

**MINUTES OF THE REGULAR MONTHLY MEETING OF
THE TOWN BOARD OF THE TOWN OF NEW LEBANON
HELD ON SEPTEMBER 10, 2019**

Present: Margaret Robertson, Interim Supervisor
Kevin Smith Sr., Councilmember
Jesse Newton, Councilmember
Mark Baumli, Councilmember
Norman Rasmussen, Councilmember
Jon Tingley, Town Attorney

Recording Secretary: Tistrya Houghtling, Town Clerk

Others Present: Bud Godfroy, LVPA
Ed Godfroy, LVPA
Jeff Winestock, Highway Superintendent
Cynthia Creech, CAC Member & ZRC Member
Peg Munves, CAC Member
Robert Smith, Ethics Board & Planning Board Member
Rocky Brown, Ethics Board Member
Jeannine Tonetti, ZBA Member & Ethics Board Chair
Cissy Hernandez, CEO/ZEO
Jeff Hattat, Deputy CEO/ZEO
Judy Zimmer, NL Rep to CC Office for the Aging
Thaddeus Flint, *The Eastwick Press*
Several members of the public

CALL TO ORDER:

The meeting was called to order at 7:03 p.m. by Interim Supervisor Robertson. Interim Supervisor Robertson asked for a moment of silence for the terrible suffering that is going on in the Bahamas and for the anniversary tomorrow for 9/11. The moment of silence was followed by the flag salute. Interim Supervisor Robertson pointed out the emergency exits.

MINUTES:

The minutes of the **August 13, 2019 Regular Monthly Meeting** were reviewed. A motion was made by Councilmember Newton, seconded by Councilmember Baumli and approved unanimously to accept the above noted minutes as typed.

FINANCIAL:

Supervisor's Report:

Interim Supervisor Robertson provided the public and TB members with a copy of the Supervisor's Report as of August 31, 2019. She read the following aloud:

Deposits:

Judge Nevers = \$4,708.00

Town Clerk (July) = \$2,678.02
Judge Byrne = \$13,125.00
Zoom Flume / Six Flags = \$2,043.50
Interest – Multifund = \$753.00
Interest – Operating = \$12.43
Interest – Payroll = \$5.96

Total Deposits = \$23,325.91

Disbursements:

Abstracts = (\$131,185.31)

Payrolls = (\$70,523.04)

Total Disbursements = (\$201,708.35)

Accounts at Bank of Greene County:

Operating Account = \$15,213.95

Multifund Account = \$1,978,050.87

Escrow Account = \$11,078.81

Trust & Agency Payroll Account = \$42,691.24

Petty Cash = \$950.00

Total Cash Balance = \$2,047,984.87

A motion was made by Councilmember Smith, seconded by Councilmember Newton and approved unanimously to accept the Supervisor's report as typed.

ETHICS COMPLAINT:

Interim Supervisor Robertson stated that the Town Board will enter a 10-15 minute recess. Attorney Tingley stated that the Town Board has received from the Ethics Board an ethics complaint and the purpose of the recess will be for the Town Board to get legal counsel concerning the review and determination on that complaint. The recess is not an executive session. It is a recess from the meeting because the board is entitled to get counsel from its Attorney and it doesn't constitute a meeting under the open meetings law so we will be going into recess to get that legal counsel and we will return in 10-15 minutes. He stated that he will note that it is his understanding that the ethics complaint either concerns or may have been filed by a town board member. It is his strong recommendation at this point that the town board member that is either the subject of it or that filed it, recuse himself from participation in that and in that respect not be present in the room either in the town board meeting room or in the attorney client session to discuss the review and procedure on the ethics complaint.

Councilmember Rasmussen asked the attorney what the basis is for recusal. Attorney Tingley stated the basis for recusal is that the complaint, if it was either filed by him or concerns him as a potential victim would then be potentially being decided also in part by him. In the interest of preserving the appearance of complete propriety and also under the ethics code in the event that the complaint leads to disciplinary action, the accused is

entitled to due process and he would want to ensure that there is no due process violation. Councilmember Rasmussen stated okay. He disagrees but his advice is to always take legal counsel so he will take it. His understanding is that recusal is most required when the potential recusee has something to benefit and he has clearly nothing to benefit from participating other than protecting our democratic process. But again, as he said, his policy is to take legal counsel, so that is what he will do.

Meg Robertson stated that they will be back in approximately 15 minutes at 7:14pm. The Town Attorney, Interim Supervisor Robertson, Councilmember Smith, Councilmember Newton and Councilmember Baumli left the public meeting room.

At 7:27pm the Town Attorney, Interim Supervisor Robertson, Councilmember Smith, Councilmember Newton and Councilmember Baumli returned to the public meeting room. Interim Supervisor Robertson stated that the Town Board is now coming out of recess.

Town Attorney Tingley stated upon the receipt of an ethics complaint, whether it's the ethics board or the town board acting in the place of the ethics board, there is going to be a determination whether or not to proceed with an investigation. The town board or ethics board is authorized to conduct an investigation where the complaint alleges a violation of the ethics code so there will be an initial determination as to whether or not that, in fact, the case and if it is the board will move forward with an investigation. If it is not then the board will not move forward with an investigation so that will be a determination that the board will make, not tonight, but in the near future.

Councilmember Rasmussen asked why the board isn't able to make that determination tonight. Attorney Tingley stated that he thinks, at this point, because we are discussing this complaint, Councilmember Rasmussen probably shouldn't be at the diaz and he would be happy to answer that question. Councilmember Rasmussen stated that they aren't discussing the complaint, they are discussing what the board is going to do. Attorney Tingley stated the procedure, yes, the ethics code provides for a written determination and the written determination has not been prepared. Councilmember Rasmussen asked if the determination comes after the investigation. Attorney Tingley stated not necessarily. Councilmember Rasmussen asked who should prepare the determination. Attorney Tingley stated the board will go through the process, it will make a determination as to whether or not it is authorized to conduct an investigation. If it is, it will render a written decision in that regard. If it is not, it will render a written decision in that regard. That is what the ethics code provides for. The town board doesn't have the authority to conduct an investigation of something that does not allege a violation of the ethics code. There must be a determination at the beginning as to whether or not an allegation is made that the ethics code has been violated and he is going to leave it at that. Councilmember Rasmussen stated that he hasn't answered the question so he is puzzled as to why the attorney is going to leave it at that. He stated that what he is trying to understand is the attorney is saying the board is going to determine whether or not it can proceed with an investigation, correct? Attorney Tingley stated that is correct. Councilmember Rasmussen stated do the ethics rules not say that when a member of the ethics board has a complaint filed against him or

her that the ethics board passes the complaints, as they are, to the town board and the town board acts with the authority and by the rules of the ethics board. Attorney Tingley stated that is correct. Councilmember Rasmussen stated does the ethics board not have the authority to make a determination if it were not of a board member. Attorney Tingley stated that the procedure that should be followed whether it is the ethics board or the town board, in his opinion, is the same. The town board should be making the same initial determination as to whether or not the complaint alleges a violation of the ethics code. If it does, then it moves forward with an investigation. If it doesn't, then there is no investigation authorized. Councilmember Rasmussen asked how the town board will make this determination. Attorney Tingley stated that when the town board makes a determination, that will be fully explained in the written determination. Councilmember Rasmussen stated so we don't know yet how the board will make the determination. Attorney Tingley stated that he just explained how the board will make the determination. Councilmember Rasmussen asked the attorney to please repeat it because he didn't understand how, the actual process. The board will meet, the board will not meet. Attorney Tingley stated that the board will meet to make a decision on that issue and will move forward on one of those avenues, either investigation because it alleges a violation of the ethics code or if it doesn't allege a violation of the ethics code, no investigation. Either way there will be a written decision in that regard. Councilmember Rasmussen stated okay, so the board will meet in a special meeting to discuss this topic. Attorney Tingley stated that he doesn't know if it will be a special meeting. Councilmember Rasmussen asked in what kind of meeting would they meet. Attorney Tingley stated that it would be a meeting. Councilmember Rasmussen stated that his understanding is that there is a public meeting, a special meeting and an executive session. He asked if there are any other kind of town board meetings. Attorney Tingley stated no, it is going to be a meeting. The town board can make a determination on this issue in open, public session just like it makes a decision on any other action it takes.

Jeannine Tonetti, Ethics Board chair, asked if this meeting for the determination is going to go in executive session. She stated the meeting has to be public, but will the discussion be in executive session. Attorney Tingley stated that if the board feels that it is an appropriate topic for executive session, it will identify that, make a motion, and enter executive session. In the absence of that, the board will act in public. Councilmember Rasmussen asked under what heading this topic would fit under executive session. Attorney Tingley stated that matters leading to the discipline of town officers and employees is a particular, appropriate subject matter of executive session. Councilmember Rasmussen asked if town officers and employees includes volunteers. Attorney Tingley stated that if the accused is not a town officer or employee then there is no basis for an ethics complaint because the ethics code only includes town officers and employees. He stated that anybody who is aggrieved by the decision, whether it be the accused or the complainant or a member of the public if they can show a standing, certainly has a remedy available to them.

Cynthia Creech stated that there were more than one complaint filed. She asked if they are all going to be within this discussion. Attorney Tingley stated to the extent that the

complaint concerns conduct of a member of the ethics board, it will be handled by the town board and they will all be handled the same. They will be handled as separate complaints but they will be all handled under the same procedure. Cynthia Creech asked if they would be handled at the same time. Attorney Tingley stated that he can't guarantee that but he wouldn't be surprised if they were at the same time. He doesn't know.

Jeannine Tonetti, Ethics Board chair stated that according to the ethics code a town employee shall be any officer or employee in the Town of New Lebanon, whether paid or unpaid, including members of any board, commission or other agency.

BID QUESTION:

Councilmember Newton stated that we had bids that we had put out for a carport over the new tank and we haven't gotten anything back from the contractor we picked. He asked the attorney if we have to go back out to bid for that or can we accept the next bid. Attorney Tingley stated that his suggestion is that Councilmember Smith email this individual because his understanding is a lot of the correspondence has not been by email. He would like something in writing, before they move on to a different bid, that they have tried to get the contract fulfilled and have been unsuccessful. Councilmember Newton asked what if we get no response from the email, where do we go from there. Attorney Tingley stated that he thinks you give until Monday for a response if Councilmember Smith can get an email out tomorrow and he believes that the town could reject that bid retroactively and rescind the award and award the next bid. He will confirm that before Monday.

ZONING QUESTION:

Councilmember Smith asked the attorney for a brief update on where he is at with the zoning re-write materials. Attorney Tingley stated that he has put together a draft and he met with two members of the town board, a member of the zoning re-write committee, the CEO/ZEO and the Deputy CEO/ZEO. They talked about some of the issues that are associated with that. There are some revisions that need to be done and some restructuring but much of that is drafted. Councilmember Smith asked if we are looking at next month for some sort of proposal. Attorney Tingley stated yes. Councilmember Newton stated that they are going to kick back some of it to the zoning re-write committee. Attorney Tingley stated that certainly from his perspective it will be well in advance of the next meeting. He stated that he can have it to the zoning re-write committee before their meeting on the 24th so they can hand it out and review it.

Attorney Tingley left the meeting at 7:40pm.

PRIVILEGE OF THE FLOOR:

Irene Hanna stated that she has a concern about the open meeting law. She read the following aloud:

Legislative declaration.

It is essential to the maintenance of a democratic society that the public business be performed in an open and

public manner and that the citizens of this state be fully aware of and able to observe the performance of public officials and attend and listen to the deliberations and decisions that go into the making of public policy. The people must be able to remain informed if they are to retain control over those who are their public servants. It is the only climate under which the commonwealth will prosper and enable the governmental process to operate for the benefit of those who created it.

Definitions. As used in this article:

1. "Meeting" means the official convening of a public body for the purpose of conducting public business, including the use of videoconferencing for attendance and participation by the members of the public body.
2. "Public body" means any entity, for which a quorum is required in order to conduct public business and which consists of two or more members, performing a governmental function for the state or for an agency or department thereof, or for a public corporation as defined in section sixty-six of the general construction law, or committee or subcommittee or other similar body of such public body.
3. "Executive session" means that portion of a meeting not open to the general public.

Irene Hanna stated when board members discuss public policy issues without holding a public meeting, she thinks they are not in compliance with this law. She gave two examples quoted from board minutes. She stated that Mark Baumli said "Now, did he discuss that possibility with people, yeah he did because he is a board member that had a facebook post sent out and he made his decision as where he was going with that". She stated that he was discussing it with people and other members. She stated that Councilman Newton stated that he had comments made to him that replacing a Democrat with a Democrat would be a lot more correct than putting a Republican in the seat. She stated that her question is when and where did these discussions take place and were they open to the public. She does want to remind board members that this law exists and they should be very careful to comply with it.

Councilmember Newton stated that he runs a local business and he was referring to customers that have come in and they speak to him on a regular basis. He sees a lot of people on a daily basis and that is where people come and talk to him and they regularly come down and voice their feelings and opinions. He thought that is one of the best ways that the people can act as a conduit to him is when they see him out on the street. There are no other town board members involved in that. Irene Hanna stated that she has seen town board members discussing it. Councilmember Newton stated that if you don't have a quorum, he can discuss things with Councilmember Baumli. Irene Hanna stated that she is not sure that they can. Councilmember Smith stated as long as there are only 2 town board members present, when you have 3 people it is a quorum. Irene Hanna stated that she is just making them aware that this law exists and they should be very careful to make sure that they comply with it.

Councilmember Baumli stated they did. They didn't violate it. He stated that she gave no examples that they violated it. Councilmember Newton stated that occasionally when there are 3 of them standing around, one of them, usually him because he actually makes a point, and he will stand to the side so we do not have a quorum. If you look at the town picnic there was never 3 of us present at one place at one time. The only time that we technically would have had a quorum was when we were doing volunteer work and we set the pavilion down there because the three of us came. We discussed no town business. It was all work

that morning. Irene Hanna stated that she is just making sure that they are aware of it and make sure that none of these things that are coming up suddenly are done behind people's back. Councilmember Baumli stated they are not. Councilmember Newton stated that they have to go to a course every year with Bob Freeman on FOIL and Open Meetings Law and he makes it very, very clear.

Councilmember Smith stated that just to be clear, you really need a lot of times for two councilmembers or a board member and the supervisor. A lot of things, if they didn't talk, two at a time, to get an opinion, the meetings would be a lot longer, it would be a longer time getting stuff done. As long as there is two people and you get more productivity sometimes. Councilmember Newton stated that he comes up to the town hall usually once or twice a week because you get an email and all the information is not necessarily in an email, so he comes up here to get information worked out. He stops at the clerk's office, the building department, and that is to get background because, like Councilmember Smith said, if we had to do everything we do here without some discussion and clarification, these meetings would run 4 or 5 hours. But they never meet with a quorum.

Interim Supervisor Robertson stated that she had a brief meeting yesterday with Councilmember Baumli and Councilmember Newton showed up. He stepped in the doorway, took a look, stepped way out in the hallway. She said get out. They kind of made a joke about it and she said "no, no, don't even stand in the doorway," so he stepped out in the hallway. Irene Hanna stated that she is very glad to hear that. Interim Supervisor Robertson stated that you should have a little bit more trust that they are not... Irene Hanna stated that she doesn't. Interim Supervisor Robertson stated that she is sorry that she feels that way.

Cynthia Creech stated that perhaps what Ms. Hanna is talking about is something that several of us noticed after the last special meeting. Mr. Baumli, Mr. Newton, Mr. Smith were talking to Mr. Godfroy in front of the highway department. She thinks that does qualify as a forum. Councilmember Smith stated there was no town business on that. Councilmember Newton stated that he walked up and pulled Councilmember Smith aside for one moment to discuss something on the cupola and then he walked away. He pulled him to the side. He didn't go up and stand there with Mark and Kevin, he pulled Kevin to the side. Cynthia Creech stated that several people were standing here that afternoon and saw that and it does give the appearance of that. Interim Supervisor stated that they will be extra vigilant to make sure that if any of them run into each other, if they are in the dollar store, the post office, wherever and there turns out to be three people, one of them will have to leave and go sit out in the car until they are done. She means that in all seriousness. Cynthia Creech stated that she trusts what Interim Supervisor Robertson says but she hopes that the town board members can understand that from the perspective of the public, this was a contentious subject that we were all going through that afternoon involving two of the candidates, and from perhaps someone who didn't understand to look out there and see three board members talking to one of the candidates might look unusual. Interim Supervisor Robertson stated that you can't make an assumption unless you walk

up to them and say you guys have a quorum in case you aren't paying attention. Cynthia Creech stated that as Mr. Newton said, you go to classes and you understand that whether you are talking about dumping your garbage or whether you are talking about politics, you are not supposed to be in that sort of grouping. Councilmember Smith stated in reference to the other thing that Cynthia Creech said, you cannot campaign on town property so when she mentioned campaigning and Bud, that is another thing that shouldn't happen as well. Cynthia Creech stated that she did not say that they were campaigning, she said they were having a campaign conversation and it looks inappropriate, whether it is or not. Interim Supervisor Robertson stated that because they were out in the parking lot and they were chatting up a storm with the opposition party, if she can say that. Cynthia Creech stated that it looks inappropriate, whether it is or not.

Rocky Brown stated that he has been on the board of ethics for years and he takes it seriously. He was under the impression that there is no chairman of the board of ethics and all of the sudden he is getting mail from the board of ethics saying that this person is the leader, our go to person. He was under the impression that anything that reflects the board of ethics has to be done in private session and evidently something got said or got done and he was not informed of it and he doesn't think that is fair. Where can a person arbitrarily take over a position of power? Councilmember Smith stated that they talked to the attorney and the ethics board needs to convene a meeting. As he understands there was no formal chair appointed. Jeannine Tonetti, Ethics Board Chair, stated that is not true. Councilmember Smith stated that he has spoken to everyone on the ethics board and nobody remembers appointing a chair. He stated that the town board shouldn't have to pick the ethics board chair. The ethics board needs to sit down and have a meeting and pick a chair. They also need to decide how the ethics board, as a group, is going to handle the complaints so what he would recommend is whatever they are doing with their chair, set up their own standards as to how they are going to do it and put it in writing to the town board so they will have it on file and then if there are any questions, the attorney can look at it and it would take care of all the issues that might be going on.

Jeannine Tonetti, Ethics Board Chair, stated that yes, she was appointed chair. Interim Supervisor Robertson asked by whom. Jeannine Tonetti stated that the ethics board had a meeting and it was asked if anybody wanted to be chair and there was no answer so she said okay she will be chair. There was no objections and everybody had the opportunity to nominate themselves. She stated that when they received these three ethics complaints, which is what Rocky Brown is talking about, in our ethics law it stated that the ethics board cannot investigate or look at something if it is against one of the ethics board members. It says in the law that that goes directly to the town board. She consulted with the attorney and she put this in her letter that she wrote to ethics board members. She stated in the letter that, according to the law, this goes directly to the town board, which is exactly what she did. It was not an opinion, it was not a finding, it was just the fact that this was not our business and it goes directly to the town board and it is a breach of privacy if she did take it to the ethics board because they have no jurisdiction so that would be a breach of privacy to the persons who wrote the complaint so it had to go directly to the town

board. She wrote that to all the ethics board members. She wrote to the town board to explain it. She wrote to the complainants.

Councilmember Smith asked where in it there does it say that the chair shall. He believes everything in there says the board shall. There is no explicit right given to the chairperson not to allow the other ethics board members to review the complaints that come in. Jeannine Tonetti stated no, you cannot. If it is not the ethics board jurisdiction, they cannot review it. That would be against the law because it goes right to the town board. Councilmember Smith asked how do you know unless you read it. Jeannine Tonetti stated that she reads it because she is the chair. Councilmember Smith asked where it says that the chair makes those decisions. Jeannine Tonetti stated that it doesn't say that the chair making the decisions. Councilmember Smith stated that it states that the board shall make the decisions. Jeannine Tonetti stated that the board is not making a decision. Councilmember Smith stated that he means the board should make the decision to send it to the town board. Jeannine Tonetti stated that is not a decision it is the law. Councilmember Smith stated that he knows it is the law but you get together with the ethics board. Jeannine Tonetti stated that if the ethics board got together about something that is not their business, not their jurisdiction, that would be a violation. That would be unethical. Councilmember Smith stated that all he is asking is where she has written authority that gave her the sole right to review and send to the town board. Jeannine Tonetti stated that she didn't review anything. She followed the law and sent it to the town board. There was no review. Councilmember Smith stated that she read it, that is what he is saying. Jeannine Tonetti stated that somebody has to read it. She stated that she wishes the attorney had stayed. Councilmember Smith stated that the ethics board has a great position now. They are going to hold their meeting.

Peg Munves stated that she read it the other day that if there is an ethics complaint... Councilmember Smith stated that he agrees that it has to go to the town board, you're misinterpreting what we're saying. Jeannine Tonetti read the following from an email from Attorney Tingley "with respect to the complaints, the ethics board is not acting as an ethics board on those, therefore the ethics board members are not entitled to a copy of the complaints as members. The matters are currently before the town board and to the extent the ethics board members want a copy or learn about the complaints, they are entitled to request it under FOIL." Jeannine Tonetti stated that if they want to know what is going on, they can try FOIL. She stated that you have to understand that she is only just a conduit, she is following the law here. She made no judgement, no judgement whatsoever. She saw that it was something about an ethics board member, she read the law, she consulted with the town's lawyer, and it went right to the town board, that's it. Interim Supervisor Robertson stated that she reviewed the facts and passed it on to the town board, she did her job.

Rocky Brown stated that she is making a statement that he doesn't understand. He has two separate letters. In the one she was appointed by the town board. Jeannine Tonetti stated no. Rocky Brown stated in the very first letter she sent him stated that she was

appointed by the town board. The second one came in, she is no longer the appointee, on her heading, she is the secretary. Jeannine Tonetti asked what he is talking about. Interim Supervisor Robertson stated that she thinks the first point that Rocky is making is that in order to be on any board you need to be appointed by the town board, so she was appointed to the ethics board by the town board but he is referring to then how she became the chairman/secretary. She stated that Jeannine had said that she asked the board, the ethics board, who wanted to be chairman and that nobody said anything, they were silent. Jeannine Tonetti stated that nobody said anything so she said okay, she will do it. Rocky Brown stated that he doesn't recall the silence.

Councilmember Smith stated that his recommendation, and that of the attorney's as well, call a meeting together, as long as you get a quorum together, you guys sit down pick out who is going to be chair, who is going to do what, how they are going to handle complaints and just give the town board a copy of it and they will have the attorney review it for them. Jeannine Tonetti stated that there have been in the past, guidelines, ethics board member Georgette Tefoe wrote them all up about the guidelines for the chairperson. It states that the majority of the membership of the ethics board shall elect a chairman. In the past, that is the way it has been run. She stated that she has served as chair for a couple of years now and they have had complaints and they have had meetings and this is the first time there has been any issue. Interim Supervisor Robertson stated that her opinion is that the ethics board gets together and has a meeting to hash out what they are as a board.

J.J. Smith stated that she has two quick questions, one for Councilmember Smith and one for Councilmember Newton. She asked if this is the first time that there has been an executive decision with the ethics board. Councilmember Smith asked what do you mean. J.J. Smith asked if Mrs. Baldwin has made other executive decisions without including the rest of the board. Councilmember Smith stated that one thing J.J. Smith is referring to is we will go back a few meetings when we changed the policy of allowing people who serve on boards to be able to do contract work with the town. He stated that Jeannine Tonetti had asked if it was for one particular person, the board explained no, Jeff had issues, we had Tony working here. Then he asked Jeannine Tonetti, did she send this to the ethics, did the ethics board review this because as part of the ethics board job is when we do those changes is to get together and either give the town board a recommendation or not give the town board a recommendation. Jeannine Tonetti stated that is not part of the ethics board job. Councilmember Smith stated that it says every year the ethics board should review all of the ethics laws and policies and give a recommendation. Jeannine Tonetti stated that if that was part of it the town attorney would have said, now you have to send it to the ethics board. She is not going to second guess the attorney.

J.J. Smith stated that Councilmember Newton mentioned before that people were coming into his store and really making an issue of that appointment or whatever. She asked him how that came about, what was the catalyst for people coming, how did they find out about that. Councilmember Newton stated that there was a number of different ways it went around, word of mouth, social media. It did get a lot of people stirred up. He fielded a lot of

questions about that. He spent quite a bit of time dealing with that. Thankfully they were able to get through and appoint an interim. Hopefully most people are happy with that. That was his intention.

Councilmember Baumli stated that he is not on social media. He has no intentions of going on social media. He has enough friends now. He doesn't need any more fake ones. He stated that a person who lives on his road stopped him and saw the post that was on facebook by our Town Clerk and asked me what was going on, not a town board member but a person of the public, to which he addressed with that person. There was a frenzy that was created by an individual, stirred up a lot of people for absolutely no reason, so you can distrust him all you want but he doesn't start the rodeo, he is riding it right now.

OLD BUSINESS:

Update on historical marker grant application:

Town Clerk Houghtling stated that she has received everything she needs from the Cemetery of the Evergreen for the grant application. She will have the wording and primary sources from the Town Historian by Friday and then she will submit the application which is due on Friday.

Pavilion Bathroom contract:

Interim Supervisor Robertson stated that the contract has been completed with Banker Enterprises for the pavilion bathroom project. Councilmember Smith stated that work will be starting sometime in the next two weeks.

Town Historian:

Interim Supervisor Robertson stated that our Town Historian was formally oathed. Elizabeth Sheffer-Winig will be getting going full steam ahead with all kinds of business.

NEW BUSINESS:

Formal Appointment of Deputy Supervisor:

Interim Supervisor Robertson stated that she has appointed Kevin Smith to be the Deputy Supervisor for the duration of her interim appointment.

Approval of Mobile Home Park Licenses:

CEO/ZEO Hernandez stated that she is seeking approval from the Town Board on 4 out of 6 mobile home park license renewals for Shaker Meadows, Adams Crossing, Sherman's and Ski Lodge. She stated that there are two outstanding that she is hoping to have done soon. Councilmember Newton asked if there are major issues with the other 2 or is that going to get done soon. CEO/ZEO Hernandez stated that she hopes they will be done soon, before the end of the year.

Councilmember Smith made a motion to approve the 2020 mobile home park licenses for Adams Crossing, Shaker Meadows, Sherman's Mobile Home Park and Ski Lodge. Councilmember Newton seconded that motion.

Roll Call Vote:

Councilmember Rasmussen -	Aye
Councilmember Smith -	Aye
Interim Supervisor Robertson -	Aye
Councilmember Newton -	Aye
Councilmember Baumli -	Aye

Halloween Event:

CEO/ZEO Hernandez stated that we have a resident in town who is doing a Halloween event. He did it last year and he did come see the building department for a permit which they issued but she doesn't think they had the authority to do that because they don't do the public entertainment, the town board does. She stated that we don't have a classification in our use table where this would appropriately fit in as a business. She asked the town board if this is something they would consider under the public entertainment code.

Councilmember Smith stated that his feeling is that it is a building department, planning board issue. He stated that it is more of a business than an event, but that is just his personal interpretation on it, he realizes that we don't have many things that do cover it. There's no safety anything, there is no parking to tell, there is just too many unknowns and it is for a long amount of time, it is not just for a couple days.

Councilmember Newton stated that he does have Chapter 101 which is entertainment public and technically it doesn't fall clearly into that. This law was written in 1981 and hasn't been rehabbed in any way. There is criteria set forth in here. He stated that he thinks this is one of those things that, as we sit on zoning re-write more and more, we see things that technically can fall through the cracks a little bit. We have to decide whether to see it as 101 public entertainment or business.

Interim Supervisor Robertson asked if public entertainment is for a longer period of time than 2 or 3 nights. She stated that she is thinking in terms of when there is public entertainment sometimes at a restaurant or some other venue where it may be 3 nights in a row. She asked if she is understanding correctly that this particular event is going to be longer than 3 nights.

Steve Clark, applicant for the Halloween event stated that they planned it to be on the weekends in October and on Halloween. It would be Friday and Saturday nights. It is a total of 9 nights for 2 ½ hours each night. Councilmember Newton stated that the criteria for this, which they just reviewed in code review, the only criteria for people or size is a theatrical music concert, circus or exhibition occurrence which will likely attract 1,000 or more persons in any 24 hour period, which is incredibly broad strokes. He stated that in the summer of 1980 they were talking about the concerts at the racetrack.

CEO/ZEO Hernandez stated that they thought because M&Ms came and he didn't fit under that, the board said you don't need a license from us but they permitted him to do

it. Councilmember Newton stated that the board was involved in that because there was escrow taken to pay for Sheriffs and that was part of it. He stated that this is one of those things that unfortunately there isn't great definitions in here.

Councilmember Baumli stated that he was just made aware of this tonight before he got here. He stated that with the M&Ms concert the building department was involved in that making sure the stage was safe and such. CEO/ZEO Hernandez stated that she wasn't involved in the approval at all. Councilmember Baumli stated not the approval but getting back to the board so that the board felt safe making that decision to move forward with it. Steve Clark stated that if the board approves it, Pete Lattanzio is coming down tomorrow to do a fire safety inspection and walk through to make sure everything is safe. Councilmember Baumli stated that he would be comfortable allowing to move forward with it as long as CEO/ZEO Hernandez, Deputy CEO/ZEO Hattat and Pete Lattanzio agreed with everything that was down there. He stated that he doesn't know the law like the building department does so he as a board member doesn't want to make that decision. He will make it if the building department comes back and says they went down there and they have gone over everything and they are comfortable with the layout of it and the parking and where they are going to be, then he will put his trust in the building department and will then approve that. Councilmember Smith stated if Pete Lattanzio is coming out he is good with it too.

CEO/ZEO Hernandez stated that the applicant has also agreed to submit a plot plan showing sanitation port a potties and where the outdoor structures are located so if we do need to call the fire department they will have a plot plan on file. She stated that he has insurance. Steve Clark stated that he has fire extinguishers and port a potties. He stated that he tries to make it as safe as he can and last year they had zero issues. CEO/ZEO Hernandez stated that the only unfortunate thing is that there isn't a use in the use code that give the building department the authority to permit the activity. She stated the closest thing is agri-tourism, but it is not a farm. Councilmember Newton stated that if we put it through under chapter 101 there is supposed to be a public hearing 30 days before the event. Councilmember Smith stated why don't we just make this a one time, by next year things should be figured out more. Steve Clark stated he would like to do this annually and had he known this had to be done he would have come up the first of the year. Councilmember Newton stated that this is something that will need to go through zoning re-write to address it moving forward.

Councilmember Smith made a motion to allow CEO/ZEO Hernandez and Pete Lattanzio to allow the Halloween event at 860 State Route 20 for the month of October 2019 with clean up done by November 14th. Councilmember Newton seconded that motion.

Roll Call Vote:

Councilmember Rasmussen -	Aye
Councilmember Smith -	Aye
Interim Supervisor Robertson -	Aye
Councilmember Newton -	Aye

Councilmember Baumli -

Aye

Berkshire Thrift donation of sign:

Tegan Cook stated that Berkshire Thrift put new signs up and in doing that they now have the original sign that has to be removed per the approval they received for the new sign. She stated that when they remove the old signage there will be a big metal structure and the landlord will not take it down. It will be an eyesore as she will have to put plywood in there because per the code it has to be opaque, you can't see through it. She would like to offer the town the option to put up a banner on either side to cover the old signs that say something about welcome to New Lebanon and thank you for visiting New Lebanon. She stated that it is not very visible, which is why she had to put new signs up, but it is visible enough as an eyesore if it is going to sit there with plywood in it. She stated the other option is to do artwork on it but she would like to offer it to the town first. She stated the two banners are \$78.00.

Interim Supervisor Robertson stated that it seems like a good idea. She stated that we do have official signs welcoming people to New Lebanon. She suggested possibly having these signs saying welcome to the business district. Tegan Cook stated that she is happy to work with the town on what the best wording would be. Interim Supervisor Robertson stated that we will work on that. She stated that sounds like a really good idea and we will see what we can come up with. She asked Tegan Cook if there is a timeframe that she needs to have it approved by. Tegan Cook stated that if the board lets the building department know so that she doesn't get fined for having the sign that is up there still up while the board decides. She would need to leave the old sign up until the board makes a decision. As long as the town is okay with her extra signs being there, which are not currently approved, then there is no rush on it.

Councilmember Smith stated that he is good with it, but just remember that we may face a little bit of backlash because we are allowing that sign that is not supposed to be there to stay up longer. Councilmember Baumli stated that he thinks we will make a decision in the next month or so. Tegan Cook stated that people have asked her about the extra sign and she let them know that she was waiting to ask the town board if the town wants to use it. If the town board said no tonight, she would be up there tomorrow taking down the sign and putting up the plywood. Councilmember Baumli stated that he thinks it is a great idea. Councilmember Newton asked if the board wants to just approve it tonight with the decision on the exact wording to follow. Councilmember Smith asked Interim Supervisor Robertson to make that motion. Interim Supervisor Robertson stated that the Supervisor doesn't really make motions, at least they aren't really supposed to.

Interim Supervisor Robertson made a motion that the town board approves the initial idea of a sign from Tegan Cook's business, Berkshire Thrift at 435 State Route 20, that we allow, upon further discussion and design, the appropriate wording that will be on said sign and to be determined by the October 8, 2019 town board meeting. Councilmember Newton seconded that motion.

Roll Call Vote:

Councilmember Rasmussen -	Aye
Councilmember Smith -	Aye
Interim Supervisor Robertson -	Aye
Councilmember Newton -	Aye
Councilmember Baumli -	Aye

Trees in Shatford Park:

Interim Supervisor Robertson stated that there are trees that are going to have to be removed by the pavilion. Her initial query about this was about the trees that are by the swing set as they are going to be getting larger that maybe perhaps they be transplanted to another area so that they can be allowed to thrive and grow and be as tall as they're going to be, rather than risk being blown down in who knows what, hurricanes, snowstorms, blizzards, whatever, branches breaking off and hitting children that might be playing on the playground. Town Clerk Houghtling stated that those trees were planted there purposefully to provide shade by the playground. She stated that when your kids are playing at the playground it is extremely hot and there is no shade. Interim Supervisor Robertson stated she remembers that as a kid. Town Clerk Houghtling stated that when Zema's Nursery planted them, especially the one that was just planted in Colleen Teal's memory, she made sure, and he is a professional, that he planted it far enough that the top of the tree, at it's largest size it will get, will not go past the wooden exterior of where the woodchips start. So the tree is not going to be over the swings or near the swings. Joe Zema planted it and he took a tape measure and measured the proper distance so that at it's entire full capacity growth it would not be impeding with the playground at all.

Interim Supervisor Robertson asked what kind of tree it is. Town Clerk Houghtling stated that it is a maple tree and it was planted for shade at the playground to put a picnic table under so parents can not be directly in the hot sun while watching their children play. Councilmember Smith stated that is why they put those other two trees but they put them back by the creek more. He stated that this one because it's up here, no matter what when it gets bigger, and he doesn't know if we just move it back a little or whatever, but it is going to come to the side of the beam so the playground mulch is going to be covered in leaves. Town Clerk Houghtling stated that the top of the tree, where the leaves are, isn't going to come to the mulch. Councilmember Smith stated that he understands that but the wind. Interim Supervisor Robertson stated that any time you have a deciduous tree you have leaves all over the place, just come to her yard. Town Clerk Houghtling stated that she knows it was a big deal to plant it. Planting alone cost almost \$800 because the root ball was so large they needed excavators to transport it.

Councilmember Newton stated that they need to walk through the park and plan next years stuff anyway so they will walk through. They discussed putting trees down the main road through the center of the park to give it some shade as well.

Set dates for Town Budget 2020 workshops:

Interim Supervisor Robertson stated that hopefully we get the budget requests back by the

16th from everybody. She asked if there is a certain order of which departments go first at the budget workshops. Town Clerk Houghtling stated that usually the board sets all the dates then the Supervisor emails all department heads that might need to be heard and asks them if there is a date that works best for them. Then the Supervisor makes the schedule and emails it out to the town board, town clerk and department heads. The following budget workshops were scheduled: Monday, October 7th at 5pm; Wednesday, October 16th at 7pm; Thursday, October 17th at 6:30pm; and Monday, October 21st at 5pm. The LVPA was scheduled for the October 7th budget workshop.

COMMITTEE/LIAISON REPORTS:

Assessor (Councilmember Rasmussen):

No report.

Building Department (Councilmember Baumli):

No report.

CAC & Environmental Management (Councilmember Rasmussen & Bruce Shenker):

Cynthia Creech stated that the CAC is going through the action plans in the comprehensive plan to see if the ones that involve conservation need to be revisited or not. Interim Supervisor Robertson stated that it will be interesting to hear their results because she has her own thoughts about that possibly.

Fire, Law Enforcement & Emergency (Councilmembers Smith & Baumli):

Councilmember Smith stated that we have all the paperwork in from the fire company. Thank you very much we are golden on that.

Highway (Superintendent Winestock & Councilmembers Smith & Newton):

No report.

Historian & LVHS: (Councilmembers Baumli & Rasmussen):

No report.

Justice Court/Constable (Councilmember Newton):

No report.

Parks & Recreation (Councilmembers Smith & Newton):

Councilmember Newton stated that we have had a couple of instances of vandalism in the park recently. We had an attempted break in that felt like mischief in the kitchen. Somebody tried to pull the panel off the back which we repaired. We then found some debris that was left behind that was possibly stolen. We talked to the police about that. Just today we had one of the benches in the t-ball fields uprooted and dragged towards the woods. Anybody that drives by, swing through the park. He is going to call the troopers and see if they will send a car through when they drive by. Anybody that sees anything suspicious feel free to talk to Councilmember Newton or Smith as the liaisons.

Councilmember Smith stated that if it keeps happening, we could buy a relatively inexpensive camera system that would have about 8 cameras. It should come in under \$500. It is something that we were going to try and wait to put in the budget to buy a better system because the bathrooms and stuff will be done by then. He would recommend if it keeps happening we could even just buy a 4 camera, \$200 system so we can see who is doing the mischief. He stated that ideally it would be nice after the bathrooms and kitchen are done next year to put in for some nice wireless cameras like we have at the town hall.

Town Clerk Houghtling asked if they would like her to get a ballpark quote from the company that installed the cameras here since we are going into budget season and that way they could budget it in. Councilmember Smith stated that he will reach out to Engineer McCreary as they have already talked about this. He stated that the hardest thing is that with the wireless you won't be able to cover the whole park so you are talking two systems.

Seniors (Councilmember Baumli & Judy Zimmer):

No report.

Town Assets, Buildings & Property (Councilmembers Smith & Newton):

Councilmember Smith stated that Herb Jones has put in a letter of resignation for his position as park co-superintendent and building co-superintendent. He stated that he has found something more fitting to move on to and that he has done a great job and will be sorely missed. Interim Supervisor Robertson stated that his resignation is effective 9/27/19 and we should put a letter together thanking him for his service. Councilmember Newton stated that Herb Jones is moving on, he is doing something a little more artistic. He works for a company called Bear Fly that does set ups for pretty elaborate weddings, which is what he is going to be doing instead of working for the town. He is going to be hard to replace.

ANNOUNCEMENTS:

SEPTEMBER:

Sunday, September 15th ~ Music in the Park @ 1:00 pm @ Shatford Park

OCTOBER:

Monday, October 7th ~ Budget Workshop Meeting @ Town Hall @ 5:00 pm

Tuesday, October 8th ~ Town Board Meeting @ Town Hall @ 7:00 pm

Wednesday, October 16th ~ Budget Workshop Meeting @ Town Hall @ 7:00 pm

Thursday, October 17th ~ Budget Workshop Meeting @ Town Hall @ 6:30 pm

Monday, October 21st ~ Budget Workshop Meeting @ Town Hall @ 5:00 pm

BUDGET AMENDMENT:

Budget Amendment #7 of 2019:

General Fund:

\$1,200 from A-8010.4 (Zoning – Contractual Expense)

\$674 from A-7020.1 (Recreation Administration – Personal Services)
\$1,200 to A-8664.4 (CEO/ZEO – Contractual Expense)
\$674 to A-7310.4 (Youth Program – Contractual Expense)

A motion was made by Councilmember Newton and seconded by Councilmember Baumli to approve the above noted budget amendment.

Roll Call Vote:

Councilmember Rasmussen -	Aye
Councilmember Smith -	Aye
Interim Supervisor Robertson -	Aye
Councilmember Newton -	Aye
Councilmember Baumli -	Aye

AUDIT OF BILLS:

**General Nos. 307 through 345, in the amount of \$57,914.42;
Highway Nos. 97 through 106, in the amount of \$85,526.96; and
Escrow No. 9, in the amount of \$725.00
As listed on Abstract No. 9, dated September 10, 2019.**

A motion was made by Councilmember Smith and seconded by Councilmember Newton to pay the above noted claims from their respective accounts.

Roll Call Vote:

Councilmember Rasmussen -	Aye
Councilmember Smith -	Aye
Interim Supervisor Robertson -	Aye
Councilmember Newton -	Aye
Councilmember Baumli -	Aye

ADJOURNMENT:

A motion was made by Councilmember Newton and seconded by Councilmember Baumli to adjourn the meeting at 9:03 pm.

Respectfully submitted,

Tistrya Houghtling
New Lebanon Town Clerk