

November 10, 2014

Worksession

6:30 PM

Present: Supervisor D. Brochey; Councilmen A. Bax, Wm. Conrad & R. Winkley; Dep. Sup. S. Edwards; Eng. R. Lannon; Attorneys M. Davis & B. Seaman; Hwy. Supt. D. Janese; WPCC Ch. Oper. J. Ritter; Chief C. Salada; Code Enforcement Officer C. McAuliffe; Finance Director P. Kloosterman; 3 Press; 10 Residents and Dep. Clerk C. Schroeder

Also Present: Council-Elect B. Ceretto

The Supervisor opened the worksession, followed by the Pledge of Allegiance and moment of silent reflection in remembrance of Donald "Pete" Martin, a long-time active member of the Sanborn Fire Company who passed away recently.

AGENDA

Brochey said he had two issues for executive session – Legal and Personnel. Bax had an additional item for the WPCC.

Winkley MOVED to approve the agenda, as amended. Seconded by Conrad and carried 4-0.

Bax MOVED to appoint Beth Ceretto to fill the Town Board vacancy. Seconded by Winkley and carried 4-0.

Beth Ceretto was sworn in as Town Councilwoman by Councilman Winkley and assumed her seat on the dais. Ceretto thanked the voters who had faith in her. She is happy to serve the Town of Lewiston residents.

ABSTRACT

Winkley MOVED to approve the Regular Abstract of Claims Numbered 3213 to 3586 and recommended payment in the amount of \$525,417.93, plus a post audit of \$257,686.52. Seconded by Bax and carried 5-0.

RESIGNATION

On behalf of the Town Assessor, Brochey announced the resignation of Paul Bencal as Board of Assessment Review Member effective immediately.

Winkley MOVED to accept Mr. Bencal's resignation. Seconded by Bax and carried 5-0.

Bax MOVED to appoint Andrew Nichols as a Board of Assessment Review member thru September 30, 2019. Seconded by Winkley and carried 5-0.

CHIMNEY REPAIR – CREEK ROAD

A letter from the Building Inspector indicated that the Town Board granted approval to have the chimney taken down at 4924 Creek Road and that the cost be placed on the homeowner's taxes. Once the chimney came down it was discovered there was direct access to the house which needed to be secured. He is requesting approval of an additional \$250 to be placed on the homeowner's taxes for securing the residence.

Conrad MOVED to add the \$250 on to the homeowner's taxes for 2016. Seconded by Bax and carried 5-0.

RETIREMENT NOTIFICATION

Winkley announced the retirement of Police Justice Clerk Lisa Rizzo effective January 2, 2015.

Winkley MOVED to accept Mrs. Rizzo's retirement, with regret. Seconded by Bax and carried 5-0.

Brochey asked that the Clerk write a proclamation for Mrs. Rizzo to present at a future meeting.

STELLA NIAGARA LAND CONSERVANCY PROJECT

The Finance Director said the Land Conservancy has secured all but \$600,000 of their funding for the preserve. Nancy Smith from the Land Conservancy has asked to secure additional funds from the Town of Lewiston and Niagara County. Kloosterman recommended they come before the Town Board to update the Board as to where the project stands. Kloosterman said he would invite them to make a presentation to the Town Board at their earliest convenience.

Dep. Sup. Edwards was asked to comment. What with closing out Joseph Davis and finding out what the fund balance is in the Greenway Account, I think it is important before we go any further with projects. January would be enough time to get estimates for the rehabilitation of JDSP to satisfy the State as well as the Historical Society in Sanborn in moving the old Legion Post. I think a presentation is welcome anytime but before any decision is made, I would like to see the balance in the Greenway Account to make sure we have enough money.

HEALTH CARE

Kloosterman said at the last meeting, they briefly discussed health insurance. The main discussion point was the Flex Credits that are provided to eligible employees. Currently, eligible employees receive Flex Credits of \$550 (singles) and \$650 (families/two-person). Per discussions with the Town's health care administrator, if the Town changes the Flex Credits to HRA (Health Reimbursement Account), the money would be easier to use for employees. It would also help with drug co-pays that employees have to make. To simplify internally, we would like to change the total amount available to \$600 for all eligible employees. This would help on record keeping and streamline this benefit.

To re-cap, the proposal is to change the benefit from "flex credits" to HRA at one level which would be \$600.

Kloosterman said there are six individuals that this would affect at this point in time. We could exempt them if they want to stay where they are at. We would have to "grandfather" those six people. I don't know if there are any legal issues with that. I know when you're talking about flex monies, FSAs and HRAs, they have to be offered to everyone. You can't discriminate. We want to simplify the program across the board for all Town employees except there are six individuals that use some of that money to pay towards their 20% they have to pay toward their health insurance. Those six individuals would not get HRA but the Town would give them an allocation to pay down the premium. To make this change across the board, to streamline the process, we would have to make a change in the employee handbook.

Bax said if these individuals are to be grandfathered, we would have to give them the option once, not year-to-year. They would opt either in or out to be covered under the new HRA terms.

Attorney Seaman said he would get in contact with the Finance Officer about the change to the employee handbook, Section 808. After finalizing the wording he would email the board members for their approval and the insurance company can then be contacted as to the board's decision. The Board can then follow-up and make the amendment to the employee handbook at the next meeting. In the meantime, the Personnel Director can begin the enrollment process.

ON-LINE BILL PAY

Kloosterman noted that the Clerk's office enrolled in taking credit cards thru Gov-pay not too long ago. It has been working out pretty well for them. The next progressive step would be to allow for on-line bill pay for taxes and water. This is something the Jr. Accountant and the Town Clerk have been working on. Hopefully down the road we will be able to accept a lot more payments thru the website. Any fees associated with such transactions would be assessed to the consumer, not the Town of Lewiston.

MUCKLAND PUMPS

Kloosterman said he has an invoice from the Highway Supt. for repair of the Muckland Pumps. Reading back thru the minutes, Kloosterman said there has been a lot of discussion but it was never determine what account the money was coming from or getting authorization to pay the bill.

Bax MOVED to authorize payment in the amount of \$25,800 to Moley Magnetics for repair of the Muckland pumps from Capital Account H-97. Seconded by Winkley and carried 5-0.

NYPA AGREEMENT

Brochey said that Atty. Seaman has been working with WPCC Operator Jeff Ritter on getting rid of the methane gas at the Treatment Plant and possibly generating some money. He asked Mr. Ritter to comment. Ritter said the NY Power Authority was originally involved in a combined heat and power project in 2001 using Micro Turbines to use the sewer gas generated by the digesters to put electricity back into the grid relieving the Town of some of its electrical costs. Now, the Turbines no longer work so we're looking for some kind of grant or monies for a combined heat and power grant. The Power Authority seems to be very amiable in working with us. This is the first step in signing this agreement. We are also having Bernie Rotella help us work on a grant for this as well.

Attorney Seaman looked over the agreement and was asked to comment on his findings. Seaman said NYPA has a program they call their Energy Efficiency Services Program. They come out and go thru the municipality and other entities and find ways to help them to improve their efficiency to help save money. NYPA gets involved in doing the actual bidding for these projects. They take the lead in getting it done. They do it with the customer (in our case the Town of Lewiston). In the end, the Town has to pay back NYPA for everything that is done. There is a statute that allows NYPA to carry on this program. It is something the Town could certainly do. If you enter into the contract with NYPA, they will come out and start to do their assessments. If you get far into the project and don't complete it, the Town may end up having to pay NYPA back for the cost of what they've put into it. I don't know how much that would be. It would depend on the project.

Winkley MOVED to authorize the Supervisor to enter the Energy Efficiency Services Program Agreement with NYPA. Seconded by Bax and carried 5-0.

SANBORN ELECTRONIC SIGN

Winkley MOVED the following Resolution requesting additional funds from the Greenway Standing Committee to complete the Sanborn Electronic Sign Project at a cost not to exceed \$25,000.

WHEREAS, the Town Board desires to acquire the funds to complete the Town of Lewiston, Sanborn Electronic Sign Project; and

WHEREAS, the Town Board desires to provide this type of amenity to residents at the lowest possible cost to the Town and town taxpayers; and

WHEREAS, the Town Board desires to apply for financial assistance from the Niagara River Greenway; and

WHEREAS, the Town Board commits to providing the required local matching funds to insure the timely implementation of the proposed project.

NOW, THEREFORE, BE IT RESOLVED, that the Town Board authorizes and submits an application for the Niagara River Greenway funds for the Sanborn Electronic Sign Project in the amount not exceeding \$25,000.00, and

BE IT FURTHER RESOLVED that the Town Board authorizes the Supervisors to sign all documents and agreements related to the Niagara River Greenway Program application.

RESOLVED, that Dennis J. Brochey, as Supervisor of the Town of Lewiston, is hereby authorized and directed to file an application for funds from the Niagara River Greenway, and

execute a project agreement for such financial assistance to the Town of Lewiston for the proposed Sanborn Electronic Sign Project.

Seconded by Bax and carried 5-0.

SUMP PUMP, DANA DRIVE

The Supervisor said this was a matter pertaining to the sale of a home on Dana Drive. The owner Dan Kilmer said he was against the requirement that he had to put a sump pump in for final inspection before closing on the house.

Kilmer said the house was constructed in 1954 and had never had a sump pump hole. The lower floor is only 4-ft. into the ground.

WPCC Operator Jeff Ritter said the laws changed in 2004 requiring a sump pump. This is acting in a DEC unfunded mandate in changing the Town Code to try and stop I & I issues that every sewage treatment plant has to deal with. It has to do with illegal connections, sump pumps that drain people's houses that are pumped into the sanitary sewer. Ritter said they only get to go inside someone's house during a house sale. IF the house is illegally connected and someone lives there for 20-30 years, there is no way the Town can put a stop to any of the legal connections or extra inflow and infiltration that comes from these houses. When we get a chance to go into a house during an inspection for a house sale, we follow the Town Code. The Town Code is as such: Any home inspected and found not to have made provision for the drainage discharge from foundation drains, floor drains or other surface runoff of groundwater from a building must install a sump pump, unless the elevation is such that this drainage can run by gravity to a drainage ditch or storm sewer. Ritter said no one in that neighborhood is of an elevation that it would drain any place else except around the neighborhood. I understand that maybe water has not come into the house. The Building Code may say that you need a smoke detector but you really don't need a fire in your house first to realize that you have one. I'm just going by the Town Code the same way we have made everyone in that neighborhood go by the Town Code when they sell their house. If we decide to make a precedent here, we'll have a lot of explaining to do when it comes down to going to other houses in this neighborhood to follow the Town Code.

Winkley: I understand what he is saying. His house is only 40-ft into the ground. Is it a basement?

Kilmer: The family room is on that level. If in fact there was ever a water problem, I would have lost the family room, rugs, furniture, etc. If the Town can prove that I'm infiltrating the sewer system then this would be a different issue. There is nothing pumping into the sewer system that is not sewer. I understand when the Town first went there the grinder pump failed. This is a divorce issue. My ex-wife had a friend put in a sump pump or grinder pump in and he left the lid off. When the Town went there originally, they thought it was a sump pump hole pumping directly into the sewer system which in fact is illegally because you're pumping storm water into the sewer system. When they went back out there, I told them to flush the toilet in the downstairs bathroom. The water runs right down into this hole that facilitates the downstairs bathroom. There is a grinder pump. There will be a new concrete lid put back on it and it will be pumped in the sewer system which is what it is supposed to do. Since 1954, this home has not had a sump pump. The law allows if the house has the elevation that has been naturally draining since 1954, I would say it's the Town responsibility to prove that the house doesn't drain, not mine. The house has drained since 1954. On top of it, the recommendation from Dave Harvey is to dig a hole in the concrete, put a sump pump hole in it and plumb it all the way out to the curb. It is a useless waste of my money and it is senseless to require a taxpayer to put a sump pump hole and pipe it out so we meet code. I presented this to a civil engineer. He said this would actually cause more problems than benefit because you are opening up your house to ground water. It doesn't make sense to do what the sewer department is asking for. Number One, it is a drainage issue. For the house to pass sale, it's a sewer inspection, not a drainage inspection. What I'm looking at right now, if this house doesn't close on Friday, I lose the sale. Then we're talking litigation. I will have to bring suit because I can't afford...

Conrad said he did not think it is necessary putting a sump pump in there. I don't think it's fair. I would never advise...

Ritter: A letter is going to have to go with that house forever. The next homeowner who sells that house should not have to put a sump pump in. In 2004, the laws changed where every existing home needs a sump pump with the exception of someone on the Escarpment and they can prove that the water runs off the back. We only do it for a few houses and they are right on the side of the hill.

Kilmer: I'm 300-ft from the hill.

Ritter: I don't see how the burden is on the Town. It's in the Town Code.

Eng. Lannon was asked to comment. Lannon said under rare circumstances house don't have to have a sump pump. Mine happens to be one of them. There has been occasions in the past that if it can be proved that the house would drain by gravity, and it daylights to a ditch, and I can only think of one in my experience that allows not to have a sump pump installed. This, I'm a little less familiar with. I'm not fully aware of the Town Code from them. But I do know that Jeff (Ritter) is correct that it is prohibited to discharge any extraneous flows to a sanitary sewer system. Is there a foundation drain that goes to the sanitary sewer now?

Ritter: It is a dirt floor.

Kilmer: It is not a dirt floor. It is a sloppy concrete floor. There's concrete everywhere. The thing is, it's a sloppy pour underneath the crawlspace.

Lannon: I would need to look at it a little more closely to take a look at it.

Kilmer: How is the Town liable, if it doesn't have a sump pump and the house floods to the roof, you're not liable for not having a sump pump?

Brochey: If it's in the Code Book right now that it should be there then obviously, we would be liable.

Kilmer: How are you liable? If the power is out during a storm, are you going to require generators for every house to run their sump pump? Your sump pump is not going to work in a storm.

Ritter: That's the homeowner's responsibility. IF you wanted to live in that house and let it flood, that's your business but since you are selling it, we have to bring it up to Town Code for the next person that is going to own it.

Kilmer: I can't see how the Town can prove that it is not a functional house at it stands.

Conrad: There are other things that are not going to up to code. When a home is built, it built to the current code. A home that was built in 1954 is to code if it's built to the standard at the time it is built.

Ritter: Yes. When a home was built in the 1800's you have to get it to code to sell it in the year 2000. You have to bring it up to modern standards.

Ceretto: What would be the easiest way to fix Mr. Kilmer's house to sell it Friday? What is the least expensive, easiest way for him to sell the house?

Ritter: Tell him he doesn't need a sump pump.

Ceretto: We have rules. We have laws. Other than that, what is the easiest way to get his house ready for sale?

Ritter: You have to somehow change in some way shape or form find it out that he does not need a sump pump and write a letter from the Town Board signed by the Supervisor that this house doesn't need a sump pump.

Ceretto: That puts us in a liability spot.

Ritter: Let me just say when his next door neighbor comes for the same thing we will have to do the same thing because we set a precedence. If that neighbor does it, you might as well erase it from the Town Code.

Ceretto: I understand that part but what can he do between now and Friday to get his house ready?

Ritter: I don't know. The answer is that he follow the Town Code and has a plumber go out there and take care of it.

Kilmer: I would say I'm following the Town Code. The house naturally drains since 1954. As your code says, if the property naturally drains by elevation... I'm sleeving the grinder pump and having it naturally installed tomorrow. That will be fixed. That is the inspection Mr. Ritter has to determine is either legal or not legal. In order for this to sell I would have to have the sewer signed-off. Then if you want to argue on the sump pump issue... You leave me with no other choice but to put litigation on the Town. If I lose the sale, the house will sit empty. I will not put a sump pump hole in a house that does nothing. I would actually be more inclined if you told me to dig around my entire house and spend \$25,000 and tile it and do it right but to tell me to put a useless hole in concrete and put a sump pump in it is irresponsible of the Town. It's asking a homeowner to spend \$7,500 to accomplish nothing.

Ritter: Gentlemen, I try to do the job to the best of my ability so I'm going to leave it to the Board for whatever happens. I'm going to follow the Town Code unless you tell me differently.

Bax: Has there been any talk with the purchaser about him accepting the responsibility to install it.

Kilmer: No. He's really aggravated at this point. I found out a week and a half ago that this was a problem... Can you ask one of your attorneys how the Town would be liable if a private residence flooded that didn't have a sump pump with a post-sale of 2004?

Atty. Seaman: I don't like to speculate on a house that might be liable for something someday.

Kilmer: I don't think the Town is put in a liable situation. If a house floods, it is part of the homeowner's insurance. It's a private sector issue.

Brochey: Do you think you could talk to the buyer and have some sort of agreement between the two of you saying they are responsible if something should ever happen?

Kilmer: My problem right now is their bank wants to see clearance on this issue. Their bank will not loan them their money until this issue is resolved. The sump pump -- if they get a letter from the Town saying it is grandfathered in, they are fine with that. I'm fixing the grinder pump issue tomorrow morning. He is concerned over the pit being kind of old and concrete. I'm sleeving it with a fiberglass sleeve with a screw in lid because it's a sewer issue. It's a brand new \$480 grinder pump in there. It's going to be right with a check valve.

Ritter: He needs to convert the hole he has there into a sump pump that drains to a storm line. He needs to talk to a plumber about that.

The Deputy Supervisor asked to comment at this time: I've been a plumber for 35 years. I appreciate what Mr. Ritter is talking about. I feel whoever wrote this code in 2004, whether it was the Engineer or Town Board, it's sadly written. I totally agree

with what Mr. Kilmer is saying. You don't put a sealed crock in the ground in a pump with no means of transfer water into the crock and think that pump is ever going to do anything. It is my professional advice that this code needs to be re-worked with perimeter drainage to the sump crock so you can drain that property properly. Our code has fault and Mr. Ritter has to uphold this code but this code, in my opinion, has fault. You need to make a decision tonight to re-visit this code, number one; and take care of this problem, number two. Our Town is right, Mr. Ritter is right and so is Mr. Kilmer...

Ritter: I just want you to understand that this is nothing against Mr. Kilmer. This is a requirement throughout the Town that 90% of the people comply with. IF we open this door it's going to cause trouble. It's also something that is required by the DEC. If we change the Town Code that is one thing...

Edwards: I don't see any landowner in this Town has to suffer the consequence of the dis-connect in our Code. I don't think taxpayers should be held accountable for a Code that was written incorrectly. I think the Code should be re-visited, never to be amended again.

Ritter: How do we help Mr. Kilmer with his house sale?

Kilmer: I believe the code covers me for how it actually drains. It's been naturally draining since 1954. There is no liability for the Town. That is why we buy homeowner's insurance.

Bax: If we execute an agreement could Mr. Kilmer execute a hold-harmless agreement or maybe have the purchaser execute a hold-harmless agreement in exchange for a letter that says it drains naturally with the anticipation that we going to change the Town Code. Have both parties sign off that they agree that the Town of Lewiston is going to sign a letter acknowledging gravity drainage. The new owner would hold the Town harmless for any consequences of not following the current Town Code. We would then re-visit the Town Code and any sale thereafter and any subsequent owner of the house would have to follow the new re-vision in the Town Code.

The Engineer spoke at this time: Part of what the Code is meant to address is the discharge of extraneous flow into the sanitary sewer. That is what the spirit of the code is attempting to address. As I read this code and it may need some tweaking, it is designed to prevent that from happening. No person shall make any connection of roof downspouts, sump pumps, exterior foundation drains, etc. and connect it to the sanitary sewer. Second part, any home inspected and found not to have made provision for the drainage discharge from foundation drains, etc., etc. must install a sump pump. If there is no foundation drain then there is nothing to drain into the sump pump. Many years ago, back in the 40s, 50s and 60s there were many homes in WNY that were constructed, as was standard construction at the time, that foundation drains simply drained to the sanitary sewer. That is what the code is attempting to address. If there is no foundation drain, it is not going to the sanitary sewer. I would ask that if we can come to an understanding and there is proof there is no foundation drain from your sump pump you are complying. You are not directing that foundation drain to the sanitary sewer. That is what we have to avoid. If there is no foundation drain I would feel comfortable that there is no need for a sump pump.

If we can conclusively state that the reason there is no sump pump necessary in Mr. Kilmer's case because there is no foundation drain draining to it. That is a reason to give to whomever comes in next. If there is none of that in this particular case, that is justification not to allow a sump pump.

Winkley: What we need from Mr. Kilmer now is a letter saying that there is no foundation drainage. The Sewer Department would inspect the home to confirm the same. We will then have to address the code so we don't face this situation again.

SANBORN AREA HISTORICAL SOCIETY – WAIVER OF FEES
Winkley MOVED to waive the Building Permit Fees for Permit #22004 (Windmill) and #22005 (Gazebo) for the Sanborn Area Historical Society. Seconded by Conrad and carried 5-0.

CELL TOWER FEES

Bax said they have talked about modifying cell tower application and renewal fees for some time. Based on recent discussions with cell tower and collocation owners regarding refusal to pay annual fees, and the need for continual oversight and communication between the Town and these owners, the Building Department believes it is necessary that tower and collocation application fees be increased, while renewal fees for collocations should be decreased. Tower annual renewal fees would stay the same at \$1,000 per year, while collocation annual renewal fees will drop to \$200 per year. The Building Department recommends that application fees be raised to \$10,000; as costs have increased over the years and space for additional towers is dwindling. The new fee will help cover reviews by the Planning Board, Wind Tower Committee, Engineers and the Departments of building, Zoning, Water, Highway and Sewer. Tower renewal fees should remain the same to cover the time and expenses of the Building Department and Wind Tower Committee who will review, track and oversee proper maintenance of the facilities in keeping with the Town Code. There will be annual inspections to occur when the tower permit is up for renewal, and proper emergency contracts should be maintained between the Town and tower/collation owners throughout the year.

The Code Enforcement Officer said this was sent to the Tower Committee but they have not responded to it.

Bax directed the Clerk's office to forward this to the Tower Committee again and have them convene and respond back to this. Atty. Davis said he would be available to attend the Tower Committee meeting to answer any questions they may have.

DRAFT STANDARD DETAILS & SPECIFICATIONS

The Engineer said he has prepared a DRAFT of the Town of Lewiston Standard Details and Specifications for the Construction of Public Improvements. He has asked the following departments -- Building Inspector, WWTP Operator, Highway Supt. and Water Crew Chief to review and submit comment, correction or changes to the Clerk's office by November 13, 2014.

STREET LIGHTING

The Engineer said there are three requests for street lighting:

- 1) **Legacy Drive @ Creek Road:** Install one standard street light on an existing pole at that intersection. The annual charge is estimate at &103.81.

Winkley MOVED to authorize National Grid to install a streetlight at the intersection of Creek Road @ Legacy Drive, as proposed. Seconded by Bax and carried 5-0.

- 2) **Legacy Drive @ Northridge:** The Engineer said there are three options that National Grid offered. The least expensive is to install a 100 watt high pressure sodium lamp and Traditional post top luminaire on a 16' black direct embedded fiberglass pole and direct-buried cable at an annual charge of \$276.72.

Bax MOVED to authorize National Grid to install a streetlight at the intersection of Creek Road @ Legacy Drive, as proposed, at an annual charge of \$276.72. Seconded by Winkley and carried 5-0.

3. **Big Vista @ Little Vista:** Again, the Engineer proposed three options with the least expensive being an annual charge of \$276.72.

Winkley MOVED to authorize National Grid to install one 100 watt high pressure sodium lamp and Traditional post top luminaire on a 16' black direct embedded

fiberglass pole and direct-buried cable on Big Vista @ Little Vista, at an annual charge of \$276.72. Seconded by Bax and carried 5-0.

LEWISTON POLICE CONTRACT

Attorney Seaman said they are looking at a change in the Collective Bargaining Agreement that has different health care provisions. That should be looked at before it is approved.

Winkley MOVED to table until the next meeting for review by the Town Attorneys. Seconded by Bax and carried 5-0.

PERSONNEL

The Water Department would like to keep Brett Hurtgam part-time until the end of the year. The Teamsters Union was approached and they responded "that as long as no member is affected" and "not to make a habit of this procedure" it would be ok.

Bax MOVED to authorize the Town Supervisor to execute the Teamsters Local Union #264 Agreement dated November 2014 to the extension of Brett Hurtgam's seasonal status on a one time basis until December 31, 2014. Seconded by Conrad and carried 5-0.

WPCC

Jeff Ritter has indicated an interest in possessing the old Senior Van for the WPCC after a new one is purchased.

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

Also, the Tri-Community will be required to develop a Capacity Management, Operation and Maintenance (CMOM) plan for cleaning and videoing sewer lines to locate cracks or broken pipes and sources of infiltration.

Niagara County has funding available to purchase a camera on a lease to own basis and the camera would be best served if it had a permanent vehicle to be mounted in that has enough room to accommodate the camera but associated CMOM accessories.

Bax MOVED to authorize the WPCC to go out to bid for a camera as part of the CMOM plan. Seconded by Winkley and carried 5-0.

CHRISTMAS HOLIDAY

Brochey referred to a request from the majority of Town Hall and Senior Center employees to change the scheduled Christmas Holiday from 12/24 and 12/25 (Wednesday and Thursday) to 12/25 and 12/26 (Thursday and Friday).

Winkley MOVED approval to change the Christmas Holiday to 12/25 and 12/26 with a signed MOU from any contractual obligation. Seconded by Bax and carried 5-0.

2015 BUDGET

The Finance Director said no changes have been made to the Preliminary Budget since the Public Hearing. He said he has a few open items which need to be voted upon:

- 1) 1.5% raise for all non-union employees.
- 2) Entry to restore HART to last year's amount.
- 3) Two entries for the Highway Department.
- 4) Finding money to restore the attorney's line item to the 2014 amount.

Bax said he has been spending a lot of time with Mr. Janese and the Town Board going back and forth and being patient while explaining why the other side is incorrect in their numbers. I'm very reluctant to underfund the Highway Dept. They provide certain services that are imperative to public safety. The one unknown is what kind of winter we are going to have. My thought would be to try and fund the department without putting us into any jeopardy while allowing for some flexibility. We talked about transferring some money from the paving budget to Highway Personnel budget in order

to accommodate for some of the overtime that may be necessary over the year. Again, that is going to impact on the paving budget. My understanding is there is a 284 Agreement that also needs to be drafted from the Highway Dept. in order to provide what streets are going to be paved but that doesn't have to be in at budget time. Also, we have in the past funded paving with NYPA monies that have come in.

Bax said he would like to transfer monies from the paving budget to personnel.

Bax MOVED to transfer \$50,000 from Permanent Improvements (Paving Funds) DB0-51120400-000 to General Repairs Personal DB0-5110-0100-0000. Seconded by Winkley and carried 5-0.

Winkley MOVED to restore HART to last year's amount. Seconded by Conrad and carried 5-0.

Winkley MOVED to implement a 1.5% raise for all non-union employees. Seconded by Conrad and carried 5-0.

Winkley MOVED to restore the Attorney's line item to the 2014 amount with monies from Capital Acct. H-97. Seconded by Bax and carried 5-0.

ADOPTION OF BUDGET

Winkley MOVED to accept the 2015 Budget. Seconded by Ceretto and carried 5-0.

EXECUTIVE SESSION

Bax MOVED to enter into Executive Session pertain regarding a matter concerning employment of a particular individual with action anticipated. Seconded by Conrad and carried 5-0. Time 9:16 p.m.

*Executive Session:

Present: Brochey, Bax, Ceretto, Conrad, Winkley, Edwards, Seaman, Davis, Kloosterman, Salada and Lannon

Issues Discussed:

1. Matter concerning the employment of a particular person.
2. Upper Mountain Tower Issue

Bax MOVED to exit Executive Session and reconvene worksession. Seconded by Winkley and carried 5-0.

Action Taken:

Bax MOVED to authorize Lipps, Mathias, Wexler & Friedman, LLP to commence litigation against County of Niagara. Seconded by Winkley and carried 5-0.

Bax MOVED to adjourn. Seconded by Winkley and carried 5-0. Time: 9:35 p.m.

*Minutes taken by Attorney Seaman

Transcribed and
Respectfully submitted by:

Carole N. Schroeder
Deputy Town Clerk