

REGULAR MEETING
May 8, 2017

DRAFT

The Regular Meeting of the Town Board of the Town of New Bremen, County of Lewis and the State of New York was held at the Town Municipal Office Building, 8420 State Rte. 812, New Bremen, New York on the 8^h day of May 2017.

Town Officer's Present: Peter J. Keys, Supervisor
David L. Becker, Councilman
Joseph E. Aucter, Councilman
Marcus Bush, Councilman
VACANCY
Jonathan M. Bush, Hwy. Superintendent
Elizabeth B. Jones, Clerk
Errol A. Aucter, Justice
Timothy Farley, Town Attorney

Attended by: Approximately 4 people

Supervisor Keys called the meeting to order at 6:02 p.m. with the Pledge to the Flag.

**RESOLUTION NO. 55 OF 2017
APPROVAL OF MINUTES**

On a motion of Councilman Becker, seconded by Councilman Bush, the following resolution was
ADOPTED Ayes 4 Becker, Aucter, Bush, Keys Nays 0

RESOLVED, the minutes of the April 11, 2017 meeting are approved.

OPEN PUBLIC HEARING

The Public Hearing to determine whether Site Plan Review Application No. 2-2017 submitted by David Hosler of NRG Group, Inc. for use of the existing 50' x 125' building as a warehouse, located at 8691 State Rte. 812, Town of New Bremen, Tax Map #163.00-02-45.000 is complete, was declared open at 6:03 p.m. Proof of publication in the Journal & Republican was noted.

Comments: Brian DeHart of the NRG Group, Inc., stated that he will also be constructing a 60' tower on the property for training purposes. It will have a locked fence around the base of the tower and he will also install a dim red light on the tower to spot it from the air, as per the Boards request.

CLOSE OF PUBLIC HEARING

All questions or comments by the public and the Board were addressed. Therefore, the public hearing was hereby closed at 6:07 p.m. After discussion, the following resolution was presented.

**RESOLUTION NO. 56 OF 2017
SITE PLAN REVIEW APPLICATION DETERMINATION**

On a motion of Councilman Aucter, seconded by Councilman Becker, the following resolution was
ADOPTED Ayes 4 Becker, Aucter, Bush, Keys Nays 0

WHEREAS, the Town Board of the Town of New Bremen did hold a Public Hearing on May 8, 2017 to review the Site Plan Review & Zoning Permit Application No. 2-2017 submitted by David Hosler of NRG Group, Inc. and to determine whether or not the application was complete, now therefore be it

RESOLVED, that the Town Board of the Town of New Bremen hereby determines that the Site Plan Review Application No. 2-2017 for the use of the existing 50' x 125' building as a warehouse for NRG Group, Inc., located at 8691 State Rte. 812, Town of New Bremen, Tax Map #163.00-02-45.000 is complete, and be it further

RESOLVED, the Town Clerk is to refer the Site Plan Review Application along with all required forms/information to the County Planning Board for their review and recommendations.

CADY PROPERTY

Supervisor Keys opened the floor to Elton Lehman who has intentions in purchasing the Cady property at the County tax sale. Discussed the process and the cleanup of the property, which is the new owner's responsibility.

ZONING

Ward Dailey, Zoning Officer for the Town of New Bremen served notice on Andi-Son Enterprises Ltd. for their property located at 6619 Tillman Road, Town of New Bremen, Tax Map #163.00-02-27.110, for unsafe structure due to partial collapse, unsecured and has been condemned and to order it be demolished and the site cleaned up. Said notice also stated that a hearing before the Town Board regarding said unsafe structure is on this date and also stated that removal of the structure is to begin within 30 days and the site remediated within 60 days of service of said notice.

Supervisor Keys stated that the owners have knocked down the structure and put an orange plastic fence separating it from the neighboring property. Attorney Farley mentioned they have 60 days to clean up the property from time of service of the notice and feels they are in good shape thus far. If the situation is not remedied by June 15th the board can take further action.

PROCUREMENT POLICY

Attorney Farley reviewed his draft procurement policy with the Board. A question arose by Susan Sauer pertaining to whether a public hearing should be held prior to the Town entering in to a lease agreement. Attorney Farley stated it should be treated like a bond with a public hearing being held and is subject to permissive referendum, but the policy does not have to spell it out due to being covered under section 109-b of the General Municipal Law. After discussion/review, the following resolution was adopted.



**RESOLUTION NO. 57 OF 2017
ADOPTING A PROCUREMENT POLICY**

On a motion of Councilman Becker, seconded by Councilman Bush, the following resolution was
ADOPTED Ayes 4 Becker, Aucter, Bush, Keys Nays 0

WHEREAS, section 104-b of the General Municipal Law requires the governing body of every municipality to adopt internal policies and procedures governing all procurement of goods and services which are not required by law to be publicly bid, and

Comments have been solicited from all officers in the Town of New Bremen involved in the procurement process,

NOW, THEREFORE, BE IT RESOLVED, by the Town Board of the Town of New Bremen, in a regular session duly convened that the Town of New Bremen, does hereby adopt the following procurement policy which is intended to apply to all goods and services which are not required by law to be publicly bid.

PROCUREMENT POLICY FOR THE Town

1. a. Every prospective purchase of goods 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 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.
- b. 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 \$20,000; emergency purchases; certain municipal hospital purchases; goods purchased from agencies for the blind or severely handicapped; goods purchased from correctional institutions; purchases under state and county contracts and surplus and second-hand purchases from another government entity.
- c. The decision that a purchase is not subject to competitive bidding will be documented in writing by the individual making the purchase. This document may include written or verbal quotes from vendors, a memo from the purchaser indicating how the decision was arrived at, a copy of the contract indicating the source which makes the item or service exempt, a memo from the purchaser detailing the circumstances which led to an emergency purchase or any other written documentation that is appropriate.
2. All goods and services not subject to competitive bidding will be secured by use of written requests for proposals (RFPs), 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.
3. a. The following method of purchase will be used when required by this policy in order to achieve the highest savings:

<u>Estimated amount of purchase contract</u>	<u>Method</u>
\$250 to \$1,000	Discretion of purchaser.
\$1,000 to \$3,000	Oral request for the goods and oral/fax quotes from two vendors.
\$3,000 to \$10,000	A written RFP and written/fax quotes from three vendors.

Estimated amount of
public works contract

Method

\$500 to \$3,000

Discretion of purchaser.

\$3,000 to \$10,000

Written RFP and written/fax proposals from two contractors.

\$10,000 to \$20,000

Written RFP and written/fax proposals from three contractors.

- b. Any written RFP shall describe the desired goods, quantity and the particulars of delivery. The purchaser shall compile a list of all vendors from whom written/fax/oral quotes have been requested and the written/fax/oral quotes offered.
- c. A good faith effort shall be made to obtain the required number of proposals or quotations. If the purchaser is unable to obtain the required number of proposals or quotations, the purchaser will document the attempt made at obtaining the proposals. In no event shall the failure to obtain the proposals be a bar to procurement.
- d. All information gathered in complying with the procedures of this policy shall be preserved and filed with the documentation supporting the subsequent purchase or public works contract.
4. The lowest responsible proposal or quote shall be awarded the purchase or public works contract unless the purchaser prepares 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 proposer. If a proposer is not deemed responsible, facts supporting that judgment shall also be documented and filed with the records supporting the procurement.
5. Pursuant to General Municipal Law section 104-b (2)(f), the solicitation of alternative proposals or quotations will not be required in the best interest of the municipality in the following circumstances where proper 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;
- 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.
- In determining whether a service shall fit into this category, the Town Board shall take into consideration the following guidelines:
- (i) Whether the services are subject to state licensing or testing requirements;
- (ii) Whether substantial formal education or training is a necessary prerequisite to the performance of the services; and
- (iii) Whether the services require a personal relationship between the individual and municipal officials. Professional and technical services shall include but not be limited to the following: services of an attorney; services of a physician; technical services of an engineer or architect 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; printing services involving extensive writing, editing or artwork; 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 and delay in order to seek alternate proposals may threaten 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 second-hand goods at auctions or through specific advertised

sources where the best prices are usually contained. It is also difficult to try to compare prices of used goods and a lower price may indicate an older product.

d. Goods under \$250 and public works contracts for less than \$500. The time and documentation required to purchase through this policy may be more costly than the item itself and therefore not be in the best interest of the taxpayer. In addition, it is not likely that such *de minimis* contracts would be awarded based on favoritism.

6. No portion of this resolution shall be construed as preventing the competitive bidding of purchase contracts under \$10,000 or public works projects under \$20,000, if so desired.

7. In January of 2012, changes were made to New York State General Municipal Law §103(1) which allow the Town to authorize, by local law, the award of certain purchase contracts, including contracts for services, subject to competitive bidding under General Municipal Law §103, on the basis of “best value” as defined in §163 of the New York State Finance Law. The “best value” option may be used, for example, if it is more cost efficient over time to award the good or service to other than the lowest responsible bidder or offerer; if factors such as lower cost of maintenance, durability, higher quality and longer product life can be documented.

(a) This amendment provides that purchase contracts (including contracts for service work, but excluding any purchase contracts necessary for the completion of a public works contract pursuant to Article 8 of the Labor Law) shall be awarded on the basis of best value rather than to the lowest responsible bidder. Sections 3 through 11 amend other subdivisions of §103-e of the General Municipal Law to conform these subdivisions to allow for the awarding of purchase contracts (including contracts for service work) on the basis of best value.

(b) Based on these changes to GML, the Town of New Bremen Procurement Policy will now allow of the use of best value as a method of awarding contracts in a manner that is in the best interest of the Town.

(c) Goods and services procured and awarded on the basis of best value are those that are proven to optimize quality, cost and efficiency among responsive and responsible bidders/offerers. The determination shall be based on an objective analysis of clearly described and documented criteria as they apply to the rating of bids or offers. Where possible, such determination shall also be based upon and include a quantifiable analysis of the same. The criteria may include, but shall not be limited to, any or all of the following:

- [1] Cost of maintenance
- [2] Proximity to the end user if distance or response time is a significant term.
- [3] Durability
- [4] Availability of replacement parts or maintenance contractors;
- [5] Longer product life; and
- [6] Product performance criteria and quality of craftsmanship.

(d) Whenever any contract is awarded on the basis of best value instead of lowest responsible bidder, the basis for determining best value shall be thoroughly and accurately documented.

(e) Further amendments to General Municipal Law §103 through the addition of a new Subdivision (16) allow political subdivisions “to make purchases of apparatus, materials, equipment or supplies, or to contract for services related to the installation, maintenance or repair of apparatus, materials, equipment, and supplies, ... as may be required by such county, political subdivision or district therein through the use of a contract let by the United States of America or any agency thereof, any state or any other county or political subdivision or district therein...”

(f) It is important to note that the use of such contracts (piggybacking) is conditioned on the contract that is to be utilized having been “let in a manner that constitutes competitive bidding consistent with State law, and made available for use by other governmental entities.”

8. This policy shall be reviewed annually by the Town Board at its organizational meeting or as soon thereafter is reasonably practicable.

9. This resolution shall take effect immediately.

COUNCIL REPORTS

Councilman Becker is concerned about the property located next to his rental property. The home was recently purchased and he feels the new owner isn't getting the proper permits through the county building codes office. Supervisor Keys suggested he contact Ward Dailey directly to have him look in to the situation.

Councilman Aucter reported that the Beaver River Recreation Association is trying to get the summer youth recreation program going by holding fund raisers. Darlene Hunkins, President of the BRRRA spoke with Clerk Jones stating if they do not get the program up and running they will return the funds the Town issued them.

Councilman Bush reported the spring burial at the New Bremen Rural Cemetery is complete with Zachary Virkler digging the grave.

Supervisor Keys spoke with Joel Kloster pertaining to mowing the New Bremen Rural Cemetery this summer and he agreed to do it again and may possibly be interested in digging the graves.

**RESOLUTION NO. 58 OF 2017
TOWN CLERK'S MONTHLY REPORT**

On a motion of Councilman Aucter, seconded by Councilman Becker, the following resolution was
ADOPTED Ayes 4 Becker, Aucter, Bush, Keys Nays 0

RESOLVED, the Town Clerk's monthly report is approved as submitted.

**RESOLUTION NO. 59 OF 2017
TAX COLLECTOR'S MONTHLY REPORT**

On a motion of Councilman Bush, seconded by Councilman Aucter, the following resolution was
ADOPTED Ayes 4 Becker, Aucter, Bush, Keys Nays 0

RESOLVED, the Tax Collector's monthly report is approved as submitted.

**RESOLUTION NO. 60 OF 2017
NBCIA YOUTH RECREATION PROGRAM**

On a motion of Councilman Becker, seconded by Councilman Aucter, the following resolution was
ADOPTED Ayes 4 Becker, Aucter, Bush, Keys Nays 0

RESOLVED, that the Town Board of the Town of New Bremen does hereby enter into a contract with the New Bremen Community Improvement Association to provide structured educational activities for the youth of the Town of New Bremen for the 2017 Summer Youth Recreation Program, and that the said Town of New Bremen will expend to the New Bremen Community Improvement Association the sum of \$2,000.00. The complete contract is on file in the Town Clerk's Office.

**RESOLUTION NO. 61 OF 2017
VILLAGE OF CROGHAN YOUTH RECREATION PROGRAM**

On a motion of Councilman Aucter, seconded by Councilman Bush, the following resolution was
ADOPTED Ayes 4 Becker, Aucter, Bush, Keys Nays 0

RESOLVED, that the Town Board of the Town of New Bremen does hereby enter into a contract with the Village of Croghan to provide structured educational activities for the youth of the Town of New Bremen for the 2017 Summer Youth Recreation Program, and that the said Town of New Bremen will expend to the Village of Croghan the sum of \$2,000.00. The complete contract is on file in the Town Clerk's Office.

**RESOLUTION NO. 62 OF 2017
BEAVER RIVER RECREATION ASSOCIATION
YOUTH RECREATION PROGRAM**

On a motion of Councilman Aucter, seconded by Councilman Becker, the following resolution was
ADOPTED Ayes 4 Becker, Aucter, Bush, Keys Nays 0

RESOLVED, that the Town Board of the Town of New Bremen does hereby enter into a contract with the Beaver River Recreation Association to provide instructional and recreational swim and structured recreational activities for the youth of the Town of New Bremen for the 2017 Summer Youth Recreation Program, and that the Town of New Bremen will expend to the Beaver River Recreation Association the sum of \$2,000.00. The complete contract is on file in the Town Clerk's Office.

HIGHWAY SUPERINTENDENT

Superintendent Bush filled the MEO position with Kristopher F. Gerow and appointed Thomas J. Lee as his Deputy Highway Superintendent effective May 1, 2017. The auction items are up on the website - auctionsinternational.com with bidding ending May 12th. Mr. Bush will notify the Board of the outcome. He also asked the Board to consider his prior request to purchase a new pickup. Supervisor Keys and the Board agreed not at this time and will look at it again at budget time.

**RESOLUTION NO. 63 OF 2017
JUSTICES MONTHLY REPORTS**

On a motion of Councilman Bush, seconded by Councilman Aucter, the following resolution was
ADOPTED Ayes 4 Becker, Aucter, Bush, Keys Nays 0

RESOLVED, the Justices monthly reports are approved as submitted.

**RESOLUTION NO. 64 OF 2017
AUTHORIZING AN INSTALLMENT PURCHASE CONTRACT BY THE TOWN OF NEW BREMEN
FOR THE PURCHASE OF A 2017 INTERNATIONAL TRUCK WITH VIKING EQUIPMENT**

On a motion of Supervisor Keys, seconded by Councilman Becker, the following resolution was
ADOPTED Ayes 4 Becker, Aucter, Bush, Keys Nays 0

WHEREAS, this Board by Resolution has authorized the advertising for and the purchase of a new plow truck, (the "Item"), and

WHEREAS, a bid for said Item, specifically a 2017 International plow truck with Viking plow equipment has been accepted by the Board.

NOW, THEREFORE, be it resolved, by the Town Board of the Town of New Bremen, Lewis County, New York as follows:

Section I. For the object or purpose of purchasing said Item and to provide funds thereof, the Town of New Bremen shall enter into an Installment Purchase Contract with Key Government Finance, Inc., pursuant the provisions of New York State General Municipal Law and New York State Local Finance Law.

Section II. \$166,040 is the estimated maximum principal and \$10,866.52 is the estimated interest for a total of \$176,926.52 as the maximum cost of the Item.

Section III. The Plan of the financing of the purchase of said new Item consists of entry into an Installment Purchase Agreement with Key Government Financing, Inc. providing for five payments of principal and interest commencing on May 5, 2017 and on the 5th day of May each year ending on May 5, 2021.

Section IV. It is hereby determined that the period of probable usefulness, the aforesaid Item is five years pursuant to Subdivision 32, paragraph A of Section 11 of Local Finance Law. The Installment Purchase Agreement shall not exceed the maximum period of probable usefulness of five years.

Section V. The faith and credit of the Town of New Bremen is hereby irrevocably pledged to the payment of the principal and interest on said Installment Purchase Agreement. An annual appropriation shall be made in each year sufficient to pay the principal of and interest of the Installment Purchase Agreement becoming due and payable in such year. There shall be annually levied on all of the taxable real property in said Town of New Bremen a tax sufficient to pay the principal of and interest on the Installment Purchase Agreement as the same becomes due and payable.

Section VI. Subject to the provisions of Local Finance Law the power to execute the Installment Purchase Agreement is hereby delegated to the Supervisor and the Town Clerk as appropriate. Such Installment Purchase Agreement shall be of such terms, form and contents as shall be consistent with the provisions of the Local Finance Law.

Section VII. This Resolution is made subject to permissive Referendum.

THANK YOU

Supervisor Keys received a thank you note from the Croghan Free Library for help in funding their organization.

**RESOLUTION NO. 65 OF 2017
SUPERVISOR'S FINANCIAL REPORT**

On a motion of Councilman Becker, seconded by Councilman Bush, the following resolution was
ADOPTED Ayes 4 Becker, Aucter, Bush, Keys Nays 0

RESOLVED, the Supervisor's monthly financial report is approved as submitted.

**RESOLUTION NO. 66 OF 2017
AUDIT OF CLAIMS**

On a motion of Councilman Aucter, seconded by Councilman Bush, the following resolution was
ADOPTED Ayes 4 Becker, Aucter, Bush, Keys Nays 0

RESOLVED, that Supervisor Keys is authorized and directed to pay the following amounts on Abstract #3 & #5 of 2017 in the following amounts.

General	Voucher #51 thru #61	\$6,571.10
Highway T-Wide	Voucher #61 thru #68	\$3,423.07
Highway T-Outside	Voucher #3 thru #4	\$4,849.03

The next meeting of the Town Board of the Town of New Bremen will be held on June 12, 2017 at 6:00 p.m. at the Town Municipal Office Building.

With no further business, on a motion of Councilman Becker, seconded by Councilman Aucter, the meeting was adjourned at 7:13 p.m. Carried unanimously.

Elizabeth B. Jones, RMC
Town Clerk/Tax Collector