

**Public Hearing & Regular Meeting  
Of the Board of Trustees  
Of the Village of Bergen at  
6:45pm on June 26<sup>th</sup> 2013**

**Public Hearing**

The public hearing for Local Law No.4 of 2013 was called to order by Deputy Mayor Cooper at 6:45pm. with the following present:

Trustee Adams  
Trustee Barclay

Mayor Marsocci was absent to attend the MEUA central regional meeting.  
Trustee Morgante was absent due to work related duties.

Also present were: Village Administrator Cortney Gale, DPW Supervisor Ken Steinmetz, Duane Janas, Tim Ruffin, Peter Griffin, Grace Gallivan, Mary Jane Fargo, George Fargo, Jerry Birge, Gary Donofrio, Deb Coleman, David Burke, and David Catalino.

**Public Hearing Comments**

Resident Tim Ruffin asked about the wording relative to "... or middle of the alley or 10 feet outside the property line if there is no curb..." located in section 2.

**Regular Meeting**

The regular meeting of the Board of Trustees was called to order by Deputy Mayor Cooper at 7:00pm

**Approval of Bills**

A motion to approve the bills was made by Trustee Adams and seconded by Trustee Barclay. The motion was carried by the following vote:

Deputy Mayor Cooper- aye  
Trustee Adams - aye  
Trustee Barclay - aye

**Approval of Minutes**

A motion to approve the meeting minutes for June 12<sup>th</sup> 2013 was made by Trustee Barclay and seconded by Trustee Adams. The motion was carried by the following vote:

Deputy Mayor Cooper- aye  
Trustee Adams - aye  
Trustee Barclay - aye

**Mayor's Report**

- I am at the central regional MEUA conference in Skaneateles. Among other things, I will be meeting with Jerry McLoughlin. We will be going over the things that he will do when he gets to

Bergen on Thursday. Part of that will be to tour some of the plants in our electric franchise, i.e. Bonduelle and Liberty Pumps.

- I received a response to my letter from Lacy Katzen regarding their building downtown. They are assessing all of their building needs and feel that if they have a buyer for the one in Bergen they would consider selling it as long as they could rent part of it for their office.
- On June 20<sup>th</sup> I attended the Genesee Association of Municipalities meeting. It was held at the ARC building in Batavia. The topic of discussion was how ARC is going to continue to do business with the loss of the City of Batavia as their number one customer. Since they use the Riga landfill for their garbage, I asked them if they would be interested in bidding out our refuse pickup when we go up to bid in a couple years.
- The Tally Almquist Memorial Plaque dedication is on Saturday, July 20<sup>th</sup> at 11am here at the Village Office Building.
- I have many letters from various Village businesses to show and hopefully convince NYPA that we are in need of more hydroelectric power. We compiled a comparison of the homes that were insulated under the NYPA program and it shows a substantial savings in kilowatts. We are also compiling a list of other energy conservation programs that we are working on to show NYPA that we are serious about energy conservation.
- We have a large copy of the group portrait taken at the Town of Bergen's 20<sup>th</sup> Anniversary Celebration. It will be matted and then hung in the foyer of the Village Office.
- There is a rumor that at the APPA annual conference we won a significant amount to purchase trees for the Village. I will confirm this and let you know.

### Administrator's

#### **Electric/Taxes**

- Electric bills are due July 10<sup>th</sup>
- Shut off notices have been sent out, payments are due June 28<sup>th</sup>. Shut off day is July 1<sup>st</sup>.
- Tax time is almost over; the last day to pay before a penalty is applied is July 1<sup>st</sup>. We received the payment from the escrow company, which is about half of the tax payments and are busy mailing receipts to residents.

#### **Technology**

- We continue to be happy with the new accounting software as well as the new modules for the billing software. It will be necessary to set up a computer on the front counter for the credit card reader. We will use the laptop that is currently in the Archive Room instead of buying a new one. Because of the location and lack of internet plugs we will be setting up WI-FI to run the laptop.

#### **Meetings/Training**

- Mayor Marsocci and I are meeting with a representative from New York Power Authority tomorrow, June 27<sup>th</sup>, to present our proposal for additional hydroelectric power.
- Trustee Barclay and I met with Dawn Kuris from the USDA along with Eric Wies and Tom Lajewski to discuss possible Munger St funding. We also met with the City of Batavia Manager Jason Molino regarding Batavia's downtown restoration.
- Myself and Trustee Barclay will be attending the Consolidated Funding Application

(for grants) workshop in Batavia tomorrow, June 27<sup>th</sup>, from 4:00pm-6:30pm at Genesee Community College.

### **Miscellaneous**

- End of Year work is going well; Bob Fox will be in the office again the week of July 15<sup>th</sup>.
- Rene has started her summer hours which are 9 hours a week.
- I have a call out to the family of Mr. Lawrence regarding his parcel of property connected to Hickory Park.
- The numbers of BEEP rebate applications we receive continue to increase.

### **DPW Supervisor's Report**

#### **Sewer**

- The Waste Water Sewer Plant is working well; the "bug" count is at 11,000, we are treating 100,000 gallons a day.
- Septic tank pumping is nearly complete, with only 15 tanks left.
- 11 Richmond St had a problem with their tank we borrowed Akron's sewer camera to investigate. We will be purchasing a camera soon.

#### **DPW**

- Flagpole was installed in Hickory Park
- WWI Plaque in Hickory Park was removed for restoration
- Dog waste station has arrived
- Due to staffing brush pickup will be completed Thursday. The brush pile will be removed in the next few weeks
- A catch basin on McKenzie St was replaced. Other basins will be cleaned or replaced starting in August

#### **Electric**

- Electric on Kaymar Drive has been switched to underground
- Inventory and stray voltage testing complete
- Two streetlights are out and need new lines run to them

### **Trustee Barclay**

#### **Plaque Dedication**

- Reservations are coming in for attendees of the dedication for Tally. I would like to propose a resolution to make July 20, 2013 Tally Almqvist Day in the village.

#### **Munger Street**

- Cortney and I met this afternoon with Dawn Kuras USDA, Tom Lajewski, Graham Bowman, and Eric Wies in Batavia to discuss funding options for the Munger Street project. Unfortunately, the Rural Utilities Services Program is not an option for the village for funding the project. We will continue to look for options.

#### **Consolidated Funding Application (CFA)**

- I am continuing to work on three grant applications; New York State Office of Parks, Recreation and Historic Preservation Environmental Protection Fund Hickory Park, the New York State Office of Parks, Recreation and Historic Preservation Recreational Trails grant for the Village walking trail, and the Main Street grant for the restoration of the historic business district with O'Connell Assoc. These applications are due on Aug 12<sup>th</sup>.

- Resolutions will be presented at the next board meeting to indicate board support of these applications.
- Cortney, Eric Wies, and I met with O’Connell reps to continue to work on components of the park and trails applications, as well as Main Street.
- I met with Charlie Cook to discuss grants, and economic development for Bergen. He is very supportive of our efforts.
- Ken S., Cortney, Vicki Almquist and I met to work on aspects of parks grant.

### **Meeting**

- Jason Molino, Batavia City Manager, met with Cortney and me to share the process they are using to support building and revitalization projects in Batavia. He is very supportive of our efforts and supplied us with a great deal of applicable information to help in revitalizing the village.

### **Parks Committee**

- Our June 25<sup>th</sup> meeting was to plan for park signage, support letters, equipment to include in grant applications. The committee is helping with support letters for the parks and trails grants.

### **Landmark Society**

- I have arranged for Caitlin Meives and Larry Francer from the Landmark Society to visit the village on July 10th. They will be familiarizing themselves with the village so that we can consider programs that might support our restoration efforts.

### **Time Capsule**

- I attended the burial of the time capsule on Friday, June 14th

### **Privilege of the Floor**

Tim Ruffin would like to hold his annual 3on3 basketball tournament and asked if he needs to purchase his own insurance.

Many residents were on hand to discuss parking issues in the village, mainly the Clinton Street area. They asked that the board not to consider parking restrictions that would eliminate parking on the streets. Residents voiced their unhappiness regarding ‘No Parking Anytime’ signs placed on Clinton Street as they were put up without a corresponding parking ordinance.

The board assured the residents that they would not pass parking restrictions that would eliminate parking on village streets and that they would look into the circumstances that led to the ‘No Parking Anytime’ signs being placed.

### **Trustee Concerns**

#### **Trustee Adams**

- Asked if Bonduelle is running at full capacity. Would like the Board kept up to date.
- How has the rain affected the Sewer Plant?

### **New Business**

#### **Delegate Resolution for MEUA Annual Conference**

A motion was made by Trustee Barclay and seconded by Trustee Adams to approve the resolution naming Joseph Chimino as the Village’s delegate for the MEUA Annual Conference. The motion was carried by the following vote:

Deputy Mayor Cooper - aye  
Trustee Adams – aye  
Trustee Barclay - aye

**Resolution 6 of 2013**  
**MEUA DELEGATE RESOLUTION**

**WHEREAS**, the Board of Trustees of the Village of Bergen, New York, is a municipal member of the Municipal Electric Utilities Association of New York State, and

**WHEREAS**, the Annual Conference of the Municipal Electric Utilities Association of New York State has been called on August 20, 21, 22 and 23, 2013, to be held at the Holiday Valley, Ellicottville, New York, and,

**WHEREAS**, in accordance with the bylaws of the Municipal Electric Utilities Association of New York State, each municipal member may cast one vote on each transaction properly brought before this meeting,

**NOW THEREFORE BE IT RESOLVED**, that Joseph Chimino be and is hereby designated as the accredited delegate of the Village of Bergen, New York.

**Designation of Notice of Claim Resolution**

A motion was made by Trustee Adams and seconded by Trustee Barclay to designate the Village Administrator to be the agent for service of notices of claim by the New York Secretary of State. The motion was carried by the following vote:

Deputy Mayor Cooper - aye  
Trustee Adams – aye  
Trustee Barclay - aye

**Resolution 7 of 2013**  
**Designate Administrator as agent**  
**for service of notices of claim by the**  
**New York Secretary of State**

**WHEREAS**, On December 17, 2012, Governor Cuomo signed the Uniform Notice of Claim Act into law, and,

**WHEREAS**, The Act, which became effective on June 15, 2013, amended New York's General Municipal Law to allow notices of claim against cities and villages to be served on the New York Secretary of State as agent for New York's public corporations, and,

**WHEREAS**, Pursuant to the Act, the New York Department of State will forward any notice of claim served on it to the individual the village designates to receive the notices of claim, and,

**WHEREAS**, To effectuate this new method of serving notices of claim on public corporations, General Municipal Law § 53 was added and requires each city and village to file with the New York Department of State a certificate that (a) designates the New York Secretary of State as the local government's agent for service of notices of claim, (b) provides the name and address of an officer, person, or designee, nominee or other agent-in-fact to which the Secretary of State will forward any notices of claim, and (c) provides the applicable time limit for filing a notice of claim on the city or village, and,

**WHEREAS**, The Village of Bergen, New York, Genesee County, will appoint an agent to be its designee to receive notices of claim from the New York Secretary of State, pursuant to General Municipal Law § 53, and,

**WHEREAS**, The Board of Trustees of the Village of Bergen will compel the Village Administrator to file the Certificates of Designation of Notice of Claim with the Secretary of State no later than July 15<sup>th</sup>, 2013, and,

**NOW THEREFORE BE IT RESOLVED**, that the Board of Trustees of the Village of Bergen, New York, Genesee County, appoint the Village Administrator as its designee to receive notices of claim from the New York Secretary of State, pursuant to General Municipal Law § 53.

### **Old Business**

#### **Weed, Brush and Grass Local Law No.4 of 2013**

A motion was made by Trustee Barclay and seconded by Trustee Adams to pass Local Law No.4 of 2013 titled Weed, Brush and Grass Local Law. The motion was carried by the following vote:

Deputy Mayor Cooper - aye

Trustee Adams – aye

Trustee Barclay - aye

#### RESOLUTION INTRODUCING LOCAL LAW AND PROVIDING FOR PUBLIC NOTICE AND HEARING

**BE IT RESOLVED** that an introductory Local Law entitled “*Brush, Grass and Weeds*” and more particularly set forth on *Exhibit "A"* attached hereto, be and it hereby is introduced before the Board of Trustees of the Village of Bergen in the County of Genesee and State of New York, and,

**BE IT FURTHER RESOLVED** that copies of the aforesaid proposed local law be laid upon the desk of each member of the Board, and

**BE IT FURTHER RESOLVED** that the Board hold a public hearing on said proposed local law at the Village Meeting Room, 11 North Lake Avenue, in the Village of Bergen, New York at 7:00pm, on June 26<sup>th</sup>, 2013, and

**BE IT FURTHER RESOLVED** that the Clerk publish or cause to be published a public notice in the official newspaper of the Village of Bergen of said public hearing at least ten (10) days prior thereto.

#### **EXHIBIT "A"**

Local Law No.4 of the Year 2013

Village of Bergen

A Local Law Entitled

“Brush, Grass and Weeds”

Of the Code of the

Village of Bergen

**BRUSH, GRASS, AND WEEDS**

Be it enacted by the Village Board of the Village of Bergen as follows:

#### **Declaration of Policy**

It is hereby declared to be the policy of the Village Board to provide for the proper use of land to prevent unhealthful, hazardous or dangerous conditions due to the accumulation of brush, grass, rubbish or weeds or growth of poisonous shrubs or weeds to protect the public health, safety and general welfare of the residents of this Village. By this chapter the Village Board seeks to remove such dangers to health, life and property by requiring the owner, lessee or occupant of land to cut, trim or remove brush, grass, rubbish or weeds, or to spray with herbicides, cut, trim, remove or destroy poisonous shrubs or weeds, and upon default cause the same to be done and assess the costs against the real property on which the brush, grass, rubbish, shrubs or weeds are found.

### **§1. Definitions.**

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

SUPERINTENDENT OF PUBLIC WORKS — The Superintendent of Public Works or his duly authorized representative or the Code Enforcement Officer.

### **§2. Height restriction; poisonous weeds. [Amended 3-8-1999 by L.L. No. 1-1999]**

It shall be unlawful for any owner, lessee or occupant, or any agent, servant, representative or employee of any such owner, lessee or occupant, having control of any occupied or unoccupied building lot or plot of land or any part thereof in any developed section of the Village of Bergen to permit or maintain on any such lot or plot of land or on or along the sidewalk, street or alley adjacent to the same, between the property line and the curb or middle of the alley or for 10 feet outside of the property line if there is no curb, any growth of weeds, grass or other rank vegetation to a height greater than 8 inches, on the average, on a vacant lot or to a height greater than six inches, on the average, on an improved lot or any accumulation of dead weeds, grass or brush. It shall also be unlawful for any such person or persons to cause, suffer or allow poison ivy, ragweed or other poisonous plants or plants detrimental to health to grow on any such lot or plot of land in such manner that any part of such ivy, ragweed or other poisonous weed shall extent upon, overhang or border any public place.

### **§3. Cutting and removal required.**

It shall be the duty of any owner, lessee or occupant of any such lot or plot of land in the Village of Bergen to cut and remove or cause to be cut and removed all such weeds, grass or other rank, poisonous or harmful vegetation as often as may be necessary to comply with the provisions of §2 of this chapter, provided that cutting and removing such weeds, grass and vegetation at least once in every three weeks between May 15 and September 15 shall be deemed to be a compliance with this chapter.

### **§4. Notice; failure to comply; collection of costs.**

- A. If the provisions of the foregoing sections are not complied with, the Superintendent and/or the Code Enforcement Officer shall serve written notice, either personally or by certified mail or by any other method of service as provided for in the Civil Practice Law and Rules, upon the owner, lessee or occupant or any person having the care or control of any such lot or land, to comply with the provisions of this chapter.
- B. If the person upon whom the notice is served fails, neglects or refuses to cut and remove or to cause to be cut and removed such weed, grass or other vegetation within five (5) days after receipt of such notice, or if no person can be found in the Village of Bergen who either is or claims to be the owner of such lot or land or who either represents or claims to represent such owner, the Superintendent shall cause such weeds, grass or other vegetation on such lot or land to be cut and removed, and the actual cost of such cutting and removal and other additional costs in

connection therewith shall be certified by the Superintendent to the Village Clerk-Treasurer and shall thereupon become and be a lien upon the property on which such weeds, grass and other vegetation were located and shall be added to and become and form part of the taxes next to be assessed and levied upon such lot or land and shall bear interest at the same rate as taxes and shall be collected and enforced by the same officer and in the same manner as taxes.

**§5. Penalties for offenses.**

Any person who shall neglect to cut and remove weeds, grass or other vegetation as directed in this chapter or who shall fail, neglect or refuse to comply with the provisions of any notice herein provided or who shall violate any of the provisions of this chapter or shall resist or obstruct the Superintendent of Public Works or his employees in the cutting and removal of weeds, grass and other vegetation shall, upon conviction thereof, be subject to a fine of not more than \$250 or to imprisonment for a term of not more than 15 days, or both, and each day on which such violation continues shall constitute a separate offense.

**§6. Effective Date.**

This local law shall take effect twenty days after it is filed as provided in Section Twenty-Seven of the Municipal Home Rule Law.

A motion was made by Trustee Barclay and seconded by Trustee Adams to adjourn the meeting. The motion was carried by the following vote:

Deputy Mayor Cooper - aye  
Trustee Adams – aye  
Trustee Barclay - aye

The Meeting was adjourned at 7:58pm

Respectfully submitted,

Cortney W. Gale  
Village Administrator