

Present: Sup. F. Newlin; Councilmen A. Bax, S. Edwards, M. Johnson & G. Pacioni; Dep. Sup. E. Elgin; Town Atty. J. Leone; Dep. Town Atty. D. Boniello; Eng. R. Lannon; WPCC Adm./Op. T. Lockhart; Chief R. Winkley; Building Insp. R. Coulter; Finance Officer A. DiRamio; Rec. Director M. Dashineau; Water Foreman R. Nablo; 3 Press; 3 Residents and Dep. Clerk C. Schroeder

The Supervisor opened the regular meeting at 7:20 p.m. The Town Board presented a proclamation to the family of the late Merton S. Marshall, a public servant who served the Town of Lewiston as Deputy Supervisor (1994 – 1997); as member of the Zoning Board of Appeals (1991 – 2006) and its Chairman (2002 – 2006); and also served on the Village of Lewiston Zoning Board (1998 – 1999); Village Planning Board (2000-2006); Niagara County Planning Board (1993-2006); and the Erie Niagara Regional Planning Board. The Town Board presented the proclamation with its deepest appreciation and recognizes the sacrifices Merton S. Marshall made for those people he came in contact with during his career as a public servant.

Following the presentation, the Pledge of Allegiance was recited, followed by a moment of silent reflection.

RESIDENTS COMMENTS:

Amy Witryol, 4726 Lower River Road, came to address the Board as a current member of the Lower Niagara River Region Chamber of Commerce. The LNRCC, she said, has asserted that it has a “neutral” position with respect to Chemical Waste Management. However, Chamber actions have been far from neutral. I specifically request the Board to adopt a resolution calling on the Chamber to “immediately cease any public display of implicit or explicit support of CWM”.

Last Saturday’s Sentinel front page was just one example. Previously, the Chamber name was headlined about a hazardous substance quiz about hair dye, grossly misrepresenting toxic landfill risk... Newspaper pictures of the Chamber Chair smiling with the President of CWM or awarding checks are not just **intended** to legitimize toxic waste landfilling in our community, but will be used by CWM lobbyists in Albany and Washington, during this permitting year. I’ve spoken with and written to the Chamber Chair and the Chamber Board about how these very public associations can prejudice the permitting process.

The Town of Lewiston, Village of Lewiston, Niagara County Legislature, Assemblywoman DelMonte and Senator Maziarz are all unanimous in their opposition to the siting of any more toxic waste landfills in this community. They recognize, as does the EPA, that a toxic landfill brings health risks.

This community looks to the Town Board and to Mayor Soluri to provide leadership by asserting that such policy during a toxic landfill permitting process is simply wrong. We cannot sit back and let our own Chamber work at cross-purposes to the Town of Lewiston on such an important issue.

As no other member of the public asked to speak, the Supervisor closed the 2-minute comment period.

AGENDA:

Newlin asked to address the town-wide water model under his agenda (formerly Johnson’s). **Bax MOVED to approve the agenda, as amended. Seconded by Johnson and carried 5-0.**

POST AUDIT:

A request was made to include the following vouchers for post audit payment: Office Max (HSBC Business Solutions) -- \$626.75; Office Max (HSBC Business Solutions) -- \$128.75; Sam’s Club -- \$374.53; Wal-Mart \$85.62 and Tops Markets -- \$29.99. **Pacioni MOVED for approval. Seconded by Johnson and carried 5-0.**

OLD BUSINESS:

1) Robert Moses Parkway: Newlin reiterated the position of the Board that it would continue to work hard to make sure the parkway remains open. “It’s a vital, economic link between ourselves and the tourism destination of Niagara Falls. It would benefit the City of Niagara Falls as well... It’s a vital corridor and will make life easier for tourists.”

At the joint police meeting, Johnson said there was dialog with Village Trustees regarding this issue. The Village and Town together feel the need to keep the parkway open, he said. I don't think anybody is opposing some of the modifications closer to the Falls, but with some of the economic development issues we've been working on in both Youngstown and Lewiston, we would never want to see a break-off from the parkway for commuting back and forth to Niagara Falls.

Johnson recommended that the Supervisor, along with Mayor Soluri, send a resolution to the NYS DOT, NYS Office of Parks and USA Niagara opposing alterations to the Robert Moses Parkway.

NEW BUSINESS:

Item No. 1: Request from Charles D. Hardy to rezone property at 1013 N. Hewitt Drive from Residential to Business in order to operate a new business building and manufacturing custom motorcycles. Attached is a petition (on file) signed by surrounding neighbors favoring such proposal.

Johnson MOVED to refer this request to the Zoning Board of Appeals. Seconded by Bax and carried 5-0.

Item No. 2: Request from Tammy Wolosin, 711 Upper Mtn. Road, to rezone property located at 1611 Saunders Settlement Road from Residential to Commercial (Business) for the purposes of establishing the property as an ice cream/coffee shop.

Johnson MOVED to refer this request to the Zoning Board of Appeals. Seconded by Edwards and carried 5-0.

Item No. 3: From the Town Historian, Marcia Rivers: July 16, 2006 has been set aside for a reunion of the Pekin School. The schoolhouse was built on Grove Street in 1845. The reunion committee would appreciate any help that might be available for this event such as advertising or brochures with some history of the school.

Edwards MOVED to refer this to the Chamber of Commerce & Lewiston Historical Society. Seconded by Johnson and carried 5-0.

Item No. 4: Ken Kenney will have completed six months of employment as of April 21, 2006. He is eligible for the normal \$.50 per hour wage increase at this time.

Johnson MOVED for approval effective the pay period beginning 4/30. Seconded by Pacioni and carried 5-0.

Item No. 5: Request from Charlotte House, 641 Sara Court for construction of a 4-ft x 40-ft length PVC garden fence to be constructed on a sewer easement which runs on the north side of the property.

Attorney Leone said he spoke to the homeowner with respect to this request. He received a similar request from a resident that already constructed something on a town easement. The only issue, he said, is whether the Board is going to allow it or not. I suggest that you postpone your decision tonight and table it for the worksession. I drafted a proposed contract for this other resident. If it is something the Board is going to entertain, my suggestion is that we put a contract in place so that it is clear that if we need to get into that easement area that we do so and they have no ability to reconstruct and whatever is constructed in that easement area stays there at their own peril. I will give you a report on it at the worksession. I'll show you a copy of the proposed agreement if you want to entertain it. If you like you can vote on it at that time.

SUPERVISOR NEWLIN:

1) Legal: Leone said he is working on a local law regarding sex offenders. He would provide a draft copy of the law at the worksession. With regard to an amendment to the dog ordinance (for increased protection against dangerous dogs), Leone said he has not been able to work on that due to other pressing town matters. I'll get to it as quickly as I can, he said.

Leone said he has three issues he would need to discuss in executive session with regard to 1) pending litigation (lawsuit); 2) personnel; and 3) contractual interpretation. He asked that the Board meet in executive session following the meeting.

Boniello said he received correspondence thru the attorney representing Massaro's project (Northridge Subdivision) with respect to a request to issue building permits. Boniello said there is an issue with regard to a change in the original approved plat plan with regard to the roadway. After conferring with Mr. Coulter, it was Boniello's recommendation not to issue any building permits until all the issues have been resolved and completion of the roadway is in place thru Northridge Drive.

2) Codification Update: At a prior meeting, Newlin said the Board asked for the Codification Committee to reconvene. Evan Elgin, who was on that committee, was directed to advise the Board as to what progress has been made.

The purpose of the meeting, Elgin said, was to take into account feedback that the committee has gained for the past year regarding the code that was written and concluded in January 2005. The committee addressed the feedback and obstacles they feel need to be addressed within the code. For the most part, the code is essentially complete. There will only be some very minor modifications as far as how the code has been written. The committee will meet again to go over some of the specifics of the language of the minor pieces. Other than that, there wasn't anything of great substance other than potentially the subdivision code. There will be pieces of the subdivision code that will no longer be in sync. We would like to make sure it does before the code is issued, he said.

3) NYPA Re-licensing Issues: Newlin said the Board has to make a decision as to whether or not to join in the new entity that is being formed -- Power Niagara, Inc. Special Counsel to the Town, Dan Spitzer, was asked to address the Board as to what this organization is going to be doing and what the Town's role in it would be.

Spitzer said this new entity is a follow-up organization of the NPC to implement the re-licensing agreement with regard to power allocation. The question before you is whether or not to join with the other six entities; even though the Town of Lewiston may not eventually be part of their agreement. "At this initial juncture it makes sense to continue working with the other entities, both in terms of protecting the Town, but also specifically in terms of your ability to represent the school in certain ways to protect the taxpayers of the school district." The Town of Lewiston, he said, could use Niagara County's MDA to disperse the electricity or it could establish its own MDA. It may be possible, and we've had discussions with the NYPA to view what the town has talked in general ideas as far as allocating power to the residents directly without having an MDA. "NYPA is open to discussing whatever is in the best interest of the town. NYPA wants to work with us to implement that agreement in the most efficient way it can. They've been very helpful so far."

The Town, Spitzer said, may want to use some of the power for other purposes and therefore work with a MDA. That is a good reason to continue working with the County. The Town could enter into an inter-government agreement to allocate some of its power to the county and then thru the county, fund its cost on to the particular entity that would receive it. That is a good way of saving yourself a lot of money and accomplishing the goal that you are after.

At this stage, each entity is responsible for its own costs... The Town's cost is more because it is the second largest group based on what its responsibility is. "In my opinion, based on the cost that you are looking at as you enter into the stage of this process, there is a possibility of some significant savings by continuing to work with the group. There is a lot of benefit to be had by working with the group in terms of acquiring an agent together for work that you do... All those cooperative ventures of this new entity at this point make sense to go forward. I would emphasize, if you choose to join in at this time, you are not agreeing to be part of the County MDA anymore than the County is agreeing to let you be part of their MDA. It's open discussion. This is an effort to find

the best way of going forward... That is my recommendation at this point to go forward with this group.”

Newlin said the Town’s participation with Power Niagara, Inc. does not mean the Town of Lewiston is putting all its eggs in one basket. “We are still going to be pursuing very much a two-track course where we will do our best to work with our neighbors in a good faith relationship but we will also be doing everything we can to set up Lewiston’s own creation of a MDA...”

Johnson MOVED to authorize the Supervisor to expend funds in the amount of \$24,270.00 to join Power Niagara, Inc. Seconded by Bax and carried 5-0. Funds to come from the Power Re-licensing Capital Fund.

Greenway Fund: There is confusion, Johnson said, as to what the Greenway Committee has been engaged to do and whose money they are spending. It was originally set up to spend only the money that the Governor put in place (\$3–\$5 million per year) for Waterfront Re-Development. It’s important at this point in time to establish a committee, specifically for Lewiston’s interests, to attend these meetings and discuss some of the criteria the Greenway Committee has put in place. I had talked to several people in the community that have been willing to help us along with the Power Authority Re-licensing as well as the Greenway. With this board’s permission, I’d like to tap into a few of these folks and see if at least one or two of them could show up to these meetings and report back to us at one of our work sessions so that Lewiston is not out of the touch for the greenway.

Newlin: There are two advisory committees the Greenway entertains. One is the local government group, which I’ve been going to... Then there is the citizens’ advisory group, which is what Mr. Johnson is seeking for us to have some representation because they do conflict with some of our meetings here. Mr. Ferraro represents all seven entities of the power coalition now at those meetings but it would be nice to have somebody there who represents Lewiston’s issues and give us a heads up if they see something specifically affects us.

Johnson MOVED to appoint the following individuals to the newly formed Lewiston Greenway Advisory Committee: Jim Langlois, Mark Sarro and Ed Evert. Seconded by Bax and carried 5-0.

Newlin said he has been in contract with two law firms from Albany to assist the Town of Lewiston in its creation of a MDA. He ascertained that neither of the firms had a conflict of interest with representing the town. Newlin said he would contact these two firms to see if they would be able to attend the next worksession meeting. “We should get this done pretty quickly. By mid-May I hope we can have a decision as to which way we go.”

4) WiFi Progress: Newlin said they are looking for a suitable place to host the main central hub for the wireless internet access they have obtained thru a grant from Assemblywoman DelMonte. Technicians (contractors) we’ve been working with thought the best place to host the system would be the Red Brick School. Chief Winkley said the Lewiston Police Department could use an upgrade to their service. The space requires a small desktop with a firewall that is put in. Both Winkley and Sergeant Previte confirmed it would be a good idea to host this WiFi access there.

Winkley said the State is updating its system where we would be able to send our information directly from a patrol car to the office without going into the office. It would be a great advantage keeping the officers on the street and not tied up in the office doing paperwork.

Johnson MOVED to designate the Lewiston Police Department as host of the WiFi Service. Seconded by Bax and carried 5-0.

Town-Wide Water Model: Nablo said he is trying to establish a maintenance schedule for regulated valve pits. The problem, he said, is it that they are old, antiquated and need

a lot of work. There is confined space issue and there are too many of them also. With a town-wide hydraulic model, they would be able to tell what the water pressure is throughout the town. This would benefit the fire bureau and planning boards when it comes to new development. Nablo questioned throwing money into these water pits if they don't possibly need them. He would like to eliminate as many of the pits as possible. Although they are in good working order, Nablo said he didn't think they needed them all.

Engineer Lannon said they would develop a desktop model giving the infrastructure within the town. They would use the town's existing GIS system to the maximum extent possible. They would first generate the theoretical model to see how it works. They would compare that with actual field data collected and then calibrate the model.

Lannon said that with a week's worth of field efforts, he estimated \$35,000 - \$40,000 to begin this process. Nablo said he did not allocate any money in his budget for this.

Newlin asked to table this to the worksession to determine available funding sources. "If we don't do it this year, we'll put money for it in next year's budget, I'm sure."

COUNCILMAN EDWARDS:

Capital Improvement Policy: Edwards referred to a draft of the capital improvement policy from Engineer Lannon. The policy is set forth to address, specifically, the design, contract administration and inspection of capital improve projects undertaken by the Town of Lewiston.

Design: Policy is to have design work for all capital improvement projects performed by, or at a minimum, reviewed by the Town Engineer, unless an exception to have the work performed by Town personnel is specifically approved by the Lewiston Town Board.

Contract Administration and Inspection Services: Policy is to have contract administration and construction inspection performed by the Town Engineer. Town personnel may perform contract administration construction oversight on projects that are not designed by the Town Engineer.

As part of this policy, Edwards said he would like something included whereby any contracts that are entered into would require review by town counsel. Lannon said anything they do as Town Engineer with respect to the bid document is reviewed by the Town Attorney, prior to execution by the Supervisor.

Highway:

- a) Final Snow Report: Edwards said overtime used for the year to date is \$30,189.67, down \$69,000 from the previous year. That includes overtime retro from the years 2005/2006.
- b) Road Milling/Paving: Beginning 4/24 – 5/1 the following roads will be milled: Miller, Nesbit, Stoltz, Laurel, Tuscarora, Pearl and Griffin. These roads will be re-paved beginning May 8.
- c) NIMS: All highway personnel have received 100% training as part of the NIMS compliance.
- d) Brush/Leaf Pickup ongoing.
- e) Mulch Delivery ongoing.
- f) Assisting Parks Dept.: Edwards said the liaisons to the parks & highway departments will meet to get a plan for the summer.

Drainage:

- a) Dozer Rental/Purchase: Edwards said they have done extensive research as to whether the town buys the bulldozer or leases it. The total base cost of the bulldozer is \$117,795. The cost to lease (to own) the bulldozer would be \$112,765 (with trade-in of \$15,000). To buy outright, the cost would be \$102,795 (with trade-in allowance of \$15,000). The difference between the lease and a purchase is \$9,970. It's good business for us to for forth with the least-to-own option. We're only going to be putting out \$22,600 per year for the next 5 years and keeping the balance of the money in the town account earning interest.

Edwards MOVED to enter into a lease-to-own contract, pending review by the Town Attorney and execution by the Supervisor, in an amount not exceeding \$24,000 per year on a 5-year lease. Seconded by Johnson and carried 5-0.

b) 1004 Pletcher Road: Eng. Lannon referred to a memo in response to a request submitted by the homeowners (Kukovica) to clean and grade the existing ditch between Pletcher Road and Four-Mile Creek. A site inspection was conducted by Dave Britton to evaluate site conditions. The ditch has accumulated significant silt, miscellaneous debris and is overgrown with small trees and brush. The ditch is identified in the Town Drainage Study as a tributary to Four-Mile Creek. The ditch is located on private property and handles a significant amount of storm water runoff.

Based upon a review of the Town drainage study, the ditch under consideration is recognized as a town ditch. The requested cleaning will help relieve standing water that has been trapped and potentially reduce localized flooding along Pletcher Road. It is the Engineer's recommendation that the Town Board consider granting the homeowner's request for town assistance. A signed ditch card is required of the homeowner. .

Edwards MOVED to authorize the drainage department to clean and grade the existing drainage ditch. Seconded by Johnson and carried 5-0.

c) 730 Scovell Drive: **Edwards MOVED to direct Eng. Lannon to perform a site inspection at 730 Scovell Drive. Seconded by Bax and carried 5-0.**

d) 4381 Creek Road: **Edwards MOVED to direct Eng. Lannon to perform a site inspection at 4381 Creek Road. Seconded by Bax and carried 5-0.**

"Burning of the Brush": Lastly, Edwards said he has been in discussion with Supt. Reiter with regard to the significant brush pile located behind the Highway Garage. Estimates from contractors to come and grind up the brush and trees start at \$20,000. An option to rent the county's grinder is roughly \$700/day.

Because of these costs, Reiter recommended working with the fire companies to burn the brush. They could make this a community event with an open house of the highway department and fire company equipment. As long as it is an exercise that the fire departments are using as a training exercise, it is legal to burn the brush. I would like the attorneys to comment.

Atty. Boniello said he inspected the area in question. We're talking acreage with nearly 20-ft. piles on it. Does anybody have any idea how many acres all that brush encompasses? There is a liability issue here. It's basically a huge bonfire that we're turning into a semi-social event.

Newlin said the town's insurance agent, Margy Toohey, informed him of liability concerns especially with smoke inhalation and children.

After further discussion, Supt. Reiter was directed to contact the county health department with respect to segregating the brush into 6 or 8 controlled burns.

COUNCILMAN PACIONI:

Liaison Reports: Pacioni said the Lewiston Seniors held a dance on Friday (4/21). An Easter Luncheon was held 4/13. An open house will be held on June 13th from Noon – 3 PM at the Senior Center in celebration of the 25th Anniversary of the Town of Lewiston Senior Center.

The Lower Niagara River Region Chamber of Commerce is developing a new web site. They are also hosting a new festival in Sanborn (Winetique) on 10/15 which hi-lites the area's wineries and antiques. A Smelt Festival will be held 5/5 at the Lewiston Waterfront Park from 6 PM to 9 PM.

With regard to Parks & Recreation, Pacioni requested an executive session to discuss the clean-up of the skateboard park and the improvements to the Kiwanis Park Shelter.

COUNCILMAN JOHNSON:

Building Inspector: At the last meeting, Johnson said the Board accepted the resignation of the Bldg. Inspector, Robert Coulter, who will be retiring effective April 28, 2006. His last day of service is the 27th. Johnson said he is in receipt of some information with respect to Civil Service criteria. He asked the town attorneys to review this information and put together a notice for publication in the newspaper for Coulter's replacement.

Johnson MOVED to direct the attorneys to draft a format for advertising for the position of building inspector with a return deadline no later than May 30. Salary to be discussed during time of interview process. Seconded by Pacioni and carried 5-0.

Johnson MOVED to establish a Steering Committee to look over the applicants for the position of building inspector and sit in on the interviewing process and to appoint Robert Coulter; Don MacSwan, retired Bldg. Inspector for the T/Wheatfield; Engineer Lannon or Britton; and Pat Martin, with Sean Edwards, as Liaison to this committee. Seconded by Pacioni and carried 5-0.

Johnson MOVED to appoint Dave Boniello to the Steering Comte. Seconded by Pacioni and carried 5-0.

Johnson MOVED to hire a consultant on an as-needed basis who is qualified to issue building permits and perform related work at a cost not exceeding \$20.00/hr., inclusive of all mileage and related costs. Seconded by Pacioni and carried 5-0.
Funds to be paid from line item B-3620-0100 (Safety Personal Services)

Johnson MOVED to create the position of p/t interim building inspector, at a cost not exceeding \$20.00, inclusive of all mileage & related costs, until such time as the permanent position of building inspector is filled. Seconded by Bax and carried 5-0.

Police: As per a request from Chief Winkley, Johnson asked to schedule a public hearing to adopt a local law increasing the fees established for parking violations in the Town of Lewiston. **Johnson MOVED to schedule a public hearing at 6:45 p.m., May 22, 2006. Seconded by Pacioni and carried 5-0.**

COUNCILMAN BAX:

WPCC: This Board is aware of the Infiltration & Inflow problems that Mr. Lockhart has been having at the Treatment Plant. That problem remains to persist. He and I have been talking of late as to some potential solutions... As we come closer to the cutoff point or the capacity point of our facility there are certain tripping points that come in to play that we have no control over. We are dangerously close (95%). Obviously, with all the water issues we have with drainage, etc., it's only going to be putting more stress on our system. We should consider that as one of our logistical considerations before we move forward with any other expansions.

Since the town owns that plant, we want to make sure our partners do not eat up all of that excess and then leave us with nothing, Newlin said. That would be irresponsible for us as town leaders to entertain that. We could be heading down that road.

Bax said that when he and Lockhart get together the only solutions they come up with are to incorporate some sort of a fee or usage fee for any excess I & I in the system. We're going to have to instill some sort of reasonable criteria but it will have to be one of these situations where it instills incentive for self help where the other municipalities will have to help themselves reduce the I & I.

Lockhart said each municipality has a year grace period going back to the contracts signed in the late 70s, early 80s as to what they said they wanted for capacity and what they signed on for capacity – that is what we need to hold them to. If they exceed that capacity they would limit themselves – they'll be the masters of their own fate as to how they proceed.

Johnson suggested a meeting with the other municipalities to discuss this and other pending issues. Newlin said he would contact the two mayors (Lewiston & Youngstown) and supervisor (Porter) to initiate some meeting dates.

We're getting to the point where we can't ignore it anymore, Bax said. We have infrastructure that is dated and we have to use it to the maximum of its capacity. Sending storm water thru our treatment plant is not the best use of our resources.

The Supervisor entertained a motion to enter into executive session re 1) Pending litigation; 2) Personnel; and 3) Contractual issues (opinion of counsel). **Johnson MOVED for approval. Seconded by Bax and carried 5-0.** Time: 9:01 P.M.

Present: Newlin, Bax, Edwards, Johnson, Pacioni, Leone, Boniello, Elgin, Dashineau.

Johnson MOVED, Seconded by Bax to exit Executive Session and re-convene the regular meeting. Carried 4-0. Time: 10:15. Pacioni was excused at 9:45.

Action taken:

- 1) **Approved drug test for new hires effective immediately as part of application process & physical for parks & recreation personnel. Carried 4-0.**
- 2) **Approved entering into contract with Mark Chilberg Construction for Kiwanis Park Shelter Improvements in the amount of \$14,557.00. Carried 4-0.** Other bids were received from Valery Contracting, Inc. - \$15,870 and Sicoli & Massaro, Inc. - \$21,950.
- 3) **Approved offer of a severance package in the amount of \$2,350.50 to a former town employee contingent upon the town attorney's satisfaction that all conditions have been met. Carried 4-0.**
- 4) **Approved an offer to Tod Davidson to police skateboard park at \$10.00 per hour. Funds to come from the recreation budget-line. Carried 4-0.**
- 5) **Approved appointment of Evan Elgin to Town of Lewiston Greenway Advisory Committee. Carried 4-0.**

Bax MOVED to adjourn. Seconded by Edwards and carried 4-0.

Transcribed and
Respectfully submitted by:

Carole N. Schroeder
Deputy Town Clerk

Executive Minutes transcribed by:

David Boniello
Deputy Town Attorney