

**Town Board Meeting
Town of Bergen- Town Hall
February 26th, 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. Public Hearing – Local Law #1 of 2019 – proposed nine-month moratorium on commercial solar energy systems

III. Public Hearing –Local Law #2 of 2019- proposed amendment to Zoning Town Code reducing square footage requirements of a structure requiring a building permit.

III. Privilege of the Floor-

IV. Approval of meeting Minutes for- February 12th, 2019 meeting

IV. Communications included with this agenda:

1. Mercy EMS summary report for January 2019- If available
2. Legal Notice and copy of proposed Local Law #1 of 2019- moratorium on commercial solar
3. Legal Notice and copy of proposed Local Law #2 of 2019 –amendment to Zoning Code
4. 2/6/19 Correspondence from Robert Bausch, County Legislature Chair regarding Sales Tax
5. Bid tally sheet for Park Pavilion- if available
6. Copy of resolution regarding operating permit for property at 6471 W. Sweden Road

V. Board Members' items for addition to the agenda

VI. Reports:

- Supervisor
- Clerk
- Board Members
- Zoning / Code Enforcement: - Update on Haunted House property - 6471 W. Sweden Road
-Update on submission of 1203 Forms, current and for past 3 years

- Highway
- Update on Town Barn
- Request for Traffic Study- update on request

Committees

- Building, Grounds, and Facilities - United Way Day of Caring
- Parks- Park Renovations- Outcome of meeting on 2/21
- Local History & Museum
- Policy and Personnel
- Village/Town

VII. Old Business:

- Sales Tax
- Water Benefit Improvement area #1
- Solar Zoning Law
- Garbage Contract
- approval of the funds to replace router (previously approved by three board members as emergency)
- Agenda items for joint meeting with Village on 3/12

VIII. New Business

- Approval of bid for Park Pavilion
- Approval of request to purchase metal cabinets for bookkeeper records
- Approval of Local Law #1 of 2019- Solar moratorium
- Approval of Local Law # 2 of 2019- Change to Zoning Code
- Approval of Resolution requiring operating permit for property at 6571 West Sweden Road

IX. Meeting and Other Upcoming Dates

- Next Meeting: Joint Town/Village and possible School board meeting- Tuesday 3/12/19 6:30 pm- Town Hall Court Room- Audit of Bills at 6:45pm

XI. Adjournment

FEBRUARY 12, 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 Belinda Grant
Councilwoman Anne Sapienza
Councilman Jim Starowitz
Councilman Mark Anderson

ALSO PRESENT:

Michele M. Smith, Town Clerk
Mike Johnson, Highway Superintendent
Dave Mason, ZEO/CEO

PRAYER

PLEDGE OF ALLEGIANCE TO THE FLAG

MINUTES: *Councilwoman Grant made a motion to approve the minutes of January 22, 2019; seconded by Councilman Anderson and carried by a vote 5-0.*

COMMUNICATIONS:

Supervisors Report for January 2019
Summary Spreadsheets for January 2019
Town Clerk's Report for January 2019
Charter Communications change
Travel Request from ZEO-CEO to attend Educational Conference
Correspondence from Assemblyman Steve Hawley
Draft memorandum on Solar Development
Notice of Court Grant from NYS Unified Court System for AED unit
Resume of new secretary to the Supervisor – Leisa Strabel
Correspondence to USDA regarding information for the proposed Water Improvement Benefit Area #1
Correspondence from SCOPE regarding request for resolution pertaining to the SAFE Act
Draft Public Hearing Notice and proposed zoning Law change re: minimum square footage required for structures requiring a building permit
Travel request from Clerk Smith for Town Clerk's Conference
Fire department request to post Jaws of Life fundraiser on Town's Facebook page
Annual Audit of Court Records

REPORTS:

SUPERVISOR'S REPORT: Appointed Leisa Strabel as secretary; the State Comptroller notified Supervisor Haywood that the tax cap revenue over estimated by \$2300; discuss waste bids in future; going through Bookkeepers office at the library.

Town Clerk: Mark Gerhardy failed to sign the oath of office book and needs to be reappointed before he signs the oath book; Server being installed this week, Sexual Harassment training through Bond Benefit Consulting for \$325 a year. *Councilwoman Sapienza made a motion to approve the online Sexual Harassment Training to all town employees through Bond Benefit Consulting at \$325 a year; seconded by Councilwoman Grant and it carried by a vote 5-0.*

HIGHWAY: highway crew is busy with winter weather

ZEO/CEO: Manufacturer Housing permits for approval Affordable Great Locations, Mar-Lu Estates and Hidden Meadows. *Councilman Anderson made a motion to approve the Manufactured Housing permits for Affordable Great Locations, Mar-Lu Estates and Hidden Meadows; seconded by Councilman Starowitz and carried by a vote 5-0;* Solar company requesting to attend a meeting; Haunted House – operating permit resolution will be prepared for the next meeting; problem with 1203 online form.

TOWN CLERK'S REPORTS: *Councilwoman Sapienza made a motion to file the Town Clerk's January 2019 Report; seconded by Councilwoman Grant and it carried by a vote 5-0.*

SUPERVISORS REPORT *Councilwoman Grant made a motion to file the January 2019 Supervisors Report; seconded by Councilman Anderson and it carried by a vote 5-0.*

COMMITTEES:

Buildings & Grounds and Cemeteries: problem with cemeteries ownership

Parks: pavilion bid opening is February 25th at 10:00 am

Local History & Museum: Nothing to report

Transfer Station: Nothing to report

OLD BUSINESS:

Water improvement Benefit Area #1: grant paperwork submitted with USDA, remaining income surveys not needed

Solar update: Public hearing set for February 26th at 7:00 pm

Planning Board reappointment Mark Gerhardy failed to sign the oath of office book and needs to be reappointed before he signs the oath book. *Councilman Starowitz made a motion to appoint Mark Gerhardy as Planning Board member and needs to sign by March 13th; seconded by Councilman Sapienza and it carried by a vote 5-0.*

NEW BUSINESS:

Governors Reproductive Health Act Councilman Anderson would like the Town Board to send a letter of opposition, the majority of the board didn't think the Town Board should get involved.

Parade Float Councilman Anderson asked if board members want to participate in the Park Festival Parade and possibly Memorial Day parade with a float.

ZEO-CEO Travel Request *Councilwoman Grant made a motion to approve the ZEO-ZEO travel request for training not to exceed \$477; seconded by Councilman Starowitz and it carried by a vote 5-0.*

Town Clerks Travel Request *Councilwoman Sapienza made a motion to approve the Town Clerk travel request for Conference not to exceed \$965; seconded by Councilman Starowitz and it carried by a vote 5-0.*

Create position/Appoint of Clerk Historian *Councilman Anderson made a motion to create the clerk position for historian office and appoint Gina Schelemanow as Clerk; seconded by Councilman Starowitz and it carried by a vote 5-0.*

Request from Fire Dept. for fundraise post of FB Per the Social Media policy no soliciting on Facebook

Request for laptop for Supervisor office *Councilwoman Sapienza made a motion to purchase a laptop for Supervisor's office not to exceed \$750; seconded by Councilman Starowitz and it carried by a vote 5-0.*

Annual Audit of Court Records *Councilwoman Grant made a motion to accept the audit of the Court records; seconded by Councilman Starowitz and it carried by a vote 5-0.*

AED purchase with JCAP Grant *Councilwoman Sapienza made a motion to approve purchase of AED with JCAP Grant money not to exceed \$1900; seconded by Councilwoman Grant and it carried by a vote 5-0.*

United Way Day of Caring project ideas needed

Solar Moratorium/proposed zoning law change proceed with a public hearing on local Law #1-2019 *Councilman Starowitz made a motion to set a public hearing for February 26th at 7:00 pm for proposed Local Law #1 Solar Moratorium; seconded by Councilwoman Sapienza and carried by a vote 5-0*

Set Public Hearing proposed Zoning Law change *Councilwoman Sapienza made a motion to set the public hearing for Local Law#2-2019 amend the Town Zoning square footage change for February 26th at 7:15 pm; seconded by Councilwoman Grant and it carried by a vote 5-0.*

BILLS: The bills were presented for audit and totaled General A Fund \$41,822.30; General B Fund \$2,622.38; Highway DB \$38,832.08; PA-A \$5,167.96; PA-DB \$4,366.01. *Councilwoman Sapienza made a motion to pay the February bills; seconded by Councilman Starowitz and it carried by a vote 5-0.*

REGULAR MEETING – Tuesday, February 26, 2019 at 7:00 pm in the Courtroom

Tuesday, March 12, 2019 at 6:30 pm - Joint Town Board, School Board and Village Board meeting at Sage Pavilion

ADJOURNMENT was at 8:05 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

NOTICE OF PUBLIC HEARING ON LOCAL LAW

PUBLIC NOTICE is hereby given that there has been presented to the Town Board of the Town of Bergen, Genesee County, New York, on February 12, 2019, Local Law #1 of 2019, to establish a nine-month moratorium on applications, approvals and/or construction or installation of commercial solar energy systems and/or solar farms

The propose of this proposed local law is to protect the health, safety and welfare of the residents of the Town of Bergen and to maintain the quo as to certain solar energy uses, as the present zoning regulations of the Town of Bergen do not adequately address this type of use.

A copy of the proposed local law is on file with the Town Clerk.

THEREFORE, the Town Board of the Town of Bergen will hold a public hearing on the local law at 10 Hunter Street, Bergen, New York on February 26th, 2019 at 7:00 p.m., at which time all persons interested will be heard.

By Order of the Town Board

February 12th, 2019

Michele Smith, Town Clerk

**LOCAL LAW NO. 1 OF THE YEAR 2019
TOWN OF BERGEN, COUNTY OF GENESEE**

**A Local Law to Establish a
Nine-Month Moratorium on Applications, Approvals and/or Construction
or Installation of Commercial Solar Energy Systems and/or Solar Farms.**

Section 1. Purpose and Intent.

The purpose of this Local Law is to protect the health, safety and welfare of the residents of the Town of Bergen and to maintain the status quo as to certain solar energy uses, as the present zoning regulations of the Town of Bergen do not adequately address this type of use. This moratorium will temporarily stop the processing of applications for and the issuance of permits, certificates of occupancy and approvals for certain land uses related to solar energy including, but not limited to, solar farms. The moratorium is for a period of nine (9) months, allowing the Town Board to analyze and determine potential appropriate revisions and amendments to the Town of Bergen Zoning Code concerning this use.

Section 2. Legislative Findings.

The Town of Bergen Town Board hereby finds that without a temporary held on the processing, permitting and approval for certain solar land uses there is a potential that such uses could be located in unsuitable areas within the Town and/or on particular lots without adequate dimensional regulations in place. The potential for the unsuitable location of and lack of proper dimensional regulations for such uses would have materially adverse impacts on the Town. The Town Board also finds that time is required to perform the necessary analysis of the potential types of solar energy facilities that could be located in the Town. By maintaining the status quo regarding such uses, the Town Board can provide for the planned orderly growth and development of the Town.

Section 3. Moratorium Imposed.

For a period of nine (9) months following the effective date of this Local Law, no application may be processed, and no permits, certificates of occupancy, approvals, variance, denials, determinations or interpretations may be issued or granted for any land uses relating to solar energy including, but not limited to, solar farms.

The term "land uses relating to solar energy" shall be broadly construed to include any facility designed to generate electric power to be marketed, sold or used for other than the power demands of the improvements on the property on which such facility is located. Not included within the scope of this moratorium are solar energy facilities designed to generate electric power solely for the use of the improvements located on the same property. The term "solar farm" shall mean a collection of solar panels covering one-quarter (1/4) acre or more of land that are designed to capture sunlight and transform it into electricity. This definition includes freestanding and ground pole-mounted photovoltaic and parabolic solar installations. This

definition does not include photovoltaic panels that are mounted on or affixed to residential dwellings for their use or municipal buildings or existing panels mounted on commercial or industrial buildings.

This Local Law shall be binding on the Town Board, Planning Board, Zoning Board of Appeals, building Inspector/Code Enforcement Officer, all Town officials and employees and any applicant or real property owner in the Town desiring to apply for or receive a permit, certificate of occupancy or approval in the Town of Bergen.

During the period of the moratorium, the Town Board shall endeavor to complete all reasonable and necessary review, study, analysis and, if warranted, revisions to the Town of Bergen Zoning Code. During the period of the moratorium, no applications will be accepted nor permits, certificates of occupancy or approvals issued which would authorize development within the Town for land uses relating to solar energy as described above.

Section 4. Term.

This moratorium shall be in effect for a period of nine (9) consecutive months from its effective date.

Section 5. Effect on Other Laws.

To the extent that any law, ordinance, rule or regulations, or parts thereof, are in conflict with the provisions of this Local Law, including all provisions of Article 16 of the New York State Town Law concerning special use permit, site plan, building permit and certificate of occupancy procedure and requirements, this Local Law shall control and supersede such law, ordinance, rule or regulations.

Section 6. Variance.

An application for a variance from the terms of this moratorium may be submitted, with a \$200 fee, to the Town Clerk. Notwithstanding the provisions of Article 16 of the Town Law and the Zoning Code of the Town of Bergen, such variance requests shall be considered by the Town Board in accordance with the requirements for a use variance.

Section 7. Severability.

Should any provision of his Local law be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of this Local Law, as a whole or any part thereof, other than the part so decided to be unconstitutional or invalid.

Section 8. Effective Date.

This Local Law shall take effect immediately upon its filing with the Secretary of State in accordance with the Municipal Home Rule Law.

NOTICE OF PUBLIC HEARING ON LOCAL LAW

PUBLIC NOTICE is hereby given that there has been presented to the Town Board of the Town of Bergen, Genesee County, New York, on January 12, 2019, Local Law #2 of 2019, entitled "A Local Law To Amend Chapter 256-4 B. (1) of the Town Code of the Town of Bergen Reducing the Minimum Square Footage Requirements for a Building Permit."

Said local law is intended to amend Chapter 256-4 B. (1) by reducing the minimum square footage requirements of a structure requiring a building permit.

A copy of the proposed local law is on file with the Town Clerk.

THEREFORE, the Town Board of the Town of Bergen will hold a public hearing on the local law at 10 Hunter Street, Bergen, New York on February 26, 2019 at 7:15 p.m., at which time all persons interested will be heard.

By Order of the Town Board

January 12, 2019
Michele Smith, Town Clerk

A Local Law to Amend the Code of the Town of Bergen Chapter 256-4 thereof, entitled “Building permits,” by modifying, repealing and rescinding Chapter 256-4, paragraph B. (1), and replacing said provision as follows:

(1) Construction or installation of one-story detached structures associated with one- or two-family dwellings or multiple single-family dwellings (townhouses) which are used for tool and storage sheds, playhouses or similar uses, provided the gross floor area does not exceed 144 square feet;

Repeal. All ordinances, local laws and parts thereof inconsistent with this Local Law are hereby repealed.

Conflicts of Law. Whenever any local law, ordinance or regulation of the Town of Bergen, County of Genesee, State of New York or United States of America is inconsistent with this Local Law whichever local law, ordinance, or regulation is more stringent shall supersede the less stringent local law, ordinance, or regulation.

Separability. If any part or provision of this Local Law or the application thereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part or provision or application directly involved in the controversy in which judgment shall have been rendered and shall not affect or impair the validity of the remainder of this Local Law or the application thereof to other person or circumstances, and the Board of the Town of Bergen hereby declares that it would have passed this Local Law or the remainder thereof had such invalid application or invalid provision been apparent.

Effective Date. This Local Law shall take effect immediately upon filing in the office of the New York State Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.

Rec 2/13/19 ✓

Genesee County Legislature

Old Courthouse
7 Main Street
Batavia, New York 14020-3199
(585) 344-2550 Ext. 2202
Fax: (585) 345-3078

Robert Bausch, Chair
Marianne Clattenburg, Vice Chair
Rochelle M. Stein, 2nd Vice Chair

Pamela LaGrou, Clerk
pam.lagrou@co.genesee.ny.us

LEGISLATORS

John R. Hilchey	Dist. 1
Robert Bausch	Dist. 2
Gordon L. Dibble	Dist. 3
Andrew Young	Dist. 4
Rochelle Stein	Dist. 5
Gregg Torrey	Dist. 6
John Deleo	Dist. 7
Marianne Clattenburg	Dist. 8
Gary T. Maha	Dist. 9

February 6, 2019

Bergen Supervisor Ernie Haywood
10 Hunter Street, PO Box 249
Bergen, NY 14416

Dear Supervisor Haywood,

At the January GAM meeting the County was requested to write a letter outlining the intent of the revenue sharing program. I am happy to comply with that request.

The intent of the Legislature with the revenue sharing program for the towns and villages of Genesee County is the same as the intent of previous actions of this legislature, previous legislatures and boards of supervisors going back for over two hundred years: provide the highest level of services at the most reasonable cost to all Genesee County residents regardless of social/economic status or residency. Examples include the culvert/bridge program, funding of community college charge backs, social and mental health assistance programs, animal shelter and most recently water, to name a few.

As discussed at GAM meetings and in one-on-one conversations with town supervisors, village mayors and other interested parties, the state's mandate to build a new jail places the county financial health in a precarious situation. Various alternatives were considered on how to fund a new jail, estimated to cost between fifty and sixty million dollars, while minimizing impact on Genesee County taxpayers under the tax cap. Attachment 1 is an outline prepared by Assistant County Manager Matt Landers of the issues the Legislature and county staff considered in developing the revenue sharing program.

After considering this information as well as other relevant issues, on November 14, 2018 the Legislature passed Resolution No. 402 (Attachment 2). This resolution allows the county to begin generating the funds required to pay for a new jail while continuing to share revenue with towns and villages. The County will inform towns and villages 10 to 17 months in advance of their budget cycle the amount of revenue to be distributed. These distributions, which will be funded from sales tax collections, will be paid regardless if sales tax revenue meets projections and will have a specific line item in the county budget. *label How?*

The intent of the Legislature is to use the 2018 sales tax distributions to towns and villages as the base. It is fully anticipated that the base will be frozen until such time as the cash flow for the jail project is positive and county reserves, which will be used to cover payments in the early years, are replenished. This is anticipated to be at least 10 to 15 years. The current Legislature can not bind future Legislatures and new state mandates, national and international events and other unknowns will impact their decision. There is every expectation that the Legislature will make the best decision for all the residents of Genesee County.

Respectfully,


Robert J. Bausch, Genesee County Legislature Chair

Attachment (2)

o Formule

CC: Tom Dix, GAM President
Hiedi Librock, GAM Secretary

**RESOLUTION NO. 402 AUTHORIZATION FOR DISTRIBUTION PAYMENTS TO
GENESEE COUNTY TOWNS AND VILLAGES-
APPROVAL OF**

Legislator Clattenburg offered the following resolution:

WHEREAS, in recognition and consideration of the cooperation of the Towns and Villages acting as partners with the County of Genesee to be able to provide for the health, safety and welfare of all of the communities in the County, to include supporting new commercial, residential and industrial growth, the County intends to distribute annual payments in quarterly amounts to certain Towns and Villages located in Genesee County, as set forth herein. Now, therefore, Be it

RESOLVED, that the time period of January 1 through December 31 (hereinafter the "calendar year") for 2018 is hereby designated as the base year, and Be it further

RESOLVED, that during the calendar year of 2020, the County shall distribute payments to be paid in quarterly amounts to all of the Genesee County Towns and Villages in the same annual and quarterly amounts as were paid in the base year, except as specifically differentiated as set forth hereinafter, and Be it further

RESOLVED, that at the County's sole discretion, it may reduce payments to a Town or Village for outstanding obligations or where applicable to ensure water surcharge revenues are collected at a uniform rate, and Be it further

RESOLVED, that there shall be no distribution payments made in the calendar year of 2020 to the Village of Attica, and Be it further

RESOLVED, that on or before September 1, 2019, the Genesee County Legislature shall advise and notify all of the Genesee County Towns and Villages, of the amounts of the annual distribution payments to be made by the County to them in the calendar year of 2021, and Be it further

RESOLVED, that the Genesee County Treasurer is hereby authorized and directed to make quarterly payments pursuant to the terms and conditions set forth in this Resolution.


Legislator Hilchey seconded the resolution which passed by 212 votes, Stein (43), Maha (28) absent, Dibble (43) no.

**State of New York
County of Genesee**

I hereby certify that the foregoing is a true and correct transcript of a resolution duly adopted by the Genesee County Legislature on the 14th day of November, 2018.

Dated, Batavia, New York

November 15, 2018



Clerk of the Genesee County Legislature

Genesee County Sales Tax/Water/Jail Funding Analysis

For Discussion with Genesee County Towns/Villages

1/17/2019

County Objectives:

1. Fund new County jail that the NYS Commission of Correction is mandating
2. Provide enough water to Genesee County for the foreseeable future and have water users pay for the system
3. NOT decimate municipal budgets

County Plan:

1. Pass local resolutions with City of Batavia for 40 years water and 40 years sales tax sharing between the County and City, which will then require NYS legislation to enact
2. Provide revenue distribution payments to local municipalities at the same amount as what was distributed in sales tax in 2018
3. Growth in sales tax will be separately tracked by County and used to make Jail debt service payments and repay reserves that will be depleted in the interim period before sales tax growth can completely cover debt pymts
4. County will provide advance budget notification of what the revenue distribution payment will be, with the plan of keeping it flat until such time it can examine increasing it in the future. County resolution identifying 2020 payment was passed in 2018, the 2021 payment resolution will be passed later in 2019.
5. Revenue distribution payments will allow for County to equalize water surcharge revenue throughout the County
6. With 40 years sales tax/water agreements in place, City will be able close the water plant and purchase water from MCWA on a retail basis, which will allow for a potential County wide uniform retail water rate from MCWA

****Note: The County plan is contingent on getting a 40 years sales tax agreement, without the 40 year agreement the following is likely:***

1. The City and County will enter into 10 year water supply and sales tax sharing arrangements identical to the terms of the proposed 40 year agreements
2. Provide revenue distribution payments to local municipalities at the same amount as what was distributed in sales tax in 2018
3. City will NOT become a retail customer of MCWA and keep its water plant open
4. County will now be responsible for significant capital improvements at an unnecessary water plant, where repairs are estimated at over \$5 million and replacement over \$30 million.
5. Likelihood of a uniform County wide retail water rate from MCWA is unlikely
6. County will be forced to use revenue distribution payments planned for Towns and Villages to repair the City water plant

Important Notes:

1. City of Batavia has the ability to "pre-empt" sales tax monies generated with the City boundaries, a unique right only afforded to Cities in NYS
2. While the Towns, Villages and County all have a tax cap, only the County has essentially a "hard cap" because some of the County's State reimbursement is tied to staying under the tax cap. Therefore, if property taxes must be raised, there is an added penalty to the taxpayers of Genesee County if the County overrides the tax cap.
3. The NYS comptroller DOES NOT have an issue with the terms of the 40 year sales tax sharing agreement, merely it is their internal policy to not approve agreements longer than 10 years.
4. The City's annual increase in sales tax revenues are capped at 2% growth, until their relative share of sales tax drops from 16% to 14%.
5. While the intention of the County is to keep revenue distribution payments flat until such time they can be raised, the County needs the flexibility to respond to significant event like the State removing the Medicaid cap to Counties.

- Proposal A:**
1. Town/Village share of sales tax reduced from 34% to 30%
 2. Agreement for forty (40) years - mirrors City agreement
 3. County realizes additional 6% revenue from what currently shared with C/T/V
- County Analysis:
- a. Reducing sales tax to municipalities by approximately 12% (4% reduction from 34% is 11.8% reduction) will likely cause an immediate property tax increase for T/V taxpayers, versus a flat payment that might require an occasional small tax increase
 - b. Reducing Town/Village share to 30% is not enough to cover jail debt service payment
 - c. NYS Comptroller said surcharge equalization cannot occur in sales tax sharing agreement
 - d. County needs the flexibility in a revenue distribution model to be positioned in the event a significant event like the removal of the Medicaid cap occurs

WHEREAS, the Town Board of the Town of Bergen (the "Board") has been advised that the property located at 6571 West Sweden Road, Bergen, New York (the "Property") is presently being utilized for non-residential purposes; and

WHEREAS, it is further alleged upon information and belief that the Property is being marketed and advertised as a "Haunted House", and that tours/showings of the Property are occurring on an on-going basis for pecuniary gain (the "Non-Residential Use");

WHEREAS, the Town of Bergen by and through its Code Enforcement Officer has been unable to inspect the Property to ensure that the Non-Residential Use of the Property meets all applicable codes and regulations; and

WHEREAS, the alleged Non-Residential Use of the Property without a formal inspection by the Town of Bergen constitutes a substantial potential hazard to public safety;

NOW THEREFORE, the Board resolves as follows:

The Town of Bergen Zoning Enforcement Officer shall require the owner/proprietor or other responsible party engaging in the Non-Residential Use at 6571 West Sweden Road, Bergen, New York to file an application for an Operating Permit in accordance with §256-10 of the Town of Bergen Code.

AYE

NAY