	EA	\$380.00	\$20,520.00	0	\$0.00	0	0%	
02645A	Hydrant Assembly	22	EA	\$4,100.00	\$90,200.00	4	\$16,400.00	4	90%	
02645B	6" Long Hydrant Extension	1	EA	\$342.00	\$342.00	0	\$0.00	0	0%	
02645C	12" Long Hydrant Extension	1	EA	\$393.00	\$393.00	0	\$0.00	0	0%	
02645D	18" Long Hydrant Extension	1	EA	\$437.00	\$437.00	0	\$0.00	0	0%	
02650	Direct Water Main Connection	1	EA	\$4,000.00	\$4,000.00	0	\$0.00	0	0%	
02654	2" Tapped Tee, Blow-Off	1	EA	\$950.00	\$950.00	0	\$0.00	0	0%	
02660A	8" Gate Valve, Box and Marker	1	EA	\$1,100.00	\$1,100.00	1	\$1,100.00	1	0%	
02660B	10" Gate Valve, Box and Marker	15	EA	\$2,800.00	\$42,000.00	4	\$8,000.00	4	90%	
02670	Horizontal Highway Boring at Peashey Road	1	LS	\$72,000.00	\$72,000.00	0	\$0.00	0	0%	
2671A	10" HDPE Water Main Directional Drilled	900	LF	\$35.00	\$31,500.00	0	\$0.00	0	0%	
2671B	10" NJ DI Water Main Directional Drilled	175	LF	\$150.00	\$26,250.00	0	\$0.00	0	0%	
02720	12" SICPP Culvert w/ End Sections	60	LF	\$400.00	\$24,000.00	0	\$0.00	0	0%	
02920A	Asphalt Road Restoration	130	LF	\$50.00	\$6,500.00	0	\$0.00	0	0%	
02920B	Asphalt Driveway Restoration	350	LF	\$35.00	\$12,250.00	26	\$910.00	26	50%	
02920C	Crushed Stone Driveway Restoration	625	LF	\$2.00	\$1,250.00	99	\$198.00	99	90%	
02934	Removal and Disposal of Existing Trees	5	EA	\$800.00	\$4,000.00	0	\$0.00	0	0%	
02936	Seeding Restoration	0	LS	\$10,000.00	\$0.00	0	\$0.00	0	0%	
Total Contract Amount (Base Bid Part 1) =					\$756,780.15	Total Work Completed to date (Base Bid Part 1) =				

Base Bid Part 2 (Peashey Road)

Item #	Description	Qty	Unit	Unit Price	Amount	This Period		Total To Date		
						Quantity	Amount	Quantity	% Payable	
01105	Maintenance & Protection of Traffic	1	LS	\$5,520.00	\$5,520.00	0	\$0.00	0	0%	
02229	Rock Removal	35	CY	\$0.91	\$31.85	0	\$0.00	0	0%	
02230	Sheet Pile	300	CY	\$25.00	\$7,500.00	0	\$0.00	0	0%	
02612A	8" DR-14 PVC Water Main	3,400	LF	\$18.50	\$62,700.00	0	\$0.00	3,219	75%	
02612C	Pipe Bedding for PVC Pipe	3,400	LF	\$5.00	\$17,000.00	0	\$0.00	0	0%	
02631B	1" Corporation Stop, Tap & Saddle	27	EA	\$395.10	\$10,667.70	0	\$0.00	1	100%	
02632A	1" Short Side Service	70	LF	\$5.00	\$350.00	0	\$0.00	3	100%	
02632B	1" Long Side Service	370	LF	\$4.785.00	\$1,770.45	0	\$0.00	0	0%	
02633	1" Curb Stop and Box	27	EA	\$380.00	\$10,260.00	0	\$0.00	1	100%	
02645A	Hydrant Assembly	6	EA	\$3,900.00	\$23,400.00	0	\$0.00	6	90%	
02645B	6" Long Hydrant Extension	1	EA	\$342.00	\$342.00	0	\$0.00	0	0%	
02645C	12" Long Hydrant Extension	1	EA	\$393.00	\$393.00	0	\$0.00	0	0%	
02645D	18" Long Hydrant Extension	1	EA	\$437.00	\$437.00	0	\$0.00	0	0%	
02654	2" Tapped Tee, Blow-Off	1	EA	\$950.00	\$950.00	0	\$0.00	0	0%	
02660A	8" Gate Valve, Box and Marker	3	EA	\$1,000.00	\$3,000.00	0	\$0.00	3	90%	
02720	12" SICPP Culvert w/ End Sections	20	LF	\$400.00	\$8,000.00	0	\$0.00	0	0%	
02920B	Asphalt Driveway Restoration	150	LF	\$35.00	\$5,250.00	0	\$0.00	184	50%	
02920C	Crushed Stone Driveway Restoration	25	LF	\$2.00	\$50.00	0	\$0.00	28	90%	
02934	Removal and Disposal of Existing Trees	3	EA	\$1,000.00	\$3,000.00	0	\$0.00	0	0%	
02936	Seeding Restoration	0	LS	\$14,000.00	\$0.00	0	\$0.00	0	0%	
Total Contract Amount (Base Bid Part 2) =					\$149,785.05	Total Work Completed to date (Base Bid Part 2) =				

Change Orders

C.O. #1 \$0.00  
C.O. #2 \$0.00  
C.O. #3 \$0.00  
Total C.O.'s \$0.00

Less Previous Estimates

Est. #1 \$98,813.32  
Est. #2 \$0.00  
Est. #3 \$0.00  
Est. #4 \$0.00  
Est. #5 \$0.00  
Total \$98,813.32

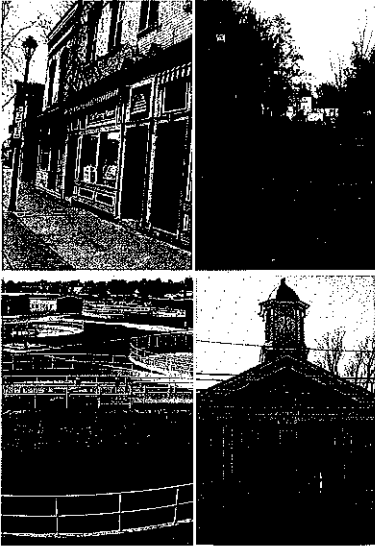
Total Work Completed to date (Base Bid Part 1 + Part 2) = \$168,318.83  
Original Contract = \$906,565.20  
Change Orders = \$0.00  
Revised Contract = \$906,565.20

Total Materials Stored on Site = \$0.00  
Sub-Total To Date = \$168,318.83  
Less Retainage Amount (5%) = \$8,415.94  
Sub Total = \$159,902.88  
Less Previous Estimates = \$98,813.32

Balance to Finish = \$78,246.39

# Funding for Municipal Projects

## *Free Seminar in Batavia*



You are invited to a free seminar on potential state and federal funding opportunities. Stuart Brown Associates will be holding a seminar for municipalities in Genesee, Wyoming and Orleans County on the changes in funding opportunities and funding available to help your community.

## Funding for Municipal Projects

*State and Federal Funding Sources*

**Thursday, March 21, 2013**

**9:00 - 10:30 a.m.**

**Batavia City Hall**

**2nd Floor Council Room**

**One Batavia City Centre**

**Batavia, NY**

**LABELLA**  
Associates, P.C.

**Please RSVP**

**by March 18, 2013**

Stephanie Rankin

srankin@labellapc.com

Phone: 585-295-6262

Fax: 585-454-3066

Learn about potential funding for:

- **Water & Sewer Infrastructure Projects**
- **Downtown / Main Street Projects**
- **Parks / Trails / Historic Preservation**
- **Green Infrastructure / Sustainable Development**
- **Waterfront Revitalization & Community Planning**
- **Economic Development**

**RESOLUTION FOR ROAD CLOSURE**

**RESOLUTION- - 2013**

**(TOWN OF BERGEN'S BICENTENNIAL DEDICATION CEREMONY)**

**WHEREAS, THE** Town of Bergen's Bicentennial dedication Ceremony, is scheduled on Saturday, April 13, 2013 at 01:00pm, and

**WHEREAS,** Town of Bergen's Bicentennial dedication Ceremony will be at Mount Rest Cemetery at the corner of New York State Route 19 and Townline Road, Route 262, located within the Town of Bergen, and

**WHEREAS,** Town Board of the Town of Bergen, New York has determined that it is necessary to close Townline Road, Route 262, from Buffalo Street Extension to New York State Route 19 within in the Town of Bergen to adequately protect the health, safety and welfare of the participants of the Bicentennial Dedication Ceremony;

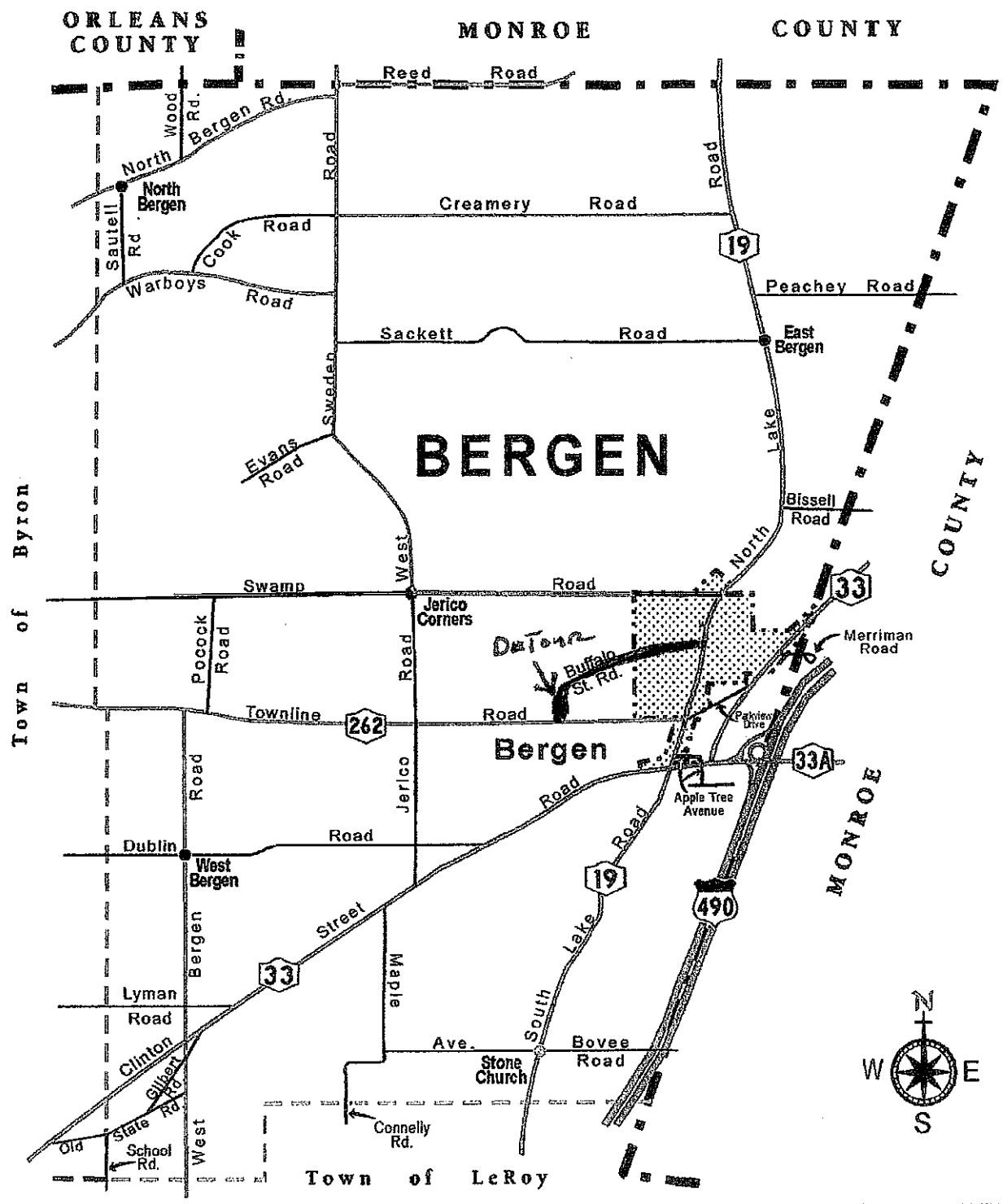
**NOW, THEREFORE, IT IS HEREBY RESOLVED AND ORDERED** by the Town Board of the Town of Bergen, New York that the Townline Road, Route 262, from Buffalo Street Extension to New York State Route 19 within in the Town of Bergen shall be closed within the Town of Bergen, New York on Saturday, April 13<sup>th</sup> from 12:30 pm in order to permit this Bicentennial Dedication Ceremony to proceed, and

The Town of Bergen will be responsible for obtaining all necessary documentation from Genesee County Highway Department and to notify the Genesee County Sheriff and the Bergen Fire Department and to comply with all requirements of said agencies. The Town of Bergen will also take the responsibility to make all necessary arrangements for traffic control (barricades, flag persons, signs, etc...).

**BE IT FURTHER RESOLVED AND ORDERED** that said road shall be reopened to passage of vehicular traffic as soon as it is practicable after the conclusion of said Ceremony.



# Town of Bergen



- State Road
- County Road
- Town Road

Town of Bergen's location in Genesee County

Established on April 2, 1813

# Town of Bergen – Parks Survey

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The Town of Bergen's Parks Committee is seeking input from the Bergen community regarding the parks that are owned and managed by the Town of Bergen. Please take a moment to complete this survey. Your feedback and thoughts will help to shape the future of the Town's parks. Forms can be mailed or dropped off at the Town of Bergen or the Gillam-Grant Community Center.

1. What improvements would you like to see at Robin's Brook Park?

Please circle *Need Level* : 1-Strong Need    2 -Need    3- Not Needed

- A. Building to house restrooms & storage    1    2    3
- B. Bleachers/benches    1    2    3
- C. Dugouts    1    2    3
- D. Walking Trails    1    2    3
- E. Pavilion    1    2    3
- F. Picnic areas    1    2    3
- G. Lights for sporting areas and walkways    1    2    3
- H. Other \_\_\_\_\_

2. Are you familiar with Drew's Nature Center and its location?     YES     No

3. Have you ever used Drew's Nature Center?     YES     No

If yes, what have you used it for? \_\_\_\_\_  
\_\_\_\_\_

4. Are you familiar with Linear Park and its location?     YES     No

5. Have you used Linear Park?     YES     No

If yes, what have you used it for? \_\_\_\_\_  
\_\_\_\_\_

6. Demographic Information of person completing the form:

A. Resident of: \_\_\_\_\_

B.  Male     Female

C. Age Range:     Under 25     25-40     41-65     Over 65

7. Any additional thoughts or ideas: \_\_\_\_\_  
\_\_\_\_\_

3/4/13