

TOWN BOARD MEETING OCTOBER 27, 2008 5:30 P.M.

Present: Supervisor Newlin; Council Members Edwards, Johnson & Palmer; Deputy Tn. Atty. Boniello; Eng. Lannon; Bldg. Insp. Masters; Finance Officer DiRamio; Adm./Op. Lockhart; Deputy Sup. Elgin; Police Chief Salada and Town Clerk Brandon. 9 residents & 3 press reps.

Excused: Councilman Bax & Town Atty. Leone.

The Supervisor opened the meeting at 5:50 p.m. followed by the Pledge of Allegiance and a moment of silent reflection.

RESIDENTS:

Rob Nichols of 471 Aberdeen Road. I want to compliment the Town Clerk and her staff on the excellent minutes. In reading them it is like you are here at the meeting. I appreciate the time in putting them together in such good order. To the Supervisor, I notice on the internet that we are behind on the minutes being published. We have only June and we are 3 months behind.

Brandon stated that following the approval of the minutes they are sent to the provider.

Newlin said he would contact them.

Jeffrey Cianchetti of 4369 Autumn Lane. I would like to address the Board on behalf of the Thornwood Homeowner's Assoc. regarding the proposed cut thru on the median. We know there is a safety issue and the proposed cut thru is to close to Creek Road and it would create a traffic hazard and a safety issue at that point. We take issue with that. We ask that at least the Board do some due diligence with the Highway Supt. and speak with him regarding this matter. This has been brought before the Board on at least 4 different occasions (previous Board) and it was turned down. We would just hope that this Board has made their proper due diligence regarding this matter.

Johnson said that he has been on the Board when the controversy about the island began. Mr. Palmer brought up it and I asked Mr. Reiter if he had spoken with the association and are they okay with this. It was my understanding that they did have conversation with you and that there wasn't a problem. That is why I voted for it. Did you have any conversation with Mr. Reiter?

Mr. Cianchetti said he did have conversations with Mr. Reiter and our association has never indicated that we would be willing to have a cut thru put in. I had contacted Mr. Newlin several months prior to this in regards to narrowing the curbing to facilitate traffic and this new proposal came up.

Newlin said they were lead to believe that the first scenario (cut thru) was acceptable. We will bring this up later in the meeting.

Boniello said he believed that there was a petition from the residents to put the median in many years ago. I don't believe that the median was always there.

Mr. Cianchetti said it is in the original plans for the association dated back many years ago.

AGENDA:

Newlin to add a legal matter.

Johnson: Flood plan maps/drainage. Also in executive session a personnel matter.

Edwards said he had a personnel issue on dog control and drainage in executive session.

Johnson MOVED to adopt the amended Agenda as presented. Seconded by Palmer and carried 4-0.

MINUTES:

Johnson MOVED for the approval of the minutes of 9/22/08 Town Board Meeting. Seconded by Palmer and carried 4-0.

POST AUDITS:

Palmer MOVED for approval of post audits to Home Depot \$383.20; Office Max (HSBC Business Solutions) \$478.82; Office Max (HSBC Business Solutions) \$247.47; Sam's Club \$1043.67 and Niagara Frontier Building Officials Annual Conference \$1000. Seconded by Johnson and carried 4-0.

OLD BUSINESS:

1. Janitorial Services

Edwards stated that Mr. Reiter would like his bid separately in Highway Dept. as would the Senior Center.

Johnson said that the director has wanted to put the service out to bid by itself for a couple of years.

Brandon: Individual bids were asked for each of the buildings last year at the suggestion of Atty. Leone. We have taken bids on all three buildings separately and awarded it on the basis of that for at least the last 3 years. Unfortunately sometimes the low bidder is not the individual firm that either of them would like.

Johnson said many years ago the janitorial service for this building was done by the maintenance person. Then there was a janitorial service at the Senior Center and 1 person at the Highway building. (Separate individuals) Why did we go to this company...was it cheaper that way?

Brandon: It went out to bid as separate contracts and was awarded to the individuals with the low bid. Per Mr. Leone request and suggestion.

Newlin: We do not have to move on this tonight. It seems it would be cheaper if everybody bid on the same contract.

Brandon: Before the individuals that worked for Senior Center and Highway Dept. were paid on a voucher. Mr. Leone indicated that we cannot pay individuals on a voucher and we had to have a contract. Any individual that was awarded the contract had to provide insurance...not a homeowner's insurance. Mr. Leone said that they had to provide us with insurance (business) that would cover any damages etc. That is why we have gone to bid with those provisions.

Johnson: As it stands now, we are month to month with the current person.

Brandon: Yes and he is paid for buildings that he cleans.

Johnson: We pay him under voucher even though he is under contract.

Brandon said he is paid on a voucher per Mr. Leone's instruction.

Newlin: We will revisit some of these issues prior to the budget date of Nov. 20th.

2. P.H. Grass Cutting Law:

Newlin said we have some revised language on this law and there was discussion as to whether or not we should have a lien placed on the property with respect to grass cutting. There was discussion between Mr. Masters, Mr. Virtuoso & Mr. Leone and they said they would be more comfortable instead of implying a mandatory lien against the property should there be unpaid bills, that a lien would be placed upon the property at the discretion of the Assessor and/or the Bldg. Inspector. We have language before us that reflects that change. Under 5B the language change is "or

as the assessor and/or building inspector deem appropriate, immediately file a lien against said property in the County Clerk's Office and provide a filed copy to the owner of record by regular mail and thereafter within ten (10) days of service, file an affidavit of service in the County Clerk's Office." Otherwise it is exactly how we discussed at the last meeting. There is a typo there in the first sentence under 5B, collective of ancillary ????. If this language meets everybody's satisfaction....

Boniello: Also, I would like to add 5D. "The Town Board reserves the right by resolution to increase any fines or changes herein". I always felt that a local law reserves the right of the Town Board to increase any fines or change herein by resolution of the Town Board rather than go thru the process of amending the law. I did talk to Mr. Johnson as the Assessor's office was concerned with the lien process. I advised them that I will prepare the necessary documents and procedure for them to follow henceforth. All they need to do basically is fill out the name and SBL# and then file it in the Clerk's office, insert the owner of record and file an affidavit of service within 10 days. The reason again for that is if there are dates that you need to follow and the tax rolls are closed on a certain date and if we file only beyond that date then it is not going to show up until the following year. That is one of the reasons why we reserve the right to the building inspector and/or assessor to do that process.

Newlin said if we are in agreement with this language can we consider this officially submitted before the Board. We can set a public hearing for this newly revised local law.

Palmer MOVED to hold a public hearing on the proposed Grass Cutting Law L.L. #1-2008 on November 10, 2008 at 6:00 p.m. Seconded by Johnson and carried 4-0.

NEW BUSINESS:

1. A request from the Town Clerk for support of a resolution opposing the proposed changes to the Public Health Law consolidating local registrars of vital records. This would mandate that individuals who are need of obtaining a vital record would have to travel to the County Clerk and fee would rise from \$10.00 to \$30.00 per certified copy. This would eliminate the local registrar's obligation to be able to serve the public on a shorter & faster basis. In addition, there would be a loss of between \$25,000 to \$30,000 to the Town. This also has the support of the N.C. Clerks' Assoc. and the NYS Town Clerks' Assoc.

Palmer MOVED that the Town of Lewiston support this Resolution as presented. Seconded by Edwards and carried 5-0.

NEWLIN:

Legal:

Boniello: At the 9/22/08 meeting we had Mr. H. Winters was here and talked with Mr. Reiter relative to the removal of a sewer line on his property. I thought it had taken place but it has not. Mr. Winters called today to ask why it hasn't been taken care of. I would like to bring it to the Board's attention again.

Newlin asked that Mr. Reiter be contacted on this.

Niagara Falls Dog Law:

Boniello: I believe it is a good time to update the entire dog law and Mr. Palmer is in agreement.

Palmer: Can we do this at the next work session (11/10-08)? (Yes)

Engineering:

Lannon: We can discuss the FEMA Flood Plan Law. (Under Johnson's agenda.)

Power Authority Update:

Newlin: I met with Mr. Richard Kessell the new CEO of the Authority and the Chief Operating Officer. Mr. Kessell seemed a lot more inclined to support local

communities where the Power Authority base is. Lewiston is at the top of that list. His background was with the Long Island Power Authority and he stated that the P.A. would be doing everything in its power to help support the community. We should be seeing some good things.

Under the re-licensing agreement, the Town and other Power Coalition members get 5M a year (at least) thru the sale of power. It was structured that in 2007 the Power Authority was going to sell X amount of power into the grid to raise the 5M. That X number which turned out to be 22 megawatts is fixed for the life of that contract. (All 50 years) Every year now in '08' '09 etc. the Power Authority will sell those 22 megawatts in the grid and we will either get 5M or the value of those megawatts whichever is higher. At the current time, the Power Authority insists on selling these megawatts into the preferred market or use of their preferred rates to about 2 to 3 cents a kilowatt. However, if those megawatts can be sold into the open market (NYISO) we could be deriving as much as twice the revenue from that. My urging to Mr. Kessell was if there was anyway to get the Power Authority to sell those 22 megawatts into the NYISO open market we could come close to doubling that 5M that is spread throughout Niagara Cnty. now to 10M. They both said it made logical sense to them and they would check with their legal counsel. I told them that the Power Authority has the 22 megawatts every year for 50 years no matter what. What is the harm in getting the maximum value for them? The Power Authority would look good, the local municipalities among them Lewiston would double. Right now we get \$850,000 a year so throughout the next five or six months we are going to be working on this to see if they can do that.

Secondly, I spoke with them regarding the production of cheap power and in WNY now there are times when WNY is producing more cheap power for renewable sources i.e Power Authority Hydro Plant and the wind turbines in the southern tier that cannot be used here. They have to bump these wind turbines and pay a premium to bump the power coming from the Power Authority Hydro Plant to sell it east. If we can get better transmission lines that may be able to release some of that and sell it into more higher markets getting more of that cheap power that is generated in WNY across the state and other parts of the northeast. If that is not possible, I don't see why we can't start thinking about doing something to reduce residential rates across WNY. It is a shame that power that once use to go to the large industrial plants across WNY does not stay in this area for industry. Lewiston is knocking about 25% off of residential bills in the first year of the agreement. But, if there is a lot of excess renewable power out there and it can't go to energy to commercial interests at this time, I think it should be strongly considered to leave it here in WNY and let the residents in Lewiston and outside benefit from it. I will keep the Board updated on this. The Power Authority does seem reasonable and willing to work with us on that.

Escarpment Pathway:

This is a dovetail about the agreement. The Town of Lewiston will be receiving \$510,000 a year annually for greenway and tourist projects. This Board earlier this year supported as its first project the Escarpment Pathway. Thanks to Congresswoman Louise Slaughter, the Town is going to get a 2M grant to start that path and the Town will have to come up with about \$200,000 or 10% of the grant and we can use that money that the Town did not have before from our Greenway allocation. I will ask the Board to authorize the Supervisor and his staff to pursue approval from the Greenway Commission and for funding from the Host Committee to proceed with the Escarpment Pathway.

Newlin MOVED that the Board authorize the Supervisor to pursue approval from the Greenway Commission and for funding from the Host Standing Committee to proceed with the Escarpment Pathway. Seconded by Johnson.

Johnson said we have already asked Mr. Rotella the grant writer to follow up on the grant program that we already have and at this time we don't know what the State is going to do.

On the motion, carried 4-0.

Budget Meetings:

Newlin: Due to scheduling, I have not been able to meet with the Board members. We have to have the budget hearing no later than Nov. 6, 2008. I would recommend that we set Nov. 6, 2008. There will be one change to the Supervisor's budget. I will be able to lower the proposed tax rate in the water district some and maybe before Nov. 20th we can reduce it further. We will be getting some more water receipts and we will have a clearer picture of where we are with the annual water budget.

Johnson stated that he would be out of town from Nov 5th thru Nov. 11th.

Newlin said at the public hearing we will be receiving public comment. Can we set a date now for just a regular budget meeting and go thru the budget. That can be held after we open the budget hearing. Time on the 6th could be at 7:00 p.m. Do we want to meet before or after that date? We can do budget discussion on that night as well. We do not have to schedule another budget meeting but Nov. 20th is the date we have to approve it in entirety. Let's set the budget hearing on the 6th and spend time on the budget on Nov. 10th and if needed further we can do it on Nov. 13th. We will see if we can work on it on Nov. 6 at 7:00 p.m. & the 10th. On the 10th (work session) we will. Once we get thru the water budget we will be set.

Johnson: I have been going thru the budget on salaries and I have had some department heads to look into. I have been doing some comparisons in the towns. I would appreciate if you could work around my schedule.

Newlin: We have to have the public hearing by Nov. 6th. A discussion on the date took place.

Palmer said why not have the hearing on the Nov. 3rd at 7:00 p.m.

Newlin: Monday the 3rd for the hearing at 7:00 p.m. to receive public comments and we don't have to act that night. I will try to meet with Mr. Palmer in the next week. With regards to the salaries, we have some information on salaries on the senior citizen position.

Johnson MOVED to hold a Public Hearing on the proposed 2009 preliminary budget be held on Monday, Nov. 3, 2008 at 7:00 p.m. Seconded by Edwards and carried 4-0.

Palmer said he would like to hold any other work session business off and work on the budget but we will have the public hearing on the grass cutting at 6:00 p.m. on the 10th.

Salaries:

Johnson said we did a study on salary and wages for the Town and we have not updated it. We have been factoring 3%. In 2007 based on 2006 budget we talked about the salaries for the supervisor. I would like to provide these figures with respect to the salaries of the Town Supervisor, Town Highway Supt. and the Town Clerk. Also the population figures and dollar amount of the budgets in the Towns of Lockport, Lewiston, Wheatfield, Niagara, Porter, Grand Island, Orchard Park, Elma* (*Figures on file in Town Clerk's Office).

I have done some of the other salaries from our study. With this Town the size we are now and the responsibility that a supervisor has and to be able to (not to take it away from you Mr. Newlin) to make it an opportunity for somebody to run for that position of supervisor, I think it should be more of a ¾ time type of job because there are things that the department heads need as far as help, direction or supervision. I think that we are growing at that level. When I took those numbers down and we talked about in 2007 and unfortunately because it missed the public hearing in time we were not able to deal with it then. We don't have an election year right now, so you take the per capita comparison of the supervisor's salary. I had the budget officer get me these figures. I took the comparison for the salary per citizen. In Elma it is \$5.29; Porter \$4.17; Niagara \$3.72; Orchard Park \$2.56;

Wheatfield \$2.28; Lockport \$2.10 and Lewiston \$1.54. I mentioned this for the last 3 budgets that we should get in line to be able....with the responsibilities that we have and the amount of time involved in running this...going to the Power Re-licensing meetings, the Greenway items and other things. I think it is only fair and we don't have to compete with the others but if you calculate them you should come out with an average of \$45,000 per year.

I would like the consideration of this Board of something in the line of maybe \$39,500 for the Supervisor which is well below any of the comparison towns like Grand Island and Lockport. But it seems it would be a much better salary for somebody of that nature running a budget of 13M. Also representing the Sewer Authority, Water Authority and other things. Last year there was not enough time to put it in and also have the public be able to comment on it.

Some of the other salaries do not need to be posted in the record but I am working on those to see if we are in line and maybe some stipends on departments that are being or possibly being run by other people. I was thinking \$39,500 for the Supervisor's salary and put that out in the public hearing.

Newlin: I guess you are bringing it up now because you (Town Clerk) have to advertise all of the elected official's salaries.

Brandon: You don't have to put the Town Justices and the Receiver of Taxes salaries in the notice.

Newlin: So, everybody else on that front page has to be included when you set the public hearing.

Brandon stated that once it is published you can't change (increase) the amount.

Johnson: I think it is time that we move forward. I know that it is a part time position and that is an issue in itself. There is so much time that needs to be focused on the Town of Lewiston and I think it is time to at least come into some category that is a fair number for them. It really won't affect the budget because we have enough money to cover that.

Newlin: The "A" fund is where the elected officials from the list that I read off all come out. That total budget is 2.642M which is actually down a little bit from last year. Last year that budget was set at 2.7 M so we have some savings there. It is operating at a fund balance now and if my budget goes through of \$850,000. So, we are well over The State guidelines are 10% and they recommend a \$260,000 surplus. We are at three times that. Budgetary the "A" fund is in good shape. Water is a different story but that is a budget all and in itself. Do you want to make that as a motion Mr. Johnson?

Johnson MOVED to raise the salary of the Supervisor to \$39,500. Seconded by Edwards.

Edwards: Two years ago I supported this and I support it today. It is not because of my relationship with Supervisor Newlin. Coming from a business background you reward people that take on the business that the Supervisor takes on. Our Supervisor and I have talked to other Supervisors from other towns and the responsibility should be rewarded with dual compensation. I am going to approve this for the simply reason that no matter who is sitting in the Supervisor's seat they deserve more than \$28,761 for the amount of responsibility and time put into that position.

Palmer: In all fairness I don't have a problem with an increase in salary for the position of the Supervisor and an increase in the amount of responsibility calling it three quarters or whatever you will. My problem with increasing the salary at this time is that the salary was published at a certain amount during the election cycle prior to the election. I may not object to an increase in the Supervisor's employment status in salary if it were done prior to an election. So that going into the election the Supervisor whoever it might be would know that the salary is going

to be at a certain level. I think changing the salary midstream half way thru the Supervisor's term is probably not the most responsible move that we can make as a board.

Johnson: This is for next year and he has to run.

Palmer: This is for the year 2009. If this were to be done in a responsible manner we would do it for the 2010 budget and let the Supervisor or whoever his opponent might be run for that position with the understanding that the pay would be that.

Johnson: That is a good point. But, we talked about this in 2006 & 2007 and there was a timely portion that got caught into that and that would fall into what you are trying to say. But there is an opportunity out there for 2009 for somebody to run for that position.

Palmer said last year would have been the right time to do it.

Newlin: We got into this the year before I ran. You could say that in order to attract candidates to run for this position whoever they might be they probably should have a good idea as to what their compensation would be. The problem would be that petitions have to be passed in June and the election is in November and the budget starts intermediate. So it falls in between when you have to declare for a candidate and get petitions passed and then when you are up for elections. What happened for example was early on in the 2002-2003 election people had run assuming that there were some benefits associated with the council job. They sent in their petitions and the budget process started. Then the budget process removed those benefits so the people who were running didn't have it. You face a major decision to decide whether you are going to run or not. We have all taken that on. But, I think it is fair to the candidates who have to make a decision in June 2009 or earlier than that, that in practicality they still have to get petitions in June of 2009 to know exactly what their running for. You could make an argument that the Supervisor's salary could be reduced next year after the election is close to an end. There are pluses and minuses on this.

Palmer said he did not have a problem making an adjustment in the status of the Supervisor right now for 2010. I do have a problem doing it in midterm.

Newlin: I understand that and appreciate the concern. I guess it is just a matter of are we better to do it before the election process really gets started which I would say starts in the spring of next year when petitions go out or are you better to do it after that process. That is a reason people can disagree.

Johnson: I was one of those people who got caught up in this thing. I voted for the health benefits to take it away from part time elected officials. I was in the middle of it and so I did elect to do that. I guess there is no good time to really do this except for the fact that I have for 4 years since I have been on the Board trying to either get this into a three quarter or full time position. My first Supervisor wanted to take the budget officer's job and his job and converted into one job where he would take over both positions and tried to get \$48,000. When you thought about it, it doesn't sound like a bad deal if you are going to be here full time. We don't have that option in our position right now because it is a part time position. Not to take away from you Mr. Supervisor, but it might make an alternative out there for a candidate that might be sitting in the wings saying maybe I will run for that position. Although I can't give you benefits because that is a different issue. I was one of the recipients of the cutback. Council is a little different position. The Supervisor is the fiscal officer of the Town. He has to sign the checks, he has to watch every dime that goes thru, and he has to be at every possible meeting that there is whether it is Water, the Sewer Board and all of those types of things. I think that there has got to be a time when and maybe it is not the election time...at least somebody that is going to run for the position is going to know what it is running for next year for this 2010 position.

Newlin: When I took this job, I thought it was going to be part time. I really did. I suppose it was naivety on my part. It is a 13M budget and the chief executive and the chief financial officer of an organization that has 100 employees. I had no idea how much time it was going to take with the legal issues, the engineering issues, department heads and I am working on two calendars. I have to work on the clock with the professionals (Attorneys who work nine to five) and then I work with department heads that are also on the clock nine to five. I have meetings to run to and I didn't know this power business was going to take as much of my time as it has. But, I started out thinking I could do this 20 hours per week and then work with my father in our consulting business and little by little this job has crept to 30-40-50 and I am well over 40 hours per week now. I think anybody who runs for this job has to go into that with their eyes wide open. I appreciate the sediments expressed on both sides of this issue and we will have a public hearing on it and we will hear from the public.

Boniello: Mr. Johnson, those figures that you gave us on the other Supervisors do some of them get medical coverage?

Johnson said most of them do.

Newlin said they all do.

Boniello: That runs an extra \$12,000 per year. Do you know if any of them have built in increases or any kind of an existing resolution to increase it on a yearly basis?

Johnson said he thought they were all on same budget process. I did not ask that specific question but I think most of the towns are based on a 2-2½-3% increase on a regular basis. Today, I pulled up on the site and it looked that the Grand Island was up to \$65,000. I don't know if is current as of 2008 or if that is what it is going to go to in 2009. On the web site it said \$65,195. That could be another stipend for something else that they get. I am not sure. We have been talking about doing this for quite a while. I guess there is no right time.

Boniello: Did you have on any occasion the numbers before you from any of these towns?

Johnson: No, I didn't get them.

Newlin: The ones that are similar in size are pretty close in population. We have a little bit more because we have a Police Dept. but so does Orchard Park.

Johnson: Some of them have merged the Clerk's Office and Tax Receiver together. I always use Grand Island as an example because they re pretty close in size & their population is a little less than us.

Boniello: We are a part time Supervisor but has anybody defined part time? Or by Town law or by hours?

Newlin said that has not been worked out. I don't know if I made myself clear Mr. Palmer, can you imagine if the County Legislature deciding that you having gone thru this whole process by having circulating your petitions in June and somebody running for sheriff and then.....

Palmer: This has nothing to do with it. It has to do with being Town Supervisor. We are half way thru the term. My whole point is that we shouldn't be significantly increasing pay of any elected official half way thru their term. It should happen prior to an election where other people have the opportunity to run for that office with the understanding that the pay is at a certain level. Now, if you want to change the employment status from part time to ¾ time, do at election time. Not half way thru the term.

Newlin said I take your point clearly but let's say someone was running for County Sheriff and the Legislature then as an election process (campaign season) would move the salary from \$50,000 to \$20,000. That would not be fair to the people who run either so I am saying that is always the problem that you have. Do you change the budget during the election season and after the political processes or do you do it beforehand for the people once they do get started and know the new number.

Palmer: Mr. Supervisor, obviously you have the support of the majority of the Board, so why don't you call for the vote.

Boniello: Mr. Supervisor, what you said is legal and it has been done in the past by reducing the salary effective Jan. 1st.

Newlin said that is not fair either. Mr. Palmer brings up a legitimate point. I agree 100% with that point of view but also with the other point of view is you don't want to play games in the middle of an election year because that might not be fair.

On the roll call: Edwards yes; Johnson yes; Palmer no; Newlin yes. Carried 3-1.

BAX:

In Mr. Bax's absent, Mr. Lockhart will discuss his agenda.

Unit Charges/Sewer District:

Lockhart: The unit charges were authorized in 1978 and those charges are levied to cover the debt service that would be applicable to LMSIA. The debt service is almost up and other bonding has come into play which needs to be covered possibly for the next 13 years. Councilman Bax after consulting with Atty. Leone, we have redrafted for re-authorization an extension for the re-coverage of the charges. Atty. Leone is not here to comment on it so it would be appropriate to postpone this until he is here.

Unwanted Prescription Drop Off:

Lockhart: This took place this last Saturday at Mt. St. Mary's Hospital and was the first in WNY. The Lewiston Police Dept. was greatly involved. The Environmental Commission was instrumental in getting this off of the ground. Approximately 300 pounds of unwanted medication was collected and destroyed.

Newlin said that Water Pollution Plants are not geared towards removing pharmaceuticals from water.

Disinfection Purposes:

Lockhart said we are trying an experimental chemical at no cost to the Town and we are working with FMC who manufactures the chemical used in waste water disinfection. We will be testing it for the next 6 months and one of the side benefits is the potential for its use in the pharmaceuticals that pass thru the plants. As it proves to be effective we will see what kind of reduction we realize.

EDWARDS:

Sanborn Sidewalks:

CRA informed us at the last work session that it was our responsibility to maintain the sidewalks not only in Sanborn but in the Town of Lewiston. Those sidewalks are in horrible condition. I have been trying to get a streetscape plan together with the first attempt not successful. I would like the Board's permission to proceed again in another attempt to trying to get some federal and state funding to upgrade that area of the Town. Now we have the dormitories at N.C.C.C. and I don't want to see those young people walking down the streets. There is a lot of interest in development in Sanborn and it would connect the two communities and serve it well. I think it would also fit under some of the Greenway funding if this Board would see fit to pursue it. I would like permission of this Board to have Mr. Rotella look for any kind of grant monies to replace the sidewalks, lighting and some sewers to be connected. There are some infrastructure problems there. I would like to finish that little part of Town. It has never been finished.

Palmer said he agrees 100%. It just needs the finishing touches out there.

Edwards: It is almost there and that is the next little part of our Town that is going to “pop”.

Newlin: With students living there it makes sense to find an attractive community to go to and a good streetscape.

Drainage Issue:

Mr. Herman was directed by the Highway Supt. to have us give permission to the Drainage Dept. to go on private property if it is within the stature that we have. Multiple properties are being drained is one reason we can go on private property. Another would be that our ditch needs cleaning, but whatever is within our means and have established from day one.

Edwards MOVED that Supt. S. Reiter is hereby given permission to work on the drainage issue at 1161 Saunders Settlement Road. Seconded by Palmer and carried 4-0.

Thornwood Median:

Edwards: We have approved a project at that corner in July to make access to the resident on the corner. I don't plan to micro manage; we have a professional as a Highway Supt. I think that he should make the call whereas recent concerns for safety in they are truly concerns. I stand behind his decisions whatever it might be. But, we need to make a decision and move forth on this project. Send a memo to direct the Highway Supt. to resolve any safety issues and assure the people that there is no safety issues in his opinion.

Newlin said he has to make a determination if it is safe as is.

Palmer said this issue came up because it was unsafe to have a tow truck driving thru a residential area doing 3 point turns and jeopardizing the safety of many of the children who live there. It kind of baffles me that the Association would come up with objections to try and make their community safer. I did receive a copy of the letter from the Homeowner's Association. I disagree with their presumption that there would be traffic backed up because a vehicle has to make a left hand turn into a driveway. If the island wasn't there in the first place they would have to make a left hand turn into the driveway anyway. So, where is the problem? I think it is much safer to have that resident's vehicles turning left into a driveway than having to drive thru the subdivision or making U-turns or 3 point turns. I also think by paying attention to that island will definitely add to the esthetics of the community.

Newlin: Those are all very well deserved comments. My understanding of town law is that it is up to the Highway Supt. and I think it is his determination. Do you think that Mr. Reiter agrees with what you said?

Edwards said that Mr. Reiter's main concern is that he doesn't have the full support of this Board in what decision he makes. I am making it clear that we totally support him in his professional decision on that project...

Edwards MOVED that the Town Board totally supports Highway Supt. Reiter in his decision to treat this project. Seconded by Palmer.

Palmer: This is a different motion than what we previously approved.

Edwards: We approved to fund it.

Palmer stated that we approved to fund it but now you are putting the onus on the Highway Supt., right? Either a go or a no go.

Newlin: When we approved it we were under the assumption that everybody was on the same page. It sounds like that is not the case anymore and maybe it never was. When we had that proposal I think it sounded like the Highway Supt. budget was on board.

Palmer said the amount of time we have spent on a 14' cut thru is ridiculous.

Newlin: Mr. Boniello, no matter what this Board may think the Highway Supt. makes the determination as to what the safe condition of the roadway is. We could vote that it is unsafe and change it. Mr. Reiter is well within his authority to say no it is or isn't safe.

Boniello: I agree with that. But, I thought Mr. Reiter had a plan when he presented it to the Board. I thought it was 14 or 15'.

Johnson: Reiter said it was easier to get the plows down the road and he would narrow it down. Reiter also said he had talked with the Homeowner's Assoc. and said everybody was okay with. I had calls asking if there was an engineering staff plan saying that there is nodid we get the DOT approval.

Newlin: After hearing from Mr. Cianchetti I am not crazy about the idea of a cut thru now because he thinks there is a legitimate safety concern. He also is saying other Boards have considered that and they did not like it either.

Palmer said the next motion would be to take that island right out altogether. We own it, right?

Newlin said anything in the Town highway is Mr. Reiter's call.

Palmer said so all we can do is approve the funding.

Newlin said Mr. Reiter has to decide if it is safe or not. If he says it is unsafe he has to come up with a recommendation and then we make a decision whether or not to fund it. I think this is the clearest way to do this.

Brandon: This is the motion that was approved on July 28, 2008. **Palmer MOVED that a 14' cut through the median perpendicular to homeowner's driveway at Thornwood with Highway Supt. Reiter signing off and funds to be available. Also pending reviews of the ownership by Attorney Leone and contact with the Homeowner's Assoc. Seconded by Edwards and carried 5-0.**

Newlin: In that motion it sounds like Mr. Palmer said it we have to get Mr. Reiter's signoff. Has Mr. Reiter signed off on this?

Palmer said he did not know and we should ask Mr. Reiter what he is going to do. We do not need a motion for that.

Edwards: At the end of the day he wants the support of this Board.

Palmer asked if the motion of July 28, 2008...wasn't it enough?

Edwards said for one party. But maybe not for the association.

Newlin said to ask Mr. Reiter what his plans are to us as we are going to be meeting in the next couple of weeks.

Edwards said that the blacktop plants will be closing in the last week of October. We approved the project and the funding....do the minutes reflect under the suggestion of Mr. Reiter? Somebody with some kind of authority said this was a needed project.

Johnson asked that another copy of the minutes be sent to Mr. Reiter.

Newlin said this is systematic of a problem of Town law that a recent State Commission is trying to rectify. Very nonlinear mechanism between the Town Board and the Highway Supt. and if this was a Village we would say to Mr. Reiter this is what we think you should do. Please execute it. We can't tell Mr. Reiter what to do on the roadways. That is the real problem here. Highway Superintendents more or less outside of budget matters (what we grapple with) is pretty much carte blanche to make decisions on the safety of the roads.

Palmer: If the law says it is his call, let it be.

Brandon referred to comments on the subject made on July 28, 2008 in the minutes. (See page 122)

Edwards said he would withdraw his motion.

JOHNSON:

Flood Plan Map:

Mr. Britton was trying to find out where we stand. The engineers were working with the Building Inspectors Dept. to send a letter to FEMA. The DEC met with us and talked about the flood plan. We did this in previous years for the Watts Drive area. We were able to release them from the flood plan. I don't know where it stands and Mr. Masters has done work on it. Where does it go to?

Masters: Basically, we are looking for direction from the Board. We did get a disc from FEMA to be able to overlay their information with our information. We had to do it by hand. The red on this map (shown to Board members) is the existing flood plain. The blue on the map is the new proposed flood plain. Just by doing it by hand, I would say 50 to 80 landowners would be affected. Not necessarily homeowners but landowners would be affected by the impact of the new proposed flood map. John Sharpe has been in contact with FEMA trying to get their information on our computers to make the overlays so he can tell exactly how many homeowners are affected. That is up to this Board and the Town Engineers for a professional opinion on where do we want to go. My guess on the landowners affected would be 50 to 80 or 60 to 80. Homeowners I am not 100% sure until I get that new disc.

Johnson asked what our new alternative is. They just tell us what goes on.

Newlin asked Lannon if his company had been able to make that decision as to whether or not this is reasonable or not.

Lannon: Dave Britton has spoken with them and I understand that John Sharpe was able to get the data. The data base that came with the initial submission was all mapping but just scan copies. We did not know that data that was developed. You use to generate those maps and we did have hard copies of the data. We now have that where John was able to download that off of their consultant. But a huge file that we have to look it and pick from that. The GIS data specific to Lewiston and then we can take and overlay it on the existing maps to determine which properties will be impacted by the proposed agreement. It maybe that some fall within the flood plan and maybe others that may fall out.

Masters said that 3 fell out. The red on the map is the existing flood plains, the blue is new and the green is coming out.

Newlin asked what is the time frame for the Town of Lewiston to protest and we have some hard data.

Masters said when they contact us there is a 90 day window. (We have not been contacted yet)

Lannon: No, it is still in draft form. We will have 90 days from the process ????. We were successful in Watts Drive and Swann Road. We put in the box culverts in 2001.

Newlin: So as soon as we get notified please get in touch with CRA.

Lannon said we will not wait for that. We will get a hold of what John has and we can make sense of all of that data. We can make a more strategic assessment based on the actual GIS data.

Newlin asked if because this being a very wet year does that mitigate the findings.

Lannon said this study was a long time ago. We will work with Mr. Masters.

Police Dept.
A report has been filed.

Salada commented on a new piece of radar equipment which reads the speed on a message board from ¼ miles away. Also messages can be programmed on it. The cost was \$18,000.

Badger Meters:
We meet this week with the Village and the Water Dept. with concerns about the badger meters that we have in place. We are monitoring it and I will keep you informed about what our suggestions are.

PALMER:
Nothing at this time.

Johnson MOVED to go into Executive Session for the purpose of legal/litigation and 2 personnel matters. Seconded by Newlin and carried 4-0.

Time: 7:30 p.m.

Respectfully Submitted and Transcribed by:

Carol J. Brandon
Town Clerk

Executive Session: 7:35 p.m.
Present: Supervisor Newlin; Council Members Edwards, Johnson & Palmer; Deputy Atty. Boniello* and Deputy Sup. Elgin.

Items Discussed:
1. Legal
2. Litigation
3. Personnel
No Action Taken.

Executive Session closed at 8:15 p.m.
Motion to adjourn approved at 8:15 p.m.

*Minutes taken by Deputy Atty. Boniello

