

PRESENT: Sup. F. Newlin; Councilmen A. Bax, S. Edwards, M. Johnson, & G. Pacioni; Town Atty. J. Leone; Dep. Atty. D. Boniello; Eng. R. Lannon; Finance Officer A. DiRamio; Bldg. Insp. R. Coulter; Parks/Recreation Director M. Dashineau; 3 Press; 3 Residents; and Dep. Clerk C. Schroeder

The Supervisor called the worksession to order at 7:15 p.m. He proceeded with the first item on the agenda.

1) APPROVAL OF ABSTRACT: **Pacioni MOVED to approve the Abstract of Claims, Nos. 821 – 1117 and recommended payment in the amount of \$178,688.39 plus a post-audit of \$131,601.64. Seconded by Johnson and carried 5-0.**

2) POST AUDIT CLAIMS: A request was made to include the following vouchers for a post-audit payment:

- **Village of Lewiston** (Fire Protection/Lewiston #1) -- \$192,000.00. **Pacioni MOVED for approval. Seconded by Edwards and carried 5-0.**
- **Milherst Construction, Inc.** -- \$88,950.59. **Pacioni MOVED for approval. Seconded by Bax and carried 5-0.**
- **Sean A. Edwards** (Association/Towns Expenses) -- \$1,169.05. **Pacioni MOVED for approval. Seconded by Johnson and carried 5-0.**
- **Joseph Leone Jr.** (Association/Towns Expenses) -- \$1,197.85. **Pacioni MOVED for approval. Seconded by Johnson and carried 5-0.**

3) NIAGARA POWER COALITION: The Supervisor gave an update on NPC matters. He said the investigation that has pursued after the Town's request for an audit of the coalition is still on-going. State and federal investigations are looking into the matter. There is not enough information to determine any criminal wrong doing although there are several accounting irregularities with regards to payments to Mark Zito, his son and his finance, Ms. Ross. I think we're best off to wait and let those investigative bodies see what they can un-cover, Newlin said.

Johnson questioned a charge from the coalition's attorney, Harris Beach, for sitting in the audience at a Town Board meeting. Newlin said he too reviewed 20-pages of bills that itemize expenses from Harris Beach covering the months of February and March. The 2-hours for an attorney to come watch us here in the Town of Lewiston was a surprise. They also billed the coalition eight hours for an item they called the editing of the independent auditor's report. We never authorized the attorneys to do that, Newlin said. I don't think an attorney should be auditing the report of an independent investigator -- in this case an auditor. These are the kinds of procedural problems we have. I think it was the lack of following of clear procedure in the past allowing staff to take things and run into the sunset without specific board authorization that have caused a lot of the problems that have now been uncovered. Chairman Ross said he did that exercising his authority as chairman of the coalition. That is not a totally invalid case, but as Supervisor I have financial limits to how much I can spend without board authorization. That's never been done in the Power Coalition so that is something that has to be revisited. Attorney bills last month totaled \$43,000.00. When you're talking about those kinds of expenditures we have to make sure they are authorized.

Newlin said there is a set of by-laws that have been in place since the coalition was founded. There is not a lot of meat on them. They want to establish an ad-hoc committee to look into the reformation of those by-laws.

Newlin said the Coalition is proposing that the Town of Lewiston pay \$24,270.00 to continue membership in the Niagara Power Coalition. Within that fee, Harris Beach, as they itemized their expected legal fees, said they would be creating a MDA for the Town of Lewiston, as well as the City of Niagara Falls, and the Town of Niagara. I think we have come to a determination that a clear conflict of interest exists between Harris Beach and the Town of Lewiston. They cannot represent the County's MDA as

well as our own. Unless something changes, the Town of Lewiston will not be using Harris Beach. That legal fee can be excised from their charges. I believe the City of Niagara Falls will be using someone else. That might be another thing that might have a downward impact on the proposed dues right now.

Newlin said the town has been in contact with two firms to assist the town in creating its own MDA. Both are well respected and located out of Albany. Both have some backing in municipal power, as well as industrial power matters. Both firms have expressed interest but they are exhausting whether or not they have any conflicts. We will be contacting those two firms shortly, he said.

Newlin noted that Dan Spitzer, Hodgson Russ has accompanied him and other Board members to coalition meetings. Mr. Spitzer has attended 2 or 3 meetings at this point without submitting a bill. In the future, he may bill us. With that, he entertained a motion to allocate funds allowing Mr. Spitzer to attend coalition meetings.

Johnson MOVED to allow the Supervisor, along with the Town Attorneys, to determine at what times they would need the advice of Mr. Spitzer at meetings with regard to the Power Re-licensing Agreement, at an amount not exceeding \$200.00/hr. and not extending beyond 60-days. Seconded by Edwards and carried 5-0. Monies to come from the NYPA Reserve Fund.

4) **HPA REPORT/CELL PHONES:** Johnson noted that after review of the town's utility bills and cell phone usage the Town entered in a month-to-month agreement with Nextel for cell phones, under a government program. There were numerous problems due to lack of coverage areas.

After meeting with HPA in the last week, it was determined that there is a new program from Verizon. They have a government package as well. Their offer consists of free phones with upgrades every 10 months. I think we should move on and switch to Verizon based on the service level. We are not committed to any long term basis. All the equipment they supply will be free. A basic phone will be supplied. If anyone wants to upgrade, it will be up to them to pay the difference.

Johnson MOVED to enter into an agreement with Verizon for cell phone usage. Seconded by Edwards and carried 5-0.

5) **ROBERT MOSES PARKWAY:** Newlin reported that he, and other members of the board, attended an Elected Leaders forum hosted by the Chamber of Commerce. There was a presentation from USA Niagara about what changes might be happening to the Robert Moses Parkway. Newlin said he expressed how strongly the Town Board feels about how the parkway in some shape or form has got to be maintained. What is most disheartening is that consideration of removing the parkway is even within the range of options. We're going to have to be very vocal and do as much as we can to get our State Representatives up to speed. Sen. Maziarz and Assemblywoman DelMonte are in support of our general position that we cannot remove that parkway entirely.

Pacioni said the parkway is the lifeline between Lewiston and Niagara Falls. He would not like to see any alternations in traffic pattern or anything of that nature. He is against any alternations to the Robert Moses Parkway at this time.

Johnson said the three entities that are going to be in control of a study are the DOT, NYS Office of Parks and USA Niagara. They talk about having public input at hearings and meetings. We want to be at every one of those meetings. I definitely think something needs to be done but I think it is in the best interest for all the areas, including Niagara Falls, to have it done in a proper fashion – that access is available and it is continuing the way it is now. Maybe we could have a resolution by the next meeting that expresses our concerns to the state agencies and USA Niagara.

6) **DRAINAGE ISSUES:** Engineer Lannon said he was requested to provide an inspection of a drainage problem at **4478 Porter Center Road**, in response to a letter submitted to the Town by the homeowner (Mike Sembert) dated 3/20. A site inspection was conducted by Eng. Britton on 4/5 to evaluate site conditions. Based upon a phone conversation with the homeowner, the request identified in the letter is for the Town to construct a new ditch along the rear and side of his property. Based

upon Mr. Britton's observations and discussion with the resident, the request does not qualify for drainage improvements using Town forces and/or Town materials. Town responsibility is limited to the area with the roadway right-of-way. The town is not obligated or responsible to provide drainage improvements in connection with private property not owned by the Town. Mr. Sembert was advised of the Town's policy with respect to private property drainage issues.

1004 Pletcher Road: Secondly, the Town Board is in receipt of a request from Martin Kukovica requesting Town approval for the highway department to clear a drainage ditch on their property which is overgrown with shrubs and trees. Engineer Lannon said they would do a site inspection and report on it at the next meeting.

7) SEX OFFENDER LAW: Last January, Newlin said he hoped to proceed with a local law that would restrict the movement of sex offenders within the Town of Lewiston from residing within so many feet of a park or other community centers, schools, etc. Attorney Leone was asked to respond. In March, he said the County Legislature adopted a resolution suggesting that all municipalities within Niagara County look at this issue and determines whether or not they wanted to enact a local law (zoning law) to prevent level 2 & level 3 sex offenders from living in close proximity to areas where children would be. Leone said he would put together a draft of a local law for the Board's review before a public hearing is scheduled.

8) RECREATION: CLEANUP OF SKATEBOARD PARK: Councilman Pacioni, Liaison to Parks & Recreation, asked that this matter be tabled to the regular meeting.

9) ORDINANCE FOR PROTECTION AGAINST DOGS: Newlin said this came to the Board's attention in January when a young family came before the Board regarding a neighbor who had a dog that was making threatening advances towards one of their young children. The Dog Control Officer ("DCO"), on a couple of occasions, has investigated the complaint. He reported that it looked like a dangerous situation to him. It is a very small, weak fence protecting this neighbor against what was a very large and sometimes aggressive Rottweiler. Unfortunately, there is nothing in the current law that prohibits this from happening, Newlin said. There is no ordinance with respect to the strength of a fence, creating a terrifying situation for this family.

Leone said it is difficult to enact legislation to prevent something that has yet to occur although no one wants to see a young child get bit by a dog. At the same token we are not in a situation to prevent somebody who has a dog that looks mean from having a dog that looks mean. I talked to Mr. Coulter at some length before the meeting about possibly enacting a law that dealt with putting up fences or pens of some sort. This way, we are not dealing with the activity of a dog, per se, but we're putting the onus on the homeowner who has a certain breed of dog. Maybe the fence should be of a particular size or particular grade or particular height. I also thought I would talk to our DCO about what his feelings were on that subject. Leone said he would continue working on an amendment to the local ordinance.

Councilman Bax recommended linking the ordinance under which the dog license is granted to the dangerous propensities of the dog. That is, in the event that you have a dangerous dog one would have to follow certain criteria or else the license would be revoked.

10) RESIGNATION: The Supervisor read a letter from Robert S. Coulter, dated March 28 of his intent to retire as Building Inspector effective April 28, 2006.

When asked to comment, Mr. Coulter said he enjoyed the job. There were good days and tough days. The town has been a pretty good place to work.

Johnson said Coulter has knowledge that will be very sadly missed. Peers and friends at Town Hall have the utmost respect for you, he said.

Coulter said he will be meeting with the Retirement System to see what the restrictions are with regard to working on a consultant basis. He would advise the Board of such restrictions.

Newlin said that Board would be examining a range of options as to what to do with Mr. Coulter's replacement.

Johnson MOVED to accept the resignation of Robert S. Coulter as Building Inspector with deep regret. Seconded by Bax and carried 5-0.

- **SANBORN FIRE CO:** Johnson referred to a request to add the following name to the Sanborn Fire Company roster: Molly Lee, 329 Green Street, Lockport. (The prospective member is a resident in the Town of Cambria but resides/is employed in the vicinity and is available to render active serve as a volunteer.) **Johnson MOVED for approval. Seconded by Edwards and carried 5-0.**

Johnson referred to a request to add the following name to the Sanborn Fire Company roster: Anthony Antonucci, 412 23rd St., Niagara Falls. (The prospective member is a resident in the City of Niagara Falls but is employed in the vicinity and is available to render active service as a volunteer fireman.) **Johnson MOVED for approval. Seconded by Bax and carried 5-0.**

In another matter, Atty. Leone asked for clarification with regard to the sidewalk escrow agreement that was approved for the Riverwalk Subdivision. He has a proposed agreement that requires a signatory on the escrow, as well as an account the funds will go in to. The language is all done except for the signatory and the account.

Johnson MOVED to authorize the Supervisor, as Chief Fiscal Officer, to be signatory on the escrow agreement and holder of the funds. Account to be determined by the Budget Officer. Seconded by Bax and carried 5-0.

- **PERSONNEL HANDBOOK:** Edwards said there are many issues remaining with regard to revising the policy manual. He asked for an executive session to continue discussion of the handbook. **Edwards MOVED to enter into executive session to discuss personnel issues. Seconded by Johnson and carried 5-0.** Time: 8:30 p.m.

Present: Newlin, Bax, Edwards, Johnson, Pacioni, Leone, Boniello

Also Present: Barb Cich, Confidential Secretary

- No action taken

Johnson MOVED to close the executive session and reconvene the worksession. Seconded by Edwards and carried 5-0. Time: 9:33 p.m.

Johnson MOVED to authorize the Supervisor to obtain a release and upon receipt allocate an amount in payment of \$500 to Russell Shull, 5317 Elm Drive for repairs for damage to his driveway caused by a water break. Seconded by Edwards and carried 5-0.

Bax MOVED to adjourn. Seconded by Edwards and carried 5-0. Time: 9:40 p.m.

Transcribed and
Respectfully submitted by:

Carole N. Schroeder
Deputy Town Clerk

Executive Session Minutes taken by:

Barbara Cich