

**Regular Meeting
Of the Village of Bergen
Board of Trustees
August 12th, 2009 at the Village Hall**

6:45 p.m.

A motion to enter into executive session to discuss union negotiations was made by Trustee Bausch and seconded by Trustee Cooper. The motion carried by the following votes:

Trustee Robert Bausch – aye
Trustee Anna Marie Barclay – aye
Trustee Paul Cooper – aye
Trustee Virginia Adams – aye

Clerk Brown was invited to stay.

7:52 p.m.

A motion to exit executive session was made by Trustee Bausch and seconded by Trustee Cooper. The motion carried by the following votes:

Trustee Robert Bausch – aye
Trustee Anna Marie Barclay – aye
Trustee Paul Cooper – aye
Trustee Virginia Adams – aye

A motion to approve the union contract amendment was made by Trustee Barclay and seconded by Trustee Bausch. The motion carried by the following votes:

Trustee Robert Bausch – aye
Trustee Anna Marie Barclay – aye
Trustee Paul Cooper – aye
Trustee Virginia Adams – aye

The Regular Meeting of the Board of Trustees was called to Order by Mayor Wayne Bailey at 7:00 p.m. with the following present:

Trustee Robert Bausch
Trustee Virginia Adams
Trustee Anna Marie Barclay
Trustee Paul Cooper

Also present: Stacey Brown, Tally Almquist, Joe Chimino, Tom Williamson, Eric Wies, Steve Phillips, Ernie Haywood, Grace Gallivan, Lori Nelson, Jeff Smith and Ralph Marsocci.

APPROVAL OF BILLS

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

Trustee Robert Bausch – aye
Trustee Anna Marie Barclay – aye
Trustee Paul Cooper – aye
Trustee Virginia Adams – aye

APPROVAL OF MINUTES

A motion to approve the Regular meeting minutes for July 22nd, 2009 was made by Trustee Barclay and seconded by Trustee Adams. The motion carried by the following vote:

Trustee Robert Bausch – aye
Trustee Anna Marie Barclay – aye
Trustee Paul Cooper – aye
Trustee Virginia Adams – aye

TREASURER'S REPORT

Accounting/Bookkeeping:

- ❖ Continued preparations for the AUD and PSC reports to include end of fiscal year closings.
- ❖ JE's have been initiated into the financial system to reflect end of year transactions per Laura Landers
- ❖ Laura Landers was in the office twice in the past two weeks to help in the AUD preparations. She will need to come out at least one more time to finalize the information before I input it into the AUD report.
- ❖ Once the AUD report has been completed, I will be able to start putting together information for the PSC report; this too will require Laura Landers to come out to the Village office to finalize the numbers.

Project Updates:

Spoke with Diana Speers and Mary Chapel of Municipal Solutions regarding future borrowing for Sewer project. Based on the new project cost the **estimated** yearly debt service with EFC's 0% 30 year loan will be \$85,000 on the project cost of \$2,550,000. RD's yearly debt service with a 38 year 4.375% loan on a project cost of \$2,322,000 was approx \$126,000. This will be a savings of approx

\$41,000 per year even with the higher project cost. The board will be presented with an amended bond resolution reflecting the project cost change.

Tulley Building Budget:

As of 8/12/09 the budget is as follows:

Beginning Balance:	\$110,000
Expenditures:	<u>111,788</u>
Fund balance:	-\$1,067.25

The overage is due to in part by higher prices for the awnings and the shades than originally thought. Couple this with the additional structural repairs that needed to be done that was not in the budget.

Please keep in mind that the payment for this borrowing should be made from all three budgets. In addition, remember that the re-payment (project cost) to the General Fund from the Electric and Sewer Funds should be done in the near future per Laura Landers.

Below is a proposed \$200,000 5 – Year Maturity Schedule for the roof repair prepared by Municipal Solutions:

		Amount	Interest	Interest	Total
		Outstanding	Expense	Expense	Debt
			3.80%	3.80%	Service
		\$200,000			
1	\$40,000	160,000	\$3,800	\$3,800	\$47,600
2	40,000	120,000	3,040	3,040	\$46,080
3	40,000	80,000	2,280	2,280	\$44,560
4	40,000	40,000	1,520	1,520	\$43,040
5	40,000	0	760	760	\$41,520
Total	\$200,000		\$11,400	\$11,400	\$222,800

DPW SUPERVISOR’S REPORT

Discussion highlights:

1. Sewer
 - ❖ Average flows – 111,000 gpd
 - ❖ No mechanical problems to report
 - ❖ Pumping tanks continues

2. DPW –
 - ❖ Aug. 17th, storm sewer project – all parties have been notified. Martin Dilcher to assist our crew with project
 - ❖ 5K race – 228 runners, approximately 400 in attendance
 - ❖ Striped N. Lake and S. Lake parking spaces, will do Buffalo and Rochester Street after road surfacing
 - ❖ Sickle mowed around creek and Railroad
 - ❖ Cut down 12 trees in house and have also in house stump ground with our bobcat and the use of Churchville’s stump grinder attachment
 - ❖ Repaired catch basins on various village streets and are now ready for surface treatment
 - ❖ Installed rip rap along Gates Street to stop erosion of the bank at Lawn Medic location

3. Electric –
 - ❖ Set (4) new primary poles at Kaiser Wilcox to upgrade the existing aged pole line. This completes the pole setting for primary poles on S. Lake Road
 - ❖ New Digger Derrick has been delivered, old unit set to be sold at auction
 - ❖ Scheduled infrared testing of Allens and 2 substations for week of August 17th. Rest of village to be tested in January when the system reaches its winter peak. Spencerport electric will provide the camera and technician
 - ❖ TSI – Oil Samples of substation were taken on August 11th, awaiting results
 - ❖ Tie into N. Lake on August 17th; we were rained out on August 10th. All customers have been notified. Spencerport will provide mutual aid to assist our crew on this project
 - ❖ Our crew was sent to Spencerport today, August 12th as they ran into problems and needed assistance

CEO/ZEO REPORT

Discussion highlights:

- ❖ Re-iterated progress on Tulley project
- ❖ Discussed an issue with a resident regarding Village’s Local Law prohibiting open burning in the village. Assistance from Genesee County Sheriff’s Department and the New York State Troopers while presenting the resident with an appearance ticket

Mayor’s Report

- ❖ Received a letter from Stu Brown (Grant writer) regarding upcoming grant application deadlines. Trustee Barclay to look into this further
- ❖ Potential contract for Mercy Flight – looking into context of contract
- ❖ U.S. Census Bureau – asking for information on any new construction in the Village since the last census was conducted to update their records for the 2010 Census

Trustee Concerns

Trustee Barclay

- ❖ Bid documents for Tulley Building roof repair are almost complete and ready to go out pending information from our Insurance Company
- ❖ RFP should go in the Daily News Paper sometime next week

A motion to award the bid for the structural repair on the South side of the Tulley building to Thompson Dilcher for an amount not to exceed \$8,756 was made by Trustee Bausch and seconded by Trustee Barclay. The motion carried by the following vote:

- Trustee Robert Bausch – aye
- Trustee Anna Marie Barclay – aye
- Trustee Paul Cooper – aye
- Trustee Virginia Adams – aye

Carpenter Park

- ❖ Community member inquiring information regarding the fountain and the possibility of putting water in it
- ❖ Had a committee meeting on August 4th, discussed several options for conducting a fund raiser to help with the park expenses
- ❖ Walk-way to the flag pole
- ❖ Flag for the park
- ❖ Remaining pavers to be put into the ground

Trustee Adams:

Millseat Landfill open house turnout was 1000 strong in attendance. The day went well and should thank Tally Elmquist for being there to represent the Village.

Historian's Report

Working on a new story regarding Town and Village shared office space in the past.

New Business

A motion to adopt the Delegation Resolution for MEUA was made by Trustee Bausch and seconded by Trustee Adams. The motion carried by the following votes:

Trustee Robert Bausch – aye
Trustee Anna Marie Barclay – aye
Trustee Paul Cooper – aye
Trustee Virginia Adams – aye

DELEGATE RESOLUTION
Village of Bergen

At a regular meeting of the Board of Trustees of the Village of Bergen, New York, held on August 12th, 2009, the following resolution was adopted:

Moved by Trustee Bausch, seconded by Trustee Adams

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 September 15, 16, 17, and 18, 2009, to be held at the Radisson Hotel, Corning, 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.

On roll call: Affirmative: ____5____ Negative: ____0____

I certify that this resolution was adopted by the Board of Trustees of the Village of Bergen, New York on the 12th day of August, 2009.

Stacey A. Brown
Clerk Treasurer

A motion to adopt the Tax Warrant Amendment Resolution was made by Trustee Barclay and seconded by Trustee Cooper. The motion carried by the following vote:

Trustee Robert Bausch – aye
Trustee Anna Marie Barclay – aye
Trustee Paul Cooper – aye
Trustee Virginia Adams – aye

Tax Warrant Amendment Resolution
Village of Bergen

At a regular meeting of the Board of Trustees of the Village of Bergen, New York, held on August 12, 2009, the following resolution was adopted:

Moved by: Trustee Barclay, Seconded by: Trustee Cooper

The Board of Trustees of the Village of Bergen, New York hereby authorizes the (tax collector) to amend the tax warrant for 2009-2010 (fiscal year) by \$636.59 due to errors to the tax rolls per the Town of Bergen Assessor and the Genesee County Tax collector.

On roll call: Affirmative: _____5_____ Negative: _____0_____

I certify that this resolution was adopted by the Board of Trustees of the Village of Bergen, New York on the 12th, day of August, 2009.

Stacey A, Brown
Clerk Treasurer

A motion to approve the electric write-offs in the amount of \$\$\$ as presented was made by Trustee Bausch and seconded by Trustee Adams. The motion carried by the following vote:

Trustee Robert Bausch – aye
Trustee Anna Marie Barclay – aye
Trustee Paul Cooper – aye
Trustee Virginia Adams – aye

Old Business

Sewer upgrade project – Eric Wies (Clark Patterson) and Jeff Smith (Municipal Solutions) to discuss
Highlights included:

- ❖ Bids were obtained for two contracts, Contract No. 1 – General Construction and Contract No. 2 – Electrical. There were seven bids for Contract No. 1 and eight bids for Contract No. 2.
- ❖ The General Construction Contract involves the installation of the MBR treatment equipment, enclosure, and associated site work. There were three alternate bids associated with the General Construction Contract:
 1. AB-G1 – Asphalt Driveway Replacement for the Wastewater Treatment Facility site
 2. AB-G2 – Wood Frame Enclosure, in lieu of CMU Enclosures
 3. AB-G3 – Sludge Holding Tanks to be installed in the former south clarifier
- ❖ The Electrical Contract involves the power, wiring, and HVAC modifications. There was one alternative bid associated with the Electrical Contract:

AB-E1 – Generator, which supplies the new backup generator and fuel tank.

- ❖ The bids were opened on August 3rd, 2009 at 2:00 p.m.; all bids are binding for a period of 45 days.
- ❖ The lower bidder for Contract No.1 – General Construction Base Bid was STC Construction, Inc. of Springville, New York, with a base bid amount of \$1,978,774. They also submitted prices for the alternate bids: AB-G1 - \$10,268; AB-G2 - \$67,314; AB-G3 - \$48,283.
- ❖ The low bidder for Contract No. 2 – Electrical Base Bid was M.W. Controls Service, Inc. of Hemlock, New York, with a base bid amount of \$93,867. They also submitted a price for the alternate bid: AB-E1 - \$41,000

Eric Wies (Clark Patterson) made the recommendation to award the Base Bid portion only of Contract No. 1 and No. 2 to STC Construction, Inc. for \$1,978,774 and M.W. Controls Service, Inc. for \$93,867 respectively.

Jeff Smith added that the Amended Bond Resolution being presented to the board did have a \$187,000 contingency included per the EFC recommendation that the Village has a contingency amount in the resolution and as part of the project. Jeff Smith also agreed that the Village continue to appeal to their local, State and Federal representatives regarding any possible stimulus funding to help off-set the cost of this project.

EXTRACT OF MINUTES

A meeting of the Village Board of Trustees of the Village of Bergen, Genesee County, New York (the "Village") was convened in public session at the Village Hall, 11 Buffalo Street, in the Village of Bergen, New York on August 12, 2009 at 7:00 o'clock p.m., local time.

The meeting was called to order by Mayor Bailey and, upon roll being called, the following members were:

PRESENT:

Wayne Bailey	Mayor
Anna Marie Barclay	Trustee
Virginia Adams	Trustee
Paul Cooper	Trustee
Robert Bausch	Trustee

ABSENT:

ALSO PRESENT:

Stacey Brown	Village Clerk-Treasurer
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The following resolution was offered by Trustee Bausch, seconded by Trustee Barclay, to wit;

**A BOND RESOLUTION, DATED AUGUST 12,
2009, OF THE VILLAGE BOARD OF
TRUSTEES OF THE VILLAGE OF BERGEN,**

GENESEE COUNTY, NEW YORK (THE "VILLAGE"), FURTHER AMENDING THE BOND RESOLUTION ADOPTED JUNE 13, 2007 AND AMENDED MARCH 26, 2008, AUTHORIZING THE RECONSTRUCTION OF AND CONSTRUCTION OF IMPROVEMENTS TO THE VILLAGE SEWER SYSTEM AT A MAXIMUM ESTIMATED COST NOT TO EXCEED \$2,600,000 AND AUTHORIZING THE ISSUANCE OF SERIAL BONDS IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$2,600,000, PURSUANT TO THE LOCAL FINANCE LAW TO FINANCE SAID PURPOSE, SAID AMOUNT TO BE OFFSET BY ANY FEDERAL, STATE, COUNTY AND/OR LOCAL FUNDS RECEIVED, AND DELEGATING THE POWER TO ISSUE BOND ANTICIPATION NOTES IN ANTICIPATION OF THE SALE OF SUCH BONDS TO THE VILLAGE TREASURER.

WHEREAS, on June 13, 2007 the Village Board of Trustees of the Village of Bergen, Genesee County, New York adopted a bond resolution authorizing improvements to the sewer system (the "Project") in an amount not to exceed \$2,322,000; and

WHEREAS, on March 26, 2008, the Village Board of Trustees of the Village of Bergen, Genesee County, New York adopted an amending bond resolution in light of further environmental actions; and

WHEREAS, the Village Board of Trustees has determine to amend the March 26, 2008 bond resolution to increase the maximum estimated cost from \$2,322,000 to \$2,600,000 due to an increase in the cost of materials, labor and equipment.

NOW THEREFORE,

BE IT RESOLVED, by the Village Board of Trustees (by the favorable vote of not less than two-thirds of all the members of the Board of Trustees) as follows:

SECTION 1. The specific purpose (hereinafter referred to as "Purpose") to be financed pursuant to this resolution is the reconstruction of and construction of improvements to the Village sewer system, including but not limited to, the expansion and renovation of the existing wastewater treatment facility and

equipment, including all preliminary work and necessary equipment, materials and site work, and all preliminary costs and costs incidental thereto. The maximum cost of said purpose will not exceed \$2,600,000.

SECTION 2. The Village Board of Trustees plans to finance the maximum estimated cost of said purpose by the issuance of serial bonds in an amount not to exceed \$2,600,000 of the Village, hereby authorized to be issued therefore pursuant to the Local Finance Law, said amount to be offset by any federal, state, county and/or local funds received.

SECTION 3. It is hereby determined that said purpose is an object or purpose described in subdivision 4 of paragraph (a) of Section 11.00 of the Local Finance Law, and that the period of probable usefulness of said purpose is 40 years.

SECTION 4. Current funds are not required to be provided prior to the issuance of the bonds authorized by this resolution or any notes issued in anticipation of the sale of said bonds.

SECTION 5. It is hereby determined the proposed maturity of the obligations authorized by this resolution will be in excess of five years.

SECTION 6. The faith and credit of the Village are hereby irrevocably pledged for the payment of the principal of and interest on such bonds as the same respectively become due and payable. An annual appropriation shall be made in each year sufficient to pay the principal of and interest on such bonds becoming due and payable in such year. Unless paid from other sources, there shall annually be levied on all the taxable real property of the Village a tax sufficient to pay the principal of and interest on such bonds as the same become due and payable.

SECTION 7. Subject to the provisions of this resolution and of the Local Finance Law, pursuant to the provisions of Section 30.00 relative to the authorization of the issuance of bond anticipation notes or the renewals of said notes and of Section 21.00, Section 50.00, Sections 56.00 to 60.00, Section 62.00 and Section 63.00 of the Local Finance Law, the powers and duties of the Village Board of Trustees pertaining or incidental to the sale and issuance of the obligations herein authorized, including but not limited to authorizing bond anticipation notes and prescribing the terms, form and contents and as to the sale and issuance of the bonds herein authorized and of any bond anticipation notes issued in anticipation of said bonds, and the renewals of said notes, are hereby delegated to the Village Treasurer, the chief fiscal officer of the Village.

SECTION 8. The temporary use of available funds of the Village, not immediately required for the purpose or purposes for which the same were borrowed, raised or otherwise created, is hereby authorized pursuant to Section 165.10 of the Local Finance Law, for the purpose or purposes described in Section 1 of this resolution. The Village then reasonably expects to reimburse any such expenditures (to the extent made after the date hereof or within 60 days prior to the date hereof) with the proceeds of the bonds authorized by Section 2 of this resolution (or with the proceeds of any bond anticipation notes issued in anticipation of the sale of such bonds). This resolution shall constitute the declaration of the Village's "official intent" to reimburse the expenditures authorized by Section 2 hereof with such bond or note proceeds, as required by United States Treasury Regulations Section 1.150-2.

SECTION 9. The Village Treasurer is further authorized to take such actions and execute such documents as may be necessary to ensure the continued status of the interest on the bonds authorized by this resolution, and any notes issued in anticipation thereof, as excludable from gross income for federal income tax purposes pursuant to Section 103 of the Internal Revenue Code of 1986, as amended (the "Code") and to designate the bonds authorized by this resolution, and any notes issued in anticipation thereof as "qualified tax-exempt bonds" in accordance with Section 265(b)(3)(B)(i) of the Code.

SECTION 10. The Village Treasurer is hereby authorized to execute and deliver in the name and on behalf of the Village a project financing agreement prepared by the New York State Environmental Facilities Corporation ("EFC") (the "SRF Project Financing Agreement"). The Village Treasurer and the Village Clerk and all other officers, employees and agents of the Village are hereby authorized and directed for and on behalf of the Village to execute and deliver all certificates and other documents, perform all acts and do all things required or contemplated to be executed, performed or done by this resolution or any document or agreement approved hereby, including, but not limited to, the SRF Project Financing Agreement.

SECTION 11. The Village Treasurer is further authorized to enter into a continuing disclosure agreement with the initial purchaser of the bonds or notes authorized by this resolution, containing provisions which are satisfactory to such purchaser in compliance with the provisions of Rule 15c2-12, promulgated by the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934.

SECTION 12. The Village has complied in every respect with all applicable federal, state and local laws and regulations regarding environmental matters, including compliance with the New York State Environmental Quality Review Act ("SEQRA"), comprising Article 8 of the Environmental Conservation Law and, in connection therewith, duly issued a negative declaration and/or other applicable documentation, and therefore, no further action under the State Environmental Quality Review Act is necessary.

SECTION 13. The validity of said serial bonds or of any bond anticipation notes issued in anticipation of the sale of said serial bonds may be contested only if:

1. (a) such obligations were authorized for an object or purpose for which said Village is not authorized to expend money, or

(b) if the provisions of the law which should be complied with as of the date of publication of this notice were not substantially complied with,

and an action, suit or proceeding contesting such validity is commenced within twenty (20) days after the date of such publication of this notice, or

2. such obligations were authorized in violation of the provisions of the Constitution of New York.

SECTION 14. This Resolution is subject to permissive referendum pursuant 36.00a. of the Local Finance Law. The Village Clerk is hereby authorized and directed to publish (one time) and post (in at least six (6) conspicuous public places within the Village and at each polling place), this resolution, or a summary thereof, together with a notice of adoption of this resolution subject to permissive referendum, within ten (10) days after the date of adoption of this resolution.

SECTION 15. If no petitions are filed in the referendum period, the Village Clerk is hereby authorized and directed to publish this resolution, or a summary thereof, together with a notice in substantially the form provided by Section 81.00 of said Local Finance Law, in a newspaper having a general circulation in said Village and hereby designated as the official newspaper of the Village for such publication.

SECTION 16. Nothing in this amendment shall affect the validity of the original June 13, 2007 bond resolution or the March 26, 2008 amending bond resolution, or any action taken thereunder and any said actions are hereby ratified.

The question of the adoption of the foregoing resolution was duly put to vote on a roll call, which resulted as follows:

AYES: 5

NOES: 0

ABSENT: 0

The foregoing resolution was thereupon declared duly adopted

A motion to approve the Sewer Project bids per Clark Patterson's recommendations of STC Construction for Contract No. 1 and M.W. Controls Service, Inc. for Contract No. 2 contingent upon the 31 day grace period per the Amended Bond Resolution was made by Trustee Bausch and seconded by Trustee Cooper. The motion carried by the following vote:

Trustee Robert Bausch – aye
Trustee Anna Marie Barclay – aye
Trustee Virginia Adams – aye
Trustee Paul Cooper – aye

Privilege of the Floor:

Steve Phillips:

- ❖ Started work on building but weather has been an issue in completion
- ❖ Taking more time than first anticipated

Mayor Bailey – *“You understand that you do need to address the safety issues as soon as possible? **Steve Phillips** – Yes I do, but would like to wait for better weather to continue as planned.”*

Mayor Bailey – *"Do you have a potential end date?"* **Steve Phillips** – *"No."* **Trustee Barclay** – *"Did you use the information that I provided for you?"* **Steve Phillips** – *"Yes, but was unable to get any solid solutions."* *"As soon as I get 4-5 days of good weather, I will be able to do what needs to be done."*

8:35 p.m.

A motion to enter into Executive Session to discuss personnel matters was made by Trustee Bausch and seconded by Trustee Cooper. The motion carried by the following vote:

Trustee Robert Bausch – aye
Trustee Anna Marie Barclay – aye
Trustee Virginia Adams – aye
Trustee Paul Cooper – aye

9:02 p.m.

A motion to exit Executive Session was made by Trustee Cooper and seconded by Trustee Barclay. The motion carried by the following vote:

Trustee Robert Bausch – aye
Trustee Anna Marie Barclay – aye
Trustee Virginia Adams – aye
Trustee Paul Cooper – aye

ADJOURNMENT

A motion to adjourn was made by Trustee Bausch and seconded by Trustee Cooper. The motion carried by the following vote:

Trustee Robert Bausch – aye
Trustee Anna Marie Barclay – aye
Trustee Virginia Adams – aye
Trustee Paul Cooper – aye

The meeting was adjourned at 9:02 pm

Respectfully submitted,

Stacey A. Brown
Clerk Treasurer

T & A
\$19,885.68

A/P
\$190,411.52