

**Town Board Meeting
Town of Bergen
December 28th, 2021
Town Hall- 10 Hunter Street, Bergen New York
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:

III. Administration of Oath of Office: Ernest Haywood, Supervisor
Theresa Whalin, Councilwomen
James Starowitz, Councilmen.

IV. Approval of meeting Minutes for: Regular Board meeting of 12/14/2021

V. Communications included with this agenda:

1. Mercy EMS report for November 2021
2. Proposed Town of Bergen budget transfers

VI. Board Members' items for addition to the agenda

VII. Reports:

Supervisor
Clerk
Board Members
Highway

Committees

- Building, Grounds, and Facilities (cemeteries)
- Parks
- Local History & Museum
- Policy and Personnel:

VIII. Old Business:

- Town of Bergen Water Improvement Benefit Area #1 project- Update:

IX. New Business:

- Resolution acknowledging Service of Town Councilwomen Anne Sapienza
- Approval of Budget Transfers for 2021
- Set date to tour Historian Office – Jan. 15th, Jan. 22nd or Jan. 29th

X. Meeting and Other Upcoming Dates:

- Town Board Meetings: Organizational Meeting 1/4/2022 6pm in the town hall
Regular Meeting 11th in the town hall- 6:45 audit of bills and 7 pm meeting

XI. Adjournment

DRAFT

DECEMBER 14, 2021

BERGEN TOWN BOARD

REGULAR MEETING

The Bergen Town Board convened in a regular session at 7:00 pm with Supervisor Haywood presiding.

PRESENT:

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

ALSO PRESENT:

Michele M. Smith, Town Clerk
Joel Pocock, Deputy Highway Superintendent

PRAYER

PLEDGE OF ALLEGIANCE TO THE FLAG

Open Public Hearing Local Law#2-2021 on Opting-Out of Cannabis at 7:00 pm

Open Public Hearing on Local Law #3-2021 Tobacco/THC products use on Town Property at 7:15 pm with a motion made by Councilman Starowitz; seconded by Councilwoman Grant and it carried by a vote 5-0.

Close Public Hearings Councilwoman Sapienza made a motion to close public hearings at 7:30 seconded by Councilman Starowitz and it carried by a vote 5-0.

MINUTES: Councilwoman Sapienza made a motion to approve the minutes of November 9, 2021 and November 30, 2021; seconded by Councilman Starowitz and carried by a vote 5-0.

COMMUNICATIONS:

Supervisors Report for November 2021

Summary Spreadsheets for November 2021

Town Clerk Report for November 2021

ZEO/CEO Report for November 2021- no activity

Mercy Flight Report for October 2021

Charter Communications letter

Committee objectives for Board to consider

Budget Modification resolution

Proposed Local Law adding Chapter 178 to the Bergen Code Opting Out of Cannabis Retail Dispensary and on-site consumption

Proposed Local Law adding chapter 179 to the Bergen Code concerning use of Cannabis/Tobacco, E Cigarettes and THC products on Town Properties

REPORTS:

SUPERVISOR: Signed BAN sale paperwork today closes on 12/28/21

TOWN CLERK: Marsha List resigned as of 12/1/2021-appointed new deputy in training; tax collecting is about to begin.

HIGHWAY/TRANSFER STATION: wind storm clean-up; signs removed from cemeteries for restoration; historian building tree clean up done.

TOWN CLERK'S REPORT: Councilwoman Grant made a motion to file the Town Clerk's November 2021 Report; seconded by Councilman Starowitz and carried by a vote 5-0.

SUPERVISOR REPORT: Councilman Starowitz made a motion to file the Supervisors November 2021 Report; seconded by Councilman Anderson and it carried by a vote 5-0.

COMMITTEES:

Building, Grounds and Cemeteries: Nothing to report

Parks: Nothing to report

Local History & Museum: Nothing to report

OLD BUSINESS:

Water improvement Benefit Area #1 Update: map of district and MRB Bid Summary and Recommendation Bid award planned for January 4, 2022.

NEW BUSINESS:

Local Law regarding Cannabis Opt-out Councilman Anderson made a motion to adopt Local Law #2-2021 to Opt-Out; seconded by Councilwoman Grant with a vote 3-2 Councilwoman Sapienza & Councilman Starowitz voting no

**LOCAL LAW #2-2021 ADDING CHAPTER 178 TO THE BERGEN TOWN CODE
OPTING OUT OF CANNABIS RETAIL DISPENSARY AND ON-SITE CONSUMPTION**

Be it enacted by the Bergen Town Board, County of Genesee, State of New York as follows:

Section 1. Title

This Local Law shall be referred to as "Local Law #2-2021 Opting Out of Hosting Retail Cannabis Dispensaries and/or On-site Cannabis Consumption Establishments Within its Boundaries.

Section 2. Authority

This local law is adopted pursuant to Cannabis Law § 131, which expressly authorizes cities and villages to opt-out of allowing retail cannabis dispensaries and/or on-site cannabis consumption establishments to locate and operate within their boundaries.

Section 3. Local Cannabis Retail Dispensary and On-Site Consumption Opt-Out

The Town Board of the Town of Bergen, Genesee County, hereby opts-out of allowing retail cannabis dispensaries and on-site cannabis consumption establishments from locating and operating within the boundaries of the Town of Bergen.

Section 4. Severability

If a court determines that any clause, sentence, paragraph, subdivision, or part of this local law or the application thereof to any person, firm or corporation, or circumstance is invalid or unconstitutional, the court's order or judgment shall not affect, impair, or invalidate the remainder of this local law, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, or part of this local law or in its application to the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

Section 5. Effective date

This local law shall take effect immediately upon filing with the Secretary of State. Pursuant to Cannabis Law § 131, this local law is subject to a permissive referendum and thus may not be filed with the Secretary of State until the applicable time period has elapsed to file a petition or a referendum has been conducted approving this local law.

Local Law regarding Cannabis/Tobacco usage on Town Property Councilwoman Sapienza made a motion to adopt Local Law #3-2021 adding chapter 179 to the Bergen Town Code concerning usage of Tobacco, Vaping, E-Cigarettes and THC-Containing products on Town Property; seconded by Councilman Starowitz and it carried by a vote 5-0.

**LOCAL LAW #3-2021 ADDING CHAPTER 179
TO THE BERGEN TOWN CODE CONCERNING
USAGE OF TOBACCO, VAPING, E-CIGARETTE
AND THC- CONTAINING PRODUCTS ON TOWN PROPERTY**

Be it enacted by the Bergen Town Board, County of Genesee, State of New York (hereinafter referred to as the Board), as follows:

SECTION 1. TITLE (§179-1)

This Local Law shall be referred to as "Local Law #3-2021 Adding Chapter 179 to the Bergen Town Code Concerning Usage of Tobacco, Vaping, E-Cigarette and THC-Containing Products Use on Town Property.

SECTION 2. AUTHORIZATION (§179-2)

This Local Law is adopted pursuant to the New York State Constitution Article IX, Town Law §261-§264 and Municipal Home Rule Law §10.

SECTION 3. PURPOSE AND INTENT (§179-3)

The Town of Bergen (hereinafter referred to as Bergen) has a responsibility to protect the health, safety, welfare and quality of life to Bergen residents, Bergen employees and the public at large. It is acknowledged and recognized that tobacco, vaping, e-cigarette and/or THC-containing products can contribute to significant health concerns and/or death to individuals. Consequently, individuals using property owned and/or maintained by Bergen are entitled to an environment devoid of tobacco, vaping, e-cigarette and THC-containing products in order to promote the best interests of the public.

SECTION 4. – PROHIBITED USAGE OF TOBACCO, VAPING, E-CIGARETTE AND THC-CONTAINING PRODUCTS (§179-4)

- A) The prohibitions and restrictions set forth in this section pertain to properties owned and/or maintained by Bergen.
- B) All usage of THC-containing products are prohibited and restricted at all properties owned and/or maintained by Bergen.
- C) All usage of tobacco, vaping and/or e-cigarette are restricted at all properties owned and/or maintained by Bergen in accordance with all federal, state and county laws and regulations governing same.
- D) As is deemed necessary from time to time, the Bergen Employee Handbook is to be amended to reflect the policy set forth herein.

SECTION 5. DISCIPLINARY ACTION (§179-5)

Any Town employee or official who is determined to have violated this Local Law is subject to appropriate disciplinary action including loss of wages, suspension of employment and/or termination of employment. Bergen reserves the right to additionally pursue legal recourse if appropriate.

SECTION 6. PENALTY FOR OFFENSES (§179-6)

- A) Any person determined to be in violation of this Local Law may be ejected and removed from Town property.
- B) Any person who is determined to be in violation of this Local Law shall be punishable by a fine of not less than \$75.00 or no more than \$150.00, and/or imprisonment of up to fifteen (15) days for each violation.

SECTION 7. SEVERABILITY AND/OR VALIDITY (§179-7)

If any clause, sentence, paragraph, subdivision, section or part of this Local Law, or the application thereof to any person, individual, firm or corporation, or circumstance, shall be adjudged by a Court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this Local Law, or in its application to the person, individual, firm or corporation, or circumstance, directly involved in the controversy in which said order or judgment shall be rendered.

SECTION 8. EFFECTIVE DATE (§179-8)

This Local Law shall take effect upon the date it is filed in the Office of the New York State Secretary of State in accordance with the Municipal Home Rule Law §27.

Reorganizational meeting date and time Councilwoman Grant made a motion to set January 4, 2022 at 6:00 pm for the Reorganizational meeting; seconded by Councilman Starowitz and it carried by a vote 5-0.
Committee assignments for 2022 Historian & Building committees opening with Councilwoman Sapienza's term is over board members to consider committee assignments before re-organization meeting January 4, 2022.

2021 Budget Modification Resolution Councilwoman Sapienza Resolution #29-2021 for a 2021 Budget Modification; seconded by Councilman Starowitz and it carried by a vote 5-0.

RESOLUTION #29-2021
2021 BUDGET MODIFICATION

NOW, THEREFORE, BE IT RESOLVED:

- Sec. 1. That the Supervisor is hereby authorized to make the following modifications to the 2021 Town Budget:
\$1,000 from A.5132.4 Garage Contractual to
A.5010.1 Superintendent of Highways Personal Services
- Sec. 2 That this resolution shall take effect immediately.

VOTE BY ROLL CALL AND RECORD:

Councilman Anderson
Councilwoman Grant
Councilwoman Sapienza
Councilman Starowitz
Supervisor Haywood

BILLS: The bills were presented for audit and totaled General A Fund \$10,101.92; General B Fund \$2,309.28; DA \$1,661.32; DB \$10,415.98; Water District \$9,022.23; PA-A \$3,214.65; PA-DA \$2,321.82 and PA-DB \$2,515.30.
Councilwoman Sapienza made a motion to pay the December bills; seconded by Councilwoman Grant carried by a vote 5-0.

REGULAR MEETING – Tuesday, December 28, 2021 at 7:00 pm at the Town Hall with the audit of the final bills of 2021 at 6:45pm

REORGANIZATIONAL MEETING – Tuesday, January 4, 2022 at 6:00 pm at the Town Hall

ADJOURNMENT was at 7:57 pm on a motion by Councilwoman Sapienza; seconded by Councilman Starowitz and carried by a vote 5-0.

Respectfully submitted

Michele M. Smith

Michele M. Smith,
Town Clerk

Genesee County 911
Response Times Report

GEN BERGEN FIRE

Report Date Range from: 11/1/2021 to 11/30/2021

Mercy Flight EMS

Report includes Emergent First On Scene Responses.

Response Time Minutes	Call Count	Cumulative Call Count	Percentage of Total Calls	Cumulative Percentage
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Response Zone: GEN BERG 17

14:00 - 14:59	1	1	14.29%	14.29%
15:00 - 15:59	1	2	14.29%	28.57%
16:00 - 16:59	2	4	28.57%	57.14%
18:00 - 18:59	1	5	14.29%	71.43%
19:00 - 19:59	2	7	28.57%	100.00%
Total Calls:	7	7	100%	

Response Zone: GEN BERG 22

18:00 - 18:59	1	1	20.00%	20.00%
19:00 - 19:59	2	3	40.00%	60.00%
22:00 - 22:59	2	5	40.00%	100.00%
Total Calls:	5	5	100%	

Call Source Total Calls: 12