

**MINUTES OF THE REGULAR MONTHLY MEETING OF
THE TOWN BOARD OF THE TOWN OF NEW LEBANON
HELD ON JULY 13, 2009**

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

Absent: Karl B. Chittenden, Councilmember

Recording Secretary: Colleen Teal, Town Clerk

Others Present: Jason Shaw, Attorney for the Town
Jeffrey Winestock, Highway Superintendent
Kathy Murnane, NL Rep. to CC Office for the Aging
Matt Murnane, Planning Board Member, Zoning Re-
write Committee
Sandra Knakal, Chatham Film Club President
John Dax, Zoning Board of Appeals Chairman, Zoning
Re-write Committee
Tony Murad, Zoning Board of Appeals Member, Zoning
Re-write Committee
Trina Porte; Planning Board Member
Chuck Gerald; Zoning Board of Appeals Member
Jeff Hattat, Zoning Board of Appeals Member
Phyllis Hulbert
Leonard (Rocky) Brown
Sesame Campbell, Reporter for *The Chatham Courier*
Several other members of the public

CALL TO ORDER:

The meeting was called to order at 7:05 p.m. by Supervisor Robertson. A moment of silence was followed by the flag salute.

MINUTES APPROVAL:

The minutes of the **May 11, 2009 Regular Monthly Meeting** were reviewed; a motion was made by Councilmember Baldwin, seconded by Councilmember Wasch and passed unanimously (Councilmember Chittenden absent) to approve the minutes as typed.

The minutes of the **May 21, 2009 Special Meeting** were reviewed; a motion was made by Councilmember Wasch, seconded by Councilmember Baldwin and passed (Councilmember Livermore abstained, Councilmember Chittenden absent) to approve the minutes as typed.

The minutes of the **June 8, 2009 Regular Monthly Meeting** were reviewed; a motion was made by Councilmember Baldwin, seconded by Councilmember Livermore and unanimously (Councilmember Chittenden absent) to approve the minutes as typed.

The minutes of the **June 22, 2009 Workshop on Local Law No. 2 of 2009 ~ Ethics** were reviewed; a motion was made by Councilmember Wasch, seconded by Councilmember Livermore and passed unanimously (Councilmember Chittenden absent) to approve the minutes as typed.

The minutes of the **June 29, 2009 Public Hearing on Proposed Zoning Re-write** were reviewed; a motion was made by Councilmember Wasch, seconded by Councilmember Baldwin and passed unanimously (Councilmember Chittenden absent) 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 Baldwin, and passed unanimously (Councilmember Chittenden absent) to accept the Supervisor's Report.

Councilmember Baldwin asked about the CHIPs monies received to date. It was noted that we have received approximately \$60,000 and another approximately \$24,000 is anticipated.

BIDS ~ CONTRACTED HIGHWAY EQUIPMENT:

The Town Clerk read the Notice to Bidders as posted and published:

NOTICE TO BIDDERS/ HIGHWAY DEPARTMENT/
TOWN OF NEW LEBANON/ COUNTY OF COLUMBIA

NOTICE IS HEREBY GIVEN that the Town of New Lebanon is seeking sealed bids for the following equipment for hire:

1. Bulldozer, 8 to 10 ton – 70 or more horsepower
Hourly with operator & hourly without operator
Please include year and make in the bid.
2. Excavator – 14 to 16 ton – 70 or more horsepower
Hourly with operator & hourly without operator
Please include year and make in the bid.
3. Dump truck – 10 wheeler or tri-axle
Hourly rates
Please state whether the bid for or a 10 wheeler or a tri-axle
Please include year and make in the bid.

Bids **MUST** be in a **SEALED, PLAIN WHITE ENVELOPE (no logo)**; marked "**BID**"; and received in the office of the New Lebanon Town Clerk at the Town Hall, 14755 Route 22, New Lebanon, New York, no later than 5:00 p.m. on Monday, July 13, 2008. All bids must include a *Non-Collusive Bidding Certificate*. The bids will be opened at the regular monthly Town Board meeting to be held Monday, July 13, 2008 at 7:00 p.m. at the American Legion Hall at 7 Mill Road, New Lebanon, New York.

The Town Board reserves the right to reject or accept all bids.
Jeffrey Winestock, Highway Superintendent

The following sealed bids were received:

D & J Excavating, HCR 1 Box 62, Stephentown

Bid price for rented equipment with operator:

1986 AUTOCAR 400 hp tri-axle:	\$85.00 per hour
2001 D5 CAT DOZER with operator:	\$85.00 per hour

1998 311B excavator with operator: \$110.00 per hour
 2005 Bobcat mini excavator with operator: \$75.00 per hour

J. Bergeron Trucking, 299 Tsatsawassa Lake Road, East Nassau

Bid for hourly trucking for the Town of New Lebanon Highway Department:

1987 Ford LTL 9000
 Tri-axle Dump Truck
 400 hp Catapillar
 NYS Overweight permitted
 \$1,000,000 Liability insurance coverage
 Hourly trucking rate: \$85.00

A motion was made by Councilmember Baldwin, seconded by Councilmember Livermore and approved unanimously (Councilmember Chittenden absent) to accept both bids to be used at the discretion of the Highway Superintendent.

The Highway Superintendent noted that others had expressed an interest in submitting bids but it was noted by the Town Clerk that no other bids were received.

TAKING WOODSTOCK PREMIER:

Sandra Knakal, President of the Chatham Film Club, addressed the Town Board regarding the *Taking Woodstock Special Screenings and Premiere Party*. The Special Screenings are Thursday, July 30th at the Crandall Theatre in Chatham at 6:00 p.m. and 8:30 p.m. for \$25.00 per person and the Premiere Party is from 7:00 p.m. to Midnight at the Party Tent on Main Street in Chatham for \$50.00 per person; \$150 per person includes movie and reserved party seating. Half of the monies raised will go to the Regional Food Bank of Northeastern New York, specifically to Columbia County food banks, and half will go to The Chatham Film Club to purchase the Crandall Theatre. Advanced tickets can be purchased by mail, on-line, and at the Angel's Trumpet in New Lebanon.

PRIVILEGE OF THE FLOOR:

Phyllis Hulbert addressed the town board regarding a break-in at **Charlie's Pantry**. Everything in the freezer was taken; they are in dire need of restocking and can use help from anyone that can help. Ms. Hulbert also asked if the Town Supervisor had appointed a new deputy so that there was someone designated in case something should happen. Supervisor Robertson noted that she had not appointed a deputy yet.

Rocky Brown addressed the town board regarding background checks and the importance of having them done on employees. He noted that Senator Chuck Schumer is trying to pass a bill to require background checks and further noted that if the town hires someone with a record, the town is then responsible. The board noted that they would wait to see what is done federally or state-wide.

COMMITTEE REPORTS:

Announcements:

~ no report ~

Economic & Business Development:**Restore NY ~ Mid-Town Mall Project:**

Councilmember Wasch reported that we have not received any work yet on the Mid-Town Mall grant application.

Broadband:

Councilmember Wasch reported that there may be USDA money for broadband projects. He contacted Congressman Scott Murphy's office and they are tracking this for us.

Highways, Buildings, & Town Property:**Quotes for Tennis Court and Basketball Court Repairs/Maintenance:**

Councilmember Livermore noted that he received bids from Donovan's Construction Company out of Pittsfield and he sent copies to the other board members. He will send a copy to the Town Clerk. The board tabled this item for the August meeting.

Buildings:

Councilmember Baldwin updated the board on the activities of the Building Committee. At this point, Councilmember Baldwin and Councilmember Chittenden are focusing on the Town Hall; they are looking at the work files and planning that was done previously for the town hall. Councilmember Baldwin also noted that they are looking at some ideas that have more centered open space and less a labyrinth of hallways like we currently have. Another group is looking at the New Lebanon Firehouse with the current floor plan. Between the two choices, the most expedient would probably be refurbishing the current town hall; if we are looking at the firehouse, we would be waiting for them to vacate before we could proceed. The committee has generally agreed to steer clear of the third choice, the former Bouchard property; it is a twenty-five (25) year building that is twenty-five (25) years old. Councilmember Wasch noted that he would like to strongly recommend that the committee focus on the current town hall site and drop all other options. It is the only site that is available within both a reasonable time-frame and a reasonable cost. However, he does not want to mandate to a committee that the board has designated to make recommendations. Councilmember Baldwin noted that Kent Pratt, Code Enforcement Officer, has looked into the availability of state architects to review plans for us and there may be a fee associated with it but it will be significantly less than hiring our own architect for the project. Councilmember Baldwin further noted that there has been some discussion about sun energy, geo-thermal energy, etcetera but these are "add-on" features and can be decided later. The more "focused" the committee becomes at this point, the sooner a decision can be made and action can begin. Several board members concurred that the current town hall site appears to be the best alternative.

Councilmember Baldwin also are reported that they are working on the handicapped parking at the town hall. They have plotted out a handicapped parking spot as well as eight other parking places to be painted. They are awaiting approval from Joe Reich, Associate Advocate with the NYS Commission on Quality Care and Advocacy for Persons with Disabilities. They will be painting the lines for the parking spaces and reinforcing the ramp in the beginning of August.

Zoning, Planning, Code Enforcement, & Assessor:**Planning Board Training:**

Trina Porter, Planning Board member, submitted a request to attend the New York Planning Federation annual conference in Lake Placid September 14 and 15. The cost of the conference is \$100.00; however, room and board are approximately \$500.00. Ms. Porte is looking at alternative locations to stay at a lower cost. The board tabled the decision until the August meeting when Ms. Porte would have the room and board information.

Zoning Board of Appeals:

Councilmember Baldwin reported that Howard Commander appeared before the Zoning Board of Appeals last week and communication has begun between Mr. Commander and the town.

Conservation Advisory Council:

Councilmember Livermore reported that through a training he recently attended, he obtained information about establishing a Conservation Advisory Council. Additionally, Councilmember Livermore noted, the Comprehensive Plan calls for the establishment of said council. This council would help manage, protect, and catalogue the natural resources in the community. Within Columbia County, the only town that is known to have such council is Hillsdale but outside Columbia County they are fairly common. Councilmember Livermore requested that the town board consider establishing a Conservation Advisory Council. Councilmember Wasch noted that while he believes this would be a good thing, he is concerned about getting volunteers to serve on the council. ZBA Chairman, John Dax noted that the establishment of a Conservation Advisory Council is in the Comprehensive Plan and, further, this might be the appropriate group to develop some of the overlays for the Zoning Re-write such as the scenic overlay district. Planning Board member Trina Porte noted that this council could develop a habitat map for use with SEQRA. The town board asked Attorney Shaw to develop a draft law for the establishment of a Conservation Advisory Council.

Education & Recreation:**Summer Youth Program:**

Supervisor Robertson reported that there are ninety-five (95) children enrolled in the Summer Youth Program.

Columbia County Office for the Aging:

Kathy Murnane, New Lebanon representative to the Columbia County Office for the Aging, reported that New Lebanon has been notified that they are eligible for \$3,000 in grant monies from the New York State Office for the Aging for seniors. She and the Town Supervisor are working on a grant application to include kitchen equipment so that the seniors can use the town hall for their monthly meetings and events as well as some exercise equipment. Many of the surrounding towns use their town hall as their senior center and the hope is to develop our town hall into a "senior center" after the "renovation" work is completed.

New Lebanon Library:

Councilmember Livermore reported that the New Lebanon Library has amazing programs for all ages; a wide range of services with great breadth and depth.

Security, Fire, Law Enforcement, Justice Court & Constable:**Shared Services - Town of Canaan:**

Councilmember Livermore reported that he is putting the finishing touches on the letter to the Town of Canaan.

Town Administration & Systems: ~ no report ~

Town Hall Project:

See: ***Highways, Buildings, & Town Property: Buildings:***

Update on County Board and Committee Meetings:

Supervisor Robertson reported on the activities of various boards' and committee's that she sits on at the County level noting that the minutes of these committee meetings are available on the County website.

COMMUNICATIONS:***Liquor License Renewals:***

Mario's Restaurant

No Action.

#01 – John Dax, ZBA Chairman

Re: Lebanon Valley Auto Racing – Unpermitted Campground

#01A– John Dax, ZBA Chairman

Re: Definition of Campground

ZBA Chairman John Dax noted that the Zoning Board of Appeals recently had to apply the definitions of "Campground" provided in both the Zoning Ordinance and the Campgrounds Ordinance. The ZBA found the definition to be overly broad and asked that the town board consider adopting the following definition for both the Zoning Ordinance and the Campgrounds Ordinance:

Campground - Any lot, or adjoining lots if under the control of one person or business, including the buildings and other structures on such lot, on which are located five or more campsites, tents, tent houses, trailers, cabins, camp cottages, vehicles, including recreational vehicles, or other structures intended for temporary or seasonal overnight occupancy. Excluded from this definition is the use of the yard of an existing occupied residence for occasional and irregular overnight camping by (i) family members or guests of the resident or (ii) groups (such as scouts), being hosted by the resident.

The town board discussed changing the definition as requested by the Zoning Board of Appeals.

Town Clerk Teal noted to the town board that she also needed the town board to address the campgrounds ordinance. An applicant inquired about the requirements for submitting a campground application and Ms. Teal could not guide them due to conflict

between the Zoning Ordinance and the Campgrounds Ordinance. The campgrounds ordinance requires that the Town Clerk immediately submit a copy of the application to the Zoning Board of Appeals for their recommendation and notes that they need to respond within thirty (30) days. However, the Zoning Ordinance requires the applicant to obtain a Special Permit from the Zoning Board of Appeals and a Special Permit cannot be obtained in thirty days. Additionally, Ms. Teal noted, the ordinance requires that the town board act within sixty (60) days of receipt of the application. The timing does not work.

It was also noted that Mr. Commander was advised to come to the town board and request a waiver or a variance from the campgrounds ordinance because he could not live with some of the conditions in the ordinance. In particular, the town's size requirements for each site are almost double the state's requirements which are developed for fire and safety reasons.

The town attorney advised the town board that they cannot give a waiver or a variance from the campgrounds ordinance.

A motion was made by Councilmember Wasch, seconded by Councilmember Livermore, and approved unanimously (Councilmember Chittenden absent) to amend the Zoning Re-write to incorporate the campground definition as recommended by the Zoning Board of Appeals and further to have the town attorney come to the August meeting with recommendations for any necessary changes to the campgrounds ordinance.

#03 – Kent Pratt, Code Enforcement Officer

Re: Appreciation of LVPA response to fire at 556 Route 20

The following letter was read aloud:

Dear Town Board Members:

I would like to acknowledge the extraordinary effort and professionalism of the Lebanon Valley Protective Association during the recent fire at the house owned by John and Debra McLaughlin which resulted in saving the building with minimal structural damage. The entire community should commend this fine group of volunteers. Great job!

Sincerely,

Kent J. Pratt, Code Enforcement Officer
Town of New Lebanon

OLD BUSINESS:

Charter Communications Contract:

Resolution #22, 2009 ~ Cable Television Franchise Agreement Between the Town of New Lebanon and Charter Communications

The following resolution was proposed by Councilmember Bruce Baldwin and seconded by Councilmember Monroe Wasch:

A FRANCHISE RENEWAL AGREEMENT

Between

**The Town of New Lebanon, County of Columbia, State of New York
and**

Charter Communications Entertainment I, LLC

FRANCHISE AGREEMENT

This Franchise Agreement is between the Town of New Lebanon, New York, hereinafter referred to as the "Grantor, Franchise Authority or Municipality" and Charter Communications Entertainment I, LLC locally known as CHARTER COMMUNICATIONS, hereinafter referred to as the "Grantee or Franchisee."

WHEREAS, *the Grantor finds that the Grantee has substantially complied with the material terms of the current Franchise under applicable laws, and that the financial, legal and technical ability of the Grantee is sufficient to provide services, facilities and equipment necessary to meet the future cable-related needs of the community, and*

WHEREAS, *having afforded the public adequate notice and opportunity for comment, Grantor desires to enter into this Franchise with the Grantee for the construction and operation of a cable system on the terms set forth herein; and*

WHEREAS, *the Grantor and Grantee have complied with all federal and State-mandated procedural and substantive requirements pertinent to this franchise renewal;*

WHEREAS, *the Board, in granting this franchise renewal, embodied in the agreement the results of its review and negotiations with Charter Communications and has determined that said franchise agreement and Charter Communications respectively, fulfills and will fulfill the needs of the Town of New Lebanon, NY, with respect to cable television service and complies with the standards and requirements of the New York State Public Service Commission (NYSPPSC);*

NOW, THEREFORE, *in consideration of the forgoing clauses, which clauses are hereby made a part of this franchise agreement, and the mutual covenants and agreements herein contained, the Franchise Authority and Grantee agree as follows:*

1.0 DEFINITION OF TERMS

1.1 **"Area Outage"**: a total or partial loss of video, audio, data or other signals carried on the cable television system in a location affecting two or more subscribers.

1.2 **"Cable Communications System"** (also herein referenced as "cable system" and "system"): the facility, which is the subject of this franchise, consisting of antennae, wire, coaxial cable, amplifiers, towers, microwave links, wave guide, optical fibers, optical transmitters and receivers, satellite receive/transmit antennae, and/or other equipment designed and constructed for the purpose of producing, receiving, amplifying, storing, processing, or distributing audio, video, digital or other forms of electronic, electromechanical, optical, or electrical signals to multiple subscribers within the Municipality.

1.3 **"Cable Service"**: the transmission to subscribers of (a) video programming (meaning programming provided by, or comparable to programming provided by, a television broadcast station); and (b) other programming (meaning information that a cable operator makes available to all subscribers generally), including subscriber interaction utilizing the addressable capacity and capability of the cable system.

1.4 **"Capability"**: the ability of the Franchisee to activate a described technological or service aspect of the cable communications system without delay.

1.5 **"FCC"**: the Federal Communications Commission.

1.6 **"Franchise Fee"**: the percentage, as specified in this franchise, of Charter Communications' **"Gross Revenue"** remitted by Charter to the Municipality in exchange for the rights granted pursuant to the franchise.

1.7 **"Franchisee"**: Charter Communications, and its lawful successors and assignees.

1.8 **"Gross Revenue"**: any revenue, as determined in accordance with generally accepted accounting principles received by the Grantee from the operation of the Cable System to provide

Cable Services in the Service Area, provided, however that such phrase shall not include: (1) any taxes, fees or assessments of general applicability collected by the Grantee from subscribers for pass-through to a government agency, including the FCC user fee; (2) unrecovered bad debt; (3) credits, refunds and deposits paid to subscribers; (4) any exclusions available under applicable law.

1.9 **“Material provision”**: a term in this franchise agreement, as further described herein, deemed critical to the balance of the overall agreement between the Municipality and the Franchisee embodied in this franchise, wherein violation of said clause by the Franchisee, without redress, or the effective elimination of said clause from this franchise by an act of Congress or judicial decision may result or require, with the approval of the PSC, in the revocation or renegotiation of this franchise, in whole or in part.

1.10 **“Non-material provisions”**: all terms in this franchise agreement not deemed to constitute a “material provision”, as defined and described herein, but constituting obligations upon the Franchisee, nonetheless.

1.11 **“PSC”**: the New York State Public Service Commission or any successor State agency with similar responsibilities.

PART I -- THE FRANCHISE

2.0 GRANT OF FRANCHISE

2.1 The Franchisee is hereby granted, subject to the terms and conditions of the franchise, the right, privilege, and authority to operate and maintain a cable communications system within the streets, alleys, and public ways of the Municipality.

2.2 The Franchisee may erect, install, extend, repair, replace, and retain in, on, over, under, or upon, across and along the public streets, alleys, and ways within the Municipality, such wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, pedestals, attachments, and other property and equipment as are necessary and appurtenant to the operation of the cable communications system in conformance with the Municipality's specifications.

2.3 Nothing in this franchise shall be deemed to waive the requirements of the various codes and ordinances of the Municipality regarding permits, fees to be paid, or manner of construction.

2.4 No privilege nor power of domain shall be deemed to be bestowed by this franchise other than that conferred pursuant to statutory law.

3.0 NON-EXCLUSIVE NATURE OF THIS FRANCHISE

3.1 This franchise shall not be construed as any limitation upon the right of the Municipality to grant to other persons rights, privileges, or authorities similar to the rights, privileges, and authorities herein set forth, in the same or other streets, alleys, or other public ways or public places. The Municipality specifically reserves the right to grant at any time such additional franchises for this purpose as it deems appropriate.

3.2 In accordance with PSC Rule 895.3, the renewal of this franchise shall not contain economic or regulatory burdens which, when taken as a whole, are greater or lesser than those burdens placed upon any other cable television franchise operating within the municipal territorial limits relating to this franchise.

4.0 TERRITORIAL LIMITS

4.1 The rights and privileges awarded pursuant to this franchise shall relate to and cover the entire present territorial limits of the Municipality and any area annexed thereto during the term of this franchise.

5.0 FRANCHISE SUBJECT TO LAW AND REGULATION

5.1 All terms and conditions of this franchise are subject to Federal and State law and to the rules and regulations of the FCC and the PSC.

5.2 All terms and conditions of this franchise are subject to the approval of the PSC.

5.3 All rights and privileges granted hereby are subject to the police power of the Municipality to adopt and enforce generally applicable local laws, ordinances, rules and regulations necessary to the health, safety and general welfare of the public; provided, however, that such regulations are reasonable and not materially in conflict with the privileges granted in this franchise. This Franchise is a contract and except as to those changes which are the result of the Grantor's lawful exercise of its general police power, any amendment of this Franchise must be done in accordance with PSC Rule 892.1.

5.4 Within sixty (60) days of the effective date of this franchise, the Franchisee shall file a request for certification of this franchise with the PSC and FCC, and shall provide the Municipality with evidence of such filing.

5.5 The Town Supervisor will be responsible for the continuing administration of the franchise, upon approval of the entire Town Board.

6.0 CONDITIONS ON USE OF STREETS AND PUBLIC GROUNDS

6.1 Any work which requires the disturbance of any Street or which will interfere with traffic shall not be undertaken without prior notification to and approval of the Municipality.

6.2 No poles, underground conduits or other wire-holding structures shall be erected by the Franchisee without the approval of the appropriate municipal official through established permit procedures to the extent that same now or hereafter may exist, with regard to the location, height, type and any other pertinent aspect of such wire-holding facilities; however, such approval may not be unreasonably withheld.

6.3 All structures, lines and equipment erected by the Franchisee within the Municipality shall be so located as to cause minimum interference with the proper use of streets, alleys, easements and other public ways and places, and to cause minimum interference with rights or reasonable convenience of property owners who adjoin any of the said streets, alleys or other public ways and places. Existing poles, posts and other structures of the electric power company or any telephone company or any other public utility which may be available to the Franchisee shall be used to the extent practicable in order to minimize interference with travel. Where both power and telephone utilities are placed underground, the Franchisee's cable also shall be placed underground.

6.4 The Franchisee shall have the right and authority to remove, trim, cut, and keep clear trees and bushes upon and overhanging all streets, alleys, easements, sidewalks, and public places in the Municipality to the minimum extent necessary to keep same clear of poles, wires, cables, conduits and fixtures. Five (5) business days prior to commencing any tree trimming, the Franchisee will inform in writing affected property owners and the municipal official responsible for monitoring the Franchisee's construction activities.

6.5 In the case of any disturbance of pavement, sidewalk, driveway or other surfacing, the Franchisee shall, at its own cost and expense in the manner provided and approved by the municipal official responsible for monitoring the Franchisee's construction activities, and within 30 days, replace and restore such pavement, sidewalk, driveway or surfacing so disturbed to as good a condition as existed before said work was commenced. In the event that any municipal property is damaged or destroyed by the Franchisee, such property shall be repaired or replaced by the Franchisee within thirty (30) days and restored to as good a condition as existed before said work was commenced.

6.6 All structures and all lines, equipment and connections, in, over, under and upon streets, sidewalks, alleys and public ways and places of the Municipality, wherever situated or located,

shall at all times be kept and maintained in a safe, suitable, and substantial condition, and in good order and repair.

6.7 In exercising rights pursuant hereto, the Franchisee shall not endanger or interfere with the lives of persons, nor interfere with any installations of the Municipality, any public utility serving the Municipality or any other person permitted to use the streets and public grounds, nor unnecessarily hinder or obstruct the free use of the streets and public grounds. The grant of this franchise does not establish priority for use over other present or future permit or franchise holders or the Municipality's own use of the streets and public grounds. The Municipality shall at all times control the distribution of space in, over, under or across all streets and public grounds that are occupied by the cable communications system. All rights granted for the construction and operation of the cable communications system shall be subject to the continuing right of the Municipality to require such reconstruction, relocation, change or discontinuance of the facilities and equipment used by the Franchisee in the streets, alleys, avenues, and highways of the Municipality, as shall in the opinion of the Municipality be necessary in the public interest.

6.8 Nothing in this franchise shall hinder the right of the Municipality or any governmental authority to perform or carry on, directly or indirectly, any public works or public improvements of any description. Should the cable communications system in any way interfere with the construction, maintenance, or repair of such public works or public improvements, the Franchisee shall, at its own cost and expense, protect or relocate its cable communications system, or part thereof, as reasonably directed by the Municipality.

7.0 ASSIGNMENT OR TRANSFER OF FRANCHISE

7.1 In accordance with PSC Rule 895.1(s), no change in control of the Franchisee, the system, or the franchise granted herein shall occur without the prior written consent of the Municipality and prior approval of the PSC. The Franchise granted hereunder shall not be assigned, other than to an entity controlling, controlled by, or under common control with the Grantee, without the prior consent of the Grantor, such consent not to be unreasonably withheld or delayed. No such consent shall be required, however, for a transfer in trust, by mortgage, by other hypothecation, or by assignment of any rights, title, or interest of the Grantee in the Franchise or Cable System to secure indebtedness. Within sixty (60) days of receiving a request for transfer, the Grantor shall notify the Grantee in writing of any additional information it reasonably requires to determine the legal, financial and technical qualifications of the transferee. If the Grantor has not taken action on the Grantee's request for transfer within one hundred twenty (120) days after receiving such request, consent by the Grantor shall be deemed given.

7.2 At least sixty (60) days before a proposed change of control is scheduled to become effective, the Franchisee shall petition in writing for the Municipality's written consent of such proposal.

7.3 In determining whether to approve said petition, the Municipality, in addition to those conditions detailed in PSC Rule 895.1(s)(2), may consider the applicant's:

- a) Technical ability;
- b) Financial ability;
- c) Good character; and
- d) Other qualifications necessary to continue to operate the cable television system consistent with the terms of the franchise.

7.4 A copy of the completed sales agreement, or a functionally equivalent instrument, between the Franchisee and proposed transferee or assignee shall be provided to the Municipality, upon request of the latter.

7.5 The Municipality may approve said petition contingent on compliance with additional standards, terms, or conditions within its regulatory purview and consistent with findings resulting from its review of the aforementioned petition.

7.6 In the event that the Municipality refuses to grant the aforementioned petition, it shall set forth specific reasons for its decision in writing by municipal resolution.

8.0 DEFAULT, REVOCATION, TERMINATION, ABANDONMENT

8.1 The Municipality may revoke this franchise and all rights of the Franchisee hereunder for any of the following reasons:

a) The Franchisee fails, after thirty (30) days prior written notice from the Municipality, to comply or to take reasonable steps to comply with a material provision or material provisions of this franchise as defined in this section. Notwithstanding the above, when the Franchisee is once again in compliance, the right to revoke this franchise shall no longer pertain with respect to the condition that precipitated the notice;

1) For the purposes of this section, material provisions are deemed to be those establishing the Municipality's right to:

i) collect from the Franchisee a franchise fee, currently three percent 3% of gross revenue as defined herein, less any amount payable by the Franchisee to the PSC, as per section 17.0;

ii) require that the Franchisee maintain and improve the cable communications system as per section 11.0;

iii) require public, educational, and government access to the cable communications system as per section 16.0;

iv) establish reasonable consumer protection provisions;

v) evaluate and approve transfers and assignments of the cable communications system as defined in section 7.0 of this franchise.

b) The Franchisee attempts or does practice a fraud or deceit in its securing of this franchise; or

c) The Franchisee practices fraud or displays repeated negligence in the accurate reporting of information to the Municipality, including but not limited to information pertaining to the Franchisee's calculation of the Municipality's franchise fee; or

d) The Franchisee fails to pay any legally owed taxes or fees due the Municipality, unless the amount of such payment is part of a good faith dispute; in which case the payments in question will be put in escrow until the dispute is settled; or

e) The Franchisee fails to maintain adequate insurance as specified in this franchise.

8.2 Notwithstanding the above, no revocation shall be effective unless and until the Municipality shall have adopted an ordinance or resolution setting forth the cause and reason for the revocation and the effective date thereof, which ordinance or resolution shall not be adopted until after the expiration of the written notice (re: Section 8.0 a) to the Franchisee and an opportunity for the Franchisee to be fully and fairly heard.

8.3 In no event, and notwithstanding any contrary provision in this section or elsewhere in this franchise, shall this franchise be subject to revocation or termination, or the Franchisee be liable for non-compliance with or delay in the performance of any obligation hereunder, where its failure to cure or to take reasonable steps to cure is directly attributable to reason of *force majeure*. The term "*force majeure*" as used herein shall mean the following: Acts of God; acts of public enemies; orders of any kind of the government of the United States of America or of the State of New York or any of their departments, agencies, political subdivision, or officials, or any civil or military authority, whether legal or illegal; insurrections; riots; epidemics; landslides; lightning; earthquakes; fires; hurricanes; volcanic activity; storms; floods; washouts; droughts; civil disturbances; explosions; strikes; labor work actions and unavailability of essential equipment, personnel, services and/or materials beyond the reasonable control of the Licensee;

and the inability of Licensee to obtain, on customary and reasonable terms, easements, permits or licenses for the attachment or placement of the System, or parts thereof, to any pole or underground conduit not owned by Licensee, or any other cause or event not reasonably within the control of the disabled party.

8.4 In the event of such circumstances as described in Section 8.3, the Franchisee may be excused from its obligations herein during the course of any such events or conditions, only upon application to and approval by the Municipality. Such application shall include clear evidence as to how such events have prevented the Franchisee from meeting its obligations. Upon approval by the Municipality of the Franchisee's application, the time specified for performance of the Franchisee's obligations hereunder shall extend for such reasonable time thereafter as may be determined by the Municipality; such approval may not be unreasonably withheld.

8.5 Upon revocation, the Municipality shall have the option either of purchasing the cable communications system or of requiring the Franchisee to remove all portions of the system from all public ways and places at the expense of the Franchisee, subject to the provisions of applicable Federal and State law.

8.6 The Franchisee shall not abandon any service or portion thereof required to be provided pursuant to the terms of this franchise without the prior written consent of the Municipality.

9.0 SEVERABILITY

9.1 Should any provision of this franchise be held invalid by a court of competent jurisdiction or rendered a nullity by Federal or state legislative or regulatory action, the remaining provisions of this franchise shall remain in full force and effect.

10.0 EFFECTIVE DATE AND TERM

10.1 The effective date of this franchise shall be the date this franchise is granted a certificate of confirmation by the PSC.

10.2 The term of this franchise shall be five (5) years from the effective date.

PART II – THE SYSTEM

11.0 SYSTEM SPECIFICATIONS

11.1 Subject to FCC and PSC regulations, policies, and standards, and subject to the cable communication systems' capability of providing the services and facilities prescribed in this franchise, the technical design of the cable communications system serving the Municipality shall be at the option of the Franchisee and as further described in this section.

11.2 The Franchisee shall maintain its systems subject to the conditions as follows:

- a) the Franchisee shall comply with all aspects of the Commission's customer service and consumer standards;
- b) the Franchisee will provide service to all areas with an average of 30 homes per aerial mile or greater without contribution in aid of construction by subscribers; In cases of a request for service not meeting the above criteria, the Franchisee will extend service to prospective subscribers who are willing to contribute the cost of construction in accordance with the formula $C/LE - CA/P = SC$ where C equals the cost of construction of new plant; CA equals the average cost of construction per mile in the primary service area; P equals the minimum number of dwelling units per mile which would require the Franchisee to provide service in the primary service area; LE equals the number of dwelling units requesting service in the line extension area; SC equals subscriber contribution-in-aid of construction in the line extension area.
- c) Whenever a potential subscriber located in a line extension area requests service, the Franchisee shall, within 30 days of the request, conduct a survey to determine the number of potential subscribers located in the line extension area and shall inform each of the potential subscribers of the contribution-in-aid of construction. During a three year

period commencing with initiation of service to a particular line extension, a pro-rated refund shall be paid to previous subscribers of said extension as new subscribers are added to the extension. The amount of such refund, if any, shall be determined by application of the SC formula each time a new subscriber is added. The refunds shall be paid annually to subscribers, or former subscribers entitled to receive them.

- d) Cable service shall be provided to any subscriber who demands service within seven (7) business days of the request for service and who is located within one hundred twenty five (125) feet of aerial feeder cable, and that the charge for the installation for any subscriber so situated will not be in excess of the standard installation charge.

11.3 The Franchisee will comply with all applicable federal & state regulations regarding the Emergency Alert System.

11.4 The Cable System shall be designed, constructed and operated so as to meet those technical standards adopted by the FCC relating to Cable Systems contained in part 76 of the FCC's rules and regulations as may from time to time, be amended.

11.5 The Company will comply with Part 895.5 of the PSC Rules.

12.0 SYSTEM PERFORMANCE STANDARDS

12.1 All signals carried by the cable communications system shall be transmitted with a degree of technical quality not less than that prescribed by rules of the federal and state regulatory agencies having jurisdiction.

12.2 Operation of the cable communications system shall be such that no interference will be caused to broadcast and satellite television and radio reception, telephone communication, amateur radio communication, aircraft and emergency communications, or other similar installation or communication within the franchise area.

13.0 SYSTEM MAINTENANCE AND REPAIR

13.1 The Franchisee shall establish and adhere to maintenance policies which guarantee delivery of service to subscribers at or above the performance standards set forth herein.

13.2 When interruption of service is necessary for the purpose of making repairs, adjustments, or installations, the Franchisee shall do so at such time and in such manner as will cause the least possible inconvenience to subscribers. Unless such interruption is unforeseen or immediately necessary, the Franchisee shall give reasonable notice thereof to subscribers.

13.3 The company shall have a toll-free telephone so that requests for repairs or adjustments can be received at any time, during normal business hours.

13.4 The response of the Franchisee to such requests shall be in accordance with Federal and State law and regulation at a minimum and, at all times, commensurate with the Franchisee's responsibility to maintain service to each subscriber with the degree of quality specified herein.

PART III — THE SERVICE

14.0 GENERAL SERVICE OBLIGATION

14.1 The Franchisee shall not unlawfully discriminate against any such person as to the availability, maintenance, and pricing of such cable service, nor will access to cable service be denied to any group of potential residential subscribers because of the income of the residents of the local area in which they reside.

15.0 MUNICIPAL AND SCHOOL SERVICE

15.1 The Franchisee shall provide service as agreed between the Franchisee and the Municipality, without installation or monthly charge, to a single receiver location in all municipal and public school buildings within the municipality.

15.2 The Cable Service provided pursuant to this Section shall not be used for commercial purposes and such outlets shall not be located in areas open to the public. The Grantor shall take reasonable precautions to prevent any use of the Grantee's Cable System that results in the inappropriate use thereof or any loss or damage to the Cable System. The Grantor shall hold the Grantee harmless for any and all liability or claims arising out of the provision and use of Cable Service required by subsection 13.1 above. The Grantee shall not be required to provide any outlet to any such building where a standard drop of more than two hundred fifty (250) feet is required, unless the Grantor of building owner/occupant agrees to pay the incremental cost of any necessary extension or installation.

16.0 PUBLIC, EDUCATIONAL AND GOVERNMENTAL ACCESS

16.1 The Company will comply with Part 895.4 of the PSC Rules.

PART IV – FRANCHISEE'S OBLIGATIONS TO THE MUNICIPALITY

17.0 FRANCHISE FEE

17.1 Beginning with the effective date of this franchise, the Franchisee shall pay to the Municipality during the term of this franchise a sum equal to three percent (3%) of the Franchisees total Gross Revenue for the preceding calendar year. Such payment shall be made on an annual basis for the periods January 1 through December 31. Each such payment shall be due no later than April 1 of each year.

17.2 The Franchisee may apply franchise fees as credit against special franchise assessments as permitted by section 626 of the Real Property Tax Law of the State of New York.

17.3 In the event that the Franchise Fees herein required are not tendered on or before the dates fixed in Section 17.1 above, interest due on such fee shall accrue from the date due at the rate of one percent (1%) above the annual Prime Rate.

18.0 INDEMNITY AND INSURANCE

18.1

- A. The Grantee shall maintain throughout the term of the Franchise insurance in amounts at least as follows:

Workers' Compensation	Statutory Limits
Commercial General Liability	[\$1,000,000] per occurrence,
Combined Single Liability (C.S.L.)	[\$2,000,000] General Aggregate
Auto Liability including coverage on all owned, non-owned hired autos Umbrella Liability	[\$1,000,000] per occurrence C.S.L.
Umbrella Liability	[\$2,000,000] per occurrence C.S.L.

- B. The Grantor shall be added as an additional insured to the above Commercial General Liability, Auto Liability and Umbrella Liability insurance coverage.

18.2 The Franchisee shall indemnify and save the Municipality harmless from any and all losses sustained by the Municipality by reason of any suit, judgment, execution, claim or demand whatsoever, including expenses, disbursements and reasonable attorney's fees, resulting from acts or omissions on the part of Franchisee in the construction erection, operation, maintenance or repair of its cable communications system within the Municipality pursuant to the exercise by Franchisee of the franchise rights granted herein, and for this purpose, Franchisee shall carry property damages and public liability insurance written by an insurance company licensed to do business in the State of New York in the amounts specified herein.

18.3 All such Franchisee insurance policies and certificates of insurance shall stipulate that the coverages afforded under the policies will not be cancelled until at least thirty (30) days prior written notice has been given to the Municipality.

18.4 Not later than sixty (60) days after the effective date of this franchise, the Franchisee shall furnish to the Municipality certificates of insurance.

19.0 RATES AND CHARGES

19.1 Rates and charges imposed by the Franchisee for cable television service shall be subject to the regulations of the F.C.C.

19.2 The Franchisee shall comply with all notice requirements contained in Federal and State law and regulations pertaining to rates and charges for cable television service.

19.3 The Franchisee shall not unfairly discriminate against individuals or classes of individuals in the establishment and application of its rates and charges for service.

20.0 EMPLOYMENT PRACTICES

20.1 The Franchisee will not refuse to hire or employ, nor bar or discharge from employment, nor discriminate against any person in compensation or in terms, conditions or privileges of employment because of age, race, creed, color, national origin, or sex.

21.0 MUNICIPALITY'S RIGHT TO INQUIRE ABOUT AND INSPECT SYSTEM

21.1 The Municipality, at any time, may make reasonable inquiries related to its regulatory responsibilities, concerning the management and operation of the cable communication system by the Franchisee. The Franchisee shall respond to such inquiries forthrightly and within two weeks.

21.2 Where repeated subscriber complaints causes the Municipality to question the reliability or technical quality of cable service, the Municipality shall have the right and authority to require the Franchisee to, test, analyze, and report on the performance of the cable communications system. The Franchisee shall cooperate fully with the Municipality in performing such testing.

21.3 At all reasonable times and for the purpose of enforcement of this franchise, the Franchisee shall permit examination by any duly authorized representative of the Municipality, of the local cable communication system facilities, together with any appurtenant property of the Franchisee situated within the Municipality.

22.0 MUNICIPALITY'S RIGHT TO INSPECT BOOKS AND RECORDS

22.1 The Municipality reserves the right to inspect all pertinent books, records, maps, plans, financial statements and other like material of the Franchisee, upon reasonable notice and during normal business hours.

23.0 REPORTS TO BE FILED BY FRANCHISEE WITH THE MUNICIPALITY

23.1 Upon request the Municipality, the Franchisee shall file with the Municipality a copy of any technical, operational, or financial report the Franchisee submits to the PSC, the FCC, or other governmental entities that concern, directly or indirectly, the Franchisee's operation of the cable communications system in the Municipality.

23.2 The Franchisee shall furnish to the Municipality such additional information and records with respect to the operation, affairs, transactions or property of the cable communications system and the service provided to the Municipality under this franchise, as may be reasonably necessary and appropriate to the performance of any of the rights, functions or duties of the Municipality in connection with this franchise as determined by the Municipality.

23.3 Any valid reporting requirements contained in this franchise may be satisfied with systemwide statistics, except for reporting requirements related to franchise fees and customer complaints.

24.0 MANDATORY RECORDKEEPING

24.1 The Franchisee shall comply with all record keeping requirements established by Federal and State law and regulation. If such law or regulation permits the later destruction of said records, the Franchisee shall provide the Municipality with ninety (90) days prior written notice of its intention to destroy said records to permit the Municipality to inspect said records if it so desires.

23.2 The Franchise shall maintain a full and complete set of plans, records and "as built" maps showing the exact location of all cable installed or in use in the territorial limits of the Municipality. In accordance with PSC Rule 896.6 (a), the Franchisee shall maintain an up-to-date map or other technical records showing the physical location of all cable routes, service areas, receive sites and other interconnection points. The scale of such maps and detail of other technical information shall be such as to permit the determination of franchise areas and subscribers served.

23.3 All records, logs, and maps maintained pursuant to this franchise shall be subject to inspection by the Municipality or its designee during the Franchisee's regular business hours upon reasonable request.

25.0 EMERGENCY USE

25.1 Grantee shall comply with all federal and state Emergency Alert System ("EAS"), requirements.

PART V -- FRANCHISEE'S OBLIGATIONS TO SUBSCRIBERS AND CUSTOMER SERVICE REQUIREMENTS**26.0 COMPLIANCE WITH FEDERAL AND STATE LAW AND REGULATION**

26.1 The Franchisee shall comply with all Federal and State laws and regulations, as well as with all industry codes of good practice, that regulate the Franchisee's customer service responsibilities. In the event of conflicting provisions, the Franchisee shall comply with the provision establishing a stricter standard. The franchisee will comply with the customer service and consumer protection standards set forth in PSC Rules Parts 890 and 896.

27.0 EMPLOYEE IDENTIFICATION/TRAINING

27.1 Each employee of the Franchisee, including employees of contractors and subcontractors employed by the Franchisee, shall have prominent picture identification that clearly identifies the employee as a representative of the Franchisee. All vehicles of the Franchisee, including those of contractors and subcontractors employed by the Franchisee, shall be clearly and consistently identified with the Franchisee's logo or name.

28.0 MISCELLANEOUS PROVISIONS

28.1 The Franchisee shall ensure that the subscriber's premises are restored to their original condition if damaged by the Franchisee's employees or agents in any respect in connection with the installation, repair, or disconnection of cable service. The Franchisee is liable for breaches of customer service standards and all other provisions of this franchise by its contractors, subcontractors or agents.

28.2 a) Every notice and/or request to be served upon the Town/Franchising Authority shall be delivered by hand or sent by Federal Express or other express receipted delivery service or certified mail (postage prepaid) to the following address:

Town of New Lebanon,
Town Hall, Route 22,
P.O. Box 328
New Lebanon, New York 12125
ATTN: Town Supervisor,

or such other address as the Franchising Authority may specify in writing to the Licensee.

Every notice served upon the Franchisee shall be delivered by hand or sent by Federal Express or other express receipted delivery service or certified mail (postage prepaid) to the following address:

VP/General Manager,
Charter Communications,
95 Higgins Street,
Worcester, Massachusetts 01606,

with a copy sent to

Vice President, Government Affairs and Franchise Relations
East Division,
Charter Communications,
95 Higgins Street,
Worcester, Massachusetts 01606, and

Vice President, Government Affairs and Franchise Relations,
Charter Communications, Inc.,
Charter Plaza
12405 Powerscourt Drive,
St. Louis, Missouri 63131

or such other address as the Franchisee may specify in writing to the Franchising Authority. The delivery shall be equivalent to direct personal notice, direction or order, and shall be deemed to have been given at the time of receipt of such notice.

b) All required notices shall be in writing.

c) Issuing Authority shall provide written notice within ten (10) days of Issuing Authority's receipt from any other Person(s) of an application or request for a franchise(s), license(s), consent(s), certificate(s), authorization(s), or exemption(s) to provide Cable Services, video services, or other television services utilizing any system or technology requiring use of the public rights of way.

PART VI — GUARANTEE OF FRANCHISEE'S PERFORMANCE

29.0 GUARANTEE OF PERFORMANCE

29.1 Not later than thirty (30) days after the effective date of this franchise, the Franchisee shall obtain and maintain during the entire term of this franchise at its sole cost and expense, a performance bond to be posted in the amount ten thousand dollars (\$10,000), in a form satisfactory to the Municipality to guarantee the faithful performance by the Franchisee of its obligations as provided in this franchise.

29.2 The performance bond shall be subject to but not be limited to the following conditions:

a) The total amount of the bond shall be forfeited in favor of the Municipality in the event, after thirty days written notice to the franchisee with opportunity for the latter to cure or challenge:

(i) The franchisee abandons service to any portion of the Municipality at any time during the term of the franchisee;

(ii) The franchisee assigns the franchise without the express written consent of the Municipality;

(iii) The franchisee fails to comply with sections 20.0, 18.0, and 11.0 pertaining to non-discrimination, insurance, and the cable system; or the franchise is revoked pursuant to section

8.0; provided, that the bond may not be forfeited if the insurance required by section 18.0 is in effect but the insurance company has failed to furnish the evidence required under that section.

b) Not less than thirty days prior written notice to the Municipality shall be provided of the franchisee's intention to cancel, materially change, or not to renew the initial provisions of the bond.

29.3 Upon written application by the franchisee, the Municipality may at its sole option, permit the amount of the bond to be reduced or the Municipality may waive the requirements for a performance bond altogether subject to the conditions set forth below:

a) No reduction or waiver shall occur prior to one year following the commencement of this franchise agreement.

b) Reductions granted or denied upon application by the franchisee shall be without prejudice to the franchisee's subsequent applications; however, no application shall be made within one year of any prior application.

29.4 The rights reserved to the Municipality with respect to use of the performance bond are in addition to all other rights of the Municipality whether reserved by this franchise or authorized by law, and no action, proceeding or exercise of a right with respect to such fund shall affect any other rights the Municipality may have.

30.0 EFFECT OF MUNICIPALITY'S FAILURE TO ENFORCE FRANCHISE PROVISIONS

30.1 The Franchisee shall comply with any and all provisions of this franchise and applicable state and federal law and regulation. Once a breach of a provision or provisions is identified by the Municipality and the Franchisee is finally adjudged to have breached a provision or provisions as provided in this franchise, the penalty or revocation provisions of this franchise shall pertain as applicable.

30.2 Any fines or other claim arising out of any actual breach of this franchise shall be effective from the date such breach is found to have commenced. The Franchisee's responsibility to cure any such breach or remit any such fines or claims shall not be diminished by the failure of the Municipality to enforce any provision of this franchise and the Franchisee hereby agrees to waive any statute of limitations that may be applicable to any such breach during the term of this franchise.

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

Roll Call Vote:

Supervisor Margaret Robertson	Aye
Councilmember Monte Wasch	Aye
Councilmember Bruce Baldwin	Aye
Councilmember Allen Livermore	Aye
Councilmember K. B. Chittenden	Absent

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.

Charter Communications ~ reorganization under Chapter 11:

Supervisor Margaret Robertson advised the board that Charter has requested that with regard to their reorganization plan, Form 894 Application, we either pass a resolution supporting their reorganization plan or we provide a "no action" letter that acknowledges that we have been informed of their reorganization plan and that

we do not intend to take any action with respect to their application. On advice of counsel, the town board determined the “no action” letter could be sent by the Town Supervisor.

Zoning Re-write:

Supervisor Robertson noted that she will be scheduling another meeting of the Zoning Re-write Committee to readdress the changes in zoning districts along Route 20 on the proposed zoning map. Councilmember Baldwin noted that the Environmental Assessment Form (EAF) and SEQRA forms still need to be completed. Attorney Jason Shaw noted that the adoption of the zoning regulations appears that it is going to be a multi-step process; Attorney Shaw noted that it should be done in one package. John Dax noted that the Zoning Board of Appeals and the Planning Board do not have the tools and resources they need to their work; adoption of the Zoning Re-write will give them more of the tools and resources they need. John Dax further noted that the Zoning Re-write Committee saw the overlays as a very intensive work project that would take a substantial amount of time and that it would best be addressed as a separate project; he noted that he is dismayed at how long it has taken for the Zoning Re-write to be considered for adoption. Attorney Shaw noted he is not comfortable with the way the public hearing process was handled nor with the order in which things are being done; he is not happy with the process for the town’s sake and strongly recommended that the town board slow down and take a step back. Councilmember Baldwin noted that he has heard from people in the community that are concerned about the overlays and the fact that they are not part of the whole package. Attorney Shaw noted that this is one of the areas he is not pleased with, the overlays are part of the zoning and they should be part of the initial package; it should be one package, not separate pieces. John Dax reiterated that the Zoning Board of Appeals and the Planning Board need the resources and tools in the Zoning Re-write while the development of the overlay districts need the input of the citizens that they affect. Attorney Shaw noted that zoning does tend to be controversial because it affects people’s property rights. Councilmember Wasch noted that he agrees with Chairman Dax that the adoption of the Zoning Re-write has gone on for too long and reiterated that it is a process, not an event. Councilmember Livermore noted that he feels that we should not rush the process; the Zoning Re-write took the necessary time to develop the document, now the town board needs to take the time necessary to thoroughly review it. Councilmember Baldwin noted that in his opinion, it is not a standalone document; it mentions the overlays but they are not available. Attorney Shaw noted that the Zoning Re-write committee may need the assistance of a consultant; he strongly recommended that they obtain the assistance of a consultant. Councilmember Wasch noted that the language part of the document is done for the most part but maybe we need to re-engage a consultant for the overlay process. Chairman Dax noted that the Comprehensive Plan has maps, primarily topographical, which is a place to start. The Zoning Re-write Committee got the text of the document to the Town Board over a year and a half ago; it took a lot of work and input and they were not sure if the Town Board would accept the text piece. Chairman Dax further noted that there are a lot of residents watching the process drag on.

Local Law No. 2 of 2009 ~ Ethics:

The town board and town attorney addressed the proposed changes that the town board would like to make to the draft law. The town attorney noted that he had no concerns about the changes; however, he noted that since it is the board's desire to exempt members of adhoc committees from this law that should be clearly stated. He will prepare wording to be added to the draft. It was also noted that the change of the number of Ethics Board members from three (3) to five (5) is a substantial change and another public hearing will need to be held on the new version including the added language regarding the adhoc committees. A motion was made by Councilmember Baldwin, seconded by Councilmember Wasch, and approved unanimously (Councilmember Chittenden absent) to set the public hearing for the new draft for 6:45 p.m. on Monday, August, 10th at the American Legion Building.

Ethics Board Appointment:

The town board received a letter of interest from Kathy Murnane regarding appointment to the Ethics Committee.

A motion was made by Councilmember Wasch, seconded by Councilmember Baldwin, and passed unanimously (Councilmember Chittenden absent) to appoint Kathy Murnane to the Ethics Committee to fill the term of Councilmember Baldwin.

No Smoking Legislation Samples:

There was a general discussion regarding a "no smoking on town property" draft legislation. The Town Board asked the Town Attorney to prepare a draft law for a full ban for the August meeting.

NEW BUSINESS:***Organizational Chart:***

Councilmember Livermore noted that he completed the Organizational Chart and after making some adjustments, the final version has been submitted to the board. Councilmember Livermore noted that he would like to have the chart posted on the website. He also reported that he is working with Rocky Brown on job descriptions for the positions in the town. The town board authorized the posting of the organizational chart on the website.

Old Post Road Landfill:

Councilmember Baldwin reported that closing the landfill will only require capping it. The well tests did not discover any contaminants that have migrated. If they had, it would have been very expensive to close it. Additionally, in this case there are more options on who can do the capping to close the landfill.

ANNOUNCEMENTS:**August:**

Building/Town Hall Committee ~ Wednesday, August 5th @ 7:00 p.m. @ the American Legion Building

Public Hearing on Local Law No. 2 of 2009: Ethics ~ Monday, August 10th @ 6:45 p.m. @ the American Legion Building

Town Board Meeting ~ Monday, August 10th @ 7:00 p.m. @ the American Legion Building

BUDGET AMENDMENT:

Amendment No. 5 of 2009:

General Fund:

\$685.00 from A-3620.4 (Safety Inspection: Contractual Expense)
to A-3620.2 (Safety Inspection: Equipment) for replacement of computer

\$500.00 from A-7310.2 (Youth Program: Equipment)
to A-7310.4 (Youth Program: Contractual Expense) for deposits on field trips:
to be reimbursed upon parental payment

A motion was made by Councilmember Wasch, seconded by Councilmember Livermore, and passed unanimously (Councilmember Chittenden absent) to approve the above noted amendment to the 2009 Budget.

AUDIT OF THE BILLS:

General Fund Claim No. 221, in the amount of \$327.88; and
As set forth in Abstract No. 6-A, dated July 13, 2009; were audited.

General Fund Claim Nos. 222 through 276, in the amount of \$73,414.96; and
Highway Fund Claim Nos. 85 through 104, in the amount of \$87,842.52;
As set forth in Abstract No. 7, dated July 13, 2009; were audited.

A motion was made by Councilmember Baldwin, seconded by Councilmember Wasch, and passed (Councilmember Livermore abstained and Councilmember Chittenden absent) to pay the above noted claims from their respective accounts.

LETTERS FOR MEMORIAL DAY PARADE AND CEREMONY:

The Town Board authorized the Town Clerk to send letters of appreciation and thanks to the Veterans, drivers, organizers, and other participants of the 2009 Memorial Day Parade and Ceremony.

ADJOURNMENT:

A motion was made by Councilmember Wasch and seconded by Councilmember Baldwin to adjourn the meeting at 9:20 p.m.

Respectfully submitted,

Colleen Teal, RMC
Town Clerk