

**MINUTES OF THE SPECIAL MEETING AND PUBLIC HEARING OF  
THE TOWN BOARD OF THE TOWN OF NEW LEBANON  
HELD ON APRIL 21, 2021**

**Present:** Tistrya Houghtling, Supervisor  
Jesse Newton, Councilmember  
Norman Rasmussen, Councilmember (online)  
Deborah Gordon, Councilmember (online)  
John Trainor, Councilmember

**Recording Secretary:** Marsha “Marcie” Robertson, Town Clerk

**Others Present:** Jon Tingley, Town Attorney  
Michelle Storm, Attorney for Robert Smith  
Theresa Vining, Stenographer  
Officer McMahon, Columbia County Sherriff  
Stephen Houghtling  
JJ Smith  
Robert Smith, Ethics Board & Planning Board Member  
Charles Lasher  
Ruth Lasher  
Larry Markowski  
Heather Markowski  
Luke Markowski  
Abbie Shoobs, Recreation Commission Member  
Adrian Shoobs  
Greg Hanna, Planning Board member  
Kevin Smith, NL Rep to Traffic Safety Council  
Elizabeth Brustch, Planning Board Chair  
Chris Persbacker  
Adelia Moore, CSC Member (online)  
Dawn Brustch (online)

The meeting and public hearing were held in person at the New Lebanon Firehouse and on Google Meets and by phone at the following:

[Join with Google Meet](#)

[meet.google.com/sag-eeuq-wac](https://meet.google.com/sag-eeuq-wac)

[Join by phone](#)

(US) +1 513-443-8230 PIN: 158 976 242#

The meeting and public hearing were also livestreamed at

[https://townhallstreams.com/towns/new\\_lebanon\\_ny](https://townhallstreams.com/towns/new_lebanon_ny)

**STENOGRAPHIC MINUTES:**

Stenographic minutes of the special meeting and public hearing were kept. In lieu of detailed paraphrased minutes kept by the Town Clerk, the stenographic transcript of the special meeting and public hearing will be maintained on file with these minutes.

**CALL TO ORDER:**

The special meeting was called to order at 7:30pm by Supervisor Houghtling.

**PUBLIC HEARING – *In the Matter of the Removal of Robert Smith, Respondent, from the offices of member of the Town of New Lebanon Planning Board and member of the Town of New Lebanon Ethics Board:***

Supervisor Houghtling opened the Public Hearing at 7:30pm and asked Town Clerk Robertson to read the Public Hearing Notice into the record.

Town Clerk Robertson read the Public Hearing notice into the record.

Supervisor Houghtling read into the record the hearing procedures as adopted by the Town Board on April 13<sup>th</sup>, 2021.

Supervisor Houghtling opened the floor to Attorney Tingley. Attorney Tingley presented evidence relating to the charges to the Town Board.

Supervisor Houghtling then opened the floor to Michelle A. Storm, Esq., counsel for Robert Smith. Attorney Storm presented evidence on behalf of Robert Smith relating to the charges and to Mr. Smith's defense to the charges. Robert Smith, Joanne Johnson Smith, and Kevin Smith spoke before the Town Board as part of Attorney Storm's presentation.

Upon conclusion of the presentations by Attorney Tingley and Attorney Smith, Supervisor Houghtling opened the floor to members of the public who wished to speak and address the Town Board.

One member of the public attending in person (Greg Hanna) addressed the Town Board.

Supervisor Houghtling then invited other members of the public attending in person to speak. No other in-person attendees chose to speak.

Supervisor Houghtling then invited members of the public attending through Google Meets and by telephone to speak. No persons attending through Google Meets or by telephone chose to speak.

A motion was then made by Supervisor Houghtling to close the Public Hearing at 8:41pm. The motion was seconded by Councilmember Newton.

Roll Call Vote:

Councilmember Trainor-	Aye
Councilmember Gordon-	Aye

Supervisor Houghtling-	Aye
Councilmember Newton-	Aye
Councilmember Rasmussen-	Aye

**TOWN BOARD DELIBERATION:**

The Town Board then discussed the evidence presented to the Town Board by Attorney Tingley, Attorney Storm, and the public, and deliberated on the matter.

**TOWN BOARD ACTION:**

Supervisor Houghtling then read and moved for the adoption of the following resolution, which motion was seconded by Councilmember Trainor:

**TOWN OF NEW LEBANON**

**RESOLUTION # 17, 2021**

**REMOVAL OF ROBERT SMITH FROM PLANNING BOARD AND BOARD OF ETHICS**

**APRIL 21, 2021**

At a duly called and noticed special meeting of the New Lebanon Town Board, held in-person, via videoconference, and via teleconference, held on the 21st day of April 2021, the following Resolution was proposed and seconded:

Resolution by Supervisor Houghtling  
Seconded by Councilmember Trainor

***REMOVAL OF ROBERT SMITH FROM PLANNING BOARD AND BOARD OF ETHICS***

WHEREAS, on or about January 2, 2018, Robert Smith was appointed by the Town Board of the Town of New Lebanon as a member of the Town of New Lebanon Planning Board, with a term to expire December 31, 2024; and

WHEREAS, on or about January 2, 2019, Robert Smith was appointed by the Town Board of the Town of New Lebanon to be a member of the Town of New Lebanon Board of Ethics, with a term to expire December 31, 2023; and

WHEREAS, N.Y. General Municipal Law § 808 (3) and the Town of New Lebanon Code of Ethics § 16-9 (A) requires that at least one member of the Board of Ethics be an official or employee of the Town; and

WHEREAS, Robert Smith's position on the Board of Ethics fulfills the foregoing requirement, as he is a member of the Planning Board; and

WHEREAS, no other member of the Board of Ethics currently is an official or employee of the Town; and

WHEREAS, Town Law § 271 (9) provides that the Town Board may remove a member of the Planning Board for cause, after a public hearing; and

WHEREAS, General Municipal Law § 808 (3) provides that members of the Board of Ethics serve at the pleasure of the appointing authority; and

WHEREAS, under the Town Code of Ethics § 16-9 (A), the Town Board is the appointing authority for the Town's Board of Ethics; and

WHEREAS, members of the Town's Board of Ethics serve at the pleasure of the Town Board;

WHEREAS, at a special meeting of the Town Board of the Town of New Lebanon held on March 19, 2021, the Town Board authorized and directed the Attorney for the Town to commence proceedings to consider the removal of Robert Smith from his positions as member of the Planning Board and the Board of Ethics; and

WHEREAS, at a special meeting of the Town Board of the Town of New Lebanon held on March 29, 2021, the Town Board scheduled a special meeting and public hearing, both of which were to be held on April 21, 2021, for the purposes of considering whether to remove Robert Smith from such positions and to provide Robert Smith with an opportunity to be heard with respect thereto; and

WHEREAS, at the direction of the Town Board, the Attorney for the Town prepared Notice of Charges dated March 30, 2021, which included a notice setting forth the date, time and location of the public hearing and also set forth allegations of fact concerning the basis for removal; and

WHEREAS, said Notice of Charges was duly served on Robert Smith by depositing same into the exclusive possession of Fedex and the United States Postal Service on March 30, 2021 in sealed, properly addressed, postage paid envelopes, directed to Robert Smith's street address and mailing address; and

WHEREAS, said Notice of Charges was delivered to Robert Smith on March 31, 2021, April 1, 2021, and April 2, 2021; and

WHEREAS, notice of special meeting and notice of public hearing for the April 21, 2021 special meeting and public hearing were sent to the media on April 6, 2021 and published in the officially designated newspaper on April 9, 2021; and

WHEREAS, copies of the notice of special meeting and notice of public hearing were transmitted to Robert Smith by depositing same on April 7, 2021 into the exclusive possession of the United States Postal Service in sealed, properly addressed, and postage paid envelopes, directed to Robert Smith's street address and mailing address; and

WHEREAS, the duly noticed special meeting of the Town Board was conducted on April 21, 2021; and

WHEREAS, the duly noticed public hearing of the Town Board was conducted on April 21, 2021; and

WHEREAS, during the public hearing, the Town Board received written evidence, testimony, and public comment relating to the allegations contained in the Notice of Charges, including that submitted by or on behalf of Robert Smith in defense of the Notice of Charges; and

WHEREAS, the Town Board provided an ample opportunity to Robert Smith to be heard on the matter; and

WHEREAS, the Town Board provided an ample opportunity to the public to be heard on the matter; and

WHEREAS, the Town Board closed the public hearing on April 21, 2021; and

WHEREAS, the Town Board has duly considered the evidence and comment submitted at the public hearing; and

WHEREAS, based on the evidence submitted, the Town Board finds that on March 17, 2021, Robert Smith violated the Town’s COVID-19 Re-Opening Safety Plan, as amended, by failing to wear a mask covering his nose and mouth at all times upon entry into a building at which a town-sponsored function (a Planning Board meeting) was to take place; and

WHEREAS, based on the evidence submitted, the Town Board finds that Robert Smith had been previously provided the duly-adopted and effective COVID-19 Re-Opening Safety Plan, as amended, and therefore knew or should have known its content; and

WHEREAS, based on the evidence submitted, the Town Board finds that Robert Smith’s violation on March 17, 2021 of the Town’s COVID-19 Re-Opening Safety Plan, as amended, constitutes a knowing violation of a lawful resolution or motion duly adopted by the Town Board in violation of the Town Code of Ethics § 16-6 (N); and

WHEREAS, based on the evidence submitted, the Town Board further finds that Robert Smith, shortly before the start of the Planning Board meeting and in the course of an argument with the Planning Board Chair concerning whether a mask was required, referred to the Planning Board Chair as a “bitch”; and

WHEREAS, in doing so, Robert Smith committed misconduct by using a derogatory and demeaning slur for a woman towards and with reference to the Planning Board Chair; and

WHEREAS, Robert Smith’s use of the derogatory and demeaning slur towards the Planning Board Chair was disrespectful and was made in the presence of others, including design professionals and applicants; and

WHEREAS, the Town Board of the Town of New Lebanon finds such misconduct to be grossly inappropriate, lacking in civility, disrespectful, and unacceptable on the part of any Town of New Lebanon official or employee; and

WHEREAS, the Town Board of the Town of New Lebanon will not condone the use by its officials and employees of derogatory and demeaning slurs based on sex or other protected characteristics; and

WHEREAS, the Town Board finds that the misconduct engaged in by Robert Smith constitutes cause for removal from all positions he holds with the Town of New Lebanon;

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

1. The recital clauses set forth above are expressly incorporated herein; and
2. Robert Smith shall be, and hereby is, removed from his position as a member of the Planning Board, effective immediately; and
3. By virtue of his removal from the position of Planning Board member, Robert Smith is disqualified to serve as member of the Board of Ethics, and his position is hereby deemed vacant; and
4. In the event Robert Smith shall be deemed to not be disqualified to serve as a member of the Board of Ethics upon his removal from the Planning Board, or that his position is not

properly deemed vacant, Robert Smith shall be, and hereby is, removed from his position as a member of the Board of Ethics, effective immediately.

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

Roll Call Vote:

Councilmember John Trainor	Aye
Councilmember Deborah Gordon	Aye
Supervisor Tistrya Houghtling	Aye
Councilmember Jesse Newton	Aye
Councilmember Norman Rasmussen	Abstain

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.

Dated: April 21, 2021

Marcie Robertson

Town Clerk

Town of New Lebanon

**ADJOURNMENT:**

A motion was made by Supervisor Houghtling to adjourn the special meeting at 9:14pm. The motion was seconded by Councilmember Newton.

Roll Call Vote:

Councilmember Trainor-	Aye
Councilmember Gordon-	Aye
Supervisor Houghtling-	Aye
Councilmember Newton-	Aye
Councilmember Rasmussen-	Aye

Respectfully submitted,

Marcie Robertson

New Lebanon Town Clerk