

**AGENDA**  
**TOWN OF NEW BALTIMORE, COUNTY OF GREENE**  
**REGULAR TOWN BOARD MEETING**

**February 10, 2014**

*Please turn off all cell phones and electronic devices.*

**Pledge of Allegiance**

**Approval of Minutes**

- **January 1 Organizational Meeting**
- **January 13 Town Board Meeting**
- **January 27 Town Board Work Meeting**

**Public Comment Period**

**New Business**

- Synopsis of the Procurement Policy by Tal Rappleyea, Attorney for the Town
- Resolution to Adopt Minor Corrections to the Procurement Policy
- Resolution to Adopt FOIL Policy
- Resolution to Establish Hours of the Town Clerk's Office
- Resolution to Adopt Corrective Action Plan in Response to the State Comptroller's Audit
- Resolution to Authorize Highway Superintendent to Purchase Diesel Fuel and # 2 Heating Oil for Highway Use by State Contract for 2014
- Audit of Claims

**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**

**Adjournment**

**\*\*\*\* Agenda Subject to Change\*\*\*\***

**TOWN OF NEW BALTIMORE, COUNTY OF GREENE**

**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.

## **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.

### 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

Estimated Amount of Public Works Contract	Method Required
\$ 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.

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.

#### 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.

**TOWN OF NEW BALTIMORE, COUNTY OF GREENE**

**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.

***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.

## **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  
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;
- (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.

**TOWN OF NEW BALTIMORE, COUNTY OF GREENE**

**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.

**TOWN OF NEW BALTIMORE, COUNTY OF GREENE**

**RESOLUTION  
FEBRUARY 10, 2014**

**RESOLUTION TO ADOPT CORRECTIVE ACTION PLAN IN RESPONSE TO  
THE 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.

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

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

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.

**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.
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**

**TOWN OF NEW BALTIMORE, COUNTY OF GREENE  
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**

**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.

**TOWN OF NEW BALTIMORE, COUNTY OF GREENE**

**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 , it is

**REVOLVED** that the Supervisor is hereby authorized to pay claims 2014

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