

TOWN BOARD MEETING JANUARY 25, 2010 6:00 P.M.

Present: Supervisor S. Reiter; Council Members A. Bax, M. Johnson, M. Marra & E. Palmer; Deputy Sup. G. Catlin; Town Atty. M. Dowd; Bldg. Insp. T. Masters; Rec. Dir. M. Dashineau; Adm./Op. T. Lockhart and Town Clerk C. Brandon.

Also Present: Ryan K. Smith & Paul Wzontek representing Nussbaumer & Clarke Engineers. 20 residents and 3 press reps.

Supervisor Reiter opened the meeting at 6:00 p.m. followed by the Pledge of Allegiance and a moment of silent reflection.

RESIDENTS:

Rosemary Warren of 5842 Griffin St. I would hope that the new board would continue open government. In today's article it said that you are interviewing for a new part time budget director to be paid \$32,000 to \$33,000. This is good money for part time. Get rid of the lone Democrat and let you choose any person you want. Are you taking lessons from the Niagara County Legislature? Getting rid of LCTV...taping your meetings is not the transparency either. The \$12,000 was never mentioned as a savings and it really isn't when you deprive shut-ins, seniors and people who work from being able to follow town business. Changing your meeting time from seven to six also cuts off access to government for people who work. None of this was mentioned in any campaign literature or interviews. Since we can't speak at the work sessions I come to wish you well for the last time. But, I can't really wish you well for your lack of transparency in government for the 4 weeks you have been in office some of you. I do write to Robert Freeman, Ex. Dir. of Local Government and I would like to have him follow up on what is going on in all of the local boards, commissions and agencies that operate that are not in the resident's best interest. I am disappointed so far in this action.

Dennis Dooling of 135 Main St. Youngstown. I am speaking tonight as a member of the Board of Directors of Residents of Responsible Government (ROLE). I would like to extend our heartfelt thanks to the leadership of the Town of Lewiston for their consistent efforts to block any expansion of CWM's hazardous waste landfill...the only such facility in the northeast. We are very appreciative of your efforts and commend you for joining with Niagara County in retaining special counsel Gary Abraham to ably represent our interests in this critical issue. You have consistently been behind past boards and we are confident that CWM expansion is not a partisan or political issue. It is a human one and we expect that there will not be any change from the consistent force that has been set in the past. However, we have great concerns that we wish to share with you. First, the new Town Supervisor recommended Michael Dowd as consulting attorney for the Town of Lewiston. Mr. Dowd has served for many years as town counsel for the Town of Porter. In that capacity he was actively involved in the CWM Host Community Agreement (HCA) that in affect has made Porter a partner in the expansion efforts of CWM and prevented the Town from objecting to any application for expansion of the permits. During this same period the Town of Lewiston actively opposed CWM expansion and has filed suit in the courts of NYS to prevent it. We believe that as Porter Town Counsel, Mr. Dowd cannot serve two clients with such diametrical opposed positions of this critical issue. If he is to serve as consulting attorney for Lewiston he should be prohibited from discussing issues concerning CWM that in any manner whatsoever could relate to the efforts to obtain permitting or increased hazardous waste disposal capacity or the landfill with any member of the Lewiston Town Board including the Supervisor. Second, the Supervisor recommended that Mr. Mark Gabriele, a member of the Harris Beach law firm as the other consulting attorney for the Town. Harris Beach has represented CWM and related corporations in the past including helping to develop extensive comments on the draft hazardous waste facility siting plan that supports landfill expansion. The Town of Lewiston presented comments on this draft that were again diametrically opposed to those prepared by Harris Beach. It is our opinion that as a member of the firm, Mr. Gabriele has an appeared conflict with respect to any representation he provides the Town concerning any matter that relates to CWM. If Mr. Gabriele is to serve in such a position, he should also be prohibited from discussing such matters with any member of the Board including the Supervisor. Our last serious concern is we believe that the Town should not appoint individuals with current financial interests in the operations of the CWM hazardous waste landfill to the CAC a body created by NYS law to

provide Lewiston, Porter and Niagara County governments and citizens the timely access to the information about the hazardous waste landfill and associated DEC over site. Customers, contractors and others doing business with the landfill should participate as members of the public rather than as appointed representatives of the Town to the CAC. We thank you for your attention and look forward to working with you in the important ongoing efforts to stop additional commercial hazardous waste land filling in our community.

Amy Witroyl of 4726 Lower River Road. When I heard last week that Mr. Palmer was leaving the job involving high stress and danger in dealing with criminals lives...wait does that mean that he is leaving the Town Board? But today we learned instead that Mr. Johnson ...but on a serious note I am sure that I join in the region in expressing appreciation and congratulations to Mr. Palmer for his many years of service to the Niagara Falls Police Dept. Not to diminish the danger that is taken by the Town Board with issues as well. Regarding hazardous waste issues personally everyone is aware that the decision on CWM expansion will likely be made in the next two years during the administration of the Supervisor. Therefore, I urge the Supervisor to add to his list of priorities involving the Town in prevention of additional hazardous waste landfill capacity in our region. Mr. Reiter, be please assured that I want the Town to succeed in this goal under your administration and stand ready and willing to help. While the media often covers CWM issues and typically does not explain what is and is not significant and where we go from here. The press has done a particularly poor job in my view in reporting the enormous obstacle facing CWM expansion. Obstacles which are likely insurmountable. As a result some who are not well informed with CWM can easily expand. They can't. One distraction employed by operators is to create a myth that there is nothing we can do to stop so they (stakeholders) take money and enter into an agreement. Three years ago CWM said they wanted to pay us and said they didn't need to expand but today they threaten to sue us. Several years ago, Mr. Dowd told me a new landfill at CWM was "a foregone conclusion". At the time CWM said they expected a new landfill in 2005. It is 2010 and they have yet to get the second phase. After 8 years of development CWM application has undergone many revisions. One of their challenges is to overcome DEC findings that NY does not need CWM,s business. Under law CWM has demonstrated "expansion otherwise necessary for the public interest." For this reason CWM is now telling DEC that charitable contributions help met the "public interest measure". You should know because the implications of voluntarily taking money from CWM are not as obvious to everyone. Please be assured that when I raise issues to the Board it is based on knowledge of permitting and siting process not as desire of things that don't matter as the sewer code amendment demonstrated. Sometimes little things mean a lot. Mr. Supervisor, every success to you.

Reiter: We have asked that you turn off all cell phones, pagers and electronic devises during the meeting. Thank you.

AGENDA:

Bax: With respect to the designation of the chair and vice chair of the CAC, I would like to add this.

Reiter: I would like to add the appointment of the Budget Officer and approval for the Supervisor to sign the State contracts for snow plowing.

Bax MOVED for the amended approval of the Agenda. Seconded by Palmer and carried 5-0.

MINUTES:

Palmer MOVED for the approval of the minutes of the 12/14/09 Worksession; 12/28/09 RTBM and the 12/30/09 Final Audit. Seconded by Johnson and carried 3-0-2.

Palmer MOVED for the approval of the minutes of the 1/7/10 Reorganization Mtg. and the 1/11/10 Worksession. Seconded by Bax and carried 5-0.

POST AUDITS:

Bax MOVED for the approval of the following Post Audits: Home Depot \$ 944.17; Radio Shack \$ 87.92; Sam's Club \$879.67; Niagara Gazette \$371.28 and NYS Unemployment Insurance \$1,472.21. Seconded by Johnson and carried 5-0.

OLD BUSINESS:

Appointment to Wind Energy/Tower Committee:

Reiter: We have several applications that I will distribute and if you would get back to me before the next work session with your comments and then we can appoint someone.

Christmas Holiday Schedule:

Reiter asked if Barbara Cich and Carol Brandon would come to a consensus on this...the unions go by their contract and generally we follow along their lines. A recommendation will be given at the next work session.

NEW BUSINESS:

Brandon stated that the following letter was received late Friday from Diane Roberts of 4391 Autumn Lane.

1. Members of the Board:

Since I am out town at the time of this Board meeting, and therefore unable to raise this during a two minutes statement, I ask the clerk to bring this correspondence up during the "Clerk's correspondence" portion of the January 25, 2010 regular Town Board Meeting.

I am requesting the Board address the issue of, and explain the relevant 2010 budgetary lines, under which Supt. Reiter is currently using at all hours of the day and all days of the week, a Town of Lewiston Highway Dept. truck utilized by him when he was Highway Superintendent? I am not aware of a budget line which accounted for a vehicle payment or other provision to provide a Town vehicle, or any vehicle for the Town Supervisor in 2010. Further, please explain what manner and amounts of reimbursement have been made by Mr. Reiter to the Town coffers for his personal use of this vehicle---for example, on the evening of January 4 & 5, 2010, I personally observed this Town Highway vehicle outside the Realty USA office on Center Street after the hour of 6 p.m. for an extended period of time (over 1-2 hours) and also personally observed Mr. Reiter inside the office with Mr. Dick Portale and on the second occasion with Mr. Portale and with Robert Nichols, chair of the Town Republican Committee. Neither occasion appears to fit a circumstance of Town business, let alone Town Highway business, being conducted. If reimbursement has not been made to the Town or the Highway Dept. for such personal use of this vehicle, I would ask that the Board explain why such has not occurred and what steps will be taken to make the Town coffers whole for these personal uses of a Town vehicle.

Also, I believe the Board should examine and explain whether this Town Highway truck is still being filled at the Town Highway gas pump and indicate which budget line permits such an expenditure for use by the Town Supervisor. This request would also extend to any reimbursement owed the Town by the Supervisor for use of Town gas in this vehicle while used for non-Town matters. I thank the Board for its attention and hoped for response to these inquiries.

Reiter: I am sure the Board will look into that.

2.A letter from the Town Clerk to purchase an interior wall sign of multi-colored digital print per Town of Lewiston logo from Cooper Sign Company. The wooden sign will be hung on the wall behind the dais. Total cost including mounting will be \$2,325.00.

Palmer MOVED for the purchase of a mounted wooded sign with the Town Seal from Cooper Sign Co. at a cost of \$2,325 with funds to be determined. Seconded by Marra and carried 5-0.

REITER:

Legal:

Legacy Drive Road Dedication:

Dowd: I have spoken to a number of attorneys that represent different parties involved in the transaction and there is a continuing dispute over a one acre lot. It is not a problem that is created by the Town but we are dealing with it now. I have been assured by the attorneys representing the parties involved that they are working towards a conclusion with hopes of having something worked out next week with hopes of getting the road dedicated maybe before the next board meeting. I believe that the three parties are close to an agreement where one of the parties is going to buy out the other party and if done we will be able to resolve this.

Engineering:

Reiter: I would like to introduce Ryan Smith and Paul Wzontek of Nussbaumer & Clarke Engineer, the Town's engineering firm.

Annual Fund Report:

Reiter: The annual report is provided by the Town Clerk as required by and is on file in the Clerk's office.

Budget Officer:

Reiter: I would like to ask the Board's permission and it is a Town Supervisor's appointment that I be approved for the appointment of Michael Johnson as the new Town Budget Officer. I have worked with Mike for 14 years and even though we are from different political parties, we have always worked well together. This is an important move for me and I think it will help me and the Board do well with our finances. The Town has been very blessed and very fortunate that we have received funding from several different agencies and I want to make sure that we are on top of that. One of things that I mentioned when we looked at an accountant is the complexity of the agreements with Modern and the Modern CAC pointed that out. I am also going to ask the Mike work with all of the town department heads as far as procurement. I would request that all Town Department Heads before they purchase items that they check with Mike to insure that we get the best deal possibly. The effective date will be tomorrow.

Brandon said you need a motion just for confirmation. Also, Mr. Johnson would have to resign from his current position as of midnight tonight if this is going to be an appointment effective tomorrow.

Palmer: I think this is tremendous decision on your part and I have had the opportunity of working with Mike for the last three years on the Town Board. The extent of his knowledge and his historical references to issues that we seem to revisit time and time again has been so advantageous to the Town Board. I am really going to miss you up here. I really think that you add quite a bit to the quality of the services that we provide to the citizens. It is a good thing that you are not going to far. I still think that you will continue to be an asset so we can still come and ask you questions. I want to thank you for your service and you are a good friend and good luck.

Bax: Mike and I have become good friends over the last few years and his services have been invaluable to this Town Board. His knowledge of the real estate market and everything that is going in Albany and his lobbying work certainly pays off in dividends for the Town of Lewiston. You will be missed and it has been a pleasure to sit next to you. I am sure you are going to do a great job.

Marra: Thank you for your service to the Town of Lewiston. I certainly appreciate it and you are going to continue in another capacity and I am glad we are going to have a budget director with your experience.

Palmer MOVED that Michael A. Johnson be appointed Budget Officer for the Town of Lewiston effective January 26, 2010. Seconded by Bax and carried 4-0-1.

State Snow & Ice Contract:

Reiter: This is a continuance of the State of NY and the Town Highway Dept. regarding the plowing of state roads (i.e. Route 104, River Road, Townline Road, Creek Road) and I am asking that I be authorized to sign the agreement. It is very beneficial to us.

Bax MOVED to authorize the Supervisor to sign the NYS contract for snow and ice removal. Seconded by Marra and carried 5-0.

PALMER:

Police Commission will meet this week on Jan. 27th at 2:00 p.m. with Chief Salada.

Pletcher/Creek S.D.

I have a letter from Metzger Civil Engineering regarding this subdivision. In June of 2005, the Town Board approved this project of 11 lots. The subdivision maps and other things had not been filed at that time. We are being notified that all final plat approval requirements have been met and zoning regulations and property classifications have not changed and all infrastructure is in place. Metzger will provide the Town Clerk with one of the mylar copies showing the County Clerk's recording information for our records.

Dowd: I believe the Chairman of the Planning Board and the Supervisor sign the mylar copies. Also the Town Engineer. It may have been done 3-4 years ago and we should check the mylar to see if it has been properly done.

Masters: They are here tonight if you have questions. I have the mylars in my office that have not been signed. I put this on the agenda because so much time has passed and there is a code section that says the amount of time that passes. I thought it should come before the Board for its blessing and then it can be signed.

Reiter: We should have the Attorney, the Building Inspector and the Engineer determine that we met all of the codes and have it back for the next work session.

Palmer said this subdivision is 11 lots on the west corner of Creek Road/south side of Pletcher Road. The recreation fees have been paid.

Golf Course:

Palmer: We have a site plan review for the golf course and club house (Hickory Stick golf course) which is owned by the Seneca Nation. They have submitted a site plan review for the club house and the comfort stations. On Jan. 21, 2010 the Planning Board reviewed it and recommended approval of the club house and comfort stations but attached the following conditions: 1) The club house will be sprinkled 2) Railing to be installed 3) Club house and associated paths will be handicap accessible and 4) The dumpster will be fenced.

Palmer MOVED to accept the recommendation of the Planning Board with conditions of the site plan for the club house and comfort stations at the Hickory Stick Golf Course. Seconded by Bax and carried 5-0.

Saddlewood Estates/Street Lighting:

Palmer stated he had a letter from the Saddlewood of Lewiston HOA regarding street lighting for the development off of Bronson Drive. This area was visited previously by the Board. They are requesting more lighting and higher wattage light bulbs. There is also a non functioning light at Bridle Path Lane & Carriage Lane. National Grid has not responded as of yet. Can this be referred to National Grid?

Johnson said that it had gone to the Lighting Cmte. Along with the engineers and lights were put up. If they want more wattage that would have to come thru National Grid.

Palmer asked if the Home Owners Assoc. represent all of the residents in wanting brighter lights. Reiter said that they came to my office and several of the homeowners concerns were if we could improve the wattage (brighter lights).

Palmer said he would talk with a member of the Lighting Cmte. who works for National Grid.

Bax asked if a letter from the Supervisor's office could be sent to National Grid asking for some action on this request.

Bax MOVED that a letter be sent to National Grid from the Supervisor asking that this request be addressed. Seconded by Palmer and carried 5-0.

BAX;

DOT/Jake Brakes:

We received a response from DOT with respect to the "jake brakes" signs that we had requested. We all knew that effectively these are not necessarily enforceable and that could be included in our town code/vehicle & traffic operation. I do think that it does offer the residents that are on these routes some satisfaction. I think we needed to get some authority from DOT as to where and how many signs we put up. Also, we need to talk with highway personnel that create our own signs.

Reiter: I will ask the Deputy Highway Supt. if he will allow me to help him draft a letter to DOT. Also if he would be allowed to make up some signs and place them appropriately in the Town.

Bax said until we get some information back from the Deputy Highway Supt. I would like to table this.

CWM/CAC:

We need to re-designate Mr. Gallo and Mr. DiFrancesco as members to the CAC. I understand that the charter that creates the CWM/CAC does not allow for the Town of Lewiston to select the chairman and vice chair.

Bax MOVED that Mark Gallo and Robert DiFrancesco be designated as members of the CWM/CAC for 2010. Seconded by Marra and carried 5-0.

JOHNSON:

I want to thank the Supervisor and this Board for the confidence that have in me to move to a new element of a position in the Town. I want to thank the resident of Lewiston for their support over the past 14 years. My experience in budget process and with working closely with 4 different supervisors of different party affiliations I feel that I am pretty sure that we can make Lewiston residents feel very comfortable in this different capacity. I think I can take my experience in purchasing for supplies and equipment etc. that there is an element with the Town of Lewiston. A few years ago when we were purchasing cars for the Town and even though the State bid was there and we wanted to buy on State bid we were able to purchase two cars at a lesser cost. Those are avenues that we can do to save the taxpayers money. The Supervisor has also asked me to review the contracts that we have in place. I think that my 35 years experience in the real estate business will assist me in researching the contracts etc.

I look forward to working with the Town Board and all of the department heads and with my conservative values I think we can control expenses for the future of Lewiston.

Reiter: I want to add my confidence in you. The Clerk today gave me information on annual unpaid tower fees so would you look into this for me.

Johnson: With my 14 years here, I really love Lewiston and I think with working together with the other department heads.....I am just moving from one level to another level and I will be here for any assistance that is needed on a daily basis and to work for a better Lewiston. I will formally submit my resignation to the Clerk tomorrow. I want to thank Lewiston and all those that have had the confidence in me including the Board.

MARRA:

Recreation/Parks:

The dog park is a project that the Town is working on with the Village who has set aside 1.5 acres of property at the Lewiston Plateau to build the dog park. This property was deeded to the Village about one and half years ago from the NYPA.

Marra MOVED to authorize Dir. M. Dashineau to obtain bids for fencing for the project. Seconded by Palmer.

Reiter stated that monies had been set aside for this project and in order to get bids we need to see how much it is going to cost.

Carried 5-0.

Restrooms @ Lewiston Town Park at Pletcher Road:

Marra stated that there is a need for improvements there based on the amount of use and the number of visitors who use the park.

Marra MOVED to authorize Dir. M. Dashineau to advertise for requests for proposals for cosmetic upgrades to the bathrooms at Lewiston Town Park at Pletcher Road. Seconded by Bax.

Palmer asked if this project had been budgeted.

Dashineau: It is not in my operating budget. You have lines that are specifically for recreation improvement under a capital improvement account. That is where these projects have been pulled from. It should not be a very expensive project. I do not have a rough estimate of the cost yet

Carried 5-0.

Restrooms @ Washuta Park:

The members of the Recreation and Parks Cmte. support this project. Some information has been gathered regarding modular buildings.

Dashineau said he was looking at turnkey types of buildings from several companies with different aspects. It would be hard to specify in a bid so it would be a request for proposals and then we would select what features we would want.

Johnson: We should check with the attorneys because we only lease that park.

Dowd said that lease requires that we do maintenance there along with other improvements.

Reiter said these building are modular and are movable and if for any reason we were to lose the lease at the park they can be moved.

Lewiston Fire Co. #2/Picnic Shelter:

Marra: They are asking us to inspect the picnic shelter pavilion at the park at Colonial Village Park. Mr. Masters would you look into that.

Masters said he had looked at it in November at the direction of the last Board. It is definitely in need of repairs. I will submit a summary and cost of repairs.

Reiter stated that parks at the Fire Companies are leased. Washuta Park is leased from Modern Disposal. We only own Pletcher Road Park and Kiwanis Park.

Johnson MOVED that the Board go into an Executive Session for a personnel matter. Seconded by Reiter and carried 5-0.

William Briggs asked when the Board would make a decision regarding the electrical inspector.

Reiter stated that interviews would be scheduled and it will be on the agenda at the next work session.

Bax MOVED to adjourn, seconded by Marra. Carried 5-0.

Time: 6:50 p.m.

Respectfully Submitted and Transcribed by:

Carol J. Brandon
Town Clerk

Executive Session:

Present: Supervisor S. Reiter, Councilmen A. Bax; M. Johnson; M. Marra & E. Palmer; Rec. of Taxes & Assessment J. Stephens; Adm./Op. T. Lockhart & Town Clerk C. Brandon.

Issues Discussed:

1. Personnel Issues.
2. NYS Retirement Accounting.

Motion to Exit Executive Session made by Marra, seconded by Bax and carried 5-0.

Palmer MOVED for approval of a 85 cents per hour increase for employee Rosalie Kilmer effective January 25, 2010. Seconded by Bax and carried 5-0.

Motion to adjourn, carried 5-0.

Time: 8:30 p.m.

Minutes taken by Clerk Brandon.