

**MINUTES OF THE SPECIAL MEETING OF  
THE TOWN BOARD OF THE TOWN OF NEW LEBANON  
HELD ON FEBRUARY 25, 2014**

**Present:** Michael Benson, Supervisor  
Bruce Baldwin, Councilmember  
Dan Evans, Councilmember  
Chuck Gerald, Councilmember  
Matthew Larabee, Councilmember

**Recording Secretary:** Cissy Hernandez

**Others Present:** Eileen Evans, Bookkeeper/Confidential Secretary  
Cynthia Creech, Deputy Court Clerk/Assessor's Clerk  
Jeff Winestock, Highway Superintendent  
Tistrya Hamilton, Court Clerk  
Gary Graziano, Hudson Valley Resource Group

**CALL TO ORDER:**

The meeting was called to order at 7:05 p.m. by Supervisor Benson.

**DRAFT EMPLOYEE MANUAL REVIEW:**

Supervisor Benson noted that this special meeting was for a workshop on the Employee Manual. Work began on this manual in 2012 and we received the draft in October of 2013. Supervisor Benson noted that Gary Graziano, a principal at Hudson Valley Resource Group, has done payroll and human resource consulting for years, helped put together the employee files and got us into compliance in many areas. He noted that he asked Mr. Graziano to come tonight to run through the manual and address concerns and issues. The board members have had several months, new members a couple of months, to review the handbook. Supervisor Benson noted that he had requested that outside comments be submitted in writing and he received four.

Supervisor Benson noted some of it is boilerplate and Mr. Graziano noted that a lot of it was what we already had in place but we wanted to put it in one place; most of the Department of Labor regulations are boilerplate.

Discussion regarding Personal Information (P7) and public employees versus employees in the private sector: Tistrya Hamilton noted that with regards to Personal Information on Page 7, some parts of a personnel file for public employees are confidential but some parts can be FOI'd and are available to the public. Supervisor Benson noted that NYS regulates employee files and as keeper of these files, he does not want "unlimited" access.

Discussion of Exempt versus Non-Exempt and Overtime calculations: Jeff Winestock asked for clarification of the overtime when holidays are involved. Non-exempt: hourly and overtime is paid when over 40 hours is worked; Exempt: not required to be paid overtime if work over 40 hours.

Page 9: **Record Keeping of Time Worked:** add "Excluding Elected Officials" and add "and/or hand in a signed time sheet."

Page 10: **Direct Deposit:** change to from “please contact Town Clerk” to “please contact human resources.”

Page 11: **Overtime:** Mr. Graziano clarified that not counting a holiday or sick day as worked time is not regulated by the state. If the town chooses to count holiday as “worked” days for overtime calculations, they may. There are employers who do it any number of ways. Councilmember Evans noted that the way they do it where he works is sick time used is not counted toward overtime calculations but holidays, vacation, and personal time do count. Councilmember Baldwin asked how we could rework this. Councilmember Evans asked the Highway Superintendent if his guys could end up working a full 24 hours in a row, right. Jeff replied absolutely. Councilmember Evans what happens if this happens and your guys are gassed and they want to take some personal time cause they can’t even see anymore; they don’t want to take that if their overtime is going to get hacked. Supervisor Benson asked Councilmember Geraldi his input, he noted he was not sure, he felt this is something that maybe should be thought about for a day or two. Supervisor Benson noted he agrees with holiday and vacation time but personal and sick time; not really but maybe that is a compromise that we can look at. Jeff noted that most people, if they just took five days off and then a storm hits and they are getting called in but they are not going to get their overtime, would they come in? Where you are working has a lot to do with it. It was noted that this is for a snow storm and he needs his guys there and it was acknowledged that is why it has been this way. Supervisor Benson noted we would come back to this one.

Page 12: **Meal Periods:** It was noted that the state does allow an exception when an office is manned by a single person. Mr. Graziano noted that this requires the town filing for a “hardship exemption” from the state. Otherwise, the town can provide coverage for the lunch period. Supervisor Benson asked why couldn’t the court office just be closed for ½ an hour. It was noted that would have to be discussed with the judges as they set the hours for the court office. Several options were discussed including making another staff member available for a ½ hour meal period. No decision was made.

It was noted that this section still refers to punching in and out with a time clock, this will have “and/or put on timecard” added.

Page 12: **Cell Phone Use Policy:** discussion regarding Highway employees use of town cell phones for their jobs; town hall employees need to not turn their phones completely off for emergency notifications regarding school age children; what will be provided on the highway cell phones regarding data plan options; (it was noted that the CEO and Assessor get a flat fee reimbursement for their own cell phone usage). Supervisor Benson noted that having multiple phones (work and personal) is ridiculous and a lot of companies are now just paying an allowance to the employees for their personal cell phones; would this be easier? He asked Jeff about the idea of just paying them an allowance towards their own cell phones – not providing a town phone. It was noted, what do we do if they don’t want a phone? Councilmember Geraldi noted we should just say, here is the phone we provide and that is it. Supervisor Benson noted they would come back to this one too. Turning it off will be tweaked to turn the ringer off and use is for urgent or emergency use only.

Page 12: **Computer Use Policy: Personal Use:** change to urgent and emergency use only.

Page 13: **Smoking Policy:** There was a general discussion regarding getting the smoking off the front steps of the beautiful new building.

**Breaks:** Mr. Graziano was asked if there are specific regulations regarding breaks after certain periods of time worked and if these were included in the handbook. That is defined but he was unsure if it was included. Councilmember Evans noted it is 15 minutes for each 4 hours worked and then 30 minutes for each 6 to 8 hours; he noted he was not sure how it works if you work 16 hours in a snowstorm.

Page 13: **Bad Weather Policy:** There was a general discussion about the bad weather policy and “a state of emergency.”

Page 16: **Solicitation & Distribution of Literature:** Mr. Graziano explained that this is geared towards things such as Girl Scout Cookies or school fund raisers; he will re-word it to be more specific towards that understanding the community posting board at the town hall, etcetera.

Page 18: **Separation of Employment:** It was noted that the Town Clerk had expressed concern about this section because by law all officials and officers must resign to the Town Clerk. Supervisor Benson noted that he would look into this one. Councilmember Baldwin noted we need to get that clarified.

Page 20: **Vacation Time:** Councilmember Baldwin noted that it has always been date of hire and one week is accrued during that first year. Supervisor Benson asked by it was put in hours instead of days. Mr. Graziano replied that not everyone works an eight hour day, some employees work a ten hour day so putting it in hours makes sense. Mr. Graziano will reword this to reflect our current policy; after one full year of work here, 40 hours of vacation time is earned, then eight hours per year after that up to a maximum of 120 hours. Accrual of vacation time during the first year of employment will be removed. We will implement the “Request for Time Off Form” and it will be available from the bookkeeper.

It was also noted that tracking the accrued time off should be a bookkeeping responsibility not the employees responsibility. Mr. Graziano noted that this is for the employee, they need to make sure that they are asking for time off that they have accrued. Tistrya Hamilton asked Mr. Graziano if, as our payroll company, they had the capability to track and put right on the paycheck stubs the accrued time for each employee. He noted that they do; however, it would require the town taking the time to gather all of the necessary details for each employee and providing that to their company – date of hire, how many years of service, etcetera - and there would be an additional cost for them to do this.

Page 21: **Paid Time Off (PTO):** It was noted that the 288 hours is the current maximum we allow for accrual and Jeff noted that his guys were asking for that to be increased by 96 hours. It was decided to leave it at 288 hours maximum accrual.

Page 21: **Paid Holidays:** It was noted that compared to what is currently in our personnel policy, two holidays have been removed, the day after Thanksgiving and the floating holiday. Jeff noted he would like to have those holidays back.

Mr. Graziano asked to return to the **vacation time** and noted that the chart was taken from the town's website and our current policy. The proration is not from time of hire, it is when the employee hits their anniversary date, and the proration is applied to put them on a calendar year rather than using their hire date. Councilmember Baldwin noted that the problem with changing everything to a calendar year is if the highway guys all have vacation time accrued that they are going to lose, all of them having to use this up between Christmas and New Years and then we get a snowstorm, Jeff is in trouble. It was decided that vacation time will accrue based on anniversary date. It was changed back to vacation time will be accrued on January 1<sup>st</sup>.

The discussion returned to **paid holidays** – Councilmember Baldwin recommended including the floating holiday for a total of 12 paid holidays. This was agreed.

Page 23: **Bereavement Leave:** Mr. Graziano noted that they only defined “immediate family” because our current policy was too vague. It was noted that this currently says “unpaid leave” and paid leave is not uncommon. Councilmembers Baldwin and Evans both recommended changing it to paid leave for up to 2 days and then extra time off with vacation or PTO if needed.

Page 24: **Cafeteria Plan Medical Plan:** It was noted that it says that the buy-back option will be paid on a monthly basis in a check separate from payroll; this is what it says now too but that is not how it is being done. Right now, it is being paid bi-weekly as part of the payroll check so either that needs to be changed or the wording here needs to be changed. That will be changed in the manual – it will be part of the payroll check but separately identified.

Page 29: **Substance Abuse Policy:** Mr. Graziano noted that the way this is worded, something has to change, it says this is your substance abuse policy; however, all it is really saying is your boiler plate stuff – you can't do drugs on company time. But it doesn't really state what your policy is if something happens. Do you do pre-employment testing, do you do random testing, do you do suspicion testing, do you do post-accident testing? Most companies have a policy that specifies that stuff; this is what we do as part of the drug policy and then it states what testing you do. And then it goes on to say what happens if someone tests positive, what happens if someone tests negative. What happens if you test positive twice, what happens if you refuse, and etcetera. Jeff noted the highway crew does have to have random testing; Mr. Graziano asked if it was the DOT policy that is followed. Mr. Graziano noted that if the CDL drivers under the DOT policy are the only employees being tested; he would recommend changing this title to **Substance Abuse** and then I would add something in there that the policy you refer to is the DOT regulations for all CDL drivers. The board agreed.

Supervisor Benson noted that we should have a substance abuse policy for all town employees. Mr. Graziano stated that it is not really a lot of money but that we could set for another meeting because that is a lot of stuff – a lot of regulations.

**TOWN HALL WORK:**

A motion was made by Councilmember Baldwin, seconded by Councilmember Larabee and passed unanimously to have Donnie Sears and Herb Jones to work for not more than 40 hours at their rates as park staff to clean up the basement, take apart the shelving in the storage room on the second floor and move them to the basement, and take out the plumbing in the bathroom on the second floor.

**ADJOURNMENT:**

A motion was made by Councilmember Evans and seconded by Councilmember Larabee to adjourn the meeting at 10:00 p.m.

Respectfully submitted,

Colleen Teal, RMC  
New Lebanon Town Clerk