

**MINUTES OF THE YEAR END MEETING OF
THE TOWN BOARD OF THE TOWN OF NEW LEBANON
HELD ON DECEMBER 30, 2022**

Present: Tistrya Houghtling, Supervisor
Marianna Anthonisen, Councilmember
Britt Buckenroth, Councilmember
Deborah Gordon, Councilmember
John Trainor, Councilmember

Recording Secretary: Marsha “Marcie” Robertson, Town Clerk

Others Present: Hazel “Cissy” Hernandez, ZEO & Building Dept. Admin.
Jeff Hattat, CEO
Member of the Public

CALL TO ORDER:

The meeting was called to order at 10:30am by Supervisor Houghtling. The meeting was held in person at the New Lebanon Town Hall, 14755 State Route 22 North, New Lebanon, NY 12125 with members of the public also being able to view the meeting at the following link: https://townhallstreams.com/towns/new_lebanon_ny.

A moment of silence was held, followed by the flag salute. The emergency exits were pointed out.

PRIVILEGE OF THE FLOOR:

In addition to an in-person privilege of the floor, Supervisor Houghtling will read all comments, questions and concerns emailed to supervisor@townofnewlebanon.com during the meeting. No one in person spoke and there were no emails received for the first POF.

BUDGET AMENDMENT #12 OF 2022:

Supervisor Houghtling stated that we are bringing in the ARPA funds that they paid out. The remainder are minor adjustments as we near the end of year and we are taking them from contingent.

General Fund:

\$ 30,862.00	from A-04900 (Federal Aid – ARPA)
\$ 30,862.00	to A-6410.4A (BEDC – ARPA)
\$ 4,470.00	from A-1990.4 (Contingent)
\$ 204.00	to A-1010.4 (Town Board – Contractual Exp.)

\$ 1,069.00	to A-1680.2 (Central Data Processing – Equip.)
\$ 668.00	to A-1680.4 (Central Data Processing – Cont. Exp.)
\$ 2,524.00	to A-7110.4 (Parks – Contractual Exp.)
\$ 5.00	to A-9060.8 (Hospital & Medical Ins.)

A motion was made by Supervisor Houghtling to approve the above noted budget amendment #12 of 2022 as amended. The motion was seconded by Councilmember Gordon.

Roll Call Vote:

Councilmember Buckenroth -	Aye
Councilmember Gordon -	Aye
Supervisor Houghtling -	Aye
Councilmember Trainor -	Aye
Councilmember Anthonisen-	Aye

AUDIT OF BILLS:

2022 Bills:

General Nos. 518 through 520, in the amount of \$30,862.00;
As listed on Abstract No. 12A dated December 30, 2022.

General Nos. 521 through 540, in the amount of \$16,001.20; and
Highway Nos. 154 through 160, in the amount of \$7,926.64;
As listed on Abstract No. 12B dated December 30, 2022.

A motion was made by Supervisor Houghtling to pay the bills as amended. The motion was seconded by Councilmember Trainor.

Roll Call Vote:

Councilmember Buckenroth -	Aye
Councilmember Gordon -	Aye
Supervisor Houghtling -	Aye
Councilmember Trainor -	Aye
Councilmember Anthonisen-	Aye

OLD BUSINESS:

Fund Balance & Reserve Accounts:

Supervisor Houghtling stated that they received everything from Attorney Tingley that they had been waiting for. Everything he prepared was done as discussed with one exception. The board hoped that for equipment and facilities they could just do a general account and if they needed a highway purchase, they could just transfer over to a capital for highway. This can be done and if it is needed the board will need to create a highway capital account via resolution and then transfer the money into said account. This cannot be done for the retirement account. They can create a smaller highway retirement account.

The other option is not to do a retirement account at all and keep the money in reserves, which they can always pull from. The Town Board agreed to pull both retirement resolutions and not do them and just keep the money in fund balance reserves because the possibility of spikes in retirement is not that often.

Establishing Facilities Capital Reserve Fund:

TOWN OF NEW LEBANON

RESOLUTION #38, 2022

ESTABLISHING THE TOWN FACILITIES CAPITAL RESERVE FUND

DECEMBER 30, 2022

At a duly called and noticed special meeting of the New Lebanon Town Board, held on the 30th day of December, 2022, the following Resolution was proposed and seconded:

Resolution by Supervisor Houghtling

Seconded by Councilmember Trainor

ESTABLISHING THE TOWN FACILITIES CAPITAL RESERVE FUND

WHEREAS, pursuant to N.Y. General Municipal Law § 6-c, the Town of New Lebanon is authorized to establish, fund and make use of a Capital Reserve Fund for capital improvements; and

WHEREAS, pursuant to such law, a capital reserve fund may be established to fund a type of capital improvement rather than a specific capital improvement; and

WHEREAS, the Town Board reasonably anticipates a need for funding certain capital improvements in future years and finds that it is prudent and a matter of responsible planning to set aside funds to be used for such capital improvements;

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

1. Pursuant to N.Y. General Municipal Law § 6-c, as amended, there is hereby established a capital reserve fund to be known as the "Town Facilities Capital Reserve Fund" (hereinafter, the "Reserve Fund"); and
2. The purpose of the Reserve Fund is to accumulate moneys to finance the cost of a type of capital improvement, namely the acquisition, construction, or reconstruction of Town real property, structures, buildings, facilities, and improvements, which may include (but is not limited to) public parks and park buildings and structures, municipal buildings, parking lots, sidewalks, town hall, town offices, town community center, and town garage and storage buildings and facilities, along with any preliminary studies or surveys relative thereto, land or rights in land, and any associated furnishings, equipment, machinery or apparatus in accordance with N.Y. General Municipal Law § 6-c (1) (b); and

3. The Town Board hereby authorizes the transfer of unallocated fund balance to the Reserve Fund in the amount of \$300,000, along with such other funds as the Town Board may from time to time authorize to be transferred to or deposited into such Reserve Fund.
4. The chief fiscal officer is hereby directed to deposit and secure the moneys of this Reserve Fund in the manner provided by Section 10 of the General Municipal Law; and
5. The moneys in the Reserve Fund may be invested in the manner provided by Section 11 of the General Municipal Law, and consistent with the investment policy of the Town of New Lebanon; and
6. Any interest earned or capital gains realized on the moneys so deposited or invested shall accrue to and become part of the Reserve Fund; and
7. The chief fiscal officer shall account for the Reserve Fund in a manner which maintains the separate identity of the Reserve Fund and shows the date and amount of each sum paid into the fund, interest earned by the fund, capital gains or losses resulting from the sale of investments of the fund, the amount and date of each withdrawal from the fund and the total assets of the fund, showing cash balance and a schedule of investments, and shall, at the end of each fiscal year, render to the Town Board, a detailed report of the operation and condition of the Reserve Fund; and
8. Except as otherwise provided by law, expenditures from this Reserve Fund shall be made only for the purpose or purposes for which the Reserve Fund is established; and
9. No expenditure shall be made from this Reserve Fund without the approval of the Town Board and such additional actions or proceedings as may be required by Section 6-c of the General Municipal Law or any other law, including a permissive referendum if required by subdivision 4 of Section 6-c of the General Municipal Law.

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

Roll Call Vote:

Councilmember Buckenroth	Aye
Councilmember Gordon	Aye
Supervisor Houghtling	Aye
Councilmember Trainor	Aye
Councilmember Anthonisen	Aye

The Resolution, having been ***approved*** by a majority vote of the Town Board, was declared ***duly adopted*** by the Supervisor of the Town of New Lebanon.

Dated: December 30, 2022

Marcie Robertson
Town Clerk
Town of New Lebanon

Establishing Equipment Capital Reserve Fund:

TOWN OF NEW LEBANON

RESOLUTION #39, 2022

ESTABLISHING THE EQUIPMENT CAPITAL RESERVE FUND

DECEMBER 30, 2022

At a duly called and noticed special meeting of the New Lebanon Town Board, held on the 30th day of December, 2022, the following Resolution was proposed and seconded:

Resolution by Supervisor Houghtling
Seconded by Councilmember Gordon

ESTABLISHING THE EQUIPMENT CAPITAL RESERVE FUND

WHEREAS, pursuant to N.Y. General Municipal Law § 6-c, the Town of New Lebanon is authorized to establish, fund and make use of a Capital Reserve Fund for equipment; and

WHEREAS, pursuant to such law, an equipment capital reserve fund may be established to fund a type of equipment rather than a specific item of equipment; and

WHEREAS, the Town Board reasonably anticipates a need for funding certain equipment in future years and finds that it is prudent and a matter of responsible planning to set aside funds to be used for the acquisition of such equipment;

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

1. Pursuant to N.Y. General Municipal Law § 6-c, as amended, there is hereby established a capital reserve fund to be known as the "Equipment Capital Reserve Fund" (hereinafter, the "Reserve Fund"); and
2. The purpose of the Reserve Fund is to accumulate moneys to finance the cost of acquisition of a type of equipment, namely machinery and apparatus for construction and maintenance, which shall include all equipment to be acquired for Town use as set out in N.Y. Local Finance Law § 11.00 (a) (28), and which shall include (but not be limited to) mowers, grounds maintenance equipment, trucks, construction equipment, and other motor vehicles; and
3. The Town Board hereby authorizes the transfer of unallocated fund balance to the Reserve Fund in the amount of \$85,000, along with such other funds as the Town Board may from time to time authorize to be transferred to or deposited into such Reserve Fund.

4. The chief fiscal officer is hereby directed to deposit and secure the moneys of this Reserve Fund in the manner provided by Section 10 of the General Municipal Law; and
5. The moneys in the Reserve Fund may be invested in the manner provided by Section 11 of the General Municipal Law, and consistent with the investment policy of the Town of New Lebanon; and
6. Any interest earned or capital gains realized on the moneys so deposited or invested shall accrue to and become part of the Reserve Fund; and
7. The chief fiscal officer shall account for the Reserve Fund in a manner which maintains the separate identity of the Reserve Fund and shows the date and amount of each sum paid into the fund, interest earned by the fund, capital gains or losses resulting from the sale of investments of the fund, the amount and date of each withdrawal from the fund and the total assets of the fund, showing cash balance and a schedule of investments, and shall, at the end of each fiscal year, render to the Town Board, a detailed report of the operation and condition of the Reserve Fund; and
8. Except as otherwise provided by law, expenditures from this Reserve Fund shall be made only for the purpose or purposes for which the Reserve Fund is established; and
9. No expenditure shall be made from this Reserve Fund without the approval of the Town Board and such additional actions or proceedings as may be required by Section 6-c of the General Municipal Law or any other law, including a permissive referendum if required by subdivision 4 of Section 6-c of the General Municipal Law.

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

Roll Call Vote:

Councilmember Buckenroth	Aye
Councilmember Gordon	Aye
Supervisor Houghtling	Aye
Councilmember Trainor	Aye
Councilmember Anthonisen	Aye

The Resolution, having been ***approved*** by a majority vote of the Town Board, was declared ***duly adopted*** by the Supervisor of the Town of New Lebanon.

Dated: December 30, 2022

Marcie Robertson

Town Clerk

Town of New Lebanon

NY Main Street Grant – Issue RFP:

Supervisor Houghtling stated she asked if they could move up the timeline and the grant administrator said it is fine to move it up and have the planning done in time to apply for phase 2 this July. Supervisor Houghtling pulled the RFP that was included in the proposal and changed all of the dates to go out for RFP today to the paper and changing all of the dates when everything is due.

A motion was made by Supervisor Houghtling, seconded by Councilmember Buckenroth and approved unanimously to go out to bid for RFPs for the preparation of Main Street Design Guidelines, RFP #202301, with bids due by February 10th, 2023 at 4:00pm, with proposals publicly opened and read prior to the meeting and announced at the meeting on February 14th, 2023 at 6:00pm and direct the Town Clerk to publish in the paper and all other relevant places.

Letters of Interest Received for 2023 Board & Commission Appointments:

Supervisor Houghtling stated that all they received were letters of interest from the incumbents who all want to be reappointed and no new letters of interest were received. These reappointments will be done in the resolution at the organizational meeting.

Letters of Interest Received for SYP Director Position:

Supervisor Houghtling stated that they received two letters of interest from Caitlyn Williams and Robert Long. They will both be interviewed after this meeting.

Letters of Interest Received for Recreation Commission:

Supervisor Houghtling stated they received one letter of interest.

A motion was made by Supervisor Houghtling, seconded by Councilmember Gordon and approved unanimously to appoint Jean-Georges Perrin to the Recreation Commission for a seven-year term expiring 12/31/2028.

Bids Received for Highway Truck:

Supervisor Houghtling stated that going into 2023, Highway Superintendent Winestock had asked for two new small highway trucks. Supervisor Houghtling stated that they went out to bid for one truck because they are so limited in stock, they didn't want to lose any potential bids because they asked for two trucks. She stated that the board can authorize two trucks. She stated that the Highway Superintendent's request is that the board authorize two trucks at the price of the quotes received. This purchase will require a bond. The highway budget does have room for two bond payments.

A motion was made by Councilmember Buckenroth to accept the bid from Zwack and Marchese for \$157,950 and to authorize the Supervisor to work with the bidders, the bond attorney and the town attorney to potentially try to get two trucks with a potential discount on the second truck and to prepare any resolutions that are required for the January meeting. The motion was seconded by Councilmember Anthonisen.

Roll Call Vote:

Councilmember Buckenroth -	Aye
Councilmember Gordon -	Aye
Supervisor Houghtling -	Aye
Councilmember Trainor -	Aye
Councilmember Anthonisen-	Aye

Camp DD Article 78 Proceeding:

TOWN OF NEW LEBANON

RESOLUTION #40, 2022

AUTHORIZING SETTLEMENT OF LITIGATION DECEMBER 30, 2022

At a duly called and noticed special meeting of the New Lebanon Town Board held on the 30th day of December, 2022, the following Resolution was proposed and seconded:

Resolution by Supervisor Houghtling

Seconded by Councilmember Anthoniosen

AUTHORIZING SETTLEMENT OF LITIGATION

WHEREAS, on February 28, 2022, Camp DD, LLC ("Camp DD") applied for site plan approval for construction of a self-storage facility on property located at 14398 NYS Route 22 in the Town of New Lebanon (SBL: 19.4-1-22), which site plan application underwent various modifications during the review process by the Town of New Lebanon Planning Board; and

WHEREAS, a public hearing was held on the application on May 18, 2022; and WHEREAS, the application was subject to referral to the Columbia County Planning Board pursuant to N.Y. General Municipal Law § 239-m; and

WHEREAS, the application was not referred to the Columbia County Planning Board as required; and

WHEREAS, the modifications made to the site plan application during the application review process culminated in a final site plan submission in July 2022; and

WHEREAS, on July 20, 2022, the Town of New Lebanon Planning Board, by a vote of 4 to 3, denied approval of the site plan application as depicted on the July 2022 site plan submission; and

WHEREAS, the resolution denying the site plan application was filed on July 26, 2022; and

WHEREAS, thereafter Camp DD commenced litigation against the Town of New Lebanon and the Town of New Lebanon Planning Board on August 25, 2022 seeking: reversal and annulment of the denial of the site plan application, a declaration that the denial and its findings are violative of the Town of New Lebanon Zoning Code and were arbitrary and capricious and lacking in foundation in law or fact, directing the Planning Board to grant approval of the site

plan application as depicted in the July 2022 Site Plan and that the Building Inspector forthwith process Petitioner’s building permit application upon its submittal; and awarding attorneys’ fees, costs, and disbursements of the proceeding, along such other and further relief as the Court deemed just and proper; and

WHEREAS, following commencement of the litigation, the Town Board has consulted with the Attorney for Town concerning the litigation; and

WHEREAS, following consultation with the Attorney for the Town and consideration of the claims, defenses, costs, and benefits of continuing to litigate, the Town Board finds it to be prudent to resolve the litigation, rather than to continue to litigate the dispute, on the terms and condition set forth in the proposed Stipulation of Settlement annexed hereto as Exhibit A ;

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

1. The Town Board, on behalf of the Town of New Lebanon, hereby approves the proposed Stipulation of Settlement in the form and content as set forth in “Exhibit A” attached to this Resolution, and further hereby authorizes the Attorney for the Town to execute such Stipulation of Settlement on behalf of the Town of New Lebanon.
2. The Town Board hereby authorizes and directs the Attorney for the Town, the Town Supervisor, and/or their respective designee(s), to take such further action and execute such other and further documents as may be reasonably necessary to effectuate the purposes of this Resolution.

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 Britt Buckenroth	Aye
Councilmember Marianna Anthonisen	Aye

The Resolution, having been **approved** by a majority vote of the Town Board, was declared **duly adopted** by the Supervisor of the Town of New Lebanon.

Dated: December 30, 2022
Marcie Robertson Town Clerk
Town of New Lebanon

See Addendum A for “Exhibit A”

NEW BUSINESS:

Schedule Annual Audit Meeting:

A motion was made by Supervisor Houghtling, seconded by Councilmember Trainor and approved unanimously to schedule the annual audit on January 19th, 2023 at 5:00pm.

Building Department New Software Request:

Supervisor Houghtling reported that Cissy Hernandez, ZEO and Building Dept. admin. has been working on this with the vendor and Josh. The board will need to create a records management resolution before moving forward. Cissy and the board held further discussion regarding details of the contract and the term of the contract. Jeff Hattat, CEO clarified that the five-year contract term is to lock the town in at the current rate for five years. At any time, if the town decides the program isn't working for the town or the building department, they can get out of the contract without penalty. Supervisor Houghtling discussed amending the contract with the town attorney and adding in a ninety day out clause. The goal to move forward is to create a records management resolution allowing the town departments to go digital and a contract that is approved by the town attorney and Josh Young and has a 90 day out clause. The Town Board members are all in favor of moving forward, no motion needed at this time.

Annual Mobile Home Park License Renewal:

Supervisor Houghtling stated that the board received a letter from Jeff Hattat, CEO recommending approval of the 2023 license renewals for all six mobile home parks.

A motion was made by Supervisor Houghtling, seconded by Councilmember Trainor and approved unanimously to approve the 2023 license renewals for Sherman's Mobile Home Park, Ski Lodge Mobile Home Park, Shaker Flats Mobile Home Park, Shaker Meadows Mobile Home Park, Adams Crossing (Garden Homes) Mobile Home Park and Hanson's Mobile Home Park and authorizing Jeff Hattat, CEO to issue the 2023 license renewals.

Resolution Encumbering 2022 Funds:

Supervisor Houghtling stated this resolution is to take the unused 2022 funds and holding them to pay in 2023 for the pavilion kitchen and the splashpad projects that have been started but not completed.

TOWN OF NEW LEBANON

RESOLUTION 41, 2022

ENCUMBER FUNDS FROM 2022 TO 2023 BUDGET FOR PAVILION KITCHEN & SPLASHPAD

DECEMBER 30, 2022

At a year-end meeting of the New Lebanon Town Board, held at the New Lebanon Town Hall, 14755 NYS Route 22, New Lebanon, New York, duly called and held on the 30th day of December, 2022, the following Resolution was proposed and seconded:

Resolution by Supervisor Houghtling
Seconded by Councilmember Anthonisen

***ENCUMBER FUNDS FROM 2022 BUDGET TO 2023 BUDGET
FOR PAVILION KITCHEN PROJECT & SPLASHPAD PROJECT***

WHEREAS, the Town of New Lebanon Town Board budgeted to build a new splash pad in line-item A-7140.44 in the 2022 budget; and

WHEREAS, the bids for the new splash pad came in much higher than what was budgeted for in the 2022 budget; and

WHEREAS, the Town of New Lebanon Town Board budgeted the remaining amount needed to build the new splash pad in the 2023 budget to be combined with the money in the 2022 budget to cover the full project cost, and

WHEREAS, the Town of New Lebanon Town Board budgeted for the new pavilion kitchen in line-item A-7140.43 on the 2022 budget; and

WHEREAS, the pavilion kitchen will not be completed by December 31, 2022; and

WHEREAS, the pavilion kitchen will need to be paid for in 2023 from the money budgeted in the 2022 budget;

NOW, THEREFORE, BE IT RESOLVED, the Town Board of the Town of New Lebanon hereby moves to encumber the remaining balance of line-item A-7140.43 in the 2022 budget into line-item A-7140.43 in the 2023 budget AND to encumber the remaining balance of line-item A-7140.44 in the 2022 budget into line-item A-7140.44 in the 2023 budget.

Town Board Members voted “Aye” or “Nay” for said Resolution:

Roll Call Vote:

Councilmember Britt Buckenroth	Aye
Councilmember Deborah Gordon	Aye
Supervisor Tistrya Houghtling	Aye
Councilmember John Trainor	Aye
Councilmember Marianna Anthonisen	Aye

The Resolution, having been approved by a majority vote of the Town Board, was declared duly adopted by the Supervisor of the Town of New Lebanon.

Dated: December 30, 2022
Marsha “Marcie” Robertson
Town Clerk
Town of New Lebanon

ZRC Configuration – Remove Public Members:

Supervisor Houghtling stated that she forwarded the board an email from Ted Salem as chair of ZRC asking us to go back to how the ZRC has always been before this year (2 members from each of TB, PB, ZBA and CAC). Supervisor Houghtling explained that they added two members of the public, Jesse Newton and Mark Baumli, at the beginning of 2022 and they have both now resigned. Ted would like the board to consider removing the public positions and going back to how it was before. The board doesn't need to accept the two resignations, they will just not be reappointed to the committee in January.

2023 Proposal from Town Attorney:

Supervisor Houghtling stated as of now, the town pays a flat rate each month and they keep carrying over hours because the town isn't using the hours that are allocated in the monthly flat rate. Attorney Tingley has requested moving forward, that the town doesn't do a retainer and do straight hourly billing. The attorney rates are going up. Attorney Tingley's new proposal is \$195.00 an hour for general services with \$100.00 per hour for paralegal and litigation at \$225.00 an hour. Supervisor Houghtling stated that the town currently pays \$1,800.00 for twelve hours of services which is \$150.00 an hour.

A motion was made by Councilmember Anthonisen to authorize the Supervisor to sign the contract for legal services for 2023 with Gilchrist Tingley. The motion was seconded by Councilmember Gordon.

Roll Call Vote:

Councilmember Buckenroth -	Aye
Councilmember Gordon -	Aye
Supervisor Houghtling -	Aye
Councilmember Trainor -	Aye
Councilmember Anthonisen-	Aye

ANNOUNCEMENTS:

JANUARY:

Monday, January 2nd, 2023 at 6:00pm- Annual Organizational Meeting

Tuesday, January 10th, 2023 at 5:55pm- Public Hearing -LL#6 of 2022

Tuesday, January 10th, 2023 at 6:00pm- Regular Monthly Meeting

Thursday, January 19th, 2023 at 5:00pm- Annual Audit

PRIVILEGE OF THE FLOOR:

In addition to an in-person privilege of the floor, Supervisor Houghtling will read all comments, questions and concerns emailed to supervisor@townofnewlebanon.com during the meeting. There were no emails for POB.

EXECUTIVE SESSION:

Supervisor Houghtling stated that the board is going to enter into executive session to interview candidates for Summer Youth Camp Director position.

A motion was made by Supervisor Houghtling to enter into an executive session at 11:37am for the purpose of interviewing candidates for the Summer Youth Program Director and inviting Caitlyn Williams and Robert Long into the executive session with the board at different times for said interviews. The motion was seconded by Councilmember Anthonisen.

Roll Call Vote:

Councilmember Buckenroth -	Aye
Councilmember Gordon -	Aye
Supervisor Houghtling -	Aye
Councilmember Trainor -	Aye
Councilmember Anthonisen -	Aye

A motion was made by Supervisor Houghtling to exit Executive Session at 12:32pm. The motion was seconded by Councilmember Buckenroth.

Roll Call Vote:

Councilmember Buckenroth -	Aye
Councilmember Gordon -	Aye
Supervisor Houghtling -	Aye
Councilmember Trainor -	Aye
Councilmember Anthonisen -	Aye

ADJOURNMENT:

A motion was made by Supervisor Houghtling, to adjourn the meeting at 12:32pm. The motion was seconded by Councilmember Gordon.

Roll Call Vote:

Councilmember Buckenroth -	Aye
Councilmember Gordon -	Aye
Supervisor Houghtling -	Aye
Councilmember Trainor -	Aye
Councilmember Anthonisen-	Aye

Respectfully submitted,

Marcie Robertson
New Lebanon Town Clerk

Addendum A

EXHIBIT A

A mubnshbbA

NEW YORK STATE
SUPREME COURT COLUMBIA COUNTY

CAMP DD, LLC,

Petitioner,

-against-

SO-ORDERED
STIPULATION OF
SETTLEMENT

The TOWN OF NEW LEBANON, and the
PLANNING BOARD of the TOWN OF NEW
LEBANON,

Index No.: E012022018748

Respondents.

WHEREAS, Petitioner Camp DD, LLC commenced this Article 78 proceeding on August 25, 2022; and

WHEREAS, in this Proceeding, Petitioner alleges that it is the owner of certain real property located at 14398 NYS Route 22, Town of New Lebanon, County of Columbia, State of New York and designated as Tax Map Parcel No. 19.4-1-22 (the “**Property**”); and

WHEREAS, in this Proceeding, Petitioner alleges that, in or about May 2021, Petitioner sought site plan approval for a Recreational Vehicle self-storage facility (hereinafter, the “**RV Self-Storage Application**”); and

WHEREAS, in this Proceeding, Petitioner alleges that Respondent Planning Board issued a positive declaration under the State Environmental Quality Review

Act for the RV Self-Storage Application, necessitating the completion of an Environmental Impact Statement under SEQRA and its implementing regulations; and

WHEREAS, in this Proceeding, Petitioner alleges that it thereafter tabled the RV Self Storage Application; and

WHEREAS, in this Proceeding, Petitioner alleges that in or about January, 2022, after tabling its RV Self Storage Application, it filed an application for site plan approval for construction of a self-storage facility consisting of self-storage units at the Property, which site plan application underwent various modifications during the review process by Respondent Planning Board, and as a result of the Planning Board's requested changes, this culminated in the site plan submission made in July 2022 and attached as Exhibit Q to the Verified Petition in this matter (hereinafter, referred to as the "**July 2022 Site Plan**");

WHEREAS, in this Proceeding, Petitioner alleges that on July 20, 2022, Respondent Planning Board voted 4 to 3 to deny approval of the July 2022 Site Plan, as reflected in the minutes of Respondent Planning Board's July 20, 2022 meeting (annexed to the Verified Petition as Exhibit T), which was memorialized in a Resolution attached as Exhibit S to the Verified Petition (hereinafter, the "**Denial**"); and

WHEREAS, in this Proceeding, Petitioner seeks reversal and annulment of the Denial; a declaration that the Denial and its findings are violative of the Town of New Lebanon Zoning Code and otherwise arbitrary and capricious, and without foundation in law or in fact; a direction that the Planning Board grant approval of the site plan application as depicted in the July 2022 Site Plan and that the Building Inspector forthwith process Petitioner's building permit application upon its submittal; and an award of attorneys' fees, costs and disbursements of this proceeding and such other and further relief as the Court deems just and proper; and

WHEREAS, the subject site plan application as depicted in the July 2022 Site Plan is subject to the referral requirements of N.Y. General Municipal Law § 239-m; and

WHEREAS, the Town of New Lebanon Planning Board did not refer the subject site plan application as depicted in the July 2022 Site Plan to the Columbia County Planning Board in accordance with the requirements of N.Y. General Municipal Law § 239-m; and

WHEREAS, rather than continuing to litigate this dispute, with its uncertainty of result and ongoing expense, the parties desire to resolve this matter on the terms and conditions set forth herein;

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED

by and between the parties, and **ORDERED BY THE COURT**, as follows:

1. In full and final resolution of this proceeding, Petitioner Camp DD, LLC, Respondent Town of New Lebanon, and Respondent Planning Board of the Town of New Lebanon agree that:

a. The Denial is hereby reversed and annulled.

b. The application for site plan approval as depicted in the July 2022 Site Plan is hereby remitted to the Town of New Lebanon Planning Board for further proceedings, including for the Town to refer the site plan application to the Columbia County Planning Board in compliance with N.Y. General Municipal Law § 239-m. Upon remittal, and to the extent permitted within this Stipulation, the Town of New Lebanon Planning Board shall promptly and diligently proceed through the site plan application review process and, following compliance with N.Y. General Municipal Law § 239-m, shall render a determination on the subject site plan application at the next regularly scheduled Planning Board meeting. The parties agree that the public hearing allowed for under Town of New Lebanon Town Code § 205-14 (H) (1) has already been completed and closed with respect to application for site plan approval as depicted in the July 2022 Site Plan.

c. Upon execution of this Stipulation by Petitioner Camp DD, LLC and upon authorization of the Town of New Lebanon Planning Board to enter into this Stipulation, the Town of New Lebanon Planning Board shall be authorized to immediately commence the necessary referral of the subject site plan application to the Columbia County Planning Board, even if the Town of New Lebanon Town Board has not yet authorized the execution of this Stipulation or if the Court has not yet so-ordered this Stipulation. This provision is intended to permit prompt referral of the subject site plan application to the Columbia County Planning Board. However, any further proceedings by the Town of New Lebanon Planning Board in the review of the subject site plan application shall be stayed until the Town of New Lebanon Town Board authorizes execution of this Stipulation and the Court so-orders the Stipulation.

d. In the event the Town of New Lebanon Planning Board approves the application for site plan approval as depicted in the July 2022 Site Plan, with or without modifications agreed to by the parties, the RV Self Storage Application shall be deemed withdrawn.

e. The application for site plan approval as depicted in the July 2022 Site Plan, and the project to be undertaken pursuant thereto, shall not be subject to any moratorium on land use applications or zoning

amendment restrictions for self-storage units that are in effect on the date on which this Stipulation of Settlement is authorized by any party or is So-Ordered by the Court (i.e., Introductory Local Law No. 5 of 2022, enacted and filed in the N.Y. Department of State as Local Law No. 4 of 2022). Nothing herein shall be deemed to exempt from any moratorium any proposed development that is not depicted on the July 2022 Site Plan.

f. In the event the application for site plan approval as depicted in the July 2022 Site Plan is approved, with or without agreed upon modifications, site development/building permits may be issued (upon satisfaction of any conditions of site plan approval, if any) during the one-year period set forth in Town of New Lebanon Town Code § 205-14 (I) (3) notwithstanding any moratorium on self-storage units that may then be in effect or any zoning amendments that may be adopted and/or in effect during such period that affect self-storage unit facilities. Nothing herein shall be deemed to exempt from any moratorium or any zoning amendments any proposed development that is not depicted on the July 2022 Site Plan. Any exemption set forth herein from a moratorium or from zoning amendments shall terminate upon the expiration of the one-year period set forth in Town of New Lebanon

Town Code § 205-14 (H), provided however that if construction has commenced and is continuing to be pursued but is not yet completed during that period the project shall be permitted to be completed.

2. The parties agree that the execution of this So-Ordered Stipulation of Settlement is done solely for the purposes of compromise, and to eliminate the burden and expense of further litigation, and does not constitute, and shall not be construed as, an admission of liability, wrongdoing, fault, or concession, or as evidence with respect thereto, by any party hereto, on account of any claims or matters arising between them, any such liability being specifically denied. The parties further agree that this So-Ordered Stipulation of Settlement shall not be offered or received against any of the parties as evidence of a presumption, concession, or admission with respect to any liability, wrongdoing or fault, or in any way referred to for that purpose as against any of the parties, in any other civil, criminal or administrative action or proceeding, other than proceedings as may be necessary to effectuate and enforce the provisions of this So-Ordered Stipulation of Settlement.

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Dated: December ____, 2022

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SO ORDERED:

Laura M. Jordan, J.S.C.

Dated: December ____, 2022

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