

COUNTY OF GREENE
TOWN OF NEW BALTIMORE,
REGULAR TOWN BOARD MEETING
FEBRUARY 10, 2014 - page 1

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OPENING REGULAR TOWN BOARD MEETING

Supervisor Dellisanti called the meeting to order at 7pm and Pledge of Allegiance was said.
Also attending: Councilwomen Benway and VanEtten, Councilman Norris and Ruso, Attorney for the Town Rappleyea, Highway Superintendent Jordan, Town Clerk Brooks and 16 members of the public who signed the attendance sheet.
Absent: -

APPROVAL OF MINUTES

Regarding the minutes of January 1, 2014 Town Board Organizational Meeting submitted by the Town Clerk, **Councilman Norris moved and was seconded by Councilwoman Benway.** Supervisor said the time the meeting was opened and Pledge of Allegiance were not mentioned. **With revisions, Councilwoman Benway moved, seconded by Councilwoman VanEtten.** The adoption of the foregoing Motion was duly put to a vote, and the vote was as follows:
BENWAY-AYE DELLISANTI-AYE
NORRIS-AYE RUSO-AYE VANETTEN-AYE
Motion Carried

Regarding the minutes of January 13, 2014 Town Board Regular Meeting submitted by the Town Clerk, **Councilman Norris moved and was seconded by Councilwoman Benway.** Councilwoman VanEtten has questions, under Rodney Krzykowski that he said he belonged to a conspiracy called a terrorist, he did not say he belonged to a conspiracy, rather people call him a terrorist, a lot of this needs to be changed, where it says page 2 under Resolution to Place Advertisement, it says that I answered no, I said I would like them to be sent to me as chair of both committees. **Councilman Ruso moved and was seconded by Councilwoman VanEtten.** No further questions or discussion. The adoption of the foregoing Motion was duly put to a vote, and the vote was as follows:
BENWAY-AYE DELLISANTI-AYE
NORRIS-AYE RUSO-AYE VANETTEN-AYE
Motion Carried

Regarding the minutes of January 27, 2014 Town Board Work Meeting submitted by the Town Clerk, **Councilman Norris moved and was seconded by Councilwoman Benway.** Councilwoman VanEtten has questions on this, under the AgFest report it says the former treasurer, it does not say that, the treasurer, they have no idea why the treasurer is former treasurer paid the town for that expense; under Seniors in committees, it says that we're putting together a committee, it is a veterans committee specifically; under Mr. Guthrie's, it should say that the firemen have their own public meeting, which is what she said. Councilman Norris asked if she was correcting what Mr. Guthrie said; no, Councilwoman VanEtten said it was what she said. Ellie Alfeld asked if she could interject about that; Supervisor answered no, not at this time. Supervisor asked for a motion, **Councilwoman VanEtten moved, and was seconded by Councilman Ruso.** The adoption of the foregoing Motion was duly put to a vote, and the vote was as follows:
BENWAY-AYE DELLISANTI-AYE
NORRIS-Abstain RUSO-AYE VANETTEN-AYE
Motion Carried

PUBLIC COMMENT PERIOD

Kevin Kemnah- during last meeting he learned about Fox Run receiving two reductions, total \$550,000 assessed value; how did they manage that reduction. Supervisor answered to address assessor. Kevin asked when given all exemptions, 350, that and the reduction of Fox Run value, how does that affect those who receive no exemptions. Supervisor said those particular categories are all mandated by the state; we are just following thru our assessor's office with state mandated exemptions; we don't set those categories, the state does, disability, senior citizen, agricultural, it all comes down from the state.
Kevin asked, with \$200,000 assessed house, because of whatever exemptions are, now assessed at \$100,000; is Kevin now paying more than someone who gets the exemption, to cover that or

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does the Town just have less money to spend. Supervisor answered that the Town just has less money to spend.

Councilman Norris said that was not necessarily true; whatever Adopted Budget is set must be divided among taxpayers' assessed value of the Town, spread out through everyone, based on what the Budget is. One exemption's cost does get spread out amongst all others. Kevin asked how assessor takes all the people who don't, and their assessed value for house goes up; the equalization rate is for everybody, right? Where does that fit in? They're going to get more from me to cover those exemptions? Councilwoman VanEtten said the assessments go on the real estate value of your property and it depends. Kevin said you pay your percent on tax on your assessed value. Attorney for Town Rappleyea said the equalization rate is set by the state, you get all that on the books, you get what the budget will be, the value of all the parcels, then the value of the exemptions, and, using all factors, you arrive at equalization rate, all factored in together, just for the town. Kevin asked whether the Town acts and arrive at a number and bring or assess or whatever all together- or do you do it like I do mine where I have \$x and that is how much I have to spend; Supervisor said that is how we do it, what we get out of our taxes is what the budget is going to be based on. Kevin asked about the cap right now; Supervisor said in the budgetary process we're going to keep it below the 2%, wherever the state guidelines are; 1.66%.

Diane Louis believes it is town board policy to advertise committee openings, and to find residents who may have an interest in serving on those committees. At a January 27 Work Meeting, appointments were made to the zoning board of appeals and planning committees, would like date of ad, what paper it was put into, how many residents expressed interest, were interviews conducted, who conducted the interviews. Councilwoman VanEtten said we had one application for each, ad placed for over a week, Catskill Daily Mail, one application for ZBA and one application for Planning Board. Diane asked what were the dates; Councilman Ruso said our resolution to place advertisement, 'first issue after January 14, one week 1/16-1/22'. Diane asked it was a week after the advertisement where you decided to whoever applied at that point. Councilman Ruso believed they planned on seven days; Councilwoman VanEtten said we wanted to keep the budget down, again. Clerk Brooks read confirmation from Daily Mail, will appear in Daily Mail, Register Star, and online, Jan 16-22, \$137.04. Diane asked on ethical issue, when political committee members are appointed to town committees, it raises the issue of who do they represent? Do they represent the political party or town residents? Supervisor asked in what respect. Diane answered political party members. Councilwoman VanEtten asked what she was speaking of. Diane answered democratic, republican committee members, an ethical question. Supervisor said they represent all the town residents. Diane asked or do they represent, if they're a republican or democratic committee member, those party members. Supervisor said they represent the residents of the town. Diane asked if she should take his word for that. Supervisor said he would hope so.

NEW BUSINESS

Synopsis of the Procurement Policy by Tal Rappleyea, Attorney for the Town

Attorney for the Town Rappleyea reviewed that under General Municipal Law Section 103, towns are required to go out to bid if they are going to do a public works project if project costs will be over \$35,000; and if going to buy a product or service over \$20,000. Office of State Comptroller strongly recommends a procurement policy for anything below that. The Town has had a policy on the books for many years. New policy sets what those efforts have to be to properly purchase goods or services within the Town; under \$1,000-left to the discretion of the purchaser; \$2500-oral request from at least two vendors; Town is being more conservative with "if over \$10,000 must go out to bid" as state law indicates over \$20,000; we can shorten that. Public works contracts are same: \$1-2500- no quotation; \$2500-10,000 two written quotes; laying that out that before anything may be purchased, the Department head must submit request and proof of purchase; with auditing next month to proceed with payment of bills. Councilman Norris asked about purchase order process; Attorney Rappleyea explained how if department head Jordan needs \$7,000 sander; go to purchase definition; "need 3 different written vendor quotes"; produce the quotes; lowest quote is XYZ at \$6900; Town Board approves purchase. Councilwoman Benway explained NAPA aggregate purchase for brake pads and rotors, for normal maintenance, and could be over \$2500; Councilwoman VanEtten pointed to emergency purchases. Councilwoman Benway said this was normal maintenance. Councilwoman VanEtten said he would know ahead of time for normal

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maintenance he would need. Highway Superintendent relates sometimes, taking something apart, you find more wrong. Councilwoman Benway reminds in past given Highway Superintendent \$5,000. Councilman Norris reviews if he learns tomorrow that he needs to do a brake job, he cannot do the job until next meeting. Attorney Rappleyea said it depends on the level; if \$2,600- would need two vendor quotes. Councilman Norris added, and Board approval; Councilwoman Benway added he would have to wait until next Board meeting. Attorney Rappleyea added that could be changed, this is just the version now. Councilman Norris wants to be clear what a department head needs to do. Councilwoman Benway asked where purchase order is gotten; Supervisor Dellisanti said that is not made out yet; a blank form is in the office for Superintendent Jordan and other department heads to complete. Councilwoman Benway asked is there a log to keep track of them. Supervisor said as soon as they come in; Councilwoman Benway asked who provides that; Supervisor said blanks will be available from Supervisor or Clerk's office. Councilman Norris asked is there a purchase order number on each one. Supervisor said they must be put on once the form is filled out; that particular category; it could be purchase order #35, then the number will go on that particular page. Councilwoman Benway is confused, sounds like a purchase order doesn't approve you to purchase, and you still must wait Board approval. Supervisor said purchase order tells us what he is looking to buy and what the cost is going to be, and who the vendor is going to be. Councilman Norris asked who assigns the number; Supervisor answered the town clerk when she gets to the vouchers. Town Clerk Brooks offered that the voucher is on the back end. Supervisor said the purchase order comes in first to purchase the item; whatever the first purchase order number is, 2014-1, we begin as they come in.

Resolution to Adopt Minor Corrections to the Procurement Policy

**TOWN OF NEW BALTIMORE
PROCUREMENT POLICY**

Purpose

To ensure the prudent and economical use of the public's money for the purchase of goods and services of maximum quality at the most economical cost, and to guard against favoritism, improvidence, extravagance, fraud, and corruption, the Town of New Baltimore, New York, is adopting internal policies and procedures governing all procurements which are not required to be made pursuant to the competitive bidding requirements of General Municipal Law, Section 103, or of any other general, special or local law.

Purchasing Ethics

To maintain a high standard of conduct and to protect the reputation of the local government, the following rules of conduct with apply:

1. To consider first the interests of the local government and the betterment of its government.
2. To obtain the greatest value for every dollar spent.
3. To be receptive to advice and suggestions from department heads, insofar as such advice and suggestions are not in conflict with legal or moral restrictions in purchasing procedures.
4. To strive for knowledge of equipment and supplies in order to recommend items that may reduce cost and/or increase efficiency.
5. To insist on and expect honesty in sales representation whether offered verbally or in writing, through the advertising or in a sample of a product submitted.
6. To give all responsible bidders equal consideration and the assurance of unbiased judgment in determining whether their product meets specifications.
7. To discourage the offer of, and to decline, gifts which might influence the purchase of municipal equipment and supplies.
8. To accord a prompt and courteous reception, insofar as conditions permit, to all who call on legitimate business missions.
9. To counsel and assist other purchasing agents in the performance of their duties wherever occasion permits.
10. To cooperate with governmental and trade associations in the promotion and development of sound business methods in the purchasing of equipment and supplies.
11. To seek or dispense no personal favors.

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Competitive Bidding

1.) Every purchase to be made must be initially reviewed by each department to determine whether it is a purchase contract or a public works contract. Once that determination is made, a good faith effort will be made to determine whether it is known or can be reasonably expected that the aggregate amount to be spent on the item of supply or service is not subject to competitive bidding, taking into account past purchases and the aggregate amount to be spent in a year. It is unlawful to artificially split or divide a contract or enter into a series of transactions, to avoid a competitive bidding threshold. The source of funds to be spent does not alter the requirements of competitive bidding i.e. Public Grants. No purchase can be made without the appropriate funding to support the purchase in place.

The following items are not subject to competitive bidding pursuant to Section 103 of the General Municipal Law: purchase contracts under \$10,000 and public works contracts under \$35,000.; emergency purchases; goods purchased from agencies for the blind or severely handicapped; goods purchased from correctional institutions, purchases under State and County contracts; surplus and second-hand purchases from another governmental entity, and Sole Source purchases. Sole Source purchases are done when a product or service is available from one source only, the product/service is uniquely required in public interest, or if there is no substantial equivalent.

The decision that a purchase is not subject to competitive bidding will be documented in writing by the department making the purchase and presented to the Town Board.

2.) All goods and services will be secured by use of written requests for proposals, written quotations, verbal quotations, or any other method that assures that goods will be purchased at the lowest price and that favoritism will be avoided, except in the following circumstances: purchase contracts over \$10,000 and public works contracts over \$35,000; goods purchased from agencies for the blind or severely handicapped pursuant to Section 175-b of the State Finance Law, goods purchased from correctional institutions pursuant to Section 186 of the Correction Law; purchases under State contracts pursuant to Section 104 of the General Municipal law; purchases under county Contracts pursuant to Section 103(3) of the General Municipal Law; or purchases pursuant to subdivision 6 of this policy.

3.) All procurement and rental/lease of equipment, materials, supplies and nonpersonal services shall be requisitioned through the Town Board, regardless of dollar amount, with the signed approval of the requisitioning department's supervisor prior to ordering.

The following method of purchase will be used when required by this policy in order to achieve the highest savings:

Estimated Amount of Purchase Method

Under \$1,000	Left to the discretion of the purchaser
\$1,000 to \$2,500	An oral request for the goods and fax/email quotes from at least 2 vendors.
\$2,500 to \$10,000	A written RFP and written/fax/email quotes from at least 3 vendors
Greater than \$10,000	A formal bid pursuant to GML 103(1)

Estimated Amount of
Public Works Contract

<u>Estimated Amount of Public Works Contract</u>	<u>Method Required</u>
\$ 1 - \$ 2,500	No quotation
\$2,501 - \$10,000	2 written/quotations
\$10,001 - \$25,000	3 written/quotations
\$25,001 - \$35,000	4 or more written/quotations
\$35,001 - over	sealed bid required

A good faith effort shall be made to obtain the required number of proposals or quotations. If the department is unable to obtain the required number of proposals or quotations, the department will document the attempt made at obtaining the proposals. In no event shall the failure to obtain the proposals be a bar to the procurement. All documentation shall be maintained by the requisitioning department for review by the Town Board.

4.) Documentation is required of each action taken in connection with each purchase.

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5.) Documentation and written explanation is required whenever a contract is awarded to other than the lowest responsible bidder. This documentation will include an explanation of how the award will achieve savings or how the bidder was not responsible. A determination that the bidder is not responsible shall be made by the Town Board.

6.) Pursuant to General Municipal Law Section 104-b(2)(f), the procurement policy may contain circumstances when, or types of procurements which, in the sole discretion of the governing body, the solicitation of alternative proposals or quotation will not be in the best interest of the municipality. In the following circumstances it may not be in the best interests of the Town of New Baltimore to solicit quotations or document the basis for not accepting the lowest bid:

a. Professional services or services requiring special or technical skill, training or expertise. The individual or company must be taken based on accountability, reliability, responsibility, skill, education and training, judgment, integrity, and moral worth. The qualifications are not necessarily found in the individual or company that offers the lowest price and the nature of these services are such that they do not readily lend themselves to competitive procurement procedures. In determining whether a service fits into this category the Town shall take into consideration the following guideline: (a) whether the services are subject to State licensing or testing requirements; (b) whether formal education or training is a necessary prerequisite to the performance of the services; and (c) whether the services require a personal relationship between the individual and municipal officials. Professional or technical services shall include but not be limited to the following: services of an attorney; services of a physician; technical services of an engineer engaged to prepare plans, maps and estimates; securing insurance coverage and/ or services of an insurance broker; services of a certified public accountant; investment management services; services of an actuary; printing services involving extensive writing, editing or art work; management of a municipally owned property; and computer software or programming services for customized programs, or services involved in substantial modification and customizing of pre-packaged software.

b. Emergency purchases pursuant to Section 103(4) of the General Municipal Law. Due to the nature of this exception, these goods or services must be purchased immediately and a delay in order to seek alternate proposals may threaten the life, health, safety or welfare of the residents. This section does not preclude alternate proposals if time permits.

c. Purchases of surplus and second-hand goods from any source. If alternate proposals are required, the Town is precluded from purchasing surplus and secondhand goods at auctions or through specific advertised sources where the best prices are usually obtained. It is also difficult to try to compare prices of used goods and a lower price may indicate an older product.

d. Goods and services under \$500. The time and documentation required to purchase through this policy may be more costly than the item itself and would therefore not be in the best interest of the taxpayer. In addition, it is not likely that such minimal contracts would be based on favoritism.

7.) Unintentional failure to fully comply with the provisions of Section 104-b or the Town Board's policies and procedures shall not be grounds to void action taken or give rise to a cause of action against the political subdivision or district or any officer or employee thereof.

8.) This policy shall go into effect upon approval by the Town Board and will be reviewed annually by the Town Board to determine if updates or changes should be made.

Return of Goods

Whenever the Town receives a parcel that is either a duplicate shipment or an item that is to be returned for credit, the Town (the department holding the goods) should request from the vendor a "Return Goods Authorization Number" or a letter of authorization to return the goods. This provides the Town with the appropriate documentation to obtain the proper credit as well as to inform the vendor of the nature of its return. If no authorization is required then a letter should accompany the shipment advising the vendor as to why it is being returned with the follow information: Town Purchase Order #, vendor invoice number, and or name of contact at vendor's facility authorizing the return.

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Purchase Requisition

A purchase requisition is a request to the Town Board for the purchase of goods or services. These requests are submitted in written/electronic format. All requisitions shall be authorized by the department head prior to submission to the Town Board in order to maintain internal control. In the absence of the Department head, a listing of authorized persons to approve requisitions on their behalf shall be submitted to the Town Board annually. Each requisition shall include a brief description of the product or service being ordered, and the appropriate product or part number.

The Purchase Order

A purchase order is an official document that binds the Town to procure goods or services as specified on the document. Purchase orders must provide sufficient description of the product being ordered or service to be performed. It should detail order quantity, item description, part number (if available), unit cost, and departmental charge code to ensure billing to the correct department's general ledger.

Blanket Purchase Orders – This is a single purchase order that is issued to cover a specified period of time for repetitive purchases of the same goods or redundant services to be utilized. If a blanket purchase order is to be issued, indicate such on the requisition by typing "BLANKET ORDER".

Requests for Proposal (RFP)

A Request for Proposal (RFP) is a competitive procurement with an award based on price and other criteria which may include negotiation. An RFP is not an alternative to competitive bidding, except when expressly authorized by the State Legislature. An RFP may be used if procurement is within exception to competitive bidding and permitted under the Town's procurement policies. They are most commonly used for professional service, true leases and licenses/concessions. Procedures include:

1. Establishment of evaluation criteria (i.e. price; experience; creditworthiness; approach to performance; staff availability; ability to perform; and time estimates).
2. Comprehensive, fair solicitation process.
3. Fair and equitable negotiation process.
4. Fair review/evaluation or rating process.

RESOLUTION
FEBRUARY 10, 2014

RESOLUTION TO ADOPT MINOR CORRECTIONS TO THE
TOWN PROCUREMENT POLICY

RESOLVED that pursuant to the provisions of Section 104-b of the General Municipal Law of the State of New York, the Town Board adopts the attached Procurement Policy originally adopted in 1992, as amended in 2010, 2013, and 2014.

Page 1 line 3, insert *of*

Page 1 under Competitive Bid, line 3 *reasonably*

Page 1 under Competitive Bid, *good to goods*

Page 3 under 6, line 4, insert *of*

Page 3 under a, line 10, officials insert .

Page 3 under d, goods and services, line 3 *bases to based*

Page 3 under 7, line 2, change *boards* to *board's*

Page 4 purchase requisition, line 4, after authorized, add *persons*

Councilwoman VanEtten moved and was seconded Councilman Ruso. Councilman Norris commented the pages are not numbered and called for revised copy. Councilwoman Benway is confused about the purpose of the purchase order; Councilwoman VanEtten said it has already been approved with the minor changes. Councilwoman Benway asks for an explanation and, if the purchase order isn't really approving anything, what is its purpose; normally a purchase order is gotten to tell the vendor that it will be paid for and, other than keeping track of what might be out there, is that the only reason we're doing that? Supervisor said the completion of a purchase order, everywhere he has ever worked, whether for a basketball or fire hydrant, started the process where then you can say we're spending \$xxxx, and department head is told they

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must have [three quotes to purchase]; we need that to get the voucher done so we can vote on it at the next meeting. Attorney Rappleyea offered to do training; all in agreement. Councilman Ruso said a purchase order just requests a purchase; department heads where he works cannot just go out and buy, must have approval; there are thresholds; there will be emergency and routine purchases and they will reach an aggregate level. **The adoption of the foregoing Resolution was duly put to a vote, and the vote was as follows:**

AYES- DELLISANTI, RUSO, VAN ETTEN

NAYS- BENWAY, NORRIS

ABSTAIN-

ABSENT-

Adopted

Resolution to Adopt FOIL Policy

**RULES PERTAINING TO PUBLIC ACCESS TO RECORDS (FOIL) OF THE
TOWN OF NEW BALTIMORE**

1. Purpose and Scope
2. Designation of Records Access Officer
3. Location
4. Hours for Public Inspection
5. Requests for Public Access to Records
6. Subject Matter List
7. Denial of Access to Records
8. Fees
9. Severability

§ 1 Purpose and Scope.

(a) The State Legislature finds that a free society is maintained when government is responsive and responsible to the public. The people's right to know the process of government decision-making and the documents and statistics leading to determinations is basic to our society. The more open a government is with its residents, the greater the understanding and participation of the public in government. All Town records belong to our citizens and it is our duty to care for them properly and make them available. See generally Public Officers Law, Article 6, §§ 84-90.

(b) Any New York State or municipal department or government entity performing a governmental or proprietary function is subject to the Freedom of Information Law, most commonly referred to as "F.O.I.L." or "FOIL." Each governmental entity is an "agency." The Town Justice Court is outside its coverage but often must disclose records under other provisions of law. Set forth herein are the procedures to be followed when individuals seek access, pursuant to the Freedom of Information Law, to records in the custody of and maintained by the Town of New Baltimore.

(c) Personnel shall furnish to the public the information and records required by the Freedom of Information Law, as well as records otherwise available by law. In this regard the term "records" is defined to include all information kept, held, filed, produced or reproduced by, with or for the Town of New Baltimore in any physical form whatsoever and applies to Town records generated, received, or maintained electronically, including, but not limited to, all records and data kept on Town servers, individual computers, e-mail logs, private e-mail messages, text messages, etc.

§ 2 Designation of Records Access Officer.

The New Baltimore Town Clerk is responsible for insuring compliance with FOIL and with the policies and procedures established by the Town of New Baltimore for responding to release of information requests. The Town Clerk is designated as Records Access Officer.

§ 3 Location.

Unless otherwise specified, records shall be available for public inspection and copying at:

New Baltimore Town Clerk's Office

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3809 County Route 51
Hannacroix, NY 12087

§ 4 Hours for Public Inspection.

Requests for public access to records may be made by appointment with the Town Clerk's Office.

§ 5 Request for Public Access to Records.

(a) A written request shall be required. A standard request form will be generally used, although it will not be an absolute requirement to use that form when filing a Freedom of Information Law request. All FOIL requests should be directed and/or submitted to the Town Clerk. It shall be the responsibility of the Town Clerk to make the decision as to how each FOIL request should be responded to.

(b) An acknowledgement letter will be sent to the requestor within five (5) business days of receipt of a request by the Town Clerk.

(c) A decision and response will be made by the Town Clerk, which shall not be denied unless the records responsive to the request fall within one of the exceptions in the FOIL Law or relevant NYS case law.

(d) The records will be provided on the medium requested by a person if the Town can reasonably make such a copy or have such copy made by engaging an outside professional service.

(e) If records are maintained on the internet, the requestor shall be informed that the records are accessible via the internet and in printed form either on paper or other information storage medium.

(f) Once the Town Clerk has obtained the records that have been requested, the requestor will be contacted to either review the records, or pick up the copies of the records. The Town Clerk will inform the requestor of the times and places the records are available, from whom the records may be obtained, and the fees for the copies of the records requested. While in most cases, the records will be forwarded to the Records Center, in some cases, the requestor will be asked to view or pick up the records at the respective department.

(g) The Town Clerk will close the FOIL request once it is satisfied and paid or it is denied.

(h) A failure to comply with the time limitations described herein may result in the request being deemed denied and subject to appeal.

(i) The Town Clerk shall forward a copy of all FOIL requests and any subsequent correspondence to or from the requestor to the Town Board within five days thereof.

§ 6 Subject Matter List.

(a) The Town Clerk shall maintain a reasonably detailed current list by subject matter of all records maintained by the Town of New Baltimore, whether or not records are available pursuant to subdivision two of Section eighty-seven of the Public Officers Law.

(b) The subject matter list shall be sufficiently detailed to permit identification of the category of the record sought.

§ 7 Denial of Access to Records and Appeal of Denial.

(a) Denial of access to records shall be from the Town Clerk and shall be in writing stating the reason therefore and advising the requestor of the right to appeal in writing, within thirty (30) days of the denial, to the New Baltimore Town Supervisor, 3809 County Route 51, Hannacroix, NY 12087.

(b) The time for deciding an appeal from the New Baltimore Town Clerk shall commence upon receipt of the written appeal that identifies the following:

(1) the date and location of requests for records;

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(2) a description, to the extent possible, of the records that were denied; and

(3) the name and return address of the person denied access.

(c) A failure to determine an appeal within ten (10) business days of its receipt by granting access to the records sought or fully explaining the reasons for further denial in writing shall constitute a denial of the appeal.

(d) The New Baltimore Town Supervisor shall inform the appellant and the Committee on Open Government of its determination in writing within ten (10) business days of receipt of an appeal. The determination shall be transmitted to the Committee on Open Government at the following address:

Committee on Open Government Department of State
41 State Street
Albany, NY 12231

§ 8 Fees.

(a) There shall be no fee charged for:

(1) inspection of records;

(2) search for records; or

(3) any certification pursuant to this part.

(b) Fees for copies may be charged, provided that:

(1) the fee for copying records shall not exceed 25 cents per page for photocopies not exceeding 9 by 14 inches;

(2) the fee for copies of records not covered by paragraph (1) of this subdivision, such as fees for the actual cost of reproducing any other records in varying forms of media such as a computer disk, flash drive or similar mechanism, will also be charged; the cost of reproducing a record may include the hourly salary paid to the lowest paid agency employee able to reproduce the record if at least two hours of agency employee time is needed to prepare a copy of the record requested, the cost of the storage device or media provided to the person making the request and the cost of engaging an outside organization to produce a copy of the record.

(d) The requestor will be instructed to pay the Town Clerk for the fees incurred.

(e) In the event the requestor has requested records in which photocopying fees will be in excess of \$10.00, the requestor will be required to pay a deposit of \$10.00 prior to the photocopying of documents. This will ensure that the requestor is serious in the request to receive the information and avoid the risk of time being wasted by employees making photocopies of records that are never claimed.

§ 9 Severability.

If any provision of these rules or the application thereof to any person or circumstances is adjudged invalid by a court of competent jurisdiction, such judgment shall not affect or impair the validity of the other provisions of these rules or the application thereof to other persons and circumstances.

**RESOLUTION
FEBRUARY 10, 2014**

**RESOLUTION TO ADOPT RULES PERTAINING TO PUBLIC ACCESS TO
RECORDS (FOIL) OF THE TOWN OF NEW BALTIMORE**

WHEREAS, pursuant to Public Officers Law, Article 6, Section 84-90, all town records belong to our citizens and it is our duty to make them available.

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THEREFORE BE IT RESOLVED, that the Town of New Baltimore adopts the attached FOIL Policy regarding public access to records and their timely availability to the public.

Supervisor moved and was seconded Councilwoman VanEtten. Councilwoman Benway, regarding page 2 Item 5, knows the town clerk knows a lot but not New York State case law, and asks Attorney Rappleyea's involvement; yes, they email back and forth. Councilwoman Benway knows that the town clerk has emailed the attorney in the past for approval due to privacy laws; Attorney Rappleyea confirmed that involvement. Councilman Norris asked about 5E, on the internet; if records are maintained on the internet the requestor shall be informed. Clerk Brooks pointed to folk having difficulty or no access that they do purchase the copies. Councilman Norris asked if town clerk was consulted in policy; Supervisor answered he asked attorney for the town to do the paperwork in accordance with the General Municipal Law. Councilwoman VanEtten offered that most other towns in New York have FOIL policies; Councilman Norris doesn't disagree, it's been discussed before, just wanted to know the background and asked if Board was voting tonight. Councilwoman VanEtten answered yes. Councilman Norris said that was an issue, he saw this yesterday, public saw this today, he has only had 24 hours to look it over. Councilwoman Van Etten thought he'd gotten it Friday. Councilman Norris would like to know if that will be policy going forward, 2-3 days and expect vote; in the past, Town Board was given two weeks to look over and then vote on at following meeting, adding that he would be voting no, not because it isn't good policy, but the way it is being presented to him and to the Town Board and that Clerk Brooks should be involved in this process also, not in the town meeting, and given us a chance for some feedback. Councilwoman VanEtten said it was the legal, the lawyer is the one who wrote it, a legal document needs to be drafted by a lawyer. Councilman Norris remembers once before, the SAFE ACT, and doesn't want it to be policy to push things through overnight, SAFE Act was a big problem, two days is not enough to review something this long. Councilman Ruso said he reviewed and it resembles the law he reviewed on Robert Freeman's website. Councilman Norris asks for two weeks and suggests vote at next meeting, Councilwoman Van Etten believes there have been a lot of issues on FOILs and wants vote this night. Supervisor has no problem to TABLE until Work Meeting. Diane Louis suggests looking at existing in Town Code Book, Public Access to Records Chapter 81, adding that there is no time frame in this policy for a person to receive a response. Supervisor said there is no policy in the Town. Councilwoman VanEtten reports there have been a lot of issues in the FOILs in the past year that are not being done correctly and require something in writing as soon as possible. Councilman Norris suggests this is a long process; no need to rush in, two weeks is not a lot to ask for. **Supervisor moved to TABLE, seconded by Councilman Norris.** The adoption of the foregoing Motion was duly put to a vote, and the vote was as follows:

AYES- BENWAY, DELLISANTI, NORRIS, RURO, VAN ETTEN

NAYS-

ABSTAIN-

ABSENT-

Adopted

Resolution to Establish Hours of the Town Clerk's Office

RESOLUTION
FEBRUARY 10, 2014

RESOLUTION TO ESTABLISH HOURS OF THE TOWN CLERK'S OFFICE

RESOLVED, that the Town Board of the Town of New Baltimore hereby sets the hours for the Town Clerk's Office from 9:00 AM-4:00 PM Monday through Friday and meetings by appointment on the second and fourth Monday of the month from 5:30-6:45 PM.

NOW, THEREFORE, BE IT RESOLVED that modification of these hours will be by Town Board approval.

Councilwoman VanEtten moved, and was seconded by Councilman Ruso. Councilwoman Benway was under impression that the Town Board can only set these hours by local law. Attorney for the Town Rappleyea was not aware of that. Councilwoman Benway was advised

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by attorney, and questions that. Councilman Norris clarified these are the Clerk's hours, not the Town Hall's hours; yes. Councilwoman VanEtten said the Clerk's hours, not her hours, her office hours. Councilwoman Benway said we cannot set her hours; Supervisor said her office's hours. Supervisor was told that was not the case. Councilman Ruso said as an elected official, Clerk Brooks can set her own hours. Supervisor said we have two very competent deputies who do a wonderful job for us. Clerk Brooks read Town Law 30 provides, *The town board may, however, set official office hours of all town offices, including that of the town clerk, (1979 Op. Atty. Gen. (I) 120 citing Town Law, 30 (1)(11)). Alternatively the town board may regulate the hours during which a town clerk's office shall be open to the public by the enactment of a local law pursuant to the Municipal Home Rule Law. ... Where the town board regulates the office hours of the town clerk, the town board should provide the town clerk with the necessary resources to comply with said directive. (Op. St Comp. No. 91-45).* Attorney for the Town Rappleyea said he would take a look, not heard of that before, **Councilwoman Benway moved to TABLE, was seconded by Councilman Ruso. Vote was as follows:**
AYES- BENWAY, DELLISANTI, NORRIS, RUSO, VAN ETTEN
NAYS-

ABSTAIN-

ABSENT-

Adopted

Attorney for the Town Rappleyea left the meeting.

Resolution to Adopt Corrective Action Plan in Response to the State Comptroller's Audit to the Office of the State Comptroller

**RESOLUTION
FEBRUARY 10, 2014**

**RESOLUTION TO ADOPT CORRECTIVE ACTION PLAN IN RESPONSE TO
STATE COMPTROLLER'S AUDIT**

WHEREAS the New York State Office of the State Comptroller released an audit in November 2013 reviewing the Town's procurement policy related to highway purchases; and

WHEREAS the Town Board has the responsibility to initiate corrective action that addresses their findings and recommendations; and

WHEREAS pursuant to Section 35 of the General Municipal Law the Corrective Action Plan must be submitted to the State Comptroller's Office within 90 days;

IT IS RESOLVED that the Corrective Action Plan as adopted by the Town Board of the Town of New Baltimore be forwarded to the Office of the State Comptroller to comply with this 90-day requirement.

Councilwoman VanEtten moved and was seconded Councilwoman Benway. The Corrective Action Plan was read.

CORRECTIVE ACTION PLAN

For

**Town Audit covering period January 1, 2012 - March 1, 2013
"Procurement Practices"**

2013M-203

Recommendation # 1

Town officials should ensure compliance with GML and the Town's adopted procurement policy by properly soliciting bids and obtaining quotes as required and maintaining adequate documentation

Plan of Action

1. Each member of the Town Board has been provided a copy of GML and the Town's adopted procurement policy.
2. Each Department Head has been provided a copy of GML and the Town's adopted procurement policy.

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3. All proposed purchases which exceed the cost thresholds for the Town's procurement policy or GML can only be approved for purchases if they have;
 - a. A purchase order submitted prior to purchase, and;
 - b. The relevant OGS contract and contract number, or;
 - c. Copies of the written responses from vendors to verbal requests for quotes, or;
 - d. Copies of the formal bids for the item(s) needed, or;
 - e. Documentation which specifically explains why the procurement policy was not followed, i.e emergency purchases.
4. Upon receipt of the above, the town board, through resolution, will approve/not approve the proposed purchase and such resolution will be entered into the minutes.

Compliance date for Recommendation # 1: April 14, 2014

Recommendation # 2

Town officials should ensure all purchases made under OGS or county contracts are properly documented and adhere to contract guidelines.

1. Each purchase proposal made under OGS or county contracts must have attached a copy of the relevant contract and contract number.
2. The proposed purchase will be provided to each Town Board member at least 5 days prior to the Town Board meeting. This will allow appropriate time for review and verification.
3. At the meeting, the Town Board, through resolution, will approve/not approve the purchase and such resolution will be entered into minutes.

Compliance date for Recommendation # 2: April 14, 2014

Recommendation # 3

The Board should ensure that Board approval prior to purchase, when required, is obtained and properly documented in compliance with Town policy.

The Town Board developed a new Procurement Policy which requires that a purchase order, with attached relevant documentation, be presented to the Board for their approval prior to ordering. For emergency purchases made without prior approval, an attached narrative will be required that describes the nature of the emergency. All such purchases as described above require a resolution by the Town Board and entry into the minutes of the meeting.

Compliance date for Recommendation # 3: April 14, 2014

Cover letter to Chief Examiner Tenesh Blamah, Office of State Comptroller, was read by Councilman Ruso. Councilman Norris commented a good job on plan; Supervisor added the Comptroller's Office was very helpful. **The adoption of the foregoing Resolution was duly put to a vote, and the vote was as follows:**

AYES- BENWAY, DELLISANTI, NORRIS, RUSO, VAN ETTEN

NAYS-

ABSTAIN-

ABSENT-

Adopted

Clerk Brooks asked for file copy for public inspection.

Resolution to Authorize Highway Superintendent to Purchase Diesel Fuel, No. 2 Heating Oil, and Premium Gasoline for Highway Use by State Contract for 2014

**RESOLUTION
FEBRUARY 10, 2014**

**RESOLUTION TO AUTHORIZE HIGHWAY SUPERINTENDENT TO PURCHASE
DIESEL FUEL AND #2 HEATING OIL FOR HIGHWAY USE BY
STATE CONTRACT FOR 2014**

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WHEREAS the Town Board hereby authorizes the Highway Superintendent to purchase for the year 2014 Ultra-low Sulfur Diesel at the contract price offered by State Contract PC 66159 for up to 7,700 gallons. The published price per gallon is up to \$3.45. Therefore, the Highway Superintendent is authorized to expend up to \$26,565 for Diesel Fuel in 2014.

WHEREAS the Town Board hereby authorizes the Highway Superintendent to purchase for the year 2014 #2 Heating Oil at the contract price offered by State Contract PC 66172 for up to 900 gallons. The published price per gallon is up to \$3.2152. Therefore, the Highway Superintendent is authorized to spend up to \$2,900 for #2 Heating Oil in 2014.

Councilwoman Benway moved and was seconded Supervisor. Highway Superintendent doesn't believe the gallons should be specified; this year will be much more, although he did not look it up. Councilman Ruso looked up 861 gallons for last year and gave 900. Highway Superintendent also considers the low sulphur, and the number of times the crew has gone out. Councilman Ruso reminds that authorization is a certain dollar amount. With both heating and low sulphur, went out a lot more this year and Superintendent Jordan promises it will be over. Councilman Ruso said this was discussed at the time of resolution for salt, there is a dollar figure goal; if it must be exceeded due to being an awful winter. Superintendent Jordan asks Town Board to raise it now. Councilman Norris asked was it the Highway Committee who discussed this; Supervisor said yes, we did what we could and spoke to Comptroller's Office to try to cut the number of resolutions with changes to bring to Town Board. Comptroller's Office advised Committee to use the 2013 figures, give Superintendent the permission to buy up to that point, then do another resolution to expand if needed. Councilwoman Benway asked if he needed both raised now or just the heating; Superintendent Jordan asked for both and will look up exact figures, apologizing since he has been slightly busy [laughter]. Councilman Ruso raised by an even number in a difficult winter. [Multiple voices] Councilman Norris asked Superintendent if he had enough fuel now to **TABLE** this resolution two weeks and revise; answer: yes, will need more fuel, down to 600 gallons that can be burned in one snowstorm, the average being 500 gallons, which is why he wants to raise the numbers. He could just purchase what he must have and wait two weeks for numbers, but has concerns. **Supervisor moved to TABLE, seconded by Councilwoman Benway.** Superintendent knows how frequently going out, believes 3 times last year's; expects to hit 7700 gallons. Councilwoman VanEtten said would need a purchase order then a resolution after based on the numbers; Supervisor agreed. Councilman Ruso turned on his phone; Supervisor would rather give Superintendent the numbers that he needs. Councilman Ruso offered to make resolution retrospective at the next meeting. Supervisor doesn't want him to pull out of the garage and stall [laughter]. **The adoption of the foregoing Motion was duly put to a vote, and the vote was as follows:**
AYES- BENWAY, DELLISANTI, NORRIS, RUSO, VAN ETTEN
NAYS-
ABSTAIN-
ABSENT-
Adopted

Audit of Claims

RESOLUTION
FEBRUARY 10, 2014

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 2014 02/01-75,

BE IT RESOLVED that the Supervisor is hereby authorized to pay claims 2014 02/01-34, 36-75.

BE IT FURTHER RESOLVED that the Town Clerk will prepare and abstract and hold it for public review until February 28, 2014.

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Councilwoman Benway moved and was seconded Councilman Norris. Councilwoman VanEtten asked if Verizon was changed to correct amount; Clerk answered it was correct with the two invoices attached. Councilman Norris asked if one was pulled; Clerk noted that 2014 02 35 had already been paid. The adoption of the foregoing Resolution was duly put to a vote, and the vote was as follows:

AYES- BENWAY, DELLISANTI, NORRIS, RUSSO, VAN ETTEN

NAYS-

ABSTAIN-

ABSENT-

Adopted

Clerk Brooks noted that if there were a voucher that any Board member objected to, it would be noted in minutes by its number.

UPCOMING MEETINGS

- February 13, 2014 Planning Board Meeting
- February 24, 2014 Town Board Work Meeting
- March 5, 2014 Zoning Board of Appeals Meeting
- March 10, 2014 Town Board Regular Meeting

PUBLIC COMMENT PERIOD/COMMUNITY EVENTS

Janet Angelis, president of New Baltimore Conservancy- good news regarding the Town Board supported-Conservancy proposal for former Armstrong property, successful with grant application and grateful, and now working on those signs; one will show footprint of agricultural buildings and explain what they were, one will explain meadows why they are there and why they are kept open, and one will be near the quarry and explain the role of the quarry to the farm. Thanks to the Board. The March program at Medway-Grapeville Firehouse: an ethnobotanist will discuss native plants, overlap of northern and southern species, from food to poison. Sunday, February 23 Town Historian Ted Hilscher will speak at Town Hall about history outside of the hamlet. Sunday, February 16, 4pm Concert at home with Sonny and Perly and Brian Melick.

Alta Turner- Sunday, March 30 Concert at home, grey church, 4pm, a trio of harpist, flutist and violist.

Arlene McKeon- regarding exemptions, sat on Town Board for 8 years, exemption for military people, like law passed by Governor re school tax exemption for veterans, not necessary to pass and going out to all school boards and recommended that there be public comment. It is not state-funded, the State allows exemption but doesn't give a dime, so 'the pot' must be shared by those not receiving exemptions. She believes the exemptions for seniors are set by Town Board each year – Councilman Norris reminded that the Town has followed the county's action when it happens. That was a local law for seniors, veterans' exemptions. She asked that all watch for their school district's action, believe it should be an exemption for veterans out of state taxes versus landowners hit hard as is. Also, comment regarding purchase order or requisition; a budget is set, a purchase requisition is made. Once approved, the purchase order is issued by Chief Financial Officer, not by the entire board, in normal course of business. She was reelected two times, with an open dialogue, the Town Board is the purest form of democracy, it stopped us from making terrible mistake, folk must remain civil, and hopes Town Board considers going back to this open, purest form of town government as town hall meetings have been held for centuries.

Ellie Alfeld- when Councilwoman VanEtten mentioned vets, no mention of seniors; Councilwoman VanEtten said it was just a correction in the minutes. Ellie clarified that equalization rate is set by Real Property based on sales in the Town, if house is underassessed and sells at a very high price, it impacts the equalization rate. Exemptions for veterans, fire, old age or disability, that money is not picked up by anyone but the remaining taxpayers; the Adopted Budget comes first, so we know what we're getting and what we need, that figure is divided among those who will pay the taxes. People wonder why she becomes so involved, but that is why our assessment rolls are kept up-to-date and current, we don't want any people who are not included in the tax roll, we've all picked up that price, the assessor can only do his job if he gets the right numbers, the Budget can only meet needs if all taxpayers pay their fair share. Wednesday, Food n Fun luncheon is 'blue plate special', meatloaf and all the fixings, 12n, open to public, by donation; second Wednesday of the month.

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Councilman Norris asked if the Board would be getting their monthly financial statements as in the past; Supervisor said as soon as he does, he will share, was in Schoharie today at their office.

Kevin Kennah asked Town Board to invite the assessor to a board meeting. Councilwoman VanEtten added he was in office on Tuesdays. Supervisor will inquire tomorrow.

ADJOURNMENT

With no more to come before the Board, **Councilwoman Benway moved to adjourn and was seconded by Supervisor.** The adoption of the foregoing Motion was duly put to a vote, and the vote was as follows:

AYES- BENWAY, DELLISANTI, NORRIS, RUSSO, VAN ETTEN

NAYS-

ABSTAIN-

ABSENT-

Adopted

The meeting was adjourned at 8:15 p.m.

Respectfully submitted,

Janet A. Brooks
Town Clerk