

Present: Sup. Newlin; Council Members Edwards, Johnson & Palmer; Town Atty. Leone; Deputy Town Atty. Boniello; Eng. Lannon; Adm./Op. Lockhart; Deputy Sup. Elgin; Budget Officer DiRamio; Bldg. Inspector Skurski & Town Clerk Brandon. 3 press reps and 5 residents.

Absent: Councilman Bax.

Supervisor Newlin called the Work Session to order at 7:10 p.m. Councilman Bax is not with us due to an illness.

AGENDA:

Johnson asked to comment about a meeting with residents about Riverwalk when a lighting issue is discussed.

Edwards MOVED to accept the agenda as presented. Seconded by Palmer and carried 4-0.

LEWISTON LIBRARY:

Mr. Ron Shaw our Lewiston Library Director is with us tonight and will give us an overview of the annual report of 2006.

Ron Shaw: I have copies of the 2006 Annual Report for the Board and residents. (Copy on file) Some of the highlights are that for the last third of the year, circulation statistics increased 25%. The statistics are listed on the first page. The collection size dropped due to us conducting a massive inventory and we discarded approximately 4000 books that had not been circulated in at least 5-7 years.

Newlin asked about what happens to a piece of literature that is considered a classic but has not been checked out in several years.

Shaw: We given that special consideration and there is a criteria that we follow. Basically, the numbers speak for themselves. Another issue is that we have changed the library hours with now being open on Wednesday & Thursday mornings at 10 a.m. A clerk recently retired and we split the hours into 2 part time clerks which allowed more hours. We learned that NYS has approved our grant for our roof and they will be picking up 50% of the cost. Is it possible, in the spring if we could get some mulch & top soil (from the Town) as I am trying to get an Eagle Boy Scout project which will clean up the front of the library. We received a donation for genealogy material and hope to open a room for the National Library Week.

Newlin: I would like to commend you taking the action of when someone retires full time and replace with part time positions. It saves the Town in the future with retirement and health care benefits.

Palmer: The internet access that is offered to the public is registration required?

Shaw. Yes, with a library card and out of town people we take their license info. It is a circulation statistic. We instituted a computer use policy three months ago.

Edwards: We will be taking care of the mulch and the removal of over grown shrubs with the assistance of the Highway Dept. as soon as weather permits.

Johnson said the report was great and it is nice that you keep us updated along with the grant program. We promised we would help you and we will continue to work with you on the future of the Lewiston library.

HICKORY STICK GOLF CLUB/Preliminary Plat

Newlin: We had the Planning Board review this and then the Board held a public hearing on Feb. 1st. We are going to move forward with the approval of the Preliminary Plat.

Lannon: The preliminary site plan is under review in our office with respect to infrastructure and final time connection to water and sewer lines etc. Drainage is going to be much improved off of Creek Road. I have spoken with Ian Shavitz who is addressing the public comments that we received as well as comments that were submitted in writing. It is working its way through the process.

Newlin asked if he had any issues with the contingencies that were laid out in the letter from the Planning Board.

Lannon: Issues ... no. I believe that some of those will be issues that will be addressed by virtue of the applicant receiving the Army Corp of Engineers permit. They just received federal wetlands jurisdiction issued either today or last week. So, those conditionsI have no problem with and I am sure that they will all be met by one person or another.

Johnson MOVED for approval of the Planning Board recommendation of the preliminary plat with the following contingencies:

1. **Must meet all the Environmental criteria.**
2. **Settle the issue with DOT or the State Parks regarding ownership of the ditch.**
3. **Ingress and egress on all roads and drainage must meet the criteria of the Town Engineer.**
4. **Maintain the Shell Bark Hickory Trees.**
5. **Meet all the requirements of the Fire Inspector's letters dated 10/17/06 and 1/18/07.**

Seconded by Palmer and carried 4-0.

ABSTRACT:

Johnson MOVED to approve the regular Abstract of claims numbered 109 to 470 and recommend payment in the amount of \$318,475.17. Seconded by Edwards and carried 4-0.

POST AUDITS:

Johnson MOVED for approval of the Post Audits in the amount of \$116,659.42. Seconded by Edwards and carried 4-0.

ASSOCIATION OF TOWNS RESOLUTIONS:

Newlin: I have discussed these with member of the Board and I think we will take the approach that we empower our delegate (Palmer) and the alternate delegate (Edwards) and instead of us voting on it, based that each of us had various questions, we could empower our delegate or alternate to vote their consciences after the debate or discussion.

Johnson MOVED to allow our delegate and/or the alternate delegate to vote as they see fit on the proposed resolutions. Seconded by Edwards.

Johnson stated that you may often say okay we approve but until you get into the debate we may want to support someone else efforts.

Newlin said there are different views from communities with small population to the larger ones.

On the Motion, carried 4-0.

DRAINAGE: 4939 Hillview Court.

Lannon: I spoke with the homeowner who has been ill and Mr. Reiter and I will visit the site when she is better. We will report back if possible at the Board Meeting on 2/26.

MULTI-MODAL PROGRAM RESOLUTION:

Lannon: Several months ago, the Town received a multi-modal agreement with the grant program administered by NYS DOT. The procedure is that there needs to be an agreement entered into between the Town and the DOT. The \$50,000 was to be used for the Sanborn sidewalk project. This is a procedural step. The agreement that the DOT needs is a Town Board resolution authorizing the supervisor to sign and then get it back to DOT.

Newlin asked if the Engineer could work with the Attorneys to address the language for the resolution and bring it back for the Board meeting on 2/26/07.

WPCC: R.O.W. 4661 River Road:*

Edwards said he had spoke with Mr. Lockhart regarding this situation and it will be fixed weather permitting.

Newlin asked that Mr. Lockhart draft a letter stating that we are looking forward to a resolution on this matter.

Johnson asked that the Board be notified when it is completed.

RIVERWALK LIGHTING:

Lannon: There was a site visit with Mr. Britton and members of the Homeowners Association, the developer and Kim Johnson of National Grid. We are awaiting the costs estimates to be submitted to our office from Ms. Johnson. It was determined where the association would like 4 street lights. There are already street lights there which could accommodate one of the lights with a rotating arm.

Edwards: This does not pertain to Riverwalk lighting but to our parking lot. There was an accident in the parking lot today and we lost one of our light standards near the entrance off of Model City Road. M & M Electric Co. responded to the emergency and a police and insurance report was filed. Mr. Lannon, I understand that our lights for the parking lot are on order.

Lannon stated that they are in the delivery stages.

Edwards: The electrician stated that these lights are dated and they cannot be matched. I would like to match it with one of the newer lights if possible. Would this involve a change order?

Lannon said that the contract to provide new lights for the parking lot had a \$1000 contingency item that is unexpended so depending on what the price of the light, we could either use that or if it is over \$1000 we could issue an additional change order to the contractor to provide that additional light. I can take steps to see how much it would cost and report back at the Board meeting.

RECYCLING BINS:

Newlin: The Clerk has asked for approval to order 500 recycling bins including freight for a total of \$3575. We currently charge \$6.00 for additional bins, but the new cost works out to \$7.15 apiece.

Edwards stated that \$7.15 seems sufficient for additional bins. If a resident bring in a damaged or worn out bin, we replace it for free.

Edwards MOVED that a fee of \$7.15 for each additional recycling bin be collected. Seconded by Johnson and carried 4-0.

Edwards MOVED to permit the Clerk to order 500 recycling bins for a cost of \$3000 plus \$575.00 shipping with funds to come from SM7140.0400. Seconded by Newlin and carried 4-0.

TOWN HALL SIGN:

Lannon: On February 8th we received bids from Cooper Sign Co. Inc. & S.C. Toth Inc. (\$28,000) and the low bidder was Cooper Sign who bid \$27,698.00. You have a letter of recommendation to award the contract.

Johnson MOVED to award the Town Hall Sign Contract to Cooper Sign Co. Inc. in the amount of \$27,698.00 with funds to come from Town Hall Renovation Capital Account. Seconded by Palmer and carried 4-0.

Lannon said the contract should be awarded and executed within 10 days and there is an 8 week lead time on the sign.

4661 Lo. River Road*

Boniello: There is a R.O.W. there to get to a Town piece of property.

Lockhart: Also, a R.O.W. for sanitary sewer and the green space that the Town crews maintain. The site is land locked with the exception of the R.O.W. and in the past the Town has maintained the driveway by filling the pot holes on the stone driveway due to normal winter wear. Generally, the cost is about \$50.00 for the stone.

Newlin: We want to make sure that it is okay with the owner and although Mr. Henderson wrote the letter, I think we need to know the relationship between the owner and Mr. Henderson.

Boniello said that Mr. Henderson has been referred as being the caretaker. I will get the answers to this and report back to the Board.

Palmer asked why we own land lock property.

Johnson said that in the future development that we will not have green spaces that we can not get to.

Lockhart concurred that we have a sanitary sewer easement there.

RIVERWALK S.D. RESIDENTS CONCERNS:

Johnson: We met with the residents that had concerns about the ongoing tree issues and Mr. Britton gave us a quote with respect to the trees. Reps from Ryan Homes indicated that they thought they could be planted in the spring of 2007 but there are some drainage issues that we need to discuss with Ryan Homes and the developer. Mr. Britton is supposed to send the info to Mr. Rush of Ryan Homes. We need to sit down with the builder and the developer and either put some money in escrow for these things. If this can be worked out the residents would be happy.

Edwards: This is the 4th time we have been talking about the screening trees. The residents have been very tolerant and patience. I appreciate Mr. Britton's help with the concerns and obtaining the prices. I would like this Board to consider holding some type of money in escrow or a performance bond. I don't know who to hold the money on....the developer...Ryan Homes. Who is responsible for this?

Lannon: Mr. Britton and I have discussed this and the discussion centers around the submission of a letter of credit in a certain amount to cover the 20 trees that will have an expiration date on it. That expiration date would be sometime the spring of 2007. Either Ryan Homes puts them in or the Town can with a letter of credit and pays for them to be put in by either Beau Enterprises or Faery's Nursery.

Boniello said it was a condition of approval of the subdivision. This was the owner of the property to sell this to Ryan Homes and at the time that Ryan Homes builds a house and then take title and sell it to the owner so the subdivision was approved subject to the developer completing them. We should make some arrangement at the time the CO is issued or hold them in escrow. The condition of approving this whole subdivision ...we are talking about these trees.

Johnson stated that this was just one of the conditions. There was a drainage plan for one of the residents and the trees were a part of that. We did do that when we talked about the sidewalks and there was an escrow set aside. The developer has said he would do it in the spring of 2007 but we want to make sure the money is there.....I think we need to sit down with Ryan Homes and say this is our final move and we want an escrow etc.

Palmer asked why we need a meeting.

Johnson said because it has been delayed and the residents were looking for a compromise on a bigger size tree which is what we approved. I think we need some conversation to see if they will take a bigger tree.

Lannon said either a 6' tree or an 8' tree and there is a difference of \$2000 or \$2500.

Edwards said the residents preferred 8' trees based that it has been 2 years since they were going to get the trees and have lost 2 growing seasons.

Newlin asked the attorneys if we can change the stipulations of the 6' trees that they did not live up to and could we change it to 8'.

Boniello: We should hold them to the agreement and the stipulation needs the consent of both parties. When are they going to do it?

Newlin said we don't issue CO's until they live up to those standards.

Johnson said they did not get a model permit.

Edwards said so there are not building permits being issued until this issue is resolved. Is that correct?

Boniello stated I don't think that is correct.

Skurski confirmed that no permit for a model home has been issued only.

Edwards MOVED that no building permits be issued for Riverwalk until the matter is resolved to the resident's satisfaction. (There was no second to the motion.)

Palmer said that it is not the fault of an individual who is having a house built. It is the developers fault.

Johnson suggested that the Supervisor have a conversation with the rep from Ryan Homes and inform him of how the Board feels and would he consider doing that. Also ask if Mr. Britton's response is okay and that we would want something in writing through our attorneys i.e. a letter of credit or an escrow.

Lannon said we would need an expiration date on that letter of credit.

Palmer: Why not have them front the money and we will take care of the trees?

Lannon: If they agreed to do that, it would be one way to do it. It does take them out of the picture....to get the trees in but they were supposed be put in the spring of '05' '06 and now '07. A letter of credit with no expiration is.....

Palmer: I think with the money, just have them pay for the costs upfront and be done with it.

Lannon said if they would agree to it and the Town Board would be acceptance of that they would have to either agree to put the trees in themselves or furnish the funds.

Edwards: If the developer did it, he has a warranty on it.

Palmer: I am not suggesting that the Town put in the trees; I am suggesting the Town contract to do it.

Edwards asked if the Town would still be holding the bag when these trees die.

Lannon: You could probably get a 1-year warranty providing there are no ice storms or vandalism or damage.

Johnson why don't we make a motion that we allow Engineers Lannon and Britton along with Bldg. Insp. Skurski and the Town Attorneys arrive at a compromise based on the issues of the meeting with the residents. We definitely want a "drop dead" date for this and then negotiate on our behalf and report to the Supervisor so a decision can be made.

Johnson MOVED to authorize the Town Engineers and Town Attorneys to meet with the developer Ryan Homes to negotiate a date when the 8' trees will be planted.

Boniello stated that some individuals own lots over there and are we going to deny them a building permit. (The answer was no.)

Johnson said that we should make a phone call tomorrow and get a response and then get back to the Supervisor.

Newlin said if we do not get a resolution he will call an emergency meeting.

Seconded by Palmer and carried 4-0.

Lannon said it would be in the spring weather permitting.

FEE SCHEDULE/BUILDING PERMITS

Newlin said that during the budget process last year we discussed renewing and getting a more real fee schedule together. It has not been changed for 10-20-30 years. Mr. Edwards has been working with Mr. Skurski to develop a modern approach that these fees reflects the real cost that the Town picks up for new housing, fees and permits.

Edwards: Thanks to Mr. Skurski for the fee schedule.

Skurski: We surveyed the surrounding Towns and we use them in the model to come up the fee schedule.

Edwards said he thinks it is a fair schedule. It is not going to deter any development and not going to stop anybody from building a deck, fence etc.

Johnson commented that we need to be in line and this will try to cover some of our costs. The comparison with the other towns of the same size puts us in the middle. We are neither the high side nor the low side.

Newlin said our responsibility is to see that our residents are not subsidizing new residents that move in. The new residents should be self sufficient in terms of their costs that they impose upon the Town. Personnel and clerk costs have risen and these fees would help cover this.

Boniello said you are amending the local law. Also, is the rate the same for a \$150,000 home or a \$400,000 one?

Skurski: Porter does it the same but the Town of Niagara does it by square footage.

Edwards said that they did discuss the difference between the two houses and Mr. Skurski will go to the site 3 times irregardless. So, the burden would have been the same.

Newlin wondered if the doubling of the permit fees for those who fail to obtain a permit first is sufficient, i.e. in ground swimming pool \$50.00.

Palmer said do we need to change the law because we are changing the fees or because the way we are charging the fees.

Newlin said the fees are enumerated in the law.

Palmer said it is probably not a good practice.

Newlin: I think it happens all over the place.

Boniello said that can be done by local law that indicates when it is approved initially, that the fees can be modified from time to time by the Town Board by resolution.

Newlin said it could be put in at the reorganization meeting that the Town could change these as they see fit.

Palmer asked if we couldn't change the law to say that.

Boniello: We can do a local law to cover all local laws by means that a hearing could be modified by resolution of the Town Board.

Newlin said we need to first draft a local law.

Boniello said we should do 2 local laws. Specifically, changing this local law and a new local law saying that everything that is covered in our code as far as fees or permit costs can be changed by resolution of the Town Board.

Newlin asked if this can be done at the next Board meeting or should we wait until the work session. We could set the public hearing tonightone month ...the first Board meeting in March and then you could submit the formalized proposed changes to the 2 laws at the next Board meeting.

Edwards asked if we will be able to have this complete by April 1st. I think it is fair to anybody who is contemplating building a house or is in the process...

Newlin asked if you want to set a public hearing date of March 12th at 6:00 or 6:30 p.m.

Boniello said you can make the effective date any date you want.

Edwards said he just wanted to make sure there was enough time for this fee schedule to be in effect as of April 1st.

Newlin said we could combine the two laws into one hearing.

Edwards MOVED to hold a public hearing on March 12, 2007 on the two new local laws regarding 1) an amendment to the existing law regarding fees and 2) gives the Town Board the authority to amend fees from time to time at it's discretion on March 12, 2007. (No Second)

Leone said that the 2 drafts will be ready by the Feb. 26, 2007 meeting.

Newlin said we can set the public hearing on Feb. 26th. We should have the draft in front of us before we set the public hearing.

Palmer MOVED to adjourn the meeting seconded by Johnson and carried 4-0.

Time: 8:05 p.m.

Respectfully submitted and transcribed by:

Carol J. Brandon
Town Clerk