

**MINUTES OF THE PUBLIC HEARING OF  
THE TOWN BOARD OF THE TOWN OF NEW LEBANON  
ON THE 2016 PRELIMINARY BUDGET  
HELD ON NOVEMBER 10, 2015**

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

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

**Others Present:** Jeff Winestock, Highway Superintendent  
Joe Ogilvie, Recreation Commission Member  
Sharon Moon, Town Historian  
Ted Salem, ZBA Member & Zoning Re-Write Chair  
Tammie Darcy, Tax Collector  
Mark Baumli, Councilmember Elect  
Tistrya Houghtling, Court Clerk & Town Clerk Elect  
Cynthia Creech, Deputy Court/Assessor's Clerk;  
Recreation Commission, CAC, & Zoning Re-Write  
Committee Member  
Jack Nevers, Town Justice  
Tony Murad, ZBA Chair  
Cissy Hernandez, Building Department Administrator  
Mike Blatt, Planning Board  
Bruce Shenker, CC Environmental Management Council  
Kevin Smith, Ethics Board Member & Councilmember  
Elect  
Robert Smith, Planning & Ethics Board Member  
Gregg Gilliland, LVPA President  
Ben Wheeler, LVPA Fire Chief  
Bob Waters, LVPA Treasurer  
Ed Godfroy, LVPA  
Bernhardt Karp, LVPA  
Stephanie First, LVPA  
Betsy Becker, LVHS  
Thaddeus Flint, Reporter for *The Eastwick Press*  
Gail Heinsohn, Reporter for *The Chatham Courier*  
Several members of the public

**CALL TO ORDER:**

The public hearing on the 2016 Preliminary Budget was reconvened at 6:02 p.m. by Supervisor Benson.

***PUBLIC COMMENT:***

The following people spoke regarding the adoption of the 2016 Preliminary Budget:

**Gregg Carroll** noted she wanted to address a comment that was made at a couple of budget meetings that the LVPA is a private corporation and the town board has no

control over them because it is a private corporation. She provided the board with a copy of Section 1402 of NY Non-Profit Corporation Law entitled Fire Corporations and noted that this is not the case. She noted under "Powers", *A fire, hose, protective or hook and ladder corporation...shall be under the control of the city, village, fire district or town authorities having [ , by law,] control over the prevention or extinguishment of fires therein. Such authorities may adopt rules and regulations for the government and control of such corporations.* She noted that to paraphrase, it says that the town board is responsible for fire prevention and they can manage the non-profit fire corporation any way they see fit.

**Joe Ogilvie** addressed the town board noting that the LVPA has been providing reports on their expenditures starting in March. He noted that in August and September, they only provided contractual expenses. He asked the board to request from the LVPA the January and February contractual and non-contractual reports and the non-contractual component for August and September and going forward to provide a complete statement including both contractual and non-contractual expenses.

**Peter Watson** addressed the board on behalf of some citizens concerned about the LVPA budget. He noted that using the numbers that have been provided to the board by the LVPA, he prepared a comparison of the average actual expenditures from 2011 to 2014, the actual expenditures of 2014, and the 2016 budget requested. The Actual vs Budget Expense Comparison also showed the \$ variance and % variance between budget versus actual for the two time frames noted. He noted everyone's appreciation for the work the LVPA does and the realization that it is a critical service. However, he feels there needs to be some fairness in the process too and particularly that there are a lot of people in this town that do not have a lot of money and are living on a fixed income and so with anything that they are paying in taxes, you really don't want to push through anything more than what is needed to run the company to provide the service. He provided the board with copies of the comparison he prepared noting this is really just a table of actual versus budget and it is basically a standard comparison that is used in non-profit businesses. He reviewed the comparison making the following points:

- From 2011 to 2014, the true operating expenses was \$110,000; less than half of the historical budget appropriations for the LVPA over the past few years;
- 2014 actual operating expenses were \$125,490;
- Looking only at operating expense items, 2016 request is \$157,210 (taking out capital expenditure items) which is 42% more than the average for 2011-2014 and 25% more than 2014;
- Looking at the individual line items, the rest of the town budget they are typically fighting over nickels but there are twenties running around here; there is actually a pretty big variance between what they are actually spending (what it is actually taking to run it) versus what is in the appropriation;
- Building maintenance is very low and the question has come up: are we taking care of the fire house as we should? The actual expense is \$8,000 but the

appropriation is for \$36,000 so they may have saved money doing it themselves but they are charging us much more, an additional \$28,000; and

- There is a pretty hefty amount of this current operating budget request that is capital, \$90,000 and \$45,000 of that is for the capital reserve account.

The question for the board is given that the actual cash on hand is somewhere around \$507,000, do we really need to make that large of a contribution to capital this year? He also noted that this type of comparison, prepared by the LVPA, really should be part of the board process. A little more structure so the dialogue can be a little more focused.

**Sharon Moon** addressed the board noting that Peter Watson has extensive experience with non-profits and Gregg Carroll is a CPA and the board should be taking advantage of the people that are here in town and get a budget that reflects what the people in town actually want.

**Bud Godfroy** addressed the town board noting that he wanted to encourage the town board to give the fire company \$100,000; \$25,000 per quarter with receipts as to how it is being spent so there is no shuffling off to the side what is not being spent. He also encouraged the new town board to sit down on January 2<sup>nd</sup> and start to build a grounds up budget of needs, wants, and desires; not only for the fire department but for the highway department, the library, and anyone else that is there. Especially for the fire department so we can all reap the benefits of a well-funded fire department but one that is not raping the residents for monies that are just hanging around. Certainly buildings can be built with fund raisers and grants and other things and he encouraged the town board to go that way.

**Fiona Lally** addressed the town board noting she is concerned about items that she does not understand why they are part of the budget. She asked the board, when they vote, to include only what are reasonable operating expenses. However she is also concerned about the differences that she sees in building maintenance. It appears we are being charged for something that she can see has not been used. She is also concerned about the \$45,000 capital reserve account and she does not know why she needs to pay more money when there is already such an enormous reserve. She is sure there are good answers to this and she is sure that we can get there but she does not hear them yet and she would really like that the vote tonight to pay close attention to this request and consider leaving the amounts like these that are in dispute out of the budget so that it can be sorted out with more input in the careful way that she has heard Bud Godfroy and others mention this evening.

**Pat Cochrane** addressed the town board noting that she was a member of the LVPA for a few years and she was frustrated by the amount of money that was spent on different plans for architectural drawings and plans for buildings and so on. She thinks that townspeople and the LVPA and whoever else should get together with expertise from those people who know what could possibly be done and work on it instead of spending more money before we know what actually could happen. She agrees with what has been said here and she would like to see the board concentrate on the extra money.

**Chris Dreyfus** addressed the town board noting the LVPA and the town are co-dependent. At the last budget hearing she remembers thinking it was such a stretch between the town budget where everybody had to fight for every nickel on every item and there was not a similar kind of scrutiny or any kind of background to the items that were being requested by the LVPA and for example, the Supervisor asked the LVPA to project possibly the cost for the rest of the year because ten months had gone by for capital equipment and the response was “well a truck could die any second and we would have to spend \$220,000.” She called a friend from another department in another town and she said actually they all help each other out. Trucks and equipment go off all the time, they are always breaking and they always help each other. So she felt that the response lead me to think that the LVPA wasn’t really thinking in the same kind of budget thinking that the town departments have had to do. So her recommendation is to skinny down the amount to the \$110,000 and we are sure that the LVPA will not run out of money and it will force us all to come together with a new agreement and new oversight.

**John Dax** addressed the town board noting that we have heard a couple of really good ideas tonight. Peter Watson’s handout is exactly the kind of analysis that he sees in the not-for-profits that he works with. He is on several non-for-profit boards including audit committees and finance committees. These are the kinds of analyses that they expect to see where you compare actuals to budgets; actuals to past budgets, actuals to new budget. Then you can understand where the variances are and you can ask insightful questions and ask for answers. He thought that Bud Godfroy’s comments were spot on and his proposal for what to do with next year’s LVPA budget amount is a good place holder that will give the town a chance to catch its breath and figure out what is going on and would give the LVPA the chance to come forward with good information that would be helpful. We have created this sort of antagonistic, hostile environment which is unfortunate because we are all in this together and all the townspeople are asking for is information and asking for the LVPA to start presenting budgets in a sensible way. Peter Watson’s analysis allows the town to understand the difference between budget and actual. What he presented to the town board (and also posted on the LVPA’s Facebook page so they could see it) is the way that other not-for-profits that he is involved with do their own financial planning. There is an operating budget which is strictly operating – what is the cash requirement to allow you to operate in the next calendar or budget year. Then we separately look at what are the needs for the future and there are reserve accounts to account for that and a contingency reserve account. He is suggesting that the LVPA go back and look at their budgeting process and forget about this IRS tax depreciation guidelines – those are not useful for cash budgeting and they are not useful for cash reserve purposes. They have generated a large opaque amount of money that has caused a lot of suspicion in the taxpayers. That does not deny that the LVPA has a legitimate need to plan for the future and to have reserve accounts that build up over time to replace that truck that was purchased 20 years ago or to talk about an emergency that might have to be planned for or to talk about the fact that maybe sometimes funds don’t get received when you anticipate them and so you need to have some cash flow reserves. There are legitimate cash reserve needs but to just take a large depreciation and treat it as a cash amount and then say surprise we have a big

surplus, let's put it into the building fund this year; that is not proper budgeting. He would encourage the town in the next contract with the LVPA to put some very specific guidelines on budgeting going forward.

**Councilmember Larabee** asked if the CPA for the LVPA had any comments. **Bernhardt Karp** addressed the board noting that depreciation is the piece that never should have been thrown out there. They have a budget - \$110,000 to \$120,000 to operate. If we look at what they spent last year, they spent over \$100,000 in capital; where did that come from? It has to come from the appropriation made by the town board for the fire company. They have anticipated what they will need next year, which also needs to be raised by the appropriations for 2016 fiscal year. He said he is not here to tell us that their operating expenses are \$225,000; they are not. As has been clearly stated, they are between \$100,000 and \$125,000. The building maintenance has been brought up, why is it \$36,000 when they only spent \$8,000? They anticipate spending a lot more money this year because of the condition of the building. What the discussion is leaving out is capital which is a necessity on an annual basis and if we look back over the last four or five years, they have been spending \$100,000 on capital between paying for fire trucks and equipment. When you have to pay capital expenditures, you have to have the money to pay them whether it is called capital expenditures or depreciation. There is a difference between operating expense and capital expense, unfortunately, capital expense has been thrown out like it does not count. Mr. Karp noted the importance of planning for capital expenditures. He noted that in 2015, they will have expended over \$100,000 in capital.

**Carin DeJong** addressed the board noting that it seems that if we need trucks for the Highway Department, we make it a slightly tighter rein as far as when they make their purchases and when these purchases are anticipated. If there is \$500,000 in the bank, we need to take a step back, there is money in the bank for capital expenditures.

**Bernie Karp** stated that there is money put aside in the bank and if his memory serves him correctly it is about \$500,000 but it has been documented what it is for. It is not just sitting there and they have \$500,000 to spend whenever they want to; it is there for specific purposes.

Several people noted it is not documented what it is for; that is what they want to see. What is that money for? Mr. Godfroy noted that information was provided at the previous meeting.

**Supervisor Benson** noted he had those numbers, he read them aloud:

Reserves total: \$504,000:

\$159,000 for Fire Savings (budget money from the town that is in savings to cover through the end of year and actually through February or March when they receive the following fiscal years monies);

\$49,722 for Radio Replacement (for County transition to new radio frequency, to purchase any radio equipment not provided by the County during this transition – per an agreement with the Town, any monies not spent on radios and ancillary

equipment not covered by the County upon completion of the transition, will be transferred to the building project fund);

\$10,000 in an Escrow Account;

\$279,460 in the Building Fund; and

\$8,000 in the Truck Replacement Fund.

**John Dax** addressed the board noting that this screams out for having a capital budget, having reserve funds that are allocated to that capital budget so that the town's people know what is going in and out of that capital budget instead of just having these large pools of money and then we are given these explanations. He also noted that any time that an accountant appears before the town board and says lay people cannot understand this; you need to be on alert and alarms need to go off because that is a bad sign. If the LVPA's expert cannot explain to you so that we can all understand, then something is amiss.

**Joe Ogilvie** addressed the board noting that as they roll the monies from the Radio Fund into the Building Project Fund and then if the board approves their current budget request that would be about \$75,000 more that would be going into the Building Fund. And just because we have sent money down to County in our taxes and the County has chosen to support the fire company with radios, we don't get the benefit of that because the next thing they will do with the radios is depreciate them. So we will pay our taxes to the County, we will pay our taxes to the fire company, and then the radios that they have gotten from the County, he is sure they depreciate them so over time (over 5 years or 7 years), we will pay for them again. He would just like to get the benefit of our taxes from the County and not have it sort of triple charged to us.

**Ed Godfroy** noted that the County will own those radios, they will not be owned by the LVPA and the LVPA cannot depreciate County owned equipment.

**John Dax** addressed the town board noting that there should be no depreciation in a cash operating budget at all; that needs to be established. That is the problem here, they have been using a tax accounting concept as part of their budget to generate cash that they don't need and so they have been putting it in this fund which they then decide well they can use it for a building fund but that is not what it is for. They should have a capital reserve that is required to replace equipment that actually wears out over time – if a truck lasts twenty years, at the end of the twenty year period, they should have a fund that will allow them to replace that truck. That is a legitimate capital reserve and they should be budgeting for it and they should be charging for it. But using these depreciation guidelines from the IRS is totally irrelevant.

**Bernie Karp** addressed the board noting that the discussion with depreciation and cash, he agrees with fully. You have to pay for what you purchase and you have to pay for it in one of two ways, you pay for it when you buy it or you finance it over time. It has nothing to do with depreciation. The depreciation discussion was brought up not by him but by the concerned citizens because they thought it was out of line percentage wise with the total budget. So let's forget about depreciation; what did the fire company spend in 2014, in 2015, and what they are anticipating in 2016. That is cash to cash.

And what they don't spend, they have left over and it goes into a capital reserve. The question becomes, are they overfunding their capital reserves. Numerous members of the audience responded yes. Mr. Karp responded, on what basis? At the end of 2015, they have \$8,000 in a truck reserve; well guess what, there are no fire trucks out there for \$8,000. There is money put aside for the building but it is segregated and this building may never be built in which case it would then be decided to use that money for other purposes.

**Tistrya Houghtling** addressed the town board noting that she appreciates the fire company and everything that they do and she feels like there is big divide in the community right now that she is hoping that we can minimize. What she is hearing is that the taxpayers are wanting more transparency and more explanation of why do you need the \$500,000 and one thing that comes up for her is that the accountant just said that is between \$110,000 and \$125,000 actual operating expenses and then there is \$159,000 in a savings account that is for operating expenses but we are giving you the operating expenses every year so that \$159,000 to cover operating expenses does not seem to make sense. If we are handing you the \$110,000 to \$125,000 that you need for operating expenses then there is not a need for \$159,000 in a savings account to cover those operating expenses that we are paying every year. And the other items that jump out to her are building maintenance which has already been brought up, fire supplies and uniforms were at \$3,600 (average 2011-2014) and \$2,400 (2014 actual) and now they are asking for \$20,000 – that is almost ten times the amount; office expenses were \$1,100 (average 2011-2014) and \$1,200 (2014 actual) and now they are asking for \$5,600 – almost triple the amount; and miscellaneous from \$5,600 (average 2011-2014) and \$4,700 (2014 actual) and now at \$10,100 – almost double the amount. She just has to say that as a town employee for five years, she always has to explain every expense and the current Supervisor (she is not sure how it was done before) will look at the year-to-date expenditures in her accounts and say well next year you will need less because your expenditures are down. If there is a reason such as there is a training conference in December that will significantly increase the expenditures, she needs to explain to the board why in October she has only spent 40% but she still needs the same funding for next year. She thinks what she is hearing, what the taxpayers are asking for is that same accountability as every other town department has where we have to come and we have to explain. She thinks that everyone appreciates the services of the fire company and wants to make sure that they have adequate equipment and what they need to provide those services. But the people want a more realistic number of what those services are really costing. We need a new firehouse or we need to fix the firehouse that is there so then let's have an account for that and let's talk about what that is realistically going to cost and budget for that as well not just say there is \$50,000 extra in our operating budget, let's just throw that into the building fund.

**Carin DeJong** addressed the town board noting that she feels that there is a lack of trust both ways. She feels that the LVPA may not trust that the taxpayers understand that they may need a new building but she also feels that they just want the taxpayers to trust what they doing fiscally and not necessarily provide the transparency. She would like to see a meeting where a few people could sit down and hash out all the numbers and set up the fund that Mr. Dax suggested; we know there is a need for a new

building; the numbers may all end up being very similar to where they are asking for but she what she would like to see is more transparency and to see separately what they need to run (operating budget) and what is needed for capital.

**Fiona Lally** addressed the board stating the she wanted to request the kind of protocol that John Dax specified having to do with putting contingencies and reserves in the format that is commonly accepted under these sorts of accounting practices. She would be so relieved to see that included in the rewriting of the contract with the fire department for 2016 so that we really had a means for being able to explore and expand on that in the upcoming year.

**Bud Godfroy** addressed the board stating that he is really emphatic about \$100,000 for this year's expenditure for the LVPA with \$25,000 paid each quarter and having the new board sit down on January 2<sup>nd</sup> and start building this budget from the ground up so that we have a well-funded, well trained fire department that is also very affordable for the town. We need to define the operating budget and then the numbers for other things and he thinks that would make the town's people very happy and it would work well for the fire department because they would then be able to build a realistic budget. He is not asking to cut it out, just to start from a good starting point in 2016.

**Tony Murad** addressed the board stating he liked what Tistrya Houghtling said. He also questions the fact that there is \$159,000 in a savings account right now that is used for the operating budget, so this money could be used for 2016. If he were to take this to the next degree, then zero for this year because the operating budget is all there. He is not suggesting that, he knows the board has to come up with a more acceptable plan for the fire company. But if there is already the operating budget in the savings account, he questions why there is a need for any money at this point.

**Ben Wheeler, LVPA Fire Chief,** addressed the board noting the concern for the \$297,000 for the building fund. He said, yes, they have that money but if the taxpayers are looking for transparency, it is there; this money is reported every month on the reports. They are not hiding anything from the town board. Right now, their budget with their savings account right now looks extremely skewed because of that \$297,000 that is sitting there for the new building. They are trying to plan for the future; they started that about ten or fifteen years ago. They starting looking at financing and they can only borrow about 70 to 72 percent of what they have and what the new building will be so that means he will still have to come up with 25 to 30 percent of that new building somehow basically in cash, in reserves. He noted that if they do not have ten percent in cash, they will not loan them any money. The when the previous building committees looked at that, they brought that problem back to them; we can't borrow money because we just don't have the money in the accounts. So they did what they needed to do at the time, and still need to do, because they still that certain amount of cash funds to be able to put a down payment on it to make up that gap between what they can borrow and what the building is going to actually cost. Once the building is started, the \$300,000 is gone. It is going to be eaten up in construction costs. It is going to go into the building somehow. So if you then look at what is actually left in their reserves, they are down to \$200,000. It may even be less at that point if we pay a couple of other things out of there trying to keep... [unclear]. So his understanding is we are

looking at a highly skewed savings system or budget system due to the fact that they did what they needed to do when they planned for the building, they planned for the future a number of years ago. He watches what the town board does with the unexpended fund balance and noted that is exactly what they are doing. They put that unexpended fund balance into the new building fund because that is something they need. So they are using the same model that they are seeing their town government use but for some reason they are getting hammered on it. Because they are taking what is left of the contract money and they are putting it into something that they are calling capital. Now back in the day, because they are all volunteers – he is not an accountant – when they started putting together these budgets, there was a line item that said depreciation. As they have been brought up to speed and they have been educated by their CPAs and trained how to do this better and understand it better themselves, the depreciation then went to what is now in there as the capital. That is what they are doing so looking at what they have there it is a skewed balance because of what they have in their savings account but what he wants to say is if you take that \$300,000 out of that savings account and use it for their operating budget to get through next year, he has nothing for a down payment and he has no way to go for that new building.

**John Dax** addressed the board asking if the town has committed to a new building of a certain amount of money with a concrete estimate and a plan. If it hasn't, then we are hearing that if they don't do this they won't have a down payment for the new building; well the new building, there is no plan for it, there is no concrete idea so we are being told that they need the \$300,000 for what? And what is the moral obligation going to be of the taxpayers to keep funding that. Until there is a full plan with a cost calculation and a projected "what is this going to cost the taxpayers of New Lebanon for the next twenty years," until that information is spread across the public record this whole analysis that we have just heard is really not very helpful because it is talking about something that does not yet exist. Yet there is a down payment and they need to defend the down payment. He would like to know what the down payment is on because he wants to know what the rest of the payment is going to be because that is what he is going to be paying.

**Bernie Karp** addressed the board noting that the money that the fire company has is \$500,000; they also have to pay their bills for October, November and December of 2015. That is in there as well. So on an operating basis you are looking at about 25 to 30 thousand dollars. John Dax noted that those should all be separately stated in separate reserve accounts and Mr. Karp is right, these are a legitimate expense – cash flow requirements, timing of cash flow, it should be separately stated... Mr. Karp stated it is separately stated to the board every month and the board knows that the basic account has months to run; in July it should be even higher than that because they have to pay six months expenses.

**Ed Godfroy** addressed the board stating that the fire line (as of October 1<sup>st</sup> is \$149,000) is money left over from the budget the board gave them to operate for 2015; that is not money just lying there, that is to operate for 2015. That money is to pay the bills for November, December, January and February because they do not get their check from the town until almost March. So they have four months that they need to operate out of

that \$149,000. Supervisor Benson stated that what that tells him is that through October or through September, the third quarter, their operating expenses were approximately \$70,000 which would stand to reason. He noted the accountant was shaking his head. Ed Godfroy noted that some of that money is from the 2014 budget.

**Sharon Wheeler** addressed the board noting she gets the feeling that the people think the LVPA is not being careful about how they spend the money; they are careful about what they do.

**Supervisor Benson** asked if anyone else wished to be heard. No one responded.

**Supervisor Benson** made the following suggestion for the board's consideration:

We are not arguing over operating costs, the average of \$110,000 from 2011 to 2014 all sides agree that is pretty close to what it is; 2014 it was \$125,490. The fire company has asked for \$247,000; \$110,000 are the operating costs on the average of those four years, \$178,000 is right smack in the middle. His suggestion is that we settle somewhere in the \$178,000 range and then take some money and put it in a capital reserve account within the town's funds designated just for use for the fire department but there would be a discussion much like this as to how it was spent and what it was spent on. He noted the fire department shot that idea down; they were not interested in that, is that correct he asked the fire department? Ed Godfroy responded that it was because they were told it was not legally viable. Supervisor Benson stated that it may not be. Supervisor Benson reiterated that his recommendation is the meet in the middle at \$178,000.

**Joe Ogilvie** addressed the board noting the \$178,000 sounded very good.

**Ed Godfroy** addressed the board asking if the fire department was negotiating with the board or with... he noted that he had not heard any of the board members speak on this budget at all.

**Supervisor Benson** asked if any of the board members wished to speak on the fire budget or on the overall budget. None of the board members had comments at this time.

All persons wishing to be heard, having been heard, a motion was made by Supervisor Benson, seconded by Councilmember Larabee and approved unanimously to close the public hearing at 7:04 p.m.

Respectfully submitted,

Colleen Teal  
New Lebanon Town Clerk