

**COUNTY OF GREENE
TOWN OF NEW BALTIMORE
REGULAR TOWN BOARD MEETING
AUGUST 8, 2011-page 1**

DRAFT

OPENING OF REGULAR MEETING

The meeting was called to order at 7:33 pm by Supervisor Susan O'Rorke and followed by the Pledge of Allegiance. In attendance: Councilwoman Finke, Councilmen Byas, Meredith and Norris, Highway Superintendent Jordan, Town Clerk Brooks, and 20 members of the public who signed the attendance sheet.

APPROVAL OF MINUTES

Councilman Norris moved and Supervisor seconded the approval of **Minutes of June 27, 2011 Work Meeting (emailed 7/1, 3:57pm)** submitted by the Town Clerk. No discussion. The adoption of the foregoing Resolution was duly put to a vote, and upon roll call, the vote was as follows:

**ROLL CALL VOTE: BYAS-AYE FINKE-AYE MEREDITH-AYE
NORRIS-AYE O'RORKE-AYE**

Adopted

Councilman Norris moved and Supervisor seconded the approval of **Minutes of July 11, 2011 Regular Meeting (emailed 7/29, 3:53pm)** submitted by the Town Clerk. Councilwoman Finke asked, if something is changed, does it go back to the original minutes, as she made a correction to June 13 and it appears here. Discussion ensued. Town Clerk Brooks explained the approval of the minutes shows any discussion and how they were approved, consistently. There is no detailed Town law regarding the minutes. Attorney Wukitsch has not had this question before. Association of Towns may have guidance. Attorney Wukitsch suggests a notation of the place where the amendment and approval appears, for research. The adoption of the foregoing Resolution was duly put to a vote, and upon roll call, the vote was as follows:

**ROLL CALL VOTE: BYAS-AYE FINKE-AYE MEREDITH-AYE
NORRIS-AYE O'RORKE-AYE**

Adopted

Councilman Meredith moved and Councilman Norris seconded the approval of **Minutes of July 25, 2011 Work Meeting (emailed 8/3, 4:00pm)** submitted by the Town Clerk. No discussion. The adoption of the foregoing Resolution was duly put to a vote, and upon roll call, the vote was as follows:

**ROLL CALL VOTE: BYAS-AYE FINKE-AYE MEREDITH-AYE
NORRIS-AYE O'RORKE-AYE**

Adopted

PUBLIC COMMENT

Bernie Jones spoke to Donna Kellam, Fran Williams' daughter, who suggests a paver instead of a road sign/dedication; Supervisor said it isn't an either/or situation. Mr. Jones said she doesn't want [sign], only wants the paver. Highway Superintendent Jordan said the paver has been in the garden for 2-3 months. Mr. Jones asked if it was same as others; answer: yes. Supervisor said Mr. Jordan wanted to take care of it since no word had come from the Memorial Committee. Councilwoman Finke asked how he could do that; Supervisor explained the stone could be removed and Memorial Committee can make changes as needed. Mr. Jones suggests bluestone or granite. Councilman Norris said this contradicts the previous conversation with the family; Mr. Jones said he took care of it.

Ellie Alfeld asked what day Memorial Committee is meeting; Councilman Byas said he is trying to call a September meeting to set rules and guidelines. Ms Alfeld asked will meeting be public; Councilman Byas said it never was before, always met in the back room, but he will run it by the Committee members; Ms Alfeld thought more open the better. Member of the public asked for the Open Meetings law; Attorney Wukitsch said it would not apply if not more than 2 members of Town Board.

CORRESPONDENCE

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From Community Food Pantry, First Reformed Church, Mansion Street, Coxsackie- notice of new Saturday hours 10-11am, also Tuesday from 1-2pm and Thursday 7-8pm.
From Senator Charles Schumer- 2011 Assistance to Firefighters Grant program, also available for other emergency community needs; see Grants Committee.
From Senator Charles Schumer- 2012 Documentary Democracy Access to Historical Records project, grants available; see Grants Committee.
From Peter Menoudakis- tax certiorari petition for small claims filing.
From Crown Atlantic Company- a follow-up for tax certiorari filed.

OLD BUSINESS

1. Semi-Annual Report from Planning Board

Semi-Annual Report to Town Board, dated July 14, 2011:

It was moved by Turner and seconded by Rundberg that the summary the Clerk prepares outlining the issues discussed at the July 14, 2011, Planning Board Meeting be the semi-annual report the Board submits to the Town Board.

AYES: Kuder, Turner, Murray, Rundberg, Caputo

NAYS: None

ABSTAINED: None

ABSENT: Kelly, Johns

Board Activity:

Due to the fact there has been little business transacted before the Planning Board since the Zoning amendments were put in place, with that lack of activity having continued through the first six months of 2011, the Planning Board has not had the opportunity to put these amendments to significant test.

Thruway Signs:

As cited in previous reports, the Code does not address Sign Regulations for businesses located along the Thruway. The Planning Board Chair has done considerable research including reaching out to other Towns and the Federation of Planners; and it does not appear anyone has Sign Regulations in place addressing the placement of signs along the Thruway. Therefore, the Planning Board will defer to the Thruway Authority regulations with regard to sign size and placement along the Thruway corridor.

Site Plan Checklist:

The Site Plan checklist in our Code does not include reaching out to the Fire Departments for their input on projects. The Planning Board is taking the position to reach out as early as possible in the Site Plan process for their input. This will occur as soon as there is a conceptual design of the building and before any final architectural plans are completed.

While concern had been expressed to the Board that the 2,500 square foot expansion figure was too small a figure to trigger a major Site Plan Review process, the Board does have the option of declaring a larger square footage expansion a minor Site Plan if conditions so warrant. Therefore, the Board finds the established 2,500 square foot figure acceptable to work with for business expansion.

2. Resolution to Approve New Procurement Policy

Supervisor distributed two months ago and has not received comments. Councilwoman Finke asked for a revised copy without typographical errors. Change \$2,500 to \$1,999 requiring 13 written quotations, General contracts \$20,000; Public work contracts are \$35,000, make it consistent with State General Municipal Law, can make more stringent, cannot make less stringent.

Supervisor said, if doing a significant remodeling like Town Hall, go out to bid; or buying in increment, based on intent of department head. Bid process must be documented in writing by official requesting the quotes, detailing how decision was arrived at and circumstances that led to emergency purchase, thus assuring purchase at the lowest price and avoidance of favoritism. Under \$1000 is left to discretion of purchaser. See document. Department heads need to know for what amount they need to come to Town Board for approval; for Highway Superintendent Jordan and Wastewater Treatment Plant Operator it may be too low; for other departments this is fine. Documentation is required, including an explanation of how the award will achieve savings or why the offer was not responsive, other exceptions can be made if purchaser provides written justification providing reasons why it is the best interest of the town to make an award other than to the lower bidder. This gives department head opportunity to not take lower bid with justification, with benefit to Town businesses, local site, better service.

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Councilman Byas asked how the old procurement policy read; Supervisor said he had a copy, it did not address that. Councilwoman Finke asked that is a business, not a resident of the Town; Supervisor said you might have quote from a supplier, but a technician who resides in that county/town, and service can be substantiated. Exceptions are professional services, attorney, insurance, engineers, emergency purchases, are not in the best interest of the town for surplus or second hand goods at auction, under B, third line, *due*. Also, a section was inserted regarding state and county contracts, CorCraft, any under \$1,000, utility services and postage. No comments from the Board.

Ms. Alfeld asked, from the beginning, if something worth \$35,000, a department head gets 2-3 bids and can make a contract? Supervisor clarified purchases over \$2,500 will require prior Board approval; no individual can sign a contract, and any contract must be approved by the Town Board. Supervisor put in the dollar amount requiring prior Board approval. Attorney Wukitsch said \$2,500 is fine, and an emergency would take it out of "prior Board approval" status. Councilman Byas asked what is an emergency? Attorney Wukitsch said a major catastrophe causing danger to life or property, Supervisor said it might be 30 days to get that approval, doesn't want Highway 'hamstrung' with opportunity and time. Attorney Wukitsch said always err on the side of Board approval since they control the 'purse strings'. Highway Superintendent said a kit for new truck is \$3,900. Supervisor has been looking at repair list for older fleet. Attorney Wukitsch said Town Board may make exception for the Highway Department. Ms. Alfeld asked for exception for the Sewer District, too; Jim Polverelli is not an elected official, so Attorney suggests limiting exception to the elected Highway Superintendent or to plan a Special Meeting that would need a quorum to function. Mr. Jordon said that \$2,500 cannot do a rear end or transmission, Supervisor reminded this is a "per piece" policy, and Councilman Norris reminded staying within his budget. Councilwoman Finke asked if he can anticipate that purchase? Superintendent Jordan answered, no, many times not. Supervisor suggests "with exception of purchases of Highway Superintendent up to \$10,000." Superintendent Jordan said he's always contacted Highway Committee. Attorney Wukitsch said Town of Coeymans tends to interpret emergency powers more broadly, don't want to prevent him from solving a problem, but there's nothing to prevent [Jordan] from coming back to Board to get approval; Supervisor is concerned for weather-related inconveniences. Councilman Byas said it is not a 30day wait, could do something during a work week. Councilman Norris asked how many purchases like this may happen in a year; Superintendent Jordan said 3 this year maybe. Councilman Meredith said you don't know what will happen. Councilman Norris said if it's three times, not so much a burden in the course of a year. Supervisor suggests \$5,000? Attorney Wukitsch said if you need more, 2 weeks in snow; Superintendent Jordan said when the equipment goes down, the Board will have to answer to the people, don't want to wait two weeks for road to be cleared. Supervisor offered \$10,000 per approval of the Highway Committee. Councilwoman Finke asked \$5,000 with verbal approval of [3] Board members. Blacktop is already covered under Highway 284 Agreement; this policy refers specifically to parts and equipment. **Supervisor suggests "purchases by the Highway Superintendent of up to \$5000"**; higher amount will require a Special Meeting of at least 3 Board members, elected officials must answer to the people. No other changes or additions.

PROCUREMENT POLICY

Every purchase to be made must be initially reviewed 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 reasonably be expected, that the aggregate amount to be expended 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.

The decision that a purchase is not subject to competitive bidding will be documented in writing by the Town official making the purchase. This documentation may include written or verbal quotes from vendors, a memo from the purchasing official indicating how the decision was arrived at, a copy of the contract, a memo from the Town official detailing the circumstances which led to an emergency purchase, or any other written documentation that is appropriate.

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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.

The following method of purchase will be followed 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 - \$2,500	3 Verbal Quotations
\$2,501 - \$19,999	General Contracts- 3 Written Quotations
\$2,501 - \$34,999	Public Work Contracts- 3 Written Quotations

A good faith effort shall be made to obtain the required number of written proposals or quotations. If the purchasing Town official is unable to obtain the required number of written proposals or quotations, that official 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.

Purchases of over \$2,500 will require prior Board approval; except the Highway Superintendent for whom purchases over \$5,000 will require prior Board approval or a Special Meeting of at least 3 Board members.

Documentation and an explanation is required whenever a contract is awarded to other than the lowest responsible offer. This documentation will include an explanation of how the award will achieve savings, how the offer was not responsible or why the offer was not responsive. Other exceptions can be made if the Purchaser provides a written justification providing reasons why it is in the best interest of the town and its taxpayers to make an award to other than the low bidder. (For example, the second low bidder is a business in the town, paying town property taxes, and their quote was within 5% of the low bidder which is an out-of-state business or supplier). If a bidder is not deemed responsible, facts supporting that judgment shall also be documented and filed with the record supporting the procurement.

In the following circumstances, it is not 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 chosen based on accountability, reliability, responsibility, skill, education and training, judgment, integrity and moral worth. These 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 Board shall take into consideration the following guidelines: (a) whether the services are subject to State licensing or testing requirements; (b) whether substantial 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 attorneys; services of physicians; services of engineers; securing insurance coverage; services of accountants; investment management services; printing services involving extensive writing, editing or art work; management of 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 because a delay 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. If alternate proposals are required, the Town is precluded from purchasing surplus and second-hand 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.

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d. Purchases under State and County Contracts. When it is in the best interest of the Town, it may pursue purchases from state, county and other municipal contracts. Where the purchase is through another municipality or the County, it shall be memorialized with an inter-municipal agreement.

e. Goods purchased from a correctional institution

f. Any goods or services under \$1,000 need not be purchased competitively. The time and documentation required to purchase through this policy may be more costly than the item in this type of circumstance and would therefore not be in the best interests of the taxpayer.

g. Purchase of utility services or postage as they are sole source acquisitions.

This policy will be reviewed at least bi-annually by the Town Board.

Supervisor read.

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**RESOLUTION TO ADOPT PROCUREMENT POLICY FOR THE TOWN OF NEW
BALTIMORE**

WHERE AS, Section 104-b of the General Municipal Law requires every town to adopt internal policies and procedures governing all procurement of goods and services not subject to the bidding requirement of section 103 of the General Municipal Law or any other law, and

WHEREAS, comments have been solicited from the Town Board, and

WHEREAS, the attached policy has been reviewed by the Attorney for the Town.

NOW, THEREFORE, BE IT RESOLVED that the attached policy is adopted to replace the Town's previous Procurement Policy adopted in 1992.

Councilman Norris moved, seconded by Councilman Meredith. Councilwoman Finke asked for corrected copies with new amounts. The adoption of the foregoing Resolution was duly put to a vote, and upon roll call, the vote was as follows:

**ROLL CALL VOTE: BYAS-AYE FINKE-AYE MEREDITH-AYE
 NORRIS-AYE O'RORKE-AYE**

Adopted

3. Resolution to Approve Pay Increase for Building Inspector for Completion of Certification

Taken up last month, we thought his certification was completed but State ran out of certificate forms, effective July 1.

AUGUST 8, 2011

RESOLUTION ADJUSTING SALARY FOR CODE ENFORCEMENT OFFICER

WHEREAS, the Town Board, by Resolution dated January 10, 2011, appointed Ray Blaisdell to the position of part time Code Enforcement Officer for the Town of New Baltimore, and

WHEREAS, Ray successfully completed his certificate on July 1, 2011, and

WHEREAS, it is recommended that his pay be increased an additional \$.50 per hour per the January 10, 2011 resolution.

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NOW, THEREFORE, BE IT RESOLVED that Ray Blaisdell's salary is increased to \$13.25 per hour effective July 11, 2011.

Councilman Norris moved and Supervisor seconded. Ms. Alfeld asked about the title of building inspector on the agenda; Code Enforcement Officer is the correct title, per Greene County Civil Service. The adoption of the foregoing Resolution was duly put to a vote, and upon roll call, the vote was as follows:

ROLL CALL VOTE: BYAS-AYE FINKE-AYE MEREDITH-AYE
 NORRIS-AYE O'RORKE-AYE

Adopted

4. Discussion of Topics Addressed at Special Town Board Meeting on July 18

Topics discussed were distributed at Work Meeting; Supervisor thought a very good meeting, Chair of ZBA and member or two are present this evening.

Junkyard license is currently not listed as a fee; \$100 is what has been charged the current junkyard provider. This particular use requires a Special Use Permit from the Planning Board, certain things are required to retain annual permit, Code Enforcement Officer must go inspect. Planning Board also asks for a report from the Code Enforcement Officer.

One renewable Use Variance is also asked to return annually to the Zoning Board of Appeals, Code Enforcement Officer also goes out and makes inspection to determine compliance with the ZBA. If Junkyard fee stays with the permit, under the purview of Town Board; Planning Board accepts the code enforcement officer's inspection for their own, the feeling was that it is not fair to penalize those who have 2 permits and that the Town would charge for renewables of ½ of original permit to pay for Code Enforcement Officer's inspection. Councilman Norris says, having paid \$100 for license, would not have to pay another fee for the Special Use Permit. Another individual getting the renewable variance has never paid; going forward, for those who have to come back before a Board, would it be wise to make it subject to the discretion of Planning Board or ZBA? Ms. Alfeld asked about inspections done by Code Enforcement Officer requiring a fee, and another business not named, if he must make inspections the Town should charge a fee that recoups payment for his gas and time; for instance, the hotels (annual safety inspections) would provide the Town with the dollars actually expended for this job to be done. But if the fee isn't recouped from the business, the residents are out that money by taxes. Supervisor said, as Councilman Norris, it was raised at the Special Meeting and other Towns do charge for annual inspections or those done every 3 years. Donna Carlson asked about the taxes paid by that business; Ms Alfeld answered the residents pay taxes and during renovation had to pay for sewer or highway inspections, and asked if CEO is charging the Town \$25, should a resident pay for business inspection?

Supervisor asked for comments to be directed to Town Board and to keep discussion within the outline. She has asked and plans to have another Special Meeting with Planning Board and ZBA in October. Supervisor asked for comments from Board members who were not in attendance.

Councilman Byas said you cannot hit up the few businesses in Town, you keep hitting the businesses they will leave, someone he talked to cannot wait to get out of Town, putting house on the market, too, and businesses are tired of it.

Ellie asked for \$25.

Councilman Byas had no comment for \$100 junkyard.

Councilman Norris said there is no fee for fire inspections now.

Councilman Byas said to revisit it longer and get feedback from businesses.

Renewable Use Variance must be perspicative.

ZBA Chair Tooher said with this coming up in October, it would be nice to say to the applicant that, in the future, there will or won't be a fee. It would be nice to have guidance.

Supervisor will add to agenda for next meeting.

Supervisor said currently there is a Non-Commercial Variance \$40; it was suggested to increase to \$80, similar to the Non-Commercial Special Use Permit and (based on Coeymans \$100, Catskill \$80, Greenville \$, Coxsackie \$) considering based on other towns. Sewer Hookup would increase by \$5 to \$80, used to have Sewer Repair Fee for digging up laterals,

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and ½ of that fee to send Jim Polverelli out there to check hookup. It was suggested to offer a Sign Permit of \$25, except with a Site Plan Review, when there would be no charge.

Councilman Norris said other towns had fees similar to these.

Sewer Hookup/Reconnect Fee would be ½ of that or \$40, said Supervisor. Right now there is no Sewer Hookup Fee or permit required, or to notify us; which makes no sense under those circumstances, added Attorney Wukitsch. For a Sign Permit quite often the inspector must go and look at the site, but would not charge with Site Plan Review (new business or expansion). Councilman Byas asked, you pay for the sign, you want to move it, you pay again? One time shot; where would it be moving to?

John Cashin offered if on same lot, need to prove it was still on property and highway easement or height requirements.

Councilman Norris said these fees came out of the joint Special Meeting that night.

Supervisor said for Ag buildings are not subject to building permit under NYS law, the group's concern was for the building to meet proper setbacks, talked to attorney as to whether Town would be liable if individual constructed an agricultural building without the proper setbacks; is it a civil matter or the code enforcement officer failing to perform his duties, however, by learning about the violation by driving past.

Attorney Wukitsch said very difficult to impose liability on town or municipality for failing to perform a municipal duty. You do not want to create situations, but town has limited exposure when performing governmental functions.

Supervisor suggests Ag Building Permit. Code Officer has had 2 individuals come in for building permits because they wanted the benefit of his expertise with location and construction, with no fee.

Rob VanEtten suggests farmers typically know where their lines are; leave them alone and, if they want help, they'll come to you.

Supervisor asked Ag Committee to discuss this; we have a track record of all the buildings so it helps from that aspect.

Attorney Wukitsch suggests the code officer would insulate from possible problem, so their involvement would be desirable.

Councilman Norris asked the intent of this, to help the farmer if he wanted to sell the land.

John Cashin said if a farmer was to sell that particular building, it satisfied setback by 6" to help the farmer.

Councilman Norris will take this to Ag Committee.

The group suggests eliminating the headings for Residential Commercial and Light Commercial in Chapter 112 Zoning.

Regarding Signage, the NYS Thruway and, particularly with, Holiday Inn Express, Town Code for signage is in conflict with the Thruway for height requirements and such and it was recommended to acquiesce to the Thruway's regulations, 600 feet from Thruway and would have to be viewed from Thruway.

Councilman Byas said you're not sure of that?

Supervisor said the Board would just adopt the Thruway's regulations. Attorney Wukitsch confirmed this would be a local law, added to agenda for next meeting.

NEW BUSINESS

1. Resolution to Approve Payment of Claims

**RESOLUTION
AUGUST 11, 2011**

RESOLUTION TO APPROVE PAYMENT OF CLAIMS

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

WHEREAS the Town Board has audited claims 2011/08/01-65, it is

RESOLVED, that the Town Supervisor is hereby authorized to pay claims 2011/08/01-65.

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BE IT FURTHER RESOLVED that the Town Clerk will prepare an abstract and hold it for public review until August 31, 2011.

Councilman Norris moved, seconded by Supervisor. Councilman Meredith had a question on State Telephone 20110859. Supervisor asked if all was audited; no response. There is no legal requirement for total in resolution, said Attorney Wukitsch. Councilwoman Finke asked if something was not right we would come back next month? Supervisor signs checks against the vouchers, adding that auditing the abstract against the vouchers would be a good thing. Councilman Meredith will perform that audit against the abstract and the bank statement. Councilman Byas asked if there was a problem at the bottom of the voucher who is responsible for that mistake? Those who signed it are responsible, said Attorney Wukitsch, but mistakes happen, and Town Board would pass an amendment resolution. The adoption of the foregoing Resolution was duly put to a vote, and upon roll call, the vote was as follows:

**ROLL CALL VOTE: BYAS-AYE FINKE-AYE MEREDITH-AYE
NORRIS-AYE O'RORKE-AYE**

Adopted

2. Resolution to Approve Local Law #3 of 2011

In Supervisor's discussion with Sheriff's office, this is not heavy-handed but improves discretion exercised by deputies. Councilman Byas just hates to see rules and more rules, understands there must be a way to write tickets, but feels there must be a way to use the laws we have. Councilwoman Finke thinks this gives a discretionary tool to determine what individual's are doing in the park. Attorney Wukitsch said sometimes they prefer to have a local law, this provides that other option, "after dark" legislation is common.

LOCAL LAW 3 OF 2011

**A LOCAL LAW AMENDING CHAPTER 77 OF THE TOWN CODE TO PROVIDE
THAT AN INDIVIDUAL'S PRESENCE IN TOWN PARKS BETWEEN DUSK AND
DAWN SHALL BE UNLAWFUL**

Be it enacted by the Town Board of the Town of New Baltimore, County of Greene, as follows:

Section 1 Purpose

The purpose of this law is to prevent individuals from entering and remaining in Town Parks between dusk and dawn. The Town Board finds that there is a risk associated with such activity, such as vandalism, illegal drug use and underage consumption of alcoholic beverages.

Section 2 Amendment

- a. Chapter 77-2 of the New Baltimore Town Code entitled "Prohibited Activities" is amended to add a new subdivision G which shall provide as follows:

Entering and Remaining in a Town Park Between Dusk and Dawn Where
Prohibited By Appropriate Signage

- b. All other provisions of Chapter 77 shall remain unchanged.

Section 3 Effective Date

This Local Law shall take effect immediately upon filing in the office of the Secretary of State.

Supervisor reminds that the signs read, "dawn to dusk", as she believes the park permits read. Councilman Norris reminds the Board when preparations were being made to have the sheriff's presence in Town, they are not only here to hand out tickets, but to insure no crime. The Greene County Sheriff did not come up with the idea; suspicious activity was brought to Supervisor's attention by the deputies, asking whether there was a local law. The second area

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of discretion is the Town Justices, who have the discretion to impose a fine of \$0-500. Councilman Byas is bothered by the \$500, would hate to see someone hit with \$500. Attorney Wukitsch said disorderly conduct, including the surcharge, would be close to \$500. Councilman Norris said it depends on what the charge is.

**RESOLUTION
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**RESOLUTION TO ADOPT LOCAL LAW 3 OF 2011 AMENDING CHAPTER 77 OF
THE TOWN CODE TO PROVIDE THAT AN INDIVIDUAL'S PRESENCE IN TOWN
PARKS BETWEEN DUSK AND DAWN SHALL BE UNLAWFUL**

BE IT RESOLVED, that the Town Board of the Town of New Baltimore does hereby enact Local Law 3 of 2011 amending Chapter 77 of the Town Code to Provide that An Individual's Presence in Town Parks Between Dusk and Dawn Shall Be Unlawful.

Councilman Norris moved, seconded by Councilman Byas. The adoption of the foregoing Resolution was duly put to a vote, and upon roll call, the vote was as follows:

**ROLL CALL VOTE: BYAS-AYE FINKE-AYE MEREDITH-AYE
NORRIS-AYE O'RORKE-AYE**

Adopted

3. Resolution to Approve Notice of Violation to S. Miller regarding Section 112-12 of the Town Code

**RESOLUTION
AUGUST 8, 2011**

**RESOLUTION AUTHORIZING WRITTEN NOTICE OF VIOLATION TO SECTION
112-12 OF THE TOWN CODE UPON STACEY MILLER**

WHEREAS, Ms Miller was notified by Building Inspector John Cashin on November 4, 2009 that she was in violation of Section 112-12 of the Town Code prohibiting two single-family residences on a single lot, and

WHEREAS, Ms Miller submitted a Variance Application to the Zoning Board of Appeals (ZBA) on December 2, 2009 requesting a Use Variance to allow the trailer as a second residence to remain on the property for a short duration of time, and

WHEREAS, the ZBA granted Ms. Miller a variance with a one-year limitation on February 3, 2010, and

WHEREAS, Ms Miller was requested by the Chair of the ZBA to attend the March 2, 2011 meeting of the ZBA to report back to the Board if Ms. Miller was going to remove the trailer or subdivide the property, and

WHEREAS, Ms Miller informed the ZBA at the March 2, 2011 meeting that the trailer would be moved once the resident of the trailer moved out, and

WHEREAS, the ZBA inquired of Ms Miller if a 60-day extension would be sufficient. Ms. Miller responded in agreement and a 60-day extension was granted. Ms Miller was sent a written notification of this extension on March 31, 2011 with a copy of the resolution passed by the ZBA, and

WHEREAS, Building Inspector Raymond Blaisdell made a site inspection and observed that on June 28, 2011 the trailer was still on Ms. Miller's property. Mr. Blaisdell sent a certified letter to Ms. Miller advising her if the trailer was not removed from the property within 10 days of receipt of letter violation notice would be commenced, and

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WHEREAS, as of August 3, 2011 the trailer still remains on the property and Mr. Blaisdell has supplied the Town Board with a written report including all the proceedings related to this violation.

NOW, THEREFORE, BE IT RESOLVED that the Town Board finds pursuant to section 112-89 D as follows:

- 1) Ms Miller is presently maintaining a trailer used as a second residence on her property in the Town in violation of Town Code Section 112-12 which prohibits two residences on the same lot
- 2) Ms Miller needs to remove the trailer from the property in order to comply with the Town Code
- 3) Compliance must occur by August 29, 12011
- 4) Upon written request within 10 days of the Notice of Violation, Ms Miller may request a hearing before the Town Board.

BE IT FURTHER RESOLVED that the attorney for the Town is hereby directed to transmit a NOTICE OF VIOLATION to Ms Miller that she is in violation of Section 112-12 of the Town Code as described herein pursuant to section 112-89 D.

Councilman Norris moved and seconded by Supervisor. ZBA Chair Tooher said that again the offender is being given an extended period of time and, if it will be granted again, let it be dead-end; it is important for the Town that that "the street runs both ways". Member Shelly VanEtten added that if there had been difficult weather she could come back and she never did. Attorney Wukitsch said to keep in mind she has a 10-day period to request a hearing before the Town Board, a compliance date could be set. ZBA Chair Tooher said, going forward, please consider how much time she has been given already. Supervisor said she was notified by building inspector in 2009, was present when the ZBA listened to her situation. Councilman Byas asked, if she put in for a subdivision, how long does that take and how would she apply. Supervisor said that is the Planning Board, if she showed effort, it would be up to the Town Board. Ms Alfeld suggested to Ms Miller at her initial hearing that it would be to her benefit to subdivide and it would be easier; she said she was not interested in subdividing. Councilman Byas said he thought it up because there is a red ribbon in center of her driveway. Her neighbor is, said Councilman Norris, subdividing. Supervisor reminded that she could ask for a Town Board hearing; Clerk Loux has complete documentation. Didn't want to see us spend the money, said Councilman Byas. The adoption of the foregoing Resolution was duly put to a vote, and upon roll call, the vote was as follows:

**ROLL CALL VOTE: BYAS-AYE FINKE-AYE MEREDITH-AYE
 NORRIS-AYE O'RORKE-AYE**

Adopted

4. Resolution to Approve Use of State Work Release Inmates for Town Hall Repairs

Last week, Supervisor contacted Councilman Byas when she learned inmates were working at Town Hall, no one at Town Hall was aware of their coming. Councilman Byas indicated the Town Board had given prior approval. Supervisor and Clerk Brooks searched and found no prior approval by Town Board. Councilman Norris spoke with guard who indicated they would be returning on August 16. Councilman Byas didn't know exact dates, quite awhile back the Board spoke about using prisoners, Hudson is minimum security, told him what they were able to do, coordinator retired, new sergeant phoned and visited locations in New Baltimore and could do as soon as possible because state is doing away with the program, free, only to buy materials for their jobs, Town Highway delivered 2 loads of crushed stone, they leveled stone for the kayak slip, sanded and repainted flagpole and re-stained picnic tables. For the Town Hall, Ray Blaisdell told them exactly what he wanted and they worked to his specifications; Ray wrote a letter approving it. They did emergency door porch and railing and the wood door railing. August 16-17 they will re-straighten the stone wall at District 2 Park when no one is there. Supervisor asked about liability? do we supply tools? yes, but no power tools; guard uses the power saw.

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When the Boy Scouts did work he was never asked for liability. Three years ago he did work for crushed stone at the kayak launch and never had anything brought up about liability or anything for any of these services he's ever had performed at the town level. Councilman Byas doesn't know, never been questioned, never had a problem. Supervisor said free labor is great, a difference between inmates and Boy Scouts; if we asked Boy Scouts, we could get a certificate from them. When Councilman Byas has used young people with tickets for the Town, never brought up about liability, used them at Sewer Plant and all the parks, never brought up liability. Supervisor said some towns are getting away from these programs due to problems with liability, the trade-off, and will the state be responsible for any medical payments for anyone injured. Town is not giving them power tools; working under supervision of guards. Supervisor had a case where inmate, mowing, mowed off toes, and sued the town. Attorney Wukitsch said the theory is to sue everybody. Councilman Byas said one day they said this will be the last program, next day the corrections officer said it was the last day, 3 days later said we're available again, but this is the last town. They have permission to finish what they've promised to do in New Baltimore. Supervisor asked for the letter that was sent to the prison system; Sergeant Newhouse is the new Hudson contact. Supervisor asked for communication; Ms Alfeld walked into Town Hall between 5 inmates and one guard. Ray Blaisdell knew they were here. Ms Alfeld wasn't sure she was safe. Councilman Byas said Ray Blaisdell knew they were here. Clerk Brooks asked that they not be working on a Town court day; Councilman Byas said he'd ask but they don't call him, they just show up; Clerk Brooks repeated they do not want them at Town Hall on a Town court day.

RESOLUTION

**RESOLUTION TO CONTRACT WITH NEW YORK STATE PRISON SYSTEM FOR
REPAIR WORK AT TOWN HALL AND TOWN PARKS**

WHEREAS, the Town Board of the Town of New Baltimore has been notified of a Work Release Program offered by New York State Prison System, and

WHEREAS, the Work Release Program offers NYS municipalities free labor for the completion of routine repairs and maintenance, and

WHEREAS, the Town Board feels that the use of free labor will be a benefit to complete minor repairs at the Town Hall and Town Parks.

NOW, THEREFORE, RE IT RESOLVED that the Town Board does hereby authorize Councilman Byas to enter into an agreement with NYS Prison Systems for the use of labor to perform these routine repairs.

Councilman Byas moved, seconded by Councilman Meredith. Councilman Norris asked for the cost of materials. Councilman Byas said he hasn't run a total, so far under \$200, some will be carryovers; to do the rest of the work. Councilman Norris' issue was that it didn't come before the Board, brought it up in January, were supposed to bring it back to the Board; when the dutch doors were discussed there was huge discussion about the cost and how much that would cost and setting a \$ limit; feels it should have been brought to the Board, a plan with a budget and it could have been approved by the Board. Councilman Norris felt that telling the Code Enforcement Officer was not the proper way to do it. Councilman Byas said the Code Enforcement Officer had written him a letter. Councilman Norris said he wrote everyone a letter, just like the dutch doors was approved. Councilman Meredith asked if it was under \$1000; answer: yes. Councilman Norris said so were the dutch doors. Councilwoman Finke asked if this had ever been done before; Supervisor could not find anything. Attorney Wukitsch said that's why this is coming forward; there should be a resolution. Councilman Norris asked how they were authorized to come here? Councilman Byas said he gave authorization to them in conversation. Supervisor said this Board has tried to work as a group without one of its members entering into a contract that may increase liability and cost; trying to work together, everyone is notified, and that is the policy. When Supervisor learned of the inmates' work, she wanted to memorialize it so everyone is in agreement; Councilman Norris asked, going forward, to have the whole Board's approval just like in the past on many things. Councilman

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Byas said there is a big difference with \$200 and free labor; when he received the letter, he jumped at the opportunity. Clerk Brooks requested a copy of the letter. Councilman Byas didn't know there was a letter; he spoke to a person. Councilman Norris said the flipside is the contractors who approached him asking if they could bid on this job. Councilman Byas said that's just what happened on the Thruway years ago, inmates were working for nothing, taking the old fences down, and the union turned them in because they were cut out of work and that's why they had to quit those projects. It ended up costing \$30,000 year for those people, "we're taking a double whammy, what are you supposed to do?" Councilwoman Finke said they've been used in the past; Councilman Byas said they built this whole building, CorCraft. Supervisor said things have happened in the past that happened with past Boards; the current Board should have the opportunity to weigh in on a decision; she asks for fairness and communication. The adoption of the foregoing Resolution was duly put to a vote, and upon roll call, the vote was as follows:

**ROLL CALL VOTE: BYAS-AYE FINKE-AYE MEREDITH-AYE
NORRIS-AYE O'RORKE-AYE**

Adopted

5. Resolution to Approve Repositioning of Gate at District 2 Park

Supervisor related to Councilman Byas that the corrections officer told Councilman Norris their plan to do the stone work on August 16 and move the gate at District 2 Park. Having not heard back from Councilman Byas, Supervisor said if that's not happening there's no need for a resolution. Councilman Byas said we're going to move the gate, take the gates down, District 2 and District 3 Park gates. Supervisor said that will need to be brought back to the Board. Councilman Byas said repairing the stone wall, where you go into the pavilion at upper end, get those corners laid up nice, straighten up to same height, no materials purchased, and, at that end opening, install something, a smaller gate, there so you can drive into the parking lot but can't drive onto the field. Councilman Byas will bring plan to the next meeting. **TABLED**

6. Resolution to Approve Response to Greene County Regarding Speed Limit Signage on County Route 61/Main Street

This is for an additional or moved sign in an existing speed zone. No change is being asked for the parameters of the speed zone.

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**RESOLUTION TO REQUEST ADDITIONAL SPEED LIMIT
SIGNAGE ON COUNTY ROUTE 61 BETWEEN ITS INTERSECTION WITH
MATTHEWS POINT ROAD AND MILL STREET**

WHEREAS, the Town Board has previously adopted a Resolution dated March 13, 2006, requesting a review of the speed limit on County Route 61, received a petition from residents of the Town living on County Route 61 beginning at the Coxsackie-New Baltimore town line, and ending at the southern boundary of the current 30 mile per hour speed zone located south of the intersection of County Route 61 and Matthews Point Road, and

WHEREAS, said Resolution omitted that portion of County Route 61, also known as River Road, which is located between the intersection of said road and State Route 144, and the intersection of Main Street and River Road and included it in their resolution of September 11, 2006, Resolution to Request A Review of Speed Limit on River Road between its Intersection with State Route 144 and its Intersection with Main Street, and

WHEREAS, New York State Department of Transportation wrote in response to October 31, 2006 letter to Greene County Highway Superintendent requesting speed limit investigations for River Road (45mph) between SR144 and South Main Street, a determination was made that lower speed limits are approved and signage may be ordered.

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WHEREAS, these determinations and the attached resident petition support the case that this is an area requiring more prudent speed and have requested an additional 30-mile per hour speed sign on Main Street;

NOW, THEREFORE, BE IT RESOLVED that the placement of speed signage is insufficient for those traveling north on Main Street from Matthews Point Road, and

BE IT FURTHER RESOLVED, that this Resolution be referred to the Greene County Highway Department and the New York State Department of Transportation in request of additional signage,

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

**ROLL CALL VOTE: BYAS-AYE FINKE-AYE MEREDITH-AYE
 NORRIS-AYE O'RORKE-AYE**

Adopted

Supervisor acknowledged a petition for speed bumps; speed bumps are another matter completely. No comment toward bringing that effort forward.

7. Discussion of Property Tax Cap

Supervisor gave the Board members preliminary budget worksheets for review with departments and 6-month review and to be returned to Supervisor by month's end; Sewer and Highway are not available yet. As last year, Tentative Budget will be presented at September Work Meeting, Preliminary Budget at October Regular, public hearing October Work Meeting, and adopt a budget at November Regular Meeting. Special meetings may be called. No questions.

Supervisor attended recent AOT meeting, was able to get advance copy of Tax Cap Powerpoint from the AOT website; this is a good way to inform the Town Board without advocating any direction. In June, New York State legislated a Real Property Tax Cap which is in effect for 2012 Budget until June 15, 2016. However, if rent regulations are extended, the tax cap automatically is also.

Supervisor read through the Powerpoint pages.

Town services are funded by a variety of sources; this only addressed real property taxes. User fees are not involved in this cap. The assessed value times the tax rate equals the levy amount; the levy amount is the amount we collect from real property taxes. Rather than assessment or tax cap, the law limits the total amount that a local government may levy annually, local governments may not adopt a budget that requires a tax levy exceeds the prior year's levy by more than 2% or the rate of inflation, whichever is less, unless the Town Board adopts a local law to override the tax levy. There are different price indices that the rate of inflation can be tied to; there is discussion and still waiting for Comptroller's Officer to come out with that decision. The AOT has calculated their average, 2%; Association of Counties has come up with over 2%. Attorney Wukitsch summarized the 2012 levy cannot exceed the 2011 levy by more than 2%, without an override. Re the override, for every fiscal year, you cannot permanently exempt out of the override, you need 60% of the vote, or 3 of 5 in New Baltimore. Local governments are prohibited from putting an issue before the voters without statutory authorization; there is no authorization for override referendums. If the Town were to consider an override, the local law has to be filed with the Secretary of State prior to adopting the budget.

There is a difference of opinion regarding when a local law is filed; when it is mailed to Secretary of State, when it is acknowledged. If the Town does take this action, the local law must be in place prior to adopting the budget.

Exceptions to the 2% include: tort actions (doesn't include tax certioris), pension contributions (2 percentage points, not 2%); finance boards and growth due to brick and mortar. If you take 16.3% of payroll and increase to 18.3, or 2%, it is actually a 12.26% increase. There isn't full wiggle room for the retirement. There are some exceptions for building, nothing in question right now.

Special Districts, where a user fee is charged, are exempt, like Sewer District No.1. Sewer District No.2 charges both tax levy and user fee. Other special districts are tax levies, they do

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not require a local law to override, simply a resolution; some have very small fund balances; another option would be to bond for capital repairs.

Carryover, the principal is if you do not take 2% every year, you can benefit in the following three years.

Regarding the tax cap calculations, Payments in Lieu of Taxes (PILOT) are backed out and then added back in. Supervisor was not here when current PILOT agreements were made, has gotten a schedule from the Greene IDA, they do change over time, and the tax assessment they provide. When they come off and come back on as taxable property they affect the tax levy.

When the PILOT expires, the Town begins to collect full property tax; currently Serta has a PILOT. There is a report to the Comptroller online. AOT sees more municipalities using Community Host Agreements; the IDA, not the Town, controls PILOT agreements; the Community Host Agreement allows for a type of "barter", for example provide a certain level of service for free for a new sewer plant.

Consolidations, dissolutions, and transfer- if a municipality was dissolved or property was received from another municipality.

Budget implications- consumption and fee-based charges are not part of the tax levy. The county's college chargebacks- while they charge it back, they levy that, so it is their issue, not ours in the Town. If the Town budget exceeds the tax levy the Town Board must either reduce the budget or adopt a local law that overrides the tax levy limit. The override local law must be filed with the Secretary of State prior to adopting the budget. If it appears that an override will be likely, the Town Board should begin the local law process early in the calendar as possible, so that a local law may age with the public hearing. There are certain requirements of the Clerk for posting of those. The hearing for the local law may be held the same day as the hearing on the budget.

Councilman Norris asked what have been the tax levy percentages in the past several years; Supervisor said 2011(-1.5%), 2010(@-1.5%), 2009(small increase). Councilman Norris said a lot had to do with chargebacks; Supervisor reminded that is not part of the Town's budget, the county notifies the Town of the amount, but we don't include it in our levy, and yes, now there will be less of a county chargeback levied. Ellie Alfeld asked if the fire districts get a percentage of the total levy; answer: the fire districts on their own are subject to the tax cap, the ambulance and water also, the supervisor is not involved in the fire districts.

Jean Horn is starting the fire district budget and asked if that must be taken into consideration: Supervisor said that is her understanding and to check with their fire district state association.

Councilman Norris said the Greene EMS will go up \$190 (in file); Supervisor indicated those will be billed back to that ambulance district. Water District 3/Houghtaling Road has a \$12 fund balance. Water District No.2, Scheller Park, and the Water District No.1 is Village of Ravena. Ms Alfeld asked if under the law the Town must maintain a certain dollar or percentage of Fund Balance; Supervisor reminded that the Comptroller's Office frowns on the maintenance of a Fund Balance, and would prefer to see Towns keep no more than 15%, but there is no law with that regard. Attorney Wukitsch needs to know as soon as possible if we need the 2% in order to get local law "wheels" in synchronization with the passage of the budget.

Councilman Byas asked, regarding Playground Parks, does it include all three? Supervisor observed he was holding the electric bill for Silver Lake/District 3 Park, the electric bills are separate for each park. She offered to discuss electric bill afterward. Supervisor indicated that she gave ledgers of what has been billed for the first 6 months of 2011; last month, she distributed 2010's 6 month ledger. The Board already has their final budgets of what was spent by end of 2010. Come in to see Supervisor with any questions. Supervisor is asking each department to calculate at what point they'll end the year and to calculate what is needed for next year and to submit to her by end of August.

Councilman Byas asked for information from Attorney Wukitsch regarding the hotels. Assessor Bennett called him back and Councilman Byas is wondering where the Town stands on lawsuits. Attorney Wukitsch asked to not discuss in Regular Meeting. Supervisor said well-within time frame for having to do anything, no action is being taken. Councilman Byas said message is different from what is being said, numbers are bad. Attorney Wukitsch said

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executive session should occur tonight or next month. Supervisor said there is nothing to be done right now, she has already asked Assessor Bennett to attend September Regular meeting.

ADJOURNMENT

With no more from the Board, Councilman Meredith moved to adjourn, seconded by Norris.

**ROLL CALL VOTE: BYAS-AYE FINKE-AYE MEREDITH-AYE
NORRIS-AYE O'RORKE-AYE**

Motion Carried

The meeting was adjourned at 9:57 pm.

Respectfully submitted,

Janet A. Brooks
Town Clerk

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