

**MINUTES OF THE REGULAR MEETING OF  
THE TOWN BOARD OF THE TOWN OF NEW LEBANON  
HELD ON JULY 14, 2015**

**Present:** Michael Benson, Supervisor  
Dan Evans, Councilmember  
Matthew Larabee, Councilmember  
Irene Hanna, Councilmember

**Absent:** Chuck Gerald, Councilmember

**Recording Secretary:** Colleen Teal, Town Clerk

**Others Present:** Andy Howard, Attorney for the Town  
Jeff Winestock, Highway Superintendent  
Cynthia Creech, Deputy Court/Assessor's Clerk;  
Recreation Commission, CAC, & Zoning Re-Write  
Committee Member  
Ted Salem, Zoning Board of Appeals Member & Zoning  
Re-Write Committee Chair  
Robert Smith, Planning Board Member  
Joe Ogilvie, Recreation Commission  
Kevin Smith, Ethics Board Member  
David Farren, CAC Member  
Steve Oberon, LVHS  
Ed Godfroy, LVPA  
Thaddeus Flint, Reporter for *The Eastwick Press*  
Gail Heinsohn, Reporter for *The Chatham Courier*  
Several members of the public

**CALL TO ORDER:**

The meeting was called to order at 7:02 p.m. by Supervisor Benson. A moment of silence was followed by the flag salute.

**MINUTES:**

The minutes of the **June 9, 2015 Public Hearing on Proposed Local Law Establishing Income Levels for Real Property Tax Exemptions for Citizens Sixty-five Years of Age or Over**; the **June 9, 2015 Public Hearing on Proposed Local Law Amending Specified Sections of Chapter 205 (Zoning) of the New Lebanon Town Code**; and the **June 9, 2015 Regular Monthly Meeting** were reviewed. A motion was made by Councilmember Evans, seconded by Councilmember Hanna, and passed unanimously to accept the above noted minutes as typed.

**FINANCIAL:**

***Specific Questions on Vouchers:***

No questions.

Supervisor Benson noted that the May 6<sup>th</sup> bill from Fingar Insurance in the amount of \$458.70 (original General Voucher No. 126) was originally pulled so he could follow up on it. This additional charge is for the increase in crime coverage that was approved by the Town Board when the renewal policy was approved so this bill needs to be paid. It was added to the monthly bills for July as General Voucher No. A-225 in the amount of \$458.70.

***Supervisor's Report:***

Supervisor Benson read the Supervisor's Report and noted the other reports provided to the board members.

A motion was made by Councilmember Evans, seconded by Councilmember Larabee and approved unanimously to accept the Supervisor's report.

**OLD BUSINESS:**

***West Hill Road Property – Bid on surplus property:***

Town Clerk Teal reported the receipt of one bid as follows:

Shaker View Farm, LLC bid *one dollar more than the highest bid, with a minimum bid of \$2,000.00 and a maximum bid of \$20,002.00*. A deposit in the amount of \$2,000.20 in a certified check was included with bid as well as an executed Affidavit by Bidders as required.

Supervisor Benson asked Attorney Howard to address the appraisal value versus the bid received. Attorney Howard stated that the board put it out to public bidding numerous times so the board could accept the bid as it really is demonstrative of the interested value. The board could reject the bid if they felt they might do better however, this is the third time it has been put out to bid and this is the only bid received. The board has certainly tested the marketplace and given the public more than ample opportunity to submit a bid.

A motion was made by Councilmember Larabee to close the bidding and table the decision until the October meeting to determine the potential use of this property for a satellite wireless internet services. There was no second for the motion.

A motion was made by Supervisor Benson and seconded by Councilmember Hanna to accept the bid of \$2,000 from Shaker View Farm LLC for the property located off West Hill Road (tax map number 9.-1-57)

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

Roll Call Vote:

Supervisor Michael Benson	Aye
Councilmember Dan Evans	Aye
Councilmember Charles Gerald	Absent
Councilmember Matthew Larabee	Nay
Councilmember Irene Hanna	Aye

The motion passed and the bid was accepted.

Town Clerk Teal asked Attorney Howard for guidance on the next steps with the deposit check. Attorney Howard stated that the check should be deposited in escrow until the closing.

***New Lebanon Library (Tax Bill Identification) – Final Steps:***

Supervisor Benson asked Attorney Howard for an update on where the board is on the New Lebanon Library tax bill identification process. Attorney Howard noted the board passed the local law and it was filed with the Department of State (DOS). He asked the

Town Clerk if the Town had received their notice back from DOS verifying the filing. Town Clerk Teal reported she had received the notice from DOS and the local law was then filed with Columbia County Real Property Tax (CCRPT). She reported that she spoke with Suzette Booy from CCRPT and any filing with or forwarding on to Columbia County Treasurer's Office or NYS Real Property Tax Services that is required would be done by the County so our part is done.

***Highway Mater Testing/ Material Conformances:***

Supervisor Benson noted that it was discussed at the last meeting that would be addressed the next time we go out for bids.

***Human Resource Matters / HR Manual:***

No discussion/action.

***Town Park /Tennis Courts:***

Councilmember Evans reported that he received two estimates from tennis court contractors about what they thought about our current situation.

***Findings:***

***Demolition:***

Removal of existing courts could be an area of savings by using the highway department resources and manpower. Some sections of fence will need to be removed to properly pave the new court layers but these sections can be reused. It is estimated that approximately 4" of existing black top will need to be stripped. Judgement will need to be made on whether the in place material can be reused. If it can be, the highway department may be able to fine grade and compact the surface with a 1% slope.

***Construction:***

Findings of the subbase material will determine potential for cost savings in the construction phase. Stabilization fabric will need to be installed on the subbase. Crusher run (TYPE 2 NYSDOT) is recommended at a thickness of 8", followed by a 2.5" intermediate course binder level (TYPE 3 NYSDOT Binder) and a 1.5" surface course (TYPE 7 NYSDOT SC). Nets and posts should also be replaced and need to be selected by the town.

***Surface Coating and Striping:***

Recommended that the town sub-contract the finish coat of the tennis court separately to save on the general contractor's overhead mark-up for subbing this work out.

***Fence Replacement:***

Recommended that the town subcontract the installation of new fencing around the new courts. The increased thickness of the overall court system will allow for better drainage but will create a lip. New fence can be constructed around the entire perimeter which will also restrict unauthorized use of the courts (ATVs, bicycles, skateboards, etc.)

Councilmember Evans reported that he received two estimates:

Williams Paving Inc. (West Stockbridge, MA): 110'x120' Court System, demolition, construction of subgrade, intermediate course (2"0, surface course (1.5")). Total: \$66,000.

HMA Contracting Corp. (Mechanicville, NY): 110'x120' Court System, demolition, fabric, subgrade, intermediate course (2.5"), surface course (1.5"), new posts and nets, and Copeland striping system. Total: \$94,120.

Councilmember Evans noted that if the Highway Superintendent would be willing to offer his expertise and provide a test pit to see what existing conditions are on site, the town may be able to assess exactly the scope of work that is needed. We may be able to get the courts installed for about \$80,000. He expressed concern that the tennis court companies may not be willing to warranty the work if they are not doing the sub-base work. Supervisor Benson noted that if compaction testing is done and documented and made available to them, they should not be afraid to go over whatever is there.

Supervisor Benson suggested having the Highway Department remove the fence, remove any asphalt that is in place, and verify the sub-base. There was discussion about the need for verification of the sub-base if 8" of crusher run is being brought in. Supervisor Benson noted that if the sub-base is in good shape, 8" of crusher run may not be needed – just a couple inches may be all that is needed, just to have a good surface. Proof-roll what is there and put down 2 new inches and get a paving price and a coating and striping price and put the fence back up. Supervisor Benson asked about nets and posts. There was a discussion about the need to remove them and then put them back, whether or not they are in sleeves. It was confirmed that there are sleeves. Supervisor Benson asked Councilmember Evans if he could come up with a draft scope of work to be considered at the next meeting and to also take a look at the size of the courts to see if they meet regulation. Supervisor Benson noted that he would write two scopes of work; one for the Highway Department and one to put out to bid; we really need to know what the Highway piece is going to cost as well.

***Tax Freeze / Government Efficiency Plan:***

Supervisor Benson noted that he has just left this on the agenda to circle back to it when there is more to talk about. Those plans were submitted to the state at the end of May.

***Designation of the Wyomanock Creek as an Inland Waterway:***

Supervisor Benson noted that we discussed this at the last meeting. Cynthia Creech apologized for being off course. Two things she feels it is important to mention are: Up until recently, they thought that what this required was a letter from each Supervisor (New Lebanon and Stephentown) to ask for this. She has been working with someone in Senator Marchione's office and in fact, we would need a resolution petitioning the state the add the creek to the Inland Waterway list which is not just as simple as a letter and we would have to come up with language that describes the project and the creek. She asked that the board put this out until September giving her time to get the language together. The other thing that she had not mentioned, she did

not know this before, it is a 50/50 match program for the grants. We are not anywhere near that, this is just step one in a long line of steps that comes with this program. It a very intricate program. She also noted that JJ asked at the last meeting if getting this designation would put this on everybody's radar at DEC and so forth. That will not happen just by the designation, nothing will happen just by the designation. Once you ask for money and have a defined project – whether it is just a design or a vision, it does not have to be physical project – there are hundreds of ways you can ask for their help and you are going to get money from them; then they say okay you cannot do this to the creek – you cannot dig out the sides or the banks of the creek, you cannot change the quality of the water, etc. So at that point, they do ask for protection of the waterway. She thinks it will be useful for the CAC to talk to the Rail Trail folks and the Shaker Swamp Conservancy folks – the Town has to be the applicant on any of these grant. You can do it in concert with a local organization but the Town would have to make the application, the Town would receive the monies. She wants to make sure that these other organizations that have brought this up understand that this is a really involved scenario and without someone to work with the Town; it will be somewhat pointless she thinks.

***Noise Ordinance Workshop – July 28, 2015:***

Supervisor Benson noted that at the last meeting, the board discussed setting up a meeting for a workshop on the proposed noise ordinance. He received responses from the board members that everyone was generally flexible so he is suggesting July 28<sup>th</sup>. He spoke with both sides and this date works for both. So he would like to set that up for a specified time and location. The board set a workshop for the *proposed noise ordinance* and *proposed local law to regulate motor vehicle racing and related activities* for Tuesday, August 28, 2015 at 7:00 p.m. at the Town Hall.

**NEW BUSINESS:**

***Lebanon Valley Historical Society – Pavilion Rental – Request for Relief:***

Supervisor Benson noted there is a request from the Lebanon Valley Historical Society for a waiver of the Pavilion rental fee for an event they are holding on August 15<sup>th</sup>.

A motion was made by Councilmember Larabee, seconded by Supervisor Benson, and approved unanimously to waive the fee for the Pavilion rental for the Lebanon Valley Historical Society for their August 15<sup>th</sup> event.

***Mario's Liquor License Renewal:***

No action required.

***Gallup Inn Liquor License Renewal:***

No action required.

***Highway Bids:***

***Contracted Equipment:***

The Town Clerk read the notice to bidders as follows:

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

NOTICE IS HEREBY GIVEN that the Town of New Lebanon Highway Department is seeking sealed bids for the following equipment for hire for the 2015-2016 year:

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 is for a 10 wheeler or a tri-axle  
Please include year and make in the bid.
4. Mini excavator  
Hourly with operator & hourly without operator  
Please include year and make in the bid.
5. Mini Track Loader  
Hourly with operator & hourly without operator  
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, 2015. All bids must include a *Non-Collusive Bidding Certificate*. The bids will be opened at the Office of the Town Clerk on Monday, July 13, 2015 at 5:00 p.m. Bids will be considered at the regular monthly Town Board meeting to be held on Tuesday, July 14, 2015 at 7:00 p.m. at the New Lebanon Town Hall at 14755 Route 22, New Lebanon, New York.

The Town Board reserves the right to reject or accept all bids.

Town Clerk Teal reported the following bids received:

***J.Bergeron Trucking:***

Hourly trucking:  
1987 Ford LTL 9000  
Triaxle Dump Truck  
400 Catapillar  
NYS overweight permitted  
\$1,000,000 Liability insurance coverage  
Hourly trucking rate \$85.00  
(*Non-Collusive Bidding Certificate included*)

***D&J Excavating LLC:***

Bid prices for rental equipment with operator:  
1986 Autocar 400hp tri-axle \$85.00 per hour  
2001 D5C Cat Dozer with operator \$95.00 per hour  
1998 311B Cat Excavator with operator \$120.00 per hour  
2013 KX 121-3 Kubota mini excavator with operator \$90.00 per hour  
2014 289D cat mini track loader with operator \$90.00 per hour  
(*Non-Collusive Bidding Certificate included*)

A motion was made by Supervisor Benson, seconded by Councilmember Larabee, and approved unanimously to accept both of the above noted bids.

***Proposed Zoning Amendment:***

Ted Salem, Zoning Re-write Chair, reported that at the public hearing some concerns were expressed about the Small Business Operations (SBO) section. The Zoning Re-Write Committee reviewed those concerns and amended the proposed draft zoning amendment which has been provided to all the board members. In summary, they tightened up the definition of a SBO and added some general conditions and tightened some things up under Small Business Operation. They did not include the recommendation to include Site Plan Review (SPR) for a SBO. If it is new construction or a new facility going in, existing provisions of the code would require a SPR but if someone wants to take an existing space such as at the Mid-Town Mall and convert it into a soap factory, the Zoning Re-Write Committee feels the Special Use Permit gives them sufficient oversight. Initially, the Zoning Enforcement Officer's review and then the Zoning Board of Appeals review for a Special Use Permit gives enough oversight to cover the situation.

Attorney Howard noted that due to the level of public interest in the first review, he would recommend to the board that they hold a public hearing on this amended version.

The Town Board set a public hearing on the revised proposed local law amending specified sections of Chapter 205 (Zoning) of the Town of New Lebanon Code for Tuesday, August 8, 2015 at 6:45 p.m. at the Town Hall.

***Bruce Baldwin Memorial:***

Town Clerk Teal read the following request from Jeannine Tonetti:

*To the New Lebanon Town Board:*

*The tree and shrubs in Bruce's memory have been planted at the Town Hall. The area looks lovely. I am grateful to the Town Board for authorizing town funds for this tribute to Bruce, and to Jagat Pandey for his generous contribution. Jeff, Don, Gregg Hanna and most of all Phyllis Stoller were instrumental in assembling this memorial. Our town is very fortunate to have the expertise and energy of Phyllis, who volunteered to design and plant the town hall flowers and shrubs.*

*I would like to make a donation of my own. I propose to buy a bench to place at the memorial grove at the Town Hall. I would also like to buy a handicap accessible picnic table to replace one to the tables that is falling apart in the picnic area in Shatford Park. Both the bench and the table would have a plaque in Bruce's memory. I will solicit the opinion of others about the best bench and table. Both pieces will need to be anchored into the ground with concrete, and I will pay for any expenses incurred.*

*When we were travelling in Australia, we enjoyed the parks that are found in the center of small towns, where we could eat a picnic lunch and appreciate the community around us. Reading the memorial plaques in the parks was interesting. We realized that this is a manifestation of the citizens' pride and respect for their town.*

*I am requesting authorization from the Town Board to erect the bench and table.*

*Jeannine Tonetti*

A motion was made by Supervisor Benson, seconded by Councilmember Hanna, and approved unanimously to approve the above noted request.

***Fire Department Building Project Liaison Report:***

Ed Godfroy, LVPA, noted that they have not had another meeting. The LVPA has been meeting with other companies investigating some of the questions that the board had at

the budget hearings about the new building as to what zoning and building specs these other companies had to use and the laws that they went by. The LVPA is collecting the information.

***Fire Department Financial Reporting Liaison Report:***

Councilmember Larabee noted that the board had a copy of the LVPA's Monthly Treasurer's Report for the month of June. Councilmember Larabee asked if any of the board members had any questions on the Treasurer's Report. Supervisor Benson asked for verification that, at present, there is no debt. Ed Godfroy confirmed that.

***Local Law No. 4 of 2015 ~ Amending Specified Sections of Chapter 189 (Telecommunications Facilities) of the Town of New Lebanon Code:***

Upon determination that the enactment of the above noted local law is an unlisted action, the board completed the Short Environmental Assessment Form (SEQR). All answers to Part 2 – Impact Assessment were “No, or small impact may occur.”

A motion was made by Supervisor Benson and seconded by Councilmember Larabee to issue a Negative Declaration under SEQR.

The following is a roll call vote on the above motion:

Supervisor Benson	Aye
Councilmember Larabee	Aye
Councilmember Evans	Aye
Councilmember Hanna	Aye
Councilmember Geraldini	Absent

The motion carried.

**RESOLUTION #17, 2015 ~ ENACTMENT OF LL # 4 OF 2015: AMENDING SPECIFIED SECTIONS OF CHAPTER 189 (TELECOMMUNICATIONS) OF THE TOWN OF NEW LEBANON CODE**

The following Resolution was proposed and seconded:

Proposed by Supervisor Michael Benson

Seconded by Councilmember Matthew Larabee

**ENACTMENT OF LOCAL LAW NO. 4 OF 2015: AMENDING SPECIFIED SECTIONS OF CHAPTER 189 (TELECOMMUNICATIONS) OF THE TOWN OF NEW LEBANON CODE**

**PURPOSE AND INTENT**

The Town Board of the Town of Lebanon hereby adopts this amendment to Chapter 189 of the Town of New Lebanon Town Code.

**AUTHORIZATION**

This local law is adopted pursuant to the Town Board of the Town of New Lebanon enacts this Local Law under the authority granted by:

1. Article IX of the New York State Constitution, Article 9 §2 (c)(6) and (10).
2. New York Municipal Home Rule Law §10.

3. New York Town Law, Article 16 (Zoning and Planning).

**ENACTMENT**

Be it enacted by the Town Board for the Town of New Lebanon that Chapter 189 of the New Lebanon Town Code be hereby amended as follows:

**§189-1 PURPOSE AND LEGISLATIVE INTENT** is hereby amended as follows:

The Telecommunications Act of 1996 affirmed the Town of New Lebanon, New York's authority concerning the placement, construction and modification of wireless telecommunications facilities. The Town of New Lebanon finds that wireless telecommunications facilities may pose significant concerns to the health, safety, public welfare, character and environment of the Town and its inhabitants. The Town also recognizes that facilitating the development of wireless service technology can be an economic development asset to the Town and of significant benefit to the Town and its residents. In order to insure that the placement, construction or modification of wireless telecommunications facilities is consistent with the Town's land use policies, the Town is adopting a single, comprehensive, wireless telecommunications facilities application and permit process. The intent of this chapter is to minimize the impact of wireless telecommunications facilities, establish a fair and efficient process for review and approval of applications, assure an integrated, comprehensive review of environmental impacts of such facilities, and protect the health, safety and welfare of the Town of New Lebanon, while complying with the regulations such as the Tax relief Act of 2012.

**§189-3 Definitions** is hereby amended to provide the following additional and/or amended definitions:

**MODIFICATION OR MODIFY:** The co-location, addition, removal or change of any of the physical and visually discernable components or aspects of a wireless facility, such as antennas, cabling, equipment shelters, landscaping, fencing, utility feeds, changing the color or materials of any visually discernable components, vehicular access, parking and/or an upgrade or change-out of equipment for better or more modern equipment. A modification shall not include the replacement of any components of a wireless facility where the replacement is identical to the component being replaced or for any matters that involve the normal repair and maintenance of a wireless facility without adding, removing or changing anything.

**§189-9 SHARED USE OF WIRELESS TELECOMMUNICATIONS FACILITIES** is hereby amended as follows:

- A. The Town, as opposed to the construction of a new tower, shall prefer locating on existing towers or others structures without increasing the height. The applicant shall submit a comprehensive report inventorying existing towers and other suitable structures within four miles of the location of any proposed new tower, unless the applicant can show that some other distance is more reasonable and demonstrate conclusively why an existing tower or other suitable structure cannot be used.
- B. An applicant intending to locate, co-locate and/or modify an existing tower or other suitable structure shall be required to document the intent of the existing owner to permit its use by the applicant.
- C. Such shared use shall consist only of the minimum antenna array technologically required to provide service primarily and essentially within the Town, to the extent practicable,

unless good cause is shown.

**§189-18. EXTENT AND PARAMETERS OF SPECIAL USE PERMIT** is hereby amended as follows:

The extent and parameters of a special use permit for wireless telecommunications facilities shall be as follows:

- A. Such special use permit shall not be assigned, transferred or conveyed without the express prior written notification to the Town, said notice shall be provided to the attention of the Town Clerk, P.O. Box 328, New Lebanon, NY 12125.
- B. Such special use permit may, following a hearing upon due prior notice to the applicant, be revoked, canceled, or terminated for a violation of the conditions and provisions of the special use permit, or for a material violation of this chapter after prior written notice to the holder of the special use permit.

**§205 Zoning Attachment 2 - Use Table** is hereby amended to provide as follows:

Under the **General Uses** to the Town of New Lebanon Zoning Law Use Table, "Cellular Tower" shall be changed to "Telecommunications Facility" and the column for this use shall provide for "TSP/TSPR" in the Residential-Agricultural/Conservation (RA-5), Residential-Agricultural 2 (RA-2), Residential-Agricultural 1 (RA-1), General Commercial (C), Commercial-Recreational (C-Rec), Commercial Industrial (C-I) and Commercial-Residential (C-R) Zoning District columns.

"TSP" shall be listed in the Key to §205 Zoning Attachment 2 as TSP = Town Board Special Permit and "TSPR" shall be listed as TSPR = Town Board Site Plan Review.

#### **SEVERABILITY**

In the event that any word, phrase or part of this local law shall be declared unconstitutional, the same shall be severed and separated from the remainder of this local law and shall not effect the remainder of said local law which shall remain in full force and effect.

#### **EFFECTIVE DATE**

This Local Law shall take effect immediately upon filing in the Office of the New York State Secretary of State.

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

Roll Call Vote:

Supervisor Michael Benson	Aye
Councilmember Dan Evans	Aye
Councilmember Charles Gerald	Absent
Councilmember Matthew Larabee	Aye
Councilmember Irene Hanna	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.

***Local Law No. 5 of 2015 ~ Amending §179-3 of the Town of New Lebanon Subdivision Law Concerning the Boundary Line Adjustments and Merger of Parcels:***

Upon determination that the enactment of the above noted local law is an unlisted action, the board completed the Short Environmental Assessment Form (SEQR). All answers to Part 2 – Impact Assessment were “No, or small impact may occur.”

A motion was made by Councilmember Larabee and seconded by Councilmember Hanna to issue a Negative Declaration under SEQR.

The following is a roll call vote on the above motion:

Supervisor Benson	Aye
Councilmember Larabee	Aye
Councilmember Evans	Aye
Councilmember Hanna	Aye
Councilmember Gerald	Absent

The motion carried.

**RESOLUTION #18, 2015 ~ ENACTMENT OF LL # 5 OF 2015: AMENDING §179-3 OF THE TOWN OF NEW LEBANON SUBDIVISION LAW CONCERNING THE BOUNDARY LINE ADJUSTMENTS AND MERGER OF PARCELS**

The following Resolution was proposed and seconded:

Proposed by Supervisor Michael Benson  
Seconded by Councilmember Dan Evans

**ENACTMENT OF LOCAL LAW NO. 5 OF 2015: AMENDING §179-3 OF THE TOWN OF NEW LEBANON SUBDIVISION LAW CONCERNING THE BOUNDARY LINE ADJUSTMENTS AND MERGER OF PARCELS**

**PURPOSE AND INTENT**

The Town Board of the Town of New Lebanon finds it necessary to make a revision to the existing subdivision law. In enacting this revision it is the intent of the Town Board to clarify and improve the process involved when an applicant is seeking a boundary line adjustment or merger of parcels from the Town of New Lebanon Planning Board.

**AUTHORIZATION**

This local law is adopted pursuant to the Town Board of the Town of New Lebanon enacts this Local Law under the authority granted by:

4. Article IX of the New York State Constitution, Article 9 §2 (c)(6) and (10).
5. New York Municipal Home Rule Law §10.
6. New York Town Law, Article 16 (Zoning and Planning).

**ENACTMENT**

Be it enacted by the Town Board of the Town of New Lebanon that section 179-3 of the Subdivision Law be

hereby amended as follows:

**§179-3. Procedure for Boundary Line Adjustments and Mergers of Parcels.**

An application for a boundary line adjustment and/or a merger of parcels shall include a plat conforming to the standards set forth in Subsection A herein, and shall identify or be accompanied by the information set forth in the other subsections herein:

A. General drafting standards. An application for a boundary line adjustment or merger of parcels shall include the following:

- (1) The survey plat shall be drawn to the scale of one inch equals 50 feet or one inch equals 100 feet;
- (2) Dimensions shall be in feet and decimal parts thereof (except that areas of lots shall be shown in acres and decimal parts thereof), and bearings in degrees, minutes and seconds;
- (3) Plan or Plat shall be on sheets suitable for recording with the Columbia County Clerk's Office;
- (4) Existing and proposed lot lines shall be shown on a survey plat certified by a duly licensed NYS land surveyor;
- (5) Names and addresses of the owners of the lots involved in the proposed lot boundary line adjustment;
- (6) Zoning classification and requirements;
- (7) Date, North point and scale;
- (8) A location map for the purpose of locating the lots involved in the boundary line adjustment;
- (9) The location, names and width of all roads and ways adjacent to any of the lots and the location of classified streams and wetlands;
- (10) the survey plat shall depict the location of all lot lines and survey reference markers after the proposed adjustment;
- (11) Total area of each lot after the proposed adjustment;
- (12) Setback distances from property boundaries of any existing and/or proposed building, structure, accessory structure, well and septic field from any public or private street, road or way after the proposed adjustment;
- (13) any other information required by the Planning Board;

B. Review. Upon receipt of a duly certified survey map setting forth the information contained in Subsection A, the Planning Board may waive the requirement of a public hearing and may consider approval of a boundary line application or merger of parcels, provided:

- (1) the lots to be created by the boundary line adjustment or merger of parcels will conform to the Area and Bulk Regulations of the Town of New Lebanon for the zoning district in which the properties are located, as set forth in §205 Schedule 1, or;

- (2) where one or more prior non-conforming lots are involved, the boundary line adjustment or merger of parcels will not make any prior non-conforming lot more non-conforming;

**EFFECTIVE DATE**

This local law shall take effect immediately upon filing in the Office of the New York State Secretary of State.

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

Roll Call Vote:

Supervisor Michael Benson	Aye
Councilmember Dan Evans	Aye
Councilmember Charles Gerald	Absent
Councilmember Matthew Larabee	Aye
Councilmember Irene Hanna	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.

**LIAISON REPORTS:**

***Economic Development & Conservation Advisory Council (Councilmember Evans):***

Councilmember Evans noted he had no reports. David Farren, CAC Member, reported that the CAC has submitted a grant application to the Hudson River Estuary Program to get assistance with the next project they anticipate which is a conservation plan for the Town of New Lebanon. The Town has never had one so the CAC could use some expertise from outside sources. So the grant, if it comes through, would enable them to do that. They have applied for just over \$20,000.

***Highway Department (Councilmember Hanna):***

Councilmember Hanna reported that this month the Highway Department has basically been doing maintenance including grading and pothole repair. Because of all the storms we had in June, they have had to do a lot of work on the roads. Additionally, the Highway Department went out for bids on the rented equipment for 2015-2016.

***Town Property & Assets (Supervisor Benson):***

Supervisor Benson reported that he has not report other than the tennis courts which is a pretty big undertaking that we are working on.

***Zoning, Planning, Code Enforcement (Councilmember Gerald):***

No report.

***Town Assessment Office (Councilmember Evans):***

No report.

***Education, Recreation, Historian (Councilmember Larabee):***

**Community Picnic:**

Councilmember Larabee reported that the Community Picnic will be July 25<sup>th</sup> from 11:00 a.m. to 3:00 p.m. at the pavilion at Shatford Park. There will be a variety of activities including the Fire Department, a presentation by the Town Historian, Randy Lucas the clown, live music, face painting, Larry the fisherman, and Rhonda's Reptiles.

**Recreation Commission:**

Cynthia Creech, Recreation Commission member, reported that at the last meeting, a couple members of the Recreation Commission and another person had volunteered to do some work on the tennis courts although it sounds like the board has it under control. However, if the board needs any help they would be happy to help on it.

**Town Clean-up Day:**

Councilmember Larabee noted that he wanted to thank Jeff and John for all of their hard work on the clean-up day as well as everybody that was there helping. There were a lot of people that helped. It was noted that usage was up from last year; it was very well received by the residents.

***Security, Fire, Law Enforcement (Councilmember Larabee):***

No report.

***Justice Court/Constable (Councilmember Geraldini):***

No report.

**BUDGET AMENDMENT:**

**Amendment # 3 of 2015:**

**General Fund:**

\$112,950.80 to A-3089 (S/A Shaker Museum/Lib Grants: Revenue)

\$112,950.80 to A-7520.4 (Historical Property ~ Shaker Museum & Lib.: Cont. Exp.)

A motion was made by Councilmember Larabee, seconded by Councilmember Hanna, and approved unanimously (Councilmember Geraldini absent) to approve the above noted amendments to the 2015 Budget.

**AUDIT OF BILLS:**

**General Nos. 190 through 225, in the amount of \$185,726.24; and  
Highway Nos. 91 through 117, in the amount of \$87,679.66; and  
As listed on Abstract # 7 of 2015, dated July 14, 2015.**

A motion was made by Councilmember Hanna, seconded by Councilmember Evans, and approved unanimously (Councilmember Geraldini absent) to pay the above noted claims from their respective accounts.

**ANNOUNCEMENTS (of activities or events):**

***August:***

*Tuesday, August 11<sup>th</sup> ~ Town Board Regular Monthly Meeting at 7:00 p.m. at the  
Town Hall*

**PRIVILEGE OF THE FLOOR:**

JJ. Johnson-Smith addressed the town board regarding public hearings and resolutions noting she thinks that anything that has any impact on our town and/or our people at all probably should go to a public hearing. If the board is going to hold a second public hearing on minor changes to the Zoning Amendment, why did we not have one about Behold? [unclear – background noise] And then Resolutions, for example the Wyomanock which is going to have to have a resolution by the Town Board; this is going to affect Stephentown and New Lebanon. And back to Behold in 2014, in order for them

to apply for the grants, they had to have the endorsement of the governing body of the applying municipality. So why was it not done in New Lebanon, why was it taken to the County Board of Supervisors? And signed three months before our Town Board had even heard of Behold? Supervisor Benson asked specifically what Ms. Johnson-Smith was referring to. Ms. Johnson-Smith stated she is referring to a resolution by the Board of Supervisors of the County of Columbia signed April 9, 2014, the authorization for the submittal of a Hudson River Valley Greenway Grant Application on behalf of New Lebanon. The third paragraph says "*whereas the grant application requires the applicant municipality [which would be New Lebanon] to obtain the approval and endorsement of the governing body of that municipality.*" She noted that she realizes it is not illegal to have the County act as the governing municipality; I know they can do that. It is legal but it is not ethical. And this was done three months before the night that Bruce Baldwin was totally blind-sided by people from Behold. Our Town Board knew nothing about it but the County Board of Supervisors had already passed a resolution to endorse them. Supervisor Benson asked if he could get a copy of the resolution from the County Board of Supervisors. JJ. Johnson-Smith said yes because it is signed by Pat Grattan and a couple of other people and it says '*I hereby affirm under penalty of perjury that the information provided on this form and attached statements of exhibits is true.*' She said it wasn't true. Attorney Howard stated it was true and he thinks she is mixing it up. What that is, the sponsoring municipality in that instance is the County of Columbia. Ms. Johnson-Smith asked why it was the County and not the Town, Behold is not a County program; it is a New Lebanon program. Attorney Howard noted that Behold must have gone to the County. [unclear – over-talking by multiple people] *Unknown speaker:* It was the nature of the grant that they were asking for; it was a County issue not a Town issue. *Unknown speaker:* A 501c. *Unknown speaker:* The County has to process all of their donations. JJ. Johnson-Smith stated that she still thinks it should have been discussed among our own town board; it should have had a public hearing which was requested in writing this year; not the first year, but this year. Attorney Howard noted that he can address the public hearing. The reason the board had the public hearings earlier this evening is that when a board enacts a local law, it is a legal requirement that that occur. Not to diminish their importance, but the public can see that there are a lot of resolutions that occur and some are to resolve to put a table and bench in the park, there is a variety of things; all of those things are the business of the board and it is the way that they take action and there is no requirement, with some limited exceptions where they need to have a public hearing to enact some of those resolutions. Beyond that, ultimately what he would say on the one hand is every town board meeting is a public hearing. Because the public has an opportunity to come, they have an opportunity to speak, and to raise that. Now, over the course of a year or several years, there may be issues where the town board can exercise their discretion and have what he guesses could be called a public hearing but it is really just additional public comment if there happens to be a particular issue that is large. That does happen from time to time. So sometimes that occurs. It seemed to him that with Behold at one point there was a public presentation; he was not here. [unclear][over-talking] Councilmember Hanna stated that there was an informational meeting for various organizations including the Herb Fest and other things that were doing stuff. Ms. Johnson-Smith stated but not for the public, not for the people...[unclear][over-talking] Councilmember Hanna noted it was right here and she

was present. JJ. Johnson-Smith stated that if you ask the majority of the people if they were unhappy about the way it was implemented, they are going to tell you that they knew nothing. Councilmember Hanna stated that it was an informational meeting for the various organizations that were doing activities in the town; Behold was included with the Herb Fest and other ones and they all had ten or fifteen minutes each for their presentations and they were done publicly right here at a board meeting. [over-talking] JJ. Johnson-Smith stated that was well after [unclear], it was almost towards the end of the summer season. Attorney Howard stated that just to complete it, so you have a local law where in most instances there is a required public hearing; you have resolutions which typically do not result in public hearings, and then you may have some things that fall in-between such as a particular grant program that requires a public hearing. So that is what guides the board generally and then within that they have some ability to exercise discretion.

Robert Smith asked why does the County have a say over what goes on in the Town of New Lebanon. David Farren responded that the County was serving as the fiscal agent for Behold so they had to go to the County to get the resolution.

**ADJOURNMENT:**

A motion was made by Councilmember Evans and seconded by Councilmember Hanna to adjourn the meeting at 8:20 p.m.

Respectfully submitted,

Colleen Teal, New Lebanon Town Clerk