

**MINUTES OF THE REGULAR MEETING OF
THE TOWN BOARD OF THE TOWN OF NEW LEBANON
HELD ON MAY 13, 2014**

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

Recording Secretary: Colleen Teal, Town Clerk

Others Present: Andy Howard, Attorney for the Town
Jeff Winestock, Highway Superintendent
Tammie Darcy, Tax Collector
Eileen Evans, Bookkeeper/Confidential Secretary
Cynthia Creech, Deputy Court/Assessor's Clerk, CAC
Trina Porte, Planning Board Member
Kent Pratt, CEO/ZEO
Joe Ogilvie, Recreation Commission
Scott Larabee, Buildings Maintenance/Recreation
Commission Chair
Larry Benson, Conservation Advisory Council
Craig Westcott, Conservation Advisory Council
David Farren, Conservation Advisory Council
Gail Heinsohn, Reporter for *The Chatham Courier*
Thaddeus Flint, Reporter for *The Eastwick Press*
Several members of the public

CALL TO ORDER:

The meeting was called to order at 7:12 p.m. by Supervisor Benson. A moment of silence was followed by the flag salute.

PROPOSED LOCAL LAW NO. 1 ~ ZONING AMENDMENTS:

Supervisor Benson noted that the proposed local law to amend the Zoning Regulations has to go through the County Planning Board and he asked Attorney Howard to update the board on the current status. Attorney Howard noted that the proposed local law has been referred to County Planning and will be on the agenda for their May meeting which is scheduled within the next week. We will get the letter of recommendation from County Planning after their review and we can consider it at the June town board meeting.

COVENANT CIRCLE:

Supervisor Benson noted the next step on Covenant Circle is the board discussion now that we have held the public hearing. He noted he would solicit input from each board member starting with Councilmember Gerald.

Councilmember Gerald noted that in reading through the Town's road specs, he does not see how this job could be done anywhere near \$100,000. From what our specs say and from what their engineers say about the way the road is built, I do not see \$100,000 as being a realistic number. And to continue going on and on and on and spending more

money on something that is not realistic doesn't seem right to me. The engineer can address this but I don't see how this could possibly be \$100,000.

Brandee Nelson of Crawford Engineering responded noting that only very preliminary conversations have been had and it needs to be looked at in detail.

Councilmember Geraldini noted that they have dug all these test holes which Ms. Nelson has looked at and from what he can see just down to the road fabric, none of these test holes match the specs for the Town so that would lead me to believe we have to dig all the way down to the fabric and, not going any farther than the fabric because it doesn't say what is under there. To dig down that entire road down to the fabric, put new fabric down and then put DOT approved material on top seems to me to be over \$100,000. Just in calculations, I figured there is close to \$80,000 to \$90,000 just in material to put on there – not digging, not moving or transporting, just the material.

Brandee Nelson noted that she did not have any costs at this point in time. We haven't been requested to prepare any costs so all we have done is looked at what is out there, existing conditions, to see if it is substantial and equivalent and had some very preliminary conversations about additional information that needs to be evaluated before any decision can be made.

Attorney Howard noted that according to Town Law Section 200, if the Town Board shall determine, after such hearing – the public hearing we had this evening – and upon the evidence given there at that it is in the public interest to make the improvement, the board shall direct the engineer to prepare definite plans and specifications and to make a careful estimate of the expense and with the assistance of the Town Attorney or an attorney employed for that purpose to prepare a proposed contract for the execution of the work. Thereupon the said board shall examine such definite plans, specifications, estimate and the proposed contract and may reject the same or may make such modifications and changes therein as shall seem necessary and desirable. So that's where we are in that process. The next section goes on to say if the estimate of the cost of the improvement as prepared by said engineer exceeds the maximum amount proposed to be expended for said improvement, the town board shall adopt an order calling a further public hearing at a definite place and time not less than fifteen nor more than twenty-five days. Notice will be published just like we did before. At which point, the board will take further hearing about the new number and then if after that hearing the board shall determine that it is in the public interest to construct said improvement within the costs estimated by the engineer, it shall adopt a resolution providing for such definite plans, specs, and estimate in the proposed contract and cause the improvement to be constructed all in the same manner as talked about. In addition, at the time of adoption a resolution relative to the acceptance of the dedication of the highway shall be considered. If that number is more than \$100,000 and we have the public hearing and this board decides whatever that number is that they are going to proceed with it would be the residents of Covenant Circle's opportunity if they disagreed with it to actually file for a permissive referendum to have a vote on it. So no one gets 'snookered;' the town board doesn't get 'snookered' nor do the residents. They don't sign up for \$100,000 then get hit with \$1,000,000 and have no recourse. If they aren't comfortable with whatever that number is over \$100,000; they can say wait, we need to vote on it. They legally have that process. That's just where we are right now. It is

specifically saying that we need definite plans and specifications to come up with a careful estimate.

Councilmember Geraldini did not have any additional questions or comments. Councilmember Larabee noted that he had missed a couple of meetings due to health issues so he wanted to hear what the other board members had to say first.

Councilmember Baldwin noted that for some reason or other we found a convenient Town Law which nullifies any input from the most experienced person in the room and he resents that.

Councilmember Evans noted that the road was built back in the 1990s and like everything there are always repairs that need to go on. He noted he is not sure what the lifespan of a culvert is and how many of those are in need of replacement. He is curious to see the condition of the fabric that is out there, he is sure that has a lifespan as well. Every season material is removed from the top of the road just with the natural process of plowing. He is also curious to see possibly what the gradation of the material that is out there is; see if it passes. He would like to send it to the engineer to get those answers; he thinks it is the board's duty to look into it. There is a large group of taxpayers up there. He thinks there are two sides to this equation. If we look to not move forward with this, we are setting an example of not promoting development and development is important to the town's survival. But on the other hand, if we do move forward with this, there is going to be a domino effect of other roads that are going to follow suit with this process. However, he thinks we should move forward and see what the answers are to his questions.

Attorney Howard noted that the only other thing, under the law also, Jeff mentioned the grade which is an important thing. Under the law, if you were to make this direction, part of that direction is that the roadway be surveyed and a profile be developed so that is part of the process. Highway Superintendent Winestock asked what he meant by 'a profile.' Attorney Howard noted that they actually have to lay-out the metes and bounds of the roadway as well as... Highway Superintendent Winestock stated absolutely but you have two engineers' reports about it not meeting specs. Attorney Howard noted that it is his understanding that it has not been surveyed and asked the engineer if this was correct. Brandee Nelson noted that is her understanding as well. Highway Superintendent Winestock asked why they would put that in their report if it wasn't true. Ms. Nelson noted they made a site visit in December and following that site visit, we requested substantial additional information from the homeowners association if they were choosing to proceed including a survey. They have to actually survey up the right-of-way, all the improvements, the roadway, the shoulders, the ditch lines, everything that would be within the right-of-way and we do not have that yet so that is the next step in the process. Councilmember Larabee noted that according to a letter dated September 17th, it said see attached letter from surveyor David Dickinson. I don't see an attached letter. Ms. Nelson asked if the letter was from the association's engineer, Mr. Prendergast. Councilmember Larabee responded yes. Ms. Nelson stated that she was not sure that she had a copy of that. Councilmember Geraldini noted that all he surveyed was the grade being off. Highway Superintendent Winestock noted that it explains that there is approximately 500 feet of the road, as both engineers explained, that does not meet the grade of the town specs. Brandee Nelson noted that is based on some old plans; she doesn't know if that is the actual

condition out there. Highway Superintendent Winestock noted that it was part of the survey that was part of that road. Councilmember Larabee noted that Councilmember Geraldini just showed it to him. Attorney Howard noted that his only point was that would be part of an order.

Supervisor Benson noted that with the comments from the board in mind, we need to decide on a direction. Councilmember Evans asked Supervisor Benson for his comments. Supervisor Benson noted that personally, he likes to make decisions based on facts and he think that we have all the facts and, in terms of setting precedent, he doesn't see how we don't gather the rest of the facts that are needed to make a solid decision. This is not my thoughts but this is a question: this isn't the first time that we have taken over a road in the history of New Lebanon, he is sure of that. There is a part of him that is curious about how it worked on all the other roads. This one for whatever reason has been around for a long, long time and he has said from the beginning that we need to make a decision. Regardless of what it is, we need to make a decision and he personally believes it should be an informed decision so he would be in favor of understanding the magnitude of what is involved before we make a final decision.

Councilmember Evans made a motion to direct the town engineer to move forward and with investigating what is currently there and comparing it to our Town of New Lebanon Subdivision of Land specifications for roads. Supervisor Benson asked if there was a second for the motion. Councilmember Larabee asked for clarification, according to what specs. Councilmember Evans further clarified the specs that were to be used are the specs in the Code of the Town of New Lebanon, Chapter 179: Subdivision of Land, Appendix B: Specifications for Road Construction. Supervisor Benson noted he would add 'and the associated costs to bring the road into full compliance with town specification.' Attorney Howard noted that if there is an inclination of the Town Board to do this, he has prepared a written resolution for the board to consider and the board can amend it as they want. But if the board is going to do this, they want to make sure it meets the statutory requirements but they can add whatever they want into it.

Town Clerk Teal asked for clarification of who pays for the costs of this. Attorney Howard responded that it is part of the estimate for the project that ultimately becomes part of the overall project. Town Clerk Teal asked what happens if the project comes in too high and the residents of Covenant Circle decide not to proceed. Attorney Howard responded it would be a town expense.

Town Clerk Teal read the motion: "to direct the town engineer to move forward with investigating what is currently on Covenant Circle in comparison to the road specifications in *the Code of the Town of New Lebanon, Chapter 179: Subdivision of Land; Appendix B: Specifications for Road Construction* and the associated costs to bring the road into full compliance with town road specs.

Supervisor Benson noted that there is a motion on the floor and asked if there was a second. Councilmember Geraldini seconded the motion. The following roll call vote was had on the motion:

Councilmember Geraldini	Aye
Councilmember Larabee	Aye
Supervisor Benson	Aye
Councilmember Evans	Aye

Councilmember Baldwin Nay (and noted that he had to vote No because the Town Highway Superintendent was not mentioned in the motion.)

Councilmember Baldwin further noted that the Town Highway Superintendent is the one that will have to maintain the road. Councilmember Larabee stated that this is just a fact finding, correct? Councilmember Baldwin noted that it does not matter; he should still be part of the process. He should be right there in the process.

Attorney Howard inquired if the board wanted to formalize what they just did and review the resolution he had prepared noting that the resolution included a provision regarding requiring a survey, etcetera. The board reviewed the resolution prepared by Attorney Howard.

Attorney Howard noted that the resolution recited the history up to this point, reciting the fact that we had the public hearing today, and then on page 2, reciting that section that he read (Town Law §200(8)) determining, as the board already had on their prior vote, that it is in the public interest to proceed and directing the town engineer to prepare the plans and specs, to also cause the survey to establish the lines and grades for the road and also that upon receipt of that you will examine it and you can reject, accept, modify or take whatever action is necessary or desirable under Town Law. So you are basically eliciting the fact-finding mission that you talked about.

Councilmember Larabee noted that he agrees with Councilmember Baldwin that the Highway Superintendent needs to be included in this process; he has to take care of the roads, he knows what the roads are like, he knows what works and what doesn't work. He should be involved in this process; whether New York Town Law §200 says he is or isn't; he should be.

Attorney Howard noted that the resolution includes the statutory language but certainly he would expect the town engineer in preparing the plans and specs to work with the Highway Superintendent; the board talked about that before. This is the boards resolution so if they want more specificity, we can do that.

Councilmember Baldwin stated that he had three issues with the resolution; the first one is "Whereas, William J. Better, Esq., attorney for the owners..." and goes on. Councilmember Baldwin asked that that section be stricken because of his unethical attack on our Highway Superintendent which was read at the public hearing. Secondly, he has an issue with the \$100,000 figure and thirdly, he has an issue with the fact that "resolved, that the New Lebanon Town Board hereby directs the Town Engineer to prepare definite plans..." there is no indication of input from the Highway Superintendent.

Councilmember Evans stated that one area of concern for him that is almost an interpretation type item. You have the gravel out there; you test that; that's not debatable. The depths, that's not debatable; they are what they are. The culvert conditions could be debatable; how much longer they have. That is something that maybe the Superintendent or another third party could be involved in. But everything else is pretty much calculations and lab tests with the exception of the culverts.

Highway Superintendent Winestock stated that neither Councilmember Evans nor Geraldini asked for the estimate that he brought in but both of them said during their meeting that was what he needed to do. He really didn't know that much about what we could and couldn't say. Mr. Benson is saying this and this guy (Mr. Better) is saying you can't do this and then Andy (Attorney Howard) saying you can't do that; I didn't know whether I should bring an estimate in or not but I thought that was the best thing to do to be honest with the people. It was Councilmember Evans' idea as well as Councilmember Geraldini but neither one of them stood up and said a thing about that when it was questioned. He came here and told the board tonight that the culverts are junk; it doesn't take a rocket scientist to go up there and see that. He would just as soon step out of this and you go ahead and do what you need to do. You have already had estimates. Councilmember Evans noted that he was curious to see what the yearly increase in his maintenance budget would be; not the estimate. Highway Superintendent Winestock noted that he also wanted an estimate on the road and he had one drawn up also.

Supervisor Benson noted that now was a good time to address the last thing in the board's packets – a spreadsheet that compares our budget to every single other budget in Columbia County. It compares the cost of our highway program; it compares the cost of the general fund; it compares the number of town, county and state miles that we have. Theoretically, Jeff, you said we have 47.6 miles; it is rounded up to 48 miles on this spreadsheet. (*Supervisor Benson passed out a sign-up sheet for anyone that wanted to get a copy of the spreadsheet emailed to them.*) Frankly, I didn't bring this to discuss the matter of Covenant Circle but since we are on that subject, we do have 48 miles. Our current highway budget is \$679,351. So if you do the math, you can figure out what it costs on the average to maintain every mile. There is some other information here: population, square miles of town, taxable property values. We have almost \$350 million dollars in taxable property in New Lebanon.

Supervisor Benson asked if there is a proposal to make some amendments to the resolution, is there a proposal to not do anything with this resolution?

Councilmember Evans asked Brandee Nelson if they had a methodology to determine what fails a culvert. Brandee Nelson responded that she agrees completely with the Highway Superintendent Winestock, the bottoms are rusted out of them and that constitutes a total failure of the culvert so she doesn't think anyone has disputed that and they do need to be replaced. In general, we would recommend if you were going to take over this road that it has all new culverts. There is no reason that you should start off with something that should have a twenty or twenty-five year life only having a three or five year life.

Councilmember Evans noted that with that being said, he does not think that the board really needs to make an amendment to the resolution; we can just move with it. Supervisor Benson asked if that was a motion. Councilmember Evans stated yes. Supervisor Benson asked if there was a second to that motion and if not is there a proposed amendment to that motion and proposed language change.

Councilmember Geraldini noted that there are a couple of places in the resolution where he doesn't like the way things are worded. Attorney Howard noted that if Councilmember Geraldini seconded the motion; they could certainly have discussion on

the wording of the resolution and proposed amendments. Councilmember Geraldini noted that he would second it for now and then when it's time to vote he may not vote for it. It will get the board to the discussion portion.

Supervisor Benson asked for any discussion.

Councilmember Geraldini noted that the last line on the first page, the way he reads that is that the board has already decided that it is in the public's interest to make the improvement; it doesn't say proposed...it says the board has determined that it is in the public interest to make said improvement... Attorney Howard responded yes. Councilmember Geraldini stated we have not done that. Attorney Howard said that is what is under consideration; and he said he can explain why that is in there. The reason that is in there is that under Section 200, in directing the engineer to develop the price which if you see later on you can reject, modify, do whatever you want. But the first threshold is to say okay, we find that hearing their petition and hearing what they said, we find that it is in the public interest to do this therefore we are going to see how much it is going to cost and whether we agree to tax them to do it. You are not obligated to do it; you are just saying it is in the public interest to look into it. Attorney Howard read a portion of the law again: "if the town board shall determine after such hearing and upon the evidence given thereat that it is in the public interest to make the improvement, the board shall direct the engineer to prepare definite plans and specs." Town Clerk Teal asked so the board can't go ahead with the investigation without declaring that; it's required by law? Attorney Howard noted that we could modify the language if the board wants to say something different but he just wanted the board to know where it came from.

Councilmember Geraldini stated he would be okay with rewording it to say "has determined that it is in the public interest to *investigate* the said improvement." But not the way it is written there. And it is the same thing in the next paragraph where it is resolved that it is in the public interest that the road is going to get dedicated to the town. Attorney Howard asked if he wanted the word "make" changed to "investigate" on page 1, paragraph 4. Councilmember Geraldini stated it is in the public interest to investigate it. He further noted that he wanted the same change on the next page. Attorney Howard responded yes. Town Clerk Teal asked if he was asking to delete "and have it dedicated..." Councilmember Geraldini noted however the board wanted to have it worded but the way it is written it pretty much says we are going to dedicate the road to the town. Attorney Howard noted if you take out make it says "in the public interest to investigate improvements and have it dedicated;" but you are investigating. Councilmember Geraldini stated "and have it dedicated as a Town Road;" the way it is worded there, it is all done and we are going to take the road. Attorney Howard said it is just saying it is in the public interest but if we change it to investigate you are okay with it. Town Clerk Teal suggested "...investigate improvements and having it..." then you are investigating the having it dedicated. Attorney Howard said if we say "in the public interest to investigate" that includes both of those things.

Supervisor Benson asked if there were any other comments, language changes, discussion, questions. Councilmember Larabee asked where the board was going to put in that the Town Highway Superintendent is going to have input on this project. Attorney Howard stated that the board could say that the board directs the Town Engineer to consult with the Highway Superintendent and prepare definite plans and

specifications. Councilmember Larabee noted that the board is making a lot of changes to this resolution and he would like to have a special meeting the fourth Tuesday with a copy of the revised resolution. Supervisor Benson asked if they wanted to bring the attorney up for that; if we have a few simple changes let's... Councilmember Larabee state the attorney could email the amended resolution.

Supervisor Benson asked if he was proposing a language change there or if someone was proposing a language change there. He noted that we have a motion and a second and he wants to follow through on the motion and the second. Town Clerk Teal asked if it was with or without that language change. Councilmember Evans asked what Councilmember Larabee's change was. Attorney Howard stated that we changed "make" to "investigate" in the two sections and for discussion would be "Resolved that the New Lebanon Town Board hereby directs the Town Engineer to consult with the Highway Superintendent to prepare definite plans and specs and to make a careful estimate..."

Supervisor Benson clarified that we had a motion and a second on a proposed amended resolution as read by the Town Attorney and asked if that was acceptable in terms of Councilmember Evans' motion and Councilmember Geraldi's second. Both Councilmembers agreed. Supervisor Benson asked if there was any other discussion.

RESOLUTION # 12, 2014 ~COVENANT CIRCLE

The following Resolution was proposed by Councilmember Dan Evans and seconded by Councilmember Chuck Geraldi:

Covenant Circle

WHEREAS, William J. Better, Esq., attorney for the owners of real property fronting and/or abutting a private roadway known as Covenant Circle located within the Town of New Lebanon, County of Columbia and State of New York, on April 8, 2014, presented the New Lebanon Town Board with a petition signed by owners of real property fronting and/or abutting Covenant Circle, thereby petitioning the Town of New Lebanon in accordance with New York Town Law §200 to make necessary improvements to the aforesaid Covenant Circle Road and to have Covenant Circle Road dedicated as a Town Road, the maximum amount petitioned to be expended for said improvement being \$100,000, said sum to be charged against each of the parcels of real property fronting and/or abutting Covenant Circle Road on a pro-rata basis in accordance with applicable law, and

WHEREAS, the New Lebanon Town Board duly adopted an Order reciting in general terms the filing of said petition, the improvement proposed, the maximum amount proposed to be expended for said improvement, and the area benefitted as stated in said petition, and specifying that said Town Board shall meet on May 13, 2014 at 6:00 pm at the New Lebanon Town Hall, 14755 State Route 22, New Lebanon, New York 12125, to consider the Petition and to hear all such persons who may have an interest in said Petition, and

WHEREAS, certified copies of said Order were duly published and posted according to law, and said Town Board did, at the time and place specified in said order, duly meet and considered the matter of construction of said improvement, and heard all persons interested in the subject thereof who appeared at such time and place, concerning the same, and

WHEREAS, from the evidence offered at such time and place, the New Lebanon Town Board has determined that it is in the public interest to investigate the said improvement,

NOW, THEREFORE, BE IT

RESOLVED, that the Town of New Lebanon does hereby find pursuant to Town Law§200(8) that it is in the public interest to investigate improvements to Covenant Circle Road and have it dedicated as a Town Road, and be it further,

RESOLVED, that the New Lebanon Town Board hereby directs the Town Engineer to consult with the Highway Superintendent to prepare definite plans and specifications and to make a careful estimate of the expense, and with the assistance of the Town Attorney, to prepare a proposed contract for the execution of the work, and be it further

RESOLVED, that said Town Engineer shall survey the above-described portion of said Street and establish the lines and grades thereof, and file copies of such survey and a profile of the grade in the office of the Town Clerk, and it is further

RESOLVED, that upon receipt of this information, the Town Board shall examine such definite plans, specifications, estimate and the proposed contract, and may reject the same or make such modifications and changes therein as shall seem necessary and desirable, and take such final action as authorized and required under Town Law §200.

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

Roll Call Vote:

Councilmember Bruce Baldwin	Nay
Councilmember Dan Evans	Aye
Councilmember Chuck Geraldi	Aye
Councilmember Matthew Larabee	Nay
Supervisor Michael Benson	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.

MINUTES:

Supervisor Benson noted that he would like to take formal action on the prior months Town Board Meeting minutes every month. We can consider any other ones at the Town Clerk’s direction under that; but he would really like to have the board acknowledge the prior month’s meeting minutes and approve them.

The minutes of the **April 8, 2014, Regular Monthly Meeting**; and the **April 22, 2014, Special Meeting** were reviewed; a motion was made by Councilmember Baldwin, seconded by Councilmember Evans, and passed (Councilmember Larabee abstained) to approve the minutes as typed.

The minutes of the **March 11, 2014, Regular Monthly Meeting** were reviewed; a motion was made by Councilmember Larabee, seconded by Councilmember Baldwin, and passed to approve the minutes as typed.

FINANCIAL:

Specific Questions on Vouchers:

Supervisor Benson reported that voucher no. A-136 (payable to Behan Planning in the amount of \$4,000) has been pulled from this month's bills. Councilmember Baldwin asked if we had the total amount that has been paid to Behan so far or is that the reason it is being pulled. Supervisor Benson responded that off the top of his head, \$15,000 has been paid so far, and the bill is being pulled because we have a draft plan. The draft plan has not been reviewed and commented on by the board yet and frankly, he thinks they jumped the gun a bit in terms of billing us. Councilmember Baldwin asked if the \$15,000 included private donations. Supervisor Benson noted that it does. Councilmember Baldwin asked if we had any kind of a report on the private donations because it is a public expense. Supervisor Benson noted that yes, we do. Councilmember Baldwin noted that he would like to see it. Supervisor Benson asked what specifically Councilmember Baldwin would like to see. Councilmember Baldwin noted that he would like to see the amount and he would like to see the names because it is coming into a public entity. Supervisor Benson noted that there are copies of checks from all the donors as well as an accounting report. Councilmember Baldwin asked if the accounting report was itemized and Supervisor Benson responded that it is not.

Councilmember Evans noted that he had a nice chat with the Town Clerk about the escrow bill. Anytime the wireless companies have a question, they contact Richard Comi. This seems to him to be an extremely expensive option. He wondered that with the Attorney on retainer, is there any option for him to review these. Town Clerk Teal pointed out that the fees are paid by the applicants, not the town; it is part of their application costs. Supervisor Benson noted that it is a pretty specialized area. The Town Clerk asked if the board would like to see the invoices from the Center for Municipal Solutions (Richard Comi) more detailed. Councilmember Evans noted that it was detailed enough, he is just learning a lot about it.

Councilmember Geraldini noted that he would like to go back and address the Behan project. He reviewed some of the minutes from the budget workshops, the \$5,000 in account A-6326.4 (Other Economic Opportunity Program) was budgeted for grant writing; and now we have paid it to Behan which was never approved from what he can tell by anybody. So this money was never really appropriated for Behan but it has been paid to them. Supervisor Benson noted that we signed a contract with Behan; the contracted value was \$20,000. The Town committed \$10,000 and committed to raise \$10,000 which has been done. Councilmember Geraldini noted that no board has authorized spending this grant money to Behan. He is not saying it is wrong but the board should approve spending that money which was put in for grant writing. He is not saying we shouldn't but that is a decision the board should be making along the way so we all know where that money is going because now there was \$5,000 that we put in for one thing and spent on something else.

Cynthia Creech noted that the board has actually spent \$5,000 more. Councilmember Geraldini stated that he was not sure about spending \$5,000 more yet but

Supervisor Benson noted that there was a board action last year that led to us entering into a contract with Behan to the tune of \$20,000; \$10,000 to be funded through the Town and \$10,000 to be funded through private donations. To date, we have received \$8,900 in private donations and they have been deposited. And there is \$1,500 in

private donations in hand that have not been deposited into our bank account as of yet for a total of \$10,400. What was budgeted last year, to his recollection, was \$5,000. What was budgeted this year, to his recollection, and we can go to that line item when we go through the reports, was another \$5,000.

Councilmember Geraldini noted that the minutes state that the board put \$5,000 in that account for grant writing but it was not set for Behan; because some people have come to him and complained and he went through the minutes. Again, he is not saying it cannot go to Behan but the board has never done it.

Supervisor Benson asked if the other two board members from last year had any recollection on this issue. Councilmember Baldwin noted that grant writing is one of the promises from Behan but it hasn't been done according to the draft report that they just sent out. He noted there are a lot of nice maps and stuff but there is nothing really new in this document from our Comprehensive Plan and other things but that is just the plan – the draft. But it was also sold to us on the assumption that they would involve themselves in the at least one grant request. Supervisor Benson noted that is correct. Councilmember Baldwin stated he does not see it in the report. Supervisor Benson noted this is correct which is why he pulled the requisition for \$4,000. Councilmember Geraldini stated that he is not saying that the board should not spend the money; he is saying the board has not approved spending that money to Behan. Councilmember Baldwin noted that he thinks we approved it in the total package because... Councilmember Geraldini noted that when the money was put in the budget for grant writing, in no place does it say that money was put in the budget for Behan. Now when we go and spend money, people should know where we are spending it. Councilmember Baldwin noted that when we contracted with Behan, one of the things that they would do would be to submit a grant. Additional grants would be extra. Councilmember Geraldini noted that all he is saying is that the board should at least make a resolution to say that \$5,000 is going to be spent to Behan if that is where it is going so when people look at the budget.... Councilmember Baldwin noted that we signed a contract for \$20,000; \$10,000 of which was public funds, \$10,000 which would be donations from private individuals. So we signed it with the understanding... we can look at the original contract. That might be the way to go and see if it was actually stated in the contract that there was also an obligatory one grant proposal.

Supervisor Benson asked if the original contract had been reviewed. Councilmember Baldwin noted he had not reviewed it. Supervisor Benson asked Councilmember Geraldini if he had. Councilmember Geraldini noted that he has not. Supervisor Benson suggested that the Behan contract be reviewed by the board.

Supervisor Benson asked if there were any other questions on vouchers. No one had additional questions.

Supervisor's Report:

Supervisor Benson read the Supervisor's Report. He noted that the grant receipt of \$18,983.46 is a pass through for the Darrow School Drainage Project; gifts and donations is for the Behan Project and is the \$1,100 the board was just discussing. Supervisor Benson also noted that we received the first payment from the County on the landfill last week. Councilmember Baldwin asked if that will be reflected in next month's report and Supervisor Benson noted yes. Supervisor Benson reviewed the other

reports provided to the board members. Upon review of Budget versus Actual Year-To-Date report, Supervisor Benson referred Councilmember Geraldini to A632640 Other Economic Opportunity Programs noting that this is the budgeted line that this Behan Plan has been paid out of both in 2013 and 2014. The budgeted amount this year was \$5,000. At budget time, it was specifically referenced, he does recall that because we knew we had an obligation in 2014 and we knew we had met the obligation in 2013. Cynthia Creech noted that the town has paid them \$15,000 out of that account. Supervisor Benson noted that they have been paid \$15,000; he said that at the very beginning. Ms. Creech noted that there \$5,000 put into that account in the budget for 2013 and the board spent that 2013 on the first voucher and part of the second voucher. And you held up on the balance because there was no more money in that account. So then, in 2014 they submitted more vouchers... Supervisor Benson noted that the amount spent in 2014, year-to-date, is \$1,100 and as soon as the next two deposits have been entered, the amount will actually be a negative number until we process the requisition that was pulled tonight. Cynthia Creech noted that the vouchers to Behan... Supervisor Benson stated this can be explored as much as needed at the end of the meeting. He continued with the review of the reports.

Councilmember Baldwin noted that the reports for the month of April included figures for First Niagara; he asked if all of the accounts now been transferred. Supervisor Benson noted yes, that occurred on May 2nd.

A motion was made by Councilmember Baldwin, seconded by Councilmember Larabee approved unanimously to accept the Supervisor's Report.

OLD BUSINESS:

Human Resources Manual:

Supervisor Benson reported that about a week or a week and a half ago he distributed the second draft copy of the Human Resources Manual. Councilmember Baldwin noted that there appear to be discrepancies. The board had a very productive work session in March but he does not believe that we got all of the documentation correct so he requested that the board table this item until next month. The Town Clerk asked if the board is going to do that, there are a couple of sections that she has concerns on the law that need to be revised. She noted that on page 6, she had requested that the Records Management Officer be responsible for all records as is statutory. They chose to pick a subsection of Arts & Cultural Affairs that coordinates records retention. It is the entire Section 57A of Arts & Cultural Affairs Law covers records management along with New York State Town Law §30 that puts all of the responsibilities statutorily on my office not on the supervisors of the various departments. Attorney Howard asked if the Town Clerk would send him her concerns. She noted that she did. He noted that now that there is a revised version could she send her concerns; he looked at her prior concerns. The Town Clerk noted that one of her concerns that she did want to express to the board is that she is able to find those areas that she knows are a concern because they relate to her office; she is not an HR specialist nor is she a lawyer. So she can only pick up on those areas that relate to her office. There are some problems in there with Public Officers Law in general; it is very different from the private sector. Attorney Howard noted to the board that he has reviewed it and he will certainly take a look at what the

Town Clerk's comments are. Councilmember Baldwin noted that some of the departments are concerned because we had a good working start on the document but some of the changes got missed.

A motion was made by Councilmember Baldwin to table the Human Resource Manual until the June meeting; the motion was seconded by Councilmember Larabee and approved unanimously to accept the motion.

Supervisor Benson asked that there be some type of a process to get any additional comments, questions, concerns. At the beginning of this process, he asked that everything be sent to him in writing and that worked well. He will circle back with the consultant and the attorney if that is necessary although he has already reviewed it. He noted that he needs to get to another draft; it will be draft number three, by next month. He requested that the issues be emailed to him.

Proposed Noise Ordinance:

Supervisor Benson noted the proposed Noise Ordinance was presented last year and it has not been put on the agenda for at least three or four months now. He put it on the agenda tonight because this sort of reminds him of the Covenant Circle issue; there is a lot more to be done here and a lot more to be talked about and a lot more to be researched. He has some specific concerns about what has been proposed. He is concerned about enforcement; he is concerned about being able to run his weed eater; he is concerned about a particular business in the Town that we all know of. It is the largest business in the Town and he is told one of the largest businesses in Columbia County and it is a noisy one. He would like to propose that a subcommittee be formed to meet with the proposers of the Noise Ordinance and also meet with the owner of the racetrack which is the business that he is referring to. He offered himself as one of the committee people and noted he would like to include two more board members. It was noted that they cannot do three because they would have a quorum. Supervisor Benson noted make that one other board member. He also noted that he had Councilmember Geraldini pegged for this. Councilmember Geraldini responded that whoever his second choice was, go right with them. *[laughter]* Supervisor Benson asked if anyone wanted to offer themselves up; if not, then he has the ability to form committees. He had planned to form a committee; he would really like to have two board members but if he can't; he can't. Councilmember Geraldini noted that he would do it. Supervisor noted that he is suggesting that the proposer's of the "Noise Ordinance" as it currently exists be met with by him and Councilmember Geraldini. The second action would be coming out of that meeting with the knowledge gained from that meeting; we would meet with Mr. Commander assuming he is agreeable. Supervisor Benson asked Mr. Commander if he was agreeable. Mr. Commander responded let's try it.

Supervisor Benson asked if there were any questions or any discussion regarding that. Pat Burnell addressed the Town Board noting she lives in West Lebanon and that the Speedway is the least of her problems. Her neighbor comes home. He gets drunk at 4:00 in the morning and decides to start sawing wood or runs around with his 4-wheeler or something. That is more of an annoyance to me than the racetrack is. Georgette Tefoe commented that 4-wheelers in this town are a big issue.

Supervisor Benson noted that there is a lot to discuss as it pertains to the Noise Ordinance and apparently it refers to drunken neighbors with skill saws now too. Supervisor Benson noted that he is holding further comments until the end of the meeting; he wants to be inclusive but he also wants to get through the meeting. We will come back to it at the end of the meeting.

NYMIR (New York Municipal Insurance Reciprocal):

Supervisor Benson noted that the NYMIR Insurance Facility Review has to be returned. He addressed the Highway Superintendent noting that he believes that all the items have been addressed but the form needs to be completed and returned to our insurance company. He noted if everything for the garage has been resolved, the Highway Superintendent just needs to check the boxes and if a signature is required, then sign it. The Highway Superintendent noted that he will complete the form and then put it in the Supervisor's mailbox.

NEW BUSINESS:

Conservation Advisory Council ~ Open Space Inventory:

Larry Benson, former CAC Chairperson, addressed the Town Board noting that four of the five CAC board members are here tonight: Craig Westcott, Cynthia Creech, David Farren – Jack Lancto could not attend. The document lists all of those who have participated on the Conservation Advisory Council; the council is two years old as of last month and each member served for a two year term. They struggled with what it is that they are charged with doing, after consulting with councils in other communities, they decided their first order of business would be an 'Open Space Inventory.' Thus the document, it is thirty-four pages of open space inventory. It covers everything from soup to nuts. He noted that the CAC wants to work closely with the Planning Board, the Appeals Board, the Town Board, and their recommendations are sound and excellent. He requested that the Town Board, after they have an opportunity to review the draft Open Space Inventory, to adopt the Open Space Inventory. He noted that their purpose for the document is a living document that will be adjusted and amended to move with the times. They held three meetings for public input; they worked with Columbia Land Conservancy and a number of state agencies in producing the document so they feel they have covered all the bases. They would like to be included in the list of liaisons; there is not one to the Conservation Advisory Council. He stated that he would suggest to the board that they consider Councilmember Evans or Councilmember Geraldi to fill that spot and they are free to meet with them on a monthly basis or an every other month basis or however when they have that opportunity so that the CAC is in constant contact with the board.

Mr. Benson noted that he is now officially retired from this board; he resigned as of December 31, 2013 but agreed to stay on until this document was presented to the town so as of him handing this over, he is officially retired and the board needs to find a replacement.

Mr. Benson further noted that he had to take the opportunity while on the soap box to mention to the Town Board that agriculture makes noise; we make noise early, we make noise late, don't for us. [*applause*]

Supervisor Benson that was a good point and he should have known that.

Town Clean Up Day:

Kent Pratt, ZEO/CEO, presented the Town Board with a proposal for a Town Clean Up Day free to the residents proposed on a Saturday. The County will provide the dumpsters at \$75.00 for delivery and \$101.00 per ton. He noted he will do an article with Gail Heinsohn, the reporter for *The Chatham Courier*; put out some flyers around town. It is for town residents, they will confirm residency. The Highway Superintendent will provide someone to help load the dumpsters and the County will deliver them and take them away. Mr. Pratt noted they are considering Saturday, June 28th from 8:00 to 3:00. The Town Clerk noted that the Town has a \$200 credit with the County Solid Waste Department; it is a credit we receive annually. Mr. Pratt noted that they will apply the \$200 credit to the program. The County will provide one dumpster for scrap metal that is free to the Town; one for electronics that is free to the Town; the other dumpsters that they haul away are \$101.00 per ton. They are proposing two trips per resident on that day and a maximum of four tires per punch card. They are going to use punch cards. They are proposing the limit on tires due to the cost of disposing of the tires:

13 inch to 16.5 inch are \$3.00 each;

17 inch to 19 inch are \$4.00 each; and

24 inch are \$10.00 each (this is the maximum size they accept).

Mr. Pratt asked the board if they felt we should charge for the tires; do we stack them and absorb the cost. He also noted that they are promoting it as clean-up of exterior properties. That is the way it will be covered in the article and in the flyers. He also noted that they planned to drop them off at the properties where it looks like they need to clean up their yards.

Mr. Pratt noted that the County will bring other dumpsters to Chatham and provide a driver to switch them out. The Highway Superintendent is going to provide a guy to load and to help with the separation.

The Town Clerk noted the Town Board should authorize it because there will be a cost incurred.

Georgette Tefoe asked if she could ask Mr. Pratt a question; she noted that she lives on Route 20 and the trailer next to her has been deserted for three years now and she is getting tired of looking at it. She has talked to him several times. Mr. Pratt noted that he has attempted to contact the owner; the taxes are not paid on that property. He has put it to the Town Board and to the Town Attorney as certainly one that needs to have a decision made on it. We are now in the process again of trying to contact the owner which has abandoned the property. So he thinks it is going to be a Town Board decision as to what to do and how to do it.

Supervisor Benson asked that we get back to the Town Clean Up Day. Councilmember Larabee asked if this was going to be held out in the parking lot and Mr. Pratt responded yes.

There was a general discussion about the tires, the possible cost of the project, etcetera. Supervisor Benson suggested that Mr. Pratt reach out to Stuyvesant (the project was patterned after theirs) to find out what it cost; their populations is pretty close to ours. Supervisor Benson noted that the board also needs to decide where they are taking the money from too.

Eileen Evans noted that June 28th may be the High School graduation day. It was suggested that it be moved to the 21st. Mr. Pratt noted that the 21st is good too.

Councilmember Evans noted that he thinks it is a great idea but he wondered if they could talk and collaborate because every able and willing body will be down here taking advantage of this opportunity but those aren't the yards that are a mess. Maybe there could be some way if somebody needed help with a truck or something like that. Mr. Pratt stated that is a good idea. Councilmember Baldwin suggested that people can call the Town Clerk if they need assistance loading or transporting stuff and then she can talk to Mr. Pratt. Mr. Pratt noted he will be promoting it as a clean-up of exterior properties; no household garbage, no appliances. Councilmember Evans asked if maybe we could solicit for a list of volunteers that would interested in helping the elderly or such. Mr. Pratt noted that he and Councilmember Evans can work on coming up with a few names of people who would be willing to volunteer to be available to help those that need some help.

A motion was made by Councilmember Baldwin to authorize the Town Clean Up Day proposal to be held on Saturday, June 21st from 8:00 to 3:00 and for the Town pay the entire amount and to use the \$200 Columbia County Solid Waste credit for the program; the motion was seconded by Councilmember Larabee; the motion was passed unanimously.

Speed Limit Request CR 5/Sign Request Lover's Lane:

Supervisor Benson noted that Town Board received an email regarding a speed limit reduction request on County Route 5 and they also received today a request for some signage on Lover's Lane. He asked the Town Clerk to read both requests:

Town Clerk Teal noted that the first request is for County Route 5:

Subject: Request for a reduction in speed limit and speed limit signs to be posted on County Route 5.

*Attention: New Lebanon Town Board
P.O. Box 328
New Lebanon, NY*

We are concerned residents living on County Route 5 and are writing to the Town Board about the dangerous speed of vehicles traveling on the 4-mile stretch of County Route 5, running uphill from Route 20 to Deer Ridge and then downhill to Route 295. This is a very hilly and winding road with many curves and blind spots.

There are currently no speed limit signs on this 4 mile section of Route 5; and it has become a dangerous road due to the speed of traffic traveling on this road, especially with the increase in traffic on Fridays (from about 4-10 pm) and on Sunday's. An increasing number of vehicles are traveling in excess of 50 mph; and even >50 mph, passing other vehicles, on the only section of the road where passing is allowed...which is south, downhill from Deer Ridge to Stonehouse Road.

With vehicles literally flying up and down Route 5, it is extremely hazardous for residents to cross the road to get to their mailboxes; and there are also a handful of resident that walk their dogs daily on the road.

We are requesting that the Town Board impose a reduction in the speed limit (whatever that may be, since it isn't posted) and for speed limit signs to be posted on Route 5 between Route 20 and Route 295.

Sincerely,

*Mary Jane Zullo
Diane Cote*

Resolution #13, 2014 ~ Request for Speed Limit Reduction on County Route 5

The following resolution was proposed and seconded:

Proposed by Councilmember Bruce Baldwin
Seconded by Councilmember Matthew Larabee

Request for Speed Limit Reduction on County Route 5

WHEREAS, residents of County Route 5 have submitted a request to the New Lebanon Town Board for a speed limit reduction on County Route 5 for reasons of safety; and

WHEREAS, the New Lebanon Town Board has reviewed and accepted said request; and

NOW, THEREFORE, BE IT RESOLVED THAT the Town Board of the Town of New Lebanon hereby requests that the speed limit on County Route 5 from US Route 20 south to the Canaan/New Lebanon town line be reduced.

Upon the question of the foregoing motion, the following Town Board Members voted "Aye" or "Nay" for said motion:

Roll Call Vote:

Supervisor Michael Benson	Aye
Councilmember Bruce Baldwin	Aye
Councilmember Dan Evans	Aye
Councilmember Chuck Gerald	Aye
Councilmember Matthew Larabee	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.

Lovers Lane:

Town Clerk Teal read the second request for Lover's Lane:

Subject: Request for Warning or Caution Signs "Children at Play" on Lover's Lane

To: New Lebanon Town Board

Lover's Lane in New Lebanon has changed dramatically in the last 15-20 years. When Paul and I moved here we were the youngest folks residing on Lover's Lane. Now, we have a home with 5 children under 11 years old living on Lover's Lane, a home with a 14 year old, a home with a 11 year old, another with a 13 year old and a home with twin boys ages 9. Tara Darcy Crawley's 3 children are on Lover's Lane constantly playing with all their friends. All of these children get along famously and on weekends and after school have a kickball or baseball game. Bikes are their transportation, skateboards, roller skates, etc. Helmets go flying by.

Cars fly up Lover's Lane with no regard for our grandkid, neighbor's and friend's kids. What Paul and I are requesting is five or six "Warning Children At Play" signs of some sort be placed in areas going up and down Lover's Lane. Might slow traffic down and make it safer for our kids. We used to have some, but over the years they have disappeared.

Can any of you help?

Sincerely,

Christy & Paul Patch

Councilmember Baldwin noted the Highway Superintendent has the authority to install those signs. The board referred this request to the Highway Superintendent. The Highway Superintendent noted that he would install some signs on Lover's Lane.

The Town Board also requested that the Town Clerk forward copies of these letters to the New York State Police and the Columbia County Sheriff. The board further noted that all letters expressing concerns about safety on road within our town should be forwarded to law enforcement.

LIAISON REPORTS:

Economic Development:

Councilmember Evans noted that we already discussed the Behan Plan and we have a packet in our hands but he has no other information.

Highway Department:

Councilmember Baldwin reported that the Highway Superintendent has been working on Wadsworth Hill Road.

Town Property & Assets:

Councilmember Baldwin reported that he has stepped back because the Supervisor acknowledged that he received emails from him but he asks questions and he has yet to receive any kind of discussion on those questions. He understands that the Supervisor is a busy person but he feels like he can no longer volunteer my pro bono time to this building because he understands that the Supervisor has already talked to contractors and has no idea what is going to go on. There is no communication so he thinks somebody else should take it. Supervisor Benson noted that he wanted to address that; he further noted that we have no shortage of things going on here in the town. What

happened back in March was Councilmember Baldwin had a couple meetings with an electrician and he believes another contractor. Councilmember Baldwin noted he did not. Kent Pratt, CEO/ZEO noted that he did. Both contractors called Supervisor Benson and he met with them both and attempted to give them a definitive scope of work. He did get an electrical quote from the electrician; if memory serves, it was in the neighborhood of \$12,000 just for the electrical work. He did not get a quote from the other contractor despite the fact that he said he was going to provide one. Councilmember Baldwin stated that he had asked if we could scale the project down slightly but he understands that the Supervisor presented them with the architects drawings which the measurements are not even noted correctly. You are going to get the same thing that we got in January - \$95,000. Scale the project down and he has sent the Supervisor emails to that effect but he got no response, no discussion. He noted the Supervisor could go ahead and do it. The Supervisor responded, let's discuss it right now. Councilmember Baldwin said no, we can do it in private. Supervisor Benson said you can't do that in government. Councilmember Baldwin stated that he and the Supervisor could sit down and discuss the project; there is nothing illegal about that. Supervisor Benson stated that there are a lot of other priorities at the moment for the Town of New Lebanon besides spending more money on the Town Hall so we will leave it at that.

Zoning, Planning, Code Enforcement:

Councilmember Geraldini noted that he met with the CEO/ZEO and discussed his proposal for the clean-up day. Right now, there is nothing else; there are some things coming along including the zoning rewrite. And the Zoning Rewrite Committee is doing more work.

Supervisor Benson noted he had not had a chance to review the Zoning reports submitted and he asked the CEO/ZEO if these reports included the Zoning Enforcement Spreadsheet with updates. Kent Pratt, CEO/ZEO noted that the board did not get an updated spreadsheet but they did get a list of some events that took place. The existing violation letters have been prepared to go out again based on the attorney's recommendations for the existing violations that still remain from last year. So the letters are about to go out. And it appears that if we get responses that we will go to the local court on five issues he believes. Supervisor Benson proposed that in advance of the next meeting that he, Kent, Councilmember Geraldini, and Attorney Andy Howard sit down and review the updated spreadsheet and where we are at with all of those violations; it was agreed.

Town Assessment Office:

Councilmember Evans reported that the tentative roll is out and the legal notice went into the newspaper. She is available to discuss and meet with the taxpayers on assessments on Friday, May 9th; Saturday, May 10th; Monday, May 12th; and Thursday, May 22nd from 4:00 pm to 8:00 pm. Grievance Day will be held on Wednesday, May 28th from 4:00 to 8:00 pm. On the reassessment, they had another meeting with the State and the County; the Supervisor will receive a copy of that report from the State. The reassessment continues; she has been working to update every parcel in the data base with the corresponding zoning codes. She has had to enter the zoning codes manually for each of the 1500 parcels. She has also been working to define new neighborhoods for evaluation purposes. After they are defined and tested, she will be updating the data

base again with this information. After that, they will begin new valuation studies for the 2015 roll. She had 40 to 50 STAR exemption removals by the State Department of Tax and Finance; they will be getting monthly updates to reinstate some as they become eligible. Any questions on those should be directed to the state.

Supervisor Benson addressed Rocky Brown noting that he should sign up for the sheet Supervisor Benson noted earlier – the county-wide comparison of the town budgets. Supervisor Benson noted that Mr. Brown raised the question at the last town board meeting regarding the town's taxable rate; the answer is in this comparison.

Education & Recreation:

Councilmember Larabee reported the Community Day Picnic will be July 26th. There will be flyers as well as information on the website. If anyone has any questions, they can ask Scott Larabee or Cynthia Creech.

Councilmember Larabee further reported that the park looks great. Donnie has put in nice flower beds; the trees and the lawn look great.

Councilmember Larabee also reported that that we had vandalism at the pavilion this spring; someone kicked in the door to the kitchen. The water had been turned on and the water froze; it burst the pipes above the Youth Program side and did at least \$4,000 damage just to the programs supplies – games, toys, and etcetera. Councilmember Larabee asked everyone to keep an eye on the park. If he sees lights in there, he swings in. He knows the State Police and the County Sheriffs check on it but they can't be there 24/7; so we have to rely on you the taxpayers too.

Security, Fire, Law Enforcement ~ see above.

Justice Court/Constable: ~ no report.

BUDGET AMENDMENTS:

Amendment # 2 of 2014:

General Fund:

\$618	from A-1410.4 (Town Clerk: Contractual Expenses)
\$618	from A-1460.4 (Records Management: Contractual Expenses)
\$1,236	to A-1410.11 (Town Clerk: Personal Service – Deputy Town Clerk)
\$236,892	to A-3089 (State Aid: Grants – Great Stone Barn)
\$236,892	to A-1430.4 (Historic Properties: Cont. Exp. - Great Stone Barn)
\$18,984	to A-3889 (Grants: Darrow School – Drainage Project)
\$18,984	to A-8540.4 (Drainage: Cont. Exp. – Darrow)

A motion was made by Councilmember Baldwin, seconded by Councilmember Evans, and approved unanimously (Councilmember Larabee absent) to approve the above noted amendments to the 2014 Budget.

AUDIT OF BILLS:

General Nos. 133 through 161, except No. A-136 in the adjusted amount of \$46,505.22;

Highway Nos. 44 through 57, in the amount of \$63,086.89; and

Escrow No. 14-4, in the amount of \$1,275.00;

As listed on Abstract # 5 of 2014, dated May 13, 2014.

A motion was made by Councilmember Baldwin, seconded by Councilmember Evans, and approved unanimously to pay the above noted claims from their respective accounts.

ANNOUNCEMENTS (of activities or events):

June:

Tuesday, June 10th ~ Town Board Regular Monthly Meeting at 7:00 p.m. at Town Hall

PRIVILEGE OF THE FLOOR:

Trina Porte addressed the Town Board stating that she really appreciates the work that the board is doing; she knows it can be really difficult. She knows that she is a “newbie” here; she has only been here about ten years so that makes her very green but she is really deeply concerned about the fact that Open Meetings Law (OML) has not been followed. She stated she wrote a very strongly worded statement on that and Mr. Freeman (Robert Freeman, Department of State Committee on Open Government) confirmed that this is true and she noted she is going to read it:

Our Town Board members Mr. Chuck Gerald, Mr. Dan Evans, and Mr. Matt Larabee are now undeniably aware (after attending the April 29, 2014 meeting with Mr. Bob Freeman) that our Town Supervisor, Mr. Mike Benson is breaking the law every time he does not provide all our Town Board members, and our Town Clerk, and all members of the public (via our Town Website), with all the information he is going to discuss for every Town Board Meeting.

Open Meetings Law further requires that this information is made available before (“in advance of”) the meeting at which it’s going to be discussed. Mr. Benson is required by law to give all such information to the Town Clerk for distribution on our website. Yet on our website today there was no noise ordinance, no Supervisor’s Report, no monthly voucher data, no Covenant Circle petition, no human resources manual, no NYMIR insurance review, and no April invoices. In fact, the website states that there is “no proposed legislation” and “no pending legislation” at this time, which is clearly untrue, considering that we had two hearings on those exact subjects tonight.

The fact that Mr. Benson has sometimes shared some information –with our Town Attorney, with his Confidential Secretary, or with a few people of his own choosing- does not relieve the illegality of his actions in the slightest, or allow him to ignore his legal obligation to share all this information with the Town Clerk.

The fact that our Town Attorney, Mr. Andy Howard, gave no advisory opinion to Mr. Benson to curtail his illegal activities is shameful.

Mr. Benson, you swore an oath to follow the law when you became our Town Supervisor. If you are choosing not to do so, you should resign your position.

And all our Town Board members now know: you have the responsibility to motion to table anything, before public discussion takes place, if you have not and our Town Clerk has not received all the information on it before the meeting began.

We are watching all of you, from this moment forward, to see that you follow the laws every one of you has sworn to uphold. And we will remember what you did, or failed to do, next election.

*Sincerely,
Trina Porte*

Ms. Porte commended Councilmember Larabee for trying to table the motion and set a special meeting so that people could read the motion on Covenant Circle; she commended Councilmember Baldwin for motioning to table the manual because the public and the town clerk by law are supposed to have all of this.

Supervisor Benson asked if there was anything specific she was alleging that our Town Clerk doesn't have and he also noted that he does not control the website or anything that she is talking about. Ms. Porte noted that she understands that and this was discussed at length; she didn't know if he read the transcript of the Open Meetings Law meeting. Supervisor Benson responded every word. Ms. Porte noted that when the he is discussing a motion that he has given to other board members or exclusively to Mr. Howard and that is not posted on the website that is a violation of Open Meetings Law. When you say that the public can sign up and get something privately from you after the fact that is a violation of Open Meetings Law. Or the fact that you did not make that same information available that is a violation of Open Meetings Law. The fact that these things were not posted on the website; she is assuming and she has been told that there is a regular amount of information that he is not sharing with the Town Clerk so that she can follow along. Supervisor Benson asked if she could be specific. Ms. Porte stated that she did not have a giant list but she can tell him that all of the things that she quoted tonight, all of those things were not on the website as they should have been. She asked the Town Clerk did you have copies of that information in time to post it on our website. The Town Clerk responded no, not in time to post it on the website because she doesn't get the agenda. *[overtalking of multiple people]* Supervisor Benson stated that first of all, Ms. Porte actually needs to go back and read the forty some odd pages – to the extent practical – things can be posted on the website. Supervisor Benson noted that there is no legal obligation whatsoever to even produce an agenda. Ms. Porte noted that she is not talking about the agenda. *[overtalking]* Ms. Porte stated that the 2012 February OML law change, as our Town Attorney and everyone else sitting up there now knows requires as practicable, you post it on the website. Which means if Mr. Howard has been discussing with you for more than thirty minutes before, there as practicable is more than thirty minutes before the meeting. If you talk to him thirty-one minutes before the meeting, you are supposed to provide the public with copies of that information; that is the law. Eileen Evans asked the Town Clerk if thirty-one minutes would allow her to get things on the website. The Town Clerk noted no. Supervisor Benson said sure, why not. *[overtalking]* Ms. Porte stated you are not sharing the information. Supervisor Benson said let me make a statement to you; you just accused me of a plethora of illegal activities. He is going to make a suggestion following his statement and that is, if you are going do that, you need to get up a lot earlier in the morning.

Cynthia Creech addressed the Town Board about the Behan payments. She noted in March at the meeting she asked for clarification of the payments and the Supervisor, very kindly at following meeting, gave her an answer although she does not believe it actually answered her question. For anybody that doesn't know, she stated she would just read briefly from the April minutes which the clerk has provided for her. *"You asked me to restate the question. I restated the question noting that there was a motion passed in April of last year, 2013, stating that the Town would pay \$10,000 for services*

to Behan Planning. There was a \$20,000 contract and the remaining \$10,000 would be raised through private donations but that the second phase of work would not be done until the money was raised. We paid vouchers equating \$15,000. Your response was that the resolution passed called for a \$10,000 expenditure on behalf of the town and \$10,000 to be raised by private funds and the town budgeted another \$5,000 this year and that \$7,800, at the time of this April 8th meeting, of the \$10,000 had come in from private donations. Ms. Creech stated that she is still not coming up with the same figures that the Supervisor is coming up with. The \$15,000 has been paid which the Supervisor said tonight. There was \$3,000 paid 6/12/13; another one was a partial payment of \$2,000. So in the budget workshop in late 2012 for the budget for 2013, your tentative budget had \$5,000 in section 6326.4 for what is called Economic Opportunities. So with those two vouchers, the one full voucher and the one partial voucher, that \$5,000 was spent; the 2013 Economic Opportunity \$5,000 was spent. There were three other vouchers that were submitted that included a \$1,000 voucher and two \$3,000 vouchers plus the \$3,000 balance from the partial payment. That came to \$10,000 and that was paid January 15, 2014, signed off on by Mr. Evans and Mr. Larabee. At the budget workshop in late 2013 to create the budget for 2014, you added what Mr. Geraldini talked about for the Economic Opportunity Program and there was language about it being earmarked for grant writing and Behan was supposed to do a grant, no question about it. So that was \$5,000 put in for 2014; that was half of the \$10,000 payment. She does not know where the other \$5,000 came from. There was no motion by the board to pay Behan more than \$10,000; there was no motion to move funds from wherever that other \$5,000 came from to pay this \$10,000 which we paid and probably more alarming to her – and she understands things can slip through the cracks but there were no motions on these things, this was from the very beginning in her opinion a somewhat sloppy operation. Not that she is opposed to what Behan is doing; she thinks they have probably done a great job but first of all we had a \$20,000 contract and a motion that said we were going to pay \$10,000 from the town. We paid them and we let... Here is what worries her, we let them work not knowing whether we were going to get that other money or not. And they have continued to work and they have continued to charge more money. The voucher you talked about being pulled, they say on that voucher that they have gone over their budget. She just thinks this has all been somewhat sloppy; we are not following or you as the board – not just Mr. Benson but the board – is not following the rules and some of this has not only not followed the rules but it has not shown any amount of transparency. Not to mention that this company has worked – this is in their invoice – “as of this invoice, the value cost of services provided total almost \$25,000. This means that to date we have provided additional services almost \$6,000 beyond our budget. She is not trying to argue with the board but this just looks like a problem to her.

Additionally, Ms. Creech announced the New Lebanon Country Market at Windswept Farm will start June 1. It will be held at, obviously, Windswept Farm and it will be held every Sunday from June 1 to the end of September from 10:00 to 2:00. Councilmember Baldwin added that from 10:00 to 2:00 this coming Sunday they are looking for volunteers to make signs.

Supervisor Benson stated that he is confused by Ms. Creech's math. There has been \$15,000 paid to Behan on an executed \$20,000 contract. If they have incurred more hours as a result of doing their work for us, that is not of any concern to us because we have a lump sum contract with them. They may have pointed out that they have expended more hours than they had planned to but that is not our problem. The Town has paid out \$15,000; the Town has taken in currently \$8,800 and will have deposited \$10,400 in private donations by the end of the week. Ms. Creech noted that the Town had not taken that in when they paid them in January; this company had worked through the middle of December not knowing whether we were going to get those donations or not. At the time that voucher was paid, she does not know where that other \$5,000 came from; it is not tracked anywhere in your money. Supervisor Benson stated that as we sit here today, the Town has contracted for \$10,000 of its money and \$10,000 to be raised in private donations. To date, if you include the \$8,800 that has been deposited, the Town has actually only expended \$6,200 so he does not understand. Ms. Creech asked if he understood that you spent \$5,000 budgeted for 2013 and \$5,000 budgeted for 2014 and then \$5,000 from somewhere else; we don't know because there wasn't a motion by this board. Supervisor Benson stated he does not understand where she is coming up with that. Ms. Creech asked where is the motion to pay beyond the \$10,000 in the original motion. Supervisor Benson stated that we paid \$56,000 in engineering fees to Creighton Manning. Ms. Creech noted that is not the motion to go over \$10,000. Supervisor Benson stated that we moved eight requisitions totally approximately \$50,000 or \$80,000 through this same process. Every person on this board presumably signed off on every one of those invoices and we are currently awaiting reimbursement from the New York State Department of Transportation so he does not understand Ms. Creech's logic. Ms. Creech stated that her logic is that they didn't have motions or a motion to pay them more than \$10,000. The existing motion on the books says that you will pay them \$10,000 – period. Supervisor Benson said we have paid them \$6,200. Ms. Creech stated no sir; you have paid them \$15,000. Supervisor Benson stated of the Town's money, we have paid them \$6,200; \$15,000 minus \$8,800. Ms. Creech stated that as of the voucher that was paid in January, you had paid them \$15,000 of the Town's money because you hadn't gotten the donations yet. *[overtalking by multiple people]* Ms. Creech stated that generally you do some motions to back this change of Supervisor Benson stated that he thinks the motion to pay the bills; he thinks the exploration of the vouchers, the signatures on the vouchers.... The Town Clerk stated no, none of that. Supervisor Benson stated really? What does that mean? Town Clerk Teal asked Attorney Howard if he wanted to answer this. Attorney Howard stated no.... *[multiple people overtalking]* Supervisor Benson stated we will move on.

Councilmember Geraldini stated that this has to be addressed; he agrees with Cynthia Creech. He went and looked through this stuff and he tried to say this before but on January 11th, we paid a total of \$15,000 out of whatever account number that was. There was not that amount of money in that account so somewhere we took money. There should have been a motion or a resolution to transfer money into that account because we are not supposed to pay to a negative number out of an account. There was \$5,000 in that account and we paid \$10,000 out of it. He is not saying we did anything... Supervisor Benson asked if Councilmember Geraldini was here in January. Councilmember Geraldini responded yes and he did not realize it. Let's fix the problem so

they are not happening again. Supervisor Benson asked what would you like to fix. Councilmember Geraldini stated that we have to keep a closer eye on what we pay because what we have is technically illegal. There was no money in that account to pay this bill. Is that not correct? Supervisor Benson stated that he did not know; he would have to go back and look at the whole history. Councilmember Geraldini stated there is a list of the bills right. Supervisor Benson said he had that. Councilmember Geraldini stated then you do know; do you know or don't you know. We paid \$10,000 out of an account that was budgeted \$5,000. Supervisor Benson stated here is what he knows, we have paid Behan Planning \$15,000; of that \$15,000 as we sit here today, \$8,800 of it was raised through private donations. Councilmember Geraldini stated that is not the point. [*multiple people overtalking*] Supervisor Benson asked if Councilmember Geraldini signed off on those invoices. Councilmember Geraldini responded that he did and he did something wrong and he is admitting to that. Supervisor Benson asked what do you propose that we do to solve this problem. Councilmember Geraldini responded that we have to pay closer attention to where we are paying these monies out of these accounts – let me ask the attorney, is it legal to pay for more than is budgeted in the account without transferring more money into that account. Attorney Howard stated that what he would say is that if they are going to make any payment – you obviously did budget amendments tonight. Councilmember Geraldini stated that is right; we did. We did not do it for this. Attorney Howard stated if you are in a situation where you are looking to run your accounting; yes you should be making a budget amendment. Councilmember Geraldini stated that is all that Ms. Creech is saying. We didn't pay enough attention; we did bad, let's fix the problem. Town Clerk Teal noted that in the past, budget versus year-to-date, that report should go through... Supervisor Benson said so you are talking about the timing of a budget amendment. Multiple responses: yes. Councilmember Geraldini said just like the attorney said we have broken a rule. Supervisor Benson said it is funny that you should bring that up because he did look into that and let him just tell us, we did a budget amendment tonight to the tune of \$236,000 for money that was received between our last meeting and meeting and \$236,000 that went out so it is a timing issue; what do you propose that we do to resolve that. Councilmember Geraldini said to make sure that the timing isn't wrong. [*overtalking*] Supervisor Benson stated that Shaker Museum was all over us to get them their \$236,000; we move that requisition through the same process that every other bill goes through in this town so what your are suggesting – if you are suggesting a different procedure then tell me what it is. Town Clerk Teal stated I can suggest it because it was what we always used to do. Supervisor Benson said oh yeah. Town Clerk Teal stated that the budget versus actual report is coming through the Supervisor's Reports at the moment as of the end of the month before, fine. But she and Eileen were discussing today, we need a budget versus actual once she puts the bills in. That will show every account that there is not sufficient funds in; the budget amendment is then drafted based on that. Revenues that are unanticipated when they come in – Shaker Museum, Darrow School – those automatically get a budget amendment. If those come in today, we know June it needs a budget amendment because we know it is going to go right back out to them. Supervisor Benson stated that what he will do is he will look into the timing of budget amendments; you're suggesting that budget amendments.... Town Clerk Teal stated have to precede the payment of the bills; the law says the Town Supervisor and the

Town Board are prohibited from making any payment that will overdraw any account and that is NYS Finance Law. Supervisor Benson said he will look into it. *[overtalking]*

Georgette Tefoe addressed the Town Board on behalf of the Lebanon Valley Seniors. She stated that they need space to store their goods and she went to the Town Clerk asking if there was a space here that they could put a cabinet and lock it up because right now they are using under the sink. But it is under the sink and if the sink leaks, there stuff will be ruined. They would like to get a cabinet about half the size of the one currently in the conference room and when that cabinet goes back to its permanent home, they are asking permission to put a locked cabinet in there just to store their goods in their but they need permission from the Town Board to do that.

A motion was made by Supervisor Benson, seconded by Councilmember Larabee and approved to unanimously to authorize the Lebanon Valley Seniors to put a locking cabinet approximately half the size of the cabinet currently in the conference room once that one has been removed.

Jagat Pandy addressed the Town Board stating that the Town Board makes decisions by majority so the Town Board has to work with the Supervisor and vice versa. We are watching.

Herb Wagner addressed the Town Board stating he was hoping to comment on a lively discussion about this noise ordinance but when you get your subcommittee meeting, he is sure there is some compromise that can be worked out with respect to noise. And he is talking about the excessive noise events – he believes they are called rocket cars or jet cars. If you could deal with that, maybe we could deal with the rest of what comes with the speedway. He knows there is a lot of sensitivity to that issue but the excessive events, can we focus on those. That is item number one. Item number two is it is nice that you can produce this financial data but he would like to see comparative data. Supervisor Benson stated that he is working on it, in terms of comparative 2013 to 2014 which he believes is what Mr. Wagner suggested at the last meeting. Mr. Wagner noted that the only reason is because the revenues and the expenses are so seasonal. Supervisor Benson said every single month when he puts the summary report together, he always compares it to the preceding month of the preceding year. Because quite frankly, we tightened the budget up in this town fairly significantly in the past few years. As you will see by this (the town by town comparison county wide), it needs to get tightened a lot more because when you compare ours to others there are some glaring differences but that aside when you have a tight budget and it's a real budget, you worry about it month to month so he is always doing what Mr. Wagner is looking for. First of all, comparative data from one year to another that is why it is standard accounting practice. We just don't have the capability to produce that report yet but we are working on it. Councilmember Baldwin pointed out that we do have comparative data in the Town Budget. *[overtalking]*

Mark Baumli addressed the Town Clerk thanking her for getting the minutes up to date and noting that he appreciates that. He addressed the Town Board noting that at last month's meeting he asked the board if they were going to take action as to the Town Clerk not having the minutes available within fourteen days of the meeting because

that is when it legally by the Open Meeting Laws needs to be done by. The Town Attorney kept implying that he was only entitled to them at the point of when she prepares them. It is right in last month's minutes here, and he quoted: *'Right. Once they are prepared. The Town Clerk does not have a gun to her head.'* Well she does, she has a fourteen day gun to her head. She has to have those minutes available to me within fourteen days of the meeting, not from when she prepares them. And there were three board members at the Open Meetings Law forum and he is sure they heard Mr. Freeman say that and you must have seen in the minutes that you approved tonight that that's what the Town Attorney said. So he asked that one of the board members ask the Town Attorney why he kept implying that he wasn't entitled to those minutes and he asked the Town Attorney for an apology because he said the Town Attorney owes him an apology for being wrong, the Town Attorney misspoke.

Scott Larabee addressed the Town Board stating he understands that the insurance company for the person that hit the fence and the stone pillar has accepted the estimates that were provided by the Town for the work and will be paying us directly for that work. He asked that the board take action to authorize the repair of the stone pillar and he suggested that with regard to the repair of the fence, he has had to repair the fence every year that he has worked here and it is not a big deal. The estimate for the fence repair is \$750; he believes that is the figure. He figures the total cost with labor if he repairs it will be about \$200; so he is asking if the Town was going to spend the \$750 or have him repair it and use the extra \$550 to offset the deductible on the insurance for all the damage at the Pavilion. Supervisor Benson noted there is no deductible on the stone pillar because that is someone else's insurance but he does not know why we would pay more when we could pay less.

Councilmember Larabee made a motion to authorize the repair of the stone pillar by Andrew Zema per the estimate submitted for the insurance claim and further to authorize Scott Larabee to repair the fence damage. The motion was seconded by Councilmember Geraldini and approved unanimously.

Thomas Kernan, Trustee of the Village of East Nassau, addressed the Town Board noting that there were other people here associated with the village that left but noted it was nice to see democracy in action here. He noted that he has a little bit of a feeling of what it must be like to be a Canadian because they are very small by comparison to New Lebanon and living next to you is like living next to something much bigger. With that being said, we all live close to the racetrack and he has a long history with it because he has lived in Rensselaer County almost his whole life. He enjoys the racetrack; he is a big fan of it. He is looking forward to bringing his grandson there for the first time. With that being said, he also realizes because he lives about two miles as the crow flies and the Village is about two miles as the crow flies and we are all good neighbors, including the racetrack. He just hopes that in the long run the board keeps a balance in everything - look toward a balance in everything because it is important. We have the matter of the rights of the racetrack, and they have them, and they have been here for a long time and they are established. And then we have the consideration of noise and damage to property value and a lot of other things that have to be kept in equilibrium.

Town Clerk Teal addressed the Town Board regarding an invoice submitted by Donnie Sears that she had forwarded to the whole board. The concern is that Memorial Day is the end of this month, before the next board meeting and there is no one maintaining the West Lebanon cemetery. This invoice is for the initial clean-up and for the mowing if the board agrees to that for regular maintenance or even for one time to make sure it is taken care of for Memorial Day. She noted that she believes it is \$5.00 more than the Town was being charged last year and she did not believe that Mr. Brown had increased his price to the Town for this maintenance for several years. She asked at the very least for the board's approval for the initial clean-up and mowing for Memorial Day.

A motion was made by Councilmember Baldwin, seconded by Councilmember Larabee and approved unanimously to authorize Donnie Sears to complete the initial clean-up and mowing of the West Lebanon cemetery for \$150.00 and further to continue maintenance of the cemetery through the season at a rate of \$50.00 per week.

Town Clerk Teal also addressed the Town Board regarding the HR Manual stating that the Attorney had asked her to send him a copy of her concerns. She noted that she *did not* go through everything. She had looked at the first three things that she had pointed out that were violations of the law; all three things were amended but they are still in violation of the law. She stopped there so all she can do is send him her red line version again; it is the same document that she had sent before. She did not go through the whole document at all.

ADJOURNMENT:

A motion was made by Councilmember Larabee and seconded by Councilmember Evans to adjourn the meeting at 9:36 p.m.

Respectfully submitted,

Colleen Teal, RMC
New Lebanon Town Clerk