

**TOWN OF NORTH EAST
TOWN BOARD
MINUTES
August 9, 2018**

Councilman Present:

Supervisor Kaye
Councilman Merwin
Councilman Fedele
Councilman Kennan
Councilman Midwood

Councilman Absent:

Call to Order:

Supervisor Kaye called the meeting to order at 7:00 p.m.

Acceptance of Agenda:

Supervisor Kaye made two additions to the agenda. There will not be an executive session or attorney-client session this evening.

On a motion made by Councilman Merwin, seconded by Councilman Midwood, the following was:

ADOPTED - AYES - 5 (Kaye, Merwin, Fedele, Kennan, Midwood)
NAYS - 0

RESOLVED, to accept the agenda as amended.

Public Comment on Agenda Items Only:

There were no comments about the changes.

Department and Committee Reports:

POLICE – Officer Rudin reported the month of July had a total of 72 incidents. Most of the incidents were traffic related. There were 40 in village and 32 in the town. This year, we had four arrests and they were all in the town. In 2017, we had a total of 40 arrests. There were 24 in the town and 16 in the village. In 2016, there were four arrests which resulted in one in the town and three in the village.

Councilman Midwood commented on an arrest of an 18-year-old drug dealer from Columbia County and wanted to thank the police department. Officer Rudin stated it was attributed to Sgt. Veeder during a traffic stop.

HIGHWAY – Superintendent Stevens said it is time to advertise for sealed bids for 2019. This will be for sand, stone, fuel, cold-patch, gravel, and blacktop.

On a motion made by Councilman Midwood, seconded by Councilman Fedele, the following was:

ADOPTED - AYES - 5 (Kaye, Merwin, Fedele, Kennan, Midwood)
NAYS - 0

RESOLVED, to advertise for sealed bids for 2019 for those items as we need these materials.

ASSESSOR – Clerk Cope was asked to read the assessor's report in Katherine Johnson's absence. On July 19, 2018, we received a Final Equalization Rate of 100 percent for our 2018 roll from NYS Office of Real Property Tax Services. Early this year, Mr. Daniel Goldhagen was appointed to finish out the five-year term of Mr. John Campbell. This term will end on September 30, 2018. Mr. Goldhagen has informed the assessor that he is interested in seeking another term. She believes that he has been an asset to the current board and asks for

consideration in re-appointing him to a full five-year term from October 1, 2018 to September 30, 2023.

On a motion made by Councilman Fedele, seconded by Councilman Merwin, the following was:

ADOPTED - AYES - 5 (Kaye, Merwin, Fedele, Kennan, Midwood)
NAYS - 0

RESOLVED, to re-appoint Mr. Goldhagen to a full five-year term from October 1, 2018 to September 30, 2023.

The town has been served with just one certiorari which is an expected filing continuing an on-going case.

PLANNING, ZONING BOARDS, and BUILDING DEPARTMENT – A report was provided from each department.

TOWN CLERK – Clerk Cope stated Dutchess County is the host of a parade for the “Year of the Veteran.” The parade will be on September 30, 2018 in the City of Poughkeepsie at 1:00 p.m. This event marks the 100th anniversary of the end of the fighting in World War I.

Clerk Cope mentioned a Public Notice for the Determination of Public Need regarding the Arlington Fire District Permanent ALS-FR Operating Certification from the Hudson Valley Regional EMS Council Transportation Committee.

We also received a copy of a letter addressed to Dutchess County from NYS Department of Environmental Conservation Division of Environmental Permits regarding the application for a DEC permit for Phase 4 of the Harlem Valley Rail Trail. The application is complete and a technical review has commenced. A Notice of Complete Application for the project was attached and outlines that the county should have the Notice published in the Poughkeepsie Journal and The Register Star during the week of August 6, 2018.

Update on Regional Ambulatory Study:

Councilman Midwood stated the issue is the town has an excellent service and we contract with Northern Dutchess Paramedics, but it is expensive. They do provide good coverage and the contract says they have to show up to any call in the town within a 15-minute drive period. He believes there is a paramedic in every ambulance. The EMS can have an emergency medical technician (EMT) or a paramedic. The paramedic has more training and is allowed to provide more advanced life support. The EMT can only provide basic life support. It is critical every ambulance have a paramedic on board especially for cardiac reasons. Supervisor Kaye said a year ago, we initiated contact with the county executive about the requirements for having ambulance service in the town. In the first year with NDP, the contract was for a \$260,000, the second year it was \$300,000, and the third year (in 2019) will be \$340,000. It costs \$500,000 to run an ALS ambulance service for the town and village. The only thing that brings that cost down is based on the call volume. Since we are a small town, our call volume is small. We have approximately 200 a year. In 2019, we will then pay \$340,000 for the ambulance service and the patients will be billed. The insurance will normally cover the cost but it is an unsustainable way of going about it for us. After asking the county for a long period of time, County Executive Marc Molinaro initiated a task force to see how this could work for us. Councilman Midwood said there is a study between three towns and one village. Every municipality contracts with NDP individually. The goal of the study is to come up with options to save money and provide equal or better care. The data has been collected and is being analyzed. In months to come, he will be able to report on the recommended changes. There will be a public meeting where all residents of all municipalities will be invited to attend.

Supervisor Kaye added the total amount allocated for the study was \$190,000. Out of that, \$40,000 goes for the study between the towns on the east side of the county, like Dover, Amenia, North East, and the Village of Millerton. In the future, the objective for the rest of the funding is to take a look at the prospects for doing something on a county-wide basis.

Councilman Midwood said this study will not be done before the 2019 budget. The contract states it will increase from \$310,000 to \$340,000 and that is not a bad deal. Legally, a municipality within New York State is not obligated to provide EMS. The town board feels we should provide this service and it is a critical function to provide this service to the town. Supervisor Kaye said each town must provide fire service; however, ambulance service is not a requirement.

Update on Submission of Climate Smart Grant Application:

Councilman Kennan said the town and the village are registered as Climate Smart Communities. It is much more involved to become a certified Climate Smart Community. There are 230 or 240 registered Climate Smart Communities across the state, but only about 18 have reached the certified level. Getting to that level does good things for the environment and community and puts them ahead of the line for grants. It is a worth-while program. We have applied for three different programs. One is a study of the town's plans and policies to see what extent they are sensitive to climate issues. The second is a study and measurement of town and village greenhouse gas emissions. This is just municipal equipment, vehicles, and buildings. The third program is a study of all the roads across the town and village to study all bridge and culvert where water passes. It will be a study of how robust they are and whether they can handle larger volumes of water resulting in climate change. The total budget of all these programs is about \$59,000. There is a match requirement that the town and village have already appropriated. The state will take it's time looking at the application and we hope to hear back by December. Councilman Fedele asked if the solar law will help us. Councilman Kennan said it would get us points toward the certified community.

Submission of CDBG Ideas and Set Date for Public Hearing:

Supervisor Kaye said every year HUD provides certain monies for grants for towns. This money is then provided through the county. There is a grant in the amount of \$186,000 awarded to make the village and town buildings handicapped accessible. We are now working on ideas for the end of this year. We are also in touch with the village and have a better chance of achieving our goals, if we work together. A date needs to be set for the public hearing. The next meeting is September 13, 2018 and at a time of 7:15 p.m.

On a motion made by Councilman Merwin, seconded by Councilman Midwood, the following was:

ADOPTED - AYES - 5 (Kaye, Merwin, Fedele, Kennan, Midwood)
NAYS - 0

RESOLVED, to set the public hearing to be at the next meeting date of September 13, 2018 at 7:15 p.m.

Introduction of Solar Law and Set Date for Public Hearing:

Supervisor Kaye said everyone should have copies of the solar law. The attorney has reviewed the law and has made corrections. Clerk Cope read the resolution into the record.

TOWN BOARD OF THE TOWN OF NORTH EAST

**RESOLUTION COMMENCING THE LOCAL LAW ADOPTION PROCESS FOR
LOCAL LAW NO. 2 OF 2018 ENTITLED: "A LAW TO REGULATE SOLAR ENERGY
SYSTEMS"**

WHEREAS, the Town of North East has determined that it is in the best interest of the community and its citizens to provide for, and encourage, renewable energy systems and a sustainable quality of life and to that end, that a local law should be adopted to provide for the permitting and establishment of solar energy systems and facilities within the Town of North East; and

WHEREAS, the Town Board has appointed a Committee to work with the Attorney to the Town to produce a proposed local law to regulate such solar energy systems within the Town; and

WHEREAS, the Committee, with the assistance of the Attorney to the Town, has drafted a proposed local law to regulate solar energy systems and submitted it to the Town Board; and

WHEREAS, the Town Board has reviewed the proposed local law and determined that the local is acceptable for purposes of commencing the local law adoption process; and

WHEREAS, the Town Board has determined that this is a Type I action under SEQRA and that the Town Board is the only involved agency in the SEQRA process; and

WHEREAS, the Attorney to the Town has prepared a Part 1 of a Full Environmental Assessment Form to be utilized by the Town Board in conjunction with its SEQRA review process.

NOW, THEREFORE, be it

RESOLVED, that the Town Board hereby declares itself to be lead agency with regard to the SEQRA review of this local law and declares this action to be a Type I action under SEQRA and; be it further

RESOLVED, that the Town Board hereby schedules a public hearing on the adoption of Local Law No. 2 of 2018 for September 13, 2018 at 7:25 in the afternoon at the North East Town Hall; and be it further

RESOLVED, that the Town Clerk is hereby directed to post and publish notice of said public hearing in the Town's official newspaper and on the Town's website and to provide such other notice of said public hearing as may be required by law; and be it further

RESOLVED, that the Town Clerk is hereby directed to forward a copy of said Local Law to the Dutchess County Department of Planning and Development for its review pursuant to §239-m of the General Municipal Law and to the North East Planning Board for its review and comment in accordance with the Town Code.

MOTION: Councilman Midwood

SECOND: Councilman Kennan

SUPERVISOR KAYE	Voted AYE
COUNCILMAN FEDELE	Voted AYE
COUNCILMAN KENNAN	Voted AYE
COUNCILMAN MERWIN	Voted AYE
COUNCILMAN MIDWOOD	Voted AYE

The resolution was carried by a 5-0 vote of the Town Board members on August 9, 2018.

Lisa Cope,
Town Clerk, Town of North East

Town Attorney Replansky said the environmental assessment form needs to go to the county and planning board. He wants to do the environmental review after the public hearing. It is better to get the input on the law first.

Introduction of Local Law to Exceed Tax Cap and Set Public Hearing:

Clerk Cope read the resolution into the record.

**TOWN BOARD OF THE TOWN OF NORTH EAST
RESOLUTION ACCEPTING A PROPOSED LOCAL LAW TO OVERRIDE THE TAX
LEVY LIMIT FOR FISCAL YEAR 2019 PURSUANT TO GENERAL MUNICIPAL
LAW §3-c FOR COMMENCEMENT OF THE LOCAL LAW ADOPTION PROCESS**

WHEREAS, the Town Board has determined that it may be necessary for the Town of North East to exceed the limit on the amount of real property taxes that may be levied by the Town of North East pursuant to General Municipal Law §3-c for fiscal year 2019; and

BE IT FURTHER RESOLVED, the Town Attorney has prepared a proposed local law to override the tax levy limit for fiscal year 2019 pursuant to General Municipal Law §3-c, and the same has been reviewed and approved by the Town Board members.

NOW, THEREFORE, BE IT RESOLVED, that the Town Board hereby accepts the proposed local law for the year 2018 entitled “Local Law to Override the Tax Levy Limit for Fiscal Year 2019 pursuant to General Municipal Law §3-c” for commencement of the local law adoption process; and

BE IT FURTHER RESOLVED, that the Town Board hereby schedules a public hearing on said local law to be held on September 13, 2018 at the North East Town Hall, at 7:35 p.m. and that the public hearing be duly noticed by the Town Clerk as required by law.

MOTION: Councilman Merwin

SECOND: Councilman Kennan

SUPERVISOR KAYE	Voted AYE
COUNCILMAN MERWIN	Voted AYE
COUNCILMAN MIDWOOD	Voted AYE
COUNCILMAN KENNAN	Voted AYE
COUNCILMAN FEDELE	Voted AYE

This resolution was declared duly adopted on August 9, 2018

Dated:

Millerton, New York

LISA COPE
Town Clerk, Town of North East

Meeting with Counsel:

GENERAL LITIGATION MATTERS -

Attorney Replansky began review of domestic partners and to what extent they can be covered under the insurance policy. He believes we have a plan that covers domestic partners. Bookkeeper Sherman stated it would be the same for employee and spouse. Attorney Replansky said the more difficult issue is to know what qualifies as “domestic partner.” We should receive a copy of the insurance company’s definition. There is an accepted definition under the Public Health Law. Civil Service recognizes insuring domestic partners but does not mandate it. It is discretionary. In New York, both partners must have reached a minimum age of 18. Neither can be related by blood than what is permitted by marriage in that state. They must share a committed and exclusive relationship. The partners should be financial interdependent. The employer should require a document to prove that relationship which may be as simple as a written statement demonstrating all these factors. Other guidance and criteria would be to

require them to be Town of North East residents; both of you have a close and committed personal relationship, live together, and have been living together on a continuous basis; you and your partner must be able to truthfully state identical residential address on the application form; and neither you or the partner is in another domestic partnership or is registered in another domestic relationship. Councilman Midwood said we should provide benefits for town employees in domestic relationships outlining the mentioned requirements. Councilman Fedele asked the Town Attorney Replansky if we should adopt a local law. Town Attorney Replansky suggested a resolution. He is trying to get a copy of the registration form used in New York City to use the language as a guide. He hopes to put a resolution together by the next meeting. Supervisor Kaye was interested in knowing what constituted a domestic relationship and the qualifications or what substantiates a domestic partnership. Not only is the town paying for the other half of the relationship, but also for each \$2,000 deductible. The town pays that deductible or that of the employee. It is not a minor consideration. Town Attorney Replansky said the non-married domestic partnership can terminate without a divorce or formal separation period. He may add a section about the status when renewing the registration each year.

On a new topic, Town Attorney Replansky began review of the complaint against Millerton Gun Club. Our zoning regulations for rod and gun clubs, which were drafted back in 1995, were the first for gun clubs and quite extensive. If they were to be applied to a new gun club trying to establish, these problems wouldn't exist. If we enforce these, the club will argue they are a non-conforming use since they were established prior to 1995. There is law that allows regulation of non-conforming uses resulting in noise to other neighboring properties, but they are tough cases to enforce. In Rhinebeck, the town updated the comprehensive plan. One of the two gun clubs had numerous complaints. They established supplementary regulations about set-backs, hours of operations, and noise, but it applies to new gun clubs. The existing gun clubs, at the time of the law, had to conduct sound-level measurements at the property boundaries. Then they had to come to the town and work with the town to mitigate the sounds. He will provide copies of what was established in Rhinebeck. We may be able to come to terms on an amendment to our law and do something similar to what was done in Rhinebeck. The best way to deal with the issue is to have a meeting with the gun club and the neighbors to understand what the complaints are and the hours of operation and how the operation differs from 1995. It would be interesting to see if the gun club has expanded the operation in a way that is different from 1995. If this is the case, there may be a way of regulating that expansion and cut back on that expansion. If the gun club realizes the town must take some action, they could voluntarily mitigate these things, like set-backs, limiting hours of operation, limiting the type of weapons that can be used, that would be the best solution. The town can reach out to the gun club and neighbors between now and next month to see if they will be willing to have a meeting.

Councilman Kennan asked if non-conforming uses are exempt from noise laws. Town Attorney Replansky said not necessarily. We don't have a noise law. We tried to pass one but there was a big outcry and people didn't want the regulations and we backed off on that. We may need to rethink that for now. You can probably enforce some of those laws even against a non-conforming use but is a very difficult situation. He strongly urged a noise ordinance. The board could also do a site visit during operation of the gun club. It is getting harder for clubs to generate income. To generate income, they start seeking more out-of-town members and the volume of use increases. The noise ordinance may be a way of dealing with it. Councilman Midwood went on record to say he would not support a local law establishing a noise ordinance in the Town of North East. He added that he believes the Millerton Gun Club is a necessary and needed outlet for sportsman and gun owners to shoot their weapons. If you don't have a gun club in a town, the folks with guns who need to sight the gun, they will do it in their backyards and you will have a bunch of bullets going around the Town of North East. The gun club has been around for many, many years. If you purchased a home near the gun club, you shouldn't become angry that you hear gun shots. No one forced you to buy that home. Every gun that is fired at the gun club would need to be legal in the state. We have one of the strictest gun control legislations in the country. If someone is firing a legal weapon at the gun club, he can't support a noise ordinance to prevent that.

Councilman Fedele said it might be worthwhile for the gun club and the affected residents to meet and come to a "gentleman's agreement." Each can understand the problems better than anyone else. It still won't be easy to come up with a solution, but the involved parties can talk in

a civil way and maybe come up with some solutions. Supervisor Kaye said that may be difficult, especially in the beginning. It might be better to bring each in separately to understand the respective position. There have been a couple of meetings and they haven't gone extremely well.

On a new subject, Town Attorney Replansky said he spoke to Anne Saylor about the ADA accessible grant. It is more complicated than what we had anticipated. She raised some issues with him and it led him to believe we will need to have a meeting with the county, village, town, attorneys for the town and village, and the engineer. Instead of one agreement between the village and town, we may need two separate grants because of the nature of the grant. There is also another issue of the utilization of the engineering services. Part of the grant allows for engineering and normally we would think in the terms of the engineer for the town to do the project, but we can't because we are using federal funds and it will require the procurement policies of the county by using three RFPs. Ms. Saylor said we should set a meeting as soon as possible to discuss. It doesn't have to be the full boards but should also include the town and village attorneys and the town engineer. He will send an e-mail to village, village attorney, and to our engineer. We will then coordinate to get the county to meet with us. Since these are federal funds, it is more complicated than the CDBG grant. We need to do a certain amount of outreach to firms that encourage minority and women businesses as this is a requirement.

In addition, Town Attorney Replansky mentioned the grant with the village for the storage building. He said we are waiting to get written confirmation on the exact amount of funds. Once we find the total amount, we can move forward. This we can do through an IMA with the village and town. We have pretty much done this with a Memorandum of Understanding.

Supervisor Kaye wanted to clarify an issue. The last time Town Attorney Replansky was here and we went into executive session. He was asked during the comment period if he could explain some of the discussions. He made a misstatement in saying that we had gone into executive session when we went into attorney-client session. It was a mistake. The entire session was an attorney-client session.

Supervisor's Report:

BUDGET ADJUSTMENT – Supervisor Kaye said there is a budget adjustment #6 for 2018. It is in A Fund – General Town-wide. There is an expense increase of \$4,985 less an expense decrease of \$3,000 less a revenue increase of \$1,985.

MONTHLY BILLS ABSTRACT/SPECIAL ABSTRACTS –

Supervisor Kaye presented a Special Abstract, dated July 17, 2018, totaling \$7,172.16 broken down as follows:

A Fund -	\$2,589.56
DB Fund -	\$4,372.45
Payroll T&A -	\$210.15
Total -	\$7,172.16

On a motion made by Councilman Merwin, seconded by Councilman Fedele, the following was:

ADOPTED - AYES - 5 (Kaye, Merwin, Fedele, Kennan, Midwood)
NAYS - 0

RESOLVED, to approve the Special Abstract, dated July 17, 2018, totaling \$7,172.16.

Supervisor Kaye presented a Special Abstract, dated July 31, 2018, totaling \$545.50 broken down as follows:

A Fund -	\$545.50
Total -	\$545.50

On a motion made by Councilman Kennan, seconded by Councilman Merwin, the following was:

ADOPTED - AYES - 5 (Kaye, Merwin, Fedele, Kennan, Midwood)
NAYS - 0

RESOLVED, to approve the Special Abstract, dated July 31, 2018, totaling \$545.50.

Supervisor Kaye presented an Abstract, dated August 9, 2018, totaling \$64,060.48 broken down as follows:

A Fund -	\$40,118.14
B fund -	\$3,028.61
DB Fund -	\$20,913.73
Total -	\$64,060.48

On a motion made by Councilman Fedele, seconded by Councilman Midwood, the following was

ADOPTED - AYES - 5 (Kaye, Merwin, Fedele, Kennan, Midwood)
NAYS - 0

RESOLVED, to accept Abstract, dated August 9, 2018, in the amount of \$64,060.48.

Approval of Minutes from Previous Meetings:

The town board reviewed the minutes of July 25, 2018.

On a motion made by Councilman Fedele, seconded by Councilman Midwood, the following was

ADOPTED - AYES - 5 (Kaye, Merwin, Fedele, Kennan, Midwood)
NAYS - 0

RESOLVED, to accept the minutes of July 25, 2018.

The town board reviewed the minutes of June 21, 2018. Councilman Fedele and Supervisor Kaye outlined some grammatical errors.

On a motion made by Councilman Midwood, seconded by Councilman Kennan, the following was

ADOPTED - AYES - 5 (Kaye, Merwin, Fedele, Kennan, Midwood)
NAYS - 0

RESOLVED, to accept the minutes of June 21, 2018 as amended.

VOUCHER COMMITTEE FOR SEPTEMBER 2018 –

The voucher committee for September will be Councilmen Midwood and Fedele.

General Comment Period:

Jon Arnason stated he has not seen a periodic report on litigation to which the town is subject. It seems appropriate to have a report to know names of parties, actions pending, date filed, what are the actions for, if they seek damages against the town, where the litigation stands in terms of

whether the pleadings have been closed or if it is in disclosure or discovery, etc. Obviously, due to the cost of the process and cost of the outcome can affect the taxpayers. None of the information he has listed is privileged. It is an important thing for the town board to periodically advise the town about. Town Attorney Replansky stated he does give reports on litigation. They go into executive session to advise the board on pending litigation and then go to the meetings to discuss the disposition of cases. The most recent was in favor of the town. The only other legal matter is for tax certiorari but the assessor's attorney handles those matters. Mr. Arnason said the board could report on the tax certiorari matters pending. Councilman Midwood mentioned the board could report on these quarterly and give a brief review. Supervisor Kaye said there is one that was settled, but we haven't received any final disposition on it yet. We have one other that is currently pending. Mr. Arnason expressed thanks.

Chris Reagan said he has concern over the Open Meetings Law and the compliance with it. He wonders if the attorney-client meeting really fits within a town board meeting at all, if it isn't under an executive session. There is nothing within the Open Meetings Law that refers to any other way to close the meeting to the public, except through executive session. It is very specific reasons for closing it to the public. He wonders if it is kosher with the law to say the board is meeting with the attorney. Town Attorney Replansky said it is hard to understand the differences between the executive session and the attorney-client session. The attorney-client session is an exception from the Open Meeting Law. It is a privilege a board has in order meet with the attorney to get legal advice. Mr. Reagan asked if it is named in the law. Town Attorney Replansky the attorney-client session can be during a meeting by adjourning the meeting and having the attorney-client meeting and go back into the regular session. It could also be done before or after a meeting or on another day. The executive session happens during the board meeting. Town Attorney Replansky then read an excerpt by Robert Freeman, the head of the NYS Committee on Open Government. Mr. Freeman said in respect to the application of terminology, there are two vehicles that may authorize a public body to discuss public business in private. One involves entering into executive session, which is a portion of an open meeting, in which the public may be excluded and the law requires that a procedure be accomplished during an open meeting before a body may enter into executive session. Prior to conducting executive session, a motion must be made and reference to the subject or subjects to be discussed and carried by a majority vote by the board. The other vehicle for excluding the public from a meeting involves exemptions. Section 108 contains three exemptions. When an exemption applies, the Open Meetings Law does not and the requirements that would operate in respect to executive sessions are not in affect. Executive sessions can be held for particular purposes. There are no such limitations that relates to the matters that are exempt from the coverage of the Open Meetings Law. Section 108.3 exempts from the Open Meetings Law any matter made confidential by federal or state law. When an attorney-client relationship has been established, it is considered confidential under section 4503 of the Civil Practice Law; therefore if an attorney and client have established a privileged relationship such communications are exempt. The way to handle attorney-client session, opposed to the executive session, would be to adjourn carefully during a meeting, have it before or after a meeting, or have it on another day. Councilman Midwood asked if it had to be done at the meeting. We could put the executive session after the time for the public comment so the public doesn't have to wait while the board meets with the attorney. Supervisor Kaye asked if it would be better to put it prior to the meeting because there may be something in the agenda that has reference to that matter.

Mr. Reagan said he is not making his point. In the way the law is spelled out, it is determined to do one thing and that is present the public the exposure to all the decision making of the board. The reasons to go into executive session are very specific and he can't believe they come up every week. This seems counter to what the law is trying to achieve. The law is there for a reason and it is to encourage the public to see what is going on and understand what is going on. Aside from litigation, he doesn't know the need for not having it open to the public. Councilman Midwood said the town board needs to discuss litigation and we only meet once a month. This leaves only 12 months or meetings and we are not lawyers. Mr. Reagan is concerned if other business, aside from litigation, is being discussed when it should be discussed in open meetings. Town Attorney Replansky responded to say that was incorrect. The purpose of the attorney-client session is to give legal advice to the board. There are no decisions being made and no deliberations taking place. When we return from the attorney-client session, we come back to the open meeting and the issue is then debated and we make decisions. Executive sessions are

different and are prescribed and allowed to be discussed like litigation and personnel matters. The open session is at every meeting. This is where he discusses legal matters in public. There are few times when it is not on the agenda. These are the three ways we communicate. When we do an attorney-client session, it would probably be better to do it after the meeting. The executive session has to be done during the meeting.

Delora Brooks if there are three or more of the board members present, the board has a quorum. If the executive session is outside of the meeting, the board will need to convene the meeting. Town Attorney Replansky corrected the reference to attorney-client being after a meeting. The executive session will be done within the meeting.

Mary Lynn Kalogeras said the problem is not having the public wait around during the meeting while the executive session is taking place. The issue is that ever since she has been coming to the meetings, the agenda outlines executive session. Every agenda has one referenced. She has agendas from four different towns and not one references an executive session. The board goes into it and does not tell the public. By law, the board is supposed to tell us something about the executive session and it doesn't. It has nothing to do with the wait.

Councilman Midwood said most of the time it pertains to tax certiorari cases and asked Town Attorney Replansky to explain. Town Attorney Replansky stated it is a proceeding brought under article 7 of the Real Property Action and Proceedings Law by a property owner who wants to challenge their taxes as a result of not being satisfied with the grievance. They can file a tax certiorari proceeding or a small claims if it is for a residential piece of property. The issue is whether the assessment should be reduced and are complicated cases. Mr. Arnason said that the agenda is not correctly describing the sessions. Town Attorney Replansky said this could be the confusion and we need to be careful about describing when we go into executive session and that it is an executive session and not an attorney-client session. Mr. Arnason said one of the issues with the attorney-client sessions is the waiver of the attorney-client privilege. You can waive the privilege by disclosing information or communications with your attorney and that can have serious adverse impact on litigation, for example. It is highly appropriate, for matters subject to attorney-client privilege, to discuss matters in a separate session with the board. Town Attorney Replansky also added that the attorney-client session is totally private; however, the executive session will allow for others to be present, like the engineer. The clarity is important in what we are doing. He doesn't mind the attorney-client session occurring at the end of the meeting.

Bill Kish said people turned out today because they were concerned, since February, that there hasn't been a regular meeting by the town board that didn't have an executive or an attorney-client session on the agenda. This meeting had open discussions and we got to hear what transpired. The board making decisions in public is key to a more democratic board. He respects the right and need to go in executive session on specific matters, but the board has not done a good job in explaining what is being discussed. It has been vague. He asked the board to say why it is going into executive session and do it in a specific manner without compromising the confidentiality. Councilman Midwood said it might help to detail the specifics on the agenda. Town Attorney Replansky said it will depend on certain matters like quasi-litigation, which is an administrative proceeding that may involve employees, that he would not want to provide any specificity about the matter.

Mr. Kish addressed the hope for the board to take the laws seriously. Tonight, the attorney was able to converse in an open roll. The purpose of the law is for the board to do its decision making in public. He can be present and talk about the law and give ideas. If the board was following the gist of the law, the board wouldn't go into a private session with him unless it was specifically for something the rest of the public couldn't hear. He wants the board to affirm it agrees with the Open Meetings Law and its purpose.

Councilman Fedele said it is a very delicate problem and it comes down to trust. He needs the attorney-client session because he is not an attorney. Counsel gives necessary input. He agrees the attorney-client session should not be separate from the board meeting. People can say something is going on and no one knows about it. People do not trust government. We need to trust the people who are representing the town. He feels it is important for the attorney-client session for the group to be at the meeting. The discussion is legal matters and the attorney is

needed there. We individually need to make intelligent decisions based on the law. Town Attorney Replansky said there are times when he needs to give legal advice that doesn't come under the umbrella of executive session, but he can't give that advice in public. This is where there is a need for confidentiality aspect through the attorney-client session. The attorney-client session is not to conduct business or make decisions. There are certain things that can be discussed in open session that won't impair the legal rights of the town but there are times when he can't. An example would be the discussion the potential of acquiring an easement to expand a road and the board wanted to know what the laws were in regard to acquiring with regard to that particular case. He would use an attorney-client session in this matter because the discussion in public would impair our ability to enforce the easement. The town has the right to an attorney-client privilege like an individual has the right to meet with an attorney in private. He can meet with the board at any time for an attorney-client session as long as it is not deliberating or taking any action.

Mr. Kish said this meeting was a much better meeting than those in the past. It would be great for a more formal policy on how the board enters into attorney-client or executive session. He personally does not begrudge the board the right to speak privately with the attorney and have the confidentiality; however, it is an extremely powerful tool and it must be recognized. The board needs to think carefully whether it needs to do that. It seems like everything the board could discuss with the attorney could be handled in open session like today. If it fits in the Open Meetings Law for executive session, then please find the category under the law and properly handle it only when it is necessary. Use the tools very carefully and try to explain to the public, without compromising the confidentiality, as it requires the board to do that.

On a new topic, Ms. Brooks talked about the shared services for emergency services. She is concerned that if we grow bigger and require a bigger merger, will that really substantially raise the price. Councilman Midwood stated the goal of the study is to make costs less. If the cost isn't less, he wouldn't vote in favor of doing it. Ms. Brooks asked if it is going to be one ambulance for the three communities. Councilman Midwood said it has come up in the meetings to not have paramedics on every call. He doesn't agree with not having a paramedic at every call. Ms. Brooks said it is not an option for some. She is in favor of AED units in strategic places in this village. We have limited emergency services. We don't have the six minutes needed to wait for the services. We should have the units in every government building and businesses that are frequented. If the town is going to spend money through the block grant, we have to make this a priority in this village. The cost of the AED is \$1,500. Councilman Merwin said you must sign up with a provider and receive training. They can't just be put on the wall. Councilman Midwood said we could address this at the next meeting.

Councilman Kennan addressed the earlier comments. He said the greatest amount of transparency is desirable. We should be as open as humanly possible. The way we address that is by showing what we are doing. The issues we grapple with are not cosmic-they are meat and potatoes. It is important the people know what we are doing and be specific about what we are talking about going into executive session and specify the category or state it is an attorney-client meeting. Litigation is a clear example for executive session. Councilman Midwood said he needs more information about the attorney-client session.

Ms. Brooks asked about workshop meetings. Supervisor Kaye explained it is an open meeting for anyone to attend. It is usually specific to a topic and it is open to the public except it gives the board members time to talk about it without the public commenting or entering into the conversation. Supervisor Kaye said there are no workshops scheduled. They are on a need basis.

In terms of obtaining grants, Ms. Brooks asked whether one municipality would act as lead agency if two municipalities went for shared services and grants and further inquired if it was better to go jointly or separately. Supervisor Kaye stated one municipality would be lead agency and the odds are better making a joint effort for a grant. If both town and village are going for a grant, you will have a higher priority than a municipality going in singly. It is funny the way the system is. As a town and a village, we stand a better chance of getting grants that way.

Adjournment:

Town of North East
Town Board
Minutes
August 9, 2018

On a motion by Councilman Midwood, seconded by Councilman Fedele, the following was:

ADOPTED - AYES - 5 (Kaye, Merwin, Fedele, Kennan, Midwood)
NAYS - 0

RESOLVED, to adjourn the meeting at 9:30 p.m.

Respectfully submitted,

Gail J. Wheeler
Deputy Town Clerk