

**6:30 PM Public Hearing Local Law # 4 of 2018**

Supervisor Lyons declared the public hearing on Local Law #4 of 2018 known as the “**Town of Berne Industrial-scale Solar Energy System Moratorium Law**” open with the following members present Councilmembers Schimmer, Jordan, Palow & Willsey. Supervisor Lyons opened the floor to guests: There being no comment, Supervisor Lyons declared the hearing closed at 6:40 PM.

**6:45 PM Public Hearing Local Law # 5 of 2018**

Supervisor Lyons declared the public hearing on Local Law #5 of 2018 known as the “**Town of Berne Hydraulic Fracturing and/or Hydrofracking Law**” open with the following members present Councilmembers Schimmer, Jordan, Palow & Willsey. Supervisor Lyons opened the floor to guests: Helen Lounsbury stated she was in favor. There being no further comment, Supervisor Lyons declared the hearing closed at 6:55 PM.

**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 Deputy Town Clerk Brown, Attorney Conboy, and several interested citizens. The Pledge of Allegiance was led by Supervisor Lyons who then called the meeting to order at 7:00PM, and on motion of Councilmember Willsey and seconded by Councilmember Schimmer, the minutes of 7/11/18 were accepted (with minor changes) with the following members voting aye; Supervisor Lyons; Councilmembers Schimmer, Jordan, Palow & Willsey.

**DEPARTMENT/LIAISON REPORTS**

**HIGHWAY**- Highway Superintendent Bashwinger gave a check to the Town Clerk from Weitsman for \$1238.56 for metal culverts; reported on progress of paving and discussed the abandonment of Partridge Run Road. Councilmember Willsey inquired about getting information from GPS systems on the highway fleet.

**PLANNING & ZONING** – Councilmember Jordan reported the ZBA granted the parking variance to Dollar General; Planning Board will receive an updated version of the site plan.

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**YOUTH COUNCIL** – Ms. Guarino reported that the Summer Recreation Program was successful with 24 children total; 25 bike helmets were donated by the Sheriff’s office.

**SENIOR MEAL PROGRAM** - Councilmember Schimmer stated that the number of meals being served as been steadily increasing and that BINGO has been a huge success.

**SWITZKILL FARM** – Councilmember Schimmer reported that Friends of Switzkill Valley Corp. has been established and are ready to do fundraising for Switzkill Farm; BKW is working on weather stations; landscaper has submitted plans. Harvest Fest is planned for October 13 with a rain date on October 14. The fee schedule is being reviewed.

**ANNOUNCEMENTS**

- Broadband update – Jim Becker, President of MIDTEL announced they received the Phase 3 broadband grant award from the Governor’s Broadband Office for rural fiber build-outs located mostly in the Towns of Berne and Rensselaerville. Check up on your provider to make sure they are providing what you are paying for. Internet search “internet speed search” also tracks the data to help the NTIA realize underserved areas.

**OLD BUSINESS**

None

**NEW BUSINESS**

**ADOPTING LOCAL LAW #4 OF 2018**

**“Town of Berne Industrial-scale Solar Energy System Moratorium Law”**

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

**WHEREAS** Local Law #4 of 2018 known as the **“Town of Berne Industrial-scale Solar Energy System Moratorium Law”** has been introduced by the Town Board of the Town of Berne and a public hearing has been duly called and held, **NOW, THEREFORE, BE IT RESOLVED**, that the Town Board of the Town of Berne hereby adopts **LOCAL LAW #4 of 2018** of the Town of Berne known as **“Town of Berne Industrial-scale Solar Energy System Moratorium Law.”** The resolution was adopted by the following roll call vote: Supervisor Lyons & Councilmembers Schimmer, Jordan, Palow and Willsey.....Aye.

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**ADOPTING LOCAL LAW #5 OF 2018  
“Town of Berne Hydraulic Fracturing and/or Hydrofracking Law”**

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

**WHEREAS** Local Law #5 of 2018 known as the **“Town of Berne Hydraulic Fracturing and/or Hydrofracking Law”** has been introduced by the Town Board of the Town of Berne and a public hearing has been duly called and held, **NOW, THEREFORE, BE IT RESOLVED**, that the Town Board of the Town of Berne hereby adopts **LOCAL LAW #5 of 2018** of the Town of Berne known as **“Town of Bern Hydraulic Fracturing and/or Hydrofracking Law”**. The resolution was adopted by the following roll call vote: Supervisor Lyons & Councilmembers Schimmer, Jordan, Palow and Willsey.....Aye.

**APPROVING TOWN OF BERNE HELDER CON COSTUME and PROP POLICY**

After discussion, Councilmember Jordan made a motion seconded by Councilmember Schimmer approving the Town of Berne HelderCon Costume and Prop Policy. Motion carried with the following members voting aye: Supervisor Lyons and Councilmembers Schimmer, Jordan, Palow & Willsey.

**AUTHORIZING SUPERVISOR LYONS TO SIGN LETTER FOR FARMLAND PROTECTION APPLICATION**

After discussion, Councilmember Schimmer made a motion seconded by Councilmember Jordan authorizing Supervisor Lyons to sign letter for Farmland Protection Implementation Grant application. Motion carried with the following members voting aye: Supervisor Lyons and Councilmembers Schimmer, Jordan, Palow & Willsey.

**RESOLUTION ESTABLISHING ENERGY BENCHMARKING REQUIREMENTS FOR CERTAIN MUNICIPAL BUILDINGS IN THE TOWN OF BERNE**

**WHEREAS**, buildings are the single largest user of energy in the State of New York. The poorest performing buildings typically use several times the energy of the highest performing buildings—for the exact same building use; and

**WHEREAS**, collecting, reporting, and sharing building energy data on a regular basis allows municipal officials and the public to understand the energy performance of municipal buildings relative to similar buildings nationwide, and equipped with this information the Town of Berne is able to make smarter, more cost-effective operational and capital investment decisions, reward efficiency, and drive widespread, continuous improvement; and

**WHEREAS**, the Town of Berne Town Board desires to use Building Energy Benchmarking - a process of measuring a building’s energy use, tracking that use over time, and comparing performance to similar buildings - to promote the public health, safety, and welfare by making available good, actionable information on municipal building energy use to help identify opportunities to cut costs and reduce pollution in the Town of Berne; and

**WHEREAS**, the Town of Berne Town Board desires to establish procedure or guideline for Town of Berne to conduct such Building Energy Benchmarking; and

**NOW THEREFORE, IT IS HEREBY RESOLVED AND DETERMINED**, that the following specific policies and procedures are hereby adopted;

## **BUILDING ENERGY BENCHMARKING POLICY/PROCEDURES**

### **§1. DEFINITIONS**

(A) “Benchmarking Information” shall mean information generated by Portfolio Manager, as herein defined including descriptive information about the physical building and its operational characteristics.

(B) “Building Energy Benchmarking” shall mean the process of measuring a building’s Energy use, tracking that use over time, and comparing performance to similar buildings.

(C) “Chairperson” shall mean the head of the Town of Berne Conservation Board.

(4) “Covered Municipal Building” shall mean a building or facility that is owned or occupied by the Town of Berne that is 1,000 square feet or larger in size.

(5) “Conservation Board” shall mean the Town of Berne Conservation Board.

(6) “Energy” shall mean electricity, natural gas, steam, hot or chilled water, fuel oil, or other product for use in a building, or renewable on-site electricity generation, for purposes of providing heating, cooling, lighting, water heating, or for powering or fueling other end-uses in the building and related facilities, as reflected in Utility bills or other documentation of actual Energy use.

(7) “Energy Performance Score” shall mean the numeric rating generated by Portfolio Manager that compares the Energy usage of the building to that of similar buildings.

(8) “Energy Use Intensity (EUI)” shall mean the kBTUs (1,000 British Thermal Units) used per square foot of gross floor area.

(9) “Gross Floor Area” shall mean the total number of enclosed square feet measured between the exterior surfaces of the fixed walls within any structure used or intended for supporting or sheltering any use or occupancy.

(11) “Portfolio Manager” shall mean ENERGY STAR Portfolio Manager, the internet-based tool developed and maintained by the United States Environmental Protection Agency to track and assess the relative Energy performance of buildings nationwide, or successor.

(12) “Utility” shall mean an entity that distributes and sells Energy to Covered Municipal Buildings.

(13) “Weather Normalized Site EUI” shall mean the amount of Energy that would have been used by a property under 30-year average temperatures, accounting for the difference between average temperatures and yearly fluctuations.

## **§2. APPLICABILITY**

(1) This policy is applicable to all Covered Municipal Buildings as defined in Section 2 of this policy.

(2) The Chairperson may exempt a particular Covered Municipal Building from the benchmarking requirement if the Chairperson determines that it has characteristics that make benchmarking impractical.

## **§3. BENCHMARKING REQUIRED FOR COVERED MUNICIPAL BUILDINGS**

(1) No later than May 1, 2019, and no later than May 1 every year thereafter, the Chairperson or his or her designee from the Conservation Board shall enter into Portfolio Manager the total Energy consumed by each Covered Municipal Building, along with all other descriptive information required by Portfolio Manager for the previous calendar year.

(2) For new Covered Municipal Buildings that have not accumulated 12 months of Energy use data by the first applicable date following occupancy for inputting Energy use into Portfolio

Manager, the Chairperson or his or her designee from the Conservation Board shall begin inputting data in the following year.

## **§4. DISCLOSURE AND PUBLICATION OF BENCHMARKING INFORMATION**

(1) The Conservation Board shall make available to the public on the internet Benchmarking Information for the previous calendar year:

(a) no later than September 1, 2019 and by September 1 of each year thereafter for Covered Municipal Buildings; and

(2) The Conservation Board shall make available to the public on the internet and update at least annually, the following Benchmarking Information:

(a) Summary statistics on Energy consumption for Covered Municipal Buildings derived from aggregation of Benchmarking Information; and

(b) For each Covered Municipal Building individually:

(i) The status of compliance with the requirements of this Policy; and

(ii) The building address, primary use type, and gross floor area; and

(iii) Annual summary statistics, including site EUI, Weather Normalized Source EUI, annual GHG emissions, and an Energy Performance Score where available; and

(iv) A comparison of the annual summary statistics (as required by Section 5(2)(b)(iii) of this Policy) across calendar years for all years since annual reporting under this Policy has been required for said building.

**§5. MAINTENANCE OF RECORDS**

The Town Board shall maintain records as necessary for carrying out the purposes of this Policy, including but not limited to Energy bills and other documents received from tenants and/or Utilities. Such records shall be preserved by the Town Board for a period of three (3) years.

**§6. ENFORCEMENT AND ADMINISTRATION**

(1) The Chairperson or his or her designee from the Conservation Board shall be the Chief Enforcement Officer of this Policy.

(2) The Chief Enforcement Officer of this Policy may promulgate regulations necessary for the administration of the requirements of this Policy. Such regulations are subject to the approval of the Town Board.

(3) Within thirty days after each anniversary date of the effective date of this Policy, the Chief Enforcement Officer shall submit a report to the Town Board including but not limited to summary statistics on Energy consumption for Covered Municipal Buildings derived from aggregation of Benchmarking Information, a list of all Covered Municipal Buildings identifying each Covered Municipal Building that the Chairperson determined to be exempt from the benchmarking requirement and the reason for the exemption, and the status of compliance with the requirements of this Policy.

**§7. EFFECTIVE DATE**

This policy shall be effective immediately upon passage.

**§8. SEVERABILITY**

The invalidity or unenforceability of any section, subsection, paragraph, sentence, clause, provision, or phrase of the aforementioned sections, as declared by the valid judgment of any court of competent jurisdiction to be unconstitutional, shall not affect the validity or enforceability of any other section, subsection, paragraph, sentence, clause, provision, or phrase, which shall remain in full force and effect.

The vote on the foregoing resolution was as follows:

Sean Lyons, Supervisor	aye
Dennis Palow, Deputy Supervisor, Board Member	aye
Karen Schimmer, Board Member	aye
Dawn Jordan, Board Member	aye
Joel Willsey, Board Member	aye

This resolution was adopted.

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**ACCEPTING RESIGNATION OF KATHERINE HILL-BROWN**

After discussion, Councilmember Schimmer made a motion seconded by Councilmember Jordan accepting the resignation of Katherine Hill-Brown, effective immediately. Motion carried with the following members voting aye: Supervisor Lyons and Councilmembers Schimmer, Jordan, Palow & Willsey.

**AUTHORIZING TOWN CLERK TO ADVERTISE FOR SECRETARIAL POSITION**

After discussion, Councilmember Willsey made a motion seconded by Councilmember Palow authorizing the Town Clerk to advertise for the secretarial position. Motion carried with the following members voting aye: Supervisor Lyons and Councilmembers Schimmer, Jordan, Palow & Willsey.

**INTRODUCTION OF LOCAL LAW #6 OF 2018**

**Local Law modifying the Berne Town Code related to the Town of Berne Youth Council**

After discussion, Supervisor Lyons introduced **Local Law #6 of 2018 “Local Law modifying the Berne Town Code related to the Town of Berne Youth Council”** and moved to set a public hearing on proposed Local Law #6 of 2018 for September 12, 2018 at 6:45 PM and directing the Town Clerk to give notice of such public hearing in the manner provided in Section 20 of the Municipal Home Rule Law, and Councilmember Schimmer seconded the introduction of the proposed local law and the motion. Motion carried with the following members voting aye: Supervisor Lyons, Councilmembers Schimmer, Jordan, and Willsey. Councilmember Palow was opposed.

**PUBLIC COMMENT**

Several citizens spoke regarding matters in the Town and before the Board.

**AUTHORIZING BUDGET TRANSFERS**

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

**General Fund.**

<b>From:</b>	<b>To:</b>	<b>Amount:</b>
A1010e 44047	A1010e 44042	\$ 50.00
A1010e 44999	A1110e 44040	\$100.00
A1355e 44301	A1355e 44035	\$ 50.00
A1410e 44301	A1410e 44300	\$100.00
A1430e 44030	A1430e 10016	\$ 50.00

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A1620e 44999	A1620e 44022	\$400.00
	A1620e 44024	\$150.00
	A1620e 44028	\$50.00
A9730e 66000	A1620e 17230	\$10,000.00
	A3620e 11150	\$10,000.00
Increase budget line	A511 Fund Balance reserved	\$22,100.00
Increase budget line	A7110e 22700	\$22,100.00
A3620e 22050 \$ 150.00	A3620e 44020	\$ 300.00
A3620e 44999 \$ 150.00		
A7111e 22080 \$ 1350.00	A7111e 22700	\$1000.00
	A7111e 44022	\$ 200.00
	A7111e 44106	\$ 125.00
	A7111e 44999	\$ 25.00
A7410e 44100	A7410e 44999	\$ 50.00
A7989e 11215	A7989e 11210	\$275.00
A8160e 44999	A8160e 44070	\$ 100.00
<b>Highway fund</b>		
<b>From:</b>	<b>To:</b>	<b>Amount:</b>
Da5130e 44070 \$ 3922.00	Da513010 44070	\$ 570.00
	Da513022 44070	\$ 2600.00
	Da513024 44070	\$ 161.00
	Da513027 44070	\$ 353.00
	Da513030 44070	\$ 238.00
Da5110e 44077	Da5110e 44022	\$ 1500.00

**Sewer fund:**  
**From:** None  
**To:**  
**Amount:**

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



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**BILLS AND REPORTS**

The Supervisor's, Town Clerk's and Building & Zoning Administrator's monthly reports were received and accepted.

Councilmember Jordan made the motion seconded by Councilmember Palow to approve payment of the following bills:

**GENERAL FUND, HIGHWAY FUND & SEWER 2018.....\$117,401.42**  
**ABSTRACT#080818.....\$117,401.42**

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

**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 8:05PM

Respectfully submitted,

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Anita C. Clayton, Town Clerk