

**MINUTES OF THE SPECIAL MEETING OF
THE TOWN BOARD OF THE TOWN OF NEW LEBANON
HELD ON FEBRUARY 20, 2018**

Present: Colleen Teal, Supervisor
Kevin Smith Sr., Councilmember
Mark Baumli, Councilmember
Jesse Newton, Councilmember
Dan Tuczinski, Town Attorney

Absent: Norman Rasmussen, Councilmember

Recording Secretary: Tistrya Houghtling, Town Clerk

Others Present: Jeff Winestock, Highway Superintendent

CALL TO ORDER:

The meeting was called to order at 6:15 p.m. by Supervisor Teal.

HIGHWAY TRACTOR/MOWER PURCHASE:

Bond Resolution:

TOWN OF NEW LEBANON
RESOLUTION NO. 11
DATED FEBRUARY 20, 2018

BOND RESOLUTION DATED FEBRUARY 20, 2018

A RESOLUTION AUTHORIZING THE ACQUISITION OF A UTILITY TRACTOR WITH BOOM AND MOWER AT AN ESTIMATED MAXIMUM COST OF \$127,729, THE ISSUANCE OF SERIAL BONDS OF THE TOWN OF NEW LEBANON, COLUMBIA COUNTY, NEW YORK, IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$50,000 PURSUANT TO THE LOCAL FINANCE LAW TO FINANCE A PORTION OF THE COST THEREOF, AND DELEGATING CERTAIN POWERS IN CONNECTION THEREWITH TO THE TOWN SUPERVISOR

BE IT RESOLVED, by the Town Board of the Town of New Lebanon in the Town of New Lebanon, Columbia County, New York (the "Town") (by the favorable vote of not less than two-thirds of all of the members of the Board) as follows:

SECTION 1. The specific purpose (hereinafter referred to as "purpose") to be financed pursuant to this resolution is the acquisition of a John Deere utility tractor with boom and mower for highway department purposes. The estimated maximum cost of said purpose is \$127,729 and said amount is hereby appropriated therefor. It is hereby determined that said purpose is an object or purpose described in subdivision 28 of paragraph a of Section 11.00 of the Local Finance Law, and that the period of probable usefulness of said purpose is fifteen

years.

SECTION 2. It is hereby determined that the aforesaid purpose constitutes a Type II action as defined under the State Environmental Quality Review Regulations, 6 NYCRR Part 617, which has been determined under SEQR not to have a significant impact on the environment.

SECTION 3. The Town Board plans to finance a portion of the cost of said purpose by the issuance of serial bonds of the Town in an amount not to exceed \$50,000, hereby authorized to be issued therefor pursuant to the Local Finance Law. The remaining cost of the project is expected to be financed from other available funds.

SECTION 4. It is hereby determined that the proposed maturity of the obligations authorized by this resolution will not be in excess of five years from the original date of issuance of such obligation.

SECTION 5. Current funds are not required to be provided prior to the issuance of the bonds authorized by this resolution or any notes issued in anticipation of said bonds.

SECTION 6. The proceeds of the bonds herein authorized and any bond anticipation notes issued in anticipation of said bonds may be applied to reimburse the Town for expenditures made after the effective date of this resolution for the purpose for which said bonds are authorized. This resolution shall constitute a statement of official intent for purposes of Section 1.150-2 of the Treasury Regulations.

SECTION 7. Each of the bonds authorized by this resolution and any bond anticipation notes issued in anticipation of said bonds shall contain the recital of validity prescribed by Section 52.00 of the Local Finance Law. The faith and credit of the Town are hereby irrevocably pledged for the payment of the principal of and interest on said bonds as the same respectively become due and payable. An annual appropriation shall be made in each year sufficient to pay the principal of and interest on said bonds becoming due and payable in such year. There shall annually be levied on all the taxable real property of the Town a tax sufficient to pay the principal of and interest on said bonds as the same become due and payable.

SECTION 8. Subject to the terms and contents of this resolution and the Local Finance Law, and pursuant to the provisions of Sections 30.00, 50.00 and 56.00 to 63.00, inclusive, of said Law, the power to authorize bond anticipation notes in anticipation of the issuance of the serial bonds authorized by this resolution and the renewals of said notes and the power to prescribe the terms, form and contents of said serial bonds, and said bond anticipation notes (including without limitation the date, denominations, maturities, interest payment dates, consolidation with other issues, and redemption rights), the power to determine to issue said bonds providing for substantially level or declining debt service, the power to determine to issue said bonds as statutory installment bonds, and the power to sell and deliver said serial bonds and any bond anticipation notes issued in anticipation of the issuance of such bonds, is hereby delegated to the Town Supervisor, the Chief Fiscal Officer of the Town. The Town Supervisor is hereby authorized to sign any serial bonds issued pursuant to this resolution

and any bond anticipation notes issued in anticipation of the issuance of said serial bonds, and the Town Clerk is hereby authorized to affix the corporate seal of the Town to any of said serial bonds or any bond anticipation notes and to attest such seal.

SECTION 9. The Town Supervisor is further authorized to take such actions and execute such documents as may be necessary to ensure the continued status of the interest on the bonds authorized by this resolution, and any notes issued in anticipation thereof, as excludable from gross income for federal income tax purposes pursuant to Section 103 of the Internal Revenue Code of 1986, as amended (the "Code") and to designate the bonds authorized by this resolution and any notes issued in anticipation thereof as "qualified tax-exempt bonds" for purposes of Section 265(b)(3)(B)(i) of the Code.

SECTION 10. The validity of said serial bonds or of any bond anticipation notes issued in anticipation of the sale of said serial bonds may be contested only if:

- (1) Such obligations are authorized for an object or purpose for which the Town is not authorized to expend money; or
- (2) The provisions of law which should be complied with at the date of the publication of this resolution are not substantially complied with; and
- (3) An action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publication; or
- (4) Such obligations are authorized in violation of the provisions of the Constitution of New York.

SECTION 11. The Town Clerk is hereby authorized and directed to publish this resolution, or a summary thereof, together with a notice in substantially the form provided by Section 81.00 of the Local Finance Law, in The Eastwick Press and the Register Star, both being newspapers having a general circulation in the Town and hereby designated as the official newspapers of the Town for such publication.

SECTION 12. This resolution shall take effect immediately.

A special meeting of the Town Board of the Town of New Lebanon, Columbia County, New York was convened in public session at the Town Hall, 14755 Route 22 North, New Lebanon, New York, on February 20, 2018 at 6:00 p.m., local time.

The meeting was called to order by Supervisor Teal, and, upon roll being called, the following members were:

PRESENT:

- | | |
|------------------|------------|
| Colleen Teal | Supervisor |
| Mark Baumli | Member |
| Jesse Newton | Member |
| Kevin Smith, Sr. | Member |

ABSENT:

Norman Rasmussen Member

The following persons were ALSO PRESENT:

Dan Tuczinski	Town Attorney
Tistrya Houghtling	Town Clerk/Recording Secretary
Jeff Winestock	Highway Superintendent

The following resolution was offered by Councilman Newton, seconded by Councilman Smith, Sr., to wit:

BOND RESOLUTION DATED FEBRUARY 20, 2018

A RESOLUTION AUTHORIZING THE ACQUISITION OF A UTILITY TRACTOR WITH BOOM AND MOWER AT AN ESTIMATED MAXIMUM COST OF \$127,729, THE ISSUANCE OF SERIAL BONDS OF THE TOWN OF NEW LEBANON, COLUMBIA COUNTY, NEW YORK, IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$50,000 PURSUANT TO THE LOCAL FINANCE LAW TO FINANCE A PORTION OF THE COST THEREOF, AND DELEGATING CERTAIN POWERS IN CONNECTION THEREWITH TO THE TOWN SUPERVISOR

The question of the adoption of the foregoing resolution was duly put to vote on a roll call, which resulted as follows:

Colleen Teal	Aye
Mark Baumli	Aye
Jesse Newton	Aye
Norman Rasmussen	Absent
Kevin Smith, Sr.	Aye

The foregoing resolution was thereupon declared duly adopted.

Purchase Resolution:

**TOWN OF NEW LEBANON
RESOLUTION #12, 2018
PURCHASE OF JOHN DEERE UTILITY TRACTOR WITH BOOM AND MOWER
FEBRUARY 20, 2018**

At a special meeting of the New Lebanon Town Board, held at the New Lebanon Town Hall, 14755 NYS Route 22, New Lebanon, New York, duly called and held on the 20th day of February, 2018, the following Resolution was proposed and seconded:

Resolution by Supervisor Teal
Seconded by Councilmember Smith Sr.

***PURCHASE OF CERTAIN EQUIPMENT
FOR HIGHWAY DEPARTMENT PURPOSES***

WHEREAS, the Town of New Lebanon Highway Superintendent, Jeffrey Winestock, has requested the purchase of one (1) John Deere 5085E Utility Tractor with Ferri ZLE 1800 Mower and Alamo Versa Boom and associated labor, as set forth on the attached Quote Summary (hereinafter, the “Equipment”) for highway department purposes; and

WHEREAS, the Equipment is available pursuant to New York State Contract PC67140 from Deere & Company, 2000 John Deere Run, Cary, North Carolina, 27513 (the “Vendor”), in the total purchase price amount of \$125,078.56; and

WHEREAS, the Equipment is available for purchase from Vendor through its authorized dealer, Pittsfield Lawn & Tractor, 1548 W. Housatonic Street, Pittsfield, Massachusetts, 01201; and

WHEREAS, pursuant to General Municipal Law § 103, the Town of New Lebanon may piggyback upon New York State Contract PC67140 to purchase the Equipment from Vendor without the need to engage in competitive bidding; and

WHEREAS, the Town of New Lebanon Town Board has adopted a bond resolution authorizing the financing of a portion of the cost thereof in an amount not to exceed \$50,000, with the remainder of the purchase price to paid from other available funds (the “Bond Resolution”); and

WHEREAS, the Town of New Lebanon Town Board deems it to be in the public interest to approve the purchase of the Equipment;

NOW, THEREFORE, BE IT RESOLVED, the Town Board of the Town of New Lebanon hereby approves the purchase of the Equipment under New York State Contract No. PC67140 from Vendor, through its authorized dealer, as proposed by Highway Superintendent Jeffrey Winestock for an amount not to exceed \$125,078.56 in accordance with the attached Quote Summary, subject to confirmation with Vendor that the pricing on the attached Quote Summary is correct; and

BE IT FURTHER RESOLVED, by the Town Board of the Town of New Lebanon that, upon confirmation from Vendor that the pricing on the attached Quote Summary is correct or, if incorrect, that the total purchase price is less than \$125,078.56, the Highway Superintendent is authorized to execute a contract in the name of the Town of New Lebanon Highway Department to purchase the Equipment from Vendor.

Upon the question of the foregoing Resolution, the following Town Board Members voted “Aye” or “Nay” for said Resolution:

Roll Call Vote:

Councilmember Mark Baumli	Aye
Councilmember Norman Rasmussen	Absent
Councilmember Jesse Newton	Aye
Councilmember Kevin Smith	Aye
Supervisor Colleen Teal	Aye

The Resolution, having been approved by a majority vote of the Town Board, was declared duly adopted by the Supervisor of the Town of New Lebanon.

Financing Terms:

Councilmember Smith made a motion to go with the 3 year financing option from the Bank of Greene County at a 2.5% interest rate with 3 annual payments due, the first in the amount of \$17,917 due in 2019, the second in the amount of \$17,500 due in 2020, and the third in the amount of \$17,083 due in 2021 for a total annual debt service of \$52,500. Supervisor Teal seconded that motion.

Roll Call Vote:

Councilmember Mark Baumli	Aye
Councilmember Norman Rasmussen	Absent
Councilmember Jesse Newton	Aye
Councilmember Kevin Smith	Aye
Supervisor Colleen Teal	Aye

LOCAL LAW REVIEW:

Attorney Tuczinski stated that he has handed out the proposed Local Law amending the Town's procurement policy to all Town Board members. He stated that he has made some substantive changes because some of the provisions of the Town's current local law conflict with the authorization of power that is given under the General Municipal Law so they have reconciled that. He asked the Town Board members to take a look at it before the March meeting. It can be introduced at the March meeting and then a Public Hearing will need to be held so he envisions that this will probably be adopted in April.

CELL PHONE POLICY DISCUSSION:

Councilmember Baumli stated that his thoughts on this are that if we can buy a regular cell phone for our employees for \$20 per month, only certain employees should have them and if they choose not to take a town phone, the Town would reimburse them \$20 per month through a voucher that they can apply to their personal cell phone bill and their personal phone would then be a public phone number. He does not think that we need to charge employees through a payroll deduction if they choose to have a town phone with more features than the Town is willing to pay for. If an employee wants a fancier phone than the Town is willing to pay for, they can go get their own phone and the Town will give them \$20 per month towards that phone. The people that he feels need a town phone are the Town Supervisor, the Highway Superintendent, the highway employees if they are on call, and the CEO.

Supervisor Teal stated that back when this was all set up, we didn't have a formalized policy. She thinks it was \$34.99 at the time for the phones so the Town Board had come up with a \$30 a month reimbursement for anyone that was eligible for a town phone but wanted to use their own phone for town business instead. Councilmember Baumli stated that instead of setting a reimbursement amount in the policy, we should state that the reimbursement amount will be the current amount that the Town pays monthly for basic phone service so it can change as the town phone bill amount changes.

Town Clerk Houghtling stated that at a recent training she took with the Association of Towns, they strongly discouraged people using their personal phones in place of a town phone. They stated that with FOIL, employees personal phones could become the property

of the Town if there was information on it that related to town business. They recommended just offering a town phone with a town published phone number that belongs to the town and goes to the next person taking that position when there is turnover.

Attorney Tuczinski stated that where it gets sticky is if somebody is in litigation and they want to find out what the Supervisor texted to somebody else. If there is a dedicated town phone and that is what you are using, that is what they get but it doesn't preclude the possibility that emails might go to her in a personal capacity on her personal phone. It gets very complicated. The rule of thumb is you can say it is your personal phone but if you are doing town business on your personal phone, it is subject to FOIL. It is cleaner if you just have a town phone dedicated for your town work. He stated that employees and elected officials should be very careful giving out their phone numbers. You need this in the chain of command in New Lebanon but once the public gets a copy of your phones, there could be harassment occurring on people's personal cell phones. Supervisor Teal stated that since her personal number has already been published, she may be better off getting a flip phone for her town phone and transferring her number to it and getting a new phone and number for her personal use. Councilmember Smith stated that as a councilmember he thinks people should be able to reach him because they knew when they ran for their jobs that it is dealing with the public and he has never had a problem. Supervisor Teal stated that we don't put the councilmember's phone numbers on the website or publish them and we would never give them out to the public because their personal address and cell phone number are never given out to the public.

Supervisor Teal asked if everyone was in agreement with offering either a basic service phone or a reimbursement of the current monthly amount the town would pay for a basic service phone. Attorney Tuczinski asked if the town would provide everyone phones or allow people to use their personal phones. Councilmember Smith asked if we could leave that up to the individual. Supervisor Teal stated that we could strongly recommend that people take the town phone and keep their personal phone private but it is a choice of the individual.

Councilmember Smith stated that we should leave the highway employees the way they are with the phones. Town Clerk Houghtling stated that if you leave them the way you are, you would need a local law as we currently do payroll deductions for their added data plans. Attorney Tuczinski stated that if we take money out of payroll we have to pass a local law, we can't do it otherwise. Supervisor Teal stated that she does not want to do payroll deductions. Councilmember Smith asked if we can make a local law dealing with just the highway employees on the phones so we don't need to change what we have been doing. Attorney Tuczinski stated that you theoretically could but his question is why. If at the end of the day your employees will get \$20 applied towards their plan and they submit a voucher and everybody does it so it's clean from a bookkeeping perspective, he doesn't think it's problematic for anybody. He thinks it's a cleaner way to do it.

Attorney Tuczinski stated that he would recite in the whereas clause what the current plan rates are, because they are going to change, and then state that the town will reimburse them the minimal cost under the town's existing plan whatever it may be, today or next year. That way you don't have to revise it each year. Now you just need to decide who is

entitled to it. Supervisor Teal asked if all the Town Board members agree that the following positions are entitled to a town cell phone (Councilmember Rasmussen absent and Supervisor Teal not answering yes or no, just asking the question):

Town Supervisor – all answered yes

Highway Superintendent – all answered yes

Full Time Highway Staff – all answered yes

Code Enforcement Officer – all answered yes

Deputy Code Enforcement Officer – some answered yes and some answered no

Assessor – all answered no

Animal Control Officer – some answered yes and some answered no

Councilmember Smith stated that Wes Powell works for multiple towns and wanted to know if he is getting a cell phone reimbursement from every town he works for. Councilmember Newton stated that he did find out that Stephentown doesn't give him a cell phone reimbursement. Councilmember Smith stated that he is still no on the Animal Control Officer. Councilmember Newton stated that he is yes because he has had to call with a rabid fox on his porch before and he was actually out tracking the thing with another town resident. That was an on call situation where he needed to be reachable. Town Clerk Houghtling stated that she calls him frequently because it is her office number on all the dog tags issued and people call her office and she calls Wes and he is always available and answers his phone right away. Councilmember Baumli stated that he would change his vote to yes for the Animal Control Officer being entitled to a town phone. Councilmember Newton stated that it would be nice to know how many towns are paying a cell phone reimbursement to him. Supervisor Teal stated that she will find out.

Supervisor Teal stated that she agrees with Councilmember Newton that the Deputy CEO should be entitled to a town phone because if the CEO is unavailable or for any reason can't be reached, the Deputy CEO is the next person to be called. If there is a fire, one of them has to be on scene regardless of day or time. Councilmember Smith stated that if the CEO and Deputy CEO are not available, the next person down the road is called anyhow. Supervisor Teal asked if he meant the CEO in the next town. Councilmember Smith stated yes. He stated for part time employment, we paid for him to go to school, write it off on your taxes. He stated that as Town Board members they could all argue that they need a cell phone too. At some point we have to say no.

Councilmember Newton stated that he has had to put in calls on building related stuff because he has the background on that. Councilmember Smith stated that Cissy is the one we hired for that as a full time position. Supervisor Teal stated that if the Town Board is saying that when the Deputy CEO is not in the office, he shouldn't have to answer his phone that is one thing. But if his job responsibilities mean that if he is on a job site for his other business and that phone rings and he answers it, then she thinks that it is a justifiable expense. Councilmember Newton asked if he would have to be technically on an on call status if it was like that.

Councilmember Smith stated that we have to tighten our belts. He stated that we have to visit cleaning, which is a different subject, \$600 per month to clean the Town Hall is

overboard.

Councilmember Smith made a motion for the highway to have cell phones, for the Town Supervisor to have a cell phone, for the CEO to have a cell phone and for the Animal Control Officer to have a cell phone.

Town Attorney Tuczinski recommended that the Town Board preliminarily adopt the motion today subject to the Attorney codifying it, putting it together so that you have it, it's there, you don't have to go back and revisit it. He will get it out to the Town Board before the next meeting. They can look at it. That will be a living, breathing document that we won't have to return to for some time. Supervisor Teal stated that we will then adopt it at the March meeting.

Councilmember Smith revised his motion for the highway department, Town Supervisor, CEO and Animal Control Officer to have a town cell phone subject to the Town Attorney putting it in writing to be finalized at the March meeting. Councilmember Baumli seconded that motion.

Roll Call Vote:

Councilmember Mark Baumli	Aye
Councilmember Norman Rasmussen	Absent
Councilmember Jesse Newton	Aye
Councilmember Kevin Smith	Aye
Supervisor Colleen Teal	Aye

CLEANING SERVICE AT THE TOWN HALL:

Councilmember Smith stated that everybody has talked about the price of cleaning the Town Hall. He stated that he doesn't know why we don't go out to bid yearly on something like this because there are a lot of people who do that these days. Supervisor Teal stated that we always go out to bid every few years. Councilmember Smith stated that he would like the Town Board to consider for the next meeting. He stated that the Town Hall doesn't need to be cleaned as much as it is.

Supervisor Teal stated that we accepted a cleaning quote for the 2018 year. She asked the Town Attorney if we are allowed to go out to bid before the accepted quote is up. Attorney Tuczinski stated that if we awarded the bid for the year 2018, we could get into a breach of contract issue. He would need to see it. Supervisor Teal suggested that we go out to bid for cleaning services at budget time for 2019 cleaning services. Councilmember Smith stated that he doesn't understand that if we are contracting to Judy Zimmer for cleaning services and she is subcontracting to Marcie Robertson, is it really subcontracting if we are signing a voucher to Marcie. He stated that Judy should be paying Marcie out of her pocket because we did not hire Marcie to do the cleaning so that is something that we need to clarify. Town Clerk Houghtling stated that in the beginning that is the way it was set up but in the cleaning proposal accepted by the Town Board for 2017 and 2018 it stated that it would be two different vouchers, one payable to Judy and one payable to Marcie. Councilmember Baumli stated that we must 1099 both of them then. Supervisor Teal stated that we do. Attorney Tuczinski stated that it is a substance over form issue. If we

disclosed it clearly and we set it up this way, it is okay. He would prefer it be to one person, but you can legally split it up between multiple people. Supervisor Teal stated that we will go out to bid on cleaning services for the Town Hall for 2019. Councilmember Smith asked for a copy of the cleaning proposal for 2018. Town Clerk Houghtling stated that she would get him a copy. Attorney Tuczinski asked for a copy as well.

Councilmember Smith asked if we can change from doing a full cleaning to a part cleaning. Attorney Tuczinski stated that you would sit down and have a meeting and modify it. If you contract with somebody to do a job at a fixed price for a period of time, it gets sticky to walk away from it because it could be considered a breach of contract. Supervisor Teal asked if Councilmember Smith feels the building should be cleaned less often. Councilmember Smith stated yes. Councilmember Baumli stated that we are here for this year, we have budgeted for it, let's revisit it in September or October at budget season. Supervisor Teal stated that she doesn't think you are going to find a commercial enterprise that has people in and out every day that cleans less than once a week. Councilmember Smith stated that other towns do it hourly, that there is not a set price. Supervisor Teal stated that is how we used to do it. Councilmember Smith stated that maybe next year we should go back to an hourly rate and when the town hall isn't used as much, have less hours of cleaning.

LITTLE LEAGUE:

Councilmember Smith stated that the little league may not need to use the food shack. He would like to have a decision by the March meeting so we can move forward with a contract if they will be using it, requiring them to fix the things they need to fix. If they do not use it, we can use it as a maintenance shed instead of building a new one. Attorney Tuczinski asked if they own the building. Supervisor Teal stated that the Town owns the building. She stated that the Town put the shed there for their use and they came annually and asked permission to re-use it and that somehow fell to the wayside. She stated that they do insure the building and if there is damage to it, their insurance covers it.

Supervisor Teal stated that the equipment inside the building is owned by the little league. Councilmember Smith stated that he is trying to work with them but he does not want to see us spend money to put up a new maintenance shed and then have them not use it. Supervisor Teal stated that she thinks we need to give them a little bit of time. Councilmember Smith stated that they have just about a year now. They have had enough time. He is not going to go out and get proposals for the new concrete and then find out they are not going to use it. Supervisor Teal stated that we wouldn't be pouring concrete before May. Councilmember Smith stated that by the March meeting, they need to know what they are doing.

GARBAGE TRUCKS:

Highway Superintendent Winestock asked Attorney Tuczinski if he has anything to do with garbage trucks. He stated that a lot of other towns require bonds from logging trucks and other big vehicles but there is no regulation for these giant garbage trucks. They are destroying our roads. Attorney Tuczinski stated that you can pass a local law regulating garbage trucks on some level. You have the power over your own roads to do certain

things. Supervisor Teal stated that she can set up a meeting with County Waste and their Attorney. Highway Superintendent Winestock stated that he would like for her to set up that meeting.

ADJOURNMENT:

A motion was made by Supervisor Teal and seconded by Councilmember Baumli to adjourn the meeting at 7:10 pm.

Respectfully submitted,

Tistrya Houghtling
New Lebanon Town Clerk