

STATE OF NEW YORK
COUNTY OF LEWIS
TOWN OF NEW BREMEN

The regular meeting of the Town Board of the Town of New Bremen was called to order at 4:00 p.m. on October 10, 2011, by Deputy Supervisor Monnat at the Town Municipal Office Building.

Roll call found the following Town Officers present:

Deputy Supervisor	Milton Monnat
Councilmen	David Becker, Matthew Bush, Ralph Bush
Hwy. Superintendent	Ralph Hall
Town Clerk	Elizabeth B. Jones
Absent	Supervisor Schneider

Also present: John Boyd - Legislator, Sue Sauer, Sheila Buckingham, Patty Flint, Peter Keys, Mary Schantz, Keith Zehr, David Honer, Paul Lyndaker and James Aucter

Councilman Becker led the Pledge of Allegiance.

RESOLUTION NO. 86 OF 2011

APPROVAL OF MINUTES

On a motion of Councilman Becker, seconded by Councilman M. Bush, the following resolution was adopted,

Be It Resolved; that the minutes of the September 12, 2011 meeting be approved.

Ayes: Becker, M. Bush, R. Bush, Monnat

Nays: None

RESOLUTION NO. 87 OF 2011

TOWN CLERK'S MONTHLY REPORT

On a motion of Councilman R. Bush, seconded by Councilman Becker, the following resolution was adopted,

Be It Resolved; that the Town Clerk's monthly report be approved as submitted.

Ayes: Becker, M. Bush, R. Bush, Monnat

Nays: None

(Regular Meeting of October 10, 2011 con't.)

RESOLUTION NO. 88 OF 2011

ATTORNEY RETAINER AGREEMENT

On a motion of Councilman R. Bush, seconded by Councilman M. Bush, the following resolution was adopted,

Be It Resolved; that Attorney, Timothy A. Farley, is hereby approved to supply attorney services to the Town of New Bremen for the 2012 year.

Ayes: Becker, M. Bush, R. Bush, Monnat

Nays: None

RESOLUTION NO. 89 OF 2011

**INTERMUNICIPAL AGREEMENT
LAND USE AND ZONING ADMINISTRATION**

On a motion of Councilman R. Bush, seconded by Councilman M. Bush, the following resolution was adopted,

THIS AGREEMENT, made this 10th day of October, 2011, by and between the **COUNTY OF LEWIS**, (hereinafter "County" or "the County") with offices at 7660 State Street, Lowville, New York 13367; and the **TOWN/VILLAGE OF NEW BREMEN**, (hereinafter "Municipality"), with offices at 8420 State Rte. 812, Lowville, NY 13367.

WHEREAS, the Municipality has heretofore enacted a zoning law or ordinance which regulates the use of land within said Municipality; and

WHEREAS, in order to administer the above referenced zoning law or ordinance, it is necessary to review applications, related site plans in order to determine compliance with set back, usage and similar requirements; and

WHEREAS, furthermore, in order to administer the above referenced zoning law or ordinance, it is also necessary to inspect the premises from time to time while construction is proceeding in order to determine compliance with set back, usage and similar requirements; and

WHEREAS, General Municipal Law § 119-u [4](d) and in particular, Town Law § 284 [4](d) and Village Law § 7-741 [4](d), authorize a Town or Village to enter into an inter-municipal agreement with a county to carry out all or a portion of the ministerial functions related to land use regulation within such Town or Village and to provide for a land use administration and enforcement program which may replace individual land use administration and enforcement programs, if any, the terms and conditions of which shall be set forth in such agreement; and

WHEREAS, Lewis County wishes to promote inter-governmental cooperation to the extent of offering to participating Towns and Villages the opportunity to have the Lewis County Codes Department perform certain ministerial functions related to the permitting and inspection of properties within such participating Towns and Villages for the purpose of enforcing the zoning and land use regulations of such Town or Village;

NOW, THEREFORE, in consideration of the promises and covenants herein contained, the parties hereby agree as follows:

SECTION 1. TERM

This Agreement shall commence effective January 1, 2012, and shall expire on December 31, 2013, and shall automatically renew for additional one year terms unless either party notifies the other in writing of their intent to terminate the Agreement in accordance with Section 10 herein below.

SECTION 2. SERVICES PROVIDED

The County, through its Codes Department, shall provide the following services to assist the Municipality in the administration of its zoning law or ordinance:

- (1) Receive applications for zoning, subdivision, special use permit or site plan approval pursuant to the Municipality's zoning law, ordinance, rule or regulation or any other regulations which prescribe the appropriate use of property or the scale, location, and intensity of development within the Municipality.
- (2) Charge an application fee to the applicant in accordance with such fee schedule as the Lewis County Codes Department may establish from time to time, and collect the fee therefore.
- (3) Review such applications to determine whether the same complies with the Municipality's zoning law, ordinance, rule or regulation and report thereon to the Municipality's Planning Board, Zoning Board of Appeals or such similar board or agency which is responsible under the Municipality's zoning law, ordinance, rule or regulation to approval or disapprove such applications.
- (4) Upon approval by such board or agency, the County Codes Department shall inspect the applicant's premises as often as may be necessary in order to determine whether the applicant's project as constructed, conforms to the Municipality's zoning law, ordinance, rule or regulation.
- (5) Provide periodic reports of activities and fees collected as may be required by the Municipality.

SECTION 3. TERMINATION

Either Party to this Agreement may terminate this Agreement upon thirty (30) days written notice to the other Party. Upon the termination of this Agreement, any outstanding obligations shall be settled within thirty days of such termination unless the Parties with whom an obligation is due agree in writing to extend such date of settlement.

ARTICLE 4. INDEPENDENT CONTRACTOR

It is hereby mutually covenanted and agreed that in relation to the Municipalities, the County Codes Department shall be deemed an independent contractor and neither the County Codes Enforcement Officer nor its employees or agents shall hold themselves out as nor claim to be the officers or employees of the Municipality and shall make no claim for nor be entitled to: Workman's Compensation coverage, medical, unemployment, social security, or retirement membership benefits from the Municipality.

SECTION 5. NO ASSIGNMENT

In accordance with the provisions of Section 109 of the General Municipal Law, neither Party may assign, transfer, convey, sublet or otherwise dispose of this Agreement, or of its right, title or interest in this Agreement, or its power to execute this Agreement, to any other person or corporation without the previous consent in writing of the other Party. Any attempted assignment or subcontracting in violation of this paragraph shall be void and unenforceable. Nothing in this Section shall be deemed to prohibit or limit the authority of either Party to pledge a security interest in machinery or equipment owned by such Party to secure purchase money or other financing.

SECTION 6. CONTRACT DEEMED EXECUTORY:

This Agreement shall be deemed executory only to the extent of funds appropriated by either Parties' governing board and available for the purposes of this Agreement; and no liability on account thereof shall be incurred by either Party beyond the amount of such funds. It is understood and agreed that neither this Agreement, nor any representation by any public employee or officer creates any legal, moral or equitable obligation on the part of either Party to request, appropriate or make additional funds available for the purposes of this Agreement.

SECTION 7. SEVERABILITY

If any provision of this Agreement is deemed to be invalid or inoperative for any reason, that part shall be deemed modified to the extent necessary to make it valid and operative, or if it cannot be so modified, then severed, and the remainder of the Agreement shall continue in full force and effect as if the Agreement had been signed with the invalid portion so modified or eliminated.

SECTION 8. NONWAIVER

In the event that the terms and conditions of this Agreement are not strictly enforced by either Party, such non-enforcement shall not act as or be deemed to act as a waiver or modification of this agreement, nor shall such non enforcement prevent that non-enforcing Party from enforcing each and every term of this agreement thereafter.

SECTION 9. COMPLIANCE WITH ALL LAWS

Each and every provision of law and clause required by law to be inserted in this agreement shall be deemed to be inserted herein and this agreement shall be read and enforced as though it were included herein. If, through mistake or otherwise, any such provision is not inserted, or is not properly inserted, then upon application of either Party this Agreement shall forthwith physically be amended to make such insertion or correction.

SECTION 10. LAW

This agreement shall be governed by and interpreted according to the Laws of the State of New York. In the event that a dispute arises between the parties, venue for resolution of such dispute shall be a New York State Supreme Court sitting in the County of Lewis, New York.

SECTION 11. NOTICES

Any and all notices required hereunder shall be addressed as follows, or to such other address as may hereafter be designated in writing by either Party hereto:

To Lewis County: Lewis County Codes Department
 Lewis County Courthouse
 7660 North State Street
 Lowville, New York 13367

To Municipality: Town of New Bremen
 8420 State Rte. 812
 Lowville, NY 13367

SECTION 12. COMPLETE AGREEMENT

This Agreement constitutes the entire integrated agreement between and among the parties hereto, relative to the services within the scope of section two of this Agreement, and supersedes any and all prior negotiations, agreements and conditions, whether written or oral.

SECTION 13. MODIFICATION

Any modification or amendment to this Agreement shall be void unless it is in writing and subscribed by the Party to be charged or by the Party's authorized agent.

SECTION 14. NO THIRD PARTY BENEFICIARY

Nothing contained in the Agreement is intended nor shall it be deemed to create a contractual relationship with, an obligation to, or a cause of action in favor of any third-party against either the County or the Municipality. A complete copy of said agreement is to be filed in the office of the Town Clerk.

Ayes: Becker, M. Bush, R. Bush, Monnat
Nays: None

(Regular Meeting of October 10, 2011 con't.)

RESOLUTION NO. 90 OF 2011

JUSTICES MONTHLY REPORTS

On a motion of Councilman Becker, seconded by Councilman R. Bush, the following resolution was adopted,

Be It Resolved; that the Justices monthly reports be approved as submitted.

Ayes: Becker, M. Bush, R. Bush, Monnat

Nays: None

DOG CONTROL OFFICER

No monthly report submitted.

RESOLUTION NO. 91 OF 2011

SUPERVISOR'S MONTHLY REPORT

On a motion of Councilman Becker, seconded by Councilman R. Bush, the following resolution was adopted,

Be It Resolved; that the Supervisor's monthly report be approved as submitted.

Ayes: Becker, M. Bush, R. Bush, Monnat

Nays: None

PRIVILEGE OF FLOOR

Deputy Supervisor Monnat opened the floor to the public.

Patty Flint asked the board if they would be willing to change the board meeting time back to 7 p.m. for those working that would like to attend the meetings, but are unable to make it due to the early time. The Board does not feel changing the board meeting time back to 7 p.m. would effect the overall public attendance at our meetings. The meeting time remains at 4 p.m.

Paul Lyndaker, owner of Adirondack International Speedway, read a letter to the Board asking the "leaders" of the Town to support local businesses such as the AIS. Mr. Lyndaker also read a letter written by Pete Farney, former Chairman of the Lewis Co. Board of Legislators, showing his support of the AIS when it was first being constructed in the late 90's.

Mr. Lyndaker is looking for a compromise between the Board and himself on the reduction of his assessment on the race track. He has filed grievances with the Board of Assessment Review and is currently suing the Town to lower the assessment. Mr. Lyndaker feels that the Board does not support him or his business.

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The Board stated they would like to see the assessment lowered on the race track, but the Board itself cannot make a ruling to lower the assessment. There are legal guidelines that must be followed. The Board did agree to set up a meeting with Mr. Lyndaker, Assessor Gratch, Town Board and Town Attorneys to discuss the situation in more detail. Mr. Lyndaker will be notified when a date and time is set.

James Aueter entered the meeting at 4:52 p.m.

After discussion Mr. Lyndaker left the meeting at 5:09 pm.

RESOLUTION NO. 92 OF 2011

AUDIT OF CLAIMS

On a motion of Councilman R. Bush, seconded by Councilman M. Bush, the following resolution was adopted,

Be It Resolved; that Supervisor Schneider is authorized and directed to pay the following amounts on Abstract #8 & #10 of 2011 in the following amounts:

General	Voucher #113 thru #122	\$2,187.62
Highway T-Wide	Voucher #111 thru #121	\$20,228.86
Highway T-Outside	Voucher #34 thru #36	\$1,324.52

Ayes: Becker, M. Bush, R. Bush, Monnat

Nays: None

SPECIAL MEETING

A special meeting will be held on October 17, 2011 at 4:00 p.m. at the Town Municipal Office Building to work on the 2012 Budget.

The next regular meeting of the Town Board of the Town of New Bremen will be held on November 14, 2011 at 4:00 p.m. at the Town Municipal Office Building.

With no further business, on a motion of Councilman Becker, seconded by Councilman R. Bush, the meeting was adjourned at 5:13 p.m. Carried unanimously.

Elizabeth B. Jones, Town Clerk