

September 24, 2012 Regular Town Board Meeting

6:00 P.M.

Present: Supervisor S. Reiter; Councilmen A. Bax, M. Marra, E. Palmer and R. Winkley; Dep. Sup. G. Catlin; Eng. R. Smith; Police Chief C. Salada; Bldg. Insp. T. Masters; Finance Director M. Johnson; Hwy. Supt. D. Janese; 3 Press; 15 Residents and Dep. Clerk C. Schroeder

Also Present: Dep. Hwy. Supt. K. Payne

Excused: Atty. M. Dowd; Atty. M. Davis; WPCC Ch. Operator J. Ritter

Councilman Marra led the Pledge of Allegiance followed by a moment of silent reflection.

Reiter opened the two minute statement period.

RESIDENTS STATEMENTS:

Paulette Glasgow, 836 The Circle said that since this is a public meeting, an attorney should be present. She stated this for the record.

She proceeded with the following comments: Mrs. Warren, during public comments, has asked several questions with regard to administration and governing of Town services. Several months ago, she was told by a member of this board that the board doesn't respond during public comments. Since that statement was made, I've sat here fascinated how each of you picks and choose to those comments and those individuals you wish to respond to. For example, Mr. Melville and several other residents inquired when ditches were going to be clean. The Town Board responded to these comments by informing the public that they either had to contact the Highway Dept. or they had no answer at that time and that they would get back to them. In March, a statement was made about obtaining a special use permit. A board member informed the resident he would look into the matter and get back to him. A few months ago a Hyde Park resident inquired about securing a variance. A board member responded he had spoken to the Building Inspector and then referred the matter to the Town Attorney. Residents from Kline Road came and inquired about the condition of the Kline Road Cemetery. This prompted a board member to speak on how he formally handled the issue and wanted to set up a meeting with the resident which caused another board member to respond "we should be able to do some type of temporary fix to prevent any further damage."

So, the Board does respond to the public's comments but you pick the comments you want to respond to and the residents. So, in the spirit of you not answering any of my questions, here are a few more:

Due to a recent retirement, a civil service position opened in the recreation department. How will the Town fill this position according to Civil Service Law? Has the Town posted this position within the Town according to Town policy? Will the Town seek an active eligibility list to fill this position? When will the Town inform Civil Service it wishes a test scheduled to fill this position? Why wasn't the individual filling this position appointed provisionally? Why was this individual initially paid over \$18 per hour then reduced to \$15 per hour when it was discovered they were ineligible for the \$18 per hour?

You recently awarded an \$189,000 public works contract to do paving at Joe Davis State Park. When did either the Town or the LDC publicly advertise for this work? If it wasn't advertised, why did you award a no-bid contract?

According to the Sentinel, why is the Town considering purchasing land to build a recreation/senior center when it already has a senior center -- in fact it has two. With the Supervisor advising Town department heads to forgo any discretionary spending until the end of the year, why is the Town considering spending \$50,000 to purchase land?

RESIDENTS COMMENTS

RESIDENTS
COMMENTS

When did the Town Board vote to publicly seek RFP's for a land purchase? Was the recent meeting between the Town Board, LDC and members of the BOE advertised since it was considered a public meeting? With departments being directed to not overspend their 2012 budgets, why was A7110.0100 Joe Davis Personnel overspent by \$70,000 and A7110.0400 Joe Davis Contractual overspent by \$140,000?

Since you have yet to receive the \$450,000 Greenway funding promised you and the Joe Davis LDC has no money where did the \$456,000 come from to do two SEQRA's and the paving work at Joe Davis?

Either tonight or next month, you will be asked to put over \$100,000 of unpaid water & sewer rents on the county tax bills of individuals who have deliberately not paid these rents so that they can deduct them from their income tax. With the internal audit reporting that the town is in need of revenue to offset the rising cost of government and with the possibility of an increase in our refuse tax, will the town forgo this practice and actively seek this and all outstanding revenue owed the Town; including the over \$70,000 in fee charges owed the Town for a mining operation. What is owed is a fee and not a tax. The legal definition of a fee is the compensation paid for professional or official services rendered. A tax is an assessment of property. What is owed the Town is a fee for the professional services of the Building Inspector and the building department to enforce the law in the Town of Lewiston. I would suggest you instruct your attorney to do his job and get the money.

So, thank you gentlemen. In the great spirit of you not answering my questions, here are a bunch of questions you're not going to answer tonight!

Jennifer Foucha, 5955 Miller Road said she is making a formal complaint about the 19-acres of land owned by Mascaro that is neglected and unkempt. They were issued a violation to have the area cleaned up within 72 hours. That was three months ago and no work has been done. There is ½-inch rusty wire strewn everywhere and mounds of dried concrete and garage back there. It is a safety hazard. I would love to have that cleared up. I'm tired of cleaning up land I do not own because they don't do it.

I would also like to talk about the drainage work that was started about a year or two ago by the Highway Dept. They left that work undone for whatever reason. There is a 4 to 5-ft pit left unfilled – another safety issue. I'm having all sorts of drainage issues behind my house. I would love to have it taken care of.

AGENDA:

Additions:

Bax: Executive Session re Contractual Issues (Highway)

Reiter: Grant application (Justice Court); Drainage issue (Miller Road)

Bax MOVED the agenda, as modified. Seconded by Marra and carried 5-0.

MINUTES:

Marra MOVED to approve the minutes of 8/27/2012 (RTBM) and 9/10/2012 (Worksession). Seconded by Bax and carried 5-0.

POST-AUDIT:

Palmer MOVED for approval of post-audit payments to Home Depot - \$151.84; Sam's Club - \$1,064.36; LEAF - \$455.80; MYP Networking Consulting - \$2,962.00 and Crown Trophy - \$310.00. Seconded by Marra and carried 5-0.

POST AUDITS

OLD BUSINESS: None.

CLERK'S CORRESPONDENCE:

Item No. 1: A request from the Receiver of Taxes to place the unpaid water and sewer accounts for the Town of Lewiston on the 2013 Town and County taxes. The breakdown of water and sewer is as follows:

UNPAID WATER/
SEWER

Water	\$ 102,373.80
Sewer (Master)	\$ 81,366.80
Sewer (South)	\$ 9,588.08
TOTAL	\$ 193,328.68

Winkley MOVED for approval. Seconded by Marra, for discussion.

Winkley said it is his understanding that these accounts will go on to a person's 2013 taxes but cannot be declared as a tax write-off. The Town would get the money from the County after they collect it.

Motion carried 5-0.

Item No. 2: Notification of a New Liquor License has been applied for by Los Nino de LaCasa Cardenas, LLC, 1437 Ridge Road, Lewiston.

**LIQUOR LICENSE
30-DAY WAIVER**

Reiter said the applicant is requesting a waiver the thirty (30) day advanced notice for the liquor license at the above address.

Winkley MOVED to waive the 30-Day advance notice requirement. Seconded by Palmer and carried 4-0. Sup. Reiter abstained from the vote as his Mother is the owner of said property.

**ROSEMARY
WARREN**

Item No. 3: Correspondence from Rosemary Warren, 5842 Griffin Street to be read into the record: Dear Town Board: We would like to thank the highway workers who worked hard to improve our sidewalk area. I am writing to say I will not be attending Town Board meetings in the future as my family is concerned about my driving below the hill after dark. I also don't feel I have to police the actions you take anymore. The Lord has said, "Vengeance is mine. I will repay". So, you will answer to Him, not me.

**REQUEST FROM
VILLAGE RE
DRAINAGE**

Item No. 4: The Village of Lewiston Board of Trustees has received numerous complaints from residents on N. Fourth Street regarding lawn and basement flooding at their homes. The Village Engineers in conjunction with the Department of Public Works have investigated this matter and advised us of the appropriate action to take. It was determined that the east side of N. Fourth Street from Oneida Street to Chicora Road has only surface drainage and is inadequate to handle any significant amount of rainfall. It is recommended that a 12" HDPE pipe and drainage outlets be installed to provide relief to the residents along N. 4th Street. This drainage problem not only affects the surface drainage of the area but also has an adverse effect on the inflow of rainfall in the sanitary sewer system. This will help to reduce the infiltration problems which we have been trying to alleviate in the Village.

We are requesting to use NYPA Relicensing Funds received by the Town of Lewiston to allow Supt. Meigs to install the proper drainage, and we are looking forward to your cooperative effort to allow the use of your equipment and manpower.

As fall is approaching, time is of the essence and we are requesting a speedy response to this matter. The estimated material costs for this project is \$13,700. Thank you for your consideration.

Reiter asked the Board to refrain from any action until they discuss with Village what they need in the way of manpower and equipment. We need drawings and more information then this letter.

The Clerk was directed to notify the Village of the receipt of their request and to ask for further clarification of their needs and requirements.

Item No. 5: Update from the Town Clerk on Kline Road Cemetery improvements. On September 14, Niagara Monument removed the large monument from the existing base

KLINE CEMETERY

and a new foundation was poured. The top was re-set and the grass was graded. In addition they installed two 1812 Veterans markers at the cemetery.

Reiter thanked Carol Brandon, John Sharpe and parks personnel for the job they did towards these improvements.

Supervisor Reiter:

Legal: None

Engineer:

a) Cliff Road Improvements: Eng. Smith asked for approval to advertise for bids for PRV improvements on Cliff Road.

Bax MOVED for approval. Seconded by Marra and carried 5-0.

b) Riverwalk Sidewalks:

Eng. Smith said the Town went out to bid on Sept. 13 to furnish all materials, supplies, tools and labor required for Riverwalk Sidewalk Improvements. Four bids were received. Smith recommended awarding the bid to Hy-Tech Concrete for the amount of \$27,052.90.

Marra MOVED for approval. Seconded by Palmer. for discussion.

The Finance Director asked where the funds would come from as there is not enough in the escrow account (\$21,000) to cover the project and engineering fees. Johnson recommended further discussion before going forward with the approval.

Winkley MOVED to table. Seconded by Bax and carried 5-0.

c) Police Station Backup Generator:

Eng. Smith provided an update for the generators at the Police Station. The New York State Education Dept. (NYSED) reviewed the specifications and drawings prepared by Nussbaumer & Clarke for the referenced project. The NYSED had several comments and concerns, all of which were addressed by Nussbaumer. However, the NYSED put notice out that the existing exit lights and emergency lights (if any) in the building are in non-conformance with the New State Fire Code. The NYSED states that the exit lights and emergency lights (if any) are not connected to an emergency power system and adding a standby generator to the existing power system does not create an emergency power system. Since the Police Station building is under the school district's jurisdiction, they are responsible to provide exit/emergency lights connected to a code compliant emergency power system. One way of achieving this is to replace all exit/emergency lights to backup battery operated lights. Since the school district has jurisdiction over the building it would be their responsibility. No cost would be incurred by the Town. It would be acceptable to make these corrections prior to the next building inspection.

3) Board and Commissions: Reiter said there have been a lot of absences from members to the Planning Board and Zoning Board of Appeals. The Building Inspector was asked to go thru an attendance list in the attempt to remove these members from their respective committees.

**ADVERTISE
BDS/COMMISSIONS**

Reiter asked the Town Clerk to advertise for applicants to serve on various boards, commission and committees to allow the Town Board to thoroughly review the applicants to determine if they are willing to fulfill their obligations to these boards.

Bax asked if there were any formal policies as far as attendance. He was told that three (3) consecutive absences without a doctor's excuse warrants removal.

Palmer MOVED to direct the Town Clerk's office to advertise for Boards and Commissions in October and November. Seconded by Marra and carried 5-0.

**POLICE
GENERATORS**

HALLOWEEN

4) Halloween:
Reiter MOVED to set "Trick-or-Treat" hours for October 31 from 4-7 PM. Seconded by Palmer and carried 5-0. Reiter thanked the Volunteer Firemen and Police Department for the security they provide on Halloween.

5) Worksessions: Because of the civic holidays in October and November, Reiter asked that they suspend the worksessions for these two months.
Bax MOVED for approval. Seconded by Palmer and carried 5-0.

COMMEMORATION OF 1812 BATTLE

6) Battle of Queenston-Heights: Reiter said the Town stepped forward with Greenway Funds to support the Historical reenactment and historical significance of the 200th Anniversary of the battle of Queenston-Heights on October 12-14.

PH 10/22 RE TAX CAP OVER-RIDE

7) Finance – 2% Tax Cap: The Finance Director said the Town Board needs to authorize the Town Attorney to prepare a draft of a local law implementing the override of the 2% tax cap override and to schedule a public hearing on said local law.
Palmer MOVED to authorize the attorney to draft a local law and to schedule a Public Hearing at 5:15 PM on October 22 to discuss the 2% tax cap override. Seconded by Marra and carried 5-0.
 * This hearing will be followed by a Public Hearing at 5:45 PM on the amendment to the Noise Ordinance and RTBM at 6:00 PM.

Reiter wanted to address the complaint of Jennifer Foucha, 5955 Miller Road, of the neglected land on Miller Road (Mascaro Subdivision) and drainage work left unfinished affecting her property. He asked the Building Inspector to meet with Mrs. Foucha regarding the neglected property. Reiter said he and the Highway Supt. will address the drainage issue.

Lastly, Reiter addressed the Resolution in Support of the Justice Court Assistance Program 2012 Grant Application for the town of Lewiston Justice Department. He asked the Clerk to read the Resolution before the Board:

WHEREAS, the State of New York Court System is soliciting applications from local governments under the Justice Court Assistance Program to assist local Justice Departments with needed equipment, automation, furniture, supplies and training; and

WHEREAS, the funding available under the State of New York Court System would facilitate local efforts in upgrading the Town's Justice Departments.

RESOLVED, that the Supervisor of the Town of Lewiston is hereby authorized and directed to file an application with the Justice Court Assistance Program.

Marra MOVED the foregoing resolution. Seconded by Bax.

Roll Call:

Councilman Bax:	AYE
Councilman Marra:	AYE
Councilman Palmer:	AYE
Councilman Winkley:	AYE
Supervisor Reiter:	AYE

MOTION carried 5-0.

Councilman Palmer:

Palmer read a request from the Town Planning Board to approve Don MacSwan to provide 4 hours of training to the Town of Lewiston Planning Board regarding special permits and site plan review. Dates and times to be announced. This will fulfill the requirements of the New York State Training for the year 2012. ✓

Palmer MOVED for approval. Seconded by Marra and carried 5-0.

PL. BD. TRAINING

RESOLUTION RE JUSTICE COURT GRANT APPLICATION

DELETION FROM
UMFC ROSTER

Councilman Winkley: Winkley said the following person is no longer a member of the Upper Mt. Fire Co. and said name should be deleted from the roster: Ian Tone

Winkley MOVED for approval, Seconded by Bax and carried 5-0.

Responding to a comment raised earlier by a resident, Winkley said he has no knowledge of any \$50,000 for any land anywhere. Nor have they discussed purchasing land anywhere. Reiter said it was just a request for proposals. He was unaware of any cost either. Also, there were three (3) bids for the paving at Joe Davis Park.

Also, the Town only has one Senior Center. It is in bad shape. The roof is leaking and it is undersized for their use.

Regarding a letter from the Fire Bureau, Winkley said no action needs to be taken.

Councilman Bax:

Highway: Bax said he would address Highway matters in executive session.

Councilman Marra:

On behalf of the Sanborn Business and Professional Assoc., Marra announced the Winetique Festival at the Sanborn Fire Hall on Oct. 14 from 10 to 5 PM.

The Historical Association will commemorate the Battle of Queenston-Heights on Oct 12 - 14. On Friday, 300 5th graders will go thru 12 stations of educating about life in 1812 as well as aspects of the war and how it took place. This will take place at Academy Park. In the evening, they will be a cannon bombardment of Canada with fireworks and music. The Town of Lewiston is the biggest sponsor of this event, Marra said.

Supervisor Reiter read the following announcements:

Town offices will be closed Monday, Oct. 8 in observance of Columbus Day.

Public hearing, Oct. 22 at 5:15 re 2% Tax Cap Override followed by Public Hearing on Amendment to Noise Ordinance at 5:45 PM, followed by RTBM at 6:00 PM

Public Hearing, Nov. 26 at 5:30 PM re Draft Zoning Code/Map.

Bax MOVED to adjourn into executive session to discuss contractual issues within the Highway Department. Seconded by Marra and carried 5-0. Time: 6:45 PM.

Present: S. Reiter, A. Bax, M. Marra, E. Palmer, R. Winkley, G. Carlin and D. Janese

Issues Discussed:

1. Union Contractual Negotiations.
2. Possible Bonding for Road Construction
3. Equipment purchase for Highway Department

Marra MOVED to exit executive session and re-convene the regular meeting. Seconded by Bax and carried 5-0. Time 7:05 P.M.

No action taken. * Minutes taken by Supervisor Reiter

Palmer MOVED to adjourn. Seconded by Winkley and carried 5-0. Time: 7:06 P.M.

Transcribed and
Respectfully submitted by:

Carole N. Schroeder
Deputy Town Clerk

Carole N. Schroeder