

PRESENT: Supervisor Newlin; Councilmembers Bax, Edwards, Johnson and Palmer; Attorney Leone; Deputy Attorney Boniello; Finance Officer DiRamio; WWTP Chief Operator Lockhart; Police Chief Winkley; Town Engineer Lannon; 2 Press; 18 residents and Clerk Donna Garfinkel

Supervisor Newlin opened the meeting at 7:10 p.m., followed by the Pledge of Allegiance and a moment of silent reflection.

RESIDENT STATEMENTS

Supervisor welcomed residents to come forward and address the Town Board.

Unterweger, Peter – 772 Michelle Court Unterweger thanked Edwards and Palmer for their response in regards to the cleaning of a drainage ditch.

Unterweger has an on-going complaint since 2003, regarding the destruction of the Town owned green-space behind his home. The resident residing on Mary Lane continues to destroy the property. The Board was given a packet containing all of Unterweger's complaints and the Town's responses. This weekend it continued, so Unterweger contacted the Police. The officer said he would contact the Town Hall to get a copy of the ordinance that addresses this. Unterweger requests the Town Board do something about this.

Newlin said he will contact Unterweger on Friday to discuss the direction this can go in.

Beseth, Daniel – 928 Hillside Drive – In 2006 Beseth and neighbor Mr. DiFrancesco submitted a letter regarding Sullivan Court (continuation of Cliff Drive). They were both told that landscaping would be done to help with the infringement on the yards. To date nothing has been done.

Edwards has made field visits, and the Town is being stonewalled. Maybe building needs to be stopped until the property is restored. The developer has now said it will be done by July. If this is not taken care of by July, building would have to stop.

AGENDA APPROVAL

Newlin requested additions to the agenda. Discussion of contract signing with the acting Building Inspector. Also, the proposed Golf Course.

Johnson said agenda item 4 should be Saddlewood subdivision lighting.

Palmer request the Planning Board recommendations under Correspondence be placed under his agenda.

Bax MOVED to adopt the Agenda as amended, Seconded by Johnson and Carried 5 – 0.

APPROVAL OF MINUTES

Johnson MOVED to approve the Regular Town Board minutes of 4/23/2007 and the Worksession minutes of 5/14/2007, Seconded by Bax and Carried 5 – 0.

APPROVAL OF POST AUDIT

Edwards MOVED to approve the payment of the following Post Audits; Home Depot - \$129.23; HSBC Business Solutions - \$278.08; and Sam's Club - \$371.20, Seconded by Palmer and Carried 5 – 0.

NEW BUSINESS – CLERK'S CORRESPONDENCE

Item #1 - Planning Board recommend approval of Talarico – 4-lot Subdivision as presented

contingent upon approval of the drainage and sewer by the Town Engineer.

Item #2 - Planning Board recommends approval for Conrad – Lower River Road, of a modification request from a two lot subdivision to a three lot subdivision subject to any requirements of the Town Engineer.

Item #3 - Evangelical Christian Church – 5865 Buffalo Street requesting repair of sidewalk in front of 5861 & 5865 Buffalo Street.

SUPERVISOR NEWLIN

Legal – Leone requested an Executive Session to update the Board on ongoing litigation.

It has come to Leone's attention there maybe a question on Local Law #1-2007 which the Board passed involving the moratorium on excavation. The Board received the law and the public hearing was held. The Niagara County Planning Board suggests the Town change the word mining to excavation, which Leone did, but the public hearing was held prior to that. The issue at hand is whether the Town should have a second public hearing.

Leone takes the position that the public hearing is not necessary. A second public hearing is only necessary if the change in the local law is material. Leone understands the change in the word mining to the word excavation can be deemed to be a material change, however when the local law was drafted there was a provision in the law that allowed for permits that already been applied for, but not ruled upon, to be granted, but also left provision in there that exceptions that previously existed in the law could still be acted upon. Most of the exceptions deal with excavation as opposed to mining. Therefore, Leone did not see the change of the word as a material change. If the Board feels otherwise, a second public hearing could be set and readopt the law.

It was questioned if the change would adversely affect any current permit requests. Not to Leone's knowledge.

Johnson MOVED to hold a Public Hearing on June 11, 2007 – 6:30 p.m. for changes to Local Law 1 – 2007, Seconded by Palmer and Carried 5 – 0.

Boniello would like to discuss possible litigation and possible contract modification in Executive Session.

Power Relicensing Update – Earlier this week the Town hosted the NY Power Authority Board of Trustees. The Power contracts were approved for Lewiston and several entities in Niagara County. This resulted in the sale of cheap hydro-electricity to Lewiston. These benefits will go to the residents directly.

Mayor Soluri has forwarded a letter to the Town, expressing interest in discussing what the Town's plans are for the dollars received. Newlin will meet with the Mayor and report back to the Board. The Board can discuss this, as a whole, at the June 20th meeting.

The Town will receive \$1.36 million / per year. This could increase each year as the power sale price increases.

Request for Waiver of Development Fees – Resident not present; therefore Newlin asked that this be placed on the agenda for the June 11th meeting.

Stormwater Project Report – The annual Stormwater Discharges from Municipal Separate Sewer Systems Municipal Compliance Certification needs to be signed by the Supervisor and then forwarded to the DEC.

Bax MOVED to authorize Supervisor Newlin to sign the permit, Seconded by Johnson and Carried 5 – 0.

Support Village Firework display – Village is requesting funds for fireworks on July 4th.

Johnson MOVED to allocate \$2,000 to the Village for the Fireworks Display, with the funds coming from Celebrations, Seconded by Edwards and Carried 5 – 0.

COUNCILMAN EDWARDS

Paving throughout the Town should be completed in approximately one week.

The Lewistowne Park and Mary Lane drainage issues will be started in July. The special equipment needed is not available until July. This should be completed by mid-August.

Parks Department workers are doing a great job on the parks. The Dickersonville Cemetery is beautifully groomed. A monument for the Veterans of Foreign Wars has been placed in the cemetery.

The Town is trying to obtain a grant for the streetscape project in Sanborn from the New York State Department of Transportation. It is not Edwards intention to use any of the Greenway dollars to fund the Sanborn Streetscape.

Clerk's correspondence item #3 - - Evangelical Christian Church – 5865 Buffalo Street requesting repair of sidewalk in front of 5861 & 5865 Buffalo Street. Board requested Lannon review this and report back to the Board at the June meeting.

HICKORY STICK GOLF COURSE

Lannon updated the Board and explained what needs to be done with the Amended Statement of Findings and Decision – Proposed Hickory Stick Golf Club. This document is the Statement of Findings of Fact and Decision made by the Town of Lewiston Town Board in the matter of the application by the Seneca Management Development Corporation to develop an 18-hole Championship Golf Course on real property located in the Town of Lewiston, the Findings are made pursuant to the New York State Environmental Quality Review Act, 6NYCRR part 617.

The purpose of this document is to answer questions and concerns from the Draft Supplemental Environmental Impact Statement. There are three parts to the document. The first is a generalization of the changes implemented by Seneca Management Development Corp. to define the course. The second is the direct answering of resident's comments. The third describes revisions made to the plan as a result of the Senecas final plan/development.

Johnson MOVED - The Town of Lewiston Town Board, as lead agency under SEQRA, has given full consideration to the SDEIS, SFEIS, public and agency comments, findings and recommendations of the Lewiston Environmental Commission and the Town Planning Board and the record in this matter, and hereby decides as follows:

- 1. The requirements of 6NYCRR Part 617 have been met; and**
- 2. Consistent with the social, economic and other essential considerations from among the reasonable alternatives thereto, the action approved herein is an action that avoids or minimizes adverse environmental effects to the maximum extent practicable, and that adverse environmental impacts will be avoided or minimized by incorporating as conditions to the decision those mitigative measures that were identified as practicable in the SDEIS, SFEIS and this Findings Statement. Seconded by Bax and Carried 5 – 0.**

Johnson said there is a lot of debris that has been dumped on the land in years past. It was asked of the developer to consider the removal of this debris. Gary Paumen said the debris will be cleaned.

Edwards asked if the nesting islands are still in the plan. Paumen said yes. It is the intention of the developer to handle this with the efforts of the Town, Lannon and the DEC.

Johnson MOVED to authorize the Supervisor to sign the Amended Statement of Findings and Decision –Proposed Hickory Stick Golf Club, Seconded by Palmer and Carried 5 – 0.

BUILDING INSPECTOR POSITION

Johnson said Don MacSwan, retired Town of Wheatfield Building Inspector, has agreed to be a consultant to the Town during the transition period.

MacSwan has given many suggestions to the Town in regards to record keeping in the building department to make it more effective. A computer system, allowing the tracking of building permits, is being installed in the office already.

The contract states a rate of \$20/hr, with a 14-business day notice in writing to terminate the Agreement.

Johnson MOVED to authorize the Supervisor to sign the Contract between the Town and Don MacSwan, Seconded by Palmer and Carried 5 – 0.

Bax thanked Johnson and Edwards with respect to the work done with the Building Inspector.

COUNCILMAN BAX

Having a temporary Certificate of Occupancy out for two years is unacceptable. The Town does not know at what stage these projects are at. The Town needs to have all departments to meet to discuss the process to follow when applying for a building permit. This would include WPCC, Building Inspector, Fire, Lighting, Water, and Highway. This will help to alleviate some of the problems the Board has been facing for years.

Lockhart updated the Board on the grinder-pump capacity with regards to the Sanborn Car Wash. The car wash has a building permit to expand to build a Subway Restaurant. There is also an additional space on the property, that rumor has it, is to accommodate 23 washing machines. The existing infrastructure of the pump-station is only designed to handle the car wash. The developer and the owner have been made aware of this and are trying to rectify it.

CWM SITING BOARD/ COMMUNITY ADVISORY COMMITTEE APPOINTMENT

Newlin said CAC member Tony Wagner is no longer able to attend CAC meetings.

Johnson MOVED to appoint Al Bax as Chairman to the CWM Siting Board, Seconded by Edwards and Carried 4 – 1 abstention. (Bax)

Newlin MOVED to have the Clerk forward a letter of appreciation to Tony Wagner for his time on the Committee, Seconded by Johnson and Carried 4 – 1 abstention. (Bax)

COUNCILMAN JOHNSON

Seniors in Lewiston are doing well.

Fire Company contracts will be expiring at the end of the year.

The Fire Bureau will be meeting on June 7, 2007, at the Sanborn Fire Hall, in regards to the Wendt's Propane request. Also discussed will be the Alarm Fees / Training Fund discussion.

Riverwalk lighting request – The lights should be installed in accordance to the Town policy.

Johnson MOVED to install four lights at Riverwalk and complete and finish the installation; also authorize the Supervisor to sign the National Grid agreement, Seconded by Palmer and Carried 5 – 0.

Saddlewood Development lighting request – Residents in this subdivision have requested lighting. There is a dangerous curve on Paddock Lane which falls within the Town policy requirements.

Johnson MOVED to install one light on Paddock Lane and authorize the Supervisor to sign an agreement with National Grid, Seconded by Bax and Carried 5 – 0.

Johnson requests an Executive Session to discuss personnel.

COUNCILMAN PALMER

Conrad – Lower River Road – requests approval of a modification from a two lot subdivision to a three lot subdivision.

Palmer MOVED to accept a Negative Declaration for Conrad – Lower River Road, SBL# 87.00-1-24, Seconded by Johnson and Carried 5 – 0.

Palmer MOVED to approve the Planning Boards recommendation for the modification request for Conrad – Lower River Road, SBL# 87.00-1-24, from a two-lot subdivision to a three-lot subdivision subject to any requirement of the Town Engineer, Seconded by Johnson and Carried 5 – 0.

Talarico – Upper Mountain Road & Moyer Road – requests approval of a four-lot subdivision.

Palmer MOVED to accept a Negative Declaration for Talarico – Upper Mountain Road & Moyer Road, SBL# 116.05-1-27, four-lot subdivision, Seconded by Johnson and Carried 5 – 0.

Palmer MOVED to approve the Planning Boards recommendation for Talarico – Upper Mountain Road & Moyer Road, SBL# 116.05-1-27, contingent upon approval of the drainage and sewer by the Town Engineer, Seconded by Johnson and Carried 5 – 0.

Supervisor announced upcoming meetings.

Bax MOVED to enter into Executive Session to discuss: possible litigation, personnel, settlement of pending litigation and change in a contract, Seconded by Johnson and Carried 5 – 0. (8:25 p.m.)

PRESENT: Supervisor Newlin; Councilmembers Bax, Edwards, Johnson and Palmer; Attorney Leone; Deputy Attorney Boniello; Engineer Lannon, and Gary Smith and James Goehrig from Modern

Discussion on possible litigation, settlement of litigation and status of current litigation. Modification of current contract with Modern and personnel issues.

Bax MOVED to close the Executive Session, Seconded by Edwards and Carried 5 – 0. (9:20 p.m.)

Edwards MOVED that the Town does not concur with the DEC's request to be the Lead Agent for the Proposed Design Capacity Increase application from Modern Landfill, upon coordinated review, and authorize the Supervisor to put that in writing, subject to the approval of the Attorney, and the Town Board wishes to be Lead Agency, Seconded by Palmer and Carried 5 – 0.

The DEC needs to be notified by June 21st.

Palmer believes it would be harmful to the Town, for the Board to NOT take this action, to become Lead Agency on the application.

Newlin said Lewiston residents will be most affected, so it only makes sense for the directly elected representatives to take the lead on this.

Edwards MOVED to enter back into Executive Session, Seconded by Palmer and Carried 5 – 0. (9:23 p.m.)

Johnson MOVED to exit out of Executive Session, Seconded by Bax and Carried 5 – 0.
(9:50 p.m.)

Board MOVED the following:

1 Voted to accept the DiMino, 4655 Lower River Road, water bill settlement – DiMino to pay the Town \$7,000. (unpaid water and sewer bill)

2 Voted to settle claim by Felice Romeo for damages from 12/1/2006 storm / sanitary sewer basement flooding in the amount of \$1,500.

3 Voted Sandra VanUden receives a \$2.00/hr. pay increase effective through December 31, 2007 for administration of Building and Zoning Department. Funds to come from Building Dept. Personal Services.

Carried 5 – 0.

Minutes taken by Attorney Boniello.

Minutes Respectfully Transcribed and Submitted by

Donna Garfinkel
Deputy Town Clerk