

COUNTY OF GREENE  
TOWN OF NEW BALTIMORE  
REGULAR TOWN BOARD MEETING  
JANUARY 11, 2010-page 1

**DRAFT**

**Opening of Regular Meeting**

Supervisor Susan O'Rorke called the meeting to order at 7:30 p.m and the Pledge of Allegiance was said. Also attending: Councilwoman Barbara Finke, Councilmen Art Byas, Michael Meredith, and Christopher Norris, Highway Superintendent Jordan, Town Clerk Brooks, and 50+ members of the public. Absent: Tax Collector Lynn Taylor.

Supervisor O'Rorke thanked all for coming and added that it was a nice crowd for the new year.

**Approval of Minutes**

Motion was made by Councilman Norris and seconded by Councilman Byas that the Minutes of **December 14, 2009 Board Meeting** as submitted by the Town Clerk be **amended** on page 8, paragraph 6, under Economic Development, by striking out "will move" and substitute "was considering moving."

The vote was as follows:

	<u>AYES</u>	<u>NOES</u>
<b>VOTE:</b> Councilman Byas	x	
Councilwoman Finke	x	
Councilman Meredith	x	
Councilman Norris	x	
Supervisor O'Rorke	x	

Motion was made by Councilman Norris, seconded by Councilman Byas, that the Minutes of **December 14, 2009 Public Hearing** as submitted by the Town Clerk are approved. The vote was as follows:

	<u>AYES</u>	<u>NOES</u>
<b>VOTE:</b> Councilman Byas	x	
Councilwoman Finke	x	
Councilman Meredith	x	
Councilman Norris	x	
Supervisor O'Rorke	x	

**Public Comment Period**

Supervisor O'Rorke appreciates the opportunity to hear residents' thoughts and asks that individuals use the podium to their left and identify themselves, as the Clerk tries to capture comments. Nils Backlund believes most attendees want to listen and participate during the meeting.

Supervisor said comments may also be made during the meeting. Janet Angelis said that she read in the paper following the Organizational Meeting that there some of the Board members are related to one of the positions appointed and compensated, didn't know the relationships, and wondered what decision rules each Board member has made regarding when to recuse or not recuse themselves in a vote. Supervisor said the Board members may respond or not respond. James Eckl gave written comment to each Board member, for the fourth agenda item. Arlene McKeon, acknowledging the transition stage of the Town Board and to be helpful, went to the website of the New York Press Association for circulation (*subscriptions mailed to*) numbers, and provided the Board with a phone number. [Mr. Backlund -not audible] Supervisor read the circulation numbers. US Post Office keeps circulations by zip codes. Clerk Brooks was asked for the numeric zip codes in the Town of New Baltimore. Ms. McKeon said it does not put forth the household purchases. [Mr. Backlund- not audible- Ravena News Herald 350, Daily Mail 46.] Town Emergency Management Officer Alan Van Wormer, on learning that the Code Enforcement and Building Department is now back to one person, asked if the Board intends to stay with one, adding that when a fire call requires a building inspector, and the Town has only one, will the Town make arrangement with another Town. Councilman Norris said the current building inspector believes he can handle the workload; if that changes in the future, the building inspector will approach his committee.

Dick Brooks commended the Board's decision moving forward with the Registrar of Vital Statistics appointment on January 1 instead of tabling it for this meeting because, unfortunately, there had been a death in Town and it would have been an embarrassment to the Town.

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Bob Knighton thanked Town Clerk Brooks' for meeting that funeral director at Town Hall on Sunday. Supervisor said it was the intent of this Board, as prior Board's, to take public comment about agenda items as they come, adding that those contributions from the back of the room are not guaranteed to be picked up in the record, so please come closer to the tape recorder to do so.

**Correspondence**

In the past the Town Board has voted on the Deputy Highway Superintendent; that appointment is the sole discretion of the Highway Superintendent. Supervisor read a letter from Highway Superintendent Jordan to that effect, naming Alan VanWormer.

In the past, the Town Board has voted on Deputy Town Clerks; those appointments are sole discretion of Town Clerk. Supervisor read a letter naming the three deputies to her office: Marjorie Loux, Claudia Kuder, and Diane Jordan.

From the Zoning Board of Appeals Clerk, notice of a letter of resignation from Tony Rago from Zoning Board of Appeals, with thanks for the opportunity to serve the Town as a part of a dedicated group of people. His service has been greatly appreciated.

From the Zoning Board of Appeals Clerk, notice of a letter of resignation from Roger Wilson; his service to the Town has been greatly appreciated.

From Board of Assessment Review member John Gaspar, a letter of resignation effective January 1, 2010. With thanks for his service to the Town's BAR, Supervisor added that the Planning and Zoning Committee is Councilman Byas, chair, and Councilwoman Finke, member, and encouraged those interested to see out those Board members.

From NYS Department of Environmental Conservation, a required notification to the Town regarding the New Baltimore's NYS Thruway rest stop's upgrade to their wastewater treatment plant that discharges into Sickles Creek. The project will be an improvement to the water quality of Sickles Creek and the Hudson River.

From Alan VanWormer, President, Cornell Hook and Ladder Company, a \$1000 donation from Walmart Charitable Donations fund to the Company in 2008 was to be used toward the purchase of 911 signs for individuals in the New Baltimore Fire District. In 2009 the Town decided to take on the 911 sign program with the help of a grant and provide 911 signs to residents at no charge. At the January 2010 meeting, the company voted to forward that donation to the Town and, if not needed for signs, could be used to help with installation hardware (applause). Supervisor and Councilman Norris thanked Alan VanWormer and indicated that more signs are coming.

Ellie Alfeld asked if there wasn't correspondence received from James Eckl received at the onset of the meeting. Supervisor said that would be read under that agenda item.

**Old Business**

There was no old business as this was the first Regular Meeting.

**New Business**

In her Association of Towns training for newly-elected officials, Supervisor O'Rorke learned that this first resolution is an act the Town should do each time the Supervisor makes a payment. Supervisor added that the Town Board members are required to audit all the claims (vouchers) and 3 approval signatures must be collected on each claim. Supervisor read.

**RESOLUTION  
JANUARY 11, 2010**

**RESOLUTION TO AUTHORIZE SUPERVISOR TO PAY AUDITED CLAIMS**

WHEREAS, the Town Clerk has presented claims to the Town board for audit and review and,

WHEREAS, the Town Board has audited claims G20100101-32, H20100101-23, and S20100101-6 for a total amount of \$48,024.72, it is

RESOLVED, that the Supervisor is hereby authorized to pay claims totaling \$48,024.72.

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**Councilman Norris moved, seconded by Councilman Meredith.** No discussion.

The adoption of the foregoing Resolution was duly put to a vote, and upon roll call, the vote was as follows:

	<u>AYES</u>	<u>NOES</u>
<b>VOTE:</b>		
Councilman Byas	x	
Councilwoman Finke	x	
Councilman Meredith	x	
Councilman Norris	x	
Supervisor O'Rourke	x	

Supervisor said the next resolution had to do with JB Car Services, also known as Brockett's secondhand junk and auto parts dealership. Supervisor learned that the Town Board can retain the right to review Special Use Permits but if, under local law, that authority has been moved to the Planning Board, then Special Use Permits must go to the Planning Board. Upon investigation it appears what the Town had done was voting on a Special Use Permit each year and issuing a secondhand junk license. Separated out, the authority to award the Special Use Permit will return to the Planning Board, and the Town will need to approve the junkyard permit.

- Resolution to move Brockett Special Use Permit to Planning Board

**RESOLUTION  
JANUARY 11, 2010**

**RESOLUTION TRANSFERRING SPECIAL USE PERMIT REVIEW TO TOWN  
PLANNING BOARD AND APPROVING AISSUEANCE OF SECOND HAND JUNK &  
AUTO PARTS DEALERS' LICENSE FOR JB CAR SERVICES INC.**

**WHEREAS**, James Brockett is the operator of JB Car Services, Inc., located at 241 Flatbush Road, West Cossackie, New York; and

**WHEREAS**, Mr. Brockett requires a Special Use Permit and Second Hand Junk & Auto Parts Dealers' License, both renewable annually, and

**WHEREAS**, the authority for review and approval of the Special Use Permit has now been transferred to the Town Planning Board, and

**WHEREAS**, the Building Inspector has conducted an inspection of Mr. Brockett's operation.

**NOW THEREFORE, BE IT RESOLVED**, that review of the Special Use Permit for Mr. Brockett's operation is now transferred to the Town Planning Board in accordance with the Section 112, Article X of the Code of the Town of New Baltimore, and

**BE IT FURTHER RESOLVED**, that Brockett's Second Hand Junk & Auto Parts Dealers' License is hereby renewed for a term ending December 31, 2010.

**Councilman Norris moved, seconded by Councilman Byas.** Attorney Wukitsch asked for report from Code Enforcement Officer Cashin; Mr. Cashin found clean premises, fire extinguishers that were up-to-date, will discuss fire lanes and pile sizes when Mr. Brockett returns to town, and recommended renewal of annual license. Ellie said the piles have been higher than usual and asked if there was a height limit; answer: there is a limit to the number of cars that can be stacked. Mr. Cashin said with regard to tires, he needs to be reminded because he pays the same amount any time of year to dispose of them. Is his legal address Flatbush or 9W; answer: tax record reflects Flatbush Road. Planning Board Chair Lee Davis, regarding the Town Board's action of transferring the authority to grant Special Use Permits from Zoning Board of Appeals to Planning Board in 2008, is unfamiliar with this Special Use Permit; their next meeting is this Thursday. Mr. David heard about this yesterday, does not know when it expired; answer December 31, 2010. Rich Guthrie expressed concern about the tire pile, remembering tire

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fire in Catskill and the air and water impact, asking that reasonable and manageable limits be kept. The adoption of the foregoing Resolution was duly put to a vote, and upon roll call, the vote was as follows:

	<u>AYES</u>	<u>NOES</u>
<b>VOTE:</b> Councilman Byas	x	
Councilwoman Finke	x	
Councilman Meredith	x	
Councilman Norris	x	
Supervisor O'Rorke	x	

• **COURT CIVIL SERVICE POSITIONS**

Supervisor's research revealed that a Town may exempt 2 positions within the Court; justice clerk works for a justice, and a court clerk works for the court. The Town of New Baltimore took action September 2007 to exempt Justice Clerk from competitive class of Civil Service and a public hearing was held. Civil Service does not recognize the title of deputy justice clerk, and the Town of New Baltimore has requested exemption for 3 positions. Supervisor spoke with Greene County Civil Service, could keep **Justice Clerk**, one salary and one part-time hourly, then the deputy justice clerk position would have to be approved by Civil Service. Supervisor asked how to accomplish; answer: the County would put through a resolution to NYS Civil Service, could take up to a year. Greene County Civil Service said, as New Baltimore has two vacancies, they could be filled under probationary period, and if the title **Deputy Justice Clerk** is not approved by Civil Service then that individual would have to be given a different title. If Board is fine with that, then nothing needs to be done. If the Board wants to handle this differently from the 2007 Town Board, the Town Board would have to take action.

Councilman Byas thought this was a lot to understand. As it was the prior Board's intent to exempt 3 positions from Greene County Civil Service competitive class, then the County will prepare and put forth that resolution to NYS Civil Service for approval. Councilman Byas asked what the other option was; answer: to go to a competitive list, probably the current employee would need to take exam and get onto the list. Civil Service has no impact on retirement. The 2007 action was completed on recommendation of the Town Justices; the reason this is allowed under Civil Service has to do with relationship, trust, and stress. Councilman Byas asked how other Town do this. Supervisor said that the majority does this – Coeymans does use Civil Service. Attorney Wukitsch offered that it can depend on size, in smaller courts, usually a clerk works directly with one Justice and they are usually exempt in a confidence role; a larger court may have a dozen different titles. Justice Joe Cosenza offered that as a state administrator; it is great to have Civil Service employees since they come with experience, the hiring practices and salary structures to abide by. Supervisor confirmed that the salary is not dictated by Civil Service at this level. No action is needed tonight by the Town and can be revisited. Nils Backlund agreed with the Justice's comment, in a small community it is another layer of bureaucracy and law. Rich Guthrie said the exams and canvassing make a lengthy process. Supervisor concurred that these stay exempt from the competitive class of Civil Service.

Supervisor O'Rorke reviewed the situation in the Justice Clerk office. In fall, the justices were aware of retirement and were approached by prior Supervisor to keep the budget low. They had 2 full- and 1 part-time and agreed to one full- and two part-time. The justices waited for the 2010 Budget to be adopted in order to fill that position, the search was begun, and the circumstance became dire when the part-time clerk resigned in mid-December. A name was brought to the prior Board at December meeting and no action was taken, as Councilmen wanted to review the candidates.

When the Board met to prepare for the Organizational Meeting the members of the Board wanted to see open Town positions advertised in 3 newspapers. Councilman Norris and Supervisor O'Rorke met with the justices on December 19 to ask them to comply; met that Saturday and left the advertisement for the Town Clerk to place in the 3 papers on Monday. Ads were placed in 3 papers, ran in 2, as the third paper's deadline was Friday and that paper was on vacation the following week. Applications were received at Town Hall, interviews were held on

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December 29, with the Court liason present. The Justices provided the Town Board with 2 names for consideration.

~letter from Justices Farrell and Cosenza was read and is on file~

Councilwoman Finke asked if the ad did not make the News Herald, why didn't it run the following week. Justice Farrell said the justices are not obligated to advertise, they did comply at the Board's request, the timeline for receipt of applications was December 29, conducted interviews and qualified applicants were found. News Herald, through no fault, could not publish the advertisement and the advertisement was run in the official paper (The Press). Justice Farrell is stunned with hesitation of Town Board to fulfill the positions required. Because the applicants are qualified, it serves no purpose to not have proper staffing; the Court has a responsibility to the people of the Town, to God and to the law, and it is appropriate for the Board to vote on the names given. Councilwoman Finke asked how many applicants from the Town; answer: 1. Justice Cosenza said there were 6 candidates (1 local) and provided Public Officers law Document 3, Section 8, with the residency requirement to be within the political subdivision of Greene County. Attorney Wukitsch said that can be changed by Local Law and subjected to public hearing; that change does not exist at this time.

The 2009 Town Board voted the Greenville Press as the official paper. The News Herald and the Times Union are Albany County papers, Justices cannot hire from Albany County, and do not want to go through the Local Law process. Councilman Byas said it didn't go into the News Herald/Greene County Courier. Justices said that they met with Supervisor and liason Councilman Norris, a deadline was agreed upon, Town of New Baltimore Justice Court is in the top 10-11% statewide for volume, and they did not intend to drag the process. Councilman Byas read the mailed subscription circulations in each of 7 zip codes- on file- and did not feel that the Daily Mail really serviced the area of the Town of New Baltimore. Justice Cosenza reminded Councilman Byas that in 2008 and 2009 the Greenville Press was the official paper. Councilman Byas felt that the Ravena News Herald and the Courier are the papers that the Town should pay attention to for their circulation and that it isn't fair to the residents. Councilman Meredith asked who ran the ad, and was the deadline known. Supervisor clarified that the Board met before taking office in order to line up the resolutions and appointments for the Organizational Meeting, and knowing the urgency, meeting on Thursday, Supervisor and Councilman Norris met on Saturday with the Justices and wrote the ad and unfortunately, through no fault of anyone, the News Herald's deadline was the Friday prior. Dick Brooks volunteered that their entire staff was vacationing and the newspaper was printed a week early.

Jonathan Donald asked why this process is so unusual this year; something that has been a matter of fact is now given special scrutiny, what is going on? Councilman Byas answered that the Board wants to be more of an open government, to let everyone and the residents know what is going on, instead of a hand-picked situation; to advertise for everything and let people know and give them a chance to apply. Dick Brooks reminded that these are court clerks, the justices have had the power to pick them, and this is thin ice. Councilman Byas said he has spoken to other judges who were surprised how this went along, they advertise, receive resumes, and submit them to the Town Board. Councilman Meredith said it was not advertised this past week.

Justice Cosenza said the timeline was met, a Board member sat in the interview process and chose same candidate. Councilman Norris said they were closed for the holiday, and what is the purpose - was it to get a pool of candidates? Justice Cosenza felt he had a good pool; had 20 resumes, had candidates, it boils down to 2-3 qualified candidates; Justice Farrell said 9 applicants, Attorney Wukitsch asked that information on candidates not be discussed. Councilman Norris believes and supports what Justices are doing, there is no fault, and believes process went correctly. Former Councilwoman Lisa Benway offered that Justices were trusted enough to be elected, now trust them to hire their staff.(applause)

James Eckl asked didn't they just approve the Deputy Town Clerks, and that this is the judicial branch; Attorney Wukitsch said Mr. Eckl wrote a very nice letter and attached Town Law history on this point, Section 20, Subdivision 1, where the Justice Clerk may be appointed or discharged only upon the advice and consent of the Justices of the court; before 1990 the Justices played no role in the hiring of the court clerks, the Justices were given that by amendment in 1990.

Attorney Wukitsch said in his experience it is a collaborative process; Town Board works with the Justices to be sure that an appropriate number of candidates are aware of the opening and that a process is followed, adding that he believes it was collaborative here.

Bob Knighton understood that the ad that was placed in the official paper specified a deadline for applications; it struck him that, having done that, [the Town] doesn't have a choice but to live by

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that deadline and there is nothing to discuss; the fact that it wasn't published in an un-official paper because they were on vacation doesn't change the fact that the official date was published in the official paper.

Councilman Byas asked what date he had met with the others? Supervisor said on December 16, 2009. Councilman Norris and Supervisor met on Saturday with the justices, and the ad was placed on December 21.

Nils Backlund asked one more time, for the process, should you go within the community. Justice Cosenza said the Township is preferable as it is a part-time job. Nils Backlund said that he heard about the sudden need and flags went up; the retirement was known a year ago and he knew someone who did not have an opportunity for an interview. Justice Cosenza explained that they had requested a part-time clerk who could be trained before the retirement, but that person suddenly resigned; justices explained this at the December 14, 2009 meeting. Justice Cosenza said every new employee is probationary and one applicant did not return his phone calls. John Wallner worked with Justice Farrell and the former justice, supports the Town Court; to not be fully functioning impedes Court revenue and it is the job of the Town Board to give their support.

Councilwoman Finke is bothered at the prospect of hiring someone from Catskill, and asked for the ad to first be placed in Ravena News Herald; Justice Farrell appreciated the gesture. Supervisor asked if there was court clerk training coming up; answer: on January 22, 2010 new court candidates are being trained and would like to have one in the training. Ad also was available on website. Justices want the authority to determine final candidate. Supervisor read.

**RESOLUTION  
JANUARY 11, 2010**

**RESOLUTION APPOINTING PART TIME JUSTICE CLERK**

WHEREAS, a vacancy position exist in the Justice Court, and

WHEREAS, the Town has advertised for the position of Part Time Justice Clerk, and

WHEREAS, the Town Justices, along with the Town Board's Court Liaison have reviewed the applications submitted and conducted interviews with prospective candidates for this position in response to this advertisement, and

WHEREAS, the Justices and Court Liaison have recommended that this position be filled by Patricia Monks who meets the qualifications for this position.

NOW THEREFORE, BE IT RESOLVED, that Patricia Monks is hereby appointed to a position as a Part Time Justice Clerk for the Town of New Baltimore Justice Court, effective January 11, 2010, at an hourly wage of \$10.00 per hour, provided that said appointment shall be on a probationary basis for six months.

Councilman Norris moved, seconded by Supervisor O'Rorke. Determination was to run the ad again in Ravena News Herald only. The adoption of the foregoing Resolution was duly put to a vote, and upon roll call, the vote was as follows:

	<u>AYES</u>	<u>NOES</u>
VOTE: Councilman Byas	x	
Councilwoman Finke	x	
Councilman Meredith		x
Councilman Norris	x	
Supervisor O'Rorke	x	

• **COURT CLERK APPOINTMENTS**

Supervisor asked if the Justices were receptive to the idea that the ad would run once more, in hopes of a qualified local candidate; Justices reminded that the final say must be theirs, must be what the Justices need, and this search must not just keep going. Councilwoman Arlene McKeon

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cautioned the Board about the cost of additional advertisement, and acknowledged this Board's commitment to trimming costs. Town Clerk Brooks added that the cost of each singular placement in the paper is doubled with the addition of a second official paper, and tripled with the addition of a third paper.

Councilman Byas stated that the Town was advertising wrong, need to be in the legal section, but the ad he saw was in a box over to the side. As a business person reading the business section, Councilman Byas advocated the \$.39/line and 2-3 inches wide listings in the legal column where bids are placed for jobs, instead of what he called an advertisement ad that is 6 x 6.

Councilwoman Finke read from 2008 minutes, "Supervisor said it would be necessary to advertise for a Wastewater Operator Trainee. The fairest way to fill vacancies is to advertise."

Supervisor O'Rorke clarified that the point here was not the merit of advertising but the concern with the budget and what has been budgeted; the prior Board only advertised in one paper. The resolution appointing a second clerk was tabled to the January 25 Work Meeting.

Ellie Alfeld asked if a resolution could be passed at a Work Meeting; answer: yes.

Supervisor O'Rorke asked the Justices if they were in agreement to run the ad in the Ravena News Herald with a changed deadline, and coming back at the Work Meeting, Councilwoman Finke has agreed to sit in on the interviews. Clerk Brooks asked if anyone anticipated phone calls regarding a reopened search that would only be published in one paper. Justice Cosenza offered that this may be a can of worms. Attorney Wukitsch said there was not a problem from a legal standpoint and the date is only for the purpose of receipt of applications. Member of the public said that the deadline for this week's issue of Ravena News Herald had passed.

• **GREENE COUNTY SHERIFF LIABILITY**

Supervisor thanked Greene County Sheriff Greg Seeley for being present. Councilman Norris and Supervisor met with insurance broker to discuss several issues. The court has an armed security officer; recommended by Office of Court Administration as situations arise. The Town has contracted with an individual who does not provide the Town with an insurance certificate, would be the Town's Workers' Compensation if he were to be injured and, if sued, he would not be protected by the Town's insurance. For an additional \$1500/yr the Town could have a law enforcement policy and, prorated toward the March renewal date, right now would be 2 months worth of that. So, the Town is reaching out to Greene County Sheriff Seeley, who would be in control of training, policies and procedures, and has gone through this in Greenville already. Sheriff Seeley thanked the Town Board, the past Town Board. [Seeley] commented that the service here is long overdue, how the satellites work is the talk of Greene and southern Albany County, and an arrest happened here recently. There are satellites in Greenville, Prattsville, New Baltimore and soon in Cairo. Deputy Ken McMahon was on site in 3 minutes for a recent suspect. Sheriff is very pleased with satellite; let his staff know if any problems are seen.

The court's security officer is an employee of the Sheriff's office but when he serves the Justice Court he does not act within the capacity or authority of the Sheriff's office. If asked, the Sheriff could not supply manpower for the Court; if the Town is satisfied with this individual, the Sheriff would look at his qualifications and consider entering a contract to cover his salary and insurance. The Sheriff does not have sufficient manpower to take a deputy off the road and offer to each municipal court in the county.

Regarding insurance, [Seeley] spoke to Nolan Pazin, only a certificate of insurance from Greene County is needed. Supervisor said if an incident were to occur, as the Town owns the property, more than likely the Town would be included in a lawsuit and the Town would like the County to indemnify. Sheriff Seeley said it was an easy fix, no different than a deputy having a squabble on the road, and the County will fork the bill. Supervisor already knows that \$1500 will cover the insurance, this individual is 1099, there are no policies or procedures for him and the Board will be more comfortable with him under the Sheriff. Supervisor asked what will the County charge back to the Town for the additional Workers' Compensation? Sheriff will explain all pieces and has this arrangement with other Towns. Councilman Byas asked what he does for Coxsackie. Sheriff Seeley said this is something the individual has worked out with town justices; the arrangement is not uncommon and was done based on Coxsackie's recommendation.

Sheriff Seeley commented that both Justices, in his 25 years, are among the most professional justices in Greene County for which we should be proud.

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Rich Guthrie said he keeps the Sheriff's dispatcher on speed dial as he moves around the roads of the Town.

Regarding Property and Casualty Insurance, the Town will be putting it out to bid as it renews March 1, 2010, ad will be placed in the newspapers, probably accomplished at the March 4 meeting. Councilman Byas asked to see the ad in the legal column and not in a boxed ad.

• **HIGHWAY LOADER**

The current loader was purchased new in 1998 under state contract for \$64,000. It died in mid-December and a unit was rented to fill the sanders of the plows. Former Supervisor did not feel it was fair for the former Board to make a heavy decision, gave permission to rent a unit, and left the purchase decision for the new Town Board, with thanks to Councilman Norris for preparing a spreadsheet for the Board. The current unit has 6000 hours, issues with hydraulic pump and brakes, and has electrical problems so the hours are not accurate. This would qualify as emergency purchase, and as such would not need to go out to bid.

Deputy Highway Superintendent Alan VanWormer submitted a letter. ~read letter, on file ~ Supervisor and Councilman Norris spent time with Highway Superintendent Jordan: could take out transmission and repair (3 bids: \$18,425-22,800), or replace (6 bids) the transmission or purchase new. The Town has looked for something with low hour use, nothing. We are also paying \$4000/month to rent the unit now. Councilman Norris said a NYS Thruway spokesman concurred that Samsung was not a good machine, using the term "maintenance nightmare". Current state bid is \$125,000 on average, bids in front of the Board range from \$112,000-154,000. Trade-ins vary from \$20,000 to \$0. The loader rental is currently \$4,000/month. Councilwoman Finke asked for a timeline and an inventory that can be taken up at Work Meeting. Councilman Byas asked if there was anything on the priority list for this year. Superintendent Jordan said he hoped the loader would hold til fall, the backhoe (6,000 hours) is starting to have issues, and {Jordan's} pick-up truck has 97,000 miles. Supervisor commented that the Highway Department has an old fleet. As the Highway Committee, Supervisor and Councilman Norris are in agreement with replacement of the loader. Councilman Byas asked if Councilman Norris had a breakdown/evaluation sheet; Superintendent Jordan said Vantage had come down. Councilman Byas asked if he had a copy of the evaluation. Jordan said no, they took the valve body apart, transmission must be rebuilt, works right now, but is full of metal and going to be contaminated. Councilman Byas asked if he'd gotten a sample of the oil. Jordan said from clutch pack there is a lot of aluminum. Supervisor said the main use is to load the sanders and the snow plows, the backhoe is not young and the loader is much smaller so takes longer to load, requiring more overtime.

Councilman Byas asked someone to make copies for the board members and Superintendent Jordan of a breakdown from Vantage, what they did to it and an oil sample. Supervisor asked if he had shared this with the Highway Superintendent; Councilman Byas said he asked Mr. Jordan if he had one. Mr. Jordan responded that he {Jordan} had not received it and asked why he had not been given it. Councilman Byas answered that it had come to Town Hall and pointed out the fax number as the Town Hall's {756-8880}. Councilman Byas said he spoke to Vantage's Paul Gurber who had come to New Baltimore who recommended dropping the oil, going into the inspection cover, (the pump makes a lot of noise when started) and replace the pump. Councilman Byas asked if Mr. Jordan does the maintenance on it and referred to the back page of the breakdown from Vantage. Highway Superintendent Jordan asked for a copy. Councilman Byas said he'd asked someone to make copies; Deputy Town Clerk was asked by Supervisor to leave and make photocopies for the Board and the Highway Superintendent. Supervisor asked how long Councilman Byas had had the breakdown; answer: since he had asked Councilman Norris for it, and Councilman Norris had called Highway Superintendent Jordan and asked if he had the breakdown and he did not. Councilman Byas said he was not admitting; that Councilman Norris did not have it and asked for openness on the Town Board. Councilman Norris clarified that Councilman Byas had asked him for the VIN number so {Byas} could get the breakdown. Councilman Byas asked what Mr. Jordan's fax number was; Supervisor responded that Highway faxes come in to Town Hall and are put into the Highway mailbox. Councilman Byas asked for his copy back. John Wallner asked whether there was a balance in the Highway Reserve Fund, \$32593. The 2010 Budget has a scheduled appropriation to that Fund of \$15,000. The Highway

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Fund for 2009, although not all claims are in for 2009, the surplus appears to be \$100,000, credit to Highway Superintendent and Deputy Highway Superintendent and their staff and the good job they have done with their budget this year. Councilwoman Finke asked Highway Superintendent and Deputy Highway Superintendent if this was the most important piece needed this year; answer: yes. Supervisor clarified that currently the Town is renting a unit for \$4000/month. Councilman Byas said that the backhoe could be used; Mr. Jordan said it doesn't maneuver high enough. Councilman Byas said a ramp could be built; Mr. Jordan said a ramp would be needed on the other side of the truck, so more than three times longer to load a truck with the backhoe. {unable to hear} Supervisor said if purchase from Vantage the Town would get credit for the rental, the other vendors, not. Councilman Byas asked if 15-40 oil was used, Mr. Jordan said that hydraulic oil is used. Councilman Byas felt that we should drop the oil, go into the inspection cover and see what's in there before going any further. Ellie Alfeld asked what the range of prices was, including the trade-in John Deere comes in \$2000 less than Caterpillar. Ellie asked if the \$1000 for evaluation could be subtracted, Supervisor said that price included the trade-in and if the Town stalls, it will not be an emergency purchase. Councilwoman Finke asked what the availability would be. Supervisor said our loader doesn't have a coupler on front; with coupler we could have a sweeper, and save some money. Without coupler, the desired model would involve a wait of 30-60 days. Councilman Byas asked about an exchange unit that could run \$8000. Mr. Jordan said under OSHA, it is illegal to use excavator to lift. Councilman Byas added that to rebuild it would be a maximum of \$18,000. Supervisor said the range for rebuild was \$18,425-22,800. Mr. Jordan said it was taxpayers' money but it is continuously breaking down and causing time loss and cost; Councilman Byas asked what was continuous- breakdown of breaklines is a common problem with salt. Mr. Jordan said to get rid of it now when something can be gotten for it. Dick Brooks asked, "Denis {Jordan}, you're the expert, do you need a new loader?"; answer: yes, we do. (Applause) John Wallner said he had worked with Mr. Jordan and had a lot of faith in his decision. Member of the public- we all do. Nils Backlund said John Deere and Caterpillar are made out of the country, do the research on the equipment and longevity, there are lots of Volvo trucks, and get a contact at the NYS Thruway. Councilman Norris reached out to NYS Thruway, Volvos are easy to maintain and they like their John Deere units as well.

Councilwoman Finke asked how would it be paid; Supervisor said there is a balance of roughly \$100,000 in Highway Fund and \$32,593 Reserve Fund and said \$70,000 from Highway and remainder from Reserve Fund could be one scenario, or even a lease. Supervisor said that prior Boards have frugally put away money for this and bonding is also possible; with respect for the Highway Superintendent, comfortable with his research and the path he produced, prior Town Boards have been putting money aside for this, we have an aging fleet in the department, and the equipment is also used in summertime for paving, do not want delays and breakdowns at that time without good back-up. Councilwoman Finke asked if he foresaw anything else before the end of the year; Mr. Jordan felt the backhoe would be the next to replace, and his pickup truck due to their constant use. Ellie Alfeld asked if a 5-6 year lease could help reserve cash for additional emergencies; Councilman Norris offered there were different considerations for a down payment. Another \$15,000 was scheduled to be appropriated to the Highway Reserve Fund in 2010; Town Board has prior history of making those appropriations at the onset of year. Ellie Alfeld suggested putting down \$50,000 down and having enough left to help with an emergency. The responsibility of the Town Board is to look for the longest life cycle possible, John Wallner recommended putting away and buying-not financing, not bonding. Supervisor said credit quotes of 4.25-6% have been gotten for lease, and bonding is typically available at a lower interest rate. Supervisor asked for consensus of the Board on purchase; Councilman Norris, Councilwoman Finke, and understood Councilman Byas' feeling but added that equipment must be cycled out, and from the research he did, this piece is a "lemon", and it was scheduled to be replaced and so he concurs with the Highway Superintendent. Councilman Byas would like to look into repairing the transmission. Supervisor said, although this is an emergency purchase, several quotes came in under state bid. Alan VanWormer offered that the \$20,000 trade is only valid while it still moves forward and backward. Councilman Byas felt that the prices would still be good in three months, if not at a 20% discount. Mr. Jordan prefers John Deere for its resale value- keep for 10 years and get \$20,000 now. Councilwoman McKeon asked if the Town had the money for the John Deere, is that the recommendation of the Highway Committee, John Deers will give \$20,000 for the old Samsung. Mr. Jordan added that he would like a tool carrier/coupler for

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additional \$2500. Supervisor said this model, with coupler, could be gotten soon without incurring more rent at \$4000/month; waiting for model without the coupler would require one or more months' rent. Mr. Jordan said we still have to buy the broom. Supervisor said if coupler is bought now it is cheaper than waiting, and broom or forks, and adding coupler improves resale.

**RESOLUTION  
JANUARY 11, 2010**

**RESOLUTION TO AUTHORIZE PURCHASE OF A LOADER**

**WHEREAS**, the Town's Samsung Loader is not in working condition due to a broken transmission, and

**WHEREAS**, the Town Board has established that the repairs to the transmission are not economical given the age of the equipment and the Town Highway Superintendent's recommendation to replace the equipment, and

**WHEREAS**, the purchase of a new loader qualifies as an emergency purchase under the provisions of the General Municipal Law, Section 103, subdivision 4, and

**WHEREAS**, the Town Board has reviewed proposals from six vendors,

**NOW, THEREFORE, BE IT RESOLVED**, that the Town Board does hereby find that it is in the general interest of the taxpayers of the Town of New Baltimore to purchase a new loader and hereby authorizes the purchase of 2010 John Deere 4WD 544K Wheel Loader and Coupler and Third Valve from Nortrax, Clifton Park, at a cost not to exceed \$98,000 per their proposal presented to the Town Board on January 11, 2010.

Supervisor moved, seconded by Councilman Norris. No discussion. The adoption of the foregoing Resolution was duly put to a vote, and upon roll call, the vote was as follows:

	<u>AYES</u>	<u>NOES</u>
<b>VOTE:</b>		
Councilman Byas		x
Councilwoman Finke	x	
Councilman Meredith	x	
Councilman Norris	x	
Supervisor O'Rorke	x	

Supervisor O'Rorke said a decision as to how to pay for the purchase must be made. To pay for this, with approximately \$100,000 in the Highway Fund, Councilman Norris recommends 100% payment. Councilwoman Finke suggests \$75,000 and lease payment at 4% on the remainder, \$23,000.

**RESOLUTION  
JANUARY 11, 2010**

**RESOLUTION AUTHORIZING THE EXPENDITURE OF FUNDS  
FROM THE HIGHWAY EQUIPMENT FUND OF THE TOWN OF  
NEW BALTIMORE FOR THE PURCHASE OF A  
JOHN DEERE 4WD 544K WHEELLOADER  
FOR USE BY THE TOWN HIGHWAY DEPARTMENT**

**WHEREAS** the Town Board of the Town of New Baltimore established a capital reserve fund on December 10, 1991 of the general type for the purchase of highway equipment to be called the Highway Equipment Fund; and

**WHEREAS** the Town Board has the authority to make an emergency purchase of \$75,000 to be used by the Town Highway Department.

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NOW THEREFORE, BE IT RESOLVED that the Town Board hereby authorizes that the amount of \$23,000 be expended from the Highway Equipment Fund towards the purchase of a John Deere 4WD 544K Wheel Loader, and

BE IT FURTHER RESOLVED that this Resolution shall be subject to permissive referendum as provided by law.

Supervisor amended paragraph 2 of resolution to read "emergency purchase of \$98,000" and \$23,000 from the Highway Equipment Fund. Supervisor O'Rorke moved to amend, seconded by Councilman Norris. No discussion. The adoption of the foregoing Resolution was duly put to a vote, and upon roll call, the vote was as follows:

	<u>AYES</u>	<u>NOES</u>
VOTE: Councilman Byas		x
Councilwoman Finke	x	
Councilman Meredith	x	
Councilman Norris	x	
Supervisor O'Rorke	x	

• **RESPONSIBILITY OF ATTORNEY TO TOWN**

Supervisor asked if the Board would pursue the discussion on this topic or move to table this topic to their next meeting. Councilman Byas asked if Executive Session was going to occur; answer: yes.

Councilman Norris moved to table the discussion of this item, seconded by Supervisor.

	<u>AYES</u>	<u>NOES</u>
VOTE: Councilman Byas	x	
Councilwoman Finke	x	
Councilman Meredith	x	
Councilman Norris	x	
Supervisor O'Rorke	x	

• **ENGINEERING SERVICES FOR TOWN**

In an emergency, the Town Board would have to hold a Special Meeting to approve the authorization of to call in an engineer. Supervisor respects Councilwoman Finke and Councilman Byas reaching out to engineers to call the Town Highway Department would need to find someone to provide engineering services, April 1, 2010. Councilman Byas added that Creighton/Manning had done the work on the bridge. Supervisor read.

**RESOLUTION  
JANUARY 11, 2010**

**RESOLUTION DESIGNATING ENGINEERS AUTHORIZED TO PERFORM  
ENGINEERING REVIEW SERVICES ON BEHALF OF TOWN**

WHEREAS, the Town Code of the town of new Baltimore grants authority to the Town Board, Planning Board and Zoning Board of Appeals to retain licensed professional engineers for the review of projects that are submitted for approval to these boards, and

WHEREAS, the Town Board is responsible for the procurement of professional services on behalf of the Town, including professional engineering services, and

WHEREAS, it is in the best interest of the Town to designate one or more licensed professional engineers to perform such engineering review work that may be required for projects under consideration by the Town in the course of its usual business, and

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WHEREAS, the Town Board finds that it is in the best interest of the Town of New Baltimore to designate more than one licensed professional engineer to perform such engineering review work on behalf of the Town, so that any conflict of interest can be avoided and that a competitive selection process is ensured, and

WHEREAS, the Town Board over the years has engaged several engineering firms to perform work on behalf of the Town and has found the work of these firms to be satisfactory and finds that these firms are properly qualified to perform engineering review work on behalf of the Town for purposes of reviewing pending projects that are subject to approval by the Town Board, Planning Board or Zoning Board of Appeals.

NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the Town of New Baltimore does hereby designate the following three engineering firms as Town Engineers, any one of which would be eligible for retention by the Town Board, Planning Board or Zoning Board of Appeals for purposes of providing engineering services in conjunction with the review of projects that are under consideration by the Town Board, Planning Board or Zoning Board of Appeals.

C.T. Male Associates  
Delaware Engineering  
J. Kenneth Fraser & Associates

AND BE IT FURTHER RESOLVED, that such designation shall expire on April 1, 2010.

**Supervisor moved, seconded by Councilman Meredith.** Councilman Byas asked if Supervisor would add the other engineering firm; Supervisor responded that no resume was received and it could be added in April. The adoption of the foregoing Resolution was duly put to a vote, and upon roll call, the vote was as follows:

	<u>AYES</u>	<u>NOES</u>
<b>VOTE:</b>		
Councilman Byas	x	
Councilwoman Finke	x	
Councilman Meredith	x	
Councilman Norris	x	
Supervisor O'Rorke	x	

(applause)

• **BI-ANNUAL REPORTS OF ZBA AND PLANNING BOARDS**

Supervisor stated that the Zoning Board of Appeals and Planning Board did not meet in December and their bi-annual reports may be made in February.

**Councilman Norris moved to table the bi-annual reports to February Regular Meeting, seconded by Supervisor.**

	<u>AYES</u>	<u>NOES</u>
<b>VOTE:</b>		
Councilman Byas	x	
Councilwoman Finke	x	
Councilman Meredith	x	
Councilman Norris	x	
Supervisor O'Rorke	x	

Supervisor said that in anticipation that tonight's meeting would be lengthy, **Monthly Reports** from the departments have been moved to the January 25 Work Meeting.

Rich Guthrie asked the Town Board to consider locks on staff mailslots. Councilwoman McKeon asked for instructions if a person would like to serve on Planning or Zoning Boards; Supervisor answered: send information to the Town Clerk and she will see that they get to the Committee Chairs.

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Supervisor asked for a motion to enter Executive Session for the purpose of discussing pending litigation regarding Sunnybrook Farms, for which no decision would be made tonight.

**Councilman Norris moved, seconded by Councilwoman Finke.**

**Motion Carried      Ayes-5 Byas, Finke, Meredith, Norris, O'Rorke**  
**Nays-0**

The meeting was adjourned to Executive Session at 10:20 pm and Councilwoman Finke was designated to note the motions for Executive Session.

Executive Session began at 10:30 pm

**Councilman Norris moved to adjourn the meeting, seconded by Councilman Meredith.**

**Motion Carried      Ayes-5 Byas, Finke, Meredith, Norris, O'Rorke**  
**Nays-0**

The meeting was adjourned at 10:59 pm.

Respectfully,

Janet A. Brooks  
Town Clerk