

**Town Board Meeting
Town of Bergen- Town Hall
April 23, 2019**

Agenda

I. Call to Order 7:00 pm

Prayer Almighty God, as we meet today to conduct matters of Town business, grant us the wisdom to remember as we work that we are servants of our constituency. Assist us to be sure our decisions should be in the best interests of the Town and its citizens, entirely unblemished by any thoughts of personal benefit. Amen.

Pledge to the flag

II. Privilege of the Floor- Mickey Edwards- Byron-Bergen School proposed 2019/20 budget
-MRB- Overview of Proposed Water Benefit Area #1

III. Approval of meeting Minutes for- April 9, 2019meeting

IV. Communications included with this agenda:

1. Mercy EMS summary report for March 2019
2. 4/10/19 USDA letter re: Preliminary Eligibility Determination –Water Improvement Benefit Area
3. Draft proposed Incentive Zoning Law
4. Sleds of Stafford request landowner permission for use of town property for snowmobile trails
5. Letter from NYS AG and Markets – outcome of Municipal animal shelter inspection
6. Letter from NYS AG and Markets – Dog Control Officer inspection report
7. Letter from Harris Beach – Regarding revised PILOT for two parcels on Buffalo Rd. an of 2/1/19
8. Draft Notice of Informational meeting for Town of Bergen Water Improvements Benefit Area #1
9. Letter from Genesee County Office of Emergency Management – invite to the Genesee County Hazard Mitigation Plan update – plan draft review meeting 5/28/19

V. Board Members' items for addition to the agenda

VI. Reports:

- Supervisor
- Clerk
- Board Members
- Zoning / Code Enforcement: - Update on property at - 6471 W. Sweden Road

- Highway
 - Update on Town Barn- demolition
 - Appliances /tires at transfer station

Committees

- Building, Grounds, Facilities and cemeteries- Set date for annual tour of town properties
- Parks- Park Renovations- Update on Pavilion and other purchases
- Local History & Museum
- Policy and Personnel
- Solar

VII. Old Business:

- Water Benefit Improvement area #1 Update- Formal approval to accept funding offer from USDA
- Approval of the Amended Towns of Bergen Assessment Services Agreement
- Solar PILOT Law- discussion

VIII. New Business

- Contract for Trash removal from Transfer station
- Incentive Zoning
- Request of Sleds of Stafford for use of Town property for snowmobile trails

IX. Meeting and Other Upcoming Dates

- Next Meeting: Tuesday 5/14/19 7 pm- Town Hall Court Room- Audits of Bills at 6:45pm
- Public Meeting regarding proposed Water District Benefit Area #1 and Town Board meeting
5/28/19 7pm
at the auditorium at the Byron-Bergen Central School.

XI. Adjournment

DRAFT

April 9, 2019

BERGEN TOWN BOARD

REGULAR MEETING

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

PRESENT:

Supervisor Ernie Haywood
Councilwoman Anne Sapienza
Councilman Jim Starowitz
Councilman Mark Anderson

ALSO PRESENT:

Michele M. Smith, Town Clerk
Mike Johnson, Highway Superintendent

ABSENT:

Councilwoman Belinda Grant

PRAYER

PLEDGE OF ALLEGIANCE TO THE FLAG

MINUTES: *Councilman Starowitz made a motion to approve the minutes of March 26, 2019; seconded by Councilwoman Sapienza and carried by a vote 3-0. Councilman Anderson abstained*

COMMUNICATIONS:

Supervisors Report for March 2019
Summary Spreadsheets for March 2019
Town Clerk's Report for March 2019
ZEO/CEO Report for March 2019
Assessment Services Agreement with Town of Batavia
Charter Communications change
Proposed Solar Energy System PILOT Law
Letter from MRB Thompson Build awarded bid for pavilion at Robins Brook Park

REPORTS:

SUPERVISOR'S REPORT: attended building meeting today; out of town April 12-22; PILOT programs look at incentive zoning law in the future ; schedule building walk through; DASNY report sent
TOWN CLERK: 7060 W Bergen Rd. property issues- receiving complaints and garbage fire on property
HIGHWAY: Truck back from body shop-second insurance check on the way; working on spring cleanup; DEC meeting about Transfer Station complaints;
ZEO/CEO: Supervisor reported Dave should notify resident at 6571 W Sweden Rd. and send a certified letter of fines
TOWN CLERK'S REPORTS: *Councilman Starowitz made a motion to file the Town Clerk's March 2019 Report; seconded by Councilwoman Sapienza and it carried by a vote 4-0.*
SUPERVISORS REPORT *Councilman Anderson made a motion to file the March 2019 Supervisors Report; seconded by Councilman Starowitz and it carried by a vote 4-0.*

COMMITTEES:

Buildings & Grounds and Cemeteries: Title insurance for cemeteries; met with architect about library grant money and project
Parks: Thursday, the 11th at 3:00 pm for preconstruction meeting for Robins Brook Park pavilion.
Local History & Museum: Nothing to report
Policy and Procedure Supervisor Secretary Leisa Strabel is working on Employee Handbook
Transfer Station: Nothing to report
Solar: met with GCEDC- they think they should negotiate any PILOT; met with Village about solar at the Sewer Plant; meeting Kevin and Brownfield tomorrow, ask for Paul Chatfield's advice.

OLD BUSINESS:

Water improvement Benefit Area #1: conference call scheduled with USDA for dollar amount on Friday, the 12th.

NEW BUSINESS:

Set Public Hearing proposed Solar Energy PILOT Law - tabled
Amended Assessment Service Agreement tabled until next meeting

BILLS: The bills were presented for audit and totaled General A Fund \$18,307.88; General B Fund \$6,525.68; Highway DB \$27,361.69; PA-A \$3,391.85; PA-DB \$4,366.91. *Councilman Starowitz made a motion to pay the April bills; seconded by Councilman Anderson and it carried by a vote 4-0.*

REGULAR MEETING – Tuesday, April 23, 2019 at 7:00 pm in the Courtroom

ADJOURNMENT *was at 7:40 pm on a motion by Councilwoman Sapienza; seconded by Councilman Starowitz and carried by a vote 4-0.*

Respectfully submitted

Michele M. Smith

Michele M. Smith,
Town Clerk

FD GEN BERGEN

Trip Date IS BETWEEN 03/01/2019 AND 03/31/2019; AND Call Types IS A-MEMS 911 Response 1st Unit OR A-MEMS Squad Resp 1st Unit; AND Initial Priorities IS 911 EMERGENCY

Response Time Minutes	Call Count	Cumulative Call Count	Percentage of Total Calls	Cumulative Percentage
FD GEN BERGEN				
Response Zone:GEN BERG 17				
05:00 - 05:59	1	1	20%	20%
16:00 - 16:59	3	4	60%	80%
21:00 - 21:59	1	5	20%	100%
Total Calls:	5	5	100%	
Response Zone:GEN BERG 22				
14:00 - 14:59	1	1	33%	33%
20:00 - 20:59	1	2	33%	67%
23:00 - 23:59	1	3	33%	100%
Total Calls:	3	3	100%	
Call Source Total Calls:		8		



April 10, 2019

Town of Bergen
Attn: Ernest Haywood, Supervisor
10 Hunter Street
Bergen, NY 14416

RE: Preliminary Eligibility Determination
Town of Bergen WIBA #1

Dear Supervisor Haywood:

We are in receipt of your application for assistance from USDA, Rural Development for your proposed water project. The proposed project has been found eligible for funding under the Water and Environmental Program (WEP).

The Initial Application scored 85 priority points. The application will compete with similar applications through a priority ranking system for Fiscal Year 2019 funds.

An application conference call to discuss your eligibility and the next state in processing your application has been scheduled **for Friday, April 12th at 10:00 AM.** **You have 30 days from the date of this meeting to accept our funding offer or request your application be withdrawn (must be in writing).** *The project funding is subject to funding availability at the time your application is ready for approval.*

Based upon the information submitted to date the **estimated funding package** is proposed as follows:

Population: 864 (service area)
Median Household Income (MHI): \$44,400 based upon income survey

Estimated Rural Development Loan (2.500% - 38 yrs.)	\$5,900,000
Estimated Rural Development Grant	<u>\$3,058,000</u>
Total Project Cost	\$8,958,000

Number of Equivalent Dwelling Units (EDU) Debt Service: 435 O&M: 388

Estimated Cost per EDU breakdown (per year)	
Debt Service (Rural Development)	\$557.18
O & M	<u>\$346.87</u>
Estimated Cost per EDU	\$904.05
Percent of MHI	2%

Rural Development • Cortland Office
1 N. Main St. 2nd Floor
Cortland, NY 13045
Voice (607)218-3519 • Fax (607)753-3190 TDD (315)477-6447

USDA is an equal opportunity provider, employer, and lender.

If you wish to file a Civil Rights program complaint of discrimination, complete the USDA Program Discrimination Complaint Form ,AD-3027, found online at http://www.ascr.usda.gov/complaint_filing_cust.html, or at any USDA office, or call (866) 632-9992 to request the form. You may also write a letter containing all of the information requested in the form. Send your completed complaint form or letter to us by mail at U.S. Department of Agriculture, Director, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410, by fax (202) 690-7442 or email at program.intake@usda.gov.

This Project Funding Estimate is not be construed or understood to be a commitment of funding. Please note that these loan and grant amounts may change depending on current interest rates and funding availability. Rural Development reserves the right to adjust these figures and make a final loan/grant determination.

If you have also applied for funding to the Environmental Facilities Corporation (EFC) or the Office of Community Renewal (OCR) or are deemed eligible for funding from any other funding source, it could jeopardize or change your potential funding from Rural Development. Your project will need to be re-underwritten and if you are still eligible for funding a revised Preliminary Funding Estimate will be issued.

Approval of the Preliminary Engineering Report and satisfactory completion of the Environmental Review process must occur prior to the issuance of the letter of conditions and approval of funds. You are advised against incurring any obligations or taking any actions that would have an adverse effect on the environment.

Further consideration of your request will proceed when a final determination has been reached regarding the engineering report, environmental impacts of the project and the underwriting is complete.

Please note the following:

1. Interest rates change quarterly. Actual interest rate will be determined at the time of funding commitment.
2. Tribal consultation is required as per advisory council on historic preservation section 106. USDA – Rural Development will initiate this action on behalf of the applicant.
3. Grant listed is the maximum potential amount. Grant amounts may be reduced due to changes in underwriting, interest rates, and/or funding availability.
4. The project may be eligible for additional funding from other government programs. The Water and Sewer Infrastructure Co-Funding Initiative assists municipalities in obtaining optimum funding packages for their projects. For more information, contact the Co-Funding website at www.nycofunding.org. *Please note that Co-Funding contributions may impact your funding eligibility.*

Sincerely,


JEAN SOULE
Area Specialist

Cc: Brenda Smith, Community Programs Director (via e-mail)
Christina Cerio, Programs Specialist (via e-mail)

Town of Bergen – Proposed Incentive Zoning Law- 4/19

ARTICLE VII Incentive Zoning

475-60 Purpose and objectives; authority; applicability.

A. Purpose. It is the purpose of this article to empower the Town Board to grant incentives to the private sector engaged in the land development process to advance the Town's specific policies in accordance with the Village and Town of Bergen's Comprehensive Plan.

B. Objectives. This authority may be used by the Town Board to assist the following objectives from the Village and Town of Bergen's Comprehensive Plan:

- (1)** Manage Bergen's growth and development to ensure an attractive, healthy, sustainable community for future generations.
- (2)** Balance growth and development with conservation of natural, agricultural, scenic and historic resources.
- (3)** Maintain the predominantly rural and agricultural character of the Town.
- (4)** Accommodate new residential, commercial and industrial development in locations consistent with the Future Land Use map.
- (5)** Retain the development patterns of historical hamlets.

C. Authority. In accordance with § 261-b of the Town Law of the State of New York, the Town Board is empowered to provide for a system of zoning incentives as the Town Board deems necessary and appropriate, consistent with the purposes and conditions set forth herein.

D. Applicability. Except as specifically limited herein, this article will apply to all zoning districts in the Town of Bergen.

§ 475-61 Definitions.

As used in this article, the following terms shall have the meanings indicated in the following definitions:

COMPREHENSIVE PLAN

The Town of Bergen Comprehensive Plan Update and Generic Environmental Impact Statement, if any, as amended from time to time.

INCENTIVE ZONING

The system by which specific incentives are granted, pursuant to § 261-b of the Town Law and the provisions of this article, on condition that specific physical, social or cultural benefits or amenities would inure to the community.

REVIEW

A preliminary, nonbinding review by the Town Board of an application for use of incentive zoning to determine the merits of applying the incentive zoning concept to a particular project.

SEQRA

The State Environmental Quality Review Act, Article 8 of the New York State Environmental Conservation Law, as amended, and the regulations promulgated thereunder.

§ 475-62 **Permitted incentives.**

The Town Board may grant the following specific incentives:

- A. Increases in residential unit density.
- B. Development of current residential unit density over a full parcel, as long as an equivalent amount of the open space that would have been required is provided for elsewhere.
- C. Changes in lot area and dimensional requirements.
- D. Changes of use.
- E. Development of properties with mixed uses, including various density residential, various specialty residential, such as senior citizen, affordable housing and assisted living, and commercial retail and hospitality uses.
- F. Reduction/elimination of recreation fees.
- G. Reduction of road construction standards applied under Chapter 379, Public Works Specifications; for example, permitting a slightly narrower pavement width to serve a limited development project.

§ 475-63 **Community benefits or amenities.**

A. The following community benefits or amenities may, at the discretion of the Town Board, be accepted in exchange for an incentive as provided in 475-62. These community benefits or amenities may be either on or off the site of the subject application, may involve one or more parcels of land and may be situated in any district, unless otherwise specifically limited in this chapter.

- (1) Agricultural conservation, open space, scenic, ecological, historic or other permanent conservation easements.
- (2) Donations of land in fee simple for conservation and other community benefit purposes.
- (3) Construction of recreation amenities, serving a Town-wide need, accessible to the general public, above and beyond that otherwise required by this chapter or by state law.
- (4) Construction or improvement to public works above and beyond that required to mitigate proposed impacts in accordance with SEQRA and the Town Code.
- (5) Preservation and improvements of historical or cultural sites or structures.

(6) Other facilities or benefits to the residents of the community, as determined by the Town Board.

(7) Any combination of the above-listed community benefits or amenities.

(8) Donations of funds in place of other amenities, where the Town Board considers such substitution more readily conducive to furthering the goals of this incentive zoning law, or in combination with other amenities where the Town Board finds such configuration appropriate.

B. These amenities will be in addition to any mandated requirements pursuant to other provisions of the Town of Bergen Code and any other applicable law or regulation.

§ 475-64 Special conditions.

A. The particular incentive granted will be in relative proportion to the value and importance of the amenity provided, as determined by the Town Board at the time of application.

B. Residential unit density increases will be granted in percent increments not to exceed 100% of the original zoned density for the particular parcel receiving the density increase.

C. Mixed-use projects shall be configured in use proportions as determined by the Town Board with a view toward striking a balance of uses so as to create mutual and interdependent functions.

§ 475-65 Criteria and procedure for approval.

A. Optional pre-application review. It is recommended that the applicant meet informally with Town support staff and consultants prior to completion of an application for purposes of gathering information for the proposed amenity/incentive exchange. The applicant is advised to review the Comprehensive Plan, the Resource Inventory and Evaluation Report and any other materials the Town may have on file regarding the incentive zoning program.

B. Applications. Applications for incentives in exchange for amenities will be submitted to the Town Board in accordance with adopted procedures for requests to amend this chapter. The application will include the following information:

(1) The requested incentive.

(2) The proposed amenity.

(3) The estimated cash value of the proposed amenity.

(4) A narrative which demonstrates the following:

(a) The benefits to the community from the proposed amenity.

(b) Consistency with the goals and objectives of the Village and Town's Comprehensive Plan.

(c) The relative importance of and need for the amenity.

(d) That there are adequate sewer, water, transportation, waste disposal and fire protection facilities in the zoning district in which the proposal is located to handle the additional demands

the incentive and amenity, if it is an on-site amenity, may place on these facilities beyond the demand that would be placed on them if the district were developed to its fullest potential exclusive of the incentive zoning proposed.

(e) That all conditions and other applicable requirements of the law are met.

(5) Any other information or support materials as needed or requested by the Town Board.

C. Review by Town Board. Within 45 days of submission of an application, pursuant to Subsection B herein, the Town Board will prepare a brief response to the proposal, outlining in writing the Town Board's determination on whether the proposal is worthy of further consideration and the basis for that determination. The Town Board may engage a consultant to assist in review of the application, the cost of which will be borne by the applicant. Suggested modifications to the proposal may also be provided by the Town Board to the applicant. With a supporting determination, the proposed application will be transferred to the Planning Board, provided that all consultant fees shall have first been paid by the applicant.

D. Advisory referral to Planning Board.

(1) The application will be submitted to the Planning Board for its nonbinding advisory opinion to the Town Board. The review at this stage is intended to obtain the input of the Planning Board for the subject land use decision. It is not intended to serve as a site or subdivision review, which would only occur after a decision by the Town Board on the incentive zoning request.

(2) The Planning Board will schedule a public workshop on the application, which may be conducted as part of its regularly scheduled meeting. The intent of the workshop is to share information between the applicant, the Planning Board and interested members of the public. The workshop will not supplant the formal hearing which will be conducted by the Town Board later in the review process.

(3) Within 45 days of receipt of the application from the Town Board, the Planning Board will prepare an advisory report to the applicant and the Town Board. The Planning Board's report will describe the beneficial aspects of the proposal and make recommendations for the amelioration of any adverse aspects of the proposal. The Planning Board's report and the application will then be transferred back to the Town Board for its final decision on the application.

E. Compliance with SEQRA.

(1) Every decision by the Town Board concerning an application for use of incentive zoning on a particular project will fully comply with the provisions of SEQRA.

(2) The applicant will submit an environmental assessment form, Part 1, to the Town Board after the referral by the Planning Board.

(3) The Town Board will establish itself as SEQRA lead agency for all applications submitted pursuant to this article.

(4) If a generic environmental impact statement has been prepared by the Town Board in enacting or amending this article, the applicant will pay a proportionate share of the cost of preparing such impact statement.

F. Public hearing by Town Board. Prior to its final decision and in conjunction with its SEQRA review, the Town Board will conduct a public hearing in accordance with the standard procedures for adoption of an amendment to this chapter. At least five days' notice (14 days if a draft environmental impact statement or supplemental environmental impact statement was required) of the time and place of the hearing will be published in an official newspaper of the Town.

G. Findings and final decision.

(1) Following the public hearing and completion of the SEQRA process, the Town Board will approve, approve with modifications or conditions or deny the proposed incentive zoning application. A written statement of the findings will be prepared by the Town Board documenting the basis of its decision. The findings will include, but not be limited to, the following:

(a) SEQRA. That all requirements of SEQRA have been met, including the required findings under that law and the regulations promulgated thereunder.

(b) Development capacity. That the proposed project, including the incentive, can be adequately supported by the public facilities available or provided as a result of the project, including but not limited to sewer, water, transportation, waste disposal and fire protection, without reducing the availability of such facilities for projects permitted as of right under the Town of Bergen Code.

(c) Public benefit. That the public benefit realized by the amenity provided by the applicant is commensurate with the incentive granted by the Town Board.

(d) Project quality. That the project is in harmony with the purpose and intent of this article and with the stated objectives and will promote the purposes herein, that the project is sufficiently advantageous to render it appropriate for grant of an incentive and that the project will add to the long-term assets of the Town of Bergen.

(e) Comprehensive Plan. That the use of incentive zoning for the particular project is consistent with the Comprehensive Plan.

(2) The Town Board may impose conditions on a project to ensure that the above findings are ensured through the subsequent plan review and construction phases of the project.

H. Plan review. Following the receipt of a favorable decision by the Town Board, an application for approval may be submitted pursuant to the applicable provisions of the Town of Bergen Code.

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(e) That all conditions and other applicable requirements of the law are met.

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(2) The Planning Board will schedule a public workshop on the application, which may be conducted as part of its regularly scheduled meeting. The intent of the workshop is to share information between the applicant, the Planning Board and interested members of the public. The workshop will not supplant the formal hearing which will be conducted by the Town Board later in the review process.

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E. Compliance with SEQRA.

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(2) The applicant will submit an environmental assessment form, Part 1, to the Town Board after the referral by the Planning Board.

(3) The Town Board will establish itself as SEQRA lead agency for all applications submitted pursuant to this article.

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G. Findings and final decision.

(1) Following the public hearing and completion of the SEQRA process, the Town Board will approve, approve with modifications or conditions or deny the proposed incentive zoning application. A written statement of the findings will be prepared by the Town Board documenting the basis of its decision. The findings will include, but not be limited to, the following:

(a) SEQRA. That all requirements of SEQRA have been met, including the required findings under that law and the regulations promulgated thereunder.

(b) Development capacity. That the proposed project, including the incentive, can be adequately supported by the public facilities available or provided as a result of the project, including but not limited to sewer, water, transportation, waste disposal and fire protection, without reducing the availability of such facilities for projects permitted as of right under the Town of Bergen Code.

(c) Public benefit. That the public benefit realized by the amenity provided by the applicant is commensurate with the incentive granted by the Town Board.

(d) Project quality. That the project is in harmony with the purpose and intent of this article and with the stated objectives and will promote the purposes herein, that the project is sufficiently advantageous to render it appropriate for grant of an incentive and that the project will add to the long-term assets of the Town of Bergen.

(e) Comprehensive Plan. That the use of incentive zoning for the particular project is consistent with the Comprehensive Plan.

(2) The Town Board may impose conditions on a project to ensure that the above findings are ensured through the subsequent plan review and construction phases of the project.

H. Plan review. Following the receipt of a favorable decision by the Town Board, an application for approval may be submitted pursuant to the applicable provisions of the Town of Bergen Code.