

**MINUTES OF THE REGULAR MONTHLY MEETING OF
THE TOWN BOARD OF THE TOWN OF NEW LEBANON
HELD ON FEBRUARY 14, 2011**

Present: Margaret Robertson, Supervisor
Bruce Baldwin, Councilmember
Doug Clark, Councilmember
Karl (K.B.) Chittenden, Councilmember

Absent: Councilmember - vacant

Recording Secretary: Colleen Teal, Town Clerk

Others Present: Jeff Winestock, Highway Superintendent
Robert Smith, Planning Board Member
Chuck Gerald, Zoning Board of Appeals Member
Matt Larabee, NL Rep. to CC Traffic Safety Council &
Ethics Board Member
Paul Crossman, Reporter for the *Chatham Courier*
Several members of the public

CALL TO ORDER:

The meeting was called to order at 7:00 p.m. by Supervisor Robertson and the flag salute followed a moment of silence.

MINUTES APPROVAL:

The minutes of the following meetings were reviewed:

November 4, 2010 Public Hearing on 2011 Preliminary Budget;
November 8, 2010 Public Hearing on 2011 Preliminary Budget;
November 8, 2010 Regular Monthly Meeting;
November 22, 2010 Special Meeting;
December 13, 2010 Public Hearing on Proposed Local Law Amending Dog Control;
December 13, 2010 Regular Monthly Meeting;
December 29, 2010 Special Year-End Meeting;
January 3, 2011 Annual Organizational Meeting;
January 10, 2011 Public Hearing on Proposed Local Law Amending Sign and Poster Control;
January 10, 2011 Regular Monthly Meeting;
January 20, 2011 Annual Year End Audit Meeting;
January 24, 2011 Special Meeting; and
January 25, 2011 Annual Year End Audit Meeting;

a motion was made by Councilmember Clark, seconded by Councilmember Baldwin, and passed unanimously to approve the minutes as typed.

SUPERVISOR'S REPORT:

Supervisor Robertson read her monthly report. A motion was made by Councilmember Baldwin, seconded by Councilmember Clark, and passed unanimously to accept the Supervisor's Report.

EXECUTIVE SESSION:

A motion was made by Councilmember Baldwin, seconded by Councilmember Chittenden, and passed unanimously to enter an executive session at 7:07 p.m. to discuss particular personnel matters.

A motion was made by Councilmember Baldwin, seconded by Councilmember Clark, and passed unanimously to close the executive session and re-open the public meeting at 7:39 p.m.

APPOINTMENTS:

Ethics Board:

A motion was made by Councilmember Chittenden, seconded by Councilmember Baldwin, and passed unanimously to appoint Kevin Smith to the Board of Ethics.

Town Board:

Supervisor Robertson reported that the town board would not be appointing anyone to fill the vacant town board seat until the election in November.

COMMITTEE REPORTS:

Announcements:

Kudos:

Supervisor Robertson reported that she received an email from Cissy Hernandez, Building Department Administrator/Clerk, noting kudos to Anita Crosby for going above and beyond for Hannaford and also noting Hannaford's appreciation for the staff in New Lebanon.

Economic & Business Development:

Monthly Meetings:

Councilmember Clark reported that the scheduled meeting of the Economic & Business Development Committee was postponed; the topics they are currently addressing are broadband and Main Street grants as well as other opportunities.

Highways, Buildings, & Town Property:

Building Maintenance – American Legion Plowing:

There was a general discussion regarding plowing and shoveling at the American Legion Building. Highway Superintendent Jeff Winestock again noted that he will plow the American Legion parking lot but it has to be after the roads are cleared.

A motion was made by Councilmember Clark, seconded by Councilmember Chittenden and approved unanimously to authorize the hiring out of the plowing and sanding of the American Legion Hall on an emergency, as needed, basis at a cost not to exceed \$65.00 per event for plowing and \$65.00 per event for sanding; and further to authorize Councilmember Chittenden as liaison to the court and the highway, to make the decision when this outsourcing is necessary. For regular plowing and sanding, the highway department will take care of it.

Town Hall Project – Former Judy’s Gifts Building:

There was a general discussion regarding a quote received by Joe Iuviene to evaluate the feasibility of the former Judy’s Gifts building for the town hall versus the need to complete a lot more preliminary work before getting the architect involved in this site. Code Enforcement Officer Kent Pratt reported that there is no need for a second exit or an elevator as it is an existing building.

Zoning, Planning, CAC, Code Enforcement, & Assessor: ~ No report.

Education & Recreation: ~ No report.

Recreation Commission:

Supervisor Robertson noted that there are six (6) vacancies on this commission. The objective of this commission is the development and oversight of activities for town residents including activities for adults, seniors, children, etcetera. Anyone interested in serving on this commission should contact the Town Clerk’s Office.

Town Park ~ Snowmobiles:

Councilmember Baldwin reported that snow mobiles are traveling through the park to Old Post Road, then traveling illegally down Old Post Road to the rail trails.

Security, Fire, Law Enforcement, Justice Court & Constable: ~ No report ~

LIQUOR LICENSE RENEWALS:

1 ~ Lebanon Valley Speedway & Dragway, Summer Liquor License Renewal for Lebanon Valley Concessionaires

The board determined no action is necessary.

OLD BUSINESS:

Resolution # 11, 2011 ~ Amending Chapter 31-13 ~ Personnel Policies: Employee Benefits:

The following resolution was proposed by Councilmember Doug Clark and seconded by Councilmember Karl B. Chittenden:

AMENDMENT TO CHAPTER 31-13 OF THE CODE OF THE TOWN OF NEW LEBANON ENTITLED PERSONNEL POLICIES: EMPLOYEE BENEFITS.

WHEREAS, the Town Board of the Town of New Lebanon adopted Resolution Number 22 of 2004 entitled Employee Benefits (Chapter 31 of the Code of the Town of New Lebanon) to establish Employee Benefits and now desires to amend said benefits; and

WHEREAS, the Town Board of the Town of New Lebanon desires to make health insurance benefits available to part-time employees as defined in Chapter 31, Section 31-6 when the employee pays 100% of the insurance premium; and

WHEREAS, the Town’s health insurance provider has approved the Town of New Lebanon to provide this option to part-time employees effective March 1, 2011.

THEREFORE, BE IT RESOLVED THAT, the Town Board of the Town of New Lebanon hereby amends Chapter 31-13.A of the Code of the Town of New Lebanon as follows:

§31-13 Employee benefits.

A.

Health insurance: Full-time employees who have worked full-time and completed the probationary period of 12 weeks are eligible to elect coverage for themselves and dependents in the Town's group medical plan. Full-time employees hired prior to January 1, 2011 are eligible for 100% paid health insurance by the Town; full-time employees hired after January 1, 2011 are eligible for health insurance with 80% paid by the Town and 20% paid by the employee.

Paid part-time employees who have completed the probationary period of 12 weeks are eligible to elect coverage for themselves and dependents in the Town's group medical plan. Part-time employees will pay 100% of the insurances premium(s) on a monthly basis and said payment will be made in the month preceding the premium due date (for example: the premium payment for March will be made to the town in the month of February).

1. Buy-back option: Full-time employees eligible for health insurance can chose a buy-back option in lieu of health insurance at the following rates; with proof of insurance; and upon execution of the signed employee agreement noting their desire to participate in the health insurance buy-out and the details of the buy-back option including that the buy-out will be paid on a monthly basis in a check separate from payroll and that opting in or out of the buy-out will be available on a monthly basis:

Individual buy-back \$2,500 annually

Family buy-back \$4,000 annually

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

Roll Call Vote:

| | |
|----------------------------------|--------|
| Councilmember Bruce Baldwin | Aye |
| Councilmember Karl B. Chittenden | Aye |
| Councilmember Doug Clark | Aye |
| Councilmember | vacant |
| Supervisor Margaret Robertson | 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.

Resolution # 12, 2011 ~ Local Law No. 1, 2011 ~ Amending Sign and Poster Control:

The following resolution was proposed by Councilmember Bruce Baldwin and seconded by Councilmember Doug Clark:

**LOCAL LAW NO. 1 OF 2011
A LOCAL LAW ESTABLISHING SIGN AND POSTER CONTROL
FOR THE TOWN OF NEW LEBANON**

BE IT ENACTED by the Town Board of the Town of New Lebanon as follows:

Section 1. Title of Local Law:

This Local Law shall be entitled "A Local Law Establishing Sign and Poster Control for the Town of New Lebanon."

Section 2. Authorization:

This Local Law is enacted pursuant to the authorization established in New York State Municipal Home Rule Law § 20 to amend the Town Code of the Town of New Lebanon.

Section 3. Sign and Poster Control.

- A. All exterior signs and posters must be constructed of durable materials, shall be lettered in a professional and workmanlike manner and shall be maintained in good condition and repair at all times. Exterior signs and posters made of cardboard, paper or similar non-permanent material are prohibited except for conservation and no-trespassing signs.
- B. In any residential district, a sign not exceeding two (2) square feet in surface which announces the name, address or professional or home occupation of the occupant of the premises on which said sign is located is permitted.
- C. A bulletin board not exceeding twenty-four (24) square feet is permitted in connection with any church, school or similar public structure.
- D. A temporary real estate sign not exceeding six (6) square feet or a construction sign not exceeding twenty-four (24) square feet is permitted on the property being sold, leased or developed. Such sign shall be removed promptly when it has fulfilled its function.
- E. An exterior business sign located in a commercial, recreational commercial or industrial district shall be permitted in connection with any authorized business or industry located on the same premises and meeting the following requirements:
 - a. Two signs are permitted with any legally established business: one free standing, the other attached to the building, and neither to exceed 24 square feet.
 - b. The primary purpose of the sign shall be for identification and may state only the owner, trade names, trade marks, products sold and/or the business or activity conducted on the premises on which the sign is located.
 - c. Signs shall not extend above the roof or parapet of the building. The height of a free standing sign shall not exceed thirty (30) feet.
 - d. Illustrated signs shall be shielded in such a way as to produce no glare, undue distraction, confusion or hazard to the surrounding area or to vehicular traffic. Illumination shall be properly focused upon or from within the sign itself.
 - e. Signs which are animated, flashing or with intermittent illumination are prohibited.
 - f. Signs shall not project over public rights-of-way or adjoining property lines.
 - g. Lettering or symbols on the exterior structure of a business shall be considered a sign, and shall be measured by connecting the extremities of the borders, lettering or symbols to be inscribed within a regular geometric form and, in addition, shall meet all the requirements of this ordinance.
- F. Signs for Multi-Business Complexes: Shopping Centers, Malls, PCID etc.
 - a. The owner of a business complex shall be permitted one free standing sign which shall not exceed twenty-four (24) square feet.

- b. One free standing sign shall be permitted for the common use by all the business operating from the complex. Each business identification included on this sign shall not exceed ten (10) square feet, shall be measured as prescribed in the sign definition of the ordinance and shall be uniform in design. (The total area of the signs permitted by “a” and “b” shall not exceed 75 square feet.)
- c. Such free standing signs shall not exceed a height of thirty (30) feet.
- d. In addition, within a shopping center, one sign for each individual business shall be allowed, such sign to be attached to the building, with a maximum projection of 18 inches off the face of the building wall. Such sign shall not exceed twenty-four (24) square feet.
- G. Any sign in disrepair or which becomes obsolete shall be removed, at the expense of the owner, upon order of the Town Board, if not repaired after thirty (30) days notice. Any replaced or repaired sign must conform to all regulations in this ordinance.
- H. Two (2) signs off site may be permitted by the Planning Board for business located in New Lebanon only, if necessary to direct customers to the place of business. The primary intent shall be directional and not for advertising. In every zoning district, the total square footage of each sign shall not exceed nine (9) sq. ft.
- I. A floral or stone sign may be permitted with a special permit as long as it conforms with other regulations of the sign ordinance.
- J. Mobile unit signs may be permitted by the Planning Board for businesses located in New Lebanon on a temporary basis only, not to exceed three months, and shall not exceed twenty-four (24) square feet and shall meet all other provisions of this ordinance.
- K. None of the above provisions shall be construed to permit signs relating to businesses located out of the Town of New Lebanon.
- L. Appeals. Any applicant aggrieved by an order, requirement, decision, interpretation, or determination made by the Zoning Enforcement Officer, the Planning Board, or its authorized representative pursuant to this local law may appeal such order, requirement, decision, interpretation or determination and/or apply for a variance from the requirements of this local law to the ZBA in accordance with the procedure set forth in section 12 of the Town’s Zoning Law.

Section 4. Sign Schedule.

The following sign schedule to shall read in conjunction with the rules and regulations set forth in this local law:

SCHEDULE 2 – SIGN AND POSTER CONTROL

| USE | ZONING DISTRICT | MAX. SIZE | NO. PERMITTED | COMMENTS |
|--|-----------------|------------|---------------|--|
| Name, address or Professional or home occupation | Residential | 2 sq. ft. | 1 | ----- |
| Temporary real estate | All zones | 6 sq. ft. | 1 | must be removed promptly after serving its purpose |
| Temporary construction sign | All zones | 24 sq. ft. | 1 | must be removed promptly after serving its purpose |

| | | | | |
|--|-----------------------------------|------------|---------|---|
| Business signs | C, C-Rec, & M | 24 sq. ft. | 2 ** | 1 attached to building & 1 free standing |
| Business Complexes, Shopping Centers, Malls etc. | ----- | 24 sq. ft. | 1 * | for identification of the Complex Center, Mall, etc. |
| “ | ----- | ----- | 1 * | 10 sq. ft. per business |
| “ | | 24 sq. ft. | 1 | attached to each business in Shopping Center |
| Bed & Breakfast and Boarding House | All zones, or where ZBA allows | 2 sq. ft. | 1 | identification purposes |
| Directional/ Identification signs | All zones | 9 sq. ft. | 2 | off-site, permit from Planning Board |
| Mobile Unit Signs | ----- | 24 sq. ft. | 1 | temporary use, not to exceed 3 months duration |

* Maximum permitted area of composite (free-standing) sign shall be 75 square feet.

** Height of individual free-standing signs shall not exceed 30 feet.

Signs attached to a structure shall not extend above the roof or parapet of the structure, nor shall the sign project more than 18” from the structure wall.

Section 5. Supersession.

Pursuant to the powers granted by the Municipal Home Rule, this Local Law supersedes all provisions of the Town Code herein addressed, in so far as such statutes are inconsistent with this Law and any other laws or regulations of the Town of New Lebanon are superseded to the extent necessary to give this Local Law full force and effect.

Section 6. Severability.

If any section or part of this Local Law is declared invalid or unconstitutional, it shall not be held to invalidate or impair the validity, force, or effect of any other section of this Local Law.

Section 7. Effective Date:

This Local Law shall take effect immediately upon its filing with the Secretary of State.

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

Roll Call Vote:

| | |
|----------------------------------|-----|
| Councilmember Bruce Baldwin | Aye |
| Councilmember Karl B. Chittenden | Aye |

| | |
|-------------------------------|--------|
| Councilmember Doug Clark | Aye |
| Councilmember | vacant |
| Supervisor Margaret Robertson | Aye |

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

Historical Records ~ Town of New Lebanon & Lebanon Valley Historical Society:

The town board reviewed the proposed *Records Deposit Agreement* between the Town of New Lebanon and the Lebanon Valley Historical Society as approved by the New York State Archives, the Town of New Lebanon Records Management Officer and the Town Attorney.

A motion was made by Councilmember Baldwin, seconded by Councilmember Chittenden, and passed unanimously to approve the Records Deposit Agreement between the Town of New Lebanon and the Lebanon Valley Historical Society and further authorized the Town Clerk, as Records Management Officer, to execute the agreement.

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

Roll Call Vote:

| | |
|----------------------------------|--------|
| Councilmember Bruce Baldwin | Aye |
| Councilmember Karl B. Chittenden | Aye |
| Councilmember Doug Clark | Aye |
| Councilmember | vacant |
| Supervisor Margaret Robertson | Aye |

Town Hall Copier/Central Printer:

Town Clerk Teal reported that, as she had advised the town board, the printer in her office broke down several weeks ago and she has been "limping" along with it. Additionally, the central copier broke down and had to be replaced (at no charge) as the volume of the town hall offices exceeded its capabilities. Ms. Teal has been consulting with Berkshire Copier and Supply and Technology 4 All on the best alternative to replacing her office printer while addressing some of the concerns of the various offices. Some of the considerations include the exorbitant cost of ink (more than \$250 per month just for the Town Clerk's Office) as well as the fact that the office volume is far exceeding the output for the HP printers they have been using resulting in both the Town Clerk's Office and the Building Department having to replace printers generally in under a year. While the cost of running a laser printer is much lower than the office jets, the upfront cost is much higher making purchasing laser printers for all of the offices as printer replacement is needed much too costly. Based on the recommendation from Berkshire Copier and Supply and Technology 4 All as well as quotes for various options, Town Clerk Teal requested that the town board approve the purchase of a refurbished Gestetner DSC428 (Ricoh Aficio 3228C) color copier with print/scan/fax options for \$1,500 with approximately

90,000 copies on it (extremely low usage) with a 6 month warranty after which Berkshire Copier & Supply will provide a maintenance agreement at \$425 per year. This copier will be networked to all the computers at the town hall (by Technology 4 All) and basic inexpensive black & white office printers can be used for minor office printing. The volume for this machine is 30,000 copies per month and the cost per copy for each color copy is approximately .03¢ (less for black and white copies).

A motion was made by Councilmember Baldwin, seconded by Councilmember Chittenden, and passed unanimously to authorize the purchase of the refurbished Gestetner DSC428 (Ricoh Aficio 3228C) as noted above in the amount of \$1,500; and further to authorize the purchase of the maintenance agreement as noted above with the necessary adjustments for the maintenance agreement already paid for 2011, and the networking of the printer/copier by Technology 4 All.

Mobile Home Park License Renewals:

The town board reviewed the recommendations of the Code Enforcement/Zoning Enforcement Officer regarding the mobile home park license renewal applications for Tazmutt, Inc (AIMA) MHP (aka Kinderhook Creek Estate MHP and Ski Lodge MHP).

A motion was made by Councilmember Baldwin, seconded by Councilmember Clark and passed unanimously to approve the mobile home park license renewals for Tazmutt, Inc. MHP subject to the stipulations/conditions noted on the inspection report dated November 1, 2010 and for Ski Lodge MHP subject to the stipulations/conditions noted on the inspection report dated November 2, 2010.

NEW BUSINESS:

NYSERDA Energy Audit Application Fees:

Town Clerk Teal reported the application fees for the NYSERDA Energy audit would be \$100 for the Highway Garage and \$400 for the Town Hall; however, if energy savings measures are implemented based on the audit that exceed the application fee, the application fee is refunded. Ms. Teal asked the town board if they wanted to proceed with the audit and, if so, for which buildings.

A motion was made by Councilmember Clark, seconded by Councilmember Chittenden, and passed unanimously to approve a NYSERDA Energy Audit for the town hall building at a cost of \$400 and for the Highway Garage at a cost of \$100.

Amendment to Dog Control Law – Correction of Violations References:

Town Clerk Teal reported that there are several incorrect references in the new law adopted in December 2010. Attorney Howard will make the corrections and send the corrected version to the town board. A motion was made by Councilmember Baldwin, seconded by Councilmember Clark, and passed to schedule a public hearing for the amendment to the Dog Control Law for March 14, 2011 at 6:45 p.m.

Ethics Board ~ Resignation:

The town clerk reported receipt of Marie Armstrong's resignation from the Ethics Board. The town board requested that a letter of appreciation be sent to Ms.

Armstrong for her years of service on the Ethics Board.

ANNOUNCEMENTS:

March:

Tuesday, March 1st ~ Town Hall Building Committee at 6:00 p.m. at the American Legion Hall

Tuesday, March 8th ~ Town Hall Forum sponsored by the Lebanon Valley Business Association at 7:00 p.m. at the New Lebanon Library

Monday, March 14th ~ Town Board Public Hearing on Proposed Local Law Amending Dog Control at 6:45 p.m. at the American Legion Hall

Monday, March 14th ~ Town Board Meeting at 7:00 p.m. at the American Legion Hall

BUDGET AMENDMENT:

Amendment No. 1 of 2011

General Fund:

\$1,464 from A-1990.4 (Contingency: Contractual Expense)
to A-1355.2 (Assessor: Equipment)

\$6,000 from A-1620.43 (Buildings: Clerk of the Works)
\$3,000 to A-3620.1 (Safety Inspection – CEO: Personal Services) and
\$3,000 to A-8030.1 (Zoning Enforcement: Personal Services – ZEO)

A motion was made by Councilmember Baldwin, seconded by Councilmember Clark, and passed unanimously to approve the above noted amendments to the 2011 Budget.

AUDIT OF THE BILLS:

General Fund Claim Nos. 26 through 78, in the amount of \$60,720.32;

Highway Fund Claim Nos. 19 through 46, in the amount of \$33,032.08;

As set forth in Abstract No. 3, dated February 14, 2011; were audited.

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

OTHER:

Old Post Road Landfill:

There was a general discussion regarding the Old Post Road land fill and the letter from DEC dated July 22, 2010 requesting particular steps be taken at the site to show “good faith.”

A motion was made by Councilmember Clark, seconded by Councilmember Baldwin, and passed unanimously to authorize the Supervisor to officially notify the County that it is the Town’s position that the County is solely responsible for closing the landfill in New Lebanon in accordance with the Solid Waste Management Agreement dated June 14, 1981 and Resolutions 248-88- and 374-88 of the County Board of Supervisors and further that a copy of said notification will be provided to both attorneys for the Town of New Lebanon (Rapport, Meyers and Freeman Howard) as well as the Chairman of the County Board of Supervisors and the County Supervisor of Public Works.

Attorney Andrew Howard in attendance from this point forward.

Office of the State Comptroller (OSC) Audit:

Councilmember Baldwin noted that the audit conducted by the Office of the State Comptroller was started more than two years ago and we have had no word from them; their report is a result of what they found during the audit and without it, we have no idea of any areas where we need to be looking at practices or procedures. We need to have our report from this audit. The board requested that Supervisor Robertson send a letter to New York State Comptroller Thomas Dinapoli and that a copy be sent to the auditors as well as the supervisor for our audit asking where we are with our audit.

PRIVILEGE OF THE FLOOR:

Rocky Brown addressed the town board regarding the type of government at the county level and the possible change coming noting improved fiscal oversight, professionalism and accountability.

Hazel Dewey addressed the town board regarding the changes to the salary and hours of the Code Enforcement/Zoning Enforcement Officer noting that there never seems to be an explanation of why things are being done; the board needs to let the people know what they are doing and why.

Mark Baumli addressed the town board reading the clean-out of the ditch on Canaan Road noting that the work needs to be done now while the ground is frozen, not in a month or so when it is mud. Additionally, Mr. Baumli expressed his frustration that the Privilege of the Floor had been moved to the end of the meeting and requested that it be moved back to the beginning.

JJ. Johnson Smith and Robert Smith addressed the town board regarding the Privilege of the Floor noting that they prefer that it is at the end of the meeting and would like to see it remain there.

JJ. Johnson Smith provided the town board with a letter noting her objection to the appointment of John Dax to the position of ZBA Chairman without following the procedures that they have followed for all other appointments: advertisement of the vacancy, solicit letters of interest, interview interested parties, and then appoint. Ms. Smith further requested that the town board reverse this appointment and follow the same protocol they have with all other positions in filling this vacancy.

ADJOURNMENT:

A motion was made by Councilmember Chittenden and seconded by Councilmember Clark to adjourn the meeting at 9:35 p.m.

Respectfully submitted,

Colleen Teal, RMC
New Lebanon Town Clerk