

**STATE OF NEW YORK
COUNTY OF ALBANY**

March 13, 2019

REGULAR MEETING

The regular monthly meeting of the Town Board of the Town of Berne was held on the above date with the following officers present: Supervisor Lyons, Councilmembers Schimmer, Jordan, Palow & Willsey. Also present were Town Clerk Clayton, Attorney Conboy, and several interested citizens. The Pledge of Allegiance was led by Supervisor Lyons who then called the meeting to order at 7:00 PM. The minutes of 02/13/19 were presented and on motion of Supervisor Lyons and seconded by Councilmember Schimmer, the minutes were accepted with the following members voting aye; Supervisor Lyons; Councilmembers Schimmer, Jordan, Palow & Willsey.

ANNOUNCEMENTS

- Rabies Clinic March 16, 1-4pm (see Town Website for more details)
- March 19, 2019 the Town Hall will close at 1:00PM
- March 27, 2019 the Town Hall will close at Noon for training
- Maple Weekend will be held on March 23 & 24; March 30 & 31
- Helderberg Kiwanis Pancake Breakfast, March 31 from 9am – 1pm

PUBLIC COMMENT

Concerned citizens spoke regarding matters in the Town.

DEPARTMENT/LIAISON REPORTS

TAX COLLECTOR – Gerald O’Malley gave a report regarding the extension issued in February – 46 payments were made with \$742 of interest returned; 86% of taxes have been paid to date.

BUILDING & ZONING – Supervisor Lyons discussed applications for permits and discussion was had regarding using Lamont Engineers to help with the process.

SENIORS – Councilmember Jordan stated the seniors had there St. Patrick’s Day meal on 3/9; next meeting scheduled for 4/13.

PLANNING & ZONING – Councilmember Jordan reported the Planning Board is doing site review work for the ZBA; ZBA has a public hearing on 4/17/19 and the Planning Board will meet on 4/4/19.

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HIGHWAY- Highway Superintendent Bashwinger reported on the situation with the trash compactor bins and the need for replacement; also discussed amount of salt and sanding materials used for this winter season.

YOUTH COUNCIL – Councilmember Schimmer reported that the Youth Council will hold a St. Patrick’s Day dance at the Lutheran Church on Friday, 3/15/19.

SWITZKILL FARM – Councilmember Schimmer reported that BKW will host an outdoor classroom summer for 3 weeks from 8:30-11:30; 40 kids per week; would like to advertise for new board member as one member has not attended meetings in a year; Switzkill Valley Volunteers is now a registered 501C3.

CONSERVATION BOARD – Councilmember Willsey stated there was no meeting.

TRANSFER STATION – Councilmember Willsey reported on getting the welding done for the fire suppression.

LIBRARY – Kathy Stempel presented the 2018 Annual Report and reminded everyone of the book collection date on 3/23/19 and the Book sale on 3/30 & 3/31/19.

SEWER DEPARTMENT – Supervisor Lyons reported that Dennis Ryan & Jeff Alexander are signed up to receive certification to handle spills.

OLD BUSINESS –

AUTHORIZING SUPERVISOR LYONS TO SIGN MASTER CONTRACT AND PROCEED WITH NYPA PORPOSAL OPTION FOR LED STREETLIGHTS

After discussion, Councilmember Willsey made a motion seconded by Councilmember Jordan authorizing Supervisor Lyons to sign the master contract and proceed with the NYPA proposal option for LED Streetlights. Motion carried with the following members voting aye: Supervisor Lyons, Councilmembers Schimmer, Jordan and Willsey; Councilmember Palow – nay.

APPROVING PURCHASE OF MOWER FROM JACK MILLERS TRACTOR, INC.

After discussion, Supervisor Lyons made a motion seconded by Councilmember Willsey approving the purchase of FERRIS is 2100Z Zero Turn Mower from Jack Millers Tractor, Inc. in an amount not to exceed \$7,500.00. Motion carried with the following members voting aye: Supervisor Lyons, Councilmembers Schimmer, Jordan, Palow and Willsey.

APPOINTING YOUTH COUNCIL MEMBER

After discussion, Supervisor Lyons made a motion seconded by Councilmember Schimmer appointing Tim Doherty to the Youth Council for a term of one year. Motion carried with the following members voting aye: Supervisor Lyons, Councilmembers Schimmer, Jordan, Palow and Willsey.

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NEW BUSINESS

AUTHORIZING SCOPE OF CONTRACT WITH LAMONT ENGINEERS

After discussion, Supervisor Lyons made a motion seconded by Councilmember Jordan to authorize the scope of contract with Lamont Engineers to include Building Inspections and Code Enforcement Services. Motion carried with the following members voting aye: Supervisor Lyons, Councilmembers Schimmer, Jordan, Palow and Willsey.

AUTHORIZING TOWN CLERK TO ADVERTISE FOR SWITZKILL FARM BOARD MEMBER

After discussion, Councilmember Schimmer made a motion seconded by Councilmember Jordan to authorize the Town Clerk to advertise for one Switzkill Farm Board. Motion carried with the following members voting aye: Supervisor Lyons, Councilmembers Schimmer, Jordan, Palow and Willsey.

APPROVING CHANGES TO PROCUREMENT POLICY

After discussion, Supervisor Lyons made a motion seconded by Councilmember Schimmer approving the changes to the Procurement Policy. Motion carried with the following members voting aye: Supervisor Lyons, Councilmembers Schimmer, Jordan, Palow & Willsey. A copy of the Procurement Policy is attached to these minutes.

AUTHORIZING INCREASE IN POSTAGE CHARGES AS THEY OCCUR FOR CERTIFIED MAILINGS

After discussion, Supervisor Lyons made a motion seconded by Councilmember Jordan authorizing the increase in postage charges as they occur for certified mailings. After discussion, Supervisor Lyons made a motion seconded by Councilmember Schimmer

AUTHORIZING THE ADVERTISING FOR BIDS FOR CRUSHED STONE, ASPHALT, CONCRETE, WINTER FIBRE MIX & SANDING MATERIAL

After discussion, Supervisor Lyons made a motion seconded by Councilmember Palow directing the Town Clerk to advertise for bids for crushed stone, asphalt, concrete sanding material, washed crushed stone, concrete, winter fibre mix and sanding material for use by the Highway Department for the year 2019 with the bids to be received until 10 AM on Tuesday, April 9, 2019 at which time said bids will be opened and read at the Berne Town Hall, 1656 Helderberg Trail, Berne, NY. Motion carried with the following members voting aye: Supervisor Lyons and Councilmembers Schimmer, Jordan, Palow & Willsey.

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AUTHORIZING PAYMENT TO HL GAGE FOR REPAIR OF ROLL OFF TRUCK

After discussion, Councilmember Jordan made a motion seconded by Councilmember Palow authorizing payment to HL Gage for repair of the roll off truck in an amount not to exceed \$1,357.46. Motion carried with the following members voting aye: Supervisor Lyons and Councilmembers Schimmer, Jordan, Palow & Willsey.

AUTHORIZING PAYMENT TO LAMONT ENGINEERS FOR CONSTRUCTION OBSERVATION

After discussion, Supervisor Lyons made a motion seconded by Councilmember Schimmer authorizing payment to Lamont Engineers in an amount not to exceed \$514.00 for construction observation of chimney cap at Swtizkill Farm. Motion carried with the following members voting aye: Supervisor Lyons and Councilmembers Schimmer, Jordan, Palow & Willsey.

**RESOLUTION
ADOPTING CODE OF CONDUCT POLICY**

The following resolution was offered and moved by Supervisor Lyons and seconded by Councilmember Schimmer:

Whereas, the New York State Open Meeting Law (Public Officers Law, Article 7) gives members of the public the right to attend meetings of public bodies but does not give the public the right to speak or otherwise participate at those meetings, except at public hearings and under other limited circumstances; and

Whereas, New York State Town Law §63 authorizes a Town Board to enact rules and regulations regarding the conduct of public meetings and public hearings conducted by the Town Board, and the New York State Committee on Open Government has agreed that a public body can adopt reasonable rules that treat members of the public equally; and

Whereas, the Committee on Open Government has stated that any such rules could serve as a basis for preventing verbal interruptions, shouting or other outbursts, as well as slanderous or obscene language or signs, and that a Town Board could regulate actions of the public attending meetings so as not to interfere with meetings or prevent others in attendance from observing or hearing the deliberative process; and

Whereas, a Town Board has a responsibility to ensure that everyone has the right to participate in a public meeting and therefore can reasonably limit the length and general nature of public comments to the subject of the public hearing so that a Town Board can consider various points of view; and

Whereas, a Town Board can limit comments from the public at Town Board meetings to a specific time set in the agenda for public participation and comment.

Now, therefore, be it resolved that the Town Board of the Town of Berne hereby adopts the following Code of Conduct for public participation at meetings and public hearings of the Town Board:

1. Public participation in regular meetings of the Town Board will be limited to the Public Comment period included in every agenda. At Town Board Workshop meetings, there is no public comment period unless so designated on the agenda.
2. Public comment in all meetings including public hearings is restricted to three (3) minutes per speaker. These minutes may not be traded, or given away to another speaker, nor may they be reserved for later use. The Town Board shall have the discretion to modify this rule if deemed necessary, however, public comment at public hearings shall never be restricted to less than three (3) minutes per speaker.
3. Any individual wishing to speak must raise his or her hand. When recognized by the Supervisor the individual must stand at the podium, if able, to address the Board.
4. Comments must relate to the purpose of the public meeting or to legitimate town business.
5. The Supervisor will act as timekeeper or will designate another elected official as timekeeper.
6. The Supervisor shall preside at the meetings of the Town Board and is obligated to control the meeting.
7. Proper decorum is required of all meeting participants: attendees, elected officials, Town employees. No one shall engage in demonstration, booing, hand clapping, calling out, or other behavior disruptive to the meeting.
8. The use of profane, vulgar, inflammatory, threatening, abusive, or disparaging language will not be tolerated. Personal, impertinent, or slanderous attacks are also prohibited.
9. Speaking while in the audience or addressing the Town Board outside of the public comment period, unless called upon by the Town Board, will not be tolerated.
10. The Town Board may call on a member of the audience when deemed necessary. The response shall be limited to comments regarding that specific question only.
11. Discussions between meeting attendees is not allowed.
12. All cell phones must be operated in silent mode. No cell phone conversations will be allowed in Town Hall during meetings.

13. Attendees leaving a regular Town Board meeting, Town Board Workshop meeting, or public hearing before adjournment must leave in a quiet and orderly manner and are asked not to engage in conversation with one another until outside of Town Hall so as to not disrupt the meeting.
14. Any person found to violate this Code of Conduct will be required to leave the building.
15. If necessary, the Supervisor will contact local law enforcement to remove any person in violation of these rules.
16. This Code of Conduct will take effect immediately after the adoption of this resolution.

The resolution was adopted by the following roll call vote:

Supervisor Lyons.....aye	Councilmember Schimmer.....aye
Councilmember Jordan....aye	Councilmember Palow.....aye
Councilmember Willsey...aye	

ACCEPTING PROPOSAL FROM XEROX FOR COPIER MACHINE

After discussion, Supervisor Lyons made a motion seconded by Councilmember Schimmer to accept the Xerox proposal for the lease agreement for 60-months which includes delivery, installation, analyst services, and instruction of a new machine. Motion carried with the following members voting aye: Supervisor Lyons and Councilmembers Schimmer, Jordan, Palow & Willsey.

AUTHORIZING TOWN CLERK TO ADVERTISE FOR TWO PART TIME BUILDING & ZONING INSPECTORS AND SCHEDULE INTERVIEWS

After discussion, Supervisor Lyons made a motion seconded by Councilmember Schimmer to authorize the Town Clerk to advertise for two part time Building & Zoning Inspectors at \$19 per hour for 15 hours a week each, and to schedule interviews on 4/6/19 beginning at 9:00AM every 15 minutes. Motion carried with the following members voting aye: Supervisor Lyons, Councilmembers Schimmer, Jordan, Palow and Willsey.

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AUTHORIZING BUDGET TRANSFERS

After discussion, Supervisor Lyons made a motion seconded by Councilmember Schimmer that the following fund transfers be authorized in the amounts and manners as set forth:

General Fund.

From:	To:	Amount:
A7110e 44106	A7111e 44106	\$ 1005.00
A7111e 44999	A7111e 44022	\$ 213.00
A7989e 11210	A7989e 11215	\$ 775.00

Highway fund

From:	To:	Amount:
Da5130e 44070 \$ 3720.00	Da513010 44070	\$ 629.00
	Da513019 44070	\$ 356.00
	Da513022 44070	\$ 130.00
	Da513024 44070	\$ 337.00
	Da513026 44070	\$ 469.00
	Da513027 44070	\$ 874.00
	Da513030 44070	\$ 548.00
	Da5130e 44072	\$ 337.00
Da5142e 44077 \$ 3929.00	Da5142e 44046	\$ 29.00
	Da5142e 44070	\$ 3900.00

Motion carried with the following members voting aye: Supervisor Lyons, Councilmembers Schimmer, Jordan, Palow and Willsey.

MONTHLY REPORTS AND BILLS

Supervisor Lyons made a motion seconded by Councilmember Willsey to accept the Supervisor's, and Town Clerk's monthly reports as received and to approve payment of the following bills:

GENERAL FUND, HIGHWAY FUND & SEWER 2019.....\$38,134.11
ABSTRACT# 031319.....\$38,134.11

Motion carried with the following members voting aye: Supervisor Lyons and Councilmembers Schimmer, Jordan, Palow & Willsey.

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EXECUTIVE SESSION – 8:55PM

Councilmember Schimmer made the motion seconded by Councilmember Jordan to enter into executive session for the purpose of discussing a litigation matter. Motion carried with all members voting aye.

9:05PM

Supervisor Lyons reconvened the meeting and reported that no action had taken place.

MOTION TO ADJOURN

There being no further business, Supervisor Lyons made the motion seconded by Councilmember Schimmer to adjourn the meeting. Motion carried with the following members voting aye: Supervisor Lyons and Councilmembers Schimmer, Jordan, Palow & Willsey. Meeting adjourned at 9:05PM.

Respectfully submitted,

Anita C. Clayton, Town Clerk

TOWN OF BERNE PROCUREMENT POLICY

50-1. Applicability ; yearly purchasing estimates

The Town Clerk shall be responsible for assuring that all purchases are made in accordance with this procurement policy. Every prospective purchase of goods or services shall be evaluated to determine the applicability of General Municipal Law (GML) § 103. Every Town officer, board, department head or other personnel with the requisite purchasing authority (hereinafter "purchaser") shall estimate the cumulative amount of the items of supply or equipment needed in a given fiscal year. That estimate shall include the canvass of other Town departments and past history to determine the likely yearly value of the commodity to be acquired. The information gathered and conclusions reached shall be documented and kept with the file or other documentation supporting the purchase activity.

50-2. Formal bids required

All purchases of supplies or equipment which will exceed \$10,000 in the fiscal year or public works contracts over \$20,000 shall be formally bid pursuant to GML § 103.

50-3. Quotes and RFPs

A. All estimated purchases of:

- (1) Less than \$10,000 but greater than \$3,000 require a written request for a proposal (RFP) and written/fax quotes from three vendors.
- (2) Less than \$3,000 but greater than \$1,000 require an oral request for the goods or services and oral/fax quotes from vendors.
- (3) Less than \$1,000 but greater than \$500 are left to the discretion of the purchaser.
 - (a) All purchases over \$500 from the General Fund shall require a prior approval of the Town Board.
 - (b) the Highway Superintendent may spend up to \$2,500 for purchase of tools, tires and equipment from New York State contract and/or the Albany County Purchasing Department; other County, State or Federal contracts without prior approval by the Town Board.

B. All estimated public works contracts of

(definition: construction projects, such as highways or dams, financed by public funds and constructed by a government for the benefit or use of the general public):

- (1) Less than \$20,000 but greater than \$10,000 require a written RFP and fax/proposals from three contractors.
 - (2) Less than \$10,000 but greater than \$3,000 require a written RFP and fax/proposals from two contractors.
 - (3) Less than \$3,000 are left to the discretion of the purchaser.
- C. All written RFPs shall describe the desired goods, quantity and the particular 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.

- D. All information gathered in complying with the procedures of this section shall be preserved and filed with the documentation supporting the subsequent purchase or public works contract.
- E. In connection with every prospective purchase of goods or services the Town officer, board, department head or other personnel with the requisite purchasing authority shall evaluate whether or not the goods or services may be available through New York State contract and/or the Albany County Purchasing Department for a price or sum more favorable than the proposals or price quotes solicited by the Town.
- F. All purchases of goods or services by a Town officer, board, department head or other personnel with the requisite purchasing authority shall require a purchase order.
- G. Except in emergencies, all vouchers and bills to be considered for approval of payment by the Town Board at its regular monthly meeting (on the second Wednesday of the month) must be submitted to the Town on or before the first Wednesday of the month.

50-4. Award of bid

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 bidder. If a bidder is not deemed responsible, facts supporting that judgment shall also be documented and filed with the record supporting the procurement.

50-5. Solicitation of quotes and/or proposals

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 shall document the attempt made at obtaining the proposals. In no event shall the inability to obtain the proposals or quotes be a bar to the procurement.

50-6. Written proposals not required

Except when directed by the Town Board, no solicitation of written proposals or quotations shall be required under the following circumstances:

- A. Acquisition of professional services; except when the Town Board has directed the use of formal requests for proposals;
- B. Emergencies;
- C. Sole-source situations;
- D. Goods purchased from agencies for the blind or severely handicapped;
- E. Goods purchased from correctional facilities;

F. Goods purchased from another government agency;

G. Goods purchased at auction;

H. Goods purchased for less than \$500;

I. Public works contracts for less than \$3,000.

50-7. Annual review of policy

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

As modified 3/19