

**MINUTES OF THE REGULAR MONTHLY MEETING OF
THE TOWN BOARD OF THE TOWN OF NEW LEBANON
HELD ON DECEMBER 14, 2009**

Present: Margaret Robertson, Supervisor
Bruce Baldwin, Councilmember
Allen Livermore, Councilmember
Monroe (Monte) Wasch, Councilmember
Karl B. Chittenden, Councilmember

Recording Secretary: Colleen Teal, Town Clerk

Others Present: Jason Shaw, Attorney for the Town
Jessica Byrne, Town Justice
Darcy Poppey, Town Justice
Diane Brown, Deputy Court Clerk
Phillip Brown
Charmel Bergdoll
Bill Bergdoll
Kathy Murnane, NL Rep. to CC Office for the Aging
Matt Murnane, Planning Board Member
John Dax, NL Rep. to CC Environmental Management
Council & ZBA Chairman
Tony Murad, ZBA & Building Committee Member
Paul St. Germain, Building Committee Member
Mark Baumli
Marie Balle
Helen Burton, LVHS
Doug Clark, Councilmember-Elect
Leonard (Rocky) Brown
Reporter for *The Chatham Courier*
Phil Zema, Reporter for *The Eastwick Press*
Several other members of the public

CALL TO ORDER:

The meeting was called to order at 7:30 p.m. by Supervisor Robertson. A moment of silence was followed by the flag salute.

MINUTES APPROVAL:

The minutes of the **October 19, 2009 Regular Monthly Meeting** were reviewed; a motion was made by Councilmember Wasch, seconded by Councilmember Baldwin and passed (Councilmember Livermore abstained) to approve the minutes as typed.

The minutes of the **October 20, 2009 Budget Workshop** were reviewed; a motion was made by Councilmember Baldwin, seconded by Councilmember Livermore and passed (Councilmember Chittenden abstained) to approve the minutes as typed.

The minutes of the **October 22, 2009 Budget Workshop** were reviewed; a motion was made by Councilmember Livermore, seconded by Councilmember Baldwin and passed (Councilmembers Chittenden and Wasch abstained) to approve the minutes as typed.

The minutes of the **October 22, 2009 Budget Workshop** were reviewed; a motion was made by Councilmember Livermore, seconded by Councilmember Baldwin and passed (Councilmembers Chittenden and Wasch abstained) to approve the minutes as typed.

The minutes of the **October 27, 2009 Budget Workshop** were reviewed; a motion was made by Councilmember Livermore, seconded by Councilmember Baldwin and passed unanimously to approve the minutes as typed.

The minutes of the **October 31, 2009 Budget Workshop** were reviewed; a motion was made by Councilmember Baldwin, seconded by Councilmember Wasch and passed (Councilmembers Chittenden and Livermore abstained) to approve the minutes as typed.

The minutes of the **November 5, 2009 Public Hearing on the 2010 Preliminary Budget** were reviewed; a motion was made by Councilmember Baldwin, seconded by Councilmember Livermore and passed (Councilmember Chittenden abstained) to approve the minutes as typed.

SUPERVISOR'S REPORT:

Supervisor Robertson read her monthly report. A motion was made by Councilmember Wasch, seconded by Councilmember Livermore, and passed unanimously (Councilmember Chittenden abstained) to accept the Supervisor's Report.

PRIVILEGE OF THE FLOOR:

Leonard (Rocky) Brown addressed the town board regarding time clocks and background checks. There was a general discussion regarding among the town board, the town attorney. Councilmember Livermore noted that he supports the idea. **Jack Yurish** addressed the town board noting his support of the use of time clocks and background checks. Councilmember Wasch asked the Town Supervisor to check with our insurance carrier to see if the implementation of time clocks would reduce the town's liability. Councilmember Chittenden recommended tabling the decision until we have the final audit report.

John Dax, ZBA Chairman and Member of the Zoning Re-write Committee, addressed the town board regarding the Zoning Re-write and its adoption. Councilmember Baldwin suggested having a SEQR workshop to prepare a long form SEQR at the December 28th meeting of the Town Board and the board agreed. Doug Clark will provide the Town Clerk with the updated map. Councilmember Baldwin noted that he still feels the overlays are a concern – adopting the Zoning without the overlays being completed.

Trina Porte addressed the town board regarding the town hall project and concerns that the deadline for filing a letter of intent to be eligible for New York State Energy Research and Development Authority (NYSERDA) is 12/31. Councilmember Wasch noted that he is following up on NYSERDA funding.

Marie Balle addressed the town board regarding a publication entitled "OUR TOWN ~ Columbia County Tourism Issue" in which New Lebanon is portrayed very negatively. There was a discussion by the town board about publicity and getting out positive

information about New Lebanon. **Trina Porte** noted that she wrote a letter to the editors/publishers of this publication in response to the negative portrayal of New Lebanon but she did not receive a response.

COMMITTEE REPORTS:

Announcements:

~ no report ~

Economic & Business Development:

Mid-Town Mall Project:

Lori Bashour, Mid-Town Mall owner, presented information to the Town Board and the public regarding plans for the mall. Generally, the project at the mall is considered “shovel” ready. Ms. Bashour is looking at moderate housing and the installation of eight (8) apartments on the second floor of the Mall. There are federal HUD funds available for projects of this nature. Additionally, there are micro enterprise grants for businesses interested in setting up in the mall.

In particular, Ms. Bashour would like to pursue a HUD Community Development Block Grant for the Mid-Town Mall. Councilmember Wasch noted that to be eligible to apply for this grant, the town board must hold a public hearing to present to the public the moderate housing project.

A motion was made by Councilmember Wasch, seconded by Councilmember Baldwin, and passed to set a public hearing for an informational meeting on a HUD Community Development Block Grant for the Mid-Town Mall to be held on Monday, January 11, 2010 at 6:45 p.m. at the American Legion Hall.

New Lebanon Supermarket Closure:

Lori Bashour, Mid-Town Mall owner, addressed the Town Board regarding the closure of the New Lebanon Supermarket. She noted that this closure has created a “dead food zone,” therefore; the states invested in helping us “fix” this. Ken Flood, Columbia County Commissioner of Planning and Economic Development, wants to visit New Lebanon in person. Councilmember Wasch reported that LVBA sponsored a meeting tonight to discuss the closure of the supermarket. The most immediate concern is providing transportation to those who cannot get to Pittsfield or Chatham for groceries. Councilmember Wasch, Peter Quinn, and others are working on this. Councilmember Wasch also reported that the LVBA will be holding a strategy meeting in January to plan their activities for 2010; Councilmember Wasch encouraged all business owners to join as well as individuals. Kathy Murnane noted that there are county vans available for transportation. Additionally, Supervisor Robertson reported that Charly’s Pantry is in need of donations; their refrigerator, freezer and shelves are bare.

Highways, Buildings, & Town Property:

Authorization to go out to bid: Calcium Chloride; Fuel; Sand, Stone & Gravel:

A motion was made by Councilmember Baldwin, seconded by Councilmember Livermore, and passed unanimously to authorize the Highway Superintendent to publish bid requests for calcium chloride; fuel; and sand, stone and gravel for 2010. The bids will be received at the January 11th meeting of the Town Board.

Flood Damage:

Highway Superintendent Winestock noted his frustration that there will be no SEMO and/or FEMA monies for New Lebanon or other municipalities in Columbia County for the flood damage at the end of July. There was more damage caused by this flooding than many of the snowstorms we received FEMA and SEMO funding for. Mr. Winestock noted that he would like to see documentation stating why we were not included in the “state of emergency” declaration on the state and federal level.

Landfill Closure:

The Town Attorney provided the Town Board with more documentation regarding the Old Post Road Landfill Closure. There was a general discussion regarding the closure of the landfill. This item was tabled.

Darrow School aqueducts:

Councilmember Baldwin noted that there are serious concerns surrounding the historic aqueducts under Shaker Road and the Town needs to put Darrow School on notice regarding the liability. Councilmember Baldwin encouraged the Highway Superintendent and Town Clerk to compose a letter to the property owner. Councilmember Chittenden noted that the Shaker Museum Foundation owns the property and it classified by the state as “historical property” which requires special handling of the situation. Councilmember Baldwin noted that there has been no action in five (5) months; another storm will take out Shaker Road and then who will pay for the repairs?

Covenant Circle:

There was a general discussion regarding Covenant Circle and the need for an engineer to evaluate the part of the road constructed in the second phase of the subdivision; the Martin Act; a home owner’s prospectus that had to be filed with the Attorney General’s Office, etcetera.

Town Hall Project:

Architectural Bureau Contract:

The Town Board and the Town Attorney will review the contract and execution of the contract will be put on December 28th agenda.

General Project:

Councilmember Baldwin noted that it is the intent of the Architect and the Building Committee to hold the project under \$500,000. The septic at the Town Hall site has been evaluated and Dale Rowe from County has been consulted; it is Councilmember Baldwin’s recommendation that nothing be done on the septic until the project is done.

Zoning, Planning, Code Enforcement, & Assessor:

Environmental Advisory Council:

The proposed local law to establish an environmental advisory council was tabled. Councilmembers Chittenden and Livermore will review the draft of the law and make recommendations to the board.

Education & Recreation: ~ no report ~

Security, Fire, Law Enforcement, Justice Court & Constable:

Plowing at the American Legion Hall:

Highway Superintendent Winestock noted his frustration that someone else is paid to do this job but further noted that the Highway Department will sand and plow the American Legion parking lot.

Town Administration & Systems:

Columbia Greene Humane Society Annual Contract:

Town Clerk Teal requested authorization to renew the annual contract with Columbia Greene Humane Society for the sheltering of impounded dogs.

A motion was made by Councilmember Baldwin, seconded by Councilmember Wasch, and passed unanimously to authorize the Town Clerk to renew the contract with Columbia Green Humane Society for 2010.

Time Clocks and Background Checks:

See Privilege of the Floor.

Item tabled.

Update on County Board and Committee Meetings:

Supervisor Robertson noted that the minutes of these committee meetings are available on the County website.

COMMUNICATIONS:

#01 – Jack Yurish, Shaker View Farmland Conservation Committee

Re: Shaker View Farmland Conservation Project

In response to an inquiry from the Shaker View Farmland Conservation Committee, it was noted that legally the town board cannot make a charitable contribution which is what any contribution to the project would be.

#02 – Mark Baumli, New Lebanon

Re: Complaint regarding Zoning Violations

Mark Baumli addressed the town board regarding the violations on the Ferguson property on Route 20. The appearance of this property is worse now than it was before the town pursued legal action. A letter was issued to the property owner in April that stated if the property owner did not comply with the law it would “result in it being referred to the courts for further action;” yet, to date, nothing more has been done.

The Town Attorney noted that this time it is a violation of a court order; Mr. Ferguson was directed by the court to “clean-up” the property and to keep it “cleaned-up.”

A motion was made by Councilmember Livermore, seconded by Councilmember Chittenden, and passed unanimously to authorize the Town Attorney to proceed against Mr. Ferguson for violation of a court order.

#03 – Robert Smith, New Lebanon

Re: Letter of Interest for ZEO position

The town board tabled this item until the Organizational Meeting.

OLD BUSINESS:***Darrow School, Resolution No. 28 of 2009 ~ Adding Darrow School as a jurisdiction to an already FEMA-approved Multi-jurisdictional Hazard Mitigation Plan:***

The following resolution was proposed by Councilmember Monroe Wasch and seconded by Councilmember Karl B. Chittenden:

WHEREAS, on October 13, 2008 the Town Board of the Town of New Lebanon approved Resolution No. 27 of 2008 entitled "Adopting Multi-Jurisdictional Hazard Mitigation Plan;" and

WHEREAS, the Darrow School has requested that the Town of New Lebanon, New York; the Columbia County New York Emergency Management Office; and the Columbia County Department of Public Works include Darrow as a jurisdiction to the already FEMA-approved multi-jurisdictional plan and therefore establish Darrow School's eligibility for FEMA sponsored flood mitigation funding; and

WHEREAS, the Columbia County New York Emergency Management Office and the Columbia County Department of Public Works require the approval of the Town of New Lebanon before they will approve the Darrow School as a jurisdiction to the already FEMA-approved multi-jurisdictional hazard mitigation plan.

NOW, THEREFORE BE IT RESOLVED, that the Town Board of the Town of New Lebanon hereby approves the addition of the Darrow School to the already FEMA-approved multi-jurisdictional hazard mitigation plan on the condition that the application of the Darrow School is reviewed by the Columbia County New York Emergency Management Office and the Columbia County Department of Public Works and those agencies similarly approve the request.

Upon the question of the foregoing motion, the following Town Board Members voted "Aye" or "Nay" for said motion:

Roll Call Vote:

| | |
|----------------------------------|--------|
| Supervisor Margaret Robertson | Aye |
| Councilmember Bruce Baldwin | Absent |
| Councilmember Allen Livermore | Aye |
| Councilmember Monroe Wasch | Aye |
| Councilmember Karl B. Chittenden | 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.

NEW BUSINESS:***Year End Meeting, Organizational Meeting, and Annual Audit:***

The Town Board set the Year End Meeting for 7:00 p.m. on Monday, December 28, 2009 at the American Legion Hall. This meeting will also be for a workshop to prepare the long form EAF for the SEQR for the Proposed Zoning Re-write. The Town Board set the Organizational Meeting for 7:00 p.m. on Monday, January 4, 2010 at the American Legion Hall; the board requested that the Town Clerk advertise for the Park Maintenance Superintendent position. The Town Board set the Annual Audit of the

Books for Saturday, January 9, 2010 @ 9:00 a.m. to begin at the Town Hall to audit the books of the Tax Collector, the Chief Fiscal Officer, the Building Department, and the Town Clerk. The meeting will then move to the American Legion Hall to audit the books of the Town Court.

Public Hearing (Continuation) on the Proposed Zoning Re-write:

The Town Board set a meeting for the continuation of the Public Hearing on the Proposed Zoning Re-write for Monday, January 25, 2010 at 7:00 p.m. to be held at the New Lebanon Firehouse, subject to availability.

ANNOUNCEMENTS:

December:

Building/Town Hall Committee ~ Wednesday, December 16th @ 7:00 p.m. @ the American Legion Hall: Joe Iuviene, the Architect on the project will be present and the public is serious encouraged to attend.

Year Meeting of the Town Board ~ Monday, December 28th @ 7:00 p.m. @ the American Legion Building

January:

Organizational Meeting of the Town Board ~ Monday, January 4th @ 7:00 p.m. @ the American Legion Hall

Annual Audit Meeting of the Town Board ~ Saturday, January 9th @ 9:00 a.m. @ the Town Hall (ending at the American Legion Hall)

Public Hearing on the Mid-Town Mall Project ~ Monday, January 11th @ 6:45 p.m. @ the American Legion Building

Regular Meeting of the Town Board ~ Monday, January 11th @ 7:00 p.m. @ the American Legion Hall

Public Hearing on the Proposed Zoning Re-write ~ *tentatively scheduled for* Monday, January 25th @ 7:00 p.m. @ the New Lebanon Firehouse

AMEND HIGHWAY ABSTRACT NO. 11:

Whereas Highway Abstract No. 11 included Voucher No. 155 that the Town Board approved in the amount of \$7,101.00 but said voucher was incorrectly listed on the abstract at \$2,196.00;

A motion was made by Councilmember Wasch, seconded by Councilmember Livermore, and passed unanimously to approve the amendment of Highway Abstract No. 11 to correct Voucher No. 155 and correct the abstract total to \$67,690.34.

AUDIT OF THE BILLS:

General Fund Claim Nos. 424 through 464, in the amount of \$51,587.03; and

Highway Fund Claim Nos. 166 through 187, in the amount of \$35,617.84;

As set forth in Abstract No. 12, dated December 14, 2009; were audited.

A motion was made by Councilmember Livermore, seconded by Councilmember Wasch, and approved unanimously to pay the above noted claims from their respective accounts.

ADJOURNMENT:

A motion was made by Councilmember Wasch and seconded by Councilmember Livermore to adjourn the meeting at 11:00 p.m.

Respectfully submitted,

Colleen Teal, RMC
Town Clerk