

**MINUTES OF THE REGULAR MONTHLY MEETING OF
THE TOWN BOARD OF THE TOWN OF NEW LEBANON
HELD ON SEPTEMBER 11, 2018**

Present: Charles “Doug” Banker, Deputy Supervisor
Kevin Smith Sr., Councilmember
Jesse Newton, Councilmember
Mark Baumli, Councilmember
Norman Rasmussen, Councilmember
Dan Tuczinski, Town Attorney

Absent: Colleen Teal, Supervisor

Recording Secretary: Tistrya Houghtling, Town Clerk

Others Present: Mary Young, LVPA
Ed Godfroy, LVPA
Jeff Winestock, Highway Superintendent
Jack Lancto, CAC Member
Peg Munves, CAC Member & ZRC Member
David Farren, CAC Member & ZRC Member
Cynthia Creech, Court Clerk & CAC Member
Bob Smith, Planning Board Member
Judy Zimmer, NL Rep to CC Office for the Aging
Thaddeus Flint, Reporter for the Eastwick Press
Several members of the Public

CALL TO ORDER:

The meeting was called to order at 7:00 p.m. by Deputy Supervisor Banker. A moment of silence was followed by the flag salute. Deputy Supervisor Banker pointed out the emergency exits.

MINUTES:

The minutes of the **August 14, 2018 Regular Meeting** and the **August 29, 2018 Special Meeting** were reviewed. A motion was made by Councilmember Rasmussen, seconded by Councilmember Baumli and approved unanimously (Supervisor Teal absent) to accept the above noted minutes as typed.

FINANCIAL:

Supervisor’s Report:

Deputy Supervisor Banker provided the public and TB members with a copy of the Supervisor’s Report as of August 31, 2018. A motion was made by Councilmember Smith, seconded by Councilmember Rasmussen and approved unanimously (Supervisor Teal absent) to accept the Supervisor’s report as typed.

PRIVILEGE OF THE FLOOR:

Donald Durand stated that he has two concerns. One is there are a lot of dead

trees on Canaan Road and it seems like the Town just waits until they fall across the road. He would like to see some proactive remediation to get these trees before they fall on the road or fall on a car or fall on somebody because there is an awful lot, they aren't hard to see. Some are wedged in other trees waiting for the wind to blow them over. He knows it is an expense but that is what town taxes are for.

He stated that his second item is that the town graded Stonehouse Road and in grading the road, they decide to cut a ditch into his property to divert water that is coming down the road. He gave the Town Board members pictures of the ditch. He stated that it is not legal what the Town did. You can't divert water onto an adjacent property that's different from what natural rain flow was having, so the town is diverting that is contaminated with salt and everything else off the road and onto his property. He realizes the town wants to get rid of the water but they may need to run a trench down Stonehouse Road and get rid of it that way. There is also a culvert pipe underneath that transports water from one side onto his property. He would like both of those things fixed. He stated that there is case law that the government can't do what they did.

Deputy Supervisor Banker asked Donald Durand if he has spoken to Highway Superintendent Winestock about this. Donald Durand stated that he did speak to Superintendent Winestock about it 4 years ago and he spoke recently to the Town Supervisor who said she would look into it but she hasn't gotten back to him yet.

OLD BUSINESS:

Generator for Town Hall:

Councilmember Smith stated that Randy Hatch said we would have to add a 3rd box downstairs. We would take whatever the highway garage needed, the meeting room in the town hall and both furnaces in the town hall. That would be the only box that would be hooked to the generator. He stated that whenever the town board wants to put that out to bid we can do that.

Ed Godfroy stated that you can't isolate circuits in the highway garage because the whole feed comes from the town hall to the highway garage. Councilmember Baumli asked if Councilmember Smith could have Hatch look at it and tell us what size of generator is needed to run just the new meeting hall and the size needed to run the entire town hall and the highway garage.

Councilmember Baumli made a motion to have Ward Hatch Mechanical come evaluate the electrical usage needs for the proposed generators and determine what size generator we would need to run the town hall meeting room only and what size generator we would need to run the entire town hall and town garage as a free estimate at no cost to the town. Councilmember Rasmussen seconded that motion.

Roll Call Vote:

Councilmember Rasmussen -	Aye
Councilmember Smith -	Aye
Supervisor Teal -	Absent
Councilmember Newton -	Aye

Councilmember Baumli - Aye

Councilmember Smith stated that it might be hard to get someone to come out and give us specs if we aren't going to pay them. Ed Godfroy stated that NYSEG will come out for free and give energy usages and specs for the size of generator needed.

Councilmember Baumli asked Court Clerk Creech about possible grant money through the court JCAP grant funds for the generator. Court Clerk Creech stated that she has called a couple of times and the person who can answer that question has not been available. She stated that she mentioned it to Judge Byrne and her response was something along the lines of maybe she would be interested in swapping a generator for some extra hours at the court. Councilmember Smith stated that Judge Byrne said that she did put in the grant for the generator.

Charitable Reserve Funds (IRS denied):

Deputy Supervisor Banker stated that this is just a point of information for both the town board and the public. The New York State attempt to establish charitable reserve funds to offset the limits on charitable donations has been denied by the IRS so that is not going to move forward.

Bid For Highway Fuel Tank Project:

Councilmember Smith stated that he spoke with Town Engineer Paul McCreary and he didn't realize that he was supposed to have it done by today. The specs aren't done on that. He is not sure when they are going to be done so he doesn't know if we want to deal with this at the special meeting. Attorney Tuczinski stated that we are going two avenues. We are going out to bid and we are also going back to the state to see if we can get a waiver, whether they can accept some new information, but we don't want to be caught flat footed if they don't. He recommends that we go ahead with the bids, try to do them at the special meeting and see if Paul can get us the specs so we can get the bid notices out there. We don't have to award the bid, but we should at least put it out to bid. Attorney Tuczinski suggested we try to have specs from Engineer McCreary by the special meeting and go out to bid then. Councilmember Smith stated that we should be ready to go out to bid by the special meeting.

Basketball Hoop Bids:

Town Clerk Houghtling read the following bid notice aloud:

NOTICE TO BIDDERS
SURPLUS ITEM
TOWN OF NEW LEBANON
COUNTY OF COLUMBIA

NOTICE IS HEREBY GIVEN that the NEW LEBANON TOWN BOARD is seeking bids for the following surplus item:

(2) used basketball hoops and posts – one has a cracked backboard

Items are available for viewing at the New Lebanon Town Hall, please contact Tistrya

Houghtling at 794-8888 to schedule a viewing. Sealed bids must be in a PLAIN WHITE ENVELOPE with the item written on the front and must include a “non-collusive bidding certificate”. Bids must be received in the office of the Town Clerk at the New Lebanon Town Hall, 14755 Route 22, P.O. Box 328, New Lebanon, NY, 12125 no later than 4:00 pm on Friday, September 7, 2018. Bids will be opened at the Office of the Town Clerk at 4:00 p.m. on Friday, September 7, 2018 and will be considered by the New Lebanon Town Board at the regular monthly meeting on Tuesday, September 11 to be held at the New Lebanon Town Hall at 7:00 p.m. Electronic and faxed bids will not be accepted. The Town Board reserves the right to reject or accept all bids.

Town Clerk Houghtling stated that at 4pm on Friday, September 7, 2018 we had received no bids. She stated that we did receive a bid over the weekend, and she defers to Attorney Tuczinski on this. She knows normally a late bid would not be accepted but since we received no other bids do we have the ability to consider the late bid or do we have to go back out to bid. Town Attorney Tuczinski asked what the bid notice said, Town Clerk Houghtling stated that the bid notice said bids must be received no later than 4pm on Friday, September 7, 2018. Attorney Tuczinski stated that we cannot accept the late bid.

Councilmember Smith made a motion to put the basketball hoops back out to bid.

Town Clerk Houghtling stated that the cost of printing the bid notices twice is probably more than the bid was for. She asked if we have declared them surplus and gone out to bid and received no bids aren't we allowed to just give them away. Attorney Tuczinski stated that if the town makes a determination that it has no residual value, you can decide what you want to do with it. He asked what the bid amount was. Town Clerk Houghtling stated \$25.00. Attorney Tuczinski stated that at this point you treat it as disposable. Town Clerk Houghtling asked if we can just put them by the dumpster and let someone come pick them up. Attorney Tuczinski stated that you could. Councilmember Smith stated that we can just leave them where they are and let someone come pick them up.

Councilmember Smith made a motion to dispose of the old basketball hoops. Councilmember Newton seconded that motion.

Roll Call Vote:

Councilmember Rasmussen -	Aye
Councilmember Smith -	Aye
Supervisor Teal -	Absent
Councilmember Newton -	Aye
Councilmember Baumli -	Aye

NEW BUSINESS:

Building Department Clerical Staff Request:

Deputy Supervisor Banker stated that the Town Board approved additional hours for the ZBA Clerk, the Planning and Zoning Clerk and the Building Department Clerk but that approval expires on September 18th. The Building Department is requesting an extension of those additional hours until the end of the year and there is intent to add it to the budget for next year.

Councilmember Smith asked if they have the money left in their budget. Deputy Supervisor Banker stated that Supervisor Teal's notes state that there are ample funds in the Contingency Fund to cover this. The Contingency Fund started the year at \$20,000 and it currently has just over \$20,000 due to insurance proceeds on the claims. He stated that she felt that the request could be covered in the current budget.

Councilmember Smith made a motion to approve the request of the Building Department to extend their additional hours through December 31st, 2018 by continuing the additional 10 hours per week total for all clerical positions within the Building Department. Councilmember Rasmussen seconded that motion.

Roll Call Vote:

Councilmember Rasmussen -	Aye
Councilmember Smith -	Aye
Supervisor Teal -	Absent
Councilmember Newton -	Aye
Councilmember Baumli -	Aye

FEMA – August Storm:

Deputy Supervisor Banker stated that Columbia County met its threshold of \$228,000 in damages. County Emergency Management has met with FEMA and toured the damages on 9/4. We now have to wait and see if the state meets their threshold for damages and if so, if the President will make a declaration. It will be a couple of months before we know the answer. We suffered approximately \$60,000 damages in New Lebanon. If there is a declaration we should be eligible for approximately 85% reimbursement of the costs to repair those damages.

Highway Superintendent Winestock stated that on that storm, the other side of the town got hit harder than this side. On this particular storm we had multiple flash floods and the roads have washed out. He thinks the majority of the residents realize and appreciate the County, the Town, the State going out to do this and this gentleman that was in here earlier lives on Stonehouse road. Highway Superintendent Winestock stated that he has done nothing to that road other than fabric and gravel it probably 20 years ago. All of the culverts have been there and all of the run offs have been there way before he owned that land. Nothing has been changed for all of these years. We cannot have water on the road, you have to have the water go somewhere. He has been here 35 years and nothing has changed. We clean the culverts out and we clean the run offs out. You have to make the roads safe.

Dumpster at Town Hall:

Deputy Supervisor Banker stated that Councilmember Smith has some information regarding people using the Town's dumpster illegally. Councilmember Smith stated that he reached out to Waste Management. Rather than trying to waste time prosecuting someone, it's a lot of household garbage, so it's going to attract rodents. It's \$15 per lock through Waste Management so he would say just throw a couple locks on it and be done with it. Councilmember Newton asked if they are just putting on regular locks. Councilmember Smith stated yes but if we provide the locks, it's got to be a combination

lock. If they provide the locks it's \$15 for a key lock. Town Clerk Houghtling asked if we will get multiple keys as multiple people for the Town utilize it. Councilmember Smith stated yes.

Highway Superintendent Winestock stated that it will be difficult in the winter to have to unlock the dumpster every time you need to use it. He stated that you will have people using the dumpster, that's just the way it is. Councilmember Baumli stated that he has a dumpster and people were dumping and filling it up so they put locks on it and it has worked well. He agrees that the town needs locks if the dumpster has been getting full. Town Clerk Houghtling stated that the Town dumpster is not getting full. She has never seen it full. It's not an issue of the dumpsters getting full. Councilmember Smith stated that it is a rodent issue. Household garbage is going to attract rats and mice.

Councilmember Rasmussen made a motion to get 3 locks for the dumpster from County Waste for \$45. Councilmember Smith seconded that motion.

Roll Call Vote:

Councilmember Rasmussen -	Aye
Councilmember Smith -	Aye
Supervisor Teal -	Absent
Councilmember Newton -	Aye
Councilmember Baumli -	Aye

Set Budget Workshop Dates:

Deputy Supervisor Banker stated that we need to set dates and times for budget workshops. Supervisor Teal requested that we set six dates.

Councilmember Newton made a motion to set budget workshops for Monday, October 15th, Tuesday, October 16th, Monday, October 29th and Tuesday, October 30th all at 5:30pm and a budget workshop for Thursday, October 18th at 6:00pm. Councilmember Baumli seconded that motion. The motion passed unanimously (Supervisor Teal absent).

COMMITTEE/LIAISON REPORTS:

Assessor (Councilmember Rasmussen):

No report.

Building Department (Councilmember Baumli):

No report.

CAC & Environmental Management (Councilmember Rasmussen & Bruce Shenker):

Cynthia Creech stated that there is segment from the Natural Resource Conservation Plan on farmland resources starting on page 66. There is a brief discussion about farming in New Lebanon in the 1800s, 1900s and early 2000s with different types of agriculture coming up followed by farmland biodiversity and the introduction of sustainable practices followed by the Columbia County Farmland Protection Plan which went into effect in 2013. There are suggestions of conservation of farmland resources and then an action plan for the municipality which suggest possibilities of farm friendly policies, possibility

of wind turbines on farm electric use, preserving the area for best farmland soils, appointing farmers to various boards, community preservation fund, promote local markets for agricultural products and a further action plan for farmers to join the municipal agencies and commissions, shift tilled land in floodplains to other uses that don't carry the soil away, adopt farm practices that build living soil, minimize application of fertilizer or pesticides in sensitive areas, maintain cover crops and thatch in areas that are prone to flooding and maintain intact habitat areas.

David Farren stated that last night Steve Winkley of the NY Rural Water Association gave a progress report on his study, the source water protection plan for the Town. It should be ready, he hopes, by the end of April 2019.

Fire, Law Enforcement & Emergency (Councilmembers Smith & Newton):

Councilmember Smith stated that we will be working on the budget soon.

Highway (Superintendent Winestock & Councilmembers Smith & Newton):

No report.

Historian & LVHS: (Councilmembers Baumli & Rasmussen):

No report.

Justice Court/Constable (Councilmember Newton):

No report.

Parks & Recreation (Councilmembers Smith & Newton):

No report.

Seniors (Councilmember Baumli & Judy Zimmer):

Judy Zimmer stated that she had a table at Music in the Park and it went well. She plans to table at Music in the Park moving forward.

Town Assets, Buildings & Property (Councilmembers Smith & Newton):

Councilmember Smith stated that before winter we need to have a leak fixed in the cellar and put a new hot water tank in. Councilmember Newton clarified that the pavilion sidewalk project that went out to bid is ONLY around the pavilion in Shatford Park. It is not sidewalks through Town. There was some confusion around this.

ANNOUNCEMENTS:

SEPTEMBER:

Friday, September 21st ~ NY Connects @ Town Hall from 12pm – 3pm

Tuesday, September 25th ~ Special Town Board Meeting @ Town Hall @ 5:30pm to consider bids for Pavilion sidewalk project

OCTOBER:

Tuesday, October 9th ~ Town Board Meeting @ Town Hall @ 7:00pm

ABSTRACT AMENDMENT:

Amend General Abstract No. 8 – Adjust Voucher No. 310 payable to Timothy Sears from \$225.00 to \$75.00 and adjust the abstract total to \$35,795.12; and Amend Highway Abstract No. 8 – Void Voucher No. 80 payable to Colarusso Quarry Co. in the amount of \$400.25 (duplicate payment) and adjust Voucher No. 85 payable to Pittsfield Lawn & Tractor from \$8,451.82 to \$5,631.82 (duplicate payment of \$2,820.00) and adjust the abstract total to \$34,116.83.

A motion was made by Councilmember Rasmussen and seconded by Councilmember Newton to approve the above noted abstract amendments.

Roll Call Vote:

Councilmember Rasmussen -	Aye
Councilmember Smith -	Aye
Supervisor Teal -	Absent
Councilmember Newton -	Aye
Councilmember Baumli -	Aye

BUDGET AMENDMENT CORRECTION:

Correction of Budget Amendment No. 6 of 2018 dated August 14, 2018: Justice Court: Personal Services – account no. correction to A-1110.15.

A motion was made by Councilmember Rasmussen and seconded by Councilmember Baumli to approve the above noted budget amendment correction.

Roll Call Vote:

Councilmember Rasmussen -	Aye
Councilmember Smith -	Aye
Supervisor Teal -	Absent
Councilmember Newton -	Aye
Councilmember Baumli -	Aye

BUDGET AMENDMENT:

Budget Amendment #7 of 2018:

General Fund:

\$572 from A-7310.1 (Youth Program: Personal Services)
\$572 to A-7310.4 (Youth Program: Contractual Expenses)

Highway Fund:

\$2,059 from DA-4960 (State Aid: FEMA 4322 DR NY)
\$2,059 to DA-5110.4 (General Repairs)

A motion was made by Councilmember Rasmussen and seconded by Councilmember Baumli to approve the above noted budget amendment.

Roll Call Vote:

Councilmember Rasmussen -	Aye
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Councilmember Smith -	Aye
Supervisor Teal -	Absent
Councilmember Newton -	Aye
Councilmember Newton -	Aye

AUDIT OF BILLS:

**General Nos. 327 through 328, in the amount of \$696.75;
As listed on Abstract No. 8A of 2018 dated September 11, 2018.**

**General Nos. 329 through 360, in the amount of \$51,370.01; and
Highway Nos. 92 through 106, in the amount of \$60,732.33;
As listed on Abstract No. 9 of 2018 dated September 11, 2018.**

A motion was made by Councilmember Smith and seconded by Councilmember Rasmussen to pay the above noted claims from their respective accounts.

Roll Call Vote:

Councilmember Rasmussen -	Aye
Councilmember Smith -	Aye
Supervisor Teal -	Absent
Councilmember Newton -	Aye
Councilmember Baumli -	Aye

EV CHARGING STATION:

Councilmember Smith asked Attorney Tuczinski what he needs the Town Board to authorize for him to do in order to move forward with the easement. Attorney Tuczinski stated that we have a deal tentatively worked out with the owner of the property. He needs to consummate the deal. We are going to get a 10 year easement at no consideration, it's essentially a gift. He needs authorization to draw up the easement and attach a map as a description because it's not over all of the property. It's important to be specific as to exactly what portion of the property we are going to use. If he can get authorization to draw up the documents, review it with the Supervisor, then they will grant us the easement and we will file it. That will give us time to put in the charging station. This is funded through the State grant. He is unclear as to if the State pays for the charging for the whole ten years or not. Town Clerk Houghtling stated that for the first two years, the State pays everything and you cannot charge a fee to people. After that two year period then it's up to the Town Board to decide a charging fee schedule. They recommend that you charge at least what it costs in energy. Some Towns do make a profit off of it. You can certainly charge more than the cost of energy, but we don't need to decide that for the easement.

Town Clerk Houghtling stated that the company that we accepted the bid from, in order to get it done before the ground freezes, would like to start October 1st. She asked the Attorney if that is realistic. Attorney Tuczinski stated that is pretty fast. He has to work it out with the owner. He spoke to him on the phone and he is happy to help but he doesn't have a lot of details. We have to work out the details. He doesn't think October 1st is going to happen. He hasn't seen the maps, we haven't sketched it out, we haven't

gone over it with him. It's going to take some time to put it in place and he has to make sure he is in agreement with it. It sounds like he is, but he just doesn't have a lot of details.

Councilmember Smith made a motion authorizing Attorney Tuczinski to finalize an easement for the EV charging station, go over it with Supervisor Teal when it's completed, and accept the easement on behalf of the Town. Councilmember Rasmussen seconded that motion.

Roll Call Vote:

Councilmember Rasmussen -	Aye
Councilmember Smith -	Aye
Supervisor Teal -	Absent
Councilmember Newton -	Aye
Councilmember Baumli -	Aye

PRIVILEGE OF THE FLOOR:

David Farren stated that he left here around this time last night and the roads were treacherous because of all the tree fall and he drove those same roads tonight and they had all been cleared. He thanked the highway department.

He stated that DEC has notified the State that there is a pest called the spotted lantern fly that has been reported in Albany County. They want to be aggressive in trying to eradicate them so if anyone sees any, please report them. He asked Town Clerk Houghtling to post it on the town website.

He stated that the Taconic Hiking Club is seeking membership. It is \$10 per year. They are maintaining the 39 miles of trail up on the crest, much of it through New Lebanon. Anyone who is interested in hiking should consider joining. He will put fliers in the Town Clerk's office.

Jagat Pandey stated that he brought to the attention of the Town Board the bad condition of the shoulder on Route 20 across from his house last month and nobody has addressed the issue. He stated there was an accident with a mobile home and the shoulder is in bad shape. He saw another kid riding his bike fall down because of it. Town Clerk Houghtling stated that she will follow up with DOT and let Jagat know what they say.

ADJOURNMENT:

A motion was made by Councilmember Newton and seconded by Councilmember Rasmussen to adjourn the meeting at 8:04 pm.

Respectfully submitted,

Tistrya Houghtling
New Lebanon Town Clerk