

REGULAR MEETING

September 9, 2013

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 9th day of September 2013.

Town Officer's Present: Peter J. Keys, Supervisor
David L. Becker, Councilman
Matthew E. Bush, Councilman
Ralph L. Bush, Councilman
Susan J. Sauer, Councilwoman
Elizabeth B. Jones, Clerk
Errol A. Aucter, Town Justice
Aimee L. Murphy, Court Clerk/Deputy Town Clerk
Timothy Farley, Attorney

Attended by: Approximately 29 people

Supervisor Keys called the meeting to order at 6:03 p.m. with the Pledge to the Flag.

RESOLUTION NO. 108 OF 2013 APPROVAL OF MINUTES

On a motion of Councilman M. Bush, seconded by Councilman R. Bush, the following resolution was
ADOPTED Ayes 5 Becker, M. Bush, R. Bush, Sauer, Keys Nays 0

Resolved the minutes of the August 12, 2013 meeting are approved.

PRIVILEGE OF FLOOR

Kevin Townsend, Agent for NYMIR Insurance submitted and reviewed a quote for insurance coverage for liability, equipment, buildings etc. He also gave a brief background of the NYMIR insurance company. Quoted \$16,114.65 and he stated it was a 100% match of our current policy.

Attorney Farley suggested the Board review the quote and forward a copy to Bill Schaab, North Country Estates for his review. Mr. Townsend left at 6:17 p.m. Mr. Schaab entered the meeting sometime during the Iroquois Gas discussion. A copy of the NYMIR insurance quote was given to him for his review.

WELCOME TO NEW BREMEN SIGNS

Arletha Zehr reported that the "Welcome to New Bremen Sign" that was to be located by the Deveines Road/State Rte. 812 intersection, cannot be put there due to the states right of way. She contacted Jeff Duflo and he agreed to allow the sign to be located on his property. She also received "permission" letters from Jeff & Renee Duflo and Dean & Joyce Greenwood allowing the signs to be located on their properties. Volunteers from the New Bremen Fire Department will be installing the signs.

IROQUOIS GAS TAX CHALLENGE

County Attorney, Richard Graham gave a brief report of the tax challenge submitted by Iroquois Gas and reviewed the process that needs to be taken. It was the consensus of all tax jurisdictions involved to share an attorney to represent them to save on defense costs. Town of New Bremen's share would be 6.56%. Hacker Murphy, LLP of Latham, New York will be the firm defending the tax challenge. Attorney Graham submitted a resolution authorizing an Inter-Municipal Agreement, retaining legal services, payment of defense costs, states pro-rata share of costs per impact per tax jurisdiction, designation of Point of Contact, authorizing Supervisor Keys to make, execute, seal and deliver such inter-municipal agreements and any other related documents etc. After discussion the following resolution was presented.

RESOLUTION NO. 109 OF 2013 AUTHORIZING INTER-MUNICIPAL COOPERATION AGREEMENT IN THE DEFENSE OF TAX CERTIORARI MATTER

On a motion of Councilman Becker, seconded by Councilman M. Bush, the following resolution was
ADOPTED Ayes 5 Becker, M. Bush, R. Bush, Sauer, Keys Nays 0

Whereas Iroquois Gas Transmission System, LP ("Iroquois") owns certain real property located in the Town of New Bremen, County of Lewis and State of New York, known and identified as Tax Map No. 644.089-9999-823.360-2007 and Tax Map No. 644.089-9999-823.361-2002 (collectively, the "Property"); and

Whereas Iroquois has commenced a proceeding in Supreme Court, County of Lewis, to challenge the 2013 assessment placed upon its properties located in the Towns of Diana, New Bremen, and Leyden, including the above referenced Property, pursuant to Real Property Tax Law Article 7 ("tax certiorari proceeding"); and

Whereas the Iroquois tax certiorari proceeding is seeking a 75% reduction in the assessed value of the Iroquois properties which, if successful, would have a substantial impact upon the tax revenues for the Towns of Diana, New Bremen, and Leyden, as well as the Harrisville Central School District, Beaver River Central School District, South Lewis Central School District and the County of Lewis (collectively, the "affected tax jurisdictions"); and

Whereas the affected tax jurisdictions have a shared interest in defending the Iroquois tax certiorari proceeding and to minimize to the fullest extent practical, the impact of a potential reduction in assessed valuation; and

Whereas the County of Lewis has proposed that the affected tax jurisdictions enter into an Inter-Municipal Cooperation Agreement whereby the affected tax jurisdictions will share in the costs of defending the Iroquois tax certiorari proceeding;

NOW, THEREFORE, BE IT RESOLVED THAT;

Section 1. The Town Board hereby authorizes an Inter-Municipal Agreement ("IMA") by and between the Towns of Diana, New Bremen, and Leyden, along with the Harrisville Central School District, Beaver River Central School District, South Lewis Central School District and the County of Lewis, whereby the costs for attorney fees, appraisals, engineers and related expenses (herein collectively, "defense costs") will be shared pro-rata based upon the relative potential impact the tax certiorari proceeding could have on each jurisdiction in accordance with the following:

Pro-Rata Share of Costs per Impact

	Potential Loss Of Tax Revenue	Share
Diana	\$ 35,046.33	5.56%
New Bremen	\$ 41,331.85	6.56%
Leyden	\$ 39,805.89	6.31%
HCSO	\$170,234.47	27.00 %
BRCSD	\$ 73,867.85	11.72%
SLCSD	\$ 94,168.41	14.93%
County	\$176,080.95	27.93%
Total	\$630,535.75	100.00%

- Section 2. The Town Board agrees to retain the legal services of Hacker Murphy, LLP, 7 Airport Park Boulevard, Latham, NY 12110-1429, to appear on behalf of the Town in the Iroquois tax certiorari proceeding for 2013 and any subsequent years joined in this proceeding and to defend the same in accordance with the Retainer Agreement dated September 5, 2013.
- Section 3. The Town Board understands that the selection and retention of appraisers, engineers and other consultants as may be deemed necessary and appropriate in the defense of the above described matter. Further, such selection will be completed upon the consensus of all the affected tax jurisdictions, pursuant to the terms of the IMA and hereby authorizes the Town Supervisor to make such decisions on behalf of the Town, and to exercise his or her discretion in that regard.
- Section 4. The Town Board acknowledges and agrees that invoices for the payment of defense costs as they are incurred shall be initially presented to the County Treasurer for payment and further authorizes the Lewis County Treasurer to initially pay those invoices after such audit as the County of Lewis deems necessary and appropriate. The Town agrees to reimburse the County of Lewis for the Town's pro-rata share of the defense costs within forty-five (45) days of receiving an invoice from the County Treasurer requesting payment of the Town's pro-rata share.
- Section 5. The Town Board hereby designates the County Attorney of the County of Lewis to be the Point of Contact between the affected tax jurisdictions and defense counsel, appraiser, engineers and such other consultants who may be retained in connection with the defense of this matter. Any change in this Point of Contact shall be accomplished by a majority vote of the parties to the Agreement with each party being accorded one vote.
- Section 6. The IMA shall contain a provision reserving unto the Town, the School District located within the Town and the County the right to withdraw from the IMA at anytime upon 30 days notice to the remaining parties, provided however, that in the event of such withdrawal, such party(ies) shall then be responsible for its own costs of defense with respect to the tax certiorari proceeding against the respective Town, including attorney fees, appraisals, engineers, etc.
- Section 7. The Town Supervisor, or Deputy Town Supervisor, is hereby authorized to make, execute, seal and deliver such inter-municipal agreements, and any other related document, writing or instrument as may be necessary to implement the purposes of this Resolution.
- Section 8. This resolution shall take effect immediately.

(Regular Meeting of September 9, 2013 con't.)

Attorney Graham left at 6:36 p.m.

SITE PLAN REVIEW

Attorney Farley recommended the Board table the adoption of the proposed Local Law No. 1 of 2013 Amending the Town's Site Plan Review Zoning Law until next month due to a lack of members on the Planning Board. It would be better if the Town Board handled the Purpura Site Plan Review Application itself rather than refer it to the Town's Planning Board. He stated there are very specific requirements in the Town's Site Plan Review Zoning Law that needs to be met and he reviewed them with the Board.

Mitch Fidler, Planning Board Chairman supports the Town Board handling Vinny Purpura's Site Plan Review Application stating there is a lack of a full trained Planning Board.

OPEN PUBLIC HEARING

Supervisor Keys hereby opened the Public Hearing at 6:45 p.m. on proposed Local Law No. 1 of 2013 – Amending the Town of New Bremen Site Plan Review Zoning Law. Proof of publication in the Journal & Republican was noted.

Patty Flint, Soft Maple Road, would like to see the responsibility of reviewing Site Plan Review Applications go to the Planning Board.

CLOSE OF PUBLIC HEARING

All questions by the public were answered. Therefore, the public hearing was hereby closed at 6:48 p.m. After discussion a Motion was made by Councilman R. Bush, seconded by Councilman Becker to “table” the vote on the adoption of Local Law No. 1 of 2013 – Amending the Town of New Bremen Site Plan Review Zoning Law.

RESOLUTION NO. 110 OF 2013 SPECIAL MEETING SET

On a motion of Councilman M. Bush, seconded by Councilman Becker, the following resolution was
ADOPTED Ayes 5 Becker, M. Bush, R. Bush, Sauer, Keys Nays 0

Resolved that the Town Board of the Town of New Bremen will hold a special meeting on September 23, 2013 at 6 p.m. at the Town Municipal Office Building to review Site Plan Review Application No. Z-191-2013; and ask that Mr. Purpura attend the meeting.

RESOLUTION NO. 111 OF 2013 PUBLIC HEARING SET

On a motion of Councilman Becker, seconded by Councilman M. Bush, the following resolution was
ADOPTED Ayes 5 Becker, M. Bush, R. Bush, Sauer, Keys Nays 0

Resolved that the Town Board of the Town of New Bremen will hold a Public Hearing on October 14, 2013 at 6 p.m. at the Municipal Office Building to determine whether the Site Plan Review Application No. Z-191-2013 submitted by Vinny Purpura for his proposed metal recycling facility project to be located at 8409 State Rte. 812, Town of New Bremen, Tax Map #163.00-01-10.100 is complete and then refer it to the County Planning Board for their recommendations.

(Regular Meeting of September 9, 2013 con't.)

PLANNING BOARD VACANCIES

Clerk Jones reported that Nevin Moser resigned from the Planning Board and there are now two (2) vacancies. Supervisor Keys asked for any volunteers interested on serving on the Planning Board. Thomas Schantz and Samuel Yancey both said they would serve on the Planning Board. After discussion the following resolution was presented.

RESOLUTION NO. 112 OF 2013 APPOINTMENTS TO PLANNING BOARD

On a motion of Councilman R. Bush, seconded by Councilman M. Bush, the following resolution was
ADOPTED Ayes 5 Becker, M. Bush, R. Bush, Sauer, Keys Nays 0

Resolved that Thomas Schantz and Samuel Yancey are hereby appointed to the Planning Board for the Town of New Bremen. Following are the terms of office for all members.

Mitch Fidler – Chairman – 6/1/08 to 12/31/2013
Samuel Yancey – 9/9/13 to 12/31/14
Randy Aucter – 6/1/10 to 12/31/15
Sheila Buckingham – 6/10/13 to 12/31/16
Thomas Schantz – 9/9/13 to 12/31/17

Mitch Fidler, Chairman of the Planning Board invited the newly appointed members to attend the Planning Board meeting on September 12th at 7 p.m. at the Town Municipal Office Building, to discuss the upcoming mandatory training to be provided by the County.

COUNCIL MEMBER REPORTS

Councilwoman Sauer is looking for volunteers to help with the installation of the Fit Stations on September 14th at 8 a.m. at the walking trails by the Town Municipal Building.

RESOLUTION NO. 113 OF 2013 TOWN CLERK'S MONTHLY REPORT

On a motion of Councilman M. Bush, seconded by Councilman R. Bush, the following resolution was
ADOPTED Ayes 5 Becker, M. Bush, R. Bush, Sauer, Keys Nays 0

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

RESOLUTION NO. 114 OF 2013 JUSTICES MONTHLY REPORTS

On a motion of Councilman R. Bush, seconded by Councilman Becker, the following resolution was
ADOPTED Ayes 5 Becker, M. Bush, R. Bush, Sauer, Keys Nays 0

Resolved the Justices monthly reports are approved as submitted.

(Regular Meeting of September 9, 2013 con't.)

**RESOLUTION NO. 115 OF 2013
DOG CONTROL OFFICER'S QUARTERLY REPORT**

On a motion of Councilman M. Bush, seconded by Councilwoman Sauer, the following resolution was
ADOPTED Ayes 5 Becker, M. Bush, R. Bush, Sauer, Keys Nays 0

Resolved the DCO's quarterly report is approved as submitted.

COUNTY UPDATE

Legislator Boyd gave an update of happenings at the County level. Also, the Adirondack International Speedway Lawsuit is to be settled on September 20, 2013.

ZONING

Supervisor Keys received a letter from Ward Dailey, Zoning Officer, pertaining to the Enid Cady property located at 8476 State Rte. 812, New Bremen, Tax Map #163.00-02-36.000. Due to a structure fire on said property it is Mr. Dailey's opinion the structure is unsafe and is declared condemned. Mr. Dailey asks the Board to authorize him to send a certified letter to Eugene Cady (Enid Cady's son and Power of Attorney) stating the conditions and violations and direct him to appear in front of the Town of New Bremen Board for the purpose of providing Mr. Cady a hearing in relation to conditions at this structure and property. After discussion the following resolution was presented. Letter and report submitted by Mr. Dailey are entered at the end of these minutes.

**RESOLUTION NO. 116 OF 2013
AUTHORIZING NOTICE OF REQUEST**

On a motion of Councilman R. Bush, seconded by Councilman Becker, the following resolution was
ADOPTED Ayes 5 Becker, M. Bush, R. Bush, Sauer, Keys Nays 0

Resolved that Ward Dailey, Zoning Officer, is authorized to send a certified letter to Eugene Cady stating the conditions and violations and direct him to appear in front of the Town of New Bremen Board for the purpose of providing Mr. Cady a hearing in relation to conditions at this structure and property.

HIGHWAY TIME SHEET

Supervisor Keys submitted an updated Time Sheet for Highway employees. The pay period will start on a Friday and end on a Thursday to create more time for the accountants to prepare the checks. The new time sheets are to start being used on the next payroll. Also, need to work on updating the Employee and Liability Guidelines to clarify any confusion on the sick, vacation and personal days used.

Supervisor Keys handed out budget requests to the Board and Clerk Jones is to forward the others to all other department heads. Requests need to be back to the Supervisor by the 20th of September.

ASSESSOR APPOINTMENT

Sam Yancey, 9430 State Rte. 812, Croghan, submitted a petition to the Board asking them to consider appointing Robert B. Ball as Assessor. The petition consisted of approximately 555 signatures. Mr. Yancey did state that when the petition was taken around the Tax CAP Agreement with the Town of Watson and New Bremen was not mentioned. Original petition is to be filed with the Town Clerk.

(Regular Meeting of September 9, 2013 con't.)

Attorney Farley stated the State has the opportunity to recapture the money they paid the Town for being in the CAP agreement with the Town of Watson and it is unclear whether they will pursue it or not. The Town of Watson could claim the Town of New Bremen broke the agreement and could pursue legal action. According to a breakout provided by the State, New Bremen's share would be \$5,774.40 and Watson's share would be \$8,319.30 if asked for indemnification. Total \$14,937.70.

Councilwoman Sauer asked if there were questions about the CAP Agreement when taking the petitions around. Paul Lyndaker stated there were some, but that wasn't the people's concern and feels there needs to be a change. After discussion the following resolution was presented.

**RESOLUTION NO. 117 OF 2013
APPOINTMENT OF SOLE ASSESSOR**

On a motion of Councilwoman Sauer, seconded by Councilman R. Bush, the following resolution was ADOPTED Ayes 5 Becker, M. Bush, R. Bush, Sauer, Keys Nays 0

Resolved that Robert B. Ball is hereby appointed as Sole Assessor for the Town of New Bremen for a Term of 6 years effective October 1, 2013 thru September 30, 2019.

Clerk Jones was instructed to inform the Town of Watson of the appointment. Attorney Farley left at 7:44 p.m.

**RESOLUTION NO. 118 OF 2013
SUPERVISOR'S MONTHLY REPORT**

On a motion of Councilman Becker, seconded by Councilman R. Bush, the following resolution was ADOPTED Ayes 5 Becker, M. Bush, R. Bush, Sauer, Keys Nays 0

Resolved the Supervisor's monthly report is approved as submitted.

**RESOLUTION NO. 119 OF 2013
AUDIT OF CLAIMS**

On a motion of Councilman Becker, seconded by Councilwoman Sauer, the following resolution was ADOPTED Ayes 5 Becker, M. Bush, R. Bush, Sauer, Keys Nays 0

Resolved that Supervisor Keys is authorized and directed to pay the following amounts on Abstract #6 & #9 of 2013 in the following amounts.

General	Voucher #111 thru #120	\$3,894.38
Highway T-Wide	Voucher #119 thru #127	\$18,489.47
Highway T-Outside	Voucher #20 thru #24	\$20,318.11

The next regular meeting of the Town Board of the Town of New Bremen will be held on October 14, 2013 at 6:00 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 7:48 p.m. Carried unanimously.

Elizabeth B. Jones, RMC
Town Clerk/Tax Collector