

**STATE OF NEW YORK
COUNTY OF ALBANY**

JULY 14, 2021

PUBLIC HEARING

6:30 PM Public Hearing Proposed Local Law #3 of 2021

Supervisor Lyons declared the public hearing on Local Law #3 of 2021 known as the “**Home Occupation**” open with the following members present: Councilmembers Palow, Conklin, Vane, & Willsey. Town Clerk Clayton and Attorney Afzali were also present.

Supervisor Lyons opened the floor to guests:

Town Clerk Clayton read a letter submitted by Dawn Jordan which is attached to these minutes.

Supervisor Lyons made a motion, seconded by Councilmember Vane to close the Public Hearing. Motion carried with the following roll call vote: Supervisor Lyons, Councilmembers Palow, Conklin, Vane & Willsey voting aye. Public Hearing was closed at 6:53 PM.

REGULAR MEETING

Supervisor Lyons led the Pledge of Allegiance and called the regular meeting to order at 7:00PM with the following members present: Councilmembers Palow, Conklin, Vane & Willsey. Town Clerk Clayton and Attorney Afzali was also present.

The minutes of 4/14/21 were discussed and tabled. The minutes of 6/9/21 were reviewed and on motion of Supervisor Lyons and seconded by Councilmember Palow the minutes of 6/9/21 were accepted with the following members voting aye: Supervisor Lyons and Councilmembers Palow, Conklin & Vane. Councilmember Willsey abstained.

CORRESPONDENCE

Letter from Dawn Jordan was submitted and is attached to these minutes.

Supervisor Lyons read a letter from NYS Division of the Budget regarding Covid relief money that will be awarded to the town in the amount of \$282,334.

ANNOUNCEMENTS

Healthy Homes Program for residents in the Hilltowns is available. Contact the Town Clerk for a flyer or further information.

JULY 14, 2021

PUBLIC COMMENT

KENNETH’S ARMY – Claire Ingalls was in attendance to discuss the upcoming fundraiser for Kenneth’s Army being held at the Berne Town Park on August 7, 2021.

Barb Kennedy asked about cost of fireworks.

DEPARTMENT REPORTS

LIBRARY – Kathy Stempel discussed a grant for a pilot mobile hot spot; discussed library programs; music in the park; therapy animals and Heldercon. The library would also like to put in new landscaping in front of building and will acquire more quotes.

JoAnne Brady thanked the Town Board for their continued financial support.

HIGHWAY – Highway Superintendent Bashwinger stated that all Hometown Hero Banners were up and fixed after the rains. Shoulders and culverts being repaired from rain.

PLANNING BOARD & BUILDING DEPARTMENT– Chairman Joe Martin, along with Code Enforcement Officer, Chance Townsend, discussed the many serious problems that are facing the departments due to lost records and insufficient permitting from previous Code Enforcement Officer. These issues have presented some serious complications for residents who are trying to obtain Certificate of Occupancy or Certificate of Completion, documents needed to sell a house; there are also some subdivisions/lot line adjustments that were not filed properly further creating problems for property owners trying to sell parcels. Supervisor Lyons discussed possible liability for the Town. Councilmember Palow will reach out to the previous Code Enforcement Officer regarding lost records and possible disposal of a town laptop.

Code Enforcement Officer, Chance Townsend discussed his monthly report; requested two more tablets for field work and stated that the Planning Board and Conservation Board are a great asset.

COMMITTEE REPORTS

Celebration & Beautification Committees- Councilmember Conklin stated volunteers are still needed to maintain flowers; 400 bowls of ice cream were served at the fireworks and 7 new volunteers were signed up for the Helderberg Ambulance. A family fun day is being planned for October 9, 2021, at the Berne Town Park to target new families to gather information about the Town.

Senior Luncheon- Going well, please contact Karen Stark the day before.

Hamlet Traffic Safety – in early stages of study; a digital speed sign may be a possibility.

JULY 14, 2021

OLD BUSINESS

AWARDING BID TO NEW CASTLE FOR PAVING

After discussion, Supervisor Lyons made a motion seconded by Councilmember Palow to accept the 2021 bid from New Castle in an amount not to exceed \$253,660 for paving. Motion carried with the following roll call vote: Supervisor Lyons, and Councilmembers Palow, Conklin & Vane voting aye. Councilmember Willsey voting nay.

PURCHASE OF ROLL OFF TRUCK

Highway Superintendent Bashwinger discussed the purchase of a new roll off truck for \$179,336 and to piggyback on Onondaga contract; takes one year to complete order. This matter will be further discussed.

Status of Employee Handbook – Town Clerk Clayton updated the board regarding the status of the handbook. We are working with PERMA on a pilot program but found the current handbook does not coincide with Town Code. The draft handbook is being compared with the code book and will be reviewed again in September/October.

Routes 85 & 443 Corridor- discussion was had regarding a printout of slides and petition for guide rails, speed limit and shoulder widths.

APPROVING EXPENDITURE FOR WESTERN STAR TRUCK FROM 2/12/2020

After discussion, Supervisor Lyons made a motion seconded by Councilmember Palow to authorize purchase of Western Star truck from 2/12/20 from DA5130e 22450. Motion carried with the following roll call vote: Supervisor Lyons, and Councilmembers Palow, Conklin & Vane voting aye. Councilmember Willsey abstained.

ADOPTING LOCAL LAW #3 OF 2021

“Home Occupation”

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

WHEREAS Local Law #3 of 2021 known as the “Home Occupation” 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 #3 of 2021** of the Town of Berne known as “Home Occupation”. The resolution was adopted, with amendment, by the following roll call vote: Supervisor Lyons & Councilmembers Palow & Conklin– aye; Councilmember Willsey abstained.

JULY 14, 2021

NEW BUSINESS

ACCEPTING RESIGNATION OF MARK SENGENBERGER

After discussion, Supervisor Lyons made a motion seconded by Councilmember Palow to accept the resignation of Mark Sengenberger from the Planning Board. Motion carried with the following roll call vote; Supervisor Lyons, Councilmembers Palow, Conklin, Vane & Willsey voting aye.

APPOINTING PAT SAFFORD AS PLANNING BOARD MEMBER

After discussion, Supervisor Lyons made a motion seconded by Councilmember Palow to appoint Pat Safford as Planning Board member, term expiring 12/31/22. Motion carried with the following roll call vote; Supervisor Lyons, Councilmembers Palow, Conklin, Vane voting aye. Councilmember Willsey abstained.

AUTHORIZING TOWN CLERK TO ADVERTISE FOR TWO ALTERNATE PLANNING BOARD MEMBERS

After discussion, Councilmember Palow made a motion seconded by Councilmember Vane authorizing the Town Clerk to advertise for two alternate Planning Board members. Motion carried with the following roll call vote; Supervisor Lyons, Councilmembers Palow, Conklin, Vane & Willsey voting aye.

AUTHORIZING TWO MORE TABLETS FOR BUILDING & ZONING DEPARTMENT

After discussion, Supervisor Lyons made a motion seconded by Councilmember Palow to authorize two more tablets for the Building & Zoning Department. Purchasing details will be reviewed. Motion carried with the following roll call vote; Supervisor Lyons, Councilmembers Palow, Conklin, Vane & Willsey voting aye.

APPOINTING DOG CONTROL OFFICER

After discussion, Councilmember Palow made a motion seconded by Supervisor Lyons to appoint Dexter Baker as primary DCO and Cheryl Baitsholts as secondary DCO, at a per call, hourly rate of \$19 per hour. The following roll call vote was made; Supervisor Lyons and Councilmember Palow – aye; Councilmembers Conklin, Vane & Willsey, nay. Motion did not carry.

JULY 14, 2021

RESOLUTION PROVIDING SECTION 41(j) – ALLOWANCE OF UNUSED SICK LEAVE CREDITS

Supervisor Lyons offered the following resolution:

BE IT RESOLVED that the Town Board of the Town of Berne does hereby elect to provide the pension benefit of Section 41 (j) of the Retirement and Social Security Law, as presently or hereafter amended.

BE IT FURTHER RESOLVED that the effective date of such shall be the 14th day of July, 2021.

The resolution was adopted by the following roll call vote: Supervisor Lyons & Councilmembers Palow, Conklin, Vane & Willsey– aye

APPROVING ANNUAL COST FOR SECTION

After discussion, Supervisor Lyons made a motion seconded by Councilmember Conklin to approve the annual cost for Section 41 (j) in the amount of \$1,145 annually. Motion carried with the following roll call vote: Supervisor Lyons, and Councilmembers Palow, Conklin, Vane & Willsey voting aye.

APPROVING CHANGE OF STANDARD WORKDAY FOR RETIREMENT REPORTING

After discussion, Supervisor Lyons made a motion seconded by Councilmember Palow to reset the standard workday from 6 hours to 8 hours effective 7/14/21 for retirement reporting. Motion carried with the following roll call vote: Supervisor Lyons, and Councilmembers Palow, Conklin, Vane & Willsey voting aye.

ACCEPTING SUPERVISOR’S MONTHLY REPORTS FOR JUNE

After discussion, Supervisor Lyons made a motion seconded by Councilmember Palow to accept the Supervisor’s June monthly reports. Motion carried with the following roll call vote: Supervisor Lyons, and Councilmembers Palow, Conklin & Vane voting aye. Councilmember Willsey abstained. Councilmember Palow stated that he completed the Supervisor’s audit of his reports for 2019 and 2020.

ACCEPTING TOWN CLERK’S MONTHLY REPORT FOR JUNE

After discussion, Supervisor Lyons made a motion seconded by Councilmember Palow to accept the Town Clerk’s June monthly report. Motion carried with the following roll call vote: Supervisor Lyons, and Councilmembers Palow, Conklin, Vane & Willsey voting aye.

JULY 14, 2021

ACCEPTING BUILDING & ZONING MONTHLY REPORT FOR JUNE

After discussion, Supervisor Lyons made a motion seconded by Councilmember Palow to accept the Building & Zoning’s June monthly report. Motion carried with the following roll call vote: Supervisor Lyons, and Councilmembers Palow, Conklin, Vane & Willsey voting aye.

AUTHORIZING BUDGET TRANSFERS FOR JUNE

After discussion, Supervisor Lyons made a motion seconded by Councilmember Palow that the budget transfers for June be authorized. Motion carried with the following roll call vote: Supervisor Lyons, and Councilmembers Palow, Conklin & Vane voting aye. Councilmember Willsey abstained.

APPROVING ABSTRACTS

After discussion, Supervisor Lyons made a motion seconded by Councilmember Palow to approve the following abstracts:

GENERAL FUND, HIGHWAY FUND, SEWER, UTILITIES, WITHOLDINGS FOR 2021.....	\$ 349,405.36
Abstract #46 of 2021.....	\$ 13,723.65
Abstract #47 of 2021.....	\$ 11,269.60
Abstract #48 of 2021.....	\$ 857.64
Abstract #49 of 2021.....	\$ 19,039.47
Abstract #50 of 2021.....	\$ 42,715.00
Abstract #51 of 2021.....	\$ 5,000.00
Abstract #52 of 2021.....	\$ 256,800.00

Motion carried with the following roll call vote: Supervisor Lyons, and Councilmembers Palow, Conklin & Vane voting aye. Councilmember Willsey abstained.

APPROVING MONTHLY PAYMENT OF BILLS

After discussion, Supervisor Lyons made a motion seconded by Councilmember Palow to approve the payment of the monthly bills. Motion carried with the following roll call vote: Supervisor Lyons, and Councilmembers Conklin & Vane voting aye. Councilmember Willsey abstained.

Councilmember Palow requested that the Assessors be present at the next Town Board meeting to discuss the tax issue for the sewer error and advise the residents what happened and a solution to address it.

JULY 14, 2021

MOTION TO ADJOURN

There being no further business or discussion, Supervisor Lyons made the motion seconded by Councilmember Vane to adjourn the meeting. Motion carried with the following roll call vote: Supervisor Lyons, and Councilmembers Palow, Conklin, Vane & Willsey voting aye. Meeting adjourned at 9:27PM.

Respectfully submitted,

Anita C. Clayton, Town Clerk

		Budget Transfers for 06/30/2021			
			To		From
TELEPHONE	SS -18-8110-0000-44036	\$	975.00		
EQUIPMENT REPAIRS/MAINTENANCE	SS -18-8110-0000-44070	\$	300.00		
Total SS9901E TRANSFER TO INTERFUND	SS -20-9901-0000-99960				\$ 1,275.00

		General Fund			
		Budget transfers 06/30/2021			
			To		From
A -11-1110-0000-44036	TELEPHONE	\$	386.00		
A -11-1620-0000-22200	HEATING/ELECTRICAL EQUIPMENT	\$	2,200.00		
A -11-1620-0000-44028	SAFETY SUPPLIES	\$	903.00		
A -11-1620-0000-44036	TELEPHONE	\$	1,057.00		
A -11-1620-0000-44041	COMPUTER FEES	\$	962.00		
A -11-1910-0000-44999	MISC CONTRACTUAL EXPENSES	\$	780.00		
A -15-5132-0000-44022	MAINTENANCE SUPPLIES	\$	244.00		
A -15-5132-0000-44036	TELEPHONE	\$	746.00		
A -17-7110-0000-44999	MISC CONTRACTUAL EXPENSES	\$	299.00		
A -17-7550-0000-44020	OFFICE SUPPLIES	\$	84.00		
A -17-7550-0000-44999	MISC CONTRACTUAL EXPENSES	\$	5,189.00		
A -11-1990-0000-44999	MISC CONTRACTUAL EXPENSES			\$	12,850.00
		\$	12,850.00	\$	12,850.00

		Highway Fund Budget transfers				
		6/30/2021		To	From	
DA -15-5110-0000-44028	SAFETY SUPPLIES	\$	980.00			
DA -15-5130-001-44070	EQUIPMENT REPAIRS/MAINTENANCE	\$	1,042.00			
DA -11-5130-0000-44072	VEHICLE MAINTENANCE	\$	5,798.00			
DA -11-5130-0000-44078	EQUIPMENT RENTAL			\$	5,798.00	
DA -11-1990-0000-44999	MISC CONTRACTUAL EXPENSES			\$	2,022.00	
		\$	7,820.00	\$	7,820.00	\$ -
Board Resolution						
DA -11-5130-0000-22450	TRUCKS	\$	168,946.00			Board approved ordering in 2020
DA -11-5130-0000-22999	MISCELLANEOUS EQUIPMENT	\$	82,854.00			Board approved ordering in 2020
		\$	251,800.00			
			To		From	
	DA915 Unassigned Fund balance	\$	204,371.00			
	DA878 Capital Projects/Highway Equipment			\$	204,371.00	
	Motion to make payment from DA878					
Balance as of 05/31/2021 Reconciliation	Capital Projects/Highway Equipment DA878	\$	47,429.55			

Home Occupations Law public hearing 7-14-2021

Comment submitted by Dawn Jordan, Berne resident, to be read into the record by the Town Clerk:

Good evening,

The proposed Home Occupations update to the code which you are considering tonight is quite similar to the update I proposed in 2019. One change you made, however, was the removal of the design standard statement for signs. Instead, you have included the following language in Section B:

“That there be no external evidence of such use except for one sign that shall comply with Town of Berne Chapter 190, Article V, Supplemental Regulations §190-19 Signs.”

The problem with that is the first part of subsection (1) of the 190-19 Signs section of our code reads as follows:

“Permitted nonresidential uses and legal nonconforming nonresidential uses, but not including home occupations, places of worship, libraries, museums, social clubs or societies or day nurseries, may display one sign or bulletin board pertaining to the use of property” ... etc.

Note – it says “but not including home occupations” meaning that that section, which allows for one sign, cannot be applied to home occupations. Home occupations are addressed nowhere else in the Signs section of the code, so consequently, with this new update as written, home occupations may not have a sign of any kind.

This could be easily amended as I stated at the last public hearing for this law, by including a simple statement that home occupations are allowed one freestanding or attached sign of whatever dimensions you choose – my proposed draft specified not to exceed 6 square feet on each face.

I recommend you change this proposed law as suggested to avoid having home occupations putting up signs in non-compliance with the code or forcing applicants to apply for a use variance, incurring an additional expense, and which, by their nature, are very difficult to obtain.

Thank you.

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JUL 12 2021

BERNE TOWN CLERK

7-14-2021 Town Board meeting comment submitted by Dawn Jordan, Berne resident, to be read into the record during the Public Comment segment of the agenda:

Good evening,

It is my understanding that there is an opening for the position of Dog Control Officer. I am writing in support of re-appointing Cheryl Baitsholts to this post.

Cheryl faithfully served our residents and their pets as Berne's Dog Control Officer for 19 years. Her skill and relentlessness in reuniting pets, and sometimes even livestock, with their owners is unequalled, and her compassion for animals and their owners is well known by many.

Cheryl has officially approved kennels at her residence, saving the taxpayers the cost of housing lost dogs elsewhere, and affording them with a safe, consistently monitored space while in her custody. Her knowledge of animals and the residents of our town is so well recognized that she continued to be consulted and relied upon by both the residents and the sheriff's department for the entire two years following your appointment of someone else to the position. Even though she suffered the insult of being illegally fired from that position and was no longer being paid, she gave of her time and talents to help our residents, pets and sheriff's department anyway.

There is no one more dedicated or more qualified to be our Dog Control Officer, and I respectfully request that you reinstate Cheryl to that position forthwith.

Thank you.

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JUL 14 2021
BERNE TOWN CLERK