

**MINUTES OF THE SPECIAL MEETING OF
THE TOWN BOARD OF THE TOWN OF NEW LEBANON
HELD ON DECEMBER 8, 2021**

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

Recording Secretary: Marsha “Marcie” Robertson, Town Clerk

Others Present: Tammie Darcy, Tax Collector
Jessica Byrne-York, Town Justice
Jack Nevers, Town Justice
Member of the Public

CALL TO ORDER:

The special meeting was called to order at 6:01pm by Supervisor Houghtling.

The meeting was held in person at the New Lebanon Town Hall, 14755 State Route 22, New Lebanon, NY and live streamed for the public at:

https://townhallstreams.com/towns/new_lebanon_ny

Supervisor Houghtling gave a brief explanation as to what the Special Meeting was being held for. The meeting is to give the current Tax Collector and current Judges an opportunity to be heard regarding a recommendation that came out a Compensation Committee that looked at town by town comparisons across many different offices and departments. Through that recommendation and process the committee recommended that the Town Board look at the salaries of the Tax Collector and the Town Justices and consider reducing them to be in line with what they thought was equitable with some other towns in the county. Because they were in the middle of an election, at the request of the judge that was up for re-election, they were asked to wait until after the election so that the judge could speak on advocating for the justice salary and where she thinks it should be.

In summation, there was a spreadsheet created for the court. It looked at justice salaries, the hours per week of clerical staff and the 2019 revenues. Judge Byrne provided a document with 2019 revenues from the state that are different than what is on the spreadsheet used by the Compensation Committee.

The committee found that there are two different ranges of pay for justices in the county. They seem to correlate with the busyness of the court and with the clerical staff hours. In towns where the judges come in for court nights and arraignments and the clerical staff do most of the paperwork, the salaries range from the \$5,000 to \$8,000 range. The towns where the judges did a lot of the clerical work themselves, the salaries were in the \$9,000 to \$12,000 range. The committee made their recommendation based on the fact that our court has clerical staff that does most of the paperwork on penal and traffic cases and the judges come in on court nights and arraignments.

The Tax Collector was a more difficult comparison because there are not a lot of towns that have stand-alone tax collectors, many towns have the Town Clerk as the Tax Collector. In the few that they could compare, New Lebanon was more than double the salary. Elected officials are paid a salary, not an hourly pay. A few years ago, the committee came up with rated job tiers based on job duties and importance to the town. The Tax Collector was rated similar to the Town Clerk because so many other towns have tax collection done by the Town Clerk with that compensation added into their salary configuration. Our Town Clerk was set at \$20.00 an hour. The committee did take into account that the current Tax Collector has been here for many years and would have received raises and cost of living raises over the years she has been in office.

Supervisor Houghtling opened the floor up to Tax Collector Darcy to address the board of her concerns with the data used by the committee to make their salary recommendations on.

Tax Collector:

Tax Collector Darcy stated that the information from the spread sheet has Real Property Taxes at \$1 Million and that is not the correct amount of taxes that she collects, it is only about one third of the taxes that she collects.

Supervisor Houghtling clarified that they are looking at just the town taxes collected, not both town and county taxes.

Tax Collector Darcy pointed out that the majority of the towns listed on the spreadsheet are Rensselaer County and cannot be used for a comparison because Columbia County collects taxes differently than other counties. Columbia County extends their warrants every year through the end of May, so their collection period is much longer than neighboring counties.

Supervisor Houghtling stated that the committee's intention was just Columbia County but Town Clerk Robertson accidentally sent the request for information to the Greene County list as well. Supervisor Houghtling stated that they actually removed the other counties from the comparison data and there were only three other towns and New Lebanon that they could find that have a Tax Collector salary. They are Ancram, Germantown and Hillsdale.

Tax Collector Darcy stated that there are only two because she is one of the three. She stated that those must be school tax collectors, they are not town and county tax collectors. Darcy continued to state that only the Town of Clermont and Hillsdale in addition to New

Lebanon are dedicated town and county tax collectors.

Tax Collector Darcy reached out to both of the tax collectors in the county that are similar to New Lebanon. Clermont's tax collector has been doing the job for over twenty years, she only collects taxes open to the public in the month of January on Saturday mornings from 9:00am to 12:00pm and her annual salary is \$4,600. In looking at the salaries of the Supervisor (\$5,500) and the Town Clerk (\$7,000) in Clermont, the Tax Collector is compensated similarly. Hillsdale's tax collector has been doing the job for about sixteen years, he only collects taxes in the month of January in person, three days a week from 9:00am to 12:00pm. She stated, both of these towns are very different from the Tax Collector's presence here in New Lebanon and her availability to the public.

Councilmember Rasmussen commented that obviously there is a very clear difference, he is glad that she has brought this up. He asked how the other towns are able to collect their taxes with such limited availability? Are we able to collect our taxes more efficiently, have fewer delinquencies, what is the benefit to the town of being available so much more than just a few weekends in January?

Tax Collector Darcy responded that it is similar to the presence and the availability of the Town Clerk's office being open 35 hours a week versus only being open 10 hours a week. It is a service that we provide to our community.

Supervisor Houghtling stated that she agrees with the availability and the service. She asked from a work load perspective, does it take more time to process payments having more hours with people coming in person versus in the mail?

Tax Collector Darcy responded yes, absolutely; it is a much slower process but we don't want to discourage our residents from coming in in person. She added that statutorily, she has to have open office hours to the public in the month of January, two days a week during normal business hours and Saturday hours. Tax Collector Darcy stated that she has the same hours for January, February and March and then in April and May she has open hours for two hours for two weekdays and then three hours on Saturday.

Tax Collector Darcy stated that she receives a large number of phone calls and emails during school tax collection because the school district doesn't have a face that residents know for collection, they consider her the Tax Collector for all taxes. During the months of September and October she makes sure to get her voicemails and emails more frequently than normal when she is outside of her regular collection.

Councilmember Gordon asked why is it that Tax Collector Darcy has the bulk of her hours in January and continues until June to have office hours? What is triggering that?

Tax Collector Darcy responded that she has to collect through the end of May, so she thinks if she is collecting and taking payments that it is important to have office hours available to the public to come in and pay delinquent taxes. Her warrant (authority to collect taxes) expires the end of May. Any taxes not paid by the end of May are returned to the county. She closes out her books with the county around the first or second week of June. After

that the county is responsible for any delinquent tax payments.

Councilmember Rasmussen asked if she knows if the school has a lot of uncollected taxes because payments cannot be made in person at the school?

Tax Collector Darcy responded that any uncollected school taxes get rolled over onto our town and county tax bills, so she ends up collecting that as well.

The Town Board held further discussion on this process of tax payment collection with the Tax Collector.

Town Justice:

Town Justice Byrne stated that she wanted to point out that the way she is being asked to justify her salary as a comparison to the town revenues collected is an illegal way to ask her to compare. The Ethics Commission opinion 1963 indicates that Town Justices may not meet privately with town officials to explain and justify decreases or changes in revenue. A meeting like this is different than a regular budgetary process, she has to be very careful to not discuss revenue as a whole. There are ethics opinions and attorney general opinions that say the town boards cannot parse out the revenues that are generated to a town versus the gross revenues because it looks like the town is leaning on the justices to change their decisions and plea agreements to generate more revenue. She also stated that it is inappropriate to consider it as a factor in evaluating any proposed plea agreements whether the proceeds of an otherwise fair and lawful traffic fine to the town versus the state treasury and those opinions are 1032, 1048 and 722.

Town Justice Byrne stated that the line on the spreadsheet that Councilmember Rasmussen and the committee created that indicates the revenue, is not accurate and those figures look like they stemmed from creation of what the town got in revenue and that is not accurate. Justice Byrne explained that there is a difference between criminal and civil penalties and fines. There are certain traffic tickets where the town will keep a certain percentage of the money or the state will get a large percentage of the money. Looking at how much revenue a town is getting from their own town court as a general academic statement is not in any way an indicator of volume that is being processed by a court. The number you need to look at is the volume being processed by the court.

Town Justice Byrne stated that in going over the spreadsheet that was given to them, it had a bunch of towns that were not ours and not considered. She did leave Sand Lake because they are closer in a comparison to New Lebanon than others because they have a police presence in that town and they have a higher criminal docket than a civil docket. She stated that a lot of the data on the spreadsheet was incorrect. The hypothesis that was generated from this incorrect data is that the more clerical hours that each court is allocated is somehow linked to the amount of work the justices have to do and that is linked to the salary in some way and that is not accurate at all. She stated that when you look at the salaries of each of these justices you need to compare that with how many times a month they have to come in or how many times a month, week or hours separate and distinct from their volume that they are in their offices. In New Lebanon each justice sits twice per month as their base, they each have a criminal and a civil night. Each justice's

salary is at \$11,259 and they are each in here every Thursday and that doesn't include arraignments, processing, budgetary things, trainings or anything else that they have to do. If you look at the Town of Ancram, the clerk is a salaried clerk and she is a county employee. Her salary is \$5,042 for less than ten hours a week, just what it takes to get done. The judges make \$5,500 a year and they only sit one night a month and there is no coverage. They sit once a month for two hours to do civil and the next month they sit once a month for two hours to do criminal and they don't cover for the other judge. The volume that the court in Ancram processes is about two to twelve cases versus fifty to sixty here in New Lebanon based on 2019 information.

She stated, if you look at the Town of Austerlitz, the judges are making \$11,255 a year and their clerk is salaried and they sit once a month, one month civil and one month criminal. In the Town of Canaan, the judges make \$12,500 a year and on a regular night they will have six criminal cases and maybe ten civil cases (traffic tickets). The Canaan judges sit once a month because they have combined civil and criminal cases because their volumes have decreased over the past years.

Justice Byrne commented that she wants to draw the boards attention to the Justice Court Funds Town and Village Revenue Report for academic reasons only, not specifics. She stated that they can't look at a measure of volume as how much a town is getting as in apportionment or a piece of what is being created, generated or collected from a court as a whole. You have to look at the total number.

In a town like New Lebanon, we have a police presence here, our criminal volume is astronomically higher than anywhere else because there is a police presence in town, night arraignments are higher and she does arraignments for other towns when they don't pick up.

Justice Byrne stated that when you have a town like Claverack or Taconic that have the Taconic Highway going through it, those towns will have astronomical revenue or volume processed generated because they are processing hundreds of traffic tickets for people who aren't coming back or they are mailing in their tickets. Byrne stated that a DWI takes her two hours to process, she does have clerical help but that is only one case. They need to look at the volume and types of cases that the court is processing.

In Chatham, they received a raise and they have sixty clerical hours per week and those judges sit for the same amount of time that her and Jack do.

In the town of Claverack, the judges made \$12,361 in 2015 and that was the last time that Claverack had a separate line item for the justices' salaries, after that they just combined it in their budget. They apportion \$88,000 a year to the justice court salaries, that include their full and part-time clerks and their two judges who sit for the same volume of sessions that her and Jack do. Claverack has sixty to sixty-five clerical hours per week. Justice Byrne stated that if you look at the towns that the justices get paid a fair salary, they are lawyers and you get what you pay for.

In the town of Copake, they have two judges and they sit once per month for no more than two hours, they process less than twenty cases on average with a criminal and civil mix. Copake's clerk has fifteen hours to the public a week.

Justice Byrne provided the Town Board with information on the court structure and salaries for the Towns of Gallatin, Germantown, Greenport, Kinderhook, Philmont, Hillsdale and Taconic. Justice Byrne stated that if you are to compare by a pure measure of volume Livingston is most like New Lebanon. Both New Lebanon and Livingston have a NYS Trooper barracks in the town so the number of arraignments is similar.

Justice Byrne stated that when you compare the fact that they have two court nights per month, they are available for criminal arraignments, 60% of the work they do is related to criminal versus traffic, she thinks that it is unethical to say that the judges rely on their clerks to do their jobs for them. Byrne stated that they are paying for their availability, knowledge and expertise, you get what you pay for. She stated that she has been doing this for twelve years, she has declined raises in the past and as much as she loves doing this for the town, she would be offended to have the pay cut. Justice Byrne stated that she thinks they have a pretty high functioning office and it seems like they are being penalized for being efficient. Justice Byrne commented that she thinks it is a bit uncouth to refer to their retirement calendars as part of this process.

Earlier in the meeting there was discussion and reference to the retirement calendar that Tax Collector Darcy and Justice Byrne complete every year and how the committee used the hours worked on that calendar as part of the process to figure an average hourly wage being paid. Both Tax Collector Darcy and Justice Byrne stated that the calendars are not necessarily a true representation of the hours they actually work and neither of them plan on getting state retirement so there wasn't a lot of emphasis made on these calendars.

Supervisor Houghtling stated to clarify for the record that the retirement is all public and can be found on the town website, it is a resolution. She continued to state that those calendars are completed to certify that they are the hours worked and even though they are not worried about retirement pay, to clarify for next year, it is really important that they complete an accurate calendar. They can either submit new calendars for January, February and March or maybe even a whole year long calendar to more accurately represent the hours worked.

Tax Collector Darcy stated that she knows her turn is over but like Justice Byrne said, the tax collector is collecting all of the revenue for the town and the county. She has access to over \$3 Million; they want to make sure that the person in that position is someone trustworthy and you do get what you pay for. You pay for the knowledge they have from being in that position for many years. She stated that she is honored to be the current President of the NYS Association of Tax Receivers and Collectors and she has been involved in that organization which supports and educates Tax Receivers and Collectors throughout our state since she started this job. She stated that if they cut the salaries as significantly as they are proposing to do, they will have new people in these positions in the future.

Justice Byrne added if you look at the county as a whole, there is a state generated chart that measures volume and New Lebanon was in the top 25% for volume processed for the first eight years that she was here. The comparisons that were done by the committee were not accurate and it is unethical to ask or consider revenue to a town in order to defend salaries or budgets.

The Town Board held further discussion regarding the Justice Court and the Judges salaries, types of cases and hours worked.

Justice Nevers stated that he doesn't feel that their particular job is an hourly job, he

thinks it is a salary job. Justice Nevers commented that they get calls for arraignments at all hours of the day or night. He stated that if a trooper arrests someone at 2:00am, they have to find a judge to arraign. They also get calls for other courts that judges cannot be reached for. Nevers stated that when they are called out for an arraignment, they need to wait for a public defender to arrive which could be an hour or longer.

Further discussion was held.

Supervisor Houghtling thanked them all for coming in and taking the time to research and present the information to the board.

Councilmember Newton asked if this existing Town Board will be making the decision regarding the Tax Collector and Justices salaries?

Supervisor Houghtling responded no, the salaries for next year are set. These salary changes were proposed for 2024 at the next election.

Other Business – Letter of Support for Grant:

Supervisor Houghtling stated that they received a letter requesting a letter of support for a grant that Darrow School is putting forth. It is needed by this Friday.

A motion was made by Councilmember Trainor, seconded by Councilmember Newton and approved unanimously to authorize Supervisor Houghtling to sign a letter of support for Darrow School's grant application.

A motion was made by Councilmember Newton to adjourn the meeting at 7:12pm. The motion was seconded by Councilmember Trainor.

Roll Call Vote:

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

Respectfully submitted,

Marcie Robertson
New Lebanon Town Clerk