

**MINUTES OF THE PUBLIC HEARING OF  
THE TOWN BOARD OF THE TOWN OF NEW LEBANON  
FOR PUBLIC HEARING ON  
INTRODUCTORY LOCAL LAW #9 OF 2023 -CH 45 -RECORDS  
HELD ON DECEMBER 12, 2023**

**Present:** Tistrya Houghtling, Supervisor  
Norman Rasmussen, Councilmember  
Deborah Gordon, Councilmember  
John Trainor, Councilmember  
Susan Tipograph, Councilmember

**Recording Secretary:** Marsha (Marcie) Robertson, Town Clerk

**Others Present:** Ted Salem, ZBA Member & ZRC Chair  
Sharon Powers, IT Website Support, BEDC & QOL Com.  
Member  
Steve Powers, CAC & ZRC Member & CSC Chair  
Jim Carroll, Planning Board & ZRC Member  
Ed Godfroy, LVPA, NL Rep to Emergency Mgmt.  
Erminia Rasmussen, BEDC Member  
Margaret Robertson, Historic Railroad Depot  
Bruce Shenker, CAC & NL Rep to CC Env Mgmt. Council  
Joe Ogilvie, Recreation Commission & Historic Railroad  
Depot  
Doug LaRocque, The Columbia Paper  
Members of the Public

**CALL TO ORDER:**

The Public Hearing was called to order at 7:46pm 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](https://townhallstreams.com/towns/new_lebanon_ny)

**PUBLIC HEARING NOTICE:**

Town Clerk Robertson read the following public hearing notice aloud:

**NOTICE OF PUBLIC HEARING  
INTRODUCTORY LOCAL LAW NO. 9 of 2023  
TOWN OF NEW LEBANON  
COUNTY OF COLUMBIA**

**PLEASE TAKE NOTICE** that a public hearing will be held by the Town Board of the Town of New

Lebanon on December 12th, 2023 at 7:25 p.m. at 14755 Route 22 North, New Lebanon, New York, 12125 regarding the adoption of Introductory Local Law No. 9 of the Town of New Lebanon for the year 2023. Introductory Local Law No. 9 of the Town of New Lebanon for the year 2023 is a local law to amend Chapter 45 of the Town Code of the Town of New Lebanon, entitled “Records”.

Copies of said proposed Local Law are available for review at the Office of the Town Clerk of the Town of New Lebanon, 14755 Route 22 North, New Lebanon, New York, 12125 and the proposed local law can be viewed on the town website at [www.townofnewlebanon.com](http://www.townofnewlebanon.com).

Participation by the public will be in person at the New Lebanon Town Hall. Those not attending in person who wish to comment on the proposed local law can email in advance of the meeting to [supervisor@townofnewlebanon.com](mailto:supervisor@townofnewlebanon.com) and all comments will be read at the public hearing and entered into the record.

Marcie Robertson  
Town of New Lebanon Town Clerk  
11/20/2023

**PUBLIC COMMENT:**

Supervisor Houghtling opened the floor to public comment and asked if there was anyone that wished to speak regarding Introductory Local Law #9 of 2023 or have any comments that they would like to put on the record.

**William Banker:** Mr. Banker stated, many other towns have one person as the appeal officer for FOIL requests, it side steps the checks and balances involved in an appeal process. He imagines that four board members would investigate an appeal more than just one person and examine the different avenues that are involved in it, rather than just having one person, who may not be informed of the FOIL laws or even investigate the FOIL laws before deciding. He believes there was reasoning for why the town law was set up that way years ago so that the board is the appeals officer because there are four to five people making the decision versus just one. One person could have bias reasoning behind their decision.

**Mr. Muadin:** Mr. Muadin stated, he would like to agree with Mr. Banker and urge that the law remains the same as it was set up many years ago. He stated, there are areas where the town might be able to withhold a document claiming privilege, and it would be in the public interest for the people to be able to have a right to access those documents.

Supervisor Houghtling: The Supervisor stated, to clarify if a record was denied that existed, it would be the Town Clerk as the FOIL Officer that would make that determination. It would not be the Supervisor.

**Mr. Muadin:** Mr. Muadin asked if the Supervisor offers an opinion on requested FOIL documents as to whether they should be released? The Supervisor responded, that is up to the Town Clerk. She stated, the Town Clerk will often reach out to the Committee on Open Government for guidance.

**Henry Villegas:** Henry stated, he thinks it should be four people, not just one person to decide on an appeal.

**William Banker:** Mr. Banker added, he recently filed a FOIL request and it was constructively denied, it was not as a result of the Town Clerk, it was miscommunication with the Committee on Open Government and the Town Clerk and whether or not it could be redacted to the form that it was redacted that constituted a constructive denial and the Town Clerk was fulfilling her position but was unaware that the COOG had already made opinions on the matter ten years prior. He stated, he had to appeal it, and the appeal was changed, it was approved and disapproved in some different manners. He stated, a FOIL request is not always straight forward. He feels the appeal process should stay with the board, so that there are more eyes looking at the appeal process.

There were no emails submitted regarding Introductory Local Law #9 of 2023 for privilege of the floor.

**CLOSING OF PUBLIC HEARING:**

All persons desiring to be heard and having been heard, a motion was made by Supervisor Houghtling, to close the Public Comment and adjourn the Public Hearing at 7:55pm. The motion was seconded by Councilmember Gordon.

Roll Call Vote:

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

Respectfully submitted,

Marcie Robertson  
New Lebanon Town Clerk