

Present: Supervisor F. Newlin, Council Member J. Ceretto, M. Johnson, D. Kilmer and J. Langlois; Dpty. Sup. E. Elgin; Dpty. Tn. Atty. D. Boniello; Adm./Op. T. Lockhart; Engineer D. Britton; Bldg./Zoning Officer R. Coulter; Finance Officer E. Evert; Police Chief R. Winkley; Parks/Rec. Director M. Dashineau. Highway Supt. S. Reiter\* and Town Clerk C. Brandon. 20 Residents and 3 Press.

\* 8.p.m.

The Supervisor opened the regular meeting, followed by the Pledge of Allegiance and a moment of silent reflection followed.

The Supervisor asked if any resident wished to speak.

**RESIDENTS:**

Paulette Glasgow of 836 The Circle. Since 1996, the Town of Lewiston has refused to make public a letter that proved my innocence with regard to a computer incident. Since this 8-year refusal, my family and I have had to endure consistent libelous attacks. The most recent one by town employees while publicly being paid over a two-day period using the Towns' water and tax fax machine to send libelous articles to a local newspaper. Should anyone question the nature and intent within those articles of libel, I suggest they speak to the lawyers working for the NYS Press Association because on reading these articles they recommended that they not be printed for fear of legal action. In his 9/16/96 letter to the Town, former Town Attorney Edward Jesella exonerates Paulette Glasgow for any wrong doing with regards to a 1996 computer incident. Jesella informs the Town that it had acted improperly in handling the Glasgow matter and then even with the most liberal of interpretations Glasgow violated or broke the law. I have waited 8 years for the Town to make this letter public for this libelous attack to stop. I have waited four months for you to address my concerns as to an elected officials involvement in the sending of these libelous attacks while using public equipment that is being paid by the public. I waited at the Dec. 22<sup>nd</sup> work session for the Towns' attorney to present reference to the Jesella letter as the reason this matter was closed. I have waited for 2 months for the Towns' legal department to answer my Jan. 2<sup>nd</sup> and 23<sup>rd</sup> letters with regards to my Nov. 17<sup>th</sup> letter about the elected officials involvement. I have waited since Oct. 21<sup>st</sup> to the Towns' Democratic chair to apologize for falsely indicated that I appeared before the Ethics Board, when I did not. I have waited since Oct. 21<sup>st</sup> for the managing editor of a newspaper to return my phone call after they printed the inaccurate editorial and misleading its' residents into believing that they would correct any inaccuracies that they found.

To all those who believe I have no patience, I believe that I have demonstrated just how patient I can be. Why is it when questionable behavior is displayed or discovered no one ever takes responsibility for it or apologizes for their behavior? Earlier this month I sat in the back of this room at a work session and heard you talking about establishing good customer relations with a constituent. Is this what you call good customer relations? My husband is a very successful businessman and when he started his business in 1989 he established a policy. That policy included that when either he or his employees had poor customer relations they took responsibility for it. If my husband treated his customers the way you have treated me he would have been out business a long time ago. Since it is apparent that the Town refuses to take the responsibility of their action 8 years ago and make the Jesella letter present, I have just done it. Since it is apparent that the Town has no intention of addressing my Nov. 17<sup>th</sup> concern about the inappropriate use of public equipment by an elected official, not a switchboard operator, it has no right to investigate or reprehend another with what might be a seemingly similar act and you have demonstrated to your constituents that you do not want to establish good customer relations. To the newspapers tonight, you can print my remarks or not. That is your constitutional rights. It is a shame that in pursuit of wanting to sell

more newspapers or incorrectly thinking that you have caught an elected official in a “gotcha”, no one paused just for a moment to check to see if what you were reporting or editorializing might be violating some one else’s constitutional rights. You would understand what you have done...that is what Tom Sharpe said to me in 1996 when he falsely accused me. For all those through their reckless, malicious, inappropriate and silent behavior, you don’t understand what you have caused the Glasgow family in 8 years by your irresponsible behavior. Thank you and good night.

Amy Witryol of 4726 Lower River Road. I would like to comment on the greatest problem that is facing our community. The operation of the CWM landfill on a former Manhattan project site where remaining radioactive contamination has spread. We all read about the uproar in Porter last week and we in Lewiston are equally concerned. I hope the Town will support the N.C.H.D., which has asked where old documentation offered by both CWM and NYDEC really is proof that CWM operations are safe for this community. I would like to request that this critical issue be an agenda item for your next work session so that I may have the opportunity to discuss more specific concerns with you. I want to pose the issue with the following questions. Do we want the largest toxic waste dump in the U.S. a mile from our schools? The answer is obviously no. However, the solution to the problem is not so obvious. It will take each and every one of us pulling together to persuade the Governor that CWM should never be permitted to expand because it is just too great a risk to our health, especially where our schools are concerned. There are many other reasons why the CWM operation is bad for our region, but again the simple question is do we want the largest toxic waste dump in the U.S. a mile from our schools and as well of 20% of the worlds’ fresh water supply. Please keep in mind that the Hudson River PCB’s may not be as dangerous as the type of PCB’s that CWM is already dumping here. Today, PCB’s are already the largest component of toxic waste destined for CWM from 30 states and from other countries. These dangerous trucks roll through all of Erie and Niagara Counties buried a mile from our schools pretending to save us from the Hudson River PCB’s while letting CWM take them from everywhere else will be only a shell game and not a solution to our real problems here. I want to thank this Town council for unanimously opposing the DEC draft-siting plan. I also thank you for encouraging all of Lewiston to attend the DEC public hearing at Lew-Port H.S. on Tuesday, March 16<sup>th</sup> at 6 p.m., so that they may speak their mind on whether we should bear the unreasonable burden of CWM where there is simply no proof we are safe. Showing up on March 16<sup>th</sup> is also a very important way to ask the Governor to help us. I brought with me some ribbons for you to tie around your mailboxes until March 16<sup>th</sup>. These or any kind of ribbons tied to our mailboxes will help send the message that we don’t want to be the countries’ toxic waste dump anymore and certainly not a mile from all of the schools in Porter and Lewiston. Trucks carrying deadly materials to CWM, which back up on our 190-exit ramp, is not my vision of Lewiston. Nor, do I believe it is the vision of most Lewiston residents. Instead, please let our vision of Lewiston be one where cars carry people to shop, visit a farmers market, go to a restaurant or the theater, play golf, go fishing or just safely return home from work to the people and the place that they love.

George Briggs of 5740 Garlow Road. I am here to express my feelings regarding the sewer construction. There is culvert pipe all over, along with mountains of dirt and debris. The contractor recently dumped stone on the corner of Saunders Sett. Road and Kline Rd. and cut off one whole lane going into Kline Road. You cannot see to the east because of the construction vehicle obstructing my view with one-half of the road barricaded off and there is no flagman present. It appears that they only do something when this Town Board takes action by directing the engineer to do so. We are now paying \$2.09 per \$1000 for the sewers to go in. We are having a change work order for this construction company to continue this dilemma that we have up there and I asking that the Town send the engineer up there and correct the situation. We could have had our town crews doing this work for less. We are now paying twice as much to this construction company. The residents are unhappy about this.

Regarding the mosquito problem, I understand that what has been proposed is to put out briquettes. We have so much land that needs to be taken care of by another method and I am asking that the Board address this issue.

George Forman of 4744 Lower River Rd. I would like to join in with the people who have talked this evening and especially on the problem of PCB's and CWM. I am a rail fan and an amateur on PCB's. I have studied electric railroading in some detail. At one time all the GG-1 big electrics were cooled by this substance, PCB's. When they were replaced they had to be scraped and no one wanted them. This is when we learned of the danger of PCB's. We are finding out that we are receiving PCB's from all of the country and the Hudson River. They are very dangerous. Very difficult to properly dispose of if at all. They catch on fire, they leak, get into the air and affect the environment. I think the Board is very smart to insist that we get some health answers on what to do. We cannot have any more of this stuff in our very delicate areas here with our weather and with problems with leaking waste management leach beds etc. What will happen if it gets into the water or air? We are dealing with very dangerous substances. Let's be very careful. We don't want any of this stuff period, let alone more. Treat this stuff very carefully. It is a disaster for our community.

Keith Fox of 1114 Ridge Road. I am a member of the Environmental Comm. for the Town. Chairman Allen could not be here and he asked that I come and remind the council that we already are on record as very strongly opposing the CWM expansion.

Ron Reed of 4418 Autumn Lane. The disposal of this waste in Lewiston is a direct violation of RECRA. NYS is in total breakage of the federal law. What RECRA operates under is to not create a waste. Second, if you must create a waste, then you demobilize the waste and then you destroy the waste. The last potential resolution is to bury it. NY has always chosen the last resources first. I am questioning whether the Town should not consider the opportunity of suing the State of NY and remove their authorization as RECRA representative under DEC. I think you might get an opportunity to get your say made on much stronger level (federal) than you would at the local and state level. I don't think that the Health Dept. or the DEC is going to listen to you. PCB's are the most refractory chemical short of dioxin that there is. You are not going to destroy it here locally. We have made that decision that we are not going to allow incinerators. It can be done right on the Hudson River and it has been done successfully in other parts of the country. We should force the State to look to destroying the chemicals. Not move it here and bury it.

Dan Barufaldi of 4720 Lower River Road. What we should protect our Town's people from is that I don't think any of us any longer have confidence in the information coming from the DEC or the EPA. My suggestion is that you get a qualified, uninterested third party to work for us before we are in trouble not only from a liability standpoint but a health standpoint.

Barbara Stafford of 4561 Lower River Road. On the CWM issue, I have become increasingly alarmed and shocked to discover the NYS DEC really isn't conserving our environment and is giving carte blanche to CWM to continue to import waste from all of this county and outside. I appreciate that this Town Board has gone on record of opposing the expansion of CWM. I think more needs to be done. I don't know what kind of pressure you as a governmental body can put on the State but I think they need to know that it is not just a Town of Porter issue but a whole regional issue that we really don't want the waste here at all. We certainly don't want an expansion of the waste site that we already have.

Marie Wright of 4980 Creek Road Ext. The trucks come down Creek Rd. and we have been told many times that they are not suppose to convoy, but they do. At 5 a.m. they start. 3 to 4 trucks at a time. They do not abide by the 40 mph speed limit. They are noisy and leave an odor when they go by. It is only going to produce more trucks and why should we as individuals have to recycle our garbage when they bring in PCB's? I am against the expansion.

AGENDA:

Ceretto asked that under Old Business, extending summer employment to be placed on his agenda. Also, that the CWM issue be placed on the work session agenda.

Kilmer asked that to strike the word “public hearing” regarding Riverwalk. I will be discussing Riverwalk on my agenda.

Langlois: We need to talk about the golf course contract and the extension of payments in order to get the DEIS done.

Ceretto indicated that it would be on his agenda.

Newlin: I believe that the discussion leads to a contractual matter and should be discussed in an executive session.

**MOTION by Kilmer and seconded by Johnson for approval of the agenda with additions. Carried 5-0.**

MINUTES:

**Kilmer MOVED for approval of the minutes of 1-22-04 Special Meeting. Seconded by Langlois and carried 5-0.**

**Johnson MOVED for approval of the minutes of 1-26-04 RTBM. Seconded by Kilmer and carried 5-0.**

**Kilmer MOVED for approval of the minutes of 2-9-04 Jt. T/V Police Mtg. Seconded by Ceretto. Carried 4-0-1. (Johnson)**

ABSTRACT:

**Langlois MOVED to approve the Abstract of Claims Nos. 261 – 620 and recommend payment in the amount of \$1,137,669.66 plus a Post Audit of \$75,815.66. Seconded by Johnson and carried 5-0.**

OLD BUSINESS:

Amendment to Ethic Code: Public Hearing was for the purpose of amending the membership from three to five.

**Langlois MOVED for approval of the amendment to the Ethics Code. Seconded by Kilmer and carried 5-0.**

**Kilmer MOVED for the appointment of Suzanne DiFlorio-Olds and Alphonse Bax to the Board of Ethics. Seconded by Johnson and carried 5-0.**

NEW BUSINESS:

Item #1: A letter from the Town Clerk to the Board.

I am asking at this time for permission to update the current computer that is used by my clerk, Donna Garfinkel. Donna assists John Sharpe, our Assistant Engineer with computer engineering matters and it has been determined that her computer is not capable of inputting or retrieving documents that are consistent with John’s new programs. Attached please find a proposal from Universal Computing Solutions Inc. that would address the problems that we are currently facing. Total cost is \$719.00. Funds to come from A1620.200 Town Hall Equipment.

**Langlois MOVED for approval of this request. Seconded by Johnson.**

Newlin: I have discussed this with Deputy Sup. Elgin who has informed the Engineering Dept. and the Town Clerk that it is his opinion it maybe cheaper for the Town to update the existing computer.

Elgin: Our discussions were that the computers were malfunctioning on a continuous basis which may not be directly an issue of the hardware but it is most

likely an operating system issue. I think we should investigate the reloading operating system of that machine and then upgrade it from there and it should operate on a much better basis. It would at half the cost to do this.

**Kilmer MOVED to TABLE this matter until the March 8, 2004 Work Session. Seconded by Johnson and carried 5-0.**

KILMER:

Item #1: GLPBA: Calendar of Events has been distributed.

Item #2: Riverwalk. We had a motion on the floor to approval a final plat approval of Riverwalk several months ago. It was contingent upon the Zoning Bd. of Appeals giving their blessing. That did not happen. At this time, I need to rescind that prerequisite before they would get their final plat approval because they have modified their application and they have applied under a new law. The Counsel had advised me to remove that stipulation from that original motion.

Langlois: A motion to rescind the approval?

**Kilmer MOVED to rescind the requirement for passing the Zoning Board of Appeals.**

Newlin: Is that stipulation included in the new proposal that was submitted to the Planning Board this month?

Kilmer: The new one doesn't need any variances so it will not go to the Zoning Board.

Johnson: I think that the attorney feels that seeing that our approval had a contingency on it that it would be approved by the Zoning Board of Appeals, the Zoning Board didn't approve it so therefore we would rescind the motion that was for that approval at that point. Correct?

Kilmer: Yes.

Newlin: But since we are undergoing a new process now, do you think this is still necessary?

Kilmer: Yes, what happens is if we don't rescind it the original application would be dead. This is a modification of the original application under cluster housing. So, we have to rescind that in order to make his old application still a viable application.

Newlin: Mr. Boniello, did you and Atty. Leone discuss this?

Boniello: Briefly. I thought that they applied for a new application.

Kilmer: It is a modification to the original application, but they have to under.... Mr. Coulter would you explain please.

Coulter: On Feb. 9<sup>th</sup> they reapplied for a new application for cluster development.

Newlin: They are applying under a new law aren't they?

Coulter: Right and then on Feb. 12<sup>th</sup> and 13<sup>th</sup>, I received additional letters saying that they wanted to go by the existing approval, which he is trying to change now. I don't think it is ever totally been clarified. The Planning Board did direct me to send the paperwork to the County Planning Board and all of our Boards for review and their comments back for the Town Board which I am in the process of doing. Then you will have to take it from them. The new proposal plus the 2 letters that he submitted after the cut off date.

Newlin: Does this developer have two proposals then? Are we treating this as 2 different proposals?

Coulter: I believed that that they talked to the Counselor and Councilman Kilmer talked with the Dept. of State Attorney and they have been led to believe that this was the right process. I am only forwarding what the Planning Board asked to be done. The Attorneys will advise it from there.

Newlin: Did the Planning Board recommend that?

Coulter: They asked that the proposal be forwarded to the County and all of our Boards for review.

Langlois: As I understand it, Mr. Kilmer is just trying to remove the stipulation from the Zoning Board of Appeals from our previous approval. Is that your motion? (Yes)

**Motion seconded by Langlois.**

Boniello: It is my understanding that the Board approved contingent upon Zoning Board approval, which did not happen. So, therefore the issue is mute at this point. Any decision on that prior decision may or may not be necessary, but I think the motion is to rescind the contingency requirement in the original motion.

Kilmer: In order to put it back and that way the application is still an existing application. This way they don't have to go through the entire whole procedure and then it will be considered a modification to that original application.

Boniello: I understand but, it is a new application...at least you are treating it as that.

Ceretto: The second part of what you are saying doesn't apply.

Kilmer: Only a portion of that is under the new application, which is only the cluster housing issue because there are also 80 single-family homes involved in this application. This was the course of action the State told us to take and it is the course of action that Atty. Leone most feels comfortable with.

Boniello: I was not privy to any of that discussion.

Kilmer: We can table it to the work session.

Langlois: What is the problem?

Newlin: My only curiosity is that we have a new process that has been engaged now with the resubmission of the new December Cluster Housing Law. Mr. Kilmer's motion as I understand it deals with an application for all intensive purposes dead and superceded by the new application.

Kilmer: There is only a portion that supersedes it, but I don't have a problem with tabling it Jim, is because we are going to meet before the Planning Board meets. We can do it at the work session.

**Ceretto MOVED to Table this issue until the Work Session on March 8, 2004. Seconded by Johnson and carried 5-0.**

Item #3 Town Hall Renovations: It is getting started with the plans to renovate town hall. I spoke with J. Giusiana and they have indicated for \$2500 they would do some drawings and architectural work. They are the company that came in before and at that time interviewed all of the departments and determined their needs. Their recommendation was to appoint a five-member board that they could directly meet with. I would like to serve on it. Mr. Johnson has indicated that he would like to

serve on it with three other members. One being Mr. Coulter, one appointed by the Supervisor and one by the courtside. It will also affect them.

Newlin: I wouldn't mind being on that board, but since I may not be able to make all of the meetings, Mr. Johnson and I could share.

**Kilmer MOVED that Mr. Coulter; Town Clerk Brandon; a representative from the Court; Sup. Newlin and/or Mr. Johnson and himself be appointed to a five-member Town Hall Renovations Board and appoint Giusiana as the architect with funding not to exceed \$2500. Seconded by Langlois and carried 5-0.**

Item #4: Towers: They will be meeting on Feb. 26<sup>th</sup> at one of the member's office.

Comments: Under the Association of Towns, I think it was a very productive session and I attended a number of planning and zoning meetings. One session, I did attend and maybe Mr. Johnson and the Highway Supt. can help me on this with regard to that draining issue we are all going to be dealing with that the State and Federal Government is forcing us to deal with and there is an issue that DEC has a grant for salt barns for highways. They feel that the salt runoff and we have an open set up now that the rain hits the salt and runs off into the ditches and causes problems with our natural water. I will work with Councilman Johnson and I have a point of contact and if Mr. Reiter wants us to pursue that it could be a good thing. I think it is 100% for a salt barn. I will pursue if Mr. Reiter wants it.

LANGLOIS:

Liaison Reports:

Item #1: Environmental Committee will be meeting tomorrow.

Item #2: Water Contract. Our contractor Yarussi Construction has recommended that we give him a 50-day time extension for the contract because of the weather conditions.

**Langlois MOVED for a 50-day time extension to Yarussi Construction for the water contract with no changes in any other conditions. Seconded by Kilmer and carried 5-0.**

Item #3: Sewer Construction: We did hear from a constituent regarding this and Socko Construction has indicated they expect to be done with all of their main lines by end of this week and that should solve the problem with major equipment obstructing views. We will ask that our engineer speak with Socko and make sure that if a flagman is needed that he be supplied. Renovations work will be done in the spring for all of the jobs.

I think we are getting rewards for our sewer work, I understand from our records that the water loss for the last period was 13%. It was 1\_ years ago that we were losing over 30% of our water and it is down to 13%. A well functioning dept. should be in the neighborhood of 10-15%. Already the new water lines that we are putting that have no leakage at all are making a gain and having our new automatic water meters in gives us correct readings. We owe a debt of gratitude to our water people for continuing to do a good job in finding and fixing the leaks.

Change Order #2-Waterline Infrastructure Contract #5: We have our report from Dave Britton on this and it involves putting in a tap on the 16" line on the corner of Pletcher and Creek Roads. This will allow us to not have two 90° bends with extra valves that would give us a lot of pressure drop in that line. It will allow us to improve the water flow and the pressure in the line that goes from there to River Road along Pletcher to the people there. It is a much-needed item and there is money in our project that will cover this.

**Langlois MOVED for approval of Change Order #2 Waterline Infrastructure Improvements Contract #5 in the amount of \$19,900.**

Newlin recognized Foreman Bob Nablo of the Water Dept.

Nablo: I have no hesitations on this project.

Evert: My concern is to make sure that this additional work is in the scope of work as defined in the original map and planning report and for the safety of the Board, this issue should be run by our bond counsel who put the borrowing together for us.

Newlin: There are very severe and explicit limitations how this money in this bond issue can be spent.

Evert: I think it is a base that we should cover.

Kilmer: Can this be contingent upon bond counsel approval?

Langlois stated that he would be willing to do that but change orders are a routine part of major jobs. You make sure that the change order is needed and that it is a correct amount. Our engineer has reviewed this carefully and has said that the price is proper. It would be a lot more if we had to go out to bid.

Britton: With respect to the bond counsel, this proposed change order is a modification to the connection that we already had in place. We had the interconnection there and we propose to change it to incorporate this.

**Langlois AMENDED his motion to include pending approval of Bond Counsel. Seconded by Ceretto and carried 5-0.**

**Langlois MOVED for approval for the Supervisor to sign the contract pending approval of Bond Counsel. Seconded by Kilmer and carried 5-0.**

CERETTO:

Item #1: CWM Matter: I would like to thank those who spoke regarding their concerns on this issue and I also have spoken with Amy Witryol regarding the cancer rates.

**Ceretto MOVED to have this item put on the Work Session of March 8, 2004. Seconded by Johnson and carried 5-0.**

Item #2: Extending Summer Employment: This was referred to Atty. Boniello and he has asked that this be tabled to the work session for further research.

**Ceretto MOVED to have this item put on the Work Session of March 8, 2004. Seconded by Langlois and carried 5-0.**

Liaison Reports:

Item #3: Seniors Advisory Board represents both locations. We discussed the issue of possible replacement of the senior van. With Mr. Johnson's suggestion, Sup. Newlin has applied for a grant through a car dealership and we maybe notified in April of possibility a "free" vehicle. If this doesn't happen we will have to address the issue of possible replacement with maybe leasing one.

Sanborn Seniors: We are discussing a joint effort with the Sanborn Fire Co. to renovate the old truck room into a senior and community room. Mr. Kilmer is helping them to secure a grant.

Kilmer: There is a person who gives a grant-writing course at N.C.C.C. and has offered to come to the town and give our departments either an abbreviated or long version, which we would choose. We would need to figure out some computer issues and perhaps our Deputy Supervisor can assist with. We can invite our fire companies also.

Ceretto said that Assemblywoman DelMonte has been contacted for possible assistance with the Sanborn Seniors and the fire company.

WPCC:

CWM Effluents: WPCC needs to develop a mini pretreatment program for the future acceptance of industrial waste. Presently, we are investigating the acceptance of CWM effluent. The attached proposal from O'Brien & Gere is for developing this program. It is based on time, not to exceed \$10,000. Money has been budgeted for engineering under the contractual line item of 8130.400-SS1. If we approve this it is revenue to the Town and Mr. Lockhart has stated that this waste is being dumped into the river. If it goes thru our treatment plant he is asking for a check and balance on this material. Mr. Lockhart has said that it would be more environmentally friendly than the way it is handled now.

**Ceretto MOVED for approval of a pretreatment program at the WPCC with a cost not to exceed \$10,000. Funds to come from 8130.400-SS1. Seconded by Kilmer.**

Kilmer asked if this item has to go through Tri-Community?

Lockhart: It already has gone through Tri-Community. Late last year we were approached by CWM with a proposal to accept the effluent that is normally being directly discharged down to the Lower Niagara River and would we consider becoming an indirect discharger where their discharge would come into the treatment plant. The first knee jerk reaction is why? What it would do for the Town or an advantage to the Town would be a revenue source for the treatment plant. The second one is that right now as a direct discharger, they are discharging about 25 million gallons annually. By coming into the treatment plant the discharge would drop to about 18 million gallons. According to their discharge permit right now they can discharge up to a million gallons per day as a direct discharger. We would formulate a discharge permit that would reduce the daily discharge to somewhere near 200,000 gallons that would be discharged from CWM through the treatment plant and then out into the lower river. I think the other benefit is right now in the community there is a large suspicion of what actually is in that pipeline. If it is being discharged to the treatment plant we have control of what goes out into the river. What I am looking to do is formulate a discharge permit with CWM that would specify the times, the volumes and we would need to see what is discharged. We would set the limits that are acceptable to come into the treatment plant. The dollars that I am asking for tonight is for assistance in formulating a pretreatment program, which basically protects the interest of the treatment plant.

Newlin: Could you explain what this effluent is and how strict the DEC regulations are?

Lockhart: This is probably the most scrutinized effluent that is probably going into the Lower Niagara River at this moment. This would be a batch of discharge and what that means is that a certain volume would be qualified and we would analyze it and even before we consider thinking about bringing it in, it would have to be whatever our discharge standards are for the acceptance of this material. Then during the discharge, we would set up a sampling program that we would control to pull samples at several locations. One would be mainly from the discharge entry point into our system and also at the tail end of the treatment plant to make sure there is no degradation of the process.

Johnson: PCB's still a ????

Lockhart: No, that is why we would have this pretreatment program to analyze what the discharge is. I don't want to accept anything. That would be a nightmare.

Johnson: You would check it before it comes in?

Lockhart: We would qualify a batch and nothing could be entered into that batch. Once it is qualified, no additions or subtractions can be made. We would have control over that and we would verify what is in the batch control and also as it is

coming into our system we could sample it and we verify that it is coming. This is a material that CWM is discharging through their process. It has been processed and it is being discharged into the lower river.

A resident asked where is the waste coming from?

Lockhart: This effluent is the end product of the CWM treatment process. It is whatever the gate receipts are. Their landfill leachate. Ground water runoff that goes into their collection system. If this Board decides that they don't want to accept this, it doesn't put CWM out of business. All it does, is that they will maintain being the direct discharger. This is whatever CWM accepts.

Newlin: I think what we will do since there is interest in this matter from the general public and Mr. Ceretto has stated that he looks favorably to tabling this to the next work session. I will try to make sure that the Clerk's office provides as much of this information as possible so the public may look at it. I think right now this stuff is going into the Lower Niagara River without being touched at all and it will continue to do so unless something is done.

Johnson: This is the same pipe that is running along Joe Davis Park and dumps into the river now. You have already said that the other municipalities have agree to this, right?

Lockhart: We have agreed to investigate and go through the process of setting up an industrial pretreatment program for the treatment plant. Then what we will do there is develop the guidelines on which we want to accept it. We can go through this process and our guidelines could be so strict that CWM may say it is not worth the headache to deal with it the way we set it up and they would just keep doing business the way they have.

Johnson: I think it is worth a try. We are not really accepting anything at this point. We are doing an investigation authorizing \$10,000. I would love to know that somebody would be monitoring that stuff going into the river. If we could do it, it would be a precautionary thing for us to be keeping an eye on it.

Kilmer: I would definitely like you to be testing what is going out to the river seeing that they have carte blanche now and they do whatever they want. I am sure that it is tested somehow. But, can you tell me why a company would come to us and want to give us cash that they don't have to spend now? I think it is a good idea.

Lockhart: That is the first thing, why? Right now under their current discharge permit with DEC, they can only discharge seasonally. So, what happens is their ponds or their storage facilities get very full and what they must do is discharge up to a million gallons per day to move that volume out of their storage so they stay operational. What they are looking to do is come into the treatment facility and they can do this year round but it would a reduced discharge.

Ceretto asked if there is a time restrain on this?

Lockhart: This is going to be long process.

Langlois: I think he wants to get started with the \$10,000 study.

A resident commented that this is our money and I don't appreciate that you just throw around \$10,000. CWM has plenty money to pay for such a study.

**Newlin MOVED to Table this request until the March 8, 2004 Work Session. Seconded by Ceretto. Ceretto, Johnson, Kilmer & Newlin Yes. Langlois No. Motion carried 4-1.**

Mr. Lockhart said that any resident who has questions can contact him personally.

Public Hearing of Amendment of Town Sewer Code: This would prevent ground water from entering the sanitary sewer system and the code needs to be amended.

**Ceretto MOVED to hold a Public Hearing on March 22, 2004 at 6:45 p.m. to Amend the Town Sewer Code. Seconded Kilmer and carried 5-0. (Amendment on file in Clerk's Office.)**

Comprehensive Plan Cmte. They are meeting every other week and trying to get the comprehensive plan in line with our codes and maybe finished in March. Perhaps in April copies will be given to this Board and other boards to be reviewed for possible discussion at the May work session.

We have 3 gentlemen who have applied and have been coming to our meetings. They have been very helpful and have contributed to the discussions.

**Ceretto MOVED for the appointments of Anthony Attardo, William Conrad & James Quaranto to the Comprehensive Plan Committee. Seconded by Johnson.**

Comments regarding the number of members took place.

Kilmer said he believed that we should limit to one of the three. I believe that we have already told Mr. Conrad that he would be appointed.

Langlois said that someone from Planning or Zoning should be on the committee.

Ceretto said that the three have attended all of these meetings and they have given suggestions. The door has to close now.

Newlin said he appreciates the time that Mr. Attardo and Mr. Quaranto have given and he had spoken with both of them regarding his position on this.

Elgin said with Mr. Conrad the committee will have a total of five members and since we will only have a couple of more meetings making more appointments is a futile issue.

**On the Motion: Ceretto & Johnson Yes. Kilmer, Langlois and Newlin No. Motion failed 3-2.**

**Johnson MOVED that William Conrad be appointed to the Comprehensive Planning Cmte. Seconded by Kilmer and carried 5-0.**

Recreation: Would like to go out to bid for a grass-cutting contract.

**Ceretto MOVED to go out to bid for grass cutting contracts with bids to be reviewed at the RTBM on March 22, 2004. Seconded by Kilmer and carried 5-0.**

Recreation Accounts: H-46 Lower River Trail-Balance \$40,980.68 and H-78 Moses Parkway Trail-Balance \$37,487.63. Recreation Cmte. has recommended that the parking lots at Pletcher Park be expanded

**Ceretto MOVED that the balances in Accounts H-46 and H-78 be moved to H72 Infrastructure Account. Seconded by Kilmer.**

Johnson asked that on closing these accounts can we move them from one capital account to another capital account?

Evert said that the recommendations are that if a project is completed and there is money leftover or overspent, the difference is placed back into the original source of funding. From there the Board can direct as they wish.

Johnson said so it should go back into the “A” fund first. Are you sure it didn’t come from the “B” fund?

Evert: Some of this information is so old and without proper paper trails, it is very difficult to ascertain exactly where the money did come from. Councilman Ceretto’s recommendation to put it in the infrastructure account is a good one. The Board would have to approve that transfer and then decide about the implementation of a parking area. H-72 is an infrastructure account.

Langlois: It would seem more appropriate to put it back into the fund from which it came and then knowing you have the money, allocate whatever it takes. If all the funds are not used the funds can be used for future projects. It sits in the fund balance in the “A” fund and we can transfer that to whatever we want. I think it is more flexible if we do it that way.

Newlin: Mr. Evert, are you recommending that we move it to Account H-72?

Evert: H-72 is general and broad enough to encompass a number of different issues that the Town might incur i.e. highway problem, sewer etc. I think it is an appropriate fund to assign these funds.

**Motion carried 5-0.**

Golf Course Issues: The contract, which we may have to discuss in executive session.

A letter from Rosemary Warren regarding a chargeable engineering item for Riverwalk work in 2003. Our town code calls for us to pay for these costs even though it is a developer’s project. We are looking at this type of item in the re-looking of our codes.

Britton: The costs that were incurred for the Riverwalk project involves the SEQRA process i.e. sketch plan review, preliminary plat, and preliminary plan review. The code deals with the final plat approval. Up to that point, the code does not have provisions covering engineering costs and the Comprehensive Plan Cmte. discussed this. We are looking at appropriating a fee structure to cover these types of costs so that the Town does not bear the burden of the developers coming in for the engineering costs associated with the environmental reviews. We are trying to recover that. I will write a letter to the Town Board regarding this issue.

Mrs. Warren’s letter refers to the Village of Lewiston’s residents who will not have to help repay the bond. If we go to bond, we have to ask the voters if they would bond it. Mrs. Warren says that if there is not enough golf course revenue or a complete default, then if this is true, then they should not vote on the bond. If the Town is paying for this golf course then should the village have the right to vote on the bond?

Boniello stated that this issue would be referred to the bond counsel.

Johnson said that once we get a response from our attorney, then you can respond to Mrs. Warren’s letter.

Kilmer: If we ran short the first year or so, it would be an “A” fund expense which is a whole town expense and if there was a tax at the time and if there wasn’t fund balances it would be amongst the whole community.

Langlois: It has been obvious all along, that this is a whole town activity and if the golf course gets in, it is for everybody in the Town of Lewiston including the Village and they would get the lower rates just like everybody.

Ceretto: I would like the golf course contract to be a part of the executive session.

**Johnson MOVED to go into Executive Session to discuss Personnel and the Article 78 issue. Seconded by Langlois. Time 8:40 p.m.**

Executive Session:

Present: Sup. Newlin; Council Members Ceretto, Johnson, Kilmer & Langlois; Deputy Town Atty. Boniello, Deputy Sup. Elgin, Attys. Sargent & Collins.

**MOTION by Johnson, Seconded by Langlois directing Attorneys Sargent & Collins to proceed to settle the Article 78 with Mr. Reiter's attorney. Ceretto, Johnson, Langlois and Newlin Yes; Kilmer No. Motion carried 4-1. Motion to exit Executive Session at 9:20 p.m. carried unam.**

**MOTION to reconvene the Regular Town Board Meeting by Kilmer and seconded by Johnson and carried 5-0. Time 9:20 p.m.**

Ceretto said that there will be a Golf Course Mtg. this Thursday at 4 p.m. and a discussion on the SEQRA process will take place. The Army Corp of Engineers is unable to attend but we will reschedule them. We will be having open meetings so that the public can attend.

Langlois said that we have told the public that we would have meetings where they could talk pro and con about the golf course but in order to do that we have to know whether we have a golf course or not. We won't know that until we get the SEQRA done. Our engineers have told us if we got the wetlands down to less than \_ acre that it would most likely be approved but we can't get approval until they get a design of the golf course. We have from Mr. Gary McDaniel, a statement that the Corp of Engineers says that if we get it down to less than an \_ acre of wetlands affected, it would most likely be approved.

Newlin asked for the document.

Britton stated that Mr. McDaniel has never provided anything written on that.

Newlin said he has asked him to do that.

Britton said he is the lead biologist at the Corp. He told us at a Dec. mtg. that if we got it down to less than an \_ acre and he has also told the Supervisor this. However, we do not have anything documented on it.

Newlin: I am not exactly clear at this point. The golf course designer has submitted a finalized plan to Mr. McDaniel. Mr. McDaniel is suppose to have told me that directly when he seen it, but I have not seen any correspondence, phone call etc. Once that step is taken, I think we can begin to proceed but as of today I have not received any correspondence from Mr. McDaniel that he has seen the plan that show it is coming in at less than \_ acre of impacted wetlands.

Britton: I do have the most recent plan and it hasn't been submitted to the Board yet. I just received it from the architect.

Newlin: I would ask that you direct the architect that he gets that to Mr. McDaniel as soon as possible.

Britton: It has to come from us.

Langlois: We can make note of this at the next work session and we should have these answers. It doesn't make sense to me to have a public hearing if we don't know if we are going to have a golf course or not. The public hearing will come once we know that everything is okay and we have the information and SEQRA etc. and then we can inform people as much as we can and then we have a public hearing. I can't see us having public hearings as to whether to complete our obligations to finish the SEQRA.

Ceretto stated that he did not have a public hearing date at this time.

Kilmer: We went into executive session at the last meeting and my recollection was that we were going to direct the engineer to fill out the application to DEC and you gave us the rough cost of that and why are we not doing that? I am sorry, if the Corp of Engineers would give us a preliminary document you can move forward and we would approve it if you would do x,y,z.

Newlin: That has not happen to my knowledge.

Britton: That was one of the items that we discussed. Should we move forward with the SEQRA process and without getting the Corp concurrence or trying to get the Corp concurrence and we also discussed about a permit application. Since that meeting I went back and talked to the Corp and now is not the time to submit the application because in order to do that we have to have full course design... basically, everything has to be designed. So the permit can't be filed until we are in the design stages. The Corp will provide us with an actual permit. We need to get out of them an opinion that the project is permitted. In order to do that, I have the latest concept if the golf course cart paths that he wanted to identify on there. That should be next week and identify the specific areas that we are impacting and the amount of acreage that we are impacting, which is under \_ acre. Based on that then we should be able to get an opinion out of them in writing. I would like an opinion in writing.

Kilmer: I wouldn't settle for anything less than in writing. We are going to be spending more money on this and if he were to leave and someone else took his place the next person could say no. It has to be in writing.

Ceretto: I was hoping he would come on Thursday so that before we spend any more Town money. It has to be done in a manner that is resourceful and useful. If we don't have that educated opinion that we spend monies and they are going to turn it down, then we shouldn't spend any more money. Britton will try to bring him to the meeting. He is a vital part of the puzzle. Before we even talk contracts of how much money and the contract is a partnership between the town spending money and the developer. The first step is to get an educated guess what the Corp is thinking on the SEQRA process. Our attorney has been directed to have discussion with Mr. Dowd and that is why I have asked for an executive session after this meeting so we can be updated.

JOHNSON:

Liaison Reports:

Item #1: Cable Cmte. met on the 19<sup>th</sup> and the committee received the contract to review and came out with some requests. Hopefully we will have something for the Board to review in May. Mr. Elgin will probably come before this Board at a work session to update us.

Item #2: Fire Districts: We received a letter from Lew. Fire Co. #1 thanking Highway Dept. for their assistance with snow removal.

Reiter explained that the Village backhoe was not large enough to move the snow, so we helped them out.

Sanborn Fire Co.: We received their updated roster and it will be filed.

Upper Mt. Fire Co. Request to add Mary Pat Swierczek, Shayna Lingel and Andrew Schultz to their roster.

**Motion by Johnson to add those names to the roster of the Upper Mt. Fire Co. Second by Langlois.**

A question was asked about the home address of one of the volunteers.

Johnson: Sometimes if they have a special skill outside of the district, they will bring them in and this person is very active member. It is getting more difficult to get volunteers for the fire companies.

**Carried 5-0.**

Item #3: Association of Towns: At the session, they did talk about homeland security and also what a municipality would have to do if they hired their own fire company. I will share my notes with you.

Item #4: HazMat Control Commission: A request to add David Seguin, Steven Suitor and Kevin Meyer to the Haz-Mat Control Commission.

**Johnson MOVED to add these names as requested to the roster. Seconded by Langlois and carried 5-0.**

An incident report occurred on Feb. 9<sup>th</sup> and we will be seeking reimbursement for supplies used. A building mtg. will take place on March 31<sup>st</sup>.

Item #5 Street Lighting requests. The Lighting Cmte met and made the following recommendations:

- a. Request for a street light on the corner of Elm and Buffalo Street, Sanborn. The Board denied this request based that there is sufficient lighting there. Letter to be sent by the Clerk.
- b. Request for a 70 watt pressure light at the entrance of the Forestview Church of God at 1250 Saunders Sett. Rd. and recommended approval.

**Johnson MOVED that Board approve the request of the Forestview Church of God. Seconded by Kilmer. Carried 5-0.**

Clerk will send a letter of approval.

Item #5: Highway Report: You have a copy of Mr. Reiter's report which includes a list of the highway projects and costs that have been completed to date.

Salt Issue: The Highway Dept. has responded 71 times to salting and removing snow from the highways since Dec. 1, 2003. The Highway Dept. has used 1767 tons of salt on the State and County Roads and will be reimbursed \$39,915.13 for this purpose. The Town so far will be reimbursed a total of \$107,033.34 for salt, personnel and equipment use on State and County Roads. \$96,500.00 was budgeted as revenue for the 2004 budget. They have used approximately 4390 tons of salt this year. The Supervisor sent a memo to Mr. Reiter regarding the sale of salt to Modern Corp and Gross Plumbing and checks have been received and the taxes have been paid on them. Mr. Reiter has agreed to not sell any more salt to anybody unless the Board approves.

Highway Supt. Conference.

**Johnson MOVED to permit Highway Supt. Reiter to attend on March 9<sup>th</sup> & 10<sup>th</sup> in Albany the NYS Assoc. of Highway Advocacy Day in the amount of \$219.00. Seconded by Langlois and carried 5-0.**

Highway Issues:

**Johnson MOVED that at 6:30 p.m. at the Work Session of March 8<sup>th</sup> that the Board meet with Highway Supt. Reiter. Seconded by Langlois and carried 5-0.**

The Clerk was asked to advertise the new time.

I will also discuss at the work session a pothole issue regarding damage to a car while traveling on Bridgeman Road. Mr. Reiter indicated that both the Towns of Lewiston & Cambria have repaired the pothole.

Item #6: Signage: Mr. Briggs has asked to be at our work session and discuss some signage issues.

Johnson: The comments that were made at the beginning of the meeting regarding the contractor (Socko) and I would ask that Eng. Britton talk with him regarding no flagman.

NEWLIN:

Item #1: I have letter from M. Destino for reimbursement for a water problem, which affected her water filter and asks for \$149.00. Atty. Boniello is reviewing this and we will table until the work session.

Item #2: Post Audits request to pay Estimate #5 to Socko Contracting Inc. for work performed and verified by O'Brien & Gere for \$101,198.65. This is budgeted and contracted on the Sweethome/Colonial Drive project H-79 account 7140.0400.

**Motion by Johnson to pay this claim as presented. Seconded by Ceretto.**

Kilmer asked why this had not been done through normal channels?

Langlois: Mr. Evert was away and it did not get in on time.

**Motion carried 5-0.**

Item 2B: Payment to Attorneys Sargent and Collins for defending the Town of Lewiston against charges raised by the Highway Department Teamsters' Union. A voucher for \$14,984.63 is due. It is recommended the Board approve a budget transfer from A1990.0400 to A1420.0400 of \$31,632.15 to cover this and additional over expenditures of \$16,647.50.

**Motion by Kilmer to approved this transfer and payment of \$31,632.15. Seconded by Langlois.**

Langlois: This is for last year (2003) and this money is being taken from contingency. We had a \$62,850 contingency in that account at the end of the year and we are moving it from contingency into the legal line.

Newlin: My comment is that some members of the Board may not agree with that expenditure. It was a legitimate bill incurred last year and we are obligated to pay it as an action of the previous board.

**Motion carried 5-0.**

Item #3 NYPA: Members of the Board were attending the Assoc. of Towns Meetings and Deputy Sup. Elgin attended a meeting on our behalf.

Elgin: I attended a meeting on 2/13 with a presentation to the Niagara Cnty. Legislature regarding their timelines and there are some changes in the licensing application timeline. We had talked that we thought the final concept agreement negotiations to be finalized in August of this year. It has been moved back to Feb. 2005. There will be a continuation of the agreement of negotiation for the two items that are being negotiated. It appears that there are regulatory items that they are negotiating and non-regulatory issues of which I have a power point presentation that they have presented and will provide the Board with copies. It lists the items that they are negotiating for and the context in which they are being offered.

I attended the Power Coalition meeting in which they introduced us to Tom Dougherty who will be handling negotiations for the Power Coalition with NYPA itself. Mr. Daugherty appears to be a good addition to the group. The Coalition is going to be meeting with NYPA on March 17<sup>th</sup> at 10:00 a.m. at the Bd. of Education Annex Bldg.

Item #4: Closing of Old Capital Projects:

**Newlin MOVED that H43 Joseph Davis State Park Fund balance of \$853.52 be closed and funds to the "A" fund. Seconded by Langlois.**

Kilmer said that if there is an issue with one of these, why don't we determine the one that has an issue, pull it off and approve the rest as recommended by the budget officer.

Johnson asked if the Joe Davis State Park fund was the golf course capital fund.

Evert said that he believed that was the origin.

Johnson: Why wouldn't we move that over to the golf course fund? That is where that money should be going. That was part of the golf course committee that we spent that money for.....

Evert: It doesn't look like a difference maker. It is only \$853. 52. I think there is only a committee but there is not a spending plan that I know of.

**On the original Motion, carried 5-0.**

**Kilmer MOVED that the following accounts be closed out as recommended:**

| <u>Account</u>         | <u>Balance*</u> | <u>To Account</u>   |
|------------------------|-----------------|---------------------|
| H48-Sanborn Sewers.    | (\$3,871)       | SS3 So. Sewer Dist. |
| H51-Gorgeview Highway  | \$7,401.84      | BD Highway Fund     |
| H54-Swan Road Culvert  | (\$2587.07)     | SD Drainage Fund    |
| H56-LMSIA Sludge       | \$ 12.90        | SS2 Master Sewer    |
| H70-Gorgeview Sewer    | (\$187.98)      | SS3                 |
| H74-Sanborn Historical | (\$56.13)       | A-Fund              |

• Denotes Minus Balance

**Seconded by Langlois. Carried 5-0.**

**Newlin MOVED to Table the closing of H-27 Dickersonville Cemetery. Balance \$228.63. Seconded by Johnson and carried 5-0.**

RESIDENTS:

George Briggs of 5740 Garlow Road. I would like to thank your engineer as he has assured me that he will go up to the sewer project and take care of what has to be done. With respect to the Highway Dept., I heard tonight that we have enough men in the Highway Dept. No, we don't. I would be willing to sit down with anyone of you and tell them they are wrong. I have experience in those fields. Two of the men are heading towards the end of their unemployment benefits. I think this Board should look at some way of finding funds to get those men back. They need them. We have to have them. I am quite sure that can be done. I am really puzzled by the fact that I came to a meeting a few years ago and Mr. Reiter wasn't allowed to transfer money within the budget. Tonight, you approved a recreation transfer from one budget line to another budget line. You have to start being a little more fair. You have a one-way road that you are traveling both ways. I think it needs to be corrected. I think this Board should work hard to get these men back. Since, they have been off, I have seen a decrease in services. It takes 6 hours to plow the roads now because we are short of manpower.

**Ceretto MOVED to go into Executive Session for the purpose of personnel. Seconded by Langlois. Carried 5-0.**

Time 10:10 p.m.

Executive Session: Present: Sup. Newlin, Councilmen Ceretto, Johnson, Kilmer & Langlois. Deputy Town Atty. Boniello, Deputy Sup. Elgin & Eng. Britton.

No action taken.

**Motion by Johnson and Seconded by Langlois to exit Executive Session and reconvene RTBM.**

**Motion by Johnson, Seconded by Ceretto to have Pat Brown of Brown & Brown conduct the 2003 & 2004 Audit. Carried 5-0.**

Motion to adjourn at 10:30 p.m.

Respectfully submitted and transcribed by:

Carol J. Brandon, Town Clerk