

**TOWN OF NEW SCOTLAND
SPECIAL TOWN BOARD MEETING
FEBRUARY 1, 2017**

The following Town Officials were in attendance:

Supervisor:	Douglas LaGrange
Councilperson:	William Hennessy Adam Greenberg Laura Ten Eyck Patricia Snyder
Town Attorney:	Michael Naughton
Town Clerk:	Diane Deschenes

Call to Order

1. Supervisor LaGrange called the meeting to order at 6:30 PM.
2. **Pledge of Allegiance**
3. **Invitation to the General Public to Comment on Agenda Items: Please use the microphone available and state your name for the record**
4. **Discussion re: Proposed Local Law E of 2016 regarding cargo/shipping containers used as storage**

Attorney Naughton said that for the record we did have a workshop meeting for the container law, and there were a number of suggested changes. Attorney Naughton tried to incorporate those into the provisions and sent an email around regarding that his thoughts about the highlights of the changes were. Attorney Naughton tried to make it easier right up front to understand what the basic rules are. He added a new section that shows up in item 2A. There was some discussion about whether we really wanted this to apply in various zones, how we would regulate it, and about larger lots where it doesn't make any difference. We basically put in a provision that said that if you are on a lot that is 3 acres or more and you're not in one of these densely populated zoning districts, you can have these things but of course we don't want them in the front yard. We said that in the commercial and industrial zones we could have them. We put a limit of one for a regular residential lot and five on commercial and industrial. This also has grandfather provisions. If you register your container within a certain period of time from when this law is passed, then it's grandfathered. The other thing Attorney Naughton wanted to point out is that the permits for these things are mostly where they are allowed, and they have a five-year term. The idea is that if there are problems with them, it will give the town a chance to revisit it if there is an explosion of these things or neighbors are complaining. For a \$2,000 investment for about a five-year period it should be okay. Supervisor LaGrange said that after five years they can come in and renew the permit. Attorney Naughton said that the idea is that these are not supposed to be permanent structures. Councilperson Greenberg said the idea also is that we are trying to protect the neighborhood. You don't know how something is going to develop. Someone might have it in their side yard and without a house, and then five years later there is a house next to it. Attorney Naughton said that that's what he did to address these issues. For the ones that are allowed you still have to put on your application what you are doing and where you are going to put it. It doesn't have to be a fancy architect thing; you can do a handwritten drawing. It gives the Building Inspector the ability to look it over and see that everything is in shape. In the areas where it's smaller lots and not permitted, as of right now you have to go in and get a permit for it. It's just site plan review. If you wanted to make it more difficult for people or give the Planning Board more discretion you would make it a special use permit, but he didn't see that we would need that. There were also some changes in the definitions about what districts there were. Attorney Naughton thought that this was in good shape, and he recommended scheduling a hearing.

Councilperson Greenberg said that the one area he wasn't sure about was the 3 acres. Is that enough or should it be 5 acres? He could see an argument for both. Attorney Naughton said that in order to give an idea of size, the Old English neighborhood is basically 2-acre lots. That area can't have them anyway because there are all sorts of deeded restrictions. He thought we came up with 3 acres at the meeting. Supervisor LaGrange added that it's still site plan approval too. Councilperson Snyder said that it wasn't according to this. Attorney Naughton said that as long as you are over 3 acres you can have it. Councilperson Snyder asked about the tax status of these. Are they assessable? Attorney Naughton said that they are not. Councilperson Snyder said that if you are forcing people who have less than 3 acres and for some reason they can't have one of these, then maybe they have to get a shed which would be taxable. Attorney Naughton said that it wouldn't have a lot of value.

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Councilperson Snyder said that it added to your taxes. Attorney Naughton said that there is a policy about that which is a valid consideration. Supervisor LaGrange said that the only difference is these are considered more temporary structures where a shed would be likened to a permanent structure. Councilperson Snyder said that there really isn't any difference in terms of storage capacity. They are doing the same function. Councilperson Snyder said that you are forcing one class of people who can't qualify for this to have a shed and that would be taxable. If you qualify, you could put a cargo container in and maybe that would suit your purposes fine rather than being forced to put up a shed for which the next year you're going to get a reassessment. Councilperson Snyder wanted to make sure that everyone was mindful of that because as a homeowner she is mindful of that. Town Clerk Deschenes said that she didn't realize that Assessor Corbari put an assessed value on sheds. Councilperson Snyder said that she absolutely does. Mr. Miller asked if it matters if the shed is on a foundation or not. Councilperson Snyder said that it does not. Councilperson Greenberg asked if Councilperson Snyder was making an argument for something. Councilperson Snyder said that she was saying we should not overlook that. Councilperson Greenberg added that he knew that Attorney Naughton looked into whether or not we could tax them, and he found out that we couldn't. Councilperson Snyder said that in one sense you're giving somebody the ability for five of these. Supervisor LaGrange said only in industrial and commercial. Councilperson Snyder said that you wouldn't be taxing them. Attorney Naughton said that if you google this issue you'll see that this comes up a lot in communities across the county. In New York local municipalities can't really say they are taxable because the state says what our powers are in terms of taxing. There is nothing we can really do about that. We just have to follow the rules of the state. If it's movable equipment, then it is something that is non-taxable. There is nothing we can do to change that but there is that consideration. Councilperson Snyder said that she was not necessarily advocating a tax on them, but she was pointing out the discrepancy in fairness of someone who does not qualify for a storage kind of facility like this because of their lot size or maybe the district they are in. If they put up a small shed they will pay for the shed, and then on their tax bill forever for the same storage. She just wanted to make sure that everyone was aware of that. Every dollar makes a difference. Councilperson Ten Eyck said that she understood the point, but she didn't see the alternative because it also goes to people on smaller lots with neighbors who are the most sensitive to having a neighbor put in a storage unit. That's why we are trying to control it. Councilperson Snyder added that she's not saying it's a bad thing. Councilperson Ten Eyck said that we are trying to accommodate their concerns by doing this in the first place and it's not perfect. Councilperson Snyder said that we're letting others have up to five of them for five years. Councilperson Greenberg said that that's commercial. Councilperson Snyder asked if there is a consideration for that. Councilperson Ten Eyck said that there was depending on their use of the land. The agricultural use is not restricted. She thinks it's more to do with the categories of where they are allowed versus not allowed or more to do with impact on their neighbors. Councilperson Snyder said that it's certainly a very important consideration, but she wanted to recognize that there is a benefit here that others won't be reaping. Councilperson Greenberg said that he saw her point, but he wanted to make it clear that she is comparing apples to oranges when she says five to the one. Industrial/Commercial is five, and that's allowed anywhere regardless of size of lot. You could have a commercial lot that is 2 acres and you could put five there conceivably. It's not five to one. It's one to zero. We talked about the tax argument and he saw her point. Setbacks affect a smaller lot more than they affect a larger lot. They make more of your lot unusable. It's a similar kind of thing. You're on a smaller lot, and there are things that you're not able to do that you can do on a bigger lot. Councilperson Snyder said that she supports the purpose of why we are doing this. She understands that there were issues, and she thinks we're trying to address those here, but she would like us to be mindful of the fact that there is a tax consideration that accrues as a benefit in certain situations. She thinks we will hear from commercial people when we have a public hearing. She thinks they have to understand that.

Supervisor LaGrange asked, getting back to the 3 and 5 acres, if anyone had strong feelings one way or another. Councilperson Ten Eyck didn't oppose going up to 5 acres. It's not that they can't have it; they just have to go through the process. She's trying to be mindful of the businesses in the community that need these containers for their operation, like Olsen's, so businesses can continue to use the containers and operate and people with enough room can use the containers and they won't be infringing on their neighbors. She doesn't want the people who have smaller pieces of land or live close to them to have to look at a storage unit up close. We're trying to please two different groups at the same time. She thinks that 3 acres is kind of small, and you could have a neighbor with 2 acres on the other side looking at a storage unit, so maybe 5 acres is safer. Councilperson Greenberg agreed with Councilperson Ten Eyck. Councilperson Hennessy said that 5 might be a little cleaner too because it is kind of a common size. It's the realty subdivision size in NYS law. It might be more appropriate. Supervisor LaGrange said that to keep things moving let's change that to 5. We're just trying to clean this up and get it ready to officially introduce.

Councilperson Ten Eyck said that she had one small language issue. She found the language a little

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confusing with what is permitted and what needs a permit. She added that when it says it is permitted does that mean it's only permitted with a permit. If we can consider using the word allowed instead of permitted it doesn't change the context. Attorney Naughton said that permitted is a typical zoning-type phrase and then permitted as of right. It's kind of something you wouldn't want to fool with a lot. You could use the word allowed. Councilperson Ten Eyck said that she just wanted to show what is allowed versus what is allowed as permitted. Attorney Naughton said that even when it is okay, you still have to have one of these container permits that he made up. Councilperson Greenberg said that that way we can keep track of them.

Saul Abrams asked if he could have five at his house without any permits.

Councilperson Hennessy asked how big Mr. Abrams' lot is. Mr. Abrams said that it doesn't matter because he's in a commercial district. Councilperson Greenberg said it's by district, not use. Supervisor LaGrange said that if it's less than 5 acres now, you have to come in for a site plan. Councilperson Ten Eyck asked if it's commercial or commercial use. Mr. Abrams said that it's a commercial district. Councilperson Ten Eyck thought that it went by use. Supervisor LaGrange said that it's still a site plan. Councilperson Greenberg said that it's a site plan but not a special use. Supervisor LaGrange added that it can be put in areas that it needs to be put in. Councilperson Snyder asked if we should consider a special use. Councilperson Greenberg added that right now you don't need anything in commercial or industrial, so it wouldn't even affect that. Mr. Miller asked if there is an emergency circumstance in there for the use for emergency services. Attorney Naughton said that there is.

Supervisor LaGrange asked if we are intending to introduce this next week. Attorney Naughton said that you could set up the public hearing tonight, and we could send it off to the County and the Planning Board. It would save a month. Supervisor LaGrange asked when we would have the public hearing. Attorney Naughton said it would be in March. Supervisor LaGrange said that we could do that next week. Attorney Naughton said no because we wouldn't have it to the Planning Board in time. Supervisor LaGrange said that we're not going to get it on our Planning Board's agenda for next week. Supervisor LaGrange said that we could get it to them for review. They would have more time, and that's the idea. In March we could have a public hearing and make a decision. It's more common that you don't do that, but you could. Attorney Naughton recommended setting up the public hearing in March and sending it tomorrow to the County. Supervisor LaGrange thought that the Town Planning Board had already seen it.

Attorney Naughton said that the only other thing to get back to that he's heard was that we have a site plan. If we wanted to give the Planning Board more authority, we would make it a special use. Councilperson Snyder said that it has to go to the Planning Board with the site plan. Councilperson Ten Eyck thought that a special use was overkill. Councilperson Snyder asked if we go with a site plan to the Planning Board, are they approving or not approving the site plan? Attorney Naughton said that generally with a site plan, as long as we meet the basic criteria, they should allow it somewhere on the site. With a special use permit, the Planning Board has the authority to deny it. Councilperson Greenberg said that even with a site plan if you had a neighbor next door saying it is crazy and they don't want it they should not turn it down. Attorney Naughton said that the applicant generally has a pretty good case. They don't have that much discretion to turn it down. Councilperson Snyder said that she thought we wanted to have some input and discretion in those kinds of situations. Attorney Naughton said that it gives them discretion to make sure there is a good buffering, painted or whatever, but it's hard for them to say no. Councilperson Snyder said that she thought when she read it that the Planning Board would have that discretion if they were reviewing a site plan in areas where it says they are not in a commercial or industrial zone and they are less than 5 acres now. We're saying that they need a site plan, but the Planning Board doesn't really have any discretion. Attorney Naughton said that they don't have that much discretion. Councilperson Snyder asked what the purpose is? Attorney Naughton said that if someone were to sue in court you would have a much harder case. If it's a special use permit, you are in good shape. Supervisor LaGrange said that the Planning Board can require the conditions. Councilperson Ten Eyck said that she just can't see with our new notice law that we're going to be putting up a sign that there is a special use permit application for someone to have a storage unit. It seems like we're making a big deal out of something that isn't permanent. Councilperson Snyder added that it's for five years, and that's a long time to look at something. Councilperson Ten Eyck agreed adding that there are things to mediate the impact. Councilperson Greenberg said that if it's over 5 acres and you put up screening, there is still a fair amount of control.

Councilperson Snyder asked if we have restrictions about how close we can be to a neighboring property. Attorney Naughton agreed. Saul Abrams said there were, everywhere in the permitted section. Attorney Naughton said that there are a lot in there and then gave Mr. Abrams a copy of the

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law.

Councilperson Hennessy clarified that if it is less than 5 acres, you need site plan approval. Mr. Abrams asked if that's even in the commercial district. Councilperson Hennessy said yes. If it's over 5 you can get a building permit for it.

Sharon Boehlke wanted to speak on what Councilperson Snyder brought up. She has storage sheds and buildings on her property, and she is taxed on them. She can essentially tear down five of the smaller ones, put these in, and her taxes should be reduced. Supervisor LaGrange said that theoretically that is correct. Mrs. Boehlke said that the bulldozers will be there tomorrow. Supervisor LaGrange added that she would have to come in for a permit and then renew it in five years.

Saul Abrams said that he didn't realize that he needed approval in the commercial district. His neighbor who has three-quarters of an acre in the commercial district could put in five of them.

Attorney Naughton said that he wasn't sure that that was correct. If you want to have it in the commercial zone, you can have it. There is nothing about 5 acres here. Mr. Abrams said that his point was that he thinks you need a limitation in the commercial district. He asked if most commercial areas are larger areas? You can have residential areas within the commercial district. You could put five of them on three-quarters of an acre. Mr. Abrams suggested maybe one per acre. Supervisor LaGrange asked if it could be for commercial use in the commercial area. Would that make it more specific? Attorney Naughton said that we could do that, but do we want to specify a lot size? Supervisor LaGrange didn't know. He then asked how many acres Robinson's has. Supervisor LaGrange added that we could go up to 5 acres. Mr. Abrams said that, with respect to the comment about commercial use, his neighbor is in the construction business. Theoretically if he stores his tools and equipment in these containers in his back yard, that's still a commercial purpose. It still doesn't prevent him from putting five of them on his three-quarters of an acre. Attorney Naughton said that that's right. Mr. Abrams recommended one per acre. Supervisor LaGrange asked if we should have a site plan for less than 5 acres in the commercial/industrial zone? Councilperson Hennessy referred to section 2A4. Attorney Naughton said that he didn't hear a lot of opposition to at least 5 acres for commercial. Supervisor LaGrange asked what if we just blanket it at 5 acres for a site plan? Councilperson Snyder said that they could have it by right if they are commercial/industrial and 5 acres or more. Attorney Naughton agreed. Councilperson Greenberg said that we still wouldn't be able to say no. Supervisor LaGrange said that at least they could put it where they wanted it and buffer it. Councilperson Hennessy said that commercial/industrial, less than 5 would require a site plan. Attorney Naughton said that there is a lot of leeway in there, but at least we've tried.

Supervisor LaGrange asked if we were going to introduce it next week or make the changes right away. Councilperson Greenberg suggested that we move ahead.

RESOLUTION 2017-43

Supervisor LaGrange offered the following resolution and moved its adoption:

RESOLVED, that the Town Board of the Town of New Scotland does hereby schedule a public hearing for proposed Local Law E of 2016 regarding cargo and shipping containers for storage use for March 8, 2017, at 6:30 PM.

Councilperson Greenberg seconded the motion. All present and voting, the motion carried (5 Ayes).

5. Discussion re: Proposed Local Law F of 2016 regarding notice to residents of pending applications for permits and approvals.

Supervisor LaGrange said that we've had this since last week, and there were a couple of modest changes from the last meeting. Supervisor LaGrange asked for other thoughts, questions, or comments. He liked it. Attorney Naughton recommended setting this up for hearing.

Saul Abrams said that one of the problems they had in North Greenbush a number of years ago was that the applicant purchased large tracts of land around a subdivided area. At the time there was a 500-foot limit, and there were no tenants within 500 feet because the applicant owned all of the property within 500 feet. It seemed to him that if we're going to have a notice, it should be 500 feet or 1,000 feet from the site or from the end of any contiguous property owned by the applicant or an affiliate.

Supervisor LaGrange said that we talked about that. When the law was 500 feet, the person at 501

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feet would complain. That's why we are going to use signage at strategic areas of the property. It will be consistent signage for the Town of New Scotland for zoning issues, and then it will direct people to the website. That kind of takes care of that issue or something like what you just mentioned.

Sharon Boehlke asked if we are eliminating sending anything. Supervisor LaGrange said no, but now there will be signage at the property for people driving by. Mrs. Boehlke asked about the hearing on the local law. Supervisor LaGrange said that that will continue to be the same. This is for zoning changes specific to a property.

RESOLUTION 2017-44

Supervisor LaGrange offered the following resolution and moved its adoption:

RESOLVED, that the Town Board of the Town of New Scotland does hereby schedule a public hearing for proposed Local Law F of 2016 regarding notice to residents of pending applications for permits and approvals for March 8, 2017, at 6:45 PM.

Councilperson Hennessy seconded the motion. All present and voting, the motion carried (5 Ayes).

6. Discussion re: Proposed Local Law G of 2016 amending Chapter 190 of the Code to establish regulations regarding solar photovoltaic systems

This item was skipped.

7. Resolution amending Resolution 2017-25 (amended) changing Robert Johnson III Town Justice appointment to a term of March 1, 2017, to December 31, 2017.

Supervisor LaGrange advised that Mr. Johnson had a couple of conflicts that he couldn't get out of. After some discussion Mr. Johnson preferred to have us amend the beginning of his term from February 1st to March 1st.

RESOLUTION 2017-45

Supervisor LaGrange offered the following resolution and moved its adoption:

RESOLVED, that the Town Board of the Town of New Scotland does hereby amend Resolution 2017-25 (amended) changing Robert Johnson III's Town Justice appointment to a term of March 1, 2017, to December 31, 2017.

Councilperson Greenberg seconded the motion. All present and voting, the motion carried (5 Ayes).

8. Resolution amending Resolution 250 of 2016 authorizing payment of a special weekly stipend of \$515.82 to Justice David Wukitsch for temporary coverage for Justice Margaret Adkins' vacancy by extending the time period to February 28, 2017.

RESOLUTION 2017-46

Supervisor LaGrange offered the following resolution and moved its adoption:

RESOLVED, that the Town Board of the Town of New Scotland does hereby amend Resolution 250 of 2016 authorizing payment of a special weekly stipend of \$515.82 to Justice David Wukitsch for temporary coverage for Justice Margaret Adkins' vacancy by extending the time period to February 28, 2017.

Councilperson Snyder seconded the motion. All present and voting, the motion carried (5 Ayes).

9. Appointment of Rebecca Miller as Clerk I Part-time in Supervisor's office at \$13.76 per hour for no more than 19.9 hours per week starting February 6, 2017, to fill a recently vacated position.

Supervisor LaGrange said that Linda Martin is leaving us. She does the water billing twice a year, the bills, reconciles checkbooks, and a host of other things. She is leaving us but will come back to help train. She offered to come in next Thursday after the board meeting so she can help the new employee with the bills. She is also coming back the following week to help with something else. We have her scheduled to come in for a couple of Thursdays to finish up. This will be at worst budget neutral because we are going to start her at a lower salary. She won't get up to level five where Mrs. Martin was in the next year.

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Supervisor LaGrange advised that there were five applications reviewed, and four applicants were asked to come in for interviews. It was a very good group of people. Supervisor LaGrange said that we could have trained them. This is a unique job. Rebecca Miller from Feura Bush stood out. She has an accounting background from school. She had some knowledge of the different computer software skills we need. She interviewed well. She called today saying she couldn't take the job. If she takes a job that offers health care, then she would have to pay \$55 a week in a penalty to her husband's health care provider. Supervisor LaGrange told her he'd check to see what he could do. Supervisor LaGrange added that he proposed starting her at level 1 at least for the first couple of months until she gets up to speed. Supervisor LaGrange talked to Mrs. Kavanaugh who said we can't offer health insurance to anyone who works less than 20 hours according to the state regulations. If she works less than that, she won't be penalized. This has nothing to do with the Town; it has to do with her husband's employer. Mrs. Miller was thrilled. Supervisor LaGrange said that if the Board approves this we'd like her to start on Monday. For the first couple of weeks she will work four hours a day, five days a week. She might prefer five hours a day for four days a week, minus ½ hour. Supervisor LaGrange thought Mrs. Miller would be a great addition.

Councilperson Hennessy said that it sounds fine, but is it legally acceptable to skirt an issue such as that by going below the threshold? Supervisor LaGrange said that it was. Councilperson Greenberg asked how many hours Mrs. Martin worked. Supervisor LaGrange said 20. He thought that in the future we are going to have to entertain expanding it a little bit, probably not over the 25 hours, but we will see how it goes. It's been really helpful with the expansion of Mrs. Boehlke's time. Supervisor LaGrange added that Mrs. Martin did a great job, but Mrs. Miller might be even more productive. We are getting to water software for the next billing cycle. It's a new program with fewer steps. I think Mrs. Miller will be able to do more in the time she is here just because of efficiency that we are looking at.

RESOLUTION 2017-47

Supervisor LaGrange offered the following resolution and moved its adoption:

RESOLVED, that the Town Board of the Town of New Scotland does hereby appoint Rebecca Miller as Clerk I part-time in the Supervisor's office at \$13.76 per hour for no more than 19.5 hours per week starting February 6, 2017, to fill the recently vacated position.

Councilperson Ten Eyck seconded the motion.

Supervisor LaGrange said that we will be watching to see how she learns, but he has given her an idea that maybe after three months he might ask for a bump to level two.

All present and voting, the motion carried (5 Ayes).

10. Discussion/Action re: proposals for brush clearing of recently acquired "Hilton Park" parcel

Councilperson Greenberg said that it was thought that we should try and get this land cleaned up. When the Mohawk Hudson Land Conservancy put this deal together they had some conditions, one of which was to do work on the land to get it usable. We think to do that the best time would be while the ground is frozen. It's also illegal to move certain trees, even if they are dead, beginning March 11th because of the bat habitat. We are trying to move on this. Councilperson Greenberg contacted different landscaping companies and some who have worked with the town before and others who haven't to get bids. Audubon Landscaping came in at \$5,000, and Jim Bohl who did the land clearing for the barn move came in at \$9,800. There was another landscaper who had just a brush hog and decided not to bid because Audubon and Mr. Bohl both have forestry heads on skid steers which clears the underbrush and grinds it up. He didn't think he could compete. Councilperson Greenberg also contacted Highway Superintendent Guyer to see what they could do along with the County. Neither has the equipment to do this. Councilperson Greenberg recommended Audubon Landscaping. They also offered to have an individual onsite to deal with any tree removal. Supervisor Guyer said that the Town could handle that, but this would save him some time as well. Councilperson Snyder asked about the forestry head. Attorney Naughton said that the result of it was that when it's done it's almost like it's all been mulched into the soil. If you use just a brush hog, there is stuff left over where this thing cleans it right up.

Attorney Naughton said that if you want to take that proposal, he drafted a contract on our contract form. It says that they will do it for \$5,000. They said they would do it by the end of February assuming weather conditions, etc. If we had a big snowstorm, that would be a problem. Attorney Naughton made March 10, 2017, the hard deadline even if there are weather conditions.

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Councilperson Snyder asked if that's because of the bat habitat. Councilperson Hennessy said that we have to have the trees down by March 31st. Attorney Naughton said that we just don't want an issue about it at all.

Public Works Commissioner Miller asked about the wood stockpile. Attorney Naughton said that we are going to talk about that next week.

RESOLUTION 2017-48

Councilperson Greenberg offered the following resolution and moved its adoption:

RESOLVED, that the Town Board of the Town of New Scotland does hereby hire Audubon Landscaping and enter into the agreement form that has been provided for \$5,000 and authorizes the Supervisor to sign it.

Councilperson Ten Eyck seconded the motion. All present and voting, the motion carried (5 Ayes).

RESOLUTION 2017-49

Councilperson Greenberg offered the following resolution and moved its adoption:

RESOLVED, that the Town Board of the Town of New Scotland does hereby authorize the Supervisor to spend an additional \$1,000 if necessary with Audubon Landscaping to clear the Hilton Park lot if we have unforeseen conditions.

Councilperson Ten Eyck seconded the motion.

Supervisor LaGrange said that our concern now is with the funding that we've put into the barn, and we are waiting for our grant money. Now, this is going to be a park. To access park funds, which I'd like to do from now on, it needs to be designated as a park. Supervisor LaGrange said that he knows the resolution we did to accept the land had some verbiage plus we also have the restrictions, but should this Board actually create the park? Attorney Naughton said that he thinks we've already done that. The resolution that approved this and the conditions attached to it were to make it the Joseph Hilton Park and to designate it as park land. He asked around to see if there was anything additional we needed to do to create it as a "park." No one knew of anything in addition to that. Attorney Naughton added that he believed we had a basis for using park funds for this.

All present and voting, the motion carried (5 Ayes).

Attorney Naughton said that because they are going to be going in there with machinery that has the ability to take down small trees, he wanted to make sure that the machine doesn't go on someone else's property. Attorney Naughton contacted the surveyor, Jason Peterson, from Bethlehem Land Survey. He offered to go out for \$65 and prominently mark the eastern boundary with flagging tape. He thought he would like to get authorization to pay him. He said he could have it done by the weekend.

RESOLUTION 2017-50

Councilperson Greenberg offered the following resolution and moved its adoption:

RESOLVED, that the Town Board of the Town of New Scotland does hereby authorize Jason Peterson with Bethlehem Land Survey to survey and flag the east end of the Hilton Park for the price of \$65.

Councilperson Snyder seconded the motion. All present and voting, the motion carried (5 Ayes).

11. Discussion/Action re: authorization for emergency purchase of replacement of pumps for the Swift Rd. Water District.

Supervisor LaGrange said that the gears in these pumps have worn out. They've been replaced in the past. The one pump is shut down; it's done. The other pump is running by itself. Councilperson Greenberg asked how long the one has been shut down. Supervisor LaGrange wasn't sure but it could be a week. Emmons did some modest repairs and then told us that the pumps were antiquated. They've been there since the beginning. Attorney Naughton added that they are 25 years old. Supervisor LaGrange said that it's like anything else; after a while they don't make parts for them. Supervisor LaGrange said that we are very concerned. We have a whole water district with one pump going. Attorney Naughton added that, according to Mr. LaChappelle, it sounds like it's failing. They patched it up the best they can. We need to do something and that entails setting up a capital

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project. We have numbers from Emmons. They had a bid of \$14,216, but as with anything there could be unforeseen circumstances. The \$14,216 includes the installation of the pumps and some piping. Obviously this is specific to the Swift Road Water District, so we will have to establish a capital project for the district. At this point, he would set it up for up to \$20,000. This allows us to borrow money from probably the B fund, since it's the healthiest, to facilitate getting the job done as soon as possible, and then we will look toward how we will repay it. Supervisor LaGrange will bring that to the Board later. Now the emergency of it is to get this approved, get the capital fund set up, and get it fixed.

RESOLUTION TO ESTABLISH HSR (SWIFT ROAD PUMPS, ETC.) CAPITAL PROJECT (HSR)

RESOLUTION 2017-51

Supervisor LaGrange offered the following resolution and moved its adoption:

Whereas the Town Board is desirous of completing an emergency replacement of water pumps and supporting infrastructure in the Swift Road Water District and,

Whereas the Town Board desires to finance the replacement through the issuance of debt and,

Whereas the Town Board desires to keep the accounting for the project separate from the operating and maintenance of the Swift Road Water District Fund,

Therefore now be it resolved that the Town Board establishes a capital project for the replacement of the water pumps and supporting infrastructure.

Be it further resolved that the Town Board authorizes the Town Supervisor to procure the necessary financing through transfers from the Swift Road Water fund,

And be it further resolved that the budget for the capital project be as follows

HSR8320.2 (Water source of supply, power and pumping)	\$20,000.00
HSR5031 (Transfers in from Swift Rd. Water Fund)	\$20,000.00

And be it further resolved that the General Fund Town Outside (B) be authorized to loan to the capital project sufficient cash monies for adequate cash flow at an interest rate of 0.5% per annum.

Councilperson Hennessy seconded the motion.

Councilperson Greenberg asked why we have to replace both. Why not just put a new one in and let the other one run. Supervisor LaGrange said that we would be bringing Emmons out twice so we would get double charged for that. Councilperson Greenberg asked if it's hard to get into it. Supervisor LaGrange said no. It's the building on Route 85. Councilperson Greenberg said that he just didn't know if this other pump was going to run 2-4 years. We don't know how long it will run. Supervisor LaGrange said to remember that they made some repairs on it. They took the gear off the pump that failed and put it on this one. It has similar wear but not quite as bad. That keeps it going. Supervisor LaGrange said that he guessed we could cross our fingers and hope. Councilperson Snyder asked if they are both 25 years old. Supervisor LaGrange said yes. Mr. Miller asked if we cannibalized one to make the other one work. Supervisor LaGrange said that to an extent that is what they did. Councilperson Greenberg said that it just seems that we could be throwing away 2-3 years on a pump. We wouldn't be taking a risk because we have a brand new working pump. Supervisor LaGrange said that he didn't know the system enough. He didn't know if they rotate for a particular reason. Councilperson Ten Eyck suggested keeping one in reserve until the one that is limping along dies and then put it in. Councilperson Hennessy said that it sounds like it's a duplex operating system where they alternate periodically. It saves the life of each one by doing that. The old pump we save as a spare. If it is an alternating system we may be taxing the older pump a lot more. Supervisor LaGrange said that it is an alternating system, and he knows that the new pumps are more efficient energy-wise too. Councilperson Ten Eyck thought that it was a good idea to hold on to both pumps for parts. Mr. Miller asked if they could be rebuilt. Supervisor LaGrange said that that's our problem now. They don't have the parts anymore.

All present and voting, the motion carried (5 Ayes).

Attorney Naughton asked if that resolution authorized us to enter into the contract with Emmons. Supervisor LaGrange said that that's separate. This is to create the capital fund. Mr. Purinton felt

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that we should pass this resolution to emphasize and justify what we are doing.

RESOLUTION 2017-52

Supervisor LaGrange offered the following resolution and moved its adoption:

Whereas, the condition of the Swift Road Water District Fund's water pumps and supporting infrastructure is such that they could fail at any moment and severely affect the health of the Town residents served by the District, and

Whereas, the Town Attorney agrees with the Town Board's emergency assessment,

Therefore, be it resolved that the Town's procurement policy be suspended for completing the emergency replacement of the water pumps and supporting infrastructure for the Swift Road Water District Fund.

Councilperson Snyder seconded the motion.

Attorney Naughton said that Mr. LaChappelle called him today about this and explained the exigent emergency situation. They consider this the only working pump to be a real issue. It's making bad sounds like it's ready to fail. Attorney Naughton felt it was justified to treat this as an emergency. Councilperson Hennessy knows the owner, Mr. Emmons, and he's a very reputable person that he's dealt with over the years, so he's satisfied with that.

All present and voting, the motion carried (5 Ayes).

Councilperson Ten Eyck asked how long it will take to get these pumps. Supervisor LaGrange as soon as possible. Councilperson Greenberg said that there is something in here that says that it could take a week to get the parts. Councilperson Hennessy said that there is a 2- to 3-week lead time on parts. Councilperson Snyder asked if the pumps are unique to the water districts. If we really needed a pump from another district could that be substituted? Supervisor LaGrange said that he had no idea. Councilperson Hennessy said that most likely they are unique. There are different design protocols for each pump, so it's more than likely that they are specific to that. Supervisor LaGrange added that this is feeding off the main from Bethlehem where the others are drawing the water and then pumping it up. Councilperson Hennessy said that these are basically booster pumps where the other ones in wells are submersible. They are 200 feet in the ground. Councilperson Hennessy said that he was trying to research some of it based on this, but it's all specific to the districts and the uses. Councilperson Snyder said that she was just wondering if any other district could have something we could use in an emergency situation. Councilperson Hennessy said that New Salem might possibly because that's kind of a booster pump situation. Councilperson Snyder said that likewise the parts in these old pumps could be used in other districts. Supervisor LaGrange said he would check.

Saul Abrams said that from a regulatory perspective you have to match the revenues with the facilities. You shouldn't have someone paying for water in Swift Road for equipment being used somewhere else. If you borrow equipment from another district, you're using part of the useful life of this equipment for someone who is not paying for it.

Councilperson Snyder said that she was just thinking of an emergency to keep the water flowing.

RESOLUTION 2017-53

Supervisor LaGrange offered the following resolution and moved its adoption:

RESOLVED, that the Town Board of the Town of New Scotland does enter into an agreement with Emmons Pump & Control, Inc., to replace the pumps in the Swift Road Water District as outlined in their quote #2893 dated January 24, 2017, for \$14,216.00 and authorize the supervisor to sign it.

Councilperson Ten Eyck seconded the motion. All present and voting, the motion carried (5 Ayes).

Councilperson Ten Eyck said that she was a little concerned that we are in this situation. If we have two pumps that are 25 years old, she thinks we should be out in front of this stuff a little bit more because the risk for ordering these pumps and the potential for them to break and those people not to have water. Supervisor LaGrange said that he would see if we could set up some sort of review of what we have. Councilperson Ten Eyck said that she's looking for some sort of inventory and assessment of what's happening so we are not caught by surprise. Councilperson Ten Eyck added that between now and the time the pumps come in the other one could break. She didn't feel

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comfortable with that. Councilperson Snyder asked if we check these regularly. Supervisor LaGrange said that they are always checked, but what Councilperson Ten Eyck is asking is should we do an inventory like what the Highway Superintendent does. Councilperson Hennessy thought that Mr. LaChappelle had done some of that with other things. It was never done before on Town facilities. He did do that on many other elements of the town.

12. Discussion re: request from Kensington Woods to increase number of allowed model homes.

Attorney Naughton said that there is a request to the Planning Board from the Attorney for Kensington Woods. There is also a letter from Mary Beth Slevin who represents them with a request to be on the next Planning Board agenda. Attorney Naughton said that he thinks the main thing is that the goals granted by the Planning Board back in 2009 had various conditions. One of the conditions was that it allowed them to have up to four model homes. When the Planning Board reviewed this again in 2015, when that approval expired, they noted that it was subject to the development along with other things. The same conditions still applied. They modified certain other conditions, but that one didn't change. Now the developer is asking for various reasons to be permitted to build more model homes on the property. They want approval for a total of 10 building permits. The infrastructure is not complete. That includes water, sewer, roads, and some storm water retention basins, etc. They are also supposed to provide for Rail Trail parking. This is mostly a Planning Board issue about whether they are going to exercise discretion to allow more model home permits. It does impact the Town in the development agreement because they are performing the work without any letter of credit or bond. They would put all their money into it and skip the bonding process. They are calling these model homes, but they are probably going to try and sell these homes. In that case, it touches on the development agreement for the Town. We do have some role in this, and because it's really a contractual issue of the development agreement we will have to look at the terms at least. Attorney Naughton recommended that the Board do that in Executive Session. That's the basic request. It will be largely the Planning Board's decision on exercising discretion to modify that, but he thinks that we have a role in deciding if the Town feels that it is sufficiently protected in terms of letters of credit or bonds. Attorney Naughton preferred to do that in Executive Session.

Supervisor LaGrange added that to further that, there have been delays primarily because of National Grid getting the road in phase one finished. They have to wait for National Grid to come through and do their bearings. That also causes delays on the water system, pressurizing it, and filling the tank because they have to have electricity. That's put them behind by several months. Steve Masullo feels that the infrastructure will be done in a couple of months, but it puts him two months behind on potential building permits and building. He was hoping that there could be some allotment for him to get started, but as Attorney Naughton suggested we have to be sure that the Town is protected in every way possible. Supervisor LaGrange said that he doesn't have a problem bringing it to the Planning Board, and he suggested that he have his lawyer ask the Planning Board to do this, but he said there will be some Town Board involvement, and we might require a bond. We can get into the specifics in Executive Session.

Saul Abrams said that he assumed that this only dealt with the accelerations of the building, not increasing the number of buildings. Supervisor LaGrange said that it just deals with being able to start getting building permits, and we still would not allow COs until the water and roadways were turned over to the town.

6. Discussion re: Proposed Local Law G of 2016 amending Chapter 190 of the Code to establish regulations regarding solar photovoltaic systems

Supervisor LaGrange asked how the Board wanted to proceed, adding that he hasn't even looked at the solar law. Attorney Naughton said that it did go through a major re-write. Councilperson Ten Eyck thought that it was greatly approved. Councilperson Greenberg thought that Attorney Naughton did a great job, adding that he has a lot of comments. Councilperson Snyder said that she had a lot of comments too. Councilperson Greenberg suggested holding the Executive Session first and then see where we are.

Saul Abrams asked to make one comment. The law for the solar is designed for encouragement of solar, and it's very technically oriented. It seems to have no reflection of the comprehensive plan of this town. It seems to him that, based on the technicality of this law, you can almost run roughshod over the environmental impact of the comprehensive plan. For instance, we want to have trees and whatever. This basically says that if you have trees and they are blocking the solar panels, you have to cut down the trees. He thinks there needs to be a balance between what this does and the comprehensive plan and the vision of the town for how we want things built.

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Supervisor LaGrange said that he didn't know how that would play into the new rendition of this. In the former one, that was a bit of a concern. Attorney Naughton said that he thought that that had been covered. There are policy issues here. One of the things is that you should make it easy for solar to happen. It's just a policy thing of finding a balance. He thinks it's a good comment. He thinks the idea is that that's what the public hearing is for. Supervisor LaGrange added that it is a new law, and he doesn't know if he had seen that yet. Councilperson Greenberg said that he would disagree with how we're picturing it. It's broken down into three stages. You have roof mount small scale, ground mount small scale, and ground mount industrial. We are trying to encourage roof mounts small scale and ground mounts small scale. Mr. Abrams said that he was reading the large scale. Councilperson Greenberg added that large scale does not say that you can cut down everything. Actually, it has to go to pretty strict Planning Board special use permitting and other things. Councilperson Ten Eyck said that it's just the concept of the message of our evolution and our way of thinking of the sunlight as a natural resource and the whole concept of solar access and preserving the opportunity for solar access. She thought it was very interesting, but it does bring some threats to other things that would block solar access that are also natural resources, like trees which are also beneficial. Mr. Abrams said that roads would have to go east/west. Councilperson Ten Eyck said that she thought that was really interesting to think about. This is a whole new thing and she thinks it introduced a lot of good concepts, but there needs to be discussion. Supervisor LaGrange said that that was his point about doing it separate from the other two. He thinks we're going to get involved in a lot of stuff even if we get it the way we like it and get it to a public hearing. Attorney Naughton suggested putting it off to a separate hearing.

Executive Session

RESOLUTION 2017-54

Supervisor LaGrange offered the following resolution and moved its adoption:

RESOLVED, that the Town Board of the Town of New Scotland does enter into Executive Session to discuss a contractual issue.

Councilperson Greenberg seconded the motion. All present and voting, the motion carried (5 Ayes).

Executive Session began at 8:00 PM.

Supervisor LaGrange made a motion to adjourn Executive Session, seconded by Councilperson Hennessy.

Executive Session ended at 9:15 PM.

No action was taken during executive Session.

13. Discussion re: Creekside IMA

This item was discussed during Executive Session.

14. Adjourn

Supervisor LaGrange made a motion to adjourn, seconded by Councilperson Ten Eyck. The meeting adjourned at 9:15 PM.

Diane R. Deschenes, Town Clerk